



Fairhaven Board of Selectmen

April 24, 2013 Meeting Minutes

Present: Chairman Charles Murphy, Vice Chairman Robert Espindola, Clerk Geoffrey Haworth, Executive Secretary Jeffrey Osuch and Administrative Assistant Anne Kakley

Chairman Charles Murphy called the meeting to order in the Town Hall Banquet Room at 6:03 p.m.

DOR REPORT

Mr. Murphy started the meeting by discussing concerns about the proposed legislation related to the Town Administrator article in the Special Town Meeting warrant for May 4, 2013.

The Board reviewed a revision of the special legislation that had been drafted by Town Counsel. See Attachment A. The Chairman opened the special legislation revision up for discussion. Mr. Espindola said that he would like to see the legislation draft posted on the website by the next morning for Town Meeting members to review. Mr. Osuch said that the revision could be brought to Town Meeting precinct meeting on May 2.

Ms. Kakley took a moment to make copies of the proposed legislation for those present and posted the proposed legislation online.

After the discussion on the Town Administrator legislation, Mr. Murphy ran through the remaining DOR recommendations. At 6:43 p.m., Mr. Espindola briefly took over as Chairman while Mr. Murphy attended to a matter in the Town Hall foyer. Mr. Murphy returned at 6:46 p.m.

Discussion ensued regarding the formation of a Government Study Committee.

Mr. Murphy opened the hearing to public comment. Linda Meredith asked about the formation of a Capital Expenditure Committee. John Roderiques asked the Board if they would make a Capital Expenditure Committee Selectman-appointment or codify it, per the DOR recommendation.

Resident Al Benac asked about the elimination of the elected Board of Public Works, and who the BPW Superintendent would subsequently answer to. The Board answered that the BPW

Superintendent would report to the Town Administrator and the Board of Selectmen. They added that there may be a BPW advisory board as well.

Mr. Benac asked if the Board of Selectmen would be able to overrule a Town Administrator. Mr. Murphy answered 'yes', that the Town Administrator would still report to the Board of Selectmen.

Discussion ensued regarding the method of appointment for the Finance Committee and the term length.

Mr. Espindola asked if the article pertaining to the formation of a Town Administrator position could be amended on Town Meeting floor. Mr. Osuch answered yes. Mr. Roderiques added that an amendment would have to stick to the "four corners" of the intended article. He stated that the motion read related to the article should include, verbatim, the intended legislation.

Mr. Espindola motioned to adopt the Special Legislation written by Town Counsel as amended in Attachment A. Mr. Haworth seconded. Vote was unanimous. (3-0).

The document will be read on Town Meeting floor and will be available on a PowerPoint for Town Meeting.

At 8:00 p.m. Mr. Espindola motioned to adjourn. Mr. Haworth seconded. Vote was unanimous. (3-0).

Respectfully,

Anne Kakley

Selectmen's Secretary
Minutes approved 5/06/2013

*Be it enacted by the Senate and House of Representatives in General Court assembled,
and by the authority of the same, as follows:*

SECTION 1. The Town of Fairhaven shall be governed by the provisions of this act. To the extent that this act modifies or repeals existing General Laws and special acts or the by-laws of the Town of Fairhaven, this act shall govern.

SECTION 2. (A) The executive powers of the town shall be vested in the board of selectmen, who shall have all the powers given to boards of selectmen by the General Laws, except for those executive powers granted to the town administrator.

(B) The Board of Selectmen shall serve as the chief goal-setting and policy-making agency of the town. The duties and responsibilities for day-to-day management of the town shall be delegated to the town administrator. The Board of Selectmen shall act through the adoption of policy directives and guidelines which are to be implemented by the town administrator and the officers and employees appointed by, or under the authority of, the Board of Selectmen. Individual selectmen shall not purport to represent the board or exercise the authority of the board except when specifically authorized by the board.

(C) The Board of Selectmen shall:

(1) Enact rules and regulations to implement policies and to issue interpretations.

(2) Exercise, through the town administrator, general supervision over all matters affecting the interests or welfare of the town.

(3) Appoint the town counsel and any special counsels, and all members of committees, boards and commissions except those appointed by the moderator or elected by the voters, and except those appointed as otherwise provided by the by-laws of the Town. They may make appointments to temporary posts and committees they create for special purposes.

(4) Have general administrative oversight of such boards, committees and commissions appointed by the Board of Selectmen.

(5) Have the responsibility and authority for licenses and other quasi-judicial functions as provided by the General Laws and by the Town of Fairhaven by-laws.

(6) Issue all town meeting warrants.

(7) Review the annual proposed budget submitted by the town administrator and make recommendations with respect to the annual proposed budget as they deem advisable. The town administrator shall present the budget, incorporating the recommendations of the Board of Selectmen.

(8) Appoint, and may re-appoint, and enter into a contract for the employment of a town administrator for a term of not more than three years, who shall be a person with executive and administrative qualifications and especially fitted by education, training and experience to perform the duties of the office. The town may from time to time, by by-law, establish such additional qualifications as it seems necessary and appropriate.

(9) Remove the town administrator at any time, with or without cause, in accordance with the terms of the town administrator's contract.

(10) Set the compensation for the town administrator, not to exceed an amount appropriated by the town meeting.

(11) Designate a qualified person as acting town administrator to perform the duties of the office during any vacancy exceeding thirty days, caused by the town administrator's absence, illness, suspension, removal or resignation. The appointment of an acting administrator shall be for a period not to exceed one hundred eighty days.

SECTION 3. (A) The town administrator shall be the chief administrative officer of the town and shall act as the agent for the Board of Selectmen. He shall be responsible to the Board of Selectmen for coordinating and administering all town affairs under the jurisdiction of the Board of Selectmen.

(B) The town administrator's powers and duties shall include the following:

(1) Consult and advise the board of selectmen regarding its policies, and implement those policies.

(2) Attend all meetings of the Board of Selectmen, except when excused and consult and advise the Board of Selectmen on all matters that come before the board.

- (3) Attend all town meetings and advise the town meeting on all warrant articles within the jurisdiction of the Board of Selectmen.
- (4) Manage and direct the daily reporting and supervision of the following town departments: assessors, building commission, council on aging, police, civil defense, animal control officer, gas inspector, plumbing inspector, wiring inspector and weights and measures inspector, recreation, highway, tree and park, finance, finance director, collector, treasurer, accounting, veterans, town counsel, other committees appointed by and under the jurisdiction of the Board of Selectmen.
- (5) Review and advise the Board of Selectmen on all warrants for the payment of town funds as prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws.
- (6) Administer the town's personnel policies, compensation plans and employee benefits program.
- (7) Administer the town's insurance policies, including the ability to settle claims. All insurance contracts must receive the approval of the Board of Selectmen.
- (8) With the approval of the Board of Selectmen, appoint and remove all department heads and employees of those departments under the direct control of the town administrator, consistent with the provisions of the personnel policies and by-laws and of any applicable employment contracts.
- (9) With the approval of the Board of Selectmen, reorganize any departmental structures under his jurisdiction.
- (10) With the approval of the Board of Selectmen, negotiate all collective bargaining contracts on behalf of the town, except for school department contracts. The town administrator may seek the assistance of labor counsel, as he deems necessary to effect successful negotiations. All final agreements must be approved and executed by the Board of Selectmen.
- (11) With the approval of the Board of Selectmen, establish compensation packages for all town employees not subject to a collective bargaining agreement. Such compensation may not exceed the amount appropriated therefor by town meeting, and shall be subject to the provisions of applicable statutes and by-laws.

- (12) Submit to the Board of Selectmen a written proposed budget for town government for the ensuing fiscal year, including the school department. The proposed budget shall detail all estimated revenue from all sources, and all proposed expenditures, including debt service for the previous, current and ensuing years. It shall include proposed expenditures for both current operations and capital projects during the ensuing year, detailed by department, committee, agency, purpose and position and proposed financing methods. The proposed budget shall include estimated revenues and free cash available at the close of the fiscal year, including estimated balances in special accounts. The town may by by-law establish additional financial information and reports to be provided by the town administrator. To assist the town administrator in preparing the proposed annual budget of revenue and expenditures, the finance director, all boards, officers and committees of the town, including the school committee, shall furnish all relevant information in their possession and submit to the town administrator, in writing in such form as the town administrator shall establish, a detailed estimate of the appropriations required and of available funds.
- (13) Report on the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the tax rate necessary to raise such amount.
- (14) Establish calendar dates on or before which the proposed budget, revenue statement and tax rate estimate are to be submitted to the Board of Selectmen
- (15) Submit annually to the Board of Selectmen a five-year capital improvements program to include: (a) a list of all capital improvements and supporting data proposed to be undertaken during the next five years; (b) cost estimates, methods of financing and recommended time schedule; and (c) the estimated annual cost of operating and maintaining any facility to be constructed or acquired.
- (16) Advise the Board of Selectmen at least monthly, of all departmental year-to-date expenses. Advise the Board of Selectmen at least monthly, of the town's year-to-date revenues. Direct action as deemed necessary to ensure that all operating and capital budgets under the direct control of the town administrator are maintained in accordance with the town meeting vote that approved those budgets. Coordinate efforts with the governing bodies of those departments not under the direct supervision of the town administrator to ensure that those operating and capital budgets are maintained in accordance with the town meeting vote that approved those budgets.
- (17) Keep full and complete records of the office and annually submit to the Board of Selectmen, unless requested to do so more frequently, a full report of the operations of the office of the town administrator.
- (18) Be responsible for coordination of operational and strategic planning for the town.

(19) Serve as the town's procurement officer.

(20) Manage and be responsible for all the town buildings, properties and facilities, including information technology, except those under the jurisdiction of the school department, unless requested by the school department.

(21) Prepare application of all town warrants for approval by the Board of Selectmen.

(22) Prosecute, defend, and with the approval of the Board of Selectmen, comprise all litigation for or against the town.

(23) Delegate and direct any qualified town official or employee to carry out any duty that is within the authority of the town administrator.

(24) During a temporary absence, with the approval of the Board of Selectmen, the town administrator may designate a qualified administrative employee or officer to exercise the powers and perform the duties of the town administrator.

(25) Perform any other duties or tasks assigned by the Board of Selectmen.

SECTION 5. The town administrator of the Town of Fairhaven shall have access to all municipal books, papers and documents or information necessary for the proper performance of the duties of the town administrator. The town administrator may, without notice, cause the affairs of any division or department under the town administrator's supervision, or the conduct of any officer or employee thereof, to be examined.

SECTION 6. All laws, by-laws, votes, rules and regulations, whether enacted by authority of the town or any other authority, which are in force in the Town of Fairhaven on the effective date of this act, not inconsistent with the provisions of this act, shall continue in full force and effect.

SECTION 7. No contract existing, and no action at law or suit in equity, or other proceeding pending, on the effective date of this act shall be affected by this act.

SECTION 8. This act shall not impair the rights or obligations of any person holding a town office, or employed by the town, on its effective date, except those duties assigned by this act to another officer or employer, and except those duties which are subsequently assigned to another officer or employee pursuant to this act. No person who continues in the permanent full-time service or employment of the town shall forfeit his pay, grade or time in service as a result of the enactment of this act.

SECTION 9. This act shall take effect upon its acceptance by the town meeting of the Town of Fairhaven.