

WARRANT AND REPORT OF THE FINANCE COMMITTEE
FOR THE SPECIAL TOWN MEETING
SATURDAY, MAY 7, 2011 AT 9:15 A.M.
AT THE ELIZABETH I. HASTINGS MIDDLE SCHOOL

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, s.s

To the Constable of the Town of Fairhaven in said county:

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Fairhaven qualified to vote on town affairs to meet as follows:

On Saturday, the seventh day of May 2011 at 9:15 a.m. in the Walter Silveira Auditorium at the Elizabeth I. Hastings Middle School, then and there, to act upon the following articles:

ARTICLE 1 – TOWN CHARGES

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to fund additional salary and operating expenses for the following departments. Said sum to be added to previously voted appropriations for FY 11, or to take any other action relative thereto.

GENERAL GOVERNMENT

1. Tax Title

Request: \$30,000.00

Recommend: \$30,000.00

PUBLIC SAFETY

2. Fire Department

a. Salary & Wages

Request: \$13,000.00

Recommend: At Town Meeting

BOARD OF PUBLIC WORKS

3. Sewer Division

a. Salary & Wages

Request: \$10,693.85

Recommend: \$10,693.85

UNCLASSIFIED

4. Contributory Retirement

Request: \$5,109.48

Recommend: \$5,109.48

ARTICLE 2 - UNPAID BILL OF PRIOR YEARS

To see if the Town will vote to raise and appropriate a sum of money for the payment of unpaid bills of prior years in accordance with Section 64, Chapter 44 of the General Laws, as amended by Chapter 179 of the Acts of 1941, or take any other action relative thereto:

- | | | |
|---|------------------------|--------|
| A. Frank Przybyszewski | | |
| Petitioned by the Board of Selectmen | | |
| Request: \$89.00 | Recommend: \$89.00 | (9/10) |
| | | |
| B. Brown & Caldwell | | |
| Petitioned by the Board of Public Works | | |
| Request: \$47,900.00 | Recommend: \$47,900.00 | (9/10) |
| | | |
| C. Brown & Caldwell | | |
| Petitioned by the Board of Public Works | | |
| Request: \$765.00 | Recommend: \$765.00 | (9/10) |

ARTICLE 3 - FUNDING LABOR CONTRACTS

To see if the Town will vote to supplement the appropriations by adoption of Article 4 of the Annual Town Meeting, May 1, 2010 for the purpose of funding the cost in FY 2011 only, of the Collective Bargaining agreement between the Town and the following labor groups, said agreement signed and dated prior to this Town Meeting, or take any other action relative thereto.

1. Highway Division and Park Division - Council 93, American Federation of State, County & Municipal Employees AFL/CIO Local 851 and to authorize the Town Accountant to allocate the funds to the various affected departments.

(a.) Salaries and Wages Highway Division	
Request: At Town Meeting	Recommend: Indefinite Postponement

(a.) Salaries and Wages Park Division	
Request: At Town Meeting	Recommend: Indefinite Postponement

2. Sewer Department - Teamsters, Chauffeurs, Warehousemen & Helpers, Local 59

(a.) Salaries and Wages	
Request: At Town Meeting	Recommend: Indefinite Postponement

3. Water Division - Teamsters, Chauffeurs, Warehousemen & Helpers, Local 59

(a.) Salaries and Wages	
Request: At Town Meeting	Recommend: Indefinite Postponement

ARTICLE 4 - FUNDING LABOR CONTRACTS

To see if the Town will vote to supplement the appropriations by adoption of Article 4 of the Annual Town Meeting, May 7, 2011 for the purpose of funding the cost in FY 2012 only, of the Collective Bargaining agreement between the Town and the following labor groups, said agreement signed and dated prior to this Town Meeting, or take any other action relative thereto.

1. Police Department – New England Police Benevolent Association, Local 64

(a.) Salaries and Wages

Request: At Town Meeting

Recommend: At Town Meeting

2. Dispatcher Union - New England Police Benevolent Association, Local 64

(a.) Salaries and Wages

Request: At Town Meeting

Recommend: At Town Meeting

3. Fire Department - International Association of Firefighters, AFL-CIO, Local 1555

(a.) Salaries and Wages

Request: At Town Meeting

Recommend: At Town Meeting

4. Clerical Union - AFSCME AFL-CIO, Local 851 and to authorize the Town Accountant to allocate the funds to the various affected departments.

(a.) Salaries and Wages

Request: At Town Meeting

Recommend: At Town Meeting

5. Highway Division and Park Division - Council 93, American Federation of State, County & Municipal Employees AFL/CIO Local 851 and to authorize the Town Accountant to allocate the funds to the various affected departments.

(a.) Salaries and Wages Highway Division

Request: At Town Meeting

Recommend: At Town Meeting

(a.) Salaries and Wages Park Division

Request: At Town Meeting

Recommend: At Town Meeting

6. Sewer Department - Teamsters, Chauffeurs, Warehousemen & Helpers, Local 59

(b.) Salaries and Wages

Request: At Town Meeting

Recommend: At Town Meeting

7. Water Division - Teamsters, Chauffeurs, Warehousemen & Helpers, Local 59

(a.) Salaries and Wages

Request: At Town Meeting

Recommend: At Town Meeting

ARTICLE 5 - TOWN CHARGES

To see if the Town will vote to supplement the appropriations by adoption of Article 4 of the Annual Town Meeting, May 7, 2011 for the purpose of funding the cost in FY 2012 only, of

wage increases for non-union employees and to authorize the Town Accountant to allocate the funds to the various affected departments.

Request: \$20,000.00

Recommend: At Town Meeting

ARTICLE 6 - COMMUNITY PRESERVATION PROGRAM DIRECT APPROPRIATIONS FROM FUND BALANCE

To see if the Town will vote to appropriate and to authorize the Community Preservation Committee to expend, \$6,500.00 from the Community Preservation Fund – Community Housing available funds for the Fairhaven Housing Authority to hire a development consultant to facilitate the development of affordable housing on the recently acquired property on Main Street adjacent to Oxford Terrace, or take any other action relative thereto.

Petitioned by the Community Preservation Committee

Request: \$6,500.00

Recommend: \$0.00

ARTICLE 7 - RELATIVE TO THE FEE CHARGES TO THE TOWN BY THE MATTAPOISETT RIVER VALLEY WATER SUPPLY PROTECTION COMMITTEE

To see if the Town will vote, pursuant to Chapter 384 of the Acts of 2010, to authorize the Mattapoisett River Valley Water Supply Protection Committee to modify the fee it currently charges to the Town, in the amount of \$.01 per 100 gallons, according to the following schedule:

<u>Term</u>	<u>Fee (per 100 gallons)</u>
July 1, 2012 to June 30, 2013	\$.012
July 1, 2013 to June 30, 2014	\$.014
July 1, 2014 to June 30, 2015	\$.016
July 1, 2015 to June 30, 2016	\$.018
On and after July 1, 2016	\$.02

And provided further that this authorization shall be void, and of no effect, unless the same modification schedule is approved by vote of the Town Meeting of each of the Towns of Fairhaven, Marion and Mattapoisett, no later than June 30, 2011, or to take any other action thereon.

Petitioned by the Mattapoisett River Valley Water Supply Protection Committee

Request: Adoption

Recommend: Indefinite Postponement (2/3)

ARTICLE 8– NEW SCHOOL SCHEMATIC DESIGN

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to be expended under the direction of the School Building Committee for a schematic design study/drawings for a new school to be built on the 20 acre Wood School site.

The schematic design project will be partially refunded by a Massachusetts School Building Authority Grant of approximately 59.4%, or to take any other action relative thereto.

Petitioned by the New School Building Committee

Request: \$200,000.00

Recommend: At Town Meeting

ARTICLE 9 – WITHDRAWN

ARTICLE 10 - AMENDMENT TO ZONING MAP and ZONING BYLAWS

A. To see if Town Meeting will vote to amend the Zoning Map as follows:

Rezone the following described lots from Business (B) to Single Residential (RA):
Assessor's Map 25, Lot 82B as described in the Bristol County Registry of Deeds Book 3970, Page 332 and Assessor's Map 25, Lot 83 described in the Bristol County Registry of Deeds Plan Book 166, Page 22 as Lot 1 on said plan.

B. To see if the Town will enact the following amendment to the Zoning Bylaw Chapter 198 Section 14, Establishments of districts. The additions are indicated in text that is **(bold and underlined)**. The deletions are indicated in strikethroughs (~~aaaa~~), and are as follows:

B. The boundaries of these districts are defined and bounded on the map accompanying this chapter and on file with the Clerk of the Town of Fairhaven entitled "Town of Fairhaven Zoning Map" as amended through ~~May 1, 2010~~ **May 7, 2011**. That map, as clarified through measurements identified on plats on file with the Town Clerk's office, all explanatory matter thereon and all subsequent amendments to it are hereby made part of this chapter.

Petitioned by the Planning Board

Request: Adoption:

Recommend: Yield to Petitioner

ARTICLE 11 - ACCEPTANCE OF EASEMENT

To see if the Town will vote to authorize the Board of Selectmen of the Town of Fairhaven to accept as a gift or in any other manner acquire a drainage easement from T and M Corporation in and under that certain parcel of property owned by the said corporation hereinafter set forth for the municipal purpose of the improvement of water drainage in the Cushman Park area of the Town, said easement area being described as:

Beginning at a point in the easterly sideline of Middle Street S 01° 23' 20" W, two hundred (200) feet from the intersection of Middle Street and Pease Street shown on a plan hereinafter referred to:

THENCE S 01° 23' 20" W, Twenty five and zero hundredths (25.00) feet to a point;

THENCE S 88° 02' 02" E, Twenty two and twenty three hundredths (22.23) feet to a point;

THENCE S 79° 36' 46"E, One hundred thirty two and seventy eight hundredths (132.78) feet to the side line of Main Street;

THENCE along Main Street N 05° 39' 02"E, Twenty five and nine hundredths (25.09) feet to a point;

THENCE N 79° 36' 46"W, One hundred thirty two and Fifty-five hundredths (132.55) feet to a point;

THENCE N 88° 02' 02"W, Twenty two and thirty-two hundredths (22.32) feet to the point of beginning;

Containing three thousand, eight hundred, and forty-nine (3,849) square feet of land, more or less, and being shown on a Plan entitled "Proposed Drainage Easement", Main Street And Middle Street, Fairhaven, MA; Scale 1"=30'; Dated January 14, 2011; Prepared by GCG Associates, Inc., Wilmington, MA"; Plan No. 1 of 1, to be filed in the Bristol South Registry of Deeds.

Included in this grant is a right to utilize the Temporary Construction Area shown on the Plan for the purposes set forth herein for a period of six (6) months from the date of the commencement of the construction of said subsurface drainage line and a perpetual right of entry granted unto the Town of Fairhaven and its agents and servants, to enter upon the premises of the T and M Corporation and its successors and assigns in the general proximity of the aforementioned drainage easement area for the purposes of maintaining and repairing said drainage line from time to time as said Town of Fairhaven may deem necessary and expedient; and that the said Board of Selectmen be authorized to execute any and all documents necessary or appropriate to effectuate the intent of this vote; or to take any other action relative thereto.

Petitioned by the Planning and Economic Development Department

Request: Adoption

Recommend: Yield to Petitioner

ARTICLE 12 – WITHDRAWN

ARTICLE 13 - MILLICENT LIBRARY ELEVATOR

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to rehabilitate the Millicent Library elevator, or to take any other action relative thereto.

Petitioned by the Millicent Library Board of Trustees

Request: \$68,250.00

Recommend: \$68,250.00

ARTICLE 14 – WITHDRAWN

ARTICLE 15 – WITHDRAWN

ARTICLE 16 – WITHDRAWN

ARTICLE 17 – TABER STREET AND SOUTH STREET SEWER PUMP STATION REHABILITATION DESIGN

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to design the rehabilitation the Taber Street and South Street Sewer Pump Stations, or to take any other action relative thereto.

Petitioned by the Board of Public Works

Request: \$72,750.00

Recommend: \$72,750.00

ARTICLE 18 – SKID STEER LOADER WITH V-PLOW

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to purchase a Skid Steer Loader with a V-Plow, or to take any other action relative thereto.

Petitioned by the Board of Public Works

Request: \$26,563.00

Recommend: Indefinite Postponement

ARTICLE 19 – NPDES PERMIT

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to assist in evaluating and negotiating the proposed EPA/DEP NPDES Permit, or to take any other action relative thereto.

Petitioned by the Board of Public Works

Request: \$25,000.00

Recommend: Indefinite Postponement

ARTICLE 20 – INFLOW & INFILTRATION SEWER SYSTEM COLLECTION REHABILITATION

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to rehabilitate the sewer collection system by investigation and repairs to areas of the sewer collection system contributing high volumes of inflow and infiltration, or to take any other action relative thereto.

Petitioned by the Board of Public Works

Request: \$25,000.00

Recommend: Indefinite Postponement

ARTICLE 21 – NSTAR REBATE

To see if the Town will vote to raise an appropriate, borrow or transfer from available funds a sum of money for the NSTAR Rebate for the boiler for the Wastewater Treatment Plant, or to take any other action relative thereto.

Petitioned by the Board of Public Works
Request: \$17,500.00

Recommend: At Town Meeting

ARTICLE 22 – AMENDMENT TO TOWN BY-LAWS

To see if the Town will adopt the following by-law regulating the operation of pawn shops and businesses engaged in the purchase, sale, or barter of junk, old metals, or second hand articles, or to take any other action relative thereto:

§ 141-4. Licenses to Carry on Business as a Pawnbroker or to Deal in Junk, Old Metals, or Secondhand Articles

A. No individual or entity may carry on the business of pawnbroker, or deal in junk, old metals, or any secondhand articles without a license from the Board of Selectmen. The licensee shall, at the time of receiving such license, file with the Town Clerk, a bond to the Town in the sum of five thousand dollars (\$5,000.00) with two (2) personal sureties approved by the Town Clerk or a surety company authorized to do business in Massachusetts and conditioned for the faithful performance of the duties and obligations pertaining to the licensed business.

B. Licenses issued pursuant to this section may only be granted to: (1) suitable persons who have been residents of the Town, or residents of an adjoining city or town, for the six months preceding the issuance of the license; or (2) to businesses with a majority of principals, deemed to be suitable individuals, who have been residents of the Town, or residents of an adjoining city or town, for the six months preceding the issuance of the license. Licenses issued under this section shall be renewed on an annual basis and may be suspended, revoked, or cancelled at any time at the discretion of the Board of Selectmen.

§ 141-5. Licenses to Carry on Business as a Pawnbroker or to Deal in Junk, Old Metals, or Secondhand Articles – Record Keeping

A. Every person or entity holding a license issued pursuant to § 141-4 shall require the person who pawns, sells, or exchanges any property upon the licensed premises to personally fill out a form, approved by the chief of police, providing his or her full name, address, driver's license number, social security number, and motor vehicle registration number used by such person, if any. The form shall include a full description of the article, including all distinguishing marks and numbers, and the time and date of the transaction. The licensee shall also include on the form a personal description of the person offering the article to the licensee, including complexion, height, weight, age, hair color, eye color, and the presence of any distinguishing characteristics. The licensee shall not accept any article unless he or she is provided with a copy of an identification card bearing the person's photograph, which shall be attached, along with a photograph of the articles, to the form described above.

B. A copy of all forms and identification cards and photographs described in Paragraph A shall be provided to the chief of police within one business day of the transaction. The licensee shall also preserve and keep, for a period of at least six years from the date of the

transaction, a copy of the record, which shall be furnished to any Town police officer if requested.

C. Every person or entity holding a license issued pursuant to § 141-4 shall put in some suitable and conspicuous place in their premises a sign containing the licensee's name and occupation.

D. All merchandise contained on the premises of a business licensed under § 141-4 may, at all times, be subject to inspection and examination by any member of the Town's police department.

E. Any licensee who makes any false statement on any form or otherwise fails to comply with the provision of the sections A through D above may be subject to the penalties described in § 141-8.

§ 141-6 Licenses to Carry on Business as a Pawnbroker or to Deal in Junk, Old Metals, or Secondhand Articles – Dealing With Minors

No person or entity holding a license issued under section § 141-4 shall directly or indirectly purchase or receive by way of barter, or exchange any article or loan any money to, any individual that such keeper knows to be, or should have reason to believe is, a minor.

§ 141-7 Licenses to Carry on Business as a Pawnbroker or to Deal in Junk, Old Metals, or Secondhand Articles – Notice of Circumstances Indicating Stolen Property

Every person or entity holding a license issued pursuant to section § 141-4 shall immediately notify the officer in charge of police headquarters of any attempt or suspected attempt on the part of any person entering the licensed premises for the disposal of property by pawn, sale, exchange, or by any other means, when the attending circumstances indicate any possibility that said property has been stolen, or is unlawfully in the possession of the person offering it for pawn, sale or exchange.

§ 141-8 Licenses to Carry on Business as a Pawnbroker or to Deal in Junk, Old Metals, or Secondhand Articles – Violations

Any person or entity holding a license issued pursuant to section § 141-4 who violates any of the preceding sections shall be punished by a fine not exceeding fifty dollars (\$50.00) for each offense, and any license held such person or entity may be suspended or revoked by the Board of Selectmen.

Petitioned by the Police Chief
Request: Adoption

Recommend: Yield to the Petitioner

ARTICLE 23 – AMENDMENT TO TOWN BY-LAWS

To see whether the Town will vote to adopt the following by-law enabling its police department to conduct state and federal fingerprint-based criminal history checks for individuals applying for or in possession of certain licenses including, but not limited to, licenses to carry on business as a pawnbroker, or to deal in junk, old metals, or secondhand articles, or to engage in the business of hawking and peddling, or door-to-door sales, or to act as a hackney driver within the Town, or to take an action relative thereto:

§ 141-9. Authorization for Criminal History Check

A. Any person applying for, or already in possession of, any license or permit to carry on business as a pawnbroker, or to deal in junk, old metals, or secondhand articles, or to engage in the business of hawking and peddling, or door-to-door sales, or to act as a hackney driver within the Town, is required to submit, prior to making such application or engaging in such business within the Town, a full set of his or her fingerprints, taken by the Town's police department, along with a fee of one hundred dollars (\$100), for submission to the State Police Identification Unit and Department of Criminal Justice Information System Board (CHSB) and the Federal Bureau of Investigation (FBI) so that the applicant's fingerprints can be compared against state and federal criminal records.

B. Those individuals already licensed and/or doing business with the town shall submit his or her fingerprints to the Town's police department, in accordance with Paragraph A above, by a date no later than June 1, 2011.

C. The Town may deny any application for the issuance, transfer, or renewal of any license described in Paragraph A above, or may revoke or suspend such license if it has been issued previously, or may refuse to allow any individual or entity to conduct such business within the Town, if the Town and/or the chief of police determine that that person or entity is not fit, based upon the results of the chief's own investigation and the reports received from the CHSB and the FBI, to do business within the Town.

Petitioned by the Police Chief
Request: Adoption

Recommend: Yield to Petitioner

ARTICLE 24 – CLOSE OUT OF UNISSUED BORROWINGS

To see if the Town will vote to close out the following authorized unissued borrowings:

<u>Article</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
31	May 10, 1994 ATM	School Construction	\$818.00
6	May 3, 1997 ATM	Water Pollution Trust	\$80,380.00
35	June 8, 2003 ATM	School Construction	\$16,287,858.00
11	November 23, 1998 STM	School Construction	\$241.00

or to take any other action relative thereto.

Petitioned by the Director of Finance/Treasurer
Request: Adoption

Recommend: Adoption

ARTICLE 25 – LAND ACQUISITION – RISTUCCIA PROPERTY BALSAM STREET

To see if the Town will vote to raise, borrow and/or appropriate the sum of \$2.00 for the purpose of the acquisition by gift, negotiated purchase or taking by eminent domain of two parcels of land of shown as Lots 61 and 64 on Fairhaven Assessors Map 43B containing approximately 8,132 square feet and 6,120 square feet respectively from Donna Ristuccia to be managed and controlled by the Conservation Commission of the Town of Fairhaven in accordance with Massachusetts General Laws Chapter 40, Section 8C for conservation, passive recreation purposes and access for shellfishing, or to take any other thereon.

Petitioned: Community Preservation Committee
Request: \$2.00

Recommend: \$2.00

ARTICLE 26 – FAIRHAVEN HURRICANE BARRIER REPAIRS

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to repair/improve the Fairhaven portion of the Hurricane Barrier, as required by the Army Corp of Engineers and/or FEMA. Funds to be used for all construction, engineering, legal and other professional fees and all other expenses related thereto, or to take any other action relative thereto.

Petitioned by the Board of Selectmen
Request: \$250,000.00 (transfer)

Recommend: \$250,000.00 (transfer)

ARTICLE 27 – SPECIAL LEGISLATION – HURRICANE BARRIER

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to enact special legislation, or to enact an amendment to existing special legislation, which will allow the Town to assess as a betterment to those affected properties, the costs incurred by the Town for construction, maintenance and repair of the hurricane barrier, which work is performed in order to credit the Fairhaven portion of the New Bedford hurricane barrier with the protection of those affected properties which are located within certain areas of the Town of Fairhaven from flood hazard as determined by the Federal Emergency Management Agency for the purpose of insurance rating.

The costs to be assessed as a betterment, shall include all costs incurred by the Town for the construction, maintenance or repair of the hurricane barrier, whether performed directly by the Town or under contract for the Town, as well as any engineering, legal and other professional fees, and all other expenses, related thereto.

The betterments shall be assessed to each affected parcel on the basis of the assessed value of the improvements on such parcel; or in the case of unimproved, buildable parcels, shall be assessed

on the basis of the aggregate value of improvements upon all improved parcels assessed hereunder, expressed as a per square foot average of the aggregate improved land area assessed hereunder.

The special legislation will take effect upon passage without further ratification by the Town. or to take any other action thereon.

Petitioned by the Board of Selectmen
Request: Adoption

Recommend: Adoption

ARTICLE 28 - HASTINGS MIDDLE SCHOOL WINDOW AND DOOR REPAIRS

To see if the Town will vote to appropriate, borrow or transfer from available funds, a sum of money to be expended under the direction of the School Building Committee for the Green Project Window and Door Repairs at the Hastings Middle School. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town. Any grant that Fairhaven may receive from the MSBA for the Project shall not exceed the lesser of (1) Fifty-Four 79/100 percent (54.79 %) of eligible, approved project costs, as determined by the MSBA, or (2) \$230,485 Dollars, the total maximum grant amount determined by the MSBA, or to take any other action relative thereto.

Petitioned by the School Committee
Request: \$ 420,669.00

Recommend: At Town Meeting

ARTICLE 29 –OTHER BUSINESS

To act upon any other business which may legally come before this meeting.

And you are hereby directed to serve this warrant by posting an attested copy thereof on or near the front or main entrance of the polling place in Precinct 1, Town Hall; and on or near the entrance of the polling place in Precinct 2, High School, 12 Huttleston Avenue; and on or near the entrance of the polling place in Precinct 3 and Precinct 4, Elizabeth I. Hastings Middle School, School Street; and on or near the front or main entrance of the polling place in Precinct 5, Leroy L. Wood School, 60 Sconticut Neck Road; and on or near the polling place in Precinct 6, East Fairhaven School, 2 New Boston Road, fourteen days at least prior to date of meeting.

HEREOF FAIL NOT, and make due return of this warrant to the Town Clerk at the time and place of the meeting aforesaid.

Given under our hands this day of April in the year two thousand eleven.

Selectmen of Fairhaven,

A true copy, ATTEST:
Constable of Fairhaven

