



FAIRHAVEN SELECT BOARD

Meeting Minutes

February 21, 2023

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

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

Ms. Powers opened the meeting at 6:30PM

MINUTES:

Motion: Mr. Murphy made a motion to accept the open session minutes of the January 17, 2023, Mr. Silvia seconded. The motion passed unanimously (5-0-0)

TOWN ADMINISTRATOR REPORT

Ms. Ellison updated the Board on:

- Staff Updates: Joanne Correia has been appointed as the interim Principal Assessor. Interviews are being scheduled for the Finance Director position. The Police Department is in the process of staffing two dispatch positions and six police officer positions open due to upcoming retirements and vacancies. Ms. Ellison is recommending the appointment of Mr. Randall Bassett as Building Commissioner.
- Jenna Benoit has resigned her position on the Commission on Disability
- The Bureau of Ocean Energy Management sent a letter regarding their review of Revolution Wind Farm and Revolution Wind Export Cable Project off Quonset Point in Kingston, RI and an offer to consult on effects of this project (**Attachment A**)
- The Collins Center Dispatch Study Report (**Attachment B**) contains an analysis of the feasibility of the Town's Emergency Communication Service joining a Regional Emergency Communication Center or remaining its own Emergency Communication Service with enhancement recommendations. Ms. Ellison did spend half a day in dispatch and observed the process which, at times, is not efficient or effective. She will be attending a regional dispatch meeting with the Police and Fire Chiefs this week as part of the Southeastern Massachusetts Regional Emergency Communication Center (SEMRCC) in Holbrook, MA.
- A notice was received from the Massachusetts Department of Environmental Protection (MassDEP) regarding an oil spill in the waters off Union Wharf on January 28, 2023, the responsible party has been responsive to the MassDEP.
- Ms. Ellison introduced Mr. Rich Bienvenue, Assistant Town Administrator and Finance Director for the Town of Eastham, as budget consultant for the Town. Mr. Bienvenue presented a first draft summary of the FY24 budget and will be working on a budget book for FY24 which will include prior year (PY) figures for the past three PY. There is a potential need for a proposition 2 ½ override as the current tax levy does not support the budget. The numbers will change a few more times as the state sends out local aid figures. Mr. Bienvenue and Ms. Ellison will schedule joint meetings with the Select Board and Finance Committee.

- The Fairhaven Council on Aging (COA) reopened its Senior Social Day Program and was featured on the cover of the February 2023 issue of Senior Scope magazine.
- A Legislative Breakfast is scheduled for March 3, 2023 at Coastline Elderly Services with a focus on mental health, housing and nutrition. Fairhaven has been asked to host a Legislative Breakfast in March, the logistics are being worked on.
- The new furniture has been set up in the Town Administrator's office, all are welcome to stop in. The countertop in the Select Board office will be relocated to the Collector's Office within the next few weeks.

BELONGING COMMITTEE APPOINTMENT: RICHARD CANCIO

Mr. Richard Cancio attended via zoom and discussed his background and interest in the Belonging Committee.

Motion: Mr. Murphy motioned to appoint Mr. Richard Cancio to the Belonging Committee until May 2023 and to a full year term to end May 2024. Mr. Silvia seconded. The motion passed unanimously (5-0-0).

Randall "Randy" Bassett: building commissioner

Mr. Randall "Randy" Bassett was introduced for the Building Commissioner position. He discussed his background.

Motion: Mr. Murphy motioned to approve the Town Administrator's appointment of Randall Bassett as the Building Commissioner. Mr. Silvia seconded. The motion passed unanimously (5-0-0).

AQUACULTURE LICENSE: MATT LOO

Mr. Matt Loo appeared with Harbormaster Tim Cox to ask for the Board to approve a ten-year Aquaculture License. Mr. Loo has had an Aquaculture License since 2012. Ms. Ellison advised the Board that Town Counsel has reviewed the request and has advised that under Massachusetts General Law the matter needs to be handled through a Town Meeting article. Mr. Loo's request and any current Aquaculture Licenses will need to be handled this way and Ms. Ellison will work with Town Counsel on drafting the article. Mr. Loo asked if he could meet with Ms. Ellison and review the matter for further clarification.

The matter was tabled.

FAIRHAVEN FATHER'S DAY ROAD RACE, USE OF PUBLIC ROADS

The application for the use of public roads for the Fairhaven Father's Day Road Race was reviewed. They have received support from the Fire, Police and Department of Public Works (DPW).

Motion: Mr. Murphy motioned to approve the Father's Day Road Race to be held June 18, 2023 from 9AM as outlined in the proposal, approved by Police, Fire and DPW. Mr. Silvia seconded. The motion passed unanimously (5-0-0).

POLICY ON REMOVAL OF NON-HAZARDOUS TREES

Tree Warden Don Collasius reviewed the draft of a policy on the removal of non-hazardous trees. The policy draft was taken from what the Tree Warden for Acton, MA wrote. (*Attachment C*)

Motion: Mr. Murphy motioned to adopt the removal of non-hazardous public shade tree policy

pending Town Counsel review. Mr. Silvia seconded. The motion passed unanimously (5-0-0).

2022 SELECT BOARD/TOWN ADMINISTRATOR ANNUAL REPORT

The Board reviewed the draft of the article from the Select Board and Town Administrator for the 2022 Annual Report and suggested edits. The Board will send Ms. Hart an accomplishment highlight from the goals and Ms. Powers will take the recommendations and re-write the article.

Motion: Mr. Murphy motioned to approve what was written so far and authorize the Chair to add additional details to finalize the report. Mr. Silvia seconded. The motion passed unanimously (5-0-0).

2023 SELECT BOARD MEETING CALENDAR

The Board discussed recommendations for meetings in the summer and amended dates (*Attachment D*). The Board will also review the first half of 2024 in an October meeting.

Motion: Mr. Murphy motioned to adopt the 2023 Select Board meeting calendar as amended, removing the dates of July 3, 2023, August 7, 2023 and September 5, 2023. Mr. Silvia seconded. The motion passed unanimously (5-0-0).

PROTOCOL ON DISSEMINATION OF INFORMATION

Ms. Powers read Ms. Ellison's memo dated February 15, 2023 regarding information dissemination, open meeting question and answer into the record (*Attachment E*). The Board agreed there was no further action needed.

COMMITTEE LIAISON REPORTS

Mr. Espindola reported:

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

Mr. Correy reported:

The Library meets tonight, Economic Development was postponed, Digital Equity is in the process of using a grant to hire a consultant for the project, the Belonging Committee is hosting an event for Black History Month at the COA on February 23, 2023 from 5:00-7:00p.m. where they will present Dr. Jibreel Khazan with a proclamation.

Ms. Powers had no meetings to report

Mr. Silvia had no meetings to report

Mr. Murphy reported:

The Manjiro Society met and discussed that Japan has gone to mask wearing being optional as a sign of getting back to normal. The Cultural Center has students from Greater new Bedford Regional Vocational Technical High School working on the project.

PUBLIC COMMENT

Ms. Michelle Costen of 54 Spring St., received data on the number of short term rentals (STR) in the Town and was told Fairhaven is over the cap of 120 per the bylaw and said Fairhaven needs to find a way to control this and not go over the cap.

Mr. Robert Grindrod of 48 Center St., commented that it is wise to go beyond the Collins Center Study

with an emergency communication center with surrounding towns and not look to participate with Holbrook, a local option is only about two-three pages of the sixteen-page report.

Ms. Ellison added a Press Release is online regarding the electric vehicles and the chargers. The charging stations at DPW are available to all town residents at no cost (at this time) subject to change if needed.

BOARD MEMBER ITEMS

Mr. Correy reminded everyone to get involved by looking for volunteer opportunities. Reminder on the Black History Month event at the COA this Thursday.

Mr. Espindola reminded everyone about the Community Electric Aggregation opportunity and gave the number.

NEWS AND ANNOUNCEMENTS

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

EXECUTIVE SESSION

Mr. Murphy motioned to enter into executive session and not return to open session. Mr. Silvia seconded. Roll Call Vote: Mr. Espindola in favor, Mr. Correy in favor, Ms. Powers in favor, Mr. Silvia in favor, Mr. Murphy in favor. The motion passed unanimously (5-0-0).

Meeting adjourned to executive session at 8:23 p.m.

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

Attachments:

- A. Department of the Interior letter regarding Revolution Wind project**
- B. Collins Center Study-Dispatch Facility and Operations**
- C. Policy draft on removal of non-hazardous public shade trees**
- D. Select Board 2023 meeting calendar**
- E. Memo on Open Meeting question and response**
- F. Committee Liaison Report-Robert Espindola**



United States Department of the Interior

A

BUREAU OF OCEAN ENERGY MANAGEMENT
WASHINGTON, DC 20240-0001

Date February 7, 2023

Angie Lopes Ellison
Town Administrator
Town of Fairhaven
40 Center Street
Fairhaven, MA 02719

RE: Invitation to consult on the Revolution Wind Farm and Revolution Wind Export Cable Project, North Kingstown, Rhode Island, and Notification of Using the NEPA Process to Fulfill NHPA Section 106 Obligations

Dear Ms. Ellison,

The Bureau of Ocean Energy Management (BOEM), serving as lead federal agency under the National Historic Preservation Act (NHPA) and the National Environmental Policy Act (NEPA), is reviewing the Revolution Wind Farm and Revolution Wind Export Cable Project (the Project) (Figure 1). The wind farm is proposed in federal waters managed by BOEM on the Outer Continental Shelf (OCS) and export cabling would connect through Rhode Island (RI) state waters to a landing point and substation near Quonset Point in North Kingstown, RI. The study area for the project extends into Connecticut, Massachusetts, and New York (Figure 2).

BOEM determined the Project constitutes an undertaking subject to Section 106 of the NHPA and BOEM is using the NEPA process to fulfill its NHPA Section 106 obligations for the Revolution Wind Construction and Operations Plan (COP). BOEM has made a finding of adverse effect (Finding), for the Project pursuant to the regulations guiding the Section 106 process at 36 Code of Federal Regulations (CFR) 800.5. BOEM has determined the Project would result in visual adverse effects to 101 historic properties from offshore Project elements. Potentially visible offshore Project structures, as currently submitted to BOEM in the COP for Revolution Wind Farm, consist of up to 100 Wind Turbine Generators and up to two Offshore Substations on the OCS. A list of historic properties where visual adverse effects would potentially result from the Project can be found in Volume I (page 3.10-19) of the draft environmental impact statement (DEIS), within Table 3.10-6, at:

[https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/Revolution Wind DEIS Vol1 508.pdf](https://www.boem.gov/sites/default/files/documents/renewable-energy/state-activities/Revolution%20Wind%20DEIS%20Vol%201%20508.pdf).

BOEM is preparing to resolve the adverse effects through the development, execution, and implementation of a Memorandum of Agreement in consultation with participating consulting parties. BOEM's continued consultation to resolve adverse effects includes consideration of appropriate avoidance, minimization, and mitigation measures.

Through this letter, BOEM is notifying potential consulting parties, such as you/your organization, within whose administrative areas or under whose ownership that adversely affected historic properties might be situated. BOEM's invitation to consult remains open for additional consulting parties to join. If you are an individual or represent an organization with a demonstrable interest in the Project as relates to historic properties and would like to inquire about participating in the on-going consultation on the Project under the NHPA Section 106 consultation you may email this inquiry to culturalresources@swca.com. SWCA Environmental Consultants is the third-party contractor assisting BOEM with its Section 106 process. For information on the Project, its Section 106 documents, and the DEIS, including regarding the potential for visual impacts on historic properties, please visit <https://www.boem.gov/renewable-energy/state-activities/revolution-wind>.

Sincerely,

Sarah Stokely

Sarah Stokely
Section 106 Team Lead
Office of Renewable Energy Programs

Enclosures:
Figures 1 and 2 (attached maps)

Figure 1: Map of Proposed Revolution Wind Farm Project Area

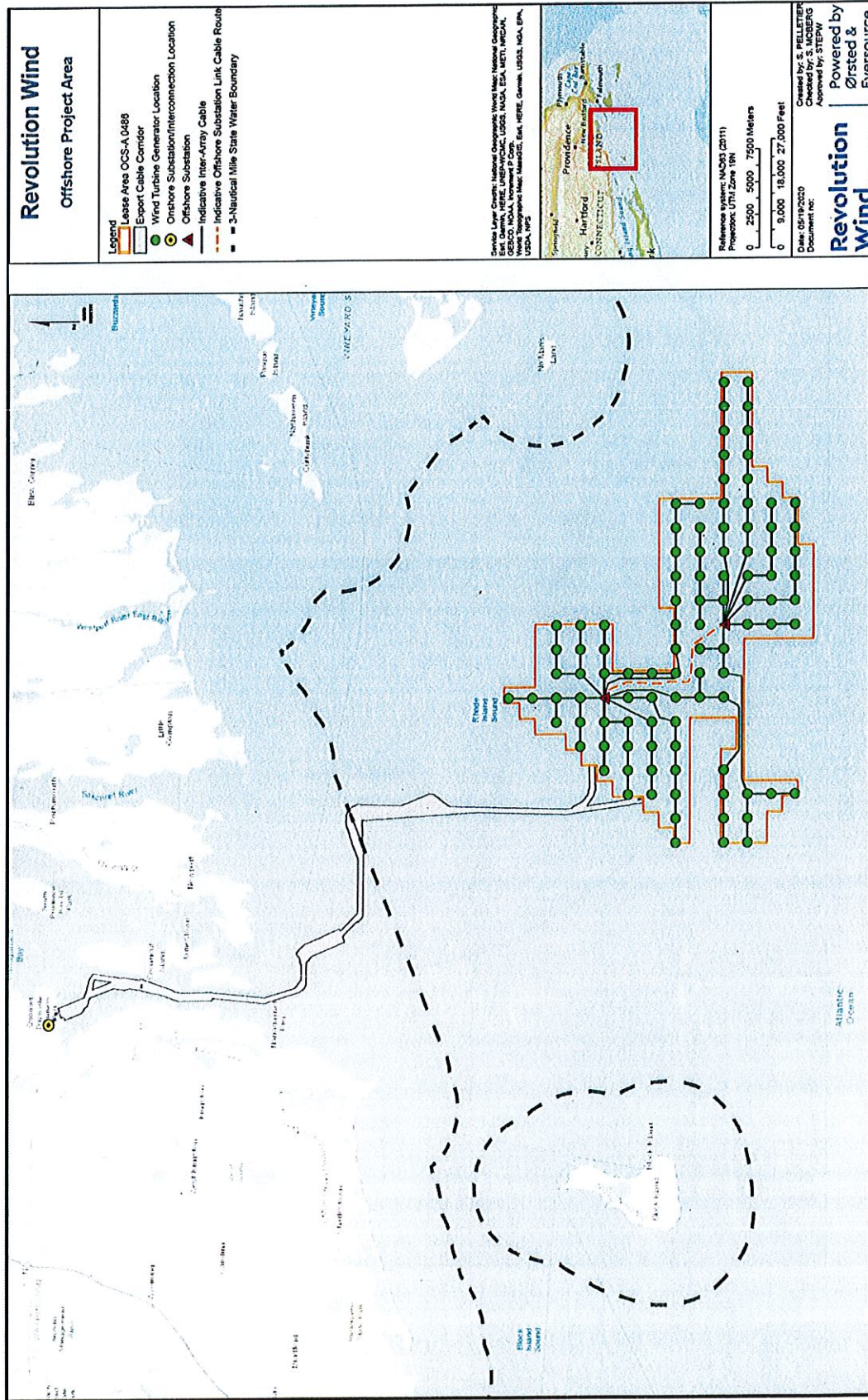
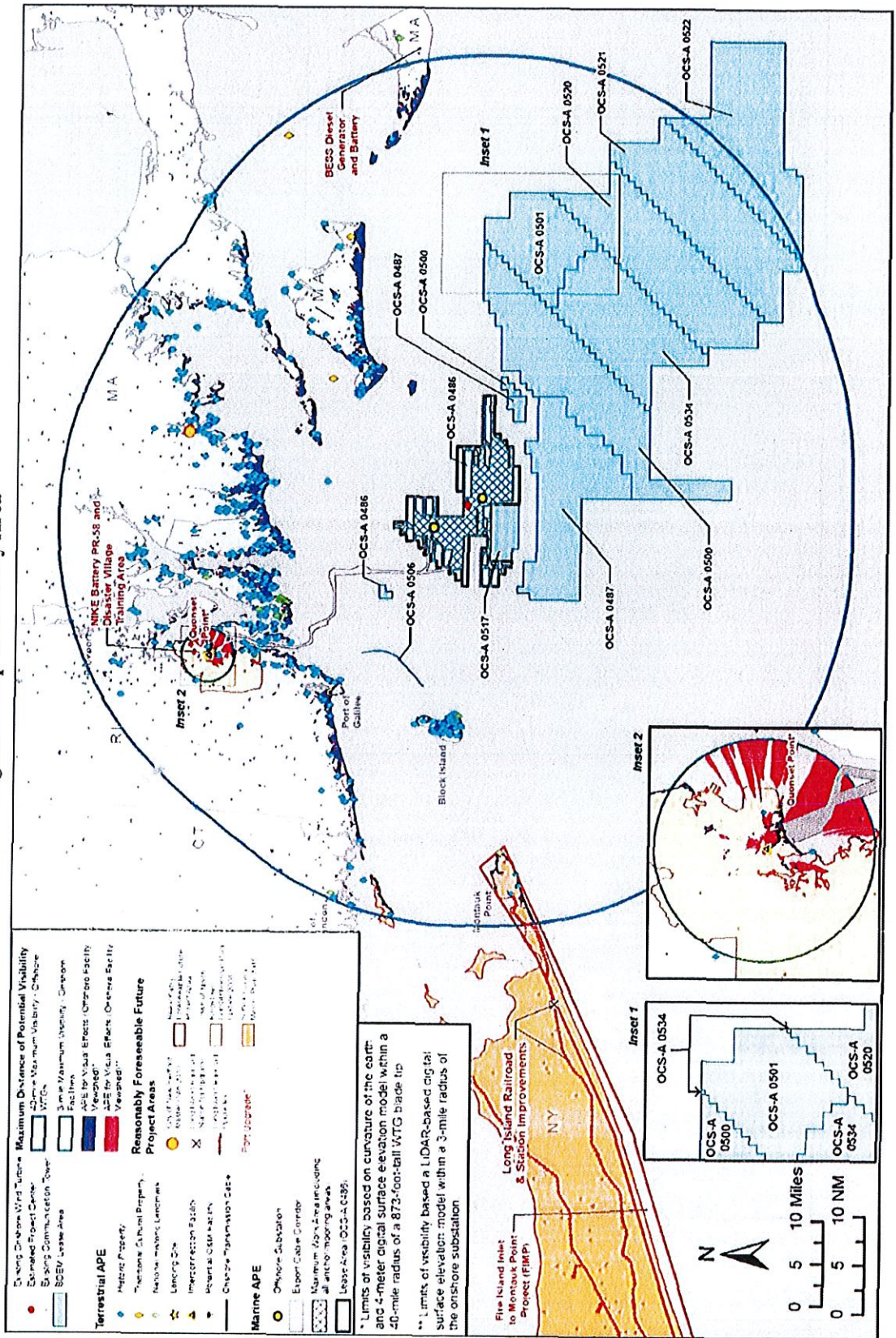


Figure 2: Map of the Study Area



B

ASSESSMENT AND STRATEGY FOR DISPATCH FACILITY AND OPERATIONS

FAIRHAVEN POLICE PUBLIC SAFETY ANSWERING POINT AND DISPATCH OPERATIONS

**EDWARD J. COLLINS, JR.
CENTER FOR PUBLIC MANAGEMENT**

JANUARY 25, 2023



Edward J. Collins, Jr. Center for Public Management

McCormack GRADUATE SCHOOL OF POLICY AND GLOBAL STUDIES

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I. Introduction

The Fairhaven has requested that the Collins Center to study of feasibility of the Town's Emergency communication Services to join or establishing a Regional Emergency Communications Center (RECC), or to stay as a Public Safety Answering Point (PSAP) and to provide their own Emergency Communications Services with the needed enhancement recommendations.

II. Methodology

Methods for collecting information will rely upon interviews, on-site assessments, and document review. The process was as follows:

- Kick-Off meeting with the principals from Fairhaven
- On-site visits which included interviews with the community police and fire chiefs and their designated personnel. If town managers request an interview, that interview will be scheduled
- Collection of relevant data from each site, including:
 - Equipment used
 - Staffing levels and training
 - Research/planning
 - Current financial costs for dispatch services
 - Call volume
 - Additional administrative benefits
- Analysis and preparation of the report
- Review of draft report with Fairhaven Public Safety Team
- Completion of final report

III. Dispatch Environment Analysis

Fairhaven Public Safety Dispatch

- The communications and dispatch department is a multi-function, fast-paced environment staffed by five (5) highly trained civilian department employees. They work in a state-of-the-art communications room and have ready access to information from local, state, and federal law enforcement agencies. They handle all incoming requests for service from the citizens of Fairhaven as well as serving as the communications lifeline to the police units in the field
- Public Safety Dispatch is located at Fairhaven Police Department, 1 Bryant Lane, Fairhaven, MA 02719. The Dispatch Center is a unit within the Police Department.

- Currently there is one civilian dispatcher on each shift who is a call taker, receptionist, and dispatcher for police calls for service. Fire and Emergency medical calls are transmitted to the Fire Department over a PA system of the call and are then dispatched by their personnel.
- Total Operating Budget \$390,717.46 for FY23. This total also includes \$48,000.00 that the State 911 Department provides through a Support Grant. A breakout of these costs are as follows:
 - \$354,297.48 Personnel (including salaries, overtime, uniforms, OPEB costs.)
 - \$21,420.00 Service Agreements
 - \$15,000.00 Equipment

Fairhaven Metrics

The data below provides a summary of the unique drivers for Emergency Communications Services in Fairhaven.

| Community Metric | |
|-------------------------------|--------|
| Population | 15,924 |
| 911 Calls | 5,925 |
| Total calls for service (CFS) | 16,577 |
| Sq. Miles | 12.53 |
| Coastline Length - Miles | 17 |

Interviews

Interviews were conducted with five members of the Police and Fire Department. Below you will find the questions and the responses:

What do you see as the strength or benefit of regionalization?

- Relieve the police department of managing dispatch personnel
- Cost and concern of computer system (CAD/RMS)
- Better overall trained dispatchers
- Redundancy in backup

What do you see as the weakness or issue that would need to be overcome from regionalization?

- Need for local knowledge
- Not having a seat at the table (input into Operations Committee)

What recommendations would you make for the successful integration of the call taking and dispatching services of you community to be integrated into a RECC?

- Having no problem with the transition.

Staffing Analysis

Two key documents were utilized for guidance in developing staffing recommendations for the development of an RECC for Fairhaven. A summary of each of the relevant documents that were utilized to develop the staffing recommendations for the RECC are as follows:

- 1) *In NFPA 1221: Standard for Installation, Maintenance, Use of Emergency Services Communications Services states in 7.3.2, "Communications centers that provide emergency dispatching protocols shall have at least two tele-communicators on duty at all times."*

In addition, NFPA also provides guidance on Emergency Medical Dispatch (EMD) functions that will also be governed by the State 911 Department standards in 2011. Regulation 560 CMR 5.00 establishes certification requirements for Enhanced 911 tele-communicators governing emergency medical dispatch and establishes 911 call-handling procedures.

Staffing by only one dispatcher creates several significant operational concerns in addition to those cited above regarding NFPA 1221 and to some degree the new EMD requirements. Those concerns are relative to a single dispatcher's ability to provide pre-arrival instructions and service to responders working in the field and, at the same time, receiving other 911/administrative calls during this important period. A multiple dispatcher RECC does provide for a greater capability for handling large-scale critical incidents at the same time provide an economy of scale.

NFPA Standard 1221 Section 6.4.2 specifies that "[95%] of alarms shall be answered within 15 seconds, and [99%] of alarms shall be answered within 40 seconds." Section 6.4.3 specifies that, "[95%] of emergency dispatching shall be completed within 60 seconds."

- 2) *Massachusetts Regulations through 560 CMR 5.0 provides the following Emergency Medical Dispatch Requirements:*

- By July 1, 2012, PSAPs and RECCs were required to provide EMD either through certified EMD dispatchers at the PSAP/RECC or through a certified EMD resource.
- The PSAP/RECC or certified EMD resource must use a single EMD Protocol Reference system (EMDPRS) on every request for medical assistance; have policies and procedures for use of EMDPRS and establish a continuous quality assurance (QA) program.
- To act as a certified EMD dispatcher for a PSAP/RECC- (the dispatcher) must be a certified E911 tele-communicator, obtain and maintain CPR certification, and obtain and maintain EMD certification.

The regulations also provide direction for certified EMD resources, call-handling procedures, and record keeping.

Two major deficiencies are apparent in the current structure of the Fairhaven Public Safety Dispatch Services which are as follows:

- The staffing of one dispatcher does not allow for the time when a medical calls come in that requires the need to provide Emergency Medical Dispatch (EMD) and then a second call comes

him, the dispatcher cannot leave the EMD call to answer the second call. NFPA 1221 articulates the need for two dispatchers in this scenario. An adequately staffed Fairhaven Dispatch Center or Fairhaven joining a RECC would have greater capacity to manage critical incident surge as well as the unique requirements of EMD.

- The current method to transfer a fire or a medical call to the Fire Department requires the dispatcher to transfer the call to the Fire Department personnel via a public address (PA) system to the available personnel at the station. There is no permanent staff at the Fire Station for the dispatch position.

Dispatch Options

Three options exist for Fairhaven to have adequate staffing for their dispatch functions. They are as follows:

- 1) Remain as you are with the identified deficiencies and existing costs
- 2) Join or establish a Regional Emergency Communications Center in conjunction with other area communities. The following is an update of the contact information that was gathered of existing RECCs in the general area.

Barnstable County RECC:

- No additional room to add any new towns.
- The Sheriff's Office has plans to build a new center to add 3-4 communities. A new Sherriff will review this project in the future for approval before it moves forward.

Regional Old Colony Communications Center (ROCCC):

- In process of working with Pembroke for an IMA to join ROCC
- Has no interest in having Fairhaven join the ROCC

Holbrook RECC:

Update

- Sherborn has recently joined the HRECC
- Norwood has recently signed an IMA and is scheduled to transition over to the HRECC in the Spring of 2023
- Holliston has recently signed an IMA and is scheduled to transition over to the HRECC by the end of the current fiscal year
- Holbrook is working on two additional communities to join their center. If Fairhaven makes contact with them and advises of their desires to there is a potential that they can join.
- If you choose to join Holbrook, a response to the letter that Director Hooke sent to Fairhaven on April 8, 2022, is required. The letter identifies the steps that Fairhaven should take to join the HRECC.

The HRECC is located at 300 South Franklin Street in Holbrook, Massachusetts. The HRECC is located in the Holbrook Public Facility, which no longer had sufficient space to add municipalities. In 2018, the HRECC sought and received grant funds from the State 911 Department to pay for the design and partial construction of a new building for the communications center adjacent to the public safety facility, as well as to purchase new equipment to add Rockland. The new facility will encompass 6,000 SF of space for an initial number of six 911 answering positions and 12 console/radio positions. The new facility will also include space for needed administrative offices and technology systems. Also included in the new facility will be new IT infrastructure (servers, workstations, firewalls, and switch gear), upgraded radio systems, and software.

Currently, there are 16 full-time dispatchers, six part-time dispatchers, four supervisors, one IT professional, one director, and one deputy director. The total FY2021 budget will be \$2,002,326.00.

In 2009, Holbrook began regionalization, with Sharon joining the communication center for fire services. Since that time, the HRECC has grown to include the following municipalities and public safety agencies:

- Abington Police and Fire Departments/911;
- Canton Fire Department, secondary 911;
- Holbrook Police and Fire Departments/911;
- Rockland Police and Fire Departments/911;
- Sharon Fire Department and secondary 911;
- Whitman Fire Department (also acts as their primary 911 PSAP); and
- Norfolk County Control Point for Fire District 4 and Hazmat East Control Point.

The HRECC governance model used the Town of Holbrook as a host to provide regional 911 call-taking and dispatch services. The administrative support functions for the HRECC are provided by the participating Holbrook public safety departments. The cost sharing ratio for each municipality is based upon call volume at the municipal level.

The HRECC conducts quarterly meetings with the Administrative Committee, made up of member municipality police and fire chiefs or their designees. Much of the focus of the Committee is on standards and operations. The HRECC mission is to provide regional emergency communications services for the member municipalities through call-taking and dispatch services – it does not provide walk-in services. There is a strong focus on continuous improvement in the delivery of core services. The HRECC provided the following Mission Statement:

“The Holbrook Regional Emergency Communications Center is the first of the first responders. We are committed to answering all 911 calls with professionalism, integrity, and compassion while efficiently dispatching police, fire, and emergency medical services. Customer service is essential to our success, so we treat each caller with empathy and respect. Our dedicated and highly trained professionals routinely offer lifesaving medical instructions in addition to providing accurate public safety information.”

Benefits provided for the participating municipalities:

- More effective call-taking and dispatching services;

- More dispatch personnel for major events and surges of 911 calls;
- Standardization of protocols;
- Cost savings; and
- Enhances Mutual Aid.

Southeast Massachusetts Regional Emergency Communication Center (SEMRECC)

- At SEMRECC there is more than adequate space. I have spoken with the Director, and he advises that Fairhaven needs to contact him to advise him of their decision to join SEMRECC.
- A summary of SEMRECC is as follows:

SEMRECC is located in the former AT&T Building at 100 High Rock Road in Foxborough, Massachusetts by Fall 2020. AT&T sold the building to the District for a nominal fee of \$10.00. This 32,000 SF building and a 208-foot radio tower on-site was designed to be resistant to a nuclear attack. There is 18,000 SF on the first floor that will have a 10,000 SF portion of the floor outfitted as the footprint of the dispatch center that will include ten (10) dispatch positions and space for twenty-six (26) positions. The construction of the facility is expected to be completed by September 2020. The RECC will be prepared to operate at the new site in November/December 2020 after new dispatch equipment and technologies are installed.

Currently there are twenty (20) full-time dispatchers, four (4) supervisors, and one (1) Operations Section Chief, one (1) Training Section Chief, one (1) Deputy Director and one (1) Executive Director. The FY2021 Budget is \$3M

The Southeastern Massachusetts Regional 911 District was established in 2017 by Foxborough, Mansfield, Easton, and Norton. The communications center known as the Southeastern Massachusetts Regional Emergency Communications Center (SEMRECC), initiated its operations in the Foxborough Public Safety Facility, providing call-taking and dispatch services for Foxborough and Mansfield in 2018. In 2020, Easton and Norton will join the SEMRECC when it moves into a new facility at the permanent building in Foxborough. The population of the member communities is approximately 100,000. The cost sharing formula is based upon an equal sharing of the cost of the District by community. The current costs per community range from \$51,000.00 to \$507,629.55. The District was established according to the Regional 911 District legislation.

SEMRECC has an Administrative Board, a Finance Committee, and a working group made up of public safety chiefs. Currently, there is also an Interoperability Group and a Public Information Committee.

Implementation Steps to Join Holbrook or SEMRECC:

- Fairhaven submits a letter of intent to the Director of the Holbrook or SEMRECC

- expressing a desire to join.
- Fairhaven submits call volume to the RECC Director.
- The RECC Board approves the inclusion of Fairhaven in the 911 District.
- The Director of the RECC then
 - I. Meets with Fairhaven representative(s) to identify their dispatching needs.
 - II. Calculate the needed staff for the RECC including Fairhaven.
 - III. Develop an overall budget for the RECC.
 - IV. Identify the Fairhaven cost.
 - V. Assess the technology needs for Fairhaven to join the RECC.
 - VI. Prepare a State 911 Development Grant to seek the funds to transition into the RECC: and
 - VII. Sign an IMA between the RECC and Fairhaven.

- 3) Enhance the capability of the Fairhaven Public Safety Dispatch Center for two dispatchers for each shift to provide the adequate staff for both EMD and for Fire Dispatch.
 - a. This will require a minimum of nine (9) dispatchers and one (1) supervisor
 - b. One additional dispatch station/position is required
 - c. The supervisor will relieve the Police Department of managing the day-to-day operations of the Dispatch Center
 - d. The Supervisor will also provide the capability to analyze QA/QI information to ensure that Fairhaven is meeting the standards that have been established NFPA 1221 and the State 911 Department for EMD. This information is not being analyzed today.

Benefits/Weaknesses/Recommendations of Regionalization of Emergency Communications

Information was gathered from over two hundred and (+240) interviews that were conducted with Massachusetts Police and Fire Chiefs, Town Administrators, Mayors, police officers, fire fighters and dispatchers.

Below is a listing of the responses from interviewees to a standardized list of questions regarding the Strengths, Weaknesses/Concerns of RECCs as well as transition Recommendations to consider if their community joined or developed a RECC.

The top five cited Benefits of an RECC as believed by the interviewees are as follows:

1. Standardized/use of the same dispatch protocols
2. Resources – more dispatch personnel for major events and increased surge of 911 calls
3. Cost Savings, Financial Support – state contributions to center development and recurring costs
4. Enhanced Mutual Aid
5. More effective call taking and dispatching services for the public and emergency response

The top five cited Weaknesses/Concerns of an RECC as believed by the interviewees are as follows:

1. Labor issues – seniority
2. Keep out the dynamics of politics
3. Not having anyone at the PD window or to monitor prisoners
4. Loss of local knowledge, i.e., landmarks etc.

5. Need updated dispatch protocols

The top five cited recommendations for a successful transition to a RECC:

1. Need open communications/transparency
2. Work out labor / union issues
3. Provide a greater level of training opportunities
4. Transition training – dispatch protocols (SOPs and radio codes)
 - a. Local knowledge-landmarks, repeat callers and responder nuances
 - b. Requires:
 - i. Management coordination meetings
 - ii. Ride along with public safety personnel from new community
5. Requires clear cut plan
 - a. Best option
 - b. Cost estimate including staffing and other recurring costs
 - c. Policy and Procedures

IV. Cost Benefit Analysis

1) Financial Role of State 911 Department

The State 911 Department is charged with coordinating and effecting the implementation of enhanced 911 service and administering such service in the Commonwealth. In fulfilling this responsibility, the State 911 Department provides PSAPs in Massachusetts that serve as the first point of reception of a 911 call with call processing equipment, database, network, and technical support services, training for personnel handling the calls at the PSAPs, and with funding to support the operation of the PSAPs through the administration of an extensive grant program.

The State 911 Department has been committed to a more effective and economical 911 system through regionalization of those services. The Massachusetts State 911 Department provides a specific grant program to develop and operate RECCs. The State 911 website provides the FY22 Guidelines for the application process for these grant programs. Below is a listing of the relevant information for these grants from the website.

Support Grants

Primary PSAPs, regional PSAPs, regional secondary PSAPs, and RECCs are eligible to participate in the Program and are eligible to receive support grant funding.

Incentive Grants

In addition to amounts allocated as part of the above support grant, existing regional PSAPs and RECCs are eligible to receive incentive grant funding through the Program based on the following allocation formula.

- For regional PSAPs serving 2 municipalities:

- 0.75 of 1% of the total surcharge revenues of the previous fiscal year.
- For regional PSAPs serving 3 to 9 municipalities:
a minimum of 1.5% of the total surcharge revenues of the previous fiscal year.
- For regional PSAPs serving 10 or more municipalities:
1.5% of the total surcharge revenues of the previous fiscal year.
- For regional emergency communication centers:
10% of the total surcharge revenues of the previous fiscal year.

Regional Development Grants

For FY2024, \$40,000,000.00 of the total surcharge revenues of the previous fiscal year shall be allocated to the Regional Development Grant Program. Grant funds may be used by grantees only for the permissible categories of use listed within the specific categories set forth below:

- Associated with the provision of enhanced 911 service; and
- Approved by the State 911 Department.

Funds may be used for clerical, administrative, or other costs associated with administration of the Program, provided that funds may not exceed 1% of the total amount awarded to the Grantee. The services shall be specifically identified with the project, and the Grantee shall provide detailed documentation, to the satisfaction of the State 911 Department, supporting the services (including, without limitation, the time and dollar amount of the services).

The State 911 Department will allow funding for the purchase or lease of equipment, allowable construction items, and allowable structural improvement items and for debt service on equipment, allowable construction items, and allowable structural improvement items, including without limitation, principal, and interest payments on loans, notes, and bonds. The State 911 Department will allow grantees to assign lease, debt service, and/or incremental purchase costs to this grant. However, all funding requested under this grant program shall be for goods and/or services received. Funding will not be disbursed for obligations made without receipt of goods/services. The State 911 Department makes no guarantee of funding from year to year and does not assume any obligation, as guarantor or otherwise, under any purchase, lease, or debt instrument.

All technology or telecommunications related goods or services must be compliant with applicable laws, rules, regulations, and standards.

Security Measures Grants

Existing and proposed regional PSAPs and RECCs are eligible to apply for funds for the following allowable items within the transition expenses category:

- Security measures (such as remote cameras, remote printers, and security doors); and
- One-time costs associated with the installation of such security measures.

Equipment Grants

Existing and proposed regional PSAPs, regional secondary PSAPs, RECCs, and the Northampton wireless state police PSAP are eligible to apply for funds for equipment associated with the provision of enhanced 911 service that is not directly provided by the State 911 Department and/or equipment to be used to foster the development and startup of regional PSAPs, regional secondary PSAPs, and RECCs or the expansion or upgrade of existing regional PSAPs and/or regional secondary PSAPs. Allowable items to be funded through this grant include, but are not limited to:

- Radio systems and consoles;
- Computer-aided dispatch;
- Records management systems;
- Fire alarm receiving and alerting equipment; and
- Consultant services in support of equipment.

In 2020, the State 911 Commission approved a new criterion for the Transition Award. On the next page is a chart that explains that Award.

State 911 Department – Development Grant Program FY22

Transition Award

Transition award, payable to the entity that operates a regional PSAP or RECC on behalf of the participants, for each PSAP that is decommissioned on or after July 1, 2018, and becomes operational as a participant in such regional PSAP or RECC, in the amount that represents the greater of:

the last allocation for the decommissioned PSAP under the State 911 Department Support Grant; or
the amount of the assessment or charge allocated to such PSAP for the current fiscal year under the terms of the signed inter-municipal agreement or other equivalent agreement governing the operations of the regional PSAP or RECC.

Such transition award(s) shall be credited against the obligation of the decommissioned PSAP(s) by the grantee. A decommissioned PSAP may be provided with the credit three (3) times to be applied for in three (3) different grant cycles, or two (2) times to be applied for in two (2) different grant cycles if a transition award was already applied for and awarded in the FY 2020 grant cycle pursuant to grant guidelines in effect at that time.

After applying for and being awarded a transition award a total of three (3) times, a decommissioned PSAP may be provided with a credit an additional two (2) times to be applied for in two (2) different grant cycles, but the award will be limited the first time to 50% of the greater of:

the last allocation for the decommissioned PSAP under the State 911 Department Support Grant; or
the amount of the assessment or charge allocated to such PSAP for the current fiscal year under the terms of the signed inter-municipal agreement or other equivalent agreement governing the operations of the regional PSAP or RECC, and limited for the second time to 25% of the greater of the last allocation for the decommissioned PSAP under the State 911 Department Support Grant; or ii) the amount of the assessment or charge allocated to such PSAP for the current fiscal year under the terms of the signed inter-municipal agreement or other equivalent agreement governing the operations of the regional PSAP or RECC.

Documentation that such credit has been granted in the form of a written acknowledgment from the decommissioned PSAP shall be required prior to reimbursement. ii) the amount of the assessment or charge allocated to such PSAP for the current fiscal year under the terms of the signed inter-municipal agreement or other equivalent agreement governing the operations of the regional PSAP or RECC.

Documentation that such credit has been granted in the form of a written acknowledgment from the decommissioned PSAP shall be required prior to reimbursement.

2) Option Analysis

| | YEAR | |
|---|--------------------------------|----------------|
| | 1 | |
| Option 1 - Continue as currently configured - Current Fairhaven Budget | FY 2023 Draft Budget | % of Budget |
| Personnel | | |
| Dispatcher Salaries (5) | \$287,535.10 | |
| Overtime Allowance | \$78,950.00 | |
| | | |
| Other Personnel Employee Benefits (OPEB) - 28.14% | \$80,912.38 | |
| | | |
| Total for Personnel | \$447,397.48 | 90.38% |
| Other Non-personnel expenses | | |
| | | |
| IMC Pervasive | \$7,500.00 | |
| CAD/RMS License Fees | \$18,690.00 | |
| Service Agreements | \$21,420.00 | |
| Total for Maintenance/Admin. | \$47,610.00 | 9.62% |
| | | |
| Total for Dispatch Services | \$495,007.48 | 100.00% |
| State 911 Support Grant | \$48,000.00 | |
| Fairhaven Costs | \$447,007.48 | |
| Option 2 - Cost of Fairhaven as a RECC participant/Holbrook Proposal | Proposed Assessment FEE | |
| Year 1 | \$0 | |
| Year 2 | \$0 | |
| Year 3 | \$0 | |
| Year 4 | \$161,177.50 | |
| Year 5 | \$249,019.50 | |
| | | |
| Option 3 - Enhanced Capability of Fairhaven Dispatch Operations | | |
| Personnel | | |
| Dispatcher Salaries (9) | \$517,563.18 | |

| | | | |
|--|--|--|--------------------------|
| Overtime Allowance | \$105,000.00 | | |
| Other Personnel Employee Benefits (OPEB) - 28.14% | \$145,642.28 | | |
| Total for Personnel | \$768,205.46 | 93.31% | |
| Other Non-personnel expenses | | | |
| Equipment - Dispatch position and furniture | \$7,500.00 | | |
| IMC Pervasive | \$7,500.00 | | |
| CAD/RMS License Fees | \$18,690.00 | | |
| Service Agreements | \$21,420.00 | | |
| Total for Maintenance/Admin. | \$55,110.00 | 6.69% | |
| | | | |
| Total for Dispatch Services | \$823,315.46 | 100.00% | |
| | | | |
| Summary | Strength or Weakness | Primary deficiency or enhancement | Cost to Fairhaven |
| Option 1 - Cost to remain the same as currently planned for. | Cost to remain as planned | Do not meet standards | \$497,007.00 |
| Option 2 - Join or create a RECC | Cost saving , more robust, professional services | Will meet standards | -0- for three years |
| Option 3 - Enhance Fairhaven Dispatch Operations | Greater capability for call taking and dispatching | Will meet standards | \$823,315.46 |

Options for Police Station Staffing without Dispatch Personnel if Fairhaven joins a RECC

1. Prisoner Processing

During the interview process with the Police Chiefs, their main concern of regionalizing dispatch was the processing of prisoners as well as their housing and care at the community facilities, if in fact they are

closed down at certain hours and days of the week. This concern is primarily based upon officer and prisoner safety.

The Bristol County Jail and lock up at 226 Ashe Street, New Bedford provides secure housing for recent arrestees until they are bailed out or are brought before the court for arraignment. The current Sheriff has proposed moving the operations to the 400 Faunce Corner Road Jail in North Dartmouth. The move would require funding by the legislature and time to make modifications to the facility. It is estimated that it would take two years for the modifications according to a most recent news article. In the long run this new site for the Regional Lockup would be 8.5 Miles from the Fairhaven Police Department and would take approximately 13 minutes to drive to the location.

Consideration should be made to provide outreach to the District Courts to seek to reduce the number of prisoners being held for bail purposes and the time it takes to bail them.

2. Administrative and Front Desk Staffing at Police Department

Develop a plan to provide the administrative support that the dispatchers have been providing and to allow community members to interact with the Police and Fire Departments for administrative matters. Strategies should include:

- a. Provide administrative support during certain hours of the day during the week to support this effort with either full-time or part-time employees. Consider putting their records function in the current dispatch area and using a records clerk to work on that function as well as other community business with the police department such as records requests.
- b. Schedule hours for those certain administrative functions, such as firearms license request and inform the public of any change made.
- c. Review the administrative functions that could be put online through the internet such as the Burn Permit system that some RECCs are currently providing at this time.
- d. Consider utilizing part time personnel such as cadets or special/interim police officers for these responsibilities

3. Security Measures used for Stations where personnel are not at the station 24/7

Conduct a **security** assessment with a state approved contractor, or one that the community has used for other facilities in conjunction with both police and fire chiefs that the facility would not have personnel in it as it currently does 24X7 and would provide a risk to systems, evidence, firearms, and communication equipment that would be in the facility.

The security assessment would identify their specific security concerns when those departments did not have personnel in the facility due to the operational needs at the time.

The assessment should identify all their vulnerabilities and risks including areas of the building that were not covered by cameras, or part of an old outdated system that could communicate with the RECC. The assessment would recommend a solution to all these risk areas and provide a preliminary budgetary quote for the installation of an integrated security system consisting of:

- surveillance equipment
- client workstation with monitors
- door of access control
- interior cameras and exterior cameras
- Connect police and fire department overhead doors for opening and closures.
- Emergency phone installation at main entry
- Provide the ability to open and close foyer doors to provide security for person in need until police personnel arrive

V. Recommendations

1. The best option operationally and financially for Fairhaven is to join a Regional Emergency Communications Center (RECC). Because the Town has received a proposal from the Holbrook RECC Director, indicating that staffing to accommodate Fairhaven at the Center has been completed. It would be most effective to plan to meet with the Director as soon as possible because the Town received the Holbrook proposal, the Director has received commitments from three communities to join their Center. I have learned that the time to transition all of those communities to the RECC will require approximately one to two years.
2. The second option is to meet and discuss the operational and financial benefits of joining SEMRECC in Foxborough with the Director.
3. The third option is to provide the appropriate staffing and equipment for the existing center to meet current standards and to provide two dispatchers on each shift. This would alleviate the risk of dropping a 911 call particularly while providing Emergency Medical Dispatch (EMD) protocols. The Staffing Analysis on page 3 provides greater detail of the staffing requirement.
4. A final option is to discuss with the neighboring communities their interest in developing a RECC for two or more communities. The Collins Center could support this effort by facilitating the meeting and to provide any feasibility study that would be required.



DRAFT---REMOVAL OF NON-HAZARDOUS PUBLIC SHADE TREES BY INDIVIDUALS OR AGENCIES POLICY

General

Trees are recognized as an asset to the community, providing a healthier and more beautiful environment in which to live. Trees and other vegetation provide oxygen, shade, carbon sequestration, storm water mitigation, protection from wind, glare, and noise, view barriers, wildlife habitat, aesthetics, and priceless psychological counterpoint to the man-made urban setting. Landscaping is economically beneficial in attracting new residents, visitors, and industry. When grown in the right place and proper varieties, landscaping enhances the value and marketability of property and promotes the stability of desirable neighborhoods and commercial areas.

Purpose

This policy is to be used for the removal of any non-hazardous public shade tree by any individual, utility, organization, corporation, or agency other than the town of Fairhaven. Actual removals shall only be performed by qualified tree removal contractors.

Definitions

Certified Arborist refers to a professional arborist experienced by training and education, and possessing a current certification issued by the **International Society of Arboriculture (ISA)** or the **Massachusetts Arborist Association (MAA)**.

Caliper refers to the diameter of a tree trunk in inches, measured six inches above grade for trees up to four inches in diameter, or measured twelve inches above grade for larger trees.

Critical Root Zone (CRZ) refers to the minimum area required to be left undisturbed to provide a reasonable chance for survival. The CRZ is calculated by the DBH of the tree in inches by eighteen (inches).

Diameter at Breast Height the standard measurement of a tree trunk measured 4.5 feet above existing grade. If the tree splits into multiple trunks below 4.5 feet the measurement would be the narrowest point of the trunk immediately below the split.

Scope

This policy is to be followed for all public shade trees as defined by **Massachusetts General Law, Chapter 87** (Tree growing in the right of way, at least 1.5 inches in diameter, measured one foot above ground), other than:

- Trees that are determined by the acting Tree Warden to be dead, diseased, or dangerous. A dangerous tree is one most likely to fail, or significant portions are likely to fail, under mild environmental or man-made stress;

- Trees that are less than five inches in diameter that are, in the opinion of the Tree Warden, of no significant value.

Policy

Public shade trees shall not be removed for private purpose without suitable compensation to the town for replacements. The value of existing shade trees is to be calculated on a two inch for one inch replacement basis. Replacements shall be at least three inch diameter, nursery grown stock. The Tree Warden may, at their option, require larger replacements. For example, if an eighteen inch diameter tree, measured four feet above grade is to be removed, the applicant must sufficiently reimburse the town to provide for the purchase and planting of twelve, three inch diameter replacements. Cost of replacement trees are to be derived by taking current retail price of a suitable replacement from a nursery used by the Town of Fairhaven.

In those unique situations where a particular public shade tree is unique to exceptional size, species, and historical value, or contribution to the surrounding site, the Tree Warden may require that a full tree value appraisal be performed by a Certified Arborist, using standards established by the Council of Tree and Landscape Appraisers, and that value will be used to determine proper compensation. "Unique" trees under this policy would include trees that are more than thirty inches DBH, trees located in the town common or other high profile public grounds, trees that do not commonly grow in Fairhaven, or other factors as determined by Tree Warden.

For the purposes of this policy, the Critical Root Zone of a tree is determined by multiplying the diameter of the tree in inches at the DBH by eighteen, and applying that calculated distance as a radius around the tree. For example, a four inch DBH tree shall be deemed to have a seventy-two inch radius CRZ. If it is determined that more than one third of the CRZ is disturbed during construction, the Tree Warden may determine that the proposed work may will have such an impact upon the tree that it is effectively killed. For the purposes of this policy only, previously paved surfaces such as sidewalks and roadways will not be considered Critical Root Zones, and will not be included in this calculation. Disturbance of the CRZ will include excavation, storage of materials, or operation of vehicles in the CRZ. In exceptional circumstances, the Tree Warden may allow a disturbance in the CRZ using special techniques, such as Air Spade work, installation of structural soil, or flexible, permeable pavement, or supervised trenching or boring. Such work will be observed by Tree Warden or Certified Arborist.

Public Notice

- An applicant who wishes to remove a non-hazardous public shade tree is responsible for the following expenses:
 - Legal advertising, pursuant to the requirements of **Massachusetts General Law, Chapter 87.**
 - A non-refundable application fee for the removal permit, payable to the town of Fairhaven, to be deposited into the Memorial Tree Fund. The permit fee shall be \$100 per parcel, not per tree. This fee covers the cost of the initial inspection and evaluation process conducted by the Tree Warden or their designated Certified Arborist.
 - The cost of the removal of the tree and stump, including the hauling away of the debris, and proper filling of the stump hole;
 - Planting of sufficient replacement trees as described elsewhere in this policy;

**REMOVAL OF NON-HAZARDOUS PUBLIC SHADE TREES
BY INDIVIDUALS OR AGENCIES POLICY, Approved on _____**

- o Cost of Police traffic details, repair to street surface and road shoulder, protection and restoration of utility structures;
- o All other cost related to the removal and replanting;

Additional Requirements and Information

At the discretion of the Tree Warden, the applicant shall either:

- Arrange to plant suitable replacements using their own contractor, Working to the Town's specifications, OR
- Make a contribution to the town equal to the value of what is removed to be used exclusively for the purchase of planting replacements, and related expenses as described under "Policy"

If the plantings are to be undertaken by the town using money from the Tree Fund, the Tree Warden can either use town staff, or hire contractors for the actual planting.

If the applicant proposes to trim or prune a public shade tree, and if, in the opinion of the Tree Warden, the proposed work will drastically affect the health, beauty, structural stability, or safety of the tree, the Tree Warden may consider the proposed work to have the same effect as the removal of a tree. In these cases, the Tree Warden may either order the removal of a tree, or allow the tree to remain, providing it does not pose an immediate hazard. In either case, appropriate replacement plantings must be provided by the applicant, in accordance with the "Public Notice" section and outlined expense responsibility.

The tree removal contractor, to be paid by the applicant, must be approved by Tree Warden, as to equipment, qualifications, and experience. Contractors shall submit Certificates of Insurances to the town to prove they have minimum coverages.

The applicant shall submit a bond, in form and amount approved by Tree Warden, prior to commencement of work. The bond will be released after successful completion of all items of work after inspection and approval by the Tree Warden or designated Certified Arborist.

All tree work shall be performed in compliance with A.N.S.I. Z-133 standards. Applicant must guarantee the health of the replacements for two full growing seasons from the time of planting.

Replacement trees shall be such size and species as specified by Tree Warden, and will be planted on public property, along rights of way and on setback easements allowed by MGL Chapter 87, section 7. Planting location will be determined by the Tree Warden.

Nothing in this policy shall prohibit the Tree Warden from refusing to permit the removal of non-hazardous trees. The Tree Warden may refuse to grant the permit for the removal of non-hazardous tree if, in his or her own opinion, the tree is historic or of scenic value, is of a size or species not commonly found along the road ways of Fairhaven, has significant wildlife value, or is a healthy or significant specimen.

All decisions made by Tree Warden are appealable to the Town Administrator.



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

D

MEMORANDUM

To: Select Board Members, Department Heads

From: Angie Lopes Ellison, Town Administrator

Date: February 22, 2023

Re: Select Board calendar year 2023 schedule:

First and Third Monday of each month (on Monday holidays the meeting will be moved to Tuesday)

The Select Board schedule for the first half of calendar year 2023 will be as follows:

- Monday, January 9, 2023 (voted to reschedule from 1/3/23)
- Tuesday, January 17, 2023
- Monday, February 6, 2023
- Tuesday, February 21, 2023
- Monday, March 6, 2023
- Monday, March 20, 2023
- Monday, April 3, 2023
- Tuesday, April 18, 2023
- Monday, May 1, 2023
- Monday, May 15, 2023
- Monday, June 5, 2023
- Tuesday, June 20, 2023

The Select Board schedule for the second half of calendar year 2023 will be as follows:

- Monday, July 3, 2023
- Monday, July 17, 2023
- Monday, August 7, 2023
- Monday, August 21, 2023
- Tuesday, September 5, 2023
- Monday, September 15, 2023
- Monday, October 2, 2023
- Monday, October 16, 2023
- Monday, November 6, 2023
- Monday, November 20, 2023
- Monday, December 5, 2023
- Monday, December 18, 2023



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

E

MEMORANDUM

To: Select Board members

From: Angie Lopes Ellison, Town Administrator

Date: February 15, 2023

Re: dissemination of information: Open meeting question and opinion

On January 19, 2023 Select Board Member Robert Espindola requested information from the Attorney's General's division of Open Government regarding dissemination of information to the collective board in advance of a meeting.

At the February 6, 2023 meeting of the Select Board, Select Board Member Correy voiced an objection that he was not the one who requested an agenda item to be added and wanted the record to reflect such. After some discussion it was determined that the Town Administrator will work with Mr. Espindola to resolve the matter.

To that, this memo will be read into record that it was Select Board Member Keith Silvia (not Leon Correy in his capacity as Acting Chair) who stated at the open meeting he was the one who requested the agenda item and to establish a protocol for dissemination of information.

The response from the Attorney General's Office was not substantively impacted by that information.



Angeline Lopes Ellison <alopesellison@fairhaven-ma.gov>

Fwd: Advice regarding Open Meeting Law-Material Dissemination prior to meetings

1 message

Robert Espindola <respindola@fairhaven-ma.gov>

Tue, Jan 24, 2023 at 10:02 AM

To: Stasia Powers <spowers@fairhaven-ma.gov>, Angeline Lopes Ellison <alopesellison@fairhaven-ma.gov>, Amy Almeida <aalmeida@fairhaven-ma.gov>

Stasia,

My correspondence with the office of the Attorney General is attached.

I would ask that the full context (i.e. my email, the AG reply and determination letter) be included in the packet our Board receives when this is placed back on the agenda for a future meeting.

The screenshot below is from page 3 of the file that was sent to me by the AG. I highlighted the text on that page to make it easier to see where the specific question is answered. Please include this highlighted screenshot in the packet as well.

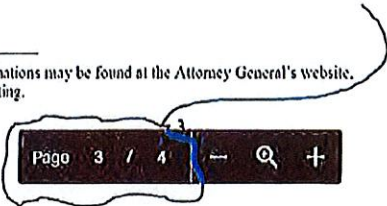
Please let me know if you have any questions.

Thank you,

Bob

Although certain administrative tasks are excluded from the definition of "deliberation," that exception includes a strong caveat: such administrative communications are permissible "provided that no opinion of a member is expressed." G.L. c. 30A, § 18; OML 2019-75.³ Email attachments are considered along with the body of an email when determining whether a public body member has expressed an opinion. See OML 2014-152. The expression of an opinion by one public body member on matters within the body's jurisdiction to a quorum of a public body is considered a deliberation, even if no other public body member responds. See OML 2021-133; OML 2015-33; OML 2012-73. Documents that are circulated for the stated purpose of being discussed at a future meeting may not be used to telegraph one member's opinion to the other members ahead of an open meeting. See OML 2014-148. Finally, a public body may not use a non-member, such as a staff member, to facilitate communication on matters that the public body should otherwise save for discussion at an open meeting. See District Attorney for the Northern District v. School Committee of Wayland, 455 Mass. 561, 569-71 (2009); OML 2013-76; OML 2018-43.

³ Open Meeting Law determinations may be found at the Attorney General's website. www.mass.gov/ag/openmeeting.



----- Forwarded message -----

From: **OpenMeeting (AGO)** <openmeeting@state.ma.us>
Date: Thu, Jan 19, 2023 at 3:55 PM
Subject: RE: Advice regarding Open Meeting Law-Material Dissemination prior to meetings
To: respindola@fairhaven-ma.gov <respindola@fairhaven-ma.gov>

Good afternoon,

Thank you for contacting the Division of Open Government. Through our hotline we can provide general guidance with respect to the Open Meeting Law; we cannot provide advisory opinions outside of the formal complaint process.

Attached please find a determination issued by our office that I believe provides some helpful guidance with respect to the issues you raise below.

Please feel free to reach out if you have additional questions about the requirements of the Open Meeting Law.

Sincerely,

Elizabeth Carnes Flynn

Pronouns: she/her/hers

Assistant Attorney General

Division of Open Government

Massachusetts Office of the Attorney General

One Ashburton Place

Boston, MA 02108

Holline: 617-963-2540

openmeeting@state.ma.us

<https://www.mass.gov/the-open-meeting-law>

From: Robert Espindola <respindola@fairhaven-ma.gov>
Sent: Thursday, January 19, 2023 1:16 PM
To: OpenMeeting (AGO) <OpenMeeting@MassMail.State.MA.US>
Cc: Bob Espindola <selectmanbobespindola@gmail.com>
Subject: Advice regarding Open Meeting Law-Material Dissemination prior to meetings

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

My name is Bob Espindola and I am a Select Board member from the Town of Fairhaven and I have a question regarding the distribution of documentation containing opinions prior to meetings.

I understand fully how the Open Meeting Law reads in terms of communicating with fellow Board Meetings in a Quorum and through Serial Communication. My question goes beyond that to an area that I have not found detailed in the Open Meeting Law.

During two recent Select Board meetings, I brought documents to the meeting to help facilitate the discussion about items we were going to deliberate on and in one case, I used a PowerPoint presentation to illustrate the points I was making and while preparing to ask our Board to consider in the form of a vote during that meeting.

One Board member expressed concern about having only received the documents at the meeting and asked me to distribute this type of material in **advance** of the meeting in the future so that he would have more time to consider. I explained that would be an Open Meeting Law violation because I have clearly expressed my opinion in these documents.

At a subsequent meeting, the acting Chair asked for an agenda item to discuss a "Protocol for Information Dissemination" and during that discussion there was a suggestion that a new protocol should require Board members to submit documentation ahead of a meeting, for inclusion in "meeting packets" that would be distributed to each Board member via email and hard copy prior to the meeting, regardless of if an opinion was expressed by the Board member. The suggestion was that a protocol should be developed requiring that Board members submit their documentation, regardless of whether or not they contained opinions, to the Town Administrator, after which the Town Administrator could then distribute that documentation back to the full Board for inclusion in our meeting packet several days before the meeting. It was suggested this was not a violation of Open Meeting Law because the Town Administrator is not a member of the Public Body in question (the Select Board).

It appears to me that establishing a protocol to request Board members utilize the TA to distribute documents ahead of a meeting to other Board members even when the documents include opinions about agenda items, would be intentionally circumventing the Open Meeting Law and its intent, and therefore would not be ethical. Having said that, I have not yet found where the Open Meeting Law guidance specifically addresses this scenario.

I would like a written opinion from the Attorney General on whether establishing and following such a protocol would be considered a violation of the Open Meeting Law so that I can share that opinion with our Town Administrator and the other four (4) Board members at a future Board meeting.

The attached PowerPoint presentation is an example of what I presented that the Board member was asking me to provide ahead of time. Slides 1-10 were presented at the meeting. Slides 11 and 12 were added for the discussion about distribution of materials at meetings. In that document, I highlighted in red text, the locations where I clearly expressed my opinion.

I understand it may take some time to reply to this email but if you could acknowledge receipt and let me know about how long it should take I would greatly appreciate that.


If you would like to reach me by phone, my cell phone number is (774) 263-1046

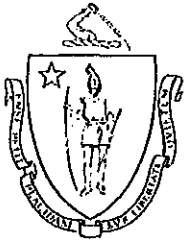
Thank you,

Bob Espindola

Select Board Member

Town of Fairhaven, MA 02719

 DETERMINATION_-_1-21-2022_-_OML_2022-5_-_SUDBURY_GOODNOW_
LIBRARY_BOARD_OF_TRUSTEES.pdf
1458K



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

TEL: (617) 727-2200
www.mass.gov/ago

January 21, 2022

OML 2022 – 5

VIA EMAIL ONLY

Brian W. Riley, Esq.
KP Law
Town Counsel to the Town of Sudbury
[REDACTED]

RE: Open Meeting Law Complaint

Dear Attorney Riley:

This office received a complaint from Henry Sorett on April 9, 2021,¹ alleging that the Town of Sudbury's Goodnow Library Board of Trustees (the "Board") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally filed with the Board on February 11, and you responded on behalf of the Board by letter dated March 3. The complaint alleges that the Board deliberated outside of a properly noticed meeting regarding the library's relationship with the independent nonprofit organization the Friends of Goodnow Library (the "Friends"), of which the Complainant is a member.²

Following our review, we find that the Board violated the Open Meeting Law by deliberating outside of a properly noticed meeting when a written statement prepared by the Chair of the Board was circulated to the full Board via email. We do not find evidence of other instances of deliberation outside of a properly noticed meeting. In reaching this determination, we reviewed the Open Meeting Law complaint, the Board's response, the request for further review, additional response from the Board, emails and other documents provided to our office, and the minutes and video recordings of seven Board meetings held from September 8, 2020, to

¹ All dates are in 2021 unless otherwise stated.

² Our review is limited to allegations raised in the original Open Meeting Law complaint and which allege violations of the Open Meeting Law. The complaint identifies other concerns outside of the scope of our review.

January 19, 2021, inclusive.³ Additionally, we communicated by phone with Counsel for the Board,⁴ the Chair of the Board, and the Library Director.

FACTS

We find the facts to be as follows. The Board is a six-member public body; therefore, four members constitute a quorum. The Friends of Goodnow Library is an independent nonprofit organization that provided funding and other support to the Goodnow Library. For approximately two years prior to the January 19 meeting at issue here the working relationship between the library and the Friends had been strained. The Board had discussed the strained relationship on several occasions prior to the January 19 meeting, including at each of the six meetings preceding the January 19 meeting. The Board had also taken steps to address the relationship prior to the January 19 meeting, including sending a letter to the Friends dated October 15, 2019, which expressed concern about the deteriorating relationship, and sending the Friends a memorandum of understanding.

During the Board's December 1, 2020, meeting the Chair reported to the Board regarding a meeting she had with the President of the Friends, the Town Manager, and a member of the Board of Selectmen to discuss the library's relationship with the Friends. The Chair expressed her opinion that no progress was made during that meeting and that the Friends would not agree to sign the memorandum of understanding the Board had proposed. The Board then discussed the relationship with the Friends, what steps might be taken with respect to the relationship—including whether there might be a way to move forward collaboratively or whether the Board would need to end the relationship—and whether to have a meeting to fully discuss those possible steps. The Board ended its discussion of the Friends by agreeing to schedule a meeting to discuss potential next steps.

After the December 1 meeting, believing that it was clear that the library's relationship with the Friends was not salvageable, the Chair began drafting a statement she intended to read during the Board's next meeting. The Chair was also in communication with the Library Director and the Vice Chair of the Board regarding the future of the relationship with the Friends. Additionally, the Chair discussed with one other Board member a timeline of events the Chair intended to include in her statement. That same member also communicated with the Library Director regarding a donation that the library received, and which had caused some controversy between the library and the Friends.

Prior to the January 19 meeting, the library engaged, in addition to legal counsel, a public relations firm to assist with messaging should the Board vote to terminate the relationship with the Friends. On January 15, the Library Director sent an email to the full Board. Attached to the email were several documents to be used at the upcoming January 19 meeting, including the Chair's four-page statement she intended to read at the meeting. The statement included, among other things, the Chair's thoughts and opinions regarding the relationship between the library and the Friends and the next steps the Board should take with respect to that relationship, including that the Chair would ask for a motion to terminate the relationship.

³ Recordings of Board meetings may be found at <https://goodnowlibrary.org/about/trustees/>.

⁴ For the sake of clarity, we refer to you in the third person.

On or about January 17, the Friends provided the Board with its own proposed memorandum of understanding. During the Board's January 19 meeting the Board discussed the Friends' memorandum of understanding, with members expressing concern and frustration. The Board voted to reject the Friends' memorandum of understanding. Thereafter, the Chair read her prepared statement and then opened the floor to Board members for discussion. Three Board members spoke regarding the library's relationship with the Friends, the deterioration of that relationship, and the amount of time the Board had spent trying to repair the relationship. The Chair then opened the floor for public comment. Five members of the public spoke, including the President of the Friends and the Complainant. Thereafter, the Chair moved to end the library's relationship with the Friends. The Board voted to support the motion, thus ending the relationship with the Friends.

DISCUSSION

The Open Meeting Law was enacted "to eliminate much of the secrecy surrounding the deliberations and decisions on which public policy is based." Ghiglione v. School Board of Southbridge, 376 Mass. 70, 72 (1978). The Law requires that meetings of a public body be noticed and open to the public, unless an executive session is convened. G.L. c. 30A, §§ 20(a)-(b), 21. A "meeting" is defined, in relevant part, as "a deliberation by a public body with respect to any matter within the body's jurisdiction." G.L. c. 30A, § 18. The Law defines "deliberation" as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that 'deliberation' shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting [sic] or the distribution of reports or documents that may be discussed at a meeting . . ." G.L. c. 30A, § 18. For purposes of the Open Meeting Law, a quorum is "a simple majority of the members of the public body." G.L. c. 30A, § 18.

Although certain administrative tasks are excluded from the definition of "deliberation," that exception includes a strong caveat: such administrative communications are permissible "provided that no opinion of a member is expressed." G.L. c. 30A, § 18; OML 2019-75.⁵ Email attachments are considered along with the body of an email when determining whether a public body member has expressed an opinion. See OML 2014-152. The expression of an opinion by one public body member on matters within the body's jurisdiction to a quorum of a public body is considered a deliberation, even if no other public body member responds. See OML 2021-133; OML 2015-33; OML 2012-73. Documents that are circulated for the stated purpose of being discussed at a future meeting may not be used to telegraph one member's opinion to the other members ahead of an open meeting. See OML 2014-148. Finally, a public body may not use a non-member, such as a staff member, to facilitate communication on matters that the public body should otherwise save for discussion at an open meeting. See District Attorney for the Northern District v. School Committee of Wayland, 455 Mass. 561, 569-71 (2009); OML 2013-76; OML 2018-43.

⁵ Open Meeting Law determinations may be found at the Attorney General's website, www.mass.gov/ago/openmeeting.

Here, we find that the Board deliberated outside of a properly noticed meeting when the Library Director circulated to the full Board via email the Chair's prepared statement sharing her thoughts and opinions regarding the relationship between the library and the Friends and the next steps the Board should take with respect to that relationship. See OML 2014-148; OML 2019-75.

Other than circulating the Chair's prepared statement prior to the January 19 meeting, our investigation revealed no other evidence of deliberation outside of a posted meeting. In particular, we note that although communication occurred between the Library Director, the Chair, the Vice Chair, and—to a limited degree—one other Board member, these *communications did not involve a quorum of the Board and therefore did not constitute impermissible deliberation.*

CONCLUSION

For the reasons stated above, we find that the Board violated the Open Meeting Law by deliberating outside of a properly noticed meeting on January 15 when a copy of the Chair's statement was circulated to the full Board via email. We order the Board's immediate and future compliance with the Open Meeting Law, and caution that future similar violations may be considered evidence of an intent to violate the Law. Because the statement that constituted the unlawful deliberation was read aloud in full during the Board's January 19 open meeting, we do not order additional remedial action.

We now consider the complaint addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with the Board or with our office. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,



Elizabeth Carnes Flynn
Assistant Attorney General
Division of Open Government

cc: Ingrid Mayyasi, Chair Goodnow Library Board of Trustees (via email: [REDACTED])
Henry Sorett (via e-mail: [REDACTED])

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.

Committee Liaison Report – Bob Espindola – February 21st, 2023**Broadband Study Committee.**

The Broadband Study Committee has not met since our last Select Board meeting.

Broadband Coalition

The Broadband Coalition will be meeting again on Thursday, February 23rd, at 7:00 P.M.

SMMPO - Meets next on Tuesday, February 21st. This report was submitted prior to the meeting. Update will be provided at the Select Board meeting.

SRPEDD Commission Will be meeting on February 22nd. One of the items on the agenda will be about good news SRPEDD received recently, that they have been awarded \$880,000 for a “Safe Streets for All Action Plan”. This is a U.S. Department of Transportation program that granted \$800M across the U.S. According to the Web site, “Action Plan Grants assist communities that do not currently have a roadway safety plan in place to reduce roadway fatalities, laying the groundwork for a comprehensive set of actions. The awards also provide funding to communities that want to build upon an existing roadway safety plan”

Fairhaven Bikeway Committee. The committee will meet again on Thursday, February 23rd at 6:30 P.M.

The South Coast Bikeway Alliance (SCBA) has reached out to members of the local delegation to comment on the fact that the new Pedestrian Bridge that will be built to cross Route 18 in New Bedford does not currently include bicycle/pedestrian accommodations. The SCBA will be meeting with State Representative Antonio Cabral on February 27th and possibly other local legislators following that, to see if anything can be done to change the design of the new Pedestrian bridge to accommodate bike/pedestrian traffic and to improve the overall safety in doing so. If successful, this could benefit commuters who walk or travel by bicycle from Fairhaven to New Bedford.