

**Fairhaven Planning Board  
February 21, 2017**

Present: Chairman, Wayne Hayward, Rene Fleurent, Jeffrey Lucas, Clerk-Peter Nopper, Ann Richard and Cathy Melanson.

Absent: Vice Chair-Gary Staffon and John Farrell, Jr.

William Roth, Planning Director, was also in attendance.

**Acceptance of Minutes:**

January 24, 2017 – Rene Fleurent made a motion to accept the minutes as written, and was seconded by Jeffrey Lucas. The motion passed unanimously.

**Bills:**

1. ADS – **Fairhaven Neighborhood News** – Decosta & Corocoran - \$120.00  
Jeffrey Lucas made a motion to pay the Fairhaven Neighborhood News for advertisements in the amount of \$120.00 and was seconded by Ann Richard. The motion passed unanimously.
2. 2017 –**CPTC Annual Conference Registration**-Fleurent, Hayward & Richard - \$210.00  
Jeffrey Lucas made a motion to pay the CPTC for conference registration for three members in the amount of \$210.00 and was seconded by Ann Richard. The motion passed unanimously.
3. Office Supplies – **Staples** - \$51.89  
Jeffrey Lucas made a motion to pay the Staples bill for \$51.89 and was seconded by Ann Richard. The motion passed unanimously.

**B. Current Planning:**

Receipt of Plans:

1. Ch. 61 – Right of First Refusal – Glenn W. Machado – Map 40, Lot 28

Wayne Hayward advised that Planning Board was in receipt of a right of first refusal application to take out of protection of Chapter 61. He stated there was no vote required by the Board, but they could make a recommendation to the Board of Selectman. He said there were several comments on the land that came through, that it was either land locked or was wetlands.

William Roth stated that it was not necessarily wetlands. Mr. Roth said there were several vacant lots that could provide access and it was adjacent to 25 acres in Acushnet. He said it would be problematic for Fairhaven if they were asked to provide access. “We get no taxes per se for road access,” Mr. Roth said. “But have all of the burden of a road.”

Wayne Hayward stated he had done some research on the property and it was mostly uplands of 29 acres. He also said Board of Health reported that the water table in that area is very high. Mr. Hayward said he could see it to be very difficult to build 30-40 homes in that space. He said the home owner states he would like to place one home there, but if that was the case he wouldn't need the conversion. Mr. Hayward said that Acushnet was working with the Buzzards Bay Coalition. Mr. Hayward stated he thought that Fairhaven may consider turning it over to either Buzzards Bay Coalition or to Acushnet.

Discussion ensued.

Wayne Hayward made a motion to recommend to the Board of Selectman to assign our right of first refusal to the property over to the Buzzards Bay Coalition and/ or the Town of Acushnet and was seconded by Ann Richard. The motion passed unanimously..

Approval of Plans: None.

Revised plans: None.

**C. PUBLIC HEARING: Continued Public Hearings from January 10, 2017**

Wayne Hayward opened the Special Permit Public Hearings that were continued from January 10, 2017, on the 9 Verizon Wireless Special Permits.

William Roth advised that Attorney Klasnick sent a letter to withdraw the application for Verizon Wireless V#SC07 – Near 3 Fort Street-Map 1, Lot 19. Mr. Roth said that was in a Park District and cell towers are not allowed in Park District.

Ann Richard made a motion to accept the withdrawal for Special Permit SC07 without prejudice and was seconded by Jeffrey Lucas. The motion passed unanimously.

Attorney Klasnick stated there was still a need in that area, but Verizon Wireless was deciding on what to do.

Attorney Klasnick introduced Dr. Donald Haes as a Radiation Safety Specialist, who was present along with Engineer, Keith Vellante.

William Roth gave a brief overview of his memo to the Board. He said some of the special permit requests meet the requirements, while others may or may not depending on the opinion of the Board with regards to the possibility of moving the utility pole behind the curve and was recommended at the last hearing. He brought Special Permit V#SC08 to the attention of the Board as receiving a new layout from Verizon tonight, and it's in their packet.

Dr. Haes gave a brief overview of his findings. Dr. Haes introduced himself and stated he was not a Verizon Wireless employee. He stated he was an independent party who conducts field work on Radiation Safety. He said that these types of facilities use FCC regulations and are low power. Specifically to those poles that were near residents' homes, Dr. Haes spoke of Verizon Wireless SC06 that was less than 1.25% allowable limits. That VSC#11 at 100% capacity was at 1.5% allowable limits; VSC#8 was 0.78% at 6' point. He stated the limits are frequency dependent.

Ann Richard asked if any other communities that he had studied were there complaints from residents about the frequencies.

Dr. Haes stated in Wellesley there were a few concerns from residents and the fire department about the DAS (Distribution Antenna System), but he found that in total compliant.

Ms. Richard asked if there was any sound coming from these poles with this type of service.

Dr. Haes said there shouldn't be.

Discussion with Dr. Haes continued.

Jeffrey Lucas asked a question on what the real basis was to having these towers. Was it to improve connectivity, speed?

Engineer Keith Vellante stated that these small cells are fairly new. He stated that the micro sites provide the foundation of coverage and the networks are faced with supporting all the data. He said that these

areas were targeted as high usage areas, (example Route 6), and the small cells would assist with better coverage.

Mr. Lucas stated he can't imagine the transition is just needed in Fairhaven.

Mr. Vellante said it was no unique to Fairhaven. He stated that all macro sites are closely monitored.

Mr. Lucas stated that he felt the proximity of each small cell was rather close to each other.

Mr. Vellante stated that it is not intended for large areas. He said there was one macro site currently located on 200 Mill Road; and that the small sites tend to keep up with the demand.

Mr. Roth had a general question regarding the West Island and Sconticut Neck area and if in the further would they go down there, to provide better cell coverage. "Could this type of service be used to this underused area," he asked.

Mr. Vellante said that while the macro site covers everything, the small cells would channel up and down in that area but the connectivity still has to go back through the macro site. Mr. Vellante further stated that the intent of the Route 6 corridor was that small cells connect to each other so it hands off from one cell to another.

A brief discussion regarding build out by all cell companies was heard.

Attorney Klasnick stated that Verizon wouldn't propose something they didn't need. He said there was need for more poles in our area for data and usage. He said it was his understanding that there was only a single user on poles. He also stated that Verizon just installs the small cell tower and the pole is installed by Eversource.

Attorney Klasnick referred to his letter dated February 21, 2017 to answer specific questions the Board had about specific poles. VSC # 08, Near 280 Huttleston Avenue the Board had requested to provide confirmation that the pole is located within the state highway layout and not on private property. Mr. Klasnick stated that Verizon Wireless had confirmed that utility pole is within the layout of the state highway. He referred to the plan.

There was a discussion on a double pole at one of the sites, which Mr. Klasnick stated that the poles are issues with Eversource and not Verizon.

Wayne Hayward stated that Special Permits require six positive votes; and that there were six Board members present, so that means they would have to agree unanimously on every Special Permit. Mr. Hayward asked if Mr. Klasnick wanted to move forward to voting.

Mr. Klasnick stated that he would hope he would have the opportunity to hear what the Board is thinking about a particular cell tower location, and if he needed to bring more information back he would. He agreed to move forward with the votes.

**1. Special Permit-Verizon Wireless-V#SC01-142 Huttleston Avenue-Map 26, Lot 88**

William Roth said it was adjacent to the curb, he would ask they investigate to put behind the sidewalk. Mr. Roth recommended their standard conditions. Applicant objected to standard condition #4, which referred to the double pole, stating that is done through Department of Communication; condition #3 refers to having to hire Fairhaven Town Contractor for Street Lights.

Ann Richard made a motion to approve V#SC01 subject to standard conditions, omitting standard condition #4 and was seconded by Cathy Melanson. The motion passed unanimously.

**2. Special Permit-Verizon Wireless-VSC#03 – 188 Huttleston Avenue-Map 26, Lot 013B**

Ann Richard made a motion to approve VSC#03 with standard conditions, omitting #4 and was seconded by Cathy Melanson. The motion passed unanimously.

**3. Special Permit-Verizon Wireless-VSC#04 – 87 Huttleston Avenue, Map 25, Lot 82**

This is the pole in front of Honey Dew Donuts and has a street light on it.

Ann Richard made a motion to approve VSC#04 with standard conditions, omitting standard condition #4 and was seconded by Jeffrey Lucas. Cathy Melanson disclosed that she is an abutter and there is no conflict. The motion passed unanimously.

**4. Special Permit-Verizon Wireless-VSC06-7 Huttleston Avenue-Map 12, Lot 180**

This is a new pole; there are no other services on this pole.

Ann Richard asked a question regarding the abutters notice, especially to this resident at 7 Huttleston Avenue.

Wayne Hayward said this pole has one of the tallest designs.

William Roth confirmed that 7 Huttleston Avenue residents were notified.

Mr. Vellante spoke to perhaps why the tallest location was the limitation of what coverage is in this area because of close obstruction within density.

Mr. Roth confirmed the school department was not notified, but any Special Permits gets routed through the standard department distribution list. He confirmed certified mail does not go to the Town of Fairhaven entities because it is routed to the department list.

Mr. Hayward said he too had a lot of concerns when first read because of the proximity to the high school.

Cathy Melanson made a motion to approve VSC#06, omitting special condition #4 and was seconded by Jeffrey Lucas.

On the question, Ms. Richard asked Mr. Hayward if he thought she gave enough information to have the FCC agree with them.

Wayne Hayward stated their regulations say "tower", he said they need to look into that; and the Board wouldn't have a leg to stand on. He didn't see a great case.

The motion passed unanimously.

**5. Special Permit-Verizon Wireless-V#SC08- 280 Huttleston Avenue-Map 31B, Lot 39-41**

Mr. Roth read a portion of resident, Joe Borelli's email that addressed some issues.

Mr. Klanski stated that he responded to Mr. Borelli's concerns on the February 21, 2017, memo and the exhibit was attached. He stated that Verizon Wireless has applied and received the access permit through the MA Department Highway layout, and he would think if there were any concerns with this property, they would not have received that permit.

Ann Richard asked if this Special Permit could be continued so that they could get the findings to the property owner. She stated that the memo was dated with today's date, February 21<sup>st</sup> but the plan was dated January 29<sup>th</sup>.

Wayne Hayward stated it was up to the applicant to ask for this Special Permit to be continued, not the Board.

Attorney Klasnick stated they answered all the other questions the property owner asked and the survey done by their Engineer was complete and they had received the access permit from the MassDOT should prove the location is on highway.

Wayne Hayward stated the plan was not stamped and certified by a surveyor.

Mr. Roth stated that Mr. Borelli's letter was adequately addressed but Mr. Borelli doesn't identify what he feels wasn't adequately addressed.

Cathy Melanson said she didn't see the concern because the pole was already at the location.

Wayne Hayward said that Verizon would be upgrading the pole at this location and thought perhaps the applicant should ask for a continuance on this one.

Rene Fleurent said that he believed Verizon Wireless was a reputable company and that if Mr. Borelli has giving a waiver to his property that he would imagine that there should be some type of certificate showing that. Mr. Fleurent believed that he didn't think they should hold up this Special Permit. "I would like to see it move forward," he said.

Ms. Richard said given that Mr. Borelli has given the Board many conversations regarding this pole, they should give him the opportunity to get his questions answered. She also stated that is what the staff recommendation was as well.

More discussion on this pole at this location.

Mr. Roth stated to Mr. Klasnick if the plan was stamped and certified there wouldn't be an issue.

Attorney Klasnick requested a continuance for Verizon Wireless V#SC08 to March 14, 2017.

Ann Richard made a motion to continue Special Permit Verizon Wireless V#SC08 at the applicants' request and extending the shot clock and was seconded by Jeffrey Lucas. The motion passed unanimously.

**7. Special Permit-Verizon Wireless-V#SC09** – 325 Huttleston Ave Map 31B, Lot 61-64, 67 & 72  
This pole in front of Kenny's Farm Stand.

Ann Richard made a motion to approve this Special Permit V#SC09, omitting standard condition #4 and was seconded by Cathy Melanson. The motion passed unanimously.

**8. Special Permit-Verizon Wireless-V#SC10** – 344 Huttleston Ave – Map 30B, Lot 143  
This is the pole near New Boston Road.

Ann Richard made a motion to approve this Special Permit V#SC10, omitting standard condition #4 and was seconded by Cathy Melanson. The motion passed unanimously.

**9. Special Permit-Verizon Wirelss-V#SC11** – 402 Huttleston Avenue-Map34A, Lot 176  
This pole located near Marion Pediatrics.

Ann Richard made a motion to approve this Special Permit V#SC11, omitting standard condition #4 and was seconded by Cathy Melanson. The motion passed unanimously.

## **New Public Hearings**

1. *Text Amendment* – **Denise DeCosta** – 1 Welcome Street

William Roth read the advertisement for this public hearing.

Ms. DeCosta was present and explained that she had applied for a Special Permit through Zoning Board of Appeals to go with the Personal Kennel Act. She said she owns not commercial Jack Russell terriers, which she trains and shows them. She wanted to get 3 more dogs and in a RA Zone, kennels are not allowed. She stated she did some research and in Massachusetts there is a Personal Kennel Act that would include "4 or more dogs". She stated the zoning commissioner; Wayne Fostin said he would press charges against the ZBA because it would be against the by-law. The ZBA recommended she withdraw from the appeal process and bring it to Planning Board, and then a vote would take place at Town Meeting.

Ms. DeCosta said her dogs live in the home with her, they are not outside dogs. She lives near one neighbor behind her and one beside her.

Wayne Hayward said they have to look at all 15,000 Town residents not just one.

"Tell me why we should recommend your bylaw to Town Meeting," Mr. Hayward asked.

Ms. DeCosta said that she believes that anyone who applies for the special permit under this act should be a registered breeder. "I think every case may be different," she said.

Mr. Lucas asked what the difference between a kennel license and what she's asking for; and how do they make it town-wide?

Ms. DeCosta said when she sells her dogs, she doesn't sell to a pet show, wholesale or broker. She said a kennel license is having an additional building outside; her dogs live within her home

Mr. Lucas said he thought it would be difficult to enforce that thought Town-wide. He said it would have to be a happy medium, not so general and not so specific.

Ann Richard asked if this had been routed to all departments and why the Town Animal Control Officer hadn't responded.

Mr. Roth stated that he had a conversation with the Animal Control Officer about it, but then she never got to answer the routed document.

Ms. DeCosta stated that she had put in a warrant for this May's town meeting.

Mr. Roth stated the way that it is proposed is that a Special Permit is required. It would be a Special Permit in a RR zone to get a Kennel license not a "personal kennel."

Wayne Hayward said there were a few abutters in the room, but he couldn't vouch for 15,000 town-wide. He said the Board of Health signed off that they are not in favor of this at this time. Mr. Hayward asked if the Zoning Commissioner offered you any other options?

Ms. DeCosta said, "No."

Mr. Hayward asked, "Why not change your zone."

"It's been our general rule not to draft a by-law to one specific individual", Mr. Hayward said.

More discussion ensued.

Abutter, Linda Therrien asked if it could be amended to something specific like no more than 10 dogs.

Jeffrey Lucas said it could be read or made less restrictive saying instead, '4 or more', to '10 or less'.

Cathy Melanson said she likes the idea of Ms. DeCosta working with Kelly Massey, the Animal Control officer and Mr. Roth.

Wayne Hayward explained the Planning Board would have to make a recommendation to Town Meeting as it is on the warrant, and a decision didn't need to be made tonight.

Ms. DeCosta said she was willing to withdraw the petition and will do that with the Board of Selectmen and then meet with Mr. Roth and Ms. Massey to discuss alternate options.

## 2. *Rezone* – **Daniel & Pamela Corcoran** – Beach Street between Alpine & Newbury Avenue

William Roth read the advertisement.

Mr. Corcoran opened that he and his wife are trying to build a single family house there but it's zoned Industrial.

Shep Robertson from DATTCO Co., an abutter was present and he said he was not oppose to the rezone but he wanted it on the record that they are a bus company who operates 24 hours a day.

Brief discussion took place.

Ann Richard made a motion that the Planning Board will make a recommendation to Town Meeting to approve the rezone and to close the public hearing. It was seconded by Cathy Melanson. The motion passed unanimously.

## **D. LONG RANGE PLANNING:**

### 1. *Recreational Marijuana – Moratorium Discussion*

William Roth stated that some members had asked for a status update. Mr. Roth said that legislation has postponed any of their decisions.

A discussion ensued about putting forth a moratorium if it was necessary.

Ann Richard made a motion to table the recreational marijuana moratorium discussion at this time and was seconded by Rene Fleurent. The motion passed unanimously.

### 2. Master Plan Status Update

Wayne Hayward stated that the Consultant was in town and was compiling information. It seems now the only issue was if they were going to sponsor a website, where it was not in contract, it would be an additional \$2,000. Both Mr. Hayward and Mr. Roth felt they could do the website through the Town's website. Mr. Roth confirmed the links to the Master Plan were on the Town's website.

Mr. Roth explained the theme for the Master Plan: Fairhaven 2040 as a logo it's simple and catchy; and master plans are usually for around 20 years.

A discussion took place where the vision boards could be put up around Town for people to look at. Mr. Roth was finalizing a survey card for Town Meeting members this week.

## **E. OTHER BUSINESS:**

Rene Fleurent had no report from SRPEDD.

Ann Richard made a motion to adjourn and was seconded by Cathy Melanson. The motion passed anonymously.

Meeting ended at 9:35 p.m.

Respectively submitted,

Patricia A. Pacella  
Recording Secretary