

FAIRHAVEN SELECT BOARD

Meeting Minutes

October 15, 2024

Present: Chair Stasia Powers, Vice-Chair Charles Murphy Sr., Clerk Andrew B. Saunders, Members Keith Silvia and Andrew Romano

Ms. Powers opened the Select Board meeting at 6:30p.m.

PUBLIC HEARING: EVERSOURCE PETITION 11612305

The Public Hearing opened at 6:32p.m. Ms. Powers read the notice.

Petition #11612305 from NSTAR Electric Company d/b/a Eversource to relocate 16 JO poles and install 2 new JO poles, 1 with anchor/guy in Sconticut Neck Road, Fairhaven. This work is necessary for MassDOT project #609518

Public comment: Monica Letourneau of 35 Sconticut Neck Road addressed the Board. She said no plans were in the notice, she asked about the location of poles and said she thought they would stay where they are, it is right in front of her window and she has plans to extend her driveway. Unhappy with the placement of the pole, it's a corner lot.

Josh Crabb, Highway Superintendent, addressed the Board, he explained this is part of the Safe Routes to School project with MassDOT (Massachusetts Department of Transportation). This address received compensation for the project, multiple certified notices have been sent to those impacted and, to his knowledge, they have followed all legal requirements.

No representative from Eversource was in attendance to address the questions.

The office will reach out to Eversource and Mr. Crabb will contact MassDOT for any information.

The Public Hearing was continued to October 28, 2024.

Motion: Mr. Romano motioned to enter Executive Session Pursuant to G.L. c. 30A, § 21(a)(2) To conduct strategy session in preparation for negotiations with nonunion personnel; Town Administrator, and Pursuant to G.L. c. 30A, § 21(a)(6) To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body, 121 Main Street and to return to open session. Mr. Saunders seconded. Roll Call Vote. Mr. Romano in favor, Mr. Saunders in favor, Ms. Powers in favor, Mr. Murphy in favor and Mr. Silvia in favor. The motion passed unanimously (5-0-0).

Meeting adjourned to Executive Session at 6:43p.m.

Meeting returned to Open Session at 7:27p.m.

APPOINTMENT AND COMMUNITY ITEMS

Appointment, Cultural Council: Alexandra Mitchell

Alexandra Mitchell's volunteer application was reviewed

Motion: Mr. Romano motioned to appoint Alexandra Mitchell to the Cultural Council for a term through May, 2026. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Event Request: Polar Plunge, January 1, 2025

Mr. Murphy said the theme this year is "wear your best disco."

Motion: Mr. Romano motioned to approve the support of the Fire Department, ambulance and emergency

management on site for the event. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Use of Town Hall Auditorium: Fairhaven Improvement Association, December 14, 2024 at 5:30p.m.

Mr. Silvia recused himself and left the Banquet Room at 7:36p.m.

Ms. Powers read the application details and request to waive the fees. Discussion ensued regarding past due invoices, community events, organizations supporting the community, what organizations would be considered part of the fabric of Town Hall.

Eric Dawicki addressed the Board. He said he has been a board member of the Fairhaven Improvement Association (FIA) for about twenty years, he felt the fees were not fair or reasonable based on the alignment of the FIA Charter to the Town Charter and bylaws as set up by Henry Huttleston Rogers. He said the FIA creates donations for the community to come together which is something the community has been struggling with for a few years and that if the Board was set on the charge he would ask the Chairman of the Northeast Maritime Institute to pay it as a nonprofit donating for them.

Discussion continued regarding the Town Hall Auditorium request policy, the rate for nonprofits, defining nonprofits and criteria, Dollars for Scholars use and charges, rental fee versus the fee for the custodian.

Cathy Melanson addressed the Board and asked where it would stop and what nonprofits would fees be stopped for or would it just be stopped across the board. Discussion ensued about institutions considered nonprofits, community groups like Dollars for Scholars and whether they should pay, what about nonprofits with funds in their coffers and that typically a nonprofit is defined as not having stockholders like Harvard University. Ms. Melanson said her concern is an organization coming forward indicating that fees were waived for another organization. A suggestion was made to better define “nonprofit” or what organizations would be considered for no fees.

Motion: Mr. Romano motioned to approve the application for the use of the Town Hall Auditorium pending the payment of the outstanding invoices.

Motion: Mr. Romano amended his motion to approve the application for the use of the Town Hall Auditorium pending the payment of the outstanding invoices, waiving the rental fee for December 14, 2024 at 5:30p.m. Mr. Saunders seconded. The motion passed (4-0-1) Mr. Silvia abstained.

Mr. Silvia returned to the Banquet Room at 7:45p.m.

Use of Town Hall Auditorium: Off Broadway Dance Recital, December 19, 20 and 21, 2024

Ms. Powers referred to the application from Off Broadway for a dance recital on December 19, 20 and 21, 2024.

Motion: Mr. Romano motioned to approve the application for Off Broadway School of Dance use of Town Hall Auditorium. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

MINUTES

Motion: Mr. Romano motioned to approve the joint Select Board and Finance Committee meeting minutes of September 18, 2024 with an amendment to reflect Mr. Murphy as present, 2024 Open Session minutes. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Motion: Mr. Romano motioned to approve the September 23, 2024 Open Session minutes with an amendment on page three to the motion under Marine Resources to reflect the vote taken. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Motion: Mr. Romano motioned to approve the September 23, 2024 Executive Session minutes. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Motion: Mr. Romano motioned to approve the September 30, 2024 Open Session minutes. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

TOWN ADMINISTRATOR

Ms. Powers said the Board would review items with information and table other items as needed.

- Staffing Update: Grant Writer, Tree Warden
This item was tabled
- Police Chief Contract pursuant to MGL c. 41, § 108O
Chief Dorgan was present. Mr. Romano asked a procedural question about the signature page signed by Ms. Ellison, Chief Dorgan and to form by Heather White. Chief Dorgan said they negotiated with Atty. White. Mr. Saunders added that the document reflects standard language.

Motion: Mr. Romano motioned to ratify the Chief of Police contract. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

- Tree Advisory Committee
Joshua Crabb advised the Board that he met with the Tree Warden Bruce Webb and Ms. Ellison regarding the creation of a Tree Advisory Committee due to public interest in providing feedback and reviewing maintenance of the tree canopy in Town. They reviewed information the Department of Conservation and Recreation. (DCR). Details as to the size and scope of work has not been determined as of yet.
This will be tabled to a future meeting.
- Fort Phoenix Flag Management Protocol
This item was tabled
- Halloween Event at Town Hall, Friday, October 25, 2024 from 5:00 to 8:00p.m.
- Old-Time Holiday, Saturday, December 14, 2024

ACTION / DISCUSSION

Select Board Meeting Protocols

Ms. Powers advised the draft was in the packets for review.

Motion: Mr. Romano motioned to approve the Access to Counsel protocols as written. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Charter Committee Update, Town Administrator Act Language Recommendations

Morgan Dawicki addressed the Board and reviewed the drafts in the packet, both with and without the markups. Discussion ensued regarding the draft, collective bargaining language and adding language to support the Board's position. Mr. Saunders suggested the addition of the phrase "and in doing so shall follow the directives of the Select Board as it may prescribe from time to time" after the first sentence in Section 2.2 Town Administrator (TA) that starts: "The Town Administrator shall be the chief administrative officer of the Town and shall act as the agent for the Select Board." He will send Mr. Dawicki other examples.

Additional suggestions on the wording of portions was discussed including references to "with the approval of the Select Board" to add language that protects certain decisions from taking affect by default if the Board does not act within fifteen days.

Discussion continued on other wording updates, how to and whether to list specific departments under the TA, Human Resources (HR) Director reporting structure, having a Personnel Board and its previous role. Mr. Dawicki asked the Board to send him any other suggestions to review and explained that the Charter Committee would present a complete draft and an executive summary after the Special Town Meeting.

Disclosure notice from Eric Dawicki

Eric Dawicki addressed the Board about the disclosure notice he submitted (*Attachment A*).

Final Review of Articles for Special Town Meeting Warrant

Ms. Powers reviewed the list of articles and asked Ms. Melanson if she could speak to the 40R bylaw. Ms. Melanson said Attorney Costa is waiting on additional information from the state to get the final bylaw document and there is another public hearing scheduled that will be moved to October 28, 2024.

Bob Espindola addressed the Board via zoom about the information session on October 1, 2024 and his email to the Board sent earlier today (*Attachment B*), letters from Chief Correia and Chief Dorgan not aligned to the Town’s newly adopted financial policies in terms of the use of one-time revenues. He asked the Board to make a statement on the policy and the three hundred and fifty thousand dollars before Town Meeting and he felt that spending the three hundred and fifty thousand dollars ahead of any construction would be risky.

Ms. Melanson said Mr. Espindola should send his questions to the Planning Board and come to the next public hearing. She added that she did not see the letter that Mr. Espindola is referring to if it was only sent to the Select Board.

Ms. Powers said the Select Board would be making recommendations on some articles and on Article 1, her recommendation is “At Town Meeting” because we do not have the draft at this time and it is also a Planning Board item.

Article 1: Chapter 40R Zoning Bylaw

Ms. Powers recommended the Board review the language and bylaw for Article 1 at Town Meeting because it is not available at this time.

Motion: Mr. Romano motioned to recommend At Town Meeting for Article 1. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Article 2: Bill of Prior Year

Ms. Powers read the details of the bill from Med-Tech for five hundred and thirty-five dollars and thirty cents (\$535.30).

Motion: Mr. Romano motioned to recommend Adoption for Article 2. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Article 6: Sconticut Neck Road Water Main Rehab

Public Works Superintendent Vinnie Furtado addressed the Board via zoom and advised the borrowing number has gone down to nine hundred and ninety-three thousand dollars from one million.

Motion: Mr. Romano motioned to recommend Adoption for Article 6. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Article 14: Bylaw, Commission on Disability

Ms. Powers asked Mr. Morgan Dawicki if this bylaw should be part of the Charter Committee work. Mr. Dawicki said he has not received any information on this. In general, bylaws remain bylaws and are reviewed by the state legislature if passed at town meeting and can be easier to pass where the Charter Committee reviews special acts and major governance documents.

Motion: Mr. Romano motioned to recommend Adoption for Article 14. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Article 13: Bylaw Amendments, Chapter 198 Zoning

Bob Grindrod asked if this bylaw is changing what the Town is doing or conforming to the state law and he referred to the memo from Mr. Webb (*Attachment C*). Ms. Melanson advised that this article and language was vetted by Town Counsel.

Ms. Powers asked if the Board wanted to reconsider their previous recommendation on this article.

Motion: Mr. Romano motioned to rescind their prior vote to recommend Adoption for Article 13. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Motion: Mr. Romano motioned to recommend At Town Meeting for Article 13. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Close and Sign Special Town Meeting Warrant

Motion: Mr. Romano motioned to close the Special Town Meeting Warrant. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Sign Warrant State General Election, November 5, 2024

Motion: Mr. Romano motioned to approve the Warrant for the State General Election, November 5, 2024. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Police for State General Election, November 5, 2024

Ms. Powers referred to the request from the Town Clerk.

Motion: Mr. Romano motioned to approve a sufficient number of police officers, but not less than four (4), at the polling location (Recreation Center, 227 Huttleston Avenue) for the November 5, 2024 State Election, to preserve order, and to protect the election officers and supervisors from any interference with their duties, and to aid in enforcing the laws relating to elections, as required by Section 72 of MGL Chapter 54. And, Further, move to designate the Police Chief the authority to assign specific police officers according to scheduling and availability. The Town Clerk will advise the Police Chief on the location and time the officers are needed with the recommendation from the Select Board to have one officer stationed at the entrance where people hold signs. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

BOARD MEMBER ITEMS/ COMMITTEE LIAISON REPORTS

Mr. Silvia yielded his time to Leon Correy and Patrick Carr:

Mr. Correy addressed the Board about matters that have taken place that could put the Town in jeopardy, he said he is speaking to protect the Town and has three key points he would like to make. Ms. Ellison had two reviews yielding above four scores, the lower scores came from members no longer on the Board, she was viewed as great and good enough for a raise; what has changed. He indicated concerns with where things have changed with the law office of Clifford and Kenny and cases like the Alves Case and Civil Service where the Town Administrator (TA) suffered the consequences. He referred to public access to information as his source, including public records requests. He also mentioned billing concerns of overcharging and a lawsuit they are facing that the Town declined to pay for.

Mr. Correy said these are facts and he has records via email. He said a motion was made sometime in the January timeframe to negotiate with the TA and his public records request was made to confirm whether there was a motion to reconsider. He said if no motion was made to reconsider then the earlier motion is still valid and actions taken since could place the Town in jeopardy of litigation.

Mr. Correy said his last point was regarding what has changed and referred to an email from the April 3, 2024

timeframe where a former member of the Select Board, who was not appointed to the Broadband Committee at the time, contacted the Town's Bond Counsel and the TA was made aware. Access to Bond Counsel is the TA or Finance Director only. Something was removed from the warrant and then suddenly there was a sense of urgency to remove the TA. He said he has asked for answers and been told that, "if you knew what I knew then that would change."

Mr. Correy wrapped up stating that as her employer, the Board does not have the luxury to act as the Town, the Board has an obligation as her employer to provide her with a safe work environment that allows them to be successful; they cannot act on mysterious information because the Town is at potential risk by acting on information that is not made available or not proven based on her performance. Her performance-based evaluations support her being kept on to continue to do her job. In addressing the Board with these points, he said he wanted them to be aware of potentially putting the townspeople at risk of the tax burden of a major lawsuit; and the obligation of the Board is to do the job to protect and serve the Town based on public information. He thanked the Board for listening.

Patrick Carr addressed the Board about the Town Administrator's contract being renewed and said a few of his points are the same as Mr. Correy's. The TA evaluation dates were December 19, 2022 with Ms. Ellison receiving a 4.0 favorable and January 8, 2024 where she received a 4.2 favorable vote from the document that HR compiled on both those dates. The Board voted to have Mr. Murphy negotiate a contract with the TA on behalf of the Select Board in an open session meeting on February 12, 2024. The Select Board voted to reward Ms. Ellison with a ten thousand dollar increase in her contract. At the time the Town was facing a four-hundred and fifty-thousand-dollar deficit and Ms. Ellison helped mitigate without cutting personnel. In other words, Ms. Ellison did her job.

Mr. Carr continued and said five candidates ran for two Select Board positions and only one was calling for Ms. Ellison's removal. All the other candidates vowed to work with the TA stating the problem was not with the TA but with the TA Act and this was April, six months ago. If now the decision is to terminate the TA's contract and not renew it, what are the deciding factors. As an employer in the state of Massachusetts, if I choose to terminate an employee, I cannot just terminate without just cause due to strict guidelines to follow otherwise I would subject myself to possible lawsuits and fines. He asked if anyone on the Board had taken into consideration what the repercussions could be if there was legal action taken as a result; if the Town could afford to buy out the TA's contract; and why would the Board choose this if the TA, in fact, was performing her duties. What were the facts for the Select Board not to renew after giving her favorable reviews and increasing her pay.

Mr. Murphy reported:
Sister City meets Thursday.

Ms. Powers reported:
The Library is meeting tonight.

Mr. Saunders reported:
No meetings to report on.

Mr. Romano reported:
Tabled his report.

PUBLIC COMMENT

Diane Hahn addressed the Board. She carried a sign to the podium that read: "Fairhaven Residents !Vote of No Confidence! Do Not Renew the Town Administrator's Contract" and also an Andrew Romano Select Board sign. She said there was no public vote and no vote by the Select Board and if you want to have these signs in your lot to do it and she said to make sure they are not on public property. She said she picked up these on the side of Mill Road and dropped them on the floor and then told Mr. Romano he could have his sign back and dropped it on the floor.

Eleanor Chew addressed the Board via zoom, she said she had questions on the warrant regarding the 40R, what would be in the warrant, will there be additional information, concern with receiving the information in a timely

manner before town meeting and will the Planning Board provide information. Ms. Powers said information will be sent as soon as they it is available from the attorney once it is received from the state and the Planning Board will be holding a hearing

Cathy Melanson advised the Board that the Planning Board hearing is going to be on October 28, 2024 starting at 5:00p.m. and the information will be shared ahead of the hearing.

Meeting adjourned at 9:01p.m.

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

ATTACHMENTS:

- A. Disclosure notice from Eric Dawicki
- B. Bob Espindola email dated October 14, 2024
- C. Article 13 Memo from Bruce Webb

Approved on October 28, 2024

SELECT BOARD

2024OCT311:4311:43

FROM THE DESK OF

ERIC R. DAWICKI

Eric R. Dawicki
166 Balsam Street
Fairhaven, MA 02719
edawicki@nmi.edu

October 3, 2024

Selectboard
Town of Fairhaven
40 Center Street
Fairhaven, MA 02719

Dear Members of the Selectboard,

I am writing to disclose a particular matter regarding my participation in the Steamship Authority's (SSA) operating budget discussions for the 2025 calendar year, and to ensure full transparency regarding any potential financial interest I may have in the process.

As a member of the SSA's Port Council, I will be involved in the review and recommendations concerning the proposed 2025 operating budget, which includes significant allocations for employee training and safety expenses. While the exact budget for 2025 is still being prepared by the SSA's management staff, I would like to take this opportunity to provide the Selectboard with pertinent details about my role and any relevant financial interest.

Northeast Maritime Institute (NMI), where I serve as an officer, provides professional maritime courses that have been utilized by SSA employees as part of their individual professional development. These courses are open to all mariners, and there are no specific contracts or agreements between NMI and the SSA for training services. However, the SSA pays the tuition for its employees who enroll in NMI courses under their collective bargaining agreements. As a result, I have a qualifying financial interest in the SSA's training and safety budget as it relates to the tuition payments for SSA employees.

In 2023, the SSA paid \$167,655 in tuition fees either directly to NMI or in reimbursements for 55 SSA employees. In 2024, through July, an additional \$84,629 has been paid for the tuition of 25 SSA employees. I anticipate that the 2025 budget will similarly reflect these tuition payments for individual SSA employees who continue their professional development at NMI.

In disclosing this information, I wish to reaffirm my commitment to transparency and ethical conduct. My involvement in the budget review process is strictly limited to the Port Council's advisory role, and I have no direct influence on the SSA's decisions regarding the allocation of

its training and safety budget. I will continue to act in the best interests of the SSA and the Town of Fairhaven in this matter.

Please do not hesitate to contact me should you require any further information or clarification.

Sincerely,


A handwritten signature in blue ink, appearing to read "E. R. Dawicki".

Eric Dawicki
President, Northeast Maritime Institute

**DISCLOSURE BY NON-ELECTED STATE EMPLOYEE OF FINANCIAL INTEREST
AND DETERMINATION BY APPOINTING AUTHORITY
AS REQUIRED BY G. L. c. 268A, § 6**

	STATE EMPLOYEE INFORMATION																
Name:	Eric Roger Dawicki																
Title or Position:	Member of the Port Council of the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority.																
State Agency:	Woods Hole, Martha's Vineyard and Nantucket Steamship Authority (the "SSA")																
Agency Address:	228 Palmer Avenue, Falmouth, Massachusetts 02540																
Office Phone:	(508) 548-5011																
Mobile Phone:	(508) 863-2175																
Office E-mail:	edawicki@steamshipauthority.com																
Disclosure	My duties require me to participate in a particular matter, and I may not participate because of a financial interest that I am disclosing here. I request a determination from my appointing authority about how I should proceed.																
	PARTICULAR MATTER																
Particular matter E.g., a judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, or finding.	<p>Please describe the particular matter.</p> <p>The SSA's management staff is in the process of developing the SSA's operating budget for the 2025 calendar year, including amounts that will be budgeted for its employee training and safety expenses. After the staff prepares their proposed budget, it will be presented to the SSA's Port Council for our review and recommendations and then, as it may be revised, to the SSA's Board for their review and approval (as it may be revised by the Board).</p> <p>In order to provide a sense of the anticipated scope of the 2025 operating budget, the first three pages and the last page of the SSA's 29-page 2024 operating budget is attached hereto. It projected \$137,605,335 of operating expenses this year. As shown on the third page, historically the SSA's budgeted operating expenses have included "Other Expenses" as a component of its "General Expense" and, in 2024, those "Other Expenses" included \$1,068,724 for "Training and Safety" expenses. As also shown on the last page of the 2024 Operating Budget, that \$1,068,724 "Training and Safety" amount was broken down as follows:</p> <table style="margin-left: 40px;"> <tr> <td>Eng & Maint Misc</td> <td style="text-align: right;">\$ 96,000</td> </tr> <tr> <td>Vessels PR</td> <td style="text-align: right;">640,384</td> </tr> <tr> <td>Vessels Misc</td> <td style="text-align: right;">194,260</td> </tr> <tr> <td>Terminals Misc</td> <td style="text-align: right;">27,812</td> </tr> <tr> <td>Parking Lot Misc</td> <td style="text-align: right;">6,800</td> </tr> <tr> <td>Cust Service Misc</td> <td style="text-align: right;">6,000</td> </tr> <tr> <td>Admin Misc</td> <td style="text-align: right;">72,568</td> </tr> <tr> <td>Iyanough Misc</td> <td style="text-align: right;">24,900</td> </tr> </table>	Eng & Maint Misc	\$ 96,000	Vessels PR	640,384	Vessels Misc	194,260	Terminals Misc	27,812	Parking Lot Misc	6,800	Cust Service Misc	6,000	Admin Misc	72,568	Iyanough Misc	24,900
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<p>Your required participation in the particular matter:</p> <p>E.g., approval, disapproval, decision, recommendation, rendering advice, investigation, other.</p>	<p>Please describe the task you are required to perform with respect to the particular matter.</p> <p>After the SSA's management staff prepares their proposed 2025 Operating Budget, it will be presented to the Port Council, which has the power to review the budget under Section 14 of the SSA's Enabling Act. Because I am a member of the Port Council, I will participate in the Port Council's review of the proposed budget, which will include rendering advice regarding the proposed budget and recommending the budget's approval or disapproval by the SSA's governing Board, with or without any revisions that may be proposed by the Port Council or any of its members. During this process, I may also have direct discussions with members of the SSA's management staff and the SSA's Board regarding the proposed budget. I also will participate in the Port Council's discussion of the proposed budget and will vote with my other Port Council members on whatever recommendations the Port Council may offer regarding the proposed budget. Those discussions and votes may touch upon not only the amounts budgeted for employee training and safety, but also how many and what classifications of employees are expected to receive training, as well as what types of training those employees are expected to receive.</p>
	<p>FINANCIAL INTEREST IN THE PARTICULAR MATTER</p>
<p>Write an X by all that apply.</p>	<p><input type="checkbox"/> I have a financial interest in the matter.</p> <p><input type="checkbox"/> My immediate family member has a financial interest in the matter.</p> <p><input type="checkbox"/> My business partner has a financial interest in the matter.</p> <p><input checked="" type="checkbox"/> I am an officer, director, trustee, partner or employee of a business organization, and the business organization has a financial interest in the matter.</p> <p><input type="checkbox"/> I am negotiating or have made an arrangement concerning future employment with a person or organization, and the person or organization has a financial interest in the matter.</p>
<p>Financial interest in the matter</p>	<p>Please explain the financial interest and include a dollar amount if you know it.</p> <p>As indicated in the application to serve, since 1981, Northeast Maritime Institute, Inc. ("NMI") has provided professional maritime courses and programs that are approved and accepted by the United States Coast Guard and several maritime administrations around the world. Over the years more than 68,000 mariners from the United States and overseas have taken NMI's courses covering a range of deck, engineering and security topics. NMI's courses have provided those mariners with the required training for license renewals and upgrades to advance their careers in the maritime industry.</p> <p>In 1995, my wife, Angela M. Dawicki, and I became NMI's sole officers, directors and stockholders, and my children, Hannah E. Dawicki, Lauren V. Dawicki and Morgan G. Dawicki, are employed by NMI.</p> <p>For decades, a number of the mariners who take NMI's educational and training courses have been SSA employees. As with all other mariners, SSA employees take those courses on an open enrollment basis as individual students. None of NMI's courses are developed under contract with the SSA or specifically for the SSA or its employees. Rather, all of the courses are developed for the maritime industry as a whole and are readily available to all mariners who pay the applicable tuition under the same terms and conditions. However, pursuant to collective bargaining agreements entered into between the SSA and unions that represent the SSA's vessel employees, the tuition for NMI's training courses taken by SSA employees has been, and continues to be, paid for by the SSA.</p>

	<p>Neither myself, nor any member of my immediate family, nor NMI has any contract with the SSA for the training of SSA employees or the tuition that will be charged to SSA employees for their educational and training courses. Every year, NMI establishes on its own the courses it offers and the tuition it charges all mariners for those courses. Nothing regarding NMI's courses is subject to a contract with the SSA and no negotiations regarding the courses or the tuition charged for those courses take place between NMI and the SSA. Nor do I communicate personally with anyone at the SSA about any of the educational and training courses offered by NMI or taken by SSA employees.</p> <p>Nevertheless, because the SSA pays for the individual tuition of educational and training courses taken by SSA employees at NMI, I have a qualifying financial interest in the amount that the SSA budgets and spends for the training and safety of its vessel employees, as well as the types of training its vessel employees are to receive. For example, according to SSA records, in 2023 the SSA paid \$167,655 either directly to NMI or in reimbursements to its employees for the tuition of 55 SSA employees who took education and training courses at NMI, and in 2024 (through July), the SSA has paid an additional \$84,629 for the tuition of another 25 SSA employees who took courses at NMI.</p>
Employee signature:	
Date:	03/10/2024

DETERMINATION BY APPOINTING OFFICIAL

	APPOINTING AUTHORITY INFORMATION
Name of Appointing Authority:	
Title or Position:	
Agency/Department:	
Agency Address:	
Office Phone:	
Office E-mail	
	DETERMINATION
Determination by appointing authority: Write an X by your selection.	<p>As appointing official, as required by G.L. c. 268A, § 6, I have reviewed the particular matter and the financial interest identified above by a state employee.</p> <p><input type="checkbox"/> I am assigning the particular matter to another employee, or</p> <p><input type="checkbox"/> I am assuming responsibility for the particular matter, or</p> <p><input type="checkbox"/> I have determined that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Commonwealth may expect from the employee.</p>
Appointing Authority signature:	
Date:	
Comment:	

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Attach additional pages if necessary.

File copy with:

State Ethics Commission, One Ashburton Place, Room 619, Boston, MA 02108

Form Revised February, 2012

STATEMENT OF REVENUES & EXPENSES - PROPOSED 2024 OPERATING BUDGET vs. 2023 BUDGET

	2022	2023	2023	2024	2024 vs. 2023 Budget	
	ACTUAL	BUDGET	ESTIMATE *	BUDGET	Inc(Dec)	% Inc(Dec)
OPERATING REVENUES:						
Automobile Revenue	42,047,334	45,976,151	45,127,859	46,427,389	451,238	1.0%
Freight Revenue	38,635,331	41,018,718	41,848,192	42,293,754	1,275,036	3.1%
Passenger Revenue	33,424,462	34,361,353	34,317,297	35,887,268	1,525,915	4.4%
Bicycle,Mail,Misc Voyage	922,357	956,651	989,871	1,071,471	114,820	12.0%
Revenue From Terminal Operations	7,128,638	5,799,375	6,279,500	5,810,925	11,550	0.2%
Parking Revenue	7,386,492	7,750,842	7,743,514	7,856,575	105,733	1.4%
Rent Revenue	1,625,059	1,733,001	1,570,806	1,565,250	(167,751)	-9.7%
TOTAL OPERATING REVENUES	131,169,673	137,596,091	137,877,039	140,912,632	3,316,541	2.4%
OPERATING EXPENSES						
Operation Of Vessels	29,563,125	34,885,477	33,485,965	33,716,475	(1,169,002)	-3.4%
Operation Of Terminals	13,593,242	14,709,363	14,434,275	15,644,791	935,428	6.4%
Depreciation	15,792,274	15,572,891	15,213,191	15,606,040	33,149	0.2%
Maintenance Expense	23,917,586	23,540,847	22,837,516	26,675,426	3,134,579	13.3%
General Expense	26,215,024	31,297,634	30,192,408	33,305,213	2,007,579	6.4%
Casualties & Insurance	4,846,540	4,840,272	5,189,890	5,221,671	381,399	7.9%
Traffic Expense	2,835,332	3,463,448	3,367,719	3,586,075	122,627	3.5%
Rents	278,523	954,910	562,891	256,189	(698,721)	-73.2%
Payroll Taxes (Social Security)	3,048,985	3,409,121	3,179,677	3,593,455	184,334	5.4%
TOTAL OPERATING EXPENSES	120,090,631	132,673,963	128,463,532	137,605,335	4,931,372	3.7%
NET REVENUE FROM OPERATING	11,079,042	4,922,128	9,413,507	3,307,297	(1,614,831)	-32.8%
OTHER INCOME						
Gain From Sale of Property	31,824	0	0	0	0	0.0%
Interest Income	94,130	56,960	669,325	596,680	539,720	947.5%
Special Purpose Fund Investments	653,943	105,350	1,207,202	670,700	565,350	536.6%
Release Premium LT Debt	1,683,545	1,470,071	1,783,242	1,648,397	178,326	12.1%
Grant Revenue	3,756,532	4,400,000	3,137,384	4,060,000	(340,000)	-7.7%
Miscellaneous Income	0	0	0	0	0	0.0%
Misc Income - License Fees	2,907,046	2,668,437	2,776,632	2,952,226	283,789	10.6%
TOTAL OTHER INCOME	9,127,020	8,700,818	9,573,785	9,928,003	1,227,185	12.8%
OTHER EXPENSES						
Loss From Sale of Property	0	0	0	0	0	0.0%
Amortization Of Discount &	0			0	0	
Current Expense On Bonds	0	0	49,704	0	0	0.0%
Uncollectible Accts	6,122	0	0	0	0	0.0%
Misc.Income Charges	10,458	10,500	11,342	11,100	600	5.3%
Interest On Funded Debt	3,207,545	4,197,517	3,783,855	3,805,067	(392,450)	-10.4%
Interest On Unfunded Debt	80,930	0	36,362	35,271	35,271	97.0%
Interest On Pension Withdrawal	417,496	394,911	394,912	371,451	(23,460)	-5.9%
TOTAL OTHER EXPENSES	3,722,551	4,602,928	4,276,175	4,222,889	(380,039)	-8.9%
NET INCOME (LOSS) FOR YEAR	16,483,511	9,020,018	14,711,116	9,012,411	(7,607)	-0.1%

* ESTIMATE BASED ON 7 MONTHS ACTUAL PLUS 5 MONTHS BUDGET

STATEMENT OF DETAILED OPERATING EXPENSES - PROPOSED 2024 OPERATING BUDGET vs. 2023 BUDGET

	2022	2023	2023	2024	2024 vs. 2023 Budget	
	ACTUAL	BUDGET	ESTIMATE *	BUDGET	Inc(Dec)	% Inc(Dec)
OPERATION OF VESSELS:						
Telephones	12,174	12,705	12,543	12,900	195	1.5%
Wages- Crew	18,931,226	19,440,264	19,575,788	19,930,515	490,251	2.5%
Fuel	9,412,044	13,760,815	12,169,638	11,873,937	(1,886,878)	-13.7%
Lubricants	362,468	318,548	336,170	365,238	46,690	14.7%
Stores,Supplies & Equipment	601,737	879,790	867,833	1,076,295	196,505	22.3%
Other Vessel Expense	243,476	473,355	523,992	457,590	(15,765)	-3.3%
TOTAL OPERATION OF VESSELS	29,563,125	34,885,477	33,485,965	33,716,475	(1,169,002)	-3.4%
OPERATION OF TERMINALS:						
Telephones	76,179	75,485	75,639	78,540	3,055	4.0%
Agents,Clerks & Attendants	4,679,557	4,913,620	4,984,847	5,186,591	272,971	5.6%
Stevedoring & Cargo Expense	3,639,216	3,989,325	4,045,652	4,221,106	231,781	5.8%
Light,Heat,Power & Water	849,819	901,660	834,784	965,530	63,870	7.1%
Stationery & Printing	38,449	9,250	11,405	33,550	24,300	262.7%
Other Terminal Expenses & Parking Lots	4,310,022	4,820,023	4,481,948	5,159,474	339,451	7.0%
TOTAL OPERATION OF TERMINALS	13,593,242	14,709,363	14,434,275	15,644,791	935,428	6.4%
DEPRECIATION EXPENSE	15,792,274	15,572,891	15,213,191	15,606,040	33,149	0.2%
MAINTENANCE EXPENSE:						
Supervision	990,656	1,504,769	1,234,423	1,568,153	63,384	4.2%
Repairs- MV Martha's Vineyard	814,470	1,720,875	1,915,628	868,679	(852,196)	-49.5%
Repairs- MV Woods Hole	829,869	2,033,930	2,578,422	725,222	(1,308,708)	-64.3%
Repairs- MV Governor	700,991	1,873,812	1,906,410	1,219,884	(653,928)	-34.9%
Repairs- MV Sankaty	811,550	1,637,577	1,455,627	778,356	(859,221)	-52.5%
Repairs- MV Nantucket	2,498,959	887,234	912,261	2,653,255	1,766,021	199.0%
Repairs- MV Katama	1,829,369	591,636	438,119	419,159	(172,477)	-29.2%
Repairs- MV Eagle	2,645,256	925,996	847,414	2,684,514	1,758,518	189.9%
Repairs- MV Gay Head	729,100	1,260,145	1,744,789	346,230	(913,915)	-72.5%
Repairs- MV Aquinnah & Barnstable	0	0	0	353,980	353,980	100.0%
Repairs- MV Island Home	2,848,539	1,131,868	941,244	4,146,292	3,014,424	266.3%
Repairs- MV Iyanough	1,601,270	843,578	1,206,330	1,888,023	1,044,445	123.8%
Repairs- Bldgs. & Structures	3,526,263	5,011,447	3,239,365	4,863,977	(147,470)	-2.9%
Repairs- Office & Term Equip	2,407,463	2,633,875	2,625,456	2,709,108	75,233	2.9%
Repairs- Vehicles	493,807	414,600	619,981	434,600	20,000	4.8%
Miscellaneous Maintenance	1,190,024	1,069,505	1,172,046	1,015,994	(53,511)	-5.0%
TOTAL MAINTENANCE EXPENSE	23,917,586	23,540,847	22,837,515	26,675,426	3,134,579	13.3%
GENERAL EXPENSE:						
General Officers & Clerks	4,366,257	4,803,768	4,846,183	5,166,593	362,825	7.6%
General Office Supplies & Expenses	1,542,608	1,347,265	1,225,294	1,370,115	22,850	1.7%
Legal Expenses	366,742	259,800	241,332	270,000	10,200	3.9%
Pension & Relief	15,334,227	20,234,752	19,109,614	21,289,906	1,055,154	5.2%
Other Expenses	4,605,190	4,652,049	4,769,985	5,208,599	556,550	12.0%
TOTAL GENERAL EXPENSE	26,215,024	31,297,634	30,192,408	33,305,213	2,007,579	6.4%

STATEMENT OF DETAILED OPERATING EXPENSES - PROPOSED 2024 OPERATING BUDGET vs. 2023 BUDGET

	2022 ACTUAL	2023 BUDGET	2023 ESTIMATE *	2024 BUDGET	2024 vs. 2023 Budget Inc(Dec) % Inc(Dec)	
CASUALTIES & INSURANCE						
Hull Insurance & Losses	864,669	861,312	1,109,179	982,908	121,596	14.1%
Cargo Insurance, Loss & Damage	83,425	87,552	36,518	93,231	5,679	6.5%
Liability Insurance & Loss-Marine	1,923,554	1,898,040	1,998,058	1,804,434	(93,606)	-4.9%
Liability Ins & Loss- Non-Marine	1,068,323	1,116,306	1,144,297	1,294,044	177,738	15.9%
Other Insurance	906,569	877,062	901,837	1,047,054	169,992	19.4%
TOTAL CASUALTIES & INSURANCE	4,846,540	4,840,272	5,189,888	5,221,671	381,399	7.9%
TRAFFIC EXPENSE:						
Reservation Bureaus	1,211,452	1,720,088	1,532,665	1,789,978	69,890	4.1%
Advertising	1,302,274	1,380,147	1,537,065	1,429,311	49,164	3.6%
Other Traffic Expense	321,606	363,213	297,989	366,786	3,573	1.0%
TOTAL TRAFFIC EXPENSE	2,835,332	3,463,448	3,367,719	3,586,075	122,627	3.5%
OPERATING RENTS	278,523	954,910	562,891	256,189	(698,721)	-73.2%
PAYROLL TAXES - SOCIAL SECURITY	3,048,985	3,409,121	3,179,677	3,593,455	184,334	5.4%
TOTAL OPERATING EXPENSES	120,090,631	132,673,963	128,463,532	137,605,335	4,931,372	3.7%

SUPPLEMENTAL INFORMATION - PROPOSED 2024 OPERATING BUDGET vs. 2023 BUDGET

	2022 ACTUAL	2023 BUDGET	2023 ESTIMATE *	2024 BUDGET	2024 vs. 2023 Budget Inc(Dec) % Inc(Dec)	
OTHER INCOME						
Miscellaneous Income						
Profit (Loss) from Sale of Property	31,824	0	0	0	0	0.0%
Other	0	0	0	0	0	0.0%
Reduction in Present Value of Receivable	0	0	0	0	0	0.0%
License Fees	2,907,046	2,668,437	2,776,632	2,952,226	283,789	10.6%
Total Miscellaneous Income	2,938,870	2,668,437	2,776,632	2,952,226	283,789	10.2%
GENERAL EXPENSE						
Pension & Relief						
Pension Expense	5,704,599	8,074,127	8,195,016	8,875,219	801,092	9.9%
Health & Welfare Expense	11,094,938	13,482,038	12,539,289	14,273,200	791,162	5.9%
Health & Welfare Contribution	(2,218,988)	(2,684,967)	(2,507,858)	(2,843,181)	(158,214)	5.9%
Long Term Disability	546,898	585,519	410,086	401,136	(184,383)	-31.5%
Unemployment Tax	206,780	778,012	473,081	583,532	(194,480)	-25.0%
Total Pension & Relief	15,334,227	20,234,752	19,109,614	21,289,906	1,055,154	5.2%
Other Expenses						
Credit Card Charges	2,766,133	2,800,500	2,854,617	2,898,500	98,000	3.5%
Outside Accounting	137,750	167,500	176,900	173,300	5,800	3.5%
Consultants	467,269	242,400	331,479	278,500	36,100	14.9%
Training & Safety	646,573	720,899	651,625	1,068,724	347,825	48.2%
Other	587,465	720,750	755,365	789,575	68,825	9.5%
Total Other Expenses	4,605,190	4,652,049	4,769,985	5,208,599	556,550	12.0%

ACCOUNT #	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
2024 BUDGET													
467 Other Expense													
Deloitte & Touche	5,000	5,000	5,000	4,000	0	0	0	0	0	0	0	154,300	173,300
Consultants	0	0	0	0	0	0	0	0	0	0	0	0	0
Consultants	22,300	25,900	22,300	22,300	22,300	22,300	28,600	22,300	22,300	22,300	22,300	22,300	278,500
EAP NETWORK	0	1,250	3,750	0	2,500	1,250	0	1,250	2,500	1,250	1,250	0	15,000
OTHER	33,325	12,500	26,150	13,975	19,975	37,350	19,500	12,575	17,575	12,860	115,475	19,750	341,050
Misc	20,500	7,800	39,725	37,850	48,900	28,250	25,150	14,800	36,275	57,750	44,325	72,200	433,525
OTHER GEN EXP-PR	0	0	0	0	0	0	0	0	0	0	0	0	0
Credit Card Charges	265,250	442,000	185,750	222,250	238,250	241,250	238,750	279,250	263,500	211,500	173,750	137,000	2,899,500
New Bedford	0	0	0	0	0	0	0	0	0	0	0	0	0
Island Home	0	0	0	0	0	0	0	0	0	0	0	0	0
Iyanough	0	0	0	0	0	0	0	0	0	0	0	0	0
Training & safety	0	0	0	0	0	0	0	0	0	0	0	0	0
ENG & MAINT MISC	8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	8,000	96,000
VESSELS PR	82,297	96,389	159,684	38,156	52,118	15,191	0	16	18,344	88,948	51,372	37,868	640,384
VESSELS MISC	28,200	29,200	30,860	17,300	1,125	1,125	1,125	1,125	5,700	31,900	31,900	14,700	194,260
TERMINALS MISC	377	1,500	377	5,000	6,500	377	377	377	5,000	2,550	5,000	377	27,812
PARKINGLOT MISC	200	800	200	1,200	3,000	200	200	200	200	200	200	200	6,900
CUST SERVICE MISC	0	1,500	1,500	1,500	1,500	0	0	0	0	0	0	0	6,000
ADMIN MISC	5,189	5,189	5,189	5,669	5,669	5,189	5,189	5,189	5,189	9,839	9,839	5,189	72,568
ISLAND HOME MISC	0	0	0	0	0	0	0	0	0	0	0	0	0
IYANOUGH MISC	6,525	6,525	6,525	4,325	125	125	125	125	125	125	125	125	24,800
467 Other Exp- Total	477,163	644,603	495,010	381,545	409,982	360,607	327,016	345,207	384,708	447,213	463,536	472,009	5,208,559
CASUALTIES & INSURANCE													
HULL INSURANCE	78,009	78,009	78,009	78,009	78,009	78,009	85,809	85,809	85,809	85,809	85,809	85,809	982,508
CARGO INSURANCE	7,494	7,494	7,494	7,494	7,494	7,494	8,044	8,044	8,044	8,044	8,044	8,047	93,231
LIABILITY INS - MARINE	143,258	143,258	143,258	143,258	143,258	143,258	157,481	157,481	157,481	157,481	157,481	157,481	1,804,434
LIABILITY INS - MARINE	102,702	102,702	102,702	102,702	102,702	102,702	112,972	112,972	112,972	112,972	112,972	112,972	1,294,044
OTHER INSURANCE	83,376	83,376	83,376	83,376	83,376	83,376	91,133	91,133	91,133	91,133	91,133	91,133	1,047,054
TOTAL CAS. & INS.	414,839	414,839	414,839	414,839	414,839	414,839	455,439	455,439	455,439	455,439	455,439	455,442	5,221,871
OPERATING RENTS													
OPERATING RENTS	40,102	8,836	8,836	10,336	8,836	24,927	19,136	13,836	17,836	10,336	8,836	9,336	256,189
TOTAL RENTS	40,102	8,836	8,836	10,336	8,836	24,927	19,136	13,836	17,836	10,336	8,836	9,336	256,189
PAYROLL TAXES	248,643	243,969	221,704	258,807	360,031	305,913	387,842	316,355	308,421	352,667	255,287	325,816	3,593,455
TOTAL OPERATING EXPENSES	10,925,279	12,209,648	11,318,027	10,415,136	11,483,549	11,119,310	11,634,463	11,448,786	11,146,508	11,509,904	11,794,879	12,589,846	137,605,335

10/14/24

To: Town of Fairhaven Select Board

From: Bob Espindola
14 John St
Precinct 5 (Town Meeting member)
(774) 263-1046

Good morning,

I plan to ask some questions of you during your 40R discussion tonight and thought it might be helpful to send them in advance in case that may help you prepare to answer the questions during the meeting.

This email is follow up to my requests made through Ms. Ellison in her role as moderator, at the October 1st 40R Information session and to provide further clarification. I am asking for a response to these requests as soon as the information would be available but no later than the Wednesday preceding the Fall Town Meeting.

Certification Letters vs. Actual Impact to the Town

During the 40R information session, I commented on the fact that the “Certification Letters” included as part of the 40 R application to the state stop short of certifying that the development proposed will not impact the town financially.

In fact, in letters from Fire Chief Correia and Police Chief Dorgon, both of these department heads suggest that increased revenues from 40R (paraphrasing) would help support expanded staffing needs.

Your Financial Policy Document recently adopted states that “One-time revenues will not be used in the projections to fund ongoing or recurring operating expenditures”. Any revenue generated by the Town, from the initial \$350,000 Zoning Incentive Payment upon approval to the \$3,000 per unit constructed would be one-time revenue, which, according to your Financial Policy, can’t be considered a consistent revenue stream to support operations. Given the significant cost to train Police and Fire staff, the Town should not consider short term staffing changes that can’t be considered a dependable, steady source of revenue.

With these concerns in mind, I am asking the Select Board to coordinate answers through Town Administration, to be available by the Precinct Meeting prior to Town Meeting to estimate revenue from 40R units built vs. any increased staffing positions needed by department (especially public safety) at the following increments of potential 40R growth, 25%, 50% 75% and 100%. I realized there has been some confusion about what reference point should be used for the total potential build out of the proposed 40R areas. With that in mind, I would ask that this work be completed using maximum

potential growth that the state has approved in the application. Ideally, the calculations would show the resulting population increase based on an assumed ratio of residents per unit, recognizing there will be single and multiple bedroom units in the mix. I would think that the consultant could provide a good number to use as an assumption for average residents per unit, based on historical data from prior 40R projects or general housing data.

So, for example, if the maximum number of units possible is 1200 and the average number of people per unit is assumed to be 3, that would result in 3,600 new residents in Fairhaven and that would represent 22.6% percentage increase over the existing population of 15,899 .

Risk of spending funds prior to achieving construction milestones

During the October 1st session, I relayed a question from another Town Meeting member, Anne Morten-Smith who could not be at the session. It related to section 14 of Chapter 40R which states “If within 3 years, no construction of an approved project has been started within the smart growth zoning district, the department shall require the Cities and Towns to repay to the Department all monies paid to the City or Town under the chapter for said smart growth”. With this liability in mind, I would ask the Select Board to go on record (prior to Town meeting) to certify that if the Town will reserve the full \$350K award from the Department until the construction requirement has been satisfied.

Water supply infrastructure capacity to support full buildout without mitigation

The application stipulates *“the Municipality must document and certify that the impacts of Future Zoned Units within the District will not over burden transportation, water, public and/or private wastewater systems, and other relevant Infrastructure, as it exists or may be practicably upgraded. The purpose of this requirement is both to ensure consistency with Smart Growth principles by supporting growth in areas with sufficient existing or Planned Infrastructure and to ensure that any required Infrastructure that does exist or is insufficient and cannot be practicably upgraded is identified and addressed before the Department issues any associated Zoning Incentive Payment(s)”*

In terms of the letter from Mr. Furtado from the Public Works Department, and comments he made during the October 1st information session, Mr. Furtado speaks about the need for “mitigation” that would be required through negotiations with developers, especially in the Waterfront area.

Reviewing the recording of the October 1st session, I would point to the 55:06 mark, where Attorney Costa stated the following (direct quote) ...

“So if you were to require mitigation, you could require it through the plan approval process as part of a cooperative discussion with an applicant when appearing before the Plan Approval Authority.

There is no provision within chapter 40R itself that addresses water and sewer infrastructure, as I said, that is why it’s required to certify to the state, as part of the application process, as we have done, that that infrastructure exists today in a manner that could accommodate the proposed development”

This means the Town could be liable for costly infrastructure upgrades down the road where the unit incentives may not cover those costs.

With this concern in mind, I would ask that the Select Board, as the Board that signed the 40R Application, coordinate with Mr. Furtado to produce further information estimating the potential cost of infrastructure improvements to achieve a full buildout of each zone. This is especially important in the water front area, where water supply issues have been raised. Town Meeting members deserve to know the true potential impact of 40R without mitigation, at least in today's dollars.

In the end, I am looking to ensure that the Town has done the due diligence to ensure Town Meeting members (and all taxpayers) have a clear and accurate forecast of what the 40R zoning changes represent before they vote at Town Meeting and I hope you agree.



The image is a screenshot of the Merriam-Webster website. At the top, there is a navigation bar with the Merriam-Webster logo (Est. 1828) on the left, and links for 'Dictionary', 'Thesaurus', 'Games & Quizzes', and 'Word of the Day'. A search bar in the center contains the word 'mitigation'. Below the navigation bar is a promotional banner for books with 'PRICE DROP' tags and prices: \$26, \$56, \$104, \$26, \$82, and \$62. The main content area features the word 'mitigation' in a large, bold font, followed by the word 'noun'. Below this, the phonetic transcription 'mit-i-ga-tion' and 'mi-tə-'gā-shən' are shown. A red banner highlights the 'Definition' section. To the left of the definition is a sidebar with links for 'Example Sentences', 'Word History', 'Related Articles', and 'Entries Near'. The definition text reads: 'plural mitigations', 'Synonyms of mitigation >', and ': the act of **mitigating** something or the state of being mitigated : the process or result of making something less severe, dangerous, painful, harsh, or damaging'.

<https://www.merriam-webster.com/dictionary/mitigation>



Town of Fairhaven
Department of Planning and Economic Development

Town Hall 40 Center Street Fairhaven, MA 02719 508-979-4082

MEMORANDUM

TO: Select Board

THROUGH: Angie Lopes Ellison, Town Administrator

FROM: Bruce Webb – Director of Land Use
Stephanie Fidalgo – Administrative Assistant

DATE: October 10, 2024

RE: November 19, 2024 Special Town Meeting – Article 13: Bylaw Amendments, Chapter 198 Zoning

To members of the Select Board,

Under the direction and guidance of Town Counsel, the Department of Planning and Economic Development worked alongside the Planning Board to craft the proposed amendments to Chapter 198-16, 198-17, 198-18, 198-22, 198-27, 198-32.1, and 198-33 to conform to “An Act Relative to the Affordable Homes Act” (Ho. H4977, Acts 2024, Chapter 150, Approved by the Governor, August 6, 2024) and the proposed changes therein to MGL Chapter 40A Section 1A and Chapter 40A Section 3 with regard to accessory dwelling units.

The proposed amendments are designed to strike a balance between bringing the Town’s bylaws into compliance with the proposed changes to MGL Chapter 40A Section 1A and Chapter 40A Section 3 while also limiting the impact of the changes on the overall zoning bylaw. Care was also taken to hold to the law’s requirement that municipalities maintain “reasonable regulations.” In conformance with that guideline, the proposed amendments are written to reflect the language crafted by the State Legislature where and when appropriate and to follow the enumerated reasonable regulations of “dimensional setbacks and the bulk and height of structures.”

However, in order for these amendments to provide reasonable opportunities for Fairhaven’s homeowners to consider the conversation of their existing structures, additions to their structures, or the creation of detached units, the Department of Planning and Economic Development has recommended removing lot size requirements from Chapter 198-32.1. Research performed by the Department revealed that only 13% of all single family lots within the Town could meet the existing lot size regulations within Chapter 198-32.1 of 22,500 minimum sq. ft. within the Single Family Residence (RA) District and 30,000 minimum sq. ft. within the Rural Residence (RR) District.

That same research revealed that utilizing the enumerated reasonable regulation of “bulk ... of structures” as interpreted as lot and building coverage provided a sufficient balance of allowing a majority of homeowners to consider creating an accessory dwelling unit on their property while also

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limiting their creation within denser and less conforming neighborhoods. Furthermore, all Accessory Dwelling Unit plans and permits will be subject to review by the Building Department and the Director of Inspectional Services, which will work to ensure that each property and proposed unit will comply with the amended bylaws and existing Town laws and regulations, as well as the State Building, Fire, and Sceptic Codes.

As an additional assurance to the residents of Fairhaven, the amended bylaws would also further reflect and reinforce the prohibition on using accessory dwelling units as short-term rentals, as established in Chapter 190.

Taken as a whole, the proposed amendments to Chapter 198-16, 198-17, 198-18, 198-22, 198-27, 198-32.1, and 198-33 will both ensure compliance with the proposed changes to MGL Chapter 40A Section 1A and Chapter 40A Section 3, while also providing reasonable regulations on their creation within Fairhaven. Both the Department and the Board sought to create a balance between encouraging the creation of new housing units and the further embrace of a wider range of housing choices alongside the desire to maintain the Town's character and have reasonable regulations on new growth.

The Planning Board voted in support to adopt the amendments to Fairhaven Bylaw Chapter 198-16, 198-17, 198-18, 198-22, 198-27, 198-32.1, and 198-33 on September 24, 2024. (Vote: 6 in support; 0 in opposition; 2 absent)