



Fairhaven Board of Selectmen

September 29, 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 6:32 p.m. The meeting was video-recorded and telecast by the Government Access channel and audio-recorded by Anne Kakley. A portion of the meeting was audio recorded by Garth Rowe.

WINTERFEST

After the Pledge of Allegiance, the Board met with Michael Knabbe regarding a “Winterfest” fundraiser that took place on September 28, 2014 at the Cushman Park. Mr. Knabbe informed the Board that the event raised funds for the Lance Cpl. Matthew Rodriguez “Smiling Warrior” fund, a non-profit organization that helps families of fallen Marines. He said that the event was so successful that they planned on holding another similar event next year, and that he would be asking the Selectmen to participate.

MINUTES

- Mr. Haworth motioned to approve the minutes of the **September 15, 2014** meeting, **open** session. Mr. Murphy seconded. Vote was unanimous. (3-0).
- Mr. Haworth motioned to approve the minutes of the **September 15, 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:

- Tuesday, **September 30** –
 - 7:30 a.m. – Insurance seminar with Sylvia Group in Dartmouth
- Thursday, **October 2** –
 - 7:30 to 9:00 a.m. – Forum group at the Buzzard’s Bay Coalition office
 - 11:30 a.m. – Medical Marijuana conference call with State
- Tuesday, **October 7** –
 - 9:30 a.m. – Rogers School walkthrough with antique specialist
 - 6:30 p.m. – Selectmen’s meeting
- Wednesday, **October 8** –

- Advertising in Central Register for Police/Fire Roof – bids due 10/23
- Friday, **October 10** –
 - 8:00 to 10:00 a.m. – MMA legislative breakfast at the Fairhaven Senior Center

TAX TITLE AUCTION

Mr. Osuch informed the Board that the Town’s tax title auction on September 27, 2014, had yielded \$98,000 in revenue. 14 Grandview Ave sold at auction for \$78,000 and 12 Diamond sold for \$20,000.

Mr. Osuch asked the Board what they intended to do with 124 Alden Road. Mr. Haworth said he remembered voting at a previous meeting to auction the property off, using J.J. Manning. Ms. Kakley will review minutes and follow up with the Board.

DOG HEARING

Mr. Osuch gave an update to the dog “Cali” that was ordered euthanized at the previous Board of Selectmen’s meeting. Mr. Osuch said that the dog had been taken by the Town’s Animal Control Officer and was euthanized.

CAPITAL PLANNING COMMITTEE

Mr. Osuch said that Drew Tillet was elected chairman of the Capital Planning Committee. The Capital Planning Committee has set October 15 as the deadline for capital needs submissions from all departments.

ENERGY PURCHASE UPDATE

Per request of Mr. Espindola, Mr. Osuch updated the Board to the current status of energy purchasing for the Town of Fairhaven. Mr. Osuch said that the cost of electricity has jumped dramatically. NSTAR has not come out with its rates yet. Mr. Osuch said that he was considering splitting the year and not purchasing for a few months from a third-party supplier.

SPECIAL TOWN MEETING

The Board confirmed a Special Town Meeting for Tuesday, December 9, 2014 to be held at the Hastings Middle School auditorium at 7:00 p.m. Mr. Haworth motioned to set an article deadline of Friday, October 24 at 4:00 p.m. Mr. Murphy seconded. Vote was unanimous. (3-0).

DOMESTIC VIOLENCE STATUTE

Mr. Osuch said that the State has passed a new law that went into effect in July. The Domestic Violence Statute requires employers to provide employees in a domestic abuse situation a 15-day unpaid, job-protected leave.

Mr. Haworth motioned to accept the Domestic Violence Leave Statute. Mr. Murphy seconded. Vote was unanimous. (3-0). The Statute will be posted in the break room and time punch room and distributed to all departments so employees know their rights.

NSTAR GAS PERMITS

Mr. Haworth motioned to approve NSTAR gas permits for 54 Adams Street, 36 Harvard Street, 450 Sconticut Neck Road, 35 Hacker Street, and 88 Bridge Street (previously approved by the Board of Public Works). Mr. Murphy seconded. Vote was unanimous. (3-0).

VETERAN'S DAY PARADE

The Board reviewed an invitation from Gerry Payette to the Veteran's Day Parade on Tuesday, November 11, 2014. The Board will be in attendance and Ms. Kakley will RSVP on their behalf.

Mr. Murphy recognized Mr. Payette for being named the 2014 Veteran of the Year by the Standard Times for this philanthropic work.

DOG PARK COMMITTEE GIFT ACCOUNT

The Board reviewed a request from the Dog Park Committee for a gift account. Mr. Haworth motioned to create a Dog Park Gift Account. Mr. Murphy seconded. Vote was unanimous. (3-0).

CABLE ADVISORY CONFERENCE

The Board reviewed a request from Mr. Espindola to consider paying the application fee for one member of the Cable Advisory Committee to attend the 2014 Northeast Conference of the Alliance for Community Media on October 9-10 in New Hampshire. The fee would be \$285 and Mr. Espindola indicated that the money would come out of the PEG access account.

Mr. Haworth asked who would be attending the conference and Mr. Espindola indicated that he did not know yet. Mr. Murphy said that he thought PEG access funds were supposed to be used for equipment. Mr. Espindola said that he had a letter of opinion from Epstein and August that PEG access could be used for professional development. Mr. Haworth said that he would be comfortable with the expenditure as long as they have the confirmation from Epstein and August.

Mr. Haworth motioned to approve the use of PEG access to pay for one member of the Cable Advisory Committee to attend the 2014 Northeast conference of the Alliance for Community

Media on October 9-10, contingent upon receipt of the Epstein and August letter and approval by the Town Accountant and Town Counsel. Mr. Murphy seconded. Vote was unanimous. (3-0).

FRANCIS STREET ENGINEERING SERVICES

Per request of the Town Planner, Bill Roth, Mr. Haworth motioned to award engineering services for the Francis Street CDBG project to GCG Associates. Mr. Murphy seconded. Vote was unanimous. (3-0).

HOUSING AUTHORITY REQUEST FOR BUILDING PERMIT WAIVER

The Board reviewed a letter from Housing Authority director Krisanne Sheedy, requesting a full or partial waiver of building and electrical fees associated with the renovation of the community room kitchen at Oxford Terrace. The requested waiver totaled \$824 in building permits and \$206 in electrical permits.

After discussion, Mr. Haworth motioned to approve the waiver of the \$824 building permit for the Housing Authority. The \$206 electrical permit fee will remain. Mr. Murphy seconded. Vote was unanimous. (3-0).

OSRP

Mr. Roth asked the Board to consider approving the formation of an Open Space and Recreation Plan Update committee for the purposes of working with SRPEDD. The committee will be comprised of Mr. Roth (Planning/CDBG), Vincent Furtado (BPW), Louise Barteau (Conservation Commission), Warren Rensehausen (Recreation), and two at-large citizens. Over the next 12 months, the committee will work on a plan to offer to the state for recertification.

Mr. Haworth motioned to approve the formation of an OSRP to be comprised as outlined by Mr. Roth. Mr. Murphy seconded. Vote was unanimous. (3-0). Mr. Roth will issue a citizen press release.

DOG PARK COMMITTEE MEMBERSHIP

The Board reviewed a memo from Laurie Traudt of the Dog Park Committee, asking the Board to re-establish the membership of the Dog Park Committee for the sake of accurate record-keeping. Mr. Haworth motioned to set the membership thusly:

- Donna Baldwin
- Anne Jorgensen
- John Jorgensen
- Kathy Lopes
- Nancy Santoro
- Tara Schryver
- Laurel Traudt - Co-chair

- Carol Tyson - Co-Chair

Mr. Murphy seconded. Vote was unanimous. (3-0).

FRANCIS STREET NOTICE OF AWARD – CDBG 14

Per request of the Town Planner, Bill Roth, the Board reviewed bids submitted for construction services on the Francis Street CDBG project. Mr. Roth said that the lowest qualified bidder was Pavao Construction in the amount of \$737,820.25. The engineer has reviewed the bids and recommends awarding the bid to Pavao Construction. Mr. Haworth motioned to award the bid to Pavao Construction in the amount of \$737,820.25. Mr. Murphy seconded. Vote was unanimous. (3-0).

A&A AUTO

Per the Chairman's request, Mr. Haworth motioned to take A&A Auto out of agenda order. Mr. Murphy seconded. Vote was unanimous. (3-0).

The Board met with Rubah Sarkis and Alex Sarkis of Route 6 Properties, LLC, (A&A Auto) to hear plans to alter their current permit. The application reflects the placement of 11 cars on Map 26, Lot 13.

The Building Commissioner submitted a letter of comment related to the application, asking that the business make every effort not to park cars on abutting Shirley Street and to landscape on the Huttleston Ave side of the property (see Attachment A). The applicants have already received a variance from the Zoning Board of Appeals. The rearrangement of vehicles from the main lot to the side lot would not increase the overall number of vehicles at the location. Per Town Counsel and the Building Commission, the decision to alter the site plans for the permit falls under the purview of the Board of Selectmen.

The applicants offered two different plans that they would accept. The Board asked which set they preferred. Ms. Sarkis indicated that they preferred "Concept #2" (see Attachment B).

Mr. Haworth motioned to approve the alteration to the A&A Auto permit with the acceptance of "Concept #2", contingent upon the applicants fulfilling the two conditions required by the Building Commissioner in Attachment A. Mr. Murphy seconded. Vote was unanimous. (3-0).

POLICE OFFICER APPOINTMENTS

At 6:48 p.m., the Board met with Police Chief Michael Myers and Sergeant Kevin Kobza for the appointment of four new officers to the Police Department. Also present were four Police candidates, Matthew Sobral, Jerome Penha, Scott Coelho and Jonathan Alves.

Chief Myers said that back in early July, two officers left the Fairhaven Police Department for positions at other departments, and there had been one retirement. By the time Police Academy

graduates in spring, Chief Myers said that the four recommended candidates would create a fully staffed Police department.

Mr. Haworth noted that all four candidates had excellent backgrounds and character. Mr. Murphy agreed.

Mr. Haworth motioned to appoint Matthew Sobral, Jerome Penha, Jonathan Alves and Scott Coelho to the Police Department. Mr. Murphy seconded. Vote was unanimous. (3-0).

BOARD OF APPEALS SECRETARY

At 6:55 p.m., the Board met with Tracy White, applicant for the Board of Appeals secretary position. Ms. White is also currently the Conservation Commission secretary, and has completed one meeting of the ConCom. Conservation Agent Wayne Fostin has reported that her minutes were well written and Mr. Osuch said that Appeals Chairman Peter DeTerra was supportive of her appointment.

Mr. Espindola asked about Ms. White's availability. Ms. White said that she was anticipating evening hours for the position, and Mr. Osuch advised that there would be need to complete some clerical functions during daytime hours. Ms. White advised that she could be flexible and could complete some tasks during the day. Mr. Espindola said that former ZBA secretary Patricia Fowle was willing to train Ms. White.

Mr. Haworth motioned to appoint Ms. White to the Board of Appeals secretary. Mr. Murphy seconded. Vote was unanimous. (3-0).

GETTY – FIRST HOT LINE AUTO SALES

At 7:00 p.m., Mr. Espindola opened a public hearing for a requested increase of vehicles at First Hot Line Auto Sales, d/b/a Getty Auto Sales. Applicant Hatem Elrifai, his wife Lauren Elrifai and his attorney Robert Perry.

Mr. Perry said that his applicant has had good business and that they felt they were presenting to the Selectmen a "nice, neat layout" for their requested increase from 14 vehicles (11 used, 3 unregistered) to 22 vehicles (and an addition five customer parking spaces and four employee spaces).

Mr. Espindola noted that the Board was in receipt of correspondence regarding the application to increase vehicles at the Getty station. A letter from Building Commission Wayne Fostin indicated that the site plan did not show existing conditions or vehicle circulation plans. Mr. Fostin said that a new plan should be submitted, showing existing conditions and a circulation plan. As submitted, the plans show too many vehicles.

Town Planner Bill Roth also submitted a letter, indicating that the site does not conform to current zoning bylaw and that some sections may be grandfathered, but if the applicant wants to do further setbacks, it will require variances from the Board of Appeals.

Mr. Perry said that he thought the whole property was grandfathered and said that he was surprised that Mr. Fostin did not give him a copy of his opinion letter. He said that he would appreciate the chance to resolve the zoning issues, and pointed out that Mr. Roth's and Mr. Fostin's letters seemed to be in conflict with each other (see Attachment C for both letters).

Mr. Espindola opened the meeting to public comment.

Ed Gonet was recognized by the Chairman. Mr. Gonet said that two years ago he wrote a letter to the Board of Selectmen regarding the increase of cars proposed at the Getty location. He said that he had problems with people test driving vehicles down Grinnel Street. He said that the traffic at the top of Grinnel Street on the weekend when people are looking at vehicles is bad. Mr. Gonet said that he has lived in his house for 39 years and that there was never a problem with the Getty station until the current owner took it over.

Louis Baptiste of RRR Auto (across the street from Getty Auto) was recognized by the Chairman. He said that he was concerned for public safety. Mr. Baptiste said that there are cars parked at Getty Auto over the gas fills and that he thought it presented a fire hazard. Additionally, he said that the gas truck has to cut across Route 6 and stop traffic for deliveries because the Getty station is so overcrowded, it cannot pull in any other way.

Ms. Elrifai refuted Mr. Baptiste's claim, saying that the cars are never parked over the gas fill. Mr. Elrifai agreed, saying that he tries to be a good neighbor.

Mr. Haworth said that it was important to note that there has been a feud between the two stations, Getty and RRR, but that the application from Getty would need a circulation plan before the Board could consider any additional cars on the lot. He advised the applicant to go through the Planning Board and the Building Department first.

Mr. Murphy said that he thought there was an issue with people not understanding the permitting process and not getting adequate guidance in the permitting process. He encouraged the applicant to go back to Mr. Roth and Mr. Fostin to obtain some clarity on what is needed next in the process.

Mr. Perry asked the Board to continue the hearing. Mr. Osuch said that the Board could not continue the hearing when the next date of the meeting would be unknown. He said that it would not be fair to the abutters who were notified of the meeting. Mr. Perry said that if the Board continued the hearing without a date, his client would pay for another abutter notification.

Mr. Haworth motioned to continue the hearing to a future Selectmen's meeting, contingent upon a second abutter notification. Mr. Murphy seconded. Vote was unanimous. (3-0).

EPA AND HARBOR DREDGING

At 7:25 p.m., the Board met with representatives of the Environmental Protection Agency (EPA) and representatives of the Hands Across the River (HARC). Representing the EPA were Community Involvement Coordinator Kelsey O'Neil, CAD cell project manager David Lederer,

EPA project manager Ginny Lombardo and Remedial Project manager Elaine Stanley. Representing HARC were Vice President Karen Vilandry and President Edwin Rivera. The meeting was prompted by HARC, who submitted to the Board over 30 questions for the EPA representatives to answer related to the CAD cell dredging in the lower harbor.

The public received a brief synopsis from Ms. Lombardo regarding the PCBs in the harbor and their origins from the Aerovox manufacturing plant in New Bedford, the harbor's 1983 superfund site designation, and the EPA/Aerovox settlement of \$366 million (made in 2013 with a potential reopener). Ms. Lombardo said that Aerovox discharged PCBs into the harbor for decades and that the upper harbor is the more contaminated portion.

Ms. Stanley said that the CAD cell option was publicly vetted by the EPA at a series of public hearings. Mr. Lederer added that there will be no escape of the material from the CAD cell once it is there. He said that they have completed air modeling and that there will be no impact on the community at all. Mr. Lederer said that the PCBs in the air currently are from the unremediated sediments.

Ms. O'Neil said that they would be prepared to answer the questions of the public, but would not be replying to allegations that the EPA provided false information or intentionally withheld information from the public.

Mr. Espindola read 25 of the 30 questions in Attachment D and the EPA responded. Resident Garth Rowe recorded this portion of the meeting. As a result of the discussion, the EPA representatives agreed that they would work with the Town to improve signage, with the EPA provided guidance on the placement and language of the signs. Additionally, the EPA will use settlement funds to expedite the intertidal clean-up. Once the CAD cells are capped, the EPA will work with the DEP to work out a monitoring plan. Mr. Lederer confirmed that there was no technology available to monitor air for PCBs in "real time". He said that they did not expect an exceedence in allowable PCBs in the air for the duration of the project. Additionally, the EPA will not work on the dredging overnight.

Ms. Lombardo said that residents abutting the project will also be contacted for access agreements. If PCB contamination is found on private property as a result of the Aerovox contamination and it exceeds the EPA's standard, the EPA will use settlement funds to clean the property at no charge to the homeowner.

Ms. Vilandry responded to the EPA with criticism of their use of the "Foster-Wheeler risk assessment" report to monitor air quality. She claimed that the EPA did not take into consideration the prior PCB exposure of residents, and the exposure of pregnant mothers and children. She said that the using the Foster-Wheeler assessment was bordering on "scientific fraud".

Ms. O'Neil encouraged the public to contact her directly any time with their questions.

The Board took a two minute recess at 8:34 p.m.

DEP MEETING – CONSENT ORDER

Per request of the Chairman, the Board considered a request to hold a public forum regarding the administrative consent order signed by the DEP and the Fairhaven Shipyard. Mr. Haworth motioned to take this topic out of order on the agenda. Mr. Murphy seconded. Vote was unanimous. (3-0).

Mr. Espindola said that there would be a meeting with representatives of the DEP on October 17 at the Town Hall, along with representatives of the Board of Selectmen and the Board of Health. He said that it would not be a posted meeting of the Board of Selectmen, but an informational forum, and a member of the Board of Selectmen would be present for informational purposes. Mr. Espindola said that he would be willing to serve as the Board representative.

Mr. Haworth motioned to hold the informational meeting with the DEP on Friday, October 17 in the Town Hall Banquet Room at 3:00 p.m. with Mr. Espindola serving as the Board representative. Mr. Murphy seconded. Vote was unanimous. (3-0).

ROGER-OXFORD RFP

The Board reviewed an updated and revised version of the Rogers-Oxford RFP. Mr. Osuch recently revised the document to reflect requested changes from Mr. Espindola.

Susan Loo was recognized by the Chairman. Ms. Loo commented that there is no reference to the playground in the updated RFP. Mr. Espindola answered that he removed reference to the playground because the Town does not intend to include the playground in the RFP.

Doug Brady was recognized by the Chairman. Mr. Brady expressed concerns about the building standing vacant and said that he would like the RFP to contain measures that would prevent the buildings standing vacant.

After some discussion, the Board decided to dedicate a larger portion of time to discuss the document in detail at the October 7 meeting.

VACATION CARRYOVER – WAYNE FOSTIN

The Board reviewed a letter from Building Commissioner Wayne Fostin asking to carryover 10 vacation days beyond his anniversary. Mr. Fostin said that he was unable to take the ten days.

After some discussion, Mr. Haworth motioned to approve the carryover of 10 vacation days for Mr. Fostin. Mr. Murphy seconded. Vote was unanimous. (3-0). Mr. Haworth asked that all vacation carryover requests come in prior to the anniversary, instead of after.

The Board will draft a memo to the Personnel Board asking to create a policy regarding the use of vacation days.

FIRE DEPT SURPLUS GENERATOR

The Board read a letter from Shellfish Warden Tim Cox, requesting a transfer of the surplus Fire Department generator to the Shellfish Department. Mr. Haworth motioned to honor the request. Mr. Murphy seconded. Vote was unanimous. (3-0).

BOY SCOUT CIVIC INVOLVEMENT REQUEST

The Board reviewed a letter from Deane Johansen of Boy Scouts Pack 55, requesting a day to tour the Town Hall offices and a chance to use the Town Hall flag pole for a flag raising and lowering lesson. Mr. Osuch noted that the flag pole at the Town Hall requires a ladder for access. The Board said that it would attempt to coordinate a time with Pack 55 via Mr. Johansen, possibly October 9, and Mr. Haworth will try to be present to represent the Board.

OTHER BUSINESS

In Other Business:

- Mr. Haworth said that the Cushman Park Winterfest to benefit the Smiling Warrior fund was a success and the area children had a wonderful time there.
- Mr. Murphy said that the annual BPW auction raised \$2,009 for the Town of Fairhaven.
- Mr. Murphy said that he would be giving a tour of the Town Hall to a group of Japanese students the next morning.
- Mr. Espindola said that his office hours have been changed because of the Board's schedule, and that his next office hours will be on October 1 from 6:30 to 8:30 p.m.

At 9:15 p.m., Mr. Haworth motioned to enter Executive Session, pursuant to M.G.L. Ch 30A § 21:

- A Town Hall personnel issue
- To discuss a request for ambulance waiver
- Union Wharf land swap bid

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 O'Brien-Kakley

Anne Kakley

Administrative Assistant
Board of Selectmen
(Minutes approved 10/07/2014)



Town of Fairhaven
Massachusetts
OFFICE OF THE
BUILDING DEPARTMENT

TOWN HALL
40 Center Street
Tel. (508) 979-4019
FAX: 979-4079

Wayne Fostin
Building Commissioner

September 24, 2014

Board of Selectmen
40 Center Street
Fairhaven, Ma 02719

Re: A & A Auto
196 Huttleston Ave
Fairhaven Ma 02719

Dear Chairman Espindola;

Regarding the application of Route 6 Properties LLC for the placement of 11 cars on Map 26, Lot 13. This clearly falls under the Town Zoning By-Laws 198-27, Section F "Used Car Dealerships. Number of vehicles and area to be occupied by same shall be determined by the Board of Selectmen and the Building Commissioner when licenses are issued for the operation of this type of facility". The two plans that have been submitted I have no issues with either one, as long as the following two conditions are added if possible.

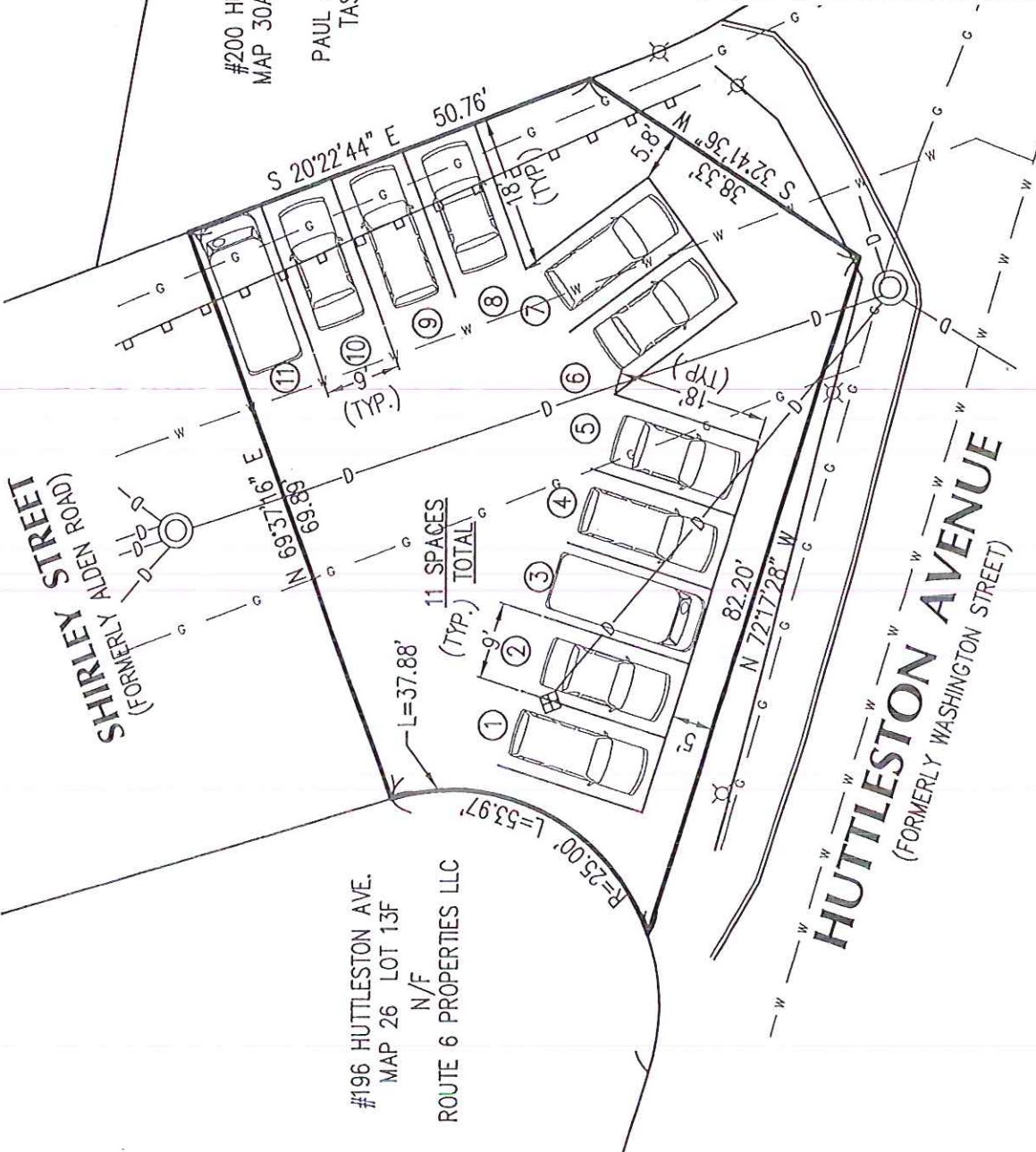
- 1) Every effort will be made to not park any customers and/or employees cars on Shirley St.
- 2) Landscaping must be provided on the Huttleston Avenue side and stopping at the property line of the abutter to the east.

If you have any further questions regarding this matter please don't hesitate to contact me.

Sincerely,

Wayne Fostin
Building Commissioner
Town of Fairhaven
Building Department

wf/llm



#200 HUTTLESTON AVE
 MAP 30A LOT 82 & 85
 N/F
 PAUL A. & VILMA L.
 TASSOPOULOS

#196 HUTTLESTON AVE.
 MAP 26 LOT 13F
 N/F
 ROUTE 6 PROPERTIES LLC



PROPOSED PARKING CONCEPT #2
 LOT #13 ON ASSESSORS MAP #26
 at #4 SHIRLEY STREET in
 FAIRHAVEN, MA.
 PREPARED FOR
 ROUTE 6 PROPERTIES, LLC

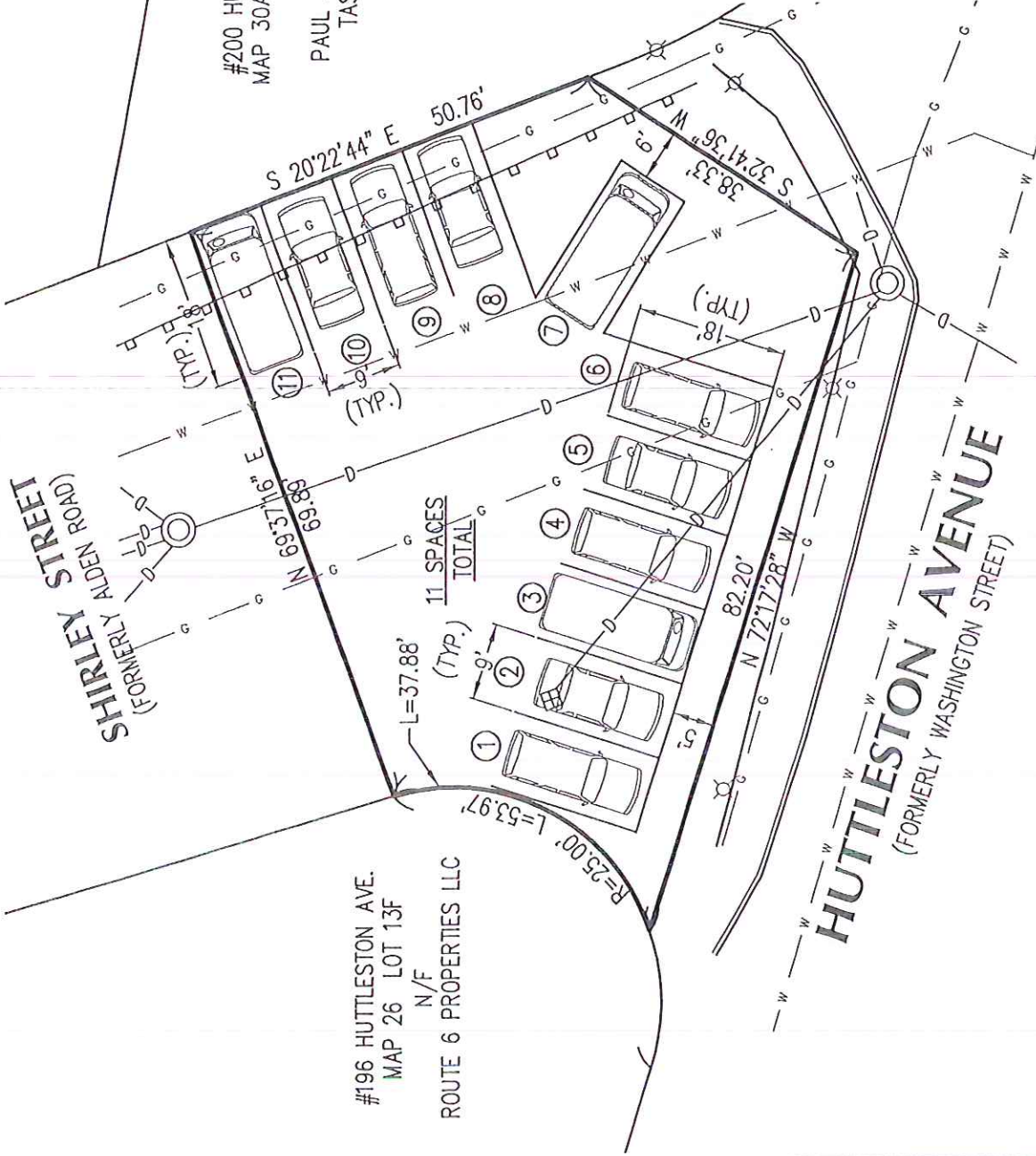
SCALE: 1"=20'
 DATE: AUGUST 29, 2014
 0 20 40



N. Douglas Schneider & Associates, Inc.
 PROFESSIONAL CIVIL ENGINEERS & LAND SURVEYORS
 1 COUNTY RD. P.O. BOX 460, MATTAPOISETT, MA 02739
 1-508-758-7866

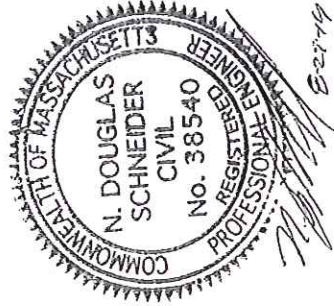
Drawn By: JMM CHK BY: NDS Job No. 2609

NOTE: THE PROPERTY LINE INFORMATION SHOWN IS BASED ON CURRENT AVAILABLE PLANS AND DEEDS. AN ON THE GROUND INSTRUMENT SURVEY WAS NOT PERFORMED.



#200 HUTTLESTON AVE
 MAP 30A LOT 82 & 85
 N/F
 PAUL A. & VILMA L.
 TASSOPOULOS

#196 HUTTLESTON AVE.
 MAP 26 LOT 13F
 N/F
 ROUTE 6 PROPERTIES LLC



PROPOSED PARKING CONCEPT #1
 LOT #13 ON ASSESSORS MAP #26
 at #4 SHIRLEY STREET in
 FAIRHAVEN, MA.

PREPARED FOR
 ROUTE 6 PROPERTIES, LLC

SCALE: 1"=20' DATE: AUGUST 29, 2014



N. Douglas Schneider & Associates, Inc.
 PROFESSIONAL CIVIL ENGINEERS & LAND SURVEYORS
 1 COUNTY RD., P.O. BOX 480, MATTAPOISETT, MA 02739
 1-508-758-7866

Drawn By: JMM CHK BY: NDS Job No. 2609

NOTE: THE PROPERTY LINE INFORMATION SHOWN IS BASED ON CURRENT AVAILABLE PLANS AND DEEDS. AN ON THE GROUND INSTRUMENT SURVEY WAS NOT PERFORMED.



Town of Fairhaven

Department of Planning & Economic Development

Town Hall · 40 Center Street · Fairhaven, MA 02719

Telephone (508) 979-4082 · FAX (508)-979-4087

RECEIVED

2014 SEP 22 P 3: 28

BOARD OF SELECTMAN
FAIRHAVEN MASS

Memorandum

Date: September 22, 2014

To: Board of Selectmen
Wayne Fostin, Building Commissioner

From: William D. Roth, Jr., AICP *WDR*
Planning and Economic Development Director

RE: Fairhaven Getty- Car Dealer/Repair License
371 Huttleston Avenue

The following review is based on the Zoning Bylaw Chapter 198. The site does not conform to our current zoning Bylaw; however, it has been in use for quite some time and certain aspects of the site may be considered grandfathered, with respect to its historic uses and setbacks. However, it appears that the applicant wants to expand the non-conforming setbacks further along the East and South property lines. This cannot be done without obtaining a Variance from the Board of Appeals.

Based on a review of the submitted plan, application and a site visit, it appears that the proposed project will require a Special Permit from the Planning Board for several issues. They are proposing to almost double the used car display area, alter the site circulation and reduce the customer parking. In order to reduce customer parking a Special Permit is specifically required. The following are the code citations from Section 198.27.B.4 and Section 198.29.A (2, 3 & 4) that apply. This determination would also need to be made by the Zoning Enforcement Officer.

198.27.B.4

(4) *[Amended 12-10-1992 STM by Art. 1] Other facilities. The parking requirements for uses not listed in this section shall be determined by the Planning Board upon review of each individual application. That determination shall take into account:*

- (a) *Accepted industry standards, if any for that particular use.*
- (b) *The requirement of this section for similar use.*
- (c) *The anticipated needs of the use of that particular property.*
- (d) *The intent of this section as stated in Subsection A(1) above.*

198.29.A (2, 3 & 4)

- (2) *Addition(s) or enlargement(s) that would require a total of five (5) or more parking spaces counting existing and new demand;*
- (3) *A change of use(s) or renovation(s) that would require the addition of new parking space(s). If the existing parking spaces can meet the new demand based on the change of use(s) or renovation(s) then no special permit is required;*
- (4) *Re-striping of a parking lot of five (5) or more spaces that changes the existing site circulation, and/or number of parking spaces.*

With regards to the proposed site plan, the proposed project does not comply with the Zoning Bylaw Chapter 198.18 with regards to setbacks. The setback from a street is 20-feet and from a residential district is 10-feet. However, Section 198.25, requires a 50-foot setback from a residential district for Automobile Services; therefore, if the use is classified as "Automobile Services" than the more stringent setback would apply. The site circulation does not provide for adequate access to the various proposed customer and employee spaces. The required parking may or may not be met; however, the information provided is not sufficient to make that determination and as mentioned above the Planning Board through the Special Permit process needs to make that determination.

The site is quite small and does not have adequate space for the proposed increase. It should be noted that if the applicant were to need and apply for a Special Permit, I do not see how it could ever be approved because of the site limitations.

cc: File



Wayne Fostin
Building Commissioner

Town of Fairhaven
Massachusetts
OFFICE OF THE
BUILDING DEPARTMENT

TOWN HALL
40 Center Street
Tel. (508) 979-4019
FAX: 979-4079

RECEIVED

2014 SEP 25 A 9:08

BOARD OF SELECTMAN
FAIRHAVEN MASS

September 25, 2014

Board of Selectmen
40 Center Street
Fairhaven, Ma 02719

Re: Fairhaven Getty
371 Huttleston Ave
Fairhaven Ma 02719

Dear Chairman Espindola;

Regarding the application of Fairhaven Getty for the increase of used cars on Map 31A, Lot 53. This clearly falls under the Town Zoning By-Laws 198-27, Section F "Used Car Dealerships. Number of vehicles and area to be occupied by same shall be determined by the Board of Selectmen and the Building Commissioner when licenses are issued for the operation of this type of facility".

The site plan as submitted does not show any existing conditions of the property or what would be removed in order to increase the number of cars, also it does not show internal circulation specifically, how would you get to the employee parking behind the garage. A new site plan should be submitted showing all existing conditions and what work will take place, existing setbacks to Grinnell Street and to the rear of the property also what will happen to the existing driveway behind the garage. I do believe that as shown there are too many cars proposed for the size of this site.

If you have any further questions regarding this matter please don't hesitate to contact me.

Sincerely,

Wayne Fostin
Building Commissioner
Zoning Enforcement Officer

wf/llm

Attachment D

Anne Kakley

From: Bob Espindola
Sent: Sunday, September 28, 2014 8:52 PM
To: O'Neil, Kelsey
Cc: Anne Kakley; Geoff Haworth; Charlie Murphy; Jeff Osuch; Bill Roth
Subject: Fwd: Questions listed according to priority
Attachments: Fairhaven Questions for EPA - September 29, 2014.docx; Fairhaven Questions for EPA - September 29, 2014 (1).docx

Ms. O'Neil,

Here are the questions sent by Ms. Vilandry, to be answered in order tomorrow night. She has asked, on behalf of the concerned residents, that the presentation time be omitted and that we go right into the questions, to allow the most time for the EPA to answer all the questions.

Please confirm receipt of the attached file.

Anne ... Please make copies of the attached file for Mr. Osuch and our Board for reference during the meeting tomorrow night.

Bill ... Please take note of Question # 30.

Thanks,

Bob

----- Forwarded message -----

From: Karen Vilandry <kav704@yahoo.com>
Date: Sun, Sep 28, 2014 at 6:13 PM
Subject: Questions listed according to priority
To: Bob Espindola <selectmanbobespindola@gmail.com>

Hi Bob,

Attached is the revised list of questions according to priority. Will you or I be reading these questions?

Please call me as I have some questions for you about tomorrow's meeting.

Thank you.

Cordially,

Karen A. Vilandry
Vice President
Hands Across the River Coalition, Inc.

Email: kav704@yahoo.com

Fairhaven's Questions for EPA

September 29, 2014

After just a preliminary review of the documents produced at some of the EPA's presentations, it is clear that EPA Officials have deliberately provided false information in order to implement their scheme to build PCB Dumps in Fairhaven's Middle Harbor and to prevent the citizens of Fairhaven from knowing the full facts about the Dump's contents & construction.

Why have EPA officials:

1. Deliberately omitted any mention of Fairhaven and Oxford Village in the Environmental Impact Statement?
2. Deliberately miss represented Oxford Village by labeling it Marsh Island in their presentations?
3. Deliberately obfuscated the Middle Harbor between I195 & Rt6, by combining it with Lower Harbor (Rt6 to Barrier)?
4. Deliberately termed the CAD Cell a Lower Harbor Cad Cell (LHCC) when they knew it was in the Middle Harbor.
5. Failed to directly address the impact of the PCB Dumps on Fairhaven High School,
6. Failed to address directly the impact of the PCB Dumps of Fairhaven's residential areas & its tax base?

Fairhaven's Questions for EPA

September 29, 2014

The CAD cell disposal underway and the proposed switch to using CAD cells for the remainder of the PCBs contradicts the 1999 agreement hammered out between EPA and multiple environmental groups over a six-year period. That decision determined the best plan was to remove all PCBs from the upper and lower harbor.

7. By altering this plan, was that not a breach of the 1999 contract/agreement?
8. Why was the cleanup plan changed to CAD Cells from the original plan?
9. Why did the EPA decide on placing its CAD cell near a Fairhaven residential area and high school? Nowhere in any of the plans does the EPA even mention Fairhaven, Oxford Village or Poverty Point.
10. Why is the EPA exempt from the MA waterways and wetlands regulations?
11. How many of the proposed CAD cells (apparently approved by the Army Corps of Engineers?), which appear to occupy much of the north of Pope's Island to Coggeshall Street bridge area of the harbor are expected to be utilized for PCB contaminated solid disposal?
12. What are the dimensions of this Phase 2 CAD Cell and how much more than 300,000 cy of deadly PCB sediments will it hold?
13. We learned that the EPA signed an agreement with the HDC for the CAD cell. Why wasn't Fairhaven a part of this decision?
14. Are we the only area in the United States where CAD cells are being used as PCB dumps in such close proximity to a residential area?
15. Why is the EPA leaving 50 PPM of PCBs behind unlike everywhere else that has only 1 PPM left?

Fairhaven's Questions for EPA

September 29, 2014

16. Your risk assessment is based on a 40 hr work week of dredging PCB sediments. Why would you even allow the dredge company to dredge from 6:30 AM to 10:30 PM, Monday through Saturday, for 16 hours a day with a total of 96 hours a week? This is more than DOUBLE the amount of time your risk assessment was based on even though you didn't even include the 2 most sensitive populations including pregnant woman and children. You will more than DOUBLE the exposure to Fairhaven residents, why?

17. How did the E.P.A. publicize the meetings and discussions that took place over the past 10 years when C.A.D cells were being considered as a viable disposal option?

18. Why are there no signs posted along the Fairhaven shoreline indicating the PCB contamination or fences?

19. Kelsey, you have been with the EPA for 5 years, why did you wait until a month ago to go door knocking in our Oxford Village neighborhood about this project and not when plans were made and before the public comment period?

20. During this dredging period, will these sites be restricted to recreational activities such as: rowing, sailing, kayaking, etc?

21. How will they be monitored for leakages as well?

22. Why does the air quality monitoring process take up to two months to indicate toxic levels?

23. How will you notify the public of any immediate exceedances of PCBs in our air?

24. How long is it expected that dredged PCB contaminated soil will remain on barges before being disposed of in the CAD cells?

Fairhaven's Questions for EPA

September 29, 2014

25. If an Acushnet River waterfront, nearby Fairhaven homeowner's, or town owned property is determined to be contaminated with PCBs, would the EPA assume the cleanup of that property at no cost to the homeowner or town?
26. If the EPA stands for Environmental PROTECTION Agency, WHO are you protecting?

Financial:

27. Does the E.P.A. have any idea what this C.A.D. cell project will do to property values in Fairhaven over the next several years? We have been directly affected by the drastic downturn in real estate values. The effect that negative publicity will have on tourism is immeasurable.
28. Does the EPA have remedies to offer residents of historic Oxford Village homeowners to compensate for the loss of property values as a result of the CAD cell project?
29. Has the EPA or other governmental body made any type of financial settlement to Acushnet River waterfront homeowners for the loss of their riparian rights? If CAD cells are dug in their backyards, would they not then be forever banned from utilizing their riparian rights?
30. For the SELECTMEN: If Town zoning laws require notification to abutters of any proposed zoning exceptions with hearing date specified, why was the EPA not held to that same standard of comprehensive written notification to abutters regarding this project?

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