



Fairhaven Board of Selectmen

August 8, 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 6:37 p.m. The meeting was telecast and video recorded by Government Access, audio-recorded by Anne Kakley and was audio-recorded by Andrew Augustus of WBSM.

MINUTES

- Mr. Espindola motioned to approve the minutes of the **July 25, 2013** meeting, **open** session with one amendment. Mr. Haworth seconded. Vote to approve the amended minutes was unanimous. (3-0). A policy related to the approval of comp time will be created by the Personnel Board at a later date.
- Mr. Espindola motioned to approve the minutes of the **July 25, 2013** meeting, **executive** session. Mr. Haworth seconded. Vote was unanimous. (3-0).

EXECUTIVE SECRETARY'S REPORT

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

- Friday, **August 9** –
 - 11:00 a.m. – Retirement Board Auditor Exit Conference
- Tuesday, **August 13** –
 - 10:00 a.m. – Wood School Job Meeting
 - 2:00 p.m. – Economic Summit Meeting
 - 3:30 p.m. – Mattapoisett River Valley Advisory Meeting
 - 4:00 p.m. – Personnel Board Meeting
 - 4:30 p.m. – Mattapoisett River Valley District Meeting
- Wednesday, **August 14** –
 - 7:00 a.m. – New School Building Committee
 - 9:00 a.m. – Fire Negotiations
- Thursday, **August 15** –
 - 7:30 to 9:00 a.m. – Forum at the BBC Office
- Friday, **August 16** –
 - 11:30 a.m. – Commission on Disability at the Wood School

- Tuesday, **August 20** –
 - 10:00 a.m. – Wood School Job Meeting
 - 1:00 p.m. – Brown and Caldwell meeting - Digester

CHANGE ORDER #11

The Board reviewed Change Order #11 for the New Wood School in the amount of \$36,331.36. Mr. Espindola motioned to approve Change Order #11 in the amount of \$36,331.36. Mr. Haworth seconded. Vote was unanimous. (3-0).

REQUISITION #14

The Board reviewed Requisition #14 for the New Wood School in the amount of \$631,019.00. Mr. Espindola motioned to approve Requisition #14 in the amount of \$631,019.00. Mr. Haworth seconded. Vote was unanimous. (3-0).

NSTAR GAS PERMITS

- The Board approved an NSTAR gas permit application for 2 Harvard Street (previously approved by the BPW). Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).
- The Board approved an NSTAR gas permit application for 26 Hacker Street (previously approved by the BPW). Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).

TOWN GOVERNMENT STUDY COMMITTEE REQUEST

The Board read a letter from Town Government Study Committee Chairman Phil Washko, requesting that the members of the Town Government Study Committee be named “Special Municipal Employees”. Mr. Espindola motioned to name Eric Dawicki, Patricia Pacella, Phil Washko, Andrew Jones, Linda Meredith, Bernard Roderick, Dick Douglass and alternate Dan Freitas as Special Municipal Employees. Mr. Haworth seconded. Vote was unanimous. (3-0).

REQUEST FOR LEGAL SERVICES – PLANNING

The Board read a request from Planning and Economic Development Director Bill Roth for Town Counsel to review a CDBG North Fairhaven Target Area Study Project. Mr. Espindola motioned to approve. Mr. Haworth seconded. Vote was unanimous. (3-0).

POLICE DEPT – SURPLUS VEHICLES

Per request from the Police Chief, the Board voted to declare two Police vehicles as surplus – a 2008 Ford Crown Victoria with a VIN of 2FAFP71V08X179216 and a 2011 Ford Crown Victoria with a VIN of 2FABP7BV5BX101860. Mr. Espindola motioned. Mr. Haworth

seconded. Vote was unanimous. (3-0). The Board requested that a memo be sent out to all departments, to garner interest in the two surplus vehicles. A deadline for letters of interest was set for August 22, 2013.

BIKEWAYS COMMITTEE APPOINTMENTS

The Board voted to appoint Devin Soares and Joseph Mello to the Fairhaven Bikeways Committee. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).

COASTAL STORM DAMAGE ASSESSMENT TEAM

The Board reviewed a memo relative to a “Coastal Storm Damage Assessment Team” and training sessions that will be held by MEMA in the fall. Mr. Espindola motioned to appoint Wayne Fostin to participate in the MEMA training. Mr. Haworth seconded. Vote was unanimous. (3-0).

30B PROCUREMENT

The Board revisited the topic of 30B procurement. Since the previous meeting, Mr. Espindola had spoken with Brian O’Donnell and Neil Cohen of the State Inspector General office. He said that he had asked about the training that Paul Kitchen had completed and the possibility of Mr. Osuch completing the same training. He said that the training would involve three, three-day sessions for the CPO certification. He said that the Inspector General’s office recommended a Town representative attending the courses. They suggested that a Fairhaven representative consider speaking with the Town of Dartmouth to discuss their recent experience with the 30B training. Mr. Espindola said that his recommendation was to send Mr. Osuch to the three courses and have some policies in place.

Mr. Murphy asked what Mr. Espindola’s recommendation was, related to Paul Kitchen’s request to be the Procurement Officer for the School Department. Mr. Espindola’s recommendation was to leave everything the way it is and send Mr. Osuch to the training.

Mr. Osuch said that he would attend the classes if it was the will of the Board, but he said that as the Procurement Officer, only he had the power to delegate 30b responsibilities – not the Board of Selectmen. Mr. Osuch said that he would have to find out the cost of the courses. Mr. Espindola asked Mr. Osuch to look into the classes and determine if the classes would be valuable to him. Mr. Espindola motioned to table the topic of 30B to the next meeting on August 26. Mr. Haworth seconded. Vote was unanimous. (3-0).

Mr. Murphy asked the Board to come to the next meeting prepared to give opinions and comments on the proposed Financial Policies.

SOUTHCOAST INDEPENDENT LIVING (SCIL)

At 7:06 p.m., the Board met with Karen Sullivan and Wendy Gonsalves of Southcoast Independent Living (SCIL) to hear about the services that SCIL provides. Ms. Sullivan is a Coordinator for SCIL. Ms. Gonsalves is a Counselor.

The Board listened to a presentation by Ms. Sullivan and Ms. Gonsalves about the services SCIL offers, including benefits, health insurance, arranging assistance applications, advocacy, ramps and chairlift installations, housing, and various other benefits for those with disabilities. SCIL is part of a consortium that includes Coastline Elderly, said Ms. Gonsalves.

SCIL's phone number is (508) 679-9210 and Ms. Sullivan and Ms. Gonsalves encouraged the public to reach out if they think they may be eligible for services. Ms. Sullivan gave pamphlets to Ms. Kakley to keep in the Town Hall. SCIL already has established contacts with the Fairhaven Senior Center, said Ms. Sullivan, but Mr. Espindola invited to contact the School Department as well.

TAX TITLE

At 7:21 p.m., the Board met with Bill Roth to discuss Tax Title. Finance Director Wendy Graves had sent a memo to the Board in lieu of her presence. Mr. Murphy read her memo – see Attachment A for Ms. Graves' recommendations relative to the Town-owned properties of 124 Alden Road, 12 Diamond Street and 14 Grandview Avenue.

Mr. Roth said that he had been the person who proposed the Habitat for Humanity use for one of the properties. He said that he thought it was likely the will of the Board to try to auction off 12 Diamond and 14 Grandview instead of pursuing Habitat housing; however, if the properties did not sell at auction, he thought that the Board could consider revisiting the Habitat option in the interest of returning a property to the tax rolls. He said that all three tax title properties in question had structures that would need to be demolished.

124 Alden Road – Mr. Roth said that Assessors had this property valued at roughly \$500,000. It is prime real estate. There are no wetlands on the property and there is a power-line easement in the back. Mr. Haworth motioned to set an auction start price for 124 Alden Road at \$325,000. There was no second and the motion failed. Mr. Espindola motioned to start the auction at \$400,000. Mr. Haworth seconded. Vote was unanimous. (3-0).

12 Diamond Street – Mr. Espindola motioned to set an auction minimum of \$60,000. Mr. Haworth seconded. Vote was unanimous. (3-0).

14 Grandview Avenue – Mr. Espindola motioned to set an auction minimum of \$65,000. Mr. Haworth seconded. Vote was unanimous. (3-0).

The auction will be scheduled and announced to the public at a later date.

TOWN COUNSEL – SPECIAL COUNSEL

The Board met with Atty. Thomas Crotty at 7:41 p.m. to discuss his work as Town Counsel.

Mr. Espindola asked Atty. Crotty who worked with him at this time. Mr. Crotty said that Matthew Schuyler worked with him, and he had another attorney who works on estates and estate planning.

Atty. Crotty said that he had provided the Board with a list of his work (see Attachment B). He said that there was a political battle over the wind turbines and he did not want to be in the middle of it. He said that he always thought he was just doing his job. He said that he had always tried hard to stay out of political battles in town and that he would like to see the Board hire a Special Counsel for matters related to the wind turbines.

Mr. Haworth said that he “was not comfortable with that”. He said that he thought Atty. Crotty was very knowledgeable and that it would be unwise to change counsel on the wind turbines at this point. He said that he did not want to pay extra to get another attorney “up to speed” on the case. He cited Kopelman and Paige’s hourly rates and fees, which are higher than Atty. Crotty’s.

Atty. Crotty said that it was the will of the Board and he would continue work on the wind turbines if that is what the Board wanted. In cases that Atty. Crotty has won for the Town, he cited SEMASS, Atlas Tack and Biosafe.

Residents in the audience who spoke in favor of keeping Atty. Crotty were: Cathy Melanson, Dan Freitas, Peter DeTerra, Greg Bettencourt, Lou Fortin, Rosalee Hutchinson, and former Selectman John Haaland. No one spoke in opposition to keeping Atty. Crotty.

Mr. Espindola explained that he supported going through the process of a Special Counsel for issues related to wind turbines. He said that he wanted to find an attorney who specializes in power purchase agreements.

Mr. Murphy asked for a motion to keep Atty. Crotty as counsel until the end of the RFP process. Mr. Espindola said that he did not think such a motion was necessary.

Mr. Haworth motioned to not pursue Special Counsel at this time. Mr. Espindola seconded. Vote was unanimous. (3-0).

TOWN HALL EMPLOYEE PARKING

The Board discussed an ongoing issue of Town Hall employees using the spaces in front of the Town Hall for parking. The Board reminded employees that they could not park in front of the Town Hall on Center Street, as that parking is reserved for Town Hall patrons. Mr. Murphy asked Ms. Kakley to send out a reminder memo to Town Hall employees regarding the matter.

BOH DEBATES

The Board received a request to re-broadcast the March 2013 debates between Board of Health candidates Peter DeTerra and John Wethington. Mr. Murphy said that issues have evolved since March and that he recommended holding a new debate with the press asking the candidates

questions. Mr. Haworth agreed that they needed a new debate. After some debate, it was decided that Mr. Murphy would serve as moderator for the debate. Mr. DeTerra was present and said that he was supportive of having a new debate. Mr. Espindola said that he thought there should be a time limit to answers. Mr. Murphy will get in touch with the candidates and arrange a date and venue for the debate.

AMENDED ORDER OF ABATEMENT – BOH

The Board discussed the Amended Order of Abatement from the Board of Health regarding the wind turbines. Mr. Murphy said that he would like to wait until they could meet with the Board of Health at a combined meeting on August 26 before discussing the amended order. Mr. Espindola agreed that he would like to speak to the Board of Health at the next meeting. Mr. Murphy asked Mr. DeTerra if the Board of Health would be willing to meet on August 26. Mr. DeTerra said yes, and that he would like the Board of Health to also discuss with the Board of Selectmen, the possibility of hiring a sound consultant relative to turbine testing.

FAIRHAVEN SHIPYARD

Mr. Murphy said that he had received an email from resident Beth Luey concerning the hours of operation for the Fairhaven Shipyard. Additionally, Ms. Luey was concerned about airborne particles from the Shipyard collecting on her property. Ms. Luey was present and asked if the time was appropriate for discussion. She said that the Board of Health has claimed that the matter was a Selectmen issue. Mr. Murphy suggested discussing the matter at the August 26 meeting, because the Selectmen will already be meeting with the Board of Health. Mr. Murphy asked Ms. Kakley to notify the Shipyard and the abutters of the meeting. He also asked to change the venue for the meeting from the Banquet Room to the Town Hall Auditorium to accommodate more people.

OUR LADY OF ANGELS PROCESSION

The Board read a letter of invitation from the organizers of the annual Our Lady of Angels Feast and Procession. The Board agreed that it would be in attendance for the procession. Mr. Murphy asked Ms. Kakley to RSVP to the organizers of the event.

LAND DONATION

A potential land donation in the area of Aiken Street from owner Michael McCormack was tabled until the August 26 meeting. Mr. Murphy motioned to table and Mr. Espindola seconded. Vote was unanimous. (3-0).

OTHER BUSINESS

Under Other Business:

- Mr. Espindola said that the Rogers-Oxford Study Committee needed more support

- Mr. Espindola said that the Cable Advisory Committee needed more members
- Mr. Espindola asked the public to come forward and volunteer to help with a Capital Planning Committee
- Mr. Espindola asked to have health insurance discussed at the next meeting
- Mr. Haworth noted that the Park Motors property on Main Street had been cleaned up
- Mr. Haworth said that the Building Inspector wanted to remind people to remove their yard sale signs in a timely manner
- Mr. Haworth said that he had many visitors at his last office hours and he felt it was successful
- Mr. Haworth said that a resident had complained to him about a four-way stop at the corner of Bridge and Green. He said that he would like the board to look at whether the four-way stop there was even legal
- Mr. Murphy noted that the movie night on July 27 had an abrupt end with no movie, but that organizer Wayne Oliveira still did a good job despite the extenuating circumstances
- Mr. Murphy informed the Board that it had received a thank you letter from Sgt. Foster for his retirement citation
- Mr. Murphy recognized an Advocate article on the Senior Center's new bocce court and vegetable garden, both created by volunteers and a United Way mini-grant, and made possible by Anne Sylvia. Mr. Murphy thanked Ms. Sylvia for her efforts

At 8:56 p.m., Mr. Espindola motioned to enter Executive Session, pursuant to MGL 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 – Police personnel
- To discuss strategy with respect to litigation – Police cruiser accident
- To discuss strategy with respect to litigation – Digester

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 8/26/2013



TOWN OF
FAIRHAVEN
MASSACHUSETTS
THE FRIENDLY TOWN

OFFICE OF
DIRECTOR OF FINANCE/
TREASURER
TOWN HALL
TELEPHONE (508) 979-4026

RECEIVED
2013 AUG - 8 P 4:00
BOARD OF SELECTMAN
FAIRHAVEN MASS

August 8, 2013

Dear Honorable Selectman,

The following Tax Title Possessions were appraised by our Tax Title Auctioneer to give the Town an estimate of what the properties may be sold for at an auction.

124 Alden Road-\$285,000.00-325,000.00. The foreclosure amount on this property was \$138,450.00.

12 Diamond Street-\$35,000.00-\$40,000.00. The foreclosure amount on this property was \$47,125.00.

14 Grandview Ave-\$50,000.00-\$60,000.00. The foreclosure amount on this property was \$48,056.00.

If the board determines that we should have an auction to sell these properties, we can set a minimum bid and I would suggest the minimum bids to start on the low side of each of these estimates. The Town should also sell each property for at least the foreclosure amount.

Habitat for Humanity Option:

If the Board wanted to provide one or both lots (12 Diamond & 14 Grandview) for Habitat for Humanity, they would need to not sell the tax title property, which would mean that the back taxes owed would not be recouped from a potential sale. Based on the affordable guidelines from the State, I estimate that a Habitat for Humanity house would be valued between \$150,000 and \$175,000. Bases on that assumption, the yearly property taxes generated would be approximately \$1,615 to \$1,885. This is based on the current tax rate of \$10.77.

Respectfully,

Wendy L Graves, CMMT CMMC
Director of Finance/Treasurer

THOMAS P. CROTTY & ASSOCIATES, PLLC

LAW OFFICES
 388 COUNTY STREET ~ THIRD FLOOR
 NEW BEDFORD, MASSACHUSETTS 02445-1192

RECEIVED

THOMAS P. CROTTY

SHELLEY D. COELHO
 MATTHEW W. SCHUYLER

2013 JUL -1 P 12: 29

June 27, 2013
 BOARD OF SELECTMAN
 FAIRHAVEN MASS.

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Board of Selectmen
 Town of Fairhaven
 40 Center Street
 Fairhaven, MA 02719

Gentlemen:

This is in response to your request that I list some of my accomplishments as Town Counsel. I have not had time to review records for exact details so this is a summary from memory, and includes the more notable matters in different areas. It necessarily omits dozens, if not more than hundreds of matters including trials, arbitrations and administrative proceedings in which I successfully represented the Town's position. And to state the obvious, none of these accomplishments were done by me alone, but always working with town officials and board members who over the years are too numerous to list.

Contract Negotiation and Enforcement:

Some of the most important cases have involved the negotiation of contracts between the Town and private companies, and the eventual enforcement of the Town's rights under those contracts.

SEMASS:

I negotiated the terms of the Town's contract for waste disposal with SEMASS. When SEMASS attempted to increase the fee charged to the Town, and also tried to prevent the Town from selling the Town's capacity to other communities, I challenged SEMASS in arbitration. I won on both issues, and prevailed in SEMASS' appeal to the court. The victory translated into savings and income to the Town of up to \$10,000,000.

High School Architect Claim:

I negotiated the terms of the Town's contract with the architect for the high school renovation. When it was apparent that the architect had erred in the gymnasium design I represented the Town in its claim, which was successfully resolved by repayment to the Town of funds to rebuild the gymnasium.

Biosafe:

I negotiated the terms of the Town's contract with Biosafe for the reuse of the Town's landfill. Those terms included requirements that Biosafe close and cap the landfill. When the project failed I successfully represented the Town in its lawsuit against Biosafe to close the landfill.

Defense:

Other cases have involved defending the Town against claims.

Winston Builders:

The contractor who built the West Island treatment plant sued the Town for several hundred thousand dollars of claimed extras. I successfully defended the Town at trial resulting in a dismissal of the claim, and payment to the Town of \$50,000.

Wind Turbine Siting:

The Town Meeting vote authorizing the lease of Town land was challenged by a group of residents. I successfully defended the Town Meeting vote authorizing the lease.

Enforcement:

I have been involved in numerous enforcement claims for the Building Department, the Board of Health, and the Conservation Commission, as well as the Board of Selectmen.

Nearly all of those cases have resulted in successful enforcements of state and local regulations, and many have resulted in successfully recouping the Town's cost of enforcement.

Atlas Tack:

I represented the Building Commissioner and the fire chief in enforcement actions that eventually led to the demolition of the Atlas Tack factory by the EPA. At the same time I successfully defended the Town against claims by Atlas Tack seeking to make the Town pay for hazardous waste cleanup. In the resulting settlement, the Atlas Tack hazardous waste site, including areas of Town land, were cleaned by EPA without cost to the Town.

Seaport Inn:

Most recently, I represented the building department in a building code enforcement case against the Seaport Inn. The Seaport Inn agreed to a judgment to pay the Town \$26,000 for permit fees, and to reimburse the Town's legal expenses in enforcing the state building code.

Employment:

I have represented the Town in numerous employment matters in civil service and arbitration as well as in court.

Quinn Bill:

When the Town accepted the Quinn Bill, that law provided that the state would reimburse the Town for one-half the cost of educational incentive pay for police officers. In 2009 the legislature cut those reimbursements, eventually phasing them out altogether. The Police Union filed a claim to require the Town to continue to pay the full incentive, even though the Town would not get the state reimbursement. I successfully defended against that claim. The arbitrator ruled in favor of the Town, resulting in an annual savings to the Town of \$100,000 or more.

General Services:

Most of my work for the Town does not involve litigation, but advising town boards and officials on state laws, by-laws; reviewing contracts and drafting contracts or other documents.

Mattapoissett River Valley Water District:

When the towns of Fairhaven, Mattapoissett, Marion and Rochester proposed the construction of a jointly operated water treatment facility, I advised them to form a district for that purpose. I drafted the legislation creating the district, and worked with the state legislature to have that legislation approved. As drafted the legislation gives the towns greater authority in determining their access to the Mattapoissett River water supply.

Other Municipal Matters:

I have also represented other clients in municipal law.

The Town of Marion was faced with the problem of failed private septic systems. At the time the only alternative was to bring the homeowners to court to force the repair. I suggested legislation that would allow the town to contract with homeowners to repair their private septic systems and to assess the cost as a betterment to the homeowners. That idea eventually developed into a state-wide program that provided funding for septic system repair, lead paint removal, and underground tank removal.

Board of Selectmen

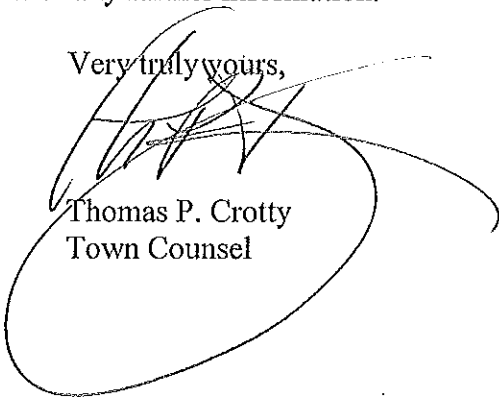
June 27, 2013

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On behalf of a property owner in Freetown I pursued a claim against the Town of Freetown when it prohibited him and a local contractor (represented by co-counsel) from using my client's property as an ash field. We prevailed and my client was awarded a \$3,000,000 judgment against the Town of Freetown in the Superior Court.

Please let me know if I can provide you with any further information.

Very truly yours,



Thomas P. Crotty
Town Counsel

TPC/mch