

Selectmen's Meeting – April 24, 2006

Mr. Eckenreiter, Mr. Manzone and Mr. Silvia were present.

Also in attendance was Jeffrey Osuch.

Mr. Eckenreiter called the meeting to order at 6:15 p.m.

Mr. Manzone motioned to approve the minutes of April 10, 2006. Mr. Eckenreiter seconded. It was so voted.

Mr. Manzone motioned to approve the minutes of the April 10, 2006 executive session. Mr. Silvia seconded. Vote was unanimous.

#### EXECUTIVE SESSION

At 6:18 p.m., Mr. Manzone motioned to go into executive session to discuss a legal issue with the Board of Public Works and to reconvene in open session. Mr. Silvia seconded. Vote was unanimous. Roll call vote 3-0. Open meeting reconvened at 6:50 p.m.

#### ROBERT HOBSON

Robert Hobson was in attendance. Letter from Town Counsel on the potential conflict of interest arising from Mr. Hobson being a member of Hoppy's Landing Committee and an elected member of the Board of Public Works was discussed. (See attached.) In accordance with the Act to establish the Board of Public Works, it states that "No person shall serve on the board who holds an elective or appointed office in the town other than town meeting members....." Mr. Hobson is an appointed member of the Hoppy's Landing Committee. Town Counsel advises that Mr. Hobson should resign from one of the positions. Discussion followed.

#### STREET ACCEPTANCE HEARING

Street Acceptance Hearing for Akin Street was scheduled for 7:00 p.m. Mr. Eckenreiter read the "Notice of Public Hearing". (See attached.) Abutters were notified by certified mail of the date and time of the hearing. Several were present and all spoke in favor of the acceptance. Mr. Manzone motioned to recommend the acceptance of Akin Street at Town Meeting. Mr. Silvia seconded. Vote was unanimous.

#### VIVEIROS FARM

Allen Decker from the Coalition for Buzzards Bay discussed legal documents relative to Article 21, Community Preservation Program Direct Appropriations from Fund Balance, that appears on the May 6<sup>th</sup> Special Town Meeting Warrant for Viveiros Farm. He asked the Board to sign the "Agricultural Preservation Restriction with Option to Purchase at Agricultural Value" document prior to Town Meeting. In the event the article is voted by

Selectmen's Meeting – April 24, 2006

Town Meeting, the necessary paper work will have already been completed. Discussion ensued. The Board questioned Mr. Decker about public access to the property and the Town's 61A options. Mr. Decker he will look into these issues and report back to the Board. The documents were not signed.

#### EXECUTIVE SECRETARY'S REPORT

East Fairhaven School Job Meeting is scheduled for Wednesday, April 26<sup>th</sup> at 10:00 a.m. at the site.

Buzzards Bay Action Committee will meet at 12:00 noon on Wednesday, April 26<sup>th</sup> in Wareham.

Clerical Union Negotiations are scheduled for 2:00 p.m. on Wednesday, April 26<sup>th</sup>.

Finance Committee will meet at 7:00 p.m. on Thursday, April 27<sup>th</sup> at the Board of Public Works.

Precincts 1, 2 and 3 will meet at Hastings Middle School on May 3<sup>rd</sup> at 6:30 p.m.

Precincts 4, 5 and 6 will meet at Hastings Middle School on May 4<sup>th</sup> at 6:30 p.m.

Mr. Osuch will tape a pre-Town Meeting show this week.

Meeting with the Moderator, Town Clerk, Director of Finance, Chairman of the Finance Committee, Executive Secretary and Chairman of the Board of Selectmen is scheduled for Tuesday, May 2<sup>nd</sup> at 2:00 p.m.

Mr. Manzone motioned to designate William Roth the Project Manager for Phase II of the Fairhaven Harbor Dredging project. Mr. Silvia seconded. Vote was unanimous.

Mr. Manzone motioned that Mr. Eckenreiter sign the contract in the amount of \$175,000. for Phase II of the Fairhaven Dredging Project. Mr. Silvia seconded. Vote was unanimous.

Mr. Manzone motioned to sign the "Advanced Life Support Agreement" between the Fairhaven Fire Department (Ambulance Service) and Southcoast Hospitals Group, Inc. Mr. Silvia seconded. Vote was unanimous. The Agreement is in effect from November 1, 2005 to November 1, 2006.

Mr. Manzone motioned to approve the application submitted by the "Dog Palace" 400A Main Street, for a Common Victualer License. Mr. Silvia seconded. Vote was unanimous.

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Letter from Al Benac, Curator, requesting the FY 07 budget for the Department of Fine Art be amended, was discussed. He is requesting an additional \$1,500.00 to purchase a L. D. Eldred etching of the Battleship Oregon. (See attached.) Mr. Manzone motioned to support the increase at Town Meeting. Mr. Eckenreiter seconded. It was so voted. Mr. Silvia was opposed.

#### CLEAN RENEWABLE ENERGY BOND PROGRAM

Mr. Manzone motioned to authorize Jeffrey Osuch to proceed with the Clean Renewable Energy Bond Program. Mr. Silvia seconded. Vote was unanimous.

#### COMCAST

Mr. Osuch read the letter, written by Attorney William Solomon, Special Cable Counsel for the Town, to Mary O'Keeffe of Comcast. (See attached.) Mr. Manzone motioned to send the letter. Mr. Silvia seconded. Vote was unanimous.

Letter from Comcast regarding License Renewal was discussed. (See attached.)

#### MATTAPOISETT BOARD OF HEALTH

Letters from the Mattapoissett Board of Health regarding the Mattapoissett Transfer Station and its use by Fairhaven residents was discussed. (See attached.)

#### WEST ISLAND

Lack of speed limit signs on Goulart Memorial Drive and Causeway Road was discussed. The Police Chief reported there is only one 25 mph speed limit sign eastbound. There are no signs westbound on either Causeway Road or Goulart Memorial Drive. There should be one additional sign installed eastbound and two westbound. Mr. Manzone motioned to authorize the Board of Public Works to install the speed limit signs on Causeway Road and Goulart Memorial Drive. Mr. Silvia seconded. Vote was unanimous.

#### NATIONAL DAY OF PRAYER

Mr. Manzone motioned to approve Steven Bouley's request to hold the annual National Day of Prayer in front of the Town Hall on Thursday, May 4<sup>th</sup> at 12:00 noon and in the event of rain, to use the auditorium. Mr. Silvia seconded. Vote was unanimous.

#### EAGLE SCOUT AWARD

John Garcia will receive his Eagle Scout Award on Saturday, May 20<sup>th</sup> at 1:00 p.m. at the Veterans of Foreign Wars Hall, 109 Middle Street. The Selectmen will present a proclamation to John.

Selectmen's Meeting – April 24, 2006

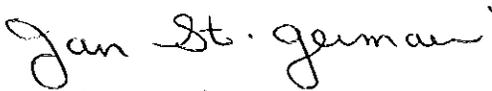
OTHER MATTERS

The Board of Selectmen attended the funeral of Lance Cpl. Patrick Gallagher. The Selectmen asked the public to submit ideas for an appropriate memorial to Lance Cpl. Gallagher.

Mr. Manzone and Mr. Silvia attended the Eagle Scout award ceremony for Christopher Rock. The Board congratulated him on his achievements.

EXECUTIVE SESSION

At 8:15 p.m., Mr. Manzone motioned to go into executive session to discuss Fire Union contract negotiations, Clerical Union contract negotiations, MacLean's Seafood, a Police Department lawsuit and not to reconvene in open session. Mr. Silvia seconded. Vote was unanimous. Roll call vote 3-0.



Jan St. Germain  
Secretary

2B

PERRY, HICKS, CROTTY AND DESHAIES, LLP

ATTORNEYS AT LAW

388 COUNTY STREET

NEW BEDFORD, MASSACHUSETTS 02740-4992

DANIEL C. PERRY  
THOMAS P. CROTTY  
MARC R. DESHAIES

TELEPHONE  
(508) 996-8291

TELECOPIER  
(508) 997-2637

LEONARD E. PERRY  
(1065-1000)

EDWARD D. HICKS  
(1065-2002)

BLAIR S. BAILEY  
ELLYN H. HURD  
AMY S. MELLO\*

E-MAIL: info@perryhicks.net  
www.perryhicks.net

\*ALSO ADMITTED IN R.I.

April 10, 2006

**Via Facsimile and  
First Class Mail**

Jeffrey Osuch  
Town of Fairhaven  
Board of Selectmen  
40 Center Street  
Fairhaven, MA 02719

RECEIVED  
APR 10 2006  
10 10 AM

Re: Hoppy's Landing  
Conflict of Interest

Dear Jeff:

You have asked for an opinion on the potential conflict of interest arising from Mr. Hobson being a member of the Hoppy's Landing Committee and also being elected to the Board of Public Works. For the purposes of this opinion, you have provided me with the following facts:

1. Mr. Hobson was recently elected to the Board of Public Works.
2. Mr. Hobson is an appointed member of the Hoppy's Landing Committee. As a member of the Committee, he recommends the rules and rental fees of the Landing.
3. Mr. Hobson rents space at Hoppy's Landing.

Chapter 722 of the Acts of 1968 concerns the establishment of the Board of Public Works in the Town of Fairhaven. That section provides, in part, that:

"No person shall serve on the board who holds an elective or appointed office in the town other than town meeting members, and no person who is an employee of the town shall serve on the board." §A502-3.

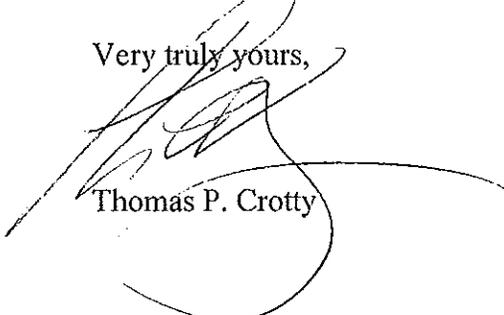
Jeffrey Osuch  
April 10, 2006  
Page 2

Because Mr. Hobson is a member of the Hoppy's Landing Committee, he is ineligible to be a member of the Board of Public Works. Therefore, he is obligated to resign from one of his positions. If Mr. Hobson chooses to resign from the Committee, he would then be eligible to serve on the BPW.

However, in the event Mr. Hobson chooses to resign from the BPW, rather than the Committee, his situation concerning renting space at Hoppy's Landing while serving on the Committee would continue to raise questions under the State Conflict of Interest Law, G.L. c. 268A. It would be necessary to re-visit that issue in greater detail in such a case.

Please feel free to call if you have any further questions regarding this matter.

Very truly yours,



Thomas P. Crotty



**Town of Fairhaven  
Massachusetts  
Office of the Selectmen**

40 CENTER STREET  
FAIRHAVEN, MA 02719

TEL: (508) 979-4023  
FAX: (508) 979-4079

March 27, 2006

**NOTICE OF PUBLIC HEARING**

**STREET ACCEPTANCE**

Notice is hereby given that it is the intention of the Selectmen to accept the layout of Akin Street as shown on a plan entitled "Town Layout of Akin Street Fairhaven, MA" February 17, 2006 by G.A.F. Engineering, Inc., 266 Main Street, Wareham, MA 02571.

It is the intention of the Selectmen to lay out said area as a town way and they will meet in the Banquet Room at the Fairhaven Town Hall, 40 Center Street, Fairhaven, MA on Monday, April 24, 2006 at 7:00 p.m. to hear interested parties. A copy of the plan is on file in the Town Clerk's Office.

Board of Selectmen

April 24, 2006

Finance Committee  
John Roderiques, Chairman

Dear members,

The budget for the Department of Fine Art this year is \$2,500.00, derived from Room Tax. Due to a recent opportunity, I want to amend my budget at Town Meeting to read \$4,000.00 to purchase a rare historical etching for the Town Hall. The \$1,500.00 increase through the Room Tax account will be the last time my department will be able to provide this request at no cost to the tax payer.

The request to purchase a L. D. Eldred etching of the Battleship Oregon has a direct historical connection with Captain Joshua Slocum. It would be displayed along with the model of the "Spray", a gift given by Robert Clarkson.

I thank you and ask for your support at Town Meeting.

Department of Fine Art  
Albert F. Benac  
Curator

P.S. As a L. D. Eldred collector for 40 years, I know of only four of these rare etchings.

RECEIVED

2006 APR 24 A 9 11

OFFICE OF SELECTMEN  
FAIRHAVEN MASS



Town of Fairhaven  
Massachusetts  
Office of the Selectmen

40 CENTER STREET  
FAIRHAVEN, MA 02719

TEL: (508) 979-4023

FAX: (508) 979-4079

April 25, 2006

Ms. Mary O'Keeffe  
Manager of Government and Community Relations  
Comcast Cable Communications, Inc.  
Deer Crossing B-16  
681 Falmouth Road  
Mashpee, Massachusetts 02649

Re: Institutional Network - License Non-Compliance

Dear Ms. O'Keefe:

At the advise of our Special Cable Counsel, the Board of Selectmen has voted to forward this letter of License non-compliance to you with respect to the Institutional Network (I-Net"). More specifically, the I-Net does not comply with the requirements of Section 4.6 and 4.8 of the current Renewal License, including, but not limited to the fact that required infrastructure is either not present or missing, and it is not capable of being used for data transmission in accordance with the terms of the License. Please note that Special Counsel reminds us, as referenced in your March 22, 2005 letter, that the issue of data communication by the Fairhaven Public Schools has previously been addressed and agreed to by the parties (See letter agreement, dated April 30, 2003.).

Special Cable Counsel has advised us to send the letter at this time in order to protect the Town's interests in the event that the parties are unable to resolve this current license matter. He informs us that in addition to your March 22, 2005 letter to our Town Counsel regarding the resolution of this matter, that you have more recently indicated to him Comcast's interest in trying to addressing this issue going forward. (Special Counsel has asked us to express that your discussion with him regarding this matter related to the process of resolving this matter, and should not and will not be taken or referenced as an admission of License non-compliance.)

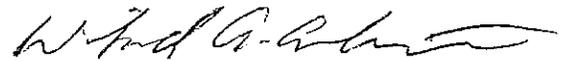
If Comcast contends that it is in compliance with the provisions and requirements of Sections 4.6 and 4.8 of the Renewal License, it must provide all written evidence which may be reasonably required to refute the allegation on non-compliance, no later than May 29, 2006 to this Board. Please note that in addition to any and all other

remedies under the Renewal License and/or applicable law, the Town reserves the right to act against the full amount of Letter of Credit required by Section 7.5 of the Renewal License. This remedy, if further pursued, would be in addition to any other remedy allowed, including, but not limited to, liquidated damages pursuant to Section 7.5(e)(4) of the Renewal License or an enforcement action.

Thank you for your attention to this matter. The Board both expects and looks forward to the parties resolving the I-Net related issues without the need for any further action pursuant to this notification, other than to thank you and Comcast for the resolution thereof, and to memorialize said resolution.

Please feel free to contact our Special Cable Counsel or the Executive Secretary, if there are any questions.

Sincerely,



Winfred A. Eckenreiter, Chairman

cc: Ms. Lou Russo, Director of Gov't Affairs and  
Community Relations, Comcast  
Mr. Nick Leuci, Director of Gov't Relations, Comcast  
John Haaland, Chairman, Cable Advisory Committee  
William H. Solomon, Special Cable Counsel



RECEIVED

2006 APR 12 P 1:17

FAIRHAVEN MA

4.  
Comcast Cable Communications, Inc.  
440 Myles Standish Boulevard  
Taunton, MA 02780  
508.821.5793 Tel  
508.828.2676 Fax  
www.comcast.com

April 11, 2006

VIA FACSIMILE / US MAIL

Fairhaven Board of Selectmen  
Town of Fairhaven  
40 Center Street  
Fairhaven, MA 02719

**Re: License Renewal**

Dear Members of the Board:

Comcast appreciates the work of the Town and the members of the cable advisory committee in the license renewal process. Comcast provided a notebook containing the official "Form 100" – the Renewal Application that is required by the Cable Division of the Massachusetts Department of Telecommunications & Energy on March 24, 2006. This notebook contains information about Comcast and its Regional Management Team, the results of Comcast's ascertainment survey, and a draft of proposed language for the renewal license. Together, the Form 100, the exhibits and the additional information provided by Comcast constitute Comcast's proposal for the license renewal. Pursuant to 207 CMR 3.05, the Town must hold a duly noticed public hearing to review the Form 100. Please let me know when this hearing is scheduled so Comcast may provide a stenographer for the record

As Board members are aware, the future cable related needs of the Town must be assessed taking into consideration the costs of meeting those needs. The costs of complying with requirements such as public, educational and governmental channels will be borne by cable customers in the Town. Ultimately, the level of costs borne by customers is a rate regulation issue under the jurisdiction of the Cable Division of the Massachusetts Department of Telecommunications & Energy. Comcast has calculated a close estimate for the negotiating committee on the impact to customers' bills that it believes will result from meeting the requirements of the renewal license most recently proposed by the Town.

The current license expires on June 14, 2006. The renewal license will be subject to Comcast's corporate approval. Accordingly, Comcast is prepared to meet with the negotiating committee as frequently as is required in order to reach agreement no later than thirty (30) days before the expiration date. In order to meet this timeline, Comcast proposes negotiating sessions as needed, starting the week of April 24th. I will be in touch with Mr. John Haaland to arrange a meeting schedule to review of the proposed license.

Comcast looks forward to continue working in good faith with the Town. Please contact me at 508-477-7738 if you have any questions.

Sincerely,

Mary O'Keeffe  
Manager of Government Affairs

MOK/mk

cc: Fairhaven Cable Advisory Board  
William H. Solomon, Cable Counsel  
Brian Merrick, Municipal Liaison - Department of Telecommunications and Energy, Cable Division  
Lou Russo, Director of Government/Community Relations, Comcast  
Nick Leuci, Division Director of Franchising and Community Relations, Comcast



Comcast Cable Communications, Inc.  
440 Myles Standish Boulevard  
Taunton, MA 02780  
508.821.6783 Tel  
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April 11, 2006

VIA FACSIMILE / US MAIL

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Town of Fairhaven  
40 Center Street  
Fairhaven, MA 02719

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Sincerely,

Mary O'Keefe  
Manager of Government Affairs

MOK/mk

cc: Fairhaven Cable Advisory Board  
William H. Solomon, Cable Counsel  
Brian Merrick, Municipal Liaison - Department of Telecommunications and Energy, Cable Division  
Lou Russo, Director of Government/Community Relations, Comcast  
Nick Leuci, Division Director of Franchising and Community Relations, Comcast



Town of Mattapoissett  
Board of Health

16 Main Street  
Mattapoissett, Massachusetts 02739

RPR21 06 9:19:

April 20, 2006

Mr. Christopher McDonald  
Fairhaven D.P.W.  
Arsene St.  
Fairhaven, MA 02719

RECEIVED  
2006 APR 24 12:12 PM  
TOWN OF MATTAPoisETT  
FAIRHAVEN MASS.

Dear Commissioner McDonald,

Thank you for your response to our letter of March 22, 2006. In answer to your question, we have issued approximately 1000 stickers for the Transfer Station to Fairhaven residents. In answer to your second question, we would request the sum of \$20,000 dollars to assist with infrastructure improvements to be paid on or before August 15, 2006 and then an annual fee of \$15,000 to be paid in the month of July 2007 and in each additional July as long as Fairhaven wishes to continue this arrangement.

If you have any questions regarding this matter, please contact me directly at 508-758-4100 ext. 218.

For the Board of Health

  
Dale S. Barrows  
Agent



5.

# Town of Mattapoisett Board of Health

16 Main Street  
Mattapoisett, Massachusetts 02739

March 22, 2006

Town of Fairhaven  
Jeffery Osuch  
Executive Secretary  
40 Center St.  
Fairhaven, MA 02719

Dear Mr. Osuch,

At a recent Board of Health meeting, the subject of the use by Fairhaven residents of the Mattapoisett Transfer Station was discussed. At the time this arrangement was made, the Board was told it would be a temporary situation and that Fairhaven was moving to construct their own Transfer Station.

The Board wishes to know what the status is concerning the Fairhaven Transfer Station plans. At this time Mattapoisett is looking at upgrading our facility and doing some improvements to infrastructure at significant cost to us. If use by your residents of our facility is to continue, a host facility fee or use fee may need to be imposed to continue this arrangement.

Please let us know as soon as possible as to your plans so that we may move forward with our improvements. We can be contacted directly through our agent at 508-758-4100 ext. 8 or by mail at Mattapoisett Board of Health P. O. Box 434 Mattapoisett, MA 02739.

Thank you for your prompt response to this matter.

Daniel C. Lee  
Chairman

Russell L. Bailey

Carmelo Nicolosi

Cc: Fairhaven Board of Health  
Fairhaven Board of Public Works