

MEETING OF THE FAIRHAVEN BOARD OF HEALTH
December 19, 2011

A Regular Meeting of the Board of Health was held at the Town Hall on Monday, December 19, 2011 at 6:30 PM. The meeting was duly posted. Board members present: Jeannine Lopes, Dolores Caton and Peter DeTerra. Also present: Patricia Fowle, Health Agent.

Mr. DeTerra, Chairman, called the meeting to order at 6:30 PM and asked that the minutes of the meeting of December 5, 2011 be amended or approved.

Motion to approve the minutes was made by Ms. Lopes; seconded by Ms. Caton. Vote was unanimous.

Appearing before the Board was a number of citizens who wished to speak regarding the municipal project permitting two commercial wind turbines to be constructed on the east shore of town by the bike path extension and Little Bay. Chairman DeTerra opened the meeting welcoming the group.

Ms. Joyce Pottel, 22 Wampanoag Drive, stated that there is a conflict of interest for Board member Jeannine Lopes because she is employed by and resides in property owned by Dr. Brian Bowcock, Board of Selectmen member. It was stated that Ms. Lope could therefore not be objective in her view. Mr. DeTerra stated the required disclosure notices are being filed by Ms. Lopes with the State. Mr. Methia, 3 Shawmut Street, presented a video by Dr. Nina Pierpont on the latest findings of wind turbine syndrome (WTS).

Mr. Ken Pottel, 22 Wampanoag Drive, state that the proposed wind turbines are too close to the bike path. Ice flings will occur from icing of the turbine blades and people in the vicinity will be affected by this occurrence. A study of this was done in Scituate. No other community has proposed a commercial wind turbine in such close proximity to its bike path. There are safety issues with icing, fires, and mechanical failures. He stated the bike path committee and the regional committee were not notified of the proposal. There should be a safety radius established as in Falmouth.

Mr. Curt Devlin, 252 Main Street, presented a video/PowerPoint presentation on infrasound and wind turbines. A copy of the PowerPoint is part of this record.

Louise Barteau, 5 Fishermans Road, stated she is a new resident to Fairhaven. Her deceased husband was a pediatrician and she is well aware of scientific studies and the need to ensure that they are independent and reproducible. She provided such independent recent studies to the Board prior to the meeting highlighting the adverse effects of wind turbines. From the studies she has gleaned that first person accounts are invaluable, reports have significant new data, and real estate values can plummet 30-50%. She stated some skepticism is good on both sides but the latest independent study "The Bruce McPherson Study" done independently and in full disclosure of funding and findings indicates that these are very dangerous machines. She urged the Board not to allow Fairhaven to be made guinea pigs in this endeavor. A copy of the McPherson Study is part of this record.

Mr. Grant Menard, 45 Weeden Road, stated he had read recent reports by wind turbine manufacturers who state their employees should be at least 1300 feet away from the units to avoid long term health effects. He is concerned with the turbines just 20' from the bike path. The Fairhaven wind study done in September 2011 does not address the Sinovel models Fairhaven will be receiving. He has questions on wind-cut speeds for the unit, safety setbacks, fire, fumes, and blade failures. He questions how malfunction will affect the Wood School: are there cancerous materials, will the HVAC at the school be shut down. There have been a number of failures in the past years and in Europe, they are recommending that turbines be placed 1.5 miles away from any developed area. Locally, Dartmouth did a study and found turbines are not economical and have since moved to solar.

Mr. Neil Anderson of Falmouth spoke of his personal experiences living with infrasound and the Falmouth turbines. His living patterns were changed for the worst since the turbines have operated.

Mr. Bruce Paparella, 22 Causeway Road, stated that as a deaf man he is fearful of further damage the infrasound could do to his body. He visited the Cape Cod Canal bike path and was physically affected by the MassMaritime wind turbine, albeit unwittingly at that time. He believes the wind turbines will affect the quality of life for many. He is especially fearful for any deaf child in the vicinity and Wood School. He stated that greed is at the heart of this proposal. He believes lawsuits and disabilities will be the outcome should the wind turbines become operational.

Attorney Anne DesNardis, 8 Mark Drive and counsel to Fairhaven Windwise, stated the Board of Health was elected to protect the safety, health and welfare of the Town. She stated the town and state laws clearly state that the Board is responsible and must ensure that public health nuisances are abated. Through the testimony and information presented this evening, she believes there is abundant evidence gathered from testimony and science for the Board to declare an "anticipatory nuisance" and thus shut the project down. She lives across the bay from the site and can hear the ongoing construction. She believes if she can hear the construction she will likewise be affected by the turbines by both sound and infrasound. She further stated that there is an abundance of information and the Board has an obligation to protect the health, safety and welfare of all. She will litigate. However, the Board can stop the problem by voting now to cite this situation as a nuisance to the public, recreational trail users, children and individuals requiring additional assistance, people with neurological disorders, and others. If only one person is affected, that is one person too many.

Mr. Curt Devlin reiterated the science known about infrasound. He cited numerous locales with turbines and no where are they located as close to this many people. If 1,000 people are affected and 30% of those become ill, especially the elderly and children, then it would be considered an epidemic.

Mr. Scott Durant, 18 Bayview Avenue, stated his wife has vertigo. They cannot move and they are frightened.

Mr. Wayne Vieira, 2 Wampanoag Drive, questioned why solar was not an option for the Town. He is concerned with tidal surge at the turbine site and health issues. More in depth studies are necessary.

Mr. Henry Ferreira, 30 Weeden Road, stated he can hear the construction noises now. Why are things moving so fast, even through the Christmas holidays? He believes the project should be stopped before it progresses too far. Questions require answers before proceeding. He asked the Board to think solely of health and safety which they have pledged to protect.

Ms. Ann Richard, 46 Hedge Street, asked that the group hear both sides. She is in favor of the turbines and believes there is new information about the turbines that will be in Fairhaven. Other communities have turbines near schools and they are successful community projects. She asked there not be a rush to judgment.

Ms. Ann Espindola, 14 John Street, is concerned about autistic children and the effects of infrasound.

Mr. Pat McGowan, 121 Washington Street, stated he has reviewed many studies but because of the emotional toll more studies should be done.

Mr. Bob Espindola, 14 John Street, is 1700 feet from the proposed turbines, believes the Town should look at other alternatives like solar. He has solar on his house and it works.

Mr. Dan Georgianna, 3 Walnut Street, would like to hear from both sides but because construction has started he believes the project should be halted so that discussion and information can be given.

Mr. Daniel DesNardis, 8 Mark Drive, stated the process needs to be slowed down. State legislation is being proposed on turbines and we should wait. The Falmouth turbines have been shut down because of health reasons. We need to wait.

Mr. John Methia, 3 Shawmut Avenue, said at first he was uncommitted now he is here to stay the course.

Mr. Brian Monroe, 5 Kacy Lane, School Committee member, stated he will have three children at Wood School by the time the new school is built. He is here to learn as a parent. He is not representing the School Committee but will share the information with the Committee.

Ms. Lisa Plante, 12 Plante Way, stated to hold all politicians accountable. Children must be protected.

Mr. Ken Pottel stated Town Counsel Crotty stated in the local newspaper that the Board of Health has the authority to stop the turbines.

Mr. DeTerra asked if the Board had any questions.

Mr. DeTerra read a brief statement which he prepared stating the Board cannot act on a potential nuisance but only on an actual, physical nuisance.

Attorney DesNardis stated there is a great deal of testimony, recent studies and actions by Falmouth that the Board can use to order a stop to the project based on public health nuisance laws. The Board has the authority to issue a suspension order based on all this information.

Ms. Maria Menard, 45 Weeden Road, could not understand any harm in holding up the project.

Mr. Jared Espindola, 14 John Street, stated people should not have to wait until people get hurt.

Board member Dolores Caton had the floor. She stated she would like a written legal opinion from Town Counsel Tom Crotty on what the Board can or cannot do concerning the wind turbines.

Board Chairman Mr. DeTerra stated he would like to speak to Town Counsel.

Ms. Barbara Acksen, 91 Green Street, said the Board of Health must represent the people and not the contract signed by the Board of Selectmen. If this is not done, families will be affected with new health concerns. The Board must fight for health

Mr. Albert Jones, 3 Fishermans Road stated he would like the request of the Board to speak to Town Counsel be done in a timely manner.

Ms. Carolyn Young, Pierce's Point, said she lives within 1200 feet of the proposed turbines and has two young children. She is angry and frightened.

Mr. Henry Ferreira stated the project should be stopped before it begins. The Board should speak to Attorney Crotty, the Attorney General or even pursue a conflict of interest suit.

Mr. Doug Jones, 2 Mark Drive, asked the Board to stop this now and not allow all this to be tested on Fairhaven residents.

Motion to seek permission from the Board of Selectmen to consult with Town Counsel to determine, in writing, what the Board of Health can or cannot do concerning the wind turbines was made by Ms. Caton; seconded by Ms. Lopes. The vote was unanimous.

Attorney DesNardis requested the Board vote to put the project on hold and stop temporarily until the consultation with Town Counsel occurred. No response was made.

The Fairhaven Windwise group left the meeting.

Health Agent's report:

An emergency septic system repair was initiated at 3 Lincoln Drive on Thursday, December 22, 2011. A signed proceeding at own risk letter was signed by all parties. Plans were reviewed by the health agent. Septic system repair plans are for a 3 bedroom dwelling, 1500 gallon tank, gravity flow to a Presby system field designed by Rick Charon, PE of Charon Associates, Inc. Rochester, MA. A request for a Title 5 variance of 2.0 feet to ground water, 310 CMR 15.212, is being sought. It is in keeping with the maximum feasible compliance requirement of Title 5.

Motion to grant the requested variance of 2.0' to ground water, 310 CMR 15.212 was made by Ms. Caton; seconded by Ms. Lopes. Vote was unanimous. Section request from title 5 is is

Restaurant inspections were reviewed. Invoices and payroll were reviewed and signed by the Board.

There being no other business before the Board, motion to adjourn the meeting at 8:30 PM was made by Ms. Lopes; seconded by Ms. Caton. Vote was unanimous.

The next meeting is Monday, January 9, 2012 at 6:30 PM.

Patricia Fowle, Health Agent