



# Fairhaven Board of Selectmen

## June 4, 2013 Meeting Minutes

**Present:** Chairman Charles Murphy, Vice Chairman Robert Espindola, Clerk Geoffrey Haworth, Executive Secretary Jeffrey Osuch, and Administrative Assistant Anne Kakley. Also present: Conservation Commission members Joseph Taylor, Steven Pereira, Janine Peccini, Cora Peirce.

Chairman Charles Murphy called the meeting to order in the Town Hall Banquet Room at 6:30 p.m.

### CONSERVATION COMMISSION

The Board conducted a meeting with the Conservation Commission at the request of the ConCom to discuss the ConCom's mission and future.

Mr. Murphy opened the meeting up to Mr. Taylor, Chairman of the ConCom, to discuss what the ConCom does. Mr. Taylor said that ConCom is here to enforce the rules of the Department of Environmental Protection. If someone has a project in a buffer zone or near marshes or wetlands, they have to get permitted through the ConCom. No digging, dredging, or removing of vegetation in wetlands is allowed without permission of the ConCom. ConCom enforces the Wetlands Protection Act. Mr. Taylor said that it is a part-time board, and at this point, it does not seem like the Board members are spending their time on conservation issues, but rather internal conflict. Recently, he said he even argued with a member of the public at a meeting. He cited issues in which ConCom members have refused to sign enforcement orders and discord over a letter written by Ms. Peirce against him regarding the Bella Vista Island project. Mr. Taylor said: "Bella Vista Island is out of control. It's way out of the scope of what this Commission to do." Regarding Mr. Taylor's future on the ConCom, Mr. Taylor told the Selectmen: "The ball's in your court."

Mr. Taylor continued to discuss the Bella Vista Island case, saying that the state needs to take over the project because it is overwhelming to a small ConCom. Expert John Rockwell of Buzzard's Bay Estuary pointed out all the things wrong with the project. He advised hiring a consultant for the project to free up their time for other ConCom matters.

Mr. Taylor added that the ConCom struggles to achieve a quorum. There are several members who are rarely in attendance, including Vice Chairman Logan Wood. More recently, Andrew Jones resigned from the ConCom. Mr. Jones was the most educated on the topic of Conservation, as he is an employee of the DEP. Mr. Taylor described him as a "huge asset to the Town". Mr. Taylor expressed frustration over the fact that one ConCom member would not sign

an enforcement order on an illegally built seawall, which rendered the enforcement order ineffective. Mr. Taylor said that the message sent to residents as a result was: "Do what you want. You'll get away with it."

Mr. Taylor said that the Commission is looking unprofessional at this point. Ms. Peirce is reading a 23b statement before each hearing. Mr. Taylor does not understand why the reading has to be before every hearing, and not just once at the beginning of the meeting. He further detailed the "aggravation" he experienced with a reporter calling his house after Ms. Peirce filed a letter to the Selectmen detailing Mr. Taylor's unannounced visit of the Bella Vista Island site. Mr. Taylor said that he responded in a letter to the Selectmen and that he has not had a response. He said that the letter Ms. Peirce filed was "full of lies". "All we want people to do is apply and comply," said Mr. Taylor.

Mr. Pereira agreed that the ConCom has a difficulty achieving a quorum. Mr. Pereira stated that he was not quite sure why the ConCom had been called before the Board of Selectmen. Mr. Murphy said that there have been complaints and frustrations, mainly from the ConCom, regarding its operations. He said that as the appointing authority, the Board of Selectmen would like to support the ConCom and help fix any issues they are experiencing. He stated that the ConCom does not appear to have enough members, and that the Selectmen would like to help them find more membership. The Selectmen want to do their part to uphold the Wetlands Protection Act, said Mr. Murphy. If there were no ConCom, applicants would have to go before the Board of Selectmen or the DEP to get permitted in their work, and that would be a lot of time.

Mr. Pereira agreed with Mr. Taylor, saying that the Bella Vista Island case is too much for a small commission to handle. "We are in over our head," he said. "We don't have the funding or the expertise."

Mr. Pereira said it all went back to a lack of membership, even when it came to one person not signing an enforcement order. He said that one person should not have to feel pressured to sign an enforcement order if there are not enough members for a quorum. "It's not fun to sit on this board," said Mr. Pereira. "We feel like we are out there, alone, on an island, with no direction. We don't have a lot of enforcement authority." Mr. Pereira said that he will complete his term to 2014, and then will likely leave the ConCom.

Discussion ensued regarding training and lack thereof.

Ms. Peccini stated that she did not think the ConCom was as dysfunctional as some thought. "We aren't experts," stated Ms. Peccini. "There are tense times. All boards have tense times." Ms. Peccini agreed that something had to be done about the membership because they struggle to make a quorum and sometimes have to send applicants home without a hearing because not enough members were present for a decision.

Discussion ensued regarding staff time and hours delegated by Mr. Fostin for Conservation matters.

Ms. Peirce said that she has been on the ConCom for over four years. She said that the ConCom got “lazy” in a sense because they relied on Andy Jones for information upon which to base their decisions. She agreed that quorum was a major issue and that a lot of the conflict to which Mr. Taylor was referring stemmed from her MCAD filing against their Conservation Agent and her letter against Mr. Taylor. “It’s not something I take lightly. It’s not something I misunderstood,” said Ms. Peirce. “It was something unfortunate.” Ms. Peirce said that she felt that she was the one blamed for making the report against Mr. Fostin. She said that there are frequent inconsistencies in their enforcement. “I wanted my legacy in town to be land preservation. Not harassment. Not state ethics,” said Ms. Peirce.

Discussion ensued regarding getting more qualified volunteers on the Conservation Commission, and whether or not associate members of the ConCom could actually vote when a quorum was needed. Mr. Taylor explained that he has taken over the role as the enforcement agent, and that he is taking on too much of the Conservation’s entire workload.

Mr. Haworth agreed that more members were needed. He also said that the Board of Selectmen should speak with Town Counsel and see if it is really necessary for Ms. Peirce to read the 23b statement before each hearing, or if one reading at the beginning of the meeting will suffice.

Mr. Taylor indicated that the DEP offers free training to ConCom members.

It was resolved that:

The Board of Selectmen will aid the Conservation Commission in resolving its quorum problems by seeking additional members

Mr. Taylor would write to the Board of Selectmen and ask for use of Town Counsel regarding the Bella Vista Island project

Mr. Taylor will look into getting the ConCom training sessions from the DEP

The Board of Selectmen will schedule an appointment at a later date with Conservation Agent Wayne Fostin to discuss the completion of Orders of Conditions

At 8:27 p.m., Mr. Espindola motioned to enter Executive Session pursuant to MGL Ch 30 § 21:

- To discuss strategy with respect to collective bargaining or litigation – memo from Town Counsel

Mr. Haworth seconded the motion to enter Executive Session for the aforementioned reason. Vote was unanimous. (3-0). Roll call vote: Mr. Espindola in favor. Mr. Murphy in favor. Mr. Haworth in favor.

Respectfully,

Anne Kakley

Selectmen's Secretary  
Minutes approved 6/17/2013