

MEETING OF THE FAIRHAVEN BOARD OF HEALTH
February 2, 2012

A Regular Meeting of the Board of Health was held at the Town Hall on Thursday, February 2, 2012 at 12:00 PM. The meeting was duly posted. Board members present: Jeannine Lopes, Dolores Caton and Peter DeTerra. Also present: Patricia Fowle, Health Agent.

Mr. DeTerra, Chairman, called the meeting to order at 12:00 PM and asked that the minutes of the meeting of January 9, 2012 be amended or approved.
Motion to approve the minutes was made by Ms. Lopes; seconded by Ms. Caton. Vote was unanimous.

Health Agent's report:

Jake's Diner, 104 Alden Road, is under new management with Matt Gamache of Courtyard Kitchen, Huttleston Avenue.

A written request from the Department of Public Health, Environmental Health, was received inquiring if the Board would consent to sanitary surveys for the Raymond Street and Seaview Avenue beaches. The survey is the first step in securing a variance for beach testing done monthly instead of weekly from June through September. Beach testing grant funds are waning and it is important to secure funding wherever possible. The health agent will seek further input from the state on this issue.

Under New Business:

A written request was received this day from Cathy Melanson, proprietor of Emma Jean's Cupcake Factory, 115 Huttleston Avenue, requesting permission from the Board to allow use of the existing three-bin sink in the bakery portion of the establishment as the backup sink for the new ice cream parlor service area which has a commercial grade dishwasher. The letter is part of this record.

Motion to grant the request was made by Ms. Lopes; seconded by Ms. Caton. Vote was two in favor and Mr. DeTerra abstaining.

Under Old Business:

Mr. DeTerra requested a review of emails received in the office in regards to the wind turbines. Discussion ensued. Ms. Caton stated the response letter from Attorney Crotty to the Board's request for legal interpretation of its authority was not what she had asked. Mr. DeTerra stated the issue of anticipatory nuisances which would allow the Board to pre-emptively react was the central focus and thus the response. Ms. Caton stated for the record she does not agree with this understanding and is not satisfied with Mr. Crotty's response. Additionally, Ms. Caton was looking for a response from Mr. Crotty on the applicability of Chapter 111 of the Massachusetts General Laws, Section 143 as it relates to the citing of the turbines. The Board's understanding of the review process for the citing of the turbines was then discussed. The Planning Board has regulations for the citing of all turbines. Mr. DeTerra stated he understood the Planning Board had held a public hearing for the original turbine proposal in 2006 or 2007. That proposal was ultimately withdrawn by the developer. The current project is a municipal project and as such, does not require Planning Board review as it was explained to Mr. DeTerra by the Town Planner. Ms. Lopes stated that though the Board has authority to act on complaints, an actual nuisance must exist first before the Board can take action. Further, because the whole project is in court right now on appeals, until the court renders a finding, the Board is barred from taking any action. Ms. Caton questioned how the Town could bypass the Planning Board review simply because it is a municipal project. Questions in an email from Donna McKenna were reviewed. Upon reflection, it was the consensus of the Board that many of these questions cannot be answered by the Board of Health because they are not the principals in the contract with the developers and thus are not privy to the history of the project, the process and the contract's legal requirements. The Board further believes the scope of

questions being asked require in-depth research and are beyond the Board's present resource capabilities. Some requiring answers from specialists and experts, for example, sound engineers, etc. The Board is willing to be a participant in answering these questions if the Board had the capabilities, expertise, employees and time. However, the Board cannot function as such at this time. Therefore the best action to presently take is to inform the Selectmen in writing of the questions proposed by the public through its emails and to seek answers, guidance and action through the Selectmen's interaction with the developer and through the legal requirements of their mutual contract for the wind turbines. The Chairman on behalf of the Board, will speak with Attorney Crotty and possibly Massachusetts Association of Health Boards regarding the applicability of Massachusetts General Laws, C 111, §143 and also whether or not the Board may meet with those opposed to the wind turbines while court action continues. As to the drafting of Board of Health regulations for wind turbines, the Board unanimously believes that though there is a need for regulations for future wind turbine proposals, before developing a set of regulations now, it is best to concentrate on the current situation.

Invoices and payroll were reviewed and signed by the Board.

There being no other business before the Board, motion to adjourn the meeting at 1:15 PM was made by Ms. Lopes; seconded by Ms. Caton. Vote was unanimous.

Patricia Fowle, Health Agent