

REGULAR MEETING OF THE FAIRHAVEN BOARD OF HEALTH
June 10, 2013

A Regular Meeting of the Board of Health was held at the Town Hall on Monday, June 10, 2013 at 6:30 p.m.. The meeting was duly posted. Board members in attendance: Mr. DeTerra, Ms. Acksen and Ms. Lopes. Health Agent Patricia Fowle was also present.

The Chairman called the meeting to order at 6:30 PM and asked for the minutes of May 21, 2013 and May 22, 2013 be amended or approved. Ms. Acksen motioned to approve the minutes; Ms. Lopes seconded. The vote was unanimous.

Before the Board was Kenneth R. Ferreira, P.E. of Kenneth R. Ferreira Engineering, Inc., New Bedford to represent Albert L. & Lillian M. Roza, owners of 162 Weeden Road. Mr. DeTerra abstained from the discussion. The Roza's are thinking of selling their property and would like to upgrade the septic system to maximum feasible compliance with the existing codes. A septic plan upgrade was reviewed for the existing two-bedroom dwelling. There are no private wells in the vicinity as municipal water is available. The proposal is for a septic tank-pump chamber-distribution box to elevated leaching facility. Local upgrade variances required are from 310 CMR 15.000 Environmental Code: 1.0' reduction in the required 4.0' depth to groundwater required for leaching area, 10.8' reduction in the 50' required setback to BVW for the leaching area, 3.0' reduction in the east property line required 10' setback for the leaching area, 4.1' reduction in the north property line (Kennedy Circle) required 10' setback for the leaching area, 3.2' reduction in the cellar foundation required 10' setback for the leaching area, 8.7' reduction in the east property line to septic tank required 10' setback, 4.0' reduction in the cellar foundation to septic tank required 10' setback and from the Board of Health Regulations, Chapter V, 60.8' reduction in the 100' required setback BVW to leaching area. Mr. Ferreira stated the variances are required to allow for the maximum feasible placement of the system. Parking will be allowed by the beach association on the beach access road abutting the property. There were no questions from the Board after the presentation. Motion to approve the plan with the required variances was made by Ms. Lopes; seconded by Ms. Acksen. The vote was two in favor; none opposed. Mr. DeTerra abstained. (as amended June 24, 2013)

Health Agent's Report:

- Southcoast Hospital Group, 206 Mill Road, Oncology Center, is seeking a variance to the Federal Food Code and State Food Code to allow one of the bins of a 12" deep triple-bin sink with a drainboard to be used as a handwash when the sink is not in use. The eatery which is open to the public has a commercial grade dishwasher that is used extensively by the one-person operation. Using the warewashing sink for handwashing in this manner will not derogate from the intent of the food codes. A letter of request and drawing of the sink were presented and are part of this record.

Motion to allow the variance was made by Ms. Lopes; seconded by Ms. Acksen. The vote was unanimous.

- The Board received notice from Nick Charest, Fairhaven Tobacco Control Agent and also FDA Tobacco Agent, that a compliance check had been done in Fairhaven on Saturday, June 8, 2013. Not all vendors were checked on this day. Two were found in violation and sold tobacco to minors: Fairhaven Getty, 371 Huttleston Avenue and Friendly Farm Convenience, 121 Sconticut Neck Road. The owner of Fairhaven Getty took exception to the finding and may seek to have the Board rescind the result. Discussion: It has been a long time since there had been any compliance checks in Fairhaven due to no funding and these events are good to instill the intent of the Board in its application of the law.

Motion to allow the events follow the protocol was made by Ms. Lopes; seconded by Ms. Acksen. The vote was unanimous.

- As directed, a letter of request was sent to Mr. Gregg Hunt, Department of Environmental Protection, to attend a Board meeting to discuss the current situation at Fairhaven Shipyard, 32 Water Street, regarding noise and other complaints from some abutters. The letter was sent May 24, 2013 and there has been no response as yet. The health agent was directed to call and ensure the letter had arrived and inquire the status of a response.
- A septic system inspection for 565 Scoticut Neck Road performed by Fairhaven Honeywagon, Fairhaven, and owned by Mary Ellen Tunney was performed and passed. A septic system inspection for 366 Bridge Street performed by All Clear Septic & Wastewater, Acushnet, and owned by Rene & Karen Manny was performed and failed. The Manny's have retained a licensed engineer and will be upgrading the system. Both reports were reviewed.

Motion to approve the reports as written was made by Ms. Lopes; seconded by Ms. Acksen. The vote was unanimous.

Bills were signed.

Under Other Business:

Chairman DeTerra stated that at the joint meeting of the Board of Selectmen and Board of Health held today, June 10, 2013, at Noon regarding the industrial wind turbines on Arsene Street owned by PMC (Palmer Management Corporation-Fairhaven Wind), the motion made by Mr. DeTerra and seconded by Ms. Acksen was Mr. DeTerra was informed by a selectman, not correctly formatted. To that end Mr. DeTerra read a prepared statement that is attached and part of this record.

Mr. DeTerra motioned under M.G.L. Chapter 111, § 122-125 and based upon both the number of complaints about noise and the data received from the DEP (Department of Environmental Protection) sound study, to declare the operating industrial wind turbines on Arsene Street to be a public health nuisance, and further, motioned to require PMC (Fairhaven Wind) to immediately cease operation of the turbines from 7:00 p.m. to 7:00 a.m. daily so as to abate the majority of complaints regarding the noise public health nuisance until such time PMC (Fairhaven Wind) can successfully mitigate the problem. Seconded by Ms. Acksen.

Discussion: Ms. Lopes stated that at the Noon meeting today she did not vote on the motion because she felt she had been steamrolled at the meeting. Ms. Lopes believes this motion does not follow the requirements as set forth in the contract with PMC (Fairhaven Wind) which requires the Town to notify the company and give them ample time to rectify the situation. This has not been done and she believes there will be litigation as a result. No further discussion.

On the motion: Mr. DeTerra and Ms. Acksen vote in favor of the motion. Ms. Lopes votes in opposition to the motion. The vote is two in favor and one opposed to the motion.

Written notice to the owner must be made as soon as possible. The health agent will work on the matter. The health agent is to maintain contact with all members as the situation progresses. Should additional Board meetings be required notice must be made to the members immediately.

The next regular meeting will be June 24, 2013 at 6:30 p.m.

There being no other business before the Board, motion to adjourn was made by Ms. Lopes; seconded by Ms. Acksen. The vote was unanimous.

Respectfully,
Patricia Fowle, Health Agent