

REGULAR MEETING AND PUBLIC HEARING
OF THE FAIRHAVEN BOARD OF HEALTH
September 17, 2012

A Regular Meeting of the Board of Health was held at the Town Hall on Monday, September 17, 2012 at 6:30 PM. The meeting was duly posted. Board members present: Barbara Acksen, Jeannine Lopes and Peter DeTerra. Also present: Patricia Fowle, Health Agent.

The Chairman called the meeting to order at 6:30 PM and asked that the minutes of the meeting of August 28, 2012 be amended or approved.

Ms. Acksen motioned to approve the minutes. Ms. Lopes seconded. The vote was unanimous.

The Chairman called to order the public hearing of the Board to take comments and testimony for its proposed regulation: "Restricting the Sale of Tobacco Products & Nicotine Delivery Products". Legal notice of the public hearing was duly posted in a local newspaper and with the Town Clerk. Ms. Lopes motioned to open the hearing. Ms. Acksen seconded. Vote was unanimous.

The Chairman welcomed anyone in the audience to comment, give testimony or ask questions on the proposed regulation. Copies of the regulation were available for review. D.J. Wilson, of the Tobacco Control Division of Massachusetts Municipal Association stated he is in favor of the new restrictions which are similar to many other communities in Massachusetts and throughout the southcoast. He provided a handout indicating those communities and stated there has been good compliance with the restrictions. He further stated that with each new move the local health communities make the tobacco companies strive for other enticements to the youth. At focus presently are highly flavored, cheap cigars. The move the Board is making this evening is progressive and will continue to protect the health of its residents. Board member Jeannine Lopes stated she has seen the change in the roll-your-own machines from personal use to commercial now. Mr. Wilson said the new machines can produce one carton in 10 minutes at a significantly reduced price. So even with the federal action taken on these machines, by local Boards of Health adopting more restrictive measures, it ensures they will not be used in Town. Judith Coykendall of the Tobacco Free Association congratulated the Board on this move and particularly in protecting the youth by eliminating some points of sales. She recommended that the Board look into assessing an inspection fee with the permit fee so that compliance checks can be performed on all retailers in Town. No other comments were offered.

Ms. Acksen motioned to approve the regulations as written. Ms. Lopes seconded. The vote was unanimous. Upon discussion of date of effect of the regulation, Ms. Lopes motioned the date of November 1, 2012, which coincides with the initial date for re-issuing annual permits. Ms. Acksen seconded. The vote was unanimous. A synopsis of the new regulation will be advertised prior to November 1, 2012, and all tobacco retailers will receive a hand-delivered copy of the regulation prior to the effective date.

Ms. Lopes motioned to close the public hearing. Ms. Acksen seconded. The vote was unanimous.

The health agent reported on the following:

A septic system inspection for 2 Meadow Lane performed by Sherman Inspection Services on August 8, 2012 was reviewed. The health agent observed the inspection. The septic system passed.

Ms. Lopes motioned to accept the report. Ms. Acksen seconded. The vote was unanimous.

A septic system repair plan for 288 Mill Road prepared by Rick Charon Associates was reviewed. Mr. DeTerra recused himself from discussion because he is an abutter. The plan is for a three bedroom dwelling, utilizing a new 1,500 gallon septic tank that will gravity flow to a 20'x42' leaching field. A

Title 5 variance, 310 CMR 15.212, is required to allow 3.1' separation between the bottom of the leaching facility to groundwater instead of the required 4'. Also separation of private, potable wells to the proposed leaching facility are less than 150' as required by Chapter 5 of the Board of Health Regulations but more than 100' as required by Title 5.

Ms. Lopes motioned to approve the plan with variances. Ms. Acksen seconded. The vote was 2 in favor and 1 abstention.

Fairhaven appears to be surrounded by West Nile Virus and Eastern Equine Encephalitis mosquito pools but does not have any positive pools within its limits. The DPH and Bristol County Mosquito Control will be contacted for verification and recommendations. The public is still being warned to take all necessary precautions against any mosquito bites.

The Oxford School, Main Street, was re-inspected by State Inspector Mike Feeney on Tuesday, September 11 for indoor air quality. All readings were well within limits and have greatly improved since first reported and house-keeping issues have been aggressively performed and maintained. Written reports will follow with an additional winter-time testing in December.

In the audience was Karen Isherwood and her two daughters of 3 Teal Circle who asked to be heard. She is requesting that the turbines be turned off at night because she cannot sleep and this is worsening her medical condition. She is under doctor supervision. She asked if there was any other business in Town that was allowed to run 24/7 always generating noise. She asked for help in this matter. The only rest she can get is when she is away from her home. Her daughters spoke of the sound being a jet engine over their house that never leaves which is the worst of the noises. The whooshing sound is also present. They spoke of how neighbors were changing their personal habits to put up with the noise by changing sleeping rooms and re-arranging the use of rooms in their homes. Ms. Acksen said perhaps it is time to have a public hearing for people to give testimony to be sent to the DPH. Ms. Lopes said they are awaiting the results of the sound study and she acknowledges that Ms. Isherwood is experiencing something but they do not have experience in these issues. Mr. DeTerra said shutting off the turbines is a contract issue and she should go through the Selectmen who signed the contract to amend it. Ms. Isherwood said the Selectmen will not allow her on the agenda. She is amassing medical records that will prove what she is experiencing is real but she would just rather have the situation stop. She cannot afford to vacate her home. Both Ms. Acksen and Ms. Lopes stated that the DPH must become active in review of the complaints the Board has collected. The DPH handled the Falmouth Board of Health public hearing information on their turbines and it is felt the DPH will have better directives, information and personnel to assist here. Ms. Acksen will provide the name of the contact person at DPH to forward all of the information to personally.

Invoices and payroll were reviewed and signed by the Board.

There being no other business before the Board, Ms. Lopes motioned to adjourn the meeting at 7:45 PM Ms. Acksen seconded. Vote was unanimous.

Patricia Fowle, Health Agent