



FAIRHAVEN SELECT BOARD

Agenda

Monday, May 9, 2022

6:30 p.m.

Town Hall – 40 Center Street – Fairhaven

RECEIVED
TOWN CLERK

2022 MAY -5 P 4: 16

Pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted in person and via remote means, in accordance with applicable law. This means that members of the public body as well as members of the public may access this meeting in person, or via virtual means. In person attendance will be at the meeting location listed above, and it is possible that any or all members of the public body may attend remotely, with in-person attendance consisting of members of the public.

Log on to: <https://us06web.zoom.us/j/87324196362?pwd=WDNwT1N0WG12SjlINVVNxRmRnUUUVxUT09>

or call 1-929-205-6099

Meeting ID: 873 2419 6362

Passcode: 276644

The meeting can also be viewed on Channel 18 or on FairhavenTV.com

A. MINUTES

1. Approve the minutes of April 25, 2022 – Open Session
2. Approve the minutes of May 2, 2022– Special Session

B. TOWN ADMINISTRATOR REPORT

1. Covid related updates
2. Staffing updates
3. Other

C. COMMITTEE LIAISON REPORTS

D. ACTION ITEMS

1. Appointment to the Bikeway Committee: Jerry Jennings
2. Reappointment of the Joint Transportation Planning Group (JTPG) Representatives
3. Approval of Common Victualer - 168 Sushi Kitchen, 8-1 Sconticut Neck Road
4. Approval of Common Victualer – Main Street Scoops, 382 Main Street
5. Approval of Buzzards Bay Watershed Ride, October 2, 2022
6. Letter of support for bike ramp at New Bedford/Fairhaven bridge
7. Resignation on Zoning Board of Appeals: Francis Cox, Jr.
8. Resignation on Cultural Council: Abigail Hevey
9. Open and Close the warrant for the June 18, 2022 Annual Town Meeting
10. Review and Vote on the FY23 Budget/ Town Meeting Articles

Guests:

- a. School Department
- b. Recreation Department
- c. Tree Warden
- d. Conservation Department
- e. Planning Department
- f. Capital Improvement Committee representative

E. PUBLIC COMMENT

F. BOARD MEMBER ITEMS

G. CORRESPONDENCE

1. Department of Environmental Protection- Administrative Consent Order: Atlas Tack, 83 Pleasant Street

H. NOTES AND ANNOUNCEMENTS

1. The next **regularly** scheduled meeting of the Select Board is **Monday, May 23, 2022** at 6:30 p.m. in the Town Hall Banquet Room

ADJOURNMENT

Subject matter listed in the agenda consists of those items that are reasonable anticipated (by the Chair) to be discussed. Not all items listed may be discussed and other items not listed (such as urgent business not available at the time of posting) may also be brought up for discussion in accordance with applicable law.

MGL, Ch. 30A, § 20(f) requires anyone that intends to record any portions of a public meeting, either by audio or video, or both, to notify the Chair at the beginning of the meeting.



Fairhaven Select Board Meeting Minutes April 25, 2022

Present: Select Board members Chair Stasia Powers, Vice-Chair Leon Correy, Clerk Robert Espindola, Keith Silvia, Charles Murphy Sr., Town Administrator Angie Lopes Ellison and Administrative Assistant Vicki Oliveira.

Also Present: Finance Director Wendy Graves

The meeting was videotaped by Cable Access and Zoom meeting application.

Chair Powers opened the meeting at 6:31 pm in the Town Hall Banquet Room with a moment of silence for the people of Ukraine.

Minutes

Motion: Mr. Espindola motioned to approve the open session minutes of March 28, 2022. Mr. Silvia seconded. Mr. Correy and Mr. Murphy abstained. Vote carried. (3-0-2)

Motion: Mr. Correy motioned to approve the Executive session minutes of March 28, 2022. Mr. Silvia seconded. Mr. Correy and Mr. Murphy abstained. Vote carried. (3-0-2)

Motion: Mr. Murphy motioned to approve the open session minutes of April 11, 2022. Mr. Correy seconded. Vote was unanimous. (5-0-0)

Town Administrator Report

Ms. Ellison and Chair Powers reviewed Meeting Protocols (Attachment A) for the future Select Board meetings. Ms. Powers discussed ways to make the meetings move along quicker and professionally. Effective for July 2023 for the future meetings, the Select Board will be meeting on the First and Third Monday of each month; if there is a Monday holiday then the meeting will be moved to Tuesday. The Board and Ms. Ellison discussed a possible retreat for Select Board members in May.

Ms. Ellison and Finance Director Wendy Graves addressed the Financial Policies with no action needed at this time until more research and understanding of the Select Board goals. Ms. Graves explained the Town 's financial position to the Board and reminded them there is money in the reserve fund earmarked for the Public Safety Facility.

Ms. Ellison met recently with the Rogers Reuse Committee and will meet with the Town Planner to review the most recent Requests for Proposals for Rogers School. Ms. Ellison may remove this article for the annual town meeting warrant. This vote is ultimately a Select Board vote and not a town meeting vote.

Ms. Ellison tallied the list of priorities of the Select Board Goals and Objectives (Attachment B) and will start incorporating these for the Select Board retreat.

Ms. Ellison will begin research on attendance and residents who serve on multiple boards and committees and report back to the Board at a future meeting.

Ms. Ellison stated there will be a filming of an HGTV production at 18 Cedar Street. The filming company will be doing some drone shots of Fairhaven and there will be no disruptions or street closures.

Ms. Ellison said the Health Agent has reported the Covid numbers are increasing slightly but are nothing to be concerned about at this time.

Committee Liaison Reports

Mr. Espindola told the Board the transportation improvement plan was released by Southeastern Regional Planning & Econ Dev District (SRPEDD) and encourages residents to look at it.

Mr. Espindola said Representative Bill Strauss has contacted him regarding concerns over the New Bedford/Fairhaven bridge and The Southcoast Bikeway Committee is still advocating for changes in the bike lanes on the bridge.

Mr. Espindola said the Broadband committee is still discussing the Town Meeting Article for the Municipal Light Plant.

Mr. Correy met with the Library Trustees where the budget was discussed. There was also discussion of sending staff to the Massachusetts Librarian's conference.

Mr. Silvia said at a recent Marine Resources Committee meeting the Harbormaster said he will be planting 600,000 bushels of quahogs this season. The Marine Resources Department has also been awarded a \$500,000 grant for Union Wharf.

Mr. Silvia said the Historical Commission Chairman Oliveira is still working on having the bridge plaque reinstalled.

Mr. Murphy reminded the Board about the Cherry Blossom Festival this weekend.

Action Items

Motion: Mr. Correy motioned to take item D8 out of order. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Tree Warden Town Meeting Article and Sewer Treatment Plant Financing

Public Works Superintendent Vinnie Furtado told the Select Board the Board of Public Works (BPW) put the article together to change the Tree Warden from elected to appointed. Mr. Furtado said the BPW would like to create a full-time department for the Tree Department because he feels it is a disservice to the town the way it currently stands due to the Tree Warden's budget not being able to support full time staff. The Board discussed the language of the article and the possibility of changing some of the wording on the article to make the Town Administrator the appointing authority for this position.

Precinct Four resident Marcus Ferro expressed his concerns with the wording the Article, involving the public shade tree by-law. Ms. Powers suggested that he and Town Planner Paul Foley meet to go over Mr. Ferro's concerns.

Mr. Furtado said the town will need to borrow \$50 million for the Sewer Treatment Plant but is hoping with proper funding and loan forgiveness the town will not have to pay back the entire portion. This project is mandated by the State to bring the Town into compliance with state regulations.

Dollars for Scholars

Ms. Powers said there was a request to use the Town Hall Auditorium on May 25, 2022 for the Dollars for Scholars awards ceremony. Mr. Silvia asked if the Board could waive the rental fee.

Motion: Mr. Correy motioned to approve the use of the Town Hall Auditorium on May 25, 2022 and to waive the building rental fee but keep the custodian's fee. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Commission on Disability Appointment

Resident Heidi Piva met with the Board and thanked them for the opportunity to serve on the Commission on Disability.

Motion: Mr. Correy motioned to appoint Ms. Heidi Piva to fill the vacancy on the Commission on Disability for a term until May 31, 2023. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Bikeway Committee Appointment

Ms. Powers read a letter from Amy Roderick requesting to join the Bikeway Committee.

Motion: Mr. Murphy motioned to appoint Amy Roderick to fill the vacancy on the Bikeway Committee for a term of the remainder of this term of May 31, 2022 and a reappointment for a full term until May 31, 2023. Mr. Espindola seconded. Vote was unanimous (5-0-0)

Belonging Committee Appointment

Ms. Powers read a letter from Laura Barillaro requesting to join the Belonging Committee.

Motion: Mr. Correy motioned to appoint Laura Barillaro to fill the vacancy on the Belonging Committee for a term of the remainder of this term May 31, 2022 and a reappointment for a full term until May 31, 2023. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

West Island 5K Run/Walk

Ms. Powers reminded the Board that at their last meeting they voted to allow the Town Administrator to approve the request for the West Island 5K because the request came in too late to be on the agenda.

Motion: Mr. Correy motioned to retroactively approve the West Island 5K run/walk scheduled on April 24, 2022, whereas the Town Administrator had granted permission on April 11, 2022. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Resignation on Zoning Board of Appeals

Ms. Powers read a letter of resignation on the Zoning Board of Appeals from Fran Cox Jr. Mr. Correy and Mr. Silvia expressed concern and wanted to speak with Mr. Cox before accepting his resignation.

Motion: Mr. Correy motioned to table this item until the next meeting and request the Town Administrator reach out to Mr. Cox. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Municipal Vulnerability Preparedness (MVP) Grant

Ms. Ellison told the Board that the MVP grant goes along with the Hazzard Mitigation Plan and the funds are preset as part of the grant process. Sustainability Coordinator Whitney McClees is looking for support for this grant. Mr. Espindola expressed concern over short staffing in Ms. McClees' office and Ms. Ellison relayed there will be a slight increase in the budget for FY23 for a part time clerk.

Motion: Mr. Silvia motioned to entertain a motion for the Town Administrator to send a letter of support for the MVP Grant proposal on behalf of the Select Board. Mr. Correy seconded. Vote was unanimous. (5-0-0)

Annual Town Meeting warrant- June 18, 2022

Ms. Powers reminded the Board that the warrant for the Annual Town Meeting needs to close in order to stop the submission process. Mr. Espindola said he had asked a few meetings ago to add a part 2 for the article relating to the Municipal Light Plant. Ms. Ellison said she would replace the Rogers School article with Mr. Espindola's request and re-number the articles.

Motion: Mr. Espindola motioned to close the warrant for the June 18, 2022 annual town meeting. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Town Meeting Articles for June 18, 2022 Annual Town Meeting

The Board discussed and voted on numerous articles.

Motion: Mr. Silvia motioned to recommend Article 1: Measurer of Wood and Bark. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 2: Town Report. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 3: Report of Committees. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 4: Setting Salaries of Town Officers-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 4: Setting Salaries of Town Officers-FY23 Town Clerk, \$66,961.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 4: Setting Salaries of Town Officers-FY23 Moderator, \$1,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 4: Setting Salaries of Town Officers-FY23 Tree Warden, \$7,321.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 4: Setting Salaries of Town Officers-FY23 Board of Health, \$5,170.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 5: Bills of Prior Year – Paid from FY23 Funds: Stryker: \$680.00 Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 5: Bills of Prior Year – Paid from FY23 Funds: Corvel Corporation: \$6.85. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 6: FY22 General Fund Operating Budget Adjustments, \$7,321.00 be transferred from Surplus Revenue (Free Cash) to the Bristol County Agricultural. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 6: FY22 General Fund Operating Budget Adjustments, \$111,177.00 be transferred from Surplus Revenue (Free Cash) to NBRVT High School. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 7: Sewer Capital Improvements Revenue FY21 to Stabilization Fund. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Fire Engine 2, Tool Project, \$35,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Replace Voting Machines, \$38,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Ambulance / Stretcher Replacement, \$325,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Police Cruiser Replacements, \$134,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Computer Hardware Equipment Replacement, \$30,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Life Pak 15 Replacement (3 Units), \$96,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Replace Loader, \$220,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Computer Server for offsite electronic storage, \$24,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Beach Mat to provide for handicap access to Town Beach, \$25,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Replace Boiler at Town Hall, \$125,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: COA/Rec Building Roof Replacement (design & construction), \$54,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Replacement of Engines on Harbormaster Boat, \$51,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Hydraulic Rescue Tools, \$41,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Upgrade Town/School Phone System, \$223,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Replace window blinds/shades at Town Hall, \$21,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 13: General Fund Capital Plan. FY23: Control Desk Radio Upgrade, \$48,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 14: Water Enterprise Capital Plan – FY23: Utility Truck with Plow, \$73,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 14: Water Enterprise Capital Plan – FY23: Repainting Sconticut Neck Water Tower, \$1,000,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 14: Water Enterprise Capital Plan – FY23: Water Gate Valve Maintenance, \$75,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 15: Sewer Enterprise Capital Plan. Sewer Treatment Plant Upgrade, \$50,000,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 15: Sewer Enterprise Capital Plan. Inflow and Infiltration Prevention, \$250,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 15: Sewer Enterprise Capital Plan. Sunset Beach Sewer Extension, \$1,000,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 15: Sewer Enterprise Capital Plan. South Street and Taber Street Force Main Upgrades, \$3,500,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 15: Sewer Enterprise Capital Plan. Blower Building Roof Replacement-Treatment Plant, \$75,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 16: Roadwork – FY23, Hard Surface: Bayview Avenue - Highland Avenue to Manhattan Avenue. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 16: Roadwork – FY23, Hard Surface: Farmfield Street - Green Street to Pleasant Street. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 16: Roadwork – FY23, Hard Surface: Bonney Street. Mr. Murphy seconded. Vote was unanimous. (5-0-0).

Motion: Mr. Silvia motioned to recommend Article 17: State Aid to Highways – FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 18: Funding Capital Stabilization Fund – FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 19: Ambulance Stabilization – FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 20: Social Day Care Center – FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 21: Propagation of Shellfish-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 22: Community Preservation Program Appropriations-FY23: \$65,000.00 for Acquisition, creation, and preservation of Open Space, and its rehabilitation and restoration (FY23 Estimated Receipts). Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 22: Community Preservation Program Appropriations-FY23: \$65,000.00 Acquisition, creation, and preservation of Historic Resources, and its rehabilitation and restoration (FY23 Estimated Receipts). Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 22: Community Preservation Program Appropriations-FY23: \$65,000.00 Acquisition, creation, and preservation of Community Housing, and its rehabilitation and restoration (FY23 Estimated Receipts). Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 22: Community Preservation Program Appropriations-FY23: \$93,000.00 for DPW-Library Sidewalks (Undesignated Balance). Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 22: Community Preservation Program Appropriations-FY23: \$18,000.00 for FHC-Spring Street, Firehouse Renovations (Undesignated Balance). Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 22- Community Preservation Program Appropriations-FY23: \$180,000.00 for FH PBA; Pickleball Courts at Livesey Park (Open Space, Reserved \$90k & Undesignated Balance \$90k). Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 22- Community Preservation Program Appropriations-FY23: \$60,000.00 for WMFS; Whitfield Manjiro Cultural Center (Historic Resources Reserved), Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 22: Community Preservation Program Appropriations-FY23: to fund the Community Preservation Committee's annual expenses as follows: Personal Service –\$2,600; Purchase of Services – \$3,400; Supplies – \$500; Other charges/expenders – \$2,000. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 23: Revolving Funds – FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 25: Senior Work-Off Program – FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 26: Retirement Cola-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 27: Additional Funds to Supplement Article 16B From the October 20, 2020 Meeting-Water Department Van. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 28: Amend Chapter 194 Storm Management - Erosion and Sediment-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 30: Amend BPW By-Law Solid Waste & Recycling-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 32: Town Hall A/C Splits-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 33: Town Hall Repairs-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Replace Curved Windows \$8,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Repair Clock Gears \$8,000.00. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 34: Municipal Light Plant. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 35: Propagation of Shellfish – Disturbed By Dredging-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 36: Update General Provisions Of Bylaw, Section 1-6, Noncriminal Disposition of Violations-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 37: Climate Change Vulnerability Assessment Grant Match-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 39: Hazard Mitigation Plan Grant Match-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 41: Upper Narragansett Avenue Rezone-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 42: Public Facilities Setback-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 43: Bridge Street Engineering Design-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 44: Union Wharf Purchase 900 Sq. Ft. Parcel-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 45: Mattapoissett River Valley Water District Borrowing-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 46: Seaport Economic Council Grant- West Island Dredging \$200,000 With 20% Match Of \$40,000-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 47: Seaport Economic Council Grant- Union Wharf North Side \$1,000,000 With 25% Match Of \$250,000-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 49: FEMA Grant-Hydraulic Rescue Equip \$26,000 With 5% Match Of \$1,893.00-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 50: FEMA Grant-New Ambulance \$285,715 With 5% Match of \$14,286-FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 51: Sewer Reserve for Future Debt-FY22. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Silvia motioned to recommend Article 63: Rescind Borrowing Fire Engine 2- FY23. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Review Budget

Finance Director Wendy Graves told the Board the Town's budget has been balanced and it very conservative for FY23. Ms. Graves and the Town Accountant have reviewed the budget and made cuts based on comparison of years past budgets.

Review warrant article and future dates

Ms. Ellison said it would be beneficial to add a few more dates the Select Board meeting calendar to review the warrant articles. The Board discussed a few dates.

Motion: Mr. Correy motioned to add May 2, 2022 and May 12, 2022 to review warrant articles. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Public Comment

There were no questions, comments or concerns from the public.

Correspondence

Ms. Powers read the public hearing notice for the Buzzards Bay Coalition, Chapter 91 Waterways License Application. (Attachment C)

Notes and Announcements

Mr. Correy said there are still vacancies on the Belonging Committee if there are any interested residents that would like to serve.

Mr. Murphy reminded residents that the Cherry Blossom Festival and opening day for Little League will be this weekend.

Adjournment

Motion: Mr. Correy motioned to adjourn at 9:45 pm. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Respectfully submitted
On behalf of the Select Board Clerk,



Vicki L. Oliveira
Administrative Assistant

Attachments:

- A. Meeting Protocols
- B. Goals and Objectives
- C. Buzzard's Bay Coalitions Chapter 91 waterways license



Fairhaven Select Board Meeting Minutes May 2, 2022

Present: Select Board members Chair Stasia Powers, Vice-Chair Leon Correy, Clerk Robert Espindola, Mr. Silvia, Charles Murphy Sr., Town Administrator Ms. Ellison Lopes Ellison and Administrative Assistant Vicki Oliveira.

Also Present: Police Chief Michael Myers, Fire Chief Todd Correia and Finance Director Wendy Graves

The meeting was videotaped by Cable Access and Zoom meeting application.

Chair Powers opened the meeting at 6:31 pm in the Town Hall Banquet Room with a moment of silence for the people of Ukraine.

Action Items

Open and Close the warrant for the June 18, 2022 Annual Town Meeting

Ms. Powers opened the meeting and explained that the warrant will be need to be re-opened to make some slight changes.

Motion: Mr. Correy motioned to open the June 18, 2022 Annual Town Meeting warrant. Mr. Murphy seconded. Vote was unanimous. (5-0-0)

Mr. Espindola said the language for the motion regarding the Municipal Light Plant article is suggested by town counsel and he will discuss the article language with the Broadband Study Committee at their next meeting.

Motion: Mr. Murphy motioned to add the following language to Article 35 of the June 18, 2022 Town Meeting warrant:

“To see if the Town will vote to petition the General Court for the passage of special enabling legislation authorizing the Town to authorize, issue and sell revenue bonds to finance the development of telecommunications facilities, fund any necessary reserves, pledge revenues from the operation of telecommunications facilities and all costs associated therewith, which special enabling legislation shall be in such form as the Select Board shall approve; or to take any other action relative thereto.”

Seconded by Mr. Silvia. Vote was unanimous. (5-0-0)

Ms. Ellison asked the Board to reconsider pulling Article 32 because it has come to her attention that if the split unit is if not used or maintained properly, it could become a mold incubator. Ms. Ellison feels there could be other options and the mini splits could be costlier in the long run if not maintained properly.

Mr. Espindola said Historical Chairman Wayne Oliveira raised some concerns over the piping on the historic building. Mr. Espindola agreed the Board needed to consider the aesthetics of Town Hall and consult with the Historical Commission when making changes to the building.

The Board would like to look into other options to cool the rooms.

Motion: Mr. Murphy motioned to reconsider the vote to recommend on Article 32 voted on April 25, 2022. Seconded by Mr. Silvia seconded. Vote was unanimous (5-0-0)

Motion: Mr. Murphy motioned to withdraw the Article 32: Town Hall A/C Splits-FY23 from the warrant articles of June 18, 2022 Town Meeting. Mr. Silvia seconded. Vote was unanimous (5-0-0)

Ms. Powers said there is no other business that needs to be changed on the warrant, therefore the warrant should be closed so no more articles can be added.

Motion: Mr. Murphy motioned to close the June 18, 2022 Annual Town Meeting warrant. Mr. Silvia seconded. Vote was unanimous (5-0-0)

Mr. Espindola said he would like to meet with some Departments and the Capital Planning Committee at a future meeting.

Review/Vote Town Meeting Articles and Budget for June 18, 2022 Annual Town Meeting

The Select Board asked the Police Department and the Fire Department to review their budget and any capital requests.

Mr. Murphy expressed his concerns over cuts that are proposed in the FY23 budget.

Police Department

Chief Myers said the cuts in his Department were for 2 new added positions that he had proposed. One position was for a new licensed social worker and the other for a full-time custodian. Which the Fire Department would utilize; currently the fire fighters do their own cleaning. Chief Correia added that the Firefighters do their best to keep up with the station but there are some issues that a full-time maintenance person is needed.

The Board discussed the idea of a shared facilities maintenance department in the future.

Chief Myers said that Child and Family Services may be able to provide a social worker at no cost to the town and could be paid through a grant. Chief Myers said statistics show that having a social worker on staff can help reduce arrests.

Chief Myers told the Board the change in his salary line item is due to several officers being on paternity leave, one on military leave and vacancies in dispatch and the overtime is needed to cover the vacancies.

Chief Myers explained the other cut was for a storage trailer that is needed to house some of the equipment that is currently outside.

Chief Myers has requested in his Capital budget funds for 2 new cruisers and a backup server is needed. Because of safety concerns, there is also a request for riot gear and new radar signs to help reduce traffic speeds.

Fire Department

Chief Correia said the biggest difference in his salary request was for 4 new Fire Fighters and which were cut; Fire EMS calls are up 10% and fire calls are up 15% and feels the town is underinvesting in its fire service.

Chief Correia said the Department is still behind in filling vacancies from recent retirements over the past few years. There are safety concerns when there are multiple emergencies at the same time; there is a deficiency in the amount of personnel that can respond, which leaves the fire station being empty at times, however, the call fire department is still relied upon when there are shortages. Chief Correia said some of the problem is with the ambulance service and costs because the town has a large aging population and they are on subsidized insurance; it is illegal to go after their insurance for ambulance calls. Chief Correia explained the Fire Department responds to more than just fire calls, and life safety is our number one priority. Having a central dispatch in the future and this will help some of these issues and the Chief won't have to rely on the Administrative Assistant, the Deputy and Lieutenant to work the desk during the day. Chief Correia showed a quick power point to the Board to address the needs of his Department (Attachment A).

Mr. Correy had concerns with staffing shortages it could impact the town's insurance liability. Chief Correia said he does not anticipate a major reduction in the town's rating.

Chief Correia feels if the Department had 9 Fire Fighters on shift, then he could staff around the clock and this could generate more revenue for the town. Chief Correia told the Board all calls are handled as they come in and sometimes he has to force personnel to come in to help cover because he tries not to rely on mutual aid.

Chief Correia has applied for a FEMA grant but it is a very competitive grant at this time.

Mr. Espindola asked if there were any concerns about the Department capital plan.

Chief Correia said he has been very fortunate and is not expecting needing a new vehicle until 2023, however, Engine 3 is getting old but the Chief's and Deputies vehicles are all in good condition. There is a long-term plan to replace ambulances every five years.

Warrant Articles

Ms. Ellison told the Board, they should not ethically vote on your own salary so Article 4 will be sponsored by the Town Administrator in the warrant. Ms. Ellison has also increased the stipend amount by \$8,500 for the Select Board members because the Board had gone from 3 members to 5 members and the responsibility is still the same so the stipend should reflect that.

Motion: Mr. Murphy motioned to yield to petitioner for Article 4: Setting of Salaries for Town Officers- FY23. Mr. Silvia seconded. Vote was unanimous (5-0-0)

The Board took the following votes on the warrant articles:

Motion: Mr. Murphy motioned to yield to petitioner on Article 4: Setting Salaries of Town Officers-FY23: Select Board, \$25,000.00

Motion: Mr. Murphy motioned to recommend Article 6: FY22 General Fund Operating Budget adjustments:

- C. \$65,000.00 be transferred from Surplus Revenue (Free Cash) to Police Dept-Salaries
- D. \$21,000 be transferred from Surplus Revenue (Free Cash) to Council on Aging-Salaries

Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy motioned to recommend Article 9: Water Enterprise Fund Operating Budget – FY23 Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy motioned to recommend Article 10: Sewer Enterprise Fund Operating Budget – FY23. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy motioned to recommend Article 11: Town Cable Enterprise Fund Operating Budget – FY23. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy motioned to recommend Article 12: School Cable Enterprise Fund Operating Budget – FY23. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy Motioned to Recommend Article 35: Municipal Light Plant. Mr. Silvia Seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy motioned to yield to petitioner Article 52: Citizens Petition - Rezoning 114 Sconticut Neck Road-FY23. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy motioned to yield to petitioner Article 53: Citizens Petition - Street Acceptance Mill Road From 291-312-FY23. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy motioned to yield to petitioner Article 54: Citizens Petition - Street Acceptance Yankee Lane From Mill Road To 20 Yankee Lane. Mr. Silvia seconded. Vote carried. Ms. Powers abstained. (4-0-1)

Motion: Mr. Murphy motioned to yield to petitioner Article 55: Citizens Petition - Street Light Requests. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy motioned to yield to petitioner Article 56: Citizens Petition – Hard Surface. Mr. Silvia seconded. Vote carried. Ms. Powers abstained. (4-0-1)

Motion: Mr. Murphy motioned to yield to petitioner Article 57: Citizens Petition – Hard Surface. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy motioned to yield to petitioner Article 58: Citizens Petition – Hard Surface. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy motioned to yield to petitioner Article 59: Citizens Petition – Hard Surface. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy motioned to yield to petitioner Article 60: Citizens Petition – Hard Surface. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

The Board would like to hear from the Tree Warden and the Planning Director regarding Article 40: Public Shade Tree Bylaw-FY23. The Board requested the Tree Warden, Mr. Foley and Marcus Ferro to be at the next meeting to address concerns on Article 29. The Board also invited the School Department, the Recreation Department, Capital Planning Committee Chairperson and Conservation Agent Whitney McClees to the next meeting to discuss their Department's Articles on the warrant.

The Board and Ms. Ellison had a discussion regarding changing the order of some of the articles to complement each other on the warrant.

Ms. Ellison provided documentation regarding the wind turbine revenues as requested by the Board at their last meeting. (Attachment B). The Board discussed the revenue from the turbines and the energy credits that are produced but would like to hear from Fairhaven Wind for more clarification. Mr. Espindola would like to have Sustainability Coordinator Whitney McClees put a report together a showing the turbines and the solar farms revenues and energy credits.

Ms. Powers offered a moment of silence for the people of Ukraine.

Mr. Espindola would like to discuss general staffing issues at a future meeting and do a study across all departments and look at trends with the Department of Revenue data.

Notes and Announcements

The Board offered their Congratulations to Mr. Espindola and his wife Anne on the birth of a new grandchild.

The Board wished everyone a Happy Mother's Day.

Mr. Espindola said he, Ms. Ellison and the Board attended the Manjiro Cherry Blossom Festival on Sunday and it was really nice to see everyone.

Ms. Powers said the Little League parade was wonderful and well attended. Mr. Correy complemented the young lady who sang the national anthem as amazing.

Motion: Mr. Correy motioned to adjourn at 8:22 pm. Mr. Silvia seconded. Vote was unanimous. (5-0-0)

Respectfully submitted
On behalf of the Select Board Clerk,



Vicki L. Oliveira
Administrative Assistant

- A. Fire Chief presentation
- B. Wind Turbine Revenues



Town of Fairhaven Board of Health

Town Hall • 40 Center Street • Fairhaven, MA 02719
Telephone: (508) 979-4023 ext. 125 • Fax: (508) 979-4079

Michael Ristuccia, Chair
Kevin Gallagher, Vice-Chair
Heidi Hacking, Clerk
David D. Flaherty Jr, RS, Health Agent

MEMO

DATE: May 6, 2022
TO: Fairhaven's Select Board
FROM: David D. Flaherty Jr., RS
Health Agent
RE: COVID 19 Update

Dear Chairperson Powers,

Fairhaven's Select Board has maintained a policy of "Strongly Advising" shields or masks for visitors and staff at all Fairhaven municipal buildings. This policy has been an integral aspect to attempting reduction of cases and positivity for COVID-19 virus occurrence in Fairhaven. Since last week the Town of Fairhaven has moved from 4.71% positivity rate up to 5.13%; our total case count has gone from 38 up to 54. This is an upward trend that reflects the situation across the Commonwealth and the Country. In light of this data, I would gently recommend suggesting that your Board re-enact the policy of a "Mask Mandate" for all municipal buildings. While mandates for mask wearing have been rescinded by State & Federal Jurisdictions in many situations, Health Officials feel that greater than 5% positivity rate is the trigger for more aggressive tactics to contain COVID-19. I will continue to be involved with Public Service Announcements to help the residents of Fairhaven better understand what these numbers mean and how they can better protect themselves.

We are not entirely out of the woods yet and we need to remain vigilant. Thank you.

Respectfully,

David D. Flaherty Jr., RS
Health Agent

Cc: BOH

Committee Liaison Report – Bob Espindola – May 9th_2022

SRPEDD – The SRPEDD Commission met on April 27th. Dr. Melinda Tarsi, Assoc. Professor, Bridgewater State Univ., Dept Political Science & Master of Public Administration Program, on subject of public admin student (grad and undergrad) placement possibilities across SE Mass municipalities. In some cases, BSU provides a stipend for the students so there could be little or no cost to the Town to get an intern that is interested in learning about Municipal Government Finance, Planning, Administration, etc.

Moving Forward 2045. As part of a special webinar series called Moving Forward 2045, I presented as part of a three-part webinar on Wednesday, May 4th for a spotlight on the Fairhaven Bike Path and its impact to the business community, tourism, and economy in general. The Presentation is attached for your review.

Southeastern Metropolitan Planning Organization (SMMPO)

I would encourage everyone to review the Transportation Improvement Program for Southeastern Massachusetts outlined in the following link and to take part in the public Comment period that is open until May 17th.

<https://srpedd.s3.amazonaws.com/wp-content/uploads/2022/04/21072756/full-Draft-FY-23-27-TIP-04.21.22-A.pdf>

Fairhaven Bikeway Committee

The Fairhaven Bikeway Committee met on April 26th. When the committee reformed, none of the members were willing to commit to serving as chair so I took the role in order to keep the committee moving but stated that it would be temporary until such time as someone is willing to step up. We have one new member signed on and another up for consideration. If neither of the new committee members agrees to serve as chair and nobody else steps up, the committee may need to be disbanded because, although it is not prohibited, I am not sure it is best for a Select Board member to serve as chair of an appointed committee.

Broadband Study Committee

The BSC met on March 3rd but a quorum was not present, with three members only, so it was an informational meeting, with no votes taken.

On March 4th, Consultant Jeff Christensen and I met virtually with Gayle Huntress, Municipal Light Plant Manager of the Town of Shutesbury, in western, Massachusetts. She runs an operation providing Municipal Broadband Service only (no Electric or Gas supply). This is the model the Town of Fairhaven has been studying. They have been very successful with a 90% take rate and she has agreed to speak as a guest at our next Broadband Study Committee meeting, tentatively set for Monday, May 16th.



SRPEDD Moving Forward 2045 Webinar

Fairhaven Bike Path, Impact on the Community





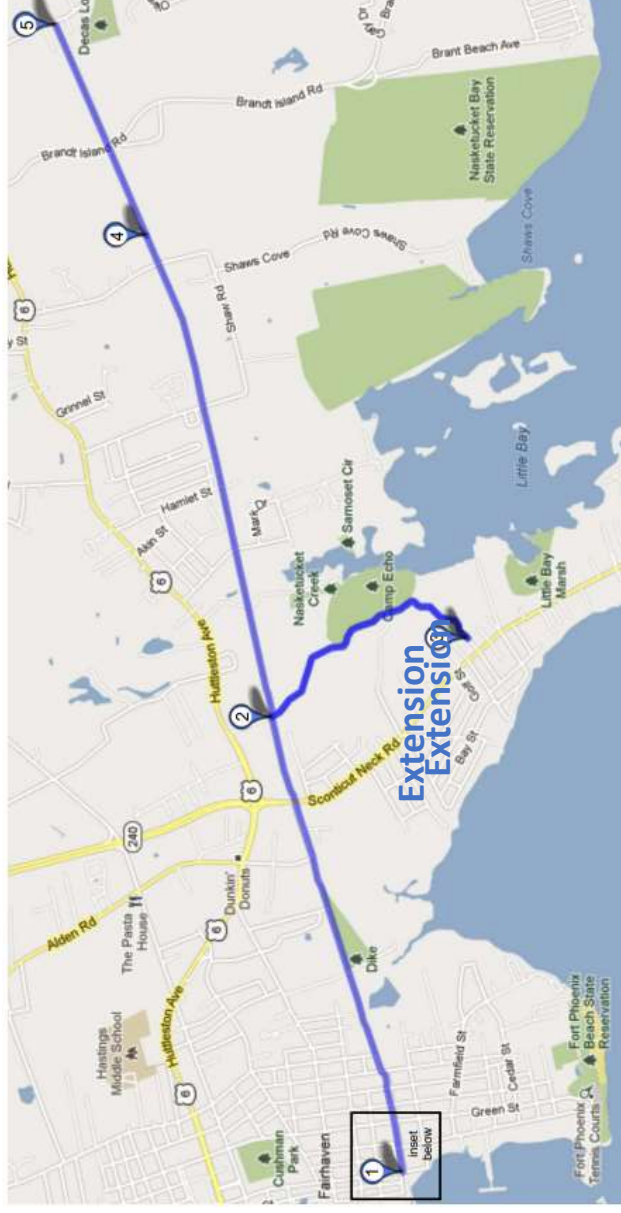
Fairhaven Bike Path, Impact on the Community

Agenda

- A little about the path
- Recreational Opportunities
- Year round use
- Commuting
- Safe Routes to School Program
- Real Estate Testimonials
- Commercial Business Testimonials
- Tourism Testimonials
- Connectivity to other communities
- What we have to look forward to

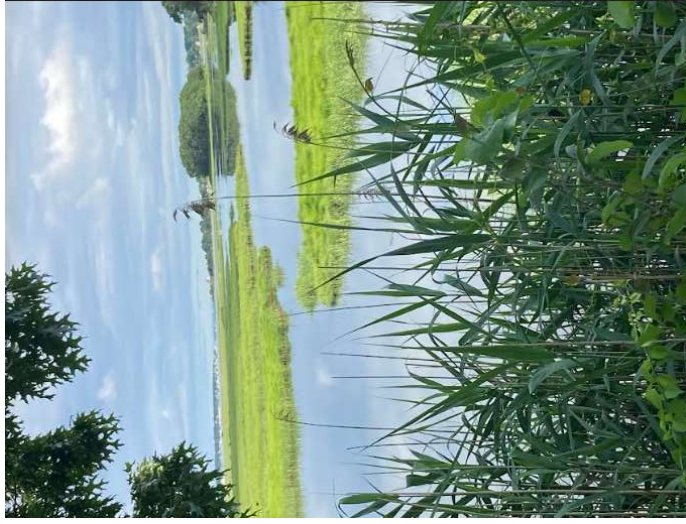
A little about the Phoenix Bike Trail

- Original path is **3.5 miles** long, runs from the west end of Town, near the waterfront, to the Mattapoisett Town Line.
- Extension is **1.7** Miles long and runs down by the Towns two Wind Turbines, a jetty on Little Bay and then to Sconticut Neck Road.
- The path offers spectacular marsh and water views at several locations along the way.

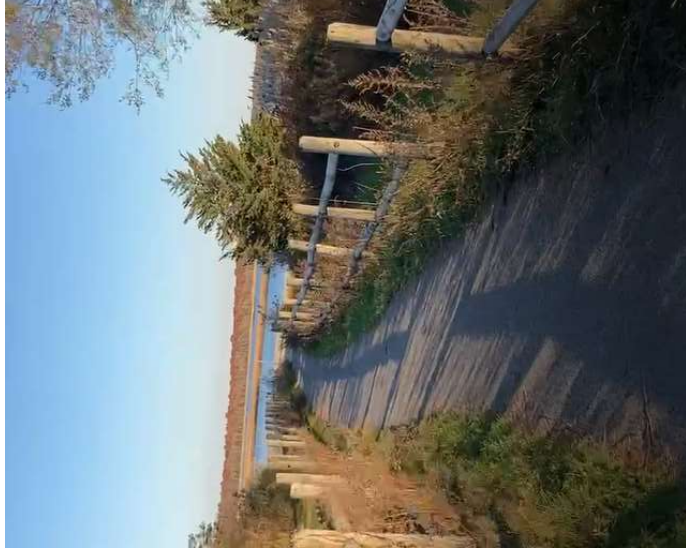


The path offers scenic views at many locations

Looking south to Little Bay



Path off extension to Jetty

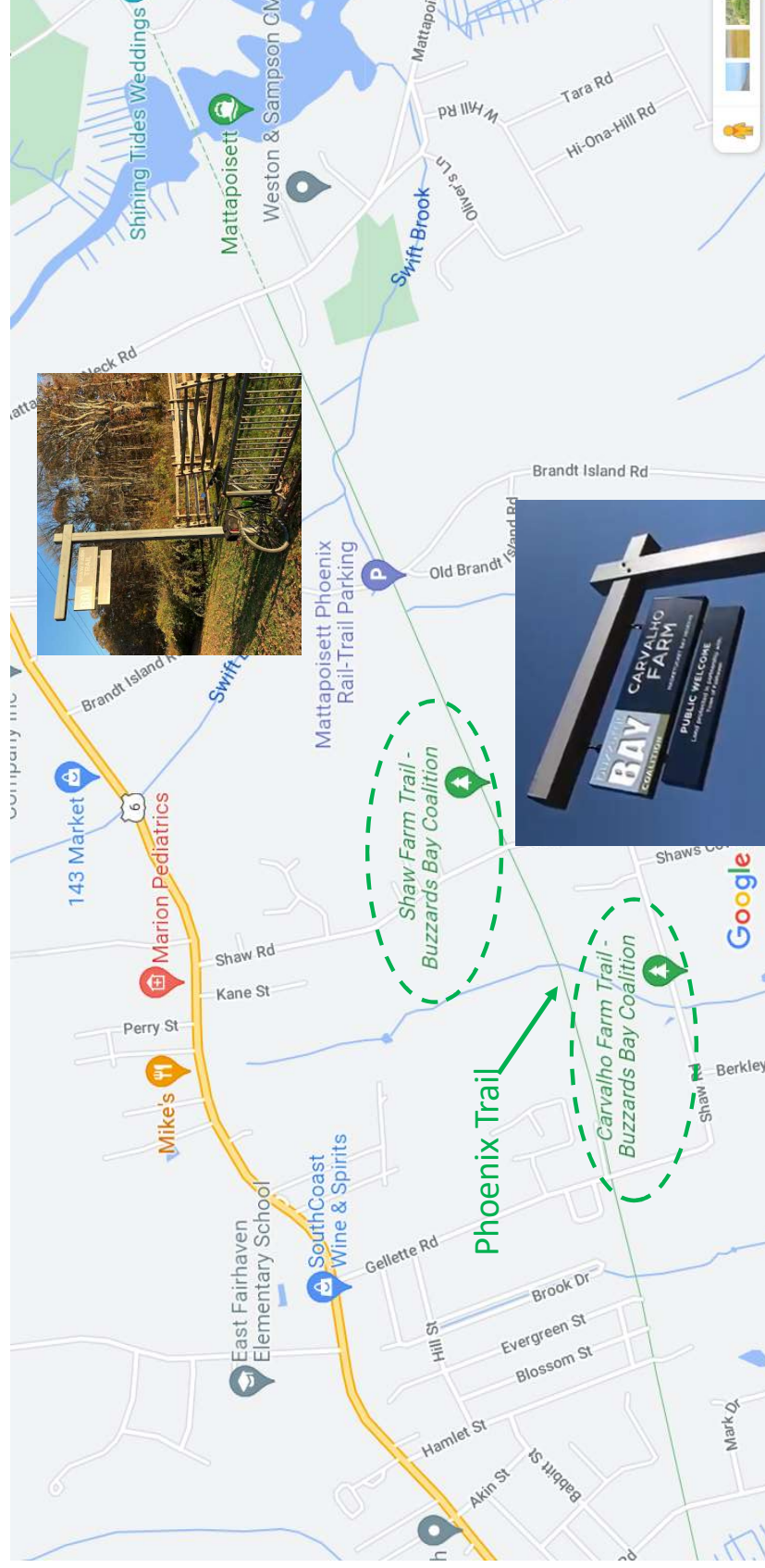


View at Jetty – looking north toward main path



Proximity to Conservation Land

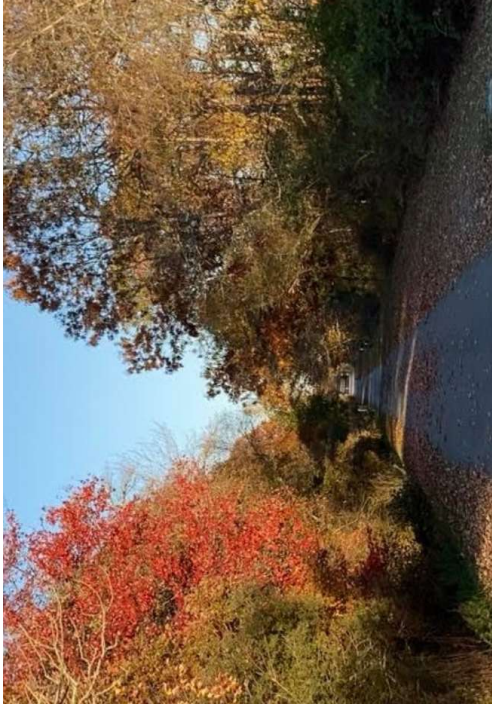
- Shaw Farm Trail
- Carvalho Farm Trail



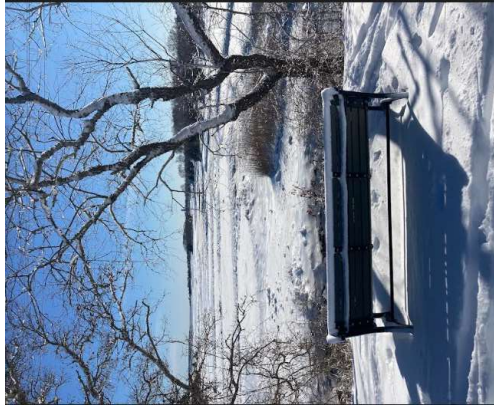
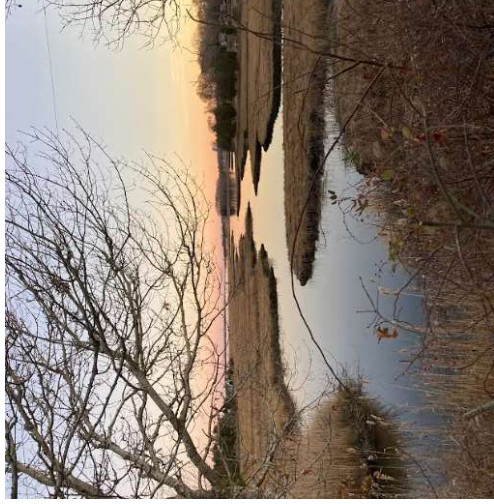
Conservation property provides hiking access to the water and nature trails



Walk beside a gently flowing stream through the woodlands at Carvalho Farm.



The path is used year round



The path is used for commuting

Jim Andersen, who is a member of the Fairhaven Bikeway Committee:

“One of the main reasons I chose to move to Fairhaven and that I purchased the home I now live in is that I love to ride my bike. I often bike down the path to run errands at the grocery store, pharmacy, to stop at my favorite chocolate shop.

I also rode to the Senior Center during COVID to get my shots and testing and I ride to the REC Center to participate in Chair Yoga Classes”

(The Fairhaven Counsel on Aging and Recreation Centers are both located adjacent to the Bike path).



The path made the “Bike Bus” from the center to Leroy L. Wood School possible

Parents and Children from the Center of Fairhaven Ride to Wood Elementary School Participation in the Safe Routes to School Program (SRTS) made the Town Eligible for a grant for infrastructure improvement **\$1.85M Programmed for 2024.**

Students and Parents at the intersection of the Phoenix Bike Path and Sconticut Neck Road, on their way home from School.

Chip Hawthorne and daughter Rebecca ride to the meet the Bike Bus in the Center of Fairhaven.
“We really enjoyed participating in the Bike Bus program”



Real Estate Testimonial



SOUTH COAST ELITE

• REAL ESTATE GROUP •



Sherry Lopes

Realtor, License #9534379

5089512147

E: SLopes417@aol.com

I always add to real estate listings "easy access to the bike path". When talking to clients I will always say

"and the added benefit is being so close to the bike path." For buyers with children attending Wood School I mention the "bike bus" from center Fairhaven to Wood.

Personally I see the bike path as a huge benefit to the town. Always comment on how many people come and park in the South St. area with bikes and notice the amount of walkers, families with carriages, bikers with grocery bags and bikers sitting outside in Willow Park, Margaret's benches and bikers taking the loop from the center to Ft. Phoenix.

Bike path is the easy connector to grocery stores, restaurants and Sconticut Neck/East Fairhaven. Exercise and get errands done at the same time!

My own perspective- for years, my husband and I got up on weekends very early, drove to the Cape Cod Canal, power skated and then drove home by 9:30 a.m. We would have skated 14 miles total but wasted time driving there, taking bikes off/on car and then driving home. Now we get on our bikes and ride the path. Save time, totally enjoy the beauty of the scenery and have added time that we would have been driving to ride longer distances.

Real Estate Testimonial



KYLE BUENO

Sales Associate LICENSED MA and RI

774.526.2977

857.220.3020

kyle@howeallen.com

http://howeallen.com



"As a local realtor for Howe Allen Realty here in Fairhaven, I see first hand the impact our amenities bring to our community from both a listing and buyer agent perspective. Whenever I list properties in the area, out of town buyers ask me, "Why Fairhaven"? My answer? It's the town's rich history, access to recreational facilities from **our bike path**, town beaches, pickle ball courts, and hiking trails; local eateries, and its people who welcome all visitors with open arms ...

I'm an avid cyclist myself and you can find me often riding on the Phoenix Bike Trail"

Sample Listing for home in proximity to the bike path

Room Levels, Dimensions and Features

Room	Level	Size	Features
Features			
Appliances: Range, Dishwasher, Disposal, Microwave, Refrigerator, Washer, Dryer, Vent Hood			
Area Amenities: Public Transportation, Shopping, Tennis Court, Park, Walk/Jog Trails, Bike Path , Conservation Area, Highway Access, House of Worship, Marina, Public School			
Basement: Yes Full, Interior Access, Bulkhead, Concrete Floor			

Features

Appliances: Range, Dishwasher, Refrigerator, Washer, Dryer, Vent Hood

Area Amenities: Public Transportation, Shopping, Tennis Court, Park, Walk/Jog Trails, **Bike Path**, House of Worship, Private School, Public School

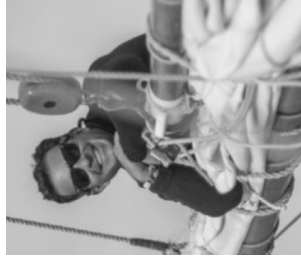
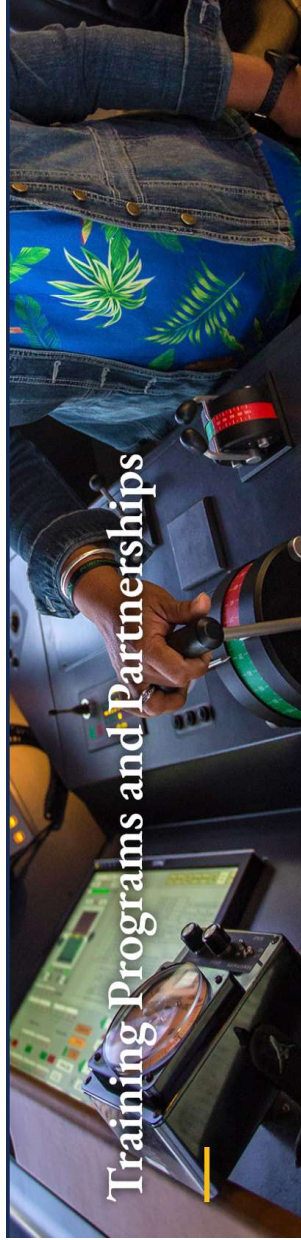
Local Maritime College Testimonial



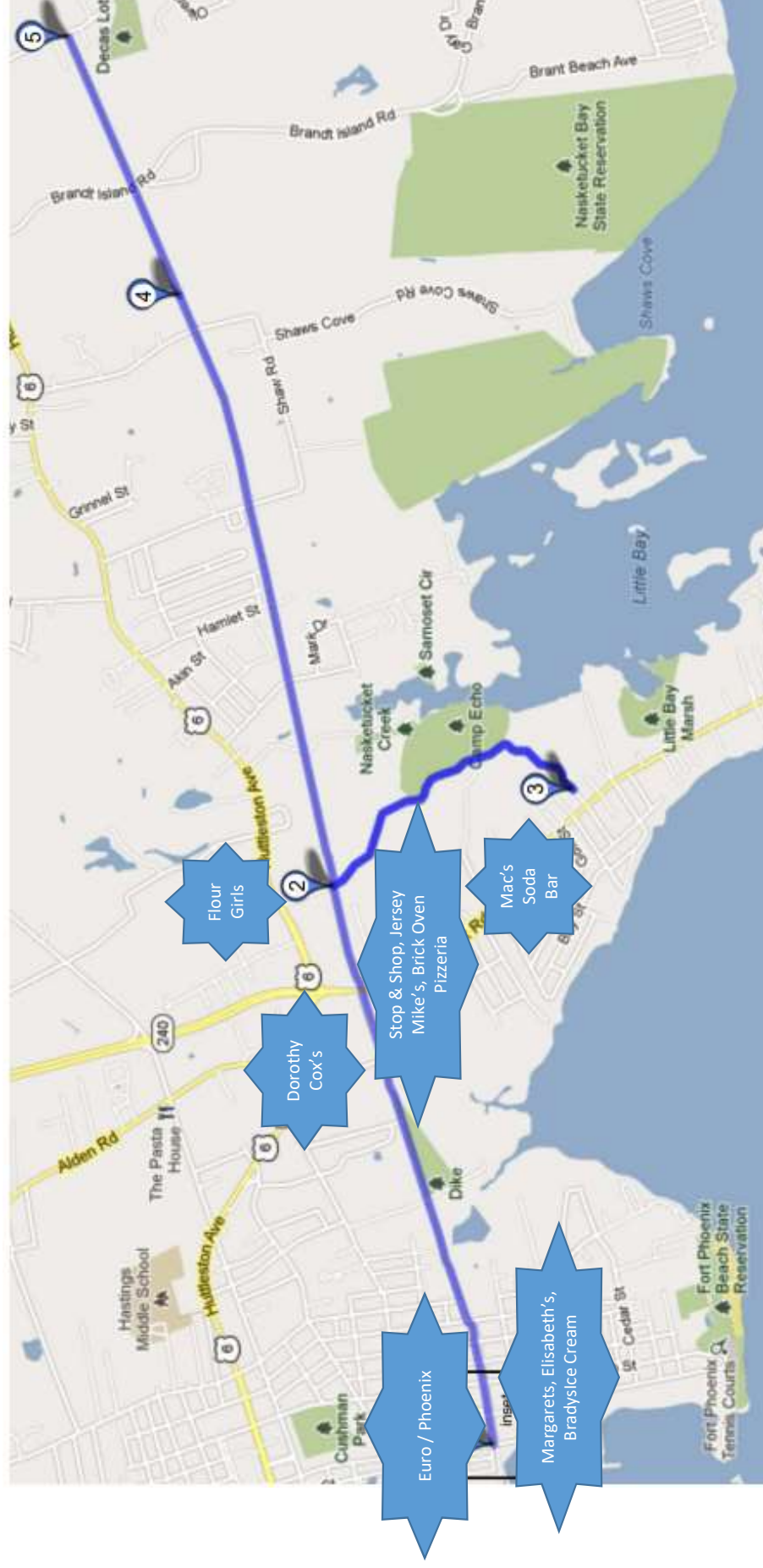
Northeast Maritime Institute
32 Washington St.
Fairhaven, MA 02719
(508) 992-4025

“Our students use the path for recreational purposes and to run errands into the commercial district along route 6. It’s a great asset to our community”

Eric Dawicki, President, Northeast
Maritime Institute



Examples of Commercial Business where people are known to ride or walk in off of the Phoenix Bike Trail to Shop



Business Testimonial

Dorothy Cox's
SINCE 1928



Families visit commercial establishments just off the bike path

Pictured: Top – Dorothy Cox, making a Frappe

Side: The Tapper-Richard Family (Case, Isaac and Mae) from East Fairhaven, at Dorothy Cox's chocolates enjoying an ice cream while their parents enjoy a frappe.

Mom, Jennifer says ...

“Isaac is able to ride with friends from where we live now in East Fairhaven, to meet friends halfway between where the live now and their prior home in the Center of Fairhaven”.



Business Testimonial

Margaret's, Elisabeth's and Brady's Ice Cream, located near the west entrance to the Bike Path.

Prospective owner of the businesses:

"I am considering purchasing these businesses, in part, because of their proximity to the Bike Path"



GAIL ISAKSEN



Gail Isaksen, owner of a business in the center, Euro at Phoenix store and also owns several residential properties near the center

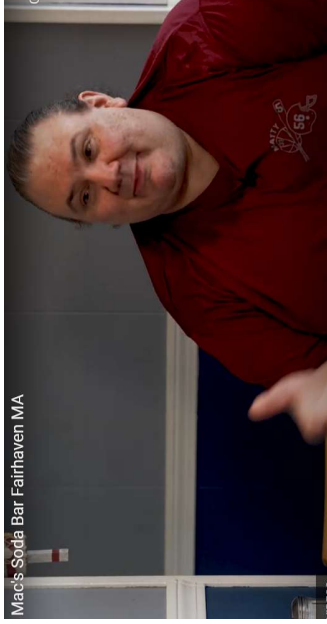


“ People do venture off the bike path to eat at the local restaurants and to shop down town at the Euro Ships store on Main St” .

“My tenants love to use the bike path for walking their dogs” .

“I have always enjoyed riding, walking and jogging on the bike path” .





Jevon Malcolm, Mac's Soda Bar

"We do see people ride in on their bikes to stop in for a breakfast, lunch or an ice cream

Personally, I love the bike path. I live near the entrance to the bike path at Orchard St. and use it sometimes to ride down to visit my father who lives on Brandt Island Road in Mattapoisett.

I see a group of women that park and walk together from the Orchard St. location".

Business

Family

Social



Testimonial about a local business

Flour Girls

“The Fairhaven bike path has been a great addition to the area. It provides my family with a safe place to ride our bicycles. My oldest learned how to ride a bike on the path. We love riding our bicycles from Mattapoisett to Fairhaven to get snacks and coffee at Flour Girls. We are hopeful that the path will eventually pass through our town of Marion”.

Brian Griswold
Marion, Ma



Business Testimonial



"I often do see many people come in for a sub and then hit the bike path".

Chris Breault General Manager Fairhaven MA
Cell- 774-328-0944
Store- 508-717-3747



"We do often see people ride their bikes in to shop at our store"

Michael Coleman
Store Manager

Stop & Shop also supports Bike path clean up activity with donation water and supplies for volunteers

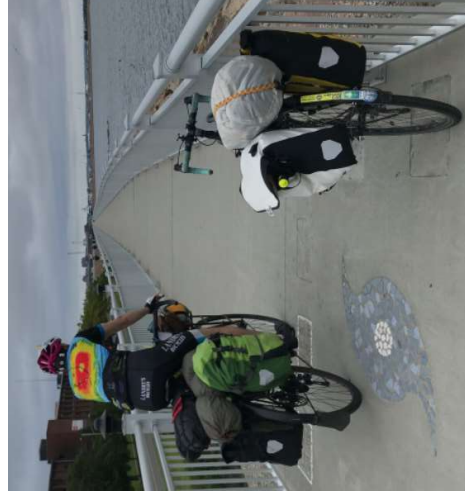
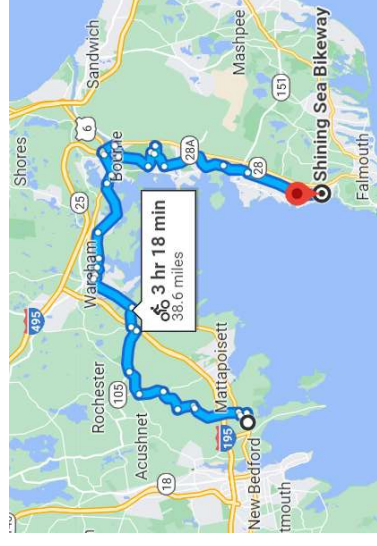
Tourism



Galen Mook – Mass Bike and Kristeen Keeney,
East Coast Greenway, touring
Southeastern Massachusetts

Distance from Fairhaven

25 Miles from the Bourne Bride, Cape
Cod Canal
39 Miles to Falmouth, Shining Sea
Bikeway, Ferries to the Islands





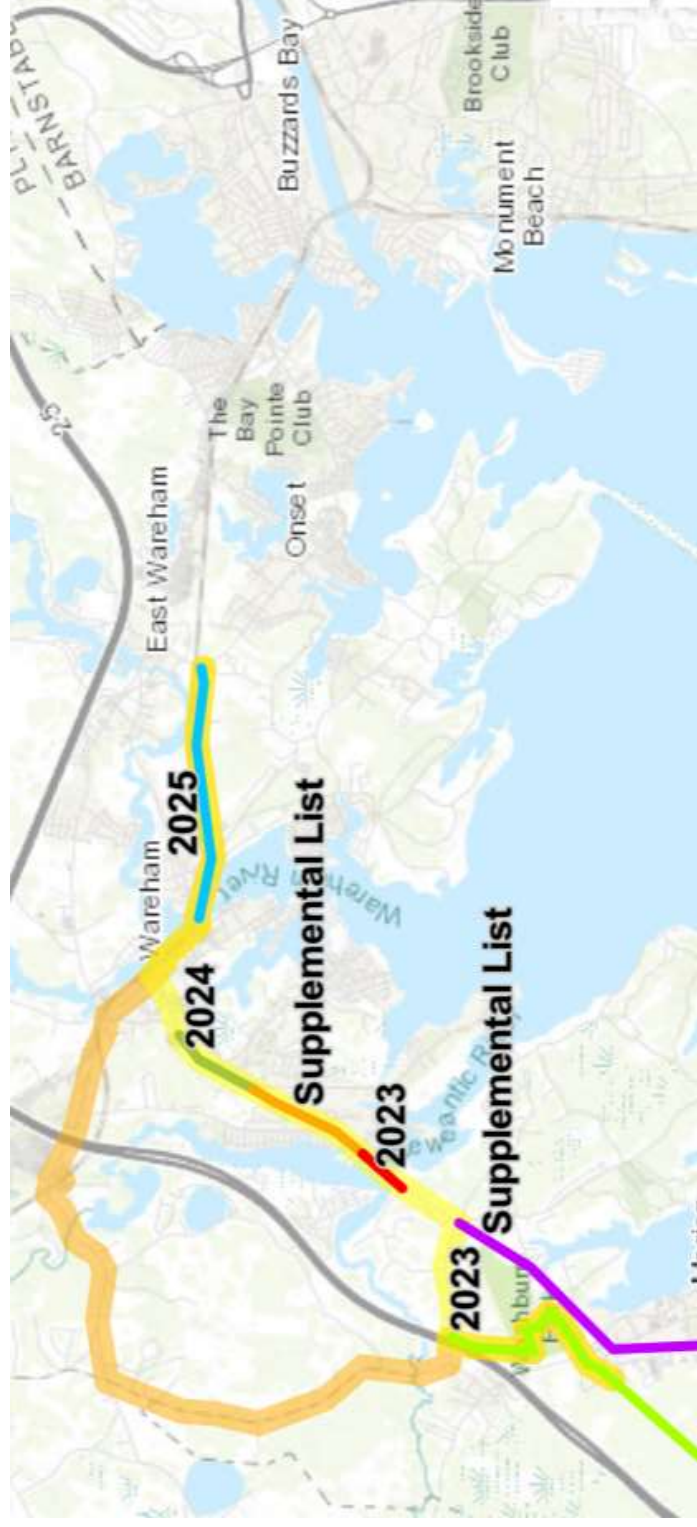
What we have to look forward to:

- Connectivity to Mattapoissett Center
- Magnificent Coastal Pathway



What we have to look forward to

Route 6 TIP Projects will bring us much closer to a day trip to Cape Cod





SRPEDD Moving Forward 2045 Webinar

Fairhaven Bike Path, Impact on the Community



Bob Espindola, Select Board member and member of the Fairhaven Bikeway Committee
respindola@fairhaven-ma.gov
Cell (774) 263-1046

With support from Paul Foley, Director of Planning and Economic Development
pfoley@fairhaven-ma.gov
(508) 979-4023 ext 122

Angeline Lopes Ellison

From: Robert Espindola <respindola@fairhaven-ma.gov> on behalf of Robert Espindola
Sent: Thursday, April 28, 2022 5:52 PM
To: Angeline Lopes Ellison; Gerald Jennings; Stasia Powers
Subject: Re: [fairhavenma] Bikeways Committee (Sent by Jerry Jennings, Gjennings@umassd.edu)

Jerry,

It was very nice to speak with you recently about your interest in the Fairhaven Bikeway Committee.

I am forwarding this message onto our Chair, Stasia Powers and our Town Administrator Angie Ellison and, by way of this email am asking for an agenda item on a future Select Board meeting to consider appointing you to an open position.

Thank you.

Bob

On Thu, Apr 28, 2022 at 5:34 PM Gerald Jennings <gjennings@umassd.edu> wrote:

Hi Bob - Please consider this a letter of confirmation of my interest in joining the Bikeways committee.
Thank s, Jerry Jennings

Get [Outlook for iOS](#)

From: Robert Espindola <respindola@fairhaven-ma.gov>
Sent: Thursday, April 28, 2022 5:29:02 PM
To: Gerald Jennings <gjennings@umassd.edu>
Subject: Re: [fairhavenma] Bikeways Committee (Sent by Jerry Jennings, Gjennings@umassd.edu)

You don't often get email from respindola@fairhaven-ma.gov. [Learn why this is important](#)

[EXTERNAL SENDER]

Jerry,

Thank you.

Are you still interested in becoming a member of the Bikeway Committee?

If so, did you already submit a letter of interest?

If not, you can send as a reply to this email or you can send to our Chair, Stasia Powers or our Town Administrator, Angie Ellison or you can drop a hard copy to one of us at the Select Boards office in Town Hall.

OK?

Thanks,

Bob

On Thu, Apr 28, 2022 at 11:49 AM Contact form at fairhavenma <cmsmailer@civicplus.com> wrote:



APPOINTING A DESIGNEE TO THE JOINT TRANSPORTATION PLANNING GROUP (JTPG)

The Joint Transportation Planning Group (JTPG) is the regional advisory group for all issues pertaining to transportation in southeastern Massachusetts. It consists of representatives of the chief local elected officials from each of our 27 member cities and towns. Each year, we ask that each municipality **appoint or reappoint its designee to the JTPG** to serve a term commencing June 1, 2022 through June 1, 2023. An alternate should also be appointed to attend meetings.

Meetings are held as needed, but no more than once per month. The primary responsibilities of the JTPG are:

- To advise the Southeastern Massachusetts Metropolitan Planning Organization (SMMPO), MassDOT, Federal Highway Administration (FHA), and Regional Transit Authorities on transportation issues related to the region;
- To advise on the allocation of transportation funds for projects programmed into the Transportation Improvement Program (TIP); and
- To provide a public forum for citizen participation in the transportation planning process.

Appointing a delegate who is able to attend meetings is important. Attending meetings is imperative to advocate for the placement of a community's projects in the TIP and to be kept informed of transportation issues in the region, including funding and grants.

Please stress to your appointee that they are expected to attend meetings and communicate back to their appointing board.

If an appointee cannot attend a meeting, an alternate (optional) can be appointed to attend on behalf of the City/Town.

**JOINT TRANSPORTATION PLANNING GROUP (JTPG)
MUNICIPAL REPRESENTATIVE APPOINTMENT
2022 - 2023**

Please be advised that the following individual, _____
has been appointed to represent the City/Town of _____
on the JTPG for the period June 1, 2022 through June 1, 2023.

Signed: _____

Mayor or Chair/President, Board of Selectmen or Town Council

Please Verify Contact Information for JTPG Appointees

JTPG REPRESENTATIVE	Name: _____
	Street: _____
	City/Town: _____
	Telephone: _____
	Email address: _____

Please Verify Contact Information for JTPG Alternates

ALTERNATE: (OPTIONAL)	Name: _____
	Street: _____
	City/Town: _____
	Telephone: _____
	Email address: _____

PLEASE RETURN THIS FORM TO STACY ROYER BY **MAY 26, 2022** VIA:
EMAIL ([SSOUSA@SRPEDD.ORG](mailto:ssousa@srpedd.org)) OR FAX (508-823-1803)

SELECT BOARD'S MEETING

MONDAY, May 09, 2022

Common Victualer

Application submitted by:

**168 Sushi Kitchen
8-1 Sconticut Neck Road
Fairhaven, MA 02719
Owner, Jason Lee**

Taxes: ok
WC: ok
Tips: ok
Bldg.: ok
Health: ok.



**Town of Fairhaven
Massachusetts
Select Board**

40 CENTER STREET
FAIRHAVEN, MA 02719

TEL: (508) 979-4023
FAX: (508) 979-4079
Selectmen@Fairhaven-MA.gov

APPLICATION FOR A LICENSE AS A COMMON VICTUALER

The undersigned hereby makes application for a license as **Common Victualer** with the privilege of doing business on the Lord's Day as provided by General Laws of 1920, Chapter 140, Section 2-21, and Acts amending the same or in addition thereto at

For the year 2022

Firm name 168 Sushi Kitchen

Signature Jason Lee

Business Address 8-1 Sconticut Neck Road
Fairhaven MA 02719

Telephone # [REDACTED]

Pursuant to M.G.L. Chapter 62C, section 49A, I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

[REDACTED]
Social Security Number or Federal
Identification Number

Jason Lee
Signature of individual or
Corporate Name

Date: 09/26/2022

By: _____
Corporate Officer (If applicable)

Fee: \$25.00

Office Use only

Workers' Compensation ✓
Building Department _____
Board of Health J. Bauman
Taxes _____

SELECT BOARD'S MEETING

MONDAY, May 09, 2022

Common Victualer

Application submitted by:

**Main Street Scoops
382 Main Street
Fairhaven, MA 02719
Owner, Michelle Martins**

Taxes: ok
WC: ok
Tips: ok
Bldg.: ok
Health: ok.



**Town of Fairhaven
Massachusetts
Select Board**

40 CENTER STREET
FAIRHAVEN, MA 02719

TEL: (508) 979-4023
FAX: (508) 979-4079
Selectmen@Fairhaven-MA.gov

APPLICATION FOR A LICENSE AS A COMMON VICTUALER

The undersigned hereby makes application for a license as **Common Victualer** with the privilege of doing business on the Lord's Day as provided by General Laws of 1920, Chapter 140, Section 2-21, and Acts amending the same or in addition thereto at

For the year 2022

Firm name Main Street Scoops

Signature [Signature]

Business Address 382 Main St.
Fairhaven, MA 02719

Telephone # [Redacted]

Pursuant to M.G.L. Chapter 62C, section 49A, I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

[Redacted]

Social Security Number or Federal Identification Number

[Signature]
Signature of individual or
Corporate Name

Date: 4/27/2022

By: _____
Corporate Officer (If applicable)

Fee: \$25.00

Paid ch. 4455

Office Use only

Workers' Compensation _____
Building Department _____
Board of Health _____
Taxes _____



Buzzards Bay Coalition Watershed Ride 2022

1 message

Jonah Guerin <guerin@savebuzzardsbay.org>
To: Vicki Oliveira <vloliveira@fairhaven-ma.gov>
Cc: selectmen@fairhaven-ma.gov, Mike Myers <chief@fairhavenpolice.org>

Thu, Apr 28, 2022 at 2:40 PM

Hi Vicki,

Hope you are doing well. I'm reaching out to ask permission from the Select Board to host our annual cycling ride on October 2 this year, with the route going through Fairhaven. This year would mark our 16th time running the event, and we are excited to continue the tradition. Here is the event website for your reference: <http://savebuzzardsbay.org/ride>

Please see attached for a letter with more details, the cycling route, and the MassDOT Event Notification Form. If you approve, please sign and return the DoT form. Feel free to reach out if you have any questions. We look forward to having our ride go through scenic Fairhaven again this fall!

Best,
Jonah

--

Jonah Guerin
Event Manager

BUZZARDS BAY COALITION

114 Front Street, New Bedford, MA 02740 USA

Tel: 508-999-6363 x.207 - www.savebuzzardsbay.org

2 attachments

 **Fairhaven - MassDOT Event Notification Form.pdf**
167K

 **Fairhaven Select Board Ride 2022.pdf**
1980K



April 28, 2022

Fairhaven Select Board
Fairhaven Town Hall
40 Center Street
Fairhaven, MA 02719

BOARD OF DIRECTORS

Mike Angelini, *Chair*
Mike Huguenin, *Vice-Chair*
Chris Schade, *Treasurer*
Scott Zeien, *Clerk*
Mark Rasmussen, *President*
Julius Britto
John Bullard
Virginia Clark
David Croll
Andrew Dimmick
Tally Garfield
Samuel Gray
Melissa Haskell
Kat Jones
Lloyd Macdonald
Kendra Medina
Christopher Neill
Christine Parks
Skylah Reis
Laura Ryan Shachoy
Steve Smith
Hilary Prouty Vineyard

Dear Fairhaven Select Board,

We are writing to request approval for use of public roads for the Buzzards Bay Coalition's **16th Annual Watershed Ride on Sunday, October 2, 2022.**

This cycling event begins in Little Compton, RI at 7:30am with 400 riders making their way through 13 towns and over 100 miles to eventually end in Woods Hole. The Watershed Ride raises funds for clean water in Fairhaven, and all of Buzzards Bay. More general information about the event can be found on our website:

www.savebuzzardsbay.org/ride

The route is the same one we have taken for the last 15 years. As always, we will assign volunteers to the critical turns to ensure our cyclists pass safely and smoothly through the route. We expect cyclists to pass through town between the hours of 10:30am-12:00pm. Please see attached for the full route cue sheet.

I am copying the Police Chief Myers on this request and including the MASS DOT Event Notification form, which they request that you return to me once completed so I can submit it as part of our permitting process with the state.

Lastly, we're wondering if the Board would grant permission to post 4-6 18" x 24" signs about the Ride along the bike path route only for the month of September only.

We appreciate the opportunity to showcase the scenic beauty of Fairhaven during our Watershed Ride. Please let us know if you need additional information.

Sincerely,

A handwritten signature in black ink that reads "Jonah Guerin".

Jonah Guerin, Event Manager
guerin@savebuzzardsbay.org

cc: Police Chief Michael Myers, via email



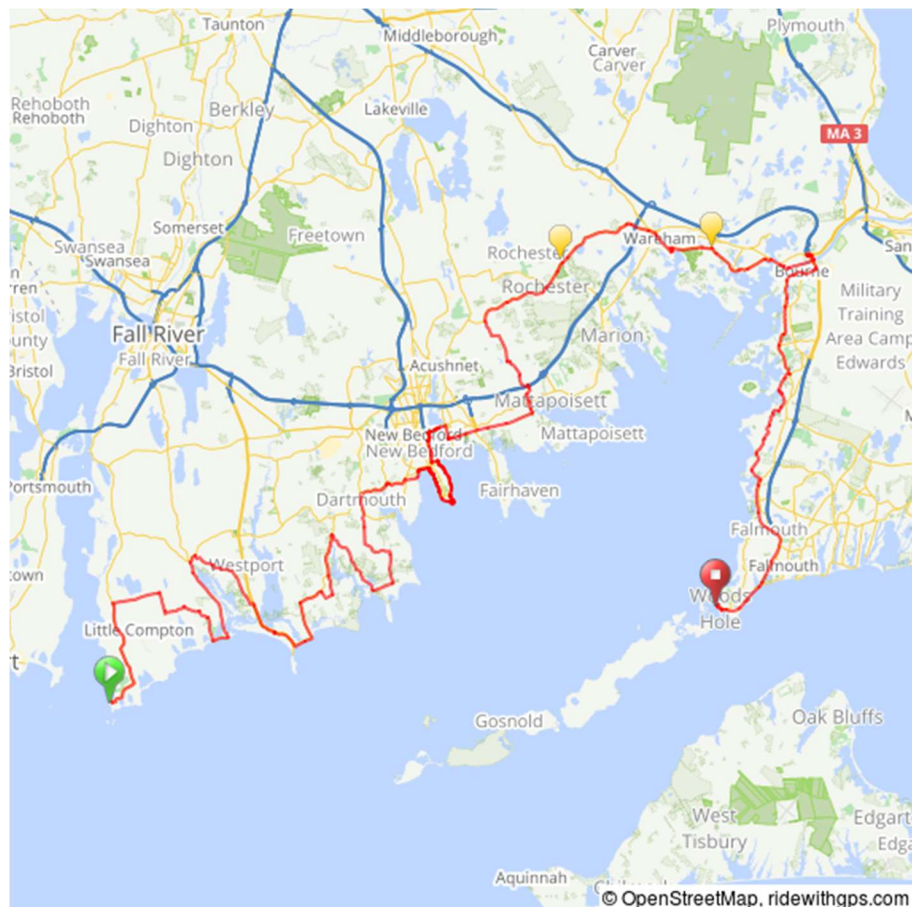
Buzzards Bay Watershed Ride

Experience the beauty and spirit of southeastern New England in autumn from the seat of your bicycle at the annual Buzzards Bay Watershed Ride.

























Choose from **three spectacular 100, 75, and 35-mile cycling routes** that wind through farmland, coastal villages, cityscapes, cranberry bogs, and the back roads of Cape Cod to end with a waterfront finish line party in beautiful Woods Hole. All riders are fully supported with local food and beverages all day, welcoming volunteers, and SAG wagons with ace bike mechanics and first aid. \$65 registration fee includes five water stops, a hearty food truck lunch, a dinner buffet with beer, wine, and live music, and prizes for top fundraisers and best team uniforms.

Each cyclist is required to **raise a minimum of \$300** to support the **Buzzards Bay Coalition**'s work to protect our local environment. Team participation is welcome and encouraged!

Gather your friends, family, and coworkers to "bike for clean water" in October.



Buzzards Bay Watershed Ride 2022
100, 75, 35-mile routes SAG support/helpline: (508) 999-6363

Num	Dist	Type	Note
1.	0.0		Start of route – LITTLE COMPTON, RI
2.	0.0		100-mile START LINE Parking, check-in, restrooms, food, water available
			100 MILES TO GO
3.	0.1		L onto Sakonnet Point Rd. (RI route 77)
4.	5.4		R onto Peckham Rd – <i>Volunteer</i>
5.	7.6		R onto Long Hwy – <i>Volunteer</i>
6.	8.5		L onto Pottersville Rd
7.	9.4		Slight R on Mullin Hill Road
WESTPORT, MA			
8.	10.2		R onto Old Harbor Rd
			90 MILES TO GO
9.	10.8		R onto Howland Rd
10.	11.8		L onto Atlantic Ave
11.	12.6		L onto Acoaxet Rd
12.	12.8		Continue onto River Rd
13.	16.0		Slight R onto Old Harbor Rd
14.	16.5		R onto Adamsville Rd
15.	18.9		R onto Main Road – <i>Volunteer</i>
			80 MILES TO GO
16.	22.5		L onto Hotel Hill Rd – <i>Volunteer</i>
17.	22.7		R onto MA-88 S
			POLICE CRUISER HERE
18.	23.4		Metal Drawbridge ahead - slow down, proceed with caution. Dismount bike and walk over if raining. – <i>Volunteer</i>
19.	23.9		Continue onto John Reed Rd
20.	24.4		WATER/REST STOP. Food, water, restrooms
21.	24.4		75 MILE START LINE
22.	25.6		L onto E Beach Rd
23.	26.4		E Beach Rd turns slightly L and becomes Horseneck Rd
24.	28.1		R onto Horseneck Rd
DARTMOUTH			

25.	29.2	➡	R onto Allen Neck Rd	
26.	29.9	⬅	L onto Barneys Joy Rd	
27.	32.7	➡	R onto Tannery Ln - <i>Volunteer</i>	70 MILES TO GO
28.	32.7	➡	R onto Rock O'Dundee Rd	
29.	33.6	➡	Slight R onto Potomska Rd	
Num	Dist	Type	Note	
30	36.1	⬆	Continue onto Little River Rd	
31.	37.0	⬅	L onto Smith Neck Rd	
32.	40.3	➡	R onto Gulf Rd	60 MILES TO GO
33.	40.8	⬅	L onto Elm St – <i>Volunteer</i>	
34.	40.9	➡	R onto Prospect St	
35.	41.1	⬅	Slight L onto Dartmouth Street	CHEER SQUAD (OSS)
36.	42.2	➡	R onto Rogers St - <i>Volunteer</i>	
NEW BEDFORD				
37.	42.7	⬅	L onto Padanaram Ave	
38.	43.0	➡	R onto Cove Road	
39.	43.0	➡	R up onto sidewalk and on ramp to CoveWalk. Uneven ground, use caution. - <i>Volunteer</i>	
40.	43.9	⬅	Slow down, take off ramp on L to leave CoveWalk - <i>Volunteer</i>	
41.	43.9	➡	R onto W. Rodney French Blvd.	
42.	44.3	⬆	Look for bike path on R, enter bike path again	
43.	45.1	⬆	Go thru the gate on to bike path - Fort Taber. Narrow gate, use caution. - <i>Volunteer</i>	
44.	45.5	⬆	Keep straight on bike path, follow coastline	
45.	45.9	⬅	Follow bike path L around bend	
46.	46.0	⬅	L, then an immediate R	
47.	46.0	➡	R to stay on path	
48.	46.1	🍴🍴	WATER/REST STOP - Water, food, restrooms available	
49.	46.2	➡	Bear R to stay on bike path	
50.	46.3	⬅	Bear L to exit park	
51.	46.3	➡	R onto E. Rodney French Blvd.	
52.	47.4	➡	Take R to enter on-ramp to HarborWalk. Use caution. - <i>Volunteer</i>	

53.	48.0	□	SLOW DOWN, Take steep ramp off Harbor Walk on L	
54.	48.0	←	L at bottom of ramp puts you on Gifford Street - <i>Volunteer</i>	
55.	48.3	→	R onto South Front Street	
56.	48.6	→	R onto Potomska Street	
57.	48.8	↑	Continue on McArthur Drive	
58.	49.3	←	At intersection, cross over bearing L to ENTER SIDEWALK immediately on your R. Use caution. – <i>Volunteer</i>	POLICE DETAIL HERE
59.	49.3	→	R then immediately jog L to stay on brick sidewalk bike path.	

Num	Dist	Type	Note	
60.	49.5	↑	Jog R to stay on bike path and on-ramp up to highway	
61.	49.5	↑	Straight to enter sidewalk on-ramp - <i>Volunteer</i>	
62.	49.7	↑	Merge onto US-6E, stay on sidewalk	
63.	49.9	↑	SLOW DOWN. TRACKING AHEAD. Call out bib number to volunteer at FISH ISLAND. POPE'S ISLAND CHEER SQUAD	50 MILES TO GO
FAIRHAVEN				
64.	50.5	→	R onto Middle St - <i>Volunteer</i>	
65.	51.1	←	L onto Ferry St	
66.	51.2	→	R onto Main St	
67.	51.2	←	L onto Bike Path/Phoenix Rail Trail	
68.	55.1	←	L onto Mattapoisett Neck Rd	
MATTAPOISETT				
69.	55.5	→	R onto US-6 E/Fairhaven Rd. Use caution. – <i>Volunteer</i>	POLICE DETAIL HERE
70.	55.6	←	L onto River Rd - <i>Volunteer</i>	
71.	56.3	←	L onto Acushnet Rd - <i>Volunteer</i>	
72.	56.6	←	L to stay on Acushnet Rd	
73.	58.1	←	L to stay on Acushnet Rd	
ACUSHNET				
74.	58.3	→	R onto Long Plain Rd	
75.	60.6	→	R onto Perry Hill Rd	40 MILES TO GO
76.	64.0	→	Keep R to stay on New Bedford Rd	

77.	64.0	➡	R onto Marion Road	
ROCHESTER				
78.	64.1	⬅	L onto Marys Pond Rd	
79.	65.4	🍴🚶	LUNCH STOP/35-mile START LINE - 131 Hiller Road. Food, water, restrooms available.	
80.	67.4	⬆	Continue on Fearing Hill Road	
WAREHAM				
81.	69.0	➡	R onto Main St	
82.	70.0	➡	R to stay on Main St	30 MILES TO GO
83.	70.3	➡	R onto Gibbs Ave	
84.	70.4	⬅	Slight L onto High St	
85.	71.4	⬅	L onto Cedar St	
86.	71.5	⬅	L onto Main St - <i>Volunteer</i>	
87.	71.6	➡	R onto US-6 E/Sandwich Rd	
88.	71.7	➡	R onto Narrows Road	
89.	72.1	⬆	Continue onto Minot Ave	
90.	73.5	⬆	Proceed straight through intersection	
91.	73.5	➡	R onto Onset Ave	ONSET PIER CHEER SQUAD (Tabor Academy)
92.	76.8	➡	R onto MA-28/US-6E/Cranberry Hwy	
BOURNE (BUZZARDS BAY)				
93.	77.3	⬆	Continue straight through rotary to stay on Main St	
94.	77.5	➡	R onto Canal St and parking lot - <i>Volunteer</i>	
95.	77.6	➡	R toward Canal Service Rd/Bike Path - <i>Volunteer</i>	
96.	77.7	⬅	L onto Canal Service Rd and bike path: Slow down. Follow bike path etiquette. Yield to pedestrians.	
97.	78.9	⬅	L on to Andy Olivia Drive towards campground - <i>Volunteer</i>	
98.	78.9	⬆	Straight up hill to stay on Andy Olivia through campground	
99.	79.2	⬅	L onto Main St/RT 6: must cross with light - <i>Volunteer</i>	
100.	79.3	➡	Take R up ramp to Starbucks Parking Lot	
101.	79.4	⬆	Stay L as you proceed through parking lot cut through	
102.	79.4	⬅	L to exit parking lot	

103.	79.4	➡	R onto Bourne Bridge Approach/Old Bourne Bridge Approach	
104.	79.5	□	SLOW DOWN. TRACKING STATION ahead, call out bib number. Dismount to cross bridge on foot.	
105.	79.5	🍴	WATER/ REST STOP: Food, water, restrooms available.	
106.	79.6	➡	Keep R to enter Bridge Sidewalk. Dismount to cross bridge on foot 20 MILES TO GO	
107.	80.3	↑	Use Sidewalk to bear right around State Police Building. <i>Welcome to Cape Cod!</i>	
108.	80.4	➡	R onto Trowbridge Rd	
109.	81.0	↑	Continue onto Shore Rd	
110.	81.9	←	Left at fork at VFW to stay on Shore Rd	
111.	83.0	➡	R to stay on Shore Rd	
112.	84.8	□	Metal drawbridge ahead, proceed with caution. USE SIDEWALK. <i>Volunteer, J. York 818 Shore Road, has his own sign, (774) 392-0111</i>	
113.	86.4	➡	R onto Red Brook Harbor Rd. Railroad tracks proceed with caution. – <i>Volunteer, Dave Dimmick: (508) 561-6812, has his own sign: RR X-ING</i>	1
114.	87.4	↑	Straight on Squeteague Harbor Rd	
115.	87.5	➡	R onto Megansett Rd, becomes Garnet Ave.	
FALMOUTH/WOODS HOLE				
116.	88.4	↑	Straight across intersection at County Rd	
117.	88.4	➡	R onto Chester St - <i>Volunteer</i>	
118.	88.6	←	Keep L to stay on Chester St	
119.	89.3	↑	Straight onto Quaker Rd. 10 MILES TO GO	
120.	92.1	↑	Merges into Nashawena Street	
121.	92.7	←	L onto Old Dock Rd	
122.	92.7	➡	R at train tracks onto Bike Path/Shining Sea Bikeway	

123.	95.0	↑	Stay on bike path all the way to end in Woods Hole	
124.	96.9	□	Slow down. Prepare to use traffic light at crosswalk at Woods Hole Rd. <i>-Volunteer @ WH Rd crosswalk hits button for riders</i>	
125.	100.2	➡	R on Railroad Avenue – <i>Volunteer</i>	
126.	100.2	←	L onto Water St. POLICE ASSIST at crossing. POLICE DETAIL HERE	
127.	100.3	□	Metal drawbridge ahead, proceed with caution. Dismount bike and walk over if raining. – <i>Volunteer</i>	
128.	100.5	➡	R onto MBL St POLICE DETAIL HERE	
129.	100.6	□	FINISH LINE. Congratulations! Bike Valet and Bag Check on your right.	

4/28/2022 2:35 PM

EVENT NOTIFICATION FORM

Date: 4/28/22

Ms. Mary-Joe Perry
District Highway Director, District Five
MassDOT, Highway Division
1000 County Street
Taunton, MA 02780

Dear Sir:

Please be advised that the Grantee(s) of this Event Buzzards Bay Watershed Ride has notified the Board of Selectmen/City Council, Local Police Department, Local Fire Department and if applicable the State Police of its intention to conduct **road work/parade/race/ride** or other events impacting State Highways on Route(s) 6 in or through the City/Town(s) of Fairhaven benefiting Buzzards Bay Coalition

The Grantee(s) of this Event understands that it must give the Police and Fire Departments at least 48 hours notice before the commencement of the proposed event.

The Grantee(s) must supply a Traffic Management Plan when the roadway is occupied and for all detours associated with said events to this Department and to all officials listed below. The Grantee(s) must notify the local and/or state police to set up a detour of this area with appropriate signs and barricades. The local Fire Department must be notified of the detour to ensure that measures will be taken to minimize disruption to the Fire Department's emergency service during the event. The Grantee(s) must also notify local media (newspapers, radio) of this proposed event.

The following signatures are required prior to the issuance of the Permit.

LOCAL POLICE DEPARTMENT

Signed: _____

Title: _____

City/Town: _____

FIRE DEPARTMENT

Signed: _____

Title: _____

City/Town: _____

BOARD OF SELECTMEN/CITY COUNCIL

Signed: _____

Title: _____

City/Town: _____

STATE POLICE DEPARTMENT

Signed: _____

Title: _____

City/Town: _____

Memorandum

From: Bob Espindola
 To: Ms. Angie Ellison
 Date: May 4th, 2022

Re: Agenda request for May 9th Select Board Meeting

Ms. Ellison,

This is follow up to my April 26th, 2022 email request for a future meeting agenda to discuss the Southeastern Regional Planning and Economic Development District (SRPEDD) and Southeastern Metropolitan Planning Organization (SMMPO) five-year Transportation

Improvement Program (TIP) document. As you may recall, I am the Select Board representative to the SRPEDD Commission and I was elected by the SRPEDD Commission to serve a two year term on the SMMPO.

The SMMPO voted, at our last meeting, on April 19th, to post the TIP for public comments until our next meeting which will be on Tuesday, May 17th, at 1:00 P.M.

For context, I would like to draw Board member attention to the Introduction from the TIP, copied here for your convenience. It reads as follows;

Begin TIP Introduction reference =====

INTRODUCTION

The Transportation Improvement Program (TIP) is a requirement of the Metropolitan Transportation Planning Process as described in the Metropolitan Planning Final Rule 23 CFR 450 section 324.

The SMMPO is required to carry out a continuing, cooperative, and comprehensive performance-based regional **multimodal transportation planning process**, including the development of a long-range regional transportation plan (RTP) and TIP, that facilitates the safe and efficient management, operation, and development of surface transportation systems that will serve the **mobility needs of people and freight (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation)**, including intercity bus facilities and commuter van pool providers) and that fosters economic growth and development and takes into consideration resiliency needs **while minimizing transportation-related fuel consumption and air pollution.**

The Joint Transportation Planning Group (JTPG) makes recommendations on priorities, plans and programs to the Southeastern Massachusetts Metropolitan Planning

Organization (SMMPO). The JTPG, consists of appointed delegates from each of SRPEDD's member municipalities, and is the transportation advisory body and citizen participation tool of the SMMPO. SRPEDD Transportation Planning Staff works with the JTPG to prepare the Regional Transportation Plan, the Transportation Improvement Program and the Unified Planning Work Program. The SMMPO is responsible for the preparation and approval of each of these documents.

Funding for development of the TIP and the long-range statewide transportation plan is outlined in the SMMPO's Unified Planning Work Program (UPWP). The UPWP is updated annually and identifies the planning priorities and activities to be carried out within a metropolitan planning area.

The Southeastern Massachusetts MPO consists of thirteen members representing the following: 1. Secretary of the Executive Office of Transportation and Public Works, 2. MassDOT Highway Administrator, 3. Chairman of the Southeastern Regional Planning and Economic Development District (SRPEDD) Commission, 4. Administrator of the Southeastern Regional Transit Authority (SRTA), 5. Administrator of the Greater Attleboro Taunton Regional Transit Authority (GATRA), 6. Mayors of Attleboro, Fall River, New Bedford and Taunton, 7. Members of four Boards of Selectmen in the SRPEDD Region to be elected by the SRPEDD Commission. A listing of current SMMPO members may be found at <https://srpedd.org/transportation/regional-transportationplanning/smmmpo>.

END TIP Introduction reference =====

I would encourage the Select Board and anyone in the community to read through the TIP and consider making comments on areas that you feel need attention or to be made a priority. This is the opportunity for your voice to be heard. Your comments will be documented and considered in the final plan.

For example, I would like to draw the Boards attention to the Comments made on page 38 of the TIP document, last revised April 13th of this year. The link to the document is below. A woman, Sandra Medeiros, from the South Coast Bikeway Alliance which, as you know I am also a member, advocated for the ramp that will be built on the north side of the Fairhaven-New Bedford Bridge to be moved up from the program year 2027 to more closely coincide with

The ramp will make it easier for people commuting to the New Bedford rail station via bicycle from Fairhaven and points east, to ride down off the bridge and into the Train Station.

The ramp will meet the mobility, accessibility, intermodal and environmental objectives outlined in the introduction of the TIP and having the ramp completion synchronized with the Rail Station opening would be much more desirable than to have the ramp open four (4) years later.

The Fairhaven Bikeway Committee, at their most recent meeting on April 26th, voted to submit a comment regarding the ramp completion timing, asking for it to be synchronized with the Rail Station opening and I would like to ask that the Select Board consider doing the same.

I would recommend that the comment made by our Select Board, if the Board approve, should simply read;

“The Town of Fairhaven Select Board, at their meeting on May 9th, voted to submit a comment to SRPEDD and the SMMPO regarding the 2023-2027 Transportation Improvement Program (TIP) to respectfully request that the ramp on the north side of Route 6, currently scheduled for construction in program year 2027, be moved up in the programming to more closely coincide with the opening of the New Bedford South Coast Rail. This ramp clearly fits into the mobility, accessibility, intermodal and environmental objectives outlined in the introduction of the TIP.

We believe that people will utilize the ramp to travel on foot from Fairhaven and on bicycle from Fairhaven and points east, to the rail station to commute up to Boston.

More closely aligning the ramp construction with the Rail Station opening will bring the vision that the plan already has in place (intermodal transportation and accessibility) into play four (4) years earlier and we think, would be a very worthwhile consideration.

Thank you for your consideration.

The Town of Fairhaven Select Board

Board Members

Name	Title
Stasia Powers	Chairwoman
Leon E. Correy III	Vice-Chairman
Robert J. Espindola	Clerk
Keith Silvia	Member
Charles K. Murphy, Sr.	Member

Begin Reference material =====



Link to TIP Document

<https://srpedd.s3.amazonaws.com/wp-content/uploads/2022/04/21072756/full-Draft-FY-23-27-TIP-04.21.22-A.pdf>

Link to SMMPO web site: <https://srpedd.org/transportation/regional-transportation-planning/smmppo/>

The Bridge project is mentioned on page 117.

ement Program April 13 2... 117 / 221 - 77% + | [] []

MassDOT completed The New Bedford Fairhaven Bridge Corridor Study in 2015. A broad range of alternatives were developed to address the long-term options for the New Bedford-Fairhaven Bridge. The alternatives were evaluated and reviewed by MassDOT, the Study Advisory Group, and community and public stakeholders through a series of meetings to identify feasible solutions. Based on this review, it was determined that of the eight long-term alternatives considered, two build alternatives have the potential to provide the most effective long-term option. The two alternatives

105

recommended for advancement into the project development phase are Alternative 1T: Tall Vertical Lift Bridge, and Alternative 3D: Double-leaf Dutch Bascule Bridge. The estimated cost for Alternative 1T is between \$100 and \$130 million and the estimated cost for Alternative 2 is between \$85 and \$100 million.

on Improvement Program April 13 2... 38 / 221 - 77% + | [] []

Table 8 – FFY2022-2026 TIP Development Public Comments

Date	Meeting (If Applicable)	Comment Type	Commenter	Comment	Response
4/11/2022		e-Mail	Sandra Medeiros, South Coast Bikeway	<p>Is there a way to ask that this accessible ramp project (NEW BEDFORD- BICYCLE AND PEDESTRIAN RAMP CONSTRUCTION, ROUTE 6 (WB) TO MACARTHUR DRIVE) be moved up on the TIP? 2027 is several years past the 2023 completion date of the South Coast Rail. I was under the understanding that the project was fully funded and construction would begin soon.</p> <p>The lack of a ramp on the north side of route 6 is the only impediment to cyclists accessing the train station from Fairhaven and points east. I am aware that cyclists could travel on the south side of route 6 on the bumpy red "brick" path and circle back towards the station but that would add additional minutes to their commute. Perhaps we should send a letter from the South Coast Bikeway Alliance to our state and local representatives as well as submit comments to the South Coast Rail, MassDOT and Route 18 project sites.</p> <p>Please advise.</p>	<p>Ms. Jones replied, I agree that it would be helpful to have the project coincide with the start of South Coast Rail as it will provide a very important connection. The project is currently programmed for funding in fiscal year 2027 (October 2026-September 2027) in the statewide portion of the TIP. I can't speak to the exact reason of why it is placed in that year as we have little input on statewide programming (we are responsible for the regional portion); however, it generally takes 5-7 years to get a project through the TIP design and programming process. We will include your comments on the timing as part of our public comment section of the TIP document, which is reviewed by MassDOT and FHWA. A letter alerting state and local representatives of this issue is also a good idea.</p>

End Memo from Bob Espindola 5-4-2022 =====

D7

Francis J. Cox Jr.

[REDACTED]
Fairhaven, MA 02719

04/14/2022

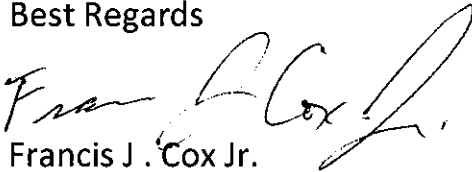
Dear Fairhaven Selectmen

I'm Resigning my position as Vice Chairman of the Board of Appeals.

I would like to take this opportunity the experience has been positive for what I'm grateful.

I wish thank the Board of Appeals Members, it has been a pleasure working with you.

Best Regards


Francis J. Cox Jr.

April 25, 2022

Fairhaven Cultural Council
40 Center Street
Fairhaven, MA 02719

To The Fairhaven Cultural Council:

After nearly 10 years of service on the Fairhaven Cultural Council, four of which I served as Chair, I have made the decision to resign due to changes in my career and family life that make it difficult for me to dedicate the time needed to participate in the Council in a meaningful way.

I have truly enjoyed my time on the Council, supporting artists, musicians, and performers, and helping to bring arts and culture programming into Fairhaven and the surrounding towns for Fairhaven residents to enjoy.

I thank you so much for the opportunity and wish the Council the best moving forward.

Sincerely,
Abigail Hevey

ARTICLE 8: GENERAL FUND OPERATING BUDGET – FY23

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to fund the balance of the FY23 General Fund Operating Budget or take any other action relative thereto:

Petitioned by: Select Board

ARTICLE 13: GENERAL FUND CAPITAL PLAN - FY23

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to fund Capital Equipment/Projects in the General Fund or take any other action relative thereto:

E. High School-Repair and Replace Southeast & Southwest Gables \$2,275,000.00

Petitioned by: Select Board and Capital Planning Committee

ARTICLE 18: FUNDING CAPITAL STABILIZATION FUND – FY23

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, including surplus revenue (Free Cash) and reimbursement from the state for school capital projects, to be deposited in the Capital Stabilization Fund as authorized by Chapter 40, Section 5B of the General Laws, or take any other action relative thereto

Petitioned by: Town Administrator

ARTICLE 24: FUND LABOR CONTRACTS-FY23

To see if the town will vote to fund contracts for the clerical, police, dispatchers, fire, highway, water and sewer unions or take any other action relative thereto:

- A. Clerical Union
- B. Police Union
- C. Dispatchers Union
- D. Fire Union
- E. Highway Union
- F. Water Union
- G. Sewer Union

Petitioned by: Town Administrator /Select Board

ARTICLE 29: TREE WARDEN FROM ELECTED TO APPOINTED-FY23

To see if the Town will vote to amend the Town of Fairhaven By-Laws by adding the following section:

The tree warden shall be appointed by the Select Board, and shall exercise the duties of Tree warden and of insect pest control. Such tree warden shall be qualified by training and experience in the field of arboriculture and licensed with the Department of Food and Agriculture in accordance with the provisions of section ten of chapter one hundred and thirty-two B of the general laws. The term of such appointment shall be for three years.

Petitioned by: Board of Public Works

~~ARTICLE 31-32: SAFE ROUTE TO SCHOOLS~~

~~To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to do the following project, or take any other action relative thereto:~~

~~*Petitioned by:* Board of Public Works~~

ARTICLE 39: WETLANDS BYLAW UPDATES-FY23

[HISTORY: Adopted by the Annual Town Meeting of the Town of Fairhaven 5-10-1988 by Art. 58 (Ch. XXIX of the 1934 Bylaws). Amendments noted where applicable.]

GENERAL REFERENCES

Conservation Commission – See Ch. 8

Subdivision of land – See Ch. 322

§ 192-1. Purpose.

The purpose of this chapter is to protect the wetlands, related water resources and adjoining land areas in the Town of Fairhaven by controlling activities deemed by the Fairhaven Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution control, fisheries, land containing shellfish, wildlife habitat, recreation, aesthetics, agriculture values, and the ability of resource areas to mitigate impacts from climate change (collectively, the "wetland values protected by this chapter").

§ 192-2. Regulated activities.

[Amended 5-1-2010 STM by Art. 13]

Except as permitted by the Fairhaven Conservation Commission or as provided in this chapter, no person shall remove, fill, dredge, build upon or alter the following resource areas:

- A. Any freshwater or coastal wetland, marsh, wet meadow, bog, or swamp; or within 100 feet of these resource areas.
- B. Any bank, beach, creek, dune, lake, river, pond, stream, estuary, or ocean; or within 100 feet of these resource areas.
- C. Any land under lakes, rivers, ponds, streams, estuaries or the ocean.
- D. Lands subject to flooding or inundation by groundwater or surface water, lands subject to tidal action, coastal storm flowage, or flooding
- E. The Coastal Resilience Zone (CRZ)
- F. Land in the Nasketucket River Basin Overlay District.

§ 192-3. Exceptions.

- A. The permit and application required by this chapter shall not be required for maintaining, repairing or replacing an existing and lawfully located structure or facility used in the service of

the public to provide electric, gas, water, telephone or other telecommunication services, provided that the structure or facility is not substantially changed or enlarged.

- B. The permit and application required by this chapter shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that:
 - 1) The work is to be performed by or has been ordered to be performed by an agency of the Commonwealth of Massachusetts or a political subdivision thereof.
 - 2) Advance notice, oral or written, has been given to the Commission or its agent prior to commencement of work or within 24 hours after commencement.
 - 3) For any work proposed to the north of the eastern terminus of the hurricane barrier, and within one hundred (100) feet of a wetland resource are protected under the Massachusetts Wetlands Protection Act and corresponding regulations and this Bylaw and corresponding regulations, notice shall also be provided to the United States Environmental Protection Agency (EPA), which is implementing the cleanup of the New Bedford Harbor Superfund Site.
 - 4) The Commission or its agent certifies the work as an emergency project.
 - 5) The work is performed only for the time and place so certified for the limited purposes necessary to abate the emergency.
 - 6) Within 21 days of commencement of an emergency project a permit application shall be filed with the Conservation Commission for review as provided by this chapter.
- C. Upon failure to meet these requirements and any other requirements imposed by the Commission pursuant to this chapter, the Commission may, after notice and a public hearing, revoke or modify an emergency project certification and order restoration and mitigation measures.

§ 192-4. Permit application and requests for determination.

- A. Written application shall be filed with the Conservation Commission to perform regulated activities regulated as defined in § 192-2. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this chapter.
- B. In its discretion the Commission may accept the notice of intent and plans filed under MGL c. 31, § 40 (the Wetlands Protection Act) as the application and plans under this chapter. Any person desiring to know whether or not the proposed activity of an area is subject to this chapter may request a determination for the Commission in writing. Such a request for determination shall contain data and plans specified by the regulations of the Commission.
- C. At the time of an application or request, the applicant shall pay a filing fee specified in the regulation of the Commission, said fee to be in addition to any fee required by MGL c. 131, § 40 (the Wetlands Protection Act). The Commission may establish filing fees in amounts reasonably designed to recover the cost to the Town of processing such application, including the cost to the Town of professional services for design review, site inspection and testing and related services. The Commission may waive the filing fee for an application or request filed by a government agency and shall waive all fees, costs and expenses for a request for determination filed by a person who is not the owner or a person acting on behalf of the owner.

§ 192-5. Notice and hearings.

- A. At the same time any person files an application or request for determination with the Conservation Commission, he/she shall give written notice thereof, by certificate of mailing, certified mail, or hand delivery to all abutters according to the most recent records of the Assessors, including those across a traveled way, a body of water or a Town line. The notice to abutters shall enclose a copy of the application or request, with plans, or shall state where copies may be examined by abutters. When a person requesting a determination is other than the owner or a person acting on behalf of the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner(s) as well as the person making the request. For any work proposed to the north of the eastern terminus of the hurricane barrier, and within one hundred feet (100) feet of a wetland resource area protected under the Massachusetts Wetlands Protection Act and corresponding regulations and this Bylaw and corresponding regulations, notice shall also be provided to the United States Environmental Protection Agency (EPA), which is implementing the cleanup of the New Bedford Harbor Superfund Site. This notice to EPA shall enclose a copy of the application or request, with plans.
- B. The Commission shall conduct a public hearing on any application or request for determination, with written notice given, at the expense of the applicant, in a newspaper of general circulation in the Town at least five working days prior to the hearing.
- C. The Commission shall commence the public hearing within 21 days from receipt of a completed application or request for determination and shall issue its permit, denial or determination in writing within 21 days of the close of said public hearing. In its discretion, the Commission may combine this hearing under this chapter with a hearing conducted under MGL c. 131, § 40 (the Wetlands Protection Act).
- D. The Commission shall have the authority to continue any hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant deemed necessary by the Commission in its discretion or comments and recommendations of other Town boards and officials. If the applicant objects to a continuance or postponement, the hearing shall be closed, and the Commission shall take action on the information then available to it.

§ 192-6. Permits; determinations and conditions.

- A. If, after a public hearing, the Conservation Commission determines that the activities which are the subject of the application are not likely to have a significant or cumulative effect upon the wetlands values protected by this chapter, the Commission shall, within 21 days of the close of the hearing, issue a permit for the activities requested. Such permit shall be without conditions. If, after a public hearing, the Conservation Commission determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon any or all of the wetlands values protected by this chapter, the Commission shall, within 21 days of the close of the hearing, issue a permit for the activities requested, in which case the Commission shall impose conditions which it deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions, or deny a permit.
- B. The Commission may deny a permit for the following reasons:
 - 1) Failure to meet the requirement of this chapter.
 - 2) Failure to submit necessary information and/or plans requested by the Commission.
 - 3) Failure to meet the design specifications, performance standards and other requirements in regulations of the Commission.

- 4) Failure to avoid or prevent unacceptable significant or cumulative effects upon any or all of the wetland values protected by this chapter.
- C. A permit shall expire three years from the date of issue. Any permit may be renewed once for an additional period, up to three years, provided that a written request for renewal is received by the Commission prior to expiration and that the Commission may grant such extension as it finds necessary to allow completion of the permitted work.
- D. Any permit issued under this chapter may be revoked or modified by the Commission after public notice and notice to the holder of the permit and a public hearing thereon, upon a finding of the existence of circumstances which would justify the denial of or imposition of conditions on a permit.
- E. In its discretion, the Commission may combine the permit or other action on an application issued under this chapter with the order of conditions issued under the Wetlands Protection Act.

§ 192-7. Regulations.

After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to achieve the purposes of this chapter. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this chapter.

§ 192-8. Definitions.

The following definitions shall apply in the interpretation and implementation of this chapter:

AESTHETICS

Includes, without limitation, the relevant qualities to be protected under the bylaw which are due to those natural and natively scenic impressions of all resource areas protected under this Bylaw, including but not limited to our shores, ponds, lakes, streams, rivers, harbors, and the lands bordering them. The aesthetic trust of the Commission shall be the preservation of a perception of the land which is most conducive to a natural aquatic system, a wildlife habitat, and a protective buffer between wetland resources and human development activities.

ALTER

Includes, without limitation, the following activities when undertaken to, upon, within or effecting resource areas protected by this chapter:

- A. Removal, excavation or dredging of soil, sand, loam, peat, gravel or aggregate materials of any kind.
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns or flood retention characteristics.
- C. Drainage or other disturbance of water level or water table.
- D. Dumping, discharging or filling with any material which may degrade water quality.
- E. Placing of fill or removal of material which would alter elevation.
- F. Driving of piles, erection, alteration or repair of buildings or structures of any kind.
- G. Placing of obstructions or objects in water.

- H. Destruction of plant life, including cutting of trees.
- I. Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of water.
- J. Any activities, changes or work which may cause or tend to contribute to pollution or any body of water or groundwater.

CUMULATIVE EFFECT

An effect that is significant when considered in combination with other activities that have occurred, that are occurring simultaneously, or that are reasonably foreseeable, whether such other activities are contemplated as a separate phase of the same project, or arise from unrelated but reasonably foreseeable future projects. Future effects of sea level rise, coastal or inland flooding, or other future climate change effects are included among cumulative effects.

COASTAL FLOOD RISK AREA

Any land which is subject to any inundation caused by coastal storms up to and including that predicted to be caused by the 1% annual storm for the Target Year, as defined by the best available coastal flooding model.

COASTAL RESILIENCE ZONE (CRZ)

Shall include the following resource areas: (a) any Land Subject to Coastal Storm Flowage; (b) any Coastal Flood Risk Area; and (c) the buffer zone of any Other Coastal Wetland Resource located in whole or in part within (a) or (b). The CRZ may include within its boundaries one or more of the following subareas: Velocity (V) Zone; Moderate Wave Action Area (MoWA); Highly Developed Area; and Special Transitional Area.

HIGHLY DEVELOPED AREA

As defined in the DEP Regulations, and to be applied for the purposes of this Bylaw to any applicable subareas within the CRZ.

MODERATE WAVE ACTION AREA (MoWA)

A subarea of LSCSF, with wave heights between 1.5 – 3 feet, as defined in the DEP Regulations or by FEMA. If the best available coastal flooding model projects a broader extent of the MoWA than that defined in the DEP Regulations, the Conservation Commission may adopt such modified projection by Local Regulation.

PERSON

Any individual, group of individuals, association, partnership, corporation company, business organization, trust, estate, the Commonwealth of Massachusetts or political subdivision thereof to the extent subject to Town bylaws, administrative agency, public or quasi-public corporation or body, the Town of Fairhaven and any other legal entity, its legal representatives, agents or assigns.

SPECIAL TRANSITIONAL AREA

Subareas within the CRZ that are located immediately landward of coastal beaches, coastal dunes, barrier beaches, coastal banks, or salt marshes, and extending in a direction perpendicular from the nearest adjoining land under water to the interior boundary of the CRZ.

TARGET YEAR

The year specified by the Conservation Commission for projections of sea level rise and flood risk. If the Best Available Coastal Flooding model is based on a single target year, then the Conservation

Commission shall adopt that year as the Target Year. If the model includes multiple target years, then the Conservation Commission shall adopt, by Local Regulation, the Target Year for the Best Available Coastal Flooding model.

§ 192-9. Security.

As part of a permit issued under this chapter, in addition to any security required by any other Town or state board, agency or official, the Conservation Commission may require that the performance and observance of any conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

- A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility in an amount sufficient in the opinion of the Commission.
- B. By a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town of Fairhaven requiring the permit conditions to be performed before any interest may be conveyed other than a mortgage interest.

§ 192-10. Enforcement.

- A. The Conservation Commission, its agents, officers and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this chapter and make or cause to be made such examinations, surveys or samplings as the Commission deems necessary.
- B. The Commission shall have authority to enforce this chapter, its regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions.
- C. Upon request of the Commission, the Selectboard and Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.
- D. Town boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

§ 192-11. Violations and penalties.

- A. Any person who violates any provision of this chapter, regulations thereunder or permits issued thereunder shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw regulations or permit violated shall constitute a separate offense.
- B. In the alternative to criminal prosecution, the Commission may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D.

§ 192-12. Burden of proof.

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by this chapter.

§ 192-13. Relation to Wetland Protection Act.

This chapter is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Statutes, independent of MGL c. 131, § 40 (the Wetlands Protection Act) and regulations thereunder.

§ 192-14. Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof nor shall it invalidate any permit or determination which previously has been issued.

Petitioned by: Conservation Commission

ARTICLE 41 30: PUBLIC SHADE TREE BYLAW-FY23

Chapter 88 – Fairhaven Public Tree Bylaw

Purpose:

- 1) The Town finds that the preservation of existing trees, the promotion of new tree planting and the maintenance of the community forest is a public purpose that protects the public health, welfare, environment, aesthetics and quality of life of the Town and its citizens. The purpose of this bylaw is to promote a diverse, healthy and sustainable community forest in order to maintain the historic character of Fairhaven, to provide for the general welfare and enhance the appearance and land values of the Town. The Town has invested substantial resources for many years to plant and maintain trees and these trees belong to the citizens of the Town. The Town also recognizes the need for a highly reliable network of public utilities to supply businesses, homes, hospitals and other services in an area subject to storms and high winds and therefore includes rules for emergency work and tree removal when necessary.

§ 88-2. Definitions:

- 1) Certified Arborist – An arborist certified by the Massachusetts Arborists' Association or the International Society of Arboriculture, or any successor of either organization.
- 2) Diameter at Breast Height (DBH) – The standard measure of tree having at least four (4) inches in diameter at a height of four and one-half (4.5) feet above the existing grade at the base of the tree. If the tree splits into multiple trunks below four and one-half (4.5) feet above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split.
- 3) Drip line – A vertical line running through the outermost portion of the crown (outer branch tips) of a tree and extending to the ground.
- 4) Emergency - When one or more portions of a tree or a whole tree falls, or is likely to fall, onto or dangerously close to property, vehicles or power lines with the likelihood of causing property damage or personal injury.

- 5) Hazard Tree –A tree that has structural defects in the roots, stem, or branches that may cause the tree or parts of the tree to imminently fail, where such failure may cause property damage or personal injury.
- 6) Pruning– The selective removal of plant parts, such as branches, buds, or roots to meet specific goals and objectives such as improving the tree’s structure, removing dead limbs or directing new, healthy growth.
- 7) Public Shade Tree – Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the Town other than a State Highway, and all trees, shrubs, bushes, and as further defined in Massachusetts General Laws Chapter 87, §1. Public shade trees are commonly called Street trees. When it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway or a park or on land surrounding a public building, it shall be taken to be public property until the contrary is shown.
- 8) Remove (including removing and tree removal) – The cutting down of any Public Shade Tree or Town Tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning, or other direct or indirect actions resulting in the death of a public tree, including, but not limited to, excessive or improper pruning.
- 9) Standard, ANSI A300 – The generally accepted industry standards for tree care practices developed by the Tree Care Industry Association (TCIA) and written by the Accredited Standards Committee (ASC) A300.
- 10) Top or Topping – The cutting back of limbs to stubs within the tree’s crown to such a degree as to remove the normal canopy and disfigure the tree.
- 11) Town Trees – All trees, other than public shade trees, located on Town lands, including parks, schoolyards, conservation lands, and any other land owned by the Town.
- 12) Tree Warden – The agent of the Town having primary enforcement responsibilities under this chapter and MGL c. 87 and charged with the responsibility for review, notification and record keeping required pursuant to this chapter.

§ 88-3. Protection of Public Shade Trees and Town Trees:

1) Tree Warden:

- A. The Tree Warden shall have the primary care and control of all public shade trees, shrubs and growths in the town. This includes public shade trees in the Right of Way of streets, except those within a state highway. The Tree Warden shall also have the primary care and control of town trees if so

requested in writing by the town board or department with authority over that Town land.

- B. The Tree Warden shall enforce all the provisions of law for the care and preservation of such trees, shrubs and growths.
- C. The Tree Warden shall keep detailed records of requests, complaints, public hearings and actions taken such as planting, pruning and removing public shade trees and town trees. Such records shall include the date, location, species and a narrative detailing the action taken and the reason.
- D. These Tree Warden records shall be continually updated, and shall be filed with the Department of Planning annually. These records shall be provided upon request by the public and maintained by the Tree Warden as Keeper of the Record.
- E. The Tree Warden shall adhere to the regulations for the care, preservation, maintenance and removal of public shade trees, or other trees under their control, as established in this bylaw.
- F. The Tree Warden may designate a qualified Deputy Tree Warden with the approval of the Town Administrator who should have the following training as recommended by the Massachusetts Tree Wardens' & Foresters' Association, the Massachusetts Department of Conservation and Recreation (DCR), and the USDA Center for Urban & Community Forestry:
 - 1) Three (3) years supervisory experience in commercial or municipal tree care;
 - 2) Be a Certified Arborist (preferred but not required);
 - 3) Have a Massachusetts Pesticide License within 90 days of employment (preferred but not required);
 - 4) Associate of Science Degree in Arboriculture / Urban Forestry or a related degree (preferred but not required).
- G. All employees of the Town performing tree work shall have specialized training in the care and maintenance of public shade trees. This shall include training in the proper use of the required equipment, planting, pruning and landscaping (including grass cutting) around trees without harming the tree.

2) Permitting:

- A. Public Shade Trees shall not be cut, trimmed or removed, in whole or in part, by any person other than the Tree Warden or their deputy, even if he be the owner of the fee in the land on which such tree is situated, except upon a permit in writing from said Tree Warden after a public hearing, in which no objection was submitted in writing within 14 days of the public hearing. Public Shade Tree public hearings shall be conducted during meetings of

another Town Board, such as the Planning Board, Park Commission or Select Board as determined by the Town Administrator. The Tree Warden or their deputy shall cause a notice, stamped by the Town Clerk, of the time and place of such hearing thereof, which shall identify the size, type and location of the shade tree or trees to be cut down or removed and why, to be posted in two or more public places in the town and upon the tree at least seven days before such hearing and published in a newspaper of general circulation in the town once in each of two successive weeks. The first publication to be not less than seven days before the day of the hearing. The posting on the tree shall be done in a manner that will not cause harm to the tree.

- B. Tree wardens shall not cut down or remove or grant a permit for the cutting down or removal of a Public Shade Tree if before, at, or within 14 days of the public hearing as provided in the preceding section, objection in writing is made by one or more persons. If no such objection is made the tree warden shall report to the Town Administrator, and may proceed with the proposed work upon receipt of written approval from the Town Administrator. If such an objection in writing is made and the Tree Warden believes the tree(s) should be cut, trimmed or removed, then the Tree Warden may advertise a second duly noticed public hearing at a Select Board Meeting. The Tree Warden may proceed with the proposed work upon receipt of written approval from the Select Board filed with the Town Clerk.
- C. The Massachusetts Department of Transportation has the care and control of all trees, shrubs and growths within state highways.
- D. In addition to the procedural requirements set forth above, no public shade tree or town tree shall be removed for the purpose of, or during the construction of, streetscape improvements unless approved in writing by the Planning Board. Except as otherwise required by state or federal law for roadway design, the Planning Board subdivision regulation regarding trees shall apply to all streetscape improvements.
- E. The Planning Director, Conservation Agent, Superintendent of Public Works and Town Administrator shall be notified at the time of advertisement when any tree removal public hearings are scheduled.
- F. A valid tree work permit from the Tree Warden shall be obtained, prior to doing any of the following work:
 - 1) Pruning of a Public Shade Tree or Town Tree.
 - 2) Removal of a Public Shade Tree or Town Tree.
 - 3) Excavation within or adjacent to the public right-of-way or Town property which may disturb roots of any Public Shade Tree or Town Tree, including, but not limited to, the installation of utilities, curb cut permits, or work on the sidewalks.

- 4) Application for a tree work permit shall be made to the Tree Warden a minimum of 30 business days prior to commencement of the planned work, except in an unforeseen emergency. Application for work on Town lands shall also be submitted to the town board or department with authority over that Town land.
- 5) It is the obligation of the contractor to positively verify that trees to be trimmed or removed are growing within the public right-of-way, or on other town land, and require a work permit.
- 6) All work by a Utility Company on Public Shade Trees shall be supervised in the field by an attending Massachusetts certified arborist, who shall be responsible for the work performed, and shall maintain regular contact with the Town's Tree Warden. All work shall be done according to the approved Utility Annual Vegetation Management Plan and/or the Utility Annual Hazard Tree Removal for that year and in accordance with the accepted standards.
- 7) Both the contractor and the utility shall be responsible for ensuring that the bucket operators are trained and knowledgeable of the standards of this chapter, including the latest American National Standards Institute (ANSI) Standard and National Arborist Association (NAA) Pruning Standards.

G. Violations of any provision of this bylaw maybe punished by forfeiture of up to five hundred dollars per tree to the use of the Town.

3) **Utility Vegetation Management Plan:** Publication, Notification and Review of a Utility Annual Vegetation Management Plan

- A. Any Annual Vegetation Management Plan shall include, but not be limited to, a map (hardcopy and digital) of the circuits where the maintenance work will be performed, a detailed narrative describing the work to be performed, the tree maintenance standards that will be followed and any foreseeable variance from those standards.
- B. Any Annual Vegetation Management Plan shall conform to the most current and relevant standards of the American National Standard Institute (ANSI); National Electric Safety Code 218 Tree Trimming; and OSHA 29 CFR Part 1910 Line Clearance Tree Trimming Operations.
- C. Upon receipt of an Annual Vegetation Management Plan the Tree Warden shall send the plan and notice of the public hearing to the Planning Director, Conservation Agent, Superintendent of Public Works and Town Administrator to be distributed to their Board or Commission. Notice of the public hearing shall be published in a newspaper of general circulation in the Town once in each of two successive weeks. The first publication may not be less than 14 days before the day of the hearing and posted in a conspicuous

place in the Town Hall for a period of not less than 14 days before the day of the hearing. The public hearing shall be held with the Planning Board within 45 days of receipt of the Annual Vegetation Management Plan.

- D. The Tree Warden may approve the Annual Vegetation Management Plan only with the consent of the Planning Board which may instruct the Tree Warden to approve the plan, approve the plan with conditions, or deny the plan.

4) **Utility Annual Hazard Tree Removal Plan:** Publication, Notification and Review of Utility Annual Hazard Tree Removal Plan

- A. Any Annual Hazard Tree Removal Plan shall include, but not be limited to, the specific trees that the utility has identified as a hazard and proposes to remove.
- B. Any Annual Hazard Tree Removal Plan shall comply with local ordinances and regulations.
- C. Any Annual Hazard Tree Removal Plan shall be submitted not less than 90 days prior to the date a utility proposes to begin tree removal.
- D. Upon receipt of an Annual Hazard Tree Removal Plan the Tree Warden shall send the plan and notice of the public hearing to the Planning Director, Conservation Agent, Superintendent of Public Works and Town Administrator to be distributed to their Board or Commission. Notice of the public hearing shall be published in a newspaper of general circulation in the Town once in each of two successive weeks. The first publication may not be less than 14 days before the day of the hearing and posted in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of the hearing. The public hearing shall be held with the Planning Board within 45 days of receipt of the Annual Hazard Tree Removal Plan.
- E. The Tree Warden may approve the Annual Hazard Tree Plan only with the consent of the Planning Board which may instruct the Tree Warden to approve the plan, approve the plan with conditions, or deny the plan.
- F. Upon receipt of the Annual Hazard Tree Removal Plan, the Tree Warden, or a designee thereof, shall notify the utility in writing within 60 days whether or not the plan has been approved, approved with modifications and/or conditions or denied.

§ 88-4. **Planting:**

- A. No public shade tree or town tree shall be planted for the purpose of, or during the construction of, streetscape improvements unless approved in writing by the planning board. Except as otherwise required by state or federal law for roadway design, the planning board subdivision regulation regarding trees shall apply to all streetscape improvements.

B. The Tree Warden with the Planning Board or Board, Committee or Commission so authorized, shall develop and maintain an up-to-date listing of trees considered most desirable for new plantings along streets with locations.

§ 88-5. Maintenance:

- 1) **Pruning Standards:** In order to minimize adverse impacts of pruning on the Town's public trees, all work performed shall comply with the following requirements and standards.
 - A. Pruning shall be done in such a manner as to protect current tree health with all possible regard for future growth and development
 - B. All work will be performed in compliance with the current ANSI standard and National Arborist Association (NAA) pruning standards.
 - C. No major limb or a limb with a diameter greater than 15 % of the tree diameter at breast height (dbh) shall be removed unless approved by the Tree Warden, prior to the commencement of pruning.
 - D. Climbing irons shall not be used by employees on any tree, except when in the process of complete tree removal
 - E. Unless otherwise authorized by the Tree Warden in writing, it shall be unlawful as a normal practice for any person or firm to top any Town tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter at the determination of the Tree Warden.
 - F. A reasonable attempt shall be made to trim dead wood from the area being worked.

Petitioned by: Select Board

ARTICLE ~~61~~ 60: CITIZENS PETITION – LOCAL ACCEPTANCE OF MGL PART 1, TITLE IX, CH. 59, SECTION 5, CLAUSES 42 & 43

To see if the Town will vote to accept MGL, Part 1, Title IX, Chapter 59, Section 5, clauses 42 & 43.

Petitioned by: Joyce Horn

ARTICLE ~~62~~ 61: REGIONAL DISPATCH-FY23

Petitioned by: Select Board

ARTICLE ~~64~~ 63: TRANSFER FROM SURPLUS REVENUE-FY23

To see if the Town will vote to transfer a sum of money from Surplus Revenue for the reduction of the tax levy, or take any other action relative thereto:

Petitioned by: Select Board



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

G1

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

April 21, 2022

Atlas Tack Corporation
Mr. Leonard Lewis, President
266 Beacon Street, Suite 2
Boston, Massachusetts 02116-1287

RE: **FAIRHAVEN**
Release Tracking Number: 4-0017321
Atlas Tack Corporation
83 Pleasant Street
**ADMINISTRATIVE CONSENT ORDER
WITH PENALTY
ENFORCEMENT DOCUMENT NUMBER
00011556**

Dear Mr. Lewis:

Please find enclosed a signed copy of the Administrative Consent Order with Penalty ("Consent Order") that the Department of Environmental Protection (MassDEP) has negotiated with you.

The Consent Order was executed on April 21, 2022. The terms and conditions of the Consent Order now apply and are binding.

If you have any questions regarding this Consent Order or any of the requirements contained in it, please contact Kathryn Carvalho at the letterhead address or by calling (508) 946-2742. MassDEP appreciates your cooperation in this matter.

Sincerely,

Millie Garcia-Serrano
Regional Director

MGS/JH/KC/xx

Enclosure: Copy of Administrative Consent Order Penalty 00011556

BY EMAIL: mmurphy@regnante.com

ec: Town of Fairhaven
Board of Health
Board of Selectmen

DEP-SERO

Attn: Millie Garcia-Serrano, Regional Director
Attn: John Handrahan, Acting Deputy Regional Director
Attn: Andrew Fowler, Regional Counsel
Attn: Lara Goodine, Regional Enforcement Coordinator

Michael Murphy, Esq.
Regnante Sterio LLP
mmurphy@regnante.com

Paul J. Leikhim
leikhim@hotmail.com

**COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In the matter of:
Atlas Tack Corporation
266 Beacon Street, Suite 2
Boston, Massachusetts 02116-1287

Enforcement Document Number:
00011556
Issuing Bureau: BWSC
Issuing Region/Office: SERO
Release Tracking Number: 4-0017321

**ADMINISTRATIVE CONSENT ORDER WITH PENALTY
AND
NOTICE OF NONCOMPLIANCE**

I. THE PARTIES

1. The Department of Environmental Protection ("Department" or "MassDEP") is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21A, § 7. MassDEP maintains its principal office at One Winter Street, Boston, Massachusetts 02108, and its Southeast Regional Office at 20 Riverside Drive, Lakeville, Massachusetts 02347.
2. Atlas Tack Corporation ("Respondent") is a Corporation with a mailing address of 266 Beacon Street, 2nd Floor, Boston Massachusetts 02108. Respondent's mailing address for purposes of this Consent Order is 266 Beacon Street, 2nd Floor, Boston, Massachusetts 02108.

II. STATEMENT OF FACTS AND LAW

3. MassDEP is responsible for the implementation and enforcement of: M.G.L. c. 21E and the Massachusetts Contingency Plan ("MCP") at 310 CMR 40.0000. MassDEP has authority under M.G.L. c. 21A, § 16 and the Administrative Penalty Regulations at 310 CMR 5.00 to assess civil administrative penalties to persons in noncompliance with the laws and regulations set forth above.
4. Unless otherwise indicated, the terms used herein shall have the meaning given to them by the MCP, and if such terms are not defined in the MCP, they shall have the meanings given to them by M.G.L. c. 21E. "Property" shall mean the real property located at 83 Pleasant Street, Fairhaven, Massachusetts. "The Site" shall mean the particular Site (as that term is defined in the MCP) resulting from releases of oil and/or hazardous materials at the Property. The Site shall include, without limitation, any place or area within or outside the Property where oil and/or hazardous material resulting from such releases has come to be located.

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Respondent is a Responsible Party ("RP") or Potentially Responsible Party ("PRP") for the Site as the owner.

5. The following facts and allegations have led MassDEP to issue this Consent Order:
 - A. On September 30, 2002, DEP issued a Notice of Responsibility (NOR) to Atlas Tack based on the identification of petroleum contaminants in the soil and groundwater at the Site.
 - B. On May 1, 2007, Atlas Tack submitted a Phase I/Tier Classification for the Site.
 - C. On May 30, 2014, Atlas Tack submitted a Tier II Extension. Atlas Tack filed additional Extensions in May 2016, April 2018 and April 2020. Each Tier Extension contained a plan to achieve a Temporary or Permanent Solution at the Site.
 - D. Pursuant to 310 CMR 40.0560(2)(b), a Phase II Comprehensive Site Assessment Report (Phase II Report) shall be submitted to MassDEP within three years of the effective date of Tier Classification. The effective date for the Tier Classification for this Site is May 1, 2007. Therefore, the Phase II Report was due to be submitted to MassDEP by May 1, 2010.

The effective date for the Tier Classification for this Site is May 1, 2007. Respondent's Phase II Report was due by May 1, 2010. To date, Respondent has not submitted a Phase II Report.

Also see 310 CMR 40.0560(7)(f) ("A Tier Classification Extension obtained under 310 CMR 40.0560(7) does not forgive an RP's, PRP's or Other Person's noncompliance with any provisions of 310 CMR 40.0000, including but not limited to, noncompliance that resulted from the late submittal of...Phase II Report....").

6. On March 25, 2021, MassDEP issued a Notice of Noncompliance (NON) to Respondent describing the above violation, specifying the actions to be taken to return to compliance, and stating the deadlines for performing such actions. This NON was returned to MassDEP unclaimed by the U.S. Postal Service (USPS).
7. As of today, the Respondent has failed to respond to the NON.

III. DISPOSITION AND ORDER

For the reasons set forth above, MassDEP hereby issues, and Respondent hereby consents to, this Order:

8. The parties have agreed to enter into this Consent Order because they agree that it is in their own interests, and in the public interest, to proceed promptly with the actions called

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for herein rather than to expend additional time and resources litigating the matters set forth above. Respondent enters into this Consent Order without admitting or denying the facts or allegations set forth herein. However, Respondent agrees not to contest such facts and allegations for purposes of the issuance or enforcement of this Consent Order.

9. MassDEP's authority to issue this Consent Order is conferred by the Statutes and Regulations cited in Part II of this Consent Order.

10. Respondent shall perform the following actions:

- A. By **December 31, 2022**, submit to MassDEP a Phase II Comprehensive Site Assessment Report and a Risk Characterization (the Phase II Report) prepared in accordance with 310 CMR 40.0835 and 310 CMR 40.0900, respectively. If, after the completion of the Phase II Report, the Respondent can demonstrate that a condition of No Significant Risk exists and it is documented to MassDEP in a Permanent Solution Statement in full accordance with the provisions of 310 CMR 40.1000, the Respondent need not continue with Comprehensive Response Actions at the Site, pursuant to 310 CMR 40.0560(3).
- B. By **December 31, 2022**, if the Phase II Report indicates that comprehensive response actions are necessary at the Site, also submit a Phase III Remedial Action Plan prepared pursuant to 310 CMR 40.0861. If, after the completion of the Phase III Remedial Action Plan, it can be demonstrated that a condition of No Substantial Hazard has been achieved and it is concluded that response actions to achieve a Permanent Solution are not currently feasible and Respondent submits a Temporary Solution Statement prepared in full accordance with 310 CMR 40.1000, Respondent need not comply with items C and D by the established dates.
- C. By **June 30, 2023**, the Respondent shall submit to MassDEP a Phase IV Remedy Implementation Plan (RIP) prepared in full accordance with the provisions of 310 CMR 40.0870.
- D. By **December 31, 2023**, Respondent shall submit to MassDEP a Permanent Solution Statement prepared in full accordance with 310 CMR 40.1000. This deadline to submit a Permanent Solution Statement shall not apply if you achieve Remedy Operation Status pursuant to 310 CMR 40.0893 on or before **December 31, 2023**.

11. Unless submitted via eDEP or except as otherwise provided herein, all notices, submittals and other communications required by this Consent Order shall be directed to:

Massachusetts Department of Environmental Protection
Bureau of Waste Site Cleanup
20 Riverside Drive
Lakeville, Massachusetts 02347

Such notices, submittals and other communications shall be considered delivered by Respondent upon receipt by MassDEP.

12. Actions required by this Consent Order shall be taken in accordance with all applicable federal, state, and local laws, regulations and approvals. This Consent Order shall not be construed as, nor operate as, relieving Respondent or any other person of the necessity of complying with all applicable federal, state, and local laws, regulations and approvals.
13. For purposes of M.G.L. c. 21A, § 16 and 310 CMR 5.00, this Consent Order shall also serve as a Notice of Noncompliance for Respondent's noncompliance with the requirements cited in Part II above. MassDEP hereby determines, and Respondent hereby agrees, that any deadlines set forth in this Consent Order constitute reasonable periods of time for Respondent to take the actions described.
14. The Commonwealth assesses a civil administrative penalty in the amount of **Seven Thousand Five Hundred dollars (\$7,500.00)** for the violations identified in Part II above, as follows:
 - A. Within thirty (30) days of the effective date of this Consent Order, Respondent shall pay to the Commonwealth **Two Thousand Five Hundred Dollars (\$2,500.00)**;
 - B. Within one hundred twenty (120) days of the effective date of this Consent Order, Respondent shall pay to the Commonwealth **Two Thousand Five Hundred Dollars (\$2,500.00)**; and
 - C. Within two hundred (210) days of the effective date of this Consent Order, Respondent shall pay to the Commonwealth **Two Thousand Five Hundred Dollars (\$2,500.00)**.

Respondent shall pay all civil administrative penalties due under this Consent Order, including suspended and stipulated penalties, and if applicable, past due annual compliance fees, by certified check or cashier's check, credit card or electronic transfer made payable to the Commonwealth of Massachusetts. If payment is made by certified check or cashier's check, Respondent shall clearly print on the face of its payment Respondent's full name, the enforcement document number appearing on the first page of this Consent Order, and Respondent's Federal Employer Identification Number, and shall mail it to:

Commonwealth of Massachusetts
Department of Environmental Protection
Commonwealth Master Lockbox
P.O. Box 3982
Boston, Massachusetts 02241-3982

15. Respondent understands, and hereby waives, its right to an adjudicatory hearing before MassDEP on, and judicial review of, the issuance and terms of this Consent Order and to notice of any such rights of review. This waiver does not extend to any other order issued by the MassDEP.
16. This Consent Order may be modified only by written agreement of the parties hereto.
17. The provisions of this Consent Order are severable, and if any provision of this Consent Order or the application thereof is held invalid, such invalidity shall not affect the validity of other provisions of this Consent Order, or the application of such other provisions, which can be given effect without the invalid provision or application, provided however, that MassDEP shall have the discretion to void this Consent Order in the event of any such invalidity.
18. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting (i) any legal or equitable right of MassDEP to issue any additional order or to seek any other relief with respect to the subject matter covered by this Consent Order, or (ii) any legal or equitable right of MassDEP to pursue any other claim, action, suit, cause of action, or demand which MassDEP may have with respect to the subject matter covered by this Consent Order, including, without limitation, any action to enforce this Consent Order in an administrative or judicial proceeding.
19. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting any legal or equitable right of MassDEP to recover costs incurred by MassDEP in connection with response actions conducted at the Site.
20. The payment of any penalty in this matter shall not be construed or operate as barring, diminishing, adjudicating or in any way affecting any legal or equitable right of MassDEP to recover damages in any separate action for injury to and for destruction or loss of natural resources, including the costs of assessing and evaluating such injury, destruction or loss, pursuant to M.G.L. c. 21E, § 5 or 42 U.S.C. 9601, et seq.
21. Nothing in this Consent Order shall be construed or operate as barring, diminishing, adjudicating or in any way affecting MassDEP's authority to: (a) perform response actions at the Site or (b) require Respondent to conduct response actions at the Site or take other actions beyond those required by this Consent Order in order to comply with all applicable laws and regulations including, without limitation, M.G.L. c. 21E and the MCP.
22. This Consent Order shall not be construed or operate as barring, diminishing, adjudicating, or in any way affecting, any legal or equitable right of MassDEP or Respondent with respect to any subject matter not covered by this Consent Order.

23. This Consent Order shall be binding upon Respondent and upon Respondent's successors and assigns. Respondent shall not violate this Consent Order and shall not allow or suffer Respondent's directors, officers, employees, agents, contractors or consultants to violate this Consent Order. Until Respondent has fully complied with this Consent Order, Respondent shall provide a copy of this Consent Order to each successor or assignee at such time that any succession or assignment occurs.
24. In addition to the penalty set forth in this Consent Order, if any (including any suspended penalty), if Respondent violates any provision of the Consent Order, Respondent shall pay stipulated civil administrative penalties to the Commonwealth in the amount of **\$1,000 per day for each day**, or portion thereof, each such violation continues.

Stipulated civil administrative penalties shall begin to accrue on the day a violation occurs and shall continue to accrue until the day Respondent corrects the violation or completes performance, whichever is applicable. Stipulated civil administrative penalties shall accrue regardless of whether MassDEP has notified Respondent of a violation or act of noncompliance. All stipulated civil administrative penalties accruing under this Consent Order shall be paid within **thirty (30) days** of the date MassDEP issues Respondent a written demand for payment. If simultaneous violations occur, separate penalties shall accrue for separate violations of this Consent Order. The payment of stipulated civil administrative penalties shall not alter in any way Respondent's obligation to complete performance as required by this Consent Order. MassDEP reserves its right to elect to pursue alternative remedies and alternative civil and criminal penalties which may be available by reason of Respondent's failure to comply with the requirements of this Consent Order. In the event MassDEP collects alternative civil administrative penalties, Respondent shall not be required to pay stipulated civil administrative penalties pursuant to this Consent Order for the same violations.

Respondent reserves whatever rights it may have to contest MassDEP's determination that Respondent failed to comply with the Consent Order and/or to contest the accuracy of MassDEP's calculation of the amount of the stipulated civil administrative penalty. Upon exhaustion of such rights, if any, Respondent agrees to assent to the entry of a court judgment if such court judgment is necessary to execute a claim for stipulated penalties under this Consent Order.

25. The Respondent shall pay all civil administrative penalties due under this Consent Order, including suspended, or stipulated penalties and/or any associated fees. **The Respondent has four options for payment.**

- Option 1:** certified check;
- Option 2:** cashier's check;
- Option 3:** on-line payment using a credit card;
- Option 4:** electronic transfer.

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Option 1 and 2:

Certified or cashier's checks must be made payable to the Commonwealth of Massachusetts and received **within 30 days of the effective date of this Consent Order.**

If payment is made by certified check or cashier's check, the Respondent shall clearly print on the face of its payment Respondent's full name, the enforcement document number appearing on the first page of this Consent Order, and Respondent's Federal Employer Identification Number, and shall mail it to:

Commonwealth of Massachusetts
Department of Environmental Protection
Commonwealth Master Lockbox
P.O. Box 3982
Boston, Massachusetts 02241-3982

**(IMPORTANT NOTE: DO NOT INCLUDE THE SIGNED ACOP WITH
PAYMENT BY CHECK)**

Option 3:

Online Payment Using Credit Card

Your prospective BILL will contain information necessary to pay on-line by credit card.

When you receive your BILL:

LOG ONTO THE MassDEP e-PAYMENT WEB SITE AT:

[HTTPS://WWW.MASSPAYS.COM/dep](https://www.masspays.com/dep)

Online payment using credit card is due **within 30 days of the effective date of this Consent Order.**

(If a BILL (invoice) is not received within 10 days of the effective date of the consent order, you should contact The Revenue Department at 617-292-5668 to obtain a copy of your BILL (invoice).)

Option 4:

Electronic Funds Transfer

Respondent must complete the enclosed form "Electronic Funds Transfer Request" found on the last page of this document and, **within 10 days of the effective date of this Consent Order**, submit payment request to Director, BAS Division of Fiscal Management via Facsimile at the MassDEP Revenue Number: 617-556-1049 or via mail to:

Department of Environmental Protection
Attn: Revenue Unit
1 Winter Street, 4th Floor
Boston, MA 02108

In the event Respondent fails to pay in full any civil administrative penalty as required by this Consent Order, then pursuant to M.G.L. c. 21A, § 16, Respondent shall be liable to the

Commonwealth for up to three (3) times the amount of the civil administrative penalty, together with costs, plus interest on the balance due from the time such penalty became due and attorneys' fees, including all costs and attorneys' fees incurred in the collection thereof. The rate of interest shall be the rate set forth in M.G.L. c. 231, § 6C.

26. Force Majeure - General

A. MassDEP agrees to extend the time for performance of any requirement of this Consent Order if MassDEP determines that such failure to perform is caused by a Force Majeure event. The failure to perform a requirement of this Consent Order shall be considered to have been caused by a Force Majeure event if the following criteria are met: (1) an event delays performance of a requirement of this Consent Order beyond the deadline established herein; (2) such event is beyond the control and without the fault of Respondent and Respondent's employees, agents, consultants, and contractors; and (3) such delay could not have been prevented, avoided or minimized by the exercise of due care by Respondent or Respondent's employees, agents, consultants, and contractors.

B. Financial inability and unanticipated or increased costs and expenses associated with the performance of any requirement of this Consent Order shall not be considered a Force Majeure Event.

C. If any event occurs that delays or may delay the performance of any requirement of this Consent Order, Respondent shall immediately, but in no event later than 5 days after obtaining knowledge of such event, notify MassDEP in writing of such event. The notice shall describe in detail: (i) the reason for and the anticipated length of the delay or potential delay; (ii) the measures taken and to be taken to prevent, avoid, or minimize the delay or potential delay; and (iii) the timetable for taking such measures. If Respondent intends to attribute such delay or potential delay to a Force Majeure event, such notice shall also include the rationale for attributing such delay or potential delay to a Force Majeure event and shall include all available documentation supporting a claim of Force Majeure for the event. Failure to comply with the notice requirements set forth herein shall constitute a waiver of Respondent's right to request an extension based on the event.

D. If MassDEP determines that Respondent's failure to perform a requirement of this Consent Order is caused by a Force Majeure event, and Respondent otherwise complies with the notice provisions set forth in paragraph C above, MassDEP agrees to extend in writing the time for performance of such requirement. The duration of this extension shall be equal to the period of time the failure to perform is caused by the Force Majeure event. No extension shall be provided for any period of time that Respondent's failure to perform could have been prevented, avoided or minimized by the exercise of due care. No penalties shall become due for Respondent's failure to perform a requirement of this Consent Order during the extension of the time for performance resulting from a Force Majeure event.

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- E. A delay in the performance of a requirement of this Consent Order caused by a Force Majeure event shall not, of itself, extend the time for performance of any other requirement of this Consent Order.
27. Failure on the part of MassDEP to complain of any action or inaction on the part of Respondent shall not constitute a waiver by MassDEP of any of its rights under this Consent Order. Further, no waiver by MassDEP of any provision of this Consent Order shall be construed as a waiver of any other provision of this Consent Order.
28. To the extent authorized by the current owner, Respondent agrees to provide MassDEP, and MassDEP's employees, representatives and contractors, access at all reasonable times to 83 Pleasant Street, Fairhaven for purposes of conducting any activity related to its oversight of this Consent Order. Notwithstanding any provision of this Consent Order, MassDEP retains all of its access authorities and rights under applicable state and federal law.
29. This Consent Order may be executed in one or more counterpart originals, all of which when executed shall constitute a single Consent Order.
30. This Consent Order does not relieve Respondent's obligation to pay Annual Compliance Assurance Fees pursuant to 310 CMR 4.00 et seq.
31. All applicable transmittal fees shall accompany any submission(s) required by this Consent Order.
32. The Respondent shall comply with all applicable Public Involvement activities regarding the Site, as described in 310 CMR 40.1400.
33. The undersigned certify that they are fully authorized to enter into the terms and conditions of this Consent Order and to legally bind the party on whose behalf they are signing this Consent Order.
34. This Consent Order shall become effective on the date that it is executed by MassDEP.

SPECIAL INSTRUCTIONS:

Your signed copy of the Administrative Consent Order with Penalty (ACOP) must be delivered, for execution (signature) by MassDEP, to the following address:

Kathryn Carvalho
Massachusetts Department of Environmental Protection
20 Riverside Drive
Lakeville, Massachusetts 02347

In the Matter of: Atlas Tack Corporation
Enforcement Document Number: 00011556

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MassDEP will return a fully executed copy of the ACOP to you.

Payment will be due, pursuant to the instructions outlined within the ACOP after you receive your fully executed copy.

PLEASE DO NOT INCLUDE YOUR PAYMENT WITH THE SIGNED ACOP. SIGNED ACOPs ARE TO BE SENT TO THE ABOVE ADDRESS.

Please call Kathryn Carvalho at 508-946-2742 if you have questions regarding payment and/or instructions.

Consented To:
ATLAS TACK CORPORATION

By: Leonard Lewis President

Mr. Leonard Lewis

President

266 Beacon Street

Boston, Massachusetts 02116

Federal Employer Identification No.: 041049130

Date: April 6 2022

Issued By:
DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: Millie Garcia-Serrano

Millie Garcia-Serrano

Regional Director

Department of Environmental Protection

20 Riverside Drive

Lakeville, Massachusetts 02347

Date: April 21, 2022

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Requesting Electronic Funds Transfer.

Note: Respondent may request to pay amounts due under this ACOP via electronic funds transfer pursuant to Paragraph 25 of this ACOP. That request must be:

- 1.) in the form of a letter (example below) that identifies the Respondent; and
- 2.) sent either:
 - a) via facsimile to MassDEP Revenue Unit, at fax number (617) 556-1049; or
 - b) via regular mail to the address below.

(Respondent's Letterhead)

Department of Environmental Protection
Attn: Revenue Unit
1 Winter Street, 4th Floor
Boston, MA 02108

RE: Electronic Funds Transfer Request for [Enforcement Document Number]

Director, BAS Division of Fiscal Management:

In order to complete a wire transfer for payment of the penalty assessed under [list enforcement number here], [put Respondent name here] requests the following information:

DEP's legal address,
DEP's Federal Tax Identification Number,
The name and address of DEP's bank,
DEP's account name and number, and
The ABA/routing number for DEP's account.

Please mail or fax this information to:
[Respondent's contact name and address]

Fax number:

Sincerely,

Signed:
Print name:
Title:
Work phone number:

Date: