

REGULAR MEETING OF THE FAIRHAVEN BOARD OF HEALTH  
May 21, 2013

A Regular Meeting of the Board of Health was held at the Town Hall Auditorium on Tuesday, May 21, 2013 at 6:30 PM. The meeting was duly posted. Board members in attendance: Mr. DeTerra, Ms. Acksen and Ms. Lopes. Health Agent Patricia Fowle. Also in attendance from MassDEP: Deputy Commissioner Martin Suuberg, Laurel Carlson and Regional Director Philip Weinberg; from Palmer Management Corp/Fairhaven Wind LLC: Gordon Deane, Sumul Shah and James Sweeney.

The Chairman called the meeting to order at 6:40 PM and welcomed everyone to the public information meeting that had been called at the request of MassDEP Deputy Commissioner Martin Suuberg to discuss publicly the interim report of the MassDEP Fairhaven wind turbine sound study. Mr. Suuberg explained they had called for the meeting because the study has been ongoing for a while and some preliminary new information needed to be shared. A brief history of the Department of Environmental Protection (DEP) involvement was given. A powerpoint presentation was made and a copy is as part of this record. Since the initial sampling in August, 2012, 24 samples have been taken over 8 nights and one day. Of those, 5 samples have exceeded the 10 db allowance. Those exceedances occurred most recently in April and were observed at 12 Little Bay Road, 7 Peirce's Point and 3 Teal Circle. Samples taken at 16 Mill Road and 3 Shawmut Street did not exceed the allowance of 10 db. Mr. Suuberg stated they have shared the results with Fairhaven Wind LLC (FWLLC) who has committed to work with DEP and both the Board of Selectmen and Board of Health to mitigate the causative issues.

A powerpoint presentation by Mr. Gordon Deane, FWLLC was given and a copy is part of this record. Mr. Deane stated they had not seen the DEP report but only the data had been shared. It is difficult to respond without seeing the report. FWLLC is in opposition to the methodology used by DEP. The protocol is not correct for wind turbines but is for fossil fuel generators thus placing wind turbines at a disadvantage. Technical differences were briefly reviewed. FWLLC would like to see the protocol used in the site analysis in 2007 and 2011 employed by Clean Energy Center (CEC). The turbines are fully compliant in summer. Exceedance occurs only in certain areas and wind speeds. The company wants to work with the Town and DEP to make the necessary operational changes to affect compliance at all times. They believe more studies need to be done for night winter conditions and hub height speeds. Operation modifications and sophisticated reprogramming with the manufacturer will work. They hope to have a definitive plan before winter 2013.

Comments/Questions from the audience:

Louise Barteau was upset that DEP shared the information with FWLLC prior to the residents, questioned the use of a slow meter (per second) vs. fast meter (per .10 second) for sound samplings, acknowledged the suffering of impacted residents, called for immediate shut down of the turbines and offered a letter to MassDEP Commissioner Kimmell signed by citizens of other communities affected by industrial wind turbines in their communities requesting changes in sound sampling protocol. She stated the town meeting vote that allowed the turbines is invalid because the town was not given all the information about them at that time.

Grant Menard complained of occasional sleepless nights, the affect on local families, recommended the turbines be shut down until the process to fix them is in place and believes FWLLC will respond faster due to finances if they are shut down. He asked Chairman DeTerra to shut them down.

Christian Powers complained that he has filed complaints numerous times and no one has been to his house and he is deeply impacted by the sound. Ms. Carlson, MassDEP, stated she was at his driveway at 2:00 AM on one occasion and had taken readings at a house next to his.

Lisa Plante stated she has headaches, she can hear them all over when she delivers early morning newspapers with her son, shut the turbines down because they are not in compliance.

Kathy Starr said she has ear aches, jaw problems with a southeast wind and numerous sleepless nights and cannot use her whole house because of sound and morning flicker. A west wind is tolerable.

Justin Downey said he can't live here anymore, can't give the house away. His fiancé and three children must leave because they can't sleep. When it rains the noise is horrible. Gave an analogy of a broken bridge, if broken you wouldn't be allowed to use it. The turbines are broken, you shouldn't use them.

Mr. Suuberg explained the DEP noise policy. People shouted to shut the turbines down.

John Methia said his 17 year old son can't sleep, has headaches and his school grades are dropping. Four homes in his neighborhood are for sale but people see the turbines and keep moving. FWLLC is a bad tenant and needs to be evicted. The town has never been this divisive. The BOH should act and issue an emergency order.

Gordon Deane said he gets the complaints forwarded by the town. FWLLC is a contractor for the town with a contracting obligation. The town can amend the contract and take less. He cannot voluntarily shut down the turbines due to contractual obligations.

Chairman DeTerra asked Mr. Deane "What will you do for these people?". Mr. Deane stated he would work with DEP and the town and find the mechanisms to reduce the sound.

Sue Powers remembered Mr. Deane making a comment that the sound would be "like leaves in the wind". That is a lie. FWLLC has broken the contract and she cannot live with the results.

Mr. Suuberg was asked if the DEP has the authority to order the turbines to shut down. He explained that under DEP regulations both the DEP and the BOH have that authority. It is the policy of the DEP to work with the developers who are willing to mitigate the problems. There are many options to reach their goal of compliance without litigation that can take years. Ms. Acksen stated that at the initial DEP meeting with the BOH at the town hall with Laurel Carlson last year, Ms. Carlson was specifically asked that if the turbines were found to be out of compliance would the DEP order them shut down and the response was yes. That appears to have changed. Mr. Suuberg stated the BOH has the same authority.

Zach Aubut stated he shares the pain and has been sleepless on many nights waking between 2-3 AM, describing the sound as a manmade hurricane. He stated the situation is skewed: a contract is subject to the law; the law is NOT subject to a contract. If the law is broken, then they must be made to comply. It is not about money, or the contract as was acknowledged by the change in the by-law at the most recent town meeting. The old by-law does not work. The turbines must be brought into compliance.

Many called for the Chairman to motion to shut the turbines down. Mr. DeTerra responded he is one of three members. Additionally, the Selectmen have called for a joint meeting to discuss the turbines. Now with this new information the meeting can take place.

Ms. Acksen motioned to shut the turbines down at night. At what time the crowd asked? 11:00 PM to 7:00 AM she responded. The crowd demanded 7:00 PM to 7:00 AM. There was no second. Ms. Acksen motioned to require proprietary information on the turbines be shared by the developer. There was no second.

Wayne Hayward, Planning Board chairman, stated the Board of Health does not have the right to vote because it's not part of the agenda and they should seek advice from town counsel. He was booed by the audience

Ken Pottel stated we are a nation of laws. The exceedance should be treated as in Falmouth and shut down the turbines. The Board of Selectmen has asked for a joint meeting to get this done.

Chairman DeTerra said the Board of Health will speak with Town Counsel and meet with the Board of Selectmen, as was requested by the Selectmen.

Selectmen Espindola had some technical questions regarding testing protocols that were addressed by Laurel Carlson.

There being no other business the meeting was adjourned at 8:35 PM.

Patricia Fowle, Health Agent