

BOARD OF SELECTMEN  
SELECTMEN MEETING  
TUESDAY, JULY 13, 2010 - 7:30 P.M.  
SELECTMEN MEETING ROOM

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Meeting came to order at 7:30 p.m. with Selectmen Troy E. Garron, Kim R. Roy and Michael J. Schleiff present.

The following business was discussed:

**AGENDA**

The Agenda for Tuesday, July 13<sup>th</sup>, was unanimously approved without revision. After the Concession Stand discussion, former Town Counsel John Spinale came into the meeting to discuss outstanding matters.

**MINUTES**

Moved by Roy and seconded by Schleiff, Board unanimously approved the following Selectmen Minutes:

- Selectmen Meeting 05-25-10 – Regular Session
- Selectmen Meeting 05-25-10 – Executive Session
- Selectmen Meeting 07-07-10 – Regular Session

**ABATEMENTS/BILLS/COMMITMENTS/WARRANTS**

Moved by Roy and seconded by Schleiff, Board unanimously affirmed approval for the payment of the following Fiscal 2010 Selectmen bills dated June 30, 2010:

FS Systems (replace security camera/police station) .....	\$1,190.00
South Shore Women's Center (Fiscal 2010) .....	\$3,500.00
Deutsch Williams Brooks (legal services/Jun) .....	\$ 451.55
National Grid (Town Hall/Jun) .....	\$ 821.44
W. B. Mason (office supplies) .....	\$ 103.65
South Coastal Legal Services (services Apr-Jun) .....	\$ 875.00

Moved by Roy and seconded by Schleiff, Board unanimously affirmed committing for collection Ambulance Commitment #6A in the amount of \$19,020.00

Moved by Roy and seconded by Schleiff, Board unanimously affirmed approval for the payment of the following Fiscal 2010 warrants:

Vendor Warrant	#108	\$307,259.53
Payroll Warrant	#109	\$173,824.64
Vendor Warrant	#110	\$ 20,732.44

Moved by Roy and seconded by Schleiff, Board unanimously affirmed approval for the payment of the following Fiscal 2011 Selectmen bills dated July 6, 2010:

Mass Municipal Management Assoc (meeting/Jul)	\$ 30.00
Mass Municipal Management Assoc (Fiscal 2011 dues)	\$ 124.13
Mass Municipal Association (Fiscal 2011 dues)	\$ 895.00
CNA Surety (Assistant Collector bond)	\$ 100.00
Boston Mutual Life Insurance (accidental death)	\$ 1,701.05
MEGA Property & Casualty (workers comp insurance)	\$51,368.00

Moved by Roy and seconded by Schleiff, Board unanimously affirmed approval for the payment of the following Fiscal 2011 warrants:

Vendor Warrant	#001	\$514,618.03
Payroll Warrant	#002	\$ 37,766.02
Vendor Warrant	#003	\$ 10,963.08

Moved by Roy and seconded by Schleiff, Board unanimously approved payment of the following Fiscal 2010 Selectmen bills dated June 30, 2010:

Edron Business Systems (data processing/toner)	\$ 51.89
Matthew Bender (law books)	\$ 556.19
Jordan On The Job (physical/Highway employee)	\$ 90.00
Malloy, Lynch, Bienvenue (Fiscal 2009 audit)	\$3,000.00

Moved by Roy and seconded by Schleiff, Board unanimously approved payment of the following Fiscal 2010 warrant:

Vendor Warrant	#111	\$118,227.27
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Moved by Roy and seconded by Schleiff, Board unanimously approved payment of the following Fiscal 2011 Selectmen bills dated July 13, 2010:

Pitney Bowes, Inc. (office machines supplies)	\$ 191.22
Halifax Postmaster (stamps)	\$ 34.30
ProPac (replace damaged supplies/police station)	\$4,407.69

Moved by Roy and seconded by Schleiff, Board unanimously committed for collection the following:

Ambulance Commitment	#6B	\$27,096.00
Mobile Home Park License Fee	#07	\$ 5,160.00

Moved by Roy and seconded by Schleiff, Board unanimously approved payment of the following Fiscal 2011 warrant:

Vendor Warrant	#005	\$1,120,433.81
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The Board acknowledged the following Selectmen Office payrolls:

Selectmen Office Payroll	W/E 6-30-10	\$ 8,949.34
Selectmen Office Payroll	W/E 7-03-10	\$ 784.96

The Board acknowledged the following Payments to the Treasurer for Fiscal 2010:

<u>TURNOVER</u>	<u>AMOUNT</u>
2010-50	\$111.53
2010-51	\$ 5.00
2010-52	\$ 5.00

The Board acknowledged the following Payments to the Treasurer for Fiscal 2011:

<u>TURNOVER</u>	<u>AMOUNT</u>
2011-01	\$ 5.00
2011-02	\$ 5.00

**REPORTS AND DISCUSSIONS**

A. Selectmen Assistant

Roy said she had reviewed the job description to determine the actual responsibilities of the Selectmen Assistant and felt confident that Pamela McSherry can handle the position. She has the background with the Finance Committee and is knowledgeable about the town. Roy was not afraid to hire from within. She felt that, if someone does a good job, they can be promoted. Roy's choice would be McSherry.

Schleiff said the Board had three strong candidates. He agreed with Roy, noting that McSherry is experienced in the office. The former Assistant has been training McSherry since she was hired so that she could handle the office

in the event the Assistant was out. Schleiff understood McSherry has done a wonderful job in that capacity. He felt there was always room for growth and that she will seek any additional training that is needed.

Garron agreed with Roy and Schleiff. His decision was based on McSherry having municipal experience and familiarity with the office and town. He also agreed we have to show an individual a reason to work hard and felt there was no problem with promoting from within. While the other two candidates had excellent management experience, he felt McSherry had the municipal experience and knowledge.

Moved by Roy and seconded by Schleiff, Board unanimously voted to hire Pamela McSherry of 15 Stoney Weir Road, Halifax as the Selectmen Assistant for the Town of Halifax.

B. Ladas Dog Complaint

Seelig reported there have been no further incidents involving the seven year old German Shepherd named Cosmo owned by Robert Ladas and housed at 267 Holmes Street. The Board had held a hearing on April 13<sup>th</sup> and had taken the matter under advisement until July 13<sup>th</sup>. Given there were no complaints since that date, the Board agreed the matter appeared to be settled and took no further action at this time.

C. Financial Reconciliation

Seelig reported the Town's accounts have been reconciled through October; November is still being worked on. There are still a lot of corrections to be made in the financial records, and it is expected the work will progress through the summer. Town Accountant Sandra Nolan was present and said that November is almost done and hoped it would be completed by the end of this week. She is hesitant to start on the next month until November has been completed.

D. Liaison List

The Board removed GIS and Silver Lake Teachers Contract from the list. Roy was assigned to those areas previously covered by former Selectmen John Bruno except for 40B which will be covered by Schleiff and the Youth and Recreation Gift Committee which will be covered by Garron. Roy will also cover the newly formed Town Government Study Committee.

E. Recycling Fee Abatement Policy

The Board postponed discussion until the next Selectmen meeting.

F. Selectmen Office Staff

The Board postponed discussion until the next Selectmen meeting.

**DOG HEARING - HARMON / PLYMOUTH STREET**

At 8:00 p.m., in accordance with MGL Chapter 140, Section 157, Garron opened a hearing to address a complaint of excessive barking against dogs owned by Jennifer Harmon and housed at 7 Plymouth Street. The hearing was held at the request of Scott Clawson of 21 Plymouth Street (copy attached hereto as Exhibit A and made an official part of these Minutes); therefore, testimony by Clawson was mandatory.

The following individuals were present and sworn in by Notary Public Beverly Smith:

Jennifer (Bobbie) Harmon	Dog Owner
Scott Clawson	Complainant
Ryan Botto	Police Officer
Lesley Deeb	7 Plymouth Street Resident
Jean Reilly	Abutter

Referring to the police log (copy attached hereto as Exhibit B and made an official part of these Minutes), Botto stated the following:

Beginning May 8, 2010 we received numerous complaints of barking dogs coming from 7 Plymouth Street - the Harmon residence. All of these calls came from 21 Plymouth Street which is next door - Fieldstone Farms - by Mr. Clawson and I think one or two from this other lady. Every time we have gone there we have not heard dogs other than an occasional bark. I have showed up and sat in the area for a while during the day time, and the dogs are outside and bark occasionally. It is not loud. I actually had to go over and see what kind of dog it was - it was a Pomeranian. It is like a high pitched; it is a different kind of barking.

There are a total of eight adult German Shepherds on the property. They are housed closest to the Fieldstone Farm property. They all had bark collars on. It is my understanding they do not bark. I have not heard one. I don't believe any of the other officers have heard the Shepherds bark.

Garron asked:

Was that on the occasions you investigated or did you go down periodically just to check.

Botto replied:

I have actually just gone down there when I received a call. Because one report here - I believe it is to you from Mr. Clawson - says before 5 a.m. and after 10 p.m. every day there is constant barking. So I went down and I sat there at 5:00 a.m. until 6:00 a.m. and did not hear any barking. I heard a couple of peacock calls from next door in Plympton, but it definitely was not a dog. I have been there during the day time around 9:30 a.m. when I have heard an occasional bark from these Pomeranians that are located on the farther side near Plympton. It is about seven hundred feet from his residence.

Garron asked if there were any border plants or fences. Botto said there are fences. Garron asked if there is any brush or buffers, and Botto replied there were.

At this point, Garron asked Clawson to speak. Clawson stated:

This probably started late last summer and I tried to work it out with Bobbie through phone calls and text messaging. She kept saying she was going to do something about it but it got worse and worse. The barking recently the last two weeks has been relatively quiet. They still bark. Yesterday was probably the first day I didn't hear any dogs bark. I think they were barking again today but not as loud. She has tried to move them around. But it has been on-going since last summer, late last summer. They do start barking at 5:00, 5:30 in the morning up until 9:00, 10:00 or 11:00 o'clock at night. It is not all day. It can go on for half an hour then stop for an hour and go on for another half an hour. At times she has had 30, 40 to 50 dogs and puppies there, and I do not think there is anyone in this room that would believe that, when you have 30 to 50 dogs, you are not going to have a barking problem.

Garron asked

Can you verify these numbers?

Clawson replied:

Can I personally verify them? I have heard Bobbie tell the ZBA the last time she was in there that she has 33 dogs there.

Schleiff asked:

Are there any other dogs in the area that you are aware of?

Botto replied

Not that I am aware of.

Garron asked Schleiff:

Are you talking to Clawson?

Schleiff replied:

I am going down the list. The officer went first and I had not asked the officer any questions so I was asking (did not finish)

Garron interjected:

We are on Mr. Clawson right now if you have any questions for him.

Schleiff responded:

Not at this time because I want to ask the officer first before I ask Mr. Clawson any questions.

Following are questions asked by Selectman Roy (in italics); responses by Clawson immediately follow:

*I notice you say that you said it has been going on for about a year, but the phone calls to the Police Department did not start until the beginning of May and then twenty three calls were made. That is a huge change.*

I understand that because I did not believe it was the Police Department's job to take care of barking dogs. But, then I was told by the ZBA I had to call the Police Department to take care of the problem. So that is why I started calling. I still do not believe it is the responsibility of the police department, but I guess in this town it is. I tried to work with Bobbie to work this out up until January and then got so frustrated. At that time of year, you are in doors most of the time. I have a hot tub outside and, when I try to sit in it at 8:00 or 9:00 o'clock, all I hear is the dogs barking.

*Would you say you do not hear the Shepherds barking but the Pomeranians?*

No. There are times when all of them are barking. Sometimes just the small Pomeranians, which are very loud. The German Shepherds are loose on the farm non stop. I would say two or three times a week they come over and get in the trash. The person who leases the barn, John Hearn, has a constant problem and has called Bobbie many many times about the dogs. Just recently, in the past two weeks, he told me he called her because they were in the trash and making a mess. It is an on-going problem. The fences she has over there are horse fences and not dog fences. They are two or three rail fences that any dog can just walk through. I have pictures if you would like to see them.

*I also notice that the report that was done to the Zoning Board (attached hereto as Exhibit C - excerpt from ZBA meeting dated May 17, 2010 - and made an official part of these Minutes), you felt like you heard the dogs barking even more than the owner or perhaps other people who are further up on the driveway because there is a barn there blocking, that the dogs are on the other side of the building.*

Both of her kennels are in the back of her property in the back of her barns directly facing my property. So the barns actually block any noise going toward her or the neighbors. One of the buildings, which is a good size building, faces sort of east and west but is facing right in front of our barn and house. The brush that is there is very limited brush. I have asked her to put up some kind of soundproofing. This is not something I am exaggerating. Me and Bobbie have been very good friends for many years. It is just frustrating every single day. I get up very early in the morning. I get up at 5:00 a.m. to go out to work and all I hear is the dogs. It is not twelve hours straight. Sometimes they are extremely loud and sometimes, as the officer said, it is faint and you can barely hear them off in the distance. Most of the time. A lot of time. The last two or three weeks. I think she has moved them to another part of the property or taken them off the property. We walked our fence line yesterday and we couldn't even find a dog. Saturday I had a horse show. We had loud speakers and horses and stuff and the dogs were louder than the speakers. But yesterday, nothing.

Following are questions asked by Selectman Schleiff (in italics); responses by Botto immediately follow:

*Have you had any complaints about any other dogs in the area or the neighboring property in Plympton?*

The only other dog complaint is one near Route 36 which is too far away to be considered with this.

*You have gone down there on occasions after a dog call?*

Yes.

*Approximately how long after a call did you stay?*

One time I was there for about 20 minutes. Another time, an hour. Eight other officers have been involved in this, and all report not hearing dogs or just faint barks at all different times of the day.

*So generally on a dog call you are in the area in about five or ten minutes versus a half hour?*

Yes. Unless I am tied up somewhere else I am usually there in a few minutes.



Following are questions asked by Selectman Schleiff (in italics); responses by Clawson immediately follow:

*When the officers show up, do you actually see the officers show up. Are you the one making the calls; are you home when you are making the calls?*

Yes. I have seen only two or three officers show up, and it is about twenty minutes to a half an hour after. One time, when one of the officers showed up, the dogs were barking - not real bad but barking a little bit. Another time one of the officers showed up, not at all.

*So what you are saying is, when you call, they are barking a lot; and, within the time frame it takes the officer to get there, they quiet down?*

Yes; and then, as soon as they pull out, they will start barking again. Like I said, it is not twelve, fourteen hours a day. It is just a lot.

*We are getting reports from the officers, and they are getting down there in a reasonable amount of time. It sounds like the barking is intermittent, not a three or four hour a day barking.*

You have thirty dogs there. You are going to have a lot of barking.

Following are questions asked by Selectman Schleiff (in italics); responses by Botto immediately follow:

*I do not know how many dogs are there at any given time. Right now it sounds like eight adult Shepherds but I don't know how many puppies.*

The last time I was there there were a total of twenty four dogs including puppies.

*We are trying to nip this in the bud. Officers are going there responding and they seem to be coming up empty handed. How many times have we gone out there?*

Twenty three.

*Twenty three. And how many times have you gone and actually heard a nuisance or found excessive barking?*

I have not heard any excessive barking. I have heard occasional faint barking that one time I testified earlier. I believe other officers according to the logs have heard slight barking.

Schleiff stated:

There seems to be a discrepancy on the sensitivity. Maybe you (Clawson) are hearing dogs versus the officers. I don't know if it is the radios, or they are not in the right spot, or they need to be out in the wood further. I am having a hard time with this.

Following are questions asked by Selectman Garron (in italics); responses by Harmon immediately follow:

*Are all the dogs licensed on your property except the puppies, are all the adult dogs?*

Currently I hold a basic kennel license which registers all the dogs on my property. However, I am right now going through the process with the Board of Appeals to get an additional license for breeding because I have taken the dog part up.

*That is why I asked because I know a general kennel license does not allow you to breed and sell puppies and you have the puppies so you are breeding.*

That is correct.

*So you have the dogs there now under a kennel license but not a breeder's license.*

Correct. That is pending. It was supposed to be last night; I have had three meetings for that so far.

*Have your dogs been barking excessively when you are there or could they be barking excessively when you are not there?*

I am a stay at home Mom. I am home most of the time and absolutely they do not bark excessively.

*But they are barking?*

I have put bark collars on all the Shepherds and yes the Pomeranians which are four or five pounds do make occasional noise when customers are there but it is a quick short and not loud.

*How long have you had the dogs?*

For the sixteen years I have lived there I have had dogs.

*You have always had two or three, four or five?*

Ten for years.

*We have had no barking complaints prior to this year?*

Botto said: None according to our records.

Harmon responded:

I believe it all started the day after I had the meeting with ZBA asking for this license.

*Have any of the dogs been involved in bites or any other activities?*

Absolutely not.

*Because there is a question of them running loose. There is a leash law in Town. Have the dogs been loose?*

He did tell you that Tom ... Tom's wife did twice in the course of a month text saying my dog was running loose but all my dogs were locked up. On another occasion, I was not home and got a text one of the dogs was out. I called and the girl at my home said the dog was outside loose and was there. I don't know if it went over there. As far as I know (did not finish) I do have fencing. It's horse fencing.

*What type of fencing do you have - is there any wire mesh because a dog can easily go through horse fencing?*

They are never loose. The kennel area that has the Shepherds has stockade fence as well as kennel panels. There is horse fencing around my property. A couple of weeks ago I actually put electric fencing around my property down low so they will not go to the neighbor's property.

*Is there any type of brush or other buffer?*

There are trees and buffer from the kennel to the Clawson property.

Following are questions asked by Selectman Schleiff (in italics); responses by Harmon immediately follow:

*Are they like Hemlocks? Are they evergreens or do they have leaves that fall off?*

It is full foliage year round.

*Can the dogs get through the fencing that is there if they had a mind to?*

No. Absolutely not.

Garron asked Botto if there were any complaints from anyone else other than Clawson. Botto said there were a few from Deeb.

Lesley Deeb stated the following:

I have lived there for about a year and a half. There was a six month period of Clawson texting Harmon that the dogs are loose, the dogs are barking when we are out in the hot tub. Five, six o'clock in the morning the dogs are barking. When you have that many dogs and people coming and going, the natural instinct of a dog is to bark when someone pulls in. The dogs are bred for protection and it is obvious the dogs are going to bark even with the bark collars. You cannot leave the collars on 24 hours a day. I am not positive of that but. It is what it is. There are 30 dogs out there. They are going to bark. We have a right to privacy and peace and quiet just like everyone else and we do not have that on a daily basis. It is not a twenty four hour thing. I have made the calls when he (Clawson) is busy. I told him to start calling a year ago when it started because my own experience is that is what you have to do.

Following are questions asked by Selectman Roy (in italics); responses by Deeb immediately follow:

*Is that when the barking started?*

I don't know how far back you want me to go.

*It seems like all of a sudden it is all of a sudden.*

Because they told us to call. They finally told Scott if it is bothering him to call the police.

Following are questions asked by Selectman Roy (in italics); responses by Harmon immediately follow:

*You have always bred dogs. Did you have thirty dogs a year ago?*

Absolutely not.

*You've always bred dogs?*

I have always bred dogs but at a much different capacity than what I am asking to do permanently.

*And you really didn't answer Mr. Garron's question about licensing. Are they licensed dogs?*

They are. However, I need an additional license in order to breed and sell them.

Following are questions asked by Selectman Garron (in italics); responses by Harmon immediately follow:

*So you realize what you have admitted to is that you have been breeding dogs over the last year without the proper license.*

No. I was allowed to breed up to three litters. It was brought to my attention that I need the additional license which has brought me to the ZBA.

*You started this process this past May?*

Yes. This past May

Garron asked:

And prior to that, at least according to the officer reports, there were no complaints prior to May?

Clawson responded:

I did not call the police prior to May. I actually tried to deal with Tom Millias. I think he pushed Harmon into getting this license. Because I told him it was so bad, he told Harmon she had to get this license, she had to do something. She has had dogs for many years but I have only been back on the property for two years. I tried to get my ex wife to come here. She can tell you how bad the barking was. I also have boarders in the barn that would gladly sign an affidavit. I did not want to ask them to come tonight but they can tell you how bad the dogs are barking on a daily basis.

Schleiff asked:

Do you think there have not been a lot of reports because you have about fifteen shows in the summer and it is kind of like I am making noise so you can make noise because we are making noise together and it kind of went by the way side until recently?

Clawson responded

The horses are actually very very quiet.

Schleiff said:

But you are telling me loud speakers and a lot of traffic. A lot of truck traffic going in and out, horse shows, PA, vendors, people out there talking all the time. Do you think maybe you did not notice the barking with all this activity and noise going on and that you did not hear it?

Clawson stated:

It has been the past year what I consider horrendous. Prior to the past year, it has not been that horrendous except for the dogs being loose. They were constantly loose. My ex wife lived on the property and I lived off the property. The dogs were loose and in the trash on a daily basis back then. The past year, the barking has been horrendous. It has been better in the past few weeks. Up until then, we have had no peace and quiet. As far as the horse activity, it is fifteen or twenty days a year. The loud speaker you can sometimes hear but you do not listen to the loud speaker 365 days a year like you do listen to the dogs. I have pictures of the fencing Harmon tells you ... (copy attached hereto as Exhibit D and made an official part of these Minutes). As you can see on the fencing, we do believe they can walk right through there.

Schleiff said he could not determine the relationship of the fences on the property by looking at the photographs. Botto provided an aerial view of the property (attached hereto as Exhibit E and made an official part of these Minutes).

Roy asked:

Do you think the barking seems louder because there are more dogs than a year ago?

Clawson responded:

Yes.

Harmon stated:

I will not even give that credit because the dogs don't bark.

Following are questions asked by Selectman Roy (in italics); responses by Harmon immediately follow:

*The German Shepherds don't bark because they have bark callers?*

Absolutely. And the other part to this is they in a building overnight. They go in at 8:00 p.m. and do not come out until 8:00 a.m. - in a building closed in.

*And the Pomeranians don't have bark collars because they are too small?*

Correct.

*And are the bark collars on the German Shepherds 24 hours a day?*

Just when they are outside.

*And then you bring them in?*

Correct.

Following are questions asked by Selectman Garron (in italics); responses by Harmon immediately follow:

*What is your feeding schedule for the dogs?*

They actually get free fed. When they go out in the morning between 8:00 a.m. and 9:00 a.m., they have unlimited resource for food.

*So you do not feed them at 5:00 a.m. or 6:00 a.m. which might cause them to bark?*

Absolutely not.

*When is the last feeding?*

They get fed in the morning between 8:00 a.m. and 9:00 a.m. and they come back in about 8:00 in the evening. They have an overabundance and still have food at the end of the night. They free feed.

Roy asked:

As far as the dogs being loose, you are saying there is not an opportunity for them to be loose?

Harmon responded:

I do have two that come out with me intermittently when I am outside. But they are with me. Otherwise, they are contained.

Garron asked:

Have any of the officers observed any of the dogs loose when they have gone down there?

Botto replied:

I observed one shepherd on the property and it did not come up to me when I was on the property.

Harmon stated:

All of the officers have been to me. They have sat out at the end of my driveway in the middle of the night, one o'clock in the morning. They call it the access road which is between Scott and me, the road that goes out to the horse show. They have sat there. They have come and come and come to my property.

Roy stated:

I wonder if it is different if it is behind the property because noise travels in different ways. I wonder if it is a little louder behind. Has anybody ever sat behind?

Harmon replied:

Officer Sterling and Briggs. In fact, Briggs took the time to go halfway between his (Clawson) and my dogs and asked me to get the dogs barking as much as I could to see if he could hear the dogs.

Roy asked:

So they have gone actually on their property?

Harmon

Absolutely. Even closer to his house than my house in his driveway and asked me to get the Pomeranians (did not finish)

Garron interrupted and said that, while he did not disbelieve her, he would rather have confirmation of that from Officer Briggs.



Garron asked:

How long were you away from the property?

Clawson replied:

Five years.

Garron stated:

I have to say it. It seems strange the complaints did not come in until she filed for the license.

Deeb responded:

It makes perfect sense to me. He wasn't told to call the police until he called the Selectmen (did not finish)

Garron asked Deeb not speak unless recognized.

Garron continued:

The question is, if you have been there for two years and the dogs are barking all that time, there is no complaint until May. Do you understand my logic. What you said was, when your wife was there, they were off all the time but she would have to be a witness to that, not you. You can only be a witness for the past two years. From the information we received, there were no complaints until the person applied for a different kind of license for the dogs and you were notified of that. That is when the complaints started. The officers that went down did not find the dogs loose or excessive barking. What we have right now is some legitimacy that the officers have gone down and there is some barking but not excessively. They stated they have posted themselves down there for some time and have not heard excessive barking or seen dogs off the property. That is where we are right now. This is what I heard tonight - no bites, dogs are licensed, applying for additional license.

At this point, Garron asked if anyone else wanted to speak.

Jean Riley stated the following:

I live at 27 Plymouth Street on the other side of Clawson's driveway. Scott has a hundred acres and I did ask him just out of curiosity if there was anywhere he could get away from the bark on the hundred acres and he said no he can't. I don't know Harmon. I have lived in my house for thirty years and she said she has lived there for sixteen. If I heard barking dogs, I am sure I would have been calling. I did not know she had dogs until she rapped on my door and asked if I could hear her dogs. I said you have dogs? She said

yes and she had to go before the Board of Appeals. I'm on the Board of Appeals so I had to recues myself from that situation. Some of the (ZBA) members went to look at the property. I went with them and I want to say as an abutter to the property in this instance that the place is as clean as can be. I pushed my foot toward one of the Pomeranians to see if they would have a reaction and there was nothing. I just want to say that Scott has his horse shows and I know a lot about those because I have to contend. I am sure a lot of those riders bring their dogs with them and I see them coming up with them. But, if that is causing Harmon to have a problem because other people's dogs don't know each other are causing a problem, I felt I should point that out.

Roy noted that Clawson said it has been better and he thinks Harmon has been moving the dogs. Roy asked Harmon if she had been doing anything different. Harmon said she had not.

Clawson said:

It was not May 8<sup>th</sup> I started to complain. I went to Building Inspector Tom Millias and complained to him several times over the winter and several times he said he would talk with Bobbie which I preferred. At that point is when she decided to file for a Kennel Permit and that is when I was told I had to call the Police Department every time I heard the dogs.

Garron said:

I can appreciate that but I am going by the official complaints you filed with the police department.

At this point, Garron asked if the Board was ready to make a decision. Roy asked what the Board's jurisdiction was. Garron said there is a nuisance law under which the owner can be fined, the dogs ordered out of town or the dogs ordered euthanized.

Schleiff:

There is no biting or dog attacks and we cannot get 100% verification on the barking. I suggest holding off until there is some collaboration on the nuisance. I have to go by the officers who have not found excessive barking. Maybe there is a little sensitivity going on right now with the property.

Garron stated:

People have the right to peace of mind and not being disturbed on their property. As much as what has been presented tonight - it is one person's word against another. On the other hand, the officers have been going down

at different times and have not heard a lot of barking. I recommend issuing a letter to ensure the dogs are not getting loose. Letter stating there is a leash law, the dogs are not to be off the property unleashed and should be under control at all times. I don't know what we can do about the barking at this time.

Schleiff said:

She has the bark collars on them and trying to train them. They are in a building at night all the time. I don't know what else she can do to insulate the noise. The past couple of weeks have been quiet. Not sure what you are doing differently but keep up the good work.

Garron stated:

That does not mean that Clawson or anyone else in the area doesn't have the right to call the police and complain. If evidence comes before the Board of the barking, we can deal with it then.

Schleiff said:

If the dog officer has not seen the dogs off the property, that is really a non issue. If the dogs are not off the property without a leash they are abiding by the law.

It was noted that pictures of the dogs off the property or recording the barking are ways to prove if something is happening.

Moved by Garron and seconded by Roy, Board unanimously voted to take no action at this time except to send a letter instructing the owner to ensure (a) the dogs are not running loose off the property and (b) that proper measures are being taken to minimize the barking. The Board will review the situation in thirty days.

### **CONCESSION STAND**

The Board met with the following individuals relative to the proposed concession stand to be located behind the elementary school:

Lisa Hillcoat	Proponent
Lawrence Mayo	Town Counsel
Bruce Pulliam	Youth and Recreation Commission Chairman
Richard Steele	Youth and Recreation Director
Thomas Millias	Building Inspector
Peter Beals	Finance Committee Chairman
Sandra Nolan	Town Accountant

Following is synopsis of discussion:

A. Location

The Selectmen conducted a site visit last Wednesday with all interested parties, and it was the general consensus that the location near the tennis courts on the slope going up toward the school was not the best site because of various factors. The site agreed upon as best for the concession stand to be located is behind the school in the middle between all of the athletic fields where an old cement building currently stands. Seelig noted that the Chairman of the Municipal and School Building Committee (who could not be present tonight) was in agreement with this location which was the original site discussed a few years ago.

B. Work Force

Hillcoat said she believes she has the Selectmen's approval to move forward with the general contractor to get the permits and use volunteer labor. The general contractor is responsible for making sure the volunteers are qualified. It was not known if the volunteers would be covered by the Town's insurance. Also, she understood that any Town employee can perform work as long as it is within their job description. The Board made clear that any Town employee would have to volunteer their time outside of the time he/she is being paid by the Town since the Selectmen did not want the Town to incur any costs in the construction of the building other than those funds coming from the Recreational Gift account. Hillcoat said the only help she would be asking for is from the Water Department to locate the lines and from the Highway Department to excavate. Both Departments were willing to do the necessary work. Garron said the use of volunteer labor was not an issue provided it was allowed under the law.

C. Septic System

Hillcoat said the septic design would be the same, noting the Board of Health wanted to stay with the mound system. Pulliam stated mounding would not be a factor in this area because it is toward the main soccer field which is a higher elevation. The mound is about a foot and a half and would appear to be an extension of the existing slope. There is an old well in the area but it is not active because it did not produce enough pressure. Millias said it would be necessary to abandon the well and not just leave it in place. Garron was concerned with run-off from the slope. Hillcoat said all indications are there will be no issue. The Board of Health will conduct a perc test on Monday at the new location. There are no wetland issues involved.

D. Building

Millias made it clear that the bathrooms must be handicap accessible. Hillcoat said they are thinking of incorporating the cement building that is

currently on the site and provided a schematic of what it would look like if the cement building was kept as part of the overall building plan. Millias wanted to inspect the building to ensure it is structurally sound. Hillcoat said, while the cement building is free standing, it will look like part of the entire building. In addition, the utilities currently come into the cement building. If the cement building ever failed, it could be removed without affecting the new building.

Referring to the new schematic, Schleiff noted the size is the originally proposed 20 x 30 from several years ago and not the 16 x 20 recently approved by the Board. Schleiff understood the discussion was that the cement building would be incorporated into the approved size or would be removed, not to add more footage to the new building. Roy did not want to make the new part bigger than the 16 x 20. Hillcoat said it is not adding to it but saving money in demolition for a building that does not need to be demolished. It would be completely self sufficient. Roy's concern was cost. She thought the proposal was to keep the cement building for storage and the new part would be 16 x 20 in addition to the existing cement building. The schematic shows keeping the cement building and going to a 20 x 30 in addition to that. She did not feel the building should be that big and felt financially it was not a good time for it.

Nolan asked if they had gotten an estimate on how much this will cost. She stated that the Recreational Gift Committee voted an amount for this project in 2005 and has since spent some of that money. There is no longer that amount of money in the trust fund. She wanted to make sure the Gift Committee knew it would have to re-vote this project.

Roy said, from her perspective, we need to keep it as low financially as we can and she questioned if a building of this size was needed. Schleiff said that, during the meeting a month or two ago in which the 16 x 20 building was proposed, he asked if it would be sufficient for five, ten years and the consensus was it would be. During the site visit, in looking at the cement building, he felt it would be doable to add that. Constructing the 20 x 30 building and keeping the cement building is a bigger expense than just having the 16 x 20 building and it would require more maintenance. Demolition costs would be minimal and there would be costs involved in incorporating the cement building into the new one.

Hillcoat asked if the building is doubled would the Board be okay with the plan before them. Garron asked if the Board had any problem with what they are doing now. Roy wanted to keep the new building 16 x 20. Schleiff asked if they were saying they wanted the 16 x 20 and add the cement building. Garron said they are talking about the original plan of 20 x 30 plus the cement building. Garron believed the Board wanted the 16 x 20 along with keeping the cement building.

Hillcoat said she was trying to keep the original architectural plans from a few years ago to keep that cost down because there is a full set of drawings. Roy noted it would cost more to build the larger building than to revise the plans. Hillcoat asked how the Board would feel if she could get the 20 x 30 for the same cost as the 16 x 20. Roy felt the 20 x 30 was awfully big. Garron said it is also a question of how it will look aesthetically. Millias said the space needed for the bathrooms has to be taken out of the equation in determining what space is needed for the intended use. He noted the bathrooms may not be adequate during special events and that portables will still be needed sometimes.

Hillcoat said the only difference between the 16 x 20 and 20 x 30 is storage. The contractor did suggest putting a second stall in the ladies' room because there was room now to do that. Millias said they also discussed the fact there should be a urinal in the men's room.

Schleiff had no problem with the location and offered Hillcoat the opportunity to "tweak" the size of the building and come back before the Board. Hillcoat said, if the Board is approving the 16 x 20, she would rather proceed with that. She suggested the larger building because of the availability of the full architectural plans. Roy felt aesthetically having a huge building between the fields would be too much and the cost of maintenance would be higher.

Garron said, if you can get a 20 x 30 for the same price as a 16 x 20, you are getting more bang for your buck and why not go for it. If they are looking down the road to enlarge the bathrooms, etc., the larger building would provide that space. Roy and Schleiff felt the 16 x 30 and adding the cement building would be an adequate size.

Beals noted that, while funding for the construction side appeared to be available, his concern was on the maintenance side. At the outset, he felt there needed to be some arrangement where revenue is generated to offset maintenance. Pulliam said they discussed this with the Building Committee as to what the maintenance would be. The septic would be pumped out at the same time as the other town systems. Part of the revenue generated from the concession stand would be used for repairs and maintenance. Nolan noted that the Town's maintenance department is stretched to the limit now and would not be able to do maintenance on this building. Garron said there is no doubt that the Town will end up being responsible for maintenance at some point in the future.

Steele said every town has one of these. If every other town can do it, Halifax can handle whatever problems arise. He pointed out the townspeople have always been supportive and provided funds when needed.

Garron asked if the Board was willing to go with the 20 x 30 or the 16 x 20. The Board had no problem with the site location. However, at the site visit, it

was the 16 x 20 that was discussed. The 20 x 30 is a new scenario. Hillcoat said she misunderstood the discussion during the site visit and thought everyone was referring back to the original plan. If that can be, she would recommend tearing down the block building and build the 16 x 20 or leave the block building which is its own structure. Eventually the block building will have to go but it can be used in the meantime.

Moved by Garron and seconded by Roy, Board unanimously approved (a) the site location behind the Elementary School in the middle between the athletic fields; (b) construction of a 16 x 20 building; and (c) retaining the cement building in addition to building the 16 x 20 building.

#### D. Lease Agreement

Garron was uncertain if Hillcoat wanted the Board to develop the lease agreement or provide one to the Board to review. She had provided the Selectmen with a "boiler plate" agreement which Garron noted would have to be revised to include specific rights and responsibilities. He asked the Board which avenue they wanted to pursue.

Roy said there was a small discussion Saturday on what components were needed to protect the Town and what would be the responsibility of the lease holder. Discussions were held with the Chairman of the Municipal and School Building Committee and the Youth and Recreation Commission as to who would lease or sublease and how that would be coordinated through the Youth and Recreation Commission relative to their programs. That would have to be specified in the agreement. Also, the Town must collect enough money from the lease to cover the cost of maintenance and repair.

Mayo said he looked at the boiler plate lease and would develop something much different to protect the Town. In connection with the municipality leasing the newly constructed building to any tenant, there are certain procurement law issues - mainly, any lease for town property to any tenant requires a declaration that the property is available for disposition by the controlling board (Selectmen), the Selectmen would have to determine the value of the property it is leasing by a bona fide appraisal process and, if it is determined that the fair market value of the property for the duration of the lease agreement would exceed \$25,000, it would have to undergo some type of bid or proposal process.

Mayo said the construction of the building is a separate issue from leasing the building once it is completed. While some of the construction involves volunteer labor, Town funds are being used to construct the building; and, therefore, it is Town property. With regard to the lease, the focus is on the value of the lease and not the value of the property itself nor the amount the lessee makes. It is the value of the lease (the amount paid by the lessee) over the contract period (number of months, years, etc.).

At this point, the lease agreement needed to be developed. Moved by Garron and seconded by Roy, Board unanimously authorized Town Counsel to develop a lease agreement.

E. Disbursement of Funds

The Youth and Recreation Commission was awarded the money by the Gift Committee. Seelig said that, since the construction is not being done by a non-profit organization, there will need to be a re-vote by the Gift Committee and it will need to be determine if the Commission or the Municipal and School Building Committee will oversee the project - someone must publish the ad, accept the bids, etc. Pulliam said he believed Campbell wanted the Building Committee to oversee the project and Youth and Recreation had no objection. Nolan noted that the trust account can only be signed off by the Gift Committee and not the Building Committee. She believed the Building Committee would have to submit the bills (along with verification the work has been done) to the Gift Committee which, in turn, will submit the bill schedules for payment.

Seelig stated the Town will be going out to bid with a General Contractor with the stipulations volunteers will be doing specific work in specific areas. As long as the GC hires sole proprietor firms, prevailing wage does not have to be paid. However, if a firm has one additional person, even a helper, prevailing wage issues come into play.

In summary (a) the septic system perc test must be conducted; (b) the Board approved locating the building behind the Elementary School in the middle space between the athletic fields; (c) the Board approved constructing a 16 x 20 building; (d) the Board approved retaining the existing cement building in addition to building the new 16 x 20 structure; and (e) Town Counsel will draft a lease agreement.

**JOHN SPINALE**

Former Town Counsel John Spinale came into the meeting to advise the Board he had no Town business pending except for the Marsden case which he believed had been resolved. If further action is needed, it will be handled by new Town Counsel Lawrence Mayo.

Spinale stated he enjoyed working with the various Selectmen over the years and applauded their professionalism and dedication to making decisions that were in the best interest of the Town. He thanked the Board for the opportunity to work with the Town. The Selectmen thanked Spinale for his guidance and support and wished him well in his retirement.



**GENERAL MAIL/BUSINESS**

A. Alcoholic Beverage Licenses - Operating Hours

Seelig informed the Board that the Legislature approved a change in the State law that would allow restaurants to serve alcohol as early as 10:00 a.m. with approval of the local licensing authority (previously, the earliest time was 11:00 a.m.). There is no specific procedure in place at this time (public hearing, notifying abutters, etc.) other than requiring the approval of the local licensing authority. No requests have been received for the earlier time at this point. In the event a request is received, the Board would need to determine what the procedure will be.

B. HOPS Playground

Seelig said that, during the Fourth of July celebration, there were some low spots pointed out in the playground. The Highway Department filled in the gullies as a temporary measure until seeded grass is put in. Schleiff suggested hay be put over the seed to hold the slope until the grass comes in. Seelig will relay the suggestion to the Highway Surveyor.

C. Step Increase - Town Accountant

Moved by Roy and seconded by Schleiff, Board unanimously authorized the Chairman to sign the Change of Status moving Town Accountant Sandra Nolan from Grade 11 - Step 1 to Grade 11 - Step 2.

D. Fall River Casino/Taunton River Watershed Alliance

The Board acknowledged a request from the Alliance to oppose Bill H. 23495 which would allow for the use of State land in Fall River for the proposed casino without having to go through the usual procedures for taking State land out of protected environmental status. Moved by Garron and seconded by Schleiff, Board unanimously voted to send a letter to the Town's State legislators urging them to oppose the bill. The Board commented it should not be made easy for an individual to by-pass the procedures that are in place.

E. Mosquito Season

Per recommendation from Seelig, the Board agreed to schedule a meeting with the Health Agent to discuss the current status of mosquito control and safeguards residents can take to protect against infection.

F. Housing Rehabilitation Grant

The Board acknowledged that Carver and Halifax received a grant award of \$685,850 for housing rehabilitation. Seelig said work on the grant should

begin later this summer and into the fall. An individual will be chosen to oversee the administration of the grant and Halifax and Carver will have to work closely with the person chosen. Residents will be notified of opportunities to apply for housing rehabilitation assistance.

G. Seat Belt Enforcement

The Board discussed a request by the Executive Office of Public Safety that the Town adopt a zero-tolerance policy for seat belt violations. Seelig noted the policy cannot be enforced because the police officer on the scene has to use his/her own discretion. The Police Department can encourage officers to follow the "click it or ticket" policy, but cannot make it a requirement.

H. Land Use Permit Extensions

The Mass Municipal Association is asking communities to oppose Section 127 of the House Ways and Means Economic Development bill as it would add three years to the term of any commercial or residential permit in effect between January 1, 2008 and January 1, 2011. Since cities and towns already have the ability to extend permits, this should not be a unilateral decision by the State. Moved by Garron and seconded by Schleiff, Board unanimously voted to oppose Section 127, again noting that procedures in place should not be easily by-passed.

I. Got Books II - Congregational Church

Seelig had sent the proposed location to the Police Chief. Seelig noted the Board had wanted to see how the one being placed by Generations in the parking lot of Pope's Tavern fared before approving additional requests. Roy did not see the need for two and wanted to see how popular the one at Pope's Tavern was to determine if the additional one requested by the Halifax Congregational Church was needed.

The Board took the matter under advisement.

J. Fiscal 2010 Line Item Transfer

Moved by Roy and seconded by Schleiff, Board unanimously approved the transfer of \$132.48 from the Police Wages account to the Emergency Management account to cover the cost of clerical work in preparing the claims from the March flood. Seelig noted the new form developed by the Town Accountant for line item transfers which must be signed by the Selectmen and the Finance Committee.

K. Wind Turbine Laws

Seelig stated that, according to Mount Washington (small town in the SW corner of the State), the proposed Wind Energy Siting Reform would eliminate much of the decision-making at the local level. He provided each Selectman with materials on the subject. The Board postponed discussion until July 27<sup>th</sup>.

L. Town Government Study Committee

Roy announced there are vacancies on the Town Government Study Committee and asked interested residents to contact the Selectmen's Office.

M. Charter Commission

Garron noted upcoming elections to serve on the Charter Commission that determines how the Plymouth County Commissioners are operating.

**TOWN ADMINISTRATOR REPORT (CHARLES SEELIG)**

A. Town Meeting Time

Seelig stated that Town Meeting Time is the "little red book" published by the Massachusetts Moderators Association. The Town's current version was published in 1984 and the Library Director has asked if the Library should purchase the newer 2001 edition. Seelig has suggested to her that the Library purchase at least one new edition. In addition, Seelig recommended a copy be purchased for the Moderator, Town Clerk, Selectmen, and Town Counsel at a cost of \$25 per book. The Town Clerk feels this is a logical use of the Town Clerk Gift account and is willing to provide the funding for those copies. The Board agreed that copies should be purchased for the Moderator, Town Clerk and Selectmen but felt Town Counsel could procure his own copy if he did not have the newest edition.

B. Culvert - (Old) Plymouth Street Layout

Seelig reported that there is a partially broken culvert on the old layout section of Plymouth Street across from the Fire Station. The dirt road runs from the west side of the small pond on the north side of Plymouth Street, around the pond, and then the right-of-way intersects Plymouth Street just east of Indian Path Road. The Plymouth County Commissioners abandoned this section back in 1904. However, there is nothing to indicate that the land was ever deeded to any other party. Several years ago, the Town deeded the section between Indian Path Road and the intersection with Plymouth Street to the owners of the property where a store called "The Granite Guys" is on site. The western portion of the pond is owned by the Town. The eastern portion is privately

owned by Conley. On the other side of the road, the street may be on land owned by Conley or by the Fitzgeralds or represent the boundary between the two parcels.

Two questions have arisen. What, if any, responsibility does the Town have for repairing the culvert? Second, given that the culvert appears to be in the Historic District, do any repairs have to meet Historic District standards (no matter which party/agency repairs it)? Seelig wanted to have Town Counsel review the first question. On the second question, he is checking with the Building Inspector to determine if a building permit is required because the Historic District by-law applies only if a building permit is needed. Seelig did not believe the Historic District restrictions would be applicable in this case.

In response to a question from Schleiff, Seelig said Highway Surveyor Robert Badore has not looked at the culvert to determine what is involved in repairing it. Seelig will ask him to do so and report back to the Board.

C. Closing of Cemeteries

Seelig will schedule a meeting with Cemetery Superintendent Robert Badore to discuss closing cemeteries in Halifax.

D. Annual Inventory Reports

Seelig reported a few departments have still not submitted their Annual Inventory Report for 2009. Seelig has asked them to submit the report by July 27<sup>th</sup>. It was noted that the Housing Authority is not required to file such a report and will be removed from the list.

There being no further business, moved by Garron and seconded by Schleiff, Board unanimously voted to adjourn the meeting at 10:10 p.m.

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Kim R. Roy  
Clerk

/bfs