



Fairhaven Board of Selectmen

June 24, 2013 Meeting Minutes

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

Chairman Charles Murphy called the meeting to order in the Town Hall Banquet Room at 5:32 p.m. The meeting was telecast and taped by Cable Access.

MINUTES

- Mr. Espindola motioned to approve the minutes of the **June 17, 2013** meeting, **open** session. Mr. Haworth seconded. Motion passed. (3-0).
- Mr. Espindola motioned to approve the minutes of the **June 17, 2013** meeting, **executive** session. Mr. Haworth seconded. Motion passed. (3-0).

EXECUTIVE SECRETARY'S REPORT

In his report, Mr. Osuch updated the Selectmen on the following meetings:

- Tuesday, **June 25** –
 - Senate Election
 - 1:00 p.m. – Brown and Caldwell/BPW Digester Issues
- Wednesday, **June 26** –
 - 8:00 a.m. – Light Inspection for NSTAR
 - 10:00 a.m. – Wood School Job Meeting
- Thursday, **June 27** –
 - 9:00 a.m. – Buzzard's Bay Action Committee
 - 10:00 a.m. – Meeting with State House Representative Cabral
 - 4:00 p.m. – New School Building Committee at Wood School
- Monday, **July 1** –
 - 6:30 p.m. – Selectmen's Meeting

STREET LIGHT BIDS

Mr. Osuch said that the bid opening for the Street Light Maintenance contract took place on June 20, 2013. The lowest bidder was Siemens Industries out of Billerica, MA. See Attachment A.

Mr. Osuch recommended awarding the bid to Siemens, and said that they were ready to start as soon as the next week. He said that the figure was not “fixed” and was dependent on the number of LED lights to install and maintain on a per-call basis. Mr. Espindola asked if the variable component had been the same for all four bidders on the project. Mr. Osuch said yes.

Mr. Espindola motioned to award the bid to Siemens Industries. Mr. Haworth seconded. Vote was unanimous. (3-0).

HMFH AMENDMENT

Mr. Osuch reviewed a proposed contract amendment with HMFH for design on the New Wood School, to include design for a concrete set of stairs. The increase to the design contract with the amendment will be \$907.00. Mr. Osuch said that there would also be a fee associated with the installation of the stairs. Mr. Espindola motioned to approve the Attachment F, Amendment 5 to the HMFH contract in the amount of \$907.00. Mr. Haworth seconded. Vote was unanimous. (3-0).

NEW WOOD SCHOOL PROGRESS

Mr. Haworth asked Mr. Osuch how the New Wood School was progressing. Mr. Osuch said that the project was “easily within contingency” and on schedule for late July completion. He said the New Wood School should be furnished and ready in time for Labor Day.

APRIL 1 ELECTION

Mr. Murphy said that he had called the June 24 meeting with the intended purpose of discussing the April 1 Board of Health election, but the Board had not received a final judgment yet, so there was nothing new to discuss. He said that he knew people were eager to hear more about the election, and he recognized that both candidates – Peter DeTerra and John Wethington, were present at the meeting and probably wanted answers. John Wethington’s attorney, Ann Ponichtera-DeNardis was also present.

Mr. Espindola asked if there was an anticipated time for a final decision. Mr. Osuch said that he hoped it would be received by July 1. Mr. Haworth and Mr. Espindola both agreed that nothing could be discussed or resolved until a final judgment was issued from Judge Robert Kane.

Dan Freitas was recognized by the Chairman. He said that he was representing individuals who were concerned with the outcome of the entire election, not just the Board of Health outcome. He said that the judge’s initial opinion, that the Board of Health election would have to be set aside and redone, indicated that the whole election was faulty and that the whole election should be redone. “You can’t just say [there was] impropriety on the Board of Health [race],” said Mr. Freitas.

Atty. Ponichtera-DeNardis, representing John Wethington, said that she was “confused” by the Board’s “conditional notation” that there was no order read by Judge Kane. She said that a judgment was read and released by Judge Kane, and that it was very specific: that the Board of

Health race would have to be set aside and redone. She directed her next comments to Mr. Freitas, saying that if others wanted to join in the lawsuit, they should have done so earlier. She said that the Board of Selectmen's authority was limited just to the Board of Health election. She said that Judge Kane's judgment had a couple "typographical" changes needed, but that the judgment was essentially final and currently available.

Mr. Freitas was again recognized by the Chairman. He stated that it was "hypocritical" to contain the matter to the Board of Health race, stating that there was "impropriety" surrounding how the ballots were handled. He said that he and the group he represented, would "do what we need to do" to see the election completely redone.

Mr. Murphy said that he had been advised to wait for a final judgment before acting. He discussed the matter of rescheduling the election, and noted that the Town Clerk was not present at the meeting to discuss a reschedule. Atty. Ponichtera-DeNardis said that the Board would want to talk to Town Counsel to discuss the matter of keeping the re-election contained to the Board of Health race only.

Mr. Murphy said that he thought the Board of Health race would probably be opened up to anyone interested in running. He said that he would place the matter on the July 1 agenda and hopefully a final judgment would be received by then.

NSTAR GAS PERMIT

The Board reviewed an NSTAR gas permit application for 5 Roy Street, previously approved by the Board of Public Works. Mr. Espindola motioned to approve. Mr. Haworth seconded. Vote was unanimous. (3-0).

The Board reviewed an NSTAR gas permit application for 9 Roy Street, previously approved by the Board of Public Works. Mr. Espindola motioned to approve. Mr. Haworth seconded. Vote was unanimous. (3-0).

FORT PHOENIX 5K RACE/WALK

The Board reviewed a request from Kathy Lopes, asking to hold the 13th annual Fort Phoenix Race/Walk on September 8, 2013 at 10:00 a.m. The Board was very supportive of the request, calling it a "great" event that supports a lot of local scholarships. Mr. Espindola motioned to approve permission to hold the Fort Phoenix 5K Race/Walk on September 8, 2013. Mr. Haworth seconded. Vote was unanimous. (3-0).

SAFE BOAT GIFT ACCOUNT

The Board read a letter from the Fire Department requesting the creation of a "Safe Boat Gift Account" for the purpose of collecting funds in order to repair and equip a Coast Guard rescue boat, recently acquired by the Fire Department.

Mr. Espindola said that he was happy to see the firefighters taking action to improve the Town resources. Mr. Haworth agreed, saying that he was very supportive of the effort.

Lt. Brian Messier was recognized by the Chairman. He said that he is chairing the committee designated to outfitting the safe boat. He said that they would like to raise as much as \$80,000.00 to improve and equip the safe boat. He said that the boat was purchased new by the Coast Guard in 2003 for \$175,000.00, and that it would be a very valuable asset to the Town of Fairhaven in a water emergency.

Mr. Espindola motioned to approve the set-up of the "Safe Boat Gift Account". Mr. Haworth seconded. Vote was unanimous. (3-0).

SPRING STREET GARAGE

At 6:02 p.m., the Board reviewed an application from Dick Dussault for an auto repair/garage application renewal. Mr. Dussault was present. Mr. Murphy said that he recognized that Mr. Dussault had had health issues that prevented him from being able to open his garage for some time. Mr. Dussault came before the Board, looking for a garage application renewal instead of being treated like a new application, despite the fact that the garage was closed for a couple years while Mr. Dussault dealt with his sickness.

Mr. Murphy said that he had reviewed the issue with Town Counsel, and that the Board would be allowed to issue a license renewal to Mr. Dussault.

The Board reviewed the location and application and were satisfied with the details. Mr. Haworth asked Mr. Dussault if he would be operating by himself. Mr. Dussault said that, yes, he would operate "pretty much by myself", and would do auto repairs, and would not be an auto body shop.

Mr. Espindola motioned to treat the application as a renewal. Mr. Haworth seconded. Vote was unanimous. (3-0).

Mr. Espindola motioned to approve the renewal of the Spring Street auto repair/garage license. Mr. Haworth seconded. Vote was unanimous. (3-0).

USE OF TOWN COUNSEL

At 6:07 p.m., Mr. Espindola suggested tabling the topic of "Use of alternate Town Counsel" until the next meeting in the interest of time. Mr. Murphy noted that packets from Kopelman and Paige had been distributed to the Board and that he would invite current Town Counsel, Atty. Thomas Crotty, to offer a "liturgy" of his work as well. The matter was tabled to the July 1 meeting.

JULY 5

The Board revisited a request from Town Hall to close the Town offices on July 5. At a previous meeting, the Board indicated that it would entertain the request if all employees were willing to use a personal or sick day. Ms. Kakley sent out a memo to all of the employees involved, and there was not a consensus. Additionally, Ms. Kakley called the New Bedford City Hall, Dartmouth Town Hall, Mattapoisett Town Hall, Marion Town Hall, and Acushnet Town Hall – all of which will be opened on July 5.

The Board determined that the Town offices would be open on Friday, July 5. No action was taken. Mr. Murphy reminded everyone that the Town offices would be closed on July 4 (only), and that the Fourth of July parade would assemble at Cushman Park on Thursday, July 4. Lt. Messier added that there would be a Firefighter's Muster and Parade on Sunday, June 30.

OTHER BUSINESS

In other business:

- Mr. Haworth said that he was looking forward to Homecoming on Saturday, June 29
- Mr. Haworth said that, in light of recent, additional complaints regarding the SEEAL/Next Step Living solar canvassing, he would like to revisit the topic at the July 1 meeting
- Mr. Murphy said that he had the honor of attending the retirement party for Sgt. Foster, and that the Selectmen issued a proclamation for Sgt. Foster. Mr. Murphy said that he hoped Sgt. Foster would enjoy his retirement.

At 6:19 p.m., Mr. Espindola motioned to enter Executive Session pursuant to MGL Ch 30A § 21:

- To discuss strategy with respect to collective bargaining – Clerical, Fire, Police, Dispatchers Union negotiations
- To discuss strategy with respect to collective bargaining or litigation – Fairhaven Wind, LLC
- To discuss 111F for a Town employee
- To conduct strategy relative to non-union personnel

Mr. Haworth seconded the motion to enter Executive Session for the aforementioned reasons. 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 7/1/2013

**STREET LIGHT REPLACEMENT
and SERVICE CONTRACT
for July 1, 2013 through June 30, 2016**

SIEMENS	\$ 35,320.00	
COVIELLO	\$ 52,180.00	(Town's current contractor)
DAIGLE	\$ 83,040.00	
LCC, INC	\$106,146.00	

All bidders include installing 620 ± new LED street lights. The rest of the bid is based on actual service calls per year.