



Fairhaven Board of Selectmen

September 2, 2014 Meeting Minutes

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

Chairman Robert Espindola called the meeting to order in the Town Hall Banquet Room at 6:33 p.m. The meeting was video-recorded and telecast by the Government Access channel and audio-recorded by Anne Kakley.

MINUTES

- Mr. Haworth motioned to approve the minutes of the **August 18, 2014** meeting, **open** session. Mr. Murphy seconded. Vote was unanimous. (3-0).
- Mr. Haworth motioned to approve the minutes of the **August 18, 2014** meeting, **executive** session. Mr. Murphy seconded. Vote was unanimous. (3-0).

EXECUTIVE SECRETARY'S REPORT

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

- Wednesday, **September 3** –
 - 10:00 a.m. – Meeting with Sprint cell phone representative
- Thursday, **September 4** –
 - 10:00 a.m. – SEMASS Steering Committee at Rochester plant
- Monday, **September 8** –
 - 9:30 a.m. – COA Board of Directors meeting
- Tuesday, **September 9** –
 - Primary Election – Polls open
 - 3:30 p.m. – Mattapoissett River Valley Advisory Committee at BPW
 - 4:30 p.m. – Mattapoissett River Valley Water District
- Wednesday, **September 10** –
 - Noon – Manager's Meeting in Westport

VERANDA AVE

Mr. Osuch said that the Board would have to address a recent request for a transfer of land on Veranda Ave.

COLLINS CONSTRUCTION

The Board reviewed Change Order #2 from Collins Construction for work done to the front doors and light at the Town Hall. Mr. Haworth motioned to approve Change Order #2 in the amount of \$931.26. Mr. Murphy seconded. Vote was unanimous. (3-0).

The Board reviewed Requisition #5 for Collins Construction for that same project. Mr. Haworth motioned to approve Requisition #5 in the amount of \$6,140.20. Mr. Murphy seconded. Vote was unanimous. (3-0).

WOOD SCHOOL

The Board reviewed Change Order #16 for the Wood School project. Mr. Haworth motioned to approve Change Order #16 in the amount of \$6,120.27. Mr. Murphy seconded. Vote was unanimous. (3-0).

The Board reviewed Requisition #20, the final payment, for the Wood School project. Mr. Haworth motioned to approve Requisition #20 in the amount of \$13,120.27. Mr. Murphy seconded. Vote was unanimous. (3-0). Mr. Osuch added that the project overall was “well within” the project estimate and budget.

ROGERS/OXFORD APPRAISAL

The Board reviewed a proposal from Dwyer Appraisal to appraise the Rogers and Oxford Schools for \$1,500 per school appraisal. The appraisal is prerequisite to any action the Town can take to dispose of the buildings.

Mr. Haworth motioned to approve the appraisal proposal from Dwyer. Mr. Murphy seconded. Vote was unanimous. (3-0).

ANIMAL SHELTER DONATIONS

Mr. Haworth motioned to accept \$182 in donations to the Animal Shelter Gift Account. Mr. Murphy seconded. Vote was unanimous. (3-0).

NSTAR GAS PERMITS

Mr. Haworth motioned to approve NSTAR gas permits (previously approved by the BPW) for the following locations: 28 Hamlet Street; 10 Staffon Road; 74 Weeden Road; 220 Alden Road; 4 Jason Terrace; 17 Newbury Ave; 215 Green Street; 289 Huttleston Ave; 326 Huttleston Ave; 118 Weeden Road; 2 Hamlet Street; 91 Hedge Street. Mr. Murphy seconded. Vote was unanimous. (3-0).

CELL PHONE/TELEPHONE USE POLICY

The Board reviewed an edited and finalized version of the Cell Phone/Telephone Policy discussed at a previous meeting. Satisfied with the changes made, Mr. Haworth motioned to approve the Cell Phone/Telephone Use Policy as a final document and distribute to appropriate departments. Mr. Murphy seconded. Vote was unanimous. (3-0). See Attachment A for the accepted Town of Fairhaven Cell Phone/Telephone Use Policy.

CAPITAL PLANNING COMMITTEE

The Board reviewed a letter from Charlene Conway, requesting appointment to the Capital Planning Committee. Ms. Conway is a longtime business owner in Fairhaven, but the Board was not sure if she was a resident, which is required to serve on the Capital Planning Committee. Ms. Kakley will ask Ms. Conway if she is a resident.

CDBG FY12 GRANT ADMINISTRATOR

The Board reviewed amendment #4 to the contract with Breezeway Farm Consulting for administrative work on the CDBG FY12 grant, extending the contract to October 31, 2014. Mr. Haworth motioned to approve amendment #4. Mr. Murphy seconded. Vote was unanimous. (3-0).

CDBG FY14 GRANT ADMINISTRATOR/HOUSING SPECIALIST

The Board reviewed a proposal from Breezeway Farm Consulting to serve as the Grant Administrator and Housing Specialist for FY14 CDBG work. Mr. Haworth motioned to award the bid to Breezeway Farm Consulting, subject to the Town receiving final clearances from DHCD. Mr. Murphy seconded. Vote was unanimous. (3-0).

DOG PARK COMMITTEE APPOINTMENT

The Board reviewed a letter from Lizette David, requesting appointment to the Fairhaven Dog Park Committee.

Mr. Osuch noted that the Dog Park Committee was already very large. Mr. Haworth motioned to appoint Ms. David to an associate position on the Dog Park Committee. Mr. Haworth's motion failed for lack of second.

John Roderiques was recognized by the Chairman. He said that he did not think non-residents should be considered for appointment to Town boards and committees.

Mr. Murphy noted that Ms. David is a New Bedford resident and that the Board should be appointing residents to Town committees. Ms. Kakley said she had discussed this matter in the past with the Town Clerk, and that there was no established rule barring non-residents from appointment. Moreover, there are several non-residents appointed to Town boards and committees already.

Mr. Murphy motioned to create a Standing Rule that only Town residents would be eligible for appointment to Town Boards and Committees from that point on. Mr. Haworth seconded. Vote was unanimous. (3-0).

Ms. Kakley asked if non-resident property owners would be eligible for appointment. The Board said only residents. Mr. Roderiques was again recognized by the Chairman. Mr. Roderiques said that appointment should be limited to residents.

Ms. Kakley asked if seasonal residents would be eligible for appointment to Town boards and committees. The Board said only full-time residents would be eligible for appointment, with Mr. Haworth adding that a resident would be defined as someone eligible to register to vote in Fairhaven.

PERSONNEL BOARD APPOINTMENT

The Board reviewed a letter from Gary Souza requesting appointment to the Personnel Board.

Mr. Murphy said that he was very comfortable with appointing Mr. Souza, as he is a former member of the Personnel Board and very familiar with Town departments. Mr. Murphy noted that the Personnel Board would be dissolved once a Town Administrator was in place.

Mr. Haworth motioned to appoint Mr. Souza to the Personnel Board. Mr. Murphy seconded. Vote was unanimous. (3-0).

Mr. Murphy noted that the next scheduled meeting of the Personnel Board is October 16.

TAX TITLE AUCTION

The Board recognized a letter from Treasurer/Collector Wendy Graves, requesting the Board rescind a previous vote that set an auction minimum for two tax title properties.

After some discussion, the Board agreed to remove a minimum bid for the auction of 12 Diamond and 14 Grandview. Mr. Haworth motioned to rescind the vote of August 8, 2013 to set the minimum bid of 12 Diamond to \$60,000. Mr. Murphy seconded. Vote was unanimous. (3-0). Mr. Haworth motioned to take Ms. Graves' recommendation and set the minimum bid for 12 Diamond Street to \$0. Mr. Murphy seconded. Vote was unanimous. (3-0).

Mr. Haworth motioned to rescind the vote of August 8, 2013, to set the minimum bid of 14 Grandview Ave to \$65,000. Mr. Murphy seconded. Vote was unanimous. (3-0). Mr. Haworth motioned to take Ms. Graves' recommendation and set the minimum bid for 14 Diamond Street to \$0. Mr. Murphy seconded. Vote was unanimous. (3-0).

Mr. Haworth motioned to sign the contract with tax title auctioneer Jay Kivowitz for the September 27 auction. Mr. Murphy seconded. Vote was unanimous. (3-0).

DOUBLE POLES

The Board briefly discussed the matter of double poles throughout Town. The Board will request an updated listing of updated double poles from NSTAR and will ask NSTAR to renew their efforts to remove double poles. Mr. Haworth motioned to send a letter to NSTAR. Mr. Murphy seconded. Vote was unanimous. (3-0).

PUMP OUT GRANT – HARBORMASTER REQUEST

The Board reviewed a request from Harbormaster David Darmofal, asking for permission to provide a 25% match for the Town to acquire a new pump out for recreational vessels. The remainder of the purchase would come from a State grant.

After discussion, the Board agreed that the acquisition would be valuable to the Natural Resources department. Mr. Haworth said that he would like to see the funds come from the Waterways Account. Mr. Haworth motioned to authorize the 25% match for the pump out, to come from the Waterways Account. Mr. Murphy seconded. Vote was unanimous. (3-0).

HARBOR ADVISORY

Mr. Espindola said that he had correspondence from a concerned Town resident regarding the CAD cell dredging by the EPA in New Bedford Harbor. Because the item was not added to the agenda in time for the September 2 meeting, the Board could not discuss or deliberate. Mr. Espindola asked if they would like the matter to go before the Harbor Advisory Committee or the Selectmen. Mr. Haworth said that he favored forwarding the correspondence onto Mr. Darmofal for his comment. Mr. Espindola said that they would follow up with Mr. Darmofal and discuss the matter at a later date.

KEN LEBLANC – MODEL OF CHARLES MORGAN

Mr. Osuch informed the Board that artist Ken LeBlanc would like to leave his model of the Charles Morgan on display permanently in a Town building, preferably Town Hall or the Library. Mr. Haworth motioned to accept the offer. Mr. Murphy seconded. Vote was unanimous. (3-0).

PACKAGE STORE LICENSE TRANSFER

At 7:00 p.m. the Chairman opened a public hearing for the transfer and pledge of license from Little Bay Liquors to ICJ Corporation (d/b/a “Fairhaven Wine and Spirits”). No one was present to represent ICJ at the time of the hearing. (The owner/manager made an error and reported to the wrong meeting in the Town Hall).

Mr. Espindola asked if there was any public comment. There was none.

Taxes were verified, and the application included proof of worker’s compensation, and workers are TIPS certified.

Mr. Haworth motioned to approve the transfer. Mr. Murphy seconded. Vote was unanimous. (3-0). Mr. Espindola closed the hearing at 7:01 p.m.

SRPEDD – ENERGY COOP

At 7:05 p.m., the Board met with Ross Perry of Southeastern Regional Planning and Economic Development District, and John O'Rourke of Good Energy to discuss an initiative to combine towns into an electricity purchase consortium.

Mr. Perry spoke to the effort, and said that it would involve an estimated 11 towns to develop an RFP to obtain an energy purchase consultant. After an energy purchase consultant is selected, the communities would then work with SRPEDD and the consultant to obtain an electricity purchase group rate.

Mr. Perry said that SRPEDD would be looking for an article for a fall town meeting to allow the Town to engage in the consultant RFP process. He said that any contracts would be phrased to allow for an "opt out", either by the Town or by the individual consumer. He said that the Town would not be "locked into" anything until the rates are accepted.

Mr. O'Rourke of Good Energy said that they would presumably be the consultant. He said that they go out to bid with all the power companies and that they would like to put together a bulk buying group of at least 100,000 households from NSTAR and National Grid customers.

Mr. Haworth asked if there was any financial obligation from the Town to proceed with the RFP for consultant services. Mr. Perry said that there was no financial obligation. The deadline for opting into the process (with Town Meeting approval) is December 30, 2014, but Mr. Perry and Mr. O'Rourke said that the deadline was flexible.

Mr. Murphy had questions related to how the project could impact the consumer and said that he would like to see the project strong on consumer outreach. Mr. Perry agreed, and said that there will likely be a website for consumers related to the project.

Mr. Espindola asked if there were other parts of the country doing a similar consortium. Mr. Perry listed Massachusetts communities currently using energy-purchase consortiums, including Lowell, Lancaster, etc. Mr. O'Rourke added that energy-purchase consortiums are gaining momentum in places like Illinois and New Jersey.

Mr. Osuch asked if they had an anticipated energy purchase price range. Mr. O'Rourke said that they would be going out for rates in spring when the rates are lowest. He said that, at the end of the process, if the Town does not want to accept the selected rate, it may opt out. The length of the contract will depend on what the "working group" of selected communities want – one year to up to four years.

Mr. Murphy asked what Mr. Osuch thought of the effort. Mr. Osuch said that it was probably a progressive way of purchasing energy and could be advantageous, but that the Town would have

to remember that once the Town is entered into a power purchase agreement, it cannot break that contract for any better rates that come along.

Mr. Espindola said that he would be willing to do the work involved in making the energy-purchase consortium.

Mr. Haworth motioned to support the energy-purchase consortium. Mr. Murphy seconded. Vote was unanimous. Mr. Haworth motioned to have Mr. Espindola act as liaison regarding the energy purchase RFP. Mr. Murphy seconded. Vote was unanimous. (3-0).

ROGERS-OXFORD RFP

At 7:41 p.m., the Board met with Town Counsel Thomas Crotty and members of the public to discuss the disposal of the Rogers and Oxford Schools.

The Board discussed the RFP process and property boundaries. Atty. Crotty said that Bill Roth confirmed that a portion of Union Street had been discontinued at an earlier date. Atty. Crotty reviewed the Town's options for inclusion in the RFP, which included taking a section of the Rogers School playground lot to create two new lots. Atty. Crotty said that Town Meeting would have to formally transfer the property to the Board of Selectmen from the School Department and then approve an article to dispose of the buildings.

Mr. Espindola asked if the RFP could include "as is". Atty. Crotty answered in the affirmative, saying that the Board should really be discussing zoning. The schools are located in Residential zones, which is very restrictive to most developers. He said that if someone proposes condos, but condos are not allowed by the zoning, the Town could enter an agreement contingent upon the rezoning of the area at Town Meeting. In general, Atty. Crotty said that it might be wise for the Town to consider a zoning review to allow more flexibility for old buildings in Town to be converted to condos to improve building upkeep and prevent vacant buildings.

Mr. Haworth asked if the Town had any recourse in the event of a 40b proposal. Atty. Crotty answered that the Town maintains control in an RFP and it does not have to sell if it does not like a proposal. Once the buildings are no longer in the Town's possession, however, the Town cannot prevent a 40b development. Atty. Crotty added that in an RFP, the Town is not required to select the highest bidder because there are so many considerations.

Boundaries and deed restrictions for Rogers School were discussed. Mr. Espindola said that he thought the RFP should include language related to the historical value of both schools and the rating system should give preference to anyone willing to keep the original building portion intact.

Discussion ensued regarding what would be included in the RFP and advertising costs. Mr. Haworth recommended having "multiple wheels moving at once", including a drafting of an article that would give ownership of the buildings to the Board of Selectmen. The Board agreed that they were all in favor of going with an RFP for disposal of both buildings.

John Roderiques was recognized by the Chairman. Mr. Roderiques said that if the Board puts out an RFP without clearly defined boundaries, the process could get delayed. He added that most investors are not willing to wait six months to a year to figure out what they are authorized to purchase.

Mr. Haworth said that he would not be willing to relinquish ownership of the Rogers School playground. Residents and Rogers-Oxford Study Committee members Karen Vilandry and Beverly Rasmussen agreed that the playground should remain in ownership of the Town. Atty. Crotty said that the Town could place any restriction it wanted, but more restrictions would mean more limitations when it came time to sell.

Phil Washko was recognized by the Chairman. He said that he wanted to make sure that any decisions made based on the RFP would take the appraised value of the buildings into consideration. Mr. Osuch said that the Dwyer appraisal would take about 30 days to obtain. Atty. Crotty added that the appraisal will be an “open market” appraisal which will not consider any restrictions or changes. He advised that the appraisal include the playground as well, as a reference point.

Doug Brady was recognized by the Chairman. He asked if the RFP would include any deed restrictions. Mr. Espindola said that he favored an unrestrictive RFP that would include a rating system which would give preference to applicants willing to consider a deed restriction, but that the Town should be willing to accept all proposals in the event that there is an idea that the Town has not yet considered. He added that they could always negotiate after the proposal is received.

Ms. Vilandry said that the School Department technically still owns the building. She asked if the Town could hold the School Department financially responsible for the upkeep until a Town Meeting transfers the buildings to the Town’s possession. Mr. Haworth said that it was unlikely they could do that, and either way, the cost would be borne on the taxpayers.

Mark Badwey was recognized by the Chairman. He said that he wanted to make sure that the Town would remain focused on disposing of the Oxford School too, and not just put all the effort into disposing of the Rogers School. Mr. Espindola said that he would like to see Town Counsel pursue some of the issues related to boundaries at the Oxford School, and the NFIA building.

Steve Desroches was recognized by the Chairman. He said that he did not want anyone to forget that there is a Paul Revere bell in the Oxford School that should be maintained by the Town no matter what decision is made.

Mr. Espindola and Mr. Osuch will continue to work together on the RFP.

OTHER BUSINESS

In Other Business:

- Mr. Murphy welcomed students back to a new school year.

- Mr. Murphy said that the Our Lady of Angels Feast was another successful event, and thanked the Selectmen for attending and volunteering their time.
- Mr. Murphy reminded the public that the annual Katie Brienzo Walk was scheduled for September 13.

At 9:23 p.m., Mr. Haworth motioned to enter Executive Session, pursuant to M.G.L. Ch 30A § 21:

- To discuss strategy with respect to real estate 211 Mill Road – 61A
- To discuss strategy with respect to contract – Union Wharf Appraisal
- To discuss strategy with respect to contract – Coastal Compassion

Mr. Murphy seconded the motion to enter Executive Session for the aforementioned reasons, not to reconvene into open session afterward. Vote was unanimous. (3-0). Roll call vote: Mr. Espindola in favor. Mr. Haworth in favor. Mr. Murphy in favor.

Respectfully,

Anne Kakley

Administrative Assistant
Board of Selectmen
(Minutes approved 9/15/2014)



Robert Espindola, Chairman
Geoffrey Haworth
Charles K. Murphy

**Town of Fairhaven
Massachusetts
Office of the Selectmen**

40 Center Street
Fairhaven, MA 02719

Tel: (508) 979-4023
Fax: (508) 979-4079
selectmen@Fairhaven-MA.gov

**TOWN OF FAIRHAVEN
EMPLOYEE TELEPHONE/CELL PHONE USE POLICY**

Purpose: To require a standard for the use of Personal Cell Phones, Town Telephones and Town-issued Cell Phones

Responsibility: All Employees and Department Heads

Personal Cell
Phone Policy:

- While at work, employees are expected to exercise discretion in using cellular phones. Personal calls during the work day can interfere with employee's work and be distracting to others. Employees must restrict their personal calls during work time and only use their personal cell phones during scheduled lunch periods or breaks. Family and friends need to be made aware of the Town's cell phone policy. The Town of Fairhaven will not be held liable for the loss of personal cell phones brought into the workplace.
- Use of personal cell phones in an emergency must be with the supervisor's/department head's permission.
- Use of cell phones, including sending or receiving texts, while driving a Town vehicle is prohibited. In an emergency, pull over and stop the Town vehicles before using a Town-issued or a personal cell phone. (Public Safety departments responding to an emergency are exempt from this policy).

Town-issued Telephone and Cell Phone Policy:

LOCAL CALLS

Town-issued telephones and cell phones are to be used to conduct official Town business. Employees should limit personal telephone calls: this includes incoming and outgoing telephone calls. Personal calls should not interfere with an employee's duties or other employee's duties and should not impact an employee's productivity.

Certain personal phone calls on Town-issued telephones and cell phones is allowed as follows:

- Calls to notify family members of a scheduling change or travel delay that is a result of Town business including calls to make alternate child care or transportation arrangements;
- Brief calls to an employee's residence or family members;
- Brief calls to local businesses (including government agencies, physicians, auto or home repair) that can only be reached during working hours; and
- Calls to notify or contact family members and/or physician in the case of an emergency

These calls should always be kept to a minimum and only be made on Town-owned telephones if they could not be reasonably made on a non-Town owned telephone, for example, personal cell phones or pay telephones.

LONG DISTANCE CALLS

Long distance telephone calls using Town-owned cell phones or telephones should only be made for official Town business.

Long distance calls should not be made for personal reasons unless they are made for an appropriate reason as discussed above, are approved by a supervisor, and the employee agree to:

- Charges the call to a third number (such as the employee's home phone number); or
- Makes the call collect; or
- Charges the call to a personal prepaid calling card or to a personal credit or debit card; or
- Places the call to a toll free (800, 877, 888) number

Costs incurred by employees making any long distance calls not related to Town business must be reimbursed to the Town.

TOWN-OWNED CELLULAR PHONES

Some Town employees are provided with cellular phones to conduct business when not in the office. The policies listed herein applies for cellular phones owned by the Town. Cellular phones should only be used to conduct official Town business. Personal calls should be limited to the greatest extent possible. While operating Town vehicles, or while operating any vehicle on Town business, personnel are prohibited from using their personal or Town-issued cell phones to place calls, receive calls, text message, or receive ("check") text messages. The only exception to this rule is public safety personnel en route to emergencies.

Employees receiving Town-issued cellular phones will be required to sign that they have received the equipment and understand the usage policies. Employees will be responsible for recharging the equipment. Employees should report service and maintenance issues, including the need for new batteries, to the department head as soon as possible.

REIMBURSEMENT

Town-owned equipment:

This cellular phone usage policy requires any Town employee using a Town-issued cell phone for personal calls to reimburse the Town for the cost of the calls made. Monthly review of cell phone calls/charges will be made.

Employee-owned equipment:

Reimbursement should be made to employees for business calls that are made on an employee's personal phone. Reimbursement will be made to the employee for expenses incurred while conducting official Town business. Employee will provide the Town with a copy of the personal phone bill, highlighting Town business calls made and the cost of those calls. The Town will reimburse the employee for the cost of calls made conducting Town business.

EMPLOYEE RESPONSIBILITY

It is the responsibility of the Town employees to familiarize themselves with Fairhaven's telephone/cell phone usage policy. Employees will be required to sign a form acknowledging that they have read and understand Fairhaven's telephone/cell phone policy. It will be the employee's responsibility to make sure that they follow these policies.

TOWN OF FAIRHAVEN RESPONSIBILITIES

The Town will be responsible for:

- Ensuring employee compliance with the policy;
- Reviewing telephone bills for irregular calls or unusual usage;
- Collecting reimbursements from employees for personal calls;
- Distributing reimbursements to employees for business calls made on personally owned phones;
- Reviewing and evaluating requests for telephone services and equipment such as cellular phones.

Accepted by a vote of the Board of Selectmen on September 2, 2014:

Robert Espindola, Chairman

Geoffrey A. Haworth, II

Charles K. Murphy, Sr.

TOWN OF FAIRHAVEN
EMPLOYEE TELEPHONE/CELL PHONE USE POLICY

I have received the Town's Telephone/Cell Phone Use Policy and agree to abide by the policies therein.

Employee Signature

Date

Please return this sheet to the Selectmen's Office.