



Fairhaven Select Board & Finance Committee
Joint Meeting Minutes
October 30, 2023

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

Finance Committee Members Present: Chair Padraic Elliot, Linda Gallant, Peter Gardner, Patricia Pacella

Finance Committee Members Present via zoom: Christopher Fidalgo, Stephen Levesque and Claire Millette

Finance Committee Members Not Present: Robert Grindrod, James Souza, David Patterson

Also Present: Cam Durant, Kevin Fournier

Mr. Correy called to order the Select Board meeting at 6:38p.m.

Mr. Elliot called to order the Finance Committee meeting at 6:38pm

Mr. Correy advised that due to unforeseen information not available at the time of posting, the Finance Committee will be reviewing a reserve fund transfer request.

MINUTES

Pass Over

RATIFICATION OF COLLECTIVE BARGAINING AGREEMENT (CBA) - SEWER

Ms. Ellison informed the Board that the Sewer contract was agreed to and the memorandum of agreement (MOA) contains a breakdown of the changes (*Attachment A*).

Select Board Motion: Mr. Espindola motioned to accept, approve and ratify the Sewer Collective Bargaining Agreement of July 1, 2022 to June 30, 2025. Ms. Powers seconded. The motion passed unanimously (5-0-0).

SPECIAL TOWN MEETING WARRANT

Ms. Ellison referred to Article 2, Sewer Contract and asked the Board to reconsider their earlier vote of "At Town Meeting"

Select Board Motion: Mr. Espindola motioned to rescind his previous vote on Article 2. Ms. Powers rescinded her second. The motion passed unanimously (5-0-0).

Select Board Motion: Mr. Espindola motioned to recommend Adoption on Article 2. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Claire Millette joined via zoom at 6:45p.m.

Christopher Fidalgo joined via zoom at 6:48 p.m.

Mr. Elliot asked for a high-level review of the contract. Ms. Ellison referred to the MOA (*Attachment A*).

Questions were asked about the impact on the budget, when the contract will be published and why it was the longest contract to settle.

Mr. Durant reviewed the budget impacts and details about the FY23 and FY24 breakdown (*Attachment B*). The old contract is on the Town website and the MOA outlines the changes to the existing contract. The actual

contract document will be posted when it is available to post. Ms. Ellison said the length of time to get the MOA could be due to a change in shop steward and understanding the details.

Finance Committee Motion: Mr. Gardner motioned to recommend Adoption on Article 2. Ms. Pacella seconded. Roll call vote, Mr. Fidalgo in favor, Mr. Levesque in favor, Ms. Millette in favor, Ms. Pacella in favor, Mr. Gardner in favor, Ms. Gallant in favor and Mr. Elliott in favor. The motion passed unanimously (7-0-0).

Mr. Correy yielded to Mr. Elliott

RESERVE FUND TRANSFER

A reserve fund transfer request was received for an emergency repair to the hot water heater at the Fire Department and office for fifteen-thousand dollars. Mr. Fournier described the damages and is waiting for additional quotes. Ms. Ellison explained the deductible is ten-thousand dollars and the cost breakdown is within the reserve fund request document. A claim has not been filed so that the costs can be compared and to balance the potential for a premium to increase after a claim. Some work was completed due to the emergency need.

Finance Committee Motion: Mr. Fidalgo motioned to approve the Reserve Fund Transfer of fifteen-thousand dollars to the Fire-Repair & Maintenance Building account. Ms. Pacella seconded. Roll call vote, Mr. Fidalgo in favor, Mr. Levesque in favor, Ms. Millette in favor, Ms. Pacella in favor, Mr. Gardner in favor, Ms. Gallant in favor and Mr. Elliott in favor. The motion passed unanimously (7-0-0).

SPECIAL TOWN MEETING WARRANT

Ms. Ellison referred to Article 13, Capital Planning Bylaw and her memo which includes a breakdown of edits with line item comments addressing each change (*Attachment C*).

Discussion ensued regarding each edit, which edits were Bond Counsel, Town Counsel or Ms. Ellison, the Department of Revenue's (DOR) Capital Planning Guide and Manual, suggestion to obtain DOR's input, dates within the bylaw, moving some to a policy document and waiting for the newly established Financial Policy Committee to review.

Select Board Motion: Mr. Espindola motioned to strike all language changes except what Bond Counsel recommended in the top portion of the memo from Ms. Ellison. Ms. Powers seconded.

Discussion after the motion ensued about the Capital Planning Committee role as objective through the use of specific criteria to rank each request and the subjective role comes when it is moved from the Capital Planning Committee to the Town Administrator, Select Board, Finance Committee and Town Meeting. The Division of Local Services through the DOR does review policies when asked.

Ms. Ellison reviewed each edit of the proposed amendments to the Capital Planning Committee Bylaw, Chapter 40 in Special Town Meeting Article 13.

After discussion, Mr. Espindola rescinded his motion and Ms. Powers rescinded her second. Mr. Espindola motioned for the Select Board to recommend Indefinite Postponement on Article 13, no second was made for this motion.

Select Board Motion: Mr. Correy motioned to recommend Adoption on Article 13. Ms. Powers seconded. The motion passed (4-1-0) Mr. Espindola opposed.

Mr. Correy yielded to Mr. Elliott

Mr. Elliott opened discussion of the recommended changes to Article 13 from the Finance Committee. Discussion ensued regarding the role of the Finance Committee to review financial impacts to the Town, the timing of the recommendation to update this bylaw on the Capital Planning Committee and supporting the

earlier suggestion to ask the DOR review the proposed changes. The history of the bylaw was also discussed and the suggestion to review at the Annual Town Meeting.

Mr. Elliott raised a concern on the removal of an Ex-Officio member because that had typically been a Finance Committee member. Ms. Ellison explained the removal of all Ex-Officio members on other boards unless statutorily required and committed to having the Finance Committee notified of the future Capital Planning Committee meetings.

Mr. Elliott also raised a question on the process for department heads with a project and if they were able to do work ahead of time. Ms. Ellison explained that capital projects and contracts are reviewed through the procurement process and signed off by her as the procurement officer; if an employee attempted to enter into an agreement outside of the process they could be held personally responsible.

Select Board Motion: Ms. Millette motioned to recommend Adoption on Article 13. Mr. Levesque seconded. Roll call vote, Mr. Fidalgo in favor, Mr. Levesque in favor, Ms. Millette in favor, Ms. Pacella opposed, Mr. Gardner opposed, Ms. Gallant opposed and Mr. Elliott in favor. The motion passed (4-3-0) Ms. Pacella, Mr. Gardner and Ms. Gallant opposed.

Finance Committee Motion: Ms. Pacella motioned to adjourn the Finance Committee meeting at 8:06p.m. Mr. Fidalgo seconded. Roll call vote, Mr. Fidalgo in favor, Mr. Levesque in favor, Ms. Millette in favor, Ms. Pacella in favor, Mr. Gardner in favor, Ms. Gallant in favor and Mr. Elliott in favor. The motion passed unanimously (7-0-0).

Mr. Correy adjourned the Select Board meeting at 8:06p.m.

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

ATTACHMENTS:

- A. Sewer Memorandum of Agreement (MOA)
- B. Sewer Budget MOA impacts
- C. Article 13 memo and bylaw with edits and comments

Approved on November 20, 2023

**MEMORANDUM OF AGREEMENT
BY AND BETWEEN THE TOWN OF FAIRHAVEN AND
SEWER DEPARTMENT EMPLOYEES, TEAMSTERS UNION LOCAL 59,
AFFILIATED WITH THE I.B. OF T.**

NOW comes the Town of Fairhaven (“Town”) and the Fairhaven Sewer Department Employees Unit, Teamsters Union Local 59, Affiliated with the I.B. of T. (“Union”), (collectively “the parties”) who have agreed to modify the collective bargaining agreement (“CBA”) upon the following terms. This agreement is subject to ratification by the Union and the Town of Fairhaven Select Board and subject to funding by Town Meeting;

WHEREAS, the Parties currently have a CBA in effect from July 1, 2019, through June 30, 2022.

WHEREAS, the Parties hereby jointly agreed to modify the current CBA to reflect the following modifications, additions, and deletions as detailed herein:

- Article XXXIII – Duration:

- Duration shall be modified to reflect a three (3) year term: July 1, 2022 through June 30, 2025.
- All references to Duration will be updated in the collective bargaining agreement.

- Article VII – Grievance and Arbitration Procedure:

- Add a new section, Section (D) that states as follows:

“(d) Function of the Arbitrator:

The Arbitrator shall be without power or authorities to alter, amend, add to, and/or detract from the language of this Agreement. The decision of the Arbitrator shall be final and binding on the Parties to the extent permitted by law.”

- Article 13 – Holidays:

- Add Juneteenth to the enumerated list of holidays following the first sentence of this section.

- Article 16 – Wages:

- Amend subsection (b) so that the enumerated yearly stipends for Grade I to Grade VII, ranging from \$525.00 to \$1825.00, so that each value listed is increased by fifty (\$50.00) dollars so that the range becomes from \$575.00 to \$1875.00.
- Amend subsection (c) so that the enumerated yearly stipends for Grade I to Grade IV, ranging from \$100.00 to \$250.00, so that each value listed is increased by fifty (\$50.00) dollars so that the range becomes from \$150.00 to \$300.00.

- Amend the first sentence of subsection (e), which states as follows:

“Cell phone compensation shall be as follows:

	FY20	FY21	FY22
Daily Rate:	\$34.00	\$34.00	\$34.00”

With the following:

“The cell phone compensation shall be a daily stipend of thirty-eight (\$38.00) dollars.”

- The current wage chart depicted Schedule A for July 1, 2021 – June 30, 2022 shall be amended to reflect the following wage/COLA increases:
 - 2.5% increase for July 1, 2022 through June 30, 2023;
 - 2% increase for July 1, 2023 through June 30, 2024;
 - 2% increase for July 1, 2024 through June 30, 2025;
- The updated wage chart shall reflect levels 1 through 15 only, removing the current irrelevant levels of 16, 17, 18, 19, and 20.

- Additionally, a temporary/phantom 8th step shall be created reflecting a 3% increase from step 7. No employee shall be eligible to rise to this temporary/phantom 8th step. As of July 1, 2022, the bottom step (step 1) shall be deleted/dropped, and the remaining steps shall be renumbered so as to reflect seven (7) total steps (i.e. old step 2 shall become New Step 1, old step 3 shall become New Step 2, and so forth until the temporary 8th step becomes New Step 7). Employees that were in Step 1 on June 30, 2022, shall be retroactively placed in New Step 1 on July 1, 2022. Retroactively to July 1, 2022, all other employees shall be placed and paid at one (1) step lower than the step that they held on June 30, 2022, in order to reflect the New Step shift. All employees shall rise to the next step in the wage chart upon their employment anniversary with the Town.

For example, an employee with an anniversary of December 15 and who was on Step 5 on June 30, 2022, shall be retroactively placed onto New Step 4 as of July 1, 2022, and paid accordingly. On December 15, 2022, said employee shall then be placed into the New Step 5 and be paid accordingly. This reduction in step number shall not result in a loss of remuneration to any employee as the New Step is at the same rate of pay as the previous higher step with the addition of the corresponding COLA increase detailed above (i.e. New Step 4 as of July 1, 2022 is the same rate of pay of old step 5 as of June 30, 2021 with the corresponding 2.5% COLA increase).

A copy of the updated wage charts is attached hereto as Attachment A. The above language shall also be incorporated into the updated Wage Charts in the CBA to clarify this process.

- Article XVIII – Sick Leave:
- Amend the second and third sentences of subpart Section 8 so that it states as follows:

New Paragraph Number 1 Titled “Annual Sick Leave Buyout”- An employee who is hired **after** July 1, 2022 is not eligible for an annual sick leave buyback.

Employees who were hired prior to July 1, 2022, shall still be eligible for an annual sick leave buyout in the event that the employee meets the following conditions:

- Is employed as of July 30 of the year it is given
- Has a sick balance in excess of 120 days

In the event both of these criteria are met, the employee shall be paid the amount of (1/2) the value of the sick days in excess of 120 days.

The parties understand that this language was changed on or about July 1, 2022 and is not intended to modify any employees hired before that date who will be legacied and entitled to the benefit described above in the same manner and subject to the same terms prior to this change.

New Paragraph Number 2, “Separation Sick Leave Buyout”- An employee hired after July 1, 2022, is **only eligible for a Separation Sick Leave Buyout upon his/her death or retirement.** Any other instances of separation shall **not** result in any sick leave buyout.”

The parties understand that this language was changed on or about July 1, 2022 and is not intended to modify any employees hired before that date who will be legacied and entitled to the benefit described above in the same manner and subject to the same terms prior to this change.

- Article XXV – Miscellaneous:
- Amend subpart (h) so that it reflects as follows:

“The Town will reimburse the employee up to [**STRIKE AND REPLACE**] ~~\$225.00~~ **three hundred fifty (\$350.00) dollars** per fiscal year for ANSI hard steel toe safety boots, with proof of a paid receipt. Boots will be work during working hours.”

- Add a new subpart, subpart (m), which states as follows:

“(m) For those employees needing bibs and/or other articles of winter clothing, the Town will reimburse the employee up to three hundred fifty (\$350.00) dollars per year with proof of a paid receipt. The employer will select the vendor.”

- Add new subpart, subpart (n):

“(n)- On Call work. Employees designated to be “on call” during for a particular week may take home a Town vehicle for transport for Town business.

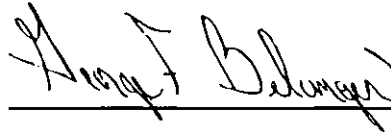
- Article IV-Hours of Work- modify (d), paragraph 2, Existing language: “The weekend/Holiday shift shall be no less than six (6) hours. The employee heading the weekend/Holiday overtime list has the option to conduct the shift alone or he/she may split the shift as long as prior notification is given to the Superintendent. [Insert: “In the event the shift is split in half, each employee shall be paid for a minimum of three (3) hours irrespective of the actual time performed, so long as the job tasks are completed.]. Existing language continues unchanged for remainder of subsection: “These provisions shall not apply if weekend/Holiday overtime is not required. In situations where additional time may be needed to complete an assigned weekend/Holiday task, the employee will notify the Superintendent.....”
- Ratification and Integration of Agreement: Once a memorandum of agreement is ratified by the union and the Select Board, the Agreement shall be placed on the warrant for Special Town Meeting for funding. Once funded, retroactivity shall apply for all wages as listed in Article 16, above. The parties will work to integrate this MOU into the existing collective bargaining agreement. The parties agree to work in good faith to produce the integrated agreement within thirty (30) days within signing of the memorandum.

IN WITNESS WHEREOF, the Union and the Town, by their authorized representatives, have set their hands to this Memorandum of Agreement, on this _____ day of _____ 2023.

TOWN OF FAIRHAVEN,
By Town Administrator
Duly authorized,

FAIRHAVEN SEWER DEPT. UNION
By its Bargaining Team,
Duly authorized,

Angeline Lopes Ellison



Vincent Furtado, BPW Superintendent

Brian Wotton, BPW

Ratified by Select Board:

Leon E. Correy III, Chair

Charles K. Murphy, Sr., Vice Chair

Stasia Powers, Clerk

Keith Silvia, Member

Robert J. Espindola, Member

Sewer FY23**Sewer FY24**

PAYROLL TOTAL	\$	55,890.56	PAYROLL TOTAL
OVERTIME TOTAL	\$	2,248.16	OVERTIME TOTAL
WORKING OUT OF CLASS TOTAL	\$	774.09	WORKING OUT OF CLASS TOTAL
LICENSE TOTAL	\$	950.00	LICENSE TOTAL
ON CALL TOTAL	\$	1,484.00	ON CALL TOTAL
TOTAL:	\$	61,346.81	
			FY23 & FY24 TOTAL



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

MEMORANDUM

To: Select Board Members and Finance Committee Members

From: Angie Lopes Ellison, Town Administrator

Date: October 27, 2023

Re: Special Town Meeting Article 13

The article change was initiated by Bond Counsel to change the following information due to the language that it cannot be considered or approved by the Town Meeting unless the Capital Improvement Committee has reported to the Select Board its reason for omitting the item;

Suggested Revision to Chapter 40-6 of the Town Bylaws:

Current Text:

No appropriation shall be voted for a capital improvement requested by a department, board or commission unless the proposed capital improvement has been considered in the Committee's Capital Improvement Plan, or the Committee has submitted a report to the Select Board explaining the omission of the proposed capital improvement from its Plan.

Proposed Text:

Every capital improvement request by a department, board or commission shall be considered in the Committee's Capital Improvement Plan unless the Committee shall have provided a report to the Select Board explaining the omission of the proposed capital improvement from its Plan.

As is with best practice, once a bylaw change is initiated, the entire bylaw is reevaluated to assure compliance and clarity. Upon further review the additional changes were initiated by the TA to make the Bylaw consistent with the Town Administrator Act (502-6) and customary practices.

Town Counsel reviewed the proposed language, agreed with the effort to revise the Bylaw as bond counsel recommended and to be consistent with the TA Act and customary practices, offered suggestions on wording to accomplish the necessary changes, and approved the proposed amendments.

The bylaw revisions are included with my comments;

ARTICLE 13: AMEND BYLAWS CAPITAL PLANNING COMMITTEE CHAPTER 40 § 2-7

To see if the Town will vote to amend the language in Bylaws, Capital Planning Committee, Chapter 40 § 2-7 as recommended to reflect actual practice and eliminate conflicts with other statutes. Language changes listed below are underlined in bold italics or strike out:

§ 40-2. Committee established.

The Select Board shall appoint a Capital Planning Committee ("Committee") consisting of seven voting members, ~~and three or more nonvoting ex officio members,~~ to assist and advise the Town Administrator in preparing a five-year Capital Improvement Plan. The voting members shall serve terms of three years. Initially two voting members shall serve for one year, two for two years, and three for three years, and they may be reappointed. The Committee shall be comprised as follows:

Commented [ALE1]: Removed to be consistent with other board and committee policy to remove non-voting members. Since these are public meetings, anyone can attend.

A. Voting members:

- (1) One member of the Board of Public Works or an appointee thereof;
- (2) A person who is a member of the Fairhaven local School Committee or an appointee thereof;
- (3) A resident of Fairhaven who represents the business, financial, or banking community;
- (4) A resident of Fairhaven with experience in the management of construction activities;
- (5) A resident of Fairhaven knowledgeable about the Town's needs in the areas of open space and recreation facilities or activities;
- (6) ~~The Finance Director/Treasurer/Collector;~~ ***A designee of The Finance Director, or, in the absence of a Finance Director, a Town financial staff member, designated by the Town Administrator, said financial designee to act as Chair of the Committee; and***
- (7) ~~The Town Administrator; and~~ ***One resident member appointed by the Select Board***
- (8) ~~Such other nonvoting ex officio members as the Select Board deems appropriate from time to time.~~

Commented [ALE2]: Whereas we do not have a finance director the person would not serve. This language allows for a financial staff member

Commented [ALE3]: Whereas the Capital Committee sends their recommendation for consideration to the TA it's not prudent to have TA on as a voting member.

Commented [ALE4]: Same as first comment. Removing non-voting members from boards and committees that are not statutory

§ 40-3. Duties of Committee.

A. Study proposed capital projects, improvements, and equipment purchases that have a useful life of at least five years and cost over \$20,000 per item;

B. ~~Work with Town departments and officers to compile an inventory of the Town's facilities, equipment, machinery and other capital assets;~~

B. C. Consider the relative need, impact, timing and cost of these expenditures ~~and the effect each will have on the financial position of the Town of Fairhaven;~~

Commented [ALE5]: This is the function of administration; due to insurance and replacement costs, we have inventory, time in service (if applicable), etc...

C. D. Prepare an annual report recommending a Capital Improvement Budget ***Projects/Plan*** for the next fiscal year and a Capital Improvement Program Plan, including capital improvements for the next five years. ~~The report shall be submitted to the Town Administrator who shall then submit it to the Select Board along with the budget on or before December 31 of for the next fiscal year~~ each year for consideration and approval; ~~[Amended 6-14-2021 ATM by Art. 46]~~

Commented [ALE6]: Responsibility of the Town Administrator through the special act upon establishing the budget

D. E. ~~Present the~~ ***The Capital Improvement Projects Plan and Capital Improvement Program Plan are to be presented at*** the Annual Town Meeting for its approval of fiscal year expenditures;

Commented [ALE7]: Added so its not in conflict with the Town Administrator special act which gives the budget development to the TA;

F. ~~Monitor the execution of projects authorized;~~

Commented [ALE8]: Clean the wording for clarity. The TA presents the budget per special act.

E. G. Explain and defend to the Town Meeting any deviation which the Committee proposes from the Capital Improvement Program Plan.

Commented [ALE9]: Again statutory responsibility of administration and TA

§ 40-4. Report of anticipated capital outlays to Committee.

~~By October 15 of each year, each department, board, committee and commission shall provide to the Committee information concerning all anticipated capital outlays requiring Town Meeting appropriation for the ensuing five-year period.~~

Commented [ALE10]: Unrealistic... The capital project needs to coincide with the budget process timeline. Starts when budget and revenues have been established.

~~§ 40-5. Public hearing on Capital Improvement Plan. [Amended 6-14-2021 ATM by Art. 46] After the annual presentation of the Capital Improvement Plan by the Committee to the Select Board, the Select Board shall, within 30 days of the receipt of the plan, hold a public hearing to present the plan for public comment.~~

Commented [ALE11]: In contradiction to the special act; There are two process in place. The discussion of the plan during SB meetings constitute a public input... a "hearing" has specific requirements.

~~§ 40-5-6 Appropriation for capital improvements. [Amended 6-14-2021 ATM by Art. 46] No appropriation shall be voted for a capital improvement requested by a department, board or commission unless the proposed capital improvement has been considered in the Committee's Capital Improvement Plan, or the Committee has submitted a report to the Select Board explaining the omission of the proposed capital improvement from its Plan.~~

Every capital improvement request by a department, board or commission shall be considered in the Committee's Capital Improvement Plan unless the Committee shall have provided a report to the Select Board explaining the omission of the proposed capital improvement from its Plan.

Commented [ALE12]: Bond counsel recommendation: there were issues with them acquiring bond due to the language.

~~§ 40-7. Expenditures in preparation for capital improvements. Such Capital Improvement Program, after its adoption, shall permit the expenditure on projects included therein of sums from departmental budgets for surveys, architectural or engineering advice, options or appraisals; but no such expenditure shall be incurred on projects which have not been so approved by the Town through the appropriation of sums in the current year or in prior years, or for preliminary planning for projects to be undertaken more than five years in the future. Notwithstanding the provisions of this section, the Town may appropriate and expend funds for the purchase of land regardless of when improvements to, or use of, the land by the Town is anticipated.~~

Commented [ALE13]: This is in MGL and requirement of expenditures under DOR/DLS... Redundant and not relevant to the capital planning committee.

Petitioned by: Town Administrator

Select Board: Recommend At Town Meeting
Finance Committee: Recommend At Town Meeting

Motion: To adopt as written in the warrant.