



FAIRHAVEN SELECT BOARD AGENDA

March 31, 2024 6:00 p.m.

Town Hall – 40 Center Street – Fairhaven

The meeting can also be viewed on Channel 18 or on FairhavenTV.com

On March 24, 2023, the bill to extend Open Meeting Law regulations governing remote participation has passed MA legislation and been signed by the Governor. This bill will allow remote and hybrid meeting options for public bodies through March 31, 2025. Pursuant to an amendment to Town Bylaw Chapter 50 § 13, all government meetings are available through web/video conference and are recorded.

A. APPOINTMENTS AND COMMUNITY ITEMS

1. Event Request: Conrad Roy III Memorial 5K, Saturday, September 13, 2025

B. ACTION / DISCUSSION

1. Create Gift Account for Veterans and Accept Donation: CANA Cares
2. Set Salary for Town Administrator posting
3. Review Response to Open Meeting Law Complaint: Received March 24, 2025
4. FY26 Budget

C. NEWS AND ANNOUNCEMENTS

1. The Select Board will meet for Election Results on **Monday, April 7, 2025 at 7:30p.m.**
2. The next regularly scheduled Select Board meeting is **Monday, April 14, 2024** at 6:00 p.m.

D. EXECUTIVE SESSION

G.L. c. 30A, s. 21(a)(3) discuss strategy with respect to litigation and anticipated litigation where the chair declares that an open session would have a detrimental effect on the Town's litigating position and G.L. c. 30A, s. 21(a)(7) to comply with, or act under the authority of, the Public Records Law, G.L. c. 4, s. 7(26); (*Fairhaven School Committee v. Fairhaven Zoning Board of Appeals, Land Court 25MISC000064; anticipated litigation by Patrick Carr and Ruy daSilva; written attorney-client privileged communications regarding same*)

ADJOURNMENT

<https://us06web.zoom.us/j/89485993911?pwd=OFd5MzJvVnBxQkxLzdQcFRlbVM0QT09>

Log on or call 1-929-205-6099, Meeting ID: 894 8599 3911, Passcode: 330130

Subject matter listed in the agenda consists of Items reasonably anticipated (by the Chair) to be discussed. Not all items listed may be discussed and other items not listed (i.e. urgent business not available at the time of posting) may also be brought up for discussion in accordance with applicable law.

Conrad Roy III Memorial 5k

1 message

Kim Bozzi <kimbozzi45@gmail.com>
To: Amy Hart <ahart@fairhaven-ma.gov>

Fri, Feb 14, 2025 at 12:18 PM

February 14, 2025

Dear Board of Selectmen,

I am writing to request permission to host a memorial/awareness walk/run 5k for the late Conrad Henri Roy III on Saturday, September 13 of this year in the town of Fairhaven. This will be our fourth time hosting this event. Our previous events have gone on wonderfully without incident and were very successful!

The event will begin and end at Fort Phoenix. It will begin at 9am and end at 11am. The following route has been identified:

Fort Phoenix
Right on Old Fort
Left on Green St
Right on Rodman St
Left on Adams St
Left on Bridge St
Lef on Main St
Left on South St
Right on Fort St
Left on Old Fort St
Fort Phoenix

Please contact me if additional information is needed. Thank you for your attention.

Kim Bozzi
774.319.7347



Town of Fairhaven
Massachusetts
40 Center Street · Fairhaven, MA · 02719

Re: Creation of Gift Account: Veterans

The Veterans Service Officer received a donation for Veterans.

The Town Accountant is requesting the Select Board approve the creation of a gift account for Veterans and accept the donation of \$1,750.00 from CANA Cares to this gift account.

Motion: To create a Veterans gift account and accept the donation of one thousand and seven hundred and fifty dollars from CANA Cares to be deposited into the Veterans gift account.



OPEN MEETING LAW COMPLAINT FORM

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

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Lee Last Name: Baumgartner

Address: 97 Pleasant Street

City: Fairhaven State: MA Zip Code: 02719

Phone Number: 5089918673 Ext. _____

Email: sethrylie@aol.com

Organization or Media Affiliation (if any): n/a

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

(For statistical purposes only)

Individual Organization Media

Public Body that is the subject of this complaint:

City/Town County Regional/District State

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

Specific person(s), if any, you allege committed the violation: Miss Stasia Powers - Chair of the Fairhaven Select Board

Date of alleged violation: 03-17-2025

SELECT BOARD
2025MAR24 8:39 8:39

Description of alleged violation:

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

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

Please see attached three-page document titled:

Violations of Open Meeting Law MGL Ch. 30A, section 18-25

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

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

Please see attached three-page document titled:

Violations of Open Meeting Law MGL Ch. 30A, section 18-25 Reference on page 3

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

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

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

II. Consulting With a Private Attorney.

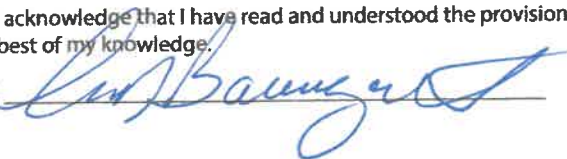
The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

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

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

Signed:



Date:

3-21-2025

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:

Violations of Open Meeting Law MGL Ch. 30A, section 18-25

Issue #1

On Saturday 03-15-2025 at 1:33 PM Chair Powers posted a Select Board meeting notice for 03-17-25 at 6:00 PM. Open Meeting Law requires that public body post notice of every meeting "at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays" If Chair Powers is stating this meeting is an emergency meeting which is an incident that requires the Select Board to take an immediate action, which then would allow the bypass of the 48-hour rule. The Chair should follow MA State recommended best practices for the purpose of open and transparency for the public, to label the meeting as an Emergency Meeting. This would make the public aware the Select Board would be discussing a circumstance of a demanding time sensitive issue, that requires emergency immediate action. This listing of the meeting as an emergency meeting did not occur.

Issue #2

The agenda posted did not have a zoom link as required by the bill to extend Open Meeting Law regulations governing remote participation. The public has a right by law to be able to zoom into the opening of the meeting and ask questions via zoom.

The public read on the town website listed for the Select Board meeting "the Select Board has no Open Session Business and due to staff availability, will record the Opening of the meeting and the motion made to enter into Executive session for broadcast later." The following day a recording was released of the opening of the meeting of which two Select Board members, Mr. Charles Murphy and Mr. Andrew Saunders, were clearly dialed in and present on a zoom link. It was clear and apparent that a zoom link was available to the members and there was staff to monitor and record the opening of the meeting and the meeting itself. Yet this link was not made available to the public, nor was the public aware they could attend the opening of the meeting.

The agenda did not list as a topic the "Opening of the Meeting" without such topic and only listing the Executive session the public would reasonably believe they could not attend the beginning of the meeting since none was listed and the website clearly stated they had "no Open Session Business". Clearly the opening of an executive session is open session business. Had Chair Powers listed this item on the agenda, it would allow the public to know they could attend the meeting to ask questions regarding the executive session.

I do believe that the Chair of the Select Board by not listing a zoom link for the public, (which one was clearly available and used) and not listing the opening of the meeting on the agenda (as open session business) may leave to an opening for misinterpretations that it was a circumvention of the open meeting law to purposely prevent the public from being present or zoomed in to ask poignant questions regarding what the executive session was about.

Issue #3

I Challenge as to the validity of the agenda to be classified as an actual Emergency Executive Session Meeting and if any other topics discussed not on the agenda also in violation of the Open Meeting Law.

The agenda listed A. Executive Session:

G.L. C. 30A, s. 21(a)(3) discuss strategy with respect to litigation (Fairhaven School Committee v. Fairhaven Zoning Board of Appeals, Land Court 25MISC000064) and anticipated litigation (Patrick Carr and Ruy daSilva)

This agenda item was later to be defined by the Chair as Emergency Executive Session. Since this was a litigation case (which had been ongoing) one would believe the Town Council would also be present or on the zoom link and what if any costs were associated in calling the Town council a Saturday and to hastily arrange to be present at an emergency executive session meeting, provided town council was indeed present vs the cost of arranging a meeting during regular business hours for later in the week and adhering to the Open Meeting Law. Was this meeting previously arranged and when did town council become aware of the request from the Chair that a meeting would be planned? There are serious questions as to this agenda item which is a legal litigation issue and such an immediate demanding important issue arose from the courts or town council on a Saturday requiring the Town Clerk to come in and stamp an agenda at 1:33 PM under the preface it is an emergency and must get the Select Board gathered immediately? One could conclude and seriously question the validity that this particular specific agenda topic of discussing anticipated litigation with Patrick Carr and Ruy daSilva meets the "emergency" status of a meeting and not following the Open Meeting Laws and the 48-hour posting. I would also question if the emergency agenda of this one item was the only item discussed and what else, if anything, had been discussed which was not listed on the agenda which would lead to an Open Meeting Law agenda violation. The public will not know what actually transpired during this meeting because it was all done in emergency executive session and the public had no proper notice and ability to attend the beginning of the meeting to ask questions for open and transparency as allowed to the extent by law.

Issue #4

The agenda only listed: B. Adjournment

The agenda did not state if the Select Board would return to open session or not after the executive session. If a member of the public arrived to attend the meeting after it was over, they would have been waiting in vain because the meeting per the day later released tape said they would not return in open session but no public person would have known this and could have ended up waiting for whatever amount of time only to be turned away because the meeting

ended. Hence, why the agenda should clearly state if the Select Board would return or not from executive session to notify the public thru transparency and openness.

In Conclusion:

I do not take this filing lightly, but the process and procedure which is required of other boards and committees which the Select Board holds them to these standards must also apply to the Select Board and in particular the Chair of the Select Board who is the highest official in Town and set the highest standards now and into the future.

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

- 1) Ensure to follow Open Meeting law regarding the time line posting of an agenda whether emergency agenda or not. Follow MA State best practices in listing on the agenda "emergency meeting" if being posted within the 48-hour open meeting law rule.
- 2) Ensure to follow the MA State bill to extend Open Meeting Law regulations governing remote participation until it is revoked and follow town by-laws which require filming of all public body meetings
- 3) Review and follow open meeting laws and guidance on what constitutes an emergency meeting whether in executive session or not. Issue a public statement as to whether the meeting of March 17,2025 in view did or did not meet the criteria for an emergency executive session.
- 4) Ensure all agendas have clearly posted if the public body will or will not return from executive session whether an emergency executive session or not.



FAIRHAVEN SELECT BOARD AGENDA

March 17, 2025 6:00 p.m.

Town Hall – 40 Center Street – Fairhaven

A. EXECUTIVE SESSION

G.L. C. 30A, s. 21(a)(3) discuss strategy with respect to litigation (Fairhaven School Committee v. Fairhaven Zoning Board of Appeals, Land Court 25MISC000064) and anticipated litigation (Patrick Carr and Ruy daSilva)

B. ADJOURNMENT

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Select Board Meeting

Town Hall, 40 Center Street

Event Date: Monday, March 17, 2025 - 6:00pm

The Select Board has no Open Session Business and due to staff availability, will record the Opening of the meeting and the motion made to enter into Executive Session for broadcast later.


The Select Board will not return to Open Session this evening.

Related Agenda ▲

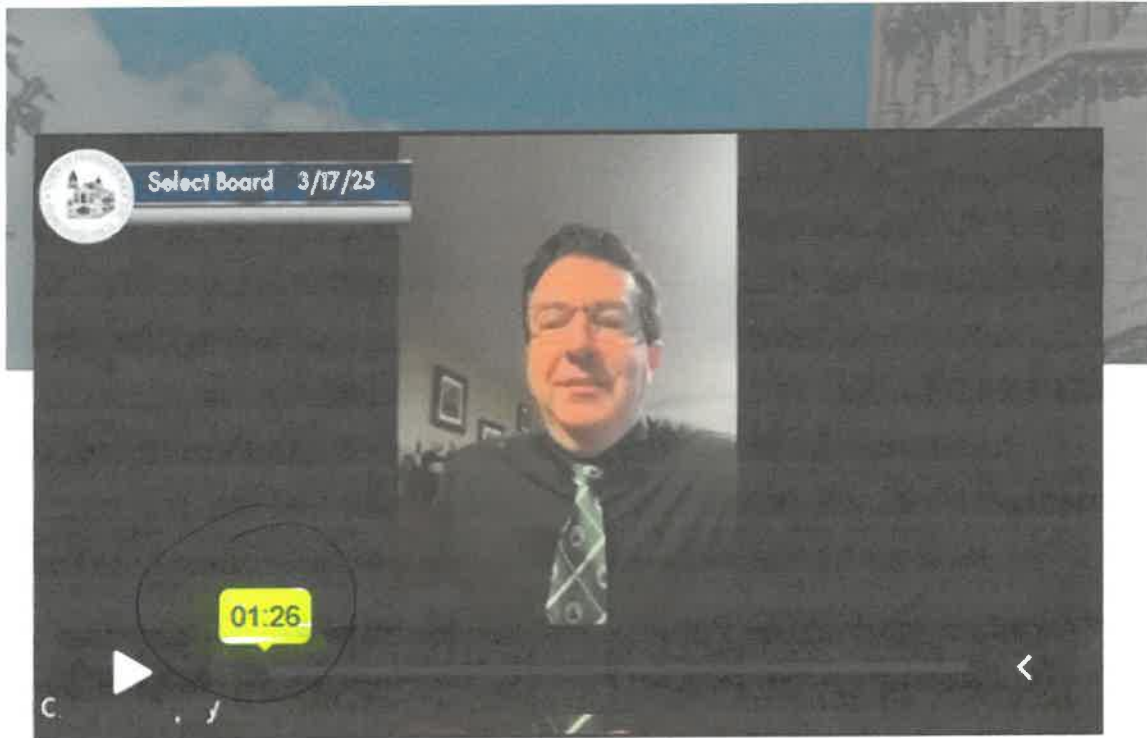
Select Board Meeting Agenda

SUBMITTED ON MARCH 15, 2025 - 1:32PM

Upload file:

 [03-17-2025_select_board_meeting_agenda.pdf](#)

Date: Monday, March 17, 2025 - 6:00pm



Select Board 3/17/25

Fairhaven Government Meetings

3/17/25