



**Fairhaven Board of Selectmen
Meeting Minutes
January 25, 2021**

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TOWN CLERK
2021 FEB -9 A 9:41
FAIRHAVEN,
MASS.

Present: Chairman Daniel Freitas Vice-Chairman Robert Espindola, Selectman Keith Silvia, interim Town Administrator Wendy Graves and Cable Access Director Derek Frates.

Present via Zoom: Administrative Assistant Vicki Oliveira and Cable Production Coordinator Eric Sa.

The meeting was videotaped on Cable Access and Zoom meeting application.

Chairman Freitas opened the meeting at 6:30 pm in the Town Hall Banquet Room and read the following statement:

“This Open Meeting of the Fairhaven Board of Selectmen is being conducted remotely consistent with Governor Baker’s Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the “COVID-19 Virus.”

In order to mitigate the transmission of the COVID-19 Virus, we have been advised and directed by the Commonwealth to suspend public gatherings, and as such, the Governor’s Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. Further, all members of public bodies are allowed and encouraged to participate remotely.

The Order, which you can find posted with agenda materials for this meeting allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting.

Ensuring public access does not ensure public participation unless such participation is required by law. This meeting will allow public comment related to the posted agenda items only. For this meeting, Fairhaven Board of Selectmen is convening by telephone conference/video conference via Zoom App as posted on the Town’s Website identifying how the public may join.

MINUTES

Mr. Espindola made a motion to approve the minutes of December 21, 2020 – Open Session. Mr. Silvia seconded. Vote was unanimous. (3-0)

Mr. Espindola made a motion to approve the minutes of January 11, 2021 – Open Session. Mr. Silvia seconded. Vote was unanimous. (3-0)

Mr. Espindola made a motion to approve the minutes of January 11, 2021 – Executive Session. Mr. Silvia seconded. Vote was unanimous. (3-0)

TOWN ADMINISTRATOR'S REPORT

Ms. Graves told the Board:

The Rogers School Reuse Committee met recently to discuss the proposed project and are soliciting comments from the public which they will then submit to the Board of Selectmen for recommendations.

Ms. Graves attended the Broadband Study Committee meeting; the Municipal Light project is still ongoing.

COMMITTEE LIAISON REPORTS

Mr. Espindola told the Board the Broadband Committee met recently and will be meeting soon with the Marine Resources and SRPEDD.

Mr. Espindola said the Economic Development Committee met last week and discussed grants and also voted to request that Ms. Graves find a way to help give small businesses a break.

Mr. Silvia met with the Rogers School Reuse Committee regarding the request for proposal. All the information can be found on the town's webpage. Mr. Silvia would like to see some information in the lobby of town hall for those that don't have internet.

Mr. Freitas updated the Board that the Town Administrator Search Committee is getting closer to finalizing.

VETERAN'S OFFICE WREATHS ACROSS FAIRHAVEN GIFT ACCOUNT

Veteran's Agent Brad Fish would like to set up a gift account for the donations for the wreaths across Fairhaven for the 2021.

Mr. Espindola made a motion to approve the gift account for the wreaths across Fairhaven for the year 2021. Mr. Silvia seconded. Vote was unanimous. (3-0)

ABC WASTE DISPOSAL SERVICES AGREEMENT

Ms. Graves explained this is an annual agreement with ABC Disposal, Inc. regarding the Waste Disposal at SEMASS. (Attachment A)

Mr. Espindola made a motion to authorize the interim Town Administrator to sign the Waste Disposal Agreement on behalf of the Board of Selectmen. Mr. Silvia seconded. Vote was unanimous. (3-0)

CDBG: DISCHARGE OF MORTGAGE—36 WEST GROVE STREET REALTY TRUST

Mr. Foley explained this is a routine discharge for the Community Development Block Grant (CDBG) program.

Mr. Espindola made a motion to sign the CDBG discharge of mortgage for 36 West Grove Street Realty Trust. Mr. Silvia seconded. Vote was unanimous. (3-0)

CDBG: SUBORDINATION AGREEMENT

Planning Director Paul Foley explained to the Board the Town needs to be the subordinate to the bank loan for this property on Main Street.

Mr. Espindola made a motion to have Town Counsel look over the CDBG Subordination agreement before the Board signs. Mr. Silvia seconded. Vote was unanimous. (3-0)

2020 TOWN REPORT COVER PHOTOS SUBMISSIONS

The Board reviewed the submissions for photos for the cover of the annual town report. Kin Brittain and Marianne Pallatroni each had one of their photos chosen by the Board.

SWEARING IN CEREMONY: FAIRHAVEN FIRE DEPARTMENT

Town Clerk Carolyn Hurley swore in to oath veteran Firefighters Deputy Chief Joy Nichols and Lieutenant Josh Benoit before a small group of their families. Acting Chief Correia told the Board; Ms. Nichols is the first woman in Fairhaven to be named Deputy Chief.

The Board congratulated Deputy Chief Nichols and Lieutenant Benoit and wished them much success in their careers on the Fairhaven Fire department.

LIBRARY DIRECTOR CAROLYN LONGWORTH

Chairman Freitas read a resolution (Attachment B) for retired library director Carolyn Longworth that stated the “from this day forward the Shallow Pond adjacent to Egypt Lane forever be named “Carolyn’s Pond” in recognition of Carolyn’s many contributions to Fairhaven and her residents.” The Board presented Ms. Longworth with flowers and chocolates and thanked her for her many years of service to the Town and residents.

WATERWAYS RULES AND REGULATIONS UPDATE

Harbormaster Tim Cox and Marine Resources Committee (MRC) Chairman Mike McNamara met with the Board to provide an update on the proposed draft waterways rules and regulations. Mr. McNamara told the Board the MRC will be holding a public hearing in the future to gather feedback from town residents. Mr. Espindola suggested having Town Counsel review the document prior to a public hearing. The Board thanked Mr. Cox and the MRC for their hard work on the draft.

Mr. Espindola made a motion to have Town Counsel review the draft rules and regulations and post the document on the town webpage. Mr. Silvia seconded. Vote was unanimous. (3-0)

TREE WARDEN COMMUNICATION ISSUES

Tree Warden G.B. Knowles met via Zoom with the Board to discuss some recent complaints that Selectman Silvia has received regarding tree pruning issues. Mr. Knowles explained the Board that because of COVID the routine pruning has fallen behind and he is doing the best he can under the current circumstances. When there is a storm, those safety issues take presidents over routine maintenance. If he has staff that are out, it is unsafe to send anyone out on a job by themselves. The Board suggested that the Tree Warden may be able to look into combing with

the new building department software. Ms. Graves will reach out to the Building Commissioner and Selectman Silvia will help be a liaison with Mr. Knowles.

Mr. Espindola made a motion to appoint Mr. Silvia as a representative of the Board to work with Ms. Graves and the Tree Warden regarding payrate for the tree workers. Mr. Silvia seconded. Vote was unanimous. (3-0)

STRATFORD GROUP— OXFORD SCHOOL PROJECT

Building Commissioner Chris Carmichael met via Zoom to update the Board that the Stratford Group has made some design changes to their proposal for the Oxford School. (Attachment C) Mr. Carmichael would like the Board of Selectmen and the Zoning Board of Appeals to be updated prior to his issuing of the any permits to start the project. Mr. Carmichael stated that he was waiting to hear back from the Stratford Group with more information regarding the changes.

Mr. Espindola would like to see an explanation in writing from the Stratford Group before the next Board of Selectmen's meeting.

STREET LIGHT PLACEMENT - RESERVATION ROAD

Reservation Road resident Geoff Sullivan met via Zoom with the Board to explain why he is against the proposed streetlight in front of his property due to the light shining into his window. Mr. Sullivan is worried that the additional light will cause the vehicles to speed on the corner near his property.

Mr. Freitas explained that Public Works Superintendent Vinnie Furtado has contacted Corviello about shields that can be placed on the lights to reposition the light.

Resident Jeff Adesso is in favor the lighting being place for the safety of the neighborhood. Resident JP Lachat told the Board he is not for or against the light but hopes that the light can be positioned away from the homeowner's windows.

The Board feel that placing the shield on the light is a good compromise for both parties.

Mr. Espindola made a motion to proceed with the light placement as approved by Town Meeting and the equipment is installed and not intrusive. Mr. Silvia seconded. Vote was unanimous. (3-0)

NOTES AND ANNOUNCEMENTS

Mr. Espindola requested the Broadband Study Committee be at the next Board of Selectmen's meeting to discuss the municipal light project.

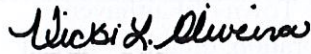
At 7:57 pm Mr. Espindola made a motion to adjourn to executive session, not to reconvene to open session to discuss:

1. To investigate charges of criminal misconduct – GL c. 149 sec 52C and c.66 sec. 15
2. Strategy with respect to litigation— MGL Chapter 30A, Section 21(a) 3: New England Preservation and Development, LLC Law suit

Mr. Silvia seconded. Vote was unanimous. (3-0)

Roll Call vote: Mr. Espindola in favor, Mr. Silvia in favor. Mr. Freitas in favor.

Respectfully submitted,



Vicki L. Oliveira
Administrative Assistant
(approved 02/08/2021)

Attachments:

- A. ABC Waste Disposal Agreement
- B. Resolution for Carolyn Longworth
- C. Letter regarding Stratford Group

WASTE DISPOSAL SERVICES AGREEMENT

This Agreement entered into between the Board of Selectmen for the Town of Fairhaven (“the Town”) and ABC Disposal, Inc. (“the Hauler”), a Massachusetts corporation, on this__ day of January 2021.

WHEREAS, by the terms of a Waste Acquisition Agreement (“the WAA”) dated October 14, 1984, and as subsequently amended, the Town of Fairhaven has the right to deliver certain amounts of solid waste to the COVANTA/SEMASS Partnership plant at Rochester (“SEMASS”) for disposal, regardless of whether that solid waste originated from sources inside or outside the Town of Fairhaven, and

WHEREAS, by the terms of the WAA the Town may be obligated under certain circumstances to pay SEMASS for a short fall in the minimum tonnage delivered on the Town’s account to SEMASS, and

WHEREAS, the Hauler is in the business of hauling waste for disposal, or is a municipality which directly or through a contractor hauls waste generated within that municipality, and

WHEREAS, the town wishes to sell to the Hauler a portion of its right to deliver waste to SEMASS for disposal, and the Hauler wishes to buy from the Town that right to deliver waste,

THEREFORE, the parties agree as follows:

1. Term

The term of this Agreement shall be from January 1, 2021 (the “Commencement Date”) until December 31, 2021 unless earlier terminated as otherwise provided herein (the “Termination Date”).

2. Delivery of Waste

The Hauler shall deliver to SEMASS, on the Town’s account, 15,000 tons (“the Contract Tonnage”) of solid waste during the term of this Agreement. The Hauler may not deliver to SEMASS more than 1,500 tons of solid waste in any calendar month except with the prior written permission of the Town.

3. Additional Waste Delivery

The Town may from time to time offer, or the Hauler may request and the Town may approve, the option to deliver additional waste to SEMASS during the remainder of the term of this Agreement, or of any extension thereof, depending on the availability of unused allocation. The Town will give the Hauler seven (7) days to notify the Town of its intent to exercise that option, and if the Hauler exercises that option, the Contract Tonnage and the Pre-payment pursuant to Article 5 of this Agreement will be adjusted accordingly.

4. Quality of Waste

The Hauler will not deliver to SEMASS solid waste which fails to comply with both (i) the provisions of the WAA regarding quality of solid waste, or (ii) any applicable laws or regulations. The hauler will comply fully with the directions of SEMASS for removal of unacceptable waste delivered by the Hauler to SEMASS. The Hauler will pay to the Town the amount of any charge imposed upon the Town as the result of delivery by the Hauler to SEMASS of unacceptable waste.

5. Disposal Fee and Pre-payment, Final Adjustment

The disposal services fee, advance payments and adjustments shall be as follows:

A. DISPOSAL FEE.

1) The fee for each ton of solid waste delivered under this Agreement to SEMASS, subject to the adjustment described in Article 6, below, is \$77.67, which is one hundred twelve and one-half percent (112.5%) of the acceptance fee charged to the Town by SEMASS per ton (the "Disposal Fee"),.

2) In the event that the Hauler fails to deliver 15,000 tons of solid waste to SEMASS during the term of this Agreement the Hauler will pay to the Town ten percent (10%) of the per ton acceptance fee otherwise charged to the Town by SEMASS under the WAA for the difference between 15,000 tons and the tonnage actually delivered by the Hauler to SEMASS. Payment shall be made pursuant to the terms of paragraph E., below.

3) In the event that the Hauler fails to deliver 15,000 tons of solid waste to SEMASS during the term of this Agreement and the Town is charged by SEMASS for failure to deliver the minimum tonnage to SEMASS under the WAA the Hauler will pay to the Town one hundred ten percent (110%) of the per ton acceptance fee otherwise charged to the Town by SEMASS under the WAA for the difference between 15,000 tons and the tonnage actually delivered by the Hauler to SEMASS. Payment shall be made pursuant to the terms of paragraph E., below.

B. PRE-PAYMENT. Simultaneously with the execution of this Agreement, the Hauler will pay the Town the amount which is equal to $15,000 \times \text{Disposal Fee} \times 1.5 \div 12$. In the event that a pre-payment made by the Hauler to the Town under the similar provisions of a prior agreement has not been reimbursed to the Hauler, the parties may agree that the Town will continue to hold that pre-payment, and that the amount of that pre-payment will be credited toward the Pre-payment otherwise due upon execution of this Agreement.

C. USE OF PRE-PAYMENT. Each month the Town shall pay from the Pre-payment, the amount due by the Town to SEMASS for solid waste authorized or delivered by the Hauler to

SEMASS up to the last day of the preceding month, plus any costs imposed upon the Town by SEMASS as a result of the delivery by the Hauler to SEMASS of unacceptable waste.

D. MONTHLY PAYMENT. The Town shall issue a statement each month to the Hauler for solid waste authorized or delivered by the Hauler to SEMASS up to the last day of the preceding month, plus any costs imposed upon the Town by SEMASS as a result of the delivery by the Hauler to SEMASS of unacceptable waste. Within fourteen (14) days of receipt of that statement from the Town the Hauler will pay that amount to the Town. The Town will allocate a portion of that payment to the Pre-payment account, so that the Pre-payment balance is returned to the original Pre-payment amount set forth in paragraph B., above. The balance of that payment will be allocated to Town revenues.

E. FINAL ADJUSTMENT. Upon completion of all deliveries of waste under this Agreement, any over-payment including any unused balance of the Pre-payment, will be reimbursed to the Hauler, or set off against any amount due by the Hauler to the Town under Article 7; and any underpayment will be paid by the Hauler to the Town, subject to the set-off provisions of Article 7, below, in either event within thirty (30) days of determination and notice of the amount due.

6. Adjustment to Disposal Services Fees

In the event of an increase in the acceptance fee charged to the Town by SEMASS under the terms of the WAA, the Disposal Fee will be increased to an amount equal to one hundred twelve and one-half percent (112.5%) of the acceptance fee charged to the Town by SEMASS. The Pre-payment pursuant to Article 5 of this Agreement will be increased based upon the increased Disposal Fee. In the event of such an increase in the acceptance fee, the Town shall notify the Hauler of the change and of the new Disposal Fee and Pre-payment. The adjustment shall be effective simultaneously with the effective date of change in the acceptance fee charged by SEMASS.

7. Offset, Interest

A. OFFSET In the event of the failure by the Hauler to pay the monthly statement in full when due under Article 5 Paragraph D., the Town shall offset against the amount due the total amount due by the Town to the Hauler under the terms of any other agreement or agreements.

1. If the amount due by the Hauler to the Town under this Agreement exceeds the total amount due by the Town to the Hauler under the terms of any other agreement or agreements, the Town shall credit the amount due by the Town against the amount due by the Hauler, and shall submit a revised statement to the Hauler setting forth the amount so credited and the net amount payable by the Hauler to the Town. The amount credited by the Town as a result of the offset shall be paid by the Town into the Hauler's Pre-payment.

2. If the amount due by the Town to the Hauler under the terms of any other agreement or agreements exceeds the amount due by the Hauler to the Town under this Agreement, the Town shall credit the amount due by the Town against the amount due by the Hauler, and shall submit a revised statement to the Hauler setting forth the amount so credited and the net amount payable by the Town, which the Town shall pay to the Hauler. The amount credited by the Town as a result of the offset shall be paid by the Town into the Hauler's Pre-payment.

Notwithstanding the provisions of any other agreement or agreements between the Hauler and the Town, the time for payment by the Town to the Hauler for services rendered during the same monthly period shall commence upon payment by the Hauler to the Town under this Agreement, or upon the exercise of the Town's right of offset, whichever occurs later.

B. INTEREST. A late charge of one percent (1%) per month shall be charged on all overdue payments.

8. Indemnity

The Hauler shall indemnify and hold the town harmless from any and all claims of any sort whatsoever including, without limitation, claims for property or financial damages or bodily or personal injury, and shall reimburse to the Town all costs, including reasonable attorney's fees, incurred by the Town in defense of, or as a result of such claims, which are alleged to arise from or be in any way related to i) the Hauler's performance or failure to perform under this Agreement, or ii) any act, omission or default by the Hauler whether negligent, intentional or otherwise; and excepting only such claims arising solely from the acts or omissions of the Town.

9. Insurance

The Hauler shall keep in full force and effect insurance in the following types and amounts, and shall provide to the Town at the time of execution of this Agreement, and no later than December 31 prior to the commencement of any subsequent calendar year in which this Agreement may be extended, a certification that such insurance is in effect for the term of this Agreement, or extension thereof. Such certificate of insurance shall indicate that the insurance required by this Agreement will not be canceled except upon thirty (30) days written notice to the Town. The Town shall be an additional named insured under this coverage.

| <u>Type of Coverage</u> | <u>Amount</u> |
|---|---------------|
| Public Liability and Automobile Liability | \$1,000,000 |
| Personal Injury | \$1,000,000 |
| Property Damage | \$500,000 |
| Workers' Compensation | Statutory |

10. Default and Remedies

A. The following shall be considered a default by the Hauler of its obligation under this Agreement:

1. Failure by the Hauler to pay any statement or Pre-payment when it has become due;
2. Delivery by the Hauler of unacceptable waste to SEMASS;
3. Violation by the Hauler of the Board of Health's regulations for delivery of waste to SEMASS; or
4. Failure by the Hauler to perform any other obligation under this Agreement.

B. In the event of a default by the Hauler, the Town shall have the following remedies and may, without waiving any of its rights, elect to exercise any or all of them:

1. It may terminate this Agreement.
2. It may terminate the Hauler's access to deliver waste to SEMASS under the Town's account.
3. It may, without notice to the Hauler, seek and obtain payment of all amounts due from the Pre-payment provided under Article 5.
4. It may contract with any other party or parties to assume the Hauler's rights under this Agreement.
5. It may pursue all other remedies available in law and equity, notwithstanding the availability of the remedies otherwise provided herein.
6. It will be entitled to its costs, including reasonable attorney's fees, incurred in the pursuit of any of its remedies.

11. Force Majeure

It shall not be an event of default if performance of this Agreement is prevented by circumstances beyond the control of the parties, including, but not limited to, acts of God, acts of war or the public enemy, legal prohibition, or order of any court or agency of competent jurisdiction. In the event delivery of waste to SEMASS is prevented by such circumstances the Hauler's right to deliver waste, and obligation to make payment, shall be proportionately reduced.

12. Non-Assignment

This Agreement may not be assigned in whole or in part by the Hauler except with the prior written consent of the Town, which consent may be withheld in the sole discretion of the Town.

13. Non-Waiver

The failure of either party to exercise any right or to enforce any obligation of this Agreement shall not be deemed a waiver of that right or obligation.

14. Amendments

This Agreement shall not be amended except in writing signed by both of the parties.

15. Notices

Written notices shall be sent to the parties at the following addresses:

Town of Fairhaven
Fairhaven Board of Selectmen
Attn: Town Administrator
40 Center Street
Fairhaven, MA 02719

Hauler:
ABC Disposal Services
Attn. Mike Camara
1245 Shawmut Avenue
New Bedford, MA 02745

(Signature Page Follows)

Town of Fairhaven by its
Acting Town Administrator
As authorized by vote of
Fairhaven Board of Selectmen
On _____

Hauler:

Town Administrator

By:

Its:

Date:

Date: _____



Town of Fairhaven
Board of Selectmen
Resolution

Whereas: Carolyn Longworth has been the face of the library, first as the children’s librarian and as the Director of the Millicent Library; and

Whereas: in 1985, Ms. Longworth became the seventh Millicent Library Director and helped usher the library into the computer age when she studied HTML to create its first website; and

Whereas: Ms. Longworth enjoys traveling; having traveled to more than 52 countries, including Tosashimizu Japan in 1987 for the signing of the Sister City agreement and has been on the committee ever since, serving as chairwoman and as secretary for many years; and

Whereas: In 1988, Ms. Longworth joined the Rotary Club of Fairhaven and has served as club president and secretary. As a Rotarian she has been awarded the Rotary’s prestigious Paul Harris Award for her service above self; and

Whereas: Ms. Longworth has been an avid bird watcher for many years and has been a member of several local bird clubs, including holding the position of secretary of Nasketucket Bird Club. Ms. Longworth’s favorite spot to bird watch is the pond behind Atlas Tack. She has identified close to 200 species of birds in the Town of Fairhaven, having her best find being the second only sighting ever in Massachusetts of the Floridian Great White Heron; and

Whereas: On October 31, 2020, Carolyn Longworth has retired from the Millicent Library and will be missed by children young and old who have spent time at the library and all that have had the pleasure of working and spending time with her; and

Now, therefore, We, Daniel Freitas, Robert J. Espindola and Keith Silvia, the Board of Selectmen of the Town of Fairhaven, do hereby express our sincere appreciation and gratitude for Carolyn Longworth’s dedication and commitment to the Town of Fairhaven, and congratulate her on the occasion of her retirement from the Millicent Library, and from this day forward hereby declare that the Shallow Pond adjacent to Egypt Lane forever be named “Carolyn’s Pond” in recognition of Carolyn’s many contributions to Fairhaven and her residents.

Given under our hands and seal on this day, The Twenty-Fifth Day of January.
in the year of our Lord Two Thousand and Twenty-One

Daniel Freitas

Robert J. Espindola

Keith Silvia



Town of Fairhaven
Commonwealth of Massachusetts

Attachment C

Building Department
Town Hall
40 Centre Street

Phone 508 979 4019

Fairhaven, MA 02719

Building Commissioner
ccarmichael@fairhaven-ma.gov

January 14, 2021

Board of Selectmen
Members of the Zoning Board of Appeals
40 Center Street
Fairhaven, MA 02719

Dear Sirs and Madam:

The Stratford Group has submitted building plans for their renovation of Oxford School; however, I feel there has been a substantial change in the number of units proposed as well as the change in roof line on one of the buildings.

The number of units proposed and included in the Zoning Special Permit was sixty-three (63) and the number proposed in the building plans is fifty-three (53).

The roof line on one of the buildings is now a flat roof proposed versus a Hip Roof with Dormers when preliminary plans were submitted.

If you do not feel this is a substantial change in need of a return to either of your boards, please advise so we can move forward on issuing the permit.

Thank you.

Sincerely,

Chris Carmichael
Building Commissioner

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BOARD OF SELECTMEN
FAIRHAVEN MA