

Halifax Board of Health
Meeting Minutes
Wednesday, December 15, 2010

The meeting of the Halifax Board of Health was held at the Halifax Town hall.

Meeting was opened at 7:20 p.m.

Present at the meeting were:

John DeLano – Chairman
Jeff Anderson – Clerk
Cathleen Drinan – Health Agent

1. Open Forum 7:00-7:15

a. None Tonight

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 Hearing Continued: *Opened at 7:35pm*

- i. Ms. Bobbi Harmon was in attendance.
- ii. The Chairman opened the hearing stating he had gone to the site and Mr. Clawson did have the no trespassing signs up but the fencing did not go all the way down the berm as it should have.
 1. He stated that he took pictures of the fencing and the signs and that the new berm is slumping and cracking as it settles and again, he has pictures.
- iii. The Chairman stated he had seen a change in Ms. Harmon's dogs behavior, the puppies yip and then stop. The German Sheppards used to come out quietly and warily, now with all the extra activity that's been going on, they come out more cautiously.
- iv. The Chairman asked Ms. Harmon "Did you anticipate that Mr. Clawson would be done with the work by Saturday December 04, 2010?"
 1. Ms. Harmon replied "He has done nothing since you left after the inspection on Friday December 03, 2010.
- v. The Chairman stated that if Mr. Clawson does not comply with the latest order, it could be interpreted as the safety concerns haven't been sufficiently completed and if after Mr. Clawson is deemed to be in non-compliance he continues to ignore the Board's order for compliance the Board of Health cannot be faulted for enforcing the compliance.

- vi. The Chairman stated “I don’t think Mr. Clawson is coming tonight, we will be going out there on Friday December 17, 2010.”
- vii. The Chairman asked Ms. Harmon “Can you give us an update?”
 - 1. Ms. Harmon told the Board that since the last meeting on December 1, 2010 Mr. Clawson did fill in some holes with shovels. She stated that there was a lot of activity in the corner and Mr. Clawson had also buried more stumps in the berm and has made it even higher than it was. Ms. Harmon stated that the repairs to the erecting of the orange fencing and no trespassing signs are a little bit better, but nothing more than that was done by Mr. Clawson since the Chairman saw it on Saturday, December 4, 2010. She stated basically nothings been done since the Board’s visit.
- viii. The Health Agent asked the Board “Can you give me your opinion and guidance for the Board of Health on what is appropriate, should something like this arise again, or something similar comes up? In my personal opinion the Board of Health has the right to be concerned with safety hazards and insist that No Trespassing signs and fencing should be on both sides of the properties, because Fieldstone has public shows, boarding and riding lessons. Public safety is a point easily defended; a child could be hurt with Mr. Clawson’s side wide open to that berm.”
 - 1. The Chairman replied “The Health Agent brings up a good point in my opinion. What I was trying to do as a Board, was get through and follow this hearing process.”
 - a. He stated “Is there an immediate danger on the berm? I think someone could get hurt. Is it at a level to be barricaded? No, I don’t think so.”
- ix. The Health Agent stated “I advised Mr. Clawson a long time ago to put up fencing and signs and told him it was well worth it if he did and should put it on both sides.”
- x. The Chairman stated that Mr. Clawson had hired an engineer and it is on record that the engineer reported that the berm is not a safety concern.”He stated that maybe the Board of Health should have hired an engineer to show our view on public safety. We need to make it specific and have things in writing.”
 - 1. Ms Harmon stated “Yes, he hired an engineer but he did not tell the engineer to follow your instructions.”
 - 2. The Health Agent stated that the engineer hired by Mr. Clawson had not been fully prepared and did not have all the information he needed.”
- xi. The Chairman stated “Should something similar come up such as an attractive nuisance or safety problems, we would handle it a little differently next time.”
- xii. The Health Agent mentioned some cases she read about that went to court. She stated that a local board of health in one of the cases said “Not in our

town” in response to a potentially dangerous chemical lab, because of what could possibly happen and the court upheld the Board of Health’s decision. The Health Agent stated in the article the local board of health reasoning was if they have any reason to believe the public’s safety is in jeopardy, they have the right to protect, and the court upheld their decision.”

1. The Chairman replied “You are probably correct that the deadline could have stood up in court, but I don’t know if Mr. Clawson is ready to go there.”
- xiii.** The Chairman stated they can’t be vague with what they expect from Mr. Clawson and it must be in writing, a contract of sorts with no way to get around it.”
- xiv.** Ms Harmon stated to the Board “I have a question. You asked Mr. Clawson to do this and to do that and he didn’t. His engineer provided a report. However, what you required and requested was not fulfilled. This is his “m.o.” He built it in the rain and with his money, why can’t he remove it?”
1. The Health Agent told Ms. Harmon that with a hearing it is different. The people and the Board of Health must come up with an agreement. The agent also stated to the Board that she can’t go to other inspections in response to a complaint and say that person doesn’t have to do what another person would have to do because they are too busy, or have no money. The agent urged the Board of Health to be consistent and follow the process, while also focusing on compliance.”
 2. Ms. Harmon replied to the agent that Mr. Clawson is never held accountable for the orders he doesn’t comply with.
 3. The Chairman stated that the Board is learning this and that he is not convinced that Mr. Clawson will have the berm in compliance by the Friday, December 17, 2010 inspection.
 - a. Ms. Harmon asked “What then?”
 4. The Chairman stated that his patience is at its end with Mr. Clawson’s non-compliance.
 - a. Ms. Harmon stated she wanted the fencing and signs on Mr. Clawson’s side of the property also. She stated that it would be easier for someone to get to the berm from Mr. Clawson’s property.
 5. The Chairman stated that the Board will enforce its order for Mr. Clawson to comply.
 - a. Ms. Harmon asked “Comply to fix the berm or comply to remove it? If he doesn’t, what happens next?”
 6. The Chairman asked the Health Agent “What would happen next?”
 - a. The Health Agent replied that she would first send a letter to Mr. Clawson issuing fines for a specific amount that will accumulate on a daily basis for all days/weeks he is in non-compliance, and explain to him that if the fine is not paid by a

certain deadline he will be issued a 21-D ticket which is handled by the court, not the Board of health and he can either pay the fine or appeal with the court.

7. The Health Agent stated to the Board that she doesn't believe town counsel needs to be involved right now, but should this matter end up in court she would then call town counsel.
 - a. She stated that the Board of Health has a lot of information regarding the hearing and the time they granted and extended to Mr. Clawson to comply with the Board's wishes and that Mr. Clawson needs to be told specifically what needs to be completed by June 1, 2011 with no further delays due to the weather or anything else.
- xv. The Chairman requested that a special meeting be posted for Saturday December 18, 2010 at 9:00am as a legal act of the Board to deliberate and discuss what they and the health agent witness/discover at the Friday, December 17, 2010 inspection at 8:00am of the berm at Fieldstone Farm.
 1. Ms. Harmon asked the Chairman if there was any way to reverse the June 1, 2011 deadline because of Mr. Clawson's continued non-compliance.
- xvi. The Chairman explained to Ms. Harmon that the Board of Health is posting the special meeting for Saturday December 18, 2010 so that once the Board and the agent have inspected the berm on Friday, December 17, 2010 at 8:00am at Fieldstone Farm, the Board will meet and decide what will be done next if Mr. Clawson continues to not show good faith effort and due diligence in this matter.
 1. Ms. Harmon asked the Chairman why Mr. Clawson was only required to put the fencing on one side of the property line and not both.
 2. The Chairman told Ms. Harmon that Mr. Clawson insists that the public is not out by the berm at any time.
 3. Ms. Harmon told the Chairman that it is very possible for someone to gain access to the berm from Mr. Clawson's side of the property and stated that she insists that the fencing is necessary there.
- xvii. The Chairman requested that Mr. Clawson and his Attorney be notified of the special meeting on Saturday, December 18, 2010 at 9:00am to discuss the findings of the Board at Fieldstone farm on Friday, December 17, 2010.
- xviii. The Health Agent stated that sink holes have appeared in the new section of the berm and should be looked at again.
- xix. The Chairman stated that if on Friday it is determined by the Board that Mr. Clawson is in compliance, the meeting for Saturday, December 18, 2010 could still be held, and then at the regular Board of Health meeting scheduled for January 5, 2011, the Board could set up the ability to inspect the berm to assure that sink holes have not developed in the newly constructed part of the berm.

- xx.** The Health Agent stated that periodically the Board of Health receives calls and complaints at a property and she, as the health agent, is obligated to check on them, such as the complaints on the berm.
- xxi.** The Chairman stated that if on Friday everything is satisfactory, the Board of Health would send a letter to the Department of Environmental Protection (DEP) summarizing the process taken in regard to Mr. Clawson, the Board of Health and the berm.

 - 1.** The Chairman also requested that a letter be sent to Mr. Clawson informing him of the summary sent to DEP and to put in writing to him that the Board of Health will be making periodic checks of the berm to assure that sink holes, or more sink holes do not appear and to assure the public's safety.
- xxii.** The Health Agent stated that if on Friday everything is satisfactory, the special meeting scheduled for Saturday, December 18, 2010 at 9:00am could be cancelled.

 - 1.** She also stated that DEP made it very clear that an earthen berm consists of only soil. Stumps can be buried underground, but not within the berm.
- xxiii.** The Chairman stated after the inspection on Friday, December 17, 2010, send an official letter to both DEP and Mr. Clawson summarizing the process we, the Board of Health, went through and what we expect to be done at Fieldstone Farm.

 - 1.** The Health Agent replied that the Board of health can conclude that even though we have an agreement with Mr. Clawson, we also have knowledge that he constructed a berm without regard to DEP's rules and regulations, and is in non-compliance with DEP.

 - a.** She stated that the official letter summarizing our process will make DEP aware of and put on notice of the Board of Health's safety issues in regard to the berm at Fieldstone Farm.
- xxiv.** The Chairman expressed his agreement and stated he believes this is the way to go with the handling of issues other than safety issues that the Board of Health is currently handling in regard to the berm.

 - 1.** He stated that if the inspection on Friday, December 17, 2010 is satisfactory, then the Board of Health will follow-up with a letter to DEP & Mr. Clawson. Should the inspection be unsatisfactory, the Board of Health can issue orders as a result of the whole hearing and its process and order specifically what is to be done with the berm.
- xxv.** The Health Agent stated that should this matter end up in court, the Board of Health was requesting compliance from Mr. Clawson for the safety of the public.

 - 1.** The berm was built also without regard to DEP regulations but the Board of Health repeatedly inspected the berm and deemed it to be unsafe.

- xxvi. The Health Agent stated that the berm is not in compliance with DEP regulations and should be removed.
- xxvii. Ms. Harmon excused herself from the meeting at 8:15pm.
- xxviii. The Health Agent reiterated her previous statement; the berm is not in compliance and should be removed.

Fieldstone Farm Hearing closed at 8:20pm.

b. Admin Report – Admin Updated Board

- i. 2012 Budget packet has arrived (See mail folder)
- ii. Working on food establishment renewal applications for 2011

c. Agent Report Agent Updated Board

- i. Board respond to DEP in regard to landfill responsibility (See mail folder)
- ii. BFI and well testing
- iii. Well water meter at time of construction
- iv. Housing Inspections
- v. Food Establishment Letters

5. The Following to be signed: - Board Signed

a. Payroll for the Week Ending 12/18/10

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

b. Meeting Minutes: - Board Signed

- i. December 1, 2010 Meeting Minutes

c. Permits: - Board Signed

- i. Louis R. Gallo – Gallo Construction Co., Inc. – 2011 Septic Installer’s Permit

d. Expense Account# 01-512 – FY 11-10 - Board Signed

- i. MHOA – Membership Renewal - \$50.00
- ii. WB Mason – Invoice# SRJ144-000- Office Supplies - \$19.66
- iii. WB Mason – Invoice# SRD462-000- Office Supplies - \$290.65
- iv. Bailey’s Test Strips & Thermometers – Invoice# 10.11971 – Infra-Red Thermometer - \$82.50
- v. Cathy Drinan – Mileage Reimbursement - \$326.55
- vi. Margaret Selter – Mileage Reimbursement - \$16.60

e. Revolving Account# 25-513 – FY 11-10 - Board Signed

- i. Southeast Septic – Bottom Hole Inspection – 25 Paradise Lane - \$35.00
- ii. Southeast Septic – Final Inspection – 25 Paradise Lane - \$35.00

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 11-03 - Board Signed

- i. Partners Home Care – Nursing Services – December 01, 2010 through December 31, 2010 - \$583.33

- 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. GAF Cranberry Bogs**
 - ii. Food Allergens**
 - iii. Wage & Personnel Public Hearing**
 - iv. 145 Monponsett Street – Earth Removal**
 - v. “13 Relay” Race**
 - vi. Special Permit for 22 Marjorie Drive**
 - vii. 2011 BOH Meeting Calendars**
 - viii. Additional Dog kennel Denied**
 - ix. Fund Raise idea**

Adjournment

A Motion was made to adjourn the meeting at 9:05 p.m.

Motion: Jeffrey Anderson

Second: John DeLano

Unanimous vote on the motion

Typed by,
Peggy Selter
Administrative Assistant

Signed By:
John DeLano – Chairman
Jeffrey Anderson – Clerk

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