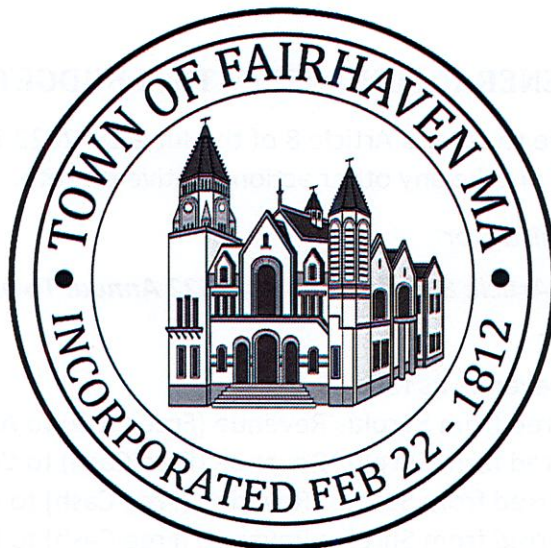


TOWN MEETING WARRANT
TOWN OF FAIRHAVEN
MASSACHUSETTS

FOR THE
SPECIAL
TOWN MEETING
TO BE VOTED UPON
TUESDAY, NOVEMBER 15, 2022
AT 7:00P.M.



TUESDAY, NOVEMBER 15, 2022
IN THE ELIZABETH HASTINGS MIDDLE SCHOOL
30 SCHOOL STREET
FAIRHAVEN, MA 02719

WARRANT
FOR THE SPECIAL TOWN MEEITNG
Tuesday, November 15, 2022 at 7:00 p.m.
in the Walter Silveira Auditorium at the
Elizabeth I. Hastings Middle School.

COMMONWEALTH OF MASSACHUSETTS
BRISTOL, ss

To the Constable of the Town of Fairhaven in said county:

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Fairhaven qualified to vote on town affairs to meet as follows:

On Tuesday, the Fifteenth day of November, 2022 at 7:00 p.m. in the Walter Silveira Auditorium at the Elizabeth I. Hastings Middle School, then and there, to act upon the following articles:

ARTICLE 1: AMEND FY23 GENERAL FUND OPERATING BUDGET

To see if the Town will vote to amend Article 8 of the June 18, 2022 Town Meeting "General Fund Operating Budget – FY23" or take any other action relative thereto.

Petitioned by: Town Administrator

Motion: Move to amend Article 8 of the June 18, 2022 Annual Town Meeting "General Fund Operating Budget – FY23" as follows.

1. Transfer from Surplus Revenue as follows:

- A. \$2,000 be transferred from Surplus Revenue (Free Cash) to Animal Control – Gasoline.
- B. \$6,500 be transferred from Surplus Revenue (Free Cash) to Council on Aging – Gasoline.
- C. \$25,000 be transferred from Surplus Revenue (Free Cash) to Fire Department – Gasoline.
- D. \$12,500 be transferred from Surplus Revenue (Free Cash) to Highway Department – Gasoline.
- E. \$4,000 be transferred from Surplus Revenue (Free Cash) to Park Department – Gasoline.
- F. \$33,000 be transferred from Surplus Revenue (Free Cash) to Police Department – Gasoline.
- G. \$5,000 be transferred from Surplus Revenue (Free Cash) to Marine Resources – Gasoline.
- H. \$4,000 be transferred from Surplus Revenue (Free Cash) to Tree Department – Gasoline.
- I. \$4,690 be transferred from Surplus Revenue (Free Cash) to Council on Aging – Repairs & Maintenance Building.
- J. \$4,000 be transferred from Surplus Revenue (Free Cash) to Recreation Department – Repairs & Maintenance Building.
- K. \$3,000 be transferred from Surplus Revenue (Free Cash) to Town Clerk – Postage.
- L. \$11,500 be transferred from Surplus Revenue (Free Cash) to Conservation Department – Contracted Services.

Finance Committee Recommendation: Recommend

Select Board Recommendation: Recommend

2. Transfer from Enterprise Funds as follows:

- A. \$12,000 be transferred from Water Retained Earnings to Water Department– Gasoline.
- B. \$8,000 be transferred from Sewer Retained Earnings to Sewer Department – Gasoline.
- C. \$2,794 be transferred from Water Retained Earnings to Water Department Salaries & Wages.
- D. \$2,111 be transferred from Sewer Retained Earnings to Sewer Department Salaries & Wages.
- E. \$3,157 be transferred from Town Cable Retained Earnings to Town Cable Department Salaries & Wages.

Finance Committee Recommendation: A-B: Recommend

C-E: At Town Meeting

Select Board Recommendation: Recommend

3. Transfer from Wage and Salary Reserve as follows:

- A. \$2,200 be transferred from Wage and Salary Reserve to Select Board/Town Administrator Salaries & Wages.
- B. \$1,640 be transferred from Wage and Salary Reserve to Human Resources Salaries & Wages.
- C. \$2,967 be transferred from Wage and Salary Reserve to Town Accountant Salaries & Wages.
- D. \$2,531 be transferred from Wage and Salary Reserve to Treasurer/Collector Salaries & Wages.
- E. \$1,744 be transferred from Wage and Salary Reserve to Assessors Salaries & Wages.
- F. \$1,137 be transferred from Wage and Salary Reserve to Elections & Registration Salaries & Wages.
- G. \$1,426 be transferred from Wage and Salary Reserve to Town Hall Salaries & Wages.
- H. \$2,519 be transferred from Wage and Salary Reserve to Planning and Economic Development Salaries & Wages.
- I. \$104 be transferred from Wage and Salary Reserve to Board of Appeals Salaries & Wages.
- J. \$1,957 be transferred from Wage and Salary Reserve to Conservation/Sustainability Salaries & Wages.
- K. \$2,689 be transferred from Wage and Salary Reserve to Police Department Salaries & Wages.
- L. \$3,093 be transferred from Wage and Salary Reserve to Fire Department Salaries & Wages.
- M. \$3,568 be transferred from Wage and Salary Reserve to Building Department Salaries & Wages.
- N. \$2,627 be transferred from Wage and Salary Reserve to Marine Resources Salaries & Wages.
- O. \$1,490 be transferred from Wage and Salary Reserve to Highway Department Salaries & Wages.
- P. \$4,189 be transferred from Wage and Salary Reserve to Board of Public Works Administration Salaries & Wages.
- Q. \$1,865 be transferred from Wage and Salary Reserve to Tree Warden Department Salaries & Wages.
- R. \$2,175 be transferred from Wage and Salary Reserve to Board of Health Salaries & Wages.
- S. \$2,596 be transferred from Wage and Salary Reserve to Council on Aging Salaries & Wages
- T. \$1,771 be transferred from Wage and Salary Reserve to Veterans Salaries & Wages.
- U. \$4,107 be transferred from Wage and Salary Reserve to Recreation Department Salaries & Wages.
- V. \$1,548 be transferred from Wage and Salary Reserve to Tourism Salaries & Wages.
- W. \$ 1,363 be transferred from Wage and Salary Reserve to Park Department Salaries & Wages.

Finance Committee Recommendation: At Town Meeting

Select Board Recommendation: Recommend

Vote Required: Simple majority

ARTICLE 2: AMEND FY23 WATER ENTERPRISE OPERATING BUDGET

To see if the Town will vote to amend Article 9 of the June 18, 2022 Town Meeting “Water Enterprise Operating Budget – FY23” or take any other action relative thereto.

Petitioned by: Board of Public Works

Motion: Move to amend Article 9 of the June 18, 2022 Annual Town Meeting “Water Enterprise Operating Budget – FY23”:

By transferring \$15,000 from Water Retained Earnings to Water Department – Salaries for the purpose of a retirement payoff.

Finance Committee Recommendation: Recommend

Select Board Recommendation: Recommend

Vote Required: Simple majority

ARTICLE 3: SPECIAL EDUCATION RESERVE FUND

To see if the Town will vote to transfer \$58,000 from Surplus Revenue (Free Cash) to be deposited in the Special Education Reserve Fund as authorized by Chapter 40, Section 13E of the General Laws, or take any other action relative thereto.

Petitioned by: School Department

Motion: Move to transfer \$58,000 from Surplus Revenue (Free Cash) to be deposited in the Special Education Reserve Fund as authorized by Chapter 40, Section 13E of the General Laws.

Finance Committee Recommendation: Recommend

Select Board Recommendation: Recommend

Vote Required: Simple majority

ARTICLE 4: SOUTH STREET PUMP STATION VALVE REPLACEMENT

To see if the Town will vote to raise and appropriate, borrow, or transfer \$50,000 from available funds to replace a valve at the South Street Pumping Station or take any other action relative thereto.

Petitioned by: Board of Public Works

Motion: Move to transfer \$50,000 from Sewer Enterprise Retained Earnings to replace a valve at the South Street Pumping Station.

Finance Committee Recommendation: Recommend

Select Board Recommendation: Recommend

Vote Required: Simple majority

ARTICLE 5: HOME RULE PETITION

To see if the Town will vote to authorize the Select Board to petition the Massachusetts General Court for special legislation revising the process for selecting applicants from the centralized state waiting list for housing at the Fairhaven Housing Authority to address the disproportionate housing of non-local applicants under the current system so that Fairhaven residents and Fairhaven employees may experience shorter waiting periods.

Petitioned by: Housing Authority

Motion: Move to adopt as written in the warrant.

Finance Committee Recommendation: Yield to Petitioner

Select Board Recommendation: At Town Meeting

Vote Required: Simple majority

ARTICLE 6: BILLS OF PRIOR YEAR – Paid from FY23 funds

To see if the Town will vote to pay the bills of prior year.

<u>Vendor</u>	<u>Amount</u>	<u>Petitioner</u>
A. Med-Tech	535.30	Fire Department

Petitioned by: Finance Director

Motion: Move to approve \$535.30 for a bill of a prior year, with the funds coming from Surplus Revenue (Free Cash).

Finance Committee Recommendation: Recommend

Select Board Recommendation: Recommend

Vote Required: 9/10 pursuant to G.L. c, 44, s.64

ARTICLE 7: TOWN HALL ELEVATOR

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money not to exceed \$8,250 to repair the Town Hall elevator to meet the State of Massachusetts requirements to receive the elevator permit, or take any other action relative thereto.

Petitioned by: Town Administrator

Motion: Move that the Town will vote to transfer \$8,250 from Surplus Revenue (Free Cash) to fix the Town Hall elevator.

Finance Committee Recommendation: Recommend

Select Board Recommendation: Recommend

Vote Required: Simple Majority

ARTICLE 8: TOWN ADMINISTRATOR'S OFFICE FURNITURE

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money not to exceed \$16,000 to purchase office furniture to make the office function able, or take any other action relative thereto.

Petitioned by: Town Administrator

Motion: Move to transfer \$16,000 from Surplus Revenue (Free Cash)

Finance Committee Recommendation: At Town Meeting

Select Board Recommendation: Recommend

Vote Required: Simple Majority

ARTICLE 9: AMBULANCE REQUEST FOR ADDITIONAL FUNDS

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money not to exceed \$75,000 for additional funding needed for the Ambulance purchase voted on the General Fund Capital article 13C at the June 18, 2022 Town Meeting.

Petitioned by: Fire Department

Motion: Move to appropriate \$75,000 from Ambulance Receipts Reserved for Appropriation.

Finance Committee Recommendation: Recommend

Select Board Recommendation: Recommend

Vote Required: Simple Majority

ARTICLE 10: SAFE ROUTE TO SCHOOLS

To see if the Town will vote to authorize the Select Board to acquire by purchase, gift, eminent domain or otherwise, on such terms and conditions as the Select Board shall determine, permanent and temporary easements and other rights or interests in land on certain parcels of land shown on plans titled "Massachusetts Department of Transportation Highway Division Plan and Profile of Scoticut Neck Road in the Town of Fairhaven Bristol County Preliminary Right of Way Plans," prepared by Chappell Engineering Associates, LLC, as said plans may be amended, for construction, public way, utility, and/or other municipal purposes; and, further, to authorize the Select Board to enter into all agreements and take all related actions necessary or appropriate to carry out said acquisitions and other acts authorized herein; and, further, to authorize the Select Board to seek authorization and approval of the General Court, which may include a petition brought pursuant to the provisions of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts relative to certain permanent and temporary easements to be located upon land owned by the Town of Fairhaven; and further, to accomplish these purposes and acquisitions, to raise and appropriate a sum of money to defray the costs associated with this project and the acquisitions of the rights and interests identified herein; or take any other action relative thereto.

Petitioned by: Board of Public Works

Motion: Move to adopt as written in the warrant.

Finance Committee Recommendation: Yield to Petitioner

Select Board Recommendation: Recommend

Vote Required: Simple Majority unless seeking to authorize a borrowing

ARTICLE 11: THERMAL CAMERA SYSTEM – HARBORMASTER BOAT

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money not to exceed \$9,020 to replace the Harbormaster Thermal Camera System, or take any other action relative thereto.

Petitioned by: Marine Resources

Motion: Move to transfer \$9,020 from Surplus Revenue (Free Cash) for the replacement of the Harbormaster Thermal Camera System.

Finance Committee Recommendation: Recommend (suggested \$7,810)

Select Board Recommendation: Recommend

Vote Required: Simple Majority

ARTICLE 12: FUND LABOR CONTRACTS FY23

To see if the town will vote to fund the labor contracts or take any other action, and waive the Part 1 General Provision § 50-9, or relative thereto:

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

Petitioned by: Town Administrator

Motion: Move to waive § 50-9 D of the General Provision Section in accordance to Subsection F.

Motion: Move to fund the labor contract and adopt the following:

- A. *Select Board/Town Administrator Salaries and Wages – Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- B. *Human Resources Salaries and Wages – Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- C. *Treasurer/Collector Salaries and Wages- Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- D. *Town Clerk Salaries and Wages- Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- E. *Assessors Salaries and Wages- Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- F. *Police Department Salaries and Wages- Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- G. *Fire Department Salaries and Wages- Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- H. *Building Department Salaries and Wages- Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- I. *Marine Resources Salaries and Wages- Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- J. *Highway Department Salaries and Wages– Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- K. *Board of Health Salaries and Wages- Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- L. *Council on Aging Salaries and Wages- Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- M. *Park Department Salaries and Wages- Move adoption and the sum of \$ be transferred from FY23 Wage and Salary Reserve.*
- N. *Water Department Salaries and Wages- Move adoption and the sum of \$ be transferred from Water Enterprise Retained Earnings.*
- O. *Sewer Department Salaries and Wages – Move adoption and the sum of \$ be transferred from Sewer Enterprise Retained Earnings.*

Finance Committee Recommendation: At Town Meeting

Select Board Recommendation: At Town Meeting

Vote Required: Simple Majority

ARTICLE 13: FIRE ENGINE 4 REPAIR

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$53,100 to repair Fire Engine 4, which needs a complete engine rebuild due to mechanical issues that placed it out of service, or to take any other action relative thereto.

Petitioned by: Fire Department

Motion: Move to transfer \$53,100 from Surplus Revenue (Free Cash) for the repair of Fire Engine 4.

Finance Committee Recommendation: Recommend

Select Board Recommendation: Recommend

Vote Required: Simple Majority

ARTICLE 14: EMERGENCY POLICE BOAT REPAIRS

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$18,558 to repair broken items needed for the safe operations and transport of the Police Boat. Replace steering controls, trailer, and FLIR (Forwarding Looking Infrared) unit, or to take any other action relative thereto

Petitioned by: Police Department

Motion: Move to transfer \$18,558 from Surplus Revenue (Free Cash) for the repair of the Police Boat.

Finance Committee Recommendation: At Town Meeting

Select Board Recommendation: Recommend

Vote Required: Simple Majority

ARTICLE 15: APPOINTMENT OF SPECIAL OFFICERS

To see if the town will vote to amend Article 9-Special Legislation for the appointment of retired police officers as special police officers from the special town meeting of Saturday, June 7, 2003, to allow retired police officers town work until the age of 70 instead of 65 as is currently allowed.

SPECIAL TOWN MEETING-SATURDAY, JUNE 7, 2003 WALTER SILVEIRA AUDITORIUM - ELIZ. HASTINGS
MIDDLE SCHOOL TOWN MEETING MEMBERS PRESENT 244 - QUORUM REQUIRED 100

ARTICLE 9-SPECIAL LEGISLATION FOR THE APPOINTMENT OF RETIRED POLICE OFFICERS AS SPECIAL POLICE OFFICERS IN THE TOWN OF FAIRHAVEN

Voted unanimously to authorize the Board of Selectmen to petition the General Court for the passage of legislation to authorize the following:

REQUEST TO AMEND AS FOLLOWS;

*SECTION 1. ~~The Board of Selectmen~~ **The Chief of Police** of the Town of Fairhaven, **with Town Administrator approval**, may appoint, as they deem *necessary*, retired Fairhaven police officers as special police officers for the purpose of performing police details or any other police duties arising therefrom or during the course of police detail work, regardless of whether or not related to the detail work. The retired police officers must have been regular Fairhaven police officers and retired based on superannuation. **No retired police officer shall be appointed as a special police officer pursuant to this act if that officer has been retired for more than five (5) years.** The special police officers shall **NOT** be subject to the same maximum age restrictions as applied to regular Fairhaven police officers under chapter 32 of the General Laws, **but shall not be eligible, to serve as special police officers if they have reached the age of 70.** A special police officer must pass a medical examination, by a physician or other certified professional chosen by the town, to determine that he is capable of performing the essential duties of a special police officer, the cost of which shall be borne by the special police officer, prior to performing police details.*

*SECTION 2. Special police officers appointed under this act shall not be subject to chapter 31 of the General Laws, ~~or to~~ section 99A of chapter 41 of the General Laws **or chapter 150E of the General laws.***

SECTION 3. Special police officers shall, when performing the duties under section 1, have the same power to make arrests and perform other police functions as do regular police officers of the Town of Fairhaven.

SECTION 4. Special police officers shall be appointed for an indefinite term, subject to removal by the ~~Board of Selectmen~~ **Chief of Police, with Town Administrator approval**, at any time with 14 days written notice. Upon request, the ~~Board of Selectmen~~ **Chief of Police** shall provide reasons for removal in writing. **A special police officer's appointment shall automatically terminate upon the officer reaching the age of 70.**

SECTION 5. Special police officers shall also be subject to the rules and regulations, policies and procedures and requirements of the Fairhaven police department and Chief of Police of the Town of Fairhaven including restrictions on the type of detail assignment, requirements regarding medical examinations to determine continued capability to perform the duties of a special police officer, requirements for training, requirements for firearm licensing and qualification and requirements regarding uniforms and equipment. Special police officers shall not be subject to section 96B of chapter 41 of the General laws.

SECTION 6. Special police officers shall be sworn before the town clerk of the Town of Fairhaven who shall keep a record of all such appointments.

SECTION 7. Special police officers appointed under this act shall be subject to section 100 and section 111F of chapter 41 of the General Laws. The amount payable under said section 111F of chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated ~~as~~ special police officer less than 52 weeks prior to the incapacity. In no event shall payment under said section 111F of chapter 41 exceed, in any calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F of chapter 41 shall terminate ~~when a special police officer reaches the age of 65. In the event the age limitation applicable to regular police officers serving the town is increased from the current 65 years of age, the termination of benefits under said section 111F of said chapter 41, as the benefits extend beyond the age of 70 for any special police officer.~~ **in accordance with said section 111F of said chapter 41 or at the conclusion of the employment term, whichever occurs sooner.** Special police officers appointed under this act shall not be subject to section 85H of said chapter 32, nor eligible for any benefits pursuant thereto.

SECTION 8. Appointment as a special police officer shall **NOT** entitle any individual appointed as such to assignment to any detail.

SECTION 9. Retired Fairhaven police officers serving as special police officers under this act shall be subject to the limitations on hours worked and on payments to retired town employees under paragraph (b) of section 91 of chapter 32 of the General Laws.

SECTION 10. This act shall take effect upon its passage.

Petitioned by: Police Chief

Motion: Move to adopt as written in the warrant

Finance Committee Recommendation: Yield to Petitioner

Select Board Recommendation: Recommend

Vote Required: Simple Majority

ARTICLE 16: PUBLIC SHADE TREE BYLAW

To see if the town will vote to amend the General Provisions of the By-Law to include Chapter 88- Fairhaven Public Tree as following:

Purpose:

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

§ 88-2. Definitions:

- 1) Certified Arborist – An arborist certified by the Massachusetts Arborists' Association or the International Society of Arboriculture, or any successor of either organization.
- 2) Diameter at Breast Height (DBH) – The standard measure of tree having at least four (4) inches in diameter at a height of four and one-half (4.5) feet above the existing grade at the base of the tree. If the tree splits into multiple trunks below four and one-half (4.5) feet above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split.
- 3) Drip line – A vertical line running through the outermost portion of the crown (outer branch tips) of a tree and extending to the ground.
- 4) Emergency - When one or more portions of a tree or a whole tree falls, or is likely to fall, onto or dangerously close to property, vehicles or power lines with the likelihood of causing property damage or personal injury.
- 5) Hazard Tree –A tree that has structural defects in the roots, stem, or branches that may cause the tree or parts of the tree to imminently fail, where such failure may cause property damage or personal injury.
- 6) Pruning– The selective removal of plant parts, such as branches, buds, or roots to meet specific goals and objectives such as improving the tree’s structure, removing dead limbs or directing new, healthy growth.
- 7) Public Shade Tree – Trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the Town other than a State Highway, and all trees, shrubs, bushes, and as further defined in Massachusetts General Laws Chapter 87, §1. Public shade trees are commonly called Street trees. When it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that

for that reason it is doubtful whether the tree is within the highway or a park or on land surrounding a public building, it shall be taken to be public property until the contrary is shown.

- 8) Remove (including removing and tree removal) – The cutting down of any Public Shade Tree or Town Tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning, or other direct or indirect actions resulting in the death of a public tree, including, but not limited to, excessive or improper pruning.
- 9) Standard, ANSI A300 – The generally accepted industry standards for tree care practices developed by the Tree Care Industry Association (TCIA) and written by the Accredited Standards Committee (ASC) A300.
- 10) Top or Topping – The cutting back of limbs to stubs within the tree’s crown to such a degree as to remove the normal canopy and disfigure the tree.
- 11) Town Trees – All trees, other than public shade trees, located on Town lands, including parks, schoolyards, conservation lands, and any other land owned by the Town.
- 12) Tree Warden – The agent of the Town having primary enforcement responsibilities under this chapter and MGL c. 87 and charged with the responsibility for review, notification and record keeping required pursuant to this chapter.

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

1) Tree Warden:

- A. The Tree Warden shall have the primary care and control of all public shade trees, shrubs and growths in the town. This includes public shade trees in the Right of Way of streets, except those within a state highway. The Tree Warden shall also have the primary care and control of town trees if so requested in writing by the town board or department with authority over that Town land.
- B. The Tree Warden shall enforce all the provisions of law for the care and preservation of such trees, shrubs and growths.
- C. The Tree Warden shall keep detailed records of requests, complaints, public hearings and actions taken such as planting, pruning and removing public shade trees and town trees. Such records shall include the date, location, species and a narrative detailing the action taken and the reason.
- D. These Tree Warden records shall be continually updated, and shall be filed with the Department of Planning annually. These records shall be provided upon request by the public and maintained by the Tree Warden as Keeper of the Record.
- E. The Tree Warden shall adhere to the regulations for the care, preservation, maintenance and removal of public shade trees, or other trees under their control, as established in this bylaw.
- F. The Tree Warden may designate a qualified Deputy Tree Warden with the approval of the Town Administrator who should have the following training as recommended by the Massachusetts Tree Wardens’ & Foresters’ Association, the Massachusetts Department of Conservation and Recreation (DCR), and the USDA Center for Urban & Community Forestry:

- 1) Three (3) years supervisory experience in commercial or municipal tree care;
 - 2) Be a Certified Arborist (preferred but not required);
 - 3) Have a Massachusetts Pesticide License within 90 days of employment (preferred but not required);
 - 4) Associate of Science Degree in Arboriculture / Urban Forestry or a related degree (preferred but not required).
- G. All employees of the Town performing tree work shall have specialized training in the care and maintenance of public shade trees. This shall include training in the proper use of the required equipment, planting, pruning and landscaping (including grass cutting) around trees without harming the tree.

2) Permitting:

- A. Public Shade Trees shall not be cut, trimmed or removed, in whole or in part, by any person other than the Tree Warden or their deputy, even if he be the owner of the fee in the land on which such tree is situated, except upon a permit in writing from said Tree Warden after a public hearing, in which no objection was submitted in writing within 14 days of the public hearing. Public Shade Tree public hearings shall be conducted during meetings of another Town Board, such as the Planning Board, Park Commission or Select Board as determined by the Town Administrator. The Tree Warden or their deputy shall cause a notice, stamped by the Town Clerk, of the time and place of such hearing thereof, which shall identify the size, type and location of the shade tree or trees to be cut down or removed and why, to be posted in two or more public places in the town and upon the tree at least seven days before such hearing and published in a newspaper of general circulation in the town once in each of two successive weeks. The first publication to be not less than seven days before the day of the hearing. The posting on the tree shall be done in a manner that will not cause harm to the tree.
- B. Tree wardens shall not cut down or remove or grant a permit for the cutting down or removal of a Public Shade Tree if before, at, or within 14 days of the public hearing as provided in the preceding section, objection in writing is made by one or more persons. If no such objection is made the tree warden shall report to the Town Administrator, and may proceed with the proposed work upon receipt of written approval from the Town Administrator. If such an objection in writing is made and the Tree Warden believes the tree(s) should be cut, trimmed or removed, then the Tree Warden may advertise a second duly noticed public hearing at a Select Board Meeting. The Tree Warden may proceed with the proposed work upon receipt of written approval from the Select Board filed with the Town Clerk.
- C. The Massachusetts Department of Transportation has the care and control of all trees, shrubs and growths within state highways.
- D. In addition to the procedural requirements set forth above, no public shade tree or town tree shall be removed for the purpose of, or during the construction of, streetscape improvements unless approved in writing by the Planning Board. Except as otherwise required by state or federal law for roadway design, the Planning Board subdivision regulation regarding trees shall apply to all streetscape improvements.

- E. The Planning Director, Conservation Agent, Superintendent of Public Works and Town Administrator shall be notified at the time of advertisement when any tree removal public hearings are scheduled.
 - F. A valid tree work permit from the Tree Warden shall be obtained, prior to doing any of the following work:
 - 1) Pruning of a Public Shade Tree or Town Tree.
 - 2) Removal of a Public Shade Tree or Town Tree.
 - 3) Excavation within or adjacent to the public right-of-way or Town property which may disturb roots of any Public Shade Tree or Town Tree, including, but not limited to, the installation of utilities, curb cut permits, or work on the sidewalks.
 - 4) Application for a tree work permit shall be made to the Tree Warden a minimum of 30 business days prior to commencement of the planned work, except in an unforeseen emergency. Application for work on Town lands shall also be submitted to the town board or department with authority over that Town land.
 - 5) It is the obligation of the contractor to positively verify that trees to be trimmed or removed are growing within the public right-of-way, or on other town land, and require a work permit.
 - 6) All work by a Utility Company on Public Shade Trees shall be supervised in the field by an attending Massachusetts certified arborist, who shall be responsible for the work performed, and shall maintain regular contact with the Town's Tree Warden. All work shall be done according to the approved Utility Annual Vegetation Management Plan and/or the Utility Annual Hazard Tree Removal for that year and in accordance with the accepted standards.
 - 7) Both the contractor and the utility shall be responsible for ensuring that the bucket operators are trained and knowledgeable of the standards of this chapter, including the latest American National Standards Institute (ANSI) Standard and National Arborist Association (NAA) Pruning Standards.
 - G. Violations of any provision of this bylaw maybe punished by forfeiture of up to five hundred dollars per tree to the use of the Town.
- 3) **Utility Vegetation Management Plan: Publication, Notification and Review of a Utility Annual Vegetation Management Plan**
- A. Any Annual Vegetation Management Plan shall include, but not be limited to, a map (hardcopy and digital) of the circuits where the maintenance work will be performed, a detailed narrative describing the work to be performed, the tree maintenance standards that will be followed and any foreseeable variance from those standards.
 - B. Any Annual Vegetation Management Plan shall conform to the most current and relevant standards of the American National Standard Institute (ANSI); National Electric Safety Code 218 Tree Trimming; and OSHA 29 CFR Part 1910 Line Clearance Tree Trimming Operations.

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

§ 88-4. Planting:

- A. No public shade tree or town tree shall be planted for the purpose of, or during the construction of, streetscape improvements unless approved in writing by the planning board. Except as otherwise required by state or federal law for roadway design, the planning board subdivision regulation regarding trees shall apply to all streetscape improvements.
- B. The Tree Warden with the Planning Board or Board, Committee or Commission so authorized, shall develop and maintain an up-to-date listing of trees considered most desirable for new plantings along streets with locations.

§ 88-5. Maintenance:

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

Petitioned by: Planning Department

Motion: Move to adopt as written in the warrant

Finance Committee Recommendation: At Town Meeting

Select Board Recommendation: At Town Meeting

Vote Required: Simple Majority

ARTICLE 17: CITIZENS PETITION – REDUCE SALARY OF TOWN ADMINISTRATOR

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.

Petitioned by:

Motion:

Finance Committee Recommendation: Indefinite Postponement

Select Board Recommendation: Indefinite Postponement

Vote Required:

ARTICLE 18: CITIZENS PETITION - STREET ACCEPTANCE ALVES WAY 2-10

To see if the Town will accept as a public street Alves Way from 2 to 10, or take any other action relative thereto.

Petitioned by: Tony Alves

Motion: Move to accept as a public street, Alves Way from 2 - 10

Finance Committee Recommendation: Yield to Petitioner

Select Board Recommendation: Indefinite Postponement

Vote Required:

ARTICLE 19: CITIZENS PETITION – HARD SURFACE SANDRA LANE

To see if the Town will vote to reconstruct, hard-surface of Sandra Lane a distance of approximately 673 feet.

Petitioned by: Patrick Rosparka

Motion: Move to reconstruct hard surface of Sandra Lane for 673 feet.

Finance Committee Recommendation: Indefinite Postponement

Select Board Recommendation: Indefinite Postponement

Vote Required:

HEREOF FAIL NOT, and make due return of this warrant to the Town Clerk at the time and place of the meeting aforesaid.

Given under our hands this 28th day of October in the year Two Thousand Twenty-Two.

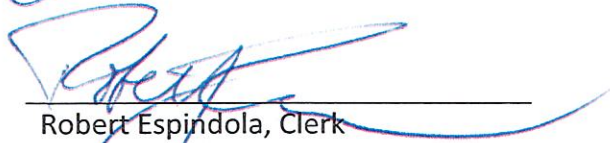
Select Board of Fairhaven,



Stasia Powers, Chair



Leon Correy III, Vice-Chair



Robert Espindola, Clerk

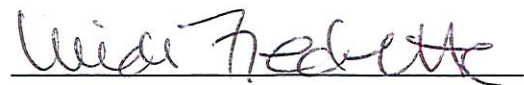


Charles Murphy Sr.



Keith Silvia

A TRUE COPY, ATTEST:



Linda Fredette, Town Clerk

I, David Miller, Constable of the Town of Fairhaven, do hereby certify that I have duly served this Warrant as required by the General Laws of Massachusetts and the By-Laws of the Town of Fairhaven by posting an attested copy thereof in the Town Meeting location on 10 / 28 / 22.



Constable Signature

