



## Fairhaven Board of Selectmen

Meeting Minutes  
February 10, 2020

RECEIVED  
TOWN CLERK

2020 FEB 20 A 10:23

FAIRHAVEN,  
MASS.

**Present:** Chairman Charles Murphy, Vice- Chairman Robert Espindola, Clerk Daniel Freitas and Town Administrator Mark Rees and Administrative Assistant Vicki Oliveira.

**Also in attendance:** Police Chief Myers, Fire Chief Francis, Deputy Fire Chief Todd Correia

The meeting was videotaped on Cable Access.

Chairman Murphy called the meeting to order in the Town Hall Banquet Room at 6:43 p.m.

Chairman Murphy called a moment of silence for Fairhaven resident James Souza who recently passed away. Mr. Souza was very active in the community and will be missed.

### **TOWN ADMINISTRATORS REPORT**

Mr. Rees updated the Board:

Mr. Rees has been busy working on the budgets to get ready for Town Meeting in May.

Mr. Rees updated the Board on the current projects: the HVAC system at the Council on Aging/Recreation Department phase I has been started and the handicap entrance and front door renovation at the Academy building will be put out to bid in 2 phases to attract more contractors.

Mr. Rees said Human Resources Director, Anne O'Brien recently completed a training course from MCAD and is now able to do investigations for discrimination and harassment cases.

Mr. Rees told the Board the Town was awarded a grant through the State for \$58,622 with Fairhaven and New Bedford for Coast Risk Model do to an analysis for impact on the harbor due to rising sea levels.

Mr. Rees handed an up to date dredge schedule to the Board and said that dredging is scheduled to begin May 2020. (Attachment A)

### **COMMITTEE LIASON REPORTS**

Mr. Espindola said Planning Director Paul Foley is meeting with the Board of Public Works to discuss possible Dog Park locations.

Mr. Espindola said the Marine Resources will be discussing dredging and the Waterways Rules and Regulations.

Mr. Espindola said the Economic Development and Broadband Committees will be meeting.



Mr. Murphy said the Sister City Committee is ongoing and the Commission on Disability will meet this week.

#### **WEDDING CEREMONY AT TOWN HALL**

Chairman Murphy read a request to use the Town Hall for a small wedding ceremony during the work day on February 20, 2020 at 3 pm. Mr. Rees said an indemnification form will need to be filled out prior to the ceremony. Mr. Espindola made a motion to approve the request of Town Hall for a wedding ceremony on February 20, 2020. Mr. Freitas seconded. (3-0)

#### **YOGA AT GRIMSHAW PARK**

Chairman Murphy read a letter requesting the use of Grimshaw Park for Yoga during the summer months. Mr. Espindola made a motion to approve the use of Grimshaw Park for Yoga during the summer months. Mr. Freitas seconded. Vote was unanimous (3-0)

#### **LAND DONATION- AKIN STREET/ FISHERMENS ROAD**

Chairman Murphy read a memo from Conservation Agent, Whitney McClees requesting the acceptance of two parcels of land, Akin Street (Map 30 Lot 34B) and Fishermens Road (Map 43A Lot 308) for conservation purposes. The Conservation Commission voted to accept these parcels at their January 13, 2020 meeting. Mr. Espindola made a motion to approve the acceptance of land donation for conservation purposes. Mr. Freitas seconded. Vote was unanimous. (3-0) (Attachment B)

#### **RETIEMENT- COLA INCREASE**

Mr. Rees asked the Board to table this item until a future meeting.

#### **POLICE SERGEANT SCOTT GORDON PINNING CERMONY**

Chief Myers presented his appointment for Fairhaven Police Sergeant to the Board. Sgt. Gordon has been with the department for over 17 years and is a member of the Police honor guard, Marine unit, bicycle unit and is the in house IT person. Taylor Gordon and Cam Gordon pinned the sergeant badge on their father in front of members of the department and family and friends. (Attachment C)

#### **PUBLIC FACILLITES SITE LOCATION UPDATE**

Mr. Rees read a memo to the Board informing them that G. Bourne Knowles V has rescinded his offer to sell the Town his property at 267 Huttleston Avenue in order to pursue other offers for the land he has received. Mr. Rees told the Board there are several options for them to consider including:

1. Reopening the search to find a suitable location
2. Consider constructing two separate buildings (Police and Fire)
3. Asking Town Meeting to acquire the land at 267 Huttleston Ave by eminent domain.

Chief Myers feels the town has looked at all the suitable locations and now needs some direction and other options. The Board would like more clarification on eminent domain and the process it involves. Mr. Espindola made a motion to direct the Town Administrator to research what is involved with eminent domain. Mr. Freitas seconded. Vote was unanimous. (3-0) (Attachment D)



## **VEHICLE USE POLICY**

Mr. Rees updated the Board that this policy has been brought before the Board before but advised not to make a vote until the Travel Policy can be completed due to some overlays in the policies. Selectman Freitas passed out some amendments that he would like to see on the vehicle use policy and suggested his fellow board members add their suggestions as well. The Board discussed the various vehicles that are assigned to certain personnel how the assignments are made and they would like Mr. Rees put together a procedure for the future when cars are assigned. Mr. Freitas would like Mr. Rees to look into who will be affected by this policy and how. (Attachment E)

## **TRAVEL POLICY**

Mr. Rees told the Board the Town currently does not have a travel policy and he suggested the Board look over the policy and make suggestions before taking a final vote.

## **PRELININARY TOWN MEETING ARTICLES**

The Town Administrator read through the list of preliminary articles for the May 2, 2020 Town Meeting.

## **FY21 OPERATING BUDGET**

Finance Directory Wendy Graves passed out the budget books to the Board and Mr. Rees. Mr. Rees read the transmittal letter to the Board and encouraged the Selectmen to read the budget book and ask questions at a future meeting. The Selectmen would like to meet with the larger departments, so Mr. Rees will schedule a workshop meeting for that purpose. (Attachment F)

## **REGULATIONS OF HOST COMMUNITY AGREEMENTS**

Mr. Rees said there is a potential bill at the State level that takes away part of the revenue from cities and towns from the Host Community Agreements. The bill would diminish the town's licensing and permitting authority. The Board would like Mr. Rees to respond to this and draft a letter to the Legislature stating the Town's concern. (Attachment G)

## **NOTES AND ANNOUNCEMENTS**

Mr. Murphy said he received a nice thank you note from the first students at Saint Joseph's School for being a guest reader, he also attended the kindness tunnel at East Fairhaven School.

Mr. Murphy said he recently took a tour of the Animal Shelter to see the handicap accessibility improvements and he was very impressed with all the improvements and how clean it is. He praised the work of Animal Control Officer Terry Cripps.

Mr. Espindola announced that the MO LIFE 25<sup>th</sup> annual gala will be held this year on March 28, 2020 at the Century House. Mr. Murphy was not present for the announcement.

Mr. Espindola made a motion to adjourn at 8:00 pm. Mr. Freitas seconded. Vote was unanimous. (3-0)

Respectfully submitted,



Vicki L. Oliveira  
(Approved 02/19/2020)

**Attachments:**

- A: Dredging Schedule
- B: Memo re: land donation
- C: Chief Myers letter re: Scott Gordon
- D: Memo re: Public Safety Facility options
- E: Suggested Vehicle policy changes by Selectmen Freitas
- F: Town Administrator's transmittal letter
- G: Marijuana bill article



# Attachment A



Town of Fairhaven  
Marine Resources Marine Resource Committee  
40 Center St., Fairhaven, MA 02719

*February 6, 2020*

*Town of Fairhaven  
Board of Selectmen  
40 Center Street  
Fairhaven, MA 02719*

*Subject: Phase V Dredge Schedule*

*Please see attached for a copy of the Phase V Dredging schedule along with the hours of operation and map.*

*Respectfully,*

*Timothy Cox*  
Timothy Cox  
Harbormaster

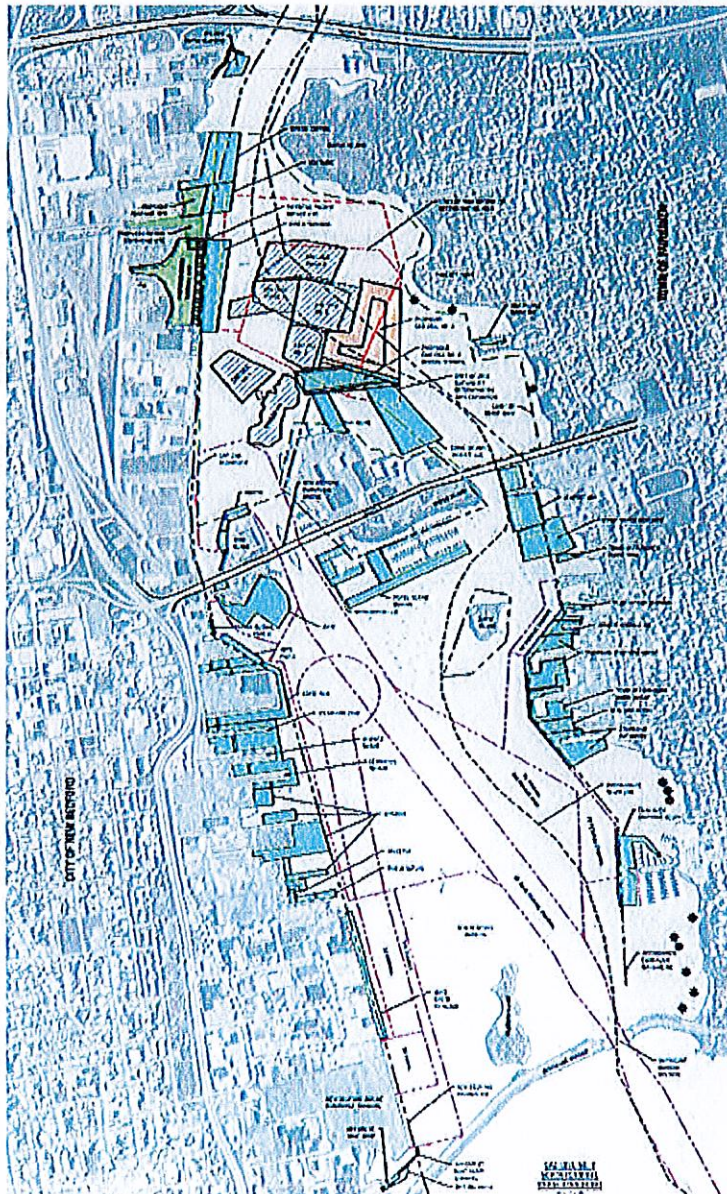


## **Phase V Schedule**

Hours of Operation: 7:00 am to 11:00 pm

Noise reduction required near residential areas after 9:00 pm

Milestone	Month - Year
Design, Engineering, and SER Approval, TSCA Determinations, and Offshore Disposal Approval Complete (CAD Cell)	January 2020
CAD Cell Construction (Top and Middle of CAD)	May 2020 - November 2020
CAD Cell Construction (Bottom of CAD)	April 2021 - July 2021
Terminal Construction	November 2020 - January 2022
Phase V Dredging	August 2021 - February 2023







## Attachment B

TOWN OF FAIRHAVEN, MASSACHUSETTS

# CONSERVATION COMMISSION

Town Hall • 40 Center Street • Fairhaven, MA 02719

## Memorandum

Date: January 27, 2020

To: Board of Selectmen  
Mark Rees, Town Administrator

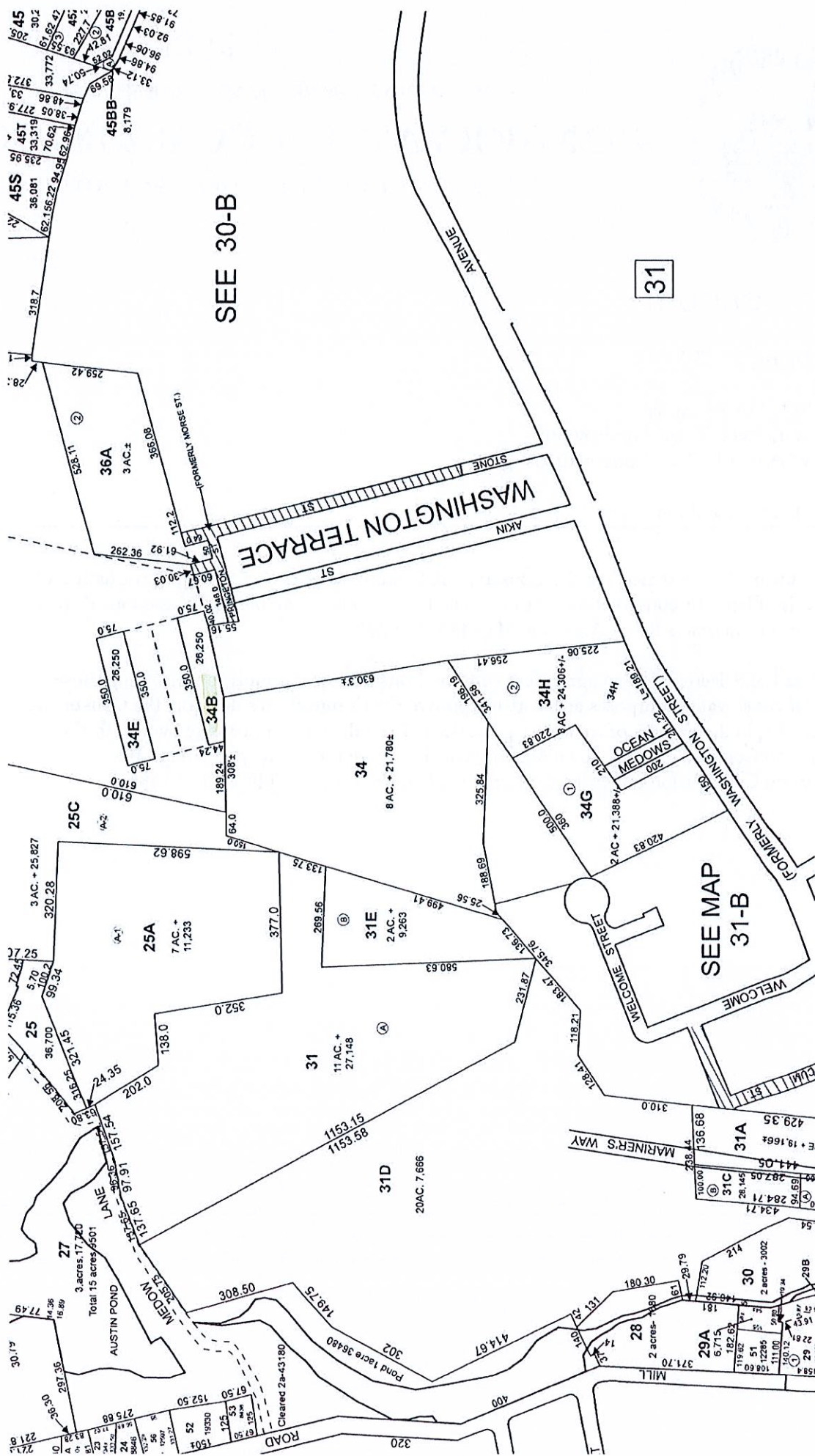
From: Whitney McClees, Conservation Agent

RE: Offer of Land Donation

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At their January 13, 2020 meeting, the Conservation Commission voted to accept the donation of two parcels of land for conservation purposes. The two parcels are Akin Street, Assessors Map 30, Lot 34B and Fishermans Road, Assessors Map 43A, Lot 308.

If the Board of Selectmen are in agreement with the Conservation Commission accepting these parcels for conservation purposes and vote to approve the Commission's decision, the Conservation Office can begin the process of transferring the deeds from the current property owners to the Conservation Commission. No Town Meeting vote is required for conveying land to the Conservation Commission under the Conservation Commission Act (MGL Ch. 40 §8C).





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RIGHT OF WAY TOWN OF FAIRHAVEN

STREET

73	660.27	50	299	60.74	42.35	17.72	120	304	50
	76.27		301	6345	101.83	60	6000	303	50
	51.42	7560	302	6345	60	60	6000	305	50
		79.09	300	5995	26.98	33.04	6000	306	50
		8570	307	6000	120	120	6000	308	50
	106.09							309	50

ROAD

50	120	60	313	60	315	60	317	60	319	60	321	60	323	60	325	60	327	100
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50	120	60	310	60	312	60	314	60	316	60	318	60	320	60	322	60	324	100
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50	120	60	311	60		60		60		60		60		60		60	326	100
			6000														6000	100
50	120	60															60	60

STREET

60	53.07	22.28	33.04	60	244	120	246	50
30	105.34	6130	100.63	60	245	100	247	50
				60	248	120	249	50
11	8.66	57.35	60	243	6000	6000	6000	6000
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			60	39				



# Attachment C



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

Michael J. Myers  
Chief Of Police

1 Bryant Lane  
Fairhaven, MA 02719  
Phone: 508-997-7421  
Fax: 508-997-3147  
[www.fairhavenpolice.org](http://www.fairhavenpolice.org)

January 14, 2020

Mark H. Rees  
Town Administrator  
Town of Fairhaven  
Town Hall  
40 Center Street  
Fairhaven, Ma 02719

Mr. Rees,

I am forwarding for your approval my appointment of Officer Scott R. Gordon, 2/6/74, to the position of permanent Sergeant effective January 15, 2020. Officer Gordon is currently serving as a provisional Sergeant. Sergeant Gordon has been with the Fairhaven Police department since August of 2003. Prior to arriving in Fairhaven he was employed as a Police Officer for the Town of Acushnet beginning in 1999. He has over 20 years of experience as a Police Officer.

Upon transferring to the Fairhaven Police department Sergeant Gordon established himself as a great patrol officer and valued member of the department. He was assigned as a School Resource Officer in 2007 as a result of his exceptional patrol work, great personality/demeanor, ability to self-supervise and his investigative skills. After serving two years as a School Resource Officer he was re-assigned to the Detective Division. He has served in this role for the past Ten(10) years where he has continued his exceptional Police work.

While in the detective division he has been involved in many high profile cases to include large wiretap cases to dismantle large drug networks, homicide cases and most notably was the lead investigator on the Michelle Carter manslaughter case. His work as a Detective has been greatly appreciative and successful for the Town of Fairhaven and the Police Department.

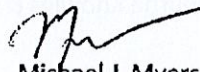
Throughout all these assignments Sergeant Gordon has also been our in house IT specialist working alongside the IT department in keeping the Police Department up to date and in line with all of the



technological advances. He serves as a member of the Police Department Honor Guard, Marine unit, Drone unit, bike patrol as well as anything that is asked of him.

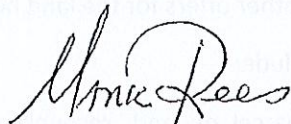
It is with great pleasure that I submit to you, for your approval, the appointment of Officer Scott R. Gordon the rank of Sergeant for the Fairhaven Police Department. I have the utmost confidence that he will do an incredible job as a supervisor and continue to exemplify all the great characteristics he has shown for the past twenty years.

Respectfully submitted,

  
Michael J. Myers  
Chief of Police

Chief,

your appointment of Officer Scott Gordon  
to permanent Sergeant effective 1/15/20  
is approved.



TOWN ADMINISTRATOR 1/14/20

Board of Selectmen  
cc: Anne O'Brien H.R.

Wendy Graves, -payroll

# Attachment D

## MEMO

TO: Board of Selectmen  
FROM: Mark Rees, Town Administrator  
DATE: February 7, 2020  
RE: Public Safety Facility Location  
CC: Fire Chief Timothy Francis  
Police Chief Michal Myers

As you are aware the Town issued a Request for Proposals (RFP) for the acquisition of land for a new public safety facility to replace the existing, outdated and deteriorating facility which, in its current condition, is negatively impacting our ability to provide critical public safety services to our residents. We received one response to the RFP from G. Bourne Knowles & Company offering to sell some or all of his property located at 267 Huttleston Avenue.

The town then engaged the services of HKT Architects and Pare Engineering to conduct a site analysis of the property as to its feasibility to locate a public facility at the offered location. Their analysis showed that the site was suitable as to property size, topography, soils and other elements for a building that would meet the Fire Department and Police Department service delivery needs. In addition the Fire Department determined through ISO requirements that this location allowed for emergency response times sufficient to maintain our Class 03 rating and thus keep property insurance ratings the same as they are now.

Upon determining the site was suitable, we commenced negotiations with Mr. Knowles to find a mutually agreeable price. On January 29, 2020, Mr. Knowles informed the Town that he was rescinding his offer to sell the Town his property in order to pursue other offers for the land he has received.

Moving forward, options for consideration include:

- Reopen the search for a suitable parcel of land, recognizing that the town has reviewed approximately 30 possible locations and found none of them acceptable given size, location, unwillingness to sell, wetlands implications, environmental concerns or other factors.
- Consider constructing two separate buildings for police and fire with the knowledge that it would cost significantly more due to the economies of scale and shared spaces/equipment that are present in a joint facility and the degradation to services to public that are greatly enhanced when first responders share a joint facility.
- Asking Town Meeting to acquire the land at 267 Huttleston Avenue by eminent domain.

There are probably other options to be considered, but one option that is not available is the status quo. Every day that the town's first responders are asked to work out of the current facility is day where their ability to do their jobs is further compromised and, as a result, so is the Town's ability to protect the life and property of its residents



# Attachment F

## Changes to vehicle use policy

### IV (Vehicle Assignment)

\*3. Add sign off by Selectmen

### IX (General Rules)

\*4. Add daily trip tickets

### VII (Identification)

Add Selectmen

\*Need to find a spot that states that the Town will not be paying for mileage if a Town Vehicle is available to them. Also, if they are authorized by the Selectmen or TA the vehicle shall have a magnetic identification plaque identifying it as a town authorized vehicle.

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# Attachment F



Town of Fairhaven  
Massachusetts  
Office of the Town Administrator  
40 Center Street  
Fairhaven, MA 02719

Tel: (508) 979-4023  
Fax: (508) 979-4079  
selectmen@Fairhaven-MA.gov

TO: Board of Selectmen  
FROM: Mark H. Rees, Town Administrator  
DATE: February 9, 2020  
RE: Town Administrator's FY20-21 General Fund Recommended Budget  
CC: Finance Committee

Pursuant to Section 2(m) of the Town Administrator Act, I am presenting you with the Town Administrator's FY20-21 General Fund Recommend Budget for your consideration. First and foremost, in developing the budget, compliance with the Board of Selectmen Financial Policies should be demonstrated. What follows is a description of each financial bench mark and how this budget does, or does, not adhere to them.

## Adherence to the Financial Management Guidelines:

- Maintain a Surplus Revenue (Free Cash) balance of at least 3-5% of the General Fund Operating Budget. *Free Cash as of July 1, 2019 was certified at \$4,393,392. After actual or proposed transfers, the balance in Free Cash is \$2,042,792 or 3.9 % of the FY21 Recommended Budget of \$52,690,951*
- Maintain a General Fund Stabilization Fund at a minimum of 5% of the General Fund Operating Budget. *The balance in the Stabilization fund as of 12/31/19 was \$3,049,289 or 5.8 % of the FY21 Recommended Budget.*
- Should the Capital Stabilization Fund be used to fund capital projects, ensure that financial plans are in place to replenish the fund within 3 years to amount equal to a minimum of 2-3% of the General Fund Operating budget. *The balance in the Capital Stabilization fund as of 12/31/19 after recommended transfers is \$3,104,900 which is 5.8% of the FY21 Recommended Budget.*
- Maintain a balance in the Health Insurance Trust Fund equal to three months of average costs of Health and Dental Assessments including administrative fees or \$1.6 million dollars whichever is greater. The three-month average trust expenses equals \$1.61 million. *The adjusted Claims Trust balance as of 12/31/19 is \$1.98 million which is \$368,000 more than the benchmark. This is a significant improvement over the prior year at this time when we were \$540,000 below the benchmark.*



- With input from the Board of Assessors, fund the Overlay Reserve for tax abatements and exemptions based on an analysis of historical data and specific circumstances such as a property revaluation project. *The Board of Assessors has not yet determined the amount of overlay they will be requesting for FY21. This budget assumes the same amount as was requested funded in FY20 or \$300,000 into the Overlay (Allowance for abatements and exemptions).*
- Continuing the on-going effort of addressing the Other Post-Employment Benefits (OPEB) unfunded liability by increasing the appropriation from the current \$250,000 to a minimum of \$300,000. *The FY21 Recommended budget provides for \$300,000 into the OPEB Trust Fund*
- The General Fund Operating Budget shall be "structurally balanced" defined as prudent and reasonable revenues projections that are equal to or greater than operating budget appropriations. *FY21 Operating Revenues are projected to be \$52,671,501 and FY21 Operating Expenses are recommended at \$52,671,501<sup>1</sup>*
- The use of one time revenues and other financing sources including Surplus Revenue (Free Cash) should be limited to one-time, non-recurring expenses such as capital improvements, property acquisitions, and contributions to various reserves and/or single-year appropriations. *The Recommended FY21 General Fund Operating Budget does not recommend the use of free cash to balance the budget.*

To further demonstrate the financial health of the community, attached you will find the July 3, 2018 credit rating report from Standard & Poors that speaks to the town's high level of reserves and strong financial management practices. We currently have a bond rating of AA+, which is one step below S&P's highest rating of AAA.

### Budget Highlights

In terms of overall service and personnel levels, the recommended FY21 budget is a status quo budget maintaining existing levels of service with no new personnel or services being recommended. However, a few points of interest include:

#### Revenues:

Property Taxes are anticipated to increase by \$918,621 due to the allowed Prop 2 ½ increase of \$712,121 and a conservative estimate of new growth of \$175,000. These increases are being offset by a decrease in the levy of \$22,825 as we continue to pay down Prop. 2 ½ excluded debt.

State Aid is only expected to increase by 1.5% or \$172,521 over the prior year based on the Governor's proposed FY21 state budget. This is disappointing because we thought that under the new education funding formula used by the state for education aid (Chapter 70) we would receive more than the 1.7% increase that provided for in the Governor's budget.

Local Receipts are projected to increase by 3.8% or \$309,000 over FY20 Budget amounts.

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<sup>1</sup> This amount of \$52,671,501 is \$19,450 less than the total budget of \$52,690,951 due to free cash being recommended to fund one time only expenses in minor equipment accounts.

Last year we used \$149,000 in Overlay Surplus to balance the budget, while in FY21, it is not recommended that we allocate any funds from Overlay Surplus due to some large cases pending before the Appellate Tax Board (ATB)

Expenses:

The recommended budget fully funds our collective bargaining agreements for FY21, a 2% COLA for non-union employees as well as step increases for eligible employees. The funding for the COLA currently is placed in a reserve account but will be distributed to department personnel line items prior to presentation at Town Meeting.

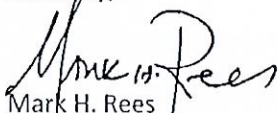
Fairhaven Public Schools is recommended to be funded at 21,746,426 or \$200,000 less than what was requested. Other education-related costs include a 5.5% increase or \$103,059 in the Greater New Bedford Vocational Technical High School assessment to \$1,969,375 and a 63% increase or an additional \$100,951 in what the Town is assessed by the state to for pay in tuition costs to send Fairhaven Students to school choice and charter schools.

Consistent with the Board of Selectmen's Budget Policy Guidance, \$7,000 has been placed in the Parks Department for use by the Beautification Committee or Working Group.

Group Insurance, or the employers contribution to the Self-Funded Health Insurance Trust Fund is projected to increase by \$145,818 reflecting a rate increase of 5% which is less than the 8% recommended by the town's health insurance consultant. However, given the strong position of the trust fund, this lower amount is warranted.

In conclusion, the Town Administrator's recommended budget complies with the Board of Selectmen's financial policies, is structurally balanced with conservative revenue projections and prudent expenditure recommendations, and provides the resources to continue implementing the strategic goals and objectives established by the Board. I would like to thank the Budget Team lead by Finance Director Wendy Graves, assisted by Town Accountant Anne Carreiro and Human Resources Director Anne O'Brien for their diligence and dedication in developing this budget. The hard work of the Department Directors and their staff in submitting their budget requests should also be acknowledged. We look forward to working with the Board of Selectmen and Finance Committee as we prepare for the May 2020 Annual Town Meeting.

Sincerely,

  
Mark H. Rees  
Town Administrator





**Attachment G**  
Mark Rees <mrees@fairhaven-ma.gov>

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**Fwd: Robert, Bill up Wednesday to Preempt Local Control**

1 message

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**Bob Espindola** <selectmanbobespindola@gmail.com>  
To: Mark Rees <mrees@fairhaven-ma.gov>

Tue, Feb 4, 2020 at 6:59 PM

Mark,

Do you think this is something we should discuss during our next BOS meeting or, at least bring up during correspondence?

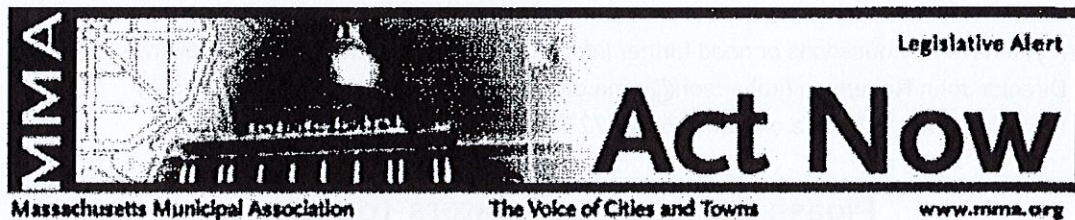
Thanks,

Bob

----- Forwarded message -----

From: **Massachusetts Municipal Association** <alerts@mma.org>  
Date: Tue, Feb 4, 2020 at 4:31 PM  
Subject: Robert, Bill up Wednesday to Preempt Local Control  
To: <selectmanbobespindola@gmail.com>

Contact Your Legislator Today



## **Marijuana Bill Seeks to Weaken Local Authority in the Negotiation of Host Community Agreements**

**House will Debate Bill to Regulate HCAs on Weds., Feb. 5 –  
Tomorrow**

**Please Call Your Representatives and Senators NOW and Urge Them to Vote  
Against the Bill**

February 4, 2020

Dear Robert Espindola,

Tomorrow, the House plans on taking up a bill, H. 4367, An Act relative to host community agreements, which would give the Cannabis Control Commission exclusive power to review, regulate and enforce all host community agreements negotiated between marijuana establishments and municipalities. The MMA opposes this bill.

This bill would also limit a municipality's ability to negotiate monetary or other considerations outside of the 3% community impact fee, going so far as to state that any other contractual financial obligation shall not be enforceable. This would usurp longstanding municipal authority to contract on behalf of the public interest, and potentially preempt those host community agreements already executed in good faith.

As of January 16th, there are 437 pending licenses before the Cannabis Control Commission's review and 258 licenses in the approval stage, meaning close to 700 fully executed host community agreements could be on the line if this bill passes.

State-set regulation of host community agreements that takes away municipal authority to negotiate freely cannot be accepted. There are 351 cities and towns with diverse needs and approaches to policy implementation, reflecting the expectations of the citizens of their communities. New marijuana businesses should be expected to engage with the community and become good corporate citizens, a process encouraged by host community agreements.

The marijuana industry's public relations and lobbying campaigns are seeking to diminish and weaken the municipal role in the permitting and licensing processes. Please call your Legislators today to voice your concern!

If you have any questions or need further information, please contact MMA Legislative Director John Robertson ([jrobertson@mma.org](mailto:jrobertson@mma.org)) or Senior Legislative Analyst Brittney Franklin ([bfranklin@mma.org](mailto:bfranklin@mma.org)) at 617-426-7272.

**Please Call Your Legislators Today!**



Massachusetts Municipal Association  
1 Winthrop Square  
Boston, MA 02110  
(617) 426-7272 | [Email Us](#) | [View our website](#)

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