

## **SUMMARY STATUS UPDATE ON WIND TURBINES**

Report to BOS January 8, 2018

1. Wind 1 denied an operating permit by Zoning Board of Appeals (ZBA), resulting in operational shutdown of that turbine.
2. Wind 1 and wind 2 determined to be a nuisance at their respective locations by the Zoning Board of Appeals; this decision was appealed to the Superior Court.
3. In a separate case, a Superior Court Jury determined that wind 1 did not constitute a nuisance specifically to the Andersen property, therefore denying requested damages to Andersen. This decision had no impact on the zoning/operating permit issue for wind 1.
4. On appeal of the ZBA nuisance determination noted in the second bullet point above, Judge affirmed nuisance and ordered shutdown of both wind turbines, while finding that there was no diminishment in property values. Town declined to appeal further.
5. Multiple additional court cases are continuing.
6. Notification of Court-ordered shutdowns was provided to the Massachusetts Clean Water Trust and the Massachusetts Clean Energy Center, both of which hold a financial obligation from the Town of Falmouth related to the wind turbines.
7. Negotiations underway and continuing with both the Clean Water Trust and the Clean Energy Center regarding bringing to closure these financial obligations and attempting to minimize this portion of the cost-impact to taxpayers from the wind turbine shutdown.
8. The Town has had multiple contacts and discussions with representatives of Plymouth County regarding that County's possible interest in acquiring and potentially relocating one of the Town wind turbines. Following considerable review including financial projections, Falmouth was notified that Plymouth County was declining to proceed with a potential acquisition.
9. The Town has been in periodic, regular contact with representatives of Vestas, the company which manufactured the Vestas V83 turbines, known as Falmouth wind 1 and wind 2. These contacts include providing for periodic maintenance of both turbines as well as exploring potential interest in turbine disposition and/or potential acquisition by a third party having familiarity with the Vestas turbine.

10. Letter issued from Building Commissioner to private complainant advising that the Town is being requested to “prepare and submit to me a plan for its (wind 1) dismantling and removal from its present location and request that the plan be submitted by May 31, 2018.”
11. Wind 1. The formal denial of an operating permit for wind 1 has resulted in the Town being unable to place wind 1 into operation under any circumstance. In summary, wind 1 does not have a special permit to operate under the “old” zoning bylaw, does not meet the conditions required to apply for a special operating permit under the “new” zoning bylaw, and it has been determined to be a nuisance and ordered shut-down by a Court. The Building Commissioner has directed the Town to submit a plan for its disposition by May 31.
12. Wind 2. The status of wind 2 is different. Given the circumstances, it will not operate again at its present location. There is a possibility that it can be relocated by special permit from the Planning Board under the “new” zoning bylaw. It does not need to be considered for dismantling or disposition at this time until an appropriate plan for its disposition can be developed. Relocating wind 2 is only an option. The Town must comprehensively assess the situation; any potential alternative location must address multiple issues including impact on nearby property and residents. As noted, the Planning Board must grant a special permit for any such relocation.
13. The wind turbines represent a very significant capital investment by Falmouth taxpayers and retain considerable residual value which the Town must responsibly analyze and manage.
14. Proper review and analysis of multiple, complex alternatives and issues will necessarily require the professional assistance of a qualified engineering consultant(s). I recommend that the Board so authorize a qualified consultant(s) to be engaged.

Respectfully Submitted,

Julian M. Suso  
Falmouth Town Manager

