

HALIFAX BOARD OF SELECTMEN  
SELECTMEN MEETING  
TUESDAY, JANUARY 6, 2009 – 7:30 P.M.  
SELECTMEN MEETING ROOM

---

Meeting came to order at 7:30 p.m. with Selectmen John H. Bruno II, Margaret T. Fitzgerald and Troy E. Garron present.

The following business was discussed:

**AGENDA**

Selectman Fitzgerald added a discussion on weeds that were found in a Pembroke pond.

With the above addition, the Agenda for Tuesday, January 6<sup>th</sup>, was unanimously approved.

**MINUTES**

No Selectmen Meeting Minutes were considered or approved.

**ABATEMENTS/ COMMITMENTS/ BILLS/WARRANT/TURNOVERS**

Moved by Garron and seconded by Bruno, Board unanimously affirmed approval for the payment of the following warrants:

Withholding Warrant	#49	\$119,405.22
Payroll Warrant	#51	\$330,388.75
Vendor Warrant	#52	\$ 45,490.45
Withholding Warrant	#53	\$121,158.20
Vendor Warrant	#54	\$440,140.37

Moved by Garron and seconded by Bruno, Board unanimously affirmed approval for the payment of the following Selectmen bills dated December 23 and 30, 2008:

Zurich North America (insurance/Highway storage tanks) .....	\$20.00
Enterprise (legal ad/earth removal permit for Roach) .....	\$71.40

Moved by Garron and seconded by Bruno, Board unanimously committed for collection the following:

Ambulance Commitment	#12B	\$ 21,466.00
Mobile Home Park License Fee	#51	\$330,388.75

Moved by Garron and seconded by Bruno, Board unanimously approved payment of the following warrants:

Payroll Warrant	#55	\$322,713.21
Vendor Warrant	#56	\$259,355.08

Moved by Garron and seconded by Bruno, Board unanimously approved payment of the following Selectmen bills:

Deutsch Williams Brooks (legal services/Nov) .....	\$1,845.00
Janyce Whitney (supplies for Holidays in Halifax) .....	\$ 168.34
Constellation NewEnergy (Pope’s Tavern/Dec) .....	\$ 162.01
National Grid (Pope’s Tavern/Dec) .....	\$ 70.93
Constellation NewEnergy (Town Hall/Dec) .....	\$ 675.72
National Grid (Town Hall/Dec) .....	\$ 354.17
Constellation NewEnergy (street lights/Dec) .....	\$ 818.51
National Grid (street lights/Dec) .....	\$1,125.12
Constellation NewEnergy (old police station pole/Dec) .....	\$ 41.78
National Grid ((old police station pole/Dec) .....	\$ 35.33

Moved by Garron and seconded by Bruno, Board unanimously acknowledged payment of the Selectmen Office payroll for the period ending December 20, 2008 in the amount of \$6,031.93 and for the period ending January 8, 2009 in the amount of \$6,181.93

Moved by Garron and seconded by Bruno, Board unanimously acknowledged the following Payments to the Treasurer:

<u>TURNOVER NUMBER</u>	<u>AMOUNT</u>
09-26	\$ 2,200.00
09-27	\$ 300.00
09-28	\$ 5,048.03
09-29	\$ 71.40

**EARTH REMOVAL PERMIT – TODD ROACH/303 HOLMES STREET**

At 7:45 p.m. the Board continued the public hearing from December 16, 2008 for the purpose of considering an application submitted by Todd Roach for an Earth

Removal Permit for property located at 303 Holmes Street, Assessors Map 22, Lot 101.

A number of interested parties were present including the following individuals:

Todd Roach	Applicant
Jason Youngquist/Outback Engineering	Engineer for Applicant
Timothy Hashem/ TNT Excavating	For the Applicant
Bernie Munro/Land Planning	Engineer for the Town
Louise Azevedo	Abutter
John Azevedo	Abutter
Richard Merry	Abutter
Lawrence Olsen	Abutter

Munro provided the following report on his meetings with abutters Charles MacKay and Lawrence Olsen:

- MacKay had water coming off his property that flows slowly down toward the Roach property. There is a little valley but not much runoff. His property is seventy-five feet from any activity being done. While the runoff is negligible, Munro suggested putting a windrow of wood chips in this section to slow down the run off.
- Olsen's main concern is he is afraid of the water he use to get before the MBTA and the reconstruction of Route 36 took care of the problem. He was getting water from the roadway, and it would get trapped. Olsen wanted to be sure water from the Roach property will not cause the problem. Munro stated Olsen should not have any problem whatsoever.

Munro had provided a report to the Board dated December 22, 2008 after the site meetings. In reviewing Olsen's property, Munro noticed the topol map in the low part of the area was old. He asked Outback Engineering to address that and revise the Plan which they did. Munro believed the water was going into the cul de sac area and the new topol confirmed that. The topol in this area is lower by about five feet. Munro had provided another report to the Board dated January 5, 2009 after receiving the revised topol information from Outback.

Following is a synopsis of discussion on the following issues:

- Private Roadway

Munro said the cost to restore the private roadway owned by abutter Richard Merry would vary depending upon whether any damaged pavement was patched and the entire roadway overlaid with a top coat or if the entire roadway had to be removed and replaced. He did not have the exact road

measurements. Youngquist stated the length of the road from Holmes Street to the Roach property line is 345 feet. Merry provided the Board with three quotes to repair and top coat ranging from \$17,450 to \$17,837. He had one quote to replace and install a new roadway of \$29,023; however, he felt that would not be necessary. Youngquist provided a quote for repair and top coat totaling \$7,000.

- Staking Off Area

Munro recommended stakes be required around the perimeter of the work to ensure the 50-foot no-touch buffer is not violated.

- Phasing (Condition #3)

Munro said that, since the project is less than five acres, Condition #3 is not required.

- Determining Groundwater Level (Condition #5)

Munro stated that the Board of Health and another engineer did a septic design with elevations approved by the Board of Health; this design determined the ground water level. Therefore, test wells, etc. to determine the level are not needed. Since the intention of Condition #5 is to determine where the ground water level is and that information is available, the Board concurred with Munro that Condition #5 could be waived for this permit.

- Permit Fee

Munro recommended a fee of 25-cents per cubic yard.

- Landscaping/Erosion/Run-Off

Munro noted the original application called for “landscaping,” not just grass. The applicant is proposing loam and seed only. He recommended that shrubs and trees be put on the side slope to help retain the soil. Bruno asked how many plantings would be needed since this was not discussed and there is not a plan to review. Garron asked how much of a flow of water is coming into the area and was it strong enough to wash away the hill. Munro said it was not. Garron felt it made sense to have plantings that will take a foothold into the soil if Munro felt there was a particular area at risk. Munro said the windrow of wood chips in the area he mentioned previously should be sufficient.

Munro said the area is all sand and gravel (no clay) and a test done by the Board of Health confirmed it is all sand and will absorb everything. Any runoff will puddle at the cul de sac which is all woods.

Youngquist said they ran calculations for conditions now and after the excavation with grass cover only, projecting for a two-year storm, ten-year storm and hundred-year storm. That information was provided in Outback's report dated January 2, 2009. Youngquist said there is not a significant increase in what collects.

- Bond

Munro said the cost to restore the private road should be included. The amount is dependent upon which quote is decided upon. Fitzgerald noted that MacKay, Olsen and Merry are all concerned with water and erosion. Munro did not see abutting properties being affected by the project.

Following are statements made by abutters:

- Lawrence Olsen of 307 Holmes Street said he met with the Town's engineer. The pit is there. His house is at 99 feet above sea level. He was worried about wash out if the basin filled but, after talking with Munro, realizes the water will mostly be Roach's problem. Olsen said that, based on the information provided at the last hearing on the size of the area being excavated, he calculated far more soil being removed than what was discussed. Munro explained the formula for determining the yardage. Olsen was satisfied that his question had been answered.

Olsen said that, in addition to the water, he was concerned about the vibration from the trucks. He has a heated insulated mud room which, when closed off, was not warm. Upon investigation, he discovered a large crack between the mud room and the kitchen area. While he could not attribute the problem directly to vibration from the trucks, he had not noticed the crack in past years nor had the room been cold. He did not show the damage to Munro when he visited Olsen's property because Olsen had not discovered it at that time. Olsen somehow wanted to measure the situation now and compare it after the project was complete to determine if settlement was happening as a result of the vibration. Munro said that measurement can be made by having an engineer take a shot of the floor now and again at the end of the project.

Youngquist pointed out that Olsen's house is just as close to Route 36 as it is to the private roadway and that the truck traffic on Route 36 could be the contributing factor.

- Louise Azevedo of 84 Colby Drive was unable to attend the hearing last week and relayed her dismay at the current condition of the site which included debris, stumps and steep slopes. She provided the Board with pictures which were entered into the hearing record. Azevedo stated the site is a safety hazard. With no fencing in place, she was concerned that a child might wander from her property to the edge of the slope and fall thirty feet into the pit. She was also worried that, with the removal of the trees, etc., water will

come off the hill, erosion will occur and eventually affect her property because there is nothing to hold back the soil. She felt her yard would eventually end up in Roach's yard. In addition, there is a pile of wood chips on the site approximately twenty five feet high.

Azevedo questioned if the homeowner had surveyed his land prior to doing the work. She had surveyed her land and knew where the property line was. She noticed Roach out marking off the property by tying material around the trees. She said when the work first began she understood Roach wanted to put in a swimming pool. However, once the site started to be extensively excavated and multiple trucks were hauling out material, she called two departments in the Town Hall, neither of which were the Selectmen. The Board said once they became aware of the situation, they ordered the operation ceased.

Youngquist stated that the homeowner had to shut down the work because of the Cease and Desist issued by the Town. All of the stumps and debris will be taken off site. The final slope will be 3 to 1 which create a more gentle slope than what was there before the trees were cut. There will be a 50-foot buffer zone from the abutting property lines in which no excavation will occur and the slope will be loamed and seeded. Because of the Cease and Desist, work had to stop and nothing could be removed from the site. As soon as they are allowed to, the plan is to remove the stumps from the property.

Azevedo said that she is concerned about safety. Children slide on her property and she has allowed it. There should be fencing to prevent someone who may wander over to the edge from falling off. The project spans a large area against Colby Drive, and she felt a watershed expert should look at the site because she felt erosion will definitely occur. She wanted to be assured the stumps would be removed, the site cleaned up and the sloping is not dangerous. Fitzgerald said these are the kinds of provisions the Board puts into the permit.

Munro pointed out that, while the loam can be put down on the side slope, it cannot be seeded until spring. Azevedo felt planting trees would be necessary to absorb the water, noting that water will run fast down a hill and trees create a root system that will absorb the water and retain the soil. Referring to the pictures, Bruno asked where the trees were taken down. Azevedo showed him the extensive area where the trees once stood.

- John Azevedo asked if it was the Board of Selectmen that stopped the operation and did the Board know about it before the project began. Fitzgerald said the Board did not know before excavation began and ordered a Cease and Desist when they became aware of it. She said the home owner had come in and talked with the Building Inspector who said a removal permit was not needed because the Building Inspector understood the homeowner was leveling off his back yard. Once the Town was made aware of the

- extensive excavation, it issued the Cease and Desist. Azevedo also wanted to see trees planted and felt this was the least the homeowner could do.
- Richard Merry of 301 Holmes Street noted trees had been cut in the 50-foot buffer zone. Munro said their original work went into the buffer zone and they have been informed all activity must be 50 feet from any property line. This is one of the reasons he is recommending the work perimeter be staked to ensure the buffer zone is not violated. Youngquist pointed out they are not seeking a tree cutting permit; he did not believe a permit was required for the homeowner to cut the trees.

With regard to completing the project, Youngquist said it would take about two to three weeks. Timothy Hashem of TNT Excavating said that, once the permit is issued, the start date can be determined. In response to questions from Garron, Hashem said they could start the work within a week or two once the permit is issued and the work would then take about two to three weeks. If the permit was issued tonight, the work could be done by the end of February.

Olsen asked if he had to listen to the trucks starting at 7:00 a.m. Bruno said the Board could require they start later but pointed out that shortened work days would result in the work being done over a longer period of time.

Property owner Todd Roach said that he came to the Town Hall and talked with the Building Inspector and was told he could do the work. He did what he thought was the right thing. He did not know he had to come to the Selectmen. He pointed out that Olsen has cut many trees on his land and is selling the wood. All Roach wanted to do was get a bigger back yard. He agreed that, right now, the site looks terrible and the hills are too steep. He, too, wants better sloping. Most of the trees he cut down were already dead; their centers were gone. With regard to vibration, Roach said Richard Merry has been driving by Olsen's house for years with excavation equipment and trucks.

At this point, the Board asked if anyone felt the site should be left as is. No one responded. Selectmen noted the reason for the hearing is to set the conditions, see what has to be done, and establish a bond to ensure the conditions are met. As far as the trees that have been cut down, that work is not within the purview of the Selectmen or the earth removal permit.

The Board wanted an opportunity to review the new information discussed tonight and postponed making a decision until next week. Before closing the hearing to obtaining input from abutters and other interested parties, Fitzgerald asked if anyone had anything else they wanted to state. No one indicated they wished to speak.

Moved by Garron and seconded by Bruno, Board unanimously voted to close the hearing. The Board will discuss this matter on January 13<sup>th</sup> at 7:45 p.m. The Selectmen did not feel the Town Engineer had to be present for that discussion.

**EXECUTIVE SESSION**

Moved by Garron and seconded by Bruno, Board voted as follows to enter into Executive Session at 9:00 p.m. with labor attorney Michael Gilman to discuss litigation and collective bargaining:

John H. Bruno II	-	Yes
Margaret T. Fitzgerald	-	Yes
Troy E. Garron	-	Yes

Fitzgerald announced that no statement would be made at the end of the Executive Session and the Board will reconvene in open session.

-----

Moved by Garron and seconded by Bruno, Board voted as follows to come out of Executive Session at 9:50 p.m.:

John H. Bruno II	-	Yes
Margaret T. Fitzgerald	-	Yes
Troy E. Garron	-	Yes

**GENERAL MAIL/BUSINESS**

A. Water Commissioner Vacancy

The Board discussed a request from the remaining members of the Board of Water Commissioners to appoint Donald Bosworth to fill a current vacancy on that Board until the election in May. The Selectmen noted the person who held this seat had been gravely ill for some time and the Commissioners have had no issue with regard to being able to make decisions, etc. Since there was no imperative need to fill this vacancy and given that the election is about five months away, moved by Bruno and seconded by Garron, Board unanimously voted not to consider making an appointment this time and will notify the Water Commissioners of their decision.

B. MS Bike Ride

The Board concurred with Seelig's recommendation not to sign the Multiple Sclerosis Society's notification form since it did not seem necessary nor did the language fit the event.



C. Smoking Around Town Buildings

Board noted that other communities have already implemented and Marshfield is considering prohibiting smoking around the outside of town buildings. Selectmen referred the issue to the Board of Health.

D. Municipal Vehicle for Town Hall Employees

Board acknowledge response from the Town's insurance company that (a) the Town's coverage would be the primary coverage for the vehicle, (b) there is no problem with multiple employees using the same vehicle as long as they are authorized to do so and (c) they cannot comment on whether there is an exemption from going after the employee's auto coverage if an incident exhausts the Town's coverage. Bruno reiterated that a municipal employee is exempt from suit and the employer is responsible but is usually dismissed. He did not feel this would be issue for the employee.

E. Regionalization of Services

Seelig stated that Pembroke has scheduled a meeting on Wednesday, January 21<sup>st</sup>, at 7:30 p.m. to talk about regionalization and recommended that someone from Halifax attend. If it turns out there is not a great deal of interest in regionalizing dispatch operations, Halifax can go back to the communities which are interested and set up a meeting with them. Bruno will attend this meeting.

Plymouth County is also interested in the following regional projects: Electricity cooperative, solid waste disposal, and regional public safety dispatch. The Board instructed Seelig to contact them and determine if they have an interest in regionalizing dispatch.

F. Energy Bills

Seelig will be going to the Municipal and School Building Committee to ask for money from their budget to do simple things like weather stripping the doors, etc.

G. Ridge Road Extension - Dead End Sign

Fitzgerald read a letter from Ridge Road Extension residents Noah and Erin Gillis who would like to have some of type of signage at the corner of that street to alert motorist it is not a through way or to "unaccept" the street so that it is a private way and can be so posted. Motorists do not realize it is a dead end street and either end up turning around on their front lawn or continue into the back yard of a house located on another street but whose back yard abuts Ridge Road Extension. Seelig had talked with the Highway Surveyor who did not see the need to spend money on a sign since there is

only one house on the street. After a brief discussion, the Board felt a sign should be put up that says “Not a Tough Way” and instructed Seelig to find out how much the sign will cost.

H. Fire Department Grant

Selectmen acknowledged the award of a \$2,500 grant to the Fire Department from FM Global for pre-fire planning and post-fire investigations. The Board agreed to write to the Fire Chief acknowledging this award and thanking him for his continued pursuit of funding opportunities.

I. Unsung Heroine

Moved by Bruno and seconded by Garron, Board unanimously voted to nominate Susan Basile as Halifax’s Unsung Heroine and submit her name for consideration to the Massachusetts Commission on the Status of Women.

J. Leet Claim on Damage to House

Selectmen acknowledged a copy of a notice from Massamont Insurance to the Leets that their claim has been denied since the investigator for their own insurance company did not find the Town at fault. The Board instructed Seelig to give a copy of the letter to the Town Clerk.

K. MMA - State Budget Alert

Fitzgerald outlined actions being considered by the State, including cutting back local aid for Fiscal 2009. The Board instructed Seelig to write to the Town’s State legislators informing them the Town receives many unfunded mandates from the State which is in violation of Proposition 2-1/2 and it cannot sustain any cuts in local aid.

L. Abatement - Recycling Fee

Moved by Bruno and seconded by Garron, Board unanimously abated \$50 for the in-law apartment at 20 Pond Street which has been dismantled and no longer exists.

M. Silver Lake Regional School Budget

Seelig reported that Joe Freitas from Plympton called today and asked if Halifax would be interested in meeting with Plympton and Kingston about the budget. Seelig told him yes, without making any commitments, and that the Town would want the Finance Committee there also. Freitas will call Kevin Donovan in Kingston to see if Kingston is interested in meeting.

N. Patrol Officers Contract

Moved by Bruno and seconded by Garron, Board unanimously approved and signed the contract between the Town of Halifax and the Halifax Association of Police Patrolmen for the period July 1, 2008 through June 30, 2011. This contract is contingent upon funding by town meeting, with the exception of the “detail rate” which is effective immediately.

**PEMBROKE POND - WEED**

Fitzgerald referenced several articles citing an aggressive weed found in a pond in Pembroke. Pembroke has reported it to the State and the State is going to pay to have the pond cleaned, but there are no guarantees.

She expressed concern that this weed could end up in the Monponsett Lakes because of the State boat ramp and its usage by non-residents. This weed can spread by boats, jet skis, fishing and ice skating. She felt the Town should write to the State agency that controls the State boat ramp and inform them the Town and the State have spent thousands of dollars to clean up the Monponsett Lakes, Halifax is concerned about being exposed to this invasive weed, and Halifax (a) would like permission to close the boat ramp for a year to prevent the spread or (b) if the ramp remains open, would like to have assurance that the State will pick up the cost to eradicate the weed if it is found in the Lakes. Halifax’s preference would be to close the State ramp so that the Town can control who is going on the lake. Garron and Bruno agreed. Seelig will write to the State outlining the concerns, requesting the State Boat ramp be closed, and point out the Taunton River Watershed Group has worked hard to keep that river clean and the lakes flow into that watershed which could then be invaded if the weed gets into the Lakes.

Bruno noted that Lee Lyman of Lycott Environmental was scheduled to meet with the Board on February 10<sup>th</sup> to discuss the status of the Monponsett Lakes. He asked that this issue be made a part of the discussion to ascertain Lyman’s thoughts and comments on how this could affect the management of the Lakes. Seelig will send him a copy of the letter going to the State.

**DISCUSSION**

A. MMMA Recommendations on Municipal Decision Making

Selectmen had reviewed the contents of Mass Municipal Management Association’s recommendations for changes in how municipalities can operate. Moved by Garron and seconded by Bruno, Board unanimously supported the recommendations and authorized Seelig to inform the MMMA.

B. Collector/Treasurer and Town Clerk

Selectmen postponed discussion on the upcoming changes in these offices.

There being no further business, moved by Garron and seconded by Bruno, Board unanimously voted to adjourn the meeting at 10:25 p.m.

-----  
Troy E. Garron  
Clerk

/bfs