

**WARRANT
FOR THE SPECIAL TOWN MEETING
TUESDAY, NOVEMBER 12, 2019 AT 7:00 P.M.
AT THE ELIZABETH I. HASTINGS MIDDLE SCHOOL**

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, s.s

To the Constable of the Town of Fairhaven in said county:

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Fairhaven qualified to vote on town affairs to meet as follows:

On Tuesday, the twelve day of November 2019 at 7:00 p.m. in the Walter Silveira Auditorium at the Elizabeth I. Hastings Middle School, then and there, to act upon the following articles:

ARTICLE 1. FUNDING LABOR CONTRACTS-FY20

To see if the Town will vote to fund labor contracts for the Fire, Police and Sewer Unions or take any other action relative there to.

Petitioned by: Board of Selectmen

ARTICLE 2. BILLS OF PRIOR YEARS

To see if the Town will vote to authorize the payment of the following bills of the Prior Years:

<u>Vendor</u>	<u>Amount</u>	<u>Source</u>	<u>Petitioner</u>
New Bedford Harbor Dev. Comm.	\$4,070	G.F. Surplus Rev.	Harbor Master
Thomas P. Crotty & Associates	\$4,240	G.F. Surplus Rev.	Town Administrator
Clifford and Kenny, LLP	\$2,581	G.F. Surplus Rev	Town Administrator
Town of Mattapoisett	\$6,980	Water-Retained Earnings	Board of Public Works

or take any other action relative thereto

Petitioned by: Board of Selectmen

ARTICLE 3. AMENDED FY 20 GENERAL FUND OPERATING BUDGET

To see if the Town will vote to amend Article 14 of the May 4, 2019 Annual Town Meeting "General Fund Operating Budget-FY20" or take any other action relative thereto.

Petitioned by: Board of Selectmen

ARTICLE 4. AMENDED FY 20 GENERAL FUND CAPITAL BUDGET

To see if the Town will vote to amend Article 17 of the May 4, 2019 Annual Town Meeting “General Fund Capital Budget-FY20” by adding the following capital projects

- N. Police Department- Equipment and Weapons Storage Lockers
- O. Fire Department-Patient Transport Stretchers for Ambulances
- P. Central Fire Station/Polling Location-Handicap Access
- Q. Town Hall-Handicap Access

or take any other action relative thereto.

Petitioned by: Board of Selectmen

ARTICLE 5. AMENDED FY 20 AMBULANCE STABILIZATION FUND

To see if the Town will vote to amend Article 21 of the May 4, 2019 Annual Town Meeting “Ambulance Stabilization –FY20” by increasing the amount to be transferred from Ambulance Receipts Reserved for Appropriation from \$50,000 to \$65,000 or take any other action relative thereto.

Petitioned by: Fire Chief

ARTICLE 6. AMENDED FY 20 SOCIAL DAY CARE CENTER

To see if the Town will vote to amend Article 27 of the May 4, 2019 Annual Town Meeting “Social Day Care Center–FY20” by increasing the amount authorized to expended from the grant account known as “Receipts Reserved for Appropriation for Fairhaven Supportive Social Day Program” from \$160,000 to \$175,000 or take any other action relative thereto.

Petitioned by: Council on Aging

ARTICLE 7. FUNDING FOR MS4 STORM WATER MANAGEMENT COMPLIANCE

To see if the Town will vote to transfer from General Fund Surplus Revenue \$50,000 to fund compliance work related to the Municipal Separate Storm Sewer System (MS4) permit requirements or take any other action relative thereto.

Petitioned by: Board of Public Works

ARTICLE 8. FUNDING FOR REPAIRS TO PILGRIM AVE. FORCE MAIN

To see if the Town will vote to transfer from Sewer Retained Earnings a sum of money to pay for the repair of the Pilgrim Ave. force main or take any other action relative thereto.

Petitioned by: Board of Public Works

ARTICLE 9. FUNDING FOR MUNICIPAL FIBER NETWORK CONSULTANT

To see if the Town will vote to transfer from Town of Fairhaven Cable Television Enterprise Fund Retained Earnings a sum of money to pay for funding a municipal broadband network consultant or take any other action relative thereto.

Petitioned by: Board of Selectmen

ARTICLE 10. FUNDING FOR LAND ACQUISITION AND PRELIMINARY DESIGN/ENGINEERING WORK FOR PUBLIC SAFETY FACILITY

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, including the Capital Stabilization Fund, a sum of money for the purchase of the property described as follows:

267 & 271 Huttleston Avenue, Fairhaven, Massachusetts 02719, also known as G. Bourne Knowles Horticultural Nursery & Landscaping, and further identified as Lots 302 & 302a on Fairhaven Assessors' Map 31B

and for the preliminary design/engineering of a public safety facility on that property, housing the police department, fire department, EMS/ambulance services and other public safety operations to be determined.

Or to take any other action thereon.

Petitioned by: Board of Selectmen

ARTICLE 11. CONVEYANCE OF A PORTION OF PARK LAND AND CORRESPONDING DEDICATION OF OTHER LAND TO PARK USE

To see if the Town will vote to amend its previous vote under Article 52 of the Annual Town Meeting of May 6, 2017, by revoking its approval of Part B of that article, and in its place approving the following:

“B.)To dedicate to park use a parcel of land owned by the Town and described as follows:

The property at 87 Main Street, Fairhaven, appearing as Lot 50 on Fairhaven Assessors' Map 11, and more fully described in a deed, which was recorded on November 16, 1992, in the Bristol County (SD) Registry of Deeds at Book 2934, Page 9. The subject property was by the Town of Fairhaven for non-payment of taxes by an Instrument of Taking, recorded on January 4, 1996, in the Bristol County (SD) Registry of Deeds at Book 3593, Page 103, and a subsequent Judgment in Tax Lien Case recorded on January 6, 2014, in the Bristol County (SD) Registry of Deeds at Book 10987, Page 180.”

Or to take any other action thereon.

Petitioned by: Board of Selectmen

ARTICLE 12. MUNICIPAL LIEN FOR STORM WATER COSTS

To see if the Town will provide that costs incurred by the Town to remedy violations of the stormwater management bylaw are collectible as liens against the subject property, by adding to Section 194-19(B) (3) the following:

“such special assessment shall constitute a lien for the purpose of G.L. c. 40 § 58.”

or to take any other action thereon.

Petitioned by: Board of Public Works

ARTICLE 13. SPECIAL SURETY ACCOUNTS

To see if the Town will vote to amend the town bylaws by adding the following section:

“Sec _____: Special Surety Accounts

The Town, acting through any officer or board authorized by law, may provide by rule, regulation or contract for the deposit of cash, bonds, negotiable securities, sureties or other financial guarantees to secure the performance of any obligation by an applicant as a condition of a license, permit or other approval or authorization, and the monies or other security received may be deposited in a special account. Such rule, regulation or contract shall specify: (1) the type of financial guarantees required; (2) the treatment of investment earnings, if any; (3) the performance required and standards for determining satisfactory completion or default; (4) the procedures the applicant must follow to obtain a return of the monies or other security; (5) the use of monies in the account upon default; and (6) any other conditions or rules as the city or town determines are reasonable to ensure compliance with the obligations. Any such account shall be established by the Town treasurer in the Town treasury and shall be kept separate and apart from other monies. Monies in the special account may be expended by the authorized board, commission, department or officer, without further appropriation, to complete the work or perform the obligations, as provided in the rule, regulation or contract. This section shall not apply to deposits or other financial surety received under section 81U of chapter 41 of the general laws, or other general or special law.”

Or to take any other action thereon.

Petitioned by: Board of Selectmen

ARTICLE 14. OFFICE HOURS ON WEEKDAYS AND SATURDAY

To see if the Town will vote to amend the town bylaws and to accept M.G.L. c. 41 § 110A, by striking therefrom § 56-11, and inserting in its place the following:

“§ 56-11: Office Hours

The public offices of the Town shall remain open on all weekdays, except legal holidays, and as otherwise directed by the Town Administrator.

The public offices of the Town shall remain closed on all Saturdays, and the provisions of section nine of chapter four shall apply in the case of such closing of any such office on any Saturday to the same extent as if such Saturday were a legal holiday.”

Or to take any other action thereon.

Petitioned by: Board of Selectmen

ARTICLE 15. CHANGING DOG LICENSE PERIOD

To see if the Town will vote to change the period of licensure for dog licenses from April 1 through March 31 to January 1, 2019 by amending Chapter 87-8 of the Town Code by deleting “(the time between April 1 and the following March of any year, both dates inclusive)” and replacing it with “(the time between January 1 and the following December 31 of any year, both dates inclusive)”

Or take any other action relative thereto.

Petitioned by: Town Clerk

ARTICLE 16. STREET ACCEPTANCE-ROBERT STREET

To see if the Town will vote to accept, or to take by eminent domain, as a public way Robert Street from its intersection with Castle Avenue, as shown on a Street Layout and Acceptance Plan for Robert Street by GCG Associates, Inc. dated October 2, 2019.

Or take any other action relative thereto.

Petitioned by: Board of Public Works

ARTICLE 17. AGREEMENTS FOR PAYMENT IN LIEU OF TAXES

To see if the Town will approve any, or all, of the following agreements pursuant to G. L. c. 59 § 38H(b) which provides that certain power generating companies may, in order to comply with its property tax liability obligation, execute an agreement for the payment in lieu of taxes with the municipality in which such generation facility is sited, and said company shall be exempt from property taxes, in whole or in part, as provided in any such agreements during the terms thereof. Any such agreement shall be the result of good faith negotiations and shall be the equivalent of the property tax obligation based on full and fair cash valuation.

- A. Name of Contracting Party: SolectEnergy
Location: East Fairhaven Elementary School, 2 New Boston Road, Fairhaven, MA
Term of Agreement: 20 years
Property Tax Obligation through Term of Agreement: \$(to be determined)
Amount of Annual Payment: \$ (to be determined)
- B. Name of Contracting Party: SolectEnergy
Location: LeRoy L. Wood Elementary School, 60 Sconticut Neck Rd, Fairhaven, MA

Term of Agreement: 20 years

Property Tax Obligation through Term of Agreement: \$ (to be determined)

Amount of Annual Payment: \$ (to be determined)

C. Name of Contracting Party: Fairhaven MA 1, LLC

Location: 279 Mill Rd, Fairhaven, MA

Term of Agreement: 20 years

Property Tax Obligation through Term of Agreement: \$(to be determined)

Amount of Annual Payment: \$ (to be determined)

D. Name of Contracting Party: Fairhaven MA 2, LLC

Location: 20 Yankee Land, Fairhaven, MA

Term of Agreement: 20 years

Property Tax Obligation through Term of Agreement: \$(to be determined)

Amount of Annual Payment: \$ (to be determined)

Or to take any other action thereto.

Petitioned by: Board of Selectmen

ARTICLE 18. GENERAL BY-LAW: DEMOLITION DELAY

Any building proposed for demolition or significant alteration, in whole or in part, built before 1921 or those built after this date which have otherwise been determined by the Historic Commission to be potentially historically or architecturally significant based on established criteria, shall be referred to the Historic Commission for a public hearing to determine if they are “preferably preserved”. Any building which the Historic Commission determines to be preferably preserved shall not be demolished within twelve (12) months of such determination in order for the Historic Commission and the Town to seek alternatives to demolition in order to protect the historic character of the community.

Intent and Purpose of the Demolition Delay By-Law

This By-Law is enacted for the purpose of preserving and protecting historic and architecturally significant buildings within the Town of Fairhaven that constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town.

This By-Law provides:

- a) An opportunity to develop preservation solutions for significant buildings threatened with demolition;
- b) An opportunity to inform residents of the town of impending demolitions of significant buildings;
- c) A reasonable time for public notice and discussion by interested parties to preserve such buildings;
- d) An opportunity to create an historical record, including photographs, of significant buildings prior to demolition.

Owners of significant buildings will be encouraged to:

- a) Seek out alternative options that will preserve, rehabilitate or restore such buildings; or
- b) Seek out persons who might be willing to purchase such buildings in order to preserve, rehabilitate, or restore such buildings rather than demolish them.

To achieve these purposes, the Fairhaven Historical Commission is authorized to advise the Town of Fairhaven Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this By-Law. The Historical Commission shall review all buildings that are proposed for demolition or significant alteration that are potentially historically or architecturally significant. If, after a public hearing, the Historical Commission determines that the building(s) is/are "preferably preserved" then a twelve (12) month Demolition Delay shall begin in order to seek alternative options. The Historical Commission, in conjunction with the Planning Board, may develop incentives in order to encourage preservation of Fairhaven's historic structures and small town charm.

Procedure for Obtaining a Demolition Permit

No demolition permits for a building which, in whole or in part, was built before 1921 or has otherwise been determined by the Historical Commission to be potentially historically or architecturally significant, shall be issued without following the provisions of this By-Law. An applicant proposing to demolish a building subject to this By-Law shall file with the Building Commissioner an application containing the following information:

- a) The address of the building to be demolished.
- b) The owner's name, address and telephone number.
- c) A description of the building with photograph(s).
- d) The reason for requesting a demolition permit.
- e) A brief description of the proposed reuse, reconstruction or replacement.

The Building Commissioner shall within ten (10) business days forward a copy of the application to the Historical Commission and the Planning Director. The Historical Commission shall, within fifteen (15) business days after receipt of the application, make a written determination of whether the building is potentially historically or architecturally significant or not.

Upon a determination by the Historical Commission that the building is not potentially historically or architecturally significant, the Historical Commission shall so notify the Building Department and the Applicant of the decision in writing within fifteen (15) business days after receipt of the application. The Building Commissioner may then issue the Demolition Permit.

Upon determination by the Historical Commission that the building is potentially historically or architecturally significant, the Commission shall so notify the Building Commissioner and the applicant in writing within fifteen (15) business days after receipt of the application. No demolition permit may be issued at this time. If the Historical Commission does not notify the Building Department in writing on the close of business on the 15th business day after receipt of the application, the Building Inspector may proceed to issue the Demolition Permit.

If the Historical Commission finds that the building is potentially historically or architecturally significant, it shall hold a public hearing within twenty (20) business days of the written notification to the Building Department in order to determine if the structure is “preferably preserved”. Public Notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven (7) days prior to the date of said hearing and the Building Commissioner and the applicant shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within ten (10) business days after the public hearing whether the building should be “preferably preserved”. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Commissioner and applicant of the decision in writing within ten (10) business days after the public hearing. The Building Commissioner may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing within ten (10) business days after the public hearing. No demolition permit may then be issued for a period of up to twelve (12) months from the date of that determination unless a shorter period is agreed to by a majority vote of the Commission.

If the Historical Commission does not so notify the Building Commission in writing on the close of business on the 10th business day following the public hearing, the Building Commissioner may issue the Demolition Permit.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Commissioner and have been found to comply with all laws pertaining to the issuance of a building permit or if applicable, a Certificate of Occupancy for that site. All approvals necessary for the issuance of such building permit or Certificate of Occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Building Commissioner may issue a demolition permit or a building permit for a preferably preserved building within the twelve (12) month review period if the Historical Commission notifies the Building Commissioner in writing that the Historical Commission finds during the twelve (12) months and after a further public hearing, that the intent and purpose of this By-Law is served even with the issuance of the demolition permit or the building permit. Following the twelve (12) month review period, the Building Commissioner may issue the demolition permit.

Definitions

DEMOLITION OR SIGNIFICANT ALTERATION, IN WHOLE OR IN PART -- Any act of pulling down, destroying, removing, dismantling or razing a building or any substantial portion thereof or

commencing the work of total or substantial destruction with the intent of completing the same, or removal of the building from its site with the intent to relocate it to another site. A substantial portion or substantial destruction of a building is defined as either half the volume of the building or half its value, as determined by the Building Commissioner. A building shall be considered to be demolished if more than twenty-five percent (25%) of the front, back or side elevations are removed or covered so as to substantially obliterate the original design. Each elevation shall be calculated separately.

PREFERABLY PRESERVED -- Any historically or architecturally significant building that the Commission determines, following a public hearing, is in the public interest to be preserved or rehabilitated rather than demolished. A preferably preserved building is subject to a demolition review period as stated in this By-Law of up to twelve (12) months.

POTENTIALLY SIGNIFICANT BUILDING -- Any building within the Town of Fairhaven, in whole or in part, that was built before 1921, or has otherwise been determined by the Historical Commission to be potentially historically significant based on any of the following criteria:

- a) The Building or area is listed on the National or State Register of Historic Places; or
- b) The Building or area is eligible to be listed on the National or State Register of Historic Places; or
- c) The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town of Fairhaven or the Commonwealth of Massachusetts; or
- d) The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

Emergency Demolition

If after an inspection, the Building Commissioner or the Board of Health finds that a building subject to this By-Law is found to pose an immediate threat to public health and safety or the health and safety of the occupants due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building, then the Building Commissioner may issue an emergency demolition permit to the owner of the building after making every reasonable effort to notify the Historical Commission and the Planning Department (preferably within forty-eight hours) of making this determination. The Building Commissioner or the Board of Health shall first prepare a report explaining the condition of the building and the basis for the decision that shall be forwarded to the Historical Commission and the Planning Department.

The Building Commissioner shall require the property owner of the building to be demolished to provide photograph(s) and other documentation about the property as outlined in this By-Law. The Building Commissioner shall make every reasonable effort to provide the **Historical Commission** reasonable time to document such property or building prior to demolition

provided such activity poses no threat to public health or safety or appropriate precautions are taken to protect public health and safety.

Enforcement and Remedies

The Historical Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this By-Law or to prevent a threatened violation thereof.

A building is considered to be demolished if it is destroyed due to the owner's failure to maintain a weather tight and secure structure or if it is destroyed willfully or by neglect during the demolition review period. Any owner of a building subject to this By-Law who demolishes a building willfully or by neglect and without first obtaining a demolition permit in accordance with the provisions of this By-Law shall be subject to a fine of not more than Three Hundred Dollars (\$300). Each day the violation exists shall constitute a separate offense until the demolished building is recreated as directed by the Historical Commission, or unless otherwise agreed to by the Historical Commission.

If a building subject to this By-Law is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of five years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless otherwise agreed to by the Commission.

Nothing in this By-Law shall be deemed to exempt applicants from any requirements of the state Building Code or other local by-laws and other rules and regulations. In case any section, paragraph or part of this By-Law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

Petitioned by: Planning Board and Historical Commission

ARTICLE 19. AMENDMENT TO ZONING MAP: BENOIT SQUARE MIXED USE ZONING

To amend the Zoning Map as follows: North Fairhaven Benoit Square/Main Street area.

Rezone the following described lots from Single Residence District (RA), General Residence District (RB), Business District (B) to the Mixed Use District (MU) and comprised of the following Assessor's Map-Lots:

18-013, 18-014, 18-014B, 18-078A, 18-078B, 18-078C, 19-120, 19-127, 19-128, 19-130, 19-131, 19-132, 19-133, 19-134, 19-176, 19-177, 19-200, 19-201, 19-239, 19-240, 19-241, 19-244, 19-246, 19-252, 19-254, 19-255, 19-256, 19-257, 19-258, 19-259, 19-260, 19-276, 19-314, 19-315, 19-316, 19-322, 19-323, 19-375, 19-377, 20-293, 20-321, 22-253, 22-254, 22-272, 22-273, 22-274, 22A-001, 22A-002, 22A-022, 22A-023, 22A-024, 22A-047, 22A-048, 22A-169, 22A-170, 22A-173, 22A-174, 22A-175, 22A-176, 22A-179, 22A-180, 22A-181, 22A-182, 22A-183.

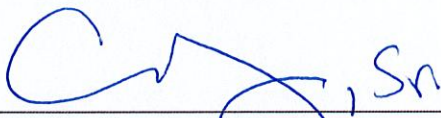
Petitioned by: Planning Board

And you are hereby directed to serve this warrant by posting an attested copy thereof on or near the front or main entrance of the polling place in Precinct 1, Town Hall; and on or near the entrance of the polling place in Precinct 2 and 3, Elizabeth I. Hastings Middle School, School Street; and on or near the entrance of the polling place in Precinct 4, Fire Station meeting room, 146 Washington Street; and on or near the front or main entrance of the polling place in Precinct 5 and 6, Recreation Center, 227 Huttleston Ave; fourteen days at least prior to the date of the meeting.


HEREOF FAIL NOT, and make due return of this warrant to the Town Clerk at the time and place of the meeting aforesaid.

Given under our hands this 16th day of October in the year two thousand nineteen.

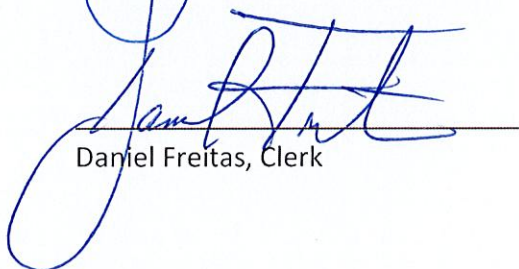
Selectmen of Fairhaven,



Charles Murphy Sr, Chairman

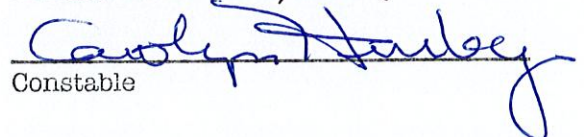


Robert Espindola, Vice-Chairman



Daniel Freitas, Clerk

I, Carolyn HURLEY, Constable
of the Town of Fairhaven, do hereby
certify that I have duly served this
Warrant as required by the General
Laws of Massachusetts and the
By-Laws of the Town of Fairhaven
by posting an attested copy thereof
in the precinct/polling locations on
October 21, 2019



Constable