TOWN OF FAIR HAVEN, VERMONT
SELECTBOARD
WATER AND SEWER COMMISSIONERS
LIQUOR COMMISSIONERS-CEMETERY COMMISSIONERS
Special Select Board Meeting
July 12, 2016

Members Present: Robert Richards, Jeff Sheldon (7:03 pm), Rod Holzworth II, Dick Frazier

Member Absent: Chris Cole

Others Present: Herb Durfee, Glen Roberts, John Lulek, Jay Brown, Aaron Kerber, Emily Cutts (Rutland Herald).

Call to Order: Chair Bob Richards called the meeting to order at 7:00 p.m. and led the assembly in the Pledge of Allegiance.

Amendments to the Agenda: Mr. Holzworth **moved** to amend the agenda to add: two requests for Outside Consumption Permits both for American Legion Post #49; seconded by Mr. Frazier and passed 3-0-0.

Five Minutes for Public Comment: Mr. Roberts discussed a sign issue concerning Stephan Taylor. There was general discussion about enforcement responsibilities of the Town via the Zoning Administrator and the process for amending sign regulations as part of the Zoning Ordinance.

(Mr. Sheldon arrived at 7:03 p.m.)

Outside Consumption Permits: Mr. Frazier **moved to approve both outside consumption permit requests from American Legion Post #49 – charity motorcycle ride event on July 30, 2016 from 11:00 a.m. to 1:30 p.m. and charity motorcycle ride event on August 6, 2016 from 11:00 a.m. to 4:00 p.m., and according to the perimeter and fencing descriptions on the applications**. Mr. Holzworth seconded the motion, and the motion passed 4-0-0. The Chair checked the approved boxes on the application forms and initialed the check marks.

Department Heads and Committee Reports: At the request of the Chair, Town Manager Durfee reported on the 7/6/16 trenching incident at Cedar Street. In addition, Durfee reviewed the investigation report he prepared for VOSHA and asked the Board to affirm the report. (A copy of the report is attached herein.) During the course of his review, Durfee read the following statement from his investigation:

"It is suspected that hand shoveled earth under the pavement section of concern along with employees' movements in the trench caused the newly unsupported section of pavement to break away from the roadway. Notably, the lack of using a trench guard probably resulted in the employees' injuries and, further, it's not disputed that loss of life could have been a result."

Holzworth asked if a wetsaw was used for cutting the pavement prior to digging with the backhoe. Kerber indicated the department did not. Brown expressed his disappointment that a trench box was not used, and he asked, if there's a citation, where the funding would come from. Richards indicated it was possible that the Emergency Reserve Fund could be considered. After general discussion, Mr. Holzworth was concerned that "affirming" the investigation conducted by Mr. Durfee for VOSHA with the Board not having a full opportunity to review the document or if new information came to light after the mandatory filing might put the Town in some form of additional liability. He suggested that the affirmation statement in Durfee's report be amended to read as follows:

"With the following signature, the Selectboard accepts and affirms the report herein as the Town's initial report but with the understanding that it may be amended as more facts are discussed or become available."

After discussion by Board members, Mr. Holzworth moved to accept and affirm the initial report with the understanding that the minor changes will be incorporated into the report's signature page. Mr. Sheldon seconded the motion. During discussion, Board members debated the investigative report prepared by Durfee, its content, and whether they were comfortable, not with the effort put into the report but, rather, its full content, since they had just received the report earlier that evening. The motion passed 4-0-0.

The Chair called a short recess so Durfee could make the changes to the signature page.

Upon reconvening the meeting at 7:56 pm, Durfee distributed the revised signature page to the Board. After reviewing for accuracy, Board members signed the document.

At 7:59 pm, Mr. Sheldon **moved to adjourn**. Mr. Holzworth seconded the motion and the motion passed 4-0-0. Meeting adjourned.

Respectfully submitted,
Herbert A. Durfee, III

Richard Frazier, Board Clerk