



FAIRHAVEN SELECT BOARD

Meeting Minutes

June 24, 2024

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

Also Present: Attorney Adam Costa and Dillon Sussman

Ms. Powers opened the Select Board meeting at 6:33p.m.

PUBLIC HEARING: APPLICATION TO ESTABLISH FAIRHAVEN SMART GROWTH OVERLAY DISTRICT

The Public Hearing continued from June 10, 2024. Ms. Powers read the notice and recapped the June 10th hearing.

Attorney Adam Costa addressed the Board and provided an overview of the 40R initiative and the working group sessions back to 2022. Atty. Costa said this meeting is a continuance of the public hearing from June 10th seeking the Board's approval to submit the application to the Executive Office of Housing and Livable Communities (EOHLC). He reviewed the materials that were brought to the June 10th meeting and addressed the concern that the process has had a lack of transparency and rushed. Atty. Costa reminded the Board that the working group sessions started in 2022, the work done with the previous two Town Planners Paul Foley and Paul DiGiuseppe included updates provided at both Select Board and Planning Board meetings with all materials for the public added online throughout the process as they were available.

Atty. Costa reminded the Board that a vote to approve submitting the application to the EOHLC does not stop the process and Planning Board meetings about zoning should take place while the application is being reviewed, the Planning Board will convene a public hearing before it is ready for Town Meeting.

Dillon Sussman of Dodson & Flinker advised the Board that he has no updates and is here for any questions.

Discussion ensued and the Board commented on and asked questions about the waterfront being added back, a clip of the Economic Development (EDC) Meeting of February 15, 2024 was played showing Paul DiGiuseppe discuss that waterfront was being added back in. Atty. Costa advised the Board that the initial 40R review had three areas: the plazas, the waterfront and a section along Route 240. The focus had been on the plazas until the Planners suggested adding the waterfront due to concerns of a 40B and limited development. "Spot zoning" was also discussed when they were asked if a business could opt-out of the overlay district and Atty Costa said single sites could not be excluded.

Discussion continued about checks and balances that remain through the Planning Board, Zoning Board of Appeals and existing permitting processes, what the state evaluates on. Atty Costa said a 40R process starts with the state approval of the application and if approved the next step is the Planning Board and suggested that the Planning Board set up a series of meetings while the application is under review with the state. The Planning Board could make changes and the risk would be if the changes are not in line with what the state approves. The state provides a bylaw draft that is marked-up with the changes for the town. The state focuses on many aspects including the map, zoning compliance, affordability, standards and if it is clear to the applicants.

Ms. Powers opened for public comment.

Michelle Costen of Spring Street addressed the Board, she said she did not understand what is being done and the changes, her concern is if there are Planning Board members that own property within the area, Mr. daSilva and Mr. Carr, she has conflict of interest concerns, she feels the process is not transparent and would like to see it built for residents to purchase, building to create affordable housing should not be done to cater to New Bedford or vacationers or high rents like in Cape Cod. She also mentioned questions not answered and concerns with real estate agents with active licenses on the Planning Board and asked to read what conflict of interest is to the Board.

The Board advised as discussed earlier, single properties within the overlay district cannot be removed from the overlay, what a developer develops is their decision and there would be about 20% that would be considered affordable housing.

Pat Carr of Pleasant Street addressed the Board and in reference to the last speaker and letters submitted during the June 10th public hearing from Planning members Jessica Fidalgo and Kevin Grant. He read an excerpt from Ms. Fidalgo's letter about the removal of the waterfront and suggestions about the waterfront being added back without any public explanation. Mr. Carr pointed to the February 15th EDC meeting clip and said no updates being given out to the public have caused suspicion of nefarious things he and Mr. daSilva are doing to benefit themselves with 40R. He said this is false and referred to the EDC meeting from February 15th and said he asked to not be under the 40R so that no one would suspect anything nefarious and that he was told no spot zoning. Mr. Carr said transparency is needed going forward; a liaison at a meeting should bring information back to the Select Board and discuss especially with this project. He also mentioned concerns on the stigma that stays when false accusations are made even if corrected later.

Peter Perry of Ivy Lane addressed the Board and said he has been a member of the working group from the beginning and he has been a proponent of the 40R. Each zone can have its' own design standard. He referred to different areas and the design standards that can be set up how the town wants it to look and have the design standards reflect how we want it. Someone is going to make money on this and it is up to developers to develop and the town has a say through 40R in what they do. Other aspects stay like environmental. He said he felt all three areas should have stayed in. Mr. Perry referred to Lincoln Park in Dartmouth, MA and their approach in developing.

Ruy daSilva of 30 Bayview Ave. addressed the Board, he said he has a piece of property in the area and is a member of boards mentioned. Mr. daSilva said he does not want 40R in his area and that the neighboring hotel is unaware that they are in the 40R area and that nothing has been communicated to the businesses in the area. He suggested information is shared and said he has been involved on boards to help people and not to be defamed.

Rick Trapilo of Leeward Way addressed the Board, he said he is a new member of the Planning Board and that he shared his resume when running for election; he has an MBA, an international certificate and served on public and private boards; he also has a broker's license and loves the town. He said that health, safety and prosperity are important to him and any innuendo against him is unacceptable. He said everyone has a right to question processes and he has found nothing but transparency from the Board and his Chairperson. He said he is in favor of this Board moving forward with the process.

Despina Longinidis of Washington Street addressed the Board. She said if people do not want to be a part of the area on the waterfront that should be honored. She said it is great to hear when people want to join boards if not for self-interest but for the interest of the Town and when there is a question of ethics maybe not run or maybe this is for another conversation and the commitment should be to the Town and its' bylaws.

Eric Dawicki of Balsam St addressed the Board. He said he was born and raised in Fairhaven, has his family here and founded Northeast Maritime Institute here. He expressed amusement in the accusations and assertions expressed tonight. He continued and said he holds a Master's in Public Administration from American University and is an adjunct faculty member. He has invested in this Town and people are inherently good; it is time that the Town heals and be polite and kind to each other and start to treat each other with dignity and respect, we all deserve that. Everyone deserves to be heard and not impugn somebody's character. The 40R process does not impede progress. Mr. Dawicki thanked the Board and Mr. Perry for getting involved.

Will Gardner of Laurel St. addressed the Board, he said he has spoken in favor of 40R and the potential for more housing is desperately needed. He discussed how we got here, parking minimums built into zoning, being in favor of reducing parking for walkable areas and being concerned with finding a place to live versus a place to park. He pointed to other traditional places and having a look that evolves and is built incrementally. He supports 40R and other ways to develop it in town.

John Hinds of Ebony St. addressed the Board and compared concerns to phrases like “cutting your nose off to spite your face” or “throwing the baby out with the bath water” and said there is a need to look at the overwhelming benefit to the Town and developers that want to come in. he said it does not make sense to put it on hold. Concerns with elected officials can be handled separately.

Jessica Fidalgo of Union St. addressed the Board via zoom and said she supports the 40R overlay district and continuing to work on it and said her letter and what she cares about is listening to the public as we go through the process. She said she felt adding in an entire district without that is a bad move into town meeting and does not want to repeat issues from the May town meeting.

Michelle Costen of Spring St. addressed the Board again and asked if this was going to provide housing, if it would be predominantly for residents or for people to make money. Atty. Costa said 40R is a zoning tool limited by laws and no town can dictate owners versus renters. He said the 40R can have certain restrictions and a minimum of 20% affordability requirement and can follow state law with a certain number of units with a local preference. The 40R process is not building anything, it is creating zoning for opportunities for developers in the overlay district, the vision put into words through a zoning change. Mr. Romano added that from the June 10th meeting, the process is long-term and an opportunity for developers to build with checks and balances along the way.

Ray Malone of Mulberry St. addressed the Board and said he moved to Fairhaven from New Bedford, he has not heard about these projects and thinks they may hurt the town putting all these housing projects into our town will make it just like New Bedford. He loves the history and thinks this may destroy the quaintness.

Erin Carr of Main St. addressed the Board via zoom, she thanked Mr. Dawicki for his sentiment and we need more of that in town, she appreciates giving people the benefit of the doubt and not always thinking the worst in people. She said she works at A1 Crane and commented on the area being the street people use to get to Fort Phoenix and needing a facelift, the idea of a walkable area is good and may slow down the trucks and tractors traveling the roads. More development and efforts towards a 40R for long-term development because a 40B there is not much say we can have in it.

Cindy Johnson of Fort St. addressed the Board and said she sees this as an opportunity for the town to grow and prosper. It provides an opportunity to control what we see in terms of development and make neighborhoods visually beautiful. It will help improve the economy viability to bring business in and improve the tax base and give an opportunity for teachers, firefighters and medical personnel to have housing that they can afford.

Pat Carr of Pleasant St. addressed the Board again, he said it was unfortunate to have Planning Board members jump to conclusions without asking questions or investigating on their own. It was reported on in the Neighborhood News about both him and Mr. daSilva which is incredibly irresponsible and he asked for a retraction. He said that accusations are also damaging to the Town and the 40R initiative because they plant seeds of doubt and distrust for the Town government and distract from the productive conversations. He is feeling this as a business and being asked questions about conflicts of interest and said information needs to be disseminated to the people.

The Public Hearing was closed at 7:50p.m.

The Board made final comments about the process, encouraged people to speak and share and that 40R is a means for development. The Board also thanked Atty. Costa, Mr. Dawicki and the public for their input.

Motion: Mr. Romano motioned to support the 40R application in its' current form and authorize a submittal with accompanying documents to the Executive Office of Housing and Livable Communities. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

The Board took a brief recess while members of the public exited.

Motion: Mr. Romano motioned to take item D1 out of order. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

FY23 Audit Report

James Powers addressed the Board via zoom. He explained when hired the firm was Powers and Sullivan and has now merged with Marcum. Legacy staff members of Powers and Sullivan worked on the audit, future work will be as Marcum. Mr. Powers thanked Ms. Carreiro, staff, the school for their cooperation in getting details.

Mr. Powers referred to the audit documents and management letter provided and discussed the FY23 audit details and recommendations (*Attachment A*). He reminded everyone of the American Rescue Plan Act (ARPA) spending deadline that was moved to December 31, 2024, these are not budget funds and he has been reminding clients.

Ms. Powers asked if they could be of assistance with the work being done by the Financial Policy Review Committee. Mr. Powers said they can review materials if needed.

APPOINTMENT AND COMMUNITY ITEMS

Proclamation: Retirement of Dr. Philip R. Gaudete and Dr. Ted D. Sherman

Ms. Powers read the proclamations.

Motion: Mr. Romano motioned to accept the proclamations for Dr. Philip R. Gaudete and Dr. Ted D. Sherman. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Appointment To Boards and Committees

Belonging Committee

August Baker addressed the Board and spoke to his interest in an appointment to the Belonging Committee.

Belonging Committee Chair Jessica Fidalgo addressed the Board via zoom, she asked if residency was required. Ms. Ellison advised there is not a residency requirement for a board only elected positions have residency requirements and will have Ms. Hart verify.

Motion: Mr. Romano motioned to appoint August Baker to the Belonging Committee for a term through May, 2025 pending verification on residency. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Commission on Disability

The Board reviewed the application from Randall Durrigan.

Motion: Mr. Romano motioned to appoint Randall Durrigan to the Commission on Disability for a term through May, 2027. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Council on Aging Board

The Board reviewed the applications from Joyce Veilleux and Michael Hevey.

Motion: Mr. Romano motioned to appoint Joyce Veilleux to the Council on Aging Board for a term through May, 2025. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Motion: Mr. Romano motioned to appoint Michael Hevey to the Council on Aging Board for a term through May, 2026. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Marine Resources

The Board reviewed the application from Michelle Potter.

Motion: Mr. Romano motioned to appoint Michelle Potter to the Marine Resources Committee for a term through May, 2025. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Sustainability Committee

The Board reviewed the application from John Pond.

Motion: Mr. Romano motioned to appoint John Pond to the Sustainability Committee for a term through May, 2025. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Steamship Authority Port Council

The Board reviewed the application from Eric R. Dawicki. Ms. Powers advised the Board that Mr. Rees withdrew his application.

Mr. Dawicki addressed the Board, he thanked Ms. Carreiro for a great audit report and Ms. Ellison for a great job. He reviewed his history, background and interest in serving on the Steamship Authority Port Council as Fairhaven's representative.

Motion: Mr. Romano motioned to appoint Eric R. Dawicki as Fairhaven's representative on the Steamship Authority Port Council for a term through May, 2027. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Event Procession Approval: Our Lady of Angels (OLOA), August 31, 2024 and September 2, 2024

Ms. Powers reviewed the request. Gary Souza addressed the Board via zoom and explained this is the same route as in previous years. Mr. Murphy disclosed he is the treasurer for the OLOA Club.

Motion: Mr. Romano motioned to approve the event procession on August 31, 2025 and September 2, 2024. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

MINUTES

Motion: Mr. Romano motioned to approve the May 28, 2024 Open Session minutes. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Motion: Mr. Romano motioned to approve the May 8, 2024 Executive Session minutes. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Motion: Mr. Romano motioned to approve the June 10, 2024 Executive Session minutes. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

TOWN ADMINISTRATOR

Ms. Ellison reported:

- Town Hall Update: Office relocations discussed previously took place this weekend and staff is adjusting to their new space. Nils Isaksen worked on moving the wiring to the back of the building. The Board asked about the retaining wall repair for the Walnut Street side of the building. Ms. Ellison reported that we are waiting for grant funds and we are also reviewing the retaining wall on the other side of the building. The Fire Alarm panel is in process along with the key card access. Delays are due to supply chain and waiting on delivery of equipment.
- Staffing Update: Open positions are posted and interviews will be scheduled. Restructuring the Tourism Director to a Community Development Coordinator position has had many applications and interviews are being scheduled.
- Other: Informational: Public Works is trailing a process where Acushnet residents were allotted 100 beach parking passes to purchase and Fairhaven residents can pay the Acushnet resident rate for a round of golf. The passes for sale to Acushnet residents did sell out and there are still passes for Fairhaven residents to purchase.

Motion: Mr. Romano motioned to take item E6 out of order. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Discussion of Police Chief Selection Process

Ms. Powers reviewed that on June 10th Ms. Ellison was asked to draft a process to present to the Board. Atty. John Clifford from Clifford and Kenny was present to address questions.

Ms. Ellison reviewed the memo to the Board (*Attachment B*) outlining the process and panel composition.

Discussion ensued and the Board asked questions about the process and panel including whether it was a set panel or could the Board provide feedback, the number of candidates, will it be recorded or broadcast and why Chief Myers will not be on the panel. Atty. Clifford said Ms. Ellison was correct that the exiting chief does not typically participate and an assessment center was part of the process and in the past that is where the ranking would come from. Atty Clifford said the panel appointed by Ms. Ellison is not subject to the Open Meeting Law.

Atty Clifford suggested the panel meets, offers input as to the structured questions and every candidate gets the same type of interview. The interviews should be video recorded and not shown live and published after all interviews have concluded. Based on the Civil Service decision a new chief is to be named before Chief Myers retirement date of August 10, 2024. The goal is to have the process completed in time to appoint prior to August 10, 2024.

Ms. Ellison continued and said the panel will deliberate after the interviews. She will work with Labor Counsel on the process and at this time will not discuss scoring. The panel along with Labor Counsel will take the Civil Service decision into account in the process.

Atty. Clifford said once the panel concludes, the Town Administrator would recommend to the Select Board.

Motion: Mr. Romano motioned to have Andrew Saunders represent the Select Board on the panel. Mr. Silvia seconded. The motion passed unanimously (5-0-0).

Conservation Restriction: Vacant Land Off Property: Huttleston Avenue

Atty. Marc Deshaies representing G. Bourne Knowles and Company addressed the Board and recapped the history of the request. And referred to the two maps when describing the location (*Attachment C*). The request had previously been an approved as a citizens petition article in 2021 to change the parcel from residential to business with the condition of a conservation restriction, approved at a Conservation Commission meeting and was awaiting state approval which has recently been received, the final step to file with the registry of deeds is the Select Board to accept it. Conservation Agent Bruce Webb advised the Board via zoom, he said he had nothing to add and asked if the Board had questions.

Motion: Mr. Romano motioned to accept the Conservation Restriction: Vacant Land Off Property: Huttleston Ave. as presented by Atty. Marc Deshaies. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

The Board wished Atty. Deshaies well in his retirement, this was his last hearing.

344 - 346 New Boston Road Update on Existing Conditions and Lack of Restoration

Conservation Agent Bruce Webb advised the Board via zoom summarized his memo to the Board (*Attachment D*). The ask is to confer approve conferring with Town Counsel on the best way to move forward. Ms. Ellison said although she has the authority, she recommends the Board because of the way the MassDEP enforcement guidelines, Section 9 indicate.

Discussion ensued on the request, who would be plaintiff and defendant.

Motion: Mr. Romano motioned to authorize Town Counsel to confer with Conservation on the property on New Boston Road. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Shellfish License Rate Adjustments

Ms. Ellison reviewed the 2024 rates with the Harbormaster based on feedback regarding the non-resident rates for

2024 and how residency is defined and whether to allow Acushnet residents to pay the Fairhaven resident rate. The ask is to have the Select Board amend the rates for Fairhaven non-resident taxpayer and set an Acushnet resident rate.

Discussion ensued on residency definition, Fairhaven tax-payer versus non-resident, how the rates were set, comparable to other towns and budget impacts.

Motion: Mr. Romano motioned to adjust the shellfish license rates for an Acushnet resident one hundred and fifty dollars (\$150) and Fairhaven taxpayers that do not reside in Fairhaven to match the resident rate of fifty dollars (\$50). Mr. Saunders seconded. The motion passed unanimously (5-0-0).

Community Block Development Grant (CDBG) Transfer of Ownership: 121 Main Street

Ms. Ellison asked to table this item. She explained that what has been presented for review needs to be verified first and review with the CDBG consultant.

The item was tabled.

Parklet Policy

Will Gardner addressed the Board and described what a Parklet is. Ms. Ellison thanked Mr. Gardner for his idea and said they met to review the details. The handout tonight (*Attachment E*) has Town Counsel's mark-ups to the policy.

Ms. Ellison recommended starting as a pilot for outdoor seating/dining with the Ice Cream Cottage on Ferry St.

Discussion ensued on the idea and potential, what are the checks and balances when the license includes alcohol and use of outdoor space. Mr. Gardner shared ideas were from other towns including one from Boston with the use of an old shipping container as the structure with no walls. The Board commented it was a great idea, well done and researched. Mr. Gardner thanked Ms. Ellison for the hours she spent on this also.

Motion: Mr. Romano motioned to approve the policy as written for the Town of Fairhaven's process for permitting outdoor seating and parklets and to adopt the policy. Mr. Saunders seconded. The motion passed unanimously (5-0-0).

BOARD MEMBER ITEMS/ COMMITTEE LIAISON REPORTS

Mr. Romano reported:

Sustainability met and had a question about green building codes after the 40R hearing on June 10th. They also discussed that the Health Agent is enforcing the single use plastic ban and suggested businesses get caught up on the bylaw. Belonging has the second annual Diverse Abilities Celebration, previously called Disability Pride. SRTA voted to continue the fare-free Sundays through August 31, 2024 pending state budget. Broadband had no meeting but emails and communication with SRPEDD on help with the RFP for Municipal Fiber. He asked if Broadband could help with the feasibility study and if there was an update on the status on the Municipal Light article. Ms. Ellison said the article was sent back and was never filed, there are some legal aspects to review and complete so it has been sent back to Straus' office. He asked what the Board's attire was for July 4th.

Mr. Saunders reported:

Marine Resources has no summer meetings, SRPEDD has a meeting coming up, SMPPO is voting on open seats, Livable Streets was discussed earlier by Mr. Gardner and they also have been reaching out to Public Works about repairs to the bike path and safety on the streets.

Mr. Murphy reported:

Lagoa is working to schedule a meeting, the Sister City Committee will have noodles at Homecoming June 29th. Ribbon cutting at Sweet Lizzies on Main Street and Acai on Scoticut Neck Rd took place to help promote small businesses.

Mr. Silvia reported:

Commission on Disability met and reviewed the process for the adaptive bike and they will use the Recreation Center

for sign-outs and they will have an obstacle course at the Recreation Center on July 6th with activities for kids. Economic Development did not have a quorum to meet.

Mr. Silvia asked about the protocols and was told he could call Town Counsel about them and when he did she asked if he had the Town Administrator's permission. They had a short conversation that the protocols are not law but they are what the Board agreed on to be their guidelines so they should be followed.

Ms. Powers reported:

The Financial Policy Review Committee meets tomorrow. The Library work continues, public works is helping review drainage and cameras.

Mr. Romano said in regards to Mr. Silvia's comment about protocols and asked if there was something that was upsetting that has happened and asked if they should revisit the protocols that they voted on in April because the discussions have been about working together. Ms. Powers said they can be on the next agenda.

Mr. Silvia asked for the contact information on the Dog Park Committee appointee. Anyone interest in joining should complete a volunteer application.

PUBLIC COMMENT

Rick Trapilo of Leeward Way addressed the Board asking for the Board's leadership for the Town and the South Coast community. He became aware of an issue about three months ago about shellfish beds being indefinitely closed. He has researched, spoken with a congressional office, the City of New Bedford's Mayor's Office, Public Infrastructure in New Bedford and Public Works in Fairhaven as well as others. HE said it is a problem everyone knows about. He is asking the Board to take action. He gave a letter to Ms. Powers about New Bedford sewage outflows (*Attachment F*). He asked the Board to be bold and send letters to the Governor and Senators about this issue.

NEWS AND ANNOUNCEMENTS

The next regularly scheduled Select Board meeting is on Monday, July 15, 2024 at 6:30p.m.

Meeting adjourned at 9:59 p.m.

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

ATTACHMENTS:

- A. FY23 Audit Report
- B. Memo on Police Chief Selection Process
- C. Maps: Conservation Restriction, Agenda Item E1
- D. Conservation Agent Memo on 344-346 New Boston Road: Bruce Webb
- E. Parklet Policy
- F. Correspondence from Rick Trapillo

Approved on July 30, 2024



Monday, June 24, 2024

Town Administrator

FY23 Audit Report

- **Management Letter**
- **Audit Documents:**

[https://www.fairhaven-ma.gov/sites/g/files/vyhlf7541/f/pages/fy2023 financial statements fy23 .pdf](https://www.fairhaven-ma.gov/sites/g/files/vyhlf7541/f/pages/fy2023_financial_statements_fy23.pdf)

[https://www.fairhaven-ma.gov/sites/g/files/vyhlf7541/f/pages/fy2023 sefa single audit.pdf](https://www.fairhaven-ma.gov/sites/g/files/vyhlf7541/f/pages/fy2023_sefa_single_audit.pdf)

TOWN OF FAIRHAVEN, MASSACHUSETTS

MANAGEMENT LETTER

Fiscal Year ending JUNE 30, 2023

To the Honorable Select Board
Town of Fairhaven, Massachusetts:

In planning and performing our audit of the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the Town of Fairhaven, Massachusetts (Town) as of and for the year ended June 30, 2023 (except for the Fairhaven Contributory Retirement System which is as of and for the year ended December 31, 2022), in accordance with auditing standards generally accepted in the United States of America, we considered the Town's internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Town's internal control. Accordingly, we do not express an opinion on the effectiveness of the Town's internal control.

However, during our audit we became aware of matters that are opportunities for strengthening internal controls and enhancing operating efficiency. The memorandum that accompanies this letter summarizes our comments and suggestions concerning those matters.

We will review the status of these comments during our next audit engagement. We have already discussed these comments and suggestions with various Town personnel and will be pleased to discuss them in further detail at your convenience, to perform any additional study of these matters, or to assist you in implementing the recommendations.

This communication is intended solely for the information and use of management of the Town of Fairhaven, Massachusetts, and is not intended to be and should not be used by anyone other than these specified parties.

June, 2024

TOWN OF FAIRHAVEN, MASSACHUSETTS

MANAGEMENT LETTER

JUNE 30, 2023

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***COMMENTS AND
RECOMMENDATIONS***

EXPAND CHART OF ACCOUNTS

Comment

The Town currently records the activity associated with multiple opinion units within fund 084 in the general ledger. As a result, numerous reclassifying adjustments are required to properly present activity in the respective fund financial statements in accordance with Generally Accepted Accounting Principles.

The following activity should be accounted for in separate funds in the general ledger:

- Internal service fund (proprietary funds)
- Stabilization fund (governmental funds)
- Sewer stabilization fund (proprietary funds)
- Various special revenue funds (governmental funds)

Additionally, the expendable portion of trust funds is reported in fund 082 and the nonexpendable portion is reported in fund 081 in the general ledger. As a result, numerous reclassifying adjustments are required to properly present activity in the permanent trust fund (governmental funds) and private purpose trust fund (fiduciary funds) financial statements. These accounts should be classified in the general ledger based on the type of each trust fund, instead of expendable versus nonexpendable portions.

Additionally, the Town currently records other financing sources and uses activity directly to fund balance control accounts in the general ledger. As a result, numerous reclassifying adjustments are required to properly breakout interfund transfer and bond issuance activity for financial reporting.

Recommendation

We recommend the Town expand the general ledger chart of accounts to eliminate the need for these reclassifying adjustments. Implementation of these recommendations will result in proper classification of the above noted funds and accounts.

CONSIDER WRITING-OFF UNCOLLECTIBLE MOTOR VEHICLE EXCISE TAX RECEIVABLES

Comment

The Town is carrying motor vehicle excise tax receivables that date back to 2002 within the general ledger and department records. As of June 30, 2023, the Town had approximately \$93,000 of motor vehicle excise tax receivables that were greater than five years old.

For receivables that cannot be liened, the likelihood of collection is significantly diminished the longer each receivable remains outstanding. Some of the motor vehicle accounts have been flagged with the Registry of Motor Vehicles, which may result in collections at some point in time; however, experience indicates that those collections will be not significant to the total receivable balances outstanding.

Recommendation

We recommend the Town review the receivable accounts and determine which are considered to be uncollectible. Accounts determined to be uncollectible should be brought to the Board of Assessors for approval to write-off the impacted accounts. Upon approval of the abatement request from the Board of Assessors, the Town should record the appropriate entries to the general ledger to formally write-off the receivable balances.



Town of Fairhaven
Office of the Town Administrator
40 Center St., Fairhaven, MA 02719

MEMORANDUM

To: Select Board members

From: Angie Lopes Ellison, Town Administrator

Date: June 21, 2024

Re: Police Chief Section Process

The Town recently underwent an appeal process regarding the hiring of a Chief within the Civil Service system. It was determined through this appeal that the position does indeed fall under Civil Service jurisdiction. Consequently, in accordance with the Civil Service decision and the order of dismissal nisi effective August 10, 2024, the Town must adhere to Civil Service guidelines in appointing its next Chief.

In light of the recent developments and to ensure a fair, transparent, and objective hiring process for the Chief position, the following steps will be taken:

1. Formation of a Five-Member Panel:

A panel consisting of the following members will oversee the hiring process:

- **Standing Police Chief:** As an experienced professional familiar with the responsibilities and requirements of the position.
- **Select Board Member:** Representing the executive branch of the Town.
- **School Superintendent:** Providing insights from an independent administrative body that works directly with the police
- **DPW Superintendent:** Bringing expertise from another crucial operational area of the Town and independent body.
- **Town Administrator:** Acting as the appointing authority.

2. Role of the Panel:

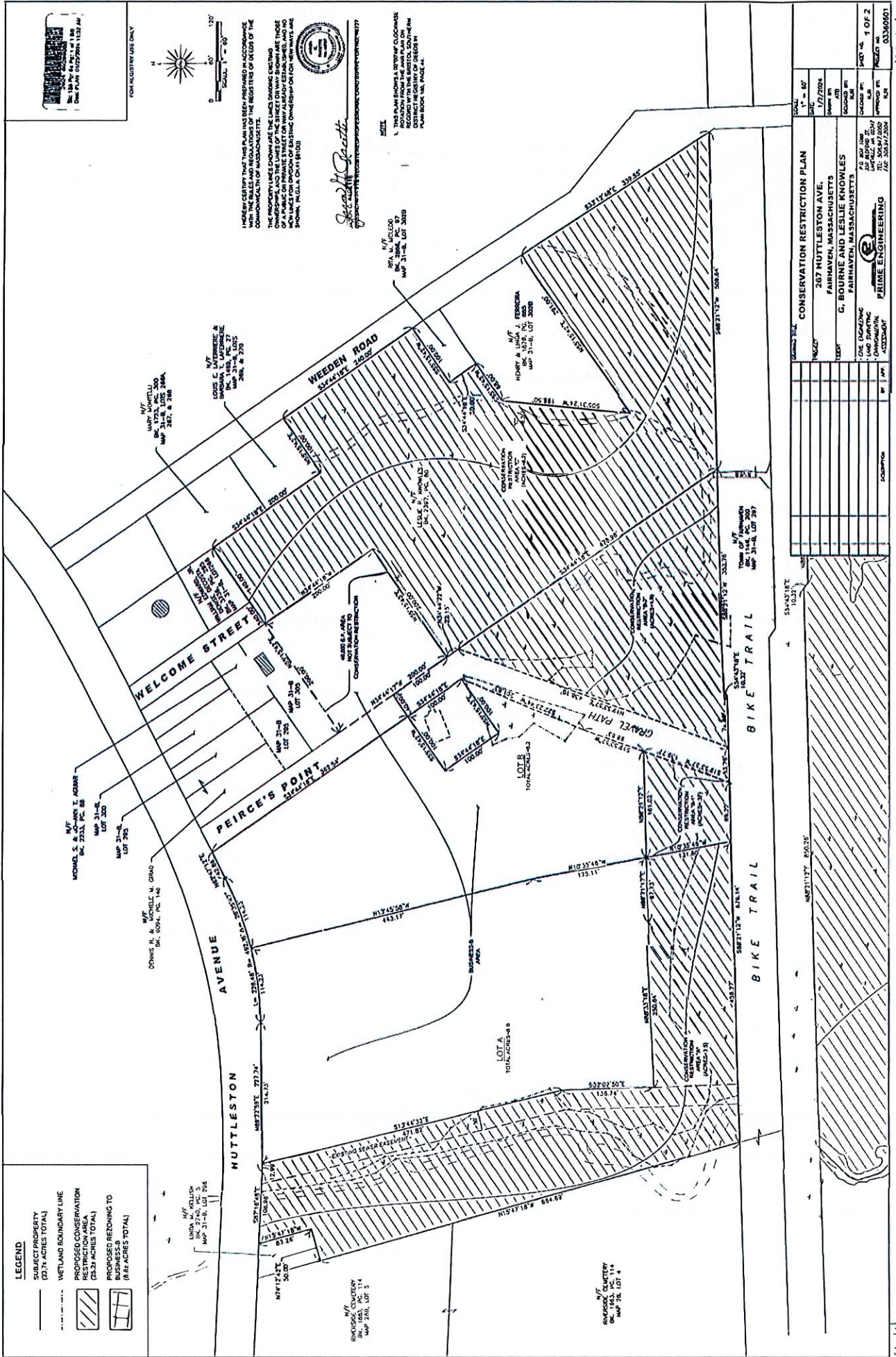
The panel will collectively conduct interviews, and recommend candidates along with areas of strengths, merit and fitness. Each panel member will contribute their unique perspective to ensure a comprehensive assessment of the candidates.

3. Interviewing Candidates from Civil Service List:

The three highest-ranking individuals from the Civil Service list will be invited to interview for the Chief position. Their qualifications and suitability will be assessed alongside the civil service guidelines in a fair and impartial manner.

This approach aims to uphold the principles of fairness, transparency, and objectivity mandated by the Civil Service system while leveraging the expertise of key stakeholders within the Town.

Thank you for your attention to this important matter.



LEGEND

- SUBJECT PROPERTY (21.7 ACRES TOTAL)
- WETLAND BOUNDARY LINE
- ▨ PROPOSED CONSERVATION RESTRICTION AREA (23.27 ACRES TOTAL)
- ▤ PROPOSED REZONING TO BUSINESS-B (8.8 ACRES TOTAL)

PROJECT TITLE		CONSERVATION RESTRICTION PLAN	
SCALE	1" = 60'	DATE	1/2/2004
DRAWN BY	JTB	DESIGNED BY	JTB
CHECKED BY	JTB	APPROVED BY	JTB
DATE	1/2/2004	PROJECT NO.	03360601
OWNER		G. BOURNE AND LESLIE KNOWLES FAIRHAVEN, MASSACHUSETTS	
ENGINEER		PRIME ENGINEERING 100 WASHINGTON STREET FAIRHAVEN, MASSACHUSETTS 01934 PHONE: 508/847-2000 FAX: 508/847-2000	

180-04

180-04

City of Fairhaven, Massachusetts - Office of the Town Engineer

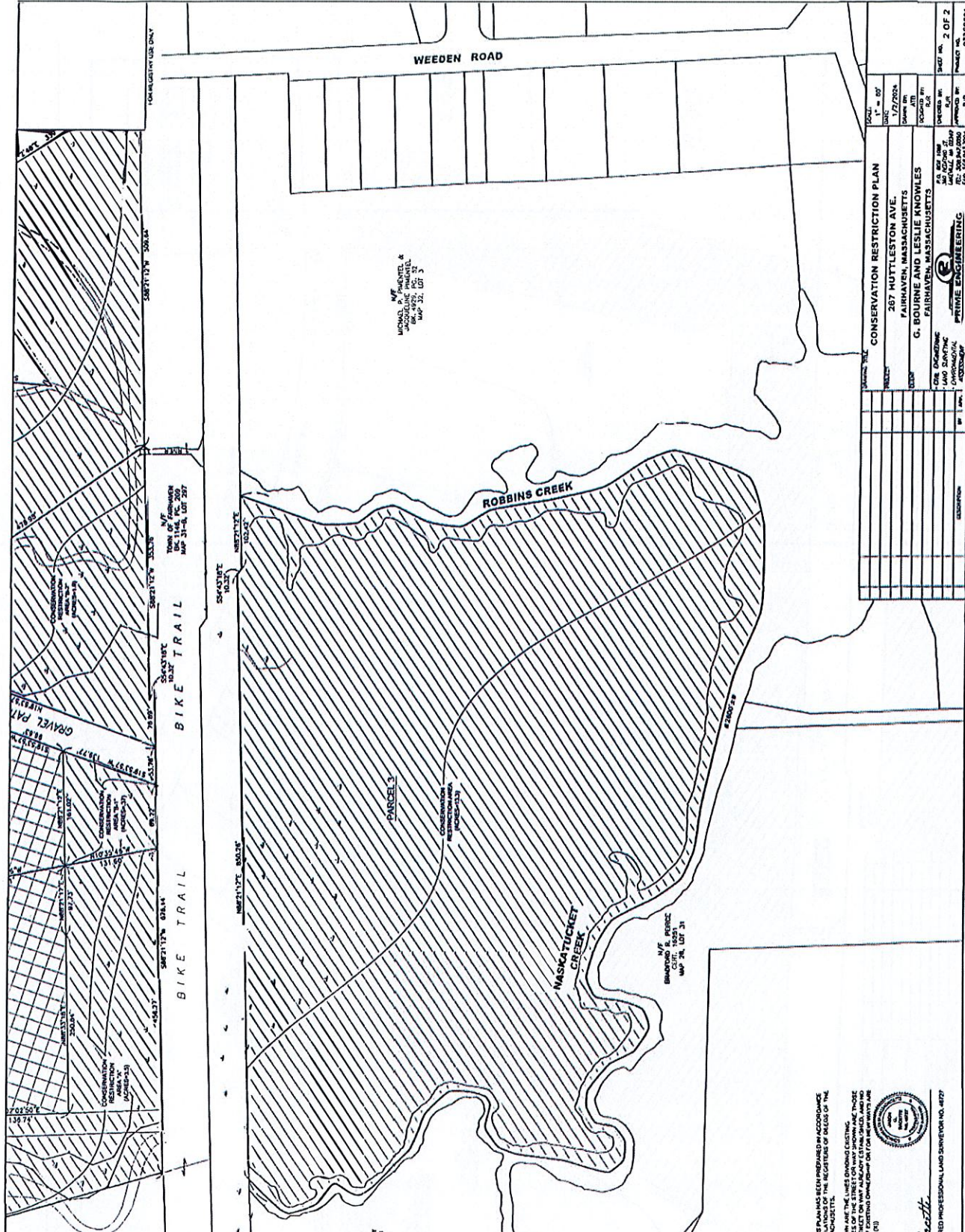
LEGEND

SUBJECT PROPERTY
(37.7 ACRES TOTAL)

WETLAND BOUNDARY LINE

PROPOSED CONSERVATION
RESTRICTION
(25.24 ACRES TOTAL)

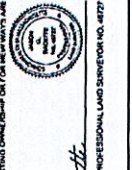
PROPOSED REZONING TO
AGRICULTURE
(8.81 ACRES TOTAL)



HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4677 OF THE COMMONWEALTH OF MASSACHUSETTS.

THE PROPERTY LINES SHOWN ARE THE LINES SHOWN ON EXISTING DEEDS, AND THE LINES OF THE STREET OR WAY SHOWN ARE THOSE SHOWN ON THE RECORD MAPS OF THE COMMONWEALTH OF MASSACHUSETTS.

SPENCER H. SPENCER
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4677



CONSERVATION RESTRICTION PLAN
287 HUTTLESTON AVE.
FAIRHAVEN, MASSACHUSETTS

OWNER:
G. BOURNE AND LESLIE KNOWLES
FAIRHAVEN, MASSACHUSETTS

DATE OF SURVEY:
MAY 2008

SCALE:
1" = 10'

DATE:
2/2008

PROJECT:
03-36501

DATE:
2/2008

PROJECT:
03-36501

NO.	DESCRIPTION	DATE
1	PRELIMINARY PLAN	10/2007
2	FINAL PLAN	2/2008

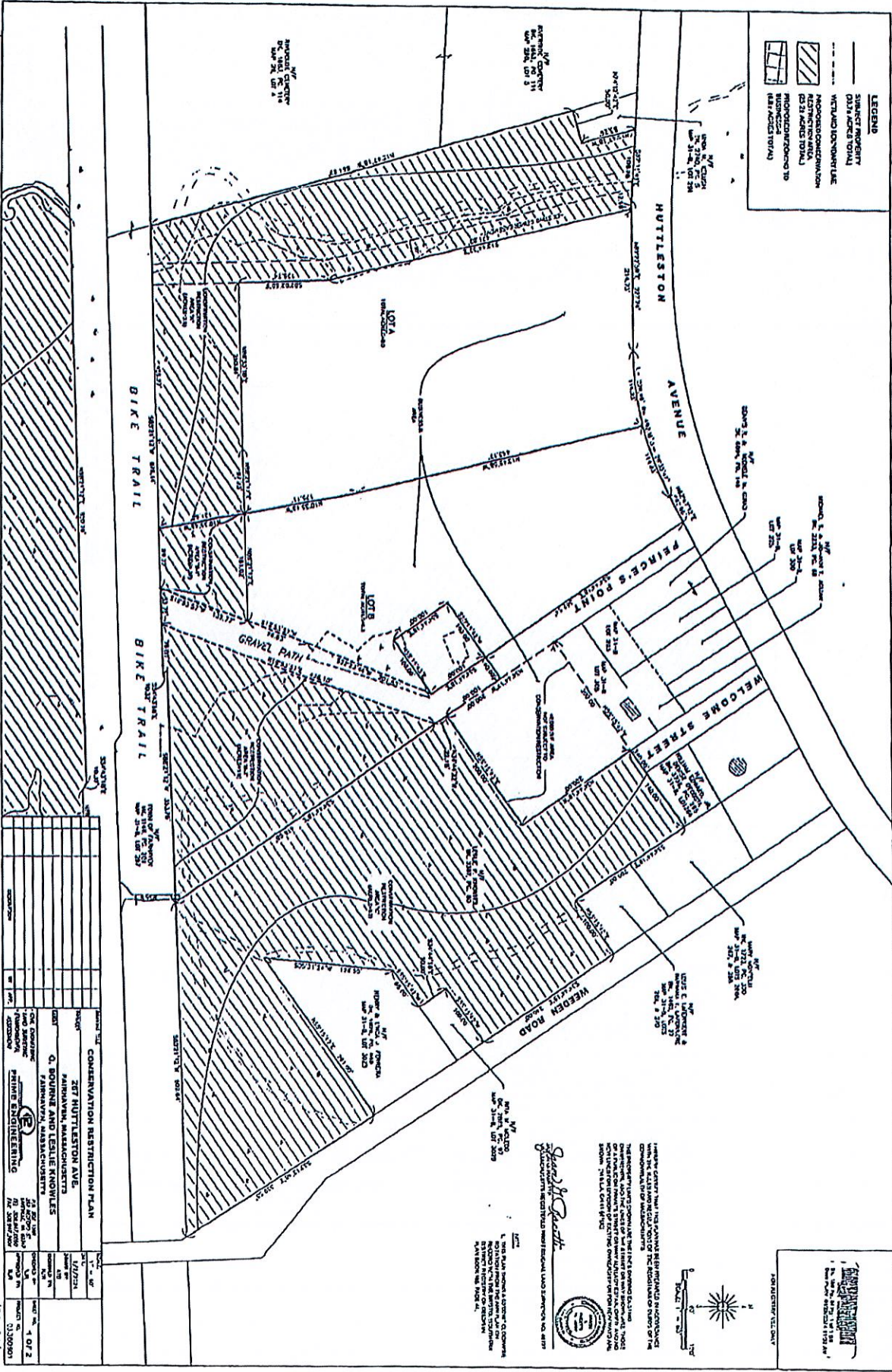
180-64

180-64

186-04

LEGEND

- BOUNDARY OF UNINCORPORATED TOWN
- WETLAND BOUNDARY LINE
- PROPOSED CONSERVATION RESTRICTION (AS SHOWN TOTAL)
- PROPOSED RESTRICTIONS TO BE APPLIED TO



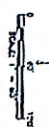
PROJECT TITLE	
CONSERVATION RESTRICTION PLAN	
287 HUTTLESTON AVE.	
FAIRHAVEN, MASSACHUSETTS	
OWNER: Q. DOUMINE AND LESLIE KNOWLES	
DESIGNER: FAIRHAVEN, MASSACHUSETTS	
ENGINEER: PRIME ENGINEERING	
DATE: 06/20/2000	
SCALE: 1" = 20'	
PROJECT NO: 186-04	
SHEET NO: 1 OF 2	

186-04

Charles H. Pratt
 Surveyor
 100 STATE STREET, SUITE 100, FAIRHAVEN, MASSACHUSETTS 01924
 TEL: 508/833-1111 FAX: 508/833-1112

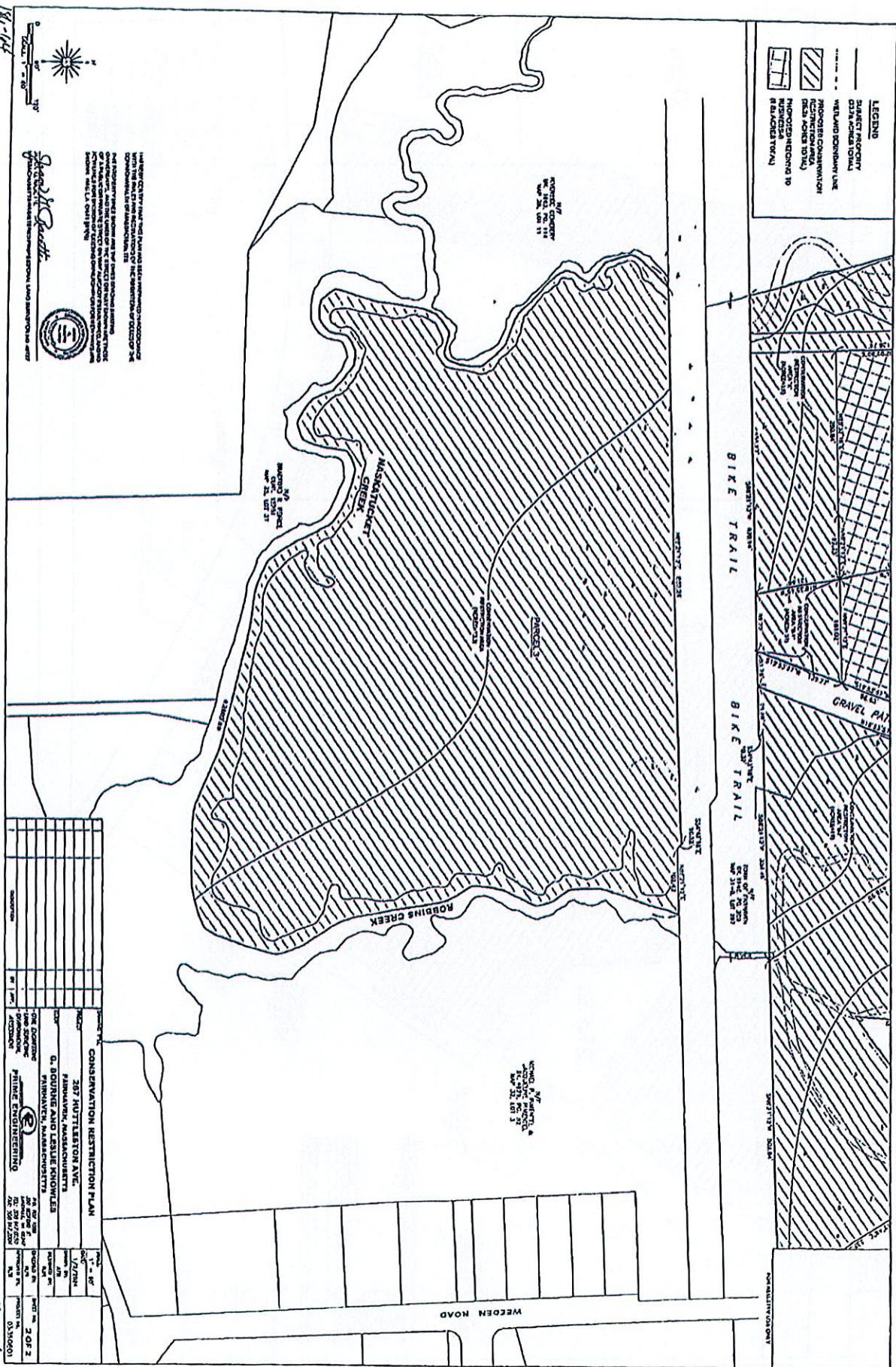


THESE PLANS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND I AM A LICENSED SURVEYOR IN THE STATE OF MASSACHUSETTS. I AM NOT PROVIDING ANY GUARANTEE OR WARRANTY FOR THE ACCURACY OF THESE PLANS.



LEGEND

- SUBJECT PROPERTY
- WETLAND BOUNDARY LINE
- PROPOSED CONSERVATION RESTRICTION AREA (SEE COVER SHEET)
- PROPOSED RESTRICTIONS TO BE AVOIDED (VMA)



STATE OF MASSACHUSETTS
 DEPARTMENT OF ENVIRONMENTAL AFFAIRS
 DIVISION OF WETLANDS PROTECTION
 100 SOUTH ST. 2ND FL. BOSTON, MA 02125
 TEL: 617-725-3300 FAX: 617-725-3301
 WWW.DWP.MA.GOV

NO.	DESCRIPTION	DATE	BY	FOR
1	ISSUED FOR PERMITTING	05/20/2001	MA	MA
2	ISSUED FOR PERMITTING	05/20/2001	MA	MA
3	ISSUED FOR PERMITTING	05/20/2001	MA	MA
4	ISSUED FOR PERMITTING	05/20/2001	MA	MA
5	ISSUED FOR PERMITTING	05/20/2001	MA	MA
6	ISSUED FOR PERMITTING	05/20/2001	MA	MA
7	ISSUED FOR PERMITTING	05/20/2001	MA	MA
8	ISSUED FOR PERMITTING	05/20/2001	MA	MA
9	ISSUED FOR PERMITTING	05/20/2001	MA	MA
10	ISSUED FOR PERMITTING	05/20/2001	MA	MA

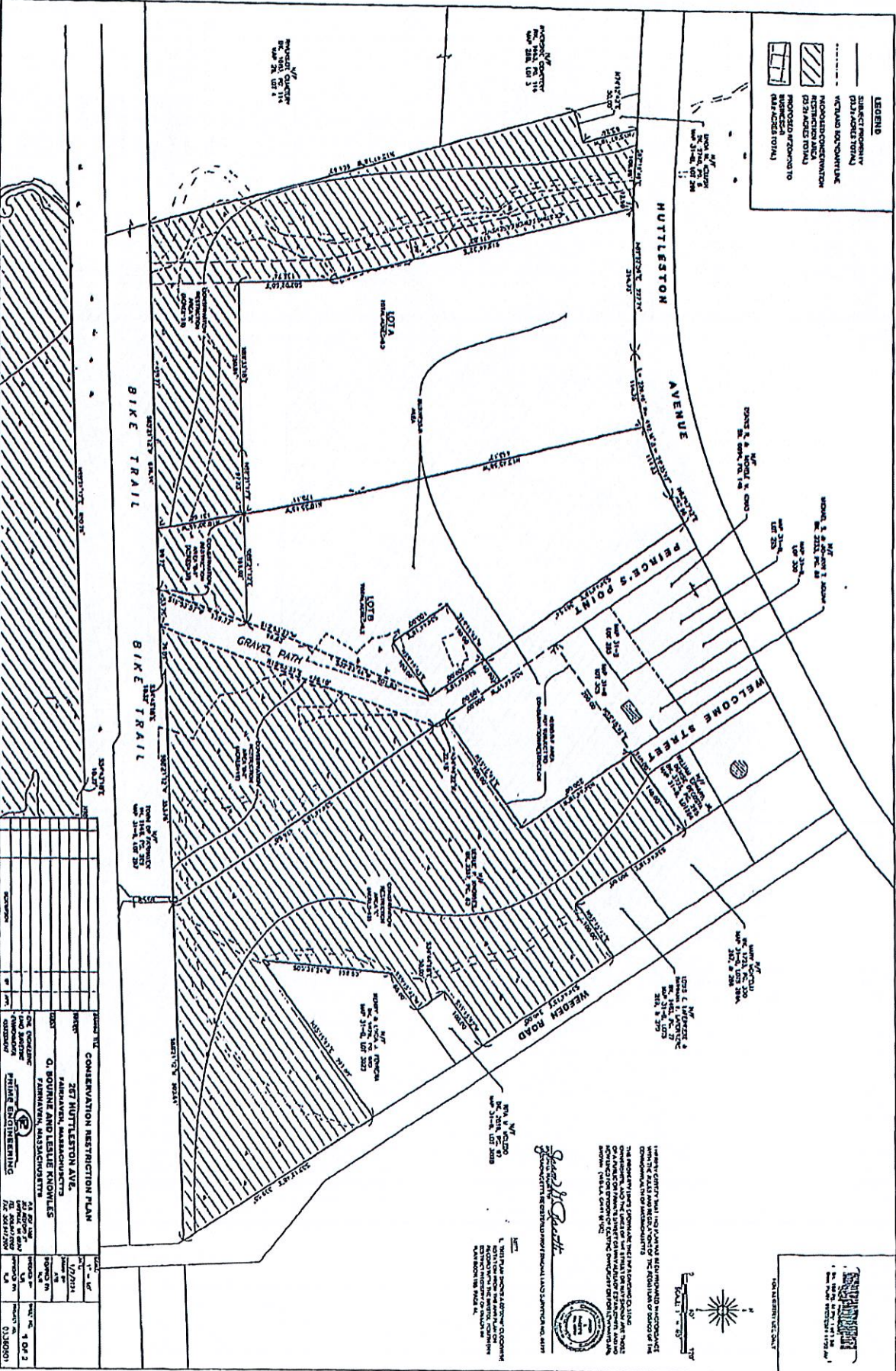
CONSERVATION RESTRICTION PLAN
 287 HULLISTON AVE.
 FARMINGHAM, MASSACHUSETTS
 D. BOURNE AND LESLIE KNOWLES
 FARMINGHAM MASSACHUSETTS
 PRIME ENGINEERING

Scale: 1" = 80'
 Date: 05/20/2001
 Project No: 2 OF 2
 Permit No: 0350001

18-04

18-04

116-114



LEGEND

- SUBJECT PROPERTY (21.1 ACRES TOTAL)
- ▨ WETLAND RESTRICTION
- ▧ PROPOSED WETLANDS TO BE RESTRICTED
- ▩ RESTRICTION AREA (21.1 ACRES TOTAL)
- ▨ PROPOSED WETLANDS TO BE RESTRICTED

<p>CONSERVATION RESTRICTION PLAN</p> <p>257 HUTTLESTON AVE.</p> <p>FARMINGTON, MASSACHUSETTS</p> <p>Q. BOURNE AND LIZIE KNOWLES</p> <p>FARMINGTON, MASSACHUSETTS</p> <p>PRIME ENGINEERING</p> <p>116-114</p>		
NO.	DATE	DESCRIPTION
1	1/27/21	ISSUED FOR PERMITTING
2	1/27/21	ISSUED FOR PERMITTING
3	1/27/21	ISSUED FOR PERMITTING
4	1/27/21	ISSUED FOR PERMITTING
5	1/27/21	ISSUED FOR PERMITTING
6	1/27/21	ISSUED FOR PERMITTING
7	1/27/21	ISSUED FOR PERMITTING
8	1/27/21	ISSUED FOR PERMITTING
9	1/27/21	ISSUED FOR PERMITTING
10	1/27/21	ISSUED FOR PERMITTING

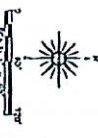
Specialty

1. THE PROPERTY SHOWN ON THIS PLAN HAS BEEN RECORDED IN ACCORDANCE WITH THE MASSACHUSETTS CONSERVATION RESTRICTIONS ACT, CHAPTER 91A, SECTION 27B.

2. THE RESTRICTIONS SHOWN ON THIS PLAN ARE SUBJECT TO THE TERMS AND CONDITIONS OF THE RESTRICTION DEED, WHICH IS FILED IN THE PUBLIC RECORDS OF THE COUNTY OF WORCESTER, MASSACHUSETTS, IN THE OFFICE OF THE REGISTER OF DEEDS, IN THE TOWN OF FARMINGTON, MASSACHUSETTS, IN THE YEAR 2020.

3. THE RESTRICTIONS SHOWN ON THIS PLAN ARE SUBJECT TO THE TERMS AND CONDITIONS OF THE RESTRICTION DEED, WHICH IS FILED IN THE PUBLIC RECORDS OF THE COUNTY OF WORCESTER, MASSACHUSETTS, IN THE OFFICE OF THE REGISTER OF DEEDS, IN THE TOWN OF FARMINGTON, MASSACHUSETTS, IN THE YEAR 2020.

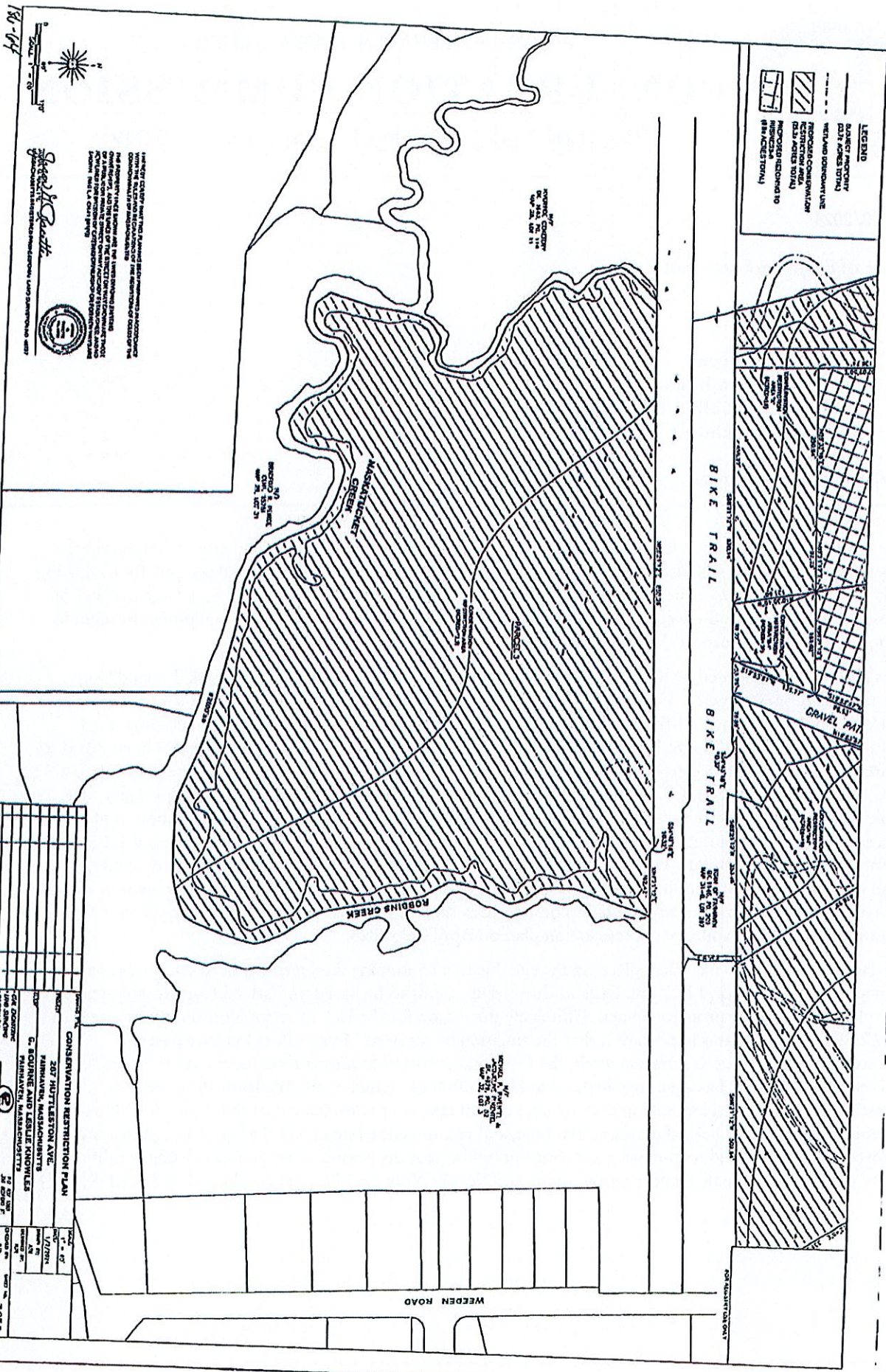
4. THE RESTRICTIONS SHOWN ON THIS PLAN ARE SUBJECT TO THE TERMS AND CONDITIONS OF THE RESTRICTION DEED, WHICH IS FILED IN THE PUBLIC RECORDS OF THE COUNTY OF WORCESTER, MASSACHUSETTS, IN THE OFFICE OF THE REGISTER OF DEEDS, IN THE TOWN OF FARMINGTON, MASSACHUSETTS, IN THE YEAR 2020.



116-114

LEGEND

- BOUNDARY
- DRAINAGE
- WETLAND BOUNDARY LINE
- PROPOSED CONSERVATION RESTRICTION BOUNDARY
- PROPOSED RESTRICTION TO BE ACCESSION



THESE RESTRICTIONS HAVE BEEN PREPARED BY THE ENGINEER IN ACCORDANCE WITH THE MASSACHUSETTS CONSERVATION RESTRICTIONS ACT, CHAPTER 91A, SECTION 10B, AND THE REGULATIONS THEREUNDER, 91A CMR 1.00. THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND THAT THE INFORMATION PROVIDED IS TRUE AND CORRECT TO THE BEST OF HIS KNOWLEDGE AND BELIEF.

Shirley R. Smith
 REGISTERED PROFESSIONAL ENGINEER
 MASSACHUSETTS REG. NO. 11111

NO.	DESCRIPTION	DATE
1	PRELIMINARY PLAN	10/1/00
2	FINAL PLAN	10/1/00

CONSERVATION RESTRICTION PLAN

PROJECT NO. 207 HULLSTON AVE.
 FAIRHAVEN, MASSACHUSETTS

PREPARED BY: C. BOURNE AND LESLIE KNOWLES
 ENGINEERS
 100 STATE STREET
 FAIRHAVEN, MASSACHUSETTS 01934

DATE: 10/1/00

SCALE: 1" = 100'

DATE OF PLAN: 10/1/00

DATE OF RECORDING: 10/1/00

RECORD NO. 0330001

180-04



TOWN OF FAIRHAVEN, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall · 40 Center Street · Fairhaven, MA 02719

06/20/2024

Town of Fairhaven Select Board
40 Center St.
Fairhaven, MA 02719

RE: Wetland Violation
344 & 346 New Boston Rd.
Map 40, Lots 023B & 023C
Enforcement Order # EO 023-022

Dear Select Board Members,

The Fairhaven Conservation Commission (FCC) has been seeking resolution in the matter of unpermitted vegetative clearing and soil disturbance at 344 & 346 New Boston Rd. In 2022, several test pits for evaluating soils for suitability of an onsite wastewater treatment system (septic system). In doing so, a large number of trees, shrubs, and ground cover was cleared in Bordering Vegetated Wetland, and the equipment brought in to do the work and transport the equipment left large, deep ruts in the soil.

This matter is complicated by the fact that the alleged perpetrator of the unpermitted work, Farland Corp., was not the property owner. Under the Wetland Protection Act (Act), the property owner is responsible for addressing and resolving violations under the Act. The Conservation Commission (Commission) issued Enforcement Orders (EOs) to both the property owner at the time and the alleged perpetrator in an effort to address the issue. The property owner's response to the EO was to change ownership of the property to a LLC, "Not the Violator, LLC". The alleged violator came up with a restoration plan for the property that, while not addressing the full scope of the unpermitted work, did meet the criteria of a restoration/replication area set out by Massachusetts Dept. of Environmental Protection (MassDEP). Where the alleged violator Farland Corp. was apparently willing to undertake the restoration work rather than the property owner, and in an effort to have restoration work completed as soon as possible, I recommended the Commission vote to approve the restoration plan with work to commence as soon as possible during the growing season. The Commission voted to approve the restoration plan on April 24th, 2023.

To date, no restoration has taken place on the site due to a continuing disagreement between the property owner, Not the Violator, LLC., and Farland Corp. This seems to be based on Farland Corp seeking release from liability from the property owner. Ultimately the reason for the lack of restoration is not important to the Commission. What is important is that the situation be resolved. In an effort to move past the disagreement holding up restoration work, the Commission voted to turn enforcement over to MassDEP on December 11th, 2023. I as agent reached out to Maissoun Reda, Chief of the Wetlands Program for MassDEP Southeast Region, asking that her department take over enforcement of this issue. Ms. Reda declined to have MassDEP take over at that time, and recommended involving the Select Board to assist in enforcement efforts, and to conduct a site visit during the growing season to determine existing conditions. A site visit was coordinated with a representative of Not the Violator LLC. and conducted on June 11th, 2024.

What was found during the site visit was very concerning to all present. It is my professional opinion that the ruts created by the heavy machinery have altered the subsurface and surface hydrology on site. Where there was previously very limited standing water at the ground surface prior to the disturbance, which is still the case in the undisturbed areas, the disturbed areas with the rutting now hold water for days. The unfortunate impact of this is that these now resemble vernal pools to local wildlife such as Spotted Salamander (*Ambystoma maculatum*), American Bullfrog (*Lithobates catesbeianus*), and Green Frog (*Rana clamitans*). However, where a natural vernal pool will hold water for months, allowing early and late season amphibians like those above to complete their development to adulthood, these ruts don't hold enough water to allow for the completion of their development, and they dry out and die in the ruts. This was actively observed during the site visit in almost all ruts; with both egg masses and larvae observed in the essentially dry ruts.

In addition, these ruts now hold water through the winter (outside the breeding season) and collect leaves. These leaves become water stained and do not decompose in place, but form a layer of preserved leaves and silt from the exposed soils which the natural hydrophytic (water seeking) wetland plants cannot grow through. So the vegetation cover is affected in these ruts as well.

As well, due to the ruts now collecting the rainfall and groundwater that used to be more evenly spread throughout the site, the areas that are not rutted do not have access to groundwater at the same elevated depth that supported wetland vegetation such as Sphagnum Mosses (*Sphagnum* spp.), Sedge species (*Sedge* spp.), and Rush species (*Juncus* spp.). As a result, much of the disturbed area around the ruts has been colonized by upland grasses that are not found in the undisturbed areas on site.

Given the impacts these unpermitted and unresolved alterations have had on the site and the surrounding wildlife, the Conservation Commission seeks the support and assistance of the Select Board in pursuing resolution of this matter, and is open to discussing different approaches to resolving the situation, including legal options.

Should you have any questions or need further information, do not hesitate to contact me in the Conservation Office at (508) 979-4022 ext. 8128, or via email at conservation-agent@fairhaven-ma.gov.

Thank you for your immediate time and attention in this matter.

Sincerely,

Hugh Bruce Webb, Agent
Fairhaven Conservation Commission
conservation-agent@fairhaven-ma.gov
(508) 979-4022 ext. 8128

TOWN OF FAIRHAVEN
GUIDELINES PROCESS FOR FOR PERMITTING
OUTDOOR SEATING AND PARKLETS¹

This policy is adopted pursuant to G.L. c. 40A, §3B to authorize expansion of outdoor table service and changes in certain alcohol licenses in the Town of Fairhaven, subject to the procedures, requirements, and conditions set forth herein.

A. Definitions

1. Outdoor table service:

restaurant service that includes food prepared on-site and under a food establishment permit issued by a municipal authority pursuant to 105 CMR 590.00 that is served to seated diners outside the restaurant building envelope, whether on a sidewalk, patio, deck, lawn, parking area or other outdoor space.

2. Parklet:

B. Authorization

1. Notwithstanding the provisions of G.L. c. 40A, any special permit, variance or other approval issued thereunder or any general or special law to the contrary, the Select Board may approve a request for expansion of outdoor table service as provided herein or an extension of an earlier granted approval. An approval under this process may be exercised immediately upon filing of notice thereof with the Town Clerk, without complying with any otherwise applicable recording or certification requirements.

¹On April 30, 2024, Governor Healey signed into law "An Act Making Appropriations for the Fiscal Year 2024 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects." Chapter 88 of the Acts of 2024. Section 4 of the new law made changes to Section 3A of Chapter 40A by adding a new Section 3B. Under the new law, notwithstanding the provisions of this chapter (Chapter 40A), any special permit, variance or other approval issued thereunder or any general or special law to the contrary, a town may approve a request for expansion of outdoor table service, including in the description of the licensed premises as described in subsection (c), or an extension of an earlier granted approval. Before such approval, the select board shall establish a process for approving such requests. Such process shall not be required to comply with the notice and publication provisions of section 11. An approval under this section may be exercised immediately upon filing of notice thereof with the city or town clerk, without complying with any otherwise applicable recording or certification requirements.

Also, pursuant to subsection (b), a local licensing authority may grant approval for a change in the description of the licensed premises for the purpose of permitting outdoor alcohol service as the local licensing authority deems reasonable and proper and may issue an amended license to existing license holders, without further review or approval from the ABCC prior to issuance. Upon approval of an amended license, the local licensing authority shall provide notice of the amended license to the commission. Nothing in this section shall prevent the commission from exercising the commission's enforcement authority over an amended license nor limit any appeals that can be submitted to the commission pursuant to section 67 of chapter 138.

Lastly, before approving any request to extend an earlier granted approval, the Select Board may modify the scope of the approval as the Select Board deems proper and appropriate, including, but not limited to, modifying the terms of an earlier granted approval to address potential issues with snow removal, pedestrian traffic or similar concerns.

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Commented [HW1]: This draft policy references parklet which are not mentioned in G.L. c. 40A, s. 3B. Add a definition to clarify how this policy will apply to parklets.

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2. The Select Board may grant approval for a change in the description of the licensed premises for the purpose of permitting outdoor alcohol service as the Select Board deems reasonable and proper and may issue an amended license to existing license holders, without further review or approval from the Alcoholic Beverages Control Commission (ABCC), prior to issuance. Upon approval of an amended license, the Select Board shall provide notice of the amended license to the ABCC. Nothing in this section shall prevent the ABCC, from exercising the ABCC's enforcement authority over an amended license nor limit any appeals that can be submitted to the ABCC, pursuant to G.L. c. 138, §67.

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A.C. Process Checklist for Outdoor Seating-Table Service Approval:

1. Applicants should have a pre-application consultation with the Director of Planning and Economic Development to discuss the proposal and understand the requirements.
2. Written application describing the proposed area with a specific plan outlining the outdoor seating area/table service area² must be submitted to the office of the Town Administrator ~~for approval~~. The Town Administrator will notify Select Board Members of the application and any conditions therein and make a recommendation to the Select Board as to whether such application should be approved or denied.
3. ~~Permitting fees are \$75 with~~ A copy of the existing common victualler license must be provided along with an application fee of \$75. and \$150 for extension of liquor license. If the application also seeks a change to an existing license to permit outdoor alcohol service, the application fee shall be \$150.
4. If outdoor seating area includes a request to serve alcoholic beverages, applicant must already be licensed, and application must include explanation as to how the proposed area will comply with ABCC outdoor patio guidelines (even if area is not a patio).
5. A certificate of insurance naming the Town of Fairhaven as an additional insured.
6. Advertisement and notice to abutters. If the parklet extends in front of adjacent properties, written consent from affected property owners.
7. A signed agreement indemnifying the town against any claims related to the use of the public right-of-way.
8. Written approval or food service permit is issued by Select Board and filed with Town Clerk.

Commented [HW2]: Outdoor seating area?

² ~~“Outdoor table service” is defined restaurant service that includes food prepared on-site and under a food establishment permit issued by a municipal authority pursuant to 105-CMR-590.00 that is served to seated diners outside the restaurant building envelope, whether on a sidewalk, patio, deck, lawn, parking area or other outdoor space.~~

9. Only after issuance by the Select Board and filing with Town Clerk will outdoor seating area be permitted to be used.
10. Approval/Permit will be effective one year from date of issuance as long as compliance with applicable law, terms and conditions or otherwise no longer permitted by state or local law. The permit must be renewed annually.
11. Approval/Permit may be suspended or revoked by Select Board for any violation of applicable laws and regulations or violation of any term or condition.

Commented [HW3]: This time limitation would only apply to the food service approval. Any change to the liquor license would apply for the duration of the license.

B.D. Restrictions: Limitations and Conditions.

1. Alcoholic beverages cannot be served outside of a licensed establishment unless and until an application to extend the licensed premises has been approved.
2. An application to extend the premises must describe the area in detail, including dimensions, seating capacity, and maximum occupancy and be shown on a design plan.
3. The outdoor area/premises must be enclosed by a fence, rope, barriers or other means to prevent access from a public walkway or injury from vehicles where applicable.
4. The outdoor area/premises must be contiguous to the licensed premises with either (a) a clear view of the area from inside the premises, or, alternatively (b) the licensee may commit to providing management personnel dedicated to the area.
5. The Select Board will consider the type of neighborhood and the potential for noise in the environs.
6. All outdoor seating must be compliant with ADA accessibility standards.

Gmail

[fairhavenma] Buzzards Bay destruction (Sent by RICHARD F. TRAPILO,

1 message

Contact form at fairhavenma <cmsmailer@civicplus.com>
To: selectboard@fairhaven-ma.gov

Tue, Jul 9, 2024 at 7:39 PM

Hello Select Board,

RICHARD F. TRAPILO (rftrapilo@yahoo.com) has sent you a message via your contact form (<https://www.fairhaven-ma.gov/user/49/contact>) at fairhavenma.

If you don't want to receive such e-mails, you can change your settings at <https://www.fairhaven-ma.gov/user/49/edit>.

Message:

Dear Fairhaven Selectboard,

As a follow up to my request for your executive leadership to build momentum for a Federal solution to the ongoing pollution of Buzzards bay from our neighbor ;the City of New Bedford. I am attaching a correspondence and attachment's as sent to me From Mr. O'Neil Selectboard member Dartmouth . I have know Chris for many years and he is a strong proponent to get a resolution to end the destruction of Buzzards Bay .

Per Mr. O'Neil

"Rick Attached please find some correspondence relative to the establishment of a Water Quality Advisory Committee and Dartmouth's efforts to convene a meeting in town with Mass DEP to no avail .

I will be working with the Dartmouth Selectboard to resurrect the Water Quality Adv. COMM. and believe as you do that we don't help our cause by discussing and planning in a vacuum. A regional approach is required to get this issue in front of the right people and get the traction with the Federal government required to mitigate these issues for not just for the citizens of New Bedford, but for all of Southeastern Massachusetts".


Fairhaven Selectboard , I believe Mr. O'Neil states a very clear message that we on the South Coast need to develop a Regional approach to get Federal Government support


Please let me know if I may help in any way ! Ps as you know our shellfish beds are closed .

Respectfully '

Rick Trapilo

2 attachments

 water_quality_comm.pdf
200K

 water_quality_meeting_request.pdf
645K

DARTMOUTH MASSACHUSETTS



Office of the Select Board

David Tatelbaum, Chair

Stanley Mickelson, Vice-Chair

Shawn D. McDonald

Frank Gracie III

Heidi Silva Brooks



400 Slocum Road
Dartmouth, MA 02747-0985
Telephone: (508) 910-1813
Fax: (508) 910-1839
www.town.dartmouth.ma.us
Shawn MacInnes
Town Administrator

Email: smacinnest@town.dartmouth.ma.us

DARTMOUTH WATER QUALITY ADVISORY COMMITTEE **COMMITTEE CHARGE**

GENERAL PURPOSE:

The Committee shall work in conjunction with the Select Board, Board of Health, Conservation Commission, Board of Public Works, Harbor Management Plan Implementation Committee, or any other committee currently or in the future charged with the protection, preservation or enhancement of surface and groundwater in or bounding the Town of Dartmouth.

SPECIFIC CHARGES:

The Committee will explore and pursue solutions to Dartmouth's water quality, including but not limited to our watersheds, groundwater, health of our ecosystems and Buzzard's Bay. The Committee will review local and regional studies and investigations in areas that impact the Town's water quality leading to recommended actions for improvement. The Committee will examine the efficiency and capacity of our waste water system. The Committee will share this information with the appropriate boards, committees and commissions in order to create actionable items for short and long term goals to maintain and/or improve our varied water systems.

REPORT TO:

The Committee will report to the Select Board on a quarterly basis, or more as needed.

DEPARTMENT/DIVISION ASSIGNMENT:

Select Board/Town Administrator; Board of Public Works/DPW; and Board of Health/Director of Public Health

STAFF SUPPORT:

Director of Public Health, DPW Director, Town Administrator, and all other staff as required.

MEMBERSHIP:

The Dartmouth Water Quality Advisory Committee shall consist of as many as twelve (12) members with the DPW Director, Board of Health Director and Town Administrator serving as ex-officio members. The voting membership shall include a Board of Public Works appointee, Select Board appointee, Conservation Commission appointee, Board of Health appointee plus five (5) at large members of the community, preferably representing each of the Town's watershed areas (Allen's Pond, Apponagansett Bay, Buzzard's Bay, Slocum-Little River, and Westport River). At large Committee members shall serve a three (3) year term.

Meetings to be called as needed, but not less frequently than once per month, to be held in a public place with appropriate posting under the open meeting law. The Committee shall follow Robert Rules of Order.

Charge Approved by the Board of
Selectmen:
Amended:

Shawn MacInnes

From: Garcia-Serrano, Millie (DEP) <millie.garcia-serrano@mass.gov>
Sent: Tuesday, February 28, 2023 1:26 PM
To: MacInnes, Shawn; Martin, Gerard (DEP)
Cc: Michaud, Chris; Mayor.Mitchell@newbedford-ma.gov; JCosta@newbedford-ma.gov; Mark Montigny; Riding, Audra (SEN); Markey, Christopher - Rep. (HOU); Anthony C. Savastano; Harbormaster (dartmouthharbormaster@gmail.com); Bailey, Logan (DPH); Tatelbaum, David; Gracie, Frank; Silva-Brooks, Heidi; McDonald, Shawn; Mickelson, Stanley
Subject: RE: Meeting with Dartmouth on the City of New Bedford's Combined Sewer Overflow Final Public Notification Plan (NPDES discharge permit MA0100781)

Dear Mr. McInnes:

I write to let you know that MassDEP has not overlooked this important request and as such, we are working on the logistics to arrive at a meeting date that is mutually agreeable to invited parties. Ms. Courtney Rainey, Director of Municipal Services and Legislative Affairs is also aware of your request and will serve as the primary respondent to your request. I look forward to meeting with you and everyone.

Sincerely,
Millie

From: MacInnes, Shawn <smacinn@town.dartmouth.ma.us>
Sent: Monday, February 27, 2023 10:49 AM
To: Garcia-Serrano, Millie (DEP) <millie.garcia-serrano@mass.gov>; Martin, Gerard (DEP) <gerard.martin@mass.gov>
Cc: Michaud, Chris <cmichaud@town.dartmouth.ma.us>; Mayor.Mitchell@newbedford-ma.gov; JCosta@newbedford-ma.gov; Mark Montigny <mark.montigny@masenate.gov>; Riding, Audra (SEN) <audra.riding@masenate.gov>; Markey, Christopher - Rep. (HOU) <christopher.markey@mahouse.gov>; Anthony C. Savastano <anthony@savastanolawfirm.com>; Harbormaster (dartmouthharbormaster@gmail.com) <dartmouthharbormaster@gmail.com>; Bailey, Logan (DPH) <logan.bailey@mass.gov>; Tatelbaum, David <dtatelbaum@town.dartmouth.ma.us>; Gracie, Frank <fgracie@town.dartmouth.ma.us>; Silva-Brooks, Heidi <hsbrooks@town.dartmouth.ma.us>; McDonald, Shawn <smcdonald@town.dartmouth.ma.us>; Mickelson, Stanley <smickelson@town.dartmouth.ma.us>
Subject: RE: Meeting with Dartmouth on the City of New Bedford's Combined Sewer Overflow Final Public Notification Plan (NPDES discharge permit MA0100781)

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Good morning Millie and Gerard,

I'm following up the attached letter sent on February 1, 2023. I have yet to hear back regarding scheduling a meeting day/time. Could you please provide me with an update?

Regards,

Shawn MacInnes
Town Administrator
Town of Dartmouth
400 Slocum Road

Dartmouth, MA 02747
508-910-1813
<https://www.town.dartmouth.ma.us/>

From: MacInnes, Shawn

Sent: Wednesday, February 1, 2023 1:57 PM

To: 'Garcia-Serrano, Millie (DEP)' <millie.garcia-serrano@state.ma.us>; Martin, Gerard (DEP) <gerard.martin@state.ma.us>

Cc: Chris Michaud (cmichaud@town.dartmouth.ma.us) <cmichaud@town.dartmouth.ma.us>; 'Mayor.Mitchell@newbedford-ma.gov' <Mayor.Mitchell@newbedford-ma.gov>; 'JCosta@newbedford-ma.gov' <JCosta@newbedford-ma.gov>; 'Mark.Montigny@masenate.gov' <Mark.Montigny@masenate.gov>; 'Riding, Audra (SEN)' <Audra.Riding@masenate.gov>; Markey, Christopher - Rep. (HOU) <christopher.markey@mahouse.gov>; Anthony C. Savastano <anthony@savastanolawfirm.com>; Harbormaster (dartmouthharbormaster@gmail.com) <dartmouthharbormaster@gmail.com>; Bailey, Logan (DPH) <logan.bailey@mass.gov>; 'David Tatelbaum' <dtatelbaum@town.dartmouth.ma.us>; 'Frank Gracie' <fgracie@town.dartmouth.ma.us>; 'Heidi Silva-Brooks' <hsbrooks@town.dartmouth.ma.us>; 'Shawn McDonald' <smcdonald@town.dartmouth.ma.us>; 'Stanley Mickelson' <smickelson@town.dartmouth.ma.us>

Subject: Meeting with Dartmouth on the City of New Bedford's Combined Sewer Overflow Final Public Notification Plan (NPDES discharge permit MA0100781)

Good afternoon Millie & Gerard,

Please see the attached document regarding a meeting with Dartmouth officials on the City of New Bedford's Combined Sewer Overflow Final Public Notification Plan (NPDES discharge permit MA0100781)

Thank you

Shawn MacInnes

Town Administrator

Town of Dartmouth

400 Slocum Road

Dartmouth, MA 02747

508-910-1813

<https://www.town.dartmouth.ma.us/>

DARTMOUTH MASSACHUSETTS



Office of the Select Board
David Tatelbaum, Chair
Stanley Mickelson, Vice-Chair
Shawn D. McDonald
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Heidi Silva Brooks



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Shawn MacInnes
Town Administrator

Email: smacinnestown.dartmouth.ma.us

January 30, 2023

Millie Garcia-Serrano, MPH
Regional Director
MassDEP Southeast Regional Office
20 Riverside Drive
Lakeville, MA 02347

Dear Ms. Garcia,

This letter is in reference to the EPA and MassDEP's proposed approval of the City of New Bedford's Combined Sewer Overflow Final Public Notification Plan (NPDES discharge permit MA0100781), along with 314 CMR 16.00 and the accompanying regulations. As you are well aware, the current interim approval has resulted in the City of New Bedford issuing Combined Sewer Overflow (CSO) notifications after every rainfall event. These notifications state that a CSO discharge from the City of New Bedford's collection system has occurred, and that residents and users of Clarkes Cove should avoid contact with the waters for 48 hours. Furthermore, MassDEP's approval variance stipulates that the City has 24 hours, instead of the customary 2 hours, to produce the notifications. This has resulted in ongoing discharge notifications during prime bathing beach days when Dartmouth's Jones Beach and Clarks Cove which are well occupied by beach goers, in addition to daily users of the waters for fishing and other activities. Additionally, each CSO notification requires the Town of Dartmouth to post notices to users of Town waters, as well as conduct and incur the costs to test the waters in order to reopen to the public.

The Town of Dartmouth believes that there has been a lack of transparency by MassDEP when they approved plans and variances for the City of New Bedford's CSO notifications. MassDEP's approval of the City of New Bedford to wait up to 24 hours to notify the public has placed an immense burden on the Board of Health to act to notify Dartmouth's residents and water users. Furthermore, the NPDES permit issued by the EPA states that a CSO occurs when a large rain event overwhelms the sewage system and the combined rainwater and wastewater discharges to a nearby water body. The fact that the Town of Dartmouth receives a notice for every rain event either demonstrates that the New Bedford collection system is inadequate, or that MassDEP issued an interim approval on a faulty application.

While this situation has been a burden to the Town of Dartmouth, it also has a broader effect on the entire area. The Town of Dartmouth would like to see the Massachusetts Department of Public Health, along with MassDEP and other local boards of health impacted by CSO discharges come up with uniform policies for reopening impacted beaches. Unfortunately, 314 CMR 16.00 comingles into 105 CMR 445.030(B) and necessitates beach closure upon notice. The Town of Dartmouth believes that it would be irresponsible to arbitrarily reopen beaches, and permit other water uses, without bacteriological data to support sanitary conditions have returned. Additionally, these policies could provide a consistent plan to develop response-based testing to establish parity in protection of the public as intended by both regulations.

The Town of Dartmouth Select Board demands a meeting with you, and representatives from your office and the City of New Bedford, to discuss what can be done to protect the health and safety of Dartmouth residents and relieve the burden on the Board of Health, in order to avoid limiting access to Dartmouth waters.

Please contact me at your earliest convenience to coordinate a date to meet.

Sincerely,



Shawn MacInnes
Town Administrator

Cc: Dartmouth Select Board
Dartmouth Board of Health
Gerard Martin - MassDEP
James Costa, City of New Bedford Superintendent of Wastewater
Chris Markey, State Representative
Mark Montigny, State Senator
John Mitchell, New Bedford Mayor
Anthony Savastano, Town Counsel
Steve Melo, Harbormaster