



FAIRHAVEN SELECT BOARD

Meeting Minutes

May 15, 2023

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

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

Mr. Correy opened the Select Board meeting at 6:30PM

A moment of silence was observed for New Bedford firefighter John Almeida, Jr. and William Provencher

TOWN ADMINISTRATOR REPORT

Ms. Ellison updated the Board on:

- Staffing updates: The Town is staffing for Town Planner and Finance Director/Treasurer/Collector
- Water Flushing Update, Board of Public Works (BPW) Superintendent, Vincent Furtado joined via zoom. Mr. Furtado discussed the history leading to the unidirectional flushing currently taking place in phases across town. They are taking an aggressive approach to clear the sediment and because they are not sure what to expect it will lead to the dirty water. Residents can test the water by using an outside spigot and they should avoid running hot water if not clear. If anyone has questions, they can contact the BPW at 508-979-4032.

Mr. Furtado thanked Ms. Ellison for applying for ARPA funds for this project and said other grants are being pursued as well through the state with the help of Select Board member Mr. Silvia and State Representative Strauss.

- An all Board, Committee, Commission meeting will take place on June 13, 2023 in the Town Hall auditorium. This is a mandatory meeting for all board members. Legal counsel will be present to review statutory requirements and other items. This is tied to one of the Select Board goals for 2023. Anyone with questions can call Ms. Hart in the office, 508-979-4023.
- The Town Counsel Summary Report of Conservation Commission was discussed (*Attachment A*). Legal counsel reviewed the jurisdictional conditions of the conservation commission and provided a summary of best practices and procedures.
- A meeting with Massachusetts Department of Transportation (MassDOT) was held regarding Benoit Square. Ms. Ellison, State Representative Strauss and Highway Superintendent Joshua Crabb were in attendance to discuss alternative options at the intersection at Benoit Square. Public safety has also weighed in (*Attachment B*). Additional meetings will be held by MassDOT.
- The Host Community Agreement (HCA) for Bask and Joint Venture are being worked on. There is one special permit left for an HCA and the Board can increase the number if they decide.
- The Memorial Day parade is on Monday, May 29th.
- Ms. Ellison, Police Chief Myers and Fire Chief Correia met and signed an Intermunicipal Agreement for Regional Dispatch with Holbrook. The Board asked about the timeframe for implementation, coverage area and if a copy was available. Ms. Ellison explained that a copy will be available once fully executed. She also thanked both Chief Myers and Chief Correia for their teamwork and moving this forward.
- Geoff Haworth submitted his resignation letter from the Conservation Commission. The other commissioners will be notified. Mr. Correy thanked him for his time on the commission.
- Eversource sent a notice that the state is looking for public comments on its 2023 Energy Efficiency Surcharges for effect July 1, 2023. The full notice with contact information is on the Town website.

Joint Transportation Planning Group (JTPG) appointment

The Joint Transportation Planning Group (JTPG) is the regional advisory group for all issues pertaining to

transportation in southeastern Massachusetts.

Motion: Mr. Espindola motioned to appoint Joshua Crabb and Vinnie Furtado to the Joint Transportation Planning Group (JTPG). Ms. Powers seconded. The motion passed unanimously (5-0-0).

Community Development Block Grant (CDBG) loan forgiveness 48 William Street: financial hardship

Ms. Ellison reviewed her memo recommending the CDBG loan be forgiven (*Attachment C*).

Motion: Mr. Espindola motioned to approve the Community Development Block Grant loan forgiveness for 48 William Street for the amount of \$24,600. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Southeastern Regional Planning and Economic Development District (SRPEDD) Appointment

Mr. Espindola advised the Board that this is a one-year commitment and expressed his willingness to continue as the SRPEDD appointee.

Motion: Ms. Powers motioned to appoint Robert Espindola as the Fairhaven Select Board representative to the Southeastern Regional Planning and Economic Development District. Mr. Murphy seconded. The motion passed unanimously (5-0-0).

Municipal Aggregation Renewal

Ms. Ellison explained that the representative from Good Energy asked to reschedule to a future meeting because they are in negotiations with other municipalities.

Chapter 32, § 21-32, changes to health insurance plan

Human Resources (HR) Director Cam Durant joined via zoom and explained that the Insurance Advisory Committee (IAC) has been meeting. The IAC is made up of representatives from each union along with HR and our municipal insurance services representative from Cook & Company to discuss ways to save money.

Jill Gallant-Shaw of Cook & Company Insurance Services, Inc. joined via zoom. She explained to the Board Chapter 32B, § 21-22 which the Board had invoked in 2019 but did not move forward with it. This provision is a way to control health care costs and make affordable plan options for employees. Ms. Gallant-Shaw asked the Board to consider re-invoking Chapter 32B, § 21-22 so negotiations could take place. The IAC initiated this process and supports it. If successful potential implementation is early fall.

Motion: Mr. Espindola motioned to reinvoke Mass General Law Chapter 32B, Section 21-22 as it relates to the changes to the town of Fairhaven's health insurance plan and payment. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Common Victualer License: Chipotle Mexican Grill of Colorado, LLC

The Select Board Office has all paperwork on file.

Motion: Mr. Espindola motioned to approve the Common Victualer license for Chipotle Mexican Grill of Colorado LLC doing business at 12 Plaza Way in Fairhaven MA. Ms. Powers seconded. The motion passed unanimously (5-0-0).

IT Cybersecurity Policy

Ms. Ellison explained this item had previously come before the Board and the auditors asked for the policy document. (*Attachment D*).

Motion: Mr. Espindola motioned to adopt the IT Cybersecurity policy as written. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Special Town Election Warrant

Acting Town Clerk Elisabeth Horan joined via zoom and reviewed the Warrant, Poll Workers and Police for the Special Town Election on Monday, June 5, 2023.

Motion: Mr. Espindola motioned to approve the June 5, 2023 Special Town Election warrant as written and to direct the constable to post in accordance with Mass General Law and applicable town bylaws. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Poll Workers for Special Town Election, Monday, June 5, 2023

Mr. Correy read the names and addresses of the poll workers for the Special Town Election on Monday, June 5, 2023 (*Attachment E*)

Motion: Mr. Espindola motioned to approve and appoint the poll workers as listed for the June 5, 2023 Special Town Election. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Police for Special Town Election, Monday, June 5, 2023

Motion: Mr. Espindola motioned to approve a sufficient number of police officers, but not less than two (2) at the polling location of 227 Huttleston Avenue in Fairhaven for the June 5, 2023 Special Town Election, to preserve order, and to protect the election officers and supervisors from any interference with their duties and to aid in enforcing the laws relating to elections as required by MGL Chapter 54, Section 72. Ms. Powers seconded. The motion passed unanimously (5-0-0).

CORRESPONDENCE

- Town of Fairhaven Parade Team; Fourth of July Parade. Ms. Ellison asked for questions about the event to be redirected it to the Town Administrator's Office so she can check with the staff liaison on details of the event.

COMMITTEE LIAISON REPORTS

Mr. Espindola reported:

Updates from the Broadband Study Committee, the Broadband Coalition, SRPEDD, Southcoast Bikeway Alliance and SMMPO. (*Attachment F*).

Ms. Powers had no meetings to report

Mr. Silvia reported:

Marine Resources discussed the Union Wharf bid that would be going out in a few weeks. They have also discussed parking concerns at Hoppy's Landing and potential uses to generate revenue. The Historical Commission signed bills and continue to work on the street light project. The Commission on Disability also met.

Mr. Murphy had no meetings to report

Mr. Correy reported:

The appointing authority met and appointed Wayne Oliveira to the Greater New Bedford Regional Vocational Technical High School Regional School District Committee. The Belonging Committee discussed Pride month in June. May is Asian American and Pacific American Islander Heritage Month. July is disability Pride month and they are partnering with the Council on Aging for an event. The Library met at the same time as the Belonging Committee. Digital Equity has signed a consultant and is starting work.

PUBLIC COMMENT

No public comments received

BOARD MEMBER ITEMS

Mr. Espindola thanked Select Board member Mr. Silvia for the efforts on grant funds as mentioned earlier by Mr. Furtado and Mr. Silvia's work on the street light project outside Town Hall. The mail carriers collected over five-thousand pounds of food for Shepard's Pantry. Also, Go Celtics!

Ms. Powers thanked Ms. Ellison and staff for their work on various projects discussed tonight like Benoit Square improvements in safety and efficiency, training for boards and committees, regionalized dispatch to decrease cost and improve services and working on health care costs for the staff and Town. All Town business kept moving forward despite no Finance Director and a Town Meeting.

Mr. Silvia commented on the street light work and the great crew working after hours on the project.

Mr. Murphy reminded everyone about the Memorial Day parade and hopes to see everyone there.

Mr. Correy expressed condolences to the family Wendy Graves through her father's illness and passing. Clean-up events are starting to come up around town that he will share on social media. He also reminded everyone to volunteer and get involved.

NEWS AND ANNOUNCEMENTS

The next regularly scheduled meeting of the Select Board is *Monday, June 5, 2023* at 6:30 p.m. in the Town Hall Banquet Room

Motion Mr. Espindola motioned enter Executive Session pursuant to G.L. c. 30A, § 21(a)(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares (Freire-Kellogg v. Fairhaven) at 8:21p.m. and not return to Open Session. Ms. Powers seconded. Roll Call Vote. Mr. Espindola in favor, Ms. Powers in favor, Mr. Correy in favor, Mr. Murphy in favor and Mr. Silvia in favor. The motion passed unanimously (5-0-0).

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

Attachments:

- A. Town Counsel memo regarding Conservation and Sustainability Department Best Practices and Procedures**
- B. MassDOT Benoit Square**
- C. CDBG memo 48 William Street: loan forgiveness**
- D. IT Cybersecurity Policy**
- E. Special Town Election Poll Workers list**
- F. Committee Liaison Report – Robert Espindola**

Approved on June 20, 2023

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MEMORANDUM

To: Angeline Lopes Ellison, Town Administrator, Town of Fairhaven

From: Heather C. White, Town Counsel *HCW*

cc: Fairhaven Select Board
Conservation Commission
Hugh Bruce Webb, Conservation Agent
Kelly Camara, Administrative Assistant

Date: May 15, 2023

Re: Conservation and Sustainability Department Best Practices and Procedures

This memorandum will provide guidance to the Town Administrator and the Conservation and Sustainability Department ("Department") regarding the allocation of authority among various Town officials with respect to best practices and procedures of the Department. It is intended to clarify the roles assigned to each individual and group responsible for matters within the purview of the Department in order to promote cooperation and execution of the duties of the Department in an effective and efficient manner.

I. ALLOCATION OF AUTHORITY

- **The Select Board is the appointing authority for the members of the Commission.** Section 8C; General Bylaws §8-1.
- **The Town Administrator shall "[m]anage and direct the daily reporting and supervision of all town departments under the jurisdiction of the board of selectmen..." including the Department.** Chapter 381 of the Acts of 2014 ("Town Administrator Act"), Section 2(e).
- **The Town Administrator is the appointing authority for the Conservation Agent, subject to approval of the Select Board.** Section 2(i) of the Town Administrator Act.
- **The Conservation Agent is the appointing authority for all other Department staff, subject to approval of the Town Administrator.** Section 2(i) of the Town Administrator Act.

Within this overall structure, the Town Administrator plays a strong role in managing and directing the Department. The Town Administrator may take any steps necessary to assist, guide, and direct the Commission and Department staff in carrying out their roles in a manner that is consistent with the laws governing the conduct of governmental affairs and the operation of municipal departments. However, the Town Administrator need not intervene in matters that fall within the explicit statutory jurisdiction and expertise of the Commission, such as substantive determinations on the issuance of Orders of Conditions,

The Department serves an important government function that requires a large volume of administrative tasks to support the Commission in executing its duties. The Town Administrator is positioned to support the effective and efficient operation of the Department, including but not limited to the following matters:

- providing direction to the Commission in the efficient management of daily affairs;
- preparation of materials for meetings;
- taking and managing minutes of meetings;
- addressing issues arising out of interactions between and among Department staff and/or Commission members; and
- supervising the staff of the Department.

Example: One example of a routine Departmental task is the Agent's preparation of packets of material for each meeting of the Commission. The Town Administrator, as the appointing authority for the Conservation Agent and the director of the Department's daily supervision, may establish certain procedures for the Agent to follow with respect to preparation of the packets. Since the Commission is the public body that is responsible for reviewing and issuing decisions on the substantive matters included in the meeting packets, the Town Administrator should consider any requests from the Commission regarding formatting, timing, and transmission procedures. Any procedures prescribed by the Town Administrator should recognize the need for complete and accurate content while avoiding excessive or unnecessary use of Town and staff resources.

Example: A verbatim transcript of each meeting is not required under the Open Meeting Law and is not necessary, especially since each meeting is recorded and may be viewed online at any time. Minutes need only include "an accurate summary of the discussion on each subject." G.L. c. 30A, §22(a). As noted on page 12 of Fairhaven's Boards and Committees Handbook ("Handbook"), "staff members have limited hours and boards and commissions should not ask for more than can be reasonably accomplished in these hours." The Town Administrator may issue guidance to the Commission and implement policies for Department staff to prepare minutes that satisfy the requirements of the Open Meeting Law without overburdening Department staff.

II. ADMINISTRATIVE APPROVALS

An administrative approval is a process by which a conservation commission delegates certain areas of its authority to its agent in order to streamline the process for a property owner to obtain permission for certain minor or emergency actions. This streamlined process not only serves a property owner's interest in avoiding lengthy and costly proceedings for minor work but also helps to avoid overburdening the Commission by reducing the volume of matters requiring consideration and a vote of the full Commission.

If the Commission wishes to delegate authority to the Agent to grant administrative approvals, the best practice is to adopt a Bylaw and/or regulations establishing appropriate procedures for execution by the Agent. The Commission has had a practice in the past of allowing the Conservation Agent to grant administrative approvals, but there is no corresponding provision in the current Bylaw. If the Commission wishes to continue the practice of allowing administrative approvals in the future, a Bylaw amendment and regulations should be adopted to expressly define the authority of the Conservation Agent and the procedures for seeking and obtaining such approvals. Upon request, I am available to draft the procedures and work with the Department to adopt them.

In addition to restricting future administrative approvals, a November 21, 2022 vote of the Commission purported to rescind all prior administrative approvals, except approvals in connection with percolation tests. That vote should not be relied upon as a basis for enforcement action against a property owner who obtained an administrative approval prior to the vote purporting to rescind all such approvals collectively. Each applicant is entitled to notice and consideration of the substantive matters at issue. If any specific concerns arise with respect to any actions of a property owner taken in accordance with a prior administrative approval, I recommend that the Commission review the matter on a case-by-case basis and determine whether such work was performed in accordance with the administrative approval and whether any further approval is needed pursuant to applicable regulations. If the Commission wishes to change or rescind a prior administrative approval, Town Counsel should be consulted to determine whether any substantive change is permissible. If so, then appropriate notice and an opportunity to be heard should be provided prior to any alteration or rescission.

III. USE OF CONSULTANTS

G.L. c. 44, § 53G authorizes various municipal permitting authorities, including the Commission, to adopt rules allowing them to impose "reasonable fees for the employment of outside consultants" to conduct peer review in connection with certain permit applications ("53G fees"). In order to collect 53G fees, the Commission must promulgate rules for implementation of the statutory provisions. 53G fees must be "reasonable," may only be charged for employment of outside consultants, and may only be spent in connection with carrying out the permitting authority's responsibilities under the law. Any unused fees must be promptly returned to the applicant upon completion of the project. As previously advised, 53G fees may be collected only when such expertise is actually needed in connection with the Commission's review of a

particular application, and then only upon receipt of an estimate of cost from such outside consultant for services in connection with the particular project.

On November 21, 2022, the Commission voted to adopt a policy regarding collection of 53G fees. However, that policy is not posted on the Commission's website, and it was not reviewed by Town Counsel. According to the listing of Wetlands Protection Bylaw Fees on the Commission's website, the Commission currently has a practice of requiring all applicants to pay a pre-determined, flat fee for peer review. I recommend that the Commission submit its 53G policy to Town Counsel for review and adopt revisions if needed. I further recommend that an advertised, competitive procurement process be conducted for the procurement of a qualified consultant if the Commission has a frequent need for peer review services. Although such services may be exempt from G.L. c. 30B under certain circumstances, best practices encourage solicitation of proposals so that a highly qualified individual or firm may be selected at a reasonable price.

IV. AUTHORITY OF INDIVIDUAL MEMBERS

Individual Commission members should avoid taking any action on behalf of the Commission that is not authorized by vote of the full Commission. The Handbook provides helpful guidance in this regard as follows:

Speaking for a Board or Committee An individual board member has a right to speak publicly as a private citizen but should not purport to represent the board or committee or exercise the authority of the board or committee except when specifically authorized by that body to do so. If members identify themselves as members when speaking as private citizens, it may be perceived that they speak for the board or committee. Such a perception should be avoided. In addition, it is the policy of the Board of Selectmen that a recused board or committee member refrain from using this individual right of free speech to speak on matters on which a member has been recused in front of that member's board or committee.

The Conservation Commission only has authority when acting as a body at a duly posted meeting. Any action that requires a vote of the Commission at an open meeting cannot be taken by an individual member. No individual Commission member has the authority to issue a violation notice, direct a property owner to take any action, access private property, or speak on behalf of the Commission without a vote of the Commission authorizing such individual to take the particular action. Additionally, no Commission member should represent him or herself as a Town official in connection with personal matters or when speaking as a private citizen.

A. Patrolling for Violations

I recommend against patrolling for violations. Patrolling raises concerns of potential bias and could hinder uniform application of rules and regulations. It also has the potential to unnecessarily add to the already full workload of the Commission and could set the Commission up to fail to meet statutory deadlines for review of applications or statutes of limitations on enforcement matters due to the

inability to manage a cumbersome volume of work. These statutory time limits are binding on the Commission, and failure to meet them is potentially fatal to any decision the Commission may render. Accordingly, it is imperative that the Commission administer and manage its workload in a manner that makes it feasible for the Commission to act in a timely manner.

B. Entry of Private Property and Drone Surveillance

Municipal officials do not have authority to conduct warrantless, non-emergency searches of private property without permission from the owner. The United States Supreme Court has held that warrants are required for non-emergency administrative inspections. Camara v. Municipal Court of San Francisco, 387 U.S. 523 (1966). Commission members should not enter private property without permission or an administrative search warrant, and if a member has improperly entered private property they must comply if the property owner asks them to leave.

Bylaws Chapter 192-10 does not alter this constitutional restriction on the Commission's authority. Chapter 192-10.A currently provides as follows:

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.

Although the current language of the Bylaw does not expressly state the need for permission or an administrative warrant, the Bylaw must be applied in a manner that is consistent with state and federal law. The Bylaw as currently written does not grant permission to enter private property without a warrant or permission. An amendment was recently approved by Town Meeting to clarify the limitations on the authority of the Commission to enter private property, and that amendment will take effect upon review and approval of the Attorney General's Office.

In addition to a Commission member's personal, physical entry of private property, certain uses of surveillance devices would constitute "entry" on private property and improperly invade a property owner's privacy. For example, the use of a drone to fly over private property to assess the condition of wetlands would likely be deemed an "entry" even if the operator remains outside the boundaries of the property. The use of drones for surveillance is subject to Federal Aviation Administration ("FAA") regulations as well as Constitutional restrictions. Unless the Town has received a Certificate of Waiver/Authorization ("CoA") from the Federal Aviation Administration for the Commission's use of a drone, such use is subject to the limitations of recreational operators. The FAA's website provides a summary of the applicable limitations, including the following ([Recreational Flyers & Community-Based Organizations | Federal Aviation Administration \(faa.gov\)](https://www.faa.gov/uas/recreational-flyers-and-community-based-organizations)):

Recreational flights - Keep your drone within the visual line of sight or use a visual observer who is co-located (physically next to) and in direct communication with you.

Accordingly, the FAA regulations prohibit the Commission from using a drone to view areas of private property that are not otherwise visible from a public space, as the drone would not be within the operator's visual line of sight when flying over such areas.

The operator of a drone is further restricted by Constitutional limitations on government invasion of privacy. "Under both the Federal and Massachusetts Constitutions, a search in the constitutional sense occurs when the government's conduct intrudes on a person's reasonable expectation of privacy." Commonwealth v. Augustine, 467 Mass. 230, 241 (2014). "'At the very core' of the Fourth Amendment 'stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.'" Commonwealth v. Mora, 485 Mass. 360, 371 (2020) quoting Silverman v. United States, 365 U.S. 505, 511 (1961). This "right [to be free of unreasonable government intrusion] would be of little practical value if the State's agents could stand in a home's porch or side garden and trawl for evidence with impunity." Id.

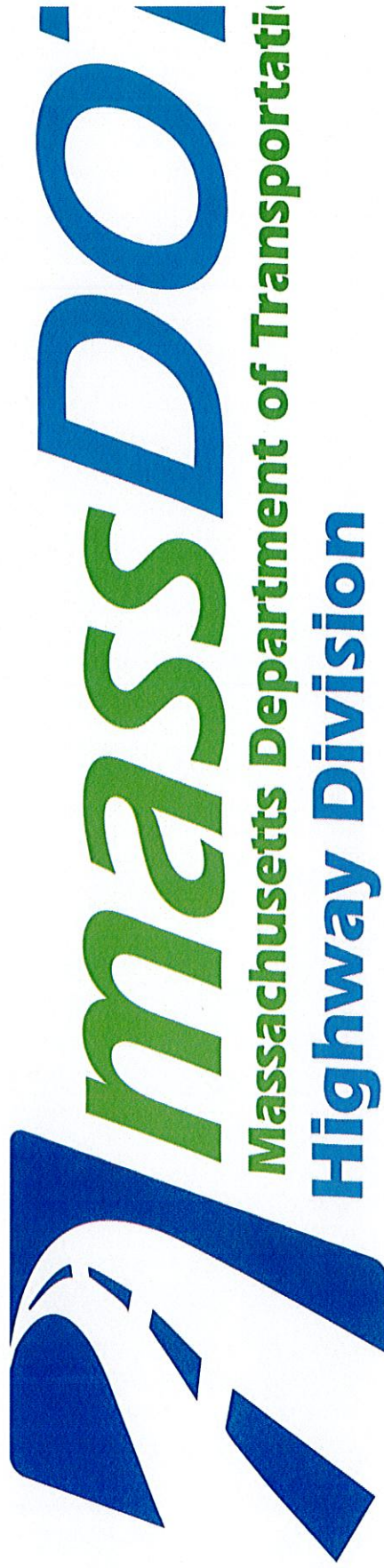
No member of the Department should physically enter or use a drone for purposes of viewing private property without first obtaining permission from the property owner or an administrative search warrant from a court after an authorizing vote of the Commission.

V. CONCLUSION

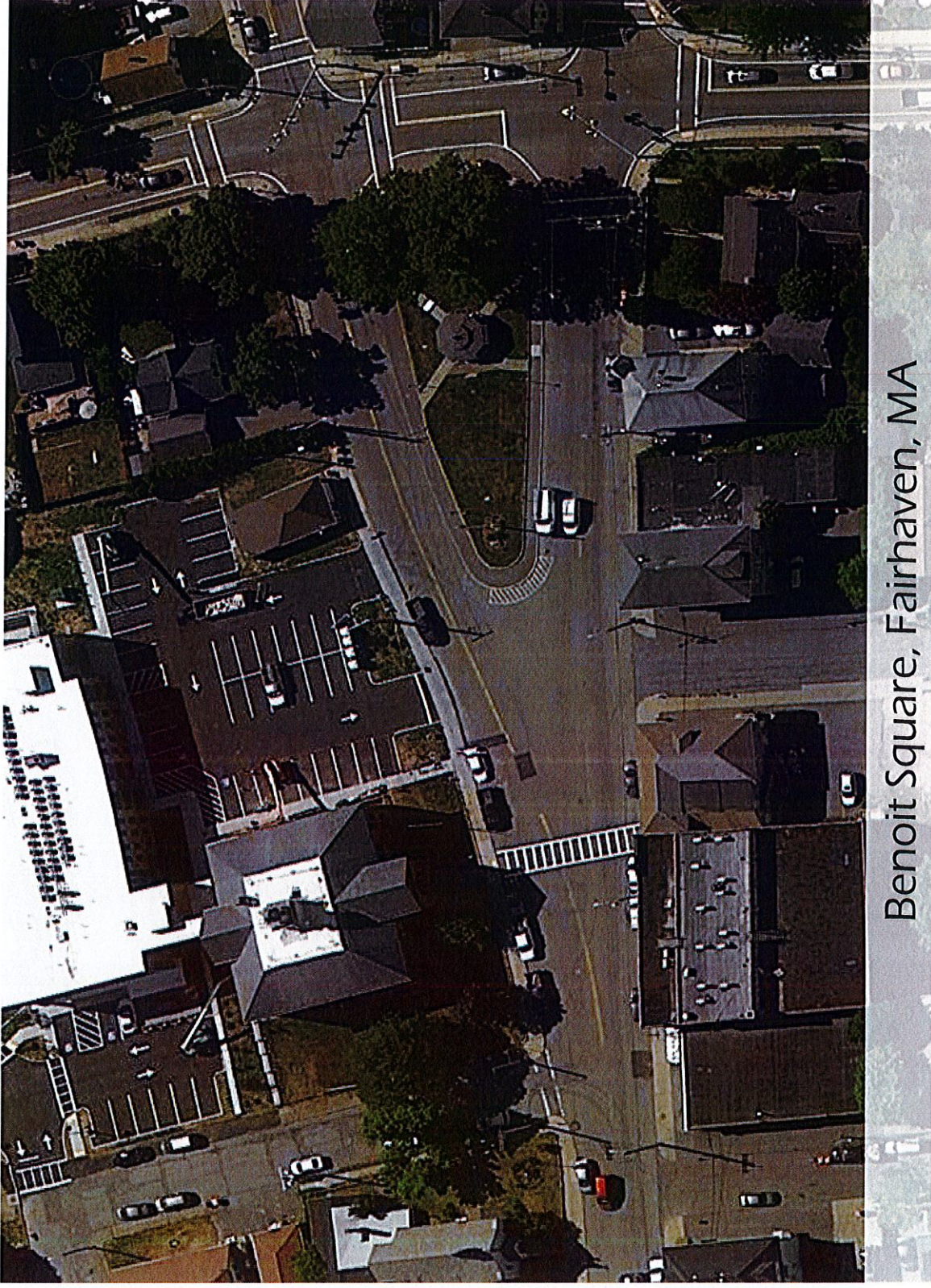
To summarize the advice above, the following best practices are recommended going forward:

1. The Town Administrator should establish procedures for administrative matters in the Conservation Department, including guidelines for the preparation and content of minutes as well as a schedule, method of transmission, and format of meeting packets. Since the meeting packets are essential to the Commission's functions, it is important that the Town Administrator obtain input from the Commission regarding the meeting packet procedures so that the packets will be as useful as possible to the Commission while balancing the limitations on staff time and Town resources.
2. If the Commission wishes to delegate authority to the Conservation Agent to grant certain administrative approvals, a Bylaw amendment should be proposed at an upcoming Town Meeting to outline the procedures for administrative approvals and the circumstances under which they may be granted. Following adoption of a Bylaw, the Commission may adopt Regulations further defining the procedures. No action should be taken that is inconsistent with a previously granted administrative approval without prior consultation with Town Counsel.
3. Regulations for the collection and use of 53G fees should be submitted to Town Counsel for review and should be revised if necessary to comply with statutory requirements.
4. Unless explicitly authorized by statute or Bylaw, no individual member of the Commission or staff member of the Department should take any action on behalf of the Department without authorization by vote of a majority of the Commission.

5. No Commission member or staff of the Department should represent himself or herself as a Town official in connection with personal matters or when speaking as a private citizen.
6. Commission members should not patrol for violations.
7. No Commissioner or employee of the Department may physically enter or use a drone over private property without permission from the property owner or an administrative warrant.

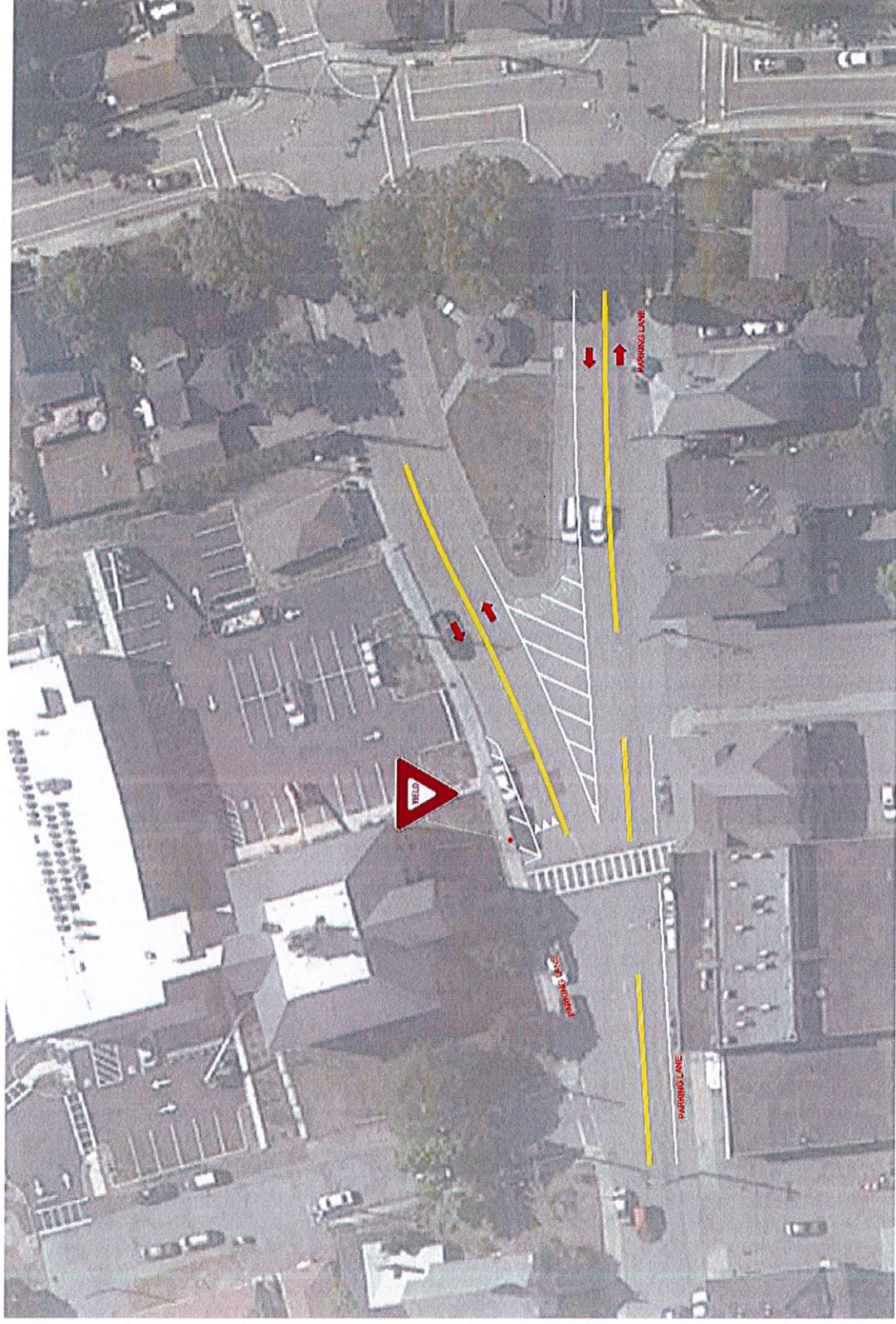


Existing Conditions



Benoit Square, Fairhaven, MA

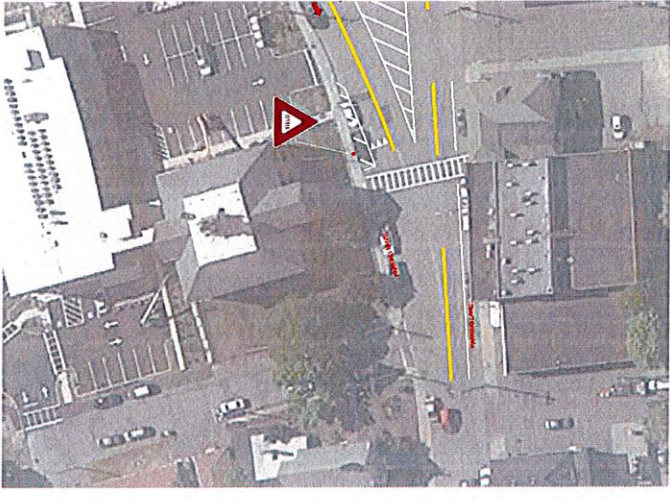
Concept 1 – Painted Island Extension



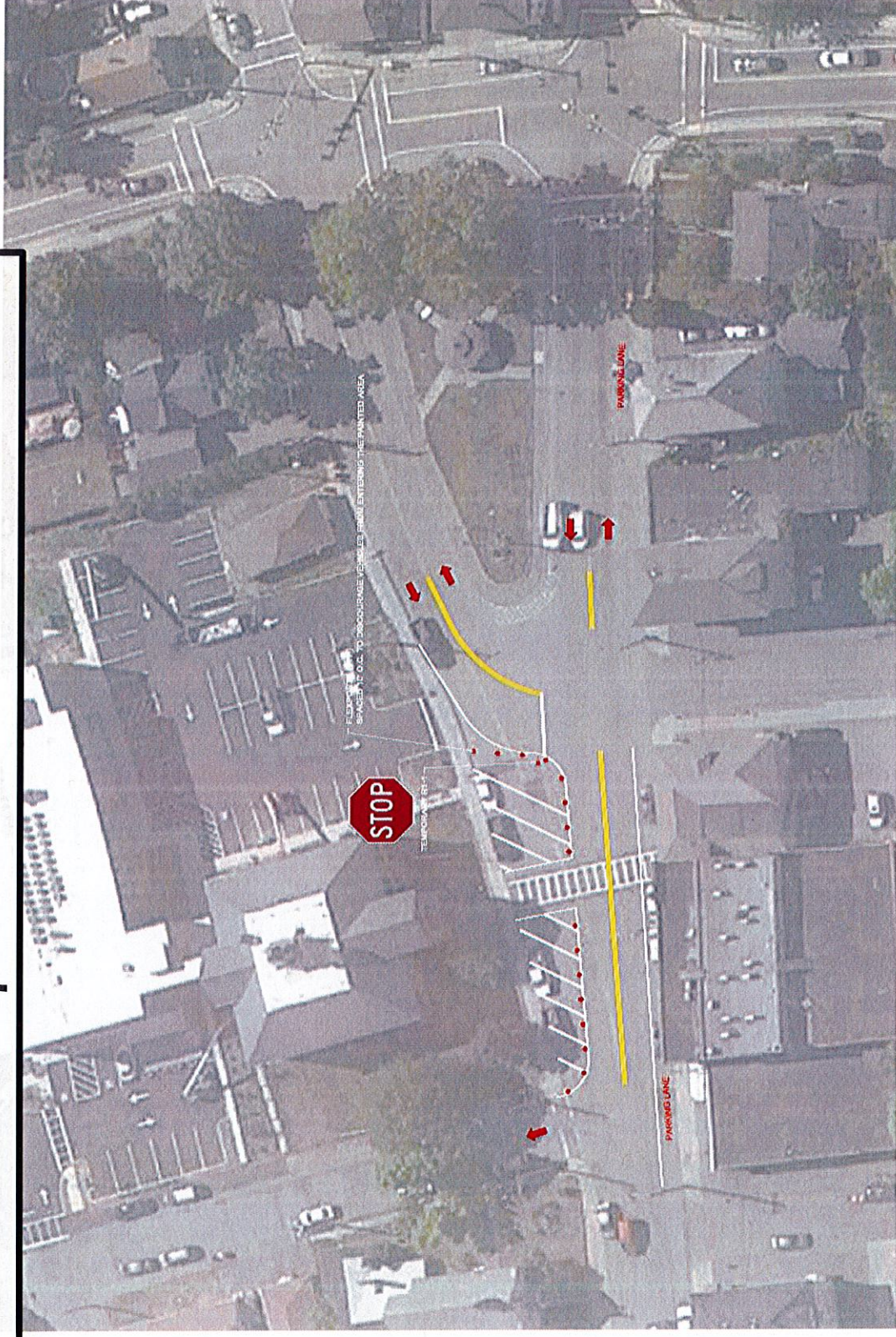
Benoit Square, Fairhaven, MA

Concept 1 – Painted Island Extension

- Pros
 - Clarifies right-of-way in the square.
 - Implemented using paint only for cost savings.
 - Maintains two-way operations on Main Street and Adams Street.
 - No modifications at the signals.
 - Maintains access to Adams Street residential development.
- Cons
 - Does not reduce conflict points in the Square.
 - Shifts conflict points close to vulnerable users in the crosswalk.
 - Minor impacts to on-street parking in front of the school.



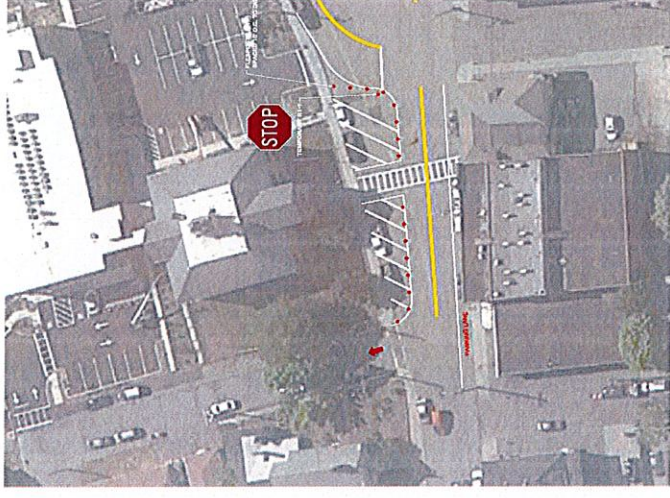
Concept 2 – Painted Bump-out and Flexposts



Benoit Square, Fairhaven, MA – CONCEPT 2

Concept 2 – Painted Bump-out and Flexposts

- Pros
 - T-Intersection on Adams Street is a traffic calming measure.
 - Shortens the length of the crosswalk.
 - Clarifies right-of-way in the square.
 - Maintains two-way operations on Main Street and Adams Street.
 - No modifications at the signals.
 - Maintains access to Adams Street residential development.
- Cons
 - Flexposts increase implementation costs.
 - Eliminates on-street parking in front of the school.





Town of Fairhaven
Office of the Town Administrator
40 Center St., Fairhaven, MA 02719

MEMORANDUM

To: Select Board

From: Angie Lopes Ellison, Town Administrator

Date: May 11, 2023

Re: Recommendation for loan forgiveness: Community Development Block Grant (CDBG) 48 William Street: financial hardship

After reviewing the documentation provided by the DeOliveira family and recommendations from CDBG Consultant Linda Overing (attached) the recommendation would be to forgive the balance of the loan which is \$24,600.

The Town would not be adversely affected with this request for forgiveness.

MEMORANDUM

To: Marie Ripley

From: Linda Overing

Date: May 2, 2023

Re: Fairhaven-Anti-Speculation/Recapture Policy question

I'm forwarding the information we got from DHCD, the state agency that administers the CDBG program, concerning the Town's ability to forgive the outstanding balance on its loan to the owners of 48 William Street. If the property had not been sold before the completion of the 15-year loan period, the loan would have been 100% forgiven. I recommend the Town forgive the loan now as the DeOliveira family has demonstrated extraordinary hardship due to illness.

Attachment A

Attachment A

Forgiveness

Property owners may request partial or full forgiveness or discharge of housing rehabilitation loans in cases of hardship or emergency beyond the control of the borrower, such as serious illness or job loss, when the property is to be refinanced or sold and repayment of the outstanding loan balance would create a hardship.

Borrowers requesting loan forgiveness shall submit their request in writing to the Department of Planning & Economic Development, with all supporting documents. The Town reserves the right to grant a different amount of forgiveness than requested by the borrower.

Loan forgiveness requests shall be reviewed by the Director of Planning & Economic Development, who will make a recommendation to the Town Administrator, who will make a final recommendation to the Select Board for action. The Town reserves the right to request additional information at any time during the process. The following factors will be taken into consideration in making recommendation and final decision:

- The reason for the request
- The borrower's ability to repay the loan, as indicated by income, assets (including the value of the property subject to the loan) and total debt
- The amount of the loan outstanding and the amount the borrower is requesting be forgiven
- The amount of time that has elapsed since the loan was recorded.

The decision of the Select Board is final. Once denied, applications for loan forgiveness may not be re-submitted unless the circumstances of the borrower have changed substantially.

The Town of Fairhaven will prepare the discharge, but the property owner is responsible for paying any fees to record a discharge.



Fairhaven

Massachusetts

Backup Policy

The network administrator is responsible for maintaining the backups of all Town buildings including Town Hall, Council on Aging, Recreation Center, BPW, Fire Department, and the Police Department. The backups are scheduled daily on Monday-Friday with the exception of Fire and Police which are scheduled daily and run everyday. The data is kept off site at one of the local schools in a locked data closet and the server hosting the backups is password protected. Backups are kept until available space is depleted and the oldest backups will be deleted to create space for more recent backups to occur.

A daily task of the network administrator is to monitor the health of the scheduled backups to ensure they have been run successfully. In the event that the network administrator is out for a prolonged period of time, an appointed designee will assume these responsibilities.

To mitigate the threat of a cybersecurity incident, a weekly snapshot of the data is taken and stored offline in the event that the backup server is compromised or destroyed. A bi-annually scheduled test of three backups will be performed to ensure that backups are being performed correctly and can be restored to machines when necessary. The procedure will be documented to give a realistic picture of the down time that would be experienced in the event a full server rebuild is necessary.

Data Retention

The Town of Fairhaven follows the Massachusetts Statewide Records Retention Schedule for maintaining electronic records. The Town also utilizes a cloud archiving system for e-mail and social media for redundancy purposes and is kept for a minimum of ten years. Local data kept on Town servers is backed up according to the backup schedule listed above and all data is retained for a minimum of ten years. After this period, any data needing to be deleted would be documented by the Director of Technology and signed off by the Town Administrator to leave an audit trail..

Vadar User Accounts

Account management for Vadar users is handled between the IT department and the support team at Vadar. The technology department will receive requests for account changes or creation through email or the town ticketing system. A form will then be sent to the requestor documenting the changes that are required. The technology team will consult with the Town Accountant to ensure the following changes are necessary. The technology department will then follow through with making the changes and coordinate with the Vadar support staff if needed.

ELISABETH E. HORAN
INTERIM TOWN CLERK



TOWN CLERK'S OFFICE

FAIRHAVEN, MASSACHUSETTS

TOWN HALL · 40 CENTER STREET · FAIRHAVEN, MA 02719
TELEPHONE: 508-979-4023 x 3 · EMAIL: CLERK@FAIRHAVEN-MA.GOV

To: Select Board
From: Town Clerk's Office
Date: May 11, 2023
RE: June 5, 2023-Poll Workers

Below is the list of the Poll Workers I have scheduled to work at the June 5th Special Election for your approval.

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|------------------------|-------------------------|-----------------------|
| Bernadette Costa | 19 Huttleston Avenue | Fairhaven, MA 02719 |
| George Diggle | 21 Summer Street | Fairhaven, MA 02719 |
| Dennis Mattos | 14 Newton Street | Fairhaven, MA 02719 |
| Christine Alfonse | 38 Veranda Avenue | Fairhaven, MA 02719 |
| Claire Millette | 138 Main Street 1 | Fairhaven, MA 02719 |
| Carole Fauteux | 87 Harding Road | Fairhaven, MA 02719 |
| Jodi Duval | 46 Wilding Street | Fairhaven, MA 02719 |
| Andrew Romano | 440 Bridge Street | Fairhaven, MA 02719 |
| Myles Romano | 440 Bridge Street | Fairhaven, MA 02719 |
| Kathryn (Kacie) Silvia | 25 Harvard Street | Fairhaven, MA 02719 |
| Kim Mimoso | 59 Oliver Street | Fairhaven, MA 02719 |
| Maria (MJ)Carvalho | 29 Newbury Avenue | Fairhaven, MA 02719 |
| Anne Ellis | 310 Mill Road | Fairhaven, MA 02719 |
| Lisa Moniz | 23 Harvard Street | Fairhaven, MA 02719 |
| Donna Ross | 18 Cedar Street | Fairhaven, MA 02719 |
| Pauline Parker | 38 Blackburn Street | Fairhaven, MA 02719 |
| Cathy Melanson | 110 Adams Street | Fairhaven, MA 02719 |
| Michael Thomas | 1 Teal Circle | Fairhaven, MA 02719 |
| Joanne St Amand | 7 Suzanne Way | Fairhaven, MA 02719 |
| Rebecca Surprenant | 10 Nonquitt Avenue | Fairhaven, MA 02719 |
| Peggy Souza | 34 McGann Terrace | Fairhaven, MA 02719 |
| Elaine Burgo | 147 Merrimac Street | New Bedford, MA 02740 |
| Joseph Sylvia | 326 Huttleston Avenue | Fairhaven, MA 02719 |
| Beth Kilanowich | 220 Appleton Street | New Bedford, MA 02745 |
| Lori Pina | 38 Ash Street | Fairhaven, MA 02719 |
| Sandra Belliveau | 124 Weeden Road | Fairhaven, MA 02719 |
| Steve Silvia | 347 Main Street, Unit 1 | Fairhaven, MA 02719 |

Committee Liaison Report – Bob Espindola – May 15th, 2023

Broadband Study Committee.

The Broadband Study Committee is planning to meet again next Thursday, May 18th at 7:00 P.M. Among other things, the Committee will discuss the topic of Public Private Partnerships and will also discuss the status of the Fairhaven Housing Authority Broadband Project, where Entry Point has submitted a Request for Proposals document that would cover the construction cost, less the software and electronics required for operation, which will need to be covered under another RFP.

We are waiting for Ms. Ellison to be available for a meeting to discuss further.

Broadband Coalition

The Broadband Coalition will also be meeting on Thursday, May 18th, at 4:00 P.M.

SRPEDD

SRPEDD will be meeting on Wednesday, May 24th for their Annual Meeting.

South Coast Bikeway Alliance held a successful Annual Bike Summit at the James Arnold Mansion in New Bedford last Tuesday. Over 80 people attended and people traveled from Rhode Island and Cape Cod to participate and learn what we have going on along the South Coast that is Bicycle infrastructure related and to share what is going on in their areas.

Pete Sutton, from Mass DOT was inspiring as he talked about twelve different projects currently either funded or being considered along the Route 6 Corridor. He explained that we are in an unprecedented time with funds being made available at the Federal level for bicycle and trail networks and Massachusetts is looking to capitalize on those funds being available.

He presented an interactive map that shows the many established pathways throughout Massachusetts and how the State has a goal to connect as many of them as possible over time. The link below is to an interactive map and "storybook" that explains all the projects that Pete was talking about. Clicking on the pinpoints on the map brings up photos of all the projects.

<https://storymaps.arcgis.com/stories/446e35bc40614e5aaced4a62ff7343b2>

SMMPO – The SMMPO will be meeting at 1:00 on Tuesday, May 16th.