



# Fairhaven Board of Selectmen

July 30, 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* and Peggy Aulisio of the *Advocate*.

Chairman Brian Bowcock called the meeting to order in the Town Hall Banquet Room at 6:33 p.m.

## MINUTES

- The Board voted to accept the minutes of the **July 16, 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 16, 2012** meeting, **executive** session, with an attachment at the request of Mr. Espindola. 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, July 31 –
  - 8:30 a.m. – Retirement Board
  - 2:00 p.m. – Meeting at the BPW – Fuss and O'Neill – Storm water
- Thursday, August 2 –
  - 7:30 to 9:00 a.m. – Quest Forum meeting in New Bedford
  - Noon – New School Brick Color Selection
  - 1:30 p.m. – New School job meeting
- Thursday, August 9 –
  - 1:30 p.m. – New School job meeting

## NEW SCHOOL FIRST REQUISITION

Mr. Osuch informed the Board that the first requisition for the New School was in and it totaled \$407,550. Mr. Murphy motioned to approved payment for the requisition. Mr. Espindola seconded. Vote was unanimous. (3-0).

## **CONCOM REQUEST FOR TOWN COUNSEL**

The Board read a request from the Conservation Commission to seek opinion from Town Counsel regarding an incident that occurred in the area of Shawmut Street, when an operator took an SUV off-road and damaged the protected salt marsh.

Mr. Espindola said that he wanted to invite ConCom chairman Andy Jones to a Board meeting to discuss the incident and ways to prevent future salt marsh damage instead of proceeding with a vote to authorize the use of Town Counsel in the incident. He said that he would rather expend the funds to prevent future damage than seek immediate legal counsel. He said that he wanted to make sure that they would treat the incident consistently with how it has been treated in the past. He said that the letter was just received in the Selectmen's office that day, and he would rather wait for the next meeting to act on the matter.

Dr. Bowcock said it was incumbent upon the Board to proceed with the counsel. He said that ConCom had followed protocol by contacting the Selectmen for permission to use Town Counsel.

Mr. Murphy also said that ConCom had followed the proper procedure and that the Selectmen consistently granted permission to use Town Counsel when other boards and committees requested it. Mr. Murphy motioned to grant permission to ConCom to seek the opinion of Town Counsel in the Shawmut Street matter. Dr. Bowcock seconded. Mr. Espindola dissented. Motioned passed, (2-1).

## **PLEASANT/FARMFIELD INTERSECTION**

The Board read correspondence from Police Chief Michael Myers in regards to a safety concern at the intersection of Pleasant and Farmfield Streets.

At a previous meeting, the Board had read requests to consider a four-way stop at the intersection. After forwarding the matter onto the Police Department, the Board learned that the intersection would not fulfill the criteria for creating a new four-way stop, as there has only been one accident at the intersection in the past three years. (See Attachment A).

The Board thanked Chief Myers for his prompt and thorough response to the matter. Mr. Murphy motioned to send the correspondence onto Jeannie Fernandes, who first contacted the Selectmen's Office regarding the intersection. Mr. Espindola seconded. Vote was unanimous. (3-0).

## **APPEALS ABSENTEEISM**

The Board reviewed correspondence from the Board of Appeals in regards to Appeals member Joseph Morra's absence. According to the correspondence, Mr. Morra had not attended a meeting since December 2011. As such, the Board of Appeals requested that the Selectmen consider re-appointing the position.

Dr. Bowcock asked Mr. Osuch how the Board could proceed with the matter. Mr. Osuch suggested that the Board could submit a letter to Mr. Morra asking him to express his intentions regarding serving on the Board. Mr. Murphy offered that the letter should have a deadline for a response from Mr. Morra so the Selectmen could make an appointment at the next meeting if necessary.

The Board agreed that there would be other people in Town interested in serving on the Board of Appeals. It was the consensus of the Selectmen to send a letter to Mr. Morra, asking him to respond with his interest in remaining on the Board of Appeals and asking him to provide a reason for his continued absence.

### **REMOTE PARTICIPATION**

Mr. Osuch told the Board that he had been asked by the Housing Authority to look into the possibility of the Town allowing the use of "remote participation" for committee members. In remote participation, committee members would be allowed to attend and participate in meetings from their phone or computer. Remote participation is allowed by law, Mr. Osuch said, but he thought that it started bad precedent by allowing a lower commitment level from board members.

Mr. Murphy said that he had sat on other boards that allowed remote participation and asked Mr. Osuch to get more information on what the law actually allows, for the next meeting.

### **CONDUIT HEARING – MILL RD/SHADY DRIVE**

At 7:00 p.m., Dr. Bowcock opened a hearing for a conduit location at Mill Road/Shady Drive. Dr. Bowcock noted that the abutters had been notified and the application had been previously approved by the proper authorities. He opened the hearing to public comment. There was no public comment. Mr. Murphy motioned to approve the application. Mr. Espindola seconded. Vote was unanimous. (3-0).

### **OUR LADY OF ANGELS FEAST**

The Board read a request for a three-day, all-alcohol license for the Our Lady of Angels Feast, scheduled for September 1 (5:00 p.m. to midnight), September 2 (noon to midnight) and September 3 (noon to 10:00 p.m.), 2012. The Board approved the request. Mr. Murphy motioned, noting that he could vote on the matter because he was only a volunteer for the Feast and there would be no conflict. Mr. Espindola seconded. Vote was unanimous. (3-0).

### **DOG PARK COMMITTEE APPOINTMENT**

The Board read a letter of interest from resident Ivey Winkler, asking to be appointed to the Dog Park Committee. The Board voted to appoint Ms. Winkler to the Dog Park Committee. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous.

### **NSTAR GAS PERMITS**

The Board reviewed a NSTAR gas permit applications for 18 Church St. The application had been previously approved by the BPW. The Board voted to approve the permit application. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

The Board reviewed a NSTAR gas permit applications for 15 Haste St. The application had been previously approved by the BPW. The Board voted to approve the permit application. Mr. Murphy motioned. Mr. Espindola seconded. Vote was unanimous. (3-0).

### **TOWN HALL AUDITORIUM APPLICATION**

The Board reviewed an application from the Sweet Apple Theater Production Company to hold a musical production of “The Wedding Singer” at the Town Hall from August 20 to 26, with August 20 to 22 serving as rehearsal dates. Additionally, the applicant had asked the Board to waive the auditorium fee for the rehearsal dates.

The Board asked if the production company had furnished proof of being a registered non-profit. Mr. Murphy pointed out that Traci Antil from the production company had submitted a letter to the Board explaining that the group was trying to obtain non-profit status but had been sidelined by a devastating fire at the Antil’s building in 2011.

The Board deliberated the matter. In discussing the topic of a janitor fee for the production, Mr. Espindola inquired about using a town volunteer to open the Town Hall for the production dates, to save the Town money and to prevent use of public funds for private use. Dr. Bowcock said that the janitorial fee is separate from the auditorium use fee, and it is paid for by the applicant, not the Town.

Mr. Murphy motioned to approve the auditorium use application for August 20 to 26, with the fee waiver for the rehearsal days of August 20, 21, and 22 only, and the applicant paying for a janitor on all nights. Mr. Espindola seconded. Vote was unanimous. (3-0).

### **BUILDING COMMISSIONER COMPLAINT**

The Board read a letter of complaint from Jeff Vanskyhawk, regarding an ongoing building permit that his neighbor pulled years ago and has continued to use.

Dr. Bowcock said that he had spoken with Building Commissioner Wayne Fostin about the matter and that the building permit in question had been renewed as required. Dr. Bowcock said that the topic was a civil matter between neighbors.

### **COMMUNITY CONNECTIONS WALK-A-THON**

The Board received a request from Community Connections to hold their annual Walk-a-thon along the Bike Path on September 15, 2012.

Mr. Murphy motioned to approve the request. Mr. Espindola seconded. Vote was unanimous. (3-0).

## **ALTERATION TO AQUACULTURE LICENSE**

The Board read a letter from Ashlee Kirkwood, co-applicant for a Round Island aquaculture application (the “Loo-Kirkwood” license). In her letter, Ms. Kirkwood explained that she would no longer be able to continue with her part in the permit application, but that she had spoken to co-applicant Matt Loo, and he was confident that he would be able to financially and physically sustain an aquaculture operation on his own. Mr. Osuch said that a finalized contract for the Loo aquaculture application would likely be completed in time for the next Board of Selectmen meeting.

## **BIKE PATH COMMITTEE APPOINTMENTS**

The Board reviewed a letter from BPW Chairman Steven Riley asking to make a collaborative effort in the appointment of the Bike Path Committee, with three appointments coming from the Board of Selectmen, and three appointments coming from the Board of Public Works.

Dr. Bowcock said that he had spoken to Mr. Riley about the matter. Dr. Bowcock said that the Bike Path Committee membership well-exceeds six appointed at the moment. He stated that since the Bike Path Committee doesn’t make decisions regarding regulation or funding, that as an advisory board, it can be overseen by both the Selectmen and BPW.

Dr. Bowcock said that there was also an effort underway to establish a Friends of the Bike Path Committee and re-establish a Bike Path Gift Account. The previous gift account had been closed prior to 2006, according to Town Accountant records. Dr. Bowcock said that the Selectmen’s Office should contact the BPW to see if they want to share jurisdiction over the gift account.

## **BBC WATERSHED RIDE**

The Board read a request from the Buzzard’s Bay Coalition to hold their annual Watershed Ride through Fairhaven on October 14, 2012. The Board was supportive of the event, but asked to communicate to the Coalition that they should remove any signs throughout Town promptly after the event.

Mr. Murphy motioned to approve the Watershed Ride through Town. Mr. Espindola seconded. Vote was unanimous. (3-0).

## **EXECUTIVE SESSION MINUTES**

Mr. Espindola approached the Board about the matter of executive session minutes. Mr. Espindola motioned to have the Selectmen’s Office upload approved executive session minutes online. Mr. Murphy seconded. Vote was unanimous. (3-0).

## **OTHER BUSINESS**

In other business:

- Mr. Murphy reminded the public that there were still plenty of summer and Bicentennial events left to enjoy this summer, and to check [www.Fairhaven-MA.gov](http://www.Fairhaven-MA.gov) for periodic updates.
- Mr. Espindola asked Mr. Osuch for an update on the Department of Revenue (DOR)'s Financial Review of the Town. Mr. Osuch said that the review was underway and would take a few weeks to complete.
- Mr. Espindola mentioned that he would like to attend a September 10 DOR seminar on regionalization of services. He said that the fee for the seminar would be nominal. Dr. Bowcock said that he could approach the Board at the next meeting with the seminar cost and they would consider paying the fee.

At 7:41 p.m., Mr. Murphy motioned to enter into Executive Session to discuss an ongoing neighborhood conflict at Courtlyn Way and the anaerobic digester, 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 8/13/2012)



Commonwealth of Massachusetts  
**TOWN OF FAIRHAVEN**  
**POLICE DEPARTMENT**

Michael J. Myers  
Chief Of Police

1 Bryant Lane  
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Fax: 508-997-3147  
[www.fairhavenpolice.org](http://www.fairhavenpolice.org)

July 26, 2012

Board of Selectmen  
Town Hall  
40 Center Street  
Fairhaven, Ma 02719

Gentlemen,

Per your correspondence, dated July 17, 2012, a request for a four-way stop sign at the intersection of Pleasant and Farmfield Streets, I have looked into the matter and at this time I do not feel the intersection warrants a four-way stop sign.

I reviewed the State guidelines related to establishing a four way regulated intersection and this intersection does not appear to fall into any of the required categories. However, as stated by the guidelines, in order to properly research the characteristics of the intersection a formal engineering study should be completed prior to any intersection controls being installed.

One of the requirements involves the number of crashes at the intersection during a specific time frame. In researching the number of crashes at this intersection I found there to be only one motor vehicle crash at that intersection in the past three years. This falls well below the required amount. Another category involves intersection volume. In order to qualify under this category the intersection would have to have a traffic volume of 500 units going through the intersection each and every hour for eight full hours. Again I believe this intersection would fall short of that requirement.

In reading the letters from the parties who have made this request it appears the main concern for this intersection may actually be the ability to see through the intersection. I made several passes through the intersection from all angles and found that the over growth from two of the homes on the North West and South West corners may be the main problem at this intersection. I spoke with the Highway Superintendant and he concurred with my findings. I have requested from the Building Department that a letter be sent to the two home owners to have their shrubbery trimmed to fall with in proper Town guidelines. I fully believe that this should take care of the issues that were presented to the board.

I have attached a copy of the State Guidelines pertaining to intersection controls for your review. If you have any questions or concerns please feel free to contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. Myers", with a long horizontal flourish extending to the right.

Michael J. Myers  
Chief of Police



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Massachusetts  
Office of the Selectmen

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July 17, 2012

To: Police Chief Michael Myers  
From: The Board of Selectmen  
Re: Requested four-way stop at Farmfield/Pleasant Street intersection

Chief Myers:

At their meeting on July 16, 2012, the Board voted to forward correspondence to you regarding a requested four-way stop at the Farmfield/Pleasant Street intersection for your department's review and consideration.

Please review the intersection in question and report any findings to the Board of Selectmen.

Sincerely,

Brian Bowcock  
Chairman

## **Section 2B.04 Right-of-Way at Intersections**

### **Support:**

01 State or local laws written in accordance with the "Uniform Vehicle Code" (see Section 1A.11) establish the right-of-way rule at intersections having no regulatory traffic control signs such that the driver of a vehicle approaching an intersection must yield the right-of-way to any vehicle or pedestrian already in the intersection. When two vehicles approach an intersection from different streets or highways at approximately the same time, the right-of-way rule requires the driver of the vehicle on the left to yield the right-of-way to the vehicle on the right. The right-of-way can be modified at through streets or highways by placing YIELD (R1-2) signs (see Sections 2B.08 and 2B.09) or STOP (R1-1) signs (see Sections 2B.05 through 2B.07) on one or more approaches.

### **Guidance:**

02 *Engineering judgment should be used to establish intersection control. The following factors should be considered:*

- A. Vehicular, bicycle, and pedestrian traffic volumes on all approaches;*
- B. Number and angle of approaches;*
- C. Approach speeds;*
- D. Sight distance available on each approach; and*
- E. Reported crash experience.*

03 *YIELD or STOP signs should be used at an intersection if one or more of the following conditions exist:*

- A. An intersection of a less important road with a main road where application of the normal right-of-way rule would not be expected to provide reasonable compliance with the law;*
- B. A street entering a designated through highway or street; and/or*
- C. An unsignalized intersection in a signalized area.*

04 *In addition, the use of YIELD or STOP signs should be considered at the intersection of two minor streets or local roads where the intersection has more than three approaches and where one or more of the following conditions exist:*

- A. The combined vehicular, bicycle, and pedestrian volume entering the intersection from all approaches averages more than 2,000 units per day;*
- B. The ability to see conflicting traffic on an approach is not sufficient to allow a road user to stop or yield in compliance with the normal right-of-way rule if such stopping or yielding is necessary; and/or*
- C. Crash records indicate that five or more crashes that involve the failure to yield the right-of-way at the intersection under the normal right-of-way rule have been reported within a 3-year period, or that three or more such crashes have been reported within a 2-year period.*

05 *YIELD or STOP signs should not be used for speed control.*

### **Support:**

06 Section 2B.07 contains provisions regarding the application of multi-way STOP control at an intersection.

*Guidance:*

07 *Once the decision has been made to control an intersection, the decision regarding the appropriate roadway to control should be based on engineering judgment. In most cases, the roadway carrying the lowest volume of traffic should be controlled.*

08 *A YIELD or STOP sign should not be installed on the higher volume roadway unless justified by an engineering study.*

*Support:*

09 The following are considerations that might influence the decision regarding the appropriate roadway upon which to install a YIELD or STOP sign where two roadways with relatively equal volumes and/or characteristics intersect:

- A. Controlling the direction that conflicts the most with established pedestrian crossing activity or school walking routes;
- B. Controlling the direction that has obscured vision, dips, or bumps that already require drivers to use lower operating speeds; and
- C. Controlling the direction that has the best sight distance from a controlled position to observe conflicting traffic.

**Standard:**

**10 Because the potential for conflicting commands could create driver confusion, YIELD or STOP signs shall not be used in conjunction with any traffic control signal operation, except in the following cases:**

- A. If the signal indication for an approach is a flashing red at all times;**
- B. If a minor street or driveway is located within or adjacent to the area controlled by the traffic control signal, but does not require separate traffic signal control because an extremely low potential for conflict exists; or**
- C. If a channelized turn lane is separated from the adjacent travel lanes by an island and the channelized turn lane is not controlled by a traffic control signal.**

**11 Except as provided in Section 2B.09, STOP signs and YIELD signs shall not be installed on different approaches to the same unsignalized intersection if those approaches conflict with or oppose each other.**

**12 Portable or part-time STOP or YIELD signs shall not be used except for emergency and temporary traffic control zone purposes.**

**13 A portable or part-time (folding) STOP sign that is manually placed into view and manually removed from view shall not be used during a power outage to control a signalized approach unless the maintaining agency establishes that the signal indication that will first be displayed to that approach upon restoration of power is a flashing red signal indication and that the portable STOP sign will be manually removed from view prior to stop-and-go operation of the traffic control signal.**

**Option:**

**14 A portable or part-time (folding) STOP sign that is electrically or mechanically operated such that it only displays the STOP message during a power outage and ceases to display**

the STOP message upon restoration of power may be used during a power outage to control a signalized approach.

Support:

15 [Section 9B.03](#) contains provisions regarding the assignment of priority at a shared-use path/roadway intersection.

### **Section 2B.05 STOP Sign (R1-1) and ALL WAY Plaque (R1-3P)**

**Standard:**

01 **When it is determined that a full stop is always required on an approach to an intersection, a STOP (R1-1) sign (see [Figure 2B-1](#)) shall be used.**

#### **Figure 2B-1 STOP and YIELD Signs and Plaques**



02 **The STOP sign shall be an octagon with a white legend and border on a red background.**

03 **Secondary legends shall not be used on STOP sign faces.**

04 **At intersections where all approaches are controlled by STOP signs (see [Section 2B.07](#)), an ALL WAY supplemental plaque (R1-3P) shall be mounted below each STOP sign. The ALL WAY plaque (see [Figure 2B-1](#)) shall have a white legend and border on a red background.**

05 **The ALL WAY plaque shall only be used if all intersection approaches are controlled by STOP signs.**

06 **Supplemental plaques with legends such as 2-WAY, 3-WAY, 4-WAY, or other numbers of ways shall not be used with STOP signs.**

Support:

07 The use of the CROSS TRAFFIC DOES NOT STOP (W4-4P) plaque (and other plaques with variations of this word message) is described in [Section 2C.59](#).

*Guidance:*

08 *Plaques with the appropriate alternative messages of TRAFFIC FROM LEFT (RIGHT) DOES NOT STOP (W4-4aP) or ONCOMING TRAFFIC DOES NOT STOP (W4-4bP) should be used at intersections where STOP signs control all but one approach to the intersection, unless the only non-stopped approach is from a one-way street.*

Option:

09 An EXCEPT RIGHT TURN (R1-10P) plaque (see [Figure 2B-1](#)) may be mounted below the STOP sign if an engineering study determines that a special combination of geometry and traffic volumes is present that makes it possible for right-turning traffic on the approach to be permitted to enter the intersection without stopping.

Support:

10 The design and application of Stop Beacons are described in Section 4L.05.

### **Section 2B.06 STOP Sign Applications**

*Guidance:*

01 *At intersections where a full stop is not necessary at all times, consideration should first be given to using less restrictive measures such as YIELD signs (see Sections 2B.08 and 2B.09).*

02 *The use of STOP signs on the minor-street approaches should be considered if engineering judgment indicates that a stop is always required because of one or more of the following conditions:*

- A. The vehicular traffic volumes on the through street or highway exceed 6,000 vehicles per day;*
- B. A restricted view exists that requires road users to stop in order to adequately observe conflicting traffic on the through street or highway; and/or*
- C. Crash records indicate that three or more crashes that are susceptible to correction by the installation of a STOP sign have been reported within a 12-month period, or that five or more such crashes have been reported within a 2-year period. Such crashes include right-angle collisions involving road users on the minor-street approach failing to yield the right-of-way to traffic on the through street or highway.*

Support:

03 The use of STOP signs at grade crossings is described in Sections 8B.04 and 8B.05.

### **Section 2B.07 Multi-Way Stop Applications**

Support:

01 Multi-way stop control can be useful as a safety measure at intersections if certain traffic conditions exist. Safety concerns associated with multi-way stops include pedestrians, bicyclists, and all road users expecting other road users to stop. Multi-way stop control is used where the volume of traffic on the intersecting roads is approximately equal.

02 The restrictions on the use of STOP signs described in Section 2B.04 also apply to multi-way stop applications.

*Guidance:*

03 *The decision to install multi-way stop control should be based on an engineering study.*

04 *The following criteria should be considered in the engineering study for a multi-way STOP sign installation:*

- A. Where traffic control signals are justified, the multi-way stop is an interim measure that can be installed quickly to control traffic while arrangements are being made for the installation of the traffic control signal.*
- B. Five or more reported crashes in a 12-month period that are susceptible to correction by a multi-way stop installation. Such crashes include right-turn and left-turn collisions as well as right-angle collisions.*

C. *Minimum volumes:*

1. *The vehicular volume entering the intersection from the major street approaches (total of both approaches) averages at least 300 vehicles per hour for any 8 hours of an average day; and*
2. *The combined vehicular, pedestrian, and bicycle volume entering the intersection from the minor street approaches (total of both approaches) averages at least 200 units per hour for the same 8 hours, with an average delay to minor-street vehicular traffic of at least 30 seconds per vehicle during the highest hour; but*
3. *If the 85th-percentile approach speed of the major-street traffic exceeds 40 mph, the minimum vehicular volume warrants are 70 percent of the values provided in Items 1 and 2.*

D. *Where no single criterion is satisfied, but where Criteria B, C.1, and C.2 are all satisfied to 80 percent of the minimum values. Criterion C.3 is excluded from this condition.*

Option:

05 Other criteria that may be considered in an engineering study include:

- A. The need to control left-turn conflicts;
- B. The need to control vehicle/pedestrian conflicts near locations that generate high pedestrian volumes;
- C. Locations where a road user, after stopping, cannot see conflicting traffic and is not able to negotiate the intersection unless conflicting cross traffic is also required to stop; and
- D. An intersection of two residential neighborhood collector (through) streets of similar design and operating characteristics where multi-way stop control would improve traffic operational characteristics of the intersection.