

**Halifax Board of Health
Special Meeting Minutes
Wednesday, December 22, 2010**

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

Meeting was opened at 7:35 p.m.

Present at the meeting were:

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

1. 7:30 – Fieldstone Farm Hearing Continued

- a. Mr. Clawson announced to the Board that he would be audio taping tonight's meeting.
- b. The Chairman of the Board announced to the room that Mr. Clawson would be audio taping tonight's meeting.
- c. The Chairman of the Board stated "This meeting is to discuss the inspection at Fieldstone Farm on December 17, 2010.
- d. The Chairman requested a copy of the agent's summary of the berm inspection done at Fieldstone Farm on December 17, 2010.
- e. Mr. Clawson requested a copy of the meeting minutes from last week's December 15, 2010 meeting to use as guidance for tonight's meeting.
 - i. The administrative assistant spoke with the Chairman to inform him that the December 15, 2010 meeting minutes have been typed, but have not been read by the Board and will not be approved by the Board until the Board of Health's next scheduled meeting on January 5, 2011.
 - ii. The Chairman advised the administrative assistant to bring in a copy of the unapproved meeting minutes for the Board to use as guidance of what was agreed upon at that meeting.
- f. The Chairman and Clerk took a moment to look at the December 15, 2010 meeting minutes.
- g. The Chairman read the health agent's summary of the inspection at Fieldstone Farm on December 17, 2010 out loud to the room.
 - i. See summary for details
- h. The Chairman stated that the health agent was under the impression that the orange fencing was supposed to be placed on the northern side of the berm also and that he did not recall this recommendation.
 - i. The Chairman asked the clerk, health agent and Mr. Clawson if they agreed on this and that he did not know by memory of this recommendation and will need to check the previous meeting minutes.
- i. Mr. Clawson requested a copy of the December 1, 2010 meeting minutes to determine what was agreed upon at that meeting.
- j. The Chairman gave the clerk a copy of the letter from Attorney Galvin that was received by the Board of Health on December 17, 2010 to read.

- k.** The Chairman produced pictures he took at the December 17, 2010 inspection and invited Mr. Clawson to come up to the table and look at them along with the Board.
 - i.** He Chairman stated that the pictures are now part of the official record and do show voids in the berm and that it seemed that Mr. Clawson made little to no effort in complying with the Board's orders.
- l.** The Chairman read part of Attorney Galvin's letter out loud and stated to the Board, health agent and Mr. Clawson that he had not responded to Attorney Galvin as of yet.
- m.** The Chairman stated to Mr. Clawson that in response to Attorney Galvin's question in said letter that as to directing Mr. Clawson and his worker in the areas needing compaction and/or fill to alleviate immediate concerns at the inspection; expecting his directing Mr. Clawson and his worker would have taken all weekend.
- n.** The Chairman asked the Clerk if the agent's summary was consistent to what he recalled at the inspection.
 - i.** The Clerk stated that yes he agreed with the summary and that the berm is unstable.
- o.** The administrative assistant left the room and made and gave Mr. Clawson a copy of the December 1, 2010 meeting minutes requested and also gave him copies of the October 6, 2010, October 20, 2010, November 3, 2010 and November 17, 2010 meeting minutes that refer to the Fieldstone Farm berm.
- p.** The Chairman stated he agreed with Mr. Clawson that it was agreed that the westerly part of the berm and the logs would be repaired or removed and that those areas appeared to have been sufficiently worked on.
- q.** The Chairman's next question was, "Does the Board agree that there are still safety concerns with the berm?"
 - i.** The Chairman and the Clerk both agreed there are still safety concerns with the berm at Fieldstone Farm.
- r.** The Clerk stated that during the December 17, 2010 inspection, he noticed the drainage basin right next to the berm sloped down and he considers it a safety concern.
 - i.** Mr. Clawson responded "Are you saying the basin was first acceptable but now it's not?"
 - ii.** The Clerk replied "No, I'm saying the drainage basin is a safety hazard."
 - iii.** Mr. Clawson stated the basin has always been there and always had water in it.
 - iv.** The Health Agent stated that she can bring in the pictures of that area when there was no water in it and now that it has been rebuilt and retains water, the Board realizes it is a concern.
 - v.** Mr. Clawson responded that it is a water hole for his horses and always has water in it.
 - vi.** The Chairman replied "Someone could fall in it."
 - vii.** Mr. Clawson responded "No one will fall in! Ms. Harmon's side has the fencing and nobody is allowed on her property."
 - viii.** The Chairman replied "We have to act on concerns of safety or we would be liable as public officials."

- s. Mr. Clawson began informing the Board of trees on Ms. Harmon's property that are safety concerns and the Chairman informed Mr. Clawson that other issues he is presenting are not part of this meeting.
 - i. Mr. Clawson responded "The trees have always been an issue. Dead trees leaning are not an issue?"
 - ii. The Chairman reiterated that they have to deal with the original issue of this hearing before the Board. The trees Mr. Clawson is referring to are on another property and they have to stick to the issue at hand.
- t. Mr. Clawson went back to the December 1, 2010 meeting minutes and stated the temporary fix was to pull out one (1) or two (2) stumps and he pulled out three (3) or four (4) westerly and he removed stumps on the corner and on the north side.
- u. The Chairman asked Mr. Clawson how he would repair the berm after the stumps were removed and if he used any machinery to remove the stumps.
 - i. Mr. Clawson replied he would hand fill with shovel the berm where the stumps were removed. No machinery was used because it wouldn't fit. When we had the inspection on Friday we would have another guy there and would fix all the voids.
- v. The Chairman requested that they back up in the conversation and inquired if work was done on the northerly side of the berm.
- w. Mr. Clawson stated his worker was there when they met at the inspection and the Board didn't ask them to fill in anything. He stated that the Board was not happy with the westerly or northerly sides of the berm but again reiterated they weren't asked to fix it on that morning. He stated that the Board said when he was to get the equipment; he could use it in May to complete the rebuilding.
 - i. The Chairman interrupted Mr. Clawson and told him that the Board has no concerns with the westerly side of the berm at this time other than the proximity to the pond. He went back to earlier conversation with whether Mr. Clawson took sufficient effort to follow and comply with the Board's orders.
- x. The Chairman stated Mr. Clawson is very capable person who built this large equestrian facility from nothing and asked Mr. Clawson if he relied on his worker to repair and fill the voids in the berm.
 - i. Mr. Clawson asked "So you wanted it completely fixed and not temporarily fixed?"
 - ii. The Chairman responded to Mr. Clawson that the Board did not want the berm completely fixed at this time. They wanted it temporarily fixed.
 - iii. Mr. Clawson replied "Did the Board ask me to fix it when you were there at the inspection?"
 - iv. The Chairman reminded Mr. Clawson that they agreed to and drew a plan when they were out in the field at the inspection on November 19, 2010.
 - v. Mr. Clawson asked to see the plan.
- y. The Chairman replied to Mr. Clawson that he didn't understand why he was making the temporary fix so difficult. He told Mr. Clawson he was capable and the Board has given him ample opportunity to repair it.
 - i. Mr. Clawson responded that his worker had been there at the berm repairing it for hours.

- ii.** The Chairman replied that he has been to Mr. Clawson's property four (4) times himself and Mr. Clawson has not done the repairs requested by the Board and that the pictures show his lack of effort.
 - iii.** Mr. Clawson responded telling the Board to check the December 1, 2010 meeting minutes.
- z.** The Chairman asked Mr. Clawson what equipment he used on the berm
 - i.** Mr. Clawson responded that he has already listed the equipment he used.
- aa.** The Chairman asked Mr. Clawson if he could use machinery on this area of the berm and Mr. Clawson stated he could not because it was seven (7) to eight (8) feet high and the machinery could not get over it.
- bb.** The Chairman stated they could discuss this and Mr. Clawson responded that he wanted to discuss the December 1, 2010 meeting minutes.
- cc.** The Chairman stated the Board of Health has the pictures and asked Mr. Clawson if he believed if the work the Board asked to be completed was done.
 - i.** Mr. Clawson asked why you are now insisting that I should have used machinery when you said I could use shovels.
 - ii.** The Health Agent stated to Mr. Clawson in regard to the Chairman's question, "It's not the method Scott; it's the results that matter."
- dd.** The Chairman again informed Mr. Clawson that the pictures were going to be part of the official report.
- ee.** Mr. Clawson stated to the Chairman that he walked the berm.
- ff.** The Chairman stated to Mr. Clawson that they have the sketch of what was agreed to be done.
- gg.** Mr. Clawson stated that he would like to complete this project next month.
- hh.** The Clerk stated he checked the December 1, 2010 meeting minutes and read what was agreed between Mr. Clawson and the Board.
- ii.** The Chairman asked if the voids were talked about in the minutes.
- jj.** Mr. Clawson asked the Board what they would like him to do for a temporary fix.
- kk.** The Chairman handed out a draft of what he proposed Mr. Clawson to do now and read it out loud. (See Board's December 22, 2010 order)
- ll.** The Chairman informed Mr. Clawson that what he just read is what the Board is proposing.
 - i.** Mr. Clawson asked if now the Board wanted him to rebuild the whole berm.
- mm.** The Chairman stated to Mr. Clawson that even when there are exemptions for an agricultural farm, they don't exempt him from all the laws.
- nn.** Mr. Clawson asked the Board if they agreed that he completed the work.
 - i.** The Chairman replied no, they did not agree and this is why we are ordering this.
- oo.** Mr. Clawson asked now if the Board had a problem with the westerly side.
 - i.** The Chairman replied yes, because of the drainage basin.
 - ii.** Mr. Clawson stated that he did not agree with the drainage basin concern and he was not hiring an engineer for an as-built as was being proposed on the draft order.
- pp.** Mr. Clawson asked the Board if Grady consulting said the berm was safe.
 - i.** The Chairman replied to Mr. Clawson, you heard my cross examination of Grady Consulting.

- ii. Mr. Clawson responded that he did not agree with the Board.
- qq. The Chairman stated to Mr. Clawson that since Mr. Clawson did not follow the agreement on filling in the voids, temporary fix of the berm is orange fencing and signs on both sides of the property and, in addition, the Board of Health will be sending a report to DEP about the materials in the berm.
 - i. Mr. Clawson replied that this is what is used in other berms.
 - ii. The Chairman responded that he was not aware of any other berms in Halifax.
- rr. Mr. Clawson stated the berm is acceptable except to Ms. Harmon.
 - i. The Chairman responded that he had no idea, and was unaware as to why Ms. Harmon was not in attendance and they can't speak for her.
- ss. Mr. Clawson asked "Are we done?"
 - i. The Chairman responded that he had to ask the Clerk if he agreed with the proposed order.
 - 1. The Clerk replied "Yes, I think it's reasonable."
- tt. Mr. Clawson stated he had fencing on both sides of the berm.
 - i. The Health Agent asked Mr. Clawson if he was referring to his fencing along the driveway.
 - ii. Mr. Clawson answered yes.
- uu. The Chairman stated to Mr. Clawson that the Board has been more specific about what they expected to be done, that it states clearly on the draft order what was being proposed and he read the temporary fix recommendations out loud.
- vv. The Chairman and the Clerk discussed with Mr. Clawson the orange fencing and how it stops about 50' from the corner of the berm and should be continued all the way up on the Harmon side and that it could run just around the pond, west side of the Harmon property.
- ww. The Chairman asked Mr. Clawson if he understood what he was saying and Mr. Clawson replied that he did not. He then read what was written on the order.
- xx. The Chairman and the Clerk then discussed a way to put the orange fencing around the toe of the slope.
- yy. The Chairman informed Mr. Clawson that the Board of Health will be reporting to the Building Inspector that there is a pond on his property without a fence around it and it will be up to him to determine if one is needed.
 - i. Mr. Clawson replied "So it's up to him?"
 - ii. The Chairman replied that yes it was up to the Building Inspector as whether a fence is needed around it.
- zz. The Chairman, Clerk and Health Agent discussed the pond/drainage basin and considered allowing one (1) section the berm that was possibly safe to not have the orange safety fencing but decided it was such a small section that rather than allow a small opening, where children could enter, they concluded it would be better to have it completely enclosed.
- aaa. Mr. Clawson asked "You'll issue an order for me this week?"
 - i. The Chairman replied they would.
- bbb. Mr. Clawson asked if the Board had any more questions for him.
 - i. The Chairman responded asking Mr. Clawson if he had any more questions for the Board.
 - ii. Mr. Clawson asked "So I can leave?"

- iii. The Chairman replied “You don’t want to stay and see what we’ve written to propose?”
- iv. Mr. Clawson replied “No, I think you’ve made up your mind.”
- ccc. Mr. Clawson left the meeting at 8:36pm.
- ddd. The Chairman, Clerk and Health Agent continued to discuss the proposed order and once agreed, wrote what will be ordered to Mr. Clawson.
- eee. The Clerk stated that when he was at the inspection on December 17, 2010 he pushed a 3” stick into the berm and slid in all the way up to his shoulder.

A Motion was made to issue an official order from the Board of Health to Mr. Scott Clawson and close the hearing.

Motion: Jeff Anderson – Clerk

Second: John DeLano – Chairman

Unanimous vote on the motion

A Motion was made asking if all were in agreement of the revisions made to the draft proposal making it the official order, and also giving the health agent the right to send the order to Mr. Scott Clawson on their behalf.

Motion: Jeff Anderson – Clerk

Second: John DeLano – Chairman

Unanimous vote on the motion

Adjournment

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

Motion: Jeff Anderson – Clerk

Second: John DeLano – Chairman

Unanimous vote on the motion

Typed by,
Peggy Selter
Administrative Assistant

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

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