



Fairhaven Board of Selectmen

January 22, 2014 Meeting Minutes

Present: Chairman Charles Murphy, Vice Chairman Robert Espindola, Clerk Geoffrey Haworth, Executive Secretary Jeffrey Osuch, and Administrative Assistant Anne Kakley.

Chairman Charles Murphy called the meeting to order in the Town Hall Banquet Room at 6:39 p.m. The meeting was telecast and video recorded by Government Access.

MINUTES

- Mr. Espindola motioned to approve the minutes of the **December 30, 2013** meeting, **open** session. Mr. Haworth seconded. Vote was unanimous. (3-0).
- Mr. Espindola motioned to approve the minutes of the **December 30, 2013** meeting, **executive** session. Mr. Haworth seconded. Vote was unanimous. (3-0).
- Mr. Espindola motioned to approve the minutes of the **January 6, 2014** meeting, **open** session. Mr. Haworth seconded. Vote was unanimous. (3-0).
- Mr. Espindola motioned to approve the minutes of the **January 6, 2014** meeting, **executive** session. Mr. Haworth seconded. Vote was unanimous. (3-0).

EXECUTIVE SECRETARY'S REPORT

In his report, Mr. Osuch updated the Selectmen on the following meetings:

- Thursday, **January 23** –
 - 9:00 a.m. – Buzzard's Bay Action Committee meeting in Wareham
 - 7:00 p.m. – Finance Committee – Police Contract
- Friday, **January 24** –
 - 10:30 a.m. – Brown and Caldwell discussion
- Monday, **January 27** –
 - 8:30 a.m. – Retirement Board meeting at the Town Hall
- Thursday, **January 30** –
 - 7:00 p.m. – Finance Committee meeting at BPW building

GOVERNOR'S BUDGET FOR FY15

Mr. Osuch informed the Board that the Governor's proposed FY15 budget had been released that day and that the numbers were not good. Unrestricted aid is again level-funded. Mr. Osuch said that he recommended the Selectmen schedule two independent meetings to deal with budget

preparations, including meeting with department heads to discuss FY15 requests. The Board reviewed their schedules and agreed to meet on Thursday, February 20, 2014 from 5:00 to 7:00 p.m. to discuss the budget.

SAND AND SALT DEFICIT SPENDING

Mr. Osuch said that at the previous Finance Committee meeting, there was a discussion on a Special Town Meeting article asking for \$20,000 for Sand and Salt in FY14. Instead of supporting the article, the Finance Committee voted to deficit spend up to \$20,000 in FY14. The overage will have to be appropriated at a future Special Town Meeting or through a Reserve Fund transfer. Because the Finance Committee took a vote to deficit spend, the Board of Selectmen would also have to take a similar vote to authorize it. Mr. Espindola motioned to deficit spend in the BPW budget line item "Sand and Salt" in FY14, up to \$20,000. Mr. Haworth seconded. Vote was unanimous. (3-0).

REQUEST FOR USE OF AUDITORIUM – GLORIA AND COMPANY

The Board reviewed a request from Gloria and Company to use the Town Hall Auditorium on Sunday, February 9 from 6:00 to 9:00 p.m. The event will raise funds for the International Organization for Women, a non-profit organization. As such, Mr. Murphy recommended waiving the rental fee and only charging the janitor fee. Mr. Espindola motioned to approve the application with the waiving of the rental fee. Mr. Haworth seconded. Vote was unanimous. (3-0).

Mr. Espindola also motioned to approve a one-day, all-alcohol license for the Gloria and Company event (the servers are TIPS certified). Mr. Haworth seconded. Vote was unanimous. (3-0).

MILLICENT LIBRARY TRUSTEE APPOINTMENT

The Board reviewed applications to fill the unexpired term of Myra Lopes, who passed away in November, 2013. Two applications were submitted from the Library Director, Carolyn Longworth. The Board agreed to appoint Pamela Kuechler, due to her longstanding interest in having a position on this board. Mr. Espindola motioned to appoint Ms. Kuechler to the Millicent Library Board of Trustees. Mr. Haworth seconded. Vote was unanimous. (3-0).

INSURANCE ADVISORY COMMITTEE

Mr. Osuch said that the Board would have to appoint a Selectman to act as the Town representative on an Insurance Advisory Committee, to negotiate new terms with Union representatives in regards to their health insurance coverage. Mr. Espindola volunteered to be the Selectman representatives. Mr. Osuch said that the meetings would likely be mid-day, but Mr. Espindola said that he would be able to attend the mid-day meetings if he had enough notice.

Mr. Haworth motioned to appoint Mr. Espindola to be the Selectman representative on the Insurance Advisory Committee. Mr. Murphy seconded. Vote was unanimous. (3-0).

CDBG 2014 APPLICATION

Mr. Murphy opened a public hearing at 7:00 p.m. for the final hearing for the 2014 CDBG Application. Bill Roth was present.

Mr. Roth explained that the target area would be the area surrounding the Anthony School. He said that his department had applied for that area and has not heard back from the State, but that they strongly feel that the area will qualify and be approved. The area also has a lack of drainage. Mr. Roth said that the BPW will pay for a small portion to extend the construction to Linden Avenue beyond the scope of the CDBG project. Mr. Roth said that the Town was eligible to apply for up to \$900,000, but that he may not opt to max out their application because the Town cannot receive any more than \$1.38 in two years. He said that he may keep the request low to allow for the possibility to apply in 2015 as well.

There was no comment from the Board. Mr. Murphy opened the meeting to public comment. There was none.

Mr. Espindola motioned to approve and submit the 2014 CDBG application and authorize the chairman to sign any and all documents. Mr. Haworth seconded. Vote was unanimous. (3-0).

PLANNING INTERN APPOINTMENT

The Board received a recommendation from the Town Planner, Bill Roth, to appoint Alexandra McIntosh to the position of Intern for the Planning and Economic Development department. Mr. Roth said that the recommendation came after interviewing three candidates. Ms. McIntosh, a U Mass Dartmouth student, came with the recommendation of current intern, Toni O'Leary.

Mr. Espindola motioned to appoint Ms. McIntosh to Intern for the Planning and Economic Development department. Mr. Haworth seconded. Vote was unanimous. (3-0).

WEST ISLAND 5K

The Board read a letter from Lyle Drew requesting permission to hold the third annual West Island 5K on April 27, 2014, contingent upon Police approval.

The Board expressed support for the application, and said that the previous West Island 5Ks were very well organized. Mr. Espindola motioned to approve the event and to approve the no-fee use of Hoppy's Landing. Mr. Haworth seconded. Vote was unanimous. (3-0).

WASTE DISPOSAL AGREEMENTS

The Board reviewed Waste Disposal Agreements with Frade's and ABC for 2014. Mr. Haworth asked Mr. Osuch what the Town made for revenue off selling space at the landfill. Mr. Osuch said that the space is \$60 per ton. Mr. Espindola motioned to approve and sign the two agreements. Mr. Haworth seconded. Vote was unanimous. (3-0).

HOUSING AUTHORITY APPOINTMENT

The Board met with Jay Simmons, Chairman of the Fairhaven Housing Authority, at 7:15 p.m. to discuss an appointment to fill the unexpired term of Jimmie Oliver, who passed away.

Mr. Simmons showed support for the only applicant, Gregory Tutcik, saying that Mr. Tutcik has attended meetings of the Housing Authority. He said that this is an unexpired term, so the term would only last until April, when Mr. Tutcik would have to take out papers and run as a new candidate.

The Board agreed that Mr. Tutcik was the apparent appointee, but asked whether the Housing Authority had posted the joint meeting of January 22 with the Town Clerk. It was determined that the meeting had not been posted. Additionally, there was question as to whether or not they legally fulfilled a quorum of both the Housing Authority and the Board of Selectmen with only Mr. Simmons present. Therefore, the Board of Selectmen tabled the appointment for the February 3 agenda. Mr. Murphy said that he would like to see the Housing Authority meeting clearly posted and that hopefully more Housing Authority members would be present for the appointment.

ANIMAL SHELTER DONATIONS

The Board approved Animal Shelter donations totaling \$530.00. Most of the donation came from Adam Katz. Mr. Espindola motioned to accept. Mr. Haworth seconded. Vote was unanimous. (3-0).

BOAT RAMP COMMITTEE

Based on a letter of request, Mr. Espindola motioned to appoint Frank Coelho, Ronald Lacasse, Robert Hobson, Theodore Lorentzen and Peter Nopper to the Boat Ramp/Shellfish Committee. Mr. Haworth seconded. Vote was unanimous. (3-0).

Mr. Espindola motioned to appoint David Darmofal to the Boat Ramp/Shellfish Committee as well. Mr. Haworth seconded. Vote was unanimous. (3-0).

HISTORICAL COMMISSION APPOINTMENT

The Board reviewed a letter from Gary Lavalette requesting appointment to the Historical Commission. The Board said that Mr. Lavalette would be a good addition to any Town committee. The Board thanked Mr. Lavalette for his efforts in removing graffiti at Fort Phoenix. Mr. Espindola motioned to appoint Mr. Lavalette to the Historical Commission. Mr. Haworth seconded. Vote was unanimous. (3-0).

ROGERS-OXFORD STUDY COMMITTEE

At 7:32 p.m., the Board met with members of the Rogers-Oxford Study Committee to discuss an article for the February 12, 2014 Special Town Meeting warrant. Gayla Reilly, Nils Isaksen,

Gary Lavalette and Thomas Alden were present. Discussion ensued on the efforts that the Rogers-Oxford Study Committee have made to present, including the development of an RFP. Mr. Isaksen said that in order to have the possibility of selling the properties, the Town must have a clear deed. The Rogers School deed will be simple, he said, and would cost about \$250, but the Oxford School will be more complicated and could cost thousands of dollars.

The Committee's original request for the STM was \$15,000, to include \$3,000 for legal costs. Mr. Isaksen said that the new request was \$12,000. Mr. Isaksen said that the Committee would like confirmation from the Board of Selectmen that they were going in the right direction. He also said that the Committee would like answers to the following questions:

- Does the Board know of any Town uses for either of the properties for which the Committee should consider?
- Does the Board have any preference to selling or leasing?
- The Committee plans to invite the community to discuss proposed limitations on the buildings. Does the Board agree that having a public meeting in this regard is a worthwhile cause?

Mr. Espindola said that Town Counsel went to the Registry of Deeds and indicated that there were documents missing related to the Oxford School, and for that reason, the research would be more complicated and would cost more.

Mr. Roth said that there were two unaccepted "paper streets" running through the Oxford School that would further complicate the deed research.

Gary Lavalette was recognized. He said that he went to the Registry of Deeds and that in March 1998 the section of the Oxford lot that contains the Fire Station #3 was separated and purchased for a solar. The Town still owns the property, but the 800 sq.ft. building has been separated from the larger lot.

John Rodrigues was recognized. He said that he supported treating the Rogers and Oxford properties separately. He said that the Board of Selectmen would have to declare that the properties are subject to disposition. He said that what the Committee had prepared was a solicitation, and not an RFP. He added that any recommended restrictions for use on the buildings would likely be addressed by the zoning.

Discussion ensued on possible uses for the buildings. Mr. Haworth said that he thought it had been made clear that the Town had no municipal uses for the buildings and that the Town did not have any money to maintain the buildings. He said that they have to figure out the value of the buildings before creating an RFP.

Mr. Alden said that it was a good idea to separate these two buildings, and agreed that they should complete some research before going forward with an RFP.

Mr. Roth added that with the Rogers School, they would need to determine what would be included in the RFP – there is a sewer line and a park to consider retaining for ownership.

Mr. Osuch said that the Town has no use for those buildings and no money to maintain them. He said that even leasing them would prove to be problematic, as someone would need to be responsible for the lease term. He said that the last building that the Town leased was the MacLean Seafood Building, which was left in deplorable condition. Mr. Osuch recommended talking to a real estate agent who specializes in these types of sales and a contractor who specializes in retrofitting buildings. He added that it may not be a popular decision, but in the end, the most cost effective solution to the Town may be to raze the buildings.

Mr. Espindola said that the Committee came up with the RFP because the kinds of experts that Mr. Osuch mentioned want to be paid to share their expertise.

Mr. Murphy concurred that there was no Town use for the buildings. He asked if there was a possibility to bring in a speaker from Everett to a meeting to explain why the Town of Everett had to issue two RFPs on a similar project. He said that this would be a process that could not be expected to be completed quickly.

Mr. Espindola asked for the Board to authorize Town Counsel to get started on the title work for the Rogers School. Mr. Espindola motioned to authorize Town Counsel to start title work on the Rogers School, for up to \$250 of the original \$1,000 allotted amount. Mr. Haworth seconded. Vote was unanimous. (3-0).

MINERVA’S – CHANGE OF MANAGER

At 8:23 p.m., Mr. Murphy opened a public hearing for a Change of Manager for Minerva’s Pizza House. Manager Jonathan Aurelio was present.

The Board reviewed the application. Taxes, Building and Health departments and worker’s compensation were all okayed. The meeting was opened up to public comment. There was none. Mr. Espindola motioned to approve the Change of Manager to Jonathan Aurelio for Minerva’s Pizza House. Mr. Haworth seconded. Vote was unanimous. (3-0).

REQUEST FOR USE OF TOWN COUNSEL – AL BENAC

The Board reviewed a Request for Use of Town Counsel from Al Benac regarding the ownership of the Rogers School deed and portrait, currently in the School Department’s possession.

Mr. Benac was present. He said that he made the request because he has continually been “put off” by the School Department regarding the ownership and location of the Rogers deed and portrait. He asked the Board of Selectmen who was to make decisions regarding the Rogers deed and portrait – the Board of Selectmen or the School Committee? He said that he had attempted to get answers from Dr. Baldwin, Pam Kuechler and Paul Kitchen, with no results. He said that he went to the Police Department on January 2 to report the deed and portrait missing; and that the letter that Dr. Baldwin had issued to the Board of Selectmen regarding the incident

was inconsistent with how he documented the events. (See Attachment A for Dr. Baldwin's letter).

Mr. Espindola suggested that the Board write a letter to the School Committee. He said that he was not in favor of using Town Counsel for the matter.

Mr. Murphy said that he had spoken with School Committee Chairperson Pamela Kuechler, who said that the picture and deed are on display in the Wood School library for former Rogers School students, to aid in their transition to the new school community. Mr. Murphy said that she indicated the School Department would like to maintain use of the deed and portrait until the end of the year. Mr. Benac said that he was amenable to a temporary loan of the deed and portrait to the School Department for one year, as long as the agreement was in writing.

Mr. Haworth said that the deed and portrait were clearly Town property and that they could work out the issue without using Town Counsel. The Board agreed to send a letter to the School Department offering the deed and portrait on temporary loan, to be returned after a year.

STM ARTICLES

The Board reviewed the warrant for the February 12, 2014 Special Town Meeting and made its recommendations. (See Attachment B for the warrant).

Under Article 1 – TOWN CHARGES:

1. Selectmen – Salaries and Wages – The Board voted to recommend \$2,481. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).
2. Fire Department – Purchase of Services – The Board voted to recommend \$15,000. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).
3. Board of Health – Salaries and Wages – The Board voted to recommend \$603. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).
4. Enforcement Agent – Salaries and Wages – The Board voted to recommend \$207. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).
5. Bristol County Agricultural High School – The Board voted to recommend \$887. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).
6. Town Insurance – The Board voted to recommend \$10,000. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).

Under Article 2 – FUNDING LABOR CONTRACTS – 2014

1. Clerical Union – Salaries and Wages – The Board voted to recommend \$2,800. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).

2. Police Union – Salaries and Wages – The Board did not yet have a figure for a recommendation, but Mr. Osuch said that the figure would range from upper \$50,000 to lower \$60,000.

3. Dispatcher Union – Salaries and Wages – No settlement has been struck, so the Board will recommend a Pass Over.

4. Fire Union – Salaries and Wages – No settlement has been struck, so the Board will recommend a Pass Over.

Under Article 3 – **FUNDING NON-UNION LABOR – 2014**

The Board voted to recommend \$4,600. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).

Under Article 4 – **BILLS OF PRIOR YEAR**

The Board voted to recommend \$44.45 for Hawthorn Medical Associates; \$100 for Southcoast Physicians Group; \$41.58 for Southcoast Physicians Group; \$65.91 for Southcoast Physicians Group; \$1,483.26 for Southcoast Physicians Group; \$551.03 for Arbella Mutual Insurance Company; \$89.42 for Hawthorn Medical Associates; \$26.84 for Southcoast Hospitals Group; and \$35 for Parakrama Anata. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).

Under Article 5 – **ROGERS-OXFORD SCHOOLS FY14**

The Board voted to recommend \$5,000. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).

Under Article 6 – **MACLEAN SEAFOOD BUILDING**

The Board voted to recommend \$25,000 from the Waterways Account. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).

Under Article 7 – **UNION WHARF BULKHEADS – SOUTHERN SECTION**

The Board voted to recommend \$150,000 from the Waterways Account. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).

Under Article 8 – **AMENDMENT TO ZONING BYLAWS**

The Board voted to recommend Adoption. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).

Under Article 9 – **TEMPORARY MEDICAL MARIJUANA TREATMENT CENTER MORATORIUM**

The Board voted to Yield to Petitioner. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).

Under Article 10 – **TOWN BYLAW AMENDMENT – SNOW BAN PARKING**

The Board voted to recommend Adoption. Mr. Espindola motioned. Mr. Haworth seconded. Vote was unanimous. (3-0).

Under Article 11 – **ROGERS-OXFORD SCHOOL PROPERTIES**

The Board took no action.

Under Article 12 – This article has been withdrawn.

Mr. Osuch said that the articles for the Annual Town Meeting, May 3, 2014, are due Thursday, January 23, 2014.

LOBSTER BASIN REQUEST

The Board reviewed a letter from John Moniz, granting permission to his son Eric Moniz to use his slip at the Lobster Basin. Mr. Espindola motioned to approve the request to authorize Eric Moniz to use the slip rented out by his father. Mr. Haworth seconded. Vote was unanimous. (3-0).

CAPITAL PLANNING ARTICLE/COMMITTEE

Mr. Murphy said that the document provided by Mr. Espindola was reviewed by the Economic Summit Committee. Mr. Murphy said that the comments from the Committee indicated that the time was not ideal to collaborate on a Capital Planning Committee and its formation. No action was taken.

OTHER BUSINESS

- Mr. Espindola asked for an update from Mr. Haworth regarding a summary of savings from the Digester project. Mr. Haworth said that since Mr. Espindola's last request, there had not been a meeting with Brown and Caldwell.
- Mr. Haworth thanked Eric Dawicki for sending his staff over to the Town Hall to help clear snow in the last storm.
- Mr. Haworth said that he would be attending the MMA conference in the upcoming weekend. He said that he was not sure that he would be able to attend the February 3 Board of Selectmen meeting, but that he would try.

- Mr. Espindola asked the Board to give feedback on what the Rogers-Oxford Study Committee should do if Mr. Haworth would not be available at the next meeting to weigh in on a recommendation. Mr. Haworth said that he was not comfortable making a decision yet.

At 9:38 p.m., Mr. Espindola motioned to enter Executive Session, pursuant to MGL 30A § 21:

- To discuss strategy with respect to collective bargaining – Fire, Police Union Contracts
- To discuss personnel issues in the Treasurer’s Office
- To discuss a request from the Clerical Union representative
- To discuss strategy in regards to the MacLean Seafood Building
- To discuss strategy with regards to land acquisition – Mill Road

Mr. Haworth seconded the motion to enter Executive Session for the aforementioned reasons, not to reconvene into open session afterward. Vote was unanimous. (3-0). Roll call vote: Mr. Espindola in favor. Mr. Murphy in favor. Mr. Haworth in favor.

Respectfully,

Anne Kakley

Administrative Assistant
Board of Selectmen
(Minutes approved 02/03/2014)

I am responding to an e-mail that I received from Anne Kakely informing me that the Board of Selectmen wanted a response from the superintendent's office about the whereabouts and ownership of the deed (Rogers School) and the portrait (Henry Huttleston Rogers). Further, the e-mail asked if this something that the school department would be willing to relinquish to the Town?

The Rogers School Deed was on the wall as you first walked into the Rogers School since my tenure began as Superintendent of Schools on July 1, 2005. I am fully aware this is where it was located because we took pictures of the deed to utilize during the gathering of information in 2006 on whether or not to re-locate the Rogers School students or the Oxford School students to the new East Fairhaven School in 2007. The former Rogers School principal verified this location during her entire tenure as the building principal of the Rogers School until its closing in June 2013. The deed currently is on display in the Wood School Library.

Similarly, the photo was never missing as represented in the letter. In fact the custodian of the Rogers School carefully packaged it to move to the Wood School's safe and secure location rather than remaining in an unoccupied building with an uncontrolled climate.

At the suggestion of many community members during the transition from the Rogers School to the Wood School many artifacts were moved to the new school in order to preserve the historical record for generations of school children. Many of these objects are either on display or are planned to be utilized in the new school as part of the transition. I can verify to the Board of Selectmen that in fact the deed and the picture are at the Wood School. This information has been expressed to Mr. Benac on multiple occasions by the building principal, the school business manager, and the Chair of the Fairhaven School Committee.

This information was also verified as part of a police investigation that was initiated by Mr. Benac. On Monday December 2, 2013, I received a message from my office that a Fairhaven Police Officer had been at the administrative center inquiring about the whereabouts of a picture of Henry Huttleston Rogers. That evening (Monday December 2, 2013) I received a message that the secretary of the Wood School went to the box labeled fragile and removed the portrait. The investigating officer informed my office that Mr. Benac was told that both the deed and the painting were located at the Wood School. Our office was informed that the investigating officer stated that he told Mr. Benac that both articles are in control of the School Board.

The ownership of all school buildings and their contents lies with the town. Their care, custody, and control are under the jurisdiction of the school committee. The objects in question are currently under the possession of the school committee. It is their intent to keep them in their possession. If the Board of Selectmen intends on re-purposing any of these artifacts, I stand ready to pass along your recommendations to the school committee for their review.

**WARRANT AND REPORT OF THE FINANCE COMMITTEE
FOR THE SPECIAL TOWN MEETING
WEDNESDAY, FEBRUARY 12, 2014 AT 7:00 P.M.
AT THE ELIZABETH I. HASTINGS MIDDLE SCHOOL**

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, s.s

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 Wednesday, the twelfth day of February 2014 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 – TOWN CHARGES

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to fund additional salary and operating expenses for the following departments. Said sum to be added to previously voted appropriations for FY 2014, or to take any other action relative thereto.

GENERAL GOVERNMENT

- | | | | |
|----|--|------------|-------------|
| 1. | <u>Selectmen</u> | | |
| | a. Salaries and Wages | | |
| | Request: \$2,481.00 | Recommend: | \$2,481.00 |
| 2. | <u>Fire Department</u> | | |
| | b. Purchase of Services | | |
| | Request: \$15,000.00 | Recommend: | \$15,000.00 |
| 3. | <u>Board of Health</u> | | |
| | a. Salaries and Wages | | |
| | Request: \$603.00 | Recommend: | \$603.00 |
| 4. | <u>Enforcement Agent</u> | | |
| | a. Salaries and Wages | | |
| | Request: \$207.00 | Recommend: | \$207.00 |
| 5. | <u>Bristol County Agricultural High School</u> | | |
| | Request: \$887.00 | Recommend: | \$887.00 |
| 6. | <u>Town Insurance</u> | | |
| | Request: \$10,000.00 | Recommend: | \$10,000.00 |

ARTICLE 2 – FUNDING LABOR CONTRACTS – 2014

To see if the Town will vote to supplement the appropriations of Article 4 of the Annual Town Meeting, May 4, 2013 for the purpose of funding the cost in FY 2014 only, of the Collective Bargaining agreement between the Town and the following labor groups, said agreement signed and dated prior to this Town Meeting, or take any other action relative thereto.

- 1. Clerical Union - AFSCME AFL-CIO, Local 851 and to authorize the Town Accountant to allocate the funds to the various affected departments.
 - a. Salaries and Wages
Request: \$2,800.00 Recommend: \$2,800.00

- 2. Police Department – New England Police Benevolent Association, Local 64
 - a. Salaries and Wages
Request: \$56,260.00 Recommend: \$56,260.00

- 3. Dispatcher Union - New England Police Benevolent Association, Local 64
 - a. Salaries and Wages
Request: PASS OVER Recommend:

- 4. Fire Department - International Association of Firefighters, AFL-CIO, Local 1555
 - a. Salaries and Wages
Request: PASS OVER Recommend:

ARTICLE 3 – FUNDING NON-UNION LABOR

To see if the Town will vote to supplement the appropriations of Article 4 of the Annual Town Meeting, May 4, 2013 for the purpose of funding the cost in FY 2014 only, of wage increases for non-union employees and to authorize the Town Accountant to allocate the funds to the various affected departments.

Petitioned by: Board of Selectmen
Request: \$4,600.00
Recommend: \$4,600.00

ARTICLE 4 – BILLS OF PRIOR YEAR

(9/10 VOTE)

- A. Hawthorn Medical Associates
Petitioned by: Police Chief
Request: \$44.45 Recommend: \$44.45

- B. Southcoast Physicians Group
Petitioned by: Police Chief
Request: \$100.00 Recommend: \$100.00

C.	<u>Southcoast Physicians Group</u> Petitioned by: Police Chief Request: \$41.58	Recommend:	\$41.58
D.	<u>Southcoast Physicians Group</u> Petitioned by: Police Chief Request: \$65.91	Recommend:	\$65.91
E.	<u>Southcoast Physicians Group</u> Petitioned by: Police Chief Request: \$1,483.26	Recommend:	\$1,483.26
F.	<u>Arbella Mutual Insurance Company</u> Petitioned by: Fire Chief Request: \$551.03	Recommend:	\$551.03
G.	<u>Hawthorn Medical Associates, LLC</u> Petitioned by: Fire Chief Request: \$89.42	Recommend:	\$89.42
H.	Southcoast Hospitals Group Petitioned by: Police Chief Request: \$26.84	Recommend:	\$26.84
I.	Parakrama Ananta, M.D. Petitioned by: Police Chief Request: \$35.00	Recommend:	\$35.00

ARTICLE 5 – ROGERS-OXFORD SCHOOLS FY14

To see if the Town will vote to raise and appropriate, borrow or transfer a sum of money to maintain the vacant Rogers and Oxford Schools, including repairs, electricity, telephone, security, alarms, etc., and any other associated costs or take any other action relative thereto.

Petitioned by: Board of Selectmen
Request: \$5,000.00
Recommend: \$5,000.00

ARTICLE 6 – MACLEAN’S SEAFOOD BUILDING

To see if the Town of Fairhaven will vote to raise and appropriate, borrow or transfer from available funds a sum of money to cover any additional cost associated with the site work and demolition of the Maclean’s Seafood Building, and any other related expenses, located at Union Wharf; provided however that no portion of said appropriation shall be expended unless the Town is eligible for a grant reimbursement from the Commonwealth of Massachusetts, Executive Office of Housing and Economic Development, Department of Housing and

Community Development, Community Development Block Grant – Disaster Relief in an amount of not less than \$100,000.00 (Maximum Grant \$150,000); or to take any other action relative thereon.

Petitioned by: Department of Planning and Economic Development
Request: \$25,000.00 (from Waterways Account)
Recommend: \$25,000.00

ARTICLE 7 – UNION WHARF BULKHEADS – SOUTHERN SECTION

To see if the Town of Fairhaven will vote to raise and appropriate, borrow or transfer from available funds a sum of money to cover the Town’s 20 percent grant match requirement for the renovations at Union Wharf including but not limited to any and all site work and installations of new bulkheads and any other related expenses; provided however that no portion of said appropriation shall be expended unless the Town is eligible for a grant reimbursement from the Commonwealth of Massachusetts, Seaport Advisory Council in an amount of not less than \$1,500,000.00 (Maximum Grant \$2,000,000); or to take any other action relative thereon.

Petitioned by: Department of Planning and Economic Development
Request: \$150,000.00 (from Waterways Account)
Recommend: \$150,000.00

ARTICLE 8 – AMENDMENT TO ZONING BYLAWS (2/3 VOTE)

To see if the Town will enact the following amendments to the Zoning Bylaw Chapter 198 Section 16, Use Regulations Schedule, Chapter 198 Section 33, Definitions and word use, and add a new section Chapter 198 Section 29.7, Medical Marijuana Facilities, or take any other action relative thereto.

§ 198-16 – Use Regulation Schedule

Use Regulation Schedule

District

Activity or Use	RR & RA	RB	RC	P	B	I	AG	MU ¹⁴	WRP ¹⁶
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COMMERCIAL USES

Medical Marijuana Facilities	N	N	N	N	N	A ²¹	N	N	N
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Notes:

- 21** May only be allowed by Special Permit from the Planning Board only in the Medical Marijuana Overlay District. Any alterations, additions and/or changes of an approved Medical Marijuana Facilities Special Permit shall require a new Special Permit.

§ 198-29.7 –Medical Marijuana Facilities

A. Purposes

- (1) To provide for the establishment of Medical Marijuana Facilities in appropriate places and under strict conditions in accordance with the passage of Initiative Petition 11-11 (Question #3 on the November, 2012 state ballot).
- (2) To minimize the adverse impacts of Medical Marijuana Facilities on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Medical Marijuana Facilities.

B. Applicability

- (1) The commercial cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Medical Marijuana Facility under this Chapter.
- (2) No Medical Marijuana Facility shall be established except in compliance with the provisions of this Chapter.
- (3) Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.
- (4) If any provision of this Chapter or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Chapter, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Chapter are severable.
- (5) Special Permit Granting Authority. The Planning Board shall be the Special Permit Granting Authority (SPGA) for all Medical Marijuana Facilities.

C. Eligible Locations for Medical Marijuana Facilities

- (1) Medical Marijuana Facilities may be allowed by Special Permit from the Planning Board only in the Medical Marijuana Overlay District provided the facility meets the requirements of this Chapter.
- (2) Medical Marijuana Overlay District shall be comprised of the following Map and Lot numbers: Map 24: Lots 16, 16A, 18; Map 26: Lots 62, 62A, 63, 71, 71A, 72; Map 30A: Lots 86A, 86C, 86D, 86H; Map 36: Lots 13, 14, 14A, 14B, 14C, 14D, 14E, 14F, 14K, 14N, 15, 15A, 15B, 15C, 15D, 15F, 15G, 15J. A map of the over lay district is also on file at the Town Clerk's Office and the Planning Board's Office.

D. General Requirements and Conditions for all Medical Marijuana Facilities

- (1) All non-exempt Medical Marijuana Facilities shall be contained within a building or

structure.

- (2) A Medical Marijuana Facility shall comply with Department of Public Health Regulations (currently 105 CMR 725)
- (3) A Medical Marijuana Facility shall not be located in buildings that contain any medical doctor's offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
- (4) The hours of operation of Medical Marijuana Facilities shall be set by the Special Permit Granting Authority, but in no event shall said Facilities be open and/or operating between the hours of 8:00 PM and 8:00 AM.
- (5) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Medical Marijuana Facility.
- (6) No Medical Marijuana Facility shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- (7) Signage for the Medical Marijuana Facility shall include the following language: "Registration card issued by the MA Department of Public Health required." The required text shall be a minimum of two inches in height.
- (8) Medical Marijuana Facilities shall provide the Police Department, Building Commissioner, Board of Health and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the establishment.

E. Special Permit Requirements

- (1) A Medical Marijuana Facility shall only be allowed by special permit from the Fairhaven Planning Board in accordance with M.G.L. c. 40A, §9, subject to the following statements, regulations, requirements, conditions and limitations.
- (2) A special permit for a Medical Marijuana Facility shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:
 - (a) cultivation of Marijuana for Medical Use;
 - (b) processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
 - (c) retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;
- (3) In addition to the application requirements set forth above, a special permit application

for a Medical Marijuana Facility shall include the following:

- (a) the name and address of each owner of the facility;
- (b) copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the Facility;
- (c) evidence of the Applicant's right to use the site for the Facility, such as a deed, or lease;
- (d) if the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;
- (e) Proposed security measures for the Medical Marijuana Facility in compliance with the Department of Public Health Regulations (currently 105 CMR 725), including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.

F. **Mandatory Findings.** The Special Permit Authority shall not issue a special permit for a Medical Marijuana Facility unless it finds that:

- (1) the Facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. c. 40A, §11;
- (2) the Facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
- (3) the applicant has satisfied all of the conditions and requirements of this Chapter;

G. **Annual Reporting.** Each Medical Marijuana Facility permitted under this Bylaw shall as a condition of its special permit file an annual report to and appear before the Special Permit Granting Authority and the Town Clerk no later than January 31st, providing a copy of all current applicable State Licenses for the Facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit and State Regulations. If there is a notice of deficiencies or violations said notice shall be included with the Annual Report.

H. A special permit granted under this Chapter shall have a term limited to the duration of the applicant's ownership and/or lease of the premises as a Medical Marijuana Facility. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Chapter.

J. **Abandonment or Discontinuance of Use**

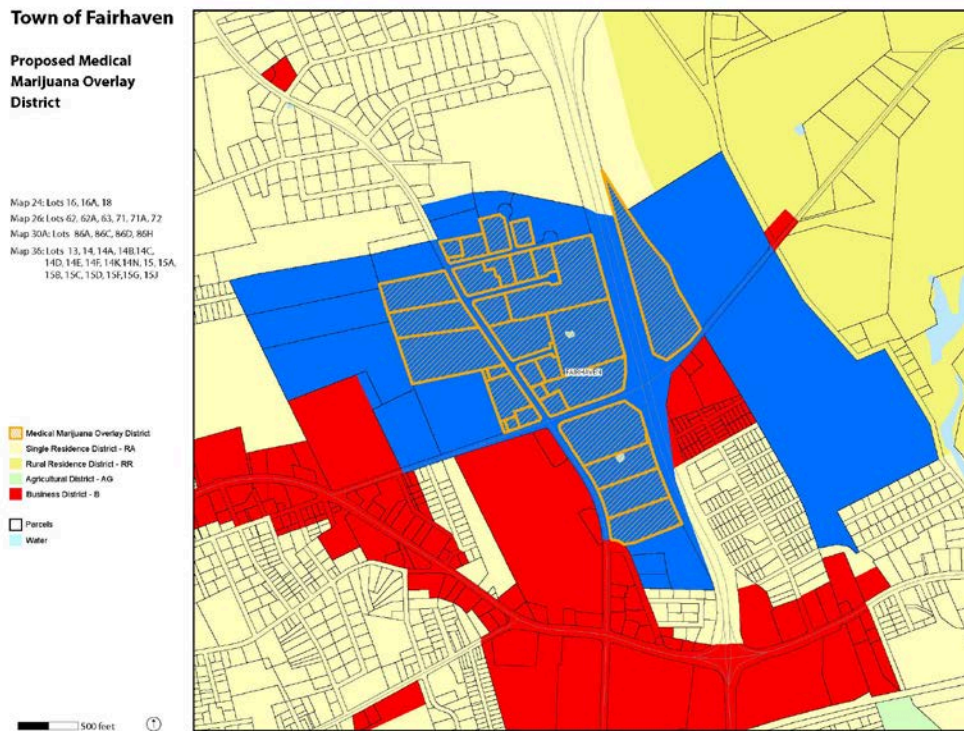
- (1) A Medical Marijuana Facility shall be required to remove all materials, plants, equipment and other paraphernalia:
 - (a) prior to surrendering its state issued licenses or permits; or
 - (b) within six months of ceasing operations; whichever comes first.

§198.33 – Definitions and word use

MARIJUANA – The same substance defined as “marihuana” under Chapter 94C of the Massachusetts General Laws.

MARIJUANA FOR MEDICAL USE – Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as set forth in Citizens Petition 11-11. (Question #3 on the November, 2012 state ballot).

MEDICAL MARIJUANA FACILITY – Shall mean a “Medical marijuana treatment center” to mean a not-for-profit entity, as defined by Massachusetts law only, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. These facilities shall be located inside a structure or building.



Petitioned by: Planning Board
Request: Adoption
Recommend: Yield to Petitioner

**ARTICLE 9 – TEMPORARY MEDICAL MARIJUANA TREATMENT CENTER
MORATORIUM (2/3 VOTE)**

To see if the Town of Fairhaven will vote to amend the Fairhaven Zoning Bylaw by adding a new Chapter 198, Section 15.1, **TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS**, or take any action relative thereto.

§ 198-15.1. TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT CENTERS

- A. Purpose. By vote at the State election on November 6, 2012, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law provides that it is effective on January 1, 2013. On May 8, 2013, the State Department of Public Health promulgated Regulations that are effective on May 24, 2013. Currently under the Zoning Bylaw, a Medical Marijuana Treatment Center is not a permitted use in the Town of Fairhaven and any regulations promulgated by the State Department of Public Health are expected to provide guidance to the Town in regulating medical marijuana, including Medical Marijuana Treatment Centers. The regulation of medical marijuana raises novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Medical Marijuana Treatment Centers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of medical marijuana treatment centers and other uses related to the regulations of medical marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact bylaws in a manner consistent with sound land use planning goals and objectives.
- B. Definition. “Medical Marijuana Treatment Center” shall mean a not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health as a Registered Marijuana Dispensary, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointment), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.”
- C. Temporary Moratorium. For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for a Medical Marijuana Treatment Center/ Registered Marijuana Dispensary. The moratorium shall be effective through June 30, 2014. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the State Regulations and related uses, and shall consider adopting new Zoning Bylaws to address the impacts and operation of Medical Marijuana Treatment Center/ Registered Marijuana Dispensary and related uses;

Petitioned by: Planning Board
Request: Adoption
Recommend: Yield to Petitioner

ARTICLE 10 – TOWN BYLAW AMENDMENT – SNOW BAN PARKING

To see if the Town will vote to amend the Town By-Law by rescinding Chapter 182. Vehicles and Traffic. Part 1. Winter Parking §182-3. Exceptions; by striking the following:

~~There shall be a snow ban on Center Street from Chestnut Street to Pleasant Street only from the north side of the street to the south side of the street to coincide with the Rogers School parking ban. There shall be a snow parking ban on Pleasant Street from Center Street to Union Street only from the east side to the west side of the street to coincide with the Rogers School parking ban.~~

Or take any other action relative thereto.

Petitioned by: Board of Public Works

Request: Adoption

Recommend: Yield to Petitioner

ARTICLE 11 – ROGERS-OXFORD SCHOOL PROPERTIES

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to purchase services including but not limited to the Appraisals, Title Search, Advertising, Preparation of a Request for Proposals and any other related expenses for determining the disposition of the former Oxford and Rogers School properties, or to take any other action relative thereto.

Petitioned by: Rogers-Oxford Study Committee

Request: \$12,000.00

Recommend: At Town Meeting

ARTICLE 12 – OTHER BUSINESS

To act upon any other business which may legally come before this meeting.