



**Fairhaven Select Board
Meeting Minutes
August 16, 2021**

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FAIRHAVEN,
MASS.

Present: Chairman Robert Espindola, Vice-Chairwoman Stasia Powers, Clerk Keith Silvia, Interim Town Administrator Wendy Graves, Cable Access Director Derek Frates and Administrative Assistant Vicki Oliveira

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

Chairman Robert Espindola opened the meeting at 6:32 pm in the Town Hall Banquet Room.

Minutes

Ms. Powers made a motion to approve the Open Session minutes of July 28, 2021. Mr. Silvia seconded. Vote was unanimous (3-0)

Ms. Powers made a motion to approve the Open Session minutes of August 4, 2021. Mr. Silvia seconded. Vote was unanimous (3-0)

Ms. Powers made a motion to approve the Open Session minutes of August 9, 2021. Mr. Silvia seconded. Vote was unanimous (3-0)

Ms. Powers made a motion to approve the Executive Session minutes of August 9, 2021. Mr. Silvia seconded. Vote was unanimous (3-0)

Town Administrator's Report

Ms. Graves attended the Massachusetts Collectors and Treasurers Association 50th Annual School at UMass Amherst to retain her certifications as a Certified Massachusetts Municipal Treasurer & Certified Massachusetts Municipal Collector. Some of the classes that she attended were Coaching, Performance Management & Discipline, Seasoned Treasurers/Collectors Test your Skills, Economic Update, and OPEB Assumptions & Pitfalls. Ms. Graves also taught the Tax Takings Forms Workshop class for the second year.

Ms. Graves and Town Accountant, Anne Carreiro have been working to finalize the agreement with a grant consultant who will provide unlimited grant support as well as development support for five (5) grant proposals of varying complexity. Selectmen Espindola has examined the information that we received from the grant consultant and is supportive of this service.

Ms. Graves told the Board the positivity rate for COVID continues to rise and has nearly doubled since last week. The Board may want to consider initiating a mask mandate for inside all Town buildings.

Ms. Powers made a motion to put up a mask advisory on the entrance of Town Hall. Mr. Silvia seconded. Vote was unanimous. (3-0)

Committee Liaison Reports

Ms. Powers said she had her first meeting with the Cable Advisory Committee where Cable Access Director Derek Frates updated the committee on the latest happenings in his Department.

Mr. Silvia met with the Historical Commission last week. Historical Commission member M.J. Carvalho was successful in locating a historic marker after being lost for many years. MassDOT will install the marker back onto the Rt. 6 overpass.

Mr. Espindola said he has been busy working with a Broadband consultant to try to gain some ARPA funds.

Mr. Espindola will be meeting Fairhaven resident Jacob Miller, Senior Policy Adviser/Community Development Director to Senator Montigny regarding the visit of the Ambassador from Great Britain on September 2, 2021.

Mr. Espindola announced the Executive Session for tonight is tabled until a future meeting.

Nicole Podkowa 5K Road Race: October 2, 2021

Mr. Espindola said organizers for the Event have reached out to the Police and will coordinate a safer route.

Ms. Powers made a motion to approve the Nicole Podkowa 5K Road Race on October 2, 2021, contingent upon Police approval. Mr. Silvia seconded. Vote was unanimous. (3-0)

Economic Development Committee Appointment

Chairman Espindola read letters from Nils Isaksen and Travis Rapoza requesting to join the Economic Development Committee. Mr. Rapoza stated he is interested in getting involved in the community. Ms. Powers made a motion to appoint Travis Rapoza to the Economic Development Committee. Mr. Espindola seconded. Vote passed. (2-1)

Alternate SMMPO Appointment

Mr. Espindola told the Board he would like to appoint Planning Director Paul Foley as the alternate to the SMMPO in the event that Mr. Espindola can not make a meeting, Mr. Foley could go in his place. Ms. Powers made a motion to appoint Mr. Foley as the alternate to the SMMPO. Mr. Silvia seconded. Vote was unanimous. (3-0)

Representative Appointment to the Rogers Reuse Committee

Mr. Espindola updated the Board on the appointments to the Rogers Reuse Committee. The Finance Committee has appointed Lisa Plante as their representative and the Planning Board has appointed Wayne Hayward as their representative.

Fall Town Meeting

The Board discussed the idea of holding a Fall Town Meeting. Ms. Graves will reach out to the Town Clerk for some possible dates. The Board will discuss further at a future meeting.

Atlas Tack terms of engagement

Ms. Graves explained the town is looking to hire Peirce Atwood to advise the Town on potential liability in the tax taking of Atlas Tack. (Attachment A) Ms. Graves explained Atlas Tack is in tax title for approximately 1 million dollars.

Ms. Powers made a motion to enter into the contract with Pierce Atwood. Mr. Silvia seconded. Vote was unanimous. (3-0)

Mr. Silvia left the meeting at 7:02 pm

Representative Appointment to the Town Administrator Search Committee

Mr. Espindola updated the Board regarding the Town Administrator Search Committee. The School Committee has appointed Pam Kuechler, the Finance Committee has appointed Robert Grindrod, the Planning Board has appointed David Braga and the Board of Public Works has appointed Cameron Durant as their representatives to the Town Administrator Search Committee.

Town Administrator Search Committee Select Board Representative appointment

Mr. Espindola said each Board member is allowed to make one appointment to the Town Administrator Search committee.

Selectman Espindola made a motion to appointment Leon Correy as his representative on the Town Administrator Search Committee. Ms. Powers seconded. Vote was unanimous. (2-0-1)

Selectwoman Powers made a motion to appoint Kimberley Trahan as her representative on the Town Administrator Search Committee. Mr. Espindola seconded. Vote was unanimous. (2-0-1)

Town Administrator Search Committee At- Large vacancies

Selectman Espindola and Selectwoman Powers each provided their choice for the at-large candidate.

Ms. Powers made a motion to appoint Anne Morton Smith to the at-large position on the Town Administrator Search committee. Mr. Espindola seconded. Vote passed. (2-0-1)

Ms. Powers made a motion to appoint Gloria Perperas to the at-large position on the Town Administrator Search committee. Mr. Espindola seconded. Vote passed. (2-0-1)

Gloria Perperas and Anne Morton Smith (via zoom) told the Board they are grateful for the opportunity to serve on the committee and looking forward to the process.

Resident Ann Richard, via zoom, inquired why Ms. Graves was in the room. Ms. Graves said she was not applying for the Town Administrator position.

Town Administrator Search Position Statement update

Mr. Espindola said the consultant is still in the process of updating the draft of the Town Administrator Search Position Statement.

Mr. Espindola said the executive session to discuss the Opioid Litigation Update has been tabled to a future meeting.

At 7:22 pm Ms. Powers made a motion to adjourn. Mr. Espindola seconded. Vote was unanimous. (2-0)

Respectfully submitted,



Vicki L. Oliveira
Administrative Assistant
(Approved 09/13/2021)

A. Email from Attorney Crotty re: Pierce Atwood



FW: Fairhaven Atlas Tack terms of engagement

4 messages

Thomas P. Crotty <tomcrotty@tcrottylaw.com> Tue, Aug 10, 2021 at 11:40 AM
Reply-To: tomcrotty@tcrottylaw.com
To: Wendy Graves <wgraves@fairhaven-ma.gov>, Bob Espindola <selectmanbobespindola@gmail.com>
Cc: "Michelle N. O'Brien" <mobrien@pierceatwood.com>

Wendy and Bob

Below are Michelle O'Brien's answers to Bob's questions on having Pierce Atwood advise the town on potential liability in a tax taking of the Atlas Tack site.

As for #1, I'm sure this was not initially budgeted as a separate legal expense. I suggested getting Pierce Atwood's advice only recently when it became apparent that EPA is unlikely to act on resolving the deterioration of the Atlas Tack building. That left it to the town to look into resolving it through a tax taking.

Please let me know if you have any other questions.

Thanks

Tom

Thomas P. Crotty

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From: Michelle N. O'Brien [mailto:mobrien@PierceAtwood.com]
Sent: Monday, August 9, 2021 4:52 PM
To: 'tomcrotty@tcrottylaw.com'
Subject: RE: Fairhaven Atlas Tack terms of engagement

Tom,

Copied here are the questions, with my answers inserted.

1) Was this work anticipated when the budget was created such that the cost is already covered in our existing legal budget?

2) What is the estimated cost of this work in total?

The estimated cost of the legal analysis and summary of the town's potential CERCLA liability is \$3500 - \$4000. If the town wants us to assist with redevelopment efforts or related issues, we can do so at an additional cost. Our involvement – and the associated cost – is flexible.

3) Will the contract or P.O. for services establish a "not to exceed" amount (for hourly expenses and additional charges) that Peirce Atwood would need to have additional expenses above that amount authorized?

We did not establish a not-to-exceed amount for this work because the initial scope is limited; we are analyzing the town's potential CERCLA liability associated with a tax taking. Going forward, if we are asked to assist with other efforts associated with the Atlas Tack property, we could set a not-to-exceed amount.

4) Will Town Counsel be involved also or will you be the primary point of contact to share all of the history, files, etc?

I don't expect that we will need all of the history, files etc. for our current scope of work. I obtained a copy of the consent decree.

5) Will Pierce Atwood be consulting with government agencies, like the EPA and/or the DEP as part of their consulting work?

Yes, we will be (and have been already) in contact with EPA and the Department of Justice, and MassDEP as necessary.

Feel free to pass these responses along to the Town Administrator and Chair of the Board of Selectmen with your thoughts on question 1. Otherwise, let me know if I should respond directly to Wendy Graves.

Michelle

Michelle N. O'Brien
PIERCE ATWOOD LLP

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22nd Floor Boston, MA 02110
PH 617.488.8146
FAX 617.824.2020

mobrien@PierceAtwood.com

BIO > Admitted in MA

This e-mail was sent from Pierce Atwood. It may contain information that is privileged and confidential. If you suspect that you were not intended to receive it please delete it and notify us as soon as possible.

From: Thomas P. Crotty <tomcrotty@tcrottylaw.com>
Sent: Monday, August 9, 2021 11:44 AM
To: Michelle N. O'Brien <mobrien@PierceAtwood.com>
Subject: Fairhaven Atlas Tack terms of engagement

*****This message originated outside your organization*****

Michelle

Below are some questions (highlighted) that the chairman of the board of selectmen raised.

Please give me a call to discuss at your convenience.

Thanks

Tom

Thomas P. Crotty

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Wendy,

Thank you for passing this along. I do have a few questions as follows;

- 1) Was this work anticipated when the budget was created such that the cost is already covered in our existing legal budget?
- 2) What is the estimated cost of this work in total?
- 3) Will the contract or P.O. for services establish a "not to exceed" amount (for hourly expenses and additional charges) that Peirce Atwood would need to have additional expenses above that amount authorized?
- 4) Will Town Counsel be involved also or will you be the primary point of contact to share all of the history, files, etc?

5) Will Pierce Atwood be consulting with government agencies, like the EPA and/or the DEP as part of their consulting work?

Thank you,

Bob

On Tue, Jul 20, 2021 at 11:53 AM Vicki Oliveira <vloliveira@fairhaven-ma.gov> wrote:

Good Morning,

Please see the attached correspondence from Pierce Atwood regarding Atlas Tack.

Best Regards,

[Redacted Signature]

Vicki L Oliveira

vloliveira@fairhaven-ma.gov

Assistant to the Town Administrator

Notary Public

Town of Fairhaven

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FAX: (508) 979-4079

Town of Fairhaven

Bob Espindola <selectmanbobespindola@gmail.com>

Tue, Aug 10, 2021 at 11:53 AM

To: Tom Crotty <tomcrotty@tcrottylaw.com>

Cc: Wendy Graves <wgraves@fairhaven-ma.gov>, "Michelle N. O'Brien" <mbrien@pierceatwood.com>

Tom,

Thank you.

This would not seem to be something that would qualify for a discussion in Executive Session, correct? I am just trying to figure out if that is appropriate for a next step or of we should be discussing this in Open Session.

8/13/2021

Town of Fairhaven Mail - FW: Fairhaven Atlas Tack terms of engagement

Whichever answer is correct, Wendy, please plan to place it on our next meeting agenda, for next Monday night, August 16th, if you feel that timing is good. If in Executive Session, please remember to cite the reason that this subject meets the Executive Session exemption.

Thanks,

Bob

[Quoted text hidden]

Thomas P. Crotty <tomcrotty@tcrottylaw.com>
Reply-To: tomcrotty@tcrottylaw.com
To: Bob Espindola <selectmanbobespindola@gmail.com>
Cc: Wendy Graves <wgraves@fairhaven-ma.gov>

Tue, Aug 10, 2021 at 12:14 PM

Bob

I think discussing whether to retain Pierce Atwood could be done in open session, since you can discuss the purpose for retaining the firm (to advise on the possible tax taking of a former hazardous waste cleanup site) without going into the town's strategy in that regard.

A discussion of that advise, once it prepared to be given to the board, might be done in executive session, since that may entail a discussion of strategy with regard to litigation.

Tom

[Quoted text hidden]

Bob Espindola <selectmanbobespindola@gmail.com>
To: Tom Crotty <tomcrotty@tcrottylaw.com>
Cc: Wendy Graves <wgraves@fairhaven-ma.gov>

Tue, Aug 10, 2021 at 1:23 PM

OK,

Thank you.

On that basis, Wendy, please include this in the Open Session for Monday, August 16th Meeting agenda.

Thank you.

Bob

[Quoted text hidden]

