



Fairhaven Board of Selectmen

August 13, 2012 Meeting Minutes

Present: Selectman Brian Bowcock, Selectman Charles Murphy, Selectman Bob Espindola, Executive Secretary Jeffrey Osuch and Administrative Assistant Anne Kakley.

Also Present: Mali Lim of the *Fairhaven Neighborhood News*, Cathy Melanson, Cora-Dorothy Peirce.

Chairman Brian Bowcock called the meeting to order in the Town Hall Banquet Room at 6:32 p.m.

MINUTES

- The Board voted to accept the minutes of the **July 30, 2012** meeting, **open** session. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).
- The Board voted to accept the minutes of the **July 30, 2012** meeting, **executive** session. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

EXECUTIVE SECRETARY'S REPORT

In his report, Mr. Osuch updated the Board on some important upcoming meetings and events:

- Tuesday, August 14 –
 - 11:30 a.m. – Cherry Tree Dedication on Pilgrim Ave
 - 12:00 p.m. – After dedication luncheon at Waterfront Grill
 - 3:30 p.m. – Mattapoissett River Valley Advisory Committee at BPW
 - 4:30 p.m. – Mattapoissett River Valley Water District at BPW
- Wednesday, August 15 –
 - 6:00 p.m. – New School Committee at Town Hall
- Thursday, August 16 –
 - 7:30 – 9:00 a.m. – Forum Meeting at the Quest Center
 - 1:30 p.m. – New School Job Meeting
 - 2:30 p.m. – Kevin Mooney/Dredging off Causeway
- Wednesday, August 22 –
 - 9:00 a.m. to 3:00 p.m. – DOR Interviews
- Thursday, August 23 –
 - 1:30 p.m. – New School Job Meeting

NEW SCHOOL REQUISITION

Mr. Osuch informed the public that the demolition on the Wood School had begun on Thursday of the previous week and would likely be completely demolished by Friday, August 17. He said that footing was in place for a portion of the new classroom wing, and work had begun on the retention pond in the rear of the lot.

Mr. Osuch noted that requisition #2 for the New School was in the mail, and was in the amount of \$532,575.00, from CTA Construction. He suggested the Board could approve the amount and to sign the requisition when it was received.

Mr. Murphy motioned to sign requisition #2, in the amount of \$532,575.00, for CTA Construction. Mr. Espindola seconded. Vote was unanimous. (3-0).

DIGESTER

Mr. Osuch said that Brown and Caldwell had granted "substantial completion" for the BPW digester project on August 13. He said that this did not necessarily indicate that the Town was ready to take over the digester. In a conversation with BPW superintendant Vinnie Furtado, he said that the work should be complete and WES Construction will be off-site by September 15.

COURTLYN WAY

Mr. Osuch said that he had received a phone call from Attorney Kenneth Littman. Atty. Littman indicated that he would like to schedule another meeting between the Selectmen and his client. Mr. Osuch said that this would be discussed in executive session.

EXECUTIVE SESSION MINUTES

Mr. Osuch asked the Board to revisit the topic of approving executive session minutes for online publishing, and for general public release. He said that the past practice of approving executive session minutes was accepting the content only, but not releasing it to the public.

At the previous meeting, the Board had taken a vote to authorize the Selectmen's Office to upload approved executive session minutes to the Town website. Mr. Osuch said that, for the Board to publically release executive session minutes, the minutes would have to go through a separate process of being approved for release. To release the minutes, the Board would have to review the material in the minutes to determine if the issues therein had been resolved. He cited the Town of Dartmouth's policy on reviewing executive session minutes, which involves meeting on a quarterly basis to release executive session minutes, with Town Counsel being invited to the session. He said inviting Town Counsel could be cost prohibitive, but that reviewing executive session minutes on a quarterly basis could be good practice.

Dr. Bowcock agreed that reviewing minutes to release on a quarterly basis would be a good idea. The Board agreed to go back as far as April for reviewing executive session minutes. They agreed to obtain copies of all executive session minutes since April to review at the next Selectmen's meeting.

NSTAR GAS PERMITS

The Board voted to approve an NSTAR gas permit for 42-54 Gilbert Street between Sconticut Neck Road and Chase Road. This application had been previously approved by the BPW. Mr. Murphy motioned to approve the application. Mr. Espindola seconded. Vote was unanimous. (3-0).

The Board voted to approve an NSTAR gas permit for 41 Ocean Avenue between Grover Street and Shore Drive. This application had been previously approved by the BPW. Mr. Murphy motioned to approve the application. Mr. Espindola seconded. Vote was unanimous. (3-0).

SUSTAINABILITY COMMITTEE APPOINTMENT

The Board voted to appoint Kathleen Audette to the Sustainability Committee. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

DOR REGIONALIZATION SEMINAR

The Board reviewed Mr. Espindola's request to attend a DOR seminar on the topic of regionalization of services. Dr. Bowcock said that he felt the Board should pay the fee for the seminar, scheduled for September 10. The Board was supportive of Mr. Espindola attending the seminar. Mr. Murphy motioned to approve a payment authorization for the seminar. Mr. Espindola seconded. Vote was unanimous. (3-0).

JOE MORRA RESIGNATION – ZBA AND PLANNING BOARD

Dr. Bowcock announced that Joseph Morra had submitted an email of resignation from his positions on the ZBA and the Planning Board. He thanked Mr. Morra for his time volunteered over the years. Dr. Bowcock invited letters of interest for the ZBA position, which is appointed by the Selectmen. He indicated that the Board would make the appointment at the next meeting.

Likewise, Dr. Bowcock said that the Planning Board is an elected board, but interim vacancies are filled with a joint appointment between the Board of Selectmen and the Planning Board. Mr. Osuch said that, procedurally, the Planning Board would have to submit a letter indicating a vacancy on the Board before the Selectmen could proceed with an appointment.

REMOTE PARTICIPATION – STANDING RULE

The Board revisited the topic of "remote participation", a provision from the Attorney General's office that would allow boards and committees to participate in meetings remotely, using audio/visual devices. Mr. Murphy said that there was merit to the provision for those who are

sick or serving in the military, but he expressed concern that the Town would have to absorb the cost of providing the communication devices.

Mr. Osuch said that the remote participation law indicated that if the Board adopted the provision, it would have to automatically apply to all boards.

The Board created a standing rule to not allow remote participation for Town boards and committees. Dr. Bowcock motioned. Mr. Murphy seconded. Vote was unanimous.

BIKE PATH GIFT ACCOUNT

The Board reviewed correspondence from the BPW, indicating that when the original Bike Path Gift Account was created, it fell under the jurisdiction of the BPW for expenditure. The Board of Selectmen agreed that the new Bike Path Gift Account should also fall under the purview of the BPW. Dr. Bowcock indicated that the Bike Path Committee should work with the BPW, but that the Board of Selectmen would always be available to discuss Bike Path matters, as requested.

SYLVIA RESIGNS FROM HOUSING AUTHORITY

The Board recognized a letter from Raymond Sylvia, who respectfully resigned from the Housing Authority, citing not enough time to adequately serve.

GOTTA HAVE IT DONATION

The Board voted to send a letter to Lisa Bindas of Gotta Have It! Inc for her donation of a \$500 bench for the Cooke Memorial Park, to go along with the donation of cherry trees for the park from Japanese benefactor Dr. Hinohara. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0). The Board also thanked Jimmy Kalife for contributing materials and time to get the bench in place.

OTHER BUSINESS

In other business:

- Dr. Bowcock reminded the public that the Labor Day weekend was approaching and that the Our Ladies of Angels feast would soon be here.
- Mr. Murphy offered condolences from the Board to Barry and Pauline Parker on the loss of their grandchild.
- Mr. Murphy offered congratulations to MacKenzie Martin, granddaughter to Sid Martin, on her bronze medal for gymnastics in the Junior Olympics.

- Mr. Murphy said that the Bicentennial Movie Night was a great success and that he hoped they could have a movie night in Town again.
- Mr. Murphy offered his condolences to the Broadland family on the passing of Margaret Broadland. The Board also offered condolences to the Winnett family, who also experienced a recent loss.

ALLEGED TOWN EMPLOYEE OFFENSE

Before the Board could convene into executive session, resident Cora Dorothy Peirce stood and announced that she wanted to speak. She identified herself as a member of the Conservation Commission and a Town Meeting member. Ms. Peirce indicated that, in the prior week, she had heard a Town employee use a derogatory word while on duty. She indicated that she had contacted the Massachusetts Commission Against Discrimination, because she thinks someone's rights have been violated. She said that she found it difficult to find the correct avenue for filing a report, and requested that the Town consider forming a committee to handle civil rights issues.

At 7:18 p.m., Mr. Murphy motioned to enter into Executive Session to discuss an ongoing neighborhood conflict at Courtlyn Way, the anaerobic digester, and communication received from an attorney regarding Town employee conduct (potential litigation), not to reconvene into open session. Mr. Espindola seconded. Vote was unanimous. Roll call vote: Mr. Murphy in favor. Dr. Bowcock in favor. Mr. Espindola in favor. (3-0).

Respectfully,



Anne Kakley

Selectmen's Secretary

(Minutes approved 8/27/2012)