



Fairhaven Planning Board

Town Hall · 40 center Street · Fairhaven, MA 02719

PUBLIC MEETING MINUTES

Tuesday, August 25, 2026 at 6:30PM

1) GENERAL BUSINESS:

- a) Welcome and Media notification
- b) Pledge of Allegiance
- c) Quorum/Attendance
 - **Present** – Jessica Fidalgo, Sean Powers, Mona Phillips, Patrick Carr, Ruy Dasilva, Jenn Cardoza
 - **Zoom** – Miles Grant
 - **Absent** – Kevin grant
- d) **Meeting minutes draft to be reviewed- 7/28/2026**
 - Clarification given on an incorrect name stated in minutes and will be corrected.
 - The chair emailed Danielle earlier noting minutes should reflect that Pat recused himself rather than abstained for clarity.

Motion made by Mona Phillips to accept meeting minutes from 7/28/2026 with corrected edits seconded by Sean Powers. Roll call Vote:

Ayes: – Jessica Fidalgo, Sean Powers, Mona Phillips, Jenn Cardoza, Miles Grant

Nays: None

Abstentions: Ruy Dasilva, Patrick Carr

Action: vote passed 5/0/2.
- e) **Correspondence:**
 - i. **Pat Carr agenda request distributed to the board for discussion on September 8, 2026 meeting**
 - The Chair acknowledged receipt of multiple emails from Board Member Patrick Carr, which were distributed to the full Board for review. The correspondence included two formal requests for items to be placed on a meeting agenda, along with corresponding questions.
 - The Chair announced that all of Mr. Carr's requests would be deferred to the September 8, 2026 meeting because the Board had not had sufficient time to review them. The Chair noted that one email had been sent that afternoon and others contained opinion-based statements that could not legally be shared with the entire Board prior to a public meeting under Open Meeting Law guidelines. The Chair stated all materials were distributed together tonight and would be discussed at the next meeting.
 - Mr. Carr strongly disagreed with the postponement, stating that these constituted formal requests that had been pending for over four months, with some dating back to November of the previous year. The Chair maintained that the decision would stand and the items would be placed on the September 8 agenda.
 - The Chair declined to recognize further input on the matter from Mr. Carr. When Mr. Carr continued to voice opposition, the Chair declared him out of order. The Chair issued a warning that the meeting would be placed into recess if the interruptions continued.

- Upon continued objection from Mr. Carr, the Chair called a five-minute recess at 6:37 PM. The meeting resumed at 6:42 PM.
- Following the recess, Mr. Carr attempted to introduce a motion to recognize as a Planning Board member who had repeatedly requested to be placed on the agenda, including for a previously canceled meeting. The Chair ruled the motion out of order, stating the issue had already been addressed. Mr. Carr contested the ruling, citing Robert's Rules of Order to assert that any Board member has the right to make a motion at any time. The Chair counter-asserted the Chair's authority to rule motions out of order.
- Mr. Carr maintained that his motion remains on the floor and subsequently attempted to bring forward a privileged motion, stating it raised urgent, important matters unrelated to pending business. The Chair ruled the privileged motion out of order. Mr. Carr stated that additional Open Meeting Law violations would be filed, alleging that the Chair was interrupting and talking over a member. The Chair responded that the member was refusing to listen to the Chair's directives.
- No vote or further action was taken on the matter.

ii. Town of Mattapoissett

- Chair mentions a hearing notice received from the Town of Mattapoissett; notes the meeting already occurred on the 17th.
- A member asks if anyone attended that meeting; states they watched it virtually, found it informative, and recommends others watch the recording due to potential implications.

2) PUBLIC HEARING: NONE

3) RECEIPT OF PLANS: NONE

4) NEW/OTHER BUSINESS:

a) Open Meeting Law Complaints.

i. Ruy DaSilva

- The Chair announced that no public hearings or applications were before the Board, and moved to new business regarding two Open Meeting Law complaints submitted by Board Member Ruy DaSilva. The Chair noted that the first complaint was not submitted on the proper official form, but out of respect to the Board, both would be addressed.
- Mr. DaSilva's complaint argued that the potential Open Meeting Law violation stemmed from soliciting member opinions electronically. They noted the poll did not merely ask for scheduling availability or transmit an agenda, but explicitly asked members whether they supported holding a meeting, which they asserted constitutes an unlawful electronic deliberation on Board business.
- Discussion notes that the August 11 meeting was part of an official schedule unanimously voted on by the full Board back in February 2026. No prior discussions or votes had occurred to cancel or alter that meeting date, and outstanding Board business existed.
- Board members Jennifer Cardoza and Patrick Carr had both recently requested specific subjects to be placed on the August 11 agenda for full Board discussion.

- The complaint alleges that the Chair individually announced the cancellation of the August 11 meeting to members, citing a "lack of pending applications," without a prior public discussion or vote. The Chair then initiated an electronic poll regarding the cancellation after the announcement had already been made.
- Mr. DaSilva expressed that he felt uncomfortable and pressured by the circumstances of being asked to cast a position electronically outside of an open meeting, asserting that meeting cancellations are Board business that must comply with the Open Meeting Law.
- The complaint notes that the Planning Director later reported the results of the electronic poll, stating that three members voted cancellation in the poll, one verbally voted cancellation, two voted to proceed and one member did not respond.
- Mr. Carr stated that despite this being an eight-member board, he was entirely excluded from the electronic poll and did not receive it, while other standing members were polled.
- A verbal disagreement continued when the Chair interrupted Mr. Carr's comments. Mr. Carr called a point of order, stating he had the floor and accusing the Chair of attempting to shut down discussion on the active complaint.
- The Chair ordered the Mr. Carr to keep comments strictly germane to the text physically written within the three-page Open Meeting Law complaint form sent by Mr. DaSilva. The Chair asserted that the Attorney General's form limits text fields to 3,000 characters to keep complaints concise, and argued that external attachments are not permitted to extend past that limit.
- Mr. Carr contested the Chair's assertion, stating that the documentation they were reading from was actively attached to the complaint form to provide necessary context when space is limited.
- Following a continued exchange regarding the admissibility of attachments under Attorney General rules, the Chair declared the discussion out of order.

Ms. Fidalgo made a motion to table the Open Meeting Law conversations until the Board could obtain advice from Town Counsel regarding what the Attorney General's office accepts as part of a complaint. Seconded by Ms. Phillips. Roll call vote:

Ayes: Jessica Fidalgo, Sean Powers, Mona Phillips, Miles Grant

Nays: Jenn Cardoza, Patrick Carr, Ruy Dasilva

Abstentions: None

Action: Passed 4/3/0

ii. Patrick Carr

iii. Jenn Cardoza

b) Battery Storage Discussion (Cardoza)

- Michaela sent an email on the afternoon of August 25, 2026 announcing that the state has finalized a new "best template" for battery storage bylaws, superseding a previous version from October 6, 2025.

- This new state deliverable also included a model photovoltaic bylaw template, with a state goal of streamlining the two into a single process.
- A member noted that, to their knowledge, new large-scale photovoltaic projects cannot be built without accompanying battery storage.
- The board's current bylaw treats battery storage as an accessory use to solar photovoltaic systems.
- The conversation highlighted a shift in focus toward residential and retail-level battery storage, which is seen as a key component of the "Affordability Act."
- Final guidance and explicit instructions for residential zoning or permitting changes are not expected until the state legislature resolves related bills in committee, with a deadline of January.
- A suggestion was made to create a PowerPoint presentation to provide a clear overview for the public.
- It was noted that the standard process is to consult with the board before approaching department heads. The current draft appears to assign most oversight to the Building Commissioner.
- A key question was raised: should the town create a new, comprehensive battery storage bylaw or amend the existing solar photovoltaic bylaw?

c) Committee Reports

- A brief status update was given on CPC, noting it is not yet receiving FY28 applications but should be ready soon.
- SRPEDD meeting will be held at the Fall River Country Club and the main event will start at 6:15 PM.
- The Livable Streets meeting provided an update on the bike path repaving project is nearing completion.

d) Any other business that may properly come before the Board, not reasonably anticipated when posting 48 hours prior to this meeting.

5) LONG RANGE PLANNING:

- The Chair acknowledged forgetting to add the bylaw update discussion to the agenda as previously promised to Pat.
 - The Planner, from Town Council, received the email and has an update on the matter, including suggestions from Pat.
 - The Planner had previously redlined the bylaws, highlighting areas that need alignment with or might conflict with the state's new laws.
 - Town Council has redlined version and is preparing their own legal review, which will be the foundation for discussion at the next meeting.
 - In addition, Mr. Carr has proposed a more extensive rewrite of the bylaws. The board will decide how to proceed with these different versions.
 - Mr. Carr raised a procedural objection, stating that this topic was not on the agenda, which is an example of why policies and procedures need to be discussed.
 - The Chair defended the informational update, stating no decisions were being made and that the update came from the relevant department as previously requested.
- a) MIT Dept of Urban Studies and Planning seeking to partner with a coastal community interested in resilience zoning. Letter of interest due 8/31.**
- MIT is seeking a coastal community interested in receiving free, cutting-edge planning work to improve building and zoning codes for coastal resilience.

- The one-year grant program aims to find financially feasible ways to allow housing development while making it more resilient to coastal storms and sea-level rise.
- The board expressed excitement, noting the town's vulnerability and the recent Harbor Plan which highlights flooding risks, particularly around Sconticut Neck.
- To strengthen the application, it was suggested that the community must demonstrate a willingness to take action and pilot changes.

b) Citizenserve Permitting Software project

- Fairhaven received a grant to improve the building permit process, which includes new software to integrate planning and conservation forms online.
- The project has a roughly six-month timeframe; the vendor has received all necessary forms and a project management meeting is pending.
- The current software (Permiteyes) is not set up to properly track ADUs, mixing them with other building permits.

c) 40R Update

- The Attorney General's office submitted the approved four-year smart growth district bylaw on July 29, 2026.
- This form was then submitted to the Massachusetts Executive Office of Housing and Livable Communities on August 5, 2026.
- The Planner is awaiting a final confirmation letter, which was expected within a few weeks of August 5th, to officially conclude the 40R process.
- A staff update was provided regarding the Historic Commission's work developing a plan to create an inventory of historic buildings.
- The goal is to enable data analysis of the town's buildings by different time frames or other criteria.
- The primary challenge in tracking ADUs is a data system limitation.

d) ADU site visits

- The Planner is seeking recommendations for ADUs to conduct site visits to understand their implementation.
- It was suggested that a public approach would be better, such as:
 - Asking people during the public meeting if they know anyone willing to showcase their ADU.
 - Creating a social media post or an article in the "Neighborhood News" asking residents who have added an ADU to come forward.
- It was clarified that while ADUs are permitted "by-right," homeowners still go to the building department for a permitting process. ADUs are recorded in the Permiteyes system, but not as a distinct field.
- The state government is expected to begin collecting data on ADUs since they became by-right, but this process has not yet started.

6) NEXT MEETING: September 8, 2026 @ 6:30PM

ADJOURN: There being no further business before the board, the meeting is adjourned.

- Meeting adjourned @ 8:05PM

Exhibit A: Meeting Minutes Titled - *2026-7-28 Planning Board Minutes.docx*

Exhibit B: Correspondence - *Patrick_Carr_Response_to_Chair_Fidalgo_UPDATED_August_25_2026.pdf*

Exhibit C: Correspondence Titled - *Staff update_ Community Partners Sought for MIT Resilient Zoning Project.pdf*

Exhibit D: Correspondence Titled - *town of mattapoisett 8-11-2026.pdf*