

Halifax Board of Health
Meeting Minutes
Wednesday, October 20, 2010

On Wednesday, a meeting of the Halifax Board of Health was held in the Board of Health office at 7:00 p.m.

Meeting was opened at 7:02 p.m.

Present at the meeting were:

John DeLano – Chairman
John Weber – Co-Chairman
Jeff Anderson – Clerk
Cathleen Drinan – Health Agent

1. **7:15 – 8:30: Disposal Works Permits : Recommended for approval**
 - a. None Tonight
2. **Requiring Local Upgrade (but otherwise recommended for approval):**
 - a. None Tonight
3. **8:30 – 9:00: Discussion - Co-Chair returns**
 - a. **7:15pm** – Ed Giampietro
 - i. BFI water testing Walnut Street well.
 1. Mr. Giampietro attended the meeting to discuss with the Board a past agreement between himself, the town and BFI to monitor the well located on Mr. Giampietro's property at 127 Walnut Street.
 2. Mr. Giampietro stated to the Board that the monitoring of the well has not been done in years and he is requesting that the agreement be reinstated and testing commence.
 - a. The Board reassured Mr. Giampietro that they will look into the possibility of an agreement and contact BFI to commence testing should the agreement be in place.
 - b. **7:30pm** - Fieldstone Farm V.s. Harmon Stables "Berm" issue
 - i. In attendance were Mr. Scott Clawson, Ms. Leslie Deeb and Ms. Jennifer (Bobbi) Harmon.
 1. Mr. Clawson opened the discussion by reading a statement and gave Board and agent a copy of the statement. (*See Attached*)
 - a. Mr. Clawson claims that if the berm is not safe, it is because he did not get to finish it due to the agent's cease and desist order.
 - i. He claims the compost berm contains leaves, wood chips, sticks and few stumps and that the stumps, when being composted are not considered solid waste as bricks, metal and concrete are.

- b. Mr. Clawson stated that Ms. Harmon has 30 plus dogs and about 25 horses and the noise is intolerable.
- c. He stated that he feared the outbreak of disease to his animals and feared for their safety.
- d. He informed the Board that he built the berm as a noise buffer because of the dogs at the Harmon property, as the barking bothers him, and for the protection and safety of his animals as he claims that contagious disease exists at times at the Harmon property.
- e. Mr. Clawson states the berm, in his opinion, is structurally sound, and invited the Board members to visit in person, view the berm and make any recommendations so the berm may be completed.
 - i. Mr. Clawson stated the berm was about 20 feet from the Harmon property line and that he had taken care to be careful of her property when he was building the berm.
 - 1. Chairman John DeLano indicated that he had seen the berm and thought it was closer than 20' and that there were pictures of the berm and described that in parts, logs line up against trees, perpendicular to them, creating a log wall.
 - ii. Mr. Clawson added that he put the logs there to protect the trees. Mr. Clawson said that he believed the dirt and rocks piled up against the trees do not create enough weight to cause a problem.
 - 1. The Chairman stated that they have no way of knowing this and asked Mr. Clawson if he hired an engineer for the design and/or construction of the berm.
 - iii. Mr. Clawson informed the Board he had not hired an engineer, and he does not believe the agent has the right to determine the safety of the berm.
 - 1. The Board stated that the agent is qualified as a health officer to determine the safety of the berm.
 - 2. The Board informed Mr. Clawson that he will need to prove the agent's findings untrue in order to overturn the Board of Health's cease and desist order.
- f. The agent requested to speak and presented photos of a section of the berm that appeared to have been worked on after the cease and desist order was issued, while other areas of the berm had been settled from recent rainfall and were covered in pine needles. However, this particular section did not look settled

from the rain, did not have pine needles present and had tracts form machine whereas the rest of the berm didn't.

- i. Mr. Clawson denied any activity or work on the berm.
 - ii. Agent reiterated that it appeared to have had some activity.
 - g. The agent repeated DEP's statement in regard to Mr. Clawson's berm, that stumps cannot be covered with dirt; and does not comply with DEP regulations.
 - h. The agent also informed Mr. Clawson that DEP made it clear to her on the phone and by email that the berm is not safe as it stands now. Mr. Mark Daker's from DEP said with certainty that stumps and logs could not be covered with soil and that he also agreed that a berm built of materials such as rocks, logs, stumps, sod, wood chips and manure would not be safe because of its instability and the voids which could trap a person or an animal.
 - i. Mr. Clawson asked to see the response from Mr. Daker's.
 - ii. All attendees were given a packet of information, the same as the Board, Agent and Admin had.
 1. See Attached
 - i. The agent stated she would like to see the unsafe materials taken away and again suggested that Mr. Clawson post warning signs and tape as safety measures around the berm as she had suggested to him by fax and at a visit to his property in regard to the berm prior to this meeting.
 - j. Mr. Clawson and Ms. Harmon were given copies of DEP's statement, and Mr. Clawson informed the Board that he would be in contact with an engineer.
 - i. The Chairman explained to Mr. Clawson that he had not heard any evidence as to why the berm should be considered safe and that he, Mr. Clawson, would have to hire an expert to determine how to properly build a berm and said expert must also know and comply with all DEP regulations and all findings in his/her report are to be presented to the Board at the November 03, 2010 meeting
 - ii. Mr. Clawson asked why he had to hire someone.
 1. The Chairman explained that since it was he who built the berm that has been deemed unsafe and causing a nuisance, that he would have to be the one to prove otherwise.
 - k. Mr. Clawson explained he built the berm to lessen the noise from the barking of Ms. Harmon's dogs. Claiming that it was horrendous sounding and although it is not 24/7, it is often

enough to be very stressful. He admitted that this day (10-20-10) had not been bad and suggested that, perhaps Ms. Harmon sedated her dogs to quiet them down. He claimed to have seen her German Shepherds that day barely able to lift their heads.

- l.** The Board admitted to Mr. Clawson he had a right to build a berm, for whatever reason, on his property but that it must be stable and safe and legal. He added that even if the berm began 30' away from the Harmon property, and was built as it is built now, it would still not be safe.
- m.** Mr. Clawson explained to the Board that his intention was to build a solid berm and plant pine trees on it, because a major concern for him was the safety of his animals, especially his horses and that his side of the berm would be fenced in to keep his horses from climbing it and being injured.
- n.** Mr. Clawson stated that he has taken great care not to disrupt or cause damage to his neighbor, Ms. Harmon's property.
- o.** The Board told Mr. Clawson they are not comfortable with a compost berm so close to an abutting property and informed him that it must be properly set back from living trees and cannot cover the trees roots or trunk and bark that supply water or air for its survival, and that they believe Mr. Clawson did not take care when constructing the berm to cause no harm or damage to his neighbor's, Ms. Harmon's, property.
- p.** The Chairman asked Mr. Clawson if he was violating any other town department's rules or agreements he had with them, such as to maintain buffer areas next to abutting properties.
 - i.** Mr. Clawson answered he "had no idea."
- q.** The Board inquired if the town's Animal Inspector has been involved with the animal health issues.
- r.** Mr. Clawson again claimed that there were too many animals on the Harmon property and that they are not properly vaccinated.
 - i.** Ms. Harmon told the Board she can produce all veterinary vaccination records needed for her animals.
- s.** Ms. Deeb claimed Ms. Harmon does not have a kennel permit for her dogs.
 - i.** Ms. Harmon told the Board she can produce her kennel permit for her dogs should they require it.
- t.** The Chairman said that the Board has an Animal Inspector's and she has never reported any problem with the Harmon property.
 - i.** Mr. Clawson responded that the Animal Inspector, Judy Anderson, was a very nice lady, but she and Ms. Harmon

are friends and that is why she has never reported any problems.

1. The Board informed Mr. Clawson that they have no reason to question the Animal Inspectors integrity in regard to her work ethics.
 - a. The Health Agent said she could have the Animal Inspector visit the Harmon Stables again but that this was really another topic for another time.
- u. Mr. Clawson told the Board that he has checked the internet and DEP's website and can find no information or rules and regulations on constructing a berm and asked for any suggestions they might have.
 - i. The Board instructed Mr. Clawson to contact a civil engineer, who has the authority to design and build a berm; the engineer can give guidance on how to properly construct and dismantle a berm.
- v. Mr. Clawson indicated his willingness to hire an engineer but that he would have to wait to dismantle the berm until he could get an engineer there. He was unsure how long that would take.
 - i. The Chairman commented that there are many civil engineers looking for work and that the Board will need to meet the engineer to hear the testimony and certification to the safety of the berm.
- w. The Chairman then summarized the hearing's findings.
 - i. The Board finds the berm unsafe.
 - ii. DEP says the berm is in violation of several CMR's, as noted in the printed email.
 - iii. Mr. Scott Clawson has a right to build a berm as long as it doesn't violate laws and is built in a safe manner.
- x. The Chairman said that Mr. Clawson needed to get an engineer in to report by the next meeting, November 3, 2010 and the Board does not want to delay the order any longer because of the safety concerns.
- y. The Chairman asked Mr. Clawson how long it took him to build the berm.
 - i. Mr. Clawson answered that it took three to four days.

A Motion was made to delay the order to dismantle and remove the berm until the November 03, 2010 meeting, in order to give Mr. Clawson the opportunity to have an engineer provide evidence as to the safety of the berm and so that the Board can hear the expert testimony. If the expert testimony presented at this time does not prove the berm to be safe, it shall be dismantled beginning November 4, 2010 and removed by November 7, 2010.

Motion: John Weber

Second: Jeffrey Anderson
All in Favor

- ii. Mr. Clawson requested a moment to discuss a food issue with the Board.
 - 1. Mr. Clawson stated to the Board that at the August horse show he hired a couple of town food establishments to provide food during the show.
 - a. He told the Board that one of the establishments he hired handed him a fine that was issued to the owner for lack of hand washing stations and presence of flies as critical violations found, four critical violations totaling an amount of \$200.00, at \$50.00 each.
 - b. Mr. Clawson stated he feels this is unfair and asked that the Board offer some relief in the fines due to the state of the economy and make them a warning instead so as not to discourage the establishments from taking part in the horse shows.
 - i. The Board informed Mr. Clawson that due to the new “Open Meeting” laws, this will need to be put on the November 03, 2010 agenda for discussion.

c. Admin Report

- i. None Tonight

d. Agent Report – Agent Updated Board

- i. Perc Test for new development
- ii. Articles in MHOA Journal
- iii. Lead Abatement

4. The Following to be signed:

a. Payroll for the Week Ending 10/23/10 - Board Signed

- i. Cathleen Drinan
- ii. Margaret Selter
- iii. Judy Anderson

b. Certificate of Receipt of Open Meeting laws

- i. Board Signed

c. Meeting Minutes:

- i. None Tonight

d. Permits: - Board Signed

- i. John S. Keefe – Keefe Associates – 2010 Soil Evaluator’s Permit
- ii. Gail Edwards – This & That Gifts – 2010 Establishment Permit

e. Expense Account# 01-512 – FY 11-06 - Board Signed

- i. Cranwell Resort, Spa and Golf Club – New England Epidemiology Conference – Confirmation# 32B665 - \$292.18

f. Revolving Account# 25-513 – FY 11-07 - Board Signed

- i. PMP Associates – Bottom Hole Inspection - \$40.00
 - ii. Arthur Bloomquist – Final Inspection - \$30.00
- g. Landfill Capping Account# 30-519 – FY 11**
 - i. None Tonight
- h. Landfill Engineering Account# 01-519 – FY 11**
 - i. None Tonight
- i. Nursing Services Account# 01-522 – FY 11**
 - i. None Tonight
- j. Gift Account # 26-514-4830 – FY 11**
 - i. None Tonight
- k. PHER Account# 21-520 - FY 11**
 - i. None Tonight
- l. Mail Folder: - Board Read**
 - i. Annual State Ethics Law
 - ii. Board of Selectmen Public Hearing
 - 1. Turkey Swamp Bog Realty Trust
 - a. Earth Removal
 - iii. 845 Plymouth Street
 - 1. Kennel for Breeding or Boarding of Dogs
 - iv. Mass. Cancer Registry
 - v. Community Signs
 - vi. Possible Land Purchase Opportunity
 - vii. Form A

Adjournment

A Motion was made to adjourn the meeting at 9:10p.m.

Motion: John Weber
Second: Jeffrey Anderson
All in Favor

Typed by,
 Peggy Selter
 Administrative Assistant

Signed By:
 John DeLano – Chairman
 John Weber – Co-Chairman
 Jeffrey Anderson – Clerk

~You can receive an official signed copy of meeting minutes at the Board of Health office~