

**SPECIAL TOWN MEETING – SATURDAY, May 4, 2013**  
**WALTER SILVEIRA AUDITORIUM – ELIZABETH HASTINGS MIDDLE SCHOOL**  
**TOWN MEETING MEMBERS PRESENT 252 – QUORUM REQUIRED 100**

Meeting called to order by the Moderator at 9:00 AM.

The Moderator stated that the warrant had been properly served and that there was a quorum.

Voted that the Moderator be relieved from reading each article in its entirety and that he be allowed to refer to the article by number and title only. Seconded.

Town Meeting Members present:

Precinct 1 –	39
Precinct 2 –	39
Precinct 3 –	33
Precinct 4 –	44
Precinct 5 –	51
Precinct 6 –	46
<u>TOTAL –</u>	<u>252</u>

**ARTICLE 1 – TOWN CHARGES**

Voted unanimously the following sums of money to fund additional salaries and operating expenses for the following departments. Said sum to be added to previously voted appropriations for FY13:

**GENERAL GOVERNMENT**

**1. Veterans Services**

- b. Purchase of Services - \$45,000.00 by transferring \$45,000.00 from Surplus Revenue
- d. Other Charges & Expenses - \$64,000.00 by transferring \$64,000.00 from Surplus Revenue

**2. Building Department**

- a. Salaries & Wages - \$14,000.00 - ***MOVED TO PASS OVER***

**3. Legal Expenses - \$5,000.00 by transferring \$5,000.00 from Surplus Revenue**

**4. Election & Registration**

- a. Salary & Wages - \$7,900.00 – ***MOVED TO PASS OVER***
- b. Purchase of Services - \$870.00 – ***MOVED TO PASS OVER***

**5. Fire Department**

- a. Salary & Wages - \$6,000.00 by transferring \$6,000.00 from the Ambulance Fund Receipts

**6. Police Department**

- b. Purchase of Services - \$30,739.00 by transferring \$30,739.00 from the Police Department Technology Account

**ARTICLE 2 – FUNDING LABOR CONTRACTS – 2014**

Voted unanimously the following sums of money to supplement the appropriations of Article 4 of the Annual Town Meeting, May 4, 2013 for the purpose of funding the cost in FY 2014 only, of the Collective Bargaining agreement between the Town and the following labor groups, said agreement signed and dated prior to this Town Meeting:

**1. Clerical Union**

- a. Salaries & Wages – ***MOVED TO PASS OVER***

**2. Highway Division & Park Division**

- a. Salaries & Wages Highway Division - \$2,817.00 to be raised on the FY14 Tax Levy
- a. Salaries & Wages Parks Division - \$309.00 to be raised on the FY14 Tax Levy

**3. Sewer Department**

- a. Salaries & Wages - \$2,475.00 by transferring \$2,475 from Sewer Revenue

4. Water Division
  - a. Salaries & Wages - \$1.00 by transferring \$1.00 from Water Revenue
5. Police Department
  - a. Salaries & Wages – ***MOVED TO PASS OVER***
6. Dispatcher Union
  - a. Salaries & Wages – ***MOVED TO PASS OVER***
7. Fire Department
  - a. Salaries & Wages – ***MOVED TO PASS OVER***
8. School Department
  - a. Salaries & Wages – ***MOVED TO PASS OVER***

**ARTICLE 3 – FUNDING NON-UNION LABOR**  
***MOVED TO PASS OVER***

**ARTICLE 4 – DOR RECOMMENDATIONS**

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation:

The following actions were taken:

- A) VOTED INDEFINITE POSTPONEMENT***
- B) MOVED TO PASS OVER***
- C) MOVED TO PASS OVER***

**A. Establishing the Position of Town Administrator:**

The Town Administrator position will replace the position of Executive Secretary to the Board of Selectmen. The Town Administrator would have broad financial and operational management responsibilities and functions. The duties of the Town Administrator would include direct management of:

- the budget process;
- financial operations;
- interdepartmental operations;
- policy analysis;
- personal administration, including appointment authority;
- procurement;
- information technology;
- property management and capital improvement;
- appointment of department heads, subject to approval of the Board of Selectmen; and the supervision and evaluation of department heads.

The Town Administrator shall be appointed by the Board of Selectmen for a term of up to three (3) years, and may be reappointed by the Board of Selectmen for successive terms of up to three (3) years each; and shall otherwise be subject to such contractual terms and conditions as shall be determined by the Board of Selectmen upon appointment and reappointment, including the right of the Board of Selectmen to remove the person so appointed with or without cause.

The specific authority and duties of the Town Administrator shall be subject to such provisions of the Town's By-Laws as are not inconsistent with the special legislation.

**B. Eliminating of the Board of Public Works:**

Chapter 722 of the Acts of 1968, as it has been amended from time to time, shall be repealed, eliminating the Board of Public Works.

The duties and authority of the Board of Public Works will be assumed by the Town Administrator. Notwithstanding its elimination, all actions taken by the Board of Public Works within its authority, including the appointment of a superintendent, assistant superintendent, and

employees, and any and all contracts entered into by the Board of Public Works, shall continue in full force and effect, subject to future action by the Town Administrator within his authority.

**C. Eliminating of the Personnel Board:**

The Town Administrator shall have sole authority over the administration of personnel policies. The Town may enact by-laws establishing the wages, salaries, and other benefits of employees, not inconsistent with the authority of the Town Administrator, as set forth in the special legislation. Notwithstanding its elimination, all actions taken by the Personnel Board within its authority, and the acts of any other Town official or board with respect to personnel, including the appointment of all officers and employees previously made, shall continue in full force and effect, subject to future action by the Town Administrator within his authority.

**Acceptance and Effective Date:**

The special legislation shall be subject to a vote of acceptance by Town Meeting. The Town will amend its by-laws at the time of acceptance of the special legislation to comply with its provisions.

**ARTICLE 5 – COMBINING THE POSITION OF TOWN TREASURER AND COLLECTOR**

Voted unanimously to amend its by-laws by adding to Chapter 37.1 of the Town Code the following:

“D. The Director of Finance shall act as treasurer and collector.”

**ARTICLE 6 – FINANCE COMMITTEE MEMBERSHIP AND APPOINTMENT**

To see if the Town will vote to reduce the size of the Finance Committee, and to change the manner of appointment of its members by striking §33-1 of the Town Code, and inserting in its place the following:

“§33-1 Appointment of member; terms:

There shall be a Finance Committee consisting of seven (7) members, one to be appointed from each voting precinct in the manner and at the time hereinafter prescribed, and one member to be appointed at large. The appointing body (the Town Moderator, Chairman of the Board of Selectmen and Chairman of the Finance Committee) shall within one (1) month after the conclusion of the Annual Town Meeting appoint from the voters of each such precinct one member to represent the precinct on the Finance Committee; and The Chairman of the Finance Committee will be reappointed to serve as the at-large member. The term of each member so appointed shall be one year, provided that any person may be reappointed for successive terms of one year.”

***MOVED TO PASS OVER***

**ARTICLE 7 – E-GOVERNMENT (GEO TMS) ONLINE PERMITTING REVOLVING ACCOUNT**

Voted unanimously that the Town authorize an “E-Government Geo TMS Revolving Account” under the provisions of Massachusetts General Law, Chapter 44, Section 53E ½ under the following terms:

1. The revolving account may be expended to pay the three (3) percent fee for the E-Government GeoTMS billing software assessment for all Town Departments who use the E-Government GeoTMS software programs.
2. That three (3) percent of all fees charged to users shall be credited to the “E-Government GeoTMS” revolving fund.
3. The Town Treasurer is authorized to expend from the fund.
4. The total amount which may be expended from the fund in Fiscal Year 2014 shall not exceed twenty thousand (\$20,000.00) dollars.

**ARTICLE 8 – SOLAR BY-LAW AMENDMENT**

Voted by 2/3 that the Town enact the following amendments to the Zoning Bylaw Chapter 198 Section 16, Use Regulations Schedule, Chapter 198 Section 33, Definitions and word use, and add a new section Chapter 198 Section 29.6, Solar Photovoltaic Energy Facilities.

§ 198-16 – Use Regulation Schedule

Activity or Use	<u>Use Regulation Schedule</u>									
	District									
	RR & RA	RB	RC	P	B	I	AG	MU <sup>14</sup>	WRP <sup>16</sup>	
<u>ACCESSORY USES</u>										
On-Site Ground-Mounted SPEF	Y	Y	Y	Y	Y	Y	Y	Y	Y	
<u>COMMERCIAL USES</u>										
Large Scale Ground-Mounted SPEF	A <sup>20</sup>	N	N	N	A	A	A	N	A	

Notes:

<sup>20</sup> prohibited in the RA district.

§ 198-29.6 - Solar Photovoltaic Energy Facilities (SPEF)

- A. Purpose. The purpose of this by-law is to encourage the use of Solar Photovoltaic Energy and provide for the construction and operation of Ground-Mounted SPEF and to provide standards for the placement, design, construction, monitoring, modification and removal of Ground-Mounted SPEF that address public safety, minimize impacts on scenic, natural and historic resources of the Town and provide adequate financial assurance for decommissioning. The provisions set forth in this section shall take precedence over all other sections when considering applications related to the construction, operation, and/or repair of Ground-Mounted SPEF.
- B. Applicability. This section applies to all ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. Roof mounted SPEF are not governed under this section and are permitted in all districts when connected behind the meter.
- C. Compliance with Laws, Ordinances and Regulations: The construction and operation of all SPEF shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a SPEF shall be constructed in accordance with the State Building Code.
- D. Special Permit Granting Authority. The Planning Board shall be the Special Permit Granting Authority (SPGA) for all SPEF as defined in this bylaw.
- E. Validity: The invalidity of any provision of this section shall not invalidate any other section or provision thereof.
- F. Application for Special Permit Review. Submittal Application for Special Permit Review shall require the filling of one copy of a site plan review application and 10 prints of the site plan drawn to an adequate scale to convey all required information. Such plan(s) shall contain the following for an application to be considered complete.
- (1) Actual dimensions of the lot.
  - (2) All easements existing or proposed.
  - (3) Location and size of existing and proposed structures including any existing structures within 100 feet of the site.
  - (4) Name, width and condition of all abutting streets.
  - (5) Existing and proposed topography at two-foot minimum contours.
  - (6) Existing and proposed water, sanitary and storm drainage facilities.

- (7) Landscape plan. Landscaping including sizes, types and numbers of plantings and details. Existing vegetation and other unique land features shall be preserved where feasible.
- (8) Blueprints or drawings of the SPEF signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures
- (9) The stamps and seal of the professional land surveyor responsible for surveying the property.
- (10) The stamp and signature of the professional engineer responsible for drawing the plan.
- (11) The location of all wetlands on the site and within 100 feet of the site.
- (12) The location of the River Protection Act Riverfront Resource Protection Area.
- (13) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
- (14) A stormwater management plan (SMP) detailing the existing environmental and hydrological conditions of the site, proposed alterations of the site and all proposed components of the drainage system and any measures for the detention, retention, or infiltration of water, for the protection of water quality and protection from flooding. As described in § 198-31.1 Stormwater Management.
- (15) A description of the solar photovoltaic facility and the technical, economic and other reasons for the proposed location and design shall be prepared and signed by a registered professional engineer.
- (16) Confirmation prepared and signed by a registered professional engineer that the SPEF complies with all applicable Federal and State standards.
- (17) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.
- (18) Documentation of the major system components to be used, including the PV panels, mounting system, inverters.
- (19) Documentation of the sound generated by equipment used in the production of electrical energy, including any proprietary documentation. A Sound study will be required by the SPGA to determine the impact of noise on abutting residences.
- (20) Documentation of actual or prospective access and control of the project
- (21) An operation and maintenance plan (see also Section 198.29.6.G.13 below)

G. General Design Review Standards. Unless otherwise expressly provided by this section of the bylaw all requirements of the underlying zoning district shall apply and in addition the following standards shall apply.

- (1) Large-scale, ground-mounted SPEF shall:
  - (a) Be located on a parcel of land that contains a minimum of ten (10) acres when in the RR, B, I AG or WRP districts.
  - (b) Be setback 75 feet for the front, 50 for side and rear yards from abutting RA, RB, RC, RR, AG, MU, WRP and P Districts.
  - (c) Be setback 50 feet from front yard in the B and I Districts, but 10 feet from side and rear yards when abutting the B and I Districts.
- (2) On-Site SPEF shall:
  - (a) Be sized by electrical load according to the building they serve and must be connected to the customer side, behind the electrical service metering equipment.
  - (b) Be setback, at a minimum, to the district setbacks they fall in.
  - (c) Not cast glare to abutting uses by providing screening methods.

- (d) Not permit the equipment to create excessive noise to abutters by installing inverters as far from abutting structures as feasible.
  - (e) Provide fencing to prevent unauthorized access to arrays.
- (3) All appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be screened from the view of persons not on the parcel, public rights-of-ways and all residential districts.
  - (4) Lighting of SPEF shall be consistent with state and federal law. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
  - (5) Signs. There shall be no signs, except announcement signs, no trespassing signs or any signs required to warn of danger. A sign is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a twenty-four hour basis.
  - (6) All utility connections from the SPEF site shall be underground except to the extent that underground utilities are not feasible in the reasonable determination of the SPGA.
  - (7) Inverters shall be sited so as to minimize sound impact to abutting residences.
  - (8) Clear cutting of trees and natural vegetation, within 5 years, shall be prohibited for the construction, operation and maintenance of the solar photovoltaic facility.
  - (9) There shall be a minimum of one parking space to be used in connection with the maintenance of the SPEF and the site; however, it shall not to be used for the permanent storage of vehicles.
  - (10) Setbacks shall provide for adequate screening of noise and glare from abutting uses and structures. Techniques such as dense natural vegetated plantings, earthen berms or increased setbacks will be required, depending upon site specific conditions. Setbacks shall not be disturbed by access roads, except where allowed by the SPGA for access to the site. Setbacks shall not be used for any purpose other than natural vegetation or other screening required by the SPGA. Setbacks from property lines shall be as provided above for type of SPEF.
  - (11) All ground-mounted SPEF shall be fenced for security. Fencing that is visible from right-of-way or residence shall be vinyl coated or another decorative type of fence acceptable to the SPGA. All fencing shall be designed to blend into the landscape.
  - (12) The project proponent shall submit a plan for the operation and maintenance of the ground-mounted SPEF, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.
  - (13) The SPEF owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the SPEF shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
  - (14) No ground-mounted SPEF shall be approved or constructed until evidence has been given to the SPGA that the utility company that operates the electrical grid where the installation is to be located has been informed of the SPEF owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
  - (15) No ground-mounted SPEF shall be constructed, installed or modified as provided in this section without first obtaining a building permit

- (16) The ground-mounted SPEF owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the SPEF and any access road(s), unless accepted as a public way.
- H. Abandonment or Decommissioning: The owner, operator, his successors in interest shall remove any ground-mounted SPEF which has reached the end of its useful life or has been abandoned. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal.
- (1) Decommissioning shall consist of:
    - a) Physical removal of all ground-mounted SPEF, structures, equipment, security barriers and transmission lines from the site.
    - b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
    - c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
  - (2) Abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the SPEF shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the ground-mounted SPEF fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.
  - (3) Financial Surety: Proponents of ground-mounted SPEF shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the SPGA, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.
- I. Criteria for Site Plan review and approval.
- (1) A Special Permit may be granted under this section if the SPGA finds in writing that each of the design review standards set forth above have been met and that the location of the ground-mounted SPEF is suitable and that the size and design are the minimum necessary for that purpose
  - (2) The SPGA shall also impose, in addition to any applicable conditions specified in this section, such conditions as it finds reasonably appropriate to safeguard the neighborhood, public or otherwise serve the purposes of this section, including, but not limited to: screening, lighting, noise, fences, modification of the exterior appearance of the structures, limitation upon size, method of access or traffic features, parking, removal upon cessation of use or other requirements. Such conditions shall be imposed in writing and the applicant may be required to post bond or other surety for compliance with said conditions in an amount satisfactory to the SPGA.
  - (3) The Special Permit shall lapse if substantial use or construction has not commenced within two years of the date of issuance, except for good cause shown (including but not limited to appeals of the grant of the site plan or litigation enjoining the

construction under the permit), and provided further that such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time.

- (4) The SPGA may require the proponent to provide or pay for professional services to evaluate the proposal.
- (5) Fairhaven Conservation Commission. The applicant must file a Notice of Intent if within the wetland resource areas or if within 100 feet buffer zone.

### **§198.33 – Definitions and word use**

**Large-Scale Ground-Mounted Solar Photovoltaic Energy Facilities SPEF:** A solar photovoltaic system that is structurally or ballast mounted on the ground and has a minimum nameplate capacity of 250 kW (AC), which is designed to supply all of its electrical output for use off site.

**On-Site Solar Photovoltaic Energy Facilities SPEF:** A solar photovoltaic system that is structurally or ballast mounted on the ground at a location where other uses of the underlying property occur and the electrical output is primarily for use on site.

**Rated Nameplate Capacity:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (AC).

### **ARTICLE 9 – COMMUNITY PRESERVATION APPROPRIATION**

Move that the town vote to appropriate from the Community Preservation Fund available funds the amounts recommended by the Community Preservation Committee for committee's community preservation projects with each item to be considered a separate appropriation:

A. Voted unanimously to appropriate \$44,000.00 from the Undesignated Fund Balance for the Fairhaven Town Hall Exterior Restoration Project Phase V – Main Door and Exterior Lighting Project.

B. ***MOVED TO PASS OVER***

C. Voted unanimously to appropriate \$3,000.00 from the Historic Preservation Existing Fund Balance for the Fairhaven Historical Commission – Fire Protection Building Restoration Project.

D. Voted unanimously to appropriate \$60,000.00 from the Community Housing Existing Fund Balance for the Planning and Economic Development Department – North Fairhaven CDBG Neighborhood Revitalization Plan.

### **ARTICLE 10 – COMMUNITY PRESERVATION PROGRAM – HIGH SCHOOL FIRE ESCAPES**

Voted unanimously that the Town transfer \$105,000.00 from the ATM May 5, 2012 – Article #42E – *FAIRHAVEN HIGH SCHOOL – EXTERIOR RESTORATION PROJECT PHASE II* towards the repair and/or replacement of the Fire Escapes on the west and east sides of the High School. However, that no CPC funds may be spent until the School Committee obtains the necessary additional funds to complete the project.

### **ARTICLE 11 – TOWN GOVERNMENT STUDY COMMITTEE**

Voted unanimously the sum of \$5,000.00 by transferring \$5,000.00 from Surplus Revenue and direct the Moderator to appoint a committee of seven citizens of the Town, knowledgeable in Town affairs, to be known as the Town Government Study Committee, which Committee shall review all aspects of local government organization and structure, including, without limitation, regional relationships and the operation of all Town departments, boards, committees and commissions, elected and appointed, and recommend changes in such organization and structure, consonant with the traditional values of the Town, and designed to achieve greater efficiency and effectiveness in the delivery of government services; which recommendations shall be made in form suitable for consideration at the next Annual Town Meeting or subsequent Town Meeting.,



**ARTICLE 12 – RESTAURANT/BEER AND WINE LICENSE**

Voted unanimously to authorize the Board of Selectmen to petition the General Court for the passage of legislation authorizing the issuance of a Restaurant/Beer and Wine license to Jevon Enterprises, D/B/A Mac's Soda Bar, 116 Sconticut Neck Road, in the Town of Fairhaven, notwithstanding any limitations on the number of licenses issued under the provisions of Chapter 138 of the Massachusetts General Laws as amended. This license is non-transferable to another location, but the licensing authority may grant the license to a new applicant at the same location.

**ARTICLE 13 – OTHER BUSINESS**

None

Motion to adjourn sine die at 10:35 AM on Saturday, May 4, 2013. Seconded

**Eileen M. Lowney  
Town Clerk**