

**Halifax Board of Health
Meeting Minutes
Wednesday, November 03, 2010**

On Wednesday, a meeting of the Halifax Board of Health was held at the Halifax Town hall.

Alternative Sewerage Committee Meeting was opened at 7:02 p.m.

Present at the meeting were:

John DeLano – Chairman, Board of Health
John Weber – Co-Chairman, Board of Health
Jeff Anderson – Clerk, Board of Health
Suzanne Lillie – Chairwoman, Alternative Sewerage Committee

1. Open Forum 7:00-7:15

a. Alternative Sewerage Committee

- i.** Leveraging the internet for communication – Chatham Wastewater Calculator
 - 1.** Suzanne Lillie updated the Board that Chatham has a waste water cost calculation, it may take about 30 years to get it done and that we are not alone in our request to have alternative sewerage.
- ii.** Innovative/Alternative Technologies approved for use in Massachusetts
 - 1.** Suzanne Lillie requested DEP's list of innovative technology that is approved.
 - a.** The Chairman directed her to DEP's website for the information.
- iii.** Taunton and Winnetuxet River overview
 - 1.** Suzanne Lillie updated the Board that the Taunton and Winnetuxet River are very heavily protected; they are a tributary water source.
- iv.** Second request to Assessor's office for ownership of land at Halifax Beach – pending
- v.** Suzanne Lillie updated the Board that she did contact the Assessor's office and confirmed that the town owns the land in between 4th and 5th Avenue.

A Motion was made to adjourn the Alternative Sewerage Committee meeting at 7:20pm

Motion: John DeLano

Second: John Weber

Unanimous vote on the motion

BOH Meeting was opened at 7:20 pm

Present at the meeting were:

John DeLano – Chairman

John Weber – Co-Chairman

Jeff Anderson – Clerk

2. 7:15 – 8:30: Disposal Works Permits : Recommended for approval

a. None Tonight

3. Requiring Local Upgrade(but otherwise recommended for approval):

a. None Tonight

4. 8:30 – 9:00: Discussion

a. **7:30pm** - Fieldstone Farm – In attendance were Mr. Scott Clawson and his attorney Robert Galvin.

- i. Expert opinion of berm safety & legal standing according to CMR's.
- ii. See concerns of agent, as she could not attend
- iii. See comments by Mark Daker's of MA DEP, Lakeville
- iv. ***Chairman invited Scott Clawson's attorney, Robert Galvin to open the continued hearing for Fieldstone Farm.***

1. Attorney Galvin apologized to the Board and stated that Mr. Clawson was unable to obtain a written letter in a timely manner from Webby Engineering stating that he had retained their services, nor was he able to obtain their expert opinion and written report on the structure and stability of the berm as they requested at the last meeting. He stated that an exception .065 applied to Fieldstone Farm.
 - a. Mr. Clawson stated that he had tried to contact Webby Engineering Monday through Thursday with no response and then went to their office Friday and that's when he was informed they couldn't do it.
2. Attorney Galvin informed the Board that he and Mr. Clawson had a conference call with Kevin Grady of Grady Consulting, and Mr. Grady informed them that he could not provide what the Board was requesting in one (1) day, but he could inspect the berm and supply his expert opinion in a written report, and a letter stating Mr. Clawson retained his services but he would need a 3-4 day time period to do so.
3. Attorney Galvin stated he does not believe the building of Mr. Clawson's berm qualifies as a public nuisance, but does believe it to be a private nuisance. He stated that he had Mr. Clawson personally show him where on his property he got the materials to build the berm.

4. The Chairman requested to speak and stated that the Health Agent inspected the property, deemed it a public nuisance and a safety issue. Mr. Clawson was instructed to hire a civil engineer and that Attorney Galvin was not trained in public health or qualified to make a decision on the agent's conclusion of the berm.
 - a. Attorney Galvin agreed he is not trained or qualified in public health but is in private and public nuisance.
 - i. The Chairman disagreed.
5. The Chairman asked if he had a written contract from Grady and if they were aware the Board of Health was looking for the written letter or their presence at the meeting.
 - a. Mr. Clawson stated he did not have a written contract but did have a verbal agreement and that Grady Consulting was aware of what the Board was looking for.
6. The Chairman asked if he was firing Webby Engineering and hiring Grady Consulting.
 - a. Attorney Galvin restated the conference call between Grady Consulting, Mr. Clawson & himself.
7. The Chairman read the October 20, 2010 meeting motion out loud to all in attendance which stated that *"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"* and that he was still looking for something in writing from said hired engineer to show that Mr. Clawson complied with the Board's order. The Chairman declared that he has only heard excuses as to why Mr. Clawson did not comply with the Board's order, not a reason.
 - a. Mr. Clawson stated that he himself didn't know until about noon today that John Veracka of Webby Engineering did not write the letter with his expert opinion as the Board requested.
8. Attorney Galvin asked why the berm was being considered a nuisance, was it because of odor, height, sound?
 - a. The Chairman told Attorney Galvin he is welcome to all copies of the agent's reports.
9. The Co-Chairman stated he went and looked at the berm, and he believes the berm was too close to the property line and the setback was not there.

- a.** The Chairman directed Attorney Galvin and Mr. Clawson to item# 9 and requested they too read the agent's concerns.
- 16.**The Chairman stated to Attorney Galvin, if the Board agrees to give Mr. Clawson time to retain another engineer to do another evaluation, the engineer needs to know the Board's concerns, and he won't know them because he isn't at this meeting and won't be until the November 17, 2010 meeting.
 - a.** Attorney Galvin asked the Chairman if he would like to talk to Grady Consulting.
- 17.**The Chairman replied that it would bother him to speak to Grady Consulting outside the meeting. He also stated he was bothered by the fact of delaying another two (2) weeks with the trees being affected by the berm and the safety of people visiting either Ms. Harmon's property or Mr. Clawson's property.
 - a.** Attorney Galvin agreed that the bearing down on the trees causes a problem and it cannot stay that way and that Mr. Clawson also agrees.
- 18.**The Chairman asked Mr. Clawson to look at the aerial photo showing the drainage from the pond and asked if the water was still draining and following the previous swale. He stated that the engineer needs to be aware of the flow of the water and the drainage.
 - a.** Mr. Clawson began to speak of his concern of diseases to his horses and the Co-Chairman reminded Mr. Clawson that this was not an agenda item at this time.
- 19.**The Chairman stated again that the Board is ok with Mr. Clawson building a berm, and that along with everything else; it also must be maintained against both sides of the property.
 - a.** Mr. Clawson indicated to the Board on the aerial photo that the berm was 25' from Ms. Harmon's property.
- 20.**The Chairman stated that the engineer will need to show the contours of the land in his evaluation report; he stated that if Ms. Harmon's property is higher than his it could cause a problem.
 - a.** Attorney Galvin agreed that if Ms. Harmon's elevation is higher than Mr. Clawson's it could possibly cause a problem.
- 21.**The Chairman asked Ms. Harmon if she would object to surveyors coming onto her property.
 - a.** Ms. Harmon responded that she would be happy to have them do the surveying.

22. Attorney Galvin stated he had written down the issues for the engineer.
23. The Clerk stated again his concern with the berm being unsafe and requested Mark Daker's, DEP response email regarding the berm be looked at again.
 - a. Attorney Galvin responded that he didn't think they would have to deal with that if the berm is engineered.
24. The Chairman stated if the engineer inspects the berm he is ok with the delay.
25. Ms. Harman spoke up and stated that she is concerned with more trees falling, two (2) have already fallen on her property.
 - a. Mr. Clawson replied that he knows of one (1) that came down that had been intentionally cut and that nobody associated with him cut it.
 - i. Attorney Galvin informed the Board that they had retained the stump in case it is needed as evidence.
26. Ms. Harmon stated that she is concerned with the trees falling on her dogs and that she had an arborist from Laterno Tree Service come out and inspect the tree issue. She gave a copy of the arborist report to Mr. Clawson.
27. The Chairman asked the other Board members, because the original engineer was allegedly non-responsive to Scott Clawson's request to be present at this meeting and did not offer a letter and that they were not retained by Mr. Clawson if they are ok with the delay?
 - a. Attorney Galvin stated Mr. Clawson will hire Grady Consulting but reiterated that the other engineer did not send his expert opinion as to the safety of the berm in such a short time and would need the 3-4 days.
28. The Chairman informed Attorney Galvin and Mr. Clawson that they would have to draft something up for Grady Consulting or any other expert to have for guidance and asked the other Board members if they would be in favor of rescinding the motion made at the October 20, 2010 meeting to delay the order to dismantle and remove berm until the November 03, 2010 meeting.
 - a. A decision was not made at this time.
29. The Chairman asked Mr. Clawson if he had the equipment to remove the berm.
 - a. Mr. Clawson stated he had rented the equipment to construct the berm and that he has other obligations he has started and need to be finished before he can begin to dismantle and/or remove the berm and also stated the

weather would be a factor as to how soon it could be started.

- 30.**The Chairman stated he needed to consult with the other Board members in regard to rescinding the original motion.
 - a.** A decision was not made at this time.
- 31.**The Chairman asked if there were any pictures of the berm and the trees the Board could look at.
 - a.** Ms. Harmon gave the Board pictures that she had with her and the administrative assistant gave the Board the agent's pictures.
- 32.**Ms. Harmon informed the Board there are eight (8) trees she is worried about that are in the area of her dog kennels and showed them the picture of the trees in question. She showed the Board pictures of the second tree that came down on her dog kennel.
 - a.** Attorney Galvin showed the Board on the aerial photo the area Ms. Harmon was indicating the trees, where you can see the dog kennels. He stated that Mr. Clawson could do one of two things; he could take the trees down completely or move the berm.
- 33.**The Chairman asked Mr. Clawson about a past ZBA permit when the Harmon farm was the Rockwell Farm.
 - a.** Attorney Galvin stated it was actually a consent judgment, the original decision on the special permit. He stated he thought he had it on him but failed to produce it.
 - i.** Mr. Clawson stated he had appealed that.
- 34.**The Chairman talked about a zone A.
 - a.** Attorney Galvin stated it was superseded by the consent judgment and this is what the town and Mr. Clawson are operating with.
 - b.** The Chairman stated that if they agreed with the removal of trees he did not want to be violating any ZBA orders.
 - c.** Attorney Galvin responded that he was 100% sure of the conditions of the horse shows. He assured the Board that Mr. Clawson would only be touching the trees on his side of the property and that Mr. Clawson has a survey of the boundary lines.
 - i.** Ms. Harmon replied "Clearly I am not on Mr. Clawson's property."
 - d.** Attorney Galvin responded "I didn't say you were on Mr. Clawson's property."
 - i.** Ms. Harmon replied "No, Mr. Clawson did."

- 35.**The Chairman asked Mr. Clawson “If we allow you to follow your survey, how, will the Board be sure the trees are on your property?”
- a.** Mr. Clawson stated he will wait for Grady Consulting to give him the boundaries.
- 36.**The Chairman declared it was time for the Board to make a decision and asked if Attorney Galvin or Mr. Clawson wanted to add anything.
- a.** Attorney Galvin replied that Mr. Clawson will remove the soil surrounding the trees or remove the trees. He will get from Grady Consulting, boundaries, elevations and he will share with the Board of Health and Ms. Harmon the expert opinion report on the condition of the berm.
- 37.**The Chairman also requested a report on the materials in the berm.
- a.** Attorney Galvin stated Grady Consulting will follow DEP Regulations.
- 38.**The Chairman stated, based on Grady Consulting analysis, it will be submitted to DEP.
- 39.**The Chairman summarized what Mr. Clawson needed to do or have done.
- a.** Retain Grady Consulting or any other expert engineer by tomorrow November 04, 2010 and submit to the Board of Health by the end of the working day a letter/statement that they have been retained by Mr. Clawson.
 - b.** By Tuesday, November 09, 2010 start the removal of soil surrounding the affected trees or remove the trees.
 - c.** Expert opinion report from retained engineer with the existing condition of the berm, materials used in the berm, spot elevations of the surface waters on both sides of properties.
 - d.** A sketch of the proper construction of the berm.
 - e.** Any and all information regarding the berm requested by the Board to be delivered to the Board of health by November 15, 2010 so it can be submitted to DEP for their opinion and be ready for the November 17, 2010 meeting.
- 40.**The Chairman asked Ms. Harmon if she had any concerns.
- a.** Ms. Harmon replied, just the one I expressed about the trees falling and the disagreement regarding the property boundaries. She asked for a timeline because she was concerned with the safety of her animals.

41. The Chairman stated he watches the weather and the extended forecast for next week looked good.
 - a. Mr. Clawson replied Tuesday, Wednesday or Thursday would be good.
 - b. The Chairman responded to his recollection, the weather will be good on Tuesday and that is the deadline to begin the work on the berm.
42. The Chairman told Attorney Galvin and Mr. Clawson that the engineer is to come to the property and define the plot line to be sure of the soil or tree removal, if it is not defined then only the soil is to be removed.
43. The Chairman reiterated The Board of health is to receive a written contract or engagement letter from the retained engineer by the end of work day on Thursday November 04, 2010 and in said contract or engagement letter the engineer is to outline what the plan will show.
44. The Chairman again read out loud to all in attendance what the engineer and Mr. Clawson will need to present to the Board at the November 17, 2010 meeting.
45. The Chairman informed Attorney Galvin and Mr. Clawson if there was any change with anything the Board of Health and/or the Board will need to know about it. He stated neither the Board of Health nor the Board members were informed of what happened with Webby Engineering and should have been kept updated.
 - a. Mr. Clawson responded that he didn't know until today.
46. The Clerk asked Attorney Galvin and Mr. Clawson to repeat again when Grady Consulting stated they would have a report ready.
 - a. Attorney Galvin stated that Grady Consulting indicated to them 3-4 days.
47. Ms. Harmon asked to pose another concern she had regarding the overseeing of dismantling the berm.
 - a. The Chairman replied in his opinion it would be the expert engineer who oversaw the dismantling of the berm.
48. The Chairman stated to Attorney Galvin and Mr. Clawson that the Board and the Board of Health will expect the plan from the engineer by November 15, 2010.
 - a. Attorney Galvin responded that if Grady Consulting has any problems with this he will let the agent know.
 - b. The Chairman stated to Attorney Galvin and Mr. Clawson that the November 15, 2010 is the deadline,

which will give the Board of Health time to bring the plan to DEP for their opinion.

49. The Chairman again summarized what he or the Board of Health expected from Mr. Clawson.

a. Retain an engineer tomorrow November 04, 2010.

i. Engineer is to submit a contract or engagement letter to the Board of Health with an outline of their plan for the berm.

ii. Either the removal of soil surrounding the trees or the removal of trees by Tuesday, November 09, 2010.

b. Have engineers plan to the Board of Health by 9:00am November 15, 2010 for submission of DEP's opinion to be ready for the November 17, 2010 meeting at 7:30pm.

50. The Chairman requested Attorney Galvin and Mr. Clawson approach the table to look at the aerial photo.

a. After looking at the aerial photo, all parties agreed to the area of which the trees should be removed from the westerly side of the back Harmon corral.

51. The Chairman asked Ms. Harmon if she had any other concerns other than haven't been expressed.

a. Ms. Harmon replied she did not.

A Motion was made to rescind the original motion dated October 20, 2010 to delay the order to dismantle and remove the berm until the November 03, 2010 meeting in order to give Mr. Clawson another opportunity to have an engineer provide evidence as to the safety of the berm and the other conditions and laws previously described and agreed upon by all parties, so that the Board can hear the expert testimony.

If the November 04, 2010 newly retained expert engineer's testimony presented at November 17, 2010 meeting does not prove the berm to be safe, it shall be dismantled beginning November 18, 2010 and removed by November 21, 2010"

The Chairman asked if there was any further discussion required before the Board voted. No further discussion was requested.

The motion was voted.

Motion: John Weber

Second: Jeffrey Anderson

Unanimous vote on the motion

v. Violations fees appeal requested

1. Agent is requesting to postpone this issue to the 11/17/10 meeting when she will be available.

2. The Chairman stated Mr. Clawson had requested a discussion on food violations.

- a. Mr. Clawson responded that he didn't bring any of the information with him.
- 3. The Chairman informed Mr. Clawson the food violation agenda item would be tabled until the November 17, 2010 meeting.
 - a. Mr. Clawson asked if the food violation agenda item could be tabled until the berm agenda item was resolved.
 - b. He summarized the food violation issue for the Board.
- 4. The Chairman asked Mr. Clawson if it would benefit him to have someone from Grill58 come in to the November 17, 2010 meeting with him.
 - a. Mr. Clawson replied that he would ask.
- 5. The Chairman stated the Board would leave the food violation agenda item tabled and if need be it could be re-tabled for another time.

b. Admin Report

- i. Discuss whether or not to revoke an Installer's permit.
 - 1. The Maxx Corp.
 - a. Returned check in August with no response to calls, faxes and letters from Board of Health and Treasurer's Office.
 - i. Board voted to revoke installer's permit

A Motion was made to revoke septic installer's permit for non-payment. Before reinstating said permit, any and all fees due the town for insufficient funds must be paid in full.

Motion: John Weber
Second: Jeffrey Anderson
Unanimous vote on the motion

c. Agent Report

- i. None Tonight

5. The Following to be signed: Board Signed

- a. **Payroll for the Week Ending 11/11/10**
 - i. Cathleen Drinan
 - ii. Margaret Selter
 - iii. Judy Anderson
- b. **Meeting Minutes: Board Signed**
 - i. October 06, 2010 Meeting Minutes
 - ii. October 20, 2010 Meeting Minutes
- c. **Permits: Board Signed**
 - i. Richard Fontaine – West End Drilling – 2010 Well Permit
 - ii. Gary W. Wing – 2010 Septic installer's Permit
- d. **Expense Account# 01-512 – FY 11-07 - Board Signed**
 - i. NACCHO – 2011 Membership Fee – Invoice# 63215 - \$55.00

- e. **Revolving Account# 25-513 – FY 11-08 - Board Signed**
 - i. G&L Laboratories – 2010 Water testing for Covenant Case’s – Invoice# 00054505 - \$130.00
- f. **Landfill Capping Account# 30-519 – FY 11**
 - i. **None Tonight**
- g. **Landfill Engineering Account# 01-519 – FY 11**
 - i. **None Tonight**
- h. **Nursing Services Account# 01-522 – FY 11-01 - Board Signed**
 - i. Partners Home Care – Nursing Services
 - 1. 7/1/10-8/31/10 - \$583.33
 - 2. 8/1/10-8/31/10 - \$583.33
 - 3. 9/1/10-9/30/10 - \$583.33
 - 4. 10/1/10-10/31/10 - \$583.33
 - a. Total Due: \$2,333.32
- i. **Gift Account # 26-514-4830 – FY 11**
 - i. **None Tonight**
- j. **PHER Account# 21-520 - FY 11**
 - i. **None Tonight**
- k. **Mail Folder: - Board Read**
 - i. Thank you card
 - ii. BFI Laurel Street Quarterly Landfill Monitoring Report
 - iii. Regional Solid Waste Management Forum

Adjournment

A Motion was made to adjourn the meeting at 9:15 p.m.

Motion: John Weber
Second: Jeffrey Anderson
Unanimous vote on the motion

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~