

**G. LAVALETTE 8/7/23 RESUMED HEARING
FAIRHAVEN SELECT BOARD
TOWN EXHIBITS**

1. July 6, 2023 Amended Notice of Removal Hearing
2. June 15, 2023 Notice of Removal Hearing
3. Investigator's Supplemental Report [Redacted]
4. Investigator's Conservation Department Workplace Conduct Investigation Report [Redacted]
5. February 9, 2023 Fairhaven Police Report [Redacted]
6. Personnel Policy of Town of Fairhaven (7/18/22)
7. FPD Police Report re 1/28/23 Incident (amended 7/14/23)
8. Fairhaven Boards and Commissions Handbook (revised December, 2020)

2023.08.07 G. Lavalette 8-7-23 Resumed Hearing Updated List of Exhibits (620-17)



Fairhaven Police Department
Incident Report

Page: 1
07/14/2023

Incident #: 23-121-OF
Call #: 23-1129

Date/Time Reported: 01/30/2023 1506
Report Date/Time: 01/31/2023 1417
Occurred Between: 01/28/2023 0900-01/30/2023 1500
Status: No Crime Involved

Reporting Officer: Sergeant Daniel Dorgan
Approving Officer: Sergeant Daniel Dorgan

Signature: _____

Signature: _____

INVOLVED SEX RACE AGE SSN PHONE

1 LAVALETTE, GARY ELWIN M W [REDACTED]

Military Active Duty: N
BODY: NOT AVAIL.
DOB: [REDACTED]
PCF #: N/A
COMPLEXION: NOT AVAIL.
PLACE OF BIRTH: NOT AVAIL.
ETHNICITY: NOT HISPANIC

[CONTACT INFORMATION]

[REDACTED]

[APPEARANCE]

GLASSES WORN: NO

EMPLOYER/SCHOOL: CONSERVATION COMMITTEE

EVENTS (S)

LOCATION TYPE: Other/Unknown Zone: ZONE 1
17 TURNER AVE
FAIRHAVEN MA 02719

1 CITIZEN COMPLAINT OF PUBLIC OFFICIAL

PERSON(S) PERSON TYPE SEX RACE AGE SSN PHONE

1 DUBOIS, KAMRYN A REPORTING PARTY F B [REDACTED]

Fairhaven Police Department
Incident Report

Page: 2
07/14/2023

Incident #: 23-121-OF
Call #: 23-1129

#	PERSON(S)	PERSON TYPE	SEX	RACE	AGE	SSN	PHONE
2	DUBOIS, DOUGLAS J [REDACTED]	REPORTING PARTY	M	W		[REDACTED]	[REDACTED]
	CONTACT INFORMATION: CallBack Number [REDACTED]						
3	CAMARA, KELLY S [REDACTED]	WITNESS	F	W		[REDACTED]	[REDACTED]
4	LOPES ELLISON, ANGELINE 40 CENTER ST FAIRHAVEN MA 02719 DOB: NOT AVAIL	WITNESS	F	B	00	NOT AVAIL	508-979-4023
	CONTACT INFORMATION: Home Phone (Primary) 508-979-4023						
5	HAWORTH, GEOFFREY A [REDACTED]	PARTICIPANT	M	W		[REDACTED]	[REDACTED]
	EMPLOYER: HAWORTH PROPERTY SERVICES CONTACT INFORMATION: [REDACTED]						

Ref: 23-121-OF

On Monday, 1/30 at approximately 1505 hours, I, Sergeant Daniel M. Dorgan, met with Kamryn and Doug DuBois at the Fairhaven Police Department conference room in order to take a complaint against a member of the town Conservation Committee, Gary Lavalette. The DuBois's are owners of the property located at 17 Turner Ave. in Fairhaven and told me that they had an interaction with Lavalette when he came to their property on Saturday 1/28/23 and confronted a landscaping company that they had hired.

The property at 17 Turner Ave. is beach front property and during a storm on December 23, 2022 experienced a storm surge that brought seaweed, sand and water from the beach past their property and into the street. As a result of this surge their driveway was left with a significant amount of sand and seaweed making it unable to be used. Doug stated that they are currently renting out the property to a single mother who was not able to use the driveway and they wanted to have the sand and seaweed removed and brought back to the beach where it came from.

The DuBois's hired Lawn and Order Landscaping to come and bring the sand and seaweed from the driveway and yard and return it to the beach. The company arrived on Saturday and brought equipment including a skid steer bucket machine to the property to move the debris back to the beach. As they were working on the property that morning Lavalette arrived at the property, and as witnessed by myself on video footage, without identifying himself prior, began to order the landscapers off of the property, telling them to cease working and informing them that what they were doing was subject to a \$25,000 fine. As the video shows the workers do cease working and began to move their machines and equipment off the property while Lavalette remained on scene, taking photos of the property and the work the crew had done.

At some point the landscapers called Doug and informed him what was going on at the home and since he was on his way to the property already, he arrived while Lavalette was still on scene. The DuBois's claim that they felt intimidated by Lavalette and also Geoff Haworth, chairperson of the Conservation Committee, who had also arrived on scene. The DuBois's did not know what had occurred at the home and believed that no work was being done on the beach as Lavalette claimed, as the purpose of the landscapers was to remove the debris left in the driveway from the storm surge. Doug told me that Geoff and Gary began to insinuate that they were subject to multiple fines for changing the topography of the beach, removing beach vegetation and would need to replace the sand on the beach and hire someone to assess the grain pattern of the sand for the proper match.

Both Kamryn and Doug were taken aback by the conversation and the monetary fines that were mentioned as they believed that nothing was being done to the beach and that it was simply moving the debris from the driveway. Lavalette told them that they would be receiving the cease and desist order in hand for being "pleasant" however he had the right to place it on their door. Kamryn was concerned by Lavalette's behavior during this interaction as he seemed to mention many times about fines and his ability to do so, and that if they did not like dealing with him he would go to the state with the issue, insinuating in her mind that it would be heavier fines and penalties.

Kamryn asked Lavalette how he even came to be there at their home on the weekend and he stated that he received a call from a confidential source that there was illegal work being done on the beach however would not reveal his source. He told her that he often goes out on Saturdays to investigate complaints and was in the area of Cedar St. earlier and made his way to her property after being called by his confidential informant.

Kamryn was also concerned by some things that Lavalette said. She stated he was erratic, and brought up such things as his own health, the Asian neighbors which he referred to as "Orientals", and told her a story about buying his house from "Orientals" and all the furniture being so low because they are so short. Kamryn had concerns that a public official interacting with the community should not be mentioning things of this nature or using racially insensitive words such as "Orientals". Kamryn also was upset by the fact that while Doug had made it clear multiple times to Lavalette that Kamryn was his wife, he continued to refer to her as "your tenant", even after being corrected. The DuBois's's were also concerned that Lavalette told them multiple times that he could go

on their property whenever he wanted as an commission member and by law he had that right.

After her interaction with Lavalette on Saturday and still feeling uneasy about whether fines were going to be levied against her and also out of concern for the overall tone and context of the interaction that day, Kamryn decided to go to Town Hall on Monday to speak with the conservation agent as well as the town administrator to voice her concerns and answer questions about what the next steps would be regarding removing the stop work order and any infractions brought to the conservation committee.

Kamryn met with Kellie Camara, the interim Conservation Agent, and talked to her about what had occurred that day and her concerns about Lavalette's behavior. I was able to speak with Camara about what occurred that day and she told me that Lavalette came into her office around 0900 hours to fill her in on what happened on Turner Ave. on Saturday. He told her that he was in the area investigating a complaint at 110 Cedar St. and heard machinery operating on Turner Ave. He told Camara that he went to that property and saw work being done and contacted Geoff Haworth. He then told her that they had a good conversation with the DuBois's, that they understood what the violations were and that he issued a cease and desist order.

After Lavalette left, Kamryn came to talk to Camara about what had occurred and ask questions around 1100 hours. Coincidentally I happened to be outside of town hall at this time speaking to Chief Michael Myers about an unrelated issue when Lavalette pulled up to town hall. He told us that he was there because "he was in trouble again with the town Administrator" and also asked the chief about getting bylaw violation books so they could issue fines as was voted at town meeting.

Lavalette then went into the conservation officer while Kamryn was there and according to both Kamryn and Camara was acting odd. They stated he seemed surprised to see her there and was referencing that he had just spoken to the police chief and would be going to get a citation book so he could hand out fines. He said that he thought they had a good interaction on Saturday and discussed their personal health issues including saying that his reproductive organs did not work anymore after cancer. Camara stated she felt uneasy by the interaction between Kamryn and Lavalette and that he did mention that if she did not like dealing with the committee here in town the issue could be brought to the state. Kamryn felt that Lavalette was trying again to intimidate her by insinuating more fines being brought by the state should he decide to bring the issue to them.

After that interaction Kamryn went to the Town Administrators office to report that again she had an interaction with Lavalette and again was made uncomfortable by him and his words and behavior. After reporting this behavior to the Town Administrator, Lavalette was told to be at a meeting at 1500 hours with Camara in the T.A. office to discuss what had occurred both Saturday and today. At the conclusion of the meeting between Kamryn and T.A. Angeline Lopes-Ellison, Kamryn came to the police station to have these incidents documented should anymore issues arise.

On Friday, February 3 I went to town hall to speak with Lopes-Ellison however while she was unavailable at the time I did speak with Lavalette who was in Camara's office. I asked him about what happened and he gave me his account of what happened. He told me that he was on Cedar street on another matter when he heard machinery on the beach and walked over to the property when he was flagged down by a neighbor reporting that machinery was "tearing up the beach". I informed him that I had seen video from the property and I know he drove there and got out and immediately started to order people off the property and asked if he would like to change his story. He told me he was in the area and was told by a neighbor about the work and drove over. Lavalette told me he is not an enforcement agent, however I did tell him that I heard him talking about fines and issuing cease and desist orders and he agreed that those actions would be an enforcement action.

Lavalette told me that he receives his directions from Haworth who is the chair of the board and called him and was told to shut the work down. He told me that he was shocked that the DuBois's's were making a complaint as they had a good conversation and they appeared to have a good understanding of what violation occurred and the next step of hiring an engineer and appearing before the board. He said that they had a friendly tone and

discussed many things including their health issues and that he did not think that any of the conversation was confrontational or inappropriate. I asked him about the repeated mentioning of bringing the issue to the state and Lavalette told me that it was not meant to be intimidating it was meant to give them the alternative that if they chose not to deal with the Fairhaven Conservation Commission they could go to the state and risk the possibility of heavy fines or simply work with them to resolve the issue. He told me that the landscapers did in fact change the topography of the beach that could push water onto other property in the area and that an engineer would need to come in and sand of the same granular makeup would need to be brought in to fix the damage caused.

I told Lavalette that after watching video of him arriving at the property and also of him speaking to the DuBois's that he may need to change his approach to dealing with people as he appeared to be aggressive towards the workers when ordering them off the property. I also warned him about entering private property without notice as though he may have the right under the law it is not a safe practice that even the police take heed when doing for safety reasons. I finally warned him about interacting with citizens and to make sure he is using proper language and tone and to keep his interactions brief and oriented to the matter at hand and not to go off on private matters when on Commission business.

Later that morning I met with Angeline Lopes-Ellison in her office to discuss the incidents with Lavalette. She told me that she is currently dealing with several issues involving Lavalette and that she was aware of this incident. She told me that Lavalette does not have the right to enter private property whenever he wanted and he had to give 24 hour notice to the homeowner prior. We discussed what occurred that day and she told me about her meeting with Kamryn and after hearing her concerns met with Lavalette however he just didn't seem to grasp what she was trying to convey regarding citizens complaints against him.

I contacted Kamryn DuBois's via phone on Sunday February 5 and told her that I had since spoken to everyone involved and would be completing this report. She told me that she wanted to report that since going to the station on Monday to report Lavalette he has been seen driving by the property daily on her Ring Cam, she knows its his truck based on make, color, bedcover, and other specific markings. She is even more uncomfortable with this behavior and does not know the intention of this or if he may be looking to fine them further for reporting him to the town administrator and police. I informed her that I would speak to Lavalette about this behavior but to keep documenting these incidents.

Kamryn also told me that the videos that were shown to me will be held to be added to this report until after receiving the complaint from the Conservation Commission after advising legal counsel. Both Kamryn and Doug have completed written affidavits which will also be attached to this report.

Respectfully Submitted,

Sergeant Daniel M. Dorgan/082
Fairhaven Police Department

Regarding sworn affidavits from Kamryn and Doug Dubois that we intended to be scanned and attached to this report, those affidavits were never provided to me by the Dubois to be included. At the completion of our face to face conversation both Kamryn and Doug were provided with Fairhaven Police Department Witness/Victim Affidavit Forms and asked to fill them out and return them to me so I could attach them to my report. I provided them with my department email address and told them that if they could not physically bring them to the station that they could scan them and email them to me to be included.

After several days and not receiving any emails from the Dubois I was able to reach Kamryn via telephone and asked whether she and her husband were finished with their affidavits as I had finalized my report and wanted to include them in it. Kamryn advised me that she and her husband had retained an attorney and under the advice of that attorney would not be providing me with any affidavits due to possible legal action involving the town in the future.

Respectfully Submitted,

Sergeant Daniel M. Dorgan/082
Fairhaven Police Department

Boards and Committees Handbook
Town of Fairhaven, MA



Table of Contents

	Page(s)
Introduction	1
Participation in Government	1
Types of Boards and Committees	1
Statutory Boards and Committees	1
Advisory Committees	1-2
Important Reading	2
Members, Associate Members and Alternate Members	2
Application Procedure	3
Appointment, Reappointment, Resignation & Removal	3
Orientation	3
Meeting Definition	4
Posting a Meeting Notice	5
Posting an Agenda	5
Board and Committee Officers	5
Conducting a Meeting	6
Quorum	6
Public Hearing Process	6
Meeting Logistics	7
Record Keeping	8
Public Records Law	8
Use of Town Equipment and Facilities	8
Staff Support	9
Use of Town Counsel	9
Conduct: Open Meeting Law	9

Email Usage	10-11
Social Media	11
Conflict of Interest Law for Public Officials & Employees	12-13
Recusal Process	13-14
Campaign Finance Law	14
Speaking for a Board or Committee	15
Civil Discourse	15
Liaison with Board of Selectmen	15
Annual Town Report	15
Appendix A: List of Boards and Committees	16
Appendix B: Sample Meeting Notice/Agenda	17
Appendix B1: Sample Agenda	18
Appendix C: Introduction to Robert's Rules of Order	19-20
Appendix D: Recommended Public Hearing Procedure	21
Appendix E: Purposes for Convening in Executive Session	22-23
Appendix F: Social Media Policy	24-26
Appendix G: Official State Holidays	27

Introduction

Thank you for volunteering for your board or committee. You are about to undertake a very important role within the Town of Fairhaven. Committees and boards serve as planning and implementation bodies for the Town and in some cases, as enforcement agencies for State statutes and local bylaws. The volunteer members who serve on these boards and committees are an essential part of running an effective and efficient local government.

This handbook has been prepared by the Selectmen/Town Administrator's office as a general informational aid to all Town committees and boards. It provides a brief description of procedures and an introduction to important State statutes that govern the conduct of boards and committees and their members. These statutes include the Open Meeting Law, and the Conflict of Interest Law (also known as the State Ethics Act).

Participation in Town Government

The Board of Selectmen actively encourages Fairhaven residents to participate in local government by volunteering to serve on a board or committee. Through service to the community, board and committee members have an opportunity to learn about the workings of our Town and to support fellow members of our community. The Board of Selectmen recognizes that serving on a board or committee takes dedication and commitment. We appreciate your volunteer service.

Types of Boards and Committees

Appendix A contains a listing of the current Town committees and boards. This appendix identifies the type of committee, the appointing authority and the number of regular, associate and alternate members. All boards and committees appointed by the Board of Selectmen must follow the general policies set by the Board of Selectmen. Other boards and committees are encouraged to function in a manner which is consistent with these general policies.

Statutory Boards and Committees

State statutes outline the powers and duties of statutory boards and committees, such as the Board of Assessors, Board of Health, Commission on Disability, Conservation Commission, Council on Aging, Historical Commission, the Planning Board and the Zoning Board of Appeals. The Town by-laws and appointing authorities may further define the work of these committees.

Advisory Committees

The Board of Selectmen may from time to time create advisory and/or "ad hoc" committees to aid the Board of Selectmen in the performance of its duties to the public.

The Board of Selectmen is the appointing authority for advisory committees. The Board of Selectmen prepares the charge, sets the number of members and their terms, approves the membership and receives the reports and recommendations of the advisory committee. Advisory committees may be temporary for short term assignments or may have ongoing responsibilities. When a committee is appointed on a temporary basis for the purpose of a specific goal (i.e. "ad hoc"), the members will serve until the Board of Selectmen determines the committee assignment has been completed.

Residency: All advisory committees serve at the discretion of the Board of Selectmen. The Board of Selectmen will typically show appointing preference to full-time Town residents. However, the Board maintains the right to appoint non-residents to ad hoc or advisory committees as appropriate to the mission of the committee.

Important Reading

All board and committee members, associate members and alternate members should read the most recent Annual Town Report and Town by-laws. Both are contained within the Town's website, <https://www.fairhaven-ma.gov/where> (Find it Fast). The Town website is also a valuable source of information to the boards and committees, especially when all boards and committees submit their activities to the Web Administrator for inclusion on the site. If you wish to submit information on your board or committee for the Town website, please submit it to the Web Administrator at selectmen@Fairhaven-MA.gov.

All boards and committees members should review State laws pertaining to their board, commission or committee. For assistance in obtaining those State laws, please refer to the committee Chairman/Selectmen/Town Administrator's office.

Summaries of the Open Meeting Law and the Conflict of Interest and Ethics laws are included in this document. For more information on the Open Meeting Law, Conflict of Interest and Ethics laws, please contact the Town Clerk's office.

Members, Associate Members, and Alternate Members

The charge for most boards and committees specifies the number of full members and the number of alternate and/or associate members. Serving as an alternate or associate member is an excellent way to become familiar with the work of a particular board or committee before taking on the responsibility of a full member.

The exact role of alternate and associate members varies by board and committee and committee members should familiarize themselves with those roles by looking at the statutory regulations on Board of Selectmen charges for the individual committee.

Application Procedure

Interested residents file an application with the Selectmen/Town Administrator's office by submitting a letter of interest to the Board of Selectmen. The Board of Selectmen review, consider, and vote on appointments.

Appointment, Reappointment, Resignation, Removal

All appointments made by the Board of Selectmen are made by majority vote in an open, posted meeting.

Most terms begin on or around June 1 and end on May 31. Term length ranges from one to five years. Some advisory/ad hoc committees however, are formed to accomplish a specific task and then dissolved when the task is completed. Terms are generally not specified for these short-term advisory committees. A committee member is under no obligation to accept reappointment, nor is the appointing authority obligated to offer such reappointment.

A board or committee member who is no longer able to serve, or who moves out of Town, should resign promptly so that the vacancy may be filled as soon as possible. Any resignation should be submitted in writing to the Board of Selectmen and the Town Clerk. If a board/committee member moves out of Town but still believes they can significantly contribute to the board/committee, they should contact the Board of Selectmen for consideration in continuing or completing their term.

The Board of Selectmen may remove for stated cause, any of the officers or members of Town boards or committees appointed by them. Causes for removal include such matters as repeated non-attendance at posted meetings, failure to discharge the duties of office, violation of State or Town statutes, failure to follow Town policies, or obstruction of the discharge of the duties of fellow board members. The Board of Selectmen reserves the right to hold a hearing before the removal of a board/committee member, but is under no obligation to do so.

Appointments to fill vacancies will cover the remaining term of the vacated position.

Orientation

Every newly appointed member of every board or committee must be sworn in by the Town Clerk and must be sworn in annually after reappointments are made by the Selectmen. At the time of being sworn in, committee members will be given a copy of this handbook and the Town's Harassment Policy, Conflict of Interest Law Summary and Open Meeting Law Summary and will sign to confirm receipt of these documents. To make arrangements to be sworn in, or for questions related to swearing in, please contact the Town Clerk. *An appointed member may not vote on any matters until he is duly sworn in.*

The Board of Selectmen recognizes that volunteers are not always experienced in the workings of municipal government. New members should contact their board or committee chairperson

for an orientation to the board or committee's role, responsibilities, and recent issues. Whenever possible, all issues related to the board or committee should be resolved with the chairperson of the committee, or other committee members.

Meeting Definition

Meetings of Town boards and committees are subject to Massachusetts Open Meeting Law. This law is based on the premise that the public is entitled to see the process of government and not simply its end result.

The Open Meeting Law was adopted by Section 18 of Chapter 28 of the Act of 2009. Follow this link for the full Open Meeting Law: <http://www.mass.gov/ago/government-resources/open-meeting-law/open-meeting-law-mgl-c-30a-18-25.html>

The Massachusetts Attorney General has the authority to interpret and enforce the Open Meeting Law and is expected to issue guidance documents and conduct training. All Town board and committee members should familiarize themselves with the Open Meeting Law. Please do not ever hesitate to call the Division of Open Government with your questions:

Massachusetts Division of Open Government

Web address: <http://www.mass.gov/ago/bureaus/government/the-division-of-open-government/>

Email: openmeeting@state.ma.us

Phone: (617) 963-2540

A board or committee meeting must be posted at least 48 hours in advance, and held in public even if there will be no vote or decision reached. Polling of board members for a decision prior to an open meeting of the board or committee is illegal and in violation of the Open Meeting Law. Except in very specific cases spelled out in the law, the public and the press have the right to attend all open meetings of government bodies.

All boards and committees must follow Open Meeting Law. A meeting occurs any time a quorum (usually a simple majority) of the members convenes and discusses or considers any public business or policy over which the board or committee has some jurisdiction or advisory power. A quorum shall not meet in private for purposes of deciding or deliberating toward a decision on public business unless it does so in a valid Executive Session. (See the Open Meeting Law section about Executive Session). Substantive discussions or deliberations on public business involving a quorum of members that occur via email, by telephone, or by sequential communications violate the Open Meeting Law. A board or committee may only conduct administrative business, such as scheduling meetings and setting agendas, by phone and email.

Posting a Meeting

The meeting notice that must be posted with the Town Clerk 48 hours prior to the meeting (excluding holidays and weekends) must follow a format that includes the location of the meeting (including address), the name of the board or committee meeting, the date and time, and the officer posting the notice. If there are any changes in the location, time, etc., the posting should be revised with the Town Clerk as soon as possible. See **Appendix B** for a sample Meeting Notice and agenda. Blank copies of this notice are available through the Selectmen/Town Administrator's office and the Town Clerk's Office. Please note that the Board of Selectmen voted in 2017 to make the Town website (www.Fairhaven-MA.gov) the official posting location of all boards and committees; agendas must be uploaded here for a meeting to comply with the 48 hour OML rule. It is advisable that chairs review the website to make sure that the agenda, as submitted to the Town Clerk, has been posted to the website shortly after submission.

Posting Agendas

Meeting agendas should outline the topics that will be deliberated and voted upon. It should be reasonably accurate, enough so that a resident would be able to determine whether or not they wish to attend a meeting. The meeting agenda must also be posted 48 hours in advance of the meeting (excluding holidays and weekends) and can be combined with the meeting notice if the board/committee prefers. See **Appendix B1** for a sample agenda. The meeting notice may also be posted with the agenda included. See Appendix B2a for a sample.

Board and Committee Officers

Committees and boards shall annually elect a chairperson, vice-chairperson and a secretary or a clerk. Newly formed boards or committees should elect these officers at their first meeting. Ongoing boards or committees should elect officers at the first meeting on or after their May/June term renewal, or at such time after Town Meeting is customary. It is the responsibility of the chairperson to notify the appointing authority, the Town Clerk, and the Web Administrator of any changes in membership and officers. The chairperson sets the agenda and presides at all meetings, decides questions of order, calls special meetings, and signs official documents that require the chairperson's signature. The chairperson has the same rights as other members to offer resolutions, make or second motions, discuss questions, and vote thereon.

The vice chairperson acts for the chairperson whenever the latter is absent from meetings, and performs other necessary duties. The secretary is responsible for taking and transcribing the committee's minutes, scheduling the place, date, and time of meeting and posting the meetings with the Town Clerk and Web Administrator no later than 48 hours before a meeting (excluding Sundays and holidays). The secretary should also check for committee/board mail in the mail boxes at the Town Hall on a regular basis.

Conducting a Meeting

A board or committee is encouraged to follow Robert's Rules of Order. Although many small committee discussions may seem too casual to be called debate, it is advisable for the committee to observe a minimum of generally accepted parliamentary procedures. Guidance by the chairperson and adherence to customary parliamentary procedures or adopted rules of order can increase efficiency as well as maintain objectivity. Briefly, these procedures include:

- Decisions of the board or committee should be recorded by a member making a "motion" which clearly states what action the Board will be voting on. In order for a "motion" to be acted upon, it must be "seconded" by another member. Reference: **Appendix C: Intro to Robert's Rules.**
- In most instances, a decision is made by a simple majority vote of those board or committee members present and voting at the meeting.
- No votes taken in open session by a governmental body may be made by secret ballot.

Members of the public should be allowed to speak at a board or committee meeting only with permission of the chairperson. Any person may record a meeting with a tape recorder or any other means of audio reproduction and/or videotape equipment provided he or she announces his intention to do so and there is no active interference with the conduct of the meeting.

On May 4, 2019 the town meeting members voted to adopt a by-law that states "All meetings of Town boards, commissions and committees shall be broadcast live and/or recorded for future broadcast over the local cable television network and online viewing unless emergency, operational or technical conditions suspend the requirements hereof, as determined by Town Administrator, for broadcasts over the public access and government channels or the School Superintendent for broadcasts over the education channel."

Quorum

Except as otherwise specified by law, a majority of the regular members of the board or committee constitutes a quorum. A quorum must be present to call a meeting to order and a decision ordinarily requires the supporting vote of a majority of the members present and voting.

In the absence of a quorum, the chairperson may designate an alternate or associate member to sit for the duration of the meeting. If a quorum cannot be achieved, even with an associate(s), the meeting must disband and no deliberation or votes can be taken.

Public Hearing Process

Many boards and committees (such as the Board of Selectmen, the Planning Board and the Zoning Board of Appeals) are required by Massachusetts General Laws to conduct formal public hearings on some issues that come before them. Others may choose to conduct a public hearing on a matter before them in order to receive input from the community.

All formal public hearings must be conducted in accordance with Massachusetts General Laws and Town by-laws. Written hearing notices, the initiation of the hearing and the conclusions of

a hearing may have strict legal time limitations that vary with the nature of the hearing and the board or committee.

It is recommended that all public hearings follow a formal procedure. **Appendix D** outlines a recommended process.

For all hearings, the chairperson or other designated person should state guidelines and time allowances at the outset of the hearing. Detailed minutes must be kept. All questions should be directed to the chairperson who, in turn, may ask for a response from board or committee members, staff or a member of the public.

It is the responsibility of the chairperson to maintain order and decorum at the hearing. In the interest of consistency and fairness, the chairperson may put restrictions on the nature, number, and frequency of an individual's comments and questions.

Meeting Logistics

Depending on a board or committee's workload, meetings may be held weekly, bimonthly, monthly, or less frequently. When possible, a regular meeting day, hour, and location should be established. Except in cases of emergency, boards and committees should not meet on weekends, major religious or official government holidays and on Election Day while the polls are open. In addition, boards and committees should not meet while Town Meeting is in session, except as necessary to participate in the proceedings of Town Meeting.

It is the responsibility of the board or committee to provide a timely notice to the Town Clerk of the committee's meetings with time, date, and location by emailing them to Clerk@Fairhaven-MA.gov or by dropping the meeting notice/agenda by hand to the Town Clerk's office. Except for emergency meetings, all meetings must be posted at the Town Hall at 48 hours in advance by the Town Clerk (Saturdays, Sundays and holidays excluded).

In the case of emergencies – items not reasonably anticipated to be on the agenda 48 hours in advance may be added. But as soon as an emergency meeting is scheduled, notice must be posted. Although not required by law, it may also be appropriate to notify the press and other observers of an emergency meeting.

The Town Clerk maintains a current listing of all posted meetings on the bulletin board at Town Hall and, the Town website calendar. The Town Clerk and the Web Administrator posts agendas, minutes, and other documents to the website for boards and committees, when submitted by the committee's chair.

Meetings must be held in a place that is open to the public and accessible to persons with disabilities. Boards and committees should meet in a public building; meetings shall not be held in private homes or restaurants. A board or committee may reserve a room in a municipal building by using the following contacts:

- Town Hall, Selectmen/Town Administrator's Office – 508-979-4023 ext. 2
- Board of Public Works – 508-979-4030
- Millicent Library – 508-992-5342
- Fire Department – 508-994-1428

Record Keeping

As a governmental body, each board and committee shall maintain accurate minutes of its meetings, setting forth at a minimum, the date, time, place, committee members present or absent, the meeting agenda and all votes or actions taken at each meeting, including executive session, provided that the records of any executive session may remain secret as long as publication may defeat the lawful purposes of the executive session, but no longer. The minutes of each meeting shall become a public record and be available to the public once accepted by the committee. Draft, unapproved minutes of the committee, are also considered public records and must be released if requested prior to the Committee accepting them. All votes taken in executive sessions shall be recorded roll call votes and shall become a part of the record of said executive sessions. No votes taken in open session shall be by secret ballot. Each board and committee shall vote to approve the minutes of their previous meeting at their next scheduled meeting and issue the approved minutes to the Town Clerk within 10 working days of the approval vote.

Public Records Law

Massachusetts General Laws, Chapter 66, Section 10 the Public Records Law, gives a right of public access to “public records”, which are defined by Chapter 4, Section 7, Clause 26 to include any document, regardless of physical form or characteristics, made or received by a public official or employee to serve a public purpose, unless subject to a statutory exemption. Government records generated, received or maintained electronically, including electronic mail, constitute “public records” under this standard. Retention and destruction of these records should follow the schedule specified by Massachusetts General Laws, Chapter 66, Section 8. No public records should be deleted or destroyed without first consulting the Town Clerk. The Massachusetts Secretary of State's Public Records Division also provides guidance on public records matters at www.sec.state.ma.us/pre/preidx.htm. Printed records should be filed with related files of the board or committee. There is limited space available at Town Hall for files storage.

Use of Town Equipment and Facilities

Each board or committee is responsible for its own clerical work. However, with advance notice, the Selectmen/Town Administrator's office may provide some assistance in coordinating photocopying, mailings, and other services. Depending on services provided, and depending on whether or not a committee has a budget or a gift account, the Board of Selectmen/Town Administrator's office may charge expenses to that board/committee for such services as photocopies, use of supplies, mailings, etc.

Town equipment and facilities may be used for official board or committee business. Most boards and committees are assigned a mail slot in the Town Hall that should be checked on a weekly basis. Board or committee mailing addresses should be the Fairhaven Town Hall, 40 Center Street, Fairhaven, MA 02719 (except for the Board of Public Works and any BPW subcommittees, which would be 5 Arsene Street, Fairhaven, MA 02719).

Staff Support

Some boards and committees have a staff person who acts as secretary. In such cases, the staff person provides assistance, rather than the duties that are expected of members. For instance, the staff administrative assistant may record minutes of meetings, prepare and circulate information for meetings and perform other administrative duties. Please be aware that most staff persons have limited hours and boards and committees should not ask for more than can reasonably be accomplished in those hours.

Some boards and committees have a professional staff person assigned as a liaison to the Board of Selectmen. The responsibility of the staff member is to provide technical support and information. The staff person keeps the Selectmen/Town Administrator's office informed of the body's work and any items of significance which may come up.

Use of Town Counsel

Town Counsel provides legal services to all Town departments, boards and committees upon request of the Board of Selectmen and/or Town Administrator. A board or committee chairperson must make a request to the Selectmen/Town Administrator's office for approval to use Town Counsel. **Boards and committees may not contact Town Counsel directly without following this procedure.**

The request for legal services is submitted to the Selectmen/Town Administrator's office and must include the subject matter of the legal advice requested and any written materials to provide background information for the request. With certain exceptions, questions presented to and advice received from Town Counsel are ordinarily protected by the Town's attorney-client privilege. That information should be labeled as such and kept separately in the board or committee's files to avoid inadvertent disclosure and waiver of the privilege.

CONDUCT: Open Meeting Law

The Open Meeting Law is designed to insure that governmental activities are conducted in public except in very specific situations. The full Open Meeting Law can be read here: <http://www.mass.gov/ago/government-resources/open-meeting-law/open-meeting-law-mgl-c-30a-18-25.html>

A hard copy can be provided to you by the Town Clerk or Selectmen/Town Administrator's office if you do not have access to a computer.

The Open Meeting Law applies to every meeting of a quorum of a governmental body if any public business over which the governmental body has jurisdiction is discussed or considered. The Open Meeting Law does not apply to chance meetings or social meetings; however, no chance or social meeting can be held to circumvent the open meeting requirements.

The following is a summary of the lawful manner in which meetings of boards, committees and sub-committees are to be conducted:

1. The Open Meeting Law gives the public and the press the right to attend (although not necessarily to participate in) all committee meetings except those portions held in Executive Session.
2. The law requires that notice of meetings be publicly posted at least 48 hours in advance (except in a case of emergency) and that minutes be taken.
3. All meetings must have a quorum of members and be open to the public.
4. No private meetings are permitted where a quorum of members discusses or deliberates about any matter over which the board or committee has jurisdiction.
5. An on-site inspection of a project or program is not considered to be a "meeting" so long as the members do not deliberate during the inspection. A board or committee should not, during such an inspection, make any decisions or take any votes about matters within its jurisdiction. If a committee or board intends to make a decision or take a vote while on such a visit, then the visit would be considered a board or committee meeting and all Open Meeting Law requirements must be observed, such as proper meeting posting and taking of minutes.
6. Under the Open Meeting Law, an executive session may only be called for very specific purposes. **See Appendix E** for permissible reasons to enter Executive Session.
7. Executive Session procedure – the following steps must be taken *prior to* entering Executive Session:
 - a. Open Session must be convened first;
 - b. The presiding officer (ordinarily the chairperson) must give the purpose of an Executive Session. The purpose of the Executive Session must be one of the permitted purposes summarized above;
 - c. The presiding officer must indicate whether the board or committee will reconvene after Executive Session;
 - d. A majority roll call vote is needed to go into Executive Session;
 - e. The vote of each member must be recorded on a roll call vote and recorded in the minutes.

E-mail Usage

It is important for all board and committees members to know that there is no distinction in the law between written and electronic records. As a result, it is likely that email message written

or received in the capacity of a board, committee or commission member are public records which must be made available for public inspection in the same manner as hardcopy documents. Use of one's own home computer and personal email accounts may not exempt such communications depending on the context. In addition, the ease by which emails are sent and forwarded may facilitate the improper discussion of public policy issues. The discussion of public policy issues among a quorum of board or committee members via email is a violation of the Open Meeting Law. All electronic mail sent and received at a Town-issued email address should be considered a public record subject to inspection and disclosure and scheduled retention and disposition. Employees and board and committee members acting in their official capacity should have no expectation of privacy in their use of electronic mail as it relates to board/committee business.

It is important for boards and committees to be responsive to emails that are sent to them in their official capacity. It is advised that the chairperson or clerk be assigned this responsibility. Boards and committees need to be careful not to allow replies to citizens become discussions among the members of the board/committee, as this is in violation of the Open Meeting Law.

Social Media

Board and Committee members using social media platforms (including, but not limited to: Facebook, Twitter, Instagram, YouTube, etc.) should remember that their online persona reflects their character. Social media is not exempt from Open Meeting Law or Records Retention law. (For boards and committees using social media pages to share their news, please see the Town's separate Social Media policy. **See Appendix F.** The Town's Media & Communications Specialist will assist you in creating and maintaining your Social Media pages. For the purposes of individual board/committee members using social media, please note:

- All board/committee members ("Officials") are expected and required to conduct themselves online in a manner consistent with the Town's policies and standards of conduct.
- Officials must not reveal any confidential or privileged information about the Town, its constituents, or its contractors.
- Officials must not harass others in contravention of the Town's computer use policy, harassment policy, regardless of the time, place, form, or manner in which the information is posted or transmitted. Comments may be deemed to violate this policy even if the Town's name or name(s) of any individual is not specifically referenced.
- Officials should be honest and accurate when posting information or news. Officials should not use social media to post rumors or conjecture about the Town, its employees, constituents, officials, suppliers, vendors, contractors, or any other entities or individuals.
- Officials may only express their personal opinions and should never represent themselves on social media as a spokesperson for the Town, unless specifically designated to do so.
- Officials must also recognize that posting content regarding Town-related matters may result in a violation of the Open Meeting Law. (For example, if three members of a five member committee exchange comments on a social media post regarding a Town issue, this could be deemed "deliberation" and would be a violation of Open Meeting Law).

Conflict of Interest Law for Public Officials and Employees

The Board of Selectmen seeks to ensure that compliance with the conflict of interest law is achieved by all and strongly urges all Town officials, including volunteer board and committee members, to familiarize themselves with the Conflict of Interest Law and to direct any questions they may have to the Selectmen/Town Administrator's office or the State ethics commission by calling "their attorney of the day" at (617) 371-9500.

To assist with compliance, the State Ethics Commission has posted an online training program on their website. This training must be completed upon appointment to a committee and the board/committee member must present the Town Clerk with a certificate of completion within **one month** of being appointed. The following overview of the Conflict of Interest Law is excerpted from the Ethics Commission's website <http://www.mass.gov/ethics> and may be based on the recent passage of the amendments to the State Ethics Act. Contact the Town Clerk for instructions on staying current with your Conflict of Interest certification throughout your term.

Chapter 268A of the Massachusetts General Laws governs your conduct as a public official. Below are some of the general rules that you must follow. You could face civil and criminal penalties if you take any prohibited action. There are some exemptions to these rules, so you may wish to seek legal advice from the State Ethics Commission – (617) 371-9500; or Town Counsel regarding how the law would apply in a particular situation. The term "public employee" includes both elected and appointed municipal employees, whether paid or unpaid, full-time or part-time. An unpaid volunteer board member is considered a public employee for purposes for the conflict of interest law.

In general:

- a. You may not ask for, or accept anything (regardless of its value), if it is offered in exchange for you agreeing to perform or not perform an official act.
- b. You may not ask for, or accept anything worth \$50 or more from anyone with whom you have official dealings. If a prohibited gift is offered, you may refuse it or return it; you may donate it to a non-profit organization, provided you do not take the tax write-off; you may pay the giver the full value of the gift; or, in the case of certain types of gifts, it may be considered "a gift to your public employer", provided it remains in the office and does not ever go home with you. You may not accept honoraria for a speech that is in any way related to your official duties.
- c. You may not hire, promote, supervise or otherwise participate in the employment of your immediate family or your spouse's immediate family.
- d. You may not take any type of official action which will affect the financial interests of your immediate family or your spouse's immediate family. For instance, you may not participate in licensing or inspection processes involving a family member's business.
- e. You may not take any official action affecting your own financial interest, or the financial interest of a business partner, private employer, or any organization for which you serve as an officer, director, or trustee. For instance: you may not participate in licensing,

inspection, zoning or other issues that affect a company you own, or its competitors; if you serve on the board of a non-profit organization, you may not take any official action which would affect that organization, or its competitors.

- f. Unless you qualify for an exemption, you may not have more than one job with the same municipality or county, or more than one job with the state.
- g. Except under special circumstances, you may not have a financial interest in a contract with your public employer. For instance: if you are a Town employee, a company you own may not be a vendor to that Town unless you meet specific criteria, the contract is awarded by a bid process and you publicly disclose your financial interest.
- h. You may not represent anyone but your public employer in any matter in which your public employer has an interest. For instance, you may not contact other government agencies on behalf of a company, an association, a friend or even a charitable organization.
- i. You may not ever disclose confidential information, data or material which you gained or learned as a public employee.
- j. Unless you make a proper, public disclosure – including all relevant facts – you may not take any action that could create an appearance of impropriety, or could cause an impartial observer to believe your official actions are tainted with bias or favoritism.
- k. You may not use your official position to obtain unwarranted privileges, or any type of special treatment, for yourself or anyone else. For instance: you may not approach your subordinates, vendors whose contracts you oversee, or people who are subject to your official authority to propose private business dealings.
- l. You may not use public resources for political or private purposes. Examples of “public resources” include: office computers, phones, fax machines, postage machines, copiers, official cars, staff time, sick time, uniforms, and official seals.
- m. You may not, after leaving public service, take a job involving public contracts or any other particular matter in which you participated as a public employee.

Abutting or nearby property may affect a public official’s financial interest:

Under the Conflict of Interest Law, a property owner is presumed to have a financial interest in matters affecting abutting and nearby properties. Thus, unless he or she can clearly demonstrate that he or she does not have a financial interest, a public employee should not take any action in his or her official capacity on matters affecting property that is near or directly abuts: his or her own property; property owned by a business partner; property owned by any immediate family members; property owned by a private employer, or prospective employer; or property owned by any organization in which the public employee is an officer, director, partner or trustee. Otherwise, he or she risks violating the Conflict of Interest Law.

Recusal Process

If a member believes that he or she may face a conflict of interest or other reason that may justify recusal as to any particular matter, the member should contact the Selectmen/Town

Administrator's office – (508) 979-4023 ext. 2. Some potential conflicts are cured by a simple disclosure form filed in advance; others cannot be waived and require recusal. It is important for the member to understand and follow the proper course of action before proceeding.

The various disclosure forms can be found on the State Ethics Commission's website:

<http://www.mass.gov/ethics/disclosure-forms/municipal-employee-disclosure-forms/>

If you do not have access to a computer, the necessary forms will be printed for you by the Selectmen/Town Administrator's office. All completed forms must be completed in triplicate and filed with the Town Clerk, the Selectmen/Town Administrator's office, and one copy should be kept for the board or committee's personal files. If the board or committee member is recused, he must leave the room while the matter causing the conflict is being discussed to avoid any appearance of exerting undue influence.

The Conflict of Interest Law (Chapter 28 of the Acts of 2009) does the following:

- It strictly prohibits public officials from accepting gifts of "substantial value" for or because of their position.
- It increases the maximum punishment for bribery to \$100,000 and 10 years imprisonment.
- It increases the maximum penalties for conflict of interest law violations involving gifts and gratuities, revolving door violations and other abuses to \$10,000 and 5 years imprisonment.
- It increases penalties for civil violations of the conflict of interest laws up to \$10,000 per violation (up to \$25,000 for bribery).
- It makes compliance with the Ethics Commission's summons mandatory
- It increases the amount of time the Ethics Commission can proceed on an ethics violation from three (3) years to five (5) years.
- It gives the Attorney General concurrent jurisdiction with the Ethics Commission to enforce civil violations of the conflict of interest law.

Campaign Finance Law

Massachusetts General Laws Chapter 55, the Campaign Finance Law, regulates political activity by public employees and the use of public buildings and resources in campaigns and ballot issues. If a board or committee member receives a stipend of any amount, he or she is considered a public employee for the purpose of the Campaign Finance Law. This does not apply to elected officials. Public employees who take part in the political campaigns and the candidates and committees they support should be aware of this law. Public resources (government vehicles, office equipment and supplies and the paid time of public employees) may not be used for political campaign purposes, such as the election of a candidate or the passage or defeat of a ballot question. Soliciting or receiving campaign contributions in a government building is prohibited.

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.

Civil Discourse

The Board of Selectmen recognizes the importance of civil discourse at all levels of the government including those who volunteer their time and services on behalf of the Town. Boards and committees should conduct themselves so as to maintain public confidence in their local government and in the performance of the public trust. They should strive at every meeting to treat every person fairly and with respect. In turn, it is expected that those members from our community attending Town board or committee meetings will display respect to the public, board and committee members and Town staff. Professional respect does not preclude differences of opinion but requires respect for those differences and the people who express them; swearing, profanity, disparaging remarks, malicious gossip, slander, etc., both during a meeting and in other settings is behavior unbecoming of a Town official and will not be tolerated. It is expected that the Chair of all Boards and Committees will hold his/her membership to this standard. Failure to adhere to this standard is grounds for removal by the Board of Selectmen from appointed boards. Everyone should strive for civil discourse on all matters.

Liaison with Board of Selectmen

Each year, the Board of Selectmen votes to assign each Selectman to be a liaison to several Town boards and committees. The duty of the liaison is to maintain communication with the board or committee, review its minutes, and keep updated on issues of concern. The liaison is not expected to attend the meetings, but may do so; nor is the liaison an *ex officio* member. The Board of Selectmen recommends that the board or committee chairperson report regularly to its liaison about the board or committee's actions and plans so that the liaison can keep the Board of Selectmen updated.

Annual Town Report

All appointed boards and committees are required to file an annual report of activities for the Annual Town Report, due in December/January of each year (deadline to be announced each year by the Selectmen/Town Administrator's office). The chairperson or another designated member should detail board or committee membership, including any changes, and report on major accomplishments and future plans for the year.

Appendix A: List of Boards and Committees*

Board or Committee	Type	Appointing Authority	Members	Associates or Alternates
Agricultural Commission	Advisory	Selectmen	5	1
Art Curator		Selectmen	1	1
Bikeway Committee	Advisory	Selectmen	Not set	No
Board of Appeals	Statutory	Selectmen	5	Yes - 4
Board of Assessors	Statutory	Selectmen	3	No
Board of Health	Statutory	Elected	3	No
Board of Public Works	Statutory	Elected	5	No
Board of Selectmen	Statutory	Elected	3	No
Cable Advisory Committee	Advisory	Selectmen	Not set	No
Capital Planning Committee	Statutory	Selectmen	7	Yes
Commission on Disability	Statutory	Selectmen	9	Not less than 5
Commissioners of Trust Funds	Statutory	Elected	3	No
Community Preservation Committee	Statutory	Selectmen and other committees	9	No
Conservation Commission	Statutory	Selectmen	7	No
Council on Aging	Statutory	Selectmen	7	Yes
Cultural Council	Statutory	Selectmen	5-22	No
Economic Development Committee	Advisory	Selectmen	7	Yes
Finance Committee	Statutory	Elected by precincts	13	No
Fire Apparatus Study Committee	Advisory	Selectmen	Not set	No
Historical Commission	Statutory	Selectmen	7	Not more than regular members
Housing Authority	Statutory	Elected/Appointed	5	
Local Emergency Planning Committee	Advisory	Selectmen	Local Officials, 3 at-large	No
Marine Resources Committee	Advisory	Selectmen	5	No
Lagoa Friendship Pact Committee	Advisory	Selectmen	8	No
Millicent Library Trustees	Statutory	Selectmen & others	20	
Planning Board	Statutory	Elected	8	No
Registrar of Voters	Statutory	Selectmen	4	No
Retirement Board	Statutory	Elected/Appointed	5	No
School Committee	Statutory	Elected	6	No
Sustainability Committee	Advisory	Selectmen	7	5
Town Meeting Member	Statutory	Elected by precincts	Based on population	No

- For a complete up to date list of Boards and Committees, contact the Town Clerk's Office

Appendix B: Sample Meeting Notice and Agenda



Town of Fairhaven

RECEIVED
TOWN CLERK

MEETING NOTICE 2020 JUL 30 P 12: 53

Board of Public Works
Board or Committee

FAIRHAVEN,
MASS.

PLACE OF MEETING _____ 5 Arsene Street _____
DATE AND TIME _____ AUGUST 3, 2020 - 6:00 P.M. _____
MEETING _____ POSTPONED TO _____

Signature Office Manager

To Access Meeting Remotely Log onto: <https://zoom.us/j/95939570446> OR
Call: 1 929 205 6099 - Meeting ID: 959 3957 0445 - Password: 205436

- I. Call to Order
- II. Routine Matters
 - A. Signing of Departmental Bills
- III. Approval of Minutes
 - A. July 20, 2020
- IV. Appointments
 - 6:00 BFW Superintendent & Sewer Superintendent - Vacation Carryover
 - 6:10 ABC Disposal
 - 6:40 Matthew Brodo, 113 Cottonwood Street - Driveway Waiver
 - 6:45 Linda Costa, 97 Sycamore Street - Sewer Issue
- V. Items for Action
 - A. COVID-19 Matters
 - B. West Island Town Beach
 - C. Sewer Cleanout Policy
 - D. Police & Fire Station Sewer Replacement Project - P.K.M. Contractors, Inc.
 - 1. Change Order # 1 (time extension)
 - 2. Payment #2 \$66,680.15
 - 3. Certificate of Substantial Completion
 - E. Stormwater Remediation Design Grant
 - F. 2020 Town Auction
- VI. Tabled Matters
 - A. Contract Agreement WasteZero
- VII. Public Comments / Open Forum
- VIII. Old Business / New Business
 - A. Superintendent
 - B. Board Members
 - C. Marine Resources Committee - BFW Related Matters
- IX. Set Date for the Next Meeting
- X. Adjourn
- XI. Executive Session
 - A. n/a

Subject matter listed in the agenda consists of those items that are reasonable anticipated (by the Chair) to be discussed. Not all items listed may be discussed and other items not listed (such as urgent business not available at the time of posting) may also be brought up for discussion in accordance with applicable law. M.G.L., Ch. 30A, §20(f) requires anyone that intends to record any portions of a public meeting, either by audio or video, or both, to notify the Chair at the beginning of the meeting.

Appendix B1: Sample Agenda

FAIRHAVEN BOARD OF SELECTMEN

Meeting Agenda

Wednesday February 19, 2020

6:30 p.m.

Town Hall – 40 Center Street – Fairhaven

A. MINUTES

1. Approve the minutes of January 29, 2020 – Open Session
2. Approve the minutes of January 29, 2020 – Executive Session
3. Approve the minutes of February 10, 2020 – Open Session

B. TOWN ADMINISTRATOR'S REPORT

C. COMMITTEE LIAISON REPORTS

D. ACTION

1. Request to use Town Hall Auditorium for a Senior Talent Show: Sunday, May 3, 2020
2. Event Permit: Nemasket Group, Annual 5K walk/run, Saturday, May 2, 2020
3. Event Permit: South Shore Race Management: Race for A Reason 5K, Sept. 19, 2020
4. One Day Beer and Wine License Request: Buzzards Bay Coalition, June 27, 2020
5. Request to Fund "Paver" for Vietnam Veteran's Memorial Wall Committee-Fall River
6. Board of Selectmen Summer meeting schedule

E. DISCUSSION/POSSIBLE ACTION

1. Rogers School Developer's Financial Commitment Letter
2. Recreational Marijuana Host Community Agreement: Metro Harvest, Inc.
3. PILOT Agreement, Fairhaven MA 1, LLC, 279 Mill Road
4. PILOT Agreement, Fairhaven, MA 2, LLC 20 Yankee Lane
5. Personnel Policies and Procedures

F. CORRESPONDENCE

1. Notice of Public Hearing from Fairhaven Contributory Retirement System: Cost of Living Adjustment, March 24, 2020, 9:00 a.m.

G. NOTES AND ANNOUNCEMENTS

1. The next regularly scheduled meeting of the Board of Selectmen is **Monday, March 9, 2020** at 6:30 p.m. in the Town Hall Banquet Room.

ADJOURNMENT

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

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

Appendix C: Introduction to Robert's Rules of Order

Motions

A motion is a proposal that the entire membership take action or a stand on an issue. Individual members can:

- Move a motion
- Second a motion
- Debate motions
- Vote on motions

Types of Motions

Main Motions introduce items to the membership for their consideration. They cannot be made when any other motion is on the floor, and yield to privileged, subsidiary, and incidental motions.

Subsidiary Motions change or affect how a main motion is handled, and are voted on before a main motion.

Privileged Motions bring up urgent items about special or important matters unrelated to pending business.

Incidental Motions provide a means of questioning procedure concerning other motions and have priority.

Presenting a Motion

1. Obtaining the floor
 1. Wait until the last speaker has finished.
 2. Rise and address the Chair by saying, for example, "Mr. Chairman," or "Madam President."
 3. Wait until the Chair recognizes you.
2. Make Your Motion
 - a. Speak in a clear and concise manner.
 - b. Always state a motion affirmatively. Say, "I move that we ..." rather than, "I move that we do not ...".
 - c. Avoid personalities and stay on your subject.
3. Wait for Someone to Second Your Motion
 - Another member will second your motion or the Chair will call for a second. If there is no second, your motion is lost.
4. The Chair States Your Motion
 - a. The Chair will say, "it has been moved and seconded that we ..." Thus placing your motion before the membership for consideration and action.
 - b. The membership then debates your motion, or may move directly to a vote.

c. Once your motion is presented to the membership by the Chair it becomes "assembly property", and cannot be changed by you without the consent of the members.

5. Expanding on Your Motion

- a. The time for you to speak in favor of your motion is at this point in time, rather than at the time you present it.
- b. The mover is always allowed to speak first.
- c. All comments and debate must be directed to the Chair.
- d. Keep to the time limit for speaking that has been established.
- e. The mover may speak again only after other speakers are finished, unless called upon by the Chair.

6. Putting the Question to the Membership

1. The Chair asks, "Are you ready to vote on the question?"
2. If there is no more discussion, a vote is taken.
3. Alternatively, a motion to "move the previous question", if adopted, brings the question to a vote.

Voting on a Motion

The method of vote on a motion depends on the circumstances and the by-laws of your organization. There are five methods used to vote by most organizations:

- **Voice.** The Chair asks those in favor to say, "aye", those opposed to say "no". Any member may move for a exact count.
- **Roll Call.** Each member answers "yes" or "no" as his name is called. This method is used when a record of each person's vote is required.
- **General Consent.** When a motion is not likely to be opposed, the Chair says, "if there is no objection ...". The membership shows agreement by their silence, however if one member says, "I object," the item must be put to a vote.
- **Division.** Members raise their hands or stand with the ayes or the noes. A count is not necessarily required.
- **Ballot.** Members write their vote on a slip of paper. This method is used to maintain secrecy in votes.

Use It Properly

- Allow motions that are in order.
- Have members obtain the floor properly.
- Speak clearly and concisely.
- Obey the rules of debate.
- Most importantly, *BE COURTEOUS*.

Appendix D: Recommended Public Hearing Procedure

Some boards and committees have statutory requirements for public hearings. This process may be used in addition to the legal requirements or may be used for committees that don't have statutory hearing definitions.

1. The chairperson states guidelines and procedures including time limits and decorum.
2. Where necessary, chairperson states background information.
3. In the case of a Selectmen's Dog Hearing, the chairperson will swear in all witnesses prior to giving testimony.
4. Petitioner(s) makes presentation.
5. Information is presented from Town officials and other boards or committees.
6. Board or committee members question petitioner.
7. The public directs questions and comments through the chairperson.
8. The hearing may be continued to another session with a specific date, time and place announced at the hearing.
9. Once all facts, testimony, and opinions have been heard, the chairperson closes the public hearing.
10. The board or committee begins deliberation in an Open Meeting session. Motions may be made and votes may be taken at the board or committee's discretion. The board or committee ultimately votes a decision on the application. The decision usually has a set deadline. A decision usually entails a vote of approval, disapproval, or approval with conditions. Conditions and a rationale for the decision should be clearly spelled out and be based on information given at the hearing, State law, Town reports and studies, and other Town planning documents. Decisions may not be arbitrary and capricious or based on legally untenable grounds.

Appendix E: Purposes for Convening into Executive Session

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:
 - i. to be present at such executive session during deliberations which involve that individual;
 - ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
 - iii. to speak on his own behalf; and
 - iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
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;
4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;
5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;

6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;
7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;
8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;
9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:
 - i. any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
 - ii. no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or
10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

Appendix F: Social Media Policy

Acceptable Use Policy – Computer, Technology, Email, Cell Phone, Internet, Social Media

43-1. *Policy.* The Town of Fairhaven may provide email and/or Internet access to employees who are connected to the municipal network server at the Town Offices and, additionally, to various employees in other town buildings. The purpose of providing these services to employees is to improve communication between departments and to provide the means to communicate and obtain information via the Internet. These services shall be used to improve the efficiency and effectiveness of municipal operations. Access and Control of the Town’s technology resources, equipment, and information shall be as follows:

The Town has established these policies to set the standards for the proper and allowed uses of the Town’s telecommunications systems including telephones, email, facsimile machines (faxes), cell phones, and the Internet, including social media, and to set the standards expected of town personnel in the use of private equipment and media. The use of these capabilities and equipment is subject to the same management oversight as any other employee activity. The Town reserves the right to review and monitor employees’ use of Town systems and communication devices. Employees are advised that they have no legitimate expectation of privacy in regard to their use of the Town’s system and communication devices.

Violation(s) of this policy may result in disciplinary action being taken against the employee, up to and including termination from employment.

Email: Electronic data in the form of email is considered a public record and as such is subject to the requirements of the Public Records Law (MGL c 66) including the requirement to maintain that data, and as applicable to make that data available to the public upon request. Federal courts have also held that electronic mail is considered a record for purposes of the Federal Freedom of Information Act. Electronic data that is generated or communicate by a town employee in the course of his employment, will be considered a public record regardless of whether the equipment used is town owned or personally owned.

Appropriate Use: Email and related online services are the property of the Town and are to be used for business matters directly related to the operational activities of the Town and as a means to further the Town’s objective to provide efficient, complete, accurate, and timely services.

Users shall act professionally, properly identifying themselves, and shall ensure that they do not misrepresent themselves or the Town.

The telecommunications systems (including Town office Wi-Fi access) shall not be used for:

- Personal gain or to conduct personal business, political activity, non-Town-related fundraising activity, or charitable activity;
- The transmission of materials used for commercial promotion, product endorsement, or political lobbying;

- Discriminate, or promote discrimination, on the basis of race, color, national origin, age, marital status, sex, political affiliation, religion, disability, or sexual preference; to promote, cause, or contribute to sexual harassment; or to promote personal, political, or religious business or beliefs;
- To violate any of the Town's personnel policies;
- For any illegal activity, including but not limited to, the transmission of copyrighted or trade secret material, the transmission of obscene, defamatory, or threatening material, or the propagation of any criminal activity.

No user shall violate the computer security systems or procedures implemented by the Town, the IT Director or his/her designee, including proper use of passwords, security systems, and virus detection programs. For security purposes, employees should either log off or revert to a password screensaver when leave their computer for an extended period. When leaving for the day, employees should log off and power down all electronic equipment.

Employees are expected to use careful consideration before opening emails or files from unknown senders. Employees are prohibited from downloading or transferring unauthorized software or files. No user shall pirate, download, or transfer software for which the user does not have the proper licensing. Additional restrictions or regulations on the importing of remote files may from time to time be imposed, and such restrictions or regulations shall be considered part of this policy.

Internet browsing should be limited to Internet sites directly related to the user's job function. Internet browsing for personal use is prohibited. The use of town equipment and access for the purpose of private social networking is prohibited. Users shall not engage in activities that could cause congestion and disruption of networks and systems, including but not limited to consuming excessive system resources.

Open Meeting Law Compliance: All provisions of the Massachusetts Open Meeting Law apply to email communication.

41-2. *Social Networking*. Whether acting within the scope of employment for the Town, or not, employees are encouraged to use professional judgment at all times concerning personal and professional use of social networking sites. In using social networking sites, employees should at all times be respectful to co-workers, residents, or persons seeking assistance from the Town. Employees should not disclose confidential information, engage in any unlawful activity, or convey information that is disparaging or defamatory while using social networking sites, and must refrain from making comments or statements based upon race, color, gender, national origin, religion, ancestry, age, sexual orientation, disability, maternity leave, genetics, active military status, or another basis prohibited under state or federal anti-discrimination statutes, or which may otherwise interfere with the ability of the Town government to function properly. Such statements or comments occurring online and/or through the use of social networking sites will not be tolerated and may be subject to disciplinary action.

Subject to applicable law, online activity outside of work that violates the Town's Personnel Policies may subject an employee to disciplinary action, up to and including termination. Use of social media during work hours, except as related to town business or postings, is prohibited and subject to disciplinary action.

43-3. *Mobile Devices Provided by the Town.* Employees whose work requires the issuance of a mobile device will be provided such device at the recommendation of the Department Head and the approval of the Town Administrator. Employees who do not accept a Town mobile device, and instead opt to use their own device, shall be eligible to receive a stipend, upon furnished proof of cell phone invoice paid. Such proof shall be provided to the Town Accountant's office, along with any reimbursement/payable cover sheets, and shall be signed by the Town Administrator for reimbursement. Employees who opt to use their own mobile devices for Town business must seek approval from their Department Head and should be advised that their device may be subject to records access laws. The rate of payment for cell phone stipends will be periodically reviewed. Proposed cell phone stipends must be included in the annual departmental budget and are subject to Town Meeting appropriation. Users are responsible for the physical safety of their Town-provided devices and must report lost/stolen/damaged equipment immediately to the technology staff (IT Department).

43-4. *Usage Guidelines.*

- Detailed records of the use of Town mobile devices are public records and may be requested at any time.
- Mobile devices provided by the Town are to be used predominately for work-related purposes. Personal use that incurs charges must be paid for by the employee.
- In addition to this policy, the use of mobile devices is governed by personnel policies which relate to the use of all Town computing equipment.
- Town employees and elected officials may use social media and social networking services and tools for personal use outside of the workplace. However, these types of tools can sometimes blur the line between professional and personal interactions. Therefore, employees and elected officials are reminded that as representatives of the Town of Fairhaven, the above policies should be taken into consideration when participating in these services at any time, particularly when identifying themselves as employees of the Town or when context might lead to that conclusion, employees and volunteers should use discretion and common sense when employing social media, to help prevent inadvertently compromising professional, legal, or ethical standards, or otherwise violating this policy.

Appendix G: Official State Holidays

The current list of official State holidays is:

New Year's Day – January 1
Martin Luther King Day – third Monday in January
President's Day – Third Monday in February
Patriot's Day – Third Monday in April
Memorial Day – Last Monday in May
Independence Day – July 4
Labor Day – First Monday in September
Columbus Day – Second Monday in October
Veterans' Day – November 11
Thanksgiving Day – Fourth Thursday in November
Christmas Day – December 25

The Town Hall offices are closed on these observed holidays and only emergency personnel is available.

Please Note: Christmas Eve and New Year's Eve are half-days and the Town Hall offices close at noon. Also, the Town Hall offices are closed the Friday after Thanksgiving. If Christmas falls on a Tuesday, the Town Hall offices will be closed on the Monday Christmas Eve. If Christmas falls on a Thursday, the Town Hall offices will be closed on the following Friday.

Adopted by vote of the Board of Selectmen on September 10, 2018
Revised by vote of the Board of Selectmen on December 7, 2020

ACKNOWLEDGEMENT OF RECEIPT OF BOARD AND COMMITTEE HANDBOOK

Please sign and return this page to the Town Clerk's Office.

I, _____, hereby acknowledge that I have
(Print Name)

received a copy of the "Town of Fairhaven's Board and Committees Handbook" and agree to familiarize myself with the contents thereof.

(Signature)

(Email address)

(Name of Board /Committee/Commission)

(Date)