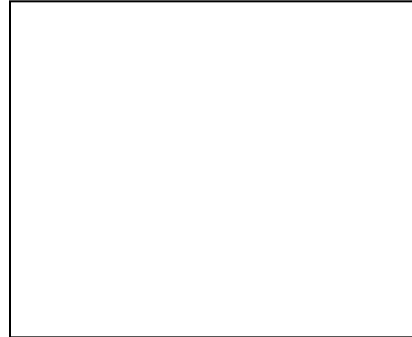


**Town of Fairhaven
Board of Public Works Meeting
February 22, 2011**

Present

Geoffrey Haworth, Commissioner
Robert Hobson, Commissioner
G. Steven Riley, Commissioner
Daniel Freitas, Commissioner
William Fitzgerald, Jr., Superintendent
Kathy Tripp, Administrative Assistant
Marc Jodoin, EMA
John Rogers, EMA
Antone Medeiros, Jr., Tree Warden
Attorney Margaret Ishihara
John Folino, Cape Building Systems
Al Ewing, Alan Ewing Engineering



I. Call to Order

Mr. Haworth called the meeting to order at 6:30 p.m.

II. Routine Matters

A. Signing of Departmental Bills

III. Approval of Minutes

A. January 31, 2011

Mr. Riley motioned to approve the minutes of the January 31, 2011 meeting. Mr. Freitas seconded. Vote unanimous.

IV. Appointments

A. Marc Jodoin, John Rogers, EMA – Radio Communication

Mr. Jodoin – I worked with Mr. Raphael, the former Superintendent on the current radio system. The FCC rules will be changing by 2013. The system has to be upgraded or replaced. They are switching to a narrow band. The Fire Department is almost completely done. I didn't want to wait until 2013. I've done some research on my own. If you want me to work on it, I'm willing to do what I can. We have to start somewhere.

Mr. Haworth – I would like to thank your agency for all that you've done.

Mr. Hobson – I'd like to thank you for your years of service. I would go along with you looking into it. You are devoted to the Town.

Mr. Riley – I concur with Mr. Hobson.

Mr. Freitas – The radios were done probably in 1998. We should have somebody here working along with you guys.

Mr. Rogers – Mitch, the mechanic said someone was coming down to evaluate the system.

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Mr. Fitzgerald – They haven't come yet.

Mr. Jodoin – The repeater was replaced a couple of years ago. I will need a list of what you have with model numbers.

Mr. Haworth – You provide us with the lighting in emergencies. As chairman, I would like to thank you. You aren't paid. We appreciate it.

Mr. Jodoin – I'd like to talk to you about vehicle maintenance. It seems like our requests don't get addressed for a long time. It's frustrating at times. We had a cruiser given to us from the Police. We gave it a paint job and new tires. It had engine problems and it was too costly to fix. It was in the back yard and it got stripped. It was pretty upsetting.

Mr. Riley – How long ago?

Mr. Jodoin – Last year.

Mr. Haworth – Their vehicles should be treated as emergency vehicles.

**B. Attorney Margaret Ishihara, Representing Brad Souza – 188 Green Street
Re: Trees and Fence in Cushman Park
Antone Medeiros, Tree Warden**

Mr. Medeiros was not in attendance.

Mr. Haworth – You are here to discuss the trees that are on town property. Mr. Souza has had several issues to appear. Mr. Souza wants additional trees cut.

Attorney Ishihara – That's not why I am here. I am here about the fence.

Mr. Riley – He had requested three more trees to be cut. I had mentioned that the Tree Warden to check first if they were good trees.

Mr. Fitzgerald – The Tree Warden said that the big tree should be trimmed and to take out a couple of scrub trees.

Mr. Riley motioned to have Mr. Medeiros trim one tree and take down the other scrub trees and to have Mr. Charbonneau there. Mr. Hobson seconded. Vote unanimous.

Attorney Ishihara – Can I check with him and get back to you?

Mr. Haworth – The fence issue?

Attorney Ishihara – He wants it put back where it was. It's at an odd corner of the park.

Mr. Riley – Two issues; Mr. Souza also sent a letter he had from the Board. About nine or ten years ago, there was a contract with the Board of Selectmen with Verizon. There is a gray container that belongs to the high school. They store their track equipment in it.

Attorney Ishihara – Verizon; was that part of the park?

Mr. Riley – You'd have to take that up with the Board of Selectmen. The fence is not going back where it was. He has to put it on his own property.

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Attorney Ishihara – He’s not conceding.

Mr. Riley – That is different in my opinion. It’s town property.

Attorney Ishihara – That fence has been there forever.

Mr. Riley – Even the letter from Mr. Souza provided to this Board from Lawyer Blair Bailey; it’s on Town property but the previous Board chose to do nothing.

Attorney Ishihara – What value is it to the town?

Mr. Riley – Nobody has the right to use it like that. It’s town property. If he puts up a wall, we’ll be there to take it down.

Mr. Fitzgerald – Mr. Souza said it’s been on Town property. It was our responsibility to take down the trees.

Mr. Hobson – We’ve had other issues with people with stuff on Town property. We made them remove them.

Attorney Ishihara – There are other properties encroaching.

Mr. Fitzgerald – Mr. Souza has made that claim. One is his neighbor. He says half the garage is in the park. We would go after anybody if we knew. The Inspector General has a ruling.

Mr. Freitas – I don’t have too much to say. I worked closely with Mr. Souza from the beginning. He kind of started to throw around the same thing. We didn’t want to do anything and then get sued. There is a ruling. We had to remove the trees. It was a Catch 22. If the trees fell on his house we would be liable. The fence; we had to remove it to take the trees down. He brought this on himself.

Mr. Haworth – I think Mr. Souza initially came to Mr. Freitas.

Attorney Ishihara – You had disqualified yourself in the past.

Mr. Haworth – I refrained in the past because of a past due balance. It was more than one year ago and it does not qualify for conflict. It’s a mute point; retribution for a \$35.00 bill. My comment; Mr. Freitas tried to work with him about the town trees on town property. This Board voted. I abstained. They voted that the trees should be removed. The job of this Board is to reserve the park land. It has nothing to do with Mr. Souza. This is not for one individual’s private use. This is town property and it isn’t going to happen. He doesn’t pay taxes on it. It’s not right to give him special treatment. That’s my comment on it.

Attorney Ishihara – We’re at a standoff with the fence issue.

Mr. Haworth motioned that the fence cannot go on town property and that it be put on the property line. Mr. Hobson seconded. Vote unanimous.

Mr. Fitzgerald – Town Counsel did advise that the fence not be on Town property.

C. Peter Michals, Nexamp

Mr. Michals was not in attendance.

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**D. John Folino, Cape Building Systems
Re: Fairhaven Business Bays, Arsene Way – Fees**

Mr. Folino – I have been the owner of the land across the street since 1989-99. The utilities were completed in 1985. The as-builts were done in 1988. It's connected. I'm not adding anything. All the connections are made. The fees are high. \$60,000 for water and sewer connections is a lot. I've been told there is no set procedure for existing utilities. What happens then? If a place burnt today, would there be a fee?

Mr. Fitzgerald – The fees expired. There's a difference between the old fee and the new fee. There is no record of any development fee paid.

Mr. Freitas – Are you hooked into the water and sewer now?

Mr. Ewing – They are connected.

Mr. Freitas – We had to go there once to check the sewer.

Mr. Ewing – The utilities are to the building.

Mr. Folino – If you turned on the gate valve there would be water.

Mr. Ewing – All the slabs were done at the same time, but only two buildings were erected.

Mr. Haworth – The sewer caps are off the clean-outs. There is water flowing into the system.

Mr. Folino – I don't know how long they have been uncapped.

Mr. Riley – You are not the original owner? In 1985, whatever the fee schedule was, was the fee paid?

Mr. Fitzgerald – We went through the records. This is the only payment we have record of.

Mr. Riley – It's sat dormant for many years. Everything expired in the last 26 years. If you bought vacant land and you wanted to erect a building there you would pay the fee what it is today. To me, it's a brand new installation.

Mr. Hobson – I'm not ready to vote on this tonight. I'd like to continue it to the next meeting.

Mr. Haworth – I think we'd like to know what would happen if you open the gate at the street.

Mr. Freitas – Do a die test for the sewer.

Mr. Haworth – Put those caps on immediately.

Mr. Riley – Mr. Fitzgerald, call Mr. Raphael and ask him what happened then, if the water is working and about paying the tie-in fees.

Mr. Haworth – I would ask the Board with the existing lines with the elements there could be critters in those lines. Do a pressure test, not infiltrations.

Mr. Riley motioned to table John Folino's request regarding fees until the next meeting. Mr. Hobson seconded. Vote unanimous.

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The Board took a five minute recess at 7:49 p.m.

Mr. Haworth – Did you speak with Nexamp?

Mr. Fitzgerald – Evidently there was some miscommunication. It was made very clear to them that if they weren't here they wouldn't get paid. They had two different people lined up.

Mr. Haworth – The amount is \$49,506.88.

Mr. Hobson – Do we owe them that money?

Mr. Haworth – There is \$73,225.16 remaining.

Mr. Riley – I understand they need to get paid. Send them a letter that in future payments won't be made until it's up and running.

Mr. Freitas – Where are we on this?

Mr. Fitzgerald – Charlie Tavares says this building will be on a different meter.

Mr. Freitas – Note to them tomorrow we want it up and running. Line it up with Nstar. Call every day.

Mr. Fitzgerald – The commission test was just completed.

Mr. Haworth – We need to be saving energy. The sooner the better for everyone. Someone not being here tonight is an insult.

Mr. Freitas – Send them a letter that the last payment won't be made until it's up and running.

Mr. Hobson motioned to approve the payment of \$49,506.88 to Nexamp. Mr. Riley seconded. Vote unanimous.

Mr. Riley motioned to send a letter to Nexamp that we would like his presence at the next meeting and why it's not turned on with an expected date if not done that their payment will be withheld. Mr. Freitas seconded. Vote unanimous.

V. Items for Action

A. Computer Policy

Mr. Fitzgerald – This is similar to the Selectmen's policy.

Mr. Fitzgerald read the computer policy.

Mr. Freitas – I would like to say if its' suspected it will be tagged. We want it to be known that we are doing that.

Mr. Haworth – The verbiage “the BPW reserves the right to monitor”.

Mr. Freitas – Investigation. The Board at any time can be checked through the Board.

Ms. Tripp – Everyone who has a computer?

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Mr. Freitas – Everyone should sign.

Mr. Freitas motioned to amend the computer policy to read “reserves the right” in the third paragraph, second sentence. Mr. Hobson seconded. Vote unanimous.

B. Stacey Depasquale Engineering, Inc. – Proposal for Building I/I Inspections

Mr. Fitzgerald – This is for North Fairhaven, all are roof drains. It’s part of the I/I problem. We talked about using Chapter 90 funds to replace that line. It’s for a house to house inspection. I did get another price from Tighe & Bond but they were more expensive.

Mr. Hobson – If it’s to inspect the system then we should do it.

Mr. Riley – I think \$400 for the inspection form letter is too much. Internal mail; postage not included. Task 3 – 125 equals to what each?

Mr. Fitzgerald – 125 is the number of houses, \$6250 / 125 equals \$50 each.

Mr. Freitas – The inspection form \$5. Task 3, there are a lot of double deckers. Does the cost include that?

Mr. Haworth – I think its inflated.

Mr. Freitas motioned to bring the proposal back to them and readjust their numbers. Mr. Riley seconded. Vote unanimous.

C. Fairhaven Youth Football Association – Request to use Livesey Park Concession

Mr. Haworth – We have a letter from them. Last year they were allowed to use the concession stand and they want to use it once again. They had four home games and we charged them \$100.

Mr. Riley – They require a Certificate of Insurance. They are responsible if there are any problems with the new locks.

Mr. Freitas – There was no problem last year.

Mr. Hobson – All set.

Mr. Haworth – We need to get the keys back. We voted for them to pay the \$100 and return the keys.

Mr. Riley – Who’s responsible?

Ms. Tripp – I am. Hold off until we get the money and the keys.

Mr. Riley motioned to table until last year’s fee is paid. Mr. Freitas seconded. Vote unanimous.

D. WES Construction – Payment Application

Mr. Fitzgerald – The amount is \$368,885.00.

Mr. Freitas – How far off on the construction?

Mr. Fitzgerald – About three months.

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Mr. Freitas – What’s the finish date?

Mr. Fitzgerald – It was June 30th.

Mr. Riley – What about the federal funds?

Mr. Fitzgerald – By the end of the year.

Mr. Freitas – Get the issues together. I’d like to see that.

Mr. Haworth – I get those emails. There are some overages.

Mr. Haworth motioned to pay WES Construction \$368,885.00. Mr. Hobson seconded. Vote unanimous.

E. BPW Superintendent’s Position

Mr. Haworth – Mr. Fitzgerald will be departing in May. We have to have some sort of plan and figure out what to do.

Mr. Riley – I sent my comments to Kathy.

Mr. Freitas – You can send it to MWPCA, NEWAA, Mass Municipal, NEPWA, and WEF.

Mr. Riley – Send it to the free publications now.

Mr. Hobson – No. I disapprove in the Board’s decision. Anyone want to change their vote? Mr. Fitzgerald has done an outstanding job. Wait until after the election on April 5th. It will be a new board with new members. You’ll have to live with that decision. That’s my opinion.

Mr. Haworth – I think that whatever we’ll find the proper replacement. I would like to look for a local person, not one from western Massachusetts. I prefer someone from Fairhaven. It’s important to use the free publications. We need someone that knows the job and Fairhaven. Post in the least expensive places.

Mr. Riley motioned to post in the free publications with a deadline for applications of April 30, 2011.

Mr. Hobson motioned to hold off until after the April election.

On Mr. Riley’s motion, Mr. Freitas seconded.

On Mr. Hobson’s motion, Mr. Haworth seconded.

On Mr. Riley’s motion the vote was 2-2 with Mr. Hobson and Mr. Haworth opposed.

On Mr. Hobson’s motion the vote was 2-2 with Mr. Riley and Mr. Freitas opposed.

Mr. Haworth – In my opinion let’s set the deadline.

Ms. Tripp – You can set a deadline and still not have to hire someone.

Mr. Freitas – This will take us out much further.

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Mr. Haworth motioned to publish the job posting and set a date of April 30, 2011 to receive applications and after April 30, to do whatever the board wishes.

Mr. Riley motioned to table voting on the Superintendent's job description until the March 7th meeting. Mr. Freitas seconded. Vote 3-1 in favor with Mr. Hobson opposed.

VI. Superintendent – Information and Updates

A. Town Auction – March 12th

B. Fairhaven Improvement Association – Re: Homecoming

Mr. Haworth – The Fairhaven Improvement Association Homecoming Fair is the last Saturday in June. In the past we have used Highway and Park employees. We have budget constraints and funding overtime.

Mr. Fitzgerald – Our people came up with suggestions.

Mr. Riley – It's a set schedule.

Mr. Freitas – Comp time.

Mr. Haworth – You can't force them to take comp time.

Mr. Freitas – If they won't, what will we do?

Mr. Haworth – I would volunteer my time.

Mr. Freitas – The Board wants to help out.

Mr. Haworth – Put up a list for comp time.

Mr. Hobson – We warned them last year we had no money.

Mr. Haworth motioned to put up a list tomorrow morning asking the Highway employees to use comp time and have the Improvement Association at our next meeting. Mr. Freitas seconded. Vote unanimous.

Mr. Fitzgerald – Balsam Street drainage; filed with Conservation. There is a meeting on the 28th.

Site plan for the Pasta House parking to go before the Planning Board.

Preconstruction meeting for Bridge and Alden was last Wednesday. Beta, BSC Engineers don't expect many issues.

Howland Road; new plans. Not have to move the utility poles. The engineer tried to explain it to them. They weren't going to do the plans. Three hours ago we got the revised plans.

Mr. Haworth – Can a Board member show up to the Planning Board?

Mr. Fitzgerald – The boiler; the plan for that is the insurance company came down. The total cost is \$83,000. We'll be getting a \$15,000 rebate from Nstar. \$25,000 from Finance Committee sewer reserve and \$15,700 we'll have to borrow.

Discussion continued.

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Mr. Freitas motioned to get quotes from contractors within the Fairhaven area, ask the Finance Committee for \$42,000 and see what happens from there. Mr. Riley seconded. Vote 3-1 in favor with Mr. Hobson opposed.

Mr. Hobson – I just want to get it done.

Mr. Fitzgerald – Sewer, New Bedford; all I know is that Town Counsel gave it to the City of New Bedford Councilors. They wouldn't give me a copy.

Mr. Haworth – This Board was aware that an agreement was in place so we began accepting flow from New Bedford to Fairhaven. They were pretty adamant that the flow payments were in place. Dr. Bowcock said it was a matter of formality. The agreement is not in place. We were left with sewer from Pope's Island. The Board of Selectmen said we were all set.

Mr. Fitzgerald – We received the tie-in fees, but it was not sufficient. After further investigation we should have been reimbursed for more.

Mr. Riley – I was under the same impression. The City did what they did. The lawyers are working it out. The amount of time to work it out I would vote to shut the pipe off. It's got to get resolved.

Mr. Freitas – More money, it's the first I heard of it.

Mr. Fitzgerald – We went out there with Linda and Mr. Osuch and counted all the taps.

Mr. Freitas – The Selectmen have to deal with it. We did everything we could.

Mr. Hobson – I had to read this in the paper. I don't even know why the Board of Selectmen and Osuch negotiated this in the first place.

Mr. Fitzgerald – I will be off Wednesday and Friday this week.

Mr. Haworth – The water and sewer negotiations with New Bedford is still open. The flow cannot continue if there is no intermunicipal agreement in place. As sewer and water commissioners we need to collect every dollar.

Mr. Riley – Put it on the agenda for the 7th.

Mr. Haworth – Give the Selectmen two more weeks to handle it.

Mr. Riley motioned to discuss the City of New Bedford Intermunicipal Agreement on the March 7th, 2011 meeting. Mr. Hobson seconded. Vote unanimous.

Mr. Fitzgerald – Trailer; the Recreation Department, they went in and talked to them taking over the lifeguards directly. Funding the lifeguards directly, it would offset their enterprise. He can still hire the lifeguards. There is an article to replace the trailer.

Mr. Haworth – I would like to take the trailer to Town Meeting.

Mr. Riley – The pictures say enough. We can't have the public using those facilities.

Mr. Haworth – We need a new trailer.

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Mr. Fitzgerald – Warren has quotes.

VII. Board Members – Old Business / New Business

Mr. Hobson – Bonney Street; there's a couple of TV's. There are some dead animals on Scoticut Neck Road.

Ms. Tripp – The Animal Officer is on vacation.

Mr. Riley – Do you have the backup information on Howland Road?

Mr. Fitzgerald – Yes.

Mr. Freitas – Is Snell full time?

Mr. Fitzgerald – He is full time unless someone comes back, then he'll get laid off.

VIII. Upcoming Meetings

A. February 24, 2011, 7:00 – Finance Committee – Re: Budgets

B. February 28, 2011, 7:00 – Selectmen – Re: Budgets

IX. Set Date for the Next Meeting

Mr. Riley motioned to hold the next meeting on March 7, 2011 at 6:30 p.m.

Mr. Freitas – I will be out of Town.

Mr. Riley motioned to hold the next meeting on March 14, 2011 at 6:30 p.m. Mr. Freitas seconded. Vote unanimous.

X. Executive Session & Adjourn

Mr. Haworth motioned to adjourn the open session and enter into executive session at 9:55 p.m. to discuss a legal issue with arbitration with the Highway Department and the Recycle Center, Union Negotiations and proposed contractual agreement with ABC Disposal. Mr. Hobson seconded.

Roll call taken: Mr. Haworth, Mr. Hobson, Mr. Riley and Mr. Freitas in favor.

Respectfully submitted,

Kathy A. Tripp
Administrative Assistant