



TOWN OF FREETOWN  
BOARD OF SELECTMEN  
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MINUTES OF MEETING OF MONDAY, AUGUST 6, 2018  
COUNCIL ON AGING  
227 CHACE RD, EAST FREETOWN, MA 02717

**5:45 P.M. Call to Order.** Selectman Robert P. Jose calls the meeting to order at 5:53pm. Also present: Selectmen Charles B. Sullivan, Selectmen Lisa A. Pacheco, Town Administrator David DeManche and Administrative Assistant Ali Golz. The meeting is being recorded by FREECAM. Resident Gary Mendes, 178 Chace Road, and resident Mark Rosofsky, 115 Chace Road, will be recording later in the meeting. Chairman Jose asks them to declare they are recording once the time comes.

**5:45 P.M. Executive Session**

At 5:53pm, motion (Sullivan/Pacheco) to enter into executive session, under the following exemption, and return to open session following. Roll Call Selectman Robert P. Jose, Selectman Charles B. Sullivan, Selectman Lisa A. Pacheco, all voted in the affirmative when polled.

M.G.L. c.30A, Sec. 21(a)(2) To conduct strategy sessions in preparation for contract negotiations with non-union personnel, Alexandra Golz, Administrative Assistant

At 6:05pm, motion (Pacheco/Sullivan) to exit executive session and return to open session. Roll Call Selectman Robert P. Jose, Selectman Charles B. Sullivan, Selectman Lisa A. Pacheco, all voted in the affirmative when polled.

**6:00 P.M. Board of Health Variance – 5 High Street**

Niles Zager from Zenith Engineering is present, along with Derek Macedo, Board of Health Agent. Mr. Zager says they are asking for a variance to allow for a well within 20' of the property line, to 10'. He says the risk distance between the well and the septic system is more important than the distance between the well and the property line. We are asking for a local upgrade from Title 5. Due to the slope on the property, the septic tank and pump needs to be more than 3' below grade, which is the second variance requested. There are no water table issues here with the way it is designed, but if the well variance is not granted, the system would need to be moved, deeper into the ground. We meet all the other requirements per Title 5. Selectman Jose asks the state statute; Mr. Zager says there is not one. Selectman Pacheco reads the abutters green cards aloud. Michael Coogan, an abutter, is present. He talks about the history of the land, saying the lot is less than a quarter acre in size, which is too small. He does not like waiting these requirements as it affects his property. Mr. Zager says he understands, but that his client has a right to upgrade their septic system. He says if there is a failure, it will

go down the hill, not sideways into Mr. Coogan's property. Mr. Coogan says his property is downhill. After a discussion about why Mr. Zager is requesting variances, Mr. Coogan says he objects to both requests. Selectman Pacheco asks for input from Mr. Macedo. He says this is the least impactful for this property, he would rather see these variances than other options. Selectman Jose asks if the system is currently being used. Mr. Zager says yes, but points out that it is in failure, which Selectman Pacheco says is more of an issue. Selectman Sullivan understands Mr. Coogan's points, but if the tanks go deeper into the ground, they are going to impact groundwater. Mr. Coogan asks what the minimum lot size is in Freetown; Selectman Jose says 70,000 square feet. Mr. Coogan asks what the size is of this lot; Mr. Zager was 12,000. Mr. Coogan says isn't in favor with this because this doesn't conform to the current lots. Selectman Jose says we have areas in town that don't conform now because they were in place before subdivision control in the 1970s, they are all non-conforming, which is exactly what the variance process is for. If this has been left vacant for a period of time, he might agree with Mr. Coogan, however he doesn't because of the background. Mr. Coogan says it has been left vacant in the past and the house has been vacant since July 30. Mr. Zager says he had to speak to the current renters on this. The only way to make this home fully compliant without the variances would be the tear it down and rebuild, which is not the intent of Title 5. Mr. Zager says we need to keep the tanks down as low as possible on the property. Mr. Coogan asks if these variances are being requested to save a deck. Mr. Zager says the existing well, which is under the rear deck, is being decommissioned because it would force the tanks to be pushed up the hill even farther, meaning they have to go deeper into the ground. He suggested the new well, as the old one would probably be in failure soon anyway, and reminds the Board that there are no Title 5 requirements for setbacks for a well from a property line, it is just a town requirement. Selectman Jose asks if he didn't move the well, would Mr. Zager still be seeking a variance? Mr. Zager says he would, as that would push the tank at least 12' into the ground, instead of the 6' they are seeking tonight. He also says he doesn't know if they would even be able to dig down that deep, due to the ledge. Selectman Jose confirms that this property would have a 3 bedroom deed restriction; Mr. Zager said there would be.

VOTE: Motion (Jose/Sullivan) to allow the requested variance, passed unanimously.

**6:00 P.M. Board of Health Variance – 82 Locust Street**

Niles Zager from Zenith Engineering is again present. This septic system is in failure. The requested variances are for Title 5. No abutters needed to be notified. Mr. Zager is asking for a reduction of SAS to groundwater from 4' to 3' and the use of a sieve analysis. Selectman Pacheco asks Mr. Macedo for his input; Mr. Macedo would rather see this than a pump, he recommends approval. The Board has no further questions.

VOTE: Motion (Jose/Sullivan) to approve the variances as requested, passed unanimously.

**6:00 P.M. Discussion with South Coast Rail regarding Richmond Rd.**

Jean Fox, MassDOT/South Coast Rail project manager is present. They have met previously with Mr. DeManche and other public safety officials. Mrs. Fox has brought two members of her team, Rick Carey and Jeff Kellner. Mrs. Fox says this is the most challenging crossing in the entire project. She gives a brief history of the South Coast Rail project, saying it is now a diesel service, with a southern triangle of Taunton, Fall River and New Bedford connecting to existing service in Middleboro. The Freetown station will be near the mini storage on South Main Street. The goal is to have this implemented by the end of 2022. This would be an hour and a half ride into South Station. We have the army core of engineers that have approved this already. The Freetown station is 107 spaces, but have room for expansion.

Mrs. Fox recaps the previous meetings with the Town on this, where different alternatives were discussed, including closing Forge Road and now, a one-way alternative for Forge Road. Mrs. Fox says this crossing provides numerous sightline challenges. She asks Mr. Kelley to speak to the technical aspects of this design alternative from 2016, which shifted Richmond Road to the south in an S-curve formation. This design required numerous walls that presented new problems. After discussions with Town officials and at the suggestion of Selectmen Jose, a new design alternative was created with Forge Road becoming a one-way road from the intersection of Richmond Road to the culvert. This would also allow Forge Road to return to a two-way road temporarily for emergency access. The Richmond Road alignment would be impacted far less, with a 10-foot median added on either side of the crossings. There are still some walls involved but they are much smaller. Mr. Kelley shows an overlay of the two alternatives, showing how they differ.

Mrs. Fox says she wanted to keep the Board updated. She feels they have made good progress on this project. She notes that as a member of the Board that went forward with the replacement of the Forge Road bridge, she certainly wants to keep that in use, citing public safety. Selectman Jose asks if the one way is north or south; Mr. Kelley says it will be south. Selectman Jose asks if the reason the impact is getting larger is because of the speed of the train? Mrs. Fox says it isn't because of the speed, it's due to the clearance requirements, the site being non-conforming is the issue. She says you would have 3 trains coming from Fall River and 3 coming from New Bedford each morning, and they trump freight. Selectman Pacheco asks if everyone is on board with this as far as public safety; Mrs. Fox says she doesn't have it in writing yet, but they were on board with it. Mr. DeManche says the general consensus was that the team from DOT worked regarding the suggestions from the town. Selectman Sullivan asks if there are restrictions on turns; Mr. Kelly says no, but there will be signage for low clearance vehicles on Locust Street. Mrs. Fox says we have spoken with some of the property owners. Selectman Pacheco asks who South Coast Rail are meeting with next; Mrs. Fox says she is looking for direction from the Board on that. Selectman Pacheco would like to see a sign-off from each department on the project, signifying that they approve of the

direction of the project, not necessarily that they approve the project. Mrs. Fox likes that suggestion. Mr. DeManche would generate that document.

VOTE: Motion (Pacheco/Sullivan) to reach out to Department Heads and obtain sign offs from each of them, passed unanimously.

Mr. Gary Mendes thinks it is a horrible idea to have trains come through town at 70 miles per hour, asking if they townspeople get to vote on this. Mrs. Fox says they do not. Mrs. Fox says this has been out there for 25 years and that trains go through a lot of towns in the Commonwealth to connect all the cities. She says the MBTA has a great safety record regarding crossings. There will be a public forum in the fall, possibly in October, she will work with Mr. DeManche to schedule this. Steve Tripp, 4 Alexandra Drive, asks if it's a good idea to go by Excel Recycling's container wall at 70 miles per hour, saying they will be falling on the tracks. Mr. Mendes also wants DOT to be responsible for cracks in foundations. Selectman Jose says we are outside the scope of this discussion, that the residents should ask these questions in October.

**6:00 P.M. Public Hearing – No Parking Zones: Slab Bridge Rd., High St., Simpson Lane and South Main Street.**

Selectman Sullivan previously asked for this to be on, as the parking areas have been in place for years, but they've not been lawfully voted on. Highway Surveyor Charles Macomber has supplied a letter listing the distances presently signed on High Street, Simpson Lane, Slab Bridge Road and South Main Street. Selectman Sullivan says he would like to make an amendment to the High Street portion of the letter, as it should be 425' on the west side from South Main Street, and 75' on east side. Selectman Jose reads the letter aloud. There is some confusion as to what exactly should be voted on for South Main Street, as the letter identifies the wrong side of the street as a no-parking area and there is parking in the area of St. Bernard's Church, but not all of it. The Board will wait on the no parking zone for South Main Street until the confusion is clarified. Selectman Jose reads the letter aloud, with the corrections included:

- High Street, from South Main Street, 425' on the west side and 75' on the east side.
- Simpson Lane, north side, from S. Main St to a point opposite Nelson Lane, 450'
- Slab Bridge Road, south side, from a point 450' west of Payne Road heading east, 1200'

Motion made and seconded with discussion. Mr. Rosofsky questions the parking in this area of South Main Street, as you are not supposed to park vehicles on sidewalks, which happens here. As wheelchairs going down the sidewalk, they must use the street when cars are parked on the sidewalk. Selectman Sullivan says the parking was done like this because of the layout of the road allowing for it more than if cars were parked on the east side of the street. Selectman Jose agrees with Mr. Rosofsky's point, however, maybe we should bring this to the Police Chief's

attention for his input. Mr. Rosofsky also mentions that perhaps the telephone poles may need to be moved to better accommodate the sidewalk.

VOTE: Motion (Sullivan/Pacheco) to have no parking zones as stated on High Street, Simpson Lane and Slab Bridge Road, passed unanimously

**Consent Agenda:**

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

- Discuss approval process for Temporary No Parking signs posted by Town Committees/Boards. Selectman Jose thinks when there is an event in town that require no parking signs go up, there should be an approved signage plan first. Selectman Pacheco asks if the Police Department is asked for approval. Selectman Jose can't speak to anything except for Fireworks, and they had a plan, but then changed it. Selectman Sullivan says, in relation to the fireworks, there has been the same parking plan for years. Selectman Jose says this year it was different, with no resident parking at the top of the hill. Selectman Sullivan says 2 events are the Fireworks as well as the Robinson Estates event. Selectman Jose thinks that the authority is given to someone that doesn't necessarily have the approval, coming before the Board would give residents a chance to ask questions or share concerns. Selectman Sullivan says we as a Board give the Chief of Police the laws/Rules to do this, but this may be putting another tier on this that might not be necessary. Regarding the vendors, this can be difficult because people park their cars early in the morning and then in the afternoon when a vendor wants to put up their booth they don't have a space. Selectman Jose says there are other places for parking for the Fireworks vendors and such, now that they don't have the bonfire, but this isn't just specific to the fireworks. Selectman Pacheco says part of her agrees with Selectman Sullivan, since we really don't need any more red tape, but she is worried about snow removal time and bans, so this should be discussed. She says she's sure people abuse temporary no parking, but they aren't enforceable anyway. She agrees that event coordinators should come with a plan, either before the Board or just to the Chiefs. She says we should come up with a policy that gets attached to whatever the coordinators fill out, they'll have to identify where the temporary no parking zones are.

VOTE: Motion (Pacheco/Sullivan) to develop a policy for temporary no parking signs, passed unanimously.

The Board would like to see this in the first week of September, but Selectman Jose says whenever it is ready; if the Chief is away, he is away.

- Discuss One Call System. Mr. DeManche explains that we have 229 residents signed up to date, but there are duplicates. Selectman Pacheco says we can review this in 6 months. Selectman Sullivan asks if they are duplicate phone numbers; Mr. DeManche explains they are duplicates from the same address. Mr. Rosofsky doesn't like getting rid of

duplicates, because everyone is entitled to being notified if they want to sign up. He doesn't think that is legal. Selectman Jose says this is just informational notifications, that it will not be used for emergencies; the reverse-911 system is for emergencies. Mr. Mendes is concerned the Town will burn through its allotted calls before important notifications can be sent out. Selectman Pacheco does not want to discourage anyone from signing up.

VOTE: Motion (Sullivan/Pacheco) to look at this again in 6 months, passed unanimously.

- Sign 2018 State Primary Warrant, as submitted by Town Clerk Jacqueline Brown. Selectman Jose reads through the Warrant.

VOTE: Motion (Pacheco/Sullivan) to sign, passed unanimously.

- Discuss/Approve request by Laura Ramsden to make Regional School Committee, Special Municipal Employees. Selectman Pacheco says they were confused at the last meeting if this was for just Ms. Ramsden or for the whole Committee. Selectman Jose says it has to be the whole Committee. He says Special Municipal Employees aren't supposed to be paid by the Town, and the Freetown members are paid by the Town. Lakeville does not pay their members. He thinks this is a direct violation of the laws governing special municipal employees. Selectman Pacheco suggests sending this to Town Counsel. Selectman Jose doesn't see how this even gets Ms. Ramsden around the conflict of interest laws anyway. Selectman Sullivan agrees with Selectman Pacheco. Selectman Jose asks Mrs. Golz to get Counsel's opinion.
- Discuss/Sign Approval of Exemption form for Special Municipal Employee Laura Ramsden to be placed on file with Town Clerk's Office. This agenda item bypassed.
- Town Administrator's Report.
  - Mr. DeManche says he met with Wendy Graca and they will be putting a proposal forward for an Energy Committee. We will have a mission statement as well as a composition statement. This will help us to come up with possible grants.
  - Mr. DeManche has been working with Selectman Sullivan regarding a Safety Committee. We have discussed a little about the composition of the committee, which should be employees. This would provide training for all aspects of safety.
  - New windows have been installed in the library. The old windows are in the library basement.
  - Finally, Mr. DeManche will be attending the final procurement seminar in September.

**Board of Health:** Mr. Mendes is recording the meeting during this time.

- Review/award proposal from Environmental engineers regarding issues at Highway Department. Mr. DeManche asked for 2 proposals, one from FS Engineers, and the second from Woodard & Curran. He verbally explained the scope to both engineers. This will look at sweepings, as well as an oil patch next to the grindings, that is at the Highway Department, along with potentially other issues that may be at the site. The quotes received \$2,250 from FS Engineers, plus a per day rate if the scope were expanded to other areas and \$13,700 from Woodard & Curran, which is all inclusive. Mr. DeManche's recommendation is to go with FS Engineers as the consultant. Selectman Jose says this will essentially be a site survey. Mr. DeManche says yes, and if an analysis is necessary, then we will go from there. Selectman Pacheco says based on Mr. DeManche's email today, the piles have been moved to another site, will they be tested at this site? Mr. DeManche doesn't believe so, as they would have to deal with removal of the material anyway, and there is still plenty of material in place to analyze. He has expressly told them to stop moving the piles. Selectman Sullivan said he has read the policy from the MA Department of Environmental Protection dated May 14<sup>th</sup>, which says Catch Basins cleanings shouldn't be missed with street sweeping. He doesn't know if that was a policy before that date. He doesn't know that we need to go ahead with the testing, instead just look into the ability to move them to a landfill according to DEP's policy. He thinks testing is overkill, as even DEP doesn't even bother to check unless there are signs of contamination; we don't have evidence that there is contamination. Selectman Jose thinks catch basin cleanings are classified as solid waste in the state, as opposed to sand and sweepings, which can be used as fill. He says he didn't check into DEP's records, just the report the Board received. Selectman Sullivan says that is true after their May 14<sup>th</sup> policy, that it can be disposed of at a landfill. Selectman Pacheco just wants to know what is there, we should ensure the safety of what is there, whatever the cost. She also says we also need to store this stuff properly in the future. Selectman Jose says the consultant can tell us how best to store it and what to do with it. Selectman Sullivan thinks we are spending money when it's not necessary according to DEP's policy. He does allow for the grindings to include oil, which is problematic. Selectman Pacheco thinks with the residents and the school nearby we need to get this tested, she certainly doesn't want to see this come back as contaminated. Selectman Jose says they will do a site survey first and let us know if this needs to be tested, which is why he asked that question. He would be totally fine with no testing if the consultant says there is no issue. Selectman Pacheco says as far as she knows DEP knows about this. Mr. DeManche hasn't heard specifically about this from DEP but knows there is a resident close that works at DEP, and he is aware of the issue. Selectman Pacheco says if we do nothing and DEP comes in and does it for us, it's a bigger problem. Selectman Sullivan understands, but says we know what we have here, so it'll come back negative. Motion made by Selectman Jose and seconded with discussion by Selectman Sullivan.

Wendy Graca, 3 Dr. Braley Rd., says we don't know what we have here unless it's tested. She wants to know what was done with this stuff before May 14<sup>th</sup>. People exposed to hazardous materials would like to know they've been exposed. Selectman Sullivan says he's checked with area Highway Departments, and we do the same thing as they do. This has been used as fill. He says DEP changed the policy on street sweepings because they want you to have a permit. As for the material ground up in paving projects which has apparently had oil sludge dumped on it, Selectman Sullivan says oil is part of asphalt. It's used to fill in potholes and that sort of thing. He maintains that he doesn't see testing as necessary. Ms. Graca wants to know if the correct process has been followed all along, in separating the materials in these piles; if not, it's just been dumped places. Mr. Mendes says he's called DEP and they say there are no policies against street sweepings, they laughed at him, and they said grindings can be buried wherever you want. There are no policies. He thinks this is a ploy to get a water main built. Selectman Jose says this is completely unrelated and the result of a resident complaint, and if he had Mr. Mendes's property, he'd be worried about his well. He says the catch basin materials are more the concern here, not the sweepings. Mr. Rosofsky says it's a problem that someone had the idea to dump oil sludge on a pile of asphalt just because oil is in asphalt. Selectman Sullivan agrees. Mr. Rosofsky says if we are mixing catch basin materials with street sweepings for reuse, we are stupid, we should test it. He thinks if wet materials come out of the catch basins, they should never even go back to the Highway Department. Mr. Mendes wants to know who will be monitoring the testing. Mr. Rosofsky wants to know if things are being done correctly currently; Selectman Jose says the Board can't be sure, as the Highway Surveyor is an elected official so the Selectmen have no oversight over that Department. Ms. Graca doesn't think they should be able to move things to cover things up at this point. Selectman Jose again explains that the Selectmen have no say on the operation of the Highway Department as the Surveyor is an elected official. The Board is trying to address this concern the best it can right now.

VOTE: Motion (Jose/Sullivan) to have FS Engineering go and do a site assessment to determine what the needs are, at the cap of \$2,250.00, passed unanimously.

#### **Personnel Board:**

- Reappoint Paula Byers to Cultural Council, effective August 1, 2018.

VOTE: Motion (Jose/Pacheco) to re-appoint, passed unanimously.

- Reappoint Timmothy McIntosh as Part-Time Recordings Clerk for Building Committee and Police Sub-Committee.

VOTE: Motion (Pacheco/Jose) to re-appoint, passed unanimously.



- Sign Change of Status form for Brittany Normandin and Chelsea Hester, as submitted by Dorothy Stanley-Ballard, effective August 18, 2018.

VOTE: Motion (Jose/Pacheco) to sign Change of Status for Brittany Normandin, passed unanimously.

VOTE: Motion (Jose/Pacheco) to sign Change of Status for Chelsea Hester, passed unanimously.

- Appoint/Sign Change of Status form for Aleesha Freire, Senior Clerk, Finance Committee, as submitted by George Grunwald, effective August 6, 2018.

VOTE: Motion (Jose/Pacheco) to appoint and sign change of status for Aleesha Freire, passed unanimously.

- Appoint/Sign Change of Status for Interim Building Inspector/Zoning Enforcement Agent John Santos, effective August 6, 2018. This agenda item is withdrawn.
- Appoint/Sign Change of Status for Mary Friere-Kellogg, as Part-Time Health Agent, as submitted by Derek Macedo, effective August 6, 2018.

VOTE: Motion (Jose/Pacheco) to appoint and sign change of status for Mary Friere-Kellogg, passed unanimously.

- Discuss Reappointment of Board member to Tax Increment Finance (TIF) Board, Regional School Finance Committee, Southeastern Regional Transit Authority (SRTA)-Rep, Bristol County Rep. Selectman Jose explains that he may not run for re-election next year, and it isn't fair to the remaining members that he remain on these Boards. After a discussion, it is decided Selectman Jose will remain on the TIF Board and SRTA.

VOTE: Motion (Pacheco/Jose) to appoint Sullivan to Reg. School Fin Com and Bristol County Rep, passed unanimously.

**New Business:**

- Dates for upcoming Board of Selectmen Meetings: Monday August 20<sup>th</sup>, September 4<sup>th</sup> and September 17<sup>th</sup>, October 1<sup>st</sup> and October 15<sup>th</sup>.

**Executive Session:**

At 8:05pm, motion (Pacheco/Sullivan) to enter into executive session under the following exemptions, and not return back to open following. Roll Call Chairman Robert P. Jose, Selectman Charles B. Sullivan, Selectman Lisa A. Pacheco. All voted in the affirmative when polled.

M.G.L. c.30A, Sec. 21(a) (3) to discuss strategy with respect to collective bargaining with the Town Hall, Library, Highway Union, Freetown Firefighters Union, Signal Operators and Freetown Police Union because an open meeting may have a detrimental effect on the bargaining position of the public body and the chair so declares.

M.G.L. c. 30A, sec. 21(a)(3) - to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the chair so declares – Excel Recycling, LLC vs. Town of Freetown

Please note: as he has recused himself from all matters involving Excel Recycling, Selectman Sullivan will depart from the meeting before that discussion. The Board, however, bypassed the second executive session topic, so Selectman Sullivan remained present.

At 8:45pm, motion (Pacheco/Sullivan) to adjourn. Roll Call Chairman Robert P. Jose, Selectman Charles B. Sullivan, Selectman Lisa A. Pacheco. All voted in the affirmative when polled.

Respectfully submitted,



Ali Golz, Administrative Assistant

List of documents/exhibits used in this meeting, pursuant to M.G.L. c. 30A, § 22(a).

- Application for Board of Health Variance for 5 High Street
- Application for Board of Health Variance for 82 Locust Street
- Public Hearing Notice re: No Parking Zone signs on Slab Bridge Rd., High St., Simpson Ln., and South Main St.
- Letter from Highway Surveyor Charles Macomber re: no parking zone signs on above listed streets
- Memo from Town Clerk Jacqueline Brown re: 2018 State Primary Warrant
- Draft State Primary Warrant
- Letter from Reg. School Committee Member Laura Ramsden re: becoming Special Municipal Employee
- E-Mail from Superintendent Richard Medeiros re: the Regional School Committee becoming Special Municipal Employees
- Disclosure by Special Municipal Employee of Financial Interest in a Municipal Contract form, completed by L. Ramsden
- Proposal from FS Engineers re: Highway Department site analysis & testing
- Draft contract from FS Engineers re: Highway Department site analysis & testing
- Proposal from Woodward & Curran re: Highway Department site analysis & testing
- Draft contract Woodward & Curran re: Highway Department site analysis & testing
- Letter from Health Agent Derek Macedo re: appointment of M. Freire-Kellogg as backup Health Agent
- Draft appointment slips for P. Byers, T. McIntosh, J. Santos, M. Freire-Kellogg
- Draft Change of Status Reports for B. Normandin, C. Hester, A. Freire, J. Santos, M. Freire-Kellogg