



**TOWN OF FREETOWN  
BOARD OF SELECTMEN  
3 North Main Street/P.O. Box 438  
Assonet, MA 02702-0438  
PHONE: 508-644-2201; FAX: 508-644-3342**

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**MINUTES OF MEETING OF  
TUESDAY, OCTOBER 18, 2016**

**FREETOWN ELEMENTARY SCHOOL AUDITORIUM  
43 BULLOCK ROAD  
EAST FREETOWN, MA 02717**

**5:30 P.M. Call to Order** Chairman Paul Sadeck calls the meeting to order at 5:36p.m. Others present are Selectman Robert Jose and Selectman Lisa Pacheco, Town Administrator Jack Healey and Town Counsel Mark Reich.

**6:00 P.M. Board of Health Variance - 4 Cleveland Park Ave. – Abutters Notified**  
Rebecca Baptista from Silva Engineering & Associates is present. Abutters were notified and all Green Cards have been returned as follows: Town of Freetown, Dale & Marcie Chace, Albert Foster, Jr., William Betts, Jr., Kathleen A. Cronan, Richard Armitage, Roderick & Diane Johnson. The property is 7+ acres on Long Pond, only half-an-acre is useable. The septic is as close to the wetlands as DEP allows. This will be a deed restricted house, limited to 2 bedrooms. Selectman Jose asks if they will stay outside the 50' buffer from the wetlands. Ms. Baptista confirms they will. They maintain 100' buffer with the other wells, the variance is needed to allow the septic to be 84' from one of them. The well in question is on a vacant property, the building on that property is all boarded up. Mr. Bernardo agrees with everything Ms. Baptista spoke of and recommends this variance. Selectman Pacheco asks if there are any abutters are present. Mr. George Chace of 3 Cleveland and Ms. Margaret Jamal of 16 Pickens are present and have no objections. Motion (Pacheco/Sadeck) to approve with the waiver of the setback for the septic system, a reduction in the setback of a soil absorption system to a well from 100' to 84' and a reduction in the setback of a soil absorption system to a bordering vegetated wetlands from 75' to 51.9', and also a deed restriction of 2 bedrooms. Passed unanimously.

**Weekly Public Discussion**

**Consent Agenda:**

**Board of Selectmen: Action relative to:**

- Discuss Building Committee update – Selectman Pacheco explains that, after some discussion with Atty Reich, the Town doesn't have to go out for engineering services. She has contacted Kelly Engineering, who has done a lot of work for the town, and will bring their proposal to the Building Committee. If approved, the site evaluation will provide a full assessment of the owned lands, to see what land is suitable for what buildings. This saves us time, around a month and a half, as we don't have to have an RFP/RFQ. The next step is an OPM, which is included in the Article for tonight's Special Town Meeting. Before we go forward with that, we have to approve a Designer

Selection procedures, as required by law.

- Approve Designer Selection Procedures - Atty. Mark Reich says we are following the design selection process as laid out in Mass General Law chapter 7c. That statute lays out the process involved in the design and construction of public buildings. He says Selectman Pacheco just stated this but the engineering study would do this. Atty. Reich has reviewed the proposal Selectman Pacheco spoke of and it is a very broad proposal. He has provided a more appropriate contract form, developed for municipal use. The issue with respect to hiring an owner's project manager is that you need to hire this for a project in excess of \$1.5 million. We don't quite have a project yet, as we don't have funding or approval, but the Article tonight is the first step in getting the OPM. The OPM is required to be on board prior to the architect, as the OPM assists in hiring the architect. But even before the OPM you need to adopt the Designer Selection Procedure. Atty. Reich has provided Selectman Pacheco with a link to the Inspector General's website which contains model Procedures. KP Law has used that model before and really likes them. This is how the town engages this process, it lays out the process for the Town. Once these are accepted, anyone who answers to an RFQ for the Town knows exactly what procedure the Town uses. They can be used for any project and updated in the future as needed. The Procedures address who is the awarding authority, who approves the contracts, the RFQ process, what is advertised, how finalists are chosen and ranked, etc. These Procedures are comprehensive and the town should review them carefully as it informs everyone what the process will be. Selectman Sadeck asks if the Board adopts them or the Building Committee. Atty. Reich says it is the Board, as the Board is the Awarding Authority. Selectman Sadeck the Board will review this and act at the next Board meeting, if appropriate. The Board agrees with Selectman Sadeck.
- Discuss insurance with the new snow plow contract with Highway Surveyor Charles Macomber. Mr. Macomber explains the new contracts we issued this year are asking for a lot in his opinion, the commercial liability naming the town are increasing the insurances. He has heard figures from \$2,000-5,000. He says as of right now, they have 2 subcontractors that have met the requirements. Selectman Sadeck requests clarification, asking if naming the Town raises the cost by that much. Mr. Macomber says yes, that is his understanding. Selectman Sadeck says he can't imagine that is correct, but the contractors in attendance agree with Mr. Macomber. The Board hears comments from contractors talking about the cost being prohibitive. Mr. Macomber says this seems to be the major hurdle. He understands requiring commercial plates, but the major kicker is the commercial liability insurance and naming the Town. He says we are going from a fleet from 40 plow drivers to, right now, 8 (6 Town trucks and 2 subcontractors). Selectman Sadeck says he is confused: if he plows with regular plates and he hits something, he's not covered because he's running a business. Selectman Pacheco asks for a show of hands on how many people have commercial plates on their plow trucks, a majority of the subcontractors say they do. Selectman Jose asks the subcontractors if the higher rates are due to the commercial policy or if it's from naming the Town. The consensus is naming the Town. The subcontractors say their liability is high but putting the Town as the insured is killing them. Various subcontractors have a discussion amongst themselves about what is and isn't raising the rates.

Selectman Sadack asks Atty. Reich to address this. Atty. Reich says we have worked with the Town's insurance carrier this year. They have said if it is an individual operating not as a commercial vehicle, the company won't cover them if they are plowing as the town. It is essentially operating uninsured. He says the issue of naming the Town as an additional insured is an issue on top of this, separate from having commercial insurance. This is a policy decision as a Town, it would allow the town to file a claim on the vendors insurance policy. It is generally recommended when the Town is working with vendors that are acting on the Town's behalf, but it is not a requirement. Without this, the Town would look to the vendor to put in the claim, the Town would not be able to make a direct claim. Atty Reich says the Town simply has to make a decision which way it wants to go. Selectman Jose says if there was a claim brought against the town, would the Town defend that claim if it wasn't named on the policy. Atty. Reich says the claim would be brought as 2 separate claims. The Town has its insurance and the contractor has their insurance. There are indemnification and the Town isn't responsible for the contractor, however will still be brought into the claim.

Selectman Sadeck says he's hearing that, at a bare minimum, we need a commercial plates and commercial insurance. Atty Reich agrees, saying you wouldn't want less than that. Selectman Sadeck says the issue arose last year when someone damaged a car and it wasn't taken care of. Mr. Macomber is asked what happens in this situation in the past. He says that he tells the driver to take care of it, and if the driver doesn't do that, the driver is fired and Mr. Macomber takes care of it out of his own pocket. Atty Reich says that isn't right, what happens if it was damage to a person. Mr. Macomber says he doesn't have an answer for that. He says we have a major issue if we don't find an agreement we won't have Stop & Shop running, schools will be closed, emergency services will be affected, etc, because he won't be able to plow the roads. Atty. Reich asks what exactly he is objecting to, but Mr. Macomber doesn't know. He says we need to come to a fair agreement, but he doesn't know what that entails. If the issue of naming the town is the cause of this situation, and the town has the ability to waive that, then maybe that is the way to go. Mr. Macomber understands the need for commercial insurance and plates. He understands these people might need to step up because something bad might happen. He reiterates: if the Town sticks to its guns on these requirements, we will not have anyone plowing the streets. He asks what the contingency plan is in that case? Selectman Sadeck says the snow will get plowed, but it may be slow going. More input from the subcontractors is heard. One subcontractor says everyone he's talked to doesn't have an issue with commercial plates and upping the insurance, it's adding the town and that liability that will bankrupt them. Selectman Sadeck says that's what he's hearing as well.

Selectman Pacheco asks by a show of hands if the requirements were to get commercial plates and adequate insurance (everything but not naming the Town), how many of the subcontractors would be in favor of that. A vast majority of the subcontractors raise their hands. Atty. Reich says it is separate issues. He asks for another show of hands, is the issue naming the Town on their insurance policies. Even more hands go up to this. Atty. Reich asks if that were off the table, would there be an issue. The consensus seems to be

naming the Town on insurance policies is the main issue here. Atty. Reich says the burden of the claims would now go on the subcontractors. Selectman Sadeck asks how many people don't have commercial plates, a few subcontractors raise their hand. He asks if these requirements are in place, how many of them would not plow for the Town? Only one hand remains. Selectman Sadeck wants everyone to know this change has been a long time coming, but it's been pushed back repeatedly. He says we can't continue not to change this because it is going to hurt people. He understands the concerns and feels the subcontractors' pain, but we have to look at the big picture. Selectman Pacheco appreciates our snow plow drivers and thanks everyone for what they do. Motion (Pacheco/Jose) to have the requirements be commercial plates and a minimum \$300,000/\$100,000 liability insurance. Selectman Jose clarifies, no more naming the Town, 300/100 commercial insurance. Selectman Pacheco agrees, Atty. Reich says the subcontractors would have to submit the paperwork for claims. Passed unanimously.

- Approve Abatements for the month of September 2016, as submitted by Fire Chief Gary Silvia. Motion (Pacheco/Jose) to approve in the amount of \$50,765.36. Passed unanimously.
- Sign State Election Warrant, as submitted by Jacqueline Brown, Town Clerk. Motion (Jose/Pacheco) to sign. Passed unanimously.
- Discuss new Public Records Law. KP Law has a training session planned on the changes to the law on November 3. Atty. Reich says there is quite an extensive change to the law and it requires each town to designate an official responsible for Public Records requests. The law also ups the amount of time a Town has to produce the records but it strengthens enforcements of the law. KP Law would like each town understand this and attend the trainings. The new law will put a burden on the towns and we caution the response or lack of response. You have to pay attention to the response to these things. He stresses that this is a major revamp.
- Town Administrator's Report. Jack reads his report that he emailed the Board, recapping the tasks he's been working on this week. Selectman Pacheco asks about the MMA meeting, asking what topics are discussed there. Mr. Healey says there are a bunch of them. The Town Hall is looking "spiffy" now that the painting is done. Selectman Sadeck explains that the Highway surveyor is reconstructing the front of the building, removing the old fire truck ramp.
- Discuss and Sign Water Agreement with City of Fall River. Selectman Sadeck explains that the Water and Sewer agreement has been reached with the City of Fall River and the Commissioners will be signing it soon. The agreement is not ready for signatures right now, but will be soon. There were questions on maximum length allowed, but Selectman Sadeck has learned the Board can sign an intermunicipal agreement for up to 25 years, which Atty. Reich confirms. Selectman Jose asks about how water bleeding will be handled. Mr. Healey says we are able to bleed up to 220,000 gallons per day at no cost, which we don't have to do currently, so it is not an issue. Selectman Sadeck says the only thing we have to pay for is the small bleeder and three meters. He also says the THMs have gone down substantially.

#### **Board of Health:**

**Personnel Board:**

- Discuss increasing Water Department Senior Clerk's hours and sign change of status if approved. Selectman Sadeck explains that with Chandler there and with all the expansion in the Water Department, there has been much more work in that department in that office in recent months. Selectman Pacheco thinks it's only going to get more busy in that office, with the new Water Agreement now allowing Innovation Way to really take off. She would rather be proactive than reactive on this. The Board agrees that the hours should be increased in that department. Motion (Sadeck/Jose) to increase the hours to 36 hours. Passed unanimously.
- Discuss/Appoint/Sign Change of Status for Library Technician, as submitted by Library Director, effective October 18, 2016. There is no update on this just yet, and a meeting is scheduled on Friday to decide it. Selectman Pacheco relays the story behind the delay on this to Atty. Reich.
- Request from Conservation Commission to make them Special Municipal Employees. This agenda item was passed over.
- Sign Change of Status form for Jessica Thomas, effective July 28, 2016. Motion (Sadeck/Jose) to sign. Passed unanimously.
- Sign Change of Status for Judy Reese, as submitted by Council on Aging Director Barbara Lafleur, effective October 10, 2016. Motion (Sadeck/Jose) to sign. Passed unanimously.
- Sign Change of Status for Kara Pigeon, Lisa Podielsky and Felicia Balbi as Lock up Attendants, as submitted by Chief Abbott, various effective dates. Motion (Sadeck/Jose) to sign. Passed unanimously.
- Sign Change of Status for John Lopes for Reserve Police Officer, as submitted by Chief Abbott, effective October 3, 2016. Motion (Sadeck/Jose) to sign. Passed unanimously.
- Sign Change of Status for Zachary Petitpas, Cameron Alves, and and Andrew Wilkinson, as submitted by Chief Silvia, effective October 1, 2016. Motion (Sadeck/Jose) to sign. Passed unanimously.
- Appoint Kevin Bernardo to Cultural Council, effective October 18, 2016. Motion (Sadeck/Jose) to appoint. Passed unanimously.
- Accept letter of resignation from Michael T. McCue from the Board of Library Trustees, effective with the 2017 Annual Town Election. Motion (Sadeck/Jose) to accept. Passed unanimously.
- Discuss and appoint a new Finance Committee Member, as recommended by the Finance Committee. The Finance Committee is currently meeting, so this matter cannot be decided until their input is received.

**New Business**

- Dates for upcoming Board of Selectmen Meetings November 14<sup>th</sup>, November 28<sup>th</sup>, December 12<sup>th</sup>, January 9<sup>th</sup> and January 23<sup>rd</sup>. Selectman Pacheco says she may want to schedule a Board meeting before the next Building Committee meeting.

**Old Business:**

- Painting of Town Hall.

- Ongoing projects at Town Hall.
- Freetown Screw update

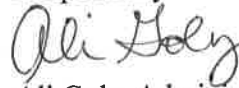
**Executive Session:**

- The following executive session was posted as part of the meeting's Agenda, but the Board did not enter into executive session:

M.G.L. c.30A, Sec. 21(a)(3) - To discuss strategy with respect to litigation with the City of Fall River regarding a water agreement if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares; Water Commissioners to be in attendance.

The Board will recess until the Special Town Meeting, and potentially return to open session following, otherwise, the meeting will be adjourned as part of the Special Town Meeting.

Respectfully Submitted,



Ali Golz, Administrative Assistant