

SPECIAL TOWN MEETING – SATURDAY, MAY 1, 2010
WALTER SILVEIRA AUDITORIUM – ELIZ. I. HASTINGS MIDDLE SCHOOL
TOWN MEETING MEMBERS PRESENT 252 – QUORUM REQUIRED 100

Meeting called to order by the Moderator at 9:15 A.M.

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 – 46
	Precinct 2 – 38
	Precinct 3 – 38
	Precinct 4 – 41
	Precinct 5 – 49
	<u>Precinct 6 – 40</u>
	TOTAL 252

ARTICLE 1 – TOWN CHARGES

Voted unanimously the following sum of money to fund additional salary and operating expenses for the following departments. Said sum to be added to previously voted appropriations for FY10:
GENERAL GOVERNMENT

1. Treasurer

- b. Purchase of Services - \$2,000.00 by transferring \$2,000.00 from Article 4, section 62C General Fund – Interest of Temporary Loans of the May 2, 209 Town Meeting.

PUBLIC SAFETY

2. Fire Department

- c. Supplies - \$3,000.00 by transferring \$3,000.00 from the Ambulance Fund Receipts Reserved for Appropriation

BOARD OF PUBLIC WORKS

3. Highway Division

- e. Capital Outlay – *Move to Pass Over*

4. Sewer Division

- f. Sludge Disposal - \$35,000.00 by appropriating \$35,000.00 from Sewer Retained Earnings.

UNCLASSIFIED

- 5. FICA - \$10,000.00 by transferring \$10,000.00 from Article 4, section 62C General Fund Interest on Temporary Loans of the May 2, 2009 Town Meeting.

ARTICLE 2 – TOWN CHARGES

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to fund additional salary and operating expenses for the following departments. Said sum to be added to previously voted appropriations for FY 11.

PUBLIC SAFETY

1. Fire Department

- a. Salary & Wages – *Move to Indefinite Postpone*

ARTICLE 3 - FUNDING LABOR CONTRACTS

Voted unanimously by adoption of Article 4 of the Annual Town Meeting, May 2, 2009 for the purpose of funding the cost in FY 2010 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. Police Department – New England Police Benevolent Association, Local 64

- (a.) Salaries and Wages - \$31,000.00 by transferring \$31,000.00 from Surplus Revenue.

2. Dispatcher Union - New England Police Benevolent Association, Local 64

- (a.) Salaries and Wages - \$3,550.00 by transferring \$3,550.00 from Surplus Revenue.

3. Fire Department - International Association of Firefighters, AFL-CIO, Local 1555

- (a.) Salaries and Wages - \$21,400.00 by transferring \$4,300.00 from the Ambulance Fund

Receipts Reserved for Appropriation and \$17,100.00 from Surplus Revenue.

4. Clerical Union - AFSCME AFL-CIO, Local 851 and to authorize the Town Accountant to allocate the funds to the various affected departments.

(a.) Salaries and Wages - \$9,300.00 by transferring \$812.00 from Water Retained Earnings, \$510.00 from Sewer Retained Earnings and \$7,978.00 from Surplus Revenue.

5. Highway Division and Park Division - Council 93, American Federation of State, County & Municipal Employees AFL/CIO Local 851 and to authorize the Town Accountant to allocate the funds to the various affected departments.

(a.) Salary & Wages Highway Div - \$10,800.00 by transferring \$10,800.00 from Surplus Revenue

(a.) Salary & Wages Park Div - \$686.00 by transferring \$686.00 from Surplus Revenue.

6. Sewer Department - Teamsters, Chauffeurs, Warehousemen & Helpers, Local 59

(a.) Salaries and Wages - \$8,550.00 by transferring \$8,550.00 from Sewer Retained Earnings

7. Water Division - Teamsters, Chauffeurs, Warehousemen & Helpers, Local 59

(a.) Salaries and Wages - \$4,350.00 by transferring \$4,350.00 from Water Retained Earnings.

ARTICLE 4 - TOWN CHARGES

Voted unanimously the sum of \$25,500.00 by transferring \$1,129.00 from Water Retained Earnings, \$2,077.00 from Sewer Retained Earnings and \$22,294.00 from Surplus Revenue to supplement the appropriations by adoption of Article 4 of the Annual Town Meeting, May 2, 2009 for the purpose of funding the cost in FY 2010 only, of wage increases for non-union employees and to authorize the Town Accountant to allocate the funds to the various affected departments.

ARTICLE 5 – SETTING SALARIES OF TOWN OFFICERS

Voted unanimously the sum of \$49,417.00 to fix the compensation of the Town Clerk and that said compensation be effective July 1, 2010.

ARTICLE 6 – TOWN CHARGES

Voted unanimously the following sum of money to fund additional salary and operating expenses for the following departments. Said sum to be added to previously voted appropriations for FY 10.

GENERAL GOVERNMENT

1. Town Clerk

a. Salary – Town Clerk \$731.00 by transferring \$731.00 from Surplus Revenue

ARTICLE 7 - FUNDING LABOR CONTRACTS

Voted unanimously the following sums of money to supplement the appropriations by adoption of Article 4 of the Annual Town Meeting, May 1, 2010 for the purpose of funding the cost in FY 2011 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. Police Department – New England Police Benevolent Association, Local 64

(a.) Salaries and Wages - \$64,480.00 to be raised on the FY 2011 Tax Levy

2. Dispatcher Union - New England Police Benevolent Association, Local 64

(a.) Salaries and Wages - \$7,150.00 to be raised on the FY 2011 Tax Levy

3. Fire Department - International Association of Firefighters, AFL-CIO, Local 1555

(a.) Salaries and Wages - \$43,620.00 by transferring \$9,734.00 from the Ambulance Fund

Receipts Reserved for Appropriation and \$33,886.00 to be raised on the FY 2011 Tax Levy.

4. Clerical Union - AFSCME AFL-CIO, Local 851 and to authorize the Town Accountant to allocate the funds to the various affected departments.

(a.) Salaries and Wages - \$18,800.00 by transferring \$1,028.00 from Sewer Revenue, \$1,636.00 To be raised on the FY 2011 Tax Levy.

5. Highway Division and Park Division - Council 93, American Federation of State, County & Municipal Employees AFL/CIO Local 851 and to authorize the Town Accountant to allocate the funds to the various affected departments.

- (a.) Salaries and Wages Highway Division - \$20,200.00 to be raised on the FY 2011 Tax Levy.
(a.) Salaries and Wages Park Division - \$1,382.00 to be raised on the FY 2011 Tax Levy.

6. Sewer Department - Teamsters, Chauffeurs, Warehousemen & Helpers, Local 59
(a.) Salaries and Wages - \$17,250.00 by transferring \$17,250 from Sewer Revenue.

7. Water Division - Teamsters, Chauffeurs, Warehousemen & Helpers, Local 59
(a.) Salaries and Wages - \$8,750.00 by transferring \$8,750.00 from Water Revenue.

ARTICLE 8 - TOWN CHARGES

Voted unanimously the sum of \$51,500.00 by transferring \$2,241.00 from Water Revenue, \$4,123.00 from Sewer Revenue and \$45,136.00 to be raised on the FY 2011 Tax Levy to supplement the appropriations by adoption of Article 4 of the Annual Town Meeting, May 1, 2010 for the purpose of funding the cost in FY 2011 only, of wage increases for non-union employees and to authorize the Town Accountant to allocate the funds to the various affected departments.

ARTICLE 9 – BICENTENNIAL COMMITTEE

Voted unanimously the sum of \$2,500.00 by transferring \$2,500.00 from Surplus Revenue to be used to further the work of the Bicentennial Committee in fundraising and planning celebration events and activities for the 200th Anniversary of the Town of Fairhaven in 2012.

ARTICLE 10 – COMMUNITY PRESERVATION PROGRAM DIRECT APPROPRIATIONS FROM FUND BALANCE

Voted unanimously to appropriate \$3,658.00 from Community Housing Reserve Balance for the Fairhaven Housing Authority to offset the fees and charges incurred with the property purchase at 249 and 253 Main Street.

ARTICLE 11 - LOCAL ACCEPTANCE/STRETCH ENERGY CODE

To see if the Town will vote to adopt the “Massachusetts Stretch Energy Code,” located at 780 Code of Massachusetts Regulations 120.AA, in place of certain provisions of the base building code relative to energy efficiency requirements for residential and commercial construction and renovation; or take any action related thereto.

Motion Denied

ARTICLE 12 - STREET LINE PAINTING

- A) Annual one time painting to be done in the spring instead of the fall – voted unanimously the sum of \$6,000.00 by transferring \$6,000.00 from Surplus Revenue
- B) Thermoplastic centerlines and fog lines, reflectors, to implement the recommendation of the New Boston Road Safety Audit – ***Moved to Pass Over***
- C) Painted centerlines and fog lines, reflectors to implement the recommendations of the Sconticut Neck Road Safety Audit – ***Moved to Pass Over***

ARTICLE 13 – AMENDMENT TO TOWN BY-LAWS

Voted unanimously to amend Chapter 192 of the Code of the Town of Fairhaven Section 2, by making the following changes. (Note: Strikeout language will be deleted. Bold and Italicized language will be added):

§192-2. Regulated Activities

Except as permitted by the Fairhaven Conservation Commission or as provided in this chapter, no person shall remove, fill, dredge, build upon or alter the following resource areas:

- A. ~~Within one hundred (100) feet of~~ Any freshwater **or coastal** wetland, marsh, we meadow, bog, ~~or~~ swamp; **or within one hundred (100) feet of these resource areas.**
- B. ~~Within one hundred (100) feet of~~ Any bank, **beach, creek, dune,** lake, river, pond, stream ~~or~~ estuary, **or ocean; or within one hundred (100) feet of these resource areas.**
- C. Any land under lake, river, pond, stream, ~~or~~ estuary **or the ocean.**

- D. Lands subject to flooding or inundation by groundwater or surface water, lands subject to tidal action, coastal storm flowage, or flooding; or within one hundred (100) feet of these resource areas.

ARTICLE 14 – WEST ISLAND SEWER PLANT FILTER REHABILITATION

Voted Unanimously the sum of \$15,000.00 by transferring \$15,000.00 from Sewer Retained Earnings to rehabilitate filters at the West Island Sewer Treatment Plant.

ARTICLE 15 – SEWER COLLECTION SYSTEM PUMP STATION REHABILITATION

Voted unanimously the sum of \$140,000.00 by transferring \$140,000.00 from Sewer Retained Earnings to rehabilitate sewer pump stations, including installing variable speed drives and high efficiency pump motors at Railroad Avenue, Taber and South Street, as recommended in the Bluestone Energy/NStar Energy Conservation Report,

ARTICLE 16 – EASEMENT BALSAM STREET

Voted unanimously to authorize the Board of Selectmen to accept by gift, acquire by purchase, take by eminent domain or in any other manner, acquire, upon such terms and conditions as the Selectmen deem advisable, for the purpose of the installation, use, maintenance, operation and replacement of a municipal subsurface storm drain and necessary appurtenances thereto on the following described parcel of land.

A certain easement of land being 10' wide storm drain easement on land of Beverly A. Ristuccia, Trustee of the Beverly A. Ristuccia Realty Trust. Said land is shown as Lot #18 on Land Court Plan 7432E and has a legal reference of Land Court Certificate of Title 17751. As shown on a plan entitled "Plot Plan of Land Showing Proposed 10' Wide Drainage Easement at West Island in Fairhaven, MA prepared for the Town of Fairhaven, scale 1" = 20', dated March 20, 2010 prepared by Alan Ewing Engineering, Inc."

Beginning at the northeast corner of the lot in the west sideline of Balsam Street.

Thence, South 31°-13'-00" East in line of Balsam Street a distance of 10.00 feet.

Thence, South 58°-47'-00" West to Buzzards Bay a distance of 196 feet more or less.

Thence, Northerly in line of Buzzards Bay a distance of 10 feet more or less to land now or formerly Robert W. & Alice M. McCarley.

Thence, North 31°-13'-00" East in line of last named land a distance of 197 feet more or less to the Point of Beginning.

ARTICLE 17 - CONFIRMATORY TAKING OF SHERWOOD STREET

Voted unanimously, as amended, and the sum of \$1.00 by transferring \$1.00 from Surplus Revenue, to authorize the Board of Selectmen to acquire by eminent domain under the provisions of G.L. c.79 the fee interest in Sherwood Street shown on the plan hereinafter described for the purposes of and in connection with alterations and layout of Alden Road and Bridge Street; said Sherwood Street is bounded and described as follows:

Beginning at a point in the northerly sideline of Bridge Street at the southwest corner of land shown as Map 26 Lot 72 on the plan hereinafter referred to:

Thence, N 19 12 00 W, by said Map 26 Lot 72 and Map 26 Lot 70, four hundred fifty-nine and 41/100 (459.41) feet;

Thence, S 70 48 00 W, forty (40) feet;

Thence, S 19 12 00 E, four hundred fifty-nine and 41/100 (459.41) feet to the northerly sideline of Bridge Street;

Thence, N 70 48 00 E, forty (40) feet to the point of beginning.

Containing, 18,376 square feet, more or less, or any portion or portions thereof, shown on a plan entitled "Plan of Land and Proposed Easement, prepared for T.M. Guard, LLP, 102 Alden Road, Fairhaven, Massachusetts by Charon Associates, Inc."

(Note: The plan referenced herein is on file at the Board of Public Works, 5 Arsene Street Fairhaven, Massachusetts 02719)

ARTICLE 18 - DISCONTINUANCE AND RELEASE OF INTEREST IN SHERWOOD STREET AND FOR THE ACQUISITION OF INTEREST IN REAL PROPERTY FOR THE PURPOSE OF THE ALTERATION OF THE LAYOUTS OF ALDEN ROAD AND BRIDGE STREET AS PUBLIC WAYS

Voted unanimously, as amended:

- a) To authorize the Board of Selectmen to execute all instruments deemed necessary or appropriate to discontinue the Town's interest, if any, in Sherwood Street as a public way as shown on a plan recorded in the Bristol County S.D. Registry of Deeds in Plan Book 71 Page 60 and shown on a Town of Fairhaven Zoning Plan dated October 25, 1961 (the "Plans"); and
- b) To authorize the Board of Selectmen to execute and deliver all instruments deemed necessary or appropriate by said Board including, without limitation, deeds and easements, to release and convey the Town's interest, if any, in any or all of those portions of Sherwood Street shown on a plan of land and proposed parcels, prepared for T.M. Guard, LLP by Charon Associates, Inc. dated March 23, 2010; Rev. 1 March 31, 2010 and more specifically as follows:
 - (1.) To T.M. Guard, LLP, the portion shown as parcel 3;
 - (2.) To trustees of Pasta House Realty Trust, the portion shown as parcels C-1 and C-2; and
 - (3.) To T.M. Guard, LLP, an easement in the portion shown as parcel C-1
- c) To authorize the Board of Selectmen to accept by gift or in any other manner acquire a perpetual, non-exclusive and transferable easement in the following described parcel of land:

Parcel A consisting of 3,557 square feet, more or less, and being shown on a plan entitled "Plan of Land and Proposed Easement, prepared for T.M. Guard, LLP, 102 Alden Road, Fairhaven, Massachusetts by Charon Associates, Inc."
- d) To authorize the Board of Selectmen to execute and deliver all its right, title and interest in and to that certain perpetual, non-exclusive and transferable easement in consideration and subject to the Town's acquisition of the real property interest set forth in subparagraph (e) to the Trustees of the Pasta House Realty Trust, said easement area being described as:

Parcel A consisting of 3,557 square feet, more or less, and being shown on a plan entitled "Plan of Land and Proposed Easement, prepared for T.M. Guard, LLP, 102 Alden Road, Fairhaven, Massachusetts by Charon Associates, Inc."
- e) To authorize the Board of Selectmen to accept by gift, acquire by purchase or take by eminent domain or in any other manner acquire, upon such terms and conditions as the Board of Selectmen deems advisable, by deed, easement or other instrument the necessary and appropriate property interests in any or all of the following described parcels of land for the purposes of the alteration and widening of Bridge Street and Alden Road as public ways; the construction of pedestrian sidewalks therein; and to accept or take by eminent domain or in any other manner acquire temporary construction easement(s) adjacent to the parcels hereinafter described for the purposes aforementioned. The parcels of land being described as follows:
 - i) Parcel E-1 consisting of 1,219 square feet, more or less, shown on a plan entitled "Plan of Alterations and Layouts of Alden Road & Bridge Street in Fairhaven, Mass., Prepared for Town of Fairhaven", by Bennett Engineering Inc., March 2010" (the "Plan").
 - ii) Parcel E-2 consisting of 333 square feet, more or less, shown on said Plan.

- iii) Parcel E-3 consisting of 610 square feet, more or less, shown on said Plan.

ARTICLE 19 - ACQUISITION OF INTEREST IN REAL PROPERTY FROM FAIRHAVEN HOLDINGS, LLC FOR THE PURPOSE OF THE ALTERATION OF THE LAYOUT OF ALDEN ROAD AS A PUBLIC WAY

Voted unanimously the sum of \$1.00 by transferring \$1.00 from Surplus Revenue and to authorize the Board of Selectmen to accept by gift, acquire by purchase or take by eminent domain or in any other manner acquire, upon such terms and conditions as the Board of Selectmen deems advisable, by deed, easement or other instrument, the necessary and appropriate real property interests in the following described parcels of land for the purpose of the alteration and widening of Alden Road as a public way; the construction of pedestrian sidewalks in said parcel; to accept by gift, acquire by purchase or take by eminent domain or in any other manner acquire a temporary construction easement adjacent to the parcel hereinafter described; the parcel of land being described as follows:

- i) Parcel E-6 consisting of 316 square feet, more or less, shown on a plan entitled “Plan of Alterations and Layouts of Alden Road & Bridge Street in Fairhaven, Mass., Prepared for Town of Fairhaven”, by Bennett Engineering Inc., March 2010”.

(Note: The Plan referenced to herein is on file at the Fairhaven Board of Public Works, 5 Arsene Street, Fairhaven, Massachusetts 02719.)

ARTICLE 20 - ACQUISITION OF INTEREST IN REAL PROPERTY FROM OTTAWAY NEWSPAPERS, INC. FOR THE PURPOSE OF THE ALTERATION OF THE LAYOUT OF ALDEN ROAD AND BRIDGE STREET AS PUBLIC WAYS

Voted unanimously and the sum of \$1.00 by transferring \$1.00 from Surplus Revenue and to authorize the Board of Selectmen to accept by gift, acquire by purchase or take by eminent domain or in any other manner acquire, upon such terms and conditions as the Board of Selectmen deems advisable, by deed, easement or other instrument, the necessary and appropriate, real property interests in the following described parcels of land for the purpose of the alteration and widening of Bridge Street and Alden Road as public ways; the construction of pedestrian sidewalks in said parcels; to accept by gift, acquire by purchase or take by eminent domain or in any other manner acquire temporary construction easements adjacent to the parcels hereinafter described; the parcels of land being described as follows:

- i) Parcel E-5 consisting of 4,363 square feet, more or less, shown on a plan entitled “Plan of Alterations and Layouts of Alden Road & Bridge Street in Fairhaven, Mass., Prepared for Town of Fairhaven”, by Bennett Engineering Inc., March 2010”.
- ii) Parcel T-1 consisting of 2,031 square feet, more or less, shown on said Plan.

(Note: The Plan referenced to herein is on file at the Fairhaven Board of Public Works, 5 Arsene Street, Fairhaven, Massachusetts 02719.)

ARTICLE 21 - ACQUISITION OF INTEREST IN REAL PROPERTY FROM BRIDGEWATER CREDIT UNION FOR THE PURPOSE OF THE ALTERATION OF THE LAYOUT OF ALDEN ROAD AND BRIDGE STREET AS PUBLIC WAYS

Voted unanimously and the sum of \$1.00 by transferring \$1.00 from Surplus Revenue and to authorize the Board of Selectmen to accept by gift, acquire by purchase or take by eminent domain or in any other manner acquire, upon such terms and conditions as the Board of Selectmen deems advisable, by deed, easement or other instrument, the necessary and appropriate real property interests in the following described parcels of land for the purpose of the alteration and widening of Bridge Street and Alden Road as public ways; the construction of pedestrian sidewalks in said parcels; to accept by gift, acquire by purchase or take by eminent domain or in any other manner acquire temporary construction easements adjacent to the parcels hereinafter described; and to

appropriate the sum of \$1.00 if the Town shall take the same in eminent domain; the parcel of land being described as follows:

- i) Parcel E-7 consisting of 719 square feet, more or less, shown on a plan entitled “Plan of Alterations and Layouts of Alden Road & Bridge Street in Fairhaven, Mass., Prepared for Town of Fairhaven”, by Bennett Engineering Inc., March 2010”.

(Note: The Plan referenced to herein is on file at the Fairhaven Board of Public Works, 5 Arsene Street, Fairhaven, Massachusetts 02719.)

ARTICLE 22 – FUNDING ALDEN ROAD/BRIDGE STREET ALTERATION

Voted unanimously and the sum of \$10,000.00 by transferring \$10,000.00 from Surplus Revenue to pay for such costs as the Town may incur for the purpose of the widening of the intersection of Bridge Street and Alden Road, including but not limited to costs incurred by the Town in the performance of its obligations under an agreement for the transfer of land for that project.

ARTICLE 23 - STREET ACCEPTANCE OF A PORTION OF ALDEN ROAD AND BRIDGE STREET

Voted unanimously to accept the layout of Alden Road and Bridge Street as public ways described as follows:

Alden Road and Bridge Streets as shown on a plan entitled “Plan of Alterations and Layouts of Alden Road and Bridge Street in Fairhaven, MASS., prepared for Town of Fairhaven”, dated March 19, 2010, Scale 1”=50’ by Bennett Engineering Land Surveying, Engineering & Development Services; or to take any other action relative thereto.

ARTICLE 24 – WASTEWATER TREATMENT FACILITY IMPROVEMENTS

Voted unanimously the sum of \$450,000.00 by transferring \$450,000.00 from Sewer Retained Earnings to fund the construction of Operations, Sludge and UV building improvements; including either a groundsource district HVAC system, or a conventional HVAC system; and roof improvements.

ARTICLE 25 - WATER DISTRIBUTION SYSTEM REHABILITATION

Voted unanimously and the sum of \$362,000.00 by transferring \$225,000.00 from the May 2, 2009 Annual Town Meeting, Article 6-A. – Water Distribution System Rehabilitation, \$47,000.00 from the May 2, 2009 Annual Town Meeting Article 6-C – Water Distribution System Rehabilitation and \$90,000.00 from the May 3, 2008 Annual Town Meeting Article 13-A – Sconticut Neck Water Tank, to be used to rehabilitate the water distribution system, including but not limited to:

Replacement of certain water appurtenances (valves, hydrants, etc.) in preparation for Massachusetts Department of Transportation funded reconstruction of roadway and signals and cement lining at locations: on Huttleston Avenue, from Middle Street to Adams Street; and the intersection of Bridge Street and Alden Road; or to take any other action relative thereto

ARTICLE 26 –OTHER BUSINESS

None

Motion to adjourn sine die at 10:30 AM on Saturday, May 1, 2010. Seconded.

Eileen M. Lowney
Town Clerk