



Fairhaven Board of Selectmen

July 6, 2015 Meeting Minutes

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

Chairman Geoffrey Haworth called the meeting to order in the Town Hall Banquet Room at 6:35 p.m. The meeting was audio recorded by the Selectmen's Office and video recorded by the Government Access channel.

EXECUTIVE SECRETARY'S REPORT

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

- Tuesday, **July 7**
 - 10:00 a.m. – Army Corp of Engineers – Coggeshall Street Bridge
- Wednesday, **July 8**
 - 8:00 a.m. – Mattapoisett River Valley Subcommittee
 - 9:30 a.m. – Union Wharf Job Meeting
 - 4:00 p.m. – Personnel Board meeting
 - 7:00 p.m. – Selectmen's Meeting
- Thursday, **July 9**
 - 7:00 – 9:00 p.m. – Summer Concert
- Tuesday, **July 14**
 - 3:30 p.m. – Mattapoisett River Advisory at BPW
 - 4:30 p.m. – Mattapoisett River District at BPW
- Wednesday, **July 15**
 - 1:30 p.m. – BBAC subcommittee meeting – Marion Library
- Thursday, **July 16**
 - 8:00 – 9:30 a.m. – Forum meeting in New Bedford
 - 7:00 – 9:00 p.m. – Summer Concert
- Monday, **July 20**
 - 9:30 a.m. – Council on Aging meeting
 - 6:30 p.m. – Selectmen's Meeting

COMMISSION ON DISABILITY

The Board reviewed a request from Joseph Borelli to confirm his status as a full member on the Commission on Disability. Mr. Murphy motioned to appoint Mr. Borelli to a full member on the Commission on Disability. Mr. Espindola seconded. Vote was unanimous. (3-0).

EVERSOURCE GAS PERMITS

Mr. Murphy motioned to approve Eversource gas permits for 22 Blossom Street, 27 Academy Ave, 38 Laurel Street, 10 Main Street, 8 Highland Ave, and 45 Cedar Street. Mr. Espindola seconded. Vote was unanimous. (3-0).

HARBORMASTER VACANCY

Per request of the Chairman, the Board decided to table a discussion on the posting of the Harbormaster vacancy to Executive Session, to discuss the potential changes to the position.

EDUCATIONAL BENEFITS – MARC DARMOFAL

The Board reviewed a request from the Police Chief for educational benefits for Officer Marc Darmofal. Prior to the meeting, the Police Chief submitted documentation showing that Officer Darmofal has completed an Associate's degree equivalent in Criminal Justice. Mr. Murphy motioned to grant the Educational Incentive increase for Officer Marc Darmofal. Mr. Espindola seconded. Vote was unanimous. (3-0).

TOWN ADMINISTRATOR HIRING FIRM

Based on the presentations made at the June 9, 2015 meeting of the Board of Selectmen, the Board reviewed their options for a Town Administrator hiring firm. The interviewed choices were GovHR, Municipal Resources, Collins Center of UMass Boston, and MMA Consulting.

Mr. Espindola's top pick was GovHR, with a second choice of the Collins Center. Mr. Murphy and Mr. Haworth both favored the Collins Center. Mr. Espindola said that all the choices were good and that he would agree to the Collins Center to make the vote unanimous.

Mr. Murphy motioned to appoint the Collins Center to serve as the hiring firm for the Town Administrator. Mr. Espindola seconded. Vote was unanimous. (3-0).

NEW PA SYSTEM – CABLE ACCESS

The Board reviewed a request from the Emergency Management Agency to obtain a new PA system to be used at Town functions, such as the Memorial Day services, with the funds for the system coming from the Cable Access account.

The Board agreed that the current PA system is not functioning well for the Town's purposes and that it would support its replacement.

Mr. Murphy motioned to approve two new PA systems with the funds coming from the Cable Access account. Mr. Espindola seconded. Vote was unanimous. (3-0).

BCBS “A HEALTHY ME”

A request from Mr. Espindola to expand the Blue Cross Blue Shield “A Healthy Me” to employees not currently subscribed to the Town’s health insurance plan was tabled by Mr. Espindola. Mr. Espindola tabled the item due to the fact that a donation related to the effort was retracted for technical reasons.

NEW BEDFORD CASINO

Mr. Osuch said that the City of New Bedford had voted to support the application of a casino for their city. There is a provision in the law for surrounding communities to be able to put the casino developer (KG Urban) on notice for their rights as interested parties, due to proximity. SRPEDD has offered its services in organized efforts related thereto.

Mr. Murphy said that he supported putting the developer on notice and contacting the Massachusetts Gaming Commission to outline the impact a casino would have on the Town. Mr. Espindola agreed. Mr. Espindola asked if the impacted towns could combine legal expenses towards this effort. Mr. Osuch answered that the Town of Acushnet wishes to act independently, but that the Town of Dartmouth is interested in combining efforts. Mr. Osuch said that traffic, addition, and housing would be the main complications as a result of a casino. Mr. Murphy motioned to authorize Town Counsel to get involved in producing an impact report for the casino application for the Town of Fairhaven. Mr. Espindola seconded. Vote was unanimous. (3-0).

BUILDING DEPARTMENT BUDGET

Mr. Osuch said that the Building Department payroll line for FY15 was in the red and there would be a request made to the Finance Committee in the amount of \$3350 to cover the difference needed. Payroll submitted from the Building Department had an accounting error and was not reconciled with the Town Accountant.

Regarding a request from Building Commissioner Wayne Fostin to swap out vacation days for used sick days to make him eligible for the sick bonus and sick buy back, Mr. Osuch said that a related discussion would have to be in open session, not executive session. Mr. Osuch said that there were other employees looking to exchange vacation days for sick days so they could also receive sick bonuses. He said that he was not aware of documentation that Mr. Fostin had submitted regarding the days in question (June 22 through June 26 and June 29 and June 30), and therefore, the time had to be classified as sick time. The discussion was tabled to executive session.

SPRING STREET AUTO – CONTINUED HEARING

At 7:04 p.m., the Chairman continued the June 9, 2015 public hearing for Spring Street Auto, which would consider suspension or revocation of Spring Street Auto's auto dealership and auto repair licenses. Town Counsel Thomas Crotty was present.

Atty. Crotty stated that since the June 9 hearing, there has been communication from the DEP indicating that Spring Street Auto may be violating regulations related to the storage and disposal of waste/chemicals. As such, he advised the Board to re-notice the owners of Spring Street Auto of a continued hearing that will include the additional charges from the Mass DEP letter. Additionally, the State Police visited the dealership/repair location regarding safety conditions there, and a full report is expected. Atty. Crotty said that they could have one final meeting to make a decision on all charges brought forth.

Mr. Murphy asked if the State Police report would be received prior to the continued hearing. Atty. Crotty said he thought it would. Mr. Murphy motioned to continue the Spring Street Auto hearing with additional charges to Monday, August 3, 2015. Mr. Espindola seconded. Vote was unanimous. (3-0).

TOWN ADMINISTRATOR HIRING

At 7:08 p.m., Phil Washko was recognized by the Chairman. Mr. Washko asked the Board if it would include residents on the screening committee for the Town Administrator hiring. Mr. Haworth said that the Board would notify the appointed firm and make their recommendations on the compilation of the committee. Mr. Washko asked if the screening committee vacancies would be advertised. Mr. Haworth said that the appointment of a screening committee would be a public process.

NEW BEDFORD CASINO

With Atty. Crotty present, the Board revisited the topic of the New Bedford Casino. Atty. Crotty repeated that the Town could be faced with traffic and crime issues as a result of a New Bedford casino. He said that they should work with SRPEDD on the matter, as SRPEDD advises towns with regards to community host agreements. Atty. Crotty said many casino applications in front of the Massachusetts Gaming Commission are in arbitration. He said that the Town would coordinate with the surrounding towns to get a feel for what they should be requesting in a community host agreement, with predictive provisions possibly at the five and/or ten year mark.

BUILDING DEPARTMENT

Mr. Osuch said that there were personnel issues in the Building Department and that the public should be aware that the office will have spotty coverage until the staffing issues are resolved.

ROTARY CLEAN UP – ROGERS SCHOOL

The Board reviewed a letter from the Rotary Club requesting permission to hold a community clean-up event at the Rogers School on July 25. Mr. Murphy disclosed that he was a Rotarian but had no financial interest in the matter. Mr. Murphy motioned to approve the clean-up event on July 25. Mr. Espindola seconded. Vote was unanimous. (3-0).

DOWN THE HATCH – PUBLIC HEARING

At 7:37 p.m., the Chairman opened a public hearing regarding Down the Hatch and its parking issues. Matthew Hebert of Down the Hatch was present. The public notice was read into record. (See Attachment A).

Mr. Hebert has been sent a letter from the Building Commissioner regarding a lack of parking at Down the Hatch due to an overflow of docked vessels. This makes the establishment in non-compliance with its zoning permit.

Mr. Hebert said that there were extra boats in the parking lot this year because of the hard winter and slow economy, with people being unable to launch. Of the 22 extra boats, eight are being launched in the next couple weeks, two have been sold and will be arranged for removal, three or four are awaiting title and are considered abandoned, three more are in the process of being returned to their owners, two are owned by the marina and one is for sale. Mr. Hebert said that the abandoned vessels require a legal process for title and removal and it takes a long time. He said that since he received the letter from the Building Commissioner, he had been working hard to remove the vessels and create more parking at Down the Hatch.

Atty. Crotty said that there was a complication in that the Building Commissioner was out and could not re-inspect the location prior to the meeting to determine if steps are being made towards compliance. He said that with reduced parking, Hoppy's Landing is being used for overflow parking, with some patrons not even paying for the parking.

Mr. Haworth said that, in the absence of the Building Commissioner, he rode up to Down the Hatch and did notice that the conditions have improved.

Atty. Crotty asked Mr. Hebert if he made any outreach to patrons to prevent parking at Hoppy's Landing. Mr. Hebert said that he reminds patrons to pay for the parking if they are using Hoppy's. Mr. Hebert asked if it was really illegal for his patrons to use a Town lot if they are paying. Atty. Crotty said that it was not illegal, but that the conditions of Mr. Hebert's license – the occupancy permit – was based on the zoning waiver for parking and that he would need to meet those parking requirements without the use of Hoppy's Landing.

Mr. Haworth asked if Mr. Hebert had a copy of the special permit for his business. Mr. Hebert did not think he had a copy, so Mr. Haworth said that the Selectmen's Office would obtain a copy for him. Mr. Haworth said that he would like to see Mr. Hebert back before the Board in four weeks to see him compliant with the terms of the Special Permit

At 7:51 p.m., Mr. Haworth opened the meeting to public comment.

Robert Hobson was recognized. Mr. Hobson said that, as the former owner of Hoppy's Landing, he had an issue with the property being used for parking. He said that the Planning Board issues special permits and then the special permits are not enforced until someone complains. He said the issue was not personal, and that he saw the Heberts trying to clear out the extra vessels as best they can, but that the permit needs to be enforced.

Rob Rizzo was recognized by the Chairman. Mr. Rizzo expressed frustration about the establishment, regarding noise and parking. He said that Mr. Hebert always has an excuse. He asked the Board to hold Mr. Hebert accountable.

Frank Coelho was recognized by the Chairman. He said that the special permit from the Planning Board did not take into account the six separate businesses running out of the Goulart Memorial Drive location – an aquaculture office, a charter business, a marina, a restaurant, a bar and a boat repair/storage facility. He said that the restaurant was perhaps too big for the permit.

Mark Badwey was recognized by the Chairman. He said that he has seen a lot of progress in the removal of vessels over the last two weeks and that it looked like Mr. Hebert was trying to comply with the Building Commissioner's orders.

Mr. Murphy refuted claims that the Town was considering entering an agreement with Earl's Marina to use Hoppy's Landing for leased parking.

Mr. Murphy motioned to continue the hearing for Down the Hatch to August 3 at 8:00 p.m., with additional notice to be served to Down the Hatch to include noise complaints in the charges for the hearing. Town Counsel will be present for the meeting on August 3. Mr. Espindola seconded. Vote was unanimous. (3-0). An inspection of the premises at Down the Hatch will be completed in the meantime.

OTHER BUSINESS

In Other Business:

- Mr. Murphy thanked Emergency Services for their response to a recent emergency at his home.
- Mr. Espindola praised Carousel Skating for hosting the 2015 Roller Skating Championship, which brought people from all over the country. Mr. Haworth, who attended the opening ceremonies for the Skating Championship, agreed that it was a great event.
- Mr. Espindola thanked the BPW for installing the new crosswalk light on Sconticut Neck Road for bike traffic.
- Mr. Haworth praised the organizers of the Homecoming Fair for another successful event.
- Mr. Haworth congratulated Deputy Chief Donn Fletcher on behalf of the Board for his 48 years of service.
- Mr. Haworth noted that the Independence Day ceremonies and fireworks were well-attended.
- Mr. Espindola said that the Office of Tourism started a Monday morning children's activity series that is so far well-attended.
- Mr. Osuch said that LAL Construction will not start construction until the last week in July. The Tree Warden will be posting some of the trees surrounding Town Hall for removal. The tree hearing will be either July 20 or August 3. Dr. Bowcock intends to replace the old growth (much of it diseased) with new trees.

- Mr. Osuch presented the Board with an agreement from JM Booth and Associates for design services related to the sidewalks in the amount of \$13,500. Mr. Murphy motioned to approve the invoice and sign. Mr. Espindola seconded. Vote was unanimous. (3-0).
- The Board reviewed a letter from the Harbormaster requested the carryover of nine vacation days over his anniversary date of June 1. The Board deliberated and agreed to carry over half the days. Mr. Murphy motioned to carry over 4.5 vacation days for Mr. Darmofal. Mr. Espindola seconded. Vote was unanimous. (3-0).

At 8:22 p.m., Mr. Murphy motioned to enter Executive Session, pursuant to MGL 30A § 21:

1. Building Department – personnel issues
2. Harbormaster personnel
3. Treasurer/Tax Collector – personnel

Mr. Espindola seconded the motion to enter Executive Session for the aforementioned reason, 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
Administrative Assistant
Minutes approved 07/20/2015

Minutes amended by vote on 04-05-2016 (to correct the number of PA systems requested by the Cable Advisory Committee).



Town of Fairhaven
Massachusetts
OFFICE OF THE
BUILDING DEPARTMENT

COPY

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

Wayne Fostin
 Building Commissioner

June 16, 2015

Hebert Realty Company LLC
 56 Goulart Memorial Drive
 Fairhaven, Ma 02719

Re: Violation of Special Permit dated May 24, 2005 and agreement for judgment dated September 22, 2006

Dear Owner(s);

The Town of Fairhaven Building Department has received several complaints regarding the lack of parking at 56 Goulart Memorial Drive. An onsite visit was conducted and it was observed that a lot of the designated parking area is being used for boat storage and repair. Please be advised that within 48 hours of receipt of this letter all boats must be removed from the designated parking areas as allowed for in your Special Permit Agreement for judgment.

Failure to do so will result in further action by this department not limited to court action and fines. Your cooperation in this matter will be greatly appreciated.

Sincerely,

Wayne Fostin

Certified Mail

cc: Bill Roth
 Jeffrey Osuch

wf/lm

7014 1820 0001 8035 7685

U.S. Postal Service™	
CERTIFIED MAIL® RECEIPT	
Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Postmark Here	
Sent To <u>Down the Hatch</u>	
Street & Apt. No. or PO Box No. <u>56 Goulart Memorial Dr.</u>	
City, State, ZIP+4 <u>Fairhaven, MA 02719</u>	
PS Form 3800, July 2014 See Reverse for Instructions	