



# Fairhaven Board of Selectmen

## August 3, 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. Also present: Wendy Graves.

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.

### MINUTES

- Mr. Murphy motioned to approve the minutes of the **June 22, 2015** meeting, **executive** session. Mr. Espindola seconded. Vote was unanimous. (3-0).
- Mr. Murphy motioned to approve the minutes of the **July 6, 2015** meeting, **open** session. Mr. Espindola seconded. Vote was unanimous. (3-0).
- Mr. Haworth requested the Board table the minutes of the **July 6, 2015** meeting, **executive** session to allow for edits.
- Mr. Murphy motioned to approve the minutes of the **July 8, 2015** meeting, **open** session. Mr. Espindola seconded. Vote was unanimous. (3-0).
- Mr. Murphy motioned to approve the minutes of the **July 8, 2015** meeting, **executive** session. Mr. Espindola seconded. Vote was unanimous. (3-0).
- Mr. Murphy motioned to approve the minutes of the **July 20, 2015** meeting, **open** session. Mr. Espindola seconded. Vote was unanimous. (3-0).
- Mr. Murphy motioned to approve the minutes of the **July 20, 2015** meeting, **executive** session. Mr. Espindola seconded. Vote was unanimous. (3-0).
- Mr. Murphy motioned to approve the release of the **December 22, 2014** meeting, executive session, as redacted. Mr. Espindola seconded. Vote was unanimous. (3-0).
- Mr. Murphy motioned to approve the release of the **January 12, 2015** meeting, executive session. Mr. Espindola seconded. Vote was unanimous. (3-0).

### EXECUTIVE SECRETARY'S REPORT

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

- Tuesday, **August 4**
  - 11:00 a.m. – Charlie Murphy – Jeff DuPont meeting
- Wednesday, **August 5**

- 9:30 a.m. – Union Wharf job meeting
- **Thursday, August 6**
  - 8:00 a.m. to 9:30 a.m. – Forum group at BBC office
  - 5:00 to 7:00 p.m. – Open House at Town Hall
  - 7:00 to 9:00 p.m. – Concert at Town Hall
- **Monday, August 10**
  - 9:30 a.m. – COA Meeting – Board of Directors
- **Tuesday, August 11**
  - 3:30 p.m. – Mattapoisett River Advisory Committee at BPW
  - 4:30 p.m. – Mattapoisett River Water District at BPW
- **Wednesday, August 12**
  - 9:30 a.m. – Union Wharf Job Meeting – Bates Property bids due

### **UPCOMING SCHEDULE**

Mr. Osuch said that the next scheduled meeting of the Board of Selectmen was on August 31 and that four weeks was too long to go without a meeting. Mr. Espindola asked about Mr. Haworth's involvement in the Conservation Commission, saying that when Mr. Haworth was appointed he thought it would be a temporary measure to help the ConCom achieve a quorum. Mr. Haworth said that he was still willing to relinquish his position on the ConCom if a volunteer could be found.

#### **MEETING POSTED**

The Board announced it would hold a meeting on Friday, August 21, at noon, to handle interim business between the August 3 and 31 meetings.

#### **WHITFIELD-MANJIRO FESTIVAL**

The Board reviewed a letter from Gerry Rooney, president of the Whitfield-Manjiro Friendship Society, requesting permission to hold the annual Manjiro Festival on Saturday, October 3. Fairhaven will host the festival this year. Mr. Espindola asked if the Manjiro Festival organizers had contacted the BPW and Police. Mr. Murphy said that they typically do. Mr. Espindola asked if they paid the BPW for their services. Mr. Murphy said that he did not think they did.

Mr. Murphy motioned to approve the October 3, 2015 date for the Manjiro Festival. Mr. Espindola seconded. Vote was unanimous. (3-0).

#### **ONE THEATER GROUP**

The Board reviewed an application from ONE Theater Group, via its president Ashley Bendiksen, to hold a production of James and the Giant Peach in the Town Hall Auditorium on October 15, 16, 17, and 18. Mr. Murphy said that they are a non-profit organization and always have wonderful productions for the Town to enjoy. Mr. Espindola agreed. Mr. Murphy

motioned to approve the use of the auditorium for ONE Theater Group for the requested dates and the waiver of the rental fee. Mr. Espindola seconded. Vote was unanimous. (3-0).

#### EVERSOURCE PERMITS

Mr. Murphy motioned to approve Eversource gas permits for 1 Hedge Street, 19 Brae Street and 157 Adams Street, previously approved by the BPW. Mr. Espindola seconded. Vote was unanimous. (3-0).

#### KATIE'S WALK

At 6:53 p.m., Mr. Murphy recused himself and left the meeting. The Board read a letter from Ashlee Lentini requesting to hold the annual Katie's Walk on September 19, 2015, to benefit MOLIFE. The annual event honors the memory of Katie Brienza, Ms. Lentini's sister. Mr. Espindola motioned to approve the event for that date. Mr. Haworth seconded. Vote carried. (2-0-1).

#### CDBG HEARING

At 6:55 p.m., the Chairman opened a hearing for a review of the CDBG Elliot Lane project. William Roth was present. Mr. Roth gave an overview to the project that improved the infrastructure on Elliot Lane. The meeting was opened to public comment. Art DeCosta was recognized. Mr. DeCosta praised Mr. Roth for his work with the CDBG.

Mr. Roth then gave an overview of the concluding Francis Street project, saying that only "punch list" items remain before its completion.

Mr. Roth also informed the Board that the 2016 application for CDBG funding was not successful. This is the first time in ten years that the Town has not received the grant funding, based on the fact that the Town did not have the same needs score.

Mr. Roth presented the Board with a change order for CLE Engineering in the amount of \$3,496.54 for the Union Wharf/MacLean Seafood Building. Mr. Murphy motioned to authorize the Chairman to sign the change order in that amount. Mr. Espindola seconded. Vote was unanimous. (3-0).

The CDBG hearing was closed at 7:08 p.m.

#### SPRING STREET AUTO CONTINUED HEARING

At 7:08 p.m., the Chairman continued the hearing for Spring Street Auto from the July 6, 2015 meeting. Town Counsel Thomas Crotty was present. Also present were license holders Carol and Richard Dussault, and their daughter Nicole Dussault.

Atty. Crotty told the Dussaults that there was some question as to who was actually operating the garage, despite the fact that the license was in Carol Dussault's name. Atty. Crotty stated he was submitting several records for the hearing – see Attachment A.

In response to the claim that the DEP had submitted a letter of Non-Compliance for waste oil storage to the Dussaults and the Selectmen's Office, Ms. Dussault said that the DEP had submitted a follow-up letter (dated July 24) indicating that the Dussaults had taken the actions necessary to once again be in compliance. Ms. Dussault submitted that letter to the Board, in addition to permits issued by the Fire Department and pump-out records for waste oil. Atty. Crotty asked what the Dussaults had on the premises for waste oil storage. Mr. Dussault answered that there were two 55-gallon drums stored on the premises for paint thinner, waste oil, etc. The last record they have for waste oil removal is from 2011. The Dussaults said this was partly due to the fact that they were closed from 2011 to 2013 for renovations. Ms. Dussault added that they do not do a lot of oil changes.

Atty. Crotty asked the Dussaults if they have the federal user buyer's guide on the windows of the cars for sale. Mr. Dussault answered that they generally stored that in the glove compartment of vehicles for sale. Atty. Crotty asked if they keep the used vehicle warranty guide on the window. Ms. Dussault said that it was kept in the vehicle.

Atty. Crotty referred to the documents in Attachment A to show that the use of dealer plates is restrictive and dealers cannot use the vehicles for sale as their personal vehicles – the stickers should be displayed. Mr. Haworth said that on the day of the Town inspection (May 5, 2015) their sales log reflected no cars for sale, despite the fact that they were using a dealer car. Ms. Dussault responded by saying that the window decals were a new allegation not included in the hearing notice.

Mr. Haworth further stated that the State Police had inspected the location at Spring Street Auto and found the trailer there to be in a state of disrepair. Ms. Dussault said that Section 5 had been out to inspect their location and had not issued any violations to them. She added that the Town Building Commissioner inspects their location annually as a part of their license renewal process, and the trailer was never brought up as a violation.

Mr. Espindola said that there were concerns about evidence brought forward that the Dussault's employee, Joel Brown, lists himself as the owner and "boss" of Spring Street Auto on Facebook. He said the Facebook excerpts were submitted to the Board by an anonymous source. The excerpts include a picture of a Jeep being spray painted orange, allegedly at the Dussault's location. The Dussaults reviewed the picture of the spray paint job and Nicole Dussault said that the photo proved nothing, as it did not include a date or it could have been photoshopped.

Ms. Dussault said that there had been a concern raised in that the worker's comp was in the name of Joel Brown instead of in the Dussaults' names. She claimed that she and Mr. Dussault had since resolved the issue by purchasing their own worker's comp certificate in their own name for the location. Ms. Dussault's claim could not be verified at the time of the meeting, but she presented the Board with a receipt for the purchase of said certificate, dated August 3.

## OTHER BUSINESS

In Other Business:

- Mr. Haworth said that he received a letter from Wayne Hayward, Planning Board Chairman, regarding the creation of a Master Plan Subcommittee, which will require two Selectmen appointees. The Board will advertise the vacancies with a deadline of August 3.
- Mr. Murphy thanked Linda and Terry Meredith for their work on the West Island clam bake.
- Mr. Murphy recognized the work of Jeffrey Lucas and the NFIA for the dedication of the gazebo at Benoit Square.
- Mr. Murphy suggested the Board meet with Keegan Fike to present him with a proclamation on receiving his Eagle Scout award.
- Mr. Espindola reminded the public that there will be a Boards and Committees Open House on Thursday, August 6.

At 9:15 p.m., Mr. Murphy motioned to enter Executive Session, pursuant to MGL 30A § 21:

1. Town Hall – personnel
2. Litigation – Union Wharf
3. Litigation – Tibbett's Engineering
4. Sylvia Group insurance claims

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 08/21/2015

2015

Attachment A

RESTRICTED MUSIC LICENSE

CHAPTER 140 Section 103A

THIS CERTIFIES that the Licensing Board of the Town of Fairhaven grants to

Navlan Corp.  
d/b/a Down The Hatch

To Be Exercised on Week-Days Only

Between the hours of 8:00 A.M. and 12:00 P.M. (midnight) Saturday  
8:00 A.M. and 1:00 A.M. Monday through Friday

A LICENSE FOR CONCERTS OF INSTRUMENTAL, RADIO AND VOCAL MUSIC ONLY  
at 56 Goulart Memorial Drive in said Town.

This license is in effect January 1, 2015  
and expires December 31, ~~2015~~.

Subject to the provisions of the Laws of the Commonwealth  
of Massachusetts.

IN TESTIMONY WHEREOF, WE hereunto affix our official  
signatures this 31<sup>st</sup> day of December ~~2014~~.

Robert J. [Signature]

[Signature] Sr.

BOARD OF SELECTMEN

~~FEES~~ \$7.50

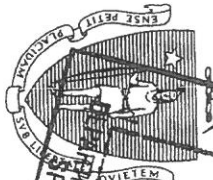
THE COMMONWEALTH OF MASSACHUSETTS

State Fee, \$ 50.00 pd  
Municipal Fee, \$ 117.00 pd.

Town of Wareham

LICENSE for

2014



RECEIVED  
APR 28 2014  
DEPARTMENT OF PUBLIC SAFETY  
SPECIAL LICENSING

Public Entertainment on Sunday

Barbara Corp., Alpha Down The Hatch (Name of licensee)

is hereby granted a

license for live entertainment (music) (Type of entertainment) on May 8, 2014 - May 10, 2015 (Date) (1 year)

to be conducted at No. 56 Rowland Memorial Drive Street.  
The name of the establishment is "Down The Hatch"

This license is granted and accepted, and the entertainment approved, upon the understanding that such entertainment will not commence before 1 P.M. and that the licensee shall comply with the laws of the Commonwealth applicable to licensed entertainments, and also to the following terms and conditions:

The licensee shall not advertise his place of amusement, or any performance or exhibition therein, by means of pictorial posters or placards; shall at all times allow any person designated in writing by the Mayor, Board of Selectmen, or Commissioner of Public Safety, to enter and inspect his place of amusement and view the exhibitions and performances therein; shall permit regular police officers, detailed by the Commissioner of Public Safety or Chief of the local Police Department to enter and be about his place of amusement during performances therein; shall employ to preserve order in his place of amusement only regular or special police officers designated therefor by the Chief of Police, and shall pay to said Chief of Police for the services of the regular police officers such amount as shall be fixed by him; shall permit at all times to enter and be about his place of amusement such members of the Fire Department, as shall be detailed by the Chief Engineer of the Fire Department to guard against fire; shall keep in good condition, so as to be easily accessible, such standpipes, hose, water pails, axes, chemical extinguishers and other apparatus as the Chief Engineer of the Fire Department may require; shall allow such members of the fire department in case of any fire in such place, to exercise exclusive control and direction of his employees and of the means and apparatus provided for extinguishing fire therein; shall permit no obstruction of any nature in any aisle, passageway or stairway of the licensed premises, nor allow any person therein to remain in any aisle, passageway or stairway during an entertainment; and shall conform to any other rules and regulations at any time made by the Mayor or Board of Selectmen.

This license shall be kept on the premises where the entertainment is to be held, and shall be surrendered to any regular police officer or authorized representative of the Commissioner of Public Safety. This license is issued under the provisions of Chapter 136 of the General Laws, as amended, and is subject to revocation at any time by the Mayor, Board of Selectmen, or Commissioner of Public Safety.

The following numbers shown on program submitted are not approved:

Mayor or Selectmen

Do not write in this space

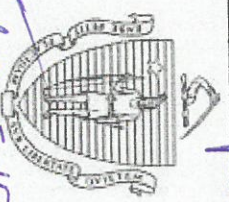
*[Signature]*

*[Signature]*

\*Conditions per H&W Hobbs & Warren Note: Hours allowed for "live music" 1:00pm - 8:00pm Only - Sundays

State Fee, \$ 50.00  
 Municipal Fee, \$ 117.00

THE COMMONWEALTH OF MASSACHUSETTS  
 Town of Taunton  
 OF Taunton  
**LICENSE**



FOR  
 PUBLIC ENTERTAINMENT ON SUNDAY  
 The Name of the Establishment is Carban Inn of the Room the Hotel in or on the property at No. 56 Spouty Memorial Lane Taunton, MA 02719 (address)  
 dated 5-17-15 for 5-8-16

The Licensee or Authorized representative, X in \_\_\_\_\_ in \_\_\_\_\_  
 accordance with chapter 136 of the General Laws, as amended, hereby request a license for the following program or entertainment:

DATE	TIME	Proposed dancing or game, sport, fair, exposition, play, entertainment or public diversion
<u>5-17-15</u>		
<u>5-8-16</u>	<u>1:00pm</u>	<u>live entertainment (musicians)</u>
	<u>8:00pm</u>	

Hon. Stephen Bennett Mayor/ Chairman of Board of Selectman, Taunton (City or Town)

Fees per occurrence (Individual Sunday(s)): Regular Hours (Sunday 1:00pm - Midnight): \$2.00 Special Hours (Sunday 12:00 am- Midnight): \$5.00. Annual Fee (For Operating on every Sunday in calendar year): Regular Hours (Sunday 1:00pm - Midnight): \$50.00 Special Hours (Sunday 12:00 am- Midnight): \$100.00

This license is granted and accepted, upon the understanding that such entertainment that the licensee shall comply with the laws of the Commonwealth applicable to licensed entertainments, and also to the following terms and conditions: The licensee shall at all times allow any person designated in writing by the Mayor, Board of Selectmen, or Commissioner of Public Safety, to enter and inspect his place of amusement and view the exhibitions and performances therein; shall permit regular police officers, detailed by the Commissioner of Public Safety or Chief of the local Police Department to enter and be about this place of amusement during performances therein; may employ to preserve order in his place of amusement only regular or special police officers designated therefore by the Chief of Police, and shall pay to said Chief of Police for the services of the regular police officers such amount as shall be fixed by him; shall permit at all times to enter and be about his place of amusement such members of the Fire Department as shall be detailed by the Chief of the Fire Department to guard against fire; shall keep in good condition, go as to be easily accessible, such standpipes, hose, axes, chemical extinguishers and other apparatus as the fire department may require; shall allow such members of the fire department in case of any fire in such place, to exercise exclusive control and direction of his employees and of the means and apparatus provided for extinguishing fire therein; shall permit no obstruction of any nature in any aisle, passageway or stairway of the licensed premises, nor allow any person therein to remain in any aisle passageway or stairway during an entertainment; and shall conform to any other rules and regulations at any time made by the Mayor or Board of Selectmen. This license shall be kept on the premise where the entertainment is to be held, and shall be surrendered to any regular police officer or authorized representative of the Department of Public Safety. This license is issued under the provisions of Chapter 136 of the General Laws, as amended, and is subject to revocation at any time by the Mayor, Board of Selectmen, or Commissioner of Public Safety.

This application and program must be signed by the licensee or authorized representative of entertainment to be held. No Change to be made in the program without permission of the authorities granting and approving the license.

Do not write in this box

THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE ON THE PREMISES





Town of Fairhaven  
Massachusetts  
Office of the Selectmen

40 CENTER STREET  
FAIRHAVEN, MA 02719

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

September 15, 2008

Davlau Corporation  
d/b/a Down the Hatch  
56 Goulart Memorial Drive  
Fairhaven, MA 02719

Attn: Matthew Hebert

Re: License Violations

Dear Mr. Hebert:

Please be advised that on Monday, October 6, 2008 at 7:00 p.m. in the Town Hall Banquet Room, the Fairhaven Board of Selectmen, sitting as the Local Licensing Authority, will hold a hearing pursuant to the provisions of Massachusetts General Laws, Chapter 138 §64 to determine whether Davlau Corporation d/b/a Down the Hatch, holder of a license issued under General Laws, Chapter 138 §12 to conduct a business at the premises located at 56 Goulart Memorial Drive, Fairhaven, MA, has violated the provisions of said Chapter 138 and any rules and regulations promulgated under the authority of that Chapter; and if such violation or violations is or are found to have occurred, whether such license should be modified, suspended or revoked.

The hearing to be held shall deal with the following alleged violations of applicable law, rules or regulations:

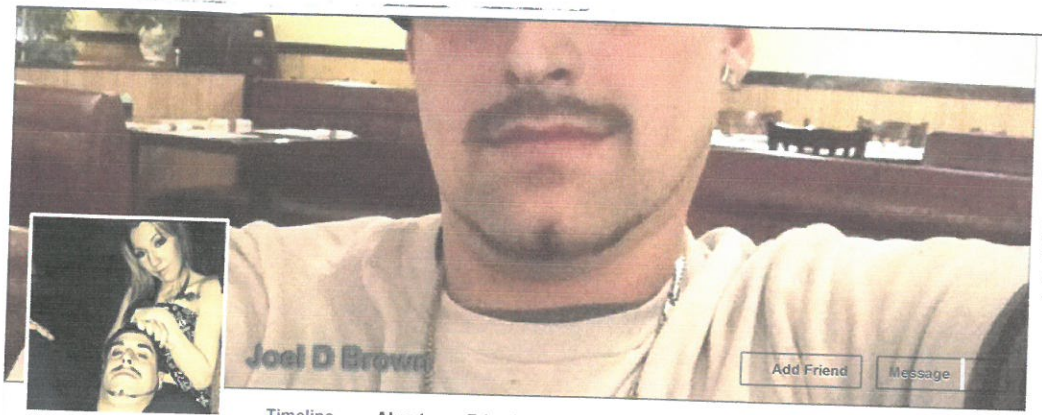
1. Substantial increase in bar area beyond the licensed area.
2. Substantial increase in occupancy load above the licensed occupancy.
3. Not adequate parking.
4. Excessive noise.
5. Improper building materials used for sound proofing.

If you have any questions, please call 508-979-4023.

Very truly ours,  
Board of Selectmen

*Michael Silvia*  
Michael Silvia  
Chairman

*Notice previously sent*



Joel D Brown

Add Friend Message

Timeline About Friends 4 Mutual Photos More

Sponsored  
Where will wireless at  
See if you c  
wireless dis  
employer. C

### About

To see what he shares with friends, send him a friend request.



You and Joel have 4 mutual friends

Add Friend

- Overview
- Work and Education**
- Places He's Lived
- Contact and Basic Info
- Family and Relationships
- Details About Joel
- Life Events

#### WORK

**Spring St Garage**  
 Owner/The Boss · 2013 to present · Fairhaven, Massachusetts  
 Auto body repair shop

Read

#### EDUCATION

**Fairhaven High School**  
 Class of 2000 · Fairhaven, Massachusetts

**Fairhaven High School**  
 Fairhaven, Massachusetts

# FACEBOOK

Add Friend

RECEIVED  
 2015 JUL -6 4 11 54  
 BOARD OF SELECTMAN  
 FAIRHAVEN MASS

### Friends

Mutual Friends Following



**James M. Gagne**  
3,888 friends

Friends



**John Paul Lowney III**  
890 friends

Friends



**Melisa Gagne**  
2,281 friends

Friends



**Rick English**  
1,159 friends

Friends


### Photos

Photos of Joel Joel's Photos Albums

https://www.facebook.com/joel.d.brown.14/about?section=edu\_work



COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION  
OFFICE OF CONSTRUCTION SAFETY AND INSPECTION REGULATIONS  
DIVISION OF STANDARDS



**WARNING!**  
A  
**STOP WORK  
ORDER  
HAS BEEN ISSUED**

For the purpose of enforcement, compliance with the provisions of this Order shall be deemed to have been achieved 24 hours after the date of this notice.

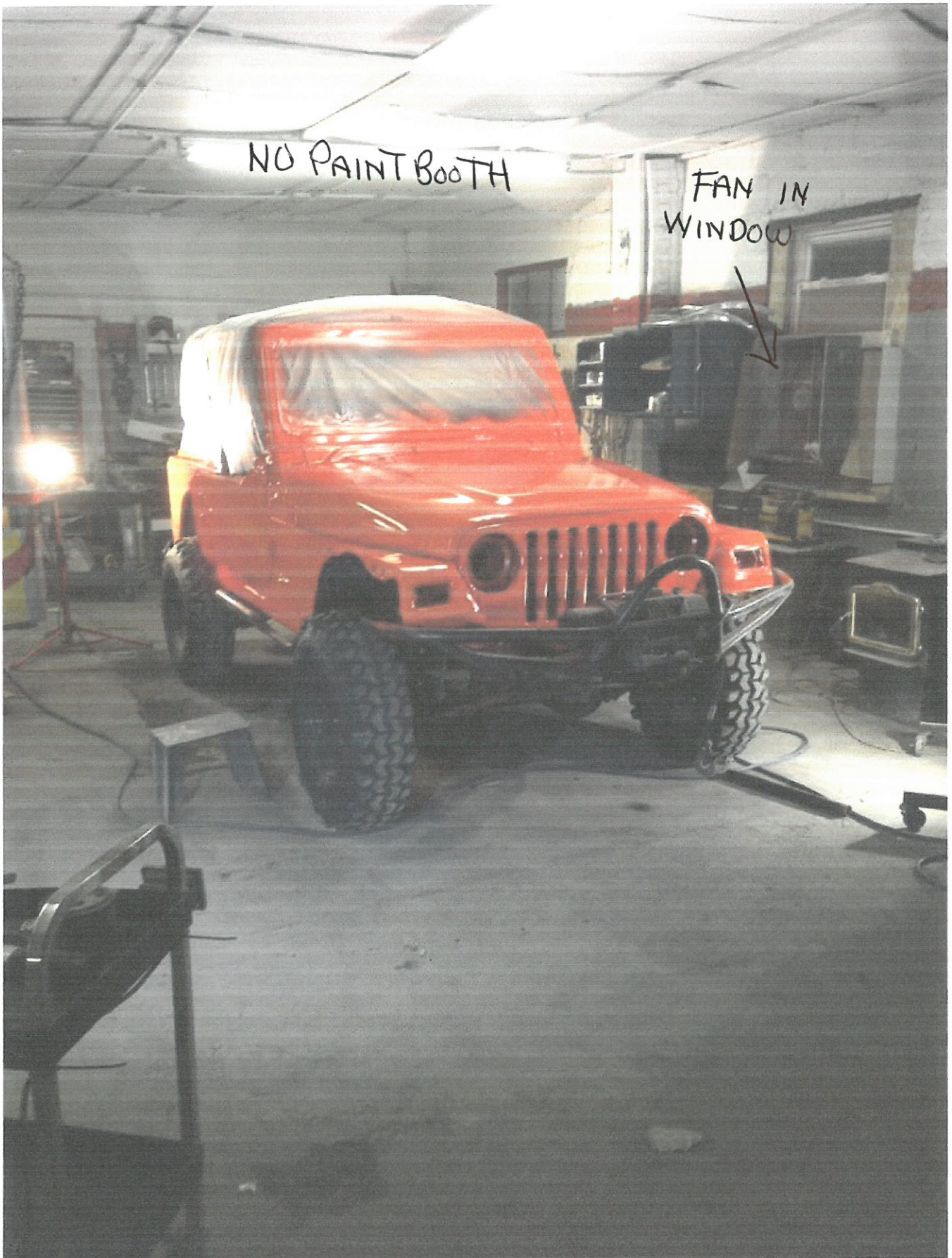
*A. S. M.*      *9/2/14*

THIS NOTICE SHALL REMAIN POSTED UNTIL THE STOP WORK ORDER IS LIFTED BY THE COMMISSIONER OR DEPUTY COMMISSIONER OF STANDARDS.

**POLICE TAKE NOTICE**



GO ON FACEBOOK  
JOEL D BROWN  
SPRING STREET





NO PAINT Booth



MY MOTHER CAN'T BREATHE AT 1AM  
IM MORNING (PAINT AT NITE)



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

## Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker  
Governor

Karyn E. Polito  
Lieutenant Governor

Matthew A. Beaton  
Secretary

Martin Suuberg  
Commissioner

June 22, 2015

Mr. Richard Dussault  
Spring St. Garage  
99 Spring Street  
Fairhaven, Massachusetts 02719

Re: **NOTICE OF NONCOMPLIANCE: NON-SE-15-9013-2**

Noncompliance with:

M.G.L. c. 21C and 310 CMR 30.000;

At: Spring St. Garage  
99 Spring St.  
Fairhaven, Massachusetts 02719

MassDEP Facility ID 257919

Air Quality Classification: BELOW

Hazardous Waste Classification:  
EPA ID#: MV5089931304  
VSQG-HW

Dear Mr. Dussault:

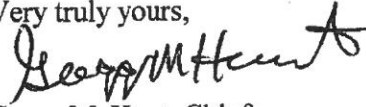
Department of Environmental Protection ("MassDEP") personnel have observed or determined that on June 5, 2015 activity occurred at Spring St. Garage in noncompliance with one or more laws, regulations, orders, licenses, permits, or approvals enforced by MassDEP. Enclosed please find a Notice of Noncompliance, an important legal document describing the activities that are in noncompliance.

As noted above, this evaluation was based on requirements enforced by MassDEP and does not relieve you of your responsibility to comply with local requirements.



If you have any questions regarding this matter, please contact Gerry Podlisny of this office at (508) 946-2830.

Very truly yours,



Gregg M. Hunt, Chief  
BAW Compliance and Enforcement Section

H/GP/lm  
P: Spring St. Garage 2015 NON

Enclosure

CERTIFIED MAIL #:7014 2120 0003 6904 5918

cc: DEP - SERO  
ATTN: Regional Enforcement Office

ecc: DEP - SERO  
ATTN: Gerry Podlisny  
ATTN: Lisa Ramos, REO

MA Office of Technical Assistance  
ATTN: Scott Fortier

Fairhaven Board of Health  
boh@fairhaven-ma.gov

Fairhaven Building Department  
building@fairhaven-ma.gov

Fairhaven Board of Selectmen  
josuch@fairhaven-ma.gov

## NOTICE OF NONCOMPLIANCE

THIS IS AN IMPORTANT NOTICE. FAILURE TO TAKE ADEQUATE ACTION IN RESPONSE TO THIS NOTICE COULD RESULT IN SERIOUS LEGAL CONSEQUENCES.

Based on the Department of Environmental Protection's ("MassDEP") investigation on June 5, 2015, noncompliance occurred or was observed at Spring St. Garage, in violation of one or more laws, regulations, orders, licenses, permits or approvals enforced by MassDEP.

This Notice of Noncompliance describes (1) the requirement violated, (2) the date and place on which MassDEP asserts the requirement was violated, (3) either the specific actions which must be taken in order to return to compliance or direction to submit a written proposal describing how and when you plan to return to compliance, and (4) the deadline for taking such actions or submitting such a proposal.

If the required actions are not completed by the deadlines specified below, an administrative penalty may be assessed for every day after the date of receipt of this Notice that the noncompliance occurs or continues. MassDEP reserves its rights to exercise the full extent of its legal authority in order to obtain full compliance with all applicable requirements, including, but not limited to, criminal prosecution, civil action including court-imposed civil penalties, or administrative action, including administrative penalties imposed by MassDEP.

### NAME OF ENTITY(S) IN NONCOMPLIANCE:

Spring St. Garage, Facility ID #257919  
(hereinafter referred to as the "Respondent").

### LOCATION(S) WHERE NONCOMPLIANCE OCCURRED OR WAS OBSERVED:

99 Spring St.  
Fairhaven, Massachusetts 02719

### DATE(S) WHEN NONCOMPLIANCE OCCURRED OR WAS OBSERVED:

June 5, 2015

### DESCRIPTION OF NONCOMPLIANCE:

The Department's investigation shows that the Respondent had the following violations:

A. Hazardous Waste

1. At the time of inspection the Respondent was accumulating and disposing of depleted paint spray cans without determining whether or not they contained hazardous material, in violation of 310 CMR 30.302, as referred by 310 CMR 30.353(6)(c). The regulation states:

“Any person who generates a waste shall determine if that waste is a hazardous waste, as identified or otherwise described in 310 CMR 30.100, as follows:

- (1) First, determine whether the waste is excluded from 310 CMR 30.104.
  - (2) Next, determine if the waste is listed as a hazardous waste in 310 CMR 30.130 through 30.136.
  - (3) For purposes of compliance with the land disposal restrictions set forth in 40 CFR Part 268 or if the waste is not listed as a hazardous waste in 310 CMR 30.130 through 30.136, determine whether the waste is hazardous waste pursuant to 310 CMR 30.120 through 30.125 by doing either of the following:
    - (a) Testing the waste according to the methods set forth in 310 CMR 30.151 through 30.157 or according to an equivalent method.
    - (b) Applying knowledge of the hazardous characteristics of the waste in light of the materials or the process used.”
2. At the time of inspection the Respondent was accumulating waste oil in a container with inadequate labeling in violation of 310 CMR 30.682, as referred to by 310 CMR 30.353(6)(g). The regulation, 310 CMR 30.682, states:

“Throughout the period of storage, the side of each container of hazardous waste shall be clearly labeled and marked in a manner which identifies, in words, the hazardous waste(s) being stored in the container (e.g., acetone, toluene) and the hazard(s) associated with the waste (e.g., ignitable, toxic, dangerous when wet). Each container shall also be marked with the words ‘Hazardous Waste’.”

3. At the time of inspection the Respondent was accumulating hazardous waste in an area without an adequate sign, in violation of 310 CMR 30.341(4), as referred to by 310 CMR 30.353(6)(h). The regulation, 310 CMR 30.341(4), states:

“All areas where wastes are accumulated shall have posted at all times a sign with the words "HAZARDOUS WASTE" in capital letters at least one inch high. Each such sign shall meet the guidelines set forth in the National Fire Protection Association's Code No. 704.”

4. At the time of inspection the Respondent was accumulating waste in an area that was not clearly delineated, in violation of 310 CMR 30.341(5), as referred to by 310 CMR 30.353(6)(h). The regulation, 310 CMR 30.341(5), states:

“All areas where wastes are accumulated for purposes of complying with 310 CMR 30.000 generally shall be clearly marked (e.g., by a clearly visible line or piece of tape on the floor, or by a gate or fence, or by a sign at the boundary of a clearly distinguishable area) so that they are clearly distinguishable at all times from all specific points of generation where wastes are initially accumulated solely for purposes of 310 CMR 30.340(6), and from all areas at the site of generation where wastes are not accumulated.

5. At the time of inspection the Respondent was accumulating hazardous waste in an area without an impervious surface underneath the containers, in violation of 310 CMR 30.342(1)(e) as referred to by 30.353(6)(h). The regulation, 310 CMR 30.342(1)(e), states:

“Throughout the period of accumulation, the generator shall comply with the standards for the use and management of containers set forth in the following regulations subject to the exceptions, additions or modifications, if any, as noted:

(e) 310 CMR 30.687: Containment; except that a generator shall comply with the following in lieu of 310 CMR 30.687(1) and (2):

1. Underlying all containers shall be a base which is free of cracks and gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed.
2. All outdoor containers shall be provided with a containment system that has the capacity to contain either 10% of the total possible contained volume of the containers, or 110% of the volume of the largest container, whichever is greater.
3. A generator shall remove all accumulated spillage and/or precipitation from the containment area within 24 hours or in as timely a manner as possible.”

ACTION(S) TO BE TAKEN AND THE DEADLINE FOR TAKING SUCH ACTION(S):

The following action(s) to be taken have individual deadlines associated with them. The Respondent shall take the necessary steps to correct the violations within the specified deadlines as noted and shall return to compliance with the requirements described below. MassDEP’s regulations at 310 CMR 5.09 presume that you receive this Notice of Noncompliance, if delivered by regular mail, three business days after it was issued (i.e., the date of the cover letter).

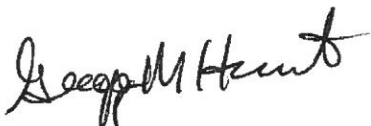
**Furthermore, the Respondent shall submit a written response within fourteen (14) days of date of receipt of this Notice, acknowledging receipt of this Notice, describing the actions already taken, and describing actions intended to be taken in order to achieve and maintain compliance with the Regulations.**

A. Hazardous Waste

1. Within fourteen (14) days of the receipt of this Notice, determine whether the depleted spray paint cans are empty before disposal in compliance with 310 CMR 30.106(2); dispose of the depleted spray paint cans as hazardous waste; or before disposal determine that they are not hazardous waste, in compliance with 310 CMR 30.302, and submit the results of that determination to MassDEP in writing.
2. Within one (1) day of the receipt of this Notice, mark and label each tank or container with the words "Hazardous Waste"; the Hazardous Waste identified in words; the type of hazard associated with the waste indicated in words; and the date upon which each period of accumulation begins, in compliance with 310 CMR 30.341(2). Respondent shall place all marks and labels on the sides of each container in such a manner that they are clearly visible for inspection.
3. Within three (3) days of the receipt of this Notice, at all hazardous waste accumulation areas, post a sign with the words "Hazardous Waste" in capital letters at least one inch high, in compliance with 310 CMR 30.341(4).
4. Within three (3) days of the receipt of this Notice, clearly mark all areas where wastes are accumulated (e.g., by a clearly visible line or piece of tape on the floor, by a gate or fence, or by a sign at the boundary of a clearly distinguishable area), in compliance with 310 CMR 30.341(5).
5. Within seven (7) days of the receipt of this Notice, move all hazardous waste containers indoors, or install an impervious surface underneath the outdoor hazardous waste accumulation area and provide an outdoor containment system, in compliance with 310 CMR 30.342(1)(e).

Please address all replies to this Notice of Noncompliance to Gregg M. Hunt at this office.

Date: 22 June '15

By: 

Gregg M. Hunt, Chief  
BAW Compliance and Enforcement Section



# Fairhaven Housing Authority

275 Main Street

Fairhaven, Massachusetts 02719-3370

(508) 993-1144

June 12, 2015

Board of Selectmen

Town of Fairhaven

477 Center St.

Fairhaven, MA 02719

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BOARD OF SELECTMAN  
FAIRHAVEN MASS

Dear Gentlemen,

We are writing this letter to help you be aware and better informed about the issues that continue to plague the tenants of #100 McGann Terrace, neighbors to the Spring St. garage

We had hoped that there would be many tenants present at the hearing and that they would be speaking about the working conditions and blot on the landscape that the garage presents on a regular basis causing continual concern. There are those who may have changed their mind about speaking due to intimidation and/or fear although we were not formally aware of this.

There were four Housing Authority Commissioners in attendance but they had also assumed that the tenants would be speaking and they, unfortunately, felt unprepared to speak and properly address the many and varied concerns.

I, personally, had a previous commitment that I could not reschedule and was unable to attend.

I am planning to be present at the next meeting on July 6<sup>th</sup> but I understand we have missed our opportunity to offer any testimony.

I would like to share the concerns of the tenants in hopes of shedding some light on the situation prior to the final hearing.

Many of the tenants in Building #100 at McGann Terrace have been living beside the Spring St. garage for years and they are regular witnesses to the eyesore of the lot filled with over 15 junk cars, trucks and recreational vehicles and assorted parts of vehicles. They listen to the loud noises that come from the garage often into the late evening hours and on Sundays disturbing their ability to sleep or

peacefully enjoy their apartments and balconies, especially during the open window weather. They smell exhaust and paint fumes and have seen and smelled improperly disposed of garbage and trash.

There seems to be little attention paid to running the garage within the parameters of the town license and very little regard given to the senior citizens and other neighbors who are subject to this consistently poorly run establishment.

Anything that can be done to by the Town of Fairhaven and the Selectmen would be welcome. To have this garage be allowed to run in this fashion without any concern for those who are its neighbors is unfair and unacceptable.

Your attention to this matter is greatly appreciated.

Sincerely,

A handwritten signature in purple ink that reads "Krisanne Sheedy". The signature is written in a cursive style with a large initial 'K' and a long, sweeping tail.

Krisanne Sheedy

Executive Director