



FAIRHAVEN SELECT BOARD

FAIRHAVEN TOWN CLERK
RCUD 2023 DEC 21 PM 12:27

Meeting Minutes

November 20, 2023

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

Also Present: Assistant Town Administrator of Finance/Town Accountant Anne Carreiro

Mr. Correy opened the meeting at 6:31 p.m.

Mr. Correy had a moment of silence for Earnest Lizotte, former custodian for the Town and an Air Force Veteran.

Mr. Correy made a statement about derogatory and racist graffiti at Rogers School and thanked those that reached out to him and his family including Mr. Murphy, Ms. Powers, Mr. Silvia and Mr. Haworth

Mr. Murphy read a personal statement in conjunction to the situation (*Attachment A*)

Mr. Espindola addressed the Board and said that although he did not personally reach out to Mr. Correy and his family, he wanted to express his thoughts and prayers publicly. He added that the Town, the school department including students and parents, should become familiar with resources to educate themselves in the future.

Mr. Correy congratulated the Fairhaven High School Football Team for their season and advancement to the Super Bowl at Gillette Stadium.

Public Hearing:

Mr. Correy opened the public hearing at 6:41 p.m.

The Public Hearing for the proposed application to install conduit under the Town Road: 14 Nelson Avenue from the existing pole 179/10 to customer's new handhole 179/H10

Eversource's request was reviewed

Public Comment:

No public comment received

Mr. Correy closed the public hearing at 6:43 p.m.

Motion: Mr. Espindola motioned to approve the Eversource Installation of conduit at 14 Nelson Ave for existing pole 179/10 to customers' new handpole 179/H10 as presented. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Motion: Mr. Espindola motioned to take E1 and E2 out of order. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Fairhaven Firefighters Swearing in

Fire Chief Todd Correia introduced new firefighters: Ian Thatcher, Kyle Tevault, Brad Johnson, Ryan Langlois, Billie Oliver, Chad Fitzgerald and Jake Gallagher.

Town Clerk, Elisabeth Horan swore in the new firefighters.

Proclamation: Call Lieutenant Brian Daniel

Chief Correia recognized Lt. Brian Daniel with a proclamation for his pivotal role within the Town of Fairhaven. Mr. Correy read the proclamation.

Executive Session

Motion: Mr. Espindola motioned to enter into Executive Session Pursuant to G.L.c. 30A, 21(a)(3) to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigation position of the public body and the chair so declares (Rasputin's Tavern) and to return to open session. Ms. Powers seconded. Roll Call vote, Mr. Espindola in favor, Ms. Powers in favor, Mr. Murphy in favor, Mr. Silvia in favor and Mr. Correy in favor. The motion passed unanimously (5-0-0).

The Board exited the Banquet Room for Executive Session at 6:52p.m.

The Board returned to Open Session at 7:24p.m.

Motion: Mr. Espindola motioned to take item E3 (Rasputin's Tavern) out of order. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Rasputin's Tavern Deliberations Continuation:

Mr. Correy read the draft decision from the Board (*Attachment B*)

Minutes:

Motion: Mr. Espindola motioned to accept the meeting minutes of the October 30, 2023- joint meeting with the Finance Committee. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Motion: Mr. Espindola motioned to accept the meeting minutes of the November 6, 2023- Open Session. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Motion: Mr. Espindola motioned to accept the meeting minutes of the November 6, 2023- Executive Session. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Town Administrator Report:

Ms. Ellison updated the Board on:

- **Staffing Updates**-recent discussions with the union were conducted regarding a cross-training structure and the creation of a floater that will be filling in and also learning different skills to cover sick/vacation time.
- **FY 25 Budget Calendar**- an abridged version of the calendar was presented. Ms. Ellison advised that Capital project requests were due for review and the school department wouldn't have their budgets until mid-January. Budgets and Capital project requests will be reviewed before presented to the Select Board. The full version of the budget will be provided as soon as they are completed.
- **Revenue and Expense Report**-Ms. Carreiro provided the report (*Attachment C*). Ms. Carreiro asked if there were any questions or recommendations/adjustments. Mr. Correy questioned the Retirement/Insurance line item being at or close to 100% and Ms. Carreiro said it would be something to consider for the FY25 budget along with premium increases. The Board recognized Ms. Carreiro for her efforts in compiling the report. Ms. Ellison added that Ms. Carreiro is an asset to the Town for all she does on a regular basis.
- **New Audit Firm:** Powers & Sullivan, LLC. will be the Town's audit firm for 2024. The Town will review to determine continued use of their firm or search for other firms.

- **2024 Construction Revitalization Briefing Update**-MBTA provided a report, additional details are available online.
- **Roger School Artist Project**- local artist Brian Tillett will be painting a mural at the Rogers School of Henry H. Rogers.
- **Zoning Board of Appeals/Planning Board**-Town Counsel will review the distinction between their roles and responsibilities; the training is scheduled for November 21, 2023.

Zoning Board of Appeals (ZBA) Appointment

Ms. Powers recused herself and left the Banquet Room at 8:18 p.m.

Patrick Carr’s application was read by Mr. Correy.

Andrew Romano addressed the Board about his application and interest in moving from an associate member of ZBA to a full member.

Maria J. (MJ) Carvalho addressed the Board and spoke to her experience with the Town and interest in the ZBA

Mr. Correy asked for nominations. Mr. Silvia nominated Mr. Carr. Mr. Espindola nominated Mr. Romano and Mr. Murphy nominated Ms. Carvalho.

Motion: Mr. Silvia motioned to appoint Patrick Carr as a full member of the ZBA for a term to end May, 2025. No second. The motion failed.

Motion: Mr. Espindola motioned to appoint Andrew Romano as a full member of the ZBA for a term to end May, 2025. Mr. Murphy seconded. The motion passed (3-1-1) Mr. Silvia opposed, Ms. Powers abstained.

Ms. Powers rejoined the meeting @ 8:25p.m.

Buzzards Bay Coalition right of refusal parcel identification as Lots 27 and 28 on Sconticut Neck Road.

Alan Decker from Buzzards Bay Coalition (BBC) addressed the Board. Interested in removing just under 4 acres of the property from chapter 61 A enrollment in order to sell it. A map was provided to show the property. Mr. Decker explained how the lots could have been sold as 26 residential home lots before the coalition stepped in. They have since purchased the property and have advertised it for sale for individual(s) keeping it as agricultural use. Two house lots are remaining and available to build. (*Attachment D*).

Motion: Mr. Espindola motioned to accept the right of refusal for the parcels at lot 27 and 28 on Sconticut Road. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Buzzards Bay Coalition Conservation Restriction Assignment at Douglas Farm

Mr. Decker addressed the Board regarding approximately sixteen and a half acres that was placed under a conservation restriction with Buzzards Bay Coalition in 2007 with the Douglas family. The BBC has since purchased this property and to continue to be in agriculture use with the existing house for future consideration as an information or nature center for educational programs (*Attachment E*). Mr. Decker stated he had a state grant that has been awarded to help with the purchase of the property.

Motion: Mr. Espindola motioned to approve the Conservation Restriction Assignment at Douglas Farm located at 1 Douglas Drive; Sconticut Neck as approved by the conservation commission on November 6, 2023 with an amendment to work with Town Counsel if needed. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Use of the Town Hall: Fairhaven Improvement Association's Annual Sing-A-Long

The request for the use of Town Hall on Saturday, December 9, 2023 at 6:00p.m. was reviewed.

Motion: Mr. Espindola motioned to approve the use of the Town Hall by the Fairhaven Improvement Association on December 9, 2023 at 6 p.m. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Event Request: Polar Plunge

Kathleen Lopes, Fort Phoenix Polar Plunge Director addressed the Board about the request to hold the annual Polar Plunge at Fort Phoenix. The organizers have t-shirts for sale through Dollars for Scholars to support the Fairhaven High School seniors.

Motion: Mr. Espindola motioned to approve and support the Polar Plunge at Fort Phoenix on Sunday January 1, 2024 at 10 a.m. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Aquaculture License: Northeast Maritime Academy

An update was sent to the Board as a follow-up from the Select Board meeting on August 2, 2021. The reason for the long follow-up time was due to the time to get the bond, which is now complete. No motion needed.

Town Dedication Policy

A draft of a policy for memorial dedications of Town facilities and places in honor and/or in memory of those who served the Town of Fairhaven was reviewed.

Motion: Mr. Espindola motioned to approve the Town Dedication Policy as written and to take effect November 27, 2023. Ms. Powers seconded. The motion passed unanimously (5-0-0).

Financial Policy Review Committee: Select Board Appointment

Motion: Ms. Powers made a motion to appoint Mr. Murphy to the Financial Policy Review Committee. Mr. Espindola seconded. The motion passed unanimously (5-0-0).

Committee Liaison Reports:

Mr. Espindola reported on:

Broadband Study Committee, Massachusetts Broadband Committee Coalition met on November 16, 2023
(Attachment F)

Ms. Powers reported on:

Capital Planning, Economic Development business open house- decent group of business was in attendance. Paul DiGiuseppe was present at this meeting and plan to do it again. Bristol County Advisory Board Meeting- Ms. Powers was appointed as clerk. Library- CPA funded project.

Mr. Murphy reported on:

The Sister City Committee- reviewing the sister city agreement to see what other things we can be doing. Recognized Chris Richards with the Manjiro Festival and Paul DiGiuseppe with the CPC that passed at our Town Meeting

Mr. Silvia reported on:

Commission on Disabilities- package for a American sign language course.

Mr. Correy reported on:

Digital Equity- stakeholder meeting is being rescheduled

Public Comment:

Patrick Carr, 141 Pleasant Street addressed the Board regarding the ZBA appointment and to ask for clarity on the criteria between an associate and full member. Mr. Carr asked the Board to hear his reasons why he should be appointed as a full member and asked the Board to re-visit their decision.

Karen Vilandry, 34 Huttleston Ave asked the Board if any action would be taken regarding the Chairman of the Historic Commission accusing her of racism publicly at the BPW meeting on July 20, 2023. Ms. Ellison explained no action was recommended by Town Counsel after a third-party investigation found it to be inconclusive.

Board Member Items:

Mr. Espindola expressed concerns with the mission of the Financial Policy Review Committee, Select Board packet material coming out last minute with no time to review or prepare and the preservation of graffiti at the scene for the police to investigate and take photos before removal and clean- up.

Mr. Correy wished everyone a Happy and Safe Thanksgiving.

Meeting adjourned at 9:24p.m.

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

Attachments:

- A. Statement from Mr. Murphy
- B. Rasputin's Tavern Decision
- C. General Fund Operating Budget/Expenditures
- D. 431 Sconticut Neck Road- proposed Lots 27 & 28
- E. Douglas Tree Farm
- F. Committee Liaison Report – Robert Espindola

Approved on December 18, 2023

With the recent developments here in town, I feel a need to speak up and speak out about them. I was horrified with the graffiti that was written on the Roger's School. This form of blatant hatred will not be tolerated in our Town. We can not and will not tolerate any form of hatred and to further marginalize people, more particularly as it relates to racist and sexist acts. The incident at Roger School speaks to a greater issue of acceptance and of inclusivity. We should not accept the comments made upon leaders because of the color of their skin or their gender. We are not that type of people.

Everyone has freedom of speech, though as humans we have to work harder at being kinder to one another. There are wars and chaos happening around the world, let's not let it come to our community as we embrace our values; we need to fight the fight here for acceptance!

In this time, I reflect back to our history and those who have impacted, shaped beliefs and influenced our town as well as me. I am very influenced by my Mother, Kathleen Kobza Murphy, God rest her soul, who taught me to respect everyone. She taught me that we can always disagree with others, though disagreement does not equal disrespect. She taught me to be transparent, to be respectful to women, to be honest and to without a doubt, be respectful. I try very hard to live out these values that was taught to me. She taught me that we have been blessed to live here in a fair community which is the embodiment of the people of Fairhaven.

I also have been very influenced by Myra Lopes, God rest her soul. So after these recent disrespectful incidents, I turned to her for guidance from above. I turned to two of her books. In her book, Looking Back, she writes about our Founder, Henry Huttleston Rogers, and how the gift of this very Town Hall, was given by his wife Abbie. She also writes about how Samuel Clemens (Mark Twain) praised the Rogers for this

great dedication and also spoke about his life and how Mr. Rogers felt great when he had done what was morally right. In Myra's book, Seeing It All, she wrote how diverse and welcoming Fairhaven was in just the beginning of Fairhaven.

Our founder, Henry Huttleston Rogers, welcomed diversity and helping those that are marginalized and underrepresented. Mr. Rogers and his second wife Emilie, along with Mark Twain, formed the "The Helen Keller Educational Fund" so that Helen Keller, who was multiple disabilities, could complete her college education at Radcliffe and he went even further to provide her with \$100 each month for her college career and made the gift available for the rest of her life. In 1901, Mr. Rogers met and became close friends with Booker T. Washington, who was one of the greatest Black educational leaders in the United States, though when he was growing up it was illegal in Virginia to educate Black people. Over the years, Mr. Rogers contributed about \$100,000.00 to Washington's cause to improve humanity. Booker T. Washington came to Fairhaven several times as a guest of Mr. Rogers to see the beauty of our community.

When Helen Keller wrote her book, "The World I Live In", her dedication read, "To Henry H. Rogers, My Dear Friend of Many Years" and on the inside cover she wrote, "To Mr. Rogers, the best of the world I live in is the kindness of friends like you and Mrs. Rogers." And when Henry Huttleston Rogers, our founder, passed, Booker T. Washington quoted that, "Mr. Rogers was one of the best and greatest men I have ever met."

Our founder welcomed and supported diversity. He would embrace all people being part of our town, our government and town leadership. Myra Lopes and Kathleen Kobza Murphy would be so proud to see a woman as our Town Administrator. We are a strong community. We

have such great role models to follow in this community, past and present. Let's please all work together for keeping Fairhaven "Fair" and to agree to disagree on issues not personal attacks at times with a respectful base. Let's stop the hatred, and marginalizing others for no other reason than they are not like you. Let's work with our differences and find commonalities. By working together, incorporating the resources from the Belonging Committee, we can grow stronger. Please reach out to us to see how you can help us to make this community stronger!

As Thanksgiving approaches this week, I give thanks to live here and I pray each day for Fairhaven. Sometimes my prayers do not get answered all at once, though I will continue to pray for a united front for Fairhaven and the celebration of our diversity which is clearly evident from when Fairhaven first began.

In closing, I would like to read a quote from one of my personal heroes and I have read this quote many times from Dr. Martin Luther King, Jr. as he stated...."The time is Always right to do what is Right!"

That time is NOW! Lets do the right thing.

In Re:)	
)	
FOURTH AND LONG, INC.)	DECISION OF THE SELECT BOARD
d/b/a)	OF THE TOWN OF FAIRHAVEN
RASPUTIN'S TAVERN)	ACTING AS THE LOCAL
)	LICENSING BOARD
)	

The Select Board of Fairhaven, Massachusetts, ("Select Board") at all times hereto constituting and acting as the Local Licensing Authority, pursuant to Massachusetts General Laws chapter 138, hereby adopts the following findings and decision ("Decision") regarding the alleged liquor license violations of Fourth and Long, Inc., d/b/a Rasputin's Tavern ("Rasputin's") located at 122 Main Street in Fairhaven, Massachusetts.

APPLICABLE LAW

G.L. c. 138

204 CMR 2.04(2)

(2) No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible therefor, whether present or not.

Fairhaven Town Ordinance § 204-6

A. All hours of sale by a licensee shall be during the time periods noted on the license. Additionally, no holder of a restaurant license shall be entitled to serve alcoholic beverages before or beyond the posted hours of operation of the restaurant.

B. No sale of alcohol or alcoholic beverages shall be permitted before or after the time periods stated on the license. When a license allows for the consumption of alcohol or alcoholic beverages on the premises, within 15 minutes after closing, all bottles, glasses or containers used for drinking purposes shall be cleared off the tables and bar, and no alcoholic beverage shall be consumed more than 15 minutes after closing. This prohibition applies to all persons, including but not limited to patrons, members, guests or employees. No later than 30 minutes after closing, all patrons, members, guests or other members of the public shall have vacated the premises. Nothing shall prevent the licensee, his or her employees or agents from remaining in the premises so long as in the performance of such task or tasks as authorized by law.

Fairhaven Town Ordinance § 204-8

A. The issuance of a license shall not be deemed a compliance by the licensee with any other law or regulation. It is the licensee's sole obligation to comply with any other laws or regulations. It is expressly understood by the licensee that the local licensing authority, when allowed by law,

may take action against the licensee for failure to comply with the provisions of other laws or regulations.

B. By submitting any application required herein or under the provisions of MGL c. 138, and by accepting any license granted, the licensee or proposed licensee warrants and represents to the local licensing authority that said licensee shall be in compliance with all rules, regulations and laws governing the operation of their business prior to selling any alcohol or alcoholic beverages under said license, including but not limited to all Building Code requirements, occupancy requirements and state and local health rules, regulations and laws, and the licensee acknowledges and understands that the granting of any such license is a condition precedent to the exercise of the rights granted under said license.

C. Nothing contained herein these regulations shall be deemed to entitle a holder of a license to sell or deliver alcohol or alcoholic beverages other than as provided for by the specific license granted.

J. The local licensing authority or its agents may at any time enter upon the premises of any person or entity who is licensed by it to ascertain the manner in which the licensee conducts the business carried on under such license. All duly appointed police officers for the Town of Fairhaven holding the rank of detective, sergeant or above shall be deemed the authorized agents for the local licensing authority. The Building Commissioner shall be deemed an authorized agent for the purpose of inspecting the licensed premises to ensure compliance with the floor plan required to be submitted by these regulations. Nothing contained herein shall be deemed to limit any individual's authority to enter the premises as may be otherwise provided for by law. Additionally, the local licensing authority may appoint such other individuals as agents as it deems fit.

L. After a hearing held in conformance with the applicable provisions of law, if any license holder is found to be in violation of these rules and regulations or the rules and regulations of the ABCC or any applicable law, the licensing authority shall impose such minimum penalty or penalties for violations of law or rules and regulations as provided for in Appendix A [see Exhibit 1]. of these rules and regulations, it being expressly stated that the penalties provided for in said Appendix A shall be the minimum penalty imposed for those violations listed, and the Board may impose more severe penalties or take such other action as provided for by applicable law if the Board determines the facts warrant the same. In the event that there is found to be a violation of any said rule, regulation or law, and no specific penalty is provided for in Appendix A, the licensing authority will look to Appendix A as a guideline in fashioning a penalty.

PUBLIC HEARING

On September 18, 2023, the Select Board held a duly noticed hearing on the Rasputin’s alleged liquor license violations. **The hearing was opened at 8:01 pm.** Members of the Select Board present were:

- Select Board Chair Leon Correy,
- Select Board Vice-Chair Charlie Murphy,

- Select Board Clerk Stasia Powers,
- Select Board member Keith Silvia, and
- Select Board member Bob Espindola

Mr. Correy began by stating that the Select Board is holding a hearing on alleged violations by Fourth and Long, Inc. d/b/a Rasputin’s Tavern, located at 122 Main Street, of its liquor license, common victualler license, applicable laws and an agreement between Rasputin’s and the Town dated July 31, 2019 [See Exhibit 2, which is incorporated into this decision by reference.]

The purpose of the hearing is to determine whether Rasputin’s has committed the alleged violations and, if so, to determine the penalties to be imposed.

Mr. Correy advised the Board that they will hear from the Police Department first.

Fairhaven Police Chief Michael Myers presented a report compiled by Fairhaven Police Lt. David Sobral that recapped the alleged violations over the last four years since the agreement was signed on July 31, 2019 [see Exhibit 2]. The Department’s concern is safety and compliance with the law. The owner, Mr. Cebula, has become combative which has caused officers responding to calls at Rasputin’s to be concerned for their safety.

Mr. Correy asked that anyone who will be speaking or testifying to step forward to be sworn in. He then swore in those who stepped forward.

Lt. Sobral addressed the Board. He stated he has been with the Fairhaven Police Department for forty years. He reviewed the report and summaries of the alleged violations [see Exhibit 2]. He explained that the security plan is not being followed and there is no working relationship with Rasputin’s. It is common for officers to be sent to these types of establishments at closing time to help clear the area and to maintain the peace. This is done not just at Rasputin’s.

Town Attorney Heather White asked Lt. Sobral to confirm these were his reports and to read the list of twenty-seven alleged violations into the record, which he did.

Attorney Tyler Henseler representing Rasputin’s addressed the Select Board and stated his objections to the process included being prepared to cross examine what was read into the record and that the Alcoholic Beverages Control Commission (“ABCC”) case law regarding “totem pole hearsay” or triple hearsay due to the preparation of reports. He further stated that he objects for the record under MGL c. 138 under triple hearsay or totem pole hearsay. Atty. Henseler stated he would like to ask questions about the reports without waiving any rights.

Atty. Henseler questioned Lt. Sobral about items in the reports and stated an objection under totem pole hearsay to each item Lt. Sobral offered testimony to.

Atty. White advised the Select Board that this is not a court hearing and is not subject to the same rules as a court hearing, the Select Board can accept or reject any of the testimony if they choose.

Fairhaven Police Sergeant Michael Bouvier was questioned about items in the report he observed and responded to.

Atty. Henseler stated objections under totem pole hearsay to items in the report from Fairhaven Police Lt. Kevin Kobza (not present) and Fairhaven Police Officer Andrew Dillon (not present).

Atty. Henseler spoke to each of the alleged violations and stated that they violate due process due to the age of the alleged violations, stale records, no witnesses to refute the testimony and no opportunity to collect fresh evidence. He referenced cases to cite his objections for the record.

Atty. Henseler further stated that the alleged violations are also simple misunderstandings that Mr. Cebula has rectified, and one is an allegation of underage drinking, and that individual is an employee who was in training and her actions were not observed inside.

Atty. Henseler questioned Liam Mullen who is listed in the report regarding May 7, 2023, events. Mr. Mullen stated he was dropped off in the parking lot and did not enter Rasputin’s.

Atty. White asked Mr. Mullen why he was there to which he stated he parked his car there and was going to go in but didn’t.

Atty. Henseler requested the removal of the alleged violations as a violation of his client’s due process rights and asked for each of the alleged violations to be treated as a first notice of progressive discipline.

The Select Board asked questions regarding the security plan, cameras, whether third party reports are admissible in court, process for providing notice, hours of operation and the security plan from the July 31, 2019, agreement.

Atty. White summarized for the Select Board regarding hearsay that it is up to the Select Board to determine what is relevant and reliable including what is reasonably inferred from the police report. Everything in the report is subject to review in this hearing. Lt. Sobral explained that his summaries are taken from the police reports and actual calls to the Fairhaven Police Department.

Public Comment: No Public Comment was received.

The Select Board asked if the 2019 agreement can be amended.

Atty. White referred to the schedule of penalties and that the Select Board can amend the license and impose additional conditions.

Atty. Henseler stated Rasputin’s is open to discuss the same.

The liquor license hearing was closed at 9:30 p.m.

The Board asked questions to Atty. White as to the timeline of addressing the alleged violations. Atty. White advised the Board they could continue the hearing to have time to review the material and then return to deliberate it in a public meeting.

Motion: Mr. Espindola motioned to continue the hearing and deliberation to the next Select Board meeting. Ms. Powers seconded. The motion passed unanimously (5-0-0).

DELIBERATION

On October 23, 2023, the Select Board began its deliberations on the Rasputin’s alleged liquor license violations. Members of the Select Board present were:

- Select Board Chair Leon Correy,
- Select Board Vice-Chair Charlie Murphy,
- Select Board Clerk Stasia Powers,
- Select Board member Keith Silvia, and
- Select Board member Bob Espindola

Atty. Henseler representing Rasputin’s Tavern was present with Mr. Cebula.

Town Administrator Angie Ellison reviewed that since the meeting of September 18, 2023, the Board was provided guidance from Town Attorney Chris Petrini. The hearing was closed on September 18, 2023, and the Board will deliberate on five dates of violation: December 18, 2021, January 22, 2023, May 7, 2023, June 11, 2023, and September 6-7, 2023.

For each of the above dates and alleged violations the Select Board will deliberate and vote as to whether Rasputin’s is responsible or not responsible for each.

Persons in possession of alcoholic beverages after hours:

December 18, 2021	responsible (5-0)	<i>passed</i>
January 22, 2023	responsible (5-0)	<i>passed</i>
May 7, 2023	responsible (4-1)	<i>passed</i>
June 11, 2023	responsible (4-1)	<i>passed</i>

Sale to underage persons

June 11, 2023	responsible (0-5)	<i>failed</i>
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Other violations of Board rules/regulations, ABCC or state law (sales to intoxicated persons)

May 7, 2023	responsible (2-3)	<i>failed</i>
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Other violations of Board rules/regulations, ABCC or state law (disturbance of peace)

September 6-7, 2023	responsible (5-0)	<i>passed</i>
May 7, 2023	responsible (3-2)	<i>passed</i>

Mr. Correy recapped the dates of alleged violations the Board voted as responsible and confirmed with Select Board Clerk Ms. Stasia Powers.

Motion: Mr. Espindola motioned for persons in possession of alcoholic beverages after hours the Board finds Rasputin’s Tavern responsible on December 18, 2021, January 22, 2023, May 7, 2023, and June 11, 2023. And for Other violations of Board rules/regulations, ABCC or state law disturbance of peace on September 6 through 7, 2023 and May 7, 2023. Ms. Powers seconded. The motion passed unanimously (5-0-0).

FINDINGS

Accordingly, the Select Board does also hereby find:

1. The Select Board, by and through the Fairhaven Police Department, did enter upon the premises of the licensee, Rasputin’s, to ascertain the manner in which the licensee conducts the business carried on under such license.
2. The Select Board held a duly noticed hearing in which it found that the licensee, Rasputin’s, has failed to comply with certain applicable laws and regulations.
3. The Select Board and as allowed by law, may take action against the licensee for failure to comply with the provisions of other laws or regulations.
4. After a duly noticed hearing, the Select Board found the licensee, Rasputin’s, to be in violation of the following laws and regulations:
 - a. The licensee, Rasputin’s, violated 204 CMR 2.04(2) on December 18, 2021, January 22, 2023, and June 11, 2023, by permitting disorder, disturbance, or illegality of any kind to take place in or on the licensed premises.
 - b. The licensee, Rasputin’s, violated the Fairhaven Town Ordinance § 204-6 on September 6-7, 2023, by permitting alcohol to be served to, possessed and/or consumed by patrons after closing and/or the posted hours of operation.
 - c. The licensee, Rasputin’s, violated both 204 CMR 2.04(2) and the Fairhaven Town Ordinance § 204-6 on May 7, 2023 by permitting alcohol to be served to, possessed and/or consumed by patrons after closing and/or the posted hours of operation and by permitting disorder, disturbance or illegality of any kind to take place in or on the licensed premises whether the licensee shall be responsible therefor, whether present or not.

5. Accordingly, the Select Board shall impose such penalty or penalties for violations of law or rules and regulations as provided for in Appendix A [see Exhibit 1]. Further, in the event that there is found to be a violation of any said rule, regulation or law, and no specific penalty is provided for in Appendix A, the licensing authority will look to Appendix A as a guideline in fashioning a penalty.

PENALTIES

On October 23, 2023, the Select Board began its deliberations on Rasputin’s alleged liquor license violations. Members of the Select Board present were:

- Select Board Chair Leon Correy,
- Select Board Vice-Chair Charlie Murphy,
- Select Board Clerk Stasia Powers,
- Select Board member Keith Silvia, and
- Select Board member Bob Espindola

On September 18, 2023, the Fairhaven Select Board heard evidence of the following violations, and deliberated regarding the same on October 23, 2023:

- 1) Rasputin’s Tavern violated local and state law by allowing persons to be in possession of alcoholic beverages after hours on the premises on December 18, 2021; January 22, 2023; May 7, 2023; and June 11, 2023;
- 2) Rasputin’s Tavern violated local and state law by serving alcohol to an underaged individual on September 7, 2021;
- 3) Rasputin’s Tavern violated state and local law by selling alcohol to intoxicated persons on May 7, 2023; and
- 4) Rasputin’s Tavern violated local and state law by it or its patrons disturbing the peace on or near the premises on May 7, 2023, and September 6-7, 2023.

Accordingly, pursuant to MGL c. 138 and Chapter 204 and Appendix A of the Town of Fairhaven Bylaws, the Select Board is authorized to assess certain penalties and impose certain conditions on the all alcoholic beverages license of Rasputin’s Tavern, and so voted the penalties and conditions at its public meeting on November 20, 2023, **as fully set forth in Exhibit 3 hereto, which is incorporated by reference.**

In issuing this determination, the Select Board has relied upon the oral and written representations made during the aforementioned hearings. All minutes from all meetings of the Select Board that address this issue and Rasputin’s are hereby incorporated herein by reference.

Each finding, term, penalty, and condition of this Decision is intended to be severable. Any invalidity in any finding, term, penalty, or condition of this Decision shall not be held to invalidate any other finding, term, penalty, or condition of this Decision. If any findings, terms, penalties, or conditions are deemed impermissible by the ABCC or a court of competent jurisdiction, then the remaining findings, term, penalties, and conditions shall remain in full force and effect and shall be enforceable to the fullest extent permitted by law.

TOWN OF FAIRHAVEN
 GENERAL FUND OPERATING BUDGET / EXPENDITURES
 as of 10/31/23 (4 months / 12 months = 33%)

Category	Department	Appropriation	Expended	Ending Balance	% Expended
<u>GENERAL GOVERNMENT:</u>					
	TOWN MEETING	5,100	-484	4,616	9.5
	MODERATOR	1,000	-250	750	25.0
	SELECTM/TOWN ADMINISTRATION	316,889	-105,872	211,017	33.4
	SELECTMEN SALARIES	33,433	-8,358	25,075	25.0
	FINANCE COMM / RESERVE FUND	103,845	-258	103,587	0.2
	LEGAL SERVICES	180,000	-97,259	82,741	54.0 Monitoring
	HUMAN RESOURCES	212,418	-63,723	148,695	30.0
	HUMAN RESOURCES / WELLNESS	2,500	0	2,500	0.0
	TOWN HALL	163,066	-35,233	127,833	21.6
	INFORMATION TECHNOLOGY	<u>542,409</u>	<u>-226,701</u>	<u>315,708</u>	41.8 Maint agree pd July
	Total	1,560,660	-538,138	1,022,522	34.5
<u>MUNICIPAL FINANCE:</u>					
	TOWN ACCOUNTANT	223,330	-52,640	170,690	23.6
	ASSESSORS	245,936	-68,567	177,369	27.9
	TREASURER/COLLECTOR	416,972	-94,221	322,751	22.6
	TREASURER / TAX TITLE	<u>40,000</u>	<u>-4,575</u>	<u>35,425</u>	11.4
	Total	926,238	-220,003	706,235	23.8
<u>TOWN CLERK / ELECTIONS:</u>					
	TOWN CLERK	62,661	-27,067	35,594	43.2 JE Nov-corr TC salary
	TOWN CLERK SALARY	67,962	-13,290	54,672	19.6
	ELECTION & REGISTRATION	<u>41,963</u>	<u>-489</u>	<u>41,474</u>	1.2
	Total	172,586	-40,486	132,100	23.5
<u>PLANNING & DEVELOPMENT:</u>					
	PLANNING BOARD	5,930	-1,501	4,429	25.3
	PLAN/ECON DEVELOPMENT	148,467	-30,937	117,530	20.8
	ECON & DEVEL COMM	8,000	-210	7,790	2.6
	BOARD OF APPEALS	7,200	-2,971	4,229	41.3
	CONSERVATION/SUSTAINABILITY OFFICE	110,738	-33,413	77,325	30.2
	BUZZARDS BAY COMM	<u>1,800</u>	<u>-1,800</u>	<u>0</u>	100.0 Pd in full
	Total	282,135	-70,832	211,303	25.1

Category	Department	Appropriation	Expended	Ending Balance	% Expended	
<u>PUBLIC SAFETY:</u>	POLICE	5,173,523	-1,479,351	3,694,172	28.6	
	FIRE DEPT.	3,684,520	-1,203,301	2,481,219	32.7	
	FIRE ALARM	36,779	-6,079	30,700	16.5	
	BUILDING	189,046	-62,370	126,676	33.0	
	WEIGHTS & MEASURES	7,640	-1,785	5,855	23.4	
	EMERGENCY MGT	35,885	-11,482	24,403	32.0	
	ANIMAL CONTROL	126,335	-40,052	86,283	31.7	
	MARINE RESOURCES	221,550	-52,235	169,315	23.6	
	Total	9,475,278.00	-2,856,655	6,618,623	30.1	
	<u>EDUCATION:</u>	SCHOOL	23,753,641	-3,813,027	19,940,614	16.1
G.N.B.V.H.S.		2,397,000	-1,437,632	959,368	60.0 Pmt assessed	
B.C. AGRICULTURAL SCHOOL		235,000	-124,757	110,243	53.1 Add'l approp under assessed	
<u>PUBLIC WORKS:</u>	B.P.W. ADMINISTRATION	237,027	-64,000	173,027	27.0	
	HIGHWAY	1,674,453	-434,226	1,240,227	25.9	
	HIGHWAY HARDSURFACING	162,000	0	162,000	0.0	
	HIGHWAY-SIDEWALK REPAIR	50,000	-2,405	47,595	4.8	
	HIGHWAY DRAINAGE	15,000	-6,081	8,919	40.5 Monitoring	
	STREET RESURFACING	150,000	0	150,000	0.0	
	SUB DIVISION MGT FEES	9,847	0	9,847	0.0	
	STREET LIGHTS	61,000	-14,370	46,630	23.6	
	ENGINEERING	2,000	0	2,000	0.0	
	SANITATION	1,682,679	-441,867	1,240,812	26.3	
	PARK	193,396	-71,139	122,257	36.8 Seasonal	
	TREE DEPT.	67,666	-14,872	52,794	22.0	
	Total	4,305,068	-1,048,960	3,256,108	24.4	
	<u>HEALTH:</u>	BOARD OF HEALTH	183,753	-51,670	132,083	28.1
		HEALTH BOARD SALARY	5,170	-287	4,883	5.6
	Total	188,923	-51,957	136,966	27.5	
	<u>COMMUNITY SERVICES:</u>	COUNCIL ON AGING	229,360	-66,586	162,774	29.0
VETERANS SERVICES		794,392	-159,238	635,154	20.0	
MILLICENT LIBRARY		752,336	-325,140	427,196	43.2	
RECREATION CENTER		361,983	-120,464	241,519	33.3	
TOURISM		99,772	-24,705	75,067	24.8	
FINE ARTS		1,200	0	1,200	0.0	
HISTORICAL COMM		18,500	-2,775	15,725	15.0	
MEMORIAL / VETERANS DAY		1,500	-90	1,410	6.0	

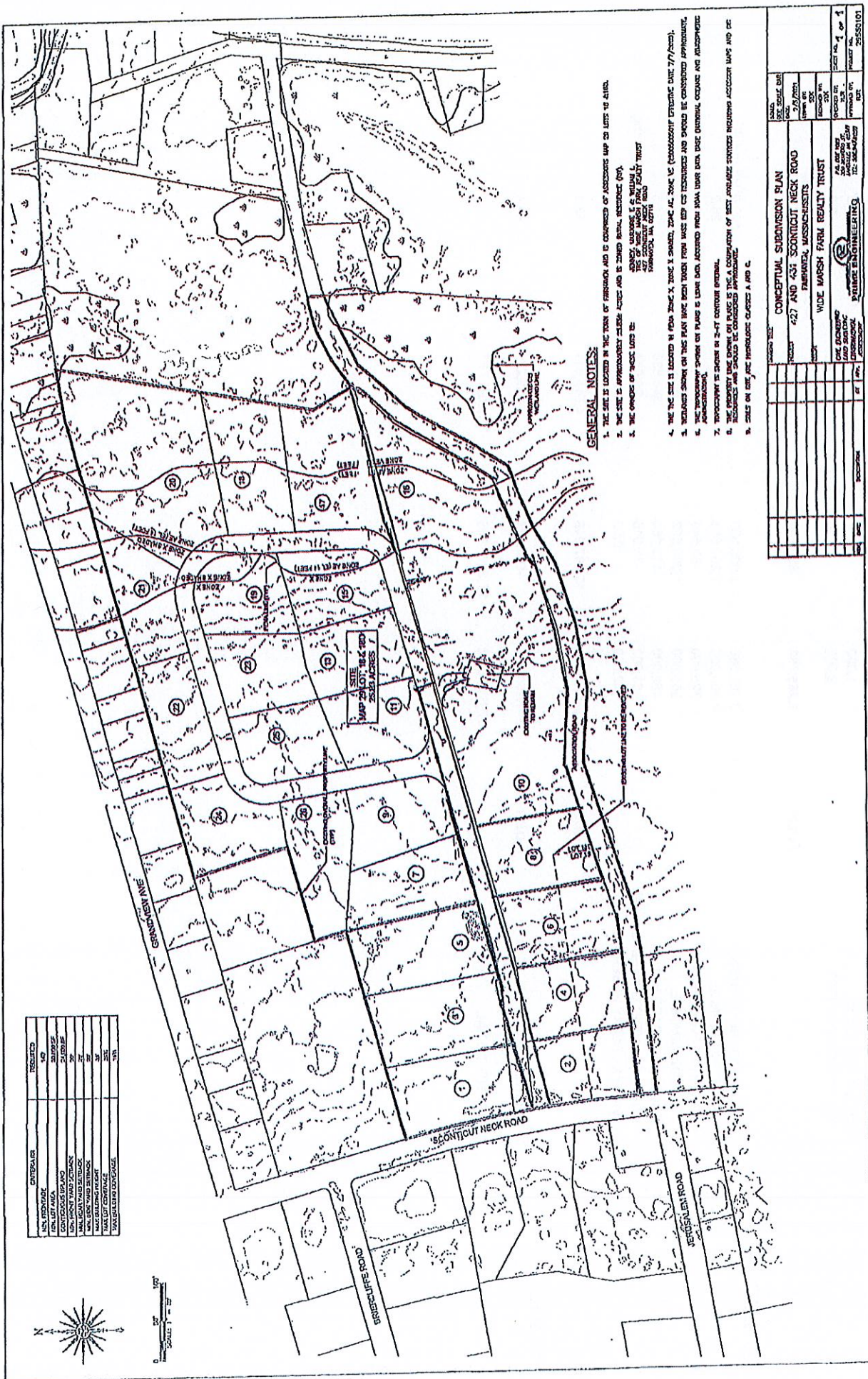
Category	Department	Appropriation	Expended	Ending Balance	% Expended
	CULTURAL COUNCIL	2,750	0	2,750	0.0
	COMM ON DISABILITY	1,000	-50	950	5.0
	BELONGING COMM	1,000	-182	818	18.2
	RAPE CRISIS PROJECT	<u>2,000</u>	<u>0</u>	<u>2,000</u>	0.0
	Total	2,265,793	-699,230	1,566,563	30.9

NON-DEPARTMENTAL:

FAIRHAVEN RETIREMENT	3,906,560	-3,906,560	0	100.0 Pd in full
GROUP INSURANCE	4,800,000	-1,259,558	3,540,442	26.2
WIND TURBINE ELECTRIC	725,000	-83,549	641,451	11.5
TOWN INSURANCE	955,000	-1,000,902	-45,902	104.8 Add'l prem increases
F.I.C.A.-MEDICARE INS	462,000	-113,164	348,836	24.5
UNEMPLOYMENT COMPENSATION	63,000	-33,916	29,084	53.8 Monitoring
WAGE & SALARY RESERVE	32,000	0.00	32,000	0.0
Total	10,943,560	-6,397,649	4,545,911	58.5

DEBT SERVICE:

GENERAL FUND	1,131,020	-501,799	629,221	44.4
GRAND TOTAL	57,636,902	-17,801,125	39,835,777	



GENERAL NOTES:

1. THE SITE IS LOCATED IN THE TOWN OF FRANKLIN AND IS COMPRISED OF ADDITIONS MAP TO LOTS 10 & 11.
2. THE SITE IS APPROXIMATELY 1500' EAST AND IS 200' SOUTH, RESPECTIVELY, OF THE CORNER OF THE INTERSECTION OF THE WEST LINE OF LOT 10 AND THE WEST LINE OF LOT 11.
3. THE CORNER OF THE SITE IS AT THE CORNER OF THE INTERSECTION OF THE WEST LINE OF LOT 10 AND THE WEST LINE OF LOT 11.
4. THE SITE IS LOCATED IN ZONE 'A', ZONE 'B', ZONE 'C', ZONE 'D', ZONE 'E', ZONE 'F', ZONE 'G', ZONE 'H', ZONE 'I', ZONE 'J', ZONE 'K', ZONE 'L', ZONE 'M', ZONE 'N', ZONE 'O', ZONE 'P', ZONE 'Q', ZONE 'R', ZONE 'S', ZONE 'T', ZONE 'U', ZONE 'V', ZONE 'W', ZONE 'X', ZONE 'Y', ZONE 'Z'.
5. THE ZONES SHOWN ON THIS PLAN HAVE BEEN TAKEN FROM MASS DEP OF ENVIRONMENTAL AFFAIRS AND SHOULD BE CONSULTED APPROPRIATELY.
6. THE 'PROPOSED' ZONES ON THIS PLAN ARE BASED ON THE DATA PROVIDED BY THE CLIENT AND SHOULD BE CONSULTED APPROPRIATELY.
7. PROPOSED TO BE IN 2-4' CONTIGUOUS PERIOD.
8. THE PROPOSED ZONES ARE SUBJECT TO THE DISCRETION OF THE ENGINEER.
9. THE PROPOSED ZONES ARE SUBJECT TO THE DISCRETION OF THE ENGINEER.
10. THE PROPOSED ZONES ARE SUBJECT TO THE DISCRETION OF THE ENGINEER.

NO.	DESCRIPTION	DATE	BY	REVISION
1	CONCEPTUAL SUBDIVISION PLAN	06/01/2011	J.P.	
2	PROJECT 427 AND 431 SCOUTCUT NECK ROAD	06/01/2011	J.P.	
3	FARMINGTON, MASSACHUSETTS	06/01/2011	J.P.	
4	WIDE MARSH FARM REALTY TRUST	06/01/2011	J.P.	
5	AS PER MAP 427 AND 431	06/01/2011	J.P.	
6	AS PER MAP 427 AND 431	06/01/2011	J.P.	
7	AS PER MAP 427 AND 431	06/01/2011	J.P.	
8	AS PER MAP 427 AND 431	06/01/2011	J.P.	
9	AS PER MAP 427 AND 431	06/01/2011	J.P.	
10	AS PER MAP 427 AND 431	06/01/2011	J.P.	
11	AS PER MAP 427 AND 431	06/01/2011	J.P.	
12	AS PER MAP 427 AND 431	06/01/2011	J.P.	
13	AS PER MAP 427 AND 431	06/01/2011	J.P.	
14	AS PER MAP 427 AND 431	06/01/2011	J.P.	
15	AS PER MAP 427 AND 431	06/01/2011	J.P.	
16	AS PER MAP 427 AND 431	06/01/2011	J.P.	
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DATE	REVISION
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06/01/2011	99
06/01/2011	100

431 Sconticut Neck Road - Proposed 2 House Lot & Conservation Restriction Option

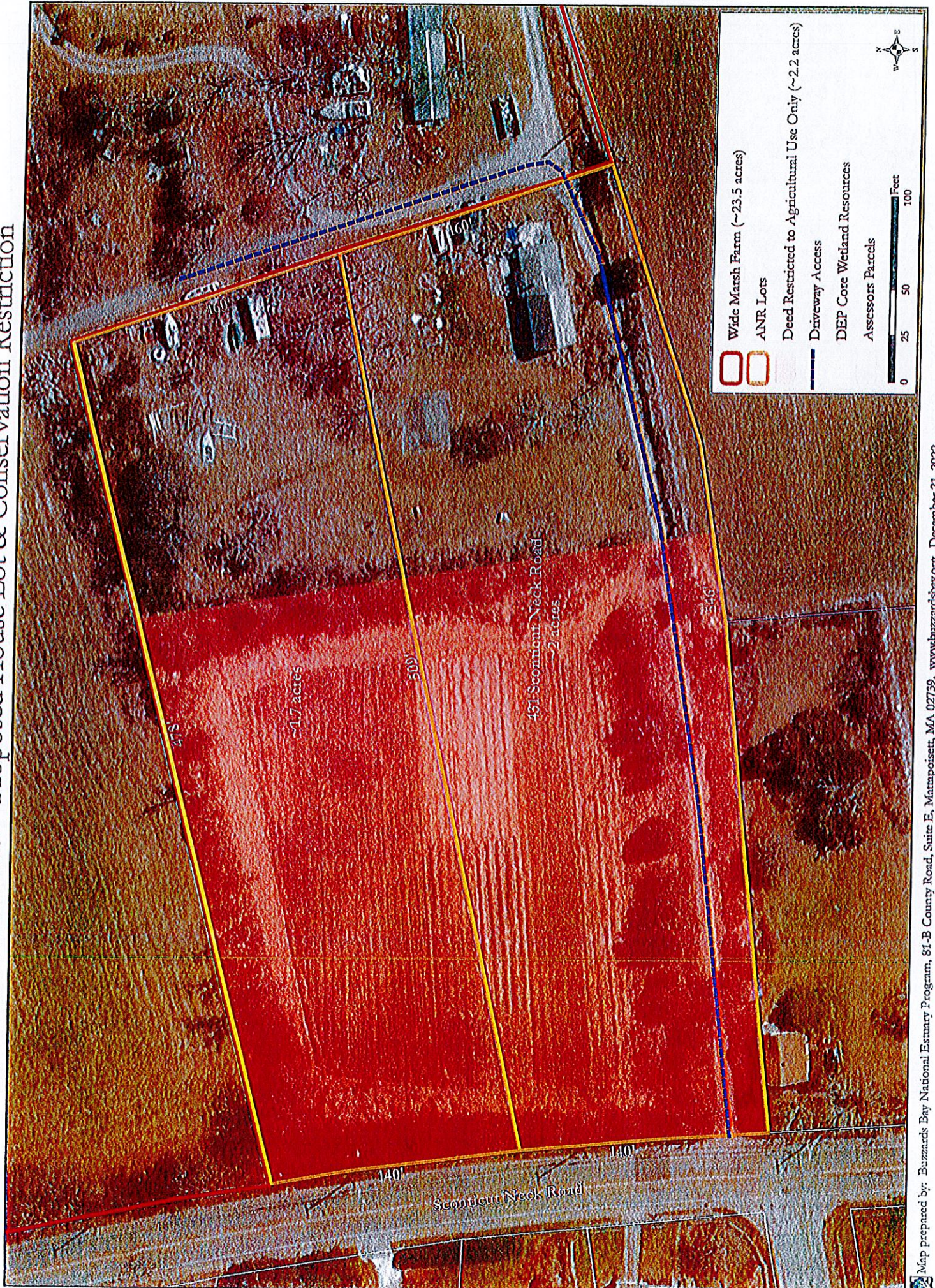


- Wide Marsh Farm (~23.5 acres)
- ANR Lots
- Deed Restricted to Agricultural Use Only (~2.2 acres)
- Driveway Access
- DEP Core Wetland Resources
- Assessors Parcels

0 75 150 300 Feet

N
W E
S

431 Sconticut Neck Rd – Proposed House Lot & Conservation Restriction



Douglass Tree Farm, Fairhaven - Open Space Context



Douglass Tree Farm
 Existing Protected Lands
 Assessor's Parcels

0 300 600 1,200 Feet
 N
 W — E
 S

Douglass Tree Farm, Faithhaven



Bob Espindola – Committee Liaison Report 11-20-2023

The Broadband Study Committee

Ms. Ellison, Janet Falone, Executive Director of the Housing Authority, Sean Powers and I met to discuss the Fairhaven Housing Authority Broadband Project. The Metropolitan Area Planning Council (MAPC) asked several questions that we need to answer before they will consider a possible grant award to help the Town manage the buildout. One of the questions that remains is about the costs of operating the system after the project is built. We now have some questions for MAPC and Ms. Ellison is working on setting up that meeting up.

Massachusetts Broadband Coalition

The Massachusetts Broadband Coalition met on November 16th. Members of Open Cape, a 501c3 nonprofit technology company that utilized Federal funds to build a Fiber optic network running from western mass to Cape Cod as part of an effort to bring internet service to remote, underserved areas of the state. Their main line runs through Fairhaven along route 6. They highlighted a project they recently completed to bring fiber to the business community in Buzzards Bay. The Town of Bourne had received a similar Broadband grant to the one we have in Fairhaven and they were struggling to put together a project under the original project premise that they received their grant for. They were planning to send the funds back to the state. But, instead, they requested the State to let them switch gears and they contracted Open Cape to run a new fiber line down main Street in Buzzrards Bay. The project is viewed as an Economic Development opportunity, as this new line has already connected a number of commercial business addresses to High Speed Fiber at lower cost than they were paying prior to the project.

The Coalition learned about the Town of Hampden, MA who had a Town Meeting Article to borrow \$8.5M to build a Fiber to the Home network in an article that required a 2/3 vote threshold fail by only 4 votes despite a blitz of mailer cards, radio ads, etc being distributed to fight against the project by a group that did not identify themselves as such but turns out to be Charter Communications / Spectrum, an incumbent Internet Service Provider.

Meet Our Coalition Partners



Project cost without grant funding

\$8.57 Million Estimated construction cost

\$651,521.39 Estimated annual bond payment (Includes bond interest and data fees)

Excerpt from Hampden Town Meeting
Presentation

Massachusetts Broadband Institute Public Data

2,013 Households In Hampden

18 Households are unserved

1,995 Households currently have a broadband connection

So what does this mean to residents and subscribers?

50% Target take rate = 998 households

\$85 Monthly cost (\$28 goes to WCF for ISP and Network Operations) = \$57 town revenue

998 Households x \$57 monthly revenue = \$682,632.00 annual net to town

\$31,111.00 annual revenue to the town at 50% household take rate

The coalition discussed the influx of funds being spent to fight Broadband Projects and what communities can do to be prepared for that when a community approaches a Town Meeting vote.

One participant in the meeting pointed us toward an article in the Martha's Vineyard Times that highlighted new legislation that originated over concerns of what they call "Dark Money" coming in from unidentified sources with deep pockets that were influencing Town Meeting votes on Short Term Rentals. There is a thought that this type of legislation could help communities identify who is behind funding campaigns that aim to influence Town Meeting in a number of areas, Broadband being one of them. The Coalition is considering sending a letter endorsing the bill to the two State Reps who were the authors of the Bill. The article explains that *"Two local state representatives filed a bill to counter the influence of what they are calling "dark money" in town meetings.*

State Sen. Julian Cyr (D-Truro) and State Rep. Dylan Fernandes (D-Falmouth) announced in a press release they filed legislation to "establish transparency and accountability" for any money spent to influence voters at town meetings.

The bill, called "An Act relative to dark money in local government" (S.2804/H.4628) would close a "longstanding loophole" in Massachusetts' campaign and political finance law that allows "unfettered political influence" on town meeting warrant articles "

<https://www.mvtimes.com/2023/10/18/bill-aims-expose-dark-money-town-meetings/>