



# Fairhaven Board of Selectmen

## October 21, 2014 Meeting Minutes

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

Chairman Robert J. Espindola called the meeting to order in the Town Hall Banquet Room at 6:32 p.m. The meeting was telecast and video recorded by Government Access and audio recorded by Anne Kakley. Kathleen Wilbur of *The Advocate* also recorded a portion of this meeting.

### MINUTES

- Mr. Haworth motioned to approve the minutes of the **October 7, 2014** meeting, **open** session. Mr. Murphy seconded. Vote was unanimous. (3-0).
- Mr. Haworth motioned to approve the minutes of the **October 7, 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 and events:

- **Wednesday, October 22**
  - 12:00 p.m. – Manager's Meeting – Freetown
  - 6:30 to 8:30 p.m. – EPA Forum re: PCB/Harbor dredging
- **Thursday, October 23**
  - 9:00 a.m. – Buzzard's Bay Action Committee at Wareham Town Hall
  - 2:00 p.m. – Bids for the Police/Fire building roof
  - 4:00 p.m. – Rochester Police Station Meeting – three Town water officials
- **Friday, October 24**
  - 1:00 p.m. – EJ's Grand Opening Ceremony
  - Deadline for submission of Special Town Meeting articles
- **Tuesday, October 28**
  - 8:30 a.m. – Retirement Board
- **Wednesday, October 29**
  - 11:00 a.m. – Brick Sidewalk Bids
  - 2:00 to 4:00 p.m. – SEMASS Meeting – East Bay

- Thursday, **October 30**
  - 10:00 a.m. – Tibbetts Mediation – Boston
  - 7:00 p.m. – Finance Committee at BPW

### **MEETING CANCELLATION**

Mr. Osuch said that a meeting scheduled for November 10, 2014 to refund various bonds previously issued had been postponed. The new projected date for this meeting is December 22.

### **LOBSTER BASIN CONTRACTS**

The Board reviewed lobster basin contract at Hoppy's Landing for George Silva, Michael Botelho, Thomas Allaire, Robert Sakwa and Robert Hobson. At Mr. Espindola's request, the Board separated Mr. Allaire's contract from the others because of Mr. Espindola's familial relationship with Mr. Allaire.

Mr. Haworth motioned to approve the Hoppy's Landing lobster basin contracts for George Silva, Michael Botelho, Robert Sakwa, and Robert Hobson. Mr. Murphy seconded. Vote was unanimous. (3-0).

Mr. Espindola left the room at 6:48 p.m.

Mr. Haworth motioned to approve the Hoppy's Landing lobster basin contract for Thomas Allaire. Mr. Murphy seconded. Vote carried with one abstention. (2-0-1)

Mr. Espindola rejoined the meeting at 6:48 p.m.

### **SOUTHCOAST BIKE CHALLENGE**

At 6:49 p.m., the Board met with Nancy Bunnell of the New Bedford YMCA. Ms. Bunnell advised that the Town of Fairhaven took first place in the Southcoast Bike Challenge, an intermunicipal event that spanned from Fall River to Wareham. Fairhaven received the first prize for being the town with the most miles per capita. John Silvia was recognized by Ms. Bunnell for being the top cyclist in Fairhaven and Susan Sullivan was recognized for being the top senior female cyclist. Other cyclists recognized for their work were John Sullivan, Steven and Cindy Bouley.

The winner's cup will be displayed in the Recreation Center until next year.

### **DONATION TO HISTORICAL COMMISSION**

The Chairman read a letter from John Woodford, which accompanied a \$1,000.00 check to the Historical Commission, to be used for Fort Phoenix upkeep, repairs, etc. The donation was made in the memory of his father, William Woodford, who recently passed. William Woodford was a Fairhaven resident.

Mr. Haworth motioned to accept the donation. Mr. Murphy seconded. Vote was unanimous. (3-0).

### **NSTAR GAS PERMITS**

The Board reviewed NSTAR gas permits for 35 Bridge Street, 41-43 Huttleston Ave, 27 Linden Ave, 14 Manhattan Ave, and 89 Middle Street, all previously approved by the Board of Public Works. Mr. Haworth motioned to approve. Mr. Murphy seconded. Vote was unanimous. (3-0).

### **SUNDAY LIQUOR STORE LICENSE – EARLIER OPENING**

The Board reviewed applications for a Sunday Package Store 10:00 a.m. opening for: Douglas Wine and Spirits, Little Bay Liquors, Premium Liquors, Total Confections, LLC (Emma Jean's), Cardoza's Wine and Spirits, Connolly's Liquor Mart, Scuttlebutts Grocery and Spirits, Friendly Farm Convenience and Dorothy Cox's Candies. The applications reflected the acceptance of a new State law allowing liquor stores to change their opening time from noon to 10:00 a.m.

Mr. Haworth motioned to approve all of the applications for the 10:00 a.m. Sunday opening. Mr. Murphy seconded. Vote was unanimous. (3-0).

### **CDBG CONTRACT AWARD AND NOTICE TO PROCEED**

The Board reviewed a request from Bill Roth to award the CDBG 2014 construction contract to Pavao Construction Company, who was the lowest qualified bidder with a bid of \$737,820 with alternates. Mr. Haworth motioned to award the contract to Pavao in that amount and submit to Pavao a Notice to Proceed. Mr. Murphy seconded. Vote was unanimous. (3-0).

### **LPB SOLUTIONS**

Mr. Roth asked the Board to also extend a contract with LPB Solutions for lead abatement as a part of the CDBG project. Mr. Haworth motioned to approve the contract extension with LPB Solutions, with a new expiration date of December 31, 2014. Mr. Murphy seconded. Vote was unanimous. (3-0).

### **POLL WORKERS – STATE ELECTION**

The Board reviewed a listing of poll workers from the Town Clerk. Mr. Haworth motioned to approve the following poll workers for the Tuesday, November 4, 2014 State Election:

*Precinct 1* – Bernadette Costa, Janice Rose, George Diggie and Terrence Meredith

*Precinct 2* – Mary Cunha, Elaine Burgo, Christine Alfonse, and Carole Fauteux

*Precinct 3* – Lee Bachand, Mary Grace, Janice Sylvia and Anne Ellis

*Precinct 4* – Nancy Perry, Pamela Greene, Linda Therrien, and Sandra LeBlanc

*Precinct 5* – Diane Rocha, Martha Berg, Elaine Rocha, and Gloria McGreevy

*Precinct 6* – Joan Mello, Sandra Melanphy, Beverly Johansen and Rosemary Losert

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

### **OPEN SPACE AND RECREATION UPDATE COMMITTEE**

The Board received notification from Bill Roth that John Farrell of the Planning Board should be appointed to the Open Space and Recreation Update Committee. Mr. Haworth motioned to appoint Mr. Farrell to the same. Mr. Murphy seconded. Vote was unanimous. (3-0).

### **BOTTLE BILL**

Upon request of the Board Chairman, the Board agreed to the addition of another agenda action item for a time sensitive issue.

Question #2 on the November 4, 2014 State Election ballot will ask voters if they wish to expand the Bottle Bill to require deposits on all plastic drink bottles, including “sports” drinks and water bottles. Mr. Espindola read a letter from Deirdre Healy of the Sustainability Committee, urging the Board to give their support to the bill in the form of a letter.

Mr. Haworth stated that he was not in favor of the expanded Bottle Bill, as he believed that the effort would not curb littering and would just make water and sports drinks more costly. He said that he believes there are a lot of residents who put their water bottles and even soda cans in their recycling bins, and that the bill will make recycling needlessly difficult.

Mr. Murphy and Mr. Espindola both voiced support for the bill, as they believe it will curb litter. However, the Board decided to keep the support for Question #2 as a verbal support from Mr. Espindola and Mr. Murphy and will not submit a letter on behalf of the Board.

### **SPECIAL TOWN MEETING**

The Board discussed articles and submissions for the December 9, 2014 Special Town Meeting. Mr. Osuch said that the Selectmen’s Office was still waiting to hear from the Police Department with an exact figure for Purchase of Services, for costs related to the training of four new cadets.

Additional discussion continued on whether or not the Town would need to allocate money for surveying the Rogers and Oxford Schools. Mr. Osuch indicated that the Rogers School, depending on what is included in the RFP, may not require a surveyor, but the Oxford School would. The Board also discussed other Town Meeting matters related to the Rogers and Oxford Schools, including the costs associated with advertising the RFP. Mr. Espindola asked Mr. Osuch to consult with Town Counsel on how much the Board should include in the article for legal expenses relative to the Rogers and Oxford School dispositions. The Selectmen’s Office will also ask Jim Muse to comment on the importance of advertising the RFP in the Boston Business Journal, a publication that is far more costly than the other regional publications.

The Board will meet on November 3 with the Police Chief and the Fire Chief to discuss the 211 Mill Road land purchase article.

John Roderiques was recognized by the Chairman. He said that the Board of Selectmen were not giving the Finance Committee enough time to make a recommendation on the 211 Mill Road article, and that he wanted to know if it was the intent of the Selectmen to take the purchase price out of Stabilization.

Mr. Murphy said that he still supported the 211 Mill Road purchase and that the Town should look into a loan. Mr. Osuch said that the Town does not currently have any General Fund debt and that if the Town used the property at 211 Mill Road for a Fire/Police complex, there still would be room remaining on the property for additional revenue-based uses.

Mr. Haworth presented an idea for an article to provide the Board of Selectmen, the Executive Secretary and the Selectmen's Administrative Assistant with a tablet to assist the Board in its effort to go "paperless". The tablets Mr. Haworth recommended were the "Galaxy" tablets, which would cost \$549 each (\$600 with a protective cover).

Mr. Espindola and Mr. Murphy supported the idea of the article, but Mr. Murphy asked if they should place it on the Special Town Meeting warrant or wait for the Annual Town Meeting warrant.

Mr. Roderiques was again recognized by the Chairman. He said that the tablet article was not appropriate for the Special Town Meeting. Mr. Haworth said that it did not matter when the article would be placed, but that he supported going paperless. The article for the tablets will be placed on the May 2, 2015 Annual Town Meeting warrant.

Nil Isaksen was recognized by the Chairman. He asked if the Board would factor into the Special Town Meeting warrant costs associated with the removal of the Paul Revere bell in the Oxford School. Mr. Espindola said that volunteers are trying to find a rigger willing to donate his/her time to remove the bell at no cost.

### **BUILDING COMMISSIONER/CONCOM AGENT**

The Board discussed the chain of command in the event that the Building Commissioner/Conservation Agent could not be available to make decisions relative to Conservation or Occupancy permits. Mr. Espindola said that he met with Town Planner Bill Roth, Building Commissioner/ConCom Agent Wayne Fostin, and Jeff Osuch to determine if the two departments (Planning and Building/Conservation) could come up with a sign-off process to streamline the process and remove any confusion.

Mr. Haworth said that he believed the issue was a result of the conflict from the opening of E.J.'s, despite a Special Permit Condition issued by the Planning Board that was not completed by the applicant. Though the Planning Board conditions were not completed, the Assistant Building Commissioner had issued an occupancy permit, prompting criticism from members of the Planning Board. Mr. Haworth said that the Occupancy Permit has nothing to do with the Planning department and that failure to complete the Planning Board's Special Permit Conditions should not affect whether or not an Occupancy Permit is issued.

Mr. Murphy said that the Assistant Building Commissioner, Andy Bobola, is the second in the chain of command as far as the Building department is concerned. Mr. Murphy added that he thought they should invite the Building Commissioner and the Town Planner into an upcoming meeting to discuss the matter further.

### **BENCH DONATION – HOPPY’S LANDING**

The Board reviewed a letter from Jim Mello, offering to donate funds to purchase a bench in his parents’ memory. The proposed location for the bench would be Hoppy’s Landing. Mr. Haworth motioned to accept the gift. Mr. Murphy seconded. Vote was unanimous. (3-0). The Board instructed Ms. Kakley to forward the matter to the Natural Resources department and the Marine Resources Committee for purchase and placement of the bench.

### **TOWNS AND SCHOOLS WEBSITE CONFERENCE**

Web Administrator Anne Kakley updated the Board to a conference that she attended in September regarding the Town’s website. The conference was hosted by Virtual Towns and Schools, the vendor for the Town’s website hosting and design services.

Ms. Kakley said that the conference outlined a new State law that would require all Massachusetts municipalities to have an “Open Checkbook” on the Town website. The Open Checkbook must be a searchable, aggregated database of Town expenditures and it must be on the website by FY17. The creation of such a database is possible through the current website vendor, for a cost.

Ms. Kakley said that she would also be requesting the formation of a committee to oversee a website redesign, and the formation of a social media policy for Town departments to follow.

### **ROGERS-OXFORD RFP**

The Board reviewed a previously-edited version of Rogers-Oxford RFP, and discussed final changes to the document. Also present in the discussion were Rogers-Oxford Study Committee chairman Nils Isaksen and resident Doug Brady. The Selectmen’s Office will make the changes and present a version at the next meeting that could be the final document.

### **CAPENET**

Mr. Espindola presented to the Board a proposal from “CapeNet”, a company that improves fiberoptic infrastructure in the southeastern Massachusetts area. As a result of the improved infrastructure, CapeNet reports better bandwidth, better reliability and security for internet services.

The Board advised Mr. Espindola to invite a representative from CapeNet to the next Economic Summit meeting so they can meet with department heads to get a survey of the services needed.

### **EPA REQUEST FOR LAND ACCESS**

The Board reviewed a request from the EPA for Land Access related to the Harbor dredging. See Attachment A.

Mr. Haworth motioned to sign the land access agreement. Mr. Murphy seconded. Vote was unanimous. (3-0).

### **LETTER FROM DEP RE: DREDGE MATERIAL MANAGEMENT PLAN**

Mr. Espindola read into record a letter from DEP's Section Chief Paul Craffey regarding the misidentification of Oxford Village as "Marsh Island" in the Massachusetts Coastal Zone Management's Dredge Material Management Plan (DMMP). In his letter, Mr. Craffey says that the misidentification will not have a "material impact" on the dredging. He added that if the Town wanted the DMMP amended, then the Town should submit a letter requesting said amendment to CZM, or instruct him to submit a letter to CZM.

See Attachment B for the full letter from Mr. Craffey. Mr. Roth will follow through on that request and the letter from Mr. Craffey will be placed online.

### **OTHER BUSINESS – HARC REQUEST FOR OVERC**

Although the item was not on the agenda, Mr. Haworth recognized an item of correspondence that had been received from Paul Spooner and Karen Vilandry (both of the Hands Across the River Coalition, Inc.) regarding a letter of support by the Board of Selectmen in 2010 to the EPA, voicing support for the use of CAD cells in the proposed Harbor clean-up. The letter submitted by Mr. Spooner and Ms. Vilandry demanded proof that the letter, which had been signed by then-Chairman Charles Murphy, had been "properly vetted" and "authorized" by the Board of Selectmen. See Attachment C for the email from Mr. Spooner and Ms. Vilandry.

The Board agreed that most of the email from Mr. Spooner and Ms. Vilandry could be easily dismissed, as minutes reflect that Mr. Murphy was authorized by a unanimous vote of the Board of Selectmen at their September 7, 2010 public meeting to send the letter of support. There was a suggestion in the email as well that the letter should have been placed online, but Mr. Espindola pointed out that the Town website is a courtesy and that the Town was unable to post all correspondence on the website.

Mr. Espindola said that the Board had received a proposal from HARC regarding the formation of a Oxford Village Environmental Review Committee, which would be a Town oversight committee of the Harbor clean up and its environmental impact. He asked the Board if it would like to place the issue of an OVERC on the next agenda. Mr. Haworth said that he felt their current response to the dredging was working and at this time, he did not see a need to place the OVERC on an agenda. Mr. Murphy did not express preference, except to say that if an OVERC were formed in the future, he would like to be appointed to it. The Board took no action.

### **OTHER BUSINESS**

Under Other Business:

- Mr. Murphy offered his condolences to the family of Aurora Roderick, on her passing.
- Mr. Murphy said that he and Mr. Haworth attended the Greater New Bedford Voc Tech Girls' Softball Team 2014 State Vocational Softball Tournament and found the event very enjoyable and uplifting.
- Mr. Murphy praised Rui Gouveia for saving three young people from a car fire in Acushnet.
- Mr. Murphy said that he was looking forward to representing Fairhaven on a Sister City trip to Tosashimizu, Japan.
- The Board RSVPed for the November 5 Veteran's Day luncheon at the Council on Aging. Both Mr. Murphy and Mr. Haworth will be in attendance.

At 9:40 p.m., Mr. Haworth motioned to enter Executive Session, pursuant to MGL 30A § 21:

- To discuss Town Hall personnel issues.

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. Haworth in favor. Mr. Murphy in favor. Mr. Espindola in favor.

Respectfully,

*Anne O'Brien-Kakley*

Anne Kakley  
Administrative Assistant  
Minutes approved 11/03/2014





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100

BOSTON, MA 02109-3912

Attachment A

Mailed to EPA

10/22/14

**URGENT LEGAL MATTER - PROMPT REPLY NECESSARY**  
**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

October 15, 2014

Jeffrey Osuch, Executive Secretary  
Board of Selectmen  
Town of Fairhaven  
40 Center Street  
Fairhaven, MA 02719

Re: Request for Access to Property:  
Main Street, Map 12, Lot 15, Fairhaven, MA 02719  
Huttleston Avenue, Map 12, Lot 15A, Fairhaven, MA 02719

Mr. Osuch:

The United States Environmental Protection Agency ("EPA") respectfully requests permission for EPA, its agents, contractors, and other authorized representatives to have access to the Town of Fairhaven's properties located at: (1) Main Street, Fairhaven, MA 02719, which is further defined at the Town of Fairhaven Assessor's Office as Map 12, Lot 15; and, (2) Huttleston Avenue, Fairhaven, MA 02719, which is further defined as Map 12, Lot 15A.

EPA requests access to the property in order to investigate, remediate, monitor and/or install control measures during EPA's performance of the remediation of the New Bedford Harbor Superfund Site, located in Bristol County, Massachusetts ("the Site"). Access is necessary to abate the potential danger to public health and the environment posed by the release of hazardous substances, in particular polychlorinated biphenyls ("PCBs"), at the Site. PCBs were once widely used in the electronic industry, but are now banned as a probable human carcinogen. The 18,000-acre Site extends from the shallow northern reaches of the Acushnet River estuary, south through the commercial harbor of the City of New Bedford, and into 17,000 adjacent acres of Buzzards Bay. EPA's cleanup of the Site requires the removal of sediment in the harbor and certain shoreline and wetland areas that are contaminated with PCBs above cleanup criteria. Fish, lobster, quahog and other seafood from New Bedford Harbor and the Acushnet River contain high levels of PCBs, and EPA and the Massachusetts Department of Public Health have issued seafood consumption restrictions to protect public health. For more information about the New Bedford Harbor Superfund Site, please see EPA's website at: [www.epa.gov/nbh](http://www.epa.gov/nbh).

In order to conduct the cleanup, a variety of work is required on properties impacted or potentially impacted by the cleanup and/or that are adjacent to impacted areas. Examples of initial activities that may occur include land surveying, sampling activities, wetland delineation and archeological investigations. Further, access to your property may be required in order to access contaminated areas. EPA will contact those property owners whose properties will be

***Request for Access to Property***

Main Street, Map 12, Lot 15, Fairhaven, MA 02719

Huttleston Avenue, Map 12, Lot 15A, Fairhaven, MA 02719

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impacted by cleanup activities for specific details on how their properties will be needed. Access to the property is required throughout EPA's performance of the remediation of the Site. You will be provided reasonable notice of any activities on the property. In order to avoid delays in the harbor cleanup, **please review and signify your consent to access by signing the enclosed document in the space provided, and return it to me at the following address within twenty (20) days of your receipt of this letter:**

David Lederer  
U. S. EPA - New England, Region 1  
5 Post Office Square, Suite 100, Mail Code OSRR07-4  
Boston, MA 02109-3912

The access agreement must be signed by all owners of the property. Please provide the name, address, and telephone number of a designated contact for future communications. In addition to the Consent for Access to Property form, please complete the Lessee Identification Form, if applicable, to provide EPA contact information for any lessees that you have leasing the property. If you do not have any lessees, you need not return this form. EPA will seek to secure access agreements from your lessees, if any.

Entry to the property to conduct these activities is authorized by federal law, in particular Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9604(e). The authorization provided by CERCLA includes access to private property for the purpose of determining the need for response actions, performing response actions, and/or enforcing CERCLA.

If EPA does not receive a reply within **twenty (20) days** of your receipt of this letter, it will become necessary for EPA to employ other means to obtain access. Such means may include issuing an administrative order or bringing an action in federal court to secure EPA's right to access. Please notify EPA about any sale or transfer of your property as soon as the action becomes final.

Your cooperation in assisting with completion of activities at the Site is appreciated. You may contact me with any questions at (617) 918-1325. All communications from your legal counsel should be directed to Maximilian Boal of the EPA Office of Environmental Stewardship at (617) 918-1750.

Sincerely,

David Lederer, New Bedford Harbor Superfund Site Remedial Project Manager  
EPA Office of Site Remediation and Restoration

Enclosure

cc (via e-mail): Maximilian Boal, EPA Enforcement Counsel



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

**CONSENT FOR ACCESS TO PROPERTY**  
**New Bedford Harbor Superfund Site**

**OWNER:** Town of Fairhaven

**ADDRESS:** Main Street, Map 12, Lot 15  
Fairhaven, MA 02719

Huttleston Avenue, Map 12, Lot 15A  
Fairhaven, MA 02719

I (We) consent to the officers, employees, agents, contractors, subcontractors, consultants, and other authorized representatives of the United States Environmental Protection Agency ("EPA") entering and having continued access to the above-referenced properties for the following purpose(s):

- to install and operate air monitoring stations, as necessary;
- to allow equipment access for use on the property and/or access to the shoreline;
- to collect sediment, soil, and air samples from the property, as may be needed;
- to mitigate exposure to Site-related hazardous substances, including removal and disposal of sediment, soils, or other media contaminated above EPA's cleanup criteria, as necessary;
- to survey the property to establish property boundaries and ground elevations;
- to erect fencing, signage, and/or visual markers, as appropriate, to restrict and prevent exposure to contaminated sediment, soil, or other media;
- to remove and/or relocate obstacles that may interfere with the excavation of sediment, soils, or other media, as necessary;
- to perform wetland delineation and/or a cultural resources survey, including digging test pits, if required;
- to conduct other work and activities incidental to performing the investigation and remediation of the New Bedford Harbor Superfund Site;
- to return the property to the original condition, to the extent practicable; and,
- to take any other response actions, or evaluate the need for other response actions, related to the investigation and remediation of the New Bedford Harbor Superfund Site, as needed.

EPA will give reasonable notice before conducting the above activities unless an emergency arises for which immediate access is necessary. Access to the properties is required throughout EPA's performance of the remediation of the Site.

**Consent for Access to Property: New Bedford Harbor Superfund Site**

Main Street, Map 12, Lot 15, Fairhaven, MA 02719


Huttleston Avenue, Map 12, Lot 15A, Fairhaven, MA 02719

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I (We) realize that these actions by EPA are undertaken pursuant to EPA's response and enforcement authorities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.

I (We) give this written permission voluntarily with knowledge of my (our) right to refuse and without threats or promise of any kind.

10/21/2014  
Date

  
Signature of Property Owner or  
Owner's Authorized Representative

Robert Espindola  
Printed Name

Chairman - Board of Selectmen  
Title

40 Center Street Fairhaven, MA  
Address

508-979-4023  
Phone Number

**Consent for Access to Property from Additional Owner(s) and/or Lessee(s)**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Additional Property Owner  
Additional Owner's Authorized Representative, or  
Lessee

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912**

**Consent for Access to Property: New Bedford Harbor Superfund Site**

Main Street, Map 12, Lot 15, Fairhaven, MA 02719  
Huttleston Avenue, Map 12, Lot 15A, Fairhaven, MA 02719

**LESSEE IDENTIFICATION**

Please fill out completely for each lessee at the above listed properties.

Lessee Name: \_\_\_\_\_  
Contact Person:(if  
different) \_\_\_\_\_  
Address \_\_\_\_\_  
Phone : \_\_\_\_\_

Lessee Name: \_\_\_\_\_  
Contact Person:(if  
different) \_\_\_\_\_  
Address \_\_\_\_\_  
Phone : \_\_\_\_\_

Lessee Name: \_\_\_\_\_  
Contact Person:(if  
different) \_\_\_\_\_  
Address \_\_\_\_\_  
Phone : \_\_\_\_\_

Lessee Name: \_\_\_\_\_  
Contact Person:(if  
different) \_\_\_\_\_  
Address \_\_\_\_\_  
Phone : \_\_\_\_\_

Please attach additional pages as necessary.



## Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

DEVAL L. PATRICK  
Governor

MAEVE VALLELY BARTLETT  
Secretary

DAVID W. CASH  
Commissioner

October 21, 2014

Mr. Robert Espindola, Chairman Board of Selectmen  
Town of Fairhaven  
40 Center St.  
Fairhaven, MA 02719

Subject: Dredge Material Management Plan Figure

Dear Chairman Espindola:

It has been brought to the attention of the Massachusetts Department of Environmental Protection (MassDEP) that a figure in the Dredge Material Management Plan (DMMP) has incorrectly identified the Oxford Village section of Fairhaven as Marsh Island. The MassDEP was not the agency that created the DMMP. The Massachusetts Office of Coastal Zone Management produced the DMMP with the input of the Town of Fairhaven and City of New Bedford to provide for the management of dredged navigational material.

While the misidentification of an upland location has no material impact on the DMMP (since the DMMP involves in-water locations), if the Town of Fairhaven would like the figure to be corrected, you can either contact the CZM directly to request the revision or, if you prefer, you can send me the changes and I will forward them to CZM..

If you need further assistance, please contact me at [paul.craffey@state.ma.us](mailto:paul.craffey@state.ma.us) or call me at (617) 292-5591.

Sincerely yours,

Paul Craffey, Section Chief

cc: William Roth, Jr., Town of Fairhaven

e-file: 20141021\_DMMP Letter Fairhaven

TO: Fairhaven Board of Selectmen  
FROM: HARC Board  
RE: Authorization & Vetting of 2010 Letter from Murphy to Superfund Project  
DATE: 17 Oct 2014

On 7 Sept 2010 BOS Chairman Charles Murphy signed a support letter from the FH-BOS that was sent to the then head of the Superfund Project, David Dickerson at the USEPA Office in Boston at 5 Post Office Square. (See attached)

He states that the Town of Fairhaven provides its “full support” to the “Lower Harbor Confined Aquatic Disposal CAD Cell” (LHCC).

As time is of the essence, and as this material has not yet been voluntarily disclosed and presented to the Town despite lengthy discuss between yourselves over the last months over the impending creation of a PCB Dump off Oxford Village, please disclose and/or provide as soon as possible:

- (i) BOS statement as to whether the Murphy Support Letter was properly authorized by the BOS (which accompanies this letter as reference);
- (ii) Copies of the minutes and date of the meeting which authorized the letter;
- (iii) Evidence that the letter was properly vetted and made public, particularly on the Town’s Website; and,
- (iv) BOS definition as to what it regarded as the “LHCC,” which would include but not be limited to its specific location, what the EPA intends to place in the LHCC, and the level of PCB and other contaminants that will be contained therein. To the extent that the Board of Selectmen do not have this information, have never had this information, or have never inquired on this matter, we would expect your full disclosure.

As time is of the essence, please promptly provide the requested statement and data, no later than 21 October 2014. This will provide time for the public to vet this material prior to the 22 October meeting that EPA has scheduled to further justify its extraordinary and questionable project.

As Robert Espindola has already received a clear communication that the HARC Board are authorized to request this information, we urge your prompt and thorough response by the 21<sup>st</sup> October.

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

40 CENTER STREET  
FAIRHAVEN, MA 02719

TEL: (508) 979-4023  
FAX: (508) 979-4079

Superfund Records Center  
New Bedford  
5.3  
472689

September 7, 2010

Mr. David Dickerson  
New Bedford Harbor Superfund Project  
USEPA, OSRR07-4  
5 Post Office Square – Suite 100  
Boston, MA 02109 - 3912

Dear Mr. Dickerson,

I am writing to express the Town of Fairhaven's full support of the New Bedford Harbor Superfund Site Operable Unit 1 – Lower Harbor Confined Aquatic Disposal (CAD) Cell - Explanation of Significant Differences (ESD).

The Town and City of New Bedford with the assistance of the State's Seaport Council have been very active in navigational dredging of the lower harbor. The Town has assisted numerous Fairhaven businesses with the dredging of their properties. Those businesses have informed us that that the dredging of their facilities has made a world of difference to their businesses, allowing them to expand their operations as well as remove contaminated sediments from contact with the Harbor water, and they are very pleased with the positive outcome to not only their businesses but also to the Harbor environment.

The Town is also very concerned about the pace of the cleanup remedy and the environmental impact of allowing the PCB and metals contaminated sediments to remain on the Harbor bottom in direct contact with the ecosystem for as long as the EPA currently estimates. We are all aware of the real danger to the environment, and by extension to the food chain, that contaminated sediments represent. Every additional day that contaminated sediments remain in direct contact with the environment, the ecosystem suffers, and the effect spreads farther out into the food chain, providing a human health risk. As such, the Town believes that every effort to speed the cleanup must be made, to lessen the ecosystem and human health risks.

The Town is very appreciative of the efforts that the EPA has undertaken, and continues to undertake, in cleaning up the worst contaminated areas of the Harbor. However, the EPA estimate of approximately 46 years, at the current rate of cleanup is unacceptable, especially since the EPA has been working on the cleanup for nearly 30-years. The Town is pleased that



SOMS DocID 472689



the EPA is considering other options that will help expedite the cleanup of the Harbor, and we are fully support the EPA's ESD to use CAD Cells in the Harbor to speed up the remedy.

In closing, I would like to reiterate the Town's full support for the EPA's ESD to use CAD Cells in the Lower Harbor. The plan represents a safe and effective approach; we are currently using with lower harbor sediments, to expediting the cleanup and knocking years off of the cleanup process. The contamination in the Harbor has long had a negative impact on the health and well being of the entire area, and the citizens of Fairhaven and New Bedford look forward to the day when the Harbor cleanup is complete and the Harbor can return to its full function.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Murphy, Sr.', with a stylized flourish at the end.

Charles K. Murphy, Sr.  
Chairman, Board of Selectmen

cc: File

**From:** [Bob Espindola](#)  
**To:** [Jeff Osuch](#); [Anne Kakley](#)  
**Cc:** [Bill Roth](#); [Geoff Haworth](#); [Charlie Murphy](#)  
**Subject:** Fwd: URGENT: Disclosure of Authorization of Murphy Support Letter  
**Date:** Tuesday, October 21, 2014 12:02:43 PM

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Jeff,

Please call to discuss a proper response to these "demands" attached or feel free to draft what you would suggest as a reply and send for me to review.

I realize demands for "immediate" action need to be taken in context with all you are doing and that the Town is allowed a certain period of time for such requests.

If you feel legal review is required before certain responses are given, please advise and, if so, feel free to add to our agenda for tonight or in a future meeting as might be appropriate.

Thanks,

Bob

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

**From:** **pb s** <[macspoon88@outlook.com](mailto:macspoon88@outlook.com)>  
**Date:** Tuesday, October 21, 2014  
**Subject:** RE: URGENT: Disclosure of Authorization of Murphy Support Letter  
**To:** Karen Vilandry <[kav704@yahoo.com](mailto:kav704@yahoo.com)>, Bob Espindola <[selectmanbobespindola@gmail.com](mailto:selectmanbobespindola@gmail.com)>  
**Cc:** HARC <[harcnb@aol.com](mailto:harcnb@aol.com)>, Greg & Diane Meloni <[dkgmel@aol.com](mailto:dkgmel@aol.com)>, Staci Rubin <[staci@ace-ej.org](mailto:staci@ace-ej.org)>, "[mpbrown@waterviewsllc.com](mailto:mpbrown@waterviewsllc.com)" <[mpbrown@waterviewsllc.com](mailto:mpbrown@waterviewsllc.com)>, Susan Grace <[suegrace816@gmail.com](mailto:suegrace816@gmail.com)>, "[cathpotter@comcast.net](mailto:cathpotter@comcast.net)" <[cathpotter@comcast.net](mailto:cathpotter@comcast.net)>, Deborah Morris <[morrisdeborah@aol.com](mailto:morrisdeborah@aol.com)>, "[diana.harrison@comcast.net](mailto:diana.harrison@comcast.net)" <[diana.harrison@comcast.net](mailto:diana.harrison@comcast.net)>, "[billtonprop@gmail.com](mailto:billtonprop@gmail.com)" <[billtonprop@gmail.com](mailto:billtonprop@gmail.com)>, Paul Beauchamp <[paul@delanohomestead.com](mailto:paul@delanohomestead.com)>, Vanessa Galton <[vgralton@yahoo.com](mailto:vgralton@yahoo.com)>, "[joycebspooner@gmail.com](mailto:joycebspooner@gmail.com)" <[joycebspooner@gmail.com](mailto:joycebspooner@gmail.com)>

Mr. Robert Espindola,

At your earliest convenience today, would you please see that appropriate staff in the BOS take care of delivering the disclosures requested in the attached letter? We are requesting disclosures of the full authorization for Murphy's letter of Sept 2010, which asserted that the FH-BOS were in full support for the creation of an LHCC in the Lower Harbor.

I quote from the letter:

"As time is of the essence, please provide:

(i) FH-BOS statement as to whether the Murphy Support Letter was properly authorized by the FH-BOS (which accompanies this letter as reference);

- (ii) Copies of the minutes and date of the meeting which authorized the letter;
- (iii) Evidence that the letter was properly vetted and made public, particularly on the Town's Website; and,
- (iv) FH-BOS definition as to what it regarded as the "LHCC," which would include but not be limited to its specific location, what the EPA intends to place in the LHCC, and the level of PCB and other contaminants that will be contained therein. To the extent that the FH-BOS does not have this information, have never had this information, or have never inquired on this matter, we would expect your full disclosure.

We ask you to please promptly provide the requested statement and data, no later than 3:00 pm on 22 Oct 2014. Since, the FH-BOS maintains an office staff and executive secretary that is employed full time, it should be able to take immediate and unqualified action to provide the above requested disclosures. All or the better part of this task should be able to be completed within the necessary and requested time frame."

We would like to have this material before the EPA meeting of 22 October evening. This letter/email is an update and support to the one sent to you by Karen earlier.

Thank you in advance for your focused assistance on this issue.

Sincerely,  
Paul Spooner

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Date: Mon, 20 Oct 2014 17:35:49 +0000  
From: [kav704@yahoo.com](mailto:kav704@yahoo.com)  
To: [selectmanbobespindola@gmail.com](mailto:selectmanbobespindola@gmail.com)  
CC: [harcnb@aol.com](mailto:harcnb@aol.com); [macspoon88@outlook.com](mailto:macspoon88@outlook.com); [dkgmel@aol.com](mailto:dkgmel@aol.com); [staci@ace-ej.org](mailto:staci@ace-ej.org); [mpbrown@waterviewsllc.com](mailto:mpbrown@waterviewsllc.com)  
Subject: Fw: URGENT: HARC Board Letter to BOS re Murphy Letter

Dear Mr. Espindola,

Please respond to this email we addressed to you earlier as attached below by October 21, 2014.

This is very important as we sort out all the issues regarding the EPA CAD Cell.

Thank you.

Cordially,

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

Email: [kav704@yahoo.com](mailto:kav704@yahoo.com)