

**WARRANT AND REPORT OF THE FINANCE COMMITTEE
FOR THE SPECIAL TOWN MEETING
WEDNESDAY, FEBRUARY 12, 2014 AT 7:00 P.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 Wednesday, the twelfth day of February 2014 at 7:00 p.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 2014, or to take any other action relative thereto.

GENERAL GOVERNMENT

- | | | | |
|----|--|------------|-------------|
| 1. | <u>Selectmen</u> | | |
| | a. Salaries and Wages | | |
| | Request: \$2,481.00 | Recommend: | \$2,481.00 |
| 2. | <u>Fire Department</u> | | |
| | b. Purchase of Services | | |
| | Request: \$15,000.00 | Recommend: | \$15,000.00 |
| 3. | <u>Board of Health</u> | | |
| | a. Salaries and Wages | | |
| | Request: \$603.00 | Recommend: | \$603.00 |
| 4. | <u>Enforcement Agent</u> | | |
| | a. Salaries and Wages | | |
| | Request: \$207.00 | Recommend: | \$207.00 |
| 5. | <u>Bristol County Agricultural High School</u> | | |
| | Request: \$887.00 | Recommend: | \$887.00 |
| 6. | <u>Town Insurance</u> | | |
| | Request: \$10,000.00 | Recommend: | \$10,000.00 |

ARTICLE 2 – FUNDING LABOR CONTRACTS – 2014

To see if the Town will vote to supplement the appropriations of Article 4 of the Annual Town Meeting, May 4, 2013 for the purpose of funding the cost in FY 2014 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. 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: \$2,800.00 Recommend: \$2,800.00

- 2. Police Department – New England Police Benevolent Association, Local 64
 - a. Salaries and Wages
Request: \$56,260.00 Recommend: \$56,260.00

- 3. Dispatcher Union - New England Police Benevolent Association, Local 64
 - a. Salaries and Wages
Request: PASS OVER Recommend:

- 4. Fire Department - International Association of Firefighters, AFL-CIO, Local 1555
 - a. Salaries and Wages
Request: PASS OVER Recommend:

ARTICLE 3 – FUNDING NON-UNION LABOR

To see if the Town will vote to supplement the appropriations of Article 4 of the Annual Town Meeting, May 4, 2013 for the purpose of funding the cost in FY 2014 only, of wage increases for non-union employees and to authorize the Town Accountant to allocate the funds to the various affected departments.

Petitioned by: Board of Selectmen
Request: \$4,600.00
Recommend: \$4,600.00

ARTICLE 4 – BILLS OF PRIOR YEAR

(9/10 VOTE)

- A. Hawthorn Medical Associates
Petitioned by: Police Chief
Request: \$44.45 Recommend: \$44.45

- B. Southcoast Physicians Group
Petitioned by: Police Chief
Request: \$100.00 Recommend: \$100.00

C.	<u>Southcoast Physicians Group</u> Petitioned by: Police Chief	Request: \$41.58	Recommend: \$41.58
D.	<u>Southcoast Physicians Group</u> Petitioned by: Police Chief	Request: \$65.91	Recommend: \$65.91
E.	<u>Southcoast Physicians Group</u> Petitioned by: Police Chief	Request: \$1,483.26	Recommend: \$1,483.26
F.	<u>Arbella Mutual Insurance Company</u> Petitioned by: Fire Chief	Request: \$551.03	Recommend: \$551.03
G.	<u>Hawthorn Medical Associates, LLC</u> Petitioned by: Fire Chief	Request: \$89.42	Recommend: \$89.42
H.	Southcoast Hospitals Group Petitioned by: Police Chief	Request: \$26.84	Recommend: \$26.84
I.	Parakrama Ananta, M.D. Petitioned by: Police Chief	Request: \$35.00	Recommend: \$35.00

ARTICLE 5 – ROGERS-OXFORD SCHOOLS FY14

To see if the Town will vote to raise and appropriate, borrow or transfer a sum of money to maintain the vacant Rogers and Oxford Schools, including repairs, electricity, telephone, security, alarms, etc., and any other associated costs or take any other action relative thereto.

Petitioned by: Board of Selectmen
Request: \$5,000.00
Recommend: \$5,000.00

ARTICLE 6 – MACLEAN’S SEAFOOD BUILDING

To see if the Town of Fairhaven will vote to raise and appropriate, borrow or transfer from available funds a sum of money to cover any additional cost associated with the site work and demolition of the Maclean’s Seafood Building, and any other related expenses, located at Union Wharf; provided however that no portion of said appropriation shall be expended unless the Town is eligible for a grant reimbursement from the Commonwealth of Massachusetts, Executive Office of Housing and Economic Development, Department of Housing and

Community Development, Community Development Block Grant – Disaster Relief in an amount of not less than \$100,000.00 (Maximum Grant \$150,000); or to take any other action relative thereon.

Petitioned by: Department of Planning and Economic Development
Request: \$25,000.00 (from Waterways Account)
Recommend: \$25,000.00

ARTICLE 7 – UNION WHARF BULKHEADS – SOUTHERN SECTION

To see if the Town of Fairhaven will vote to raise and appropriate, borrow or transfer from available funds a sum of money to cover the Town’s 20 percent grant match requirement for the renovations at Union Wharf including but not limited to any and all site work and installations of new bulkheads and any other related expenses; provided however that no portion of said appropriation shall be expended unless the Town is eligible for a grant reimbursement from the Commonwealth of Massachusetts, Seaport Advisory Council in an amount of not less than \$1,500,000.00 (Maximum Grant \$2,000,000); or to take any other action relative thereon.

Petitioned by: Department of Planning and Economic Development
Request: \$150,000.00 (from Waterways Account)
Recommend: \$150,000.00

ARTICLE 8 – AMENDMENT TO ZONING BYLAWS (2/3 VOTE)

To see if the Town will enact the following amendments to the Zoning Bylaw Chapter 198 Section 16, Use Regulations Schedule, Chapter 198 Section 33, Definitions and word use, and add a new section Chapter 198 Section 29.7, Medical Marijuana Facilities, or take any other action relative thereto.

§ 198-16 – Use Regulation Schedule

Use Regulation Schedule

District

Activity or Use	RR & RA	RB	RC	P	B	I	AG	MU ¹⁴	WRP ¹⁶
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COMMERCIAL USES

Medical Marijuana Facilities	N	N	N	N	N	A ²¹	N	N	N
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Notes:

- 21** May only be allowed by Special Permit from the Planning Board only in the Medical Marijuana Overlay District. Any alterations, additions and/or changes of an approved Medical Marijuana Facilities Special Permit shall require a new Special Permit.

§ 198-29.7 –Medical Marijuana Facilities

A. Purposes

- (1) To provide for the establishment of Medical Marijuana Facilities in appropriate places and under strict conditions in accordance with the passage of Initiative Petition 11-11 (Question #3 on the November, 2012 state ballot).
- (2) To minimize the adverse impacts of Medical Marijuana Facilities on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Medical Marijuana Facilities.

B. Applicability

- (1) The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Medical Marijuana Facility under this Chapter.
- (2) No Medical Marijuana Facility shall be established except in compliance with the provisions of this Chapter.
- (3) Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.
- (4) If any provision of this Chapter or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Chapter, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Chapter are severable.
- (5) Special Permit Granting Authority. The Planning Board shall be the Special Permit Granting Authority (SPGA) for all Medical Marijuana Facilities.

C. Eligible Locations for Medical Marijuana Facilities

- (1) Medical Marijuana Facilities may be allowed by Special Permit from the Planning Board only in the Medical Marijuana Overlay District provided the facility meets the requirements of this Chapter.
- (2) Medical Marijuana Overlay District shall be comprised of the following Map and Lot numbers: Map 24: Lots 16, 16A, 18; Map 26: Lots 62, 62A, 63, 71, 71A, 72; Map 30A: Lots 86A, 86C, 86D, 86H; Map 36: Lots 13, 14, 14A, 14B, 14C, 14D, 14E, 14F, 14K, 14N, 15, 15A, 15B, 15C, 15D, 15F, 15G, 15J. A map of the over lay district is also on file at the Town Clerk's Office and the Planning Board's Office.

D. General Requirements and Conditions for all Medical Marijuana Facilities

- (1) All non-exempt Medical Marijuana Facilities shall be contained within a building or

structure.

- (2) A Medical Marijuana Facility shall comply with Department of Public Health Regulations (currently 105 CMR 725)
- (3) A Medical Marijuana Facility shall not be located in buildings that contain any medical doctor's offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
- (4) The hours of operation of Medical Marijuana Facilities shall be set by the Special Permit Granting Authority, but in no event shall said Facilities be open and/or operating between the hours of 8:00 PM and 8:00 AM.
- (5) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Medical Marijuana Facility.
- (6) No Medical Marijuana Facility shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- (7) Signage for the Medical Marijuana Facility shall include the following language: "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height.
- (8) Medical Marijuana Facilities shall provide the Police Department, Building Commissioner, Board of Health and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the establishment.

E. Special Permit Requirements

- (1) A Medical Marijuana Facility shall only be allowed by special permit from the Fairhaven Planning Board in accordance with M.G.L. c. 40A, §9, subject to the following statements, regulations, requirements, conditions and limitations.
- (2) A special permit for a Medical Marijuana Facility shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:
 - (a) cultivation of Marijuana for Medical Use;
 - (b) processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
 - (c) retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;
- (3) In addition to the application requirements set forth above, a special permit application

for a Medical Marijuana Facility shall include the following:

- (a) the name and address of each owner of the facility;
- (b) copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the Facility;
- (c) evidence of the Applicant's right to use the site for the Facility, such as a deed, or lease;
- (d) if the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
- (e) Proposed security measures for the Medical Marijuana Facility in compliance with the Department of Public Health Regulations (currently 105 CMR 725), including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.

F. **Mandatory Findings.** The Special Permit Authority shall not issue a special permit for a Medical Marijuana Facility unless it finds that:

- (1) the Facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. c. 40A, §11;
- (2) the Facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
- (3) the applicant has satisfied all of the conditions and requirements of this Chapter;

G. **Annual Reporting.** Each Medical Marijuana Facility permitted under this Bylaw shall as a condition of its special permit file an annual report to and appear before the Special Permit Granting Authority and the Town Clerk no later than January 31st, providing a copy of all current applicable State Licenses for the Facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit and State Regulations. If there is a notice of deficiencies or violations said notice shall be included with the Annual Report.

H. A special permit granted under this Chapter shall have a term limited to the duration of the applicant's ownership and/or lease of the premises as a Medical Marijuana Facility. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Chapter.

J. **Abandonment or Discontinuance of Use**

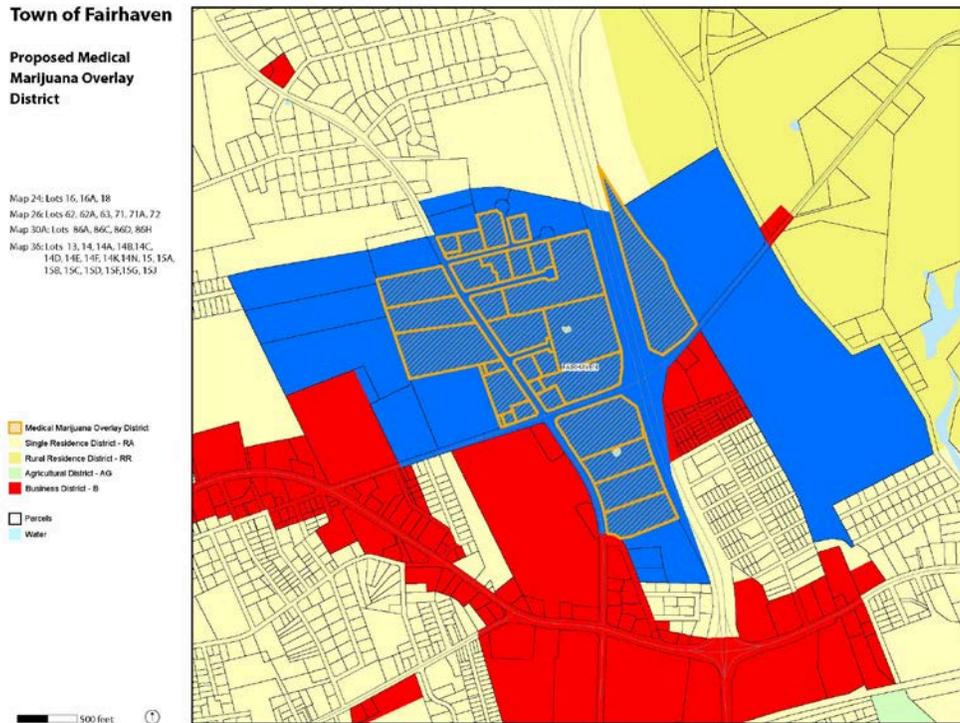
- (1) A Medical Marijuana Facility shall be required to remove all materials, plants, equipment and other paraphernalia:
 - (a) prior to surrendering its state issued licenses or permits; or
 - (b) within six months of ceasing operations; whichever comes first.

§198.33 – Definitions and word use

MARIJUANA – The same substance defined as “marihuana” under Chapter 94C of the Massachusetts General Laws.

MARIJUANA FOR MEDICAL USE – Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as set forth in Citizens Petition 11-11. (Question #3 on the November, 2012 state ballot).

MEDICAL MARIJUANA FACILITY – Shall mean a “Medical marijuana treatment center” to mean a not-for-profit entity, as defined by Massachusetts law only, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. These facilities shall be located inside a structure or building.



Petitioned by: Planning Board
Request: Adoption
Recommend: Yield to Petitioner

**ARTICLE 9 – TEMPORARY MEDICAL MARIJUANA TREATMENT CENTER
MORATORIUM (2/3 VOTE)**

To see if the Town of Fairhaven will vote to amend the Fairhaven Zoning Bylaw by adding a new Chapter 198, Section 15.1, **TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS**, or take any action relative thereto.

§ 198-15.1. TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS

- A. Purpose. By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law provides that it is effective on January 1, 2013. On May 8, 2013, the State Department of Public Health promulgated Regulations that are effective on May 24, 2013. Currently under the Zoning Bylaw, a Medical Marijuana Treatment Center is not a permitted use in the Town of Fairhaven and any regulations promulgated by the State Department of Public Health are expected to provide guidance to the Town in regulating medical marijuana, including Medical Marijuana Treatment Centers. The regulation of medical marijuana raises novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Medical Marijuana Treatment Centers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of medical marijuana treatment centers and other uses related to the regulations of medical marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact bylaws in a manner consistent with sound land use planning goals and objectives.
- B. Definition. “Medical Marijuana Treatment Center” shall mean a not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health as a Registered Marijuana Dispensary, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointment), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.”
- C. Temporary Moratorium. For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Medical Marijuana Treatment Center/ Registered Marijuana Dispensary. The moratorium shall be effective through June 30, 2014. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the State Regulations and related uses, and shall consider adopting new Zoning Bylaws to address the impacts and operation of Medical Marijuana Treatment Center/ Registered Marijuana Dispensary and related uses;

Petitioned by: Planning Board
Request: Adoption
Recommend: Yield to Petitioner

ARTICLE 10 – TOWN BYLAW AMENDMENT – SNOW BAN PARKING

To see if the Town will vote to amend the Town By-Law by rescinding Chapter 182. Vehicles and Traffic. Part 1. Winter Parking §182-3. Exceptions; by striking the following:

~~There shall be a snow ban on Center Street from Chestnut Street to Pleasant Street only from the north side of the street to the south side of the street to coincide with the Rogers School parking ban. There shall be a snow parking ban on Pleasant Street from Center Street to Union Street only from the east side to the west side of the street to coincide with the Rogers School parking ban.~~

Or take any other action relative thereto.

Petitioned by: Board of Public Works

Request: Adoption

Recommend: Yield to Petitioner

ARTICLE 11 – ROGERS-OXFORD SCHOOL PROPERTIES

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to purchase services including but not limited to the Appraisals, Title Search, Advertising, Preparation of a Request for Proposals and any other related expenses for determining the disposition of the former Oxford and Rogers School properties, or to take any other action relative thereto.

Petitioned by: Rogers-Oxford Study Committee

Request: \$12,000.00

Recommend: At Town Meeting

ARTICLE 12 – OTHER BUSINESS

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