



FAIRHAVEN SELECT BOARD
Meeting Minutes
Monday, December 5, 2022

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

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

Ms. Powers opened the meeting at 6:30 pm

Motion: Mr. Murphy motioned to move into Executive Session Pursuant to G.L. c. 30A, § 21(a)(7) “[t]o comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements”: Public Records Law, G.L. c. 4, s. 7(26) and Open Meeting Law, G.L. c. 30A, §§ 22(f), (g) (to consider release of minutes of 10-17-22 executive session) and return to Open Session thereafter. Mr. Silvia seconded. Roll Call Vote; Mr. Murphy in favor, Mr. Silvia in favor, Mr. Correy in favor, Mr. Espindola in favor and Ms. Powers in favor. The motion passed unanimously (5-0-0).

The Board returned to open session at 6:50 p.m.

Minutes:

Motion: Mr. Murphy made a motion to accept the open session minutes of November 7, 2022. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

Motion: Mr. Murphy made a motion to accept the Special Session Town Warrant minutes of November 14, 2022. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

Motion: Mr. Murphy made a motion to accept the open session minutes of November 21, 2022. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

Town Administrator:

- Town Hall will be closed to the public for a Staff Training Day on Thursday, December 8, 2022. The website and drop box will be available for paying bills.
- The Seaport Economic Council Report (SEC) about dredging in New Bedford Harbor was presented by the New Bedford Port Authority.
- The SEC will be voting at their next meeting on December 13, 2022 to award SEC Grants. Fairhaven is receiving a grant for \$1M for the Union Wharf expansion and another for \$320K for the harbor master plan in conjunction with New Bedford and will work with the Finance Committee to look for matching in-kind funds.
- The state confirmed the recap and tax rate for Fiscal Year 2023.
- The Fairhaven Old-Time Holiday event will be on Saturday, December 10, 2022.
- Ms. Ellison attended a two-day training and is a certified ADA Community Access Monitor through the state’s Office on Disability.

- The deadline for submitting requests for Capital Improvement projects is December 16, 2022. Ms. Wendy Graves stated the Capital Planning Committee will review the projects in an open meeting and rate them using six criteria; thereafter vote on what will be submitted to the Town Administrator for budgetary consideration.
- The deadline for submission of photos for the Town Report Cover is Friday, January 6, 2023; please send submissions to Ms. Almeida.

Open Meeting Law Complaint (OML): October 17, 2022 Executive Session

Ms. Powers reviewed the complaint and a draft of the Board's Executive Session response at the start of tonight's meeting. The Board voted unanimously to release redacted minutes from the executive session of October 17, 2022 (*Attachment A*)

Motion: Mr. Murphy motioned to authorize the Chair to work with Town Counsel to prepare and send a response to the complaint. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

Fairhaven Retirement request for Cost-of-Living Adjustment ("COLA")

Ms. Anne Carreiro, Town Accountant, reviewed the Public Employee Retirement Administration Commission (PERAC) memo regarding the local option to increase the COLA up to 5%. The Fairhaven Retirement Board approved this increase on November 22, 2022 (*Attachment B*). The monies come from appropriation made during the budget process, if additional funds are needed there would be a Special Town Meeting Article to increase the valuation of the unfunded liability. Ms. Carreiro pointed out that Social Security increased COLA for calendar year 2022 to 5.9% and calendar year 2023 will be 8.7%.

Motion: Mr. Silvia motioned to accept the Retirement Board's recommendation to increase the COLA for FY23 from 3% to 5%. Mr. Espindola seconded. Mr. Silvia, Mr. Espindola, Mr. Correy and Ms. Powers in favor, Mr. Murphy abstained. The motion carried (4-0-1)

Additional street signage request: Morton St./Main St.

Lt. David Sobral from the Fairhaven Police Department reviewed the existing signage and his recommendations based on a safety report dated September 14, 2022. (*Attachment C*). Mr. John Medeiros of 285 Main St. discussed concerns about cost for the signage and budget constraints. Ms. Ellison will schedule a meeting with Mr. Medeiros to discuss budget concerns.

Motion: Mr. Murphy motioned to add additional signage on Morton Street as approved by public safety and BPW. Mr. Silvia seconded. Mr. Silvia, Mr. Murphy, Mr. Correy and Ms. Powers in favor, Mr. Espindola abstained. The motion carried (4-0-1)

Minimum Wage increase, Adjustment of Wage Schedule

The Board was presented with information to increase the wage schedule to reflect fifteen dollars (\$15) as Fairhaven's minimum wage standard effective January 1, 2023.

Motion: Mr. Murphy motioned to increase the minimum wage to fifteen dollars (\$15) effective Jan. 1, 2023. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

Accept an anonymous donation of \$20,000 to the Animal Shelter

The Fairhaven Animal Shelter received an anonymous donation in the amount of \$20,000; the Board

thanked Animal Control Officer, Mr. Terry Cripps for all his work and outreach to the community.

Motion: Mr. Murphy motioned to accept the gift of \$20,000 to the animal shelter's gift account. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

Reassignment of Marine Resources Committee member Eric Dawicki and appointment of James L. Moraux

Ms. Ellison spoke with Mr. Dawicki; he gave his verbal resignation from the Marine Resources Committee. Ms. Powers recommends waiting until we receive the resignation letter, then review any applications received at a future meeting before appointing a new member.

2023 License/Permit Renewals

The Board reviewed the businesses seeking to renew licenses and permits as outlined in *Attachment D*

Motion: Mr. Murphy motioned to approve the Liquor licenses and permit renewals contingent on inspection for the businesses listed in numbers 1-40 in section 1 of attachment D. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

Motion: Mr. Murphy motioned to approve the Car Dealer license renewals contingent on inspection for the businesses listed in numbers 1-10 in section 2 of attachment D. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

Motion: Mr. Murphy motioned to approve the Repair license renewals contingent on inspection for the businesses listed in numbers 1-19 in section 3 of attachment D. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

Motion: Mr. Murphy motioned to approve the Common Victualer license renewals for the businesses listed in numbers 1-30 in section 4 of attachment D. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

Motion: Mr. Murphy motioned to approve the Lodging House license renewals for the businesses listed in numbers 1-2 in section 5 of attachment D. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

Motion: Mr. Murphy motioned to approve the Private Livery license renewal for Elite Transportation, 1 Deerfield Lane, Fairhaven. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

ARPA Requests

Discussion on the ARPA project request process, list of submittals from the Department Heads and the work done with the consultant hired from Capital Strategic Solutions to review and prioritize the projects. The projects, a brief description and allotment amount per project can be viewed in *Attachment E*.

Mr. Espindola distributed and read a memo he drafted to the Board regarding alternate considerations to the process of selecting ARPA projects to fund; recommendations to use the Capital Improvement Planning (CIP) process as a method for selecting ARPA projects to fund; ensure no grants exist that could fund some of the projects and seeing an updated list of funds allotted (*Attachment F*).

The Board voted in Executive Session on September 6, 2022 to allocate \$500,000 in ARPA funds that Ms. Ellison could appropriate for projects. The consultant fee was part of that allotment. Capital Projects are still part of the Town's five-year Capital Improvement Plan and were not incorporated in the ARPA process.

The Board discussed concerns and recommendations for the ARPA projects and process used as outlined in the report. Ms. Ellison addressed the concerns and considerations of how the list was created with the work of the consultant with department head submissions. Whereas Mr. Espindola had a conflict with the resurfacing project, the Board took two votes.

Motion: Mr. Murphy motioned to accept the ARPA fund uses as outlined in the TA report for \$240,000 for playground resurfacing. Mr. Silvia seconded. Mr. Murphy, Mr. Silvia, Mr. Correy and Ms. Powers in favor, Mr. Espindola abstained. The motion carried (4-0-1)

Motion: Mr. Murphy motioned to accept the ARPA fund uses as outlined in the TA report with the exception of the school's playground resurfacing of \$240,000 (from previous vote). Mr. Silvia seconded. Mr. Murphy, Mr. Silvia, Mr. Correy and Ms. Powers in favor, Mr. Espindola opposed. The motion carried (4-1-0)

The meeting took a brief recess to address a safety concern from 8:47pm - 8:49pm

Broadband Update

Ms. Ellison, Mr. Espindola and Mr. Vinnie Furtado (BPW Superintendent) met to discuss the interest level of the BPW becoming the Municipal Light Board. At this time the BPW does not have an interest due to the developmental stage of the project. The BPW will reconsider a future request to become the MLB once the project is closer to completion.

Motion: Mr. Murphy motioned to have the Select Board maintain oversight of the broadband project and re-engage the BPW at a later date about transitioning authority to them. Mr. Silvia seconded. The motion passed unanimously (5-0-0)

Committee Liaison Reports

Mr. Espindola reported:

Mr. Espindola provided updates on the Broadband Study Committee and Fairhaven Bikeway Committee (***Attachment G***). Southeastern Regional Planning and Economic Development District (SRPEDD) meets this week.

Mr. Correy reported:

No meetings, waiting on a response about Digital Equity grant from Mass Broadband Institute. He has reached out and will follow-up again.

Ms. Powers reported - No meetings

Mr. Silvia reported:

The Historical Commission met to address an Open Meeting Law Violation.

Mr. Murphy reported:

The Lagoa Friendship Pact Committee rescheduled due to no quorum. Reminder on volunteering for a committee. The Sister City Committee will reschedule due to technical issues.

Public Comment

Mr. John Medeiros of 285 Main Street asked about the License renewal process and why so many businesses have not been inspected yet. He asked if they were fire inspections and how long it takes to complete. Ms. Powers explained that this is the start of the process for the year and suggested Ms. Ellison and Mr. Medeiros speak with the Licensing Clerk to have the process explained.

BOARD MEMBER ITEMS

Mr. Correy:

- Thanked the North Fairhaven Improvement Association (NFIA) for the tree lighting event at Benoit Square. He is encouraging everyone to go on the calendar to look for a meeting and something to motivate getting involved, this is your opportunity to express yourself, get involved and make your mark in the Town.

Ms. Powers:

- The 40R Working Group meets on December 16

Mr. Espindola:

- Thanked Mr. Silvia for letting everyone know about the opportunity to volunteer at the Council on Aging (COA) on Thanksgiving. This was the first year Mr. Espindola and family volunteered. He thanked other Town employees who also volunteered: Ms. Martha Reed, Ms. Amy Almeida, Ms. Joanne Correia, Ms. Becky Vento and family, Mr. Cam Durant and family. Mr. Espindola also followed-up on a previous comment made regarding the Financial Update Ms. Graves gave at the November 21st meeting. The DLS indicator can be separated by Fire Department compared to other communities. Mr. Espindola can assist with where to find the information on the Department of Revenue's site.

Mr. Silvia:

- Thanked all involved in the Thanksgiving dinner and Ms. Reed. He also wanted to remind everyone again about the Old-Time Holiday this Saturday, December 10th.

Mr. Murphy:

- He was approached about a speeding concern on Nancy St. at Alden Rd. The suggestion was made for the resident to reach out to Lt. Sobral at the Fairhaven Police Department.

Ms. Powers:

- Please join committees

Correspondence

- Mattapoisett River Valley Water District, Borrowing Vote revised language - pass over to the December 19th meeting

News and Announcements

- The next regularly scheduled meeting of the Select Board is **Monday, December 19, 2022** at 6:30 p.m. in the Town Hall Banquet Room

Adjourned at 9:12pm

Respectfully submitted on behalf of the Select Board Clerk (aa)

Attachments:

- A. Open Meeting Law Response**
- B. PERAC Memo #29/2022 and Fairhaven Retirement Board letter**
- C. Chief Myers Memo on traffic/parking control**
- D. 2023 Licensing Renewal List**
- E. ARPA Funding Request List**
- F. Memo on ARPA from Robert Espindola**
- G. Committee Liaison Report**



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Massachusetts
Office of the Select Board
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Fairhaven, MA 02719

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selectboard@Fairhaven-MA.gov

December 12, 2022

BY ELECTRONIC AND FIRST CLASS MAIL

patrick@patrickhiggins.com

Patrick Higgins
P.O. Box 290
Northport, AL 35476

**RE: Response to Open Meeting Law Complaint dated 11/15/2022
to the Fairhaven Select Board**

Dear Mr. Higgins:

I am responding on behalf of the Town of Fairhaven Select Board ("Board") to the Open Meeting Law complaint you filed with the Town Clerk's Office and the Select Board on or about November 15, 2022. According to your complaint, you allege that the Board violated the Open Meeting Law ("OML") on October 17, 2022 by entering into executive session for the following purpose stated on the agenda:

- I. EXECUTIVE SESSION - Pursuant to G.L. c. 30A, §21(a)(7)**
 1. To obtain legal advice pursuant to *Suffolk Construction v. DCAMM*, 449 Mass. 444 (2007) (Article 16 of the 11-55-22 (sic) STM)

The Board denies any violation of the Open Meeting Law ("OML"), with the possible exception of a minor oversight/inadvertent omission in the statement of the purpose of the executive session. Following the citation to G.L. c. 30A, §21(a)(7), the agenda item should have further stated "to comply with, or act under the authority of, any general special law or federal grant-in-aid requirement (Public Records Law, G.L. c. 4, §7(26))." The Board's procedures for entering into and conducting the executive session were otherwise in full compliance with the OML.

A. FACTUAL BACKGROUND

The Board entered executive session on October 17, 2022 date in order to discuss a written legal opinion provided to the Board by Town Counsel relating to an article included on the November 15, 2022 Special Town Meeting ("STM") warrant by citizens' petition (the "Article").¹ The Article stated as follows.

¹ Although the citizens' petition article was ultimately included in the warrant as Article 17, it was referred to as Article 16 on the Board's agenda because it was listed as such on an earlier draft of the warrant prior to finalization.

To see if the Town will vote to reduce the current Town Administrator salary line to \$1.00 by transferring the balance in excess of \$1.00 to Free Cash.

On October 12, 2022, Town Counsel provided the Board with a written legal opinion regarding the Article and confirmed that she would meet with the Board in executive session on October 17, 2022 to discuss the opinion. Town Counsel did meet with the Board in executive session on that date, during which the Board discussed the October 12, 2022 legal opinion and voted to authorize Town Counsel to prepare a streamlined version of the legal opinion that could be released to the public, explaining the Town's planned approach to handling the Article at the STM. A redacted copy of the October 17, 2022 executive session minutes is enclosed herewith. Following the executive session on October 17, 2022, the Chair released a statement, dated November 2022, to Town Meeting precinct chairs in accordance with the Board's vote.

B. ANALYSIS

The Open Meeting Law expressly provides that a public body may meet in executive session "[t]o comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements." G.L. c. 30A, §21(a)(7). In Suffolk Construction v. Division of Capital Asset Management, 449 Mass. 444 (2007), the Supreme Judicial Court recognized that the attorney-client privilege was applicable to communications between the government and its counsel, and specifically held that the Public Records Law did not preclude the applicability of the privilege to protect privileged records made or received by the government, even though such records might otherwise be subject to disclosure under the Public Records Law. As the SJC noted in its decision:

Public employees must routinely seek advice from counsel on how to meet their obligations to the public. It is in the public's interest that they be able to do so in circumstances that encourage complete candor, without inhibitions arising from the fear that what they communicate will be disclosed to the world. If counsel, despite all diligence, are unable to gather all of the relevant facts, they will less likely serve the public interest in good government by preventing needless litigation or ensuring government officials' compliance with the law. In short, counsel will be less likely to perform adequately the functions of a lawyer.

Id. at 450. It is axiomatic based on the Court's reasoning that the same common law exception found by the Court in Suffolk Construction with regard to the disclosure of public records also allows a public body to meet in executive session with its legal counsel for the purpose of obtaining legal advice, including asking questions about legal advice and obtaining answers from counsel with respect to such legal advice, as occurred here. Accordingly, the executive session was held for a valid purpose, and the Board denies any violation of the Open Meeting Law.

Furthermore, the Attorney General's Office has consistently held that a public body may enter executive session under Purpose 7 to "act under the authority" of the Public Records Law to discuss whether to release a document that it may lawfully withhold. See OML 2015-88; OML 2012-104. Here, the Board is the holder of the attorney-client privilege and is the only body authorized to waive the privilege. During the executive session, the Board discussed the October 12, 2022 legal opinion and authorized Town Counsel to prepare a streamlined advisory to Town Meeting to explain the Board's position on the Article and the potential implications of favorable action. While a portion of the legal advice set forth in the October 12, 2022 legal

opinion relating to Town Meeting procedure was determined to be appropriate to be shared with the public in the interest of transparency, the preparation of a streamlined opinion was necessary in order to preserve the remaining, privileged content and avoid exposing the Town to legal claims and/or jeopardizing the Town's position in the event of litigation resulting from favorable action on the Article.

Additionally, although the Article had not been approved at the time of the executive session and, therefore, litigation cannot be said to have been imminent at that time, the Board could reasonably anticipate that litigation would result from favorable action on the article and had no possible way to preserve the litigating position of the Board if the legal advice and the Board's position were discussed in open session. The Town Administrator was not present during the executive session so that the Board could consider its possible exposure to legal claims without jeopardizing the Board's position in the event that the Article was approved, and the Board could not have excluded the Town Administrator from the open session or had a thorough and candid discussion with counsel in the presence of the Town Administrator without affecting the Board's potential exposure. Under the unique circumstances at issue, Purpose 3 of the OML would also have served as a proper purpose for the Board to meet with counsel in executive session to discuss legal advice, as it was "demonstrably likely" that litigation would result if the Article were approved. See Perryman v. Sch. Comm. of Boston, 17 Mass. App. Ct. 346, 352 (1983).

The Board commits to properly identifying the purposes of executive session on future agendas, including reference to the specific general or special law or federal grant in aid requirement under which the Board is acting in accordance with Purpose 7, and the Board has provided the redacted minutes of the October 17, 2022 executive session along with this response. We trust that this resolves your complaint. Thank you for your attention in this regard.

Very truly yours,



Stasia Powers
Chair, Select Board

cc: Angeline Lopes Ellison, Town Administrator (by electronic transmission only)
Heather C. White, Town Counsel
Division of Open Government, Massachusetts Attorney General (with enclosure)



**Fairhaven Select Board
Executive Session
Meeting Minutes
October 17, 2022**

Present: Select Board members Chair Stasia Powers, Vice-Chair Leon Correy, Clerk Robert Espindola, Select Board member Charles Murphy Sr., and Select Board member Keith Silvia.

Ms. Powers opened the executive session meeting at 9:20 pm.

Attorney Heather White from Petrini and Associates, P.C. joined the session to offer legal advice pursuant to Suffolk Construction v. DCAM, 449 Mass 444 (2007) (Article 17 of the 11-15-22 STM).

Ms. White advised there is no legal action the Town may take. [REDACTED]
[REDACTED] She spoke with Town Moderator, Mark Sylvia, he can rule the Article out of order. There is no petitioner identified and advises debate not be allowed.

Ms. White offered to draft a streamline statement regarding the advice she offered and the resulting action of the Select Board. They agreed on the transparency, and would like to release the explanation so there is no further discussion at the Special Town Meeting.

Motion: Mr. Espindola motioned to request Town Council to draft a streamlined version document advising on Article 17 and provide it to the Select Board Chair, Stasia Powers. Ms. Powers will make the document available to the Town Meeting members and Town Moderator. Mr. Silvia seconded. Roll call vote: Mr. Correy in favor, Mr. Espindola in favor, Mr. Silvia in favor, Mr. Murphy in favor, Ms. Powers in favor. Vote was unanimous. (5-0-0)

Motion: Mr. Murphy motioned to exit executive session and return to open session. Mr. Silvia seconded. Roll Call vote: Ms. Powers in favor, Mr. Correy in favor, Mr. Espindola in favor, Mr. Silvia in favor, Mr. Murphy in favor. Vote was unanimous. (5-0-0)

Adjourned at 9:35 pm.

Respectfully Submitted,
On behalf of the Select Board Clerk (ss)

Approved November 7, 2022



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

Stasia Powers
Lean E. Correy III
Robert Espindola
Keith Silvia
Charles K. Murphy, Sr.

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

November 2022
To Town Meeting Members:

The Fairhaven Select Board is distributing this letter (via email also) to provide information on the basis for the Board's recommendation on Article 17 of the November 15, 2022 Special Town Meeting warrant. Article 17 is included in the warrant by citizens' petition, and states as follows:

To see if the Town will vote to reduce the current Town Administrator salary line to \$1.00 by transferring the balance in excess of \$1.00 to Free Cash.

Town Counsel has advised that, pursuant to Massachusetts General Laws, Fairhaven special acts and bylaws, and common law, such a reduction in the Town Administrator's salary would be beyond the scope of Town Meeting's authority, would not be in accordance with law, and would expose the Town to a claim of breach of contract. More specifically, G.L. c. 41, s. 108N and Chapter 381 of the Acts of 2014 ("Town Administrator Act") confer upon the Select Board the authority to establish an employment contract and provide for the salary for the Town Administrator. Accordingly, the Select Board has entered into an employment contract with the Town Administrator establishing her salary and employment for a term of three years beginning on April 4, 2022. A reduction in salary to \$1 would effectively terminate the contract. Pursuant to the contract and the Town Administrator Act, the Town Administrator may only be terminated for just cause following a duly noticed and conducted hearing. The determination of just cause is within the purview of the Select Board, and the Board has not made such a determination. A Town Meeting vote cannot operate to direct or command the Select Board in the discharge of their fixed duties. See *Russell v. Canton*, 361 Mass. 727, 730 (1972); *Lead Lined Iron Pipe Co. v. Wakefield*, 223 Mass. 485, 487 (1916).

Since there is no legal action that Town Meeting may take under Article 17, the Moderator will rule this article out of order. Such ruling is in accordance with Robert's Rules of Order Section 4:17 and 10:26, which provide in part as follows:

4:17: When a member who has legitimately obtained the floor offers a motion which is not in order, the chair may be able, in certain instances, to suggest an alternative motion which would be in order and would carry out the desired intent to the satisfaction of the maker. If the chair is obliged to rule that the motion is not in order, he says, "The chair rules that the motion is not in order [or "is out of order"] because...[briefly stating the reason]."

10:26: Below are stated a number of characteristics or conditions that cause a particular main motion to be out of order, and--where applicable--the alternative courses that are open for accomplishing the desired result:

1) No main motion is in order that conflicts with the corporate charter, constitution, or bylaws...; and to the extent that the procedural rules applicable to the organization or assembly are prescribed by federal, state, or local law, no main motion is in order that conflicts with such rules. (Footnote omitted).

Accordingly, no main motion may be accepted under Article 17, and it will be ruled out of order. We thank you for your attention to this matter.

Sincerely,

Stasia Powers,
Chair, Select Board

CC: Heather White, Town Counsel,
Mark Sylvia, Town Moderator

Fairhaven Retirement System
40 Center Street
Fairhaven, MA. 02719
Phone: 508-979-4023 ext. 121
Cell: 774-634-6668
Fax: 508-993-9486

November 29, 2022

Town of Fairhaven Selectboard
40 Center Street
Fairhaven, Ma. 02719

Dear Selectboard,

On November 16, 2022, the Governor signed Chapter 269 of the Acts of 2022 into law. This act provides the local retirement systems with a local option to increase the Cost of Living Adjustment ("COLA") for Fiscal Year 2023 up to 5 percent on the base amount (\$15,000) specified, pursuant to G.L. c. 32, § 103.

At the Fairhaven Retirement Board meeting held on November 22, 2022, the Board voted to increase the Cost of Living Adjustment (COLA) from 3% to 5% for Fiscal Year 2023, retroactive to July 1, 2022. Based on the foregoing, the Board respectfully requests that you approve this increase.

If you have any questions, please email Anne Carreiro, Chairperson of the Fairhaven Retirement Board a few days before the December 5th meeting to allow sufficient time to answer any questions.

Sincerely,

Mary Sturgeon, Administrator

Encl: PERAC Memo #29/2022

Cc: Retirement Board

MEMORANDUM

TO: All Retirement Boards

FROM: John W. Parsons, Esq., Executive Director 

RE: 5% Local COLA option

DATE: November 18, 2022

On November 16, 2022, the Governor signed Chapter 269 of the Acts of 2022 into law. This act provides the local retirement systems with a local option to increase the Cost of Living Adjustment ("COLA") for Fiscal Year 2023 to up to 5 percent on the base amount specified pursuant to G.L. c. 32, § 103. The approval of the increase can occur at any time during the fiscal year and will take effect as of July 1, 2022.

The local approval mechanism is different than traditional COLA increases and COLA base increases. In order for a system to adopt a COLA increase pursuant to this act, **the retirement board must vote for the increased amount and then it must also receive local approval.**

For purposes of this act, local approval means:

- In a city, the mayor must recommend the increase to the city council and the council must vote in favor.
- In a city having a Plan D or Plan E charter, the city manager must recommend the increase to the city council and the council must vote in favor.
- In a town, the chief executive officer¹ - the select board in nearly all cases - must vote in favor to accept the increase rather than the town meeting as is the case for COLA base increases.
- In a district, or other political subdivision, the governing board, commission or committee must vote in favor to accept the COLA increase.

¹ As defined in G.L. c. 4, § 7, "chief executive officer", when used in connection with the operation of municipal governments shall include the mayor in a city and the select board in a town unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.



MEMORANDUM - Page Two

TO: All Retirement Boards
FROM: John W. Parsons, Esq., Executive Director
RE: 5% Local COLA option
DATE: November 18, 2022

- In a regional system, two-thirds of the cities and towns within the system must approve the increase. This is done in the same fashion as stated above for municipalities: in a city, by the city council upon recommendation by the mayor or, in a city with a Plan D or Plan E charter, the city manager; or, in a town, by approval of the chief executive officer (likely the select board) as defined by G.L. c. 4, § 7.
- In a county, the county commissioners, who normally do not have a role in COLAs nor COLA base increases, must vote to accept and two-thirds of the cities and towns within the system must approve the increase in the same manner as stated above for regional systems.

Though many local systems are comprised of multiple units such as housing authorities and districts, the two-thirds language only applies to regional and county systems as the approval specified in the statute only refers to cities and towns as voting political subdivisions.

Section 2 of the act provides that a COLA increase pursuant to this act is retroactive to July 1, 2022. Any COLA increase, in addition to any COLA previously adopted for FY 23, will become part of the fixed amount of a retirees' retirement allowance in the same manner as all COLAs granted pursuant to section 103.

PERAC has already received questions about estimating the cost of the enhanced COLA. PERAC Actuary John Boorack has provided the following formula for a conservative full-cost estimate, not a one-year estimate, to assist boards in their planning:

$$(0.2) \times (\text{COLA base}) \times (\# \text{ of retirees/beneficiaries})$$

If you have any questions about this memo, please contact PERAC's General Counsel, Judith Corrigan, at (617) 591-8904 or at judith.a.corrigan@mass.gov.

Commonwealth of Massachusetts
TOWN OF FAIRHAVEN
POLICE DEPARTMENT
1 Bryant Lane
Fairhaven, MA 02719
Phone 508-997-7421
Fax 508-997-3147
www.fairhavenpolice.org

Michael J. Myers
Chief of Police

To: Chief Michael J. Myers

From: Lieutenant David R. Sobral

Date: 12/01/2022

Request for traffic/parking control

On September 14th, 2022 the undersigned officer along with Paul Foley from the Planning board had a meeting with Mr. John Medeiros from the NFIA. Mr. Medeiros had informed me that there were issues with the traffic flow in the area of Morton Street and Livesey Park Way area. He stated that Since the renovations which occurred at the old Oxford School which has been totally renovated and reopened as apartments there are traffic and safety issues occurring in that area.

Mr. Medeiros said that he has observed on several occasions vehicles that have exited the driveway located on the east side of the Oxford Residences Apartments travel out of the driveway and make a left turn and travel west bound on Morton Street towards Main Street. Mr. Medeiros stated that there is a one way sign to travel east bound at Morton Street and Main Street towards the park, but there is no other signage (one way sign) at the bottom of the street at Morton St. and Livesey Park Way. There is also no other signage stating no left turn coming out of the parking lot.

Upon viewing the area that day with Mr. Medeiros and Mr. Foley, and also seeing for myself as I was working a detail in the area recently that several vehicles did travel illegally west bound on Morton Street towards the Main Street intersection. This type of activity is concerning and dangerous, and if it continues it could result in a motor vehicle crashes if one vehicle is traveling legally east bound on Morton Street and another vehicle traveling illegally west bound on Morton Street towards Main Street.

The traffic flow in the area has increased due to the Oxford Residence Apartments which have a section for their tenant parking which is located to the rear of the building

on the east side of the property. There is also a new section of parking in the same lot which was divided in half, parking for the residences and the other half of the lot designated for Public parking just east of the tenant parking area.

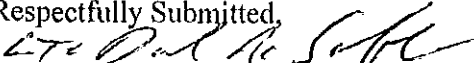
My recommendation for the public safety interest of the area would be adding an additional one way parking sign at the base of the roadway on the north side of the street facing east bound at the corner of Morton Street and Livesey Park Way. I also recommend that a "No left turn" sign be placed at the exit area of the driveway for vehicles exiting the parking lot onto Livesey Park Way. Both these signs will be visible upon anyone trying to exit the parking lot. Livesey Park Way has three one way signs which determine the flow of traffic north bound towards Glenhaven Ave. This should alleviate the traffic flow issue in this area for the future!

Mr. Medeiros also brought to my attention that there is no signage at the top of the intersection of Morton Street and Main Street informing the general public that there is a Public parking lot area located on the east side of the Oxford Residence Apartment complex at the base of Livesey Park. The parking lot has a total of 28 parking spaces and 2 handicapped spaces for the general public to park. In the main lot there is signage pointing to the residence parking area and the Public parking area within the lot.

Mr. John Medeiros is requesting some type of signage (Public Parking) for the general public, to be placed at the top of the intersection of Morton Street and Main Street to assist in notifying the general public of the designated public parking area to the rear of the Oxford Residence Apartments.

This is not a public safety issue regarding the Public Parking signs requested by Mr. John Medeiros.

Respectfully Submitted,



Lieutenant David R. Sobral #019

Fairhaven Police Department

Operations/Patrol Division



FAIRHAVEN POLICE DEPARTMENT
REQUEST FOR TRAFFIC OR PARKING CONTROL

****OFFICIAL USE ONLY****

Location: MORTON STREET
Control: ADDITIONAL "ONE WAY SIGN"

Intersection of: LIVERSEY PARK WAY
Approval Date: _____

NOT TO BE FILLED IN BY REQUESTING PARTY

Requested by: <u>JOHN MEDeiros</u>	Location: <u>MORTON STREET</u>
Address: <u>285 MAIN STREET</u> <u>FAIRHAVEN, MA. 02719</u>	Intersection of: <u>LIVERSEY PARK WAY</u>
Telephone: <u>508-992-2959</u>	Date: <u>SEPT. 14TH 2022</u>
Type of Control Requested: <u>"ONE WAY SIGN" ON MORTON STREET EAST SIDE</u> <u>VIC. LIVERSEY PARKWAY. "NO LEFT TURN SIGN" AT DRIVEWAY EXIT OF</u> <u>OXFORD RESIDENCES APARTMENTS. (NO PUBLIC SAFETY) PUBLIC PARKING SIGN</u> <u>AT MORTON/MAIN ST. ISSUE</u>	
Reason for Request: <u>ONE WAY SIGN DUE TO VEHICLES TRAVELING ILLEGALLY</u> <u>W/B ON MORTON ST. TOWARDS MAIN ST. NO LEFT TURN SIGN FOR</u> <u>NOTIFICATION NOT TO TRAVEL W/OUT WAY ON ROADWAY (MORTON ST.)</u>	

****OFFICIAL USE ONLY****

Approved: _____

Investigated by: LT. [Signature]

Denied: _____

Investigation: * See Supplement Report for Further
INFO. ON INVESTIGATION

[Signature]
Police Chief

Board of Selectmen

Approval Date

Compliance Date

2023 RENEWALS
FOR APPROVAL BY THE SELECT BOARD
DECEMBER 5, 2022

LIQUOR LICENSES, FAIRHAVEN, MA 02719

****Contingent on Inspections (in red)**

1. Gene's Famous Seafood, 146 Huttleston Avenue, Fairhaven, MA
2. The Bitter End Lounge, 407-409 Huttleston Avenue, Fairhaven, MA
3. Frontera Grill, 214 Huttleston Avenue, Fairhaven, MA
4. Sweet Ginger Asian Cuisine & Bar, 179-181 Huttleston Ave., Fairhaven, MA
5. Mike's Restaurant, 390 Huttleston Ave., Fairhaven, MA
6. Dorothy Cox's Candies, 21 Berdon Way, Fairhaven, MA
7. Wah May Restaurant, 51 Main Street, Fairhaven, MA
8. Elisabeth's Restaurant, 1 Middle Street, Fairhaven, MA
9. 99 Restaurant & Pub, 32 Sconticut Neck Road, Fairhaven, MA
10. Southcoast Wine & Spirits, 355 Huttleston Ave., Fairhaven, MA
11. Brick Pizzeria Napoletana, 213 Huttleston Ave., Fairhaven, MA
12. Minerva Pizza House, 75 Main Street, Fairhaven, MA
13. Paul's Sports Corner, 19 Howland Road, Fairhaven, MA
14. Connolly's Liquor Mart, 36 Howland Road, Fairhaven, MA
15. Old Oxford Pub, 346 Main Street, Fairhaven, MA
16. Fairhaven Wine & Spirits, 105 Sconticut Neck Rd., Fairhaven, MA
17. Sivalai Thai Cuisine, 130 Sconticut Neck Rd., Fairhaven, MA
18. M&J Fairhaven Inc., Riccardi's Restaurant, 1 David Drown Blvd Fairhaven
19. Bayside Lounge, 125 Sconticut Neck Rd., Fairhaven, MA
20. Friendly Farm Convenience, 121 Sconticut Neck Road, Fairhaven, MA
21. Cardoza's Wine & Spirits, 6 Sconticut Neck Road, Fairhaven, MA
22. Douglas Wine & Spirits, 1 Peoples Way, Fairhaven, MA
23. The Pasta House Restaurant, Bocca, 100 Alden Road, Fairhaven, MA

24. Fort Phoenix Post 2892, Veterans of Foreign Wars of USA, 109 Middle Street, Fairhaven, MA
25. Acushnet River Safe Boating Club, 801 Middle Street, Fairhaven, MA
26. Off The Hook, 56 Goulart Memorial Drive, Fairhaven, MA
27. Ice House, LLC, 136 Huttleston Ave., Fairhaven, MA
28. Fairhaven Seaport Hospitality Inc., Seaport Inn and Marina, 110 Middle Street, Fairhaven, MA
29. Vila Verde Restaurant, 362-364 Main Street, Fairhaven, MA
30. Rasputin's Tavern, 122 Main Street, Fairhaven, MA
31. Ocean State Job Lot, 11 Berdon Way, Fairhaven, MA
32. Moriarty Liquors, 101 Middle Street, Fairhaven, MA
33. Town Crier, 5 Maitland Street, Fairhaven, MA
34. Courtyard Restaurant, 270 Huttleston Avenue, Fairhaven, MA
35. The Bar on Middle, 47 Middle Street, Fairhaven, MA
36. Scuttlesbutts Liquors, 407-409 Main Street, Fairhaven, MA
37. Huttleston License, LLC Stevie's A Package Store, 115 Huttleston Ave., Fairhaven, MA
38. Traveler's Ale House, 111 Huttleston Ave., Fairhaven, MA
39. Southcoast Pickleball LLC., 4 David Drown Blvd., Fairhaven, MA
40. Gulf Resources Inc., 277 Bridge Street, Fairhaven, MA

CAR DEALER LICENSES, FAIRHAVEN, MA

1. Fairhaven Gas, Inc. 134 Huttleston Avenue, Fairhaven, MA
2. Fairhaven Gas, Inc., Valero's, 130 Huttleston Avenue, Fairhaven, MA
3. Hive Motorcars, LLC, 10 Arsene Way, Fairhaven, MA
4. Guard Enterprises, 110 Alden Road, Fairhaven, MA
5. Alden Buick GMC, 6 Whalers Way, Fairhaven, MA
6. Alden Mazda, 250 Bridge Street, Fairhaven, MA
7. Artistic Auto Body & Auto Sales, 98 Middle Street, Fairhaven, MA
8. Sarkis Enterprises, Inc. (A & A Auto), 196 Huttleston Ave., Fairhaven, MA
9. RRR Auto Sales, 372 Huttleston Avenue, Fairhaven, MA
10. First Hot Line Auto Sales Inc., Fairhaven Getty Auto Sales, 371 Huttleston Avenue, Fairhaven, MA

REPAIR LICENSES, FAIRHAVEN, MA

1. Fairhaven Gas, Inc. 134 Huttleston Ave, Fairhaven, MA
2. Guard Enterprises, 110 Alden Road, Fairhaven, MA
3. Alden Buick GMC, 6 Whalers Way, Fairhaven, MA
4. Alden Mazda, 250 Bridge Street, Fairhaven, MA
5. Artistic Auto Body & Auto Sales, 98 Middle Street, Fairhaven, MA
6. Sarkis Enterprises, Inc., (A & A Auto), 196 Huttleston Ave., Fairhaven, MA
7. A-1 Crane Company, 86-88 Middle Street, Fairhaven, MA
8. Aaron's Auto Glass, 232 Huttleston Ave., Fairhaven, MA
9. Jiffy Lube #1229, 31 Alden Road, Fairhaven, MA
10. Automotive Diagnostic Service, 162 Sconticut Neck Rd., Fairhaven, MA
11. Dattco Sales & Service, 72 Sycamore Street, Fairhaven, MA
12. Nice N' Clean Car Wash, 320 Huttleston Avenue, Fairhaven, MA
13. Rick's Services, 241 R. Huttleston Avenue, Fairhaven, MA
14. Manny's Service Station, 82 Bridge Street, Fairhaven, MA
15. Sullivan Tire Company, 9 Plaza Way, Fairhaven, MA
16. JR's Auto Shop, 276 Huttleston Avenue, Fairhaven, MA
17. Roland's Tire Service, 11 Howland Road, Fairhaven, MA
18. RRR Auto Sales, 372 Huttleston Avenue, Fairhaven, MA
19. Leban Fuel Inc., Fairhaven Getty, 371 Huttleston Avenue, Fairhaven, MA

COMMON VICTAULER LISENSSES, FAIRHAVEN, MA

1. Papa Gino's Pizza, 171 Huttleston Ave, Fairhaven, MA
2. Subway, 42 Fairhaven Commons Way, Fairhaven, MA
3. Taco Bell, 33 Alden Road, Fairhaven, MA
4. Subway, 19 Plaza Way, Fairhaven, MA
5. Burger King, 180 Huttleston Ave., Fairhaven, MA
6. Tropical Smoothies Café, 29 Alden Road, Fairhaven, MA

7. McDonald's Restaurant, 14 Plaza Way, Fairhaven, MA
8. Wendy's Restaurant, 7 Fairhaven Commons Way, Fairhaven, MA
9. Mac's Soda Bar, 116 Sconticut Neck Road, Fairhaven, MA
10. Dunkin Donuts, 18 Plaza Way, Fairhaven, MA
11. Dunkin Donuts, 32 Howland Road, Fairhaven, MA
12. Little Village Café, 23 Center Street, Fairhaven, MA
13. Palace Pizza & More, 142 Huttleston Ave., Fairhaven, MA
14. Galaxy Pizza, 142 Main Street, Fairhaven, MA
15. Scramblers Breakfast & Bagel, 2 Sconticut Neck Rd., Fairhaven, MA
16. 7-Eleven, 188 Huttleston Ave., Fairhaven, MA
17. Brady's Ice Box, 12 Ferry Street, Fairhaven, MA
18. Margaret's Restaurant, 16 Main Street, Fairhaven, MA
19. Jake's Dinner, 104 Alden Road, Fairhaven, MA
20. Mystic Café, 398 Main Street, Fairhaven, MA
21. Flour Girls Baking, 230 Huttleston Ave., Fairhaven, MA
22. The Nook Café, 58 Washington Street, Fairhaven, MA
23. Festiva Buffet, 31 Berdon Way, Fairhaven, MA
24. Honey Dew Donuts, 87 Huttleston Ave, Fairhaven, MA
25. Phoenix Restaurant, 140 Huttleston Ave., Fairhaven, MA
26. Yia Yia's Pizza Café, 381 Sconticut Neck Rd., Fairhaven, MA
27. Jersey Mike's Subs, 215 Huttleston Ave., Fairhaven, MA
28. 168 Sushi Kitchen, 8-1 Sconticut Neck Rd., Fairhaven, MA
29. Main Street Scoops, 382 Main Street, Fairhaven MA
30. Makatan Company Store, West Island Creamery, 39 Causeway Road., Fairhaven, MA

LODGING HOUSE LICENSES, FAIRHAVEN, MA 02719

1. Kopper Kettle Guest House, 41 Huttleston Avenue, Fairhaven, MA
2. Delano Homestead Bed & Breakfast, 39 Walnut Street, Fairhaven, MA

PRIVATE LIVERY LICENSE, FAIRHAVEN, MA 02719

1. Elite Transportation, 1 Deerfield Lane, Fairhaven, MA

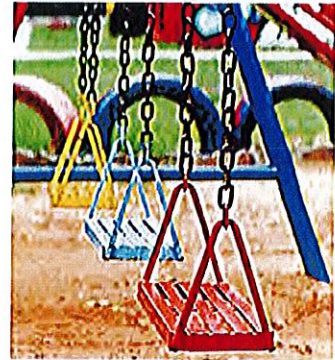


ARPA Funding Requests

School Department: Playground Resurface

Estimated Cost: \$200,000-\$240,000

The Fairhaven School Department has submitted a project to resurface a playground that is currently in poor condition and poses a significant need for replacement. The poor condition of the playground poses a safety risk to students and community members. The PIP surfacing will include removal and disposal of PIP rubber surfacing system, as the main play area is 10,817 Square Feet. Surface America Playbound Poured-in-Place Rubber Surfacing system will be installed by a factory crew. This playground in particular has been frequently used by the general public and has seen significant wear and tear, with the most noticeable wear and tear occurring during the 2020 calendar year. Estimated date of completion is July 30, 2023



Fire Department: Camera Funding

Estimated Cost: \$5,000

Priority 1 project of the proposed package from the Fire Department includes funding for new security cameras around the fire station and public safety complex. The current quote of the project exceeded the budget allocated at the June 2022 Town Meeting. The Fire Department is seeking an additional \$5,000 to finish the project. The estimated completion schedule is 60 days.



Fire Department: Fairhaven Fire Rescue Boat**Estimated Cost: \$750,000**

Priority 2 project of the proposed package from the Fire Department includes funding for a fireboat. The Fire Department has been without a fireboat for nearly a decade, and recent events in the area justify the need to maintain a fire boat with fire suppression capability. This boat will be used for rescue, fire suppression, and medical response. At this time, Fairhaven cannot fight a fire from the waterside of a building, diminishing our firefighting capability. The intention is to help reduce our marine unit vessels by combining this vessel as a joint fire and harbormaster vessel, to consolidate marine units and personnel. Estimated completion schedule is 18-24 months out from the time of order.

**Fire Department: Message Boards****Estimated Cost: \$120,000**

Priority 3 project of the proposed package from the Fire Department includes funding for Message Boards. The Fairhaven Fire Department is seeking funding for electronic permanent sign boards. The sign boards will be dual-faced and placed at the public safety complex and the Senior/Recreation Center. The primary purpose of these signs is to tie into the public safety communications network and provide visual signs on pending or current emergencies. When no emergencies are pending or existing, the Senior/Recreation Center and Public Safety administration will be able to advertise current events or safety preparedness messages on the sign. The boards cost \$60,000 per location, and the estimated completion schedule is 6 months from the time of placing the order.

**Police Department: Replacement Police Boat****Estimated Cost: \$875,000**

Proposed Project 1 from the Police Department is the purchase of a replacement police boat. This will replace the current police boat with a new modern vessel. The marine division has become increasingly busy with marine related emergencies. With the wind industry coming to the port a vessel that can handle large vessel transports and emergency calls will be needed to ensure safety in this area. Estimated date of completion is 6/1/2024



Police Department: Parks and Beaches Cameras**Estimated Cost: \$266,000**

Proposed Project 2 from the Police Department is the purchase of new security cameras that will complete the traffic camera system that was installed in 2022. These cameras will enhance public safety at town beaches and parks. The estimated date of completion is 12/1/2023

**Police Department: Specialized Emergency Response Vehicles****Estimated Cost: \$80,000**

Proposed Project 3 from the Police Department is for the purchase of all new electric emergency response vehicles to assist the department in responding to areas that are impossible to get to by cruiser or boat. Such areas include bike paths, beaches, forest, and wetlands. Estimated completion date is 7/1/2023

**Police Department: Police UAS Drone****Estimated Cost: \$30,000**

Proposed Project 5 from the Police Department is for the replacement of the department's existing drone. The replacement will be a more capable unit that is more up to date. The estimated completion date is 5/1/2023

**Police Department: Fixed Solar Speed Signs****Estimated Cost: \$9,500**

Proposed Project 6 from the Police Department is for additional signage to roads for enhanced public safety. The aim is to alter the speed at which drivers travel. These signs also record historical speed data which can be complied and analyzed. The estimated date of completion is 6/1/2023



Police Department: Equipment Storage Unit**Estimated Cost: \$16,000**

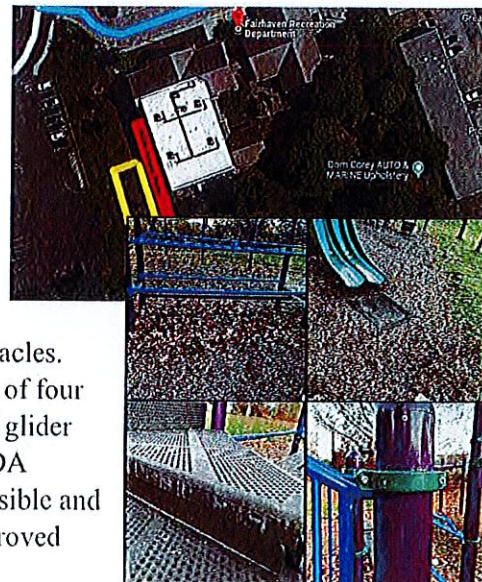
Proposed Project 7 from the Police Department is for storage units for police equipment. These will provide much needed additional indoor storage space for sensitive police equipment that is currently stored outside. The estimated date of completion is 5/1/2023

**Water Main Flush****Estimated Cost: \$300,000**

The proposed project from the Public Works department is for the hiring of an outside consultant, Hydra Tech, to conduct a full water main flush. The towns of Fairhaven, Marion, Mattapoisett, and Rochester each get their Public Water Supply from a regional water treatment plant overseen by a Water District. At the most recent annual Town Meetings for each of the aforementioned Towns, there was an article to approve the borrowing of \$7.2 M to add disinfection and more importantly, to upgrade the filtration system, which has a life-span of 5-7 years and has been in service circa 14 years. Although all the Towns approved this cumulative borrow for the upgrade, due to equipment delays, we are looking at 12-18 months. As the filtration system needs upgrading now, and this system is critical in removing particulate matter from water, the Town of Fairhaven is experiencing occasional dirty water being supplied to residents and businesses. Flushing the entire water system would buy the town time in the interim until a long-term solution. The town in its entirety would benefit from the flushing.

**Recreation Playground****Estimated Cost: \$200,000**

The Recreation Department is seeking funds to replace the playground behind the Recreation Center. The location is a convenient stop along the bike path that makes it a potential attraction for many kids and families. Known users of the playground include area residents, and the participants of the Kool Kids summer program at the recreation center. As the playground was built in 2003 it is aging out of code and non-ADA compliant surface, and is lacking amenities such as benches, and trash and recycle receptacles. The playground is on a wood fiber surface and consists of four swings (2 child-size and two toddler-size), an overhead glider and a platform surface with slides. According to the ADA Transition Plan, the swings should be made more accessible and a piece of accessible equipment placed on an ADA approved



surface should be added. In addition, an accessible path from the parking lot to the playground must also be added.

The one-time funds will be used to design and construct a playground that will be suitable for all ages and abilities, meet all safety standards and stand the test of time. The Recreation Dept. will maintain the site properly by having annual inspections done to ensure safety and keep the equipment in excellent condition. Improvements at the Recreation Center Playground will provide significant public benefit consistent with the priorities of the Town of Fairhaven Master Plan and the Fairhaven Open Space and Recreation Plan goals. The renovation will rehabilitate an existing recreational site that is in poor condition and will increase accessibility to a recreation site. The project will link together opportunities for both active and passive recreation while preserving the existing green space/tree life, incorporating artistic and educational features, and improving site safety and access with new poured in place rubber surfacing. The playground will feature elements and structures for both younger children, as well as school-age children and early teens. To engage the older children and early teens, the structures will be designed with fitness elements that will challenge the youth, promote strength and assist in fighting childhood obesity. The estimated completion date will be June 2023.

Touchview Ultra Interactive Panel

Estimated Cost: \$4,635

The Cable department has submitted a proposal for a Touchview 75 inch Ultra Interactive Panel. This panel would be used to set up an additional location for Hybrid Government Meetings. A recent bylaw passed at Town Meeting that adopted the use of Remote Access for all government meetings for public participation regardless of the legislation decisions about the use of Remote Participation for Boards & Committees has currently extended thru March 31, 2023. This purchase would also be used for hybrid meetings at a third location in the Public Works Building, to supplement the current 2 Town Hall hybrid meeting locations.



Shellfish Boat Controller Replacement

Estimated Cost: \$2,881

The proposed project is for a replacement Shellfish Boat Controller. The current Shellfish Boat has damaged controllers and is in need of replacement parts. The estimated date of completion is February 2023.



Technology Switch and Access Points**Estimated Cost: \$2,171**

The Information Technology Department has requested replacement of IT switches and access points. This equipment would be used by the Fire Department to increase connectivity and network speeds.

Partial Funding for Wastewater Treatment Plant**Estimated Cost: \$1,000,000**

The Department of Public Works would like the Town to consider funding a portion of the upcoming Wastewater Treatment Plant project with ARPA funds. The intent is to lessen the amount that the Town will need to borrow and finance the overall project, and in turn save the ratepayers some of the rate increases that are expected as this 50 million dollar project commences.

HVAC Improvements Town Hall**Estimated Cost: \$18,000**

These much needed HVAC improvements will improve air handling and temperature control in the Town Hall. The request includes installation of mini split units and a plan that will maintain the integrity of the existing building. Equipment, labor and electric wiring of the new units are all included in this cost.

Total Allocation \$4,399,401

PROPOSED PROJECTS

County Allocation \$2,716,540

Cable TV	Touchview Ultra Interactive Panel	\$4,635	1.14 Other Public Health Services
Fire	Security Cameras Public Safety	\$5,000	1.11 Community Violence Interventions
Facilities	HVAC Town Hall	\$18,000	1.14 Other Public Health Services
Police	Police UAS Drone	\$30,000	1.11 Community Violence Interventions
Police	Specialized Emergency Response Vehicles	\$80,000	1.11 Community Violence Interventions
Fire	Message Board	\$120,000	1.7 Other Public Health Expenses (Communications)
Recreation	Recreation Playground	\$200,000	2.22 Strong Healthy Communities: Neighborhood Features That Promote Health & Safety
Schools	Playground Resurface	\$240,000	2.22 Strong Healthy Communities: Neighborhood Features That Promote Health & Safety
Police	Parks and Beaches Cameras	\$266,000	1.11 Community Violence Interventions
Public Works	Water Main Flush	\$300,000	5.11 Drinking Water Transmission & Distribution
Police	Replacement of Police Boat	\$875,000	1.11 Community Violence Interventions
Public Works	Wastewater Treatment Plant	\$577,905	5.1 Clean Water: Centralized Wastewater Treatment
	Subtotal County Requests	\$2,716,540	
	Balance Remaining	\$0	

Municipal Allocation \$1,682,861

Technology	Technology Switch and Access Points	\$2,171	Revenue Replacement - Municipal Allocation Only
Marine Resources	Shellfish Boat Controller Replacement	\$2,881	Revenue Replacement - Municipal Allocation Only
Police	Fixed Solar Speed Signs	\$9,500	Revenue Replacement - Municipal Allocation Only
Police	Equipment Storage Unit	\$16,000	Revenue Replacement - Municipal Allocation Only
Administration	Previous Requests	\$480,000	Revenue Replacement - Municipal Allocation Only
Fire	Fire Rescue Boat	\$750,000	Revenue Replacement - Municipal Allocation Only
Public Works	Wastewater Treatment Plant	\$422,095	5.1 Clean Water: Centralized Wastewater Treatment
	Subtotal Local Municipal Requests	\$1,682,861	
	Balance Remaining	\$214	

Memorandum

To: Select Board and Town Administrator Ellison

From: Bob Espindola

Date: 12-5-2022

Re: Agenda item D8 – ARPA Requests

In an effort to streamline my comments regarding the D8 – ARPA Requests, I have written this Memo.

For reference, the screenshot below is from the July 29th Memo from Ms. Ellison that was part of B4 on our August 1st meeting packet.

My primary concern with the list of projects proposed is that very few of them are actually part of our Five Year Capital Improvement Plan. That plan is in place to provide for a structured review and rating of all Capital expenditures for the Town.

In the 2012 DOR Financial Management Review, under recommendation #10, the DOR recommended the Town form a Capital Planning process and said

“A comprehensive capital program is one of the cornerstones of sound financial planning. In its design, a capital program serves as an effective resource allocation tool by enabling officials to direct scarce resources to prioritized needs. Established through bylaw or town charter, it would facilitate a strategic planning process built upon an explicit long-term vision and a multi-year capital plan that embodies clear standards and capital spending priorities”.

This process we approved, to deal with these ARPA funds allows for our independent review and authorization (by our Board), without the normal checks and balances that our traditional budgeting process includes, with things like review by the Finance, Community Preservation Committee and Finally, Town Meeting members, etc.

This may be helpful to ensure we can spend the funds in a timely manner (a stipulation that comes with the funds granted) but it also places a great deal more responsibility on our Board.

In my opinion, absent those checks and balances, our Board needs to be especially diligent in reviewing and approving the \$4.3 M available to us in these ARPA funds. To put things in perspective, the total of all these ARPA requests equates to 8.2% of the entire 5-Year (FY23 – FY27) Capital Improvement Budget and 41% of the annual Average spending in the 5 Year plan.

Before we approve the list of projects proposed tonight, I would like to see the following questions answered;

Questions for Ms. Ellison to answer or find answers to:

- 1) How many of the projects recommended are pulled from the existing 5 year CIP plan?
- 2) What is the basis for spending on projects that weren't seen as priority historically in our past 5 Year Capital Plan(s)
- 3) For each request, can we confirm there are no grants that can be secured for the project proposed.

Questions for the Select Board to answer:

- 1) Should the ARPA funds that are to be designated for Capital projects be limited to or at least primarily used for projects already designated for Capital spending in the FY23-FY27 Capital Improvement Plan (CIP)?

If the answer is yes, then, under that scenario, we would effectively be pulling forward projects that have already been vetted through a CIP process and defer spending on any project that has not. Those projects that have not gone through the CIP or Community Preservation Program request process (as applicable) would then have an opportunity to compete against the rest of the capital needs already identified, they would go through the rating process and fit in among the other projects according to the formally established rating system.

Every ARPA dollar that is spent on projects currently on the CIP list should, theoretically open up another dollar from the CIP plan for any new project on the ARPA list we are reviewing tonight.

Essentially, newly identified projects would just need to wait their turn and make their way through the formal vetting process already established by the Town and included in our Bylaws.

This would allow those who traditionally provide checks and balances, like the Finance Committee, the CPC and Town Meeting Members to weigh in on big ticket, discretionary spending plans.

My recommendation would be that we utilize ARPA funds to pull forward Capital spending on already designated Capital Projects, with limited exception (i.e. things on this list that can be justified as particularly time sensitive and providing an extraordinary benefit to the community) and we ask the proponent of each newly identified project to submit their project(s) through the formal review process, to compete on a level playing field, with already established Capital needs.

Excerpt from July 29th Memo from Ms. Ellison, for reference.

ARPA also puts restrictions that funds may not be used for deposit into any pension fund or, for states and territories only, to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation.

The funds allocated to Fairhaven is a net of:

Directed State funding is	\$1,602,861
Bristol County Allocation is	\$2,744,669

Present allocations: Bridge Street phase 2 environmental study- up to \$50,000

Recommended Uses:

- Hire a third-party administrative support
- Use the funds for water, sewer, and broadband infrastructure
- Use the fund to invest in our capital projects, including but not limited to upkeep of our occupied town buildings.

Town Administrator would administer, review and allocate the fund, with Select Board approving or modifying the TA's recommendation.

The screen shot below shows the math behind the figures outlined above.

<u>From FY23-FY27 CIP Plan</u>	<u>Requested Amounts</u>	<u>Average Annual Capital Budget</u>	
Total 5 Year CIP Plan	\$ 53,559,000	\$ 10,711,800	
Public Safety (largest single CIP Item)	\$ 40,616,000	\$ 8,123,200	
Without Public Safety	\$ 12,943,000	\$ 2,588,600	
Tonights ARPA Requests	\$ 4,399,401	8.2%	Tonights request as % of Total 5 Year CIP Plan
Total CIP 5 Year Plan	\$ 53,559,000		
Tonights ARPA Requests	\$ 4,399,401	41%	Tonights request as % of Annual 5 Year CIP Plan
Annual Average CIP Requests	\$ 10,711,800		

Committee Liaison Report – Bob Espindola – December 5th, 2022

Broadband Study Committee.

The Broadband Study Committee met on Thursday night last week and discussed the status of the FHA Fiber Project, which is on hold pending questions that need to be answered by Ms. Ellison related to Procurement, proposals, etc. There was a meeting scheduled this past Tuesday with Ms. Ellison but it needed to be cancelled due to a scheduling conflict. That meeting is now scheduled again for Tuesday this coming week. Hopefully, answers from that meeting will allow that project to move forward.

Attendance at the meetings has been problematic with some members missing quite a few meetings. I'd like to remind people that there are openings on the committee so anyone who is interested should follow the instructions on the Towns website to express their interest.

Fairhaven Bikeway Committee

Fairhaven Bikeway Committee Chair Amy Roderick and I met with Ms. Ellison to discuss several concerns that have been raised by the Committee including;

- 1) Poor condition of the bike path with many deep cracks and ruts that have been increasing significantly in recent years. The committee has received complaints from frequent users of the path and was interested in the status of the overlay project that has been placed on hold for several years.
- 2) Very poor quality patches along Sconticut Neck Road from NSTAR Gas project that has been going on for about the last six months. Many cyclists ride that stretch of Sconticut Neck Road heading onto and off the bike path and former Bikeway Committee member Geoff Sullivan pointed out the safety issues with the grooved pavement running along the neck from the Bike Path crossing down to Manhattan Ave, near Mac's Soda Bar. Ms. Ellison offered to work with Superintendent Vinnie Furtado to contact NSTAR Gas to see if they can fix the problem and make that stretch safer for cyclists.
- 3) Safety of the pipe bollards. There have been several reported accidents from cyclists hitting the pipe bollards. Committee members will be researching alternatives that could be used more safely.