

REGULAR MEETING AND PUBLIC HEARING
OF THE FAIRHAVEN BOARD OF HEALTH
January 7, 2013

A Regular Meeting of the Board of Health was held at the Town Hall on Monday, January 7, 2013, 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, members of Fairhaven Windwise and others.

The Chairman called the meeting to order at 6:30 PM and asked that the minutes of the meeting of November 13, 2012, be amended or approved.

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

The Chairman opened the meeting and stated he would address the issue of an email sent to him personally from Selectman Bob Espindola that was forwarded to the other Board of Health members by the Board of Health office. The email raised a number of questions on the Planning Board's draft by-law §198-29.5: Wind Energy Facilities and questioned positions by the Board of Health in regards to the by-law. Ms. Lopes stated that since the email was addressed personally to Mr. DeTerra and not the Board, she would not address the questions because the email asked for Mr. DeTerra's personal opinion. This is was not the proper protocol to follow. Mr. DeTerra stated he had asked Planning Board Chairman Wayne Hayward the process of creating a by-law and Mr. Hayward responded in writing. The letter was read and is part of this record. Dr. Acksen questioned when in the process the Board would have input. The proposed by-law speaks to setbacks and size limitations and the data should be reviewed. Members of the audience were acknowledged. Wayne Vieira questioned the entire process of a by-law adoption. Dawn Devlin stated the same. Complaints are still forthcoming and nothing is being done to correct the issues. People's lives are in limbo. The purpose of the Board of Health is to protect the health and safety of Town residents. If there is to be no discussion on these matters then the Board is not serving its purpose. Mr. DeTerra stated that until the DEP completes the sound study for these specific turbines, there are no results to review. John Methia stated the sound study will offer no relief. Ken Pottel stated a public hearing should be set. The Chairman iterated that the Board will continue with its original plan and wait for the sound study results. Dawn Devlin stated in the meantime people are suffering, some have left their home. She believes this is a crisis and should be addressed as such and shut the turbines down. She believes the Board has the authority to shut the turbines down, create a by-law that will protect the people, and then allow the turbines to be turned on under the new by-laws. Carolyn Young said she has not slept in a long time and needs help now. Ms. Acksen stated she had spoken with a lawyer at MAHB and believes the Board does have the authority to order the turbines off based on complaints alone. Mr. DeTerra stated he too has spoken to the lawyer and was told that since the Town does not own the turbines, science and data are required first before an order to shut the turbines down can be issued. The audience became increasingly loud and unruly. John Methia stated his nerves are frayed; he cannot sleep in his own home. He stated the Board does have the power to shut the turbines down. Ms. Lopes stated the Board has acted exactly as requested by the people; they asked for a sound study by DEP and that is being done now. She further stated that even before the results are in, the crowd is calling foul even so far as to say DEP is crooked. Ms. Lopes agrees with Mr. DeTerra and will wait for the sound study to be completed by DEP. Karen Isherwood asked if there is a certain number of medical cases the Board is seeking as evidence. She will be filing her medical papers soon. Ann Espindola, wife of Bob Espindola, stated she was there to represent her husband while he is at the Selectmen's meeting this evening. She wants answers to his questions. Ms. Lopes stated at this point it would just be personal opinions and she does not wish to respond as such. The crowd became loud and angry chanting "You have failed!" Mr. DeTerra was called from the meeting by Fire Chief Francis and was informed that the meeting room was filled to over-capacity and must be cleared for fire and safety. Mr. DeTerra re-entered the meeting and informed the crowd they had to leave. Ms. Lopes motioned to end the discussion as there were no further points to make in the matter; Mr. DeTerra seconded. The majority of the crowd left the meeting.

Health Agent's report:

All 2013 food establishment permits and tobacco sales permits have been issued.

Brown & Caldwell Engineering has completed the quarterly gas monitoring at the landfill and reports that the landfill is in excellent physical condition. All gas probes were non-detect for methane. VOC's were also monitored and within range of the parameters tested.

The School Department as arranged in September with the original indoor air quality testing, has requested a follow-up indoor air quality test at the Wood School/Oxford School in January. DPH has been contacted to perform the test. As soon as a date is secured the Board will be notified.

Payroll is presently signed by the Board at its regular meetings. However, it is noted that payroll should be signed weekly. The health agent asked the Board to allow the chairman to sign the weekly payroll in lieu of waiting for Board meetings. Payroll review will still occur at the Board's regular meeting.

Ms. Lopes motioned to allow the Chairman to sign the weekly payroll. Ms. Acksen seconded. The vote was unanimous.

The DPH is in the process of promulgating regulations for the use and distribution of medical marijuana which was approved by Massachusetts voters in November, 2012. As information becomes available it will be forwarded to the Board. Final regulations must be complete by May, 2013. The DPH is reviewing other states' regulations where the use of medical marijuana is allowed.

A few people remained at the Board meeting. Karen Isherwood asked how many physician reports would be needed to make their case and turn the turbines off. Ms. Acksen stated the private medical reports fall under HIPPA requirements and cannot be shared openly. Much of the information would have to be redacted, however, if there was a public hearing where individuals would give testimony and written statements, this data could then be reviewed as observed by physicians and part of the record. Kathryn Starr said she had filed such a report with the Board's office. The health agent acknowledged receipt but had not placed it before the Board because it is for their private view under HIPPA requirements. Ms. Starr stated she did not care who viewed it. The information is real. Wayne Vieira questioned the public hearing procedure. Ms. Acksen stated it is a process that would allow DPH to gather data and assist in determining outcome as to cause and effect in a confidential manner. Wayne Vieira asked what is happening with the complaints the Board receives. Ms. Lopes stated the complaint forms are a means to gather information in a general manner to observe through the data the connections between things such as wind speed, direction, weather, time of day, etc. When allowed by the complainant, the complaint is shared with the turbine owners whose responsibility it is to correct things that aren't working. That is why the independent sound study by DEP is so important. When completed it will be coupled with the complaints to show weather and environmental conditions that create patterns leading to complaints. Then the owners must correct the conditions that lead to complaints. Ms. Acksen stated the observations will show patterns which can then be addressed. Pat McGowan presented documentation from Wisconsin showing the DEP sound study procedure is inadequate for testing turbines.

There being no other business before the Board, Mr. DeTerra motioned to adjourn the meeting at 7:15 PM. Ms. Lopes seconded. Vote was unanimous.

Patricia Fowle, Health Agent