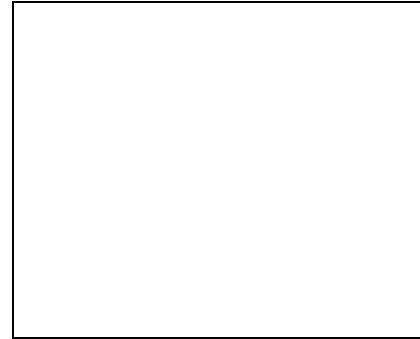


**Town of Fairhaven  
Board of Public Works Meeting  
April 25, 2016**

**Present**

Michael Ristuccia, Commissioner  
Robert Hobson, Commissioner  
Brian Wotton, Commissioner  
Vincent Furtado, BPW Superintendent  
Kathy Tripp, Administrative Assistant  
Christopher M. Lynch, Lawrence-Lynch Corp.  
Attorney Thomas P. Crotty  
John Ramos, 11 Stone Street  
Kristina Ramos, 11 Stone Street  
Dan Pounds, 78, 86, 89 Akin Street  
Kate McNeil, 23 Stone Street  
Isaiah Stevens, 79 Akin Street



Ms. Sturtevant was not in attendance but was listening via cell phone.

**I. Call to Order**

Mr. Ristuccia called the meeting to order at 6:00 p.m.

**II. Routine Matters**

**A. Signing of Departmental Bills**

**III. Approval of Minutes**

**A. April 11, 2016**

**B. April 11, 2016 – Executive Session (a)**

**C. April 11, 2016 – Executive Session (b)**

**D. April 11, 2016 – Executive Session (c)**

**E. April 11, 2016 – Executive Session (d)**

Mr. Hobson motioned to approve the minutes of April 11, 2016 open session, April 11, 2016 Executive Session (a) thru (d). Mr. Ristuccia seconded. Vote unanimous.

**IV. Appointments**

**A. Christopher M. Lynch – Re: New Driveway, Sidewalk & Curbing Contractor**

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Mr. Lynch – We're doing a project at 215 Alden Road. It's a business parking lot and we do intend to tie into Alden Road, existing mill and overlay existing paved aprons. It's a public street, that's why we need the contractor's license.

Mr. Ristuccia – Recommendation from Barnstable, Falmouth and Harwich.

Mr. Hobson – All the proper work ahead of time.

Mr. Wotton motioned to approve Lawrence-Lynch Corp. of Falmouth as a driveway, sidewalk and curbing contractor. Mr. Hobson seconded. Vote unanimous.

**V. Items for Action**

**A. 233 Adams Street – Sidewalk Request for Asphalt**

Mr. Furtado – This matter was tabled from last time. Did you have time to drive by? He wants asphalt instead of concrete.

Mr. Hobson – I don't really have a problem with it.

Mr. Wotton – I don't have a problem, but what does Vinnie or John wants to do there?

Mr. Furtado – I personally don't have an issue. Matter of practice whatever is there in like materials.

Ms. Tripp – John wanted concrete.

Mr. Furtado – Board has a practice to do like materials.

Mr. Ristuccia – Last meeting it was concrete further down the street. My opinion it should stay consistent.

Mr. Wotton motioned to deny an asphalt sidewalk for 233 Adams and to allow concrete. Mr. Hobson seconded. Vote unanimous.

**B. Bay State Regional Contractors, Inc. – Taber Street Pumping Station  
Payment #6 - \$168,566.74**

Mr. Furtado – This is the next payment request from the contractor who is doing the improvements to the Taber Street Pump Station. The only thing I suggest after this payment \$95,000 left to pay them with retainage. I want to hold on to that because of the Valentine's Day sewer back up because the by-pass pumping failed. None of the claims have been paid. Retain some money just in case.

Mr. Wotton – This is the final payment?

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Mr. Ristuccia – The claims have not been paid yet. Get this payment and nothing else until they finish the project.

Mr. Wotton motioned to approve payment #6 for the Taber Street Pumping Station in the amount of \$168,566.74 and also to make sure retainage comes in front of us and make sure the claims have been signed off residents by the residents. Mr. Hobson seconded. Vote unanimous.

**C. Gravity Construction – Hydrant Replacement; Change Order #2 (\$4,849.31)0**

Mr. Furtado – That’s a change order resulting in a decrease in the quantity of the price.

Mr. Wotton motioned to approve credit of \$4,849.31. Mr. Hobson seconded. Vote unanimous.

**D. Tata & Howard – Hydrant Replacement; Amendment to Agreement - \$1,200.00**

Mr. Furtado – This is to pay the engineer for overseeing the additional hydrants.

Mr. Hobson – They change a hydrant and the pipe past West Island on Sconticut Neck Road. They left a black hose out of the ground. It’s on the left.

Mr. Wotton motioned to approve the amendment to Tata & Howard in the amount of \$1,200.00 for the Hydrant Replacement Program. Mr. Hobson seconded. Vote unanimous.

**E. Award Digester Cleaning Bid**

Mr. Furtado – We didn’t get any bids, only quotes. I’d like to move forward on a contract with a quote. I will check with the town manager to pay by time and materials.

Mr. Wotton motioned to pass over the award of the digester cleaning. Mr. Ristuccia seconded. Vote unanimous.

**IV. Appointments (Continued)**

**B. Stone Street Residents – Re: Private Sewer Main**

Mr. Furtado – Attorney Crotty should be coming in. Sometime back in December or so or the beginning of the year, this is how I understand it. Folks came in about a sewer and water to tie in. We talked about signatures and this and that. The Town has no right to obtain signatures for what they don’t own. I asked the town attorney, in conjunction with the application. There was never an application. The folks would pay whatever the fee was. No application to tie into such and such a street. We developed an application. There is a designated box on the form if that particular sewer is private or public. 73 Akin Street came in, actually before the form developed. Linda met with them, with Kathy and I. We told them we don’t own the sewer and you need to get permission from the resident’s. They hired a contractor, Canessa. On the application we indicated private sewer. We can approve the plans and

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construction. We can't approve unless you get permission from the folks on the street. Dan asked to come in.

Mr. Pounds – I want to point out that I extend peace and love to the Town of Fairhaven. I understand the evolution of the permit. I don't want to get into any legal battle with the Town. I need to make myself whole. The permit. After the permit I'm burdened. I'm going to give you information and ask three questions. I will come back to this Board every Monday until we resolve this. The information I had goes way back when 73 Akin Street, the property owner approached me about putting sewer down Akin or Stone Street. I told him there was no capacity. He got mad. He thought I was stopping him. I hired an engineer and land surveyor, bought a house and we were in the process of installing the pipe to Akin Street. The price got set. 73 Akin Street bailed on me. The reason he got mad was because the trench across the street was to be flowable fill. I called the Town and asked if we had to use flowable fill on a low volume road. I have a letter. Somebody told 73 Akin Street that I was asking for flowable fill. He got mad. I have no problem with A & I Properties. They tore down a house, positive. Gravity fed is better than pump. RJ Canessa and the engineer failed the town. My son called me to tell me they tied into illegally on the pipe on Stone Street. There is an excavator plan with the Town for Akin Street sewer with a connection. I thought he went down 20 Stone Street putting a line in himself. In the morning I drove down Stone Street and I saw the trench. I came to the BPW and got a copy of the permit. I called RJ Canessa and then the engineer. He said well I only made the connection, how do you know? I left it alone. A & I Properties called me and said you're looking for me. I own half the easement so the flow is the problem. I called Town Counsel and told him I can't find your P.E. number. How do you know sewer if he is a lawyer? I just want to get thru this and be whole again. Three questions I have. I want the name of the woman, gender person who was working with RJ Canessa that day. Name of the person we can hook up to this pipe and nothing to do with it. Who is RV in the office?

Ms. Tripp – RV is Becky who took the check.

Mr. Pounds - I was reading the sewer regulations. \$1 million bond. I have no ill will.

Mr. Furtado – Is the Town liable at all and what is their next step?

Attorney Crotty – I never heard of all these complications. Advice, we don't get involved with rights in a private matter. The Town's concern is it properly made and the physical connection made. Those are the Town's concerns. Beyond that, rights who negotiate. We're not going to get involved with that. The Town doesn't want to get dragged in. That being said that is that, the sewer works as far as not leaking water or out of downspouts. Beyond that it's not the Town's jurisdiction. Your next recourse is to protect your property rights.

Mr. Pounds – It was done with no harm or force. I want out.

Mr. Hobson – The sewer pipe goes down Stone Street and the residents on Stone Street privately paid for the pipe?

Mr. Pounds – Yes. Five residents paid for it. I bought three flows.

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Mr. Hobson – Cost?

Mr. Pounds – Different amounts.

Mr. Hobson – Five people paid and you paid three shares and four other people?

Mr. Pounds – Yes.

Mr. Hobson – Each paid. Now this other person tied into the line?

Attorney Crotty – He tied in without permission from the owners. The only added question is this only makes it all the more complicated. Why the Town can't get involved who ties into a private lane. Who has so many votes? The Town says you work that out amongst all you owners. You have to protect your own property rights. There is nothing we can do for you. Court might be your only option.

Mr. Ristuccia – You all have seen this. This was a form that this department along with the assistance of Mr. Crotty made so that we would take the town out of the equation. We're not granting anybody permission. Private or public. "The sewer line at the point of tie-in is not owned by the Town. This applicant hereby represents to the Town that he has permission from the owner(s) to perform the proposed work. (The Town does not have the authority to grant the applicant permission to tie-in to private property.) This permit constitutes approval only of the design and construction of the proposed work." Now these folks signed this so that as far as the Town is concerned this man signed that he had your permission. He was told several times. We approved their form for the tie-in. The man mislead the Town does not mean that we wanted him to. We assume that the man was being honest. Several times he had been here. We're not fighting you. We agree with you. He dooped the Town. There must be something else you can do like shutting off his water.

Attorney Crotty – Short of the Town, you need to go to court over it. Shutting off his water, I'd have to look at that.

Mr. Ristuccia – Here is what I would do. Me, part of the building permit is getting authorization from this department that is sewerage available.

Ms. Tripp – You have a copy of the form in your packet. It says that it is available but it's private.

Mr. Pounds – Rich Blouin approved the project with me and then he bailed. Next thing survey the land. I went up to the surveyor and he said I'm surveying to put a line down Akin Street. Already a plan in the BPW. The sign goes up on the property for sale. I called the realtor. How much and he gave a number. Sewer it's 90 feet away. Private line in the back.

Ms. McNeil – This guy, Tony Souza came to our house. He called three or four times. My father was in the hospital, so we didn't get back to him right away. He came to the house and said I want to tie into your sewer. I understand how many and work out a price. So my husband said okay and got back to me. So the problems started with Audrey and the woman's son-in-law. They wanted some exuberant price for the tie-in. He said to my husband I'm going to bypass and I'm not afraid, he can take me to

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court. He was watching the guys do this stuff and he went over. I just hope moving forward possibly you could do this a better way. I thoroughly understand private. You assume. You can't assume. Maybe have something else in place. The guy just totally turned this around.

Mr. Ristuccia – We can only assume.

Ms. Ramos – You should have had proof.

Mr. Furtado – Reason is because we don't own the sewer.

Mr. Crotty – What constitutes a project across the street from me and a private sewer line. They perked and put in a septic system. We don't know who owns it. We think we know who paid to put it in. Nobody has title to it. Whose permission do we get?

Ms. Ramos - \$12,000, we had to take out a loan. It's just wrong.

Attorney Crotty – You have to prove that you own the sewer line and he was trespassing on your property to tie into the sewer line into the street. All kinds of issues. The only issue is with the Town is it built right?

Mr. Wotton – Get together about the no trespass on your pipe. It's your pipe. You bought and paid for that pipe. The Town did not install that. We only approved the design over here. As the five owners you own that pipe. We can address that contractor bond and agreement with him.

Attorney Crotty – What is the Town going to do right now?

Mr. Stevens – Not allow him to have water.

Attorney Crotty – Then he sues the Town. If we rejected this for whatever reason, size angle of the pipe, he could go to court and appeal the judge. My contractor used the right kind of pipe. You have to protect your own property rights. Problem nothing the Town can do about it now. We don't disagree that he lied.

Mr. Furtado– I will put a recap in a letter.

Mr. Ristuccia – First I want to address these 4 folks, why this man lied. Would you lie and sign your name to a lie? You wouldn't do that.

Mr. Ramos – You don't know me and what I would do. What if that pipe design only had a handful of capacity just to handle that flow? You signed off on a plan that looks good only paper.

Mr. Ristuccia – We signed off on his design.

Attorney Crotty – If you have capacity for six lots and five tied in and the sixth one of you plan to tie in next year. We are not going to start investigating.

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Ms. McNeil – Would you take the pipe over?

Mr. Furtado – When this first happened could we eventually take the pipe over, yes.

Mr. Ristuccia – Assume they own the pipe, can they put a block on it? Their pipe where he hooks in a one foot space can they legally put a block so that his flow can't go into it?

Attorney Crotty – It's their line.

Mr. Ristuccia – If you own the pipe you could do whatever with their pipe.

Mr. Stevens – There is a gray area with the permit application that you really didn't have any permitting. I just can't wrap my brain around it. This is basically damage control with the permit how it was obtained. There are no guidelines. All you had to do was refer back to the Registry of Deeds. Why wouldn't you think? We would not be here if that permit was not signed.

Mr. Ristuccia – If that person hadn't lied we wouldn't be here.

Mr. Stevens – This is damage control for the Town.

Mr. Ristuccia – We don't have to smooth anything out. We didn't do anything wrong. This man set everything in motion. The misrepresentation set everything into motion. We are going to do everything to help you.

Mr. Stevens – The money is not the issue. It's about the line being compromised.

Mr. Hobson – I think that if I was in your position and you paid \$12,000 each, the five of you should just take him to court.

Mr. Stevens – You should have had a stop work order.

Mr. Ristuccia – I don't think he will be able to transfer it if there is a lien. I don't think anybody would buy it if there was an issue.

Attorney Crotty – It sounds like you have to take Lis Pend and ask the judge to issue an order not to use the sewer line. You take him to court. Judge could also apply this to his connection to your sewer line.

Ms. Ramos – What if driving over the line and it cracks the pipe. Things are going to settle.

Mr. Hobson – Get a petition to get the street accepted. We'll help you fix the street.

Ms. McNeil – He said, well Tony Souza said to give you this card for his attorney. I called him and they said he's in Aruba.

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Mr. Wotton – You said you wish the Town would issue a cease and desist order. You can do that. As a group call an attorney and get a cease and desist and put sewer violating that order.

**VI. Board Members, Superintendent – Old Business / New Business**

Superintendent's Report for April 25, 2016:

From last meeting

- West Island 5K road preparation completed
- Letter written to property owners explaining Sewer Capital Fee and Water Tier Changes
- Hired an additional Highway temporary laborer
- Highway will work spot overtime some weekend to catch up from being short-handed
- Grading bottom of Farmfield Street

New items

- Met with Mark Rees and all unions except teachers – Mark Rees informed union(s) his intent to delay negotiations until after Town meeting and then have a STM in the fall
- Various phone calls/meetings with residents of Stone Street –private sewer issue new homeowner tied into private sewer without permission from residents who own sewer – residents will appear before Board
- Kick-off meeting with folks from State and Federal Government who awarded the Town Stormwater improvement grants – conducted various site visits to see what technology would work where
- Chair the monthly Mattapoisett River Valley Advisory Committee – hot bed topic is Yard Boss suing Mattapoisett Con Com
- Work with Tom Crotty re: Stone Street issue – he will attend our meeting of the 25<sup>th</sup>
- Attended Dept Head staff meeting – final copies of STM Articles were handed out for review
- Attended Fincom meeting – we received \$50k in both water and sewer retained earnings accounts (up from \$25k) and Road Work was approved
- Highway guys cut requested brush at Little Bay and the bike path to assist clean-up efforts and Bikeway committee
- West Island Well coupling issue – repaired – second incident in a month



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- Received first draft of Sconticut Neck Road and David Drown Boulevard bike path safety improvement plans for review and comment

Mr. Hobson – Hydrant on Sconticut Neck this weekend they had a cleanup and there is pile of stuff on the side of the road. Get somebody to pick it up near the ¼ mile. You should notify the people to call us to pick it up at a reasonable time. A couple of people have asked me when Seaview Avenue is going to start?

Mr. Furtado – The schedule is in the packet.

Mr. Hobson – There were four pages in the Standard Times about back taxes and water and sewer bills from New Bedford. When they see their name in the paper about 45% of them rush down and pay the taxes. With all of our water and sewer, the Town is owed about \$1 million. Ask them for the list.

Mr. Wotton – Thank Vinnie for the guys on Little Bay. We planted a bunch of seeds. Native plants and about sixty people came out in the rain on Saturday. A little bit of wood put to the side. Thanks for the support.

Mr. Ristuccia – I saw in the packet about the crossing.

Mr. Furtado – We got the improvement plans. We wanted them to go a little further with the cold planing. They are going to add that to the plan. Next step is to go out to bid with Chapter 90 funds.

Mr. Wotton – I saw somewhere about the stop signs.

Mr. Furtado – Completed that with Bayside Engineering of record. They'd like to oversee that. Put forth a proposal of cost to do that study.

One thing we had an advertisement for the wastewater job. We've had that position advertised for awhile at a Grade V and have had no takes at all. We are going ask for a Grade IV operator. I want to get a body here.

There is a pre Town Meeting at Town Hall tonight.

**VII. Set Date for the Next Meeting**

Mr. Wotton motioned to hold the next meeting on May 2, 2016 with the time to be determined at the Town Hall to meet with the Selectmen and the following meeting on May 9, 2016 at 6:00 p.m. at the Board of Public Works. Mr. Ristuccia seconded. Vote unanimous.

**VIII. Adjourn**

Mr. Wotton motioned to adjourn at 7:32 p.m. Hobson seconded. Vote unanimous.

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Respectfully submitted,

Kathy A. Tripp  
Administrative Assistant

Minutes approved on May 9, 2016.