

## **Board of Selectmen**

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## **TOWN OF MEDWAY**

### **COMMONWEALTH OF MASSACHUSETTS**

Medway Democratic Town Committee  
Medway, MA 02053  
Via E-Mail: [\*\*email@medwaydemocrats.org\*\*](mailto:email@medwaydemocrats.org)

January 5, 2016

Members of the Committee:

Please be informed that the Board of Selectmen has received your letter of December 19, 2015 addressed to Chairman Foresto and forwarded to the Energy Facility Siting Board (EFSB). To say that the Board is disappointed and frustrated with your letter is an understatement. The letter includes misstatements and misrepresentations of actual facts that give the appearance of advancing a position of non-support of this expansion that some of your members have held for many months. That said, the Board wishes to correct the record, and identify actual facts by responding to points that you have made in your letter as follows:

**1) “The Medway Democratic Town Committee finds the limited democratic process occurring as the Exelon Peaker Plant project progresses to be disturbing.”**

The proposed expansion of this facility was presented to the Board of Selectmen some thirteen months ago in November of 2014. Upon learning of Exelon’s interest, the Board posted this on a Board agenda for a regular Selectmen meeting, and engaged in a public discussion of the topic. From that day through today, the matter was openly discussed and residents have had multiple opportunities to participate. While the negotiations to provide the Town with proper safeguards and mitigation (Host Community Agreement & PILOT) were handled initially, as is customary with these kinds of discussions, as an administrative process, the finished products were made known to the community without delay and prior to our formal public forum on October 21 of this year. Your point seems to suggest that the project has been shielded from public view and residents not allowed to weigh in. That could not be farther from the truth. In fact, we understand that the Milford Daily News alone has reported on this project more than fifty times since November of 2014. Further, in addition to the Board of Selectmen meetings and the EFSB public hearing, all of which were regularly posted public meetings, broadcast live, broadcast on a regular schedule on local cable and made available for replay on the Medway Cable Access website, the Town Administrator and members of the Board have spoken by phone and met face to face with members of your committee and many other residents that wanted to discuss the project, and on several occasions for

several hours. At no time has this Board refused to discuss this project in detail, nor withheld any information regarding the project. Finally, it is important to note, despite your Committee's stated concerns in your letter regarding the "limited democratic process," that at no time prior to preparing your letter did the Medway Democratic Town Committee formally appear before our Board to discuss these specific concerns.

**2) "We are committed to reducing pollution and carbon emissions, and believe that enlarging the existing power plant will contribute to environmental problems."**

The second part of this statement is made without any facts to back it up. In fact, the independent reviews commissioned by the Town have indicated that if the facility is constructed in accordance with established State and Federal regulations and guidelines, the expanded facility will not result in increased safety or harmful environmental impacts within our community. This was a demand and mandate of this Board at the outset of our reviews and all statements to this effect, including the statements of our Administrator at the June EFSB Public Hearing, reflect the position that the Town would NOT support this project if it compromised health and safety.

**3) "We understand the fact that the Board of Selectmen is in the public record as supporting the plant for over a year."**

100% false. At no time did the Board of Selectmen take a formal vote to "support" this project. In fact, the Board filed as an Intervener with the primary purpose being to protect the Community's interests and well-being. Further, neither the Host Community Agreement nor the PILOT agreement contain "support" language of the project from the Board of Selectmen. The Board believes that the agreements, as written however, will properly serve and protect our Community if the EFSB permits the facility and it is constructed. The Board continues to monitor the proceedings and will submit, if appropriate, final briefs at the conclusion of the hearings to address any issues that arise.

**4) "As our elected officials, we have given them the right to speak for us. However, with such a complicated and expanded project in our town, we wish that they had highlighted the ongoing talks much earlier in the process, and made sure that Medway residents understood the impact right from the beginning."**

Again, please refer to earlier comments. Immediately upon being made aware of the proposed expansion, the Board presented the topic in open session at a regular meeting as a posted agenda item. A Board visit to the existing facility last winter was posted as an open meeting. Exelon was encouraged by Board members, and in fact did go forward with, not less than three meetings last Spring with residents and abutters to explain the project. At the urging of members of the Board of Selectmen, the radius of residents that were included in these sessions was expanded to provide for greater notification beyond "minimum" requirements. A public hearing mandated by EFSB was held in early June and the full proposal was presented by Exelon to the community. This hearing was also broadcast live on Medway Cable, and the replay is available on the MCA website. Members of your Committee attended, and at least one spoke during that meeting. The Board of Selectmen, commencing in mid-summer, opened each Board agenda at regular meetings to allow residents to ask

questions, offer information, or simply present their opinions on the topic. Again, individuals who we know to be members of your Committee appeared and spoke multiple times at those sessions. Prior to the date set for the first EFSB information requests to be submitted, the Board welcomed written input and questions on the topic, and working with Special Counsel included some of that input in our formal questions. On October 21, a formal Public forum was held to present our findings and agreements, and again several of your members spoke to the topic at that time presenting opinions, primarily of non-support for the project. As the Board became aware of new information or received completed reports, all were posted upon the Town web site for public review. Further, it is critical to note that the Town did not deviate from proper protocols with this project, which we agree is a “complicated and expanded project in our Town.” But it is one of many that could fit such a description, including a near simultaneous proposal of a near-200-unit “40B” development. That project also could have a substantial impact on our Community, could disrupt significant natural resources, and possibly impact our ability to deliver essential services, yet to date, we have not heard any input from the Medway Democratic Town Committee on that.

**5) “The feeling of being broadsided is prevalent in the community.”**

We can all agree that this is simply an opinion, not a fact. The term “prevalent” as you have used it seems to indicate that you believe a majority of the 13,000+ residents of Medway share this feeling. We completely believe otherwise. For reasons already stated herein, this project was not a secret nor a surprise. Further, each member of this Board has also heard from residents who are not opposed (not necessarily “in favor” but recognize the final decision does not rest with the Board of Selectmen) to the expansion. Still others welcome the project for the increased revenue it promises to bring to our Town (\$79M over the next 20 years). Many residents recognize that simply opposing the project would not likely change the outcome of the state approvals which ultimately determine whether the project will be built but the Host Community Agreement and PILOT do provide many significant environmental and economic benefits that might not otherwise have been made available to the Town. Finally, there are two historic points to remember that demonstrate that the expansion of this facility is not a new issue for Medway. In 2001, the EFSB approved a previous much larger expansion of the facility proposed at that time by Sithe. And, the following statement is included in the 2009 Medway Master Plan, a document approved by Medway Town Meeting, found as an action item in Appendix A: *“Identify key personnel at Exelon and work with them to encourage revival of the expansion of the peak electricity generating plant.”*

**6) “It seemed that the Board of Selectmen were in favor of this plant from day one, and neglected to adequately consider other points of view.”**

Again, the assumption that the Board “supported this plant from day one” is not supported by fact for reasons stated above. Further, “other points of view” are not a valid legal basis for determining the location of this facility, nor are they truly defensible in any formal permitting process. Whether one likes or dislikes, wants or does not want, a power plant, housing development, medical facility, or even retail project are not valid determinants to be used by a permit-granting authority. Facts alone, including the facts made available to the Town through the work of our air quality, noise, and legal consultants were the only legally correct measures that this Board could use in determining whether or not we should enter into an HCA. And, most importantly, we cannot lose sight of the fact that the

Medway Board of Selectmen is NOT in a position to approve or disapprove of the expansion of this facility, particularly as we are not the permit-granting authority. Make no mistake, the Board very clearly heard the opposition of the project voiced by a small number of residents, including some of your members. However, as we were and continue to be guided by attorneys and experts keenly familiar with the siting process, it was most appropriate that we follow that guidance and, again, act in the best interests of the entire community.

**7) “When residents spoke up and asked for a vote, they were told that such a vote could not be undertaken since the Massachusetts Siting Board would make the final decision. Even if non-binding, a vote would gauge the real level of support for this project. Instead, residents are left with little or no voice in the process.”**

As stated by the Board repeatedly, the voice of the public was invited, welcomed and heard by this Board. And, as we have also stated previously, there is no statutory provision to require a vote, non-binding or otherwise, to solicit public approval of a power plant facility. In fact, with perhaps the possible exception of siting a casino in Massachusetts, such a vote is not required for any commercial development or expansion. Given that such a vote is not required, and with our understanding, again, that public opinion traditionally plays a far secondary role to overall site suitability factors in the State’s decision making process for these facilities, it was determined that such a “vote” was not proper nor based on a solid legal foundation. Once again, as you noted in your letter, **“As our elected officials, we have given them the right to speak for us.”** Please be assured that this Board, in this matter and in all matters, takes this responsibility very seriously and at all times acts in a manner that we believe appropriately, legally, and prudently best protects the residents and businesses of Medway.

**8) “Environmentally, expanding this plant using anything but the cleanest technology available is not in the best interests of Medway or the region.”**

This is a point that we agree on. As a facility that will overwhelmingly run on clean natural gas, we believe that the facility will achieve our common goal here. Further, the Town, as stated in the HCA, discourages the use of diesel oil at the facility. However, we recognize that in the rare times where the supply of gas may be interrupted and the provision of power from the facility is critical, the use of oil may be a necessity, but limited to an accumulation of 15 days per year. To that end we have built in a provision within the HCA that will provide a financial “penalty”, payable to the Town that our Community may use. To our understanding, this is a first-of-its-kind provision, and we are proud to have started this trend, and are very encouraged by our independent consultants’ reviews that indicated that the facility, as designed, will meet stringent State & Federal air quality standards.

**9) “The Medway Democratic Town Committee finds that the permitting process for this expansion to be contrary to an optimal democratic process in that citizens were not consulted early enough in the process and were not given an opportunity to collectively weigh in.”**

While the Board clearly disagrees with this assertion, we recognize that it is the Committee’s opinion. Throughout this response, we have indicated to you the factual points to demonstrate that the

Community has had opportunities to be heard, and as stated repeatedly, members of your Committee have taken full advantage of those opportunities.

As a Board, we always appreciate the work that our respective “political Town Committees” do to advance the issues and platforms of their respective political parties. However, in this particular instance we feel a sense of frustration that partisan politics have been introduced into a non-partisan local issue. Such a move is most uncommon, but in this case is not entirely surprising given the veracity of opposition demonstrated to date by some of your Committee members. As we begin 2016, please let us not lose sight of the fact that this Board and the Community as a whole face a number of issues that will shape our Community for many years to come. You can be certain that the Board of Selectmen, in our role as the elected Chief Executive of the Town of Medway, will continue to put the best interests of our entire community at the forefront of every issue, including the continued permitting process for Exelon’s proposed expansion.

**Respectfully,  
Medway Board of Selectmen**

JOHN FORESTO, CHAIR  
MARYJANE WHITE, VICE-CHAIR  
RICHARD D’INNOCENZO, CLERK  
DENNIS CROWLEY, MEMBER  
GLENN TRINDADE, MEMBER