

REGULAR MEETING OF THE BOARD OF HEALTH IN COLLABORATION WITH THE DEPARTMENT OF
ENVIRONMENTAL PROTECTION
March 28, 2016

A Regular Meeting of the Board of Health in collaboration with the Massachusetts Department of Environmental Protection (DEP) Lakeville office, was held at the Town Hall on Monday, March 28, 2016, at 2:00 p.m. Board members present: Peter DeTerra, Jeannine Lopes and Lindsay Gordon. Mr. DeTerra removed himself due to a conflict of interest in the matter. DEP members present: Maria Pinard, Director Bureau of Air & Waste, Thomas Cushing, Section Chief Air Quality Permitting and Dan DiSalvio, Section Chief Compliance & Enforcement (C&E). Also present: Patricia Fowle, Health Agent.

Acting Chairman Jeannine Lopes called the meeting to order at 2:00 p.m. Motion to open the meeting was made by Ms. Gordon; seconded by Ms. Lopes. The vote was unanimous.

Mr. Cushing reviewed parts of the approved air quality plan for the Fairhaven Shipyard, North. He stated there are particular aspects of the Shipyard work that the air quality plan addresses. The first being solvent use which includes types of paints and other such volatile organic compounds (VOC's). The plan requirements are based on federal regulation standards and restrict not only VOC's but also particulate matter such as paint solids, and materials released from sanding and grinding, etc. The plan requires the use of vacuum assist equipment for mechanical sanding and spray painting. These two processes are methods used primarily on the boat interiors. Exterior boat painting is preferably done by hand to restrict VOC emissions. These two items-VOC emission and particulate emission trigger permit requirements.

Through its regulations DEP handles complaints of noise and dust. For the Shipyard these complaints are generated mostly by the use of needle gunning and high-power spray washing equipment. The placement of the sound barrier along the work yard perimeter of the Shipyard appears to have lessened these nuisances to a great degree. The southwest corner of the work yard does not have the sound barrier as negotiated by the Shipyard and DEP to allow for the maneuvering of the vessels within the yard. This area of the Shipyard has work restrictions and the plan has limits of when such work may occur. A brief discussion of background versus active noise levels was reviewed. Odor complaints do occur off site because even though the marine coatings are EPA approved for VOC's, they do cause odors. Particulate matter or dust complaints must be traceable from the Shipyard to an off-site property. There must be absolute connectivity between the particulate matter on the Shipyard being exactly identified as the same particulate matter off site. This is not easily done. Other technical requirements are part of the plan in regards to the Shipyard's operation. A log book is required showing every aspect of the operation. For example, when high pressure power washing occurs, the date, time, atmospheric conditions, location in the yard and materials and equipment used, must be logged. The DEP will review all of this information to ensure the Shipyard is in compliance with the approved plan.

Mr. DiSalvio stated the C&E Department's function is to assess compliance with all regulations and to assess if a nuisance exists. He is relatively new to the Fairhaven Shipyard situation and asks that complaints from residents go through the town as well as to him for follow-up. His department has very few employees and they cover a large territory. DEP cannot always make it to the site. They would like the town to handle it initially and DEP will offer support. The Shipyard sound barriers are working. The C&E Department, due to continuing complaints from abutters, does intend to do additional noise studies along the southwest area of the yard where there are no barriers. This should be accomplished this spring or summer.

Chairman Lopes then opened the floor to comments and questions noting that speakers will be allowed to speak once with one rebuttal to allow for all who wish to speak to be heard.

Wayne Hayward, Planning Board, stated summer is not as busy as winter in the Shipyard and DEP should consider performing the noise study in winter.

Susan Kowal, 19 Middle Street, stated the Shipyard starts very early-too early.

Kevin McLaughlin, COO of Fairhaven Shipyard, stated the start time for the Shipyard is the same all year as is the level of activity.

Beth Luey, 31 Middle Street, asked if starting time was part of the approved plan. Mr. Cushing reviewed the plan and stated hours are 7:30 am-4:00 pm, Monday through Friday. However, if the work load was critical, the Shipyard could do weekend work as long as the activity is logged. Ms. Luey would like the DEP to make recommendations to the town on how it should be handling other area businesses.

Maria Pinard stated she was glad to meet with the town and wants to hear from the residents. She asked for emails from residents to be timely. It is not helpful to receive emails late in the day when an event has occurred earlier in the day.

Ms. Luey asked what the town can do to help the residents in this neighborhood. Mr. DiSalvio said the town Fire Department and Board of Health may enforce the State regulations if they choose and the town is free to develop its own set of regulations for noise and other nuisances.

Fay Bartling, 12 Middle Street, asked the DEP if the Shipyard could make any noise at any time as long as the Shipyard does not go above the sound limit overall as stipulated in the approved plan. Or can one area, such as the southwest corner of the yard, be reviewed as an entity to itself. Was this aspect of the plan allowed for business specifically?

Mr. Cushing & Mr. DiSalvio stated all aspects of the approved plan, including sound requirements, were negotiated between the DEP and Fairhaven Shipyard.

Ms. Bartling would like the particulate matter off site to be tested. She believes it can be traced back to material originating from boat bottoms. Her house is southeast of the yard and with prevailing northwest winds the particulate matter is all over her property-her windows, her house.

Mr. Cushing stated if one cannot see the particulate matter leave the site, no one can enforce the issue. From a practical legal standpoint bottom paint is not particular to a boat.

Ms. Pinard stated the vacuuming of the yard has helped greatly.

Mr. Cushing stated DEP knows vacuuming is not the perfect answer but it is the best available control technology in place. Tying dust or particulate matter to a specific work practice is problematic.

Henry Riley asked if the Shipyard is using vacuum systems with every mechanical tool.

Mr. Cushing replied yes, to the best of his knowledge. The Shipyard must comply with the terms of the approved plan. However, vacuum assist is not available for every work action at the yard. Such equipment can be used on flat large sections of boats but is not practical on the curves of the boat.

Ms. Luey stated the very north end of the yard has no controls around it and she believes a good portion of the noise and dust originate from operations here.

Mr. McLaughlin stated there were sound tests done by certified engineers on all areas of the yard using State approved protocols. The testing and the results were finalized with DEP approval and are part of the DEP record.

Mr. Cushing stated he would review the files once back at the office.

Ms. Kowal stated the barriers have relieved a lot of the noise and dust but there still is a fish smell from the piers.

Greg Feighery, Fairhaven Shipyard, stated the company is trying to be conscientious as evidenced by the moving of the containers and sound curtains around the yard when they know certain work is going to be done.

Ms. Luey asked what was in the perimeter containers. Greg Feighery stated sound materials and sound curtains.

Ms. Bartling asked who determines where work will be done such as grinding and when the work is of a critical nature. Mr. Cushing stated such business decisions will be reviewed by DEP when they review the work logs that are part of the approved plan.

Mr. McLaughlin stated that only the southwest corner of the yard has restriction on use. They use that area only in critical times and have not used it once in 2016.

Michael Luey, 31 Middle Street, stated the problem stems from doing the work outdoors. It should all be enclosed. It is so with auto body shops. It should be with boat yards. The Board of Health should require this. Ms. Lopes stated the Board of Health has no jurisdiction on auto body shop practices and further, dictating such a business practice is not under the purview of the Board of Health.

In closing of the DEP portion of the meeting Ms. Pinard and Mr. Cushing stated they will continue to work on these issues. DEP exited the meeting at 2:40 pm.

Ms. Lopes stated the meeting would now focus its attention to written questions addressed to the town by the neighborhood. Ms. Lopes requested the health agent participate in this portion of the meeting. The first question was what the town was doing with other waterfront businesses to enforce noise, dust and odor complaints. The health agent responded that the question is too broad and vague and requested that specific concerns regarding specific waterfront businesses be addressed in writing to the Board of Health or other appropriate department. Mark Rees, Town Administrator, asked that all written concerns or complaints be copied to his email as well as the Board of Health so that he can direct it to the proper department for a response. Upon receipt of complaints an investigation will be performed.

Another concern is the traffic flow and parking for the Shipyard employees. Mr. Rees stated there is a 15 year old site plan review for the Shipyard that the Planning Board performed and some items of the plan were not implemented. Mr. Rees and Bill Roth, Town Planner, will review the old plan with intent to approach the Shipyard for discussion. Mr. Roth stated a new site plan will be forthcoming for more planned work at the Shipyard and parking will be addressed, as well as site plantings at that time. He also stated traffic flow has been discussed with other departments and some public meetings will soon occur for public input. Thereafter, engineering studies will be done on any proposed traffic changes to the area.

Ms. Luey asked the town to look into an EPA Environmental Justice Grant for the area by which the town would receive federal money to hire an advisor to assist in these issues. Mr. Roth stated that he was given information from the health agent and has reviewed specific requirements of the grant. The neighborhood does not qualify for the grant according to the information on the EPA website.

In conclusion, Ms. Luey stated that she was pleased with the town government transition to Town Administrator as the organization of matters has changed greatly and there is cooperation with the residents and town departments.

The Chairman asked if there were any further questions. There being none, the Chairman asked for a motion to close the meeting. Motion to close the meeting was made by Ms. Gordon; seconded by Ms. Lopes. The vote was unanimous. The meeting closed at 3:00 p.m.

Respectfully submitted,
Patricia Fowle, Health Agent