



TOWN OF FAIRHAVEN, MASSACHUSETTS

# PLANNING BOARD

Town Hall · 40 Center Street · Fairhaven, MA 02719

## MEETING MINUTES

Tuesday, July 23, 2024 at 6:30 pm

Held both at Town Hall & Remotely via Zoom

### 1. GENERAL BUSINESS:

a) **Chair's Welcome and Media Notification:** Madame Chair, Ms. Cathy Melanson, opened the meeting at 6:32 PM and advised who was present. The media notification was written on the agenda for the meeting and thus was not read aloud.

b) **Quorum/Attendance: Present:** Cathy Melanson, Patrick Carr, Kevin Grant, Ruy daSilva, and Rick Trapilo in the Town Hall East Room. Jessica Fidalgo, Sharon Simmons, and Diane Tomassetti on Zoom.

**Absent:** None

Recording Secretary Stephanie Fidalgo and Conservation Agent Bruce Webb were present in Town Hall.

c) **Minutes: June 25, 2024 drafts to be reviewed:**

Mr. daSilva made a motion to accept the minutes of June 25, 2024, and was seconded by Mr. Trapilo. The motion passed unanimously via roll call vote. (8-0)

d) **Correspondence:**

Mr. Grant distributed a letter regarding his censure to the Board Members gathered in Town Hall and read the letter into the record. *[See Attachment A.]*

e) **Open Meeting Law**

Ms. Melanson read the list of agenda items related to the Open Meeting and then invited Town Counsel, Attorney Heather White, to speak to the Board. Attorney White gave an overview of the procedures for handling Open Meeting Law Complaints. Upon receiving a complaint, a Board has 14 business days to meet and respond to the complaint. However, if no meetings are scheduled and the Board is unable to arrange a meeting before that deadline, the Board may request an extension of the deadline from the Attorney General's Office. In their approval of the extension, the Attorney General's Office requested that the Board seek to amicably resolve the issues with the individuals who filed the complaints. The complainants who were present would be invited to speak to the Board. At the end of the discussion, the Board would decide on the

38 course of action, most commonly being the Chair and Town Counsel to draft the responses.

39  
40 Attorney White summarized the complaints, all three of which referred to the agenda item on  
41 the June 25, 2024 agenda, "40R Discussion," wherein the discussion held covered topics that  
42 were somewhat related to the current 40R Bylaw application process but ended in a vote to  
43 censure two members of the Board. There was no item on the agenda which indicated that the  
44 Board would be taking such action.

45  
46 While the motion may have happened spontaneously and was not anticipated by the Chair,  
47 given the nature of the discussion and the motion, the best practice would have been to  
48 postpone the discussion and the vote to a later meeting. When making such a statement  
49 regarding individuals, the Board should give notice to them and ensure that they have an  
50 opportunity to speak before the Board before it takes such action.

51  
52 While censure does not significantly impede a Board member's ability to serve on a Board, it is  
53 still a significant statement and should not be made lightly. Before taking such disciplinary  
54 action, a Board should gather evidence of their concerns or even have an independent  
55 investigation of the concerns. Given the circumstances of the motion to censure at the June 25,  
56 2024 meeting, the agenda for this meeting included an item to rescind the vote.

57  
58 Attorney White also outlined the ways that serial deliberation outside of a meeting could  
59 happen, such as forwarding material that included the opinions of a Board member. Similarly,  
60 social media could be used by Board members to address the public on matters, but issues such  
61 as public visibility and comments from other Board members could also constitute an Open  
62 Meeting Law violation. Informal conversations, passing notes, and side discussions could also  
63 constitute serial deliberation.

64  
65 Attorney White reminded the Board to be respectful of each other's differing opinions and to  
66 maintain healthy and productive discussions as they worked together towards making well-  
67 informed choices and seeking to improve the Town.

68  
69 Ms. Melanson prompted the Board members for comments before addressing the  
70 complainants.

71  
72 Ms. Simmons encouraged members to communicate with one another or take their issues to  
73 the Chair or the Board as a whole. She agreed to rescind the vote to censure taken at the June  
74 25th meeting and also supported the idea of re-examining the situation at a later date.

75  
76 Ms. Tomassetti spoke about the importance of the Board following the democratic process and  
77 supporting one another. She also supported rescinding the censure vote and re-examining the  
78 situation.

Mr. daSilva supported rescinding the censure vote and requested increased transparency from the Board as a whole.

Mr. Carr supported rescinding the censure vote, noting the procedural issues with the vote and requesting that the situation be re-examined under the proper procedures.

Mr. Grant abstained from further comment.

Mr. Trapilo expressed his frustrations with the situation and Ms. Melanson requested that he refrain from commenting on Mr. Grant's letter.

Ms. Melanson explained that the 40R Discussion on June 25, 2024, stemmed from concerns regarding letters submitted to the Select Board and posts made on Facebook by members of the Board. She agreed with Attorney White's evaluation that the censure vote had not followed proper procedure and should be rescinded.

**1. Complaint from Robert Espindola regarding the meeting of June 25, 2024, dated June 28, 2024**

**i. Initial Response and Request for Extension from Cathy Melanson, dated July 9, 2024 and revised July 10, 2024**

Mr. Espindola's complaint and the initial response and request for extension are included in these minutes as [Attachment B].

Mr. Espindola spoke to the Board via Zoom. He did not reiterate the points made in the complaint, but instead asked about the request for an extension and the process used to poll the Board members to see if a quorum of members would be available for a meeting within the standard 14 working-day timeframe.

Ms. Melanson explained that all of the Board members were asked, but the most manageable course of action was to wait for the next scheduled meeting to respond.

**2. Complaint from Jessica Fidalgo regarding the meeting of June 25, 2024, dated July 1, 2024**

**i. Initial Response and Request for Extension from Cathy Melanson, dated July 9, 2024 and revised July 10, 2024**

Ms. Fidalgo's complaint and the initial response and request for extension are included in these minutes as [Attachment C].

Ms. Fidalgo spoke to the Board via Zoom. She also did not reiterate the points made in her complaint but instead requested that the Board undergo additional Open Meeting Law training, speaking as both a member and a complainant. She also hoped that procedural best practices would be followed in the future and supported the vote to rescind the censure of herself and Mr. Grant.

Ms. Fidalgo also asked Attorney White for guidance on how closely Robert's Rules needed to

125 be followed given that the Town of Fairhaven specifically cites Robert's Rules in the bylaws.  
126 Attorney White answered that Robert's Rules helped to provide structure and decorum to  
127 meetings but that local, state, and federal law would supersede them and that failure to  
128 follow Robert's Rules did not constitute an Open Meeting law violation.  
129

130 **3. Complaint from Eleanor Chew regarding the meeting of June 25, 2024, dated July 17, 2024**  
131

132 Ms. Chew's complaint is included in these minutes as [Attachment D].  
133

134 Ms. Chew spoke to the Board via Zoom, once her technical issues were resolved. She  
135 covered the content of her complaint, centered around how the 40R Discussion agenda item  
136 resulted in a motion to censure two Board members. She would want future agendas to  
137 clearly state the topics to be discussed and spoke against the censure of Mr. Grant and Ms.  
138 Fidalgo.  
139

140 **4. Consider rescinding the vote to censure Kevin Grant and Jessica Fidalgo**  
141

142 Attorney White agreed that voting to rescind the censure would be the best course of  
143 action, given the procedural issues with the original discussion and motion. She also  
144 recommended that the Board ensure that future agendas will be more detailed and that the  
145 Board pause discussions regarding controversial topics and specific individuals to place on a  
146 future agenda. She also offered to provide further training to the Board, under the direction  
147 of the Town Administrator. She additionally directed Board Members to the Attorney  
148 General's Division of Open Government's online training video collection. [  
149 <https://www.mass.gov/info-details/open-meeting-law-training-videos> ]  
150

151 In addition to rescinding the vote to censure, Attorney White also recommended that the  
152 Board vote to refer this matter to herself and the Chair to write the responses to the  
153 complainants, acknowledging the issues and noting the steps taken towards future  
154 compliance. She did note that the complainants would have the ability to request a review  
155 of the matter from the Attorney General's office if they were not satisfied with the  
156 responses.  
157

158 Mr. Grant inquired if he or Ms. Fidalgo should participate in the vote to rescind their  
159 censure or on matters regarding the Open Meeting Law complaints. Attorney White  
160 answered that for the Open Meeting Law matters, it would be up to the individuals to  
161 determine their comfort level and if there could be a conflict of interest should they vote.  
162 Regarding the vote to rescind the censure, she recommended that only the members who  
163 voted in the first instance to censure also be the ones to rescind the vote. Mr. Grant stated  
164 that he would then abstain from voting on the motion to rescind the censure.  
165

166 Ms. Fidalgo had heard similar advice from an open government group and had requested  
167 guidance in writing from the Ethics Commission but had yet to receive the answer. She also  
168 planned to abstain from voting.

Mr. Espindola requested that in the responses, the Board would promise to follow the intent of the law regarding responding to Open Meeting Law complaints within the 14 working day time limit.

Ms. Chew had concerns regarding the evolution of the discussions at the June 25, 2024 meeting and the spontaneity of Mr. Carr's motion, but Ms. Melanson assured that the discussion and action were not anticipated.

Given how Robert's Rules outlined the processes for censuring members, Mr. Trapilo asked Town Council to explain what rescinding the vote to censure said about the Board's actions. Attorney White explained that their focus was on the Open Meeting Law violation and that the censure vote taken on June 25, 2024, could not have been anticipated by the "40R Discussion" agenda item.

Mr. Espindola clarified that while Robert's Rules allowed for a censure to be issued without prior notice for actions taken during that same meeting, a censure for actions taken at previous meetings or outside of meetings required notice. Ms. Fidalgo noted that Section 61:22 in Robert's Rules covered the procedure for disciplining members for actions taken outside of meetings.

**Mr. Carr made a motion to rescind the vote to censure Kevin Grant and Jessica Fidalgo and was seconded by Mr. daSilva. The motion passed via roll call vote with Ms. Simmons, Ms. Tomassetti, Mr. daSilva, Mr. Carr, Ms. Melanson, and Mr. Trapilo in favor and Ms. Fidalgo and Mr. Grant abstaining. (6-0)**

**Mr. Carr made a motion to allow Cathy Melanson, Chair of the Planning Board, and Heather White, Town Council, to articulate the response to the three Open Meeting Law complaints and was seconded by Mr. Trapilo. The motion passed via roll call vote with Ms. Simmons, Ms. Tomassetti, Mr. daSilva, Mr. Carr, Ms. Melanson, Mr. Grant, and Mr. Trapilo in favor and Ms. Fidalgo abstaining. (7-0)**

## **2. PUBLIC HEARINGS:**

- a) **SP 24-02 36 Francis Street ADU:** - Special Permit proposal for the total conversion of the existing garage at 36 Francis Street (Map 12, Lot 135) into an Accessory Dwelling Unit, submitted by Jessica Whiteley. ***Applicant requests a continuance to the August 27, 2024 meeting.***

**Mr. Grant made a motion to continue SP 24-02 36 Francis Street ADU and was seconded by Mr. daSilva. The motion passed unanimously via roll call vote. (8-0)**

210  
211  
212 **4. OTHER BUSINESS:**

213 **a) Planning Board Binder and Brief Discussion**

214  
215 At the direction of the Board, Recording Secretary Fidalgo provided updated versions of  
216 reference binders to the members containing the most recent copies of Chapters 65, 198, 316,  
217 322, the Boards and Committee Handbooks, and guides to Open Meeting Law and Conflict of  
218 Interest. Board Members were encouraged to bring their binders to meetings and were  
219 allowed to take them home for review.  
220

221 **b) SPREDD Update from Rick Trapilo**

222  
223 Mr. Trapilo gave an overview of SPREDD – the Southeastern Regional Planning and Economic  
224 Development District – and their work supporting municipalities within southeastern  
225 Massachusetts in meeting their planning goals. Mr. Trapilo had been elected to the finance  
226 committee and let the Board members know that SPREDD was offering 40 hours of free  
227 consulting work to the Town and offered help to facilitate allotting those hours between the  
228 Planning Board and Select Board.  
229

230 Ms. Melanson requested that the discussion on assigning the consulting work wait until the  
231 next meeting with a Master Plan discussion.  
232

233 Mr. Trapilo noted that the next SPREDD meeting would be focused on transportation and that  
234 Select Board member Mr. Saunders was nominated to the Joint Transportation Planning Group.  
235 He had also inquired at a past meeting if Eversource had any plans to bury electrical lines, but  
236 was told no.  
237

238 Ms. Fidalgo requested that Mr. Trapilo relay the results of SRPEDD's Transportation Survey be  
239 forwarded to the Board. Mr. Trapilo would like to see mile markers added to the Town's bike  
240 path.  
241

242 Ms. Melanson welcomed Michelle Costen from the public to speak. Ms. Costen requested that  
243 SPREDD be listed by full name on future agendas. She outlined her concerns with the current  
244 housing market in Fairhaven, particularly the rising house prices and the impact on short-term  
245 rentals and real estate investors on the market. Ms. Melanson suggested that Mr. Trapilo  
246 forward Ms. Costen's questions on housing to SRPEDD. Ms. Costen shared further concerns and  
247 anecdotes to illustrate the issues she saw in the housing market. The Board also considered  
248 sharing updates from SRPEDD on the Town website.  
249  
250

c) **Update on Town Meeting Committee, Meeting – Planning Board Rep. Sharon Simmons**

Ms. Simmons shared an update from the Town Meeting Advisory Committee from the July 17, 2024 meeting. The Town Meeting Advisory Committee would be reviewing Town Meeting procedures and advising on best practices for handling Town Meeting Member communication, the presentation of warrants and articles, and precinct meetings, as well as exploring the possibility of automated voting systems. She noted that Ms. Fidalgo also served on this committee as a representative of Precinct 1. The first meeting focused on warrants and Ms. Simmons brought forth her recommendations that the Planning Board focus on preparation for any Town Meeting Articles and consider including more pre-recorded videos in their presentations.

The next meeting would be focused on the preview and precinct meetings and Ms. Simmons requested that the Board forward any questions to her. She also noted the fall Special Town Meeting was scheduled for November 19, 2024.

d) **Any other business that may properly come before the Board, not reasonably anticipated when posting 48 hours prior to this meeting.**

Ms. Fidalgo requested that the updates from Board members also include an update from the representative to the EDC.

5. **NEXT MEETINGS:**

a) **Special Meeting for 40R Public Hearing, Wednesday, August 7, 2023**

b) **Next Regular Meeting, Tuesday, August 27, 2024**

Ms. Melanson confirmed that both meetings had been tentatively scheduled for 6:30 PM.

Before adjourning, Mr. Carr offered his compliments to Ms. Simmons, Mr. Webb, and Mr. Keith Silvia for their work on the West Island Beach cleanup. He also supported Ms. Costen's comments on housing and suggested adding a segment for public comment on future Planning Board agendas.

Ms. Melanson adjourned the meeting at 7:56 PM

Respectfully submitted,  
Stephanie A. Fidalgo  
Recording Secretary,  
Planning Board

*Approved, August 7, 2024*

**Correspondence I would like included and entered into record at the 7/23/24 Planning Board meeting.**

1 message

Kevin Grant <kevindanielgrant@hotmail.com>  
To: Stephanie Fidalgo <sfidalgo@fairhaven-ma.gov>

Wed, Jul 17, 2024 at 1:46 PM

*(Stephanie, please let me know who else I should cc this to unless you can cover that part on your own. Thank you--KG)*

Corrections to statements made by the Planning Board on 6/25/24 regarding my censure:

1. It was stated that any questions or concerns regarding Planning Board policy or procedure should go first to the Planning Board, specifically the Chair, before going public. I have found no reference to this policy anywhere, but for the sake of argument, the letter which I submitted for inclusion in the Select Board meeting was sent to Cathy Melanson, Planning Board Chair, at 8:43 AM on June 8<sup>th</sup>, which was 3 days (and one full business day) prior to the Select Board meeting. Had she addressed my concerns I would have happily rescinded my letter. I received no response.
2. It was expressed repeatedly that it is my duty to silently fall in line with the majority of the Planning Board even when I disagree. It is not. It is my duty and responsibility to the voters to do otherwise. At no level of US Government is a statement of dissenting opinion not allowed: not in Congress, not in The Supreme Court, and not on the Fairhaven Planning Board. There needs to be 5 independent voices on our Select Board and 8 independent voices on the Planning Board. There are many countries where dissenting opinion is not allowed. Russia is one, North Korea is one and China is one, for example.
3. It was claimed that prior to the Spring Town Meeting I had agreed that I would not speak against the ADU bylaw's passage. The statement in question was filmed and is publicly available along with its transcript. I stated that I knew I was a single vote against the rest of the Board but that my views were not meant as anything personal against the members and I would be "ok" if things did not go my way. I then said: "I think that we are all more than capable of being civil and presenting our sides fairly and honestly," as I absolutely intended on presenting my side that day, just like the rest of the Planning Board would present theirs. Likewise, it was twice mentioned by Patrick Carr at the 6/25 Planning Board meeting that I "promised" not to speak that day. The public record proves that to be false. The full transcript of my statement that day is included below. Let me make myself perfectly clear: I have never agreed, I do not agree, and I never will agree to remain silent on any matter. It was implied that my statements in the Town Meeting single-handedly destroyed the ADU's chances of passing. I would argue that a proposal so fragile that one vote against 7 is capable of toppling it has far bigger problems than a single dissenting opinion from the Board.
4. I stated in my letter to the Select Board that the decision to add the waterfront back into the 40R district was done behind closed doors and the reasoning was not communicated to the public--- or to us. As a rebuttal at the 6/25 meeting, Mr. Carr played a video of the former Town Planner stating that he "met with the consultants" and added the waterfront back in. The former Town Planner gives no explanation as to why this was done, nor was this decision with the consultants made in a public forum but in a private meeting. Mr. Carr then explained the Town Planner's statement was never disseminated by Select Board member Stasia Powers. In summary, we were shown a video confirming that the decision to add the waterfront back into the 40R district was made behind closed doors, for reasons unknown, and was not communicated to the public. This echoes what I stated in my letter.
5. It was stated at the 6/25 Planning Board meeting that the informational documents pertaining to the 6/24 Select Board meeting were not made public with a reasonable time for review because the State failed to provide them earlier. Whether or not that is the case is irrelevant. It is not an option to not provide the public with ample time to review information before a public meeting. If the information is not ready in time, then the presentation needs to be continued until the next meeting, so the public has time for said review.
6. At the Select Board meeting on 6/24 Mr. Carr alluded to the fact that myself and Ms. Fidalgo would be addressed regarding our written statements the next night, 6/25, at the following Planning Board meeting. On the agenda for that Planning Board meeting was simply listed "40R Discussion." Meanwhile, at the Planning Board meeting, there was no discussion of the 40R proposal, nor was there intended to be. This time had been allotted solely for a reprimand and censure of myself and Ms. Fidalgo. It's omission from the agenda prevented either of us from preparing ahead of time and prevented members of the public from attending or even being aware that it was happening. This is a clear violation of Open Meeting Law, and one which this board was specifically warned against committing again when it was found in violation of the same law, that finding being made by the Attorney General's Office on 4/7/24 regarding a violation which took place on 1/9/24.

In closing, I would like to express my appreciation to the Planning Board for my censure. Since the censure was in response to my statements expressing my intent to both call attention to and distance myself from some of the actions of this Board, the censure has done much to assist in getting that word out. As a result, the support which I have received from current elected officials, former elected officials, Town Meeting members and voters who hold no elected position has been unexpected and deeply valued. However, as stated above, the censure is entirely without merit and was a repeat violation of OML. I have provided screen shots and URLs below of the

source material for the events I have referenced above.

Sincerely,

Kevin Grant, Planning Board

**Notes:**

*Timestamp of email cc-ed to PB Chair with no response:*

KG Kevin Grant  
To: spowers@fairhaven-ma.gov; ahart@fairhaven-ma.gov; alopesellison@fairhaven-ma.gov; Stephanie Fidalgo; Cathy J. Melanson; Cathy Melanson

Reply Reply all Forward

Sat 6/8/2024 8:43 AM

Dear Select Board,

*Planning Board Meeting prior to Town Meeting 5/4/24:*

<https://vimeo.com/showcase/11047311/video/943301740>



## Planning Board 5/4/24

5/4/24

vimeo.com

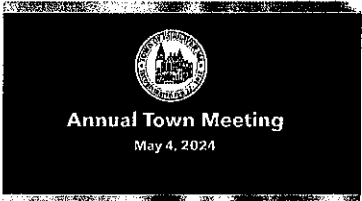
Transcript of my statements in the video above:

Patrick: "Do we have anyone on the board that would be talking in the negative to any one of these things?"

Kevin: "I voted against these articles coming before the Town Meeting today. I made no secret of that. That said, I understand that I'm in the minority, feeling that way, and I have a much greater respect for the democratic process than I do on well, opinions on things. So, do I take issue with some of these things? Sure. Am I going to respect the decision that the Planning Board has different opinions than me? Absolutely. Do I think that these articles are going to be passed today? I think most of them... Well, maybe not all. So, you know, this is how it's supposed to work. And you know, I appreciate everyone here, and I'm not here to... You know, we disagree philosophically about certain things. It's not a personal thing or anything like that. **I think that we are all more than capable of being civil and presenting our sides fairly and honestly.** And I respect each and every one of you. I like to think that's a two-way street, you know, so... I'm not in favor of a lot of this, but I'm in favor of the process. And sometimes being in favor of the process means you don't get exactly what you want. In fact, in democracy, nobody ever gets exactly what they want. Some people don't understand that: 'My candidate didn't win. I'm not voting.' I mean, you know, we're talking about reaching a middle ground between a lot of different ideas: my ideas here, your ideas here, we're going to land in the middle, right? So it works. And that's where we should land, and that's how I view everything."

*Town Meeting 5/4/24:*

<https://vimeo.com/showcase/11062563/video/943266839>



## Town Meeting 5/4/24

5/4/24

vimeo.com

*My Letter to the Select Board 6/8/24:*

Dear Select Board,

I am writing as I am unable to attend the meeting tonight but would still like to have this letter entered into public record.

It has come to my attention through the latest plans posted online that the current 40R overlay has reintroduced a waterfront 40R district. When, where, how and by whom this was added back to the plan is unknown by me. The last presentation made to the Working Group on 12/12/23 does not include it. I understand it was at one time considered by the Working Group as an option but they made the decision to remove it.

This is concerning on several levels. Typically, the Planning Board members would discuss potential changes as a group within our scheduled public meetings, and then invite comments and input from the public and the Working Group. Instead, this new version of the Plan is being brought before the Select Board swiftly and somewhat mysteriously.

After our last Town Meeting it seemed to me that the expectations of the Town Meeting Members and their overall disappointment with the Planning Board were incredibly clear: they do not feel it is appropriate to rush through any decisions without intensive public input, without expert and educated guidance (meaning an active Town Planner) and without allegations of a possible conflict of interest (regarding the shipping container bylaw changes which were proposed, in that instance).

I had hoped, as a Planning Board member, that this would be a learning moment for the Board and a time for course correction, but unfortunately that is not what we are seeing here. Instead, we have the following:

7. Decisions which will permanently alter the character of this town being made hastily and without transparency.
8. Decisions being made in the absence of a Town Planner.
9. A waterfront district being added to the 40R which would include 2 businesses owned by Planning Board members. Were they to recuse themselves from all discussion and votes going forward on the 40R as is required by law we would run the risk of not having a quorum without maintaining near perfect attendance from the remaining members. I say this not to imply any impropriety intended by those business owners, but only to remind all present that the "appearance" of a conflict of interest is considered the same as an actual conflict of interest.

I worry that these actions will further damage the credibility and trust of the Planning Board in the minds of the people we have been elected to represent, and that we may become-- if we have not already-- a lame duck Planning Board, unable to pass anything at Town Meeting with our current membership.

I am and have always been a steadfast advocate of the 40R proposal. It will be good for us for the standpoints of housing, culture, visual appeal, tax revenue and even environmentally. It is my fear that this project is now at risk from moving forward due to the way it is being managed.

Respectfully,

Kevin Grant

2024.06.10\_letters\_received\_for\_40r\_public\_hearing.pdf (fairhaven-ma.gov)

*Select Board 6/24/24:*

<https://vimeo.com/showcase/11047157/video/963738747>



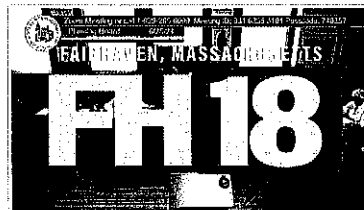
### Select Board 6/24/24

This is "Select Board 6/24/24" by Fairhaven Government Meetings on Vimeo, the home for high quality videos and the people who love them.

[vimeo.com](https://vimeo.com/showcase/11047157/video/963738747)

*Planning Board 6/25/24:*

<https://vimeo.com/showcase/11047311/video/967362304>



### Planning Board 6/25/24

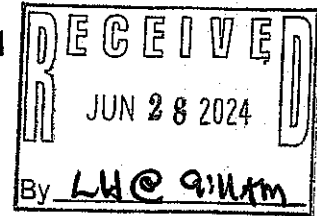
6/25/24

[vimeo.com](https://vimeo.com/showcase/11047311/video/967362304)



## OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108



Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: Robert Last Name: Espindola

Address: 14 John St

City: Fairhaven State: MA Zip Code: 02719

Phone Number: +1 (774) 263-1046 Ext.

Email: bobespindola02719@gmail.com

Organization or Media Affiliation (if any): N/A

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

### Public Body that is the subject of this complaint:

☒ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (including city/town, county or region, if applicable): Town of Fairhaven

Specific person(s), if any, you allege committed the violation: Planning Board Chair, Cathy Melanson

Date of alleged violation: 6-25-2024



The Commonwealth of Massachusetts  
Office of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the Attorney General a copy of the complaint and a description of any action the public body has taken to address it. At the same time, the body must send the complainant a copy of its response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

## Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

During the June 24th, 2024 Planning Board Meeting, the Board deliberated and voted on an issue that was not on the agenda.

One member of the Planning Board called for the Censure of two (2) other members of the Planning Board based on concerns that, allegedly, had taken place on prior date(s).

Neither of the two (2) members of the Board who were the subject of the censure debate were present at the meeting and would have had no way of knowing the Board would take up the subject of censure.

The Chair of the Board allowed deliberation by Board members, participated in that deliberation, entertained a motion and vote on the matter.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

The Chair of the Planning Board has served as Chair on multiple Board/Committees over the course of multiple years so should understand OML. Given the way the meeting was conducted, however, I believe additional Open Meeting Law training should be required of the Chair and documentation of successful completion of the training should be placed on file with the Town Clerk. Additionally, I believe the vote to Censure at that meeting should be considered null and void.

## Review, sign, and submit your complaint

### I. Disclosure of Your Complaint.

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

### II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

### III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

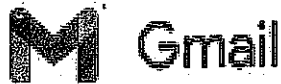
By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: \_\_\_\_\_

Date: 6-28-2024

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:  
[Attachment B]



FAIRHAVEN TOWN CLERK  
RCUD 2024 JUN 28 AM 9:50  
Elisabeth Horan <ehoran@fairhaven-ma.gov>

## Open Meeting Law Complaint - Planning Board - June 25th, 2024 meeting

1 message

Bob Espindola <bobespindola02719@gmail.com>

Fri, Jun 28, 2024 at 4:26 PM

To: "planningchair@fairhaven-ma.gov" <planningchair@fairhaven-ma.gov>, Stephanie Fidalgo <sfidalgo@fairhaven-ma.gov>, Elisabeth Horan <ehoran@fairhaven-ma.gov>

Good afternoon Ms. Melanson,

Please find the attached Open Meeting Law Complaint regarding the June 25th, 2024 meeting of the Planning Board.

I look forward to seeing a response from the Planning Board on this matter.

Thank you,

Bob Espindola  
14 John St.  
Fairhaven, MA 02719  
Cell (774) 263-1046

### 2 attachments

 Fairhaven Planning Board Open Meeting Law Complaint 6-25-2024\_0001.pdf  
1904K

 Fairhaven Planning Board Open Meeting Law Complaint 6-25-2024\_0001.pdf  
1904K



**Town of Fairhaven  
Massachusetts  
Planning Board**

40 Center Street  
Fairhaven, MA 02719

Tel: (508) 979-4023  
Fax: (508) 979-4079

FAIRHAVEN TOWN CLERK  
RCUD 2024 JUL 9 PM 3:48

July 09, 2024

Office of the Attorney General  
Division of Open Government  
Via Email: [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us)

Cc: via email: [Bobespindola02719@gmail.com](mailto:Bobespindola02719@gmail.com)  
[EHoran@Fairhaven-ma.gov](mailto:EHoran@Fairhaven-ma.gov) Elisabeth Horan, Acting Town Clerk, Fairhaven,

Dear Division of Open Government;

On June 28, 2024 the Fairhaven Planning Board Chair received a notice of an alleged open meeting law violation by Robert Espindola, who is also copied on this email in addition to the Town Clerk. The alleged violation stems from our meeting on June 25, 2024.

The Board's response to this complaint is due within fourteen (14) business days of receipt, which is no later than July 19, 2024. The Board is also required to meet to review the complaint prior to that date. However, the Board does not have a meeting scheduled at any time between receipt of the Complaint on June 28 and the deadline of July 19. Due to the lack of a scheduled meeting and the difficulty in obtaining a quorum for a special meeting within that time frame because of vacation schedules and other obligations, it will not be possible to hold a meeting prior to July 19.

I hereby request an extension of the deadline to meet to review this complaint until July 25, 2024, which is the next scheduled meeting. I further request an extension of time until July 29, 2024 to respond to the complaint.

The Planning Board takes open meeting law complaints very seriously and wishes to ensure we have the proper time to discuss, review and respond.

Thank you for your time in this important matter.

Regards  
Cathy Melanson  
Chair  
Planning Board  
40 Center Street  
Fairhaven, MA 02719  
Email: [planningboard@fairhaven-ma.gov](mailto:planningboard@fairhaven-ma.gov)



Elisabeth Horan <ehoran@fairhaven-ma.gov>

## Open Meeting Law Complaint Response Extension Request

1 message

Amy Hart <ahart@fairhaven-ma.gov>

Tue, Jul 9, 2024 at 3:32 PM  
To: "OpenMeeting (AGO)" <openmeeting@state.ma.us>, Bob Espindola <bobespindola02719@gmail.com>, Elisabeth Horan <ehoran@fairhaven-ma.gov>  
Cc: Planning Chair <planningboard@fairhaven-ma.gov>

Good afternoon,

I am sending this on behalf of the Chair of the Fairhaven Planning Board.

Please see the attached request for an extension to respond to an Open Meeting Law Complaint, the OML Complaint Form is attached for reference.

Thank you,

*Amy Hart*

Executive Assistant to the Town Administrator

40 Center Street | Fairhaven, MA 02719

(508) 979-4023, Ext. 8101



*Please be advised that the Massachusetts Secretary of State considers e-mail to be a public record, and therefore subject to public access under the Massachusetts Public Records Law, M.G.L. c.66.s.10  
Confidentiality should not be expected.*

2024.07.09 OML Response Extension Request-Espindola.pdf  
1622K



Elisabeth Horan <ehoran@fairhaven-ma.gov>

## REVISED request: Open Meeting Law Complaint Response Extension Request

1 message

Amy Hart <ahart@fairhaven-ma.gov>

Wed, Jul 10, 2024 at 10:59 AM

To: "OpenMeeting (AGO)" <openmeeting@state.ma.us>, Bob Espindola <bobespindola02719@gmail.com>, Elisabeth Horan <ehoran@fairhaven-ma.gov>

Cc: Planning Chair <planningboard@fairhaven-ma.gov>

Good morning,

I am resending a revised extension request on behalf of the Planning Board Chair. A typo was inadvertently made indicating July 25th as the next meeting where July 23rd is the correct date, this is reflected in the attached letter and the Chair maintains the request for an extension to review July 23, 2024 at the next scheduled meeting and until July 29, 2024 to respond to the complaint.

The original is attached and the revised letter, thank you for your patience, my apologies for any confusion this inadvertent typo has caused.

Warmest regards,

**Amy Hart**

Executive Assistant to the Town Administrator  
(508) 979-4023, Ext. 8101

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

From: **Amy Hart** <ahart@fairhaven-ma.gov>

Date: Tue, Jul 9, 2024 at 3:32 PM

Subject: Open Meeting Law Complaint Response Extension Request

To: OpenMeeting (AGO) <openmeeting@state.ma.us>, Bob Espindola <bobespindola02719@gmail.com>, Elisabeth Horan <ehoran@fairhaven-ma.gov>

Cc: Planning Chair <planningboard@fairhaven-ma.gov>

Good afternoon,

I am sending this on behalf of the Chair of the Fairhaven Planning Board.

Please see the attached request for an extension to respond to an Open Meeting Law Complaint, the OML Complaint Form is attached for reference.

Thank you,

*Amy Hart*

Executive Assistant to the Town Administrator

40 Center Street | Fairhaven, MA 02719

(508) 979-4023, Ext. 8101

Fairhaven Planning Board Minutes July 23, 2024



[Attachment B]



*Please be advised that the Massachusetts Secretary of State considers e-mail to be a public record, and therefore subject to public access under the Massachusetts Public Records Law, M.G.L. c.66.s.10  
Confidentiality should not be expected.*

---

**2 attachments**

-  **2024.07.09 OML Response Extension Request-Espindola.pdf**  
1622K
-  **2024.07.10 OML Extension Planning Board-Espindola-REVISED date.pdf**  
130K



**Town of Fairhaven  
Massachusetts  
Planning Board**

40 Center Street  
Fairhaven, MA 02719

Tel: (508) 979-4023  
Fax: (508) 979-4079

July 09, 2024

Office of the Attorney General  
Division of Open Government  
Via Email: [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us)

Cc: via email: [Bobespindola02719@gmail.com](mailto:Bobespindola02719@gmail.com)  
[EHoran@Fairhaven-ma.gov](mailto:EHoran@Fairhaven-ma.gov) Elisabeth Horan, Acting Town Clerk, Fairhaven,

Dear Division of Open Government;

On June 28, 2024 the Fairhaven Planning Board Chair received a notice of an alleged open meeting law violation by Robert Espindola, who is also copied on this email in addition to the Town Clerk. The alleged violation stems from our meeting on June 25, 2024.

The Board's response to this complaint is due within fourteen (14) business days of receipt, which is no later than July 19, 2024. The Board is also required to meet to review the complaint prior to that date. However, the Board does not have a meeting scheduled at any time between receipt of the Complaint on June 28 and the deadline of July 19. Due to the lack of a scheduled meeting and the difficulty in obtaining a quorum for a special meeting within that time frame because of vacation schedules and other obligations, it will not be possible to hold a meeting prior to July 19.

I hereby request an extension of the deadline to meet to review this complaint until July 23, 2024, which is the next scheduled meeting. I further request an extension of time until July 29, 2024 to respond to the complaint.

The Planning Board takes open meeting law complaints very seriously and wishes to ensure we have the proper time to discuss, review and respond.

Thank you for your time in this important matter.

Regards  
Cathy Melanson  
Chair  
Planning Board  
40 Center Street  
Fairhaven, MA 02719  
Email: [planningboard@fairhaven-ma.gov](mailto:planningboard@fairhaven-ma.gov)



## OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

FAIRHAVEN TOWN CLERK  
RCUD 2024 JUL 2 AM 10:20

Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: Jessica Last Name: Fidalgo

Address: 47 Union Street

City: Fairhaven State: MA Zip Code: 02719

Phone Number: 774-634-7066 Ext.

Email: jessica.wilder13@yahoo.com

Organization or Media Affiliation (if any):

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

### Public Body that is the subject of this complaint:

☒ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (including city/town, county or region, if applicable): Fairhaven Planning Board

Specific person(s), if any, you allege committed the violation: Cathy Melanson, Patrick Carr, Rick Trapoli, Sharon Simmons, Diane Tomassetti

Date of alleged violation: 6/25/2024

## Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

At the Planning Board's 6/25 meeting there was an agenda item labeled "40R discussion". During this time lasting approximately 1 hour, the Board discusses emails written by 2 members of the Planning Board to the Select board for Public Comment at a public hearing they had on June 10, 2024 and their dissatisfaction with the them. The Board mentions many times about going to each other to discuss issues or at least the Chair. Attempts were made to get answers from the Chair and continuing to go to members could end up in an OML violation. The Planning Board Vice Chair Patrick Carr plays a video from another Committee's meeting to "prove" to the board a public discussion had been made on changes to an overlay district at an advisory meeting, not the planning board or select board. He states the Select board liaison failed to do notify the Select board and he could not bring the discussion to the planning board because he had a conflict, but openly participated in this 40R discussion. A journalist's name is brought up as well as a member of the public during this time, neither of them present either. The chair was informed of an email that members were CC'd on, with a resident and Mr. Carr brings that up in his speech, which he would not have known if not speaking with the Chair, as the planning board recommended the Chair seek the email information from the TA Assistant as it had to do with the Select board Public Hearing. He also states he has been researching to stop the behaviors he disagreed with and read from his phone a statement about a vote of no confidence as well as a motion to censure, he states there is no Process to this according to Roberts Rules of Order. (There is, and the Boards bylaw in Ch 316 states the board is to follow RRO when the bylaws and the town rules are silent.) As this was not done to process, the censure of both members for different words said was made into one motion not made especially clear and disregarding the intents of the board members, which are explicitly said. As neither member were present at this time to inform board members of what was done before going to the Select board or that a possible discipline action would happen, I believe this is an open meeting law violation as the agenda was not specific about the discussion the Chair and Vice Chair intended to happen. Agenda item "review and discuss town meeting article 20 outcome is discussed during the "40R discussion" and never addressed in the meeting before moving on to say they MasterPlan discussion would be moved to the following meeting and adjournment. This meeting is recorded and can be found on FairhavenTV.com

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

With the evidence in preparations for discussions at this meeting I request the actions taken under "40R discussion" be nullified. As this is the second time an agenda item was not specific to what was intended by the Chair of the Planning Board I would like for the Board to take the Open Meeting Law training to refresh it. The Board received an OML Violation Order from the Attny Generals office 4/17/24, information not disseminated by the Chair to the rest of the board, sharing this information may have lead the board to not participate in the discussions and action of the 6/25/24 had they been made aware of the Violation.

## Review, sign, and submit your complaint

### I. Disclosure of Your Complaint.

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

### II. Consulting With a Private Attorney.

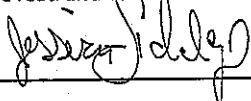
The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

### III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: \_\_\_\_\_



Date: \_\_\_\_\_

7/1/2024

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:  
[Attachment C]



The Commonwealth of Massachusetts  
Office of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely. Sign and date the second page. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, by email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address the allegations in the complaint. At the same time, the body must send the Attorney General a copy of the complaint and a copy of the response. The public body may delegate this responsibility to an individual member of the public body, its counsel, or a staff member, but only after the public body has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, by email, or by hand, but only once you have waited for 30 days after filing the complaint with the public body. Mail may be sent to: The Division of Open Government, Office of the Attorney General, One Ashburton Place - 20<sup>th</sup> Floor, Boston, MA 02108. Emails may be sent to: [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by email at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



Elisabeth Horan <ehoran@fairhaven-ma.gov>

---

## Open Meeting Law Complaint

1 message

Jessica Wilder <jessica.wilder13@yahoo.com>

Mon, Jul 1, 2024 at 8:27 PM

To: Planning Chair <planningboard@fairhaven-ma.gov>, Town Clerk <clerk@fairhaven-ma.gov>

Cc: Elisabeth Horan <ehoran@fairhaven-ma.gov>

Please see attached an Open Meeting Law Complaint for the 6/25/24. This email is being sent to the Planning Board Chair as well as the Town Clerk. I hope to see this complaint addressed and the request satisfied by the Planning Board.  
-Jess Fidalgo

---

 OML Complaint Form 2019.pdf  
494K



**Town of Fairhaven  
Massachusetts  
Planning Board**

40 Center Street  
Fairhaven, MA 02719

Tel: (508) 979-4023  
Fax: (508) 979-4079

FAIRHAVEN TOWN CLERK  
RCUD 2024 JUL 9 PM4:24

July 09, 2024

Office of the Attorney General  
Division of Open Government  
Via Email: [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us)

Cc: via email: [jessica.widler13@yahoo.com](mailto:jessica.widler13@yahoo.com)  
[EHoran@Fairhaven-ma.gov](mailto:EHoran@Fairhaven-ma.gov) Elisabeth Horan, Acting Town Clerk, Fairhaven,

Dear Division of Open Government;

On July 1, 2024 the Fairhaven Planning Board Chair received a notice of an alleged open meeting law violation by Jessica Fidalgo, who is also copied on this email in addition to the Town Clerk. The alleged violation stems from our meeting on June 25, 2024.

The Board's response to this complaint is due within fourteen (14) business days of receipt, which is no later than July 22, 2024. The Board is also required to meet to review the complaint prior to that date. However, the Board does not have a meeting scheduled at any time between receipt of the Complaint on July 1 and the deadline of July 22. Due to the lack of a scheduled meeting and the difficulty in obtaining a quorum for a special meeting within that time frame because of vacation schedules and other obligations, it will not be possible to hold a meeting prior to July 19.

I hereby request an extension of the deadline to meet to review this complaint until July 25, 2024, which is the next scheduled meeting. I further request an extension of time until July 29, 2024 to respond to the complaint.

The Planning Board takes open meeting law complaints very seriously and wishes to ensure we have the proper time to discuss, review and respond.

Thank you for your time in this important matter.

Regards  
Cathy Melanson  
Chair  
Planning Board  
40 Center Street  
Fairhaven, MA 02719  
Email: [planningboard@fairhaven-ma.gov](mailto:planningboard@fairhaven-ma.gov)



Elisabeth Horan <ehoran@fairhaven-ma.gov>

## Open Meeting Law Complaint Response Extension Request

1 message

Amy Hart <ahart@fairhaven-ma.gov>

Tue, Jul 9, 2024 at 3:36 PM

To: "OpenMeeting (AGO)" <openmeeting@state.ma.us>, Jessica Fidalgo <jessica.wilder13@yahoo.com>, Elisabeth Horan <ehoran@fairhaven-ma.gov>

Cc: Planning Chair <planningboard@fairhaven-ma.gov>

Good afternoon,

I am sending this on behalf of the Chair of the Fairhaven Planning Board.

Please see the attached request for an extension to respond to an Open Meeting Law Complaint, the OML Complaint Form is attached for reference.

Thank you,

*Amy Hart*

Executive Assistant to the Town Administrator

40 Center Street | Fairhaven, MA 02719

(508) 979-4023, Ext. 8101



Please be advised that the Massachusetts Secretary of State considers e-mail to be a public record, and therefore subject to public access under the Massachusetts Public Records Law, M.G.L. c.66.s.10  
Confidentiality should not be expected.



2024.07.09 OML Response Extension Request-Fidalgo.pdf

1703K



Elisabeth Horan <ehoran@fairhaven-ma.gov>

---

## REVISED request: Open Meeting Law Complaint Response Extension Request

1 message

Amy Hart <ahart@fairhaven-ma.gov>

Wed, Jul 10, 2024 at 10:58 AM

To: "OpenMeeting (AGO)" <openmeeting@state.ma.us>, Jessica Fidalgo <jessica.wilder13@yahoo.com>, Elisabeth Horan <ehoran@fairhaven-ma.gov>

Cc: Planning Chair <planningboard@fairhaven-ma.gov>

Good morning,

I am resending a revised extension request on behalf of the Planning Board Chair. A typo was inadvertently made indicating July 25th as the next meeting where July 23rd is the correct date, this is reflected in the attached letter and the Chair maintains the request for an extension to review July 23, 2024 at the next scheduled meeting and until July 29, 2024 to respond to the complaint.

The original is attached and the revised letter, thank you for your patience, my apologies for any confusion this inadvertent typo has caused.

Warmest regards,

**Amy Hart**

Executive Assistant to the Town Administrator  
(508) 979-4023, Ext. 8101

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

From: Amy Hart <ahart@fairhaven-ma.gov>

Date: Tue, Jul 9, 2024 at 3:36 PM

Subject: Open Meeting Law Complaint Response Extension Request

To: OpenMeeting (AGO) <openmeeting@state.ma.us>, Jessica Fidalgo <jessica.wilder13@yahoo.com>, Elisabeth Horan <ehoran@fairhaven-ma.gov>

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Thank you,

*Amy Hart*

Executive Assistant to the Town Administrator

40 Center Street | Fairhaven, MA 02719

(508) 979-4023, Ext. 8101

Fairhaven Planning Board Minutes July 23, 2024

[Attachment C]



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Confidentiality should not be expected.*

---

**2 attachments**



**2024.07.09 OML Response Extension Request-Fidalgo.pdf**  
1703K



**2024.07.10 OML Extension Planning Board-Fidalgo-REVISED date.pdf**  
85K



**Town of Fairhaven  
Massachusetts  
Planning Board**

40 Center Street  
Fairhaven, MA 02719

Tel: (508) 979-4023  
Fax: (508) 979-4079

July 10, 2024

Office of the Attorney General  
Division of Open Government  
Via Email: [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us)

Cc: via email: [jessica.widler13@yahoo.com](mailto:jessica.widler13@yahoo.com)  
[EHoran@Fairhaven-ma.gov](mailto:EHoran@Fairhaven-ma.gov) Elisabeth Horan, Acting Town Clerk, Fairhaven,

Dear Division of Open Government;

On July 1, 2024 the Fairhaven Planning Board Chair received a notice of an alleged open meeting law violation by Jessica Fidalgo, who is also copied on this email in addition to the Town Clerk. The alleged violation stems from our meeting on June 25, 2024.

The Board's response to this complaint is due within fourteen (14) business days of receipt, which is no later than July 22, 2024. The Board is also required to meet to review the complaint prior to that date. However, the Board does not have a meeting scheduled at any time between receipt of the Complaint on July 1 and the deadline of July 22. Due to the lack of a scheduled meeting and the difficulty in obtaining a quorum for a special meeting within that time frame because of vacation schedules and other obligations, it will not be possible to hold a meeting prior to July 19.

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The Planning Board takes open meeting law complaints very seriously and wishes to ensure we have the proper time to discuss, review and respond.

Thank you for your time in this important matter.

Regards  
Cathy Melanson  
Chair  
Planning Board  
40 Center Street  
Fairhaven, MA 02719  
Email: [planningboard@fairhaven-ma.gov](mailto:planningboard@fairhaven-ma.gov)



## OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

FAIRHAVEN TOWN CLERK  
RCUD 2024 JUL 19 PM2:38

Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: Eleanor Last Name: Chew

Address: 180 Main St.

City: Fairhaven State: MA Zip Code: 02719

Phone Number: 508 996-1081 Ext.

Email:

Organization or Media Affiliation (if any): none

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

no

☐ Individual

☐ Organization

☐ Media

### Public Body that is the subject of this complaint:

☒ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (including city/town, county or region, if applicable): Planning Board - Town of Fairhaven  
Bristol County

Specific person(s), if any, you allege committed the violation: Cathy Melanson

Date of alleged violation: June 25, 2024

### Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 25, 2024 the Planning Board met. Their agenda stated: 40R Discussion under General Business.  
I believed this was going to be a discussion of the 40R project in process in town. Instead after a brief comment about 40R, it became a discussion about disciplinary action they wanted to take against Jessica Fidalgo & Kevin Grant. I believe this should have been listed as disciplinary action against not hidden under 40R.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Make agendas transparent and accurate to reflect what the agenda item truly is.  
Do training on Open Meeting law rules for the entire board w/in 30 days and notify the town clerk when each has completed the training

### Review, sign, and submit your complaint

#### I. Disclosure of Your Complaint.

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

#### II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

#### III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: Eleanor Chew

Date: 7-17-2024

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO: