



FAIRHAVEN SELECT BOARD

Meeting Minutes

March 9, 2026

FAIRHAVEN TOWN CLERK
RCUD 2026 MAR 24 AM 9:02

Present: Charles Murphy Sr., Natalie A. Mello, Keith Silvia, Andrew Saunders and Keith R. Hickey

Present via zoom: Andrew Romano, joined Open Session at 6:45pm

Mr. Murphy opened the Select Board meeting at 6:05pm

A moment of silence was observed for local fisherman Truett "Gene" Holcomb who tragically passed away last week in an accident. Please keep his family in your thoughts.

Mr. Murphy advised that Mr. Romano will join Open Session remotely after Executive Session.

EXECUTIVE SESSION

Motion: Mr. Saunders motioned to enter Executive Session Pursuant to G.L. c. 30A, § 21(a)(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares (Atlas Tack) **and to return to Open Session.** Ms. Mello seconded. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy and Mr. Silvia in favor. The motion passed unanimously (4-0-0).

The Select Board adjourned to Executive Session from 6:08pm to 6:45pm

Mr. Romano joined Open Session via Zoom at 6:45pm

APPOINTMENTS / COMMUNITY ITEMS

Update on Town Charter: Review Comments on Charter by Massachusetts Legislature with Town Counsel

Atty. Heather White of Petrini & Associates addressed the Board regarding comments provided from the state legislature on the Town Charter (*Attachment A*), most are stylistic and some are policy-related. Atty. White summarized steps taken, meeting with the senate council, meeting with the Charter Committee and reviewed the provisions and suggested changes with the Board to discuss if the suggestions were in line with the Charter Committee's position.

Discussion ensued on sections ix and x on page 5, section 3-3 on page 14, page 21, 23-24, 26-27, and 35. The Board was in consensus with the Charter Committee's position. Atty. White advised the Board that the Town Meeting vote included allowing the legislature to make changes as to form and, in her opinion, the recommended changes are in line with that authorization where they are necessary for consistency with state law. The next step is for Atty. White to send the comments back and wait to see if it makes it through to complete the process to be in time for a ballot question.

Winter Storm Hernando: After-Storm Action Review

Mr. Murphy acknowledged the concerns brought forth to the Board regarding the blizzard and said while there is always room for improvement, Fairhaven's Public Works, Police, Fire, and many other dedicated staff members approached storm preparation and recovery efforts with the shared goal of restoring the Town to normal operations as quickly and safely as possible. The Blizzard of '26, resulted in record snowfall across the South Coast region, with many communities in our area receiving in excess of 30 inches of snow. This storm also followed closely on the heels of a significant snowfall event at the end of January with approximately 13 inches of snow in our area.

Mr. Hickey addressed the Board and provided an overview of the Town's operations and response throughout the storm, the challenges and conditions as the storm progressed, safety concerns and changing conditions, emergency management efforts led by Public Safety and Public Works in coordination with the School Department and other departments' staff, emergency shelter space, priority items identified and discussed by the Town's response team on twice daily calls to review and address issues, infrastructure breakdown due to loss of power and generator not auto-starting, internet loss and inability for several hours to access Town Hall to restart power and internet which is

the backbone of the phone system.

Town Department heads met on Monday, March 2, 2026 to assess and discuss improvements for moving forward. Priority items included educating about the reverse 911 notification system to help counter misinformation and looking to build in redundancies to support generators and communication systems with grant funds wherever possible. He thanked residents for dealing with the challenges; this was not the typical winter storm we plan for.

Public Comment:

Vincent Manfredi of Houle Street addressed the Board, he thanked Mr. Hickey and staff and mentioned safety concerns about kids walking to the Middle School along Adams Street and a portion of the Dana Farms property on Adams Street and overpasses and corners with large piles of snow that are not cleared. He expressed frustration with conflicting referrals from police to public works and public works to the police. Anything that can be done to improve the situation is appreciated.

Bob Pink of Gull Island Road addressed the Board. He personally commended public safety for their prudence; they had to make hard decisions. Mr. Pink said he was in the middle of it and saw how they worked to provide access for citizens and employees.

The Board shared their perspective, personal stories about residents needing to use the shelter and being welcomed. They thanked Department Heads, staff and those who worked around the clock, neighbors who helped neighbors, shelter support for those who needed it and encouraged those not on the reverse 911 notification system to sign up.

Consider Proposed Building Department Fee Changes

Building Commissioner Rick Forand addressed the Board and reviewed the proposed permit fee changes. The Board last reviewed in 2023. The Board asked clarifying questions about the proposed changes to the fee structure.

Motion: Mr. Saunders motioned to adopt the proposed Building Department Fees as presented. Ms. Mello seconded. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy, Mr. Silvia and Mr. Romano in favor. The motion passed unanimously (5-0-0).

Motion: Mr. Saunders motioned to adopt the proposed Building Department Fees effective no earlier than April 1, 2026. Ms. Mello seconded. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy, Mr. Silvia and Mr. Romano in favor. The motion passed unanimously (5-0-0).

Motion: Mr. Saunders motioned to take action/discussion item D2 out of order. Ms. Mello seconded. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy, Mr. Silvia and Mr. Romano in favor. The motion passed unanimously (5-0-0).

Ratify Collective Bargaining Agreement: Police: New England Police Benevolent Association (NEPBA),

Mr. Hickey and Chief Dorgan addressed the Board regarding the Successor Agreement for the Police Unit effective July 1, 2025 through June 30, 2028 and asked the Board to consider ratifying the Agreement. The terms are consistent with other CBAs that have been ratified; the agreement contains other minor language changes, elimination of sick leave buyback, holiday benefit to volunteer for certain holidays and an adjustment to detail rates to be competitive with other towns. Mr. Hickey advised the FY26 cost is approximately twenty-three thousand dollars and is covered by wage reserve funds already appropriated.

Motion: Mr. Saunders motioned to ratify the Successor Agreement between the Town of Fairhaven and the New England Police Benevolent Association (NEPBA), Local 64. Ms. Mello seconded. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy, Mr. Silvia and Mr. Romano in favor. The motion passed unanimously (5-0-0).

Appointment Request: Capital Planning Committee, Open Space Representative: Don Collasius

Don Collasius addressed the Board about his interest in being appointed to the Capital Planning Committee, his professional experience with capital monies and experience from being the Tree Warden. The Board asked clarifying questions about the Capital Planning Committee meetings. Mr. Hickey said the Committee has met for the last time before Annual Town Meeting and may change in the future to monthly meetings.

Motion: Mr. Saunders motioned to appoint Don Collasius to the Capital Planning Committee, open space representative for a term through May, 2029. Ms. Mello seconded. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy, Mr. Silvia and Mr. Romano in favor. The motion passed unanimously (5-0-0).

Event Request: 20th Annual Watershed Ride: Sunday, October 4, 2026

The Board reviewed the request.

Motion: Mr. Saunders motioned to approve the use of public roads in Fairhaven and placement of signs for the Buzzards Bay Coalition’s 20th Annual Watershed Ride on Sunday, October 4, 2026 contingent upon the approval of Police, Fire, Building and Public Works. Ms. Mello seconded. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy, Mr. Silvia and Mr. Romano in favor. The motion passed unanimously (5-0-0).

PUBLIC COMMENT

Erin Carr of Main Street addressed the Board and asked for the full investigation to be released to the public, it was paid for by the tax payers, the report is vague and open to interpretation. For example, line seven states “several people” and that leaves it open to interpretation. Others should be held accountable; the Neighborhood News is capitalizing on the ambiguity and if someone is guilty the public should know, should have more than the executive summary.

Bob Espindola of John Street addressed the Board via Zoom, he said he would like to make the same request as the prior speaker for the full report. In the spirit of openness and transparency, the full details should be released to the extent possible and he wanted to make that formal request.

ACTION / DISCUSSION

Discussion on Closing a Section of the Bike Path Abutting the Atlas Tack Property

Mr. Hickey addressed the Board about closing a portion of the bike path on South Street due to potential debris that could land on or come to rest on a portion of the bike path should the structure collapse (*Attachment B*).

Discussion ensued and the Board asked clarifying questions on the area to be closed, one homeowner on South Street that would have access to get to their property, signage on the closure, the use of jersey barriers for the detour and clarification on the building code and amount of clearance required for the fence.

Motion: Mr. Saunders motioned to the temporary closure of a portion of the bike path on a portion of South Street that abuts the Atlas Tack property. Individuals using the bike path will be diverted onto South Street at the beginning of the bike path closure and will reenter the bike path at the end of the portion closed. In addition, while a section of the bike path is closed, South Street will be closed to all vehicular traffic. Ms. Mello seconded. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy, Mr. Silvia and Mr. Romano in favor. The motion passed unanimously (5-0-0).

Pledge of Collateral, All Alcohol Beverage License: Bitter Wallace, Inc. d/b/a The Bitter End to Bay Coast Bank

Bitter Wallace, Inc. d/b/a The Bitter End has applied for a Pledge of Collateral for their All Alcohol License to Bay Coast Bank. The Board clarified that this application does not require a public hearing.

Motion: Mr. Saunders motioned to approve the pledge of collateral for their All Alcohol License from Bitter Wallace, Inc. d/b/a The Bitter End to Bay Coast Bank as presented. Ms. Mello seconded. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy, Mr. Silvia and Mr. Romano in favor. The motion passed unanimously (5-0-0).

Consider Amending Town Hall Business Hours: Monday 7:30am-6:00pm, Tuesday through Thursday 7:30am-4:30pm and Friday 7:30am-11:30am

Mr. Hickey reviewed the details of the side letter of agreement signed between the Town and AFSCME, the collective bargaining unit for clerical staff. The agreement would modify their members working hours, the working hours would change allowing the Town Offices to open at 7:30am Monday through Friday and remain

open until 6:00pm on Monday and close at 11:30am on Friday. The change would increase the number of hours Town Hall is open from 40 hours per week to 41.5 and also includes a 6:00pm closure on Mondays.

Motion: Mr. Saunders motioned to amend Town Hall hours as presented. Ms. Mello seconded.

The Board asked to clarify the effective date of the change, brief discussion ensued and the consensus was to make the change effective Monday, March 23, 2026.

Motion: Mr. Saunders amended his motion to amend Town Hall hours as presented effective Monday, March 23, 2026. Ms. Mello amended her second. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy, Mr. Silvia and Mr. Romano in favor. The motion passed unanimously (5-0-0).

Discussion on Select Board Waiving Their Compensation for FY2027

Mr. Silvia addressed the Board and asked the Board to waive their stipends for FY2027. He explained that FinCom has been reviewing the budget and if the residents will be asked to consider an override and the Board supports without compensation that would be about thirty-four thousand back into the budget.

Discussion ensued regarding whether this was for one fiscal year, if it would be contingent upon an override, whether to table until after the election in June, whether this would impact a volunteer motivated by the stipend, does Town Meeting need to vote on it and what the deadline is to have on the warrant.

Mr. Hickey proposed voting on FY27 effective July 1, 2026 and then revisiting with the new Board after election.

Motion: Mr. Saunders motioned to waive Select Board compensation for FY27 and recommend the Finance Committee not include the stipend amount in the FY27 budget. Mr. Silvia seconded. Roll Call Vote. Mr. Saunders in favor, Ms. Mello in favor, Mr. Murphy abstained, Mr. Silvia in favor and Mr. Romano opposed. The motion passed (3-1-1) Mr. Murphy abstained and Mr. Romano opposed.

TOWN ADMINISTRATOR REPORT

Mr. Hickey reported:

- FY27 budget discussions continue, the Finance Committee continues to meet. Mr. Hickey recommends a joint meeting on a Saturday to deliberate the budget with and without an override. He will propose the date to the Finance Committee and check availability. Some line items have changed due to revisions received from Bristol Agricultural High School, Greater New Bedford Vocational High School, the Library and Medicare adjustments. Mr. Hickey continues to work with the departments to identify areas for cuts.

The Board agreed to hold a joint meeting with the Finance Committee.

- The blizzard cost estimate is at about one million dollars. Normal day-to-day expenses are not recoverable and the Town is applying for reimbursement from the state and an article will be added to the warrant. Reimbursement amount notification

BOARD MEMBER ITEMS / COMMITTEE LIAISON REPORTS

Mr. Saunders had no updates or meeting updates to report.

Ms. Mello reported:

- She attended the SRPEDD meeting in Mr. Romano's place. Representative Sylvia presented updates on his work and upcoming projects. There was a Q&A and the Chair of SRPEDD is calling on the state to slow down on mandates.
- The Historical Commission met, discussed the struggle of a thirty-three percent budget cut. Work at the Academy Building will begin soon.

Mr. Murphy reported:

- Lagoa met, the Chair designed a brochure that was distributed at the Fairhaven birthday celebration. Ms. Botelho also participated in the birthday celebration from Portugal.

- Mr. Murphy thanked Todd Migliacci for his support onsite at the event

Mr. Silvia had no updates or meeting updates to report.

Mr. Romano reported:

- No meetings to report on.
- He thanked the Belonging Committee and the Commission on Disability for promoting snow removal across Town. He also thanked Ms. Mello for stepping on at the SRPEDD meeting.

MINUTES

Motion: Mr. Saunders motioned to accept the open session minutes of February 22 and February 23, 2026, 2026 as presented. Ms. Mello seconded. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy, Mr. Silvia and Mr. Romano in favor. The motion passed unanimously (5-0-0).

CORRESPONDENCE

Email: Michelle Costen: Weekly-Town of Fairhaven Podcast (*Attachment C*).

Motion: Mr. Saunders motioned to enter the Select Board correspondence as listed into the record. Ms. Mello seconded. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy, Mr. Silvia and Mr. Romano in favor. The motion passed unanimously (5-0-0).

Mr. Romano addressed the Board via Zoom and said that he was not on for the first item and wanted to give a shout out to the citizens, the Belonging Committee and other committees that orchestrated snow removal at bus stops and sidewalks.

NEWS AND ANNOUNCEMENTS

The next regularly scheduled Select Board meeting will be on ***Monday, March 23, 2026*** at 6:30pm

Mr. Murphy added a final thought: "At the end of the day, we all share the same goal: a safe, well-served community. Continued collaboration and communication will help us build on what has worked and improve where we can."

Pat Carr addressed the Board and said Mr. Silvia had emergency appendix surgery, left the hospital and wanted to be at this meeting and commended his action on the stipends.

Motion: Mr. Saunders motioned to enter into Executive Session Pursuant to G.L. c. 30A, s. 21(a)(1) to discuss results of complaints regarding the constructive approval of the Timothy/Hiller Subdivision under the Former Land Use & Planning Director. And not to return to Open Session. Ms. Mello seconded. Roll Call Vote. Mr. Saunders, Ms. Mello, Mr. Murphy, Mr. Silvia and Mr. Romano in favor. The motion passed unanimously (5-0-0).

Meeting adjourned to Executive Session at 8:31pm

ATTACHMENTS

- A. Town Charter Comments from state legislature
- B. Bike Path Abutting Atlas Tack Property, Proposed closure section map
- C. Correspondence: Email: Michelle Costen: Weekly-Town of Fairhaven Podcast

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

Accepted on March 23, 2026

A

HOUSE DOCKET, NO. 4825 FILED ON: 6/13/2025

HOUSE No. 4232

The Commonwealth of Massachusetts

PRESENTED BY:

Mark D. Sylvia and Mark C. Montigny

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the charter of the town of Fairhaven.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Mark D. Sylvia</i>	<i>10th Bristol</i>	<i>6/13/2025</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>6/13/2025</i>

HOUSE No. 4232

By Representative Sylvia of Fairhaven and Senator Montigny, a joint petition (accompanied by bill, House, No. 4232) of Mark D. Sylvia and Mark C. Montigny (by vote of the town) relative to the charter of the town of Fairhaven. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act establishing the charter of the town of Fairhaven.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The following shall be the charter for the town of Fairhaven:

2 ARTICLE I – INCORPORATION & POWERS OF THE TOWN

3 Section 1-1 Authorities and Understandings

4 This charter defines the government structure under which the town of Fairhaven
5 operates, creates local offices, distributes powers, duties and responsibilities among local offices
6 and establishes and defines certain procedures to be followed by the town of Fairhaven.

7 Section 1-2 Incorporation

8 The town of Fairhaven, Massachusetts, within its territorial limits as now or may
9 hereafter be established by law, shall continue to be a body politic and corporate, known as the
10 town of Fairhaven.

11 Section 1-3 Short Title

12 This document shall be known and may be cited as the Town of Fairhaven Charter. For
13 the purposes of this document, it is referred to as "the charter."

14 Section 1-4 Division of Powers

15 The administration of the fiscal, prudential and municipal affairs of the town of
16 Fairhaven, with the government thereof, shall be vested in a representative town meeting-select
17 board-town administrator form of government.

18 Section 1-5 Powers of the Town

19 Subject only to express limitations on the exercise of any power or function by a
20 municipal government under the constitution of the commonwealth or the General Laws, it is the
21 intent and purpose of the voters of the town of Fairhaven, through the adoption of this charter
22 and its amendments to secure for the town all the powers possible to secure under the
23 constitution and statutes of the commonwealth, as fully as completely as though each such power
24 were specifically and individually enumerated herein.

25 Section 1-6 Interpretation of Powers

26 The powers of the town under this charter shall be construed and interpreted liberally in
27 favor of the town and the specific mention of any particular power is not intended to limit in any
28 way the general powers of the town as stated in section 1-5. To the extent that any provision of
29 this charter shall conflict with any local option law adopted by the municipality or special law to
30 the contrary, the provision of this charter shall prevail.

31 Section 1-7 Intergovernmental Relations

32 Consistent with any constitutional or statutory provisions, the town may exercise any of
33 its powers or perform any of its functions, and may participate in the financing thereof, jointly or
34 in cooperation, by contract or otherwise with any 1 or more municipalities, civil divisions, sub-
35 divisions or agencies of the commonwealth, other states or of the United States government.

36 ARTICLE II – EXECUTIVE BRANCH

37 Section 2-1 The Select Board

38 (a) Composition and Term of Office

39 The select board, consisting of 5 members, shall be elected at large for 3 years
40 overlapping terms. The general election for the office of select board members shall be held in
41 accordance with the provisions of the General Laws. Vacancies in the office of the select board
42 shall be filled by special election in accordance with provisions of the General Laws. At the first
43 meeting following the annual town election, the select board shall elect a chair, vice-chair and
44 clerk from among its members.

45 (b) General Powers

46 The executive powers of the town shall be vested in the select board, who shall have all
47 the powers given to select boards by the General Laws, except for those executive powers
48 granted to the town administrator. The select board shall serve as the chief goal-setting and
49 policy-making agency of the town. The duties and responsibilities for day-to-day management of
50 the town shall be delegated to the town administrator. The select board shall act through the
51 adoption of policy directives and guidelines which shall be implemented by the town
52 administrator and the officers and employees appointed by, or under the authority of, the select

53 board. Individual select board members shall not purport to represent the select board or exercise
54 the authority of the select board except when specifically authorized by the select board.

55 The select board shall:

56 (i) enact rules and regulations to implement policies and to issue interpretations;

57 (ii) exercise directly or through the town administrator, general supervision over all
58 matters affecting the interests or welfare of the town;

59 (iii) appoint town counsel, special counsels and all members of committees, boards and
60 commissions including appointments to temporary posts and committees created for special
61 purposes other than: (1) appointments to the finance committee which shall be made as set forth
62 in subsection (a) of section 5-1; (2) appointments made by the town moderator; and (3)
63 appointments made under the jurisdiction of the school committee or of the board of public
64 works;

65 (iv) have administrative oversight of such boards, committees and commissions
66 appointed by the select board;

67 (v) have the responsibility and authority for licenses and other quasi-judicial functions as
68 provided by the General Laws and by the by-laws of the town of Fairhaven;

69 (vi) issue all town meeting warrants;

70 (vii) review the annual proposed budget submitted by the town administrator and make
71 recommendations or changes with respect to the annual proposed budget as the select board
72 deems advisable; provided, however, that the town administrator shall present the budget to the
73 town meeting, incorporating the decisions of the select board;

74 (viii) appoint, and may re-appoint, and enter into a contract for the employment of a town
75 administrator, for a term of not more than 3 years, who shall be a person with executive and
76 administrative qualifications and especially fitted by education, training and experience to
77 perform the duties of the office; provided, however, that the town may from time to time, in its
78 by-laws, establish such additional qualifications as it deems necessary and appropriate; provided
79 further, that appointment and re-appointment of the town administrator shall require 4 members
80 voting in the affirmative, except that in the event of a member's recusal, only 3 affirmative votes
81 shall be required;

82 (ix) discipline the town administrator at any time, for just cause, including a written
83 notice and opportunity to appeal; provided, however, that disciplinary action against the town
84 administrator shall require 4 members voting in the affirmative, except that in the event of a
85 member's recusal, only 3 votes in the affirmative shall be required;

86 (x) remove the town administrator at any time, for just cause, following a formal
87 procedure including a written notice to dismiss, an opportunity for the town administrator to
88 provide a written response and a public hearing; provided, however, that the written response and
89 public hearing shall be completed within 30 days after the issuance of a written notice to dismiss,
90 in accordance with the terms of the town administrator's contract; provided further, that the
91 removal of the town administrator shall require 4 members voting in the affirmative except that
92 in the event of a member's recusal, only 3 votes in the affirmative shall be required;

93 (xi) set the compensation for the town administrator, not to exceed an amount
94 appropriated by town meeting; and

Commented [CB1]: Does the town really want to restrict itself in this way? Presumably, disciplinary action by the town against the town administrator will not be taken by the select board unless there is reason to do so. The concern with the use of "just cause" is that it adds a heightened level of scrutiny. Further, if such language is going to be included in the Charter, including in (x) below, the town should define what is "just cause" in the Charter or else it exposes itself to potential litigation over whether the was just cause for discipline.

Commented [HW2R1]: The Charter Committee had a preference for this language and understands the heightened standard.

Commented [CB3]: Consider replacing the first sentence of (ix) with following: "take disciplinary action against the town administrator; provided that the town administrator is given (a) written notice setting forth the reason(s) for the disciplinary action; and (b) an opportunity to appeal.

Commented [HW4R3]: See response above.

Commented [CB5]: See above re: "just cause"

Commented [HW6R5]: See response above.

95 (xii) appoint a qualified person as acting town administrator to perform the duties of the
96 office during any vacancy caused by the town administrator's death, disability, suspension,
97 removal or resignation; provided, however, that the appointment of an acting town administrator
98 shall be for a period not more than 180 days; provided further, that an additional 180 days may
99 be allotted by vote of the select board if no qualified replacement is hired within the initial 180-
100 day time period.

101 **Section 2-2 Town Administrator**

102 The town administrator shall be the chief administrative officer of the town and shall act
103 as the agent for the select board. The town administrator shall be responsible to the select board
104 for coordinating and administering all town affairs under the jurisdiction of the select board.

105 The town administrator shall have the following powers and duties:

106 (i) consult and advise the select board regarding town policies and shall implement town
107 policies;

108 (ii) attend all meetings of the select board, except when excused, and consult with and
109 advise the select board on all matters that come before the select board;

110 (iii) attend all town meetings and advise the select board on all warrant articles within the
111 jurisdiction of the select board.

112 (iv) attend all finance committee meetings, except when excused by the select board or
113 when the town administrator's qualified designee attends and keep the finance committee
114 informed on all matters under the jurisdiction of the town administrator that comes before the
115 committee;

Commented [CB7]: Is this section consistent with [Chapter 381 of the Acts of 2014](#), which established the position of Town Administrator in the Town of Fairhaven? To the extent that this Section 2-2 differs from the special act, this charter would govern. Should we repeal the special act so that there is no confusion in the future?

Commented [HW8R7]: This language is substantially similar to Chapter 381 of the Acts of 2014 with a few revisions and additions. This is intended to replace the existing special act. Agreed that a repeal would help avoid confusion.

116 (v) other than for the school department and public works department, manage and direct
117 the daily reporting and supervision of all town departments, boards, committees and
118 commissions under the jurisdiction of the select board, including the fire department subject to
119 section 42 of chapter 48 of the General Laws;

120 (vi) review and advise the select board on all warrants for the payment of bills from town
121 funds as prepared by the town accountant in accordance with section 56 of chapter 41 of the
122 General Laws;

123 (vii) except with respect to the school department, and except with respect to the hiring
124 and firing of employees within the public works department, have day-to-day management and
125 authority over the administration of the town's personnel system, including, but not limited to,
126 personnel polices and practices, rules and regulations and all collective bargaining agreements
127 entered into on behalf of the town; provided, however, that with respect to the fire department,
128 such authority shall be subject to section 42 of chapter 48 of the General Laws; provided further,
129 that the town administrator shall act as the personnel board under all applicable laws and by-
130 laws, except as otherwise set forth in this act; and provided further, that the select board, in
131 cooperation with the town administrator, shall make recommendations to town meeting with
132 respect to wages, salaries and other benefits of employees of the town;

133 (viii) administer the town's insurance policies, including the ability to settle claims;
134 provided, however, that all insurance contracts and claims settlements shall receive the prior
135 approval of the select board;

136 (ix) subject to the approval of the select board, appoint, suspend and remove department
137 heads under the direct control of the town administrator; provided, however, that the town

Commented [CA9]: What is the "personnel board"? It does not show up anywhere else

Commented [HW10R9]: G.L. c. 41, s. 108C and Town Bylaws. This phrase is intended to affirmatively assign this role to the TA in addition to day-to-day management responsibilities.

Commented [BC11]: Is this necessary given prior sentences?

Commented [HW12R11]: Please see reply to comment above

138 administrator shall file a notice of intent for such action with the select board; provided,
139 however, that the select board shall have 15 days to affirm or deny the intended action; provided
140 further, that within the 15-day period, the select board may, by a majority vote of the full board:
141 (1) affirm such action, in which case the decision becomes effective immediately; or (2) deny
142 such action; provided further, that if the select board does not make a decision to affirm or deny
143 the action within the applicable time period, the decision of the town administrator shall become
144 effective on the expiration of the fifteenth day; provided further, that if the select board is unable
145 to meet within the 15-day period, the chair of the select board shall notify the town administrator
146 in writing, at which time the appointment, suspension or removal action shall be delayed and
147 subject to vote by the select board at the next scheduled meeting; and provided further, that if the
148 select board does not wish to take any action, it shall also notify the town administrator of such a
149 decision;

150 (x) each department head, with the prior approval of the town administrator, shall appoint
151 and remove all department staff within their respective departments; provided, however, that all
152 appointments shall be based entirely on merit and fitness; provided further, that all appointments
153 and terminations shall be conducted in accordance with the General Laws, personnel policies,
154 by-laws of the town of Fairhaven and any applicable employment contracts; provided further,
155 that fire department appointments shall also be subject to section 42 of chapter 48 of the General
156 Laws;

157 (xi) with the prior approval of the select board, reorganize any departmental structures
158 under the jurisdiction of the town administrator; provided, however, that prior to any
159 reorganization, the town administrator shall submit to the select board information concerning
160 the recommended reorganization including, but not limited to, financial details and impacts of

Commented [CB13]: Correct?

Commented [HW14R13]: Yes

161 the reorganization, alterations to staffing structures and hierarchy as a result of the
162 reorganization, changes to the town infrastructure or asset modifications as a result of the
163 reorganization and any other information requested by the select board;

164 (xii) with the prior approval of the select board, negotiate all collective bargaining
165 agreements on behalf of the town, except that collective bargaining agreements between the town
166 of Fairhaven and employees of the school department shall be negotiated by the school
167 committee; provided, however, that the town administrator shall participate and vote as a
168 member of the town's school committee on any proposed collective bargaining agreement;
169 provided further, that in collective bargaining negotiations with unions representing employees
170 in the public works department, the town will be represented by the town administrator, the
171 superintendent of public works and a member of the board of public works; provided further, that
172 the town administrator may seek the assistance of labor counsel if the town administrator deems
173 it necessary to effectuate successful negotiations; and provided further, that all final agreements
174 must be approved and executed by the select board and funded by vote of town meeting;

175 (xiii) with the prior approval of the select board, establish compensation packages for all
176 town employees under the jurisdiction of the town administrator, not subject to a collective
177 bargaining agreement; provided, however, that such compensation shall not exceed the amount
178 appropriated by town meeting and shall be subject to all applicable laws and town by-laws;

179 (xiv) submit to the select board and finance committee, a written proposed budget for
180 town government for the ensuing fiscal year, due annually, not later than December 31, which
181 shall include:(1) all estimated revenue from all sources and all proposed expenditures, including
182 debt service for the previous, current and ensuing 5 years; (2) proposed expenditures for both

183 current operations and capital projects during the ensuing year, detailed by department,
184 committee, agency, financial justification, purpose and position and proposed financing methods;
185 (3) estimated revenues and free cash available at the close of the fiscal year, including estimated
186 balances in special accounts; provided, however, that the town may, by by-law, establish
187 additional financial information and reports to be provided by the town administrator; provided
188 further, that to assist the town administrator in preparing the proposed annual budget of revenue
189 and expenditures, the finance director, all boards, officers and committees of the town, including
190 the school committee and the board of public works, shall furnish to the town administrator, in a
191 writing in such a form as the town administrator shall establish, all relevant information in their
192 possession, including a detailed estimate of the appropriations required and any available funds;

193 (xv) report on the probable amount required to be levied and raised by taxation to defray
194 all expenses and liabilities of the town together with an estimate of the necessary tax rate;

195 (xvi) in consultation with the select board, establish calendar dates by which the proposed
196 budget, revenue statement and tax rate estimate are to be submitted to the select board and the
197 finance committee;

198 (xvii) submit annually to the select board and finance committee, a 5-year capital
199 improvements program, or the same as approved by a formal capital planning committee, to
200 include: (1) a list of all capital improvements and supporting data proposed to be undertaken
201 during the next 5 years; (2) cost estimates, methods of financing and recommended time
202 schedule; (3) the estimated annual cost of operating and maintaining any facility to be
203 constructed or acquired; and (4) identified return on investment for capital expenditures as
204 applicable;

Commented [CB15]: To whom should this report be made?
Select board? Finance Committee? Town Meeting?

Commented [HW16R15]: All of the above. Prefer to leave
open-ended to be consistent with existing special act.

205 (xviii) advise the select board, at least once a month, of all departmental year-to-date
206 revenues and expenditures;

207 (xix) direct action as deemed necessary to ensure that all operating and capital budgets
208 under the direct control of the town administrator are maintained in accordance with the town
209 meeting vote that approved those budgets and coordinate efforts with the governing bodies of
210 those departments not under the direct supervision of the town administrator to ensure that those
211 operating and capital budgets are maintained in accordance with the town meeting vote that
212 approved those budgets;

213 (xx) keep and complete records of the office of the town administrator and annually
214 submit to the select board, unless requested to do so more frequently, a full report of the
215 operations of the office;

216 (xxi) with direction and guidance from the select board, coordinate the operational and
217 strategic planning of the town;

218 (xxii) serve as the procurement officer for the town and establish and enforce
219 procurement policies and guidelines in accordance with applicable state laws;

220 (xxiii) manage and oversee the use, maintenance, security and, with the prior approval of
221 the select board, regulate the rental for all the town buildings, properties and facilities, including
222 information technology, except those under the jurisdiction of the school department or the
223 public works department, unless requested by either of those departments;

224 (xxiv) prepare the application of all town warrants for approval by the select board;

225 (xxv) with the prior approval of the select board, prosecute, defend and settle all litigation
226 for or against the town or its officers and employees, subject to such appropriation as may be
227 necessary to effectuate settlement, except for litigation involving the school department or the
228 public works department, unless requested by either of those departments;

229 (xxvi) delegate and direct any qualified town official or employee to carry out any duty
230 that is within the authority of the town administrator;

231 (xxvii) during a temporary absence, with the prior approval of the select board, the town
232 administrator may designate a qualified administrative employee or officer of the town to
233 exercise the powers and perform the duties of the town administrator;

234 (xxviii) perform any other duties or tasks assigned by the select board, town meeting or
235 mandated by applicable state law;

236 (xxix) have access to all municipal books, papers and documents or information
237 necessary for the proper performance of the duties of the town administrator; provided, however,
238 that the town administrator may, without notice, cause the affairs of any division or department
239 under the supervision of the town administrator, or the conduct of any officer or employee
240 thereof, to be examined;

241 (xxx) with the prior approval of the select board, sell or dispose of town property or
242 assets; provided, however, that the town administrator shall work collaboratively with
243 departments, committees, and boards to determine if any town items declared surplus can be
244 utilized by another department, committee or board; provided further, that the town administrator
245 shall provide written notice of town items declared surplus to departments, committees and

246 boards and wait a minimum of 30 days after the written notice is provided before said surplus is
247 released for sale or disposal; and

248 (xxx) except as otherwise authorized by general or special law, the town administrator
249 may not enter, sign or bind the town to any agreement or contract regardless of the length of
250 contract, and with or without an auto-renew clause, if the total value of the contract exceeds
251 \$50,000, without the prior approval of the select board.

252 ARTICLE III – ELECTED OFFICERS

253 Section 3-1 Elected Offices

254 The following offices shall be filled by vote at the annual town election or by special
255 election as required:

256		Number of Members	Length of Term (Years)
257	Select Board	5	3
258	Board of Public Works	5	3
259	Planning Board	9	3
260	School Committee	5	3
261	Housing Authority	5	5
262	Town Moderator	1	3
263	Board of Health	3	3
264	Commissioners of Trust Funds	3	3

265 Town Clerk 1 3

266 Elected officers shall perform the duties and have the authority set forth in the
267 Constitution of the Commonwealth and the General Laws, this charter, town by-laws, statutes
268 and applicable regulations of other government jurisdictions.

269 The number of signatures of voters required to place the name of a candidate for any
270 town office on the official ballot for use at any town election shall be as specified in the General
271 Laws. If a vacancy occurs in any elected office, the office shall be filled in accordance with the
272 General Laws.

273 Section 3-2 Planning Board

274 There shall be a planning board consisting of 9 members elected for 3-year overlapping
275 terms with all the powers and duties provided to planning boards under the General Laws.

276 Section 3-3 Housing Authority

277 There shall be a housing authority consisting of 5 members, 1 of whom shall be
278 appointed by the commonwealth, 1 of whom shall be a tenant member appointed by the select
279 board and 3 of whom shall be elected at town meeting. All members shall serve for 5 year
280 overlapping terms.

281 The purpose of the housing authority is to provide quality, affordable housing for low to
282 moderate income, elderly, disabled individuals and families.

283 Section 3-4 Board of Health

Commented [CB17]: Edits are based on comments from the Elections Division that the charter did not met the tenant member requirement required under state law.

Commented [AC18R17]: This is from MGL c. 121B, sec. 5

Commented [HW19R17]: I expect this change to be acceptable and will discuss it with the Town.

284 The board of health shall consist of 3 members elected for 3 year overlapping terms. The
285 board of health shall appoint and supervise a health agent in accordance with the town's
286 personnel by-laws and regulations and policies adopted thereunder. The health agent shall be
287 subject to the personnel by-laws unless exempted as provided therein. The board of health shall
288 comply with all state and federal regulations in the performance of their duties and
289 responsibilities including, but not limited to, control of communicable diseases, control over
290 dairy products, standards and regulations for food service establishments, sewage systems,
291 dumping, littering and related inspections and fees.

292 Section 3-5 Town Clerk

293 The town clerk is a primary provider of information and quality services to the
294 community and works cooperatively and in coordination with town departments, committees and
295 boards to comply with state and local laws. The town clerk is the official record keeper of the
296 municipality.

297 The town clerk shall be elected for a 3 year term and receive a salary.

298 Section 3-6 Board of Public Works

299 (a) The board of public works shall consist of 5 members, each elected for a 3 year
300 term. Upon the expiration of the term of any member, a successor shall be elected at an annual
301 town election to serve. The members of the board of public works shall serve until their
302 successors are qualified. The members of the board of public works shall, after each annual town
303 election, elect from among its members a chairperson and a clerk for the ensuing year. In the
304 case of a vacancy, the select board shall, within 30 days of such vacancy, appoint a person to fill
305 such vacancy until the next annual town election, when a member shall be elected to fill the

Commented [CA20]: Is our edit correct? What situation is this trying to cover?

Commented [HW21R20]: Yes. The language was taken from a previous version of the Town's website. Changes accepted.

Commented [CB22]: Is this section consistent with Chapter 389 of the Acts of 2014, which established the Board of Public Works in the Town of Fairhaven? To the extent that this Section 3-6 differs from the special act, this charter would govern. Should we repeal the special act so that there is no confusion in the future?

Commented [HW23R22]: BPW was established pursuant to Chapter 722 of the Acts of 1968, which was amended in 1975, 1991, and 1992. This section is substantially consistent with the 1968 act as amended. Chapter 389 of the Acts of 2014 was not approved by the voters following enactment by the legislature. Agreed that repeal of prior acts would eliminate confusion.

306 unexpired term resulting from such vacancy. No person shall serve on the board of public works
307 if such person: (i) holds an elected or appointed office in the town other than as a member of
308 town meeting; or (ii) is an employee of the town.

309 (b) The board of public works shall have all the powers and duties vested by general
310 or special laws, this charter and the town by-laws to the following boards, departments and
311 offices in the town of Fairhaven: highway department, water and sewer commissioners, park
312 commissioners, cemetery commissioners, refuse and garbage collection and, with respect to
313 construction and maintenance only, the town dump.

314 Notwithstanding any general or special law to the contrary, the board of public works
315 shall have such additional powers with respect to the furnishing of engineering services for
316 public works projects and the performance of such duties by any other boards, departments and
317 offices of the town as may be reasonably related to the duties and responsibilities of a board of
318 public works, as the town may, from time to time, provide in its by-laws.

319 (c) The board of public works shall appoint and fix the compensation of the
320 superintendent of public works who shall exercise and perform, under the supervision and
321 direction of the board of public works, such powers, rights and duties assigned to it under
322 subsections (b) and (c) as it may, from time to time, designate. The superintendent shall be
323 responsible for the efficient exercise and performance of such powers, rights and duties and shall
324 hold office subject to the will-discretion of the board of public works and shall not be subject to
325 any provisions of chapter 31 of the General Laws. The superintendent shall be specially fitted by
326 education, training, and experience to perform the duties of said office and need not be a resident
327 of the town.

Commented [HW24]: I would prefer to keep "will" because that term is used in the existing special act and indicates an "at will" employment relationship which gives the BPW broad discretion.

328 During the superintendent's tenure, the superintendent shall not hold elective office or be
329 engaged in any other business or occupation. The superintendent shall give to the town a bond
330 with a surety company authorized to transact business in the commonwealth as surety, for the
331 faithful performance of their duties, in such sum and upon such conditions as the board may
332 require, and shall, subject to the approval of the board of public works, appoint such assistants,
333 agents and employees as the exercise and performance of the superintendent's powers, rights and
334 duties may require. The superintendent shall keep full and complete records of the doings of the
335 office and render to the board of public works as often as it may require a full report of all
336 operations under the superintendent's control during the period reported upon and annually, and
337 from time to time as required by the board of public works, the superintendent shall make a
338 synopsis of such reports for publication. The superintendent shall keep the board of public works
339 fully advised as to the needs of the town within the scope of the superintendent's duties and shall
340 furnish to the board of public works each year upon its request a carefully prepared and detailed
341 estimate in writing of the appropriations required during the next succeeding fiscal year for the
342 proper exercise and performance of all said powers, rights and duties.

343 (d) The board of public works shall appoint and fix the compensation of the
344 superintendent of highways who shall exercise and perform, under the supervision and direction
345 of the board, such powers, rights and duties, assigned to it under subsections (b) and (d) as it
346 may, from time to time, designate. The superintendent of highways shall be responsible for the
347 efficient exercise and performance of such powers, rights and duties and shall hold office subject
348 to the will discretion of the board of public works and shall not be subject to any provisions of
349 chapter 31 of the General Laws. The superintendent of highways shall be specially fitted by
350 education, training, and experience to perform the duties of said office and need not be a resident

Commented [CB25]: Would you like this to be consistent with the Superintendent of Highways and add "or other appointed office"?

Commented [HW26R25]: I have accepted the redlines but do not think it is necessary to add "or other appointed office" because that phrase is not included in the existing special act.

Commented [CB27]: Is this necessary? How will the Board of Public Works determine if the Superintendent has been "efficient" in his exercise and performance of his duties?

Commented [HW28R27]: Prefer to keep this language to be consistent with existing special act.

Commented [HW29]: Same comment as above.

351 of the town. During the superintendent's tenure, the superintendent of highways shall hold no
352 elective or other appointive office, nor shall engage in any other business or occupation.

353 Section 3-7 Commission of Trust Funds

354 There shall be a commission of trust funds consisting of 3 members elected for
355 overlapping 3 year terms. The commission of trust funds shall be responsible for the
356 management of all trust funds given or bequeathed for the benefit of the town or the inhabitants
357 thereof, unless the donor in making the gift or bequest shall provide otherwise and shall have
358 such other duties as assigned to commissions of trust funds by the General Laws.

359 Section 3-8 Recall of Elected Officials

360 (a) Any person who holds an elected office in the town of Fairhaven, with more than
361 6 months remaining in the term of such office on the date of filing of the affidavit referred to in
362 subsection (b), may be recalled from office by the registered voters in the town of Fairhaven, in
363 the manner provided herein.

364 (b) Not less than 50 registered voters of the town of Fairhaven may file with the
365 town clerk of the town of Fairhaven an affidavit containing the name of the officer whose recall
366 is sought and a statement of the grounds upon which the petition is based. The town clerk shall
367 deliver to said voters petition blanks demanding said recall, printed forms of which the town
368 clerk shall keep available. Said blanks may be completed in writing or by typewriting and they
369 shall: (i) be addressed to the select board; (ii) contain the names of the persons who filed the
370 affidavit and the grounds for recall as stated in the affidavit; (iii) demand the election of a
371 successor to the office; and (iv) be dated and signed by the town clerk. A copy of the petition
372 shall be kept on file in the office of the town clerk in a record book maintained for that purpose.

373 The recall petitions shall be returned and filed in the office of the town clerk within 14 days
374 following the date the petitions were issued, signed by not less than 20 per cent of the total
375 number of registered voters of the town duly recorded on the registration list of the town clerk as
376 of the preceding town election. The town clerk shall, not later than 25 hours following such
377 filing, submit said petitions to the registrars of voters who shall, within 7 days, certify thereon
378 the number of signatures which are names of registered voters of the town.

379 (c) If the petition is certified by the registrars of voters to be sufficient, the town clerk
380 shall forthwith submit the same to the select board. Upon its receipt of the certified petition, the
381 select board shall not later than 48 hours after such receipt give written notice of said petition
382 and certificate to the officer whose recall is sought. If said officer does not resign the office not
383 later than 5 days following delivery of the said notice, the select board shall order an election to
384 be held not less than 60 nor more than 90 days after the date of the registrars' certificate of the
385 sufficiency of the petition. If another town election is set to occur within 100 days after the date
386 of the certificate, the select board shall hold the recall election on the date of said other town
387 election. If a vacancy occurs in the office after a recall election has been ordered, the election
388 shall nevertheless proceed as provided in this section, but only the ballots for candidates need be
389 counted.

390 (d) An officer whose recall is sought may be a candidate at the recall election. The
391 nomination of candidates, the publication of the warrant for the recall election and the conduct of
392 the same shall all be in accordance with the provisions of laws relating to elections, unless
393 otherwise provided in this charter.

394 (e) The officer whose recall is sought shall continue to perform the duties of the
395 office until the recall election. If the officer is not recalled in the election then such officer shall
396 continue in office for the remainder of the unexpired term, subject to recall as before, except as
397 provided herein. If the officer is recalled in the election, then said officer shall be deemed
398 removed upon the qualification of the successor who shall hold office for the remainder of the
399 unexpired term. If the successor fails to qualify within 5 days after receiving notification of
400 election, the officer recalled shall thereupon be deemed removed and the office vacant.

401 (f) Ballots used at a recall election shall contain the following propositions in the
402 order indicated:

- 403 i. For the recall of (name of officer)
- 404 ii. Against the recall of (name of officer)
- 405 iii. Adjacent to each proposition, there shall be a place to mark a vote. After the
406 propositions shall appear the word "Candidates" followed by the names of candidates arranged
407 alphabetically, by surname. If a majority of the votes cast upon the question of recall is in the
408 affirmative, the candidate receiving the highest number of votes shall be declared elected. If a
409 majority of the votes on the question is in the negative, the ballots for the candidates need not be
410 counted, **except as provided in section (c) above.**

411 (g) No recall petition shall be filed against an officer within 6 months after taking
412 office or in the case of an officer subjected to a recall election and not recalled thereby until at
413 least 6 months after the election at which the recall was submitted to the voters.

414 ARTICLE IV – LEGISLATIVE BRANCH

Commented [CB30]: What is this meant to capture?

Commented [AC31R30]: Is this meant for if there is a vacancy after the recall election has been ordered? In which case they would still count ballots to fill the vacancy. If that's the case, we should just say so

Commented [HW32R30]: Yes, that is the intention. It makes sense to me as written, but I am open to suggested edits.

Section 4-1 Representative Town Meeting

(a) The territory of the town shall be divided into not less than 4 nor more than 8 voting precincts, each of which shall be plainly designated and shall contain not less than 500 registered voters. The precincts shall be so established as to consist of compact and contiguous territory, to be bounded as far as possible by the center line of known streets and ways or by other well-defined limits. Their boundaries shall be reviewed and, if need be, wholly or partially revised by the districting board ~~in November, once in five (5) years, or in November of any year when so directed by a vote of a representative Town meeting not later than October thirtieth of that year~~ in accordance with section 6 of chapter 54 of the General Laws.

The town clerk shall notify every registered voter affected by a change in precinct boundaries or a change in polling place. The districting board shall, within 20 days after any establishment or revision of the precincts but not later than December 20 of the year of such establishment or revision, file a report of their doings with the town clerk, the registrars of voters and the assessors, with a map or descriptions of the precincts and the names and residences of the registered voters therein. The districting board shall also cause to be posted in the town hall a map or description of the precincts as established or revised from time to time, with the names and residences of the registered voters therein and it shall also cause to be posted in at least 1 public place in each precinct a map or description of that precinct with the names and residences of the registered voters therein.

The division of the town into voting precincts and any revision of such precincts shall take effect upon the date of the filing of the report thereof by the districting board with the town clerk. Whenever the precincts are established or revised, as permitted by the General Laws, the

Commented [BC33]: From Elections Division: Section 4-1 relative to the designation and revision of precincts and creating a "Districting Board," is inconsistent with state law. Under 4-1(a), it provides for the Town to have between 4 and 8 precincts and states that "Their boundaries shall be reviewed and, if need be, wholly or partially revised by the districting board in November, once in five (5) years, or in November of any year when so directed by a vote of a representative Town meeting not later than October thirtieth of that year."

However, state laws predicate the re-drawing of precinct lines on the federal census, which is only done every 10 years. Thereafter, those precincts become the basis for other districts including legislative districts. [General Laws chapter 54, section 6](#) limits the drawing of precincts to the Select Board. [General Laws chapter 54, section 7](#) allows the Select Board to make changes, but in the same manner as provided in section 6 and subject to the limits of [section 9A](#), which states that once the precincts are used to create legislative districts, they can't be changed for those purposes. When municipalities make changes to their precincts in accordance with this statutory scheme, they must submit them for approval to the Local Election Districts Review Commission, which reviews each submission for compliance with state law.

While General Laws chapter 54 section 7A allows Towns with RTM to further divide precincts, this action is limited to splitting the precincts for voting purposes of a representative town meeting and won't change them for other purposes.

Basically, if this provision were included and they acted upon it, the precincts they create outside the normal process would only be effective for municipal elections and could lead to having 2 different sets of precincts—one for municipal elections and one for state elections. This becomes confusing to voters who have to be notified for the relevant elections if their precincts are different. It also makes administration of elections much more complicated.

Elections Division had no fix for this section and asked whether the town would be amenable to removing it.

Commented [HW34R33]: I think the redlines provide a good solution. Will discuss with the Town.

437 town clerk shall forthwith give written notice thereof to the state, stating the number and
438 designation of the precincts. Meetings of the registered voters of the several precincts for
439 elections, primaries and voting upon any question to be submitted to all the voters of the town
440 shall be held on the same day and at the same hour and at such place or places within the town as
441 the select board shall in the warrant for such meeting direct. The provisions of the General Laws
442 relating to precinct voting at elections, so far as the same are not inconsistent with this act, shall
443 apply to all elections and primaries in the town upon the establishment of voting precincts as
444 hereinbefore provided.

445 (b) Other than the officers designated in subsection (c) as town meeting members-at-
446 large, the representative town meeting membership shall in each precinct consist of the largest
447 number divisible by 3 which shall not exceed 2.7 per cent of the persons residing in the precinct.
448 The registered voters in every precinct shall, at a special election called for that purpose to be
449 held not sooner than 30 days after the establishment of precincts under this charter, or at the first
450 annual town election held after the establishment thereof, and at the first annual town election
451 following any precinct revision where the number of precincts is changed, in conformity with
452 any general and special law relative to elections not inconsistent with this act, elect by ballot the
453 number of registered voters in the precinct, other than the officers designated in subsection (c) as
454 town meeting members-at-large, provided for in the first sentence of this section, to be town
455 meeting members of the town. The first third in order of votes received of members so elected
456 shall serve terms of 3 years, the second third in such order shall serve terms of 2 years and the
457 remaining third in such order shall serve terms of 1 year, from the day of the annual town
458 meeting or, in case such election is at a special meeting, from the date of the next annual town
459 meeting; provided, however, in case of a tie vote affecting the division into thirds, the members

460 elected from the precinct shall by ballot determine the same and thereafter, except as is otherwise
461 provided herein, at each annual town election the registered voters of each precinct shall, in like
462 manner, elect 1/3 of the number of town meeting members to which that precinct is entitled for
463 the term of 3 years and shall at such election fill for the unexpired term any vacancy then
464 existing in the number of town meeting members in their respective precincts.

465 The ballot shall include a separate line for each available term length, either 3 years, 2
466 years, or 1 year. Voters may write in a candidate's name under the appropriate term length to
467 which they wish to elect the candidate. Write-in votes will be counted only for the term specified
468 on the corresponding ballot line. If a voter writes-in a candidate's name on multiple lines for
469 separate term lengths, the vote shall only be counted for the lesser of the term lengths. Upon
470 every revision of the precincts where the number of precincts is changed, the terms of office of
471 all town meeting members from every precinct shall cease upon the election of their successors.
472 The town clerk shall, after every election of town meeting members, forthwith notify each
473 member by mail of their election.

474 (c) Any representative town meeting held under the provisions of this act, except as
475 otherwise provided herein, shall be limited to the voters elected under subsection (b), together
476 with the following designated town meeting members-at-large: any member of the general court
477 who is a resident of the town; the town moderator; the town clerk; the members of the select
478 board; the members of the board of health; the members of the school committee; the members
479 of the planning board; the members of the board of public works; the commissioners of trust
480 funds; the elected members of the housing authority; and the chair of the finance committee. All
481 the foregoing shall be included within the general designation of town meeting members. The

Commented [CA35]: I thought the term length was dictated by how many votes are received, not specifically delineated on the ballot? Wouldn't this work the same way for write-in candidates? In which case we should remove this language

Commented [HW36R35]: As cumbersome as the language may be, I would prefer to keep the language consistent with the existing special act and not make changes to this provision. My interpretation is that the language in the first paragraph dictating term length according to number of votes was only intended to apply at the first special election when the representative town meeting was established in Fairhaven and at elections following precinct revisions where the number of precincts is changed. For all other elections, there may be openings for 1, 2, or 3 year terms depending on whether vacancies have been created by the expiration of an incumbent's term or an earlier departure from the position.

Commented [CA37]: What if neither the Senator nor Rep are residents? Or if both are? Is the number of members subject to change based on that?

Commented [HW38R37]: Correct, such member of the general court would not be a member-at-large if not a Fairhaven resident.

482 town clerk shall notify the town meeting members of the time and place at which representative
483 town meetings are to be held by mail or electronically at least 7 days before the meeting.

484 The town meeting members shall be the judges of the election and qualifications of their
485 members. One hundred town meeting members shall constitute a quorum for doing business;
486 provided, however, that a less number may organize temporarily and may adjourn from time to
487 time, and at an adjourned meeting seventy-five (75) town meeting members shall constitute a
488 quorum. Notice of every adjourned representative town meeting shall be posted by the town
489 clerk in at least 1 public place in each precinct. The notices shall state the business to be acted
490 upon at any meeting and shall include notice of any proposed reconsideration. All town meetings
491 shall be held in public places. Town meeting members shall receive no compensation. Subject to
492 such conditions as may be determined from time to time by the representative town meeting, any
493 voter of the town who is not a town meeting member may speak at any representative town
494 meeting, but shall not vote. A town meeting member may resign by filing a written resignation
495 with the town clerk and such resignation shall take effect upon the date of such filing. No elected
496 member whose official position entitles them to be a town meeting member at-large shall act as a
497 member at-large during such time as they remain an elected member. A town meeting member
498 who moves from the town shall cease to be a town meeting member and an elected town meeting
499 member who moves from the precinct from which they were elected to another precinct or is
500 removed by a revision of precincts shall only serve until the next annual election.

501 (d) Nomination of candidates for town meeting members to be elected under this
502 charter shall be made by nomination papers signed by not less than 10 voters of the precinct in
503 which the candidate resides and filed with the town clerk at least twenty-eight (28) 35 days
504 before the election; provided, however, that any town meeting member may become a candidate

Commented [CB39]: Are notices still being sent by mail? Or it is now being sent electronically by email?

Commented [HW40R39]: They are being sent by mail, but electronic notice would be easier if this is a permissible change for the legislature to make.

Commented [CB41]: What does this mean? What are we trying to protect again?

Commented [AC42R41]: May need to amend this based on the comments from Elections Division re changing precincts

Commented [HW43R41]: I think this language would apply upon redistricting even if the charter language is revised in accordance with the Elections Division's comments.

Commented [CB44]: From Elections Division: The timeframe for filing nomination papers for representative town meeting member candidates is also inconsistent with state law. Subsection (d) provides that papers must be filed with the town clerk at least 28 days before the election. However, under state law, the deadline for candidates for municipal office to file the papers with the town clerk is 35 days. This extra time is necessary to prepare ballots, especially since representative town meeting candidates usually compromise the most on the ballot making it more complex to create and proof read. Also, they will need their ballots earlier to allow sufficient time for vote by mail.

Commented [HW45R44]: Will discuss with town.