

HALIFAX BOARD OF SELECTMEN
SELECTMEN MEETING
TUESDAY, JANUARY 13, 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 Garron added a thank you to the Halifax Water Department. Selectman Bruno added a discussion on the money received from the MTBE settlement. Selectman Fitzgerald added a meeting with Lake Street resident Raymond McAndrews

With the above additions, the Agenda for Tuesday, January 13th, was unanimously approved.

RAYMOND MCANDREWS

The Board met with Lake Street resident Raymond McAndrews relative to a letter he received from the Town Administrator in response to an anonymous complaint on the condition of his property. A letter had been sent out to three different property owners in different locations in Halifax. Previous to tonight, McAndrews had spoken with each Selectman who had said they would individually look at his property.

Garron did not see anything that would be covered under the Town By-Laws or anything that constituted a “nuisance.” Fitzgerald noted that one person’s trash is another’s nuisance. She did not feel his property was much different from the others in the neighborhood. As long as the Board of Health or Building Inspector did not have an issue with the condition of the property, she had no problem with it. Bruno felt that applied to all three properties that were cited. He did not feel they fit the definition of “junk” and did not see any violation of the Town’s by-laws.

With regard to the other two complaints, Fitzgerald asked Seelig to refer them to the Conservation Commission to ensure there are no wetland violations.

MINUTES

Moved by Bruno and seconded by Fitzgerald, Board approved the following Selectmen Meeting Minutes:

Selectmen Meeting 12-02-08 - Regular Session

Selectmen Garron abstained from voting as he was not in attendance at the December 2nd meeting.

ABATEMENTS/ COMMITMENTS/ BILLS/WARRANT/TURNOVERS

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

| | | |
|---------------------|-----|---------------|
| Withholding Warrant | #57 | \$ |
| | | 120,510.93 |
| Vendor Warrant | #58 | \$1,162,633.2 |
| | | 9 |

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

| | | |
|--|------------|--------|
| W. B. Mason (office supplies) | \$ | 117.96 |
| Wal*Mart (computer supplies) | \$ | 15.00 |
| Malloy, Lynch, Bienvenue LLP (Fiscal 2008 audit) | \$4,000.00 | |
| Gilman and Associates (legal services/Dec) | \$3,140.55 | |
| Spinale and Spinale (legal services/Dec) | \$ | 302.50 |
| Matthew Bender (law books) | \$ | 225.80 |

GENERAL MAIL/BUSINESS

A. 40B - Blackledge Farm

Fitzgerald asked Seelig to find out when the clock starts running on Blackledge Farm - at the time the initial proposal was received or not until the full proposal is received.

B. Casino Articles

Fitzgerald asked Seelig to get a copy of the Winter Edition of the Audubon Magazine. It contains a number of articles on casinos.

C. Resignation - Fire Chief Lance Benjamino

Fire Chief Lance Benjamino was present when Fitzgerald read his resignation, effective March 1, 2009 to accept a position as Fire Chief for the Town of Middleborough. Benjamino said he had several projects in flux, including grants, and wanted to be sure they were completed before he left Halifax. He has enjoyed his time in Halifax, has grown professionally during his tenure, and hoped the Board and the townspeople felt he did a good job while here. He thanked the Selectmen, the firefighters and the townspeople for their support and friendship over the past five and a half years.

Before leaving Halifax, Bruno asked the Chief if he could give the Board a complete report on the status of grants, staffing, and any outstanding issues in the Department. In addition, Fitzgerald wanted to meet the Chief in executive session to discuss security of the Town. Benjamino said he would be glad to do so and to assist Halifax in any way he can after March 1st.

Moved by Bruno and seconded by Garron, Board unanimously accepted, with regret, the resignation of Lance Benjamino as the Halifax Fire Chief, effective March 1, 2009. The Board thanked Benjamino for his accomplishments including the successful transition to 24/7 Paramedic service and his continual pursuit of grants. They wished him well in his new position in Middleborough.

D. Pay Raise for Plymouth County Accountant

Selectmen acknowledged a letter from County Commissioner McMullen objecting to a 14% pay raise for the County Accountant who had worked at her position for only fourteen months. Garron said he did not have information as to why the increase was being requested by the County Treasurer. It was noted that the Accountant was hired at a lower rate than recommended for the position. Bruno questioned the need for County Government and felt it should be abolished. Fitzgerald opined that, if regionalization of services could be accomplished through County Government, it would make sense for it to continue.

E. Thank You from Pogo's II

The Board acknowledged a letter from the owner of Pogo's II thanking them for their patience during the recent renewal of Pogo's Common Victualler License.

F. Police Chief Contract

Moved by Fitzgerald and seconded by Bruno, Board unanimously approved and signed the contract between the Town and Police Chief Michael Manoogian, effective July 1, 2007 through June 30, 2010.

G. Monponsett Lakes - Brockton Withdrawal

Selectmen discussed legislation proposed by Pine duBois of the Jones River Land Environmental Heritage Center that would require (a) that Brockton's management of the Monponsett Ponds and Silver Lake to take into account the environmental health of the associated ponds and rivers and (b) that Silver Lake, the Monponsett Pond, and Furnace Pond be managed at all times so that there is a continuous flow provided to their out-flowing rivers in order to support and sustain their water quality as well as maintain ecosystem health and function. Moved by Garron and seconded by Bruno, Board unanimously voted to support the proposed legislation.

H. OCPC - Census

The Old Colony Planning Council has been assigned to be a primary participant and reviewer for the 2010 Participant Statistical Areas Program for Plymouth County. Seelig reported the Town Clerk was willing to participate on behalf of the Town. Seelig will inform her that the Selectmen would appreciate her doing so.

EARTH REMOVAL PERMIT – ROACH / HOLMES STREET (CONTINUED)

Discussion continued from January 6th relative to the application submitted by Todd Roach for the removal of sand and gravel from property located at 303 Holmes Street for the purpose of increasing the back yard to his residential home. Present were abutters Richard and Holly Merry and John and Louise Azevedo. Neither Roach nor his engineer were present.

The Board noted the Town Engineer recommended the permit fee be increased to 25-cents. Moved by Bruno and seconded by Garron, Board set a fee of 25 cents per cubic yard for all Earth Removal Permits.

With regard to abutter Lawrence Olsen's concern on what affect the operation may be having on his house, moved by Garron and seconded by Bruno, Board unanimously voted to have the Building Inspector take a picture now and after the project is complete to see if the operation had any effect on the crack Olsen found between his mud room and kitchen.

Bruno explained the Board is considering issuing a permit and, under the by-law, there are twenty conditions which the Board will discuss with the idea that, if the permit is issued, it will include any changes and additions discussed by the Board.

Fitzgerald stated the Board members have looked at the property. Something has to be done, and it cannot be left in its current condition.

The applicant is requesting the removal of 5,800 cubic yards. The Selectmen noted that some material had already been removed, and the Town Engineer estimated the amount to be 3,600. Moved by Bruno and seconded by Garron, Board unanimously accepted the estimate by Town Engineer Bernie Munro and determined the total number of cubic yards under the permit is 9,400 of which 3,600 have already been removed and 5,800 remain to be removed.

The Board discussed and read each permit condition in the order in which it appears in the by-law. Moved by Bruno and seconded by Garron, Board unanimously voted the existing language under the by-law for any Condition to which no changes are made. Any change made by the Board and the vote taken is included under that condition number.

- (1) No processing of earth and no operation involving earth materials other than the permitted removal shall take place on the subject premises during the period of time of the permit unless specifically permitted by law.
- (2) No earth or other materials foreign to the subject premises, including but not limited to boulders, asphalt, cement, road construction debris, demolition debris and tree stumps, shall be brought onto and deposited on the subject premises during the time period of the permit, except topsoil and living plant material for reclamation use. All stumps and debris shall be removed and disposed of in an approved location.
- (3) Moved by Bruno and seconded by Garron, Board unanimously waived Condition #3 (phase areas), noting the project is less than five acres.
- (4) Moved by Bruno and seconded by Garron, Board unanimously voted the following language under Condition #4:

No excavation is allowed within the 50-foot buffer zone from all property lines. If the removal of stumps, etc. resulting from the trees being cut changes the topography within the 50-foot zone, the topography must be restored to ensure no sloping occurs within the 50-foot buffer zone. If the 50-foot buffer zone has been violated by earth removal, it must be restored to its prior topography before any additional earth removal takes place.

The permit grantee shall, to the satisfaction of the Board, stake or mark clearly all buffer zones with Schedule No. 40 two-inch PVC pipe at one-hundred-foot intervals. These boundary markers shall be maintained at all times during the time period of the original and any renewed permits. All components of the septic system will be staked out using the As-Built provided by the Board of Health and made a part of this permit. Driving over the staked out area is prohibited. Stakes and flags can be removed after project completion only with the approval of the Board of Selectmen.

- (5) Moved by Bruno and seconded by Garron, Board waived Condition #5 (Monitoring Wells). Instead, permit will note the following:

The existing recorded plans by Keefe Associates on file with the Board of Health indicate that the high ground water level, as determined during soil tests conducted for repair of the septic system in November of 2007, is at elevation 92.3. The Site Plan for Earth Removal submitted by the applicant's engineer indicates that the bottom of the proposed excavation will be at elevation 100. This provides for a depth to high groundwater of 7.7 feet.

- (6) No excavation below the natural grade of any boundary line shall be permitted closer than 50 feet to such boundary unless written consent is given to the permit grantee by the issuing authority and the owner of the property abutting such boundary.
- (7) No topsoil shall be removed from subject premises, unless it is determined by the Board to be excess, until reclamation of all disturbed areas is completed. Reclamation requires replacing of topsoil to a depth of not less than four (4) inches, seeding, planting, fertilizing, watering and attending in keeping with the best professional standards.
- (8) The finished level and grading shall leave no slope exceeding a grade of three (3) feet horizontal and one (1) foot vertical. In all cases leveling and grading shall be performed so that the natural contours of the land shall be preserved to the extent possible. Excavating to a lower elevation than required by the plan for which the permit was granted is strictly prohibited and punishable by a fine of one hundred dollars (\$100) per cubic foot, revocation of permit and/or other penalties as determined by the Board.

- (9) Moved by Bruno and seconded by Garron, Board unanimously moved condition (9) to after (2) and before (3) and changed language to the following:

The subject premises shall be kept free of any debris, including tree stumps. All debris and tree stumps shall be removed from the site and disposed of in accordance with all applicable local and state regulations.

All currently existing debris (including tree stumps) must be removed from the site before any additional earth removal takes place.

- (10) Moved by Bruno and seconded by Garron, unanimously voted the following language:

Records showing the amount of earth removed shall be provided by the permit grantee. The method of measurement of materials removed shall be submission of trucking receipts that indicate total cubic yards being transported.

- (11) Moved by Bruno and seconded by Garron, unanimously voted the following language:

No earth removal or related operations shall take place except between 8:00 a.m. and 5:00 p.m. Monday through Friday and in no case on a legal holiday. Included among related operations are the starting of engines, loading and unloading of trucks and preparations for commencing of work which are audible over a distance. All loaded vehicles shall be suitably covered to prevent dust and contents from spilling and blowing from the load.

- (12) Fitzgerald felt the current ridge was a safety hazard and temporary fencing should be installed along the 50-foot buffer zone to alert anyone wandering near the ridge. Moved by Fitzgerald and seconded by Bruno, Board unanimously voted the following language:

Temporary fencing along the 50-foot buffer zone as delineated on the attached map must be in place before any additional earth removal takes place.

The preservation of trees, bushes and other vegetation may be required to muffle objectionable noise and vibration.

- (13) The permit holder shall be responsible for all spillage onto the public ways of the Town. If, for reasons of safety, it becomes necessary for the Town to clean up and remove such spillage, the cost shall be charged to the permit holder.

The permit holder shall be responsible for all damage to public and private ways from traffic, occurring in connection with the permit, entering or exiting the site. No vehicles or construction equipment shall be parked on the private way so as to prevent access to properties that are located on the private way.

Merry said it was difficult to come out his driveway when the trucks are on the road and asked if some consideration could be given to private cars that have to use the roadway. Moved by Bruno and seconded by Garron, Board unanimously added the following language to (13):

All vehicles involved in this project will grant the right of way to private passenger vehicles on the access road.

- (14) Moved by Bruno and seconded by Garron, Board unanimously voted the following:

This permit is subject to a fee of twenty-five cents (25-cents) per cubic yard, payable to the Town of Halifax. Any inspections by an engineer of the Town's choice to ensure that the work being done follows the approved plans and this section shall be paid by the applicant.

- (15) The earth removal permit is not transferable without approval of the Board. Transfer of equity ownership or legal interest in the subject property shall be considered a transfer; however, the pledging of such a mortgage or other loan shall not be considered a transfer, but if the lender should acquire ownership or interest by foreclosure, it shall be deemed a transfer.
- (16) The permit grantee shall notify the Board, in writing, within forty-eight (48) hours of any material change in his circumstances and/or plans as represented in his application, including change of ownership, general/operational contractors or purpose for removing earth.
- (17) The applicant agrees by acceptance of the permit to allow the Board or its representative free access to the site to conduct inspections to determine compliance with the conditions of the permit at any time without prior notice.

- (18) The Board agreed a \$30,000 bond was needed to cover the repair of the private road in the event of damage from the trucks and in the event the applicant defaults in meeting the permit stipulations on sloping, etc. Moved by Bruno and seconded by Garron, Board unanimously voted to require a \$30,000 bond from the applicant. If the applicant wants another method, the Board will discuss that option if and when it is put before them. In addition, the issuing authority for the bond must be approved by the Board to ensure it is solvent.

No permit will be issued until a performance bond in the amount of \$30,000 issued from an agency approved by the Board of Selectmen has been posted with the Town to repair and restore the land for future use as set forth in Condition (7) above, to cover the repair of the private roadway in the event of damage, and to ensure the completion of the landscape plan.

- (19) The Board noted the applicant's excavation firm said, once work commences, the project should be completed in two or three weeks with the exception of planting. After a brief discussion, moved by Bruno and seconded by Garron, Board unanimously voted to give the applicant until June 15, 2009 to complete the work and meet the permit specification.

The permit expires on June 15, 2009.

- (20) Applications for renewal must be made forty-five (45) days or more before expiration of the current permit. Applications shall include a current topographical plan detailing current status and restoration progress. The renewal, if granted, shall date from the day the current permit expires. Renewal shall not be granted if work and restoration under the current permit is unsatisfactory to the Board or its agent.

- (21) In lieu of fining the applicant for removing soil without a Permit, Bruno recommended requiring a landscape plan and that such plan be submitted to and approved by the Board prior to release of the permit. Moved by Bruno and seconded by Garron, Board unanimously to add the following condition:

In lieu of fining the applicant for removing soil without a permit, a landscaping plan shall be submitted to and approved by the Board of Selectmen prior to the release of the permit. The landscaping plan shall consist of the following: (a) install a berm at the top of the slope made up of the wood chips currently stockpiled on the site; (b) plant trees and bushes - any tree or bush that dies within one year must be replaced; and (c) loam and grass all slopes.

The above condition is to be placed after (7) and before (8).

Any person violating any of the provisions of this order shall be fined in accordance with the Code of the Town of Halifax Chapter 144-2-G.

Moved by Garron and seconded by Bruno, Board unanimously granted an Earth Removal Permit to Todd Roach for property located at 303 Holmes Street to remove a total of 9,400 cubic yards of sand and gravel of which 3,600 cubic yards have already been removed and 5,800 cubic yards remain to be removed with the conditions and stipulations as voted.

Release of the permit is contingent upon the following:

- Posting of bond in the amount of \$30,000 with the Town; issuing agent to be approved by the Board of Selectmen
- Submission and approval of the landscaping plan
- Payment of the Permit Fee in the amount of \$2,350
- Payment of any outstanding Town Engineer bills

Commencement of work cannot begin until:

- All debris currently on site is removed (including tree stumps)
- Any change in the topography in the 50-foot buffer zone due to tree removal or excavation is restored to its original topography
- Safety fencing is installed in accordance with the “temporary fencing” map

WATER DEPARTMENT THANK-YOU

Garron thanked the Water Department employees for their quick response to his home when the main line coming into his house burst.

MTBE SETTLEMENT FUNDS

Bruno wanted to make sure a plan is in place for use of the monies received from the MTBE Settlement. He felt emphasis should be placed on the management of the lakes (weed control, algae control, etc.) with a secondary emphasis on recreational use of the lakes (refurbishing beach areas, etc.). He wanted a written plan developed for the town meeting in May.

TOWN ADMINISTRATOR REPORT

A. Energy Alternatives

Seelig stated that, according to the Building Inspector, the Monponsett Inn is interested in putting in a wind turbine as an energy source. Since zoning limits structures to forty feet high except for antennas, a by-law change would be needed to allow them.

Bruno said the time has come for the Town to look at alternative energy. Wind turbines for municipalities are coming into their own and may be applicable to Halifax. The Town should also be exploring solar power for its municipal buildings since the highest use of electricity is during the daylight hours. He felt alternative energy should be one of the focal points in developing an energy plan for the Town. Fitzgerald noted that the May town meeting authorized funding for the Municipal and School Building Committee to undertake an energy audit and nothing has been done to date and the Town has not saved any money. If the Committee did not want to oversee the audit, she felt the Selectmen should. Garron stated the cost to install solar energy has dropped dramatically in the last few years. Alternative energy is one of the new President's goals which means federal grant monies may become available. He suggested Seelig get information on the new Whitman-Hanson High School which was built very "green." Seelig will get the information.

Seelig will schedule the Municipal and School Building Committee to meet with the Selectmen to discuss this issue.

B. Boat Patrol

Seelig reported some members of the Finance Committee suggested having a private security firm do the boat patrol. This discussion came up due to the Police Chief's request for a new patrol boat.

Fitzgerald was not willing to have anyone patrol the lakes except the Town's Police Department. Garron agreed it was best for the Town do it. He noted that such a change would require negotiations with the police union. Bruno stated that, while there are some circumstances that might be better served by private security, the boat patrol is not one of them and it should continue to be a police function. Fitzgerald proposed a policy that all public safety services will be delivered by the Town's Fire, Police and Highway departments. Bruno did not feel a policy was necessary and would rather consider alternatives on a case by case basis.

Fitzgerald stated that, right now, the Town can dictate exactly when and how the lakes are patrolled. That day to day flexibility would not be available with

a private service for which a contractual agreement would have to be in place. Garron noted there may be grants, etc. to offset the cost of the boat.

The Board's position was that the boat patrol should continue to be a function of the Halifax Police Department and not outsourced to a private security firm. Seelig will advise the Finance Committee of the Board's position.

C. Computer Software Packages

Seelig provided the estimated cost to purchase the additional modules from SoftRight to add the Collector and Treasurer offices onto the same software system purchased for the Accountant's office. Fitzgerald noted the Town Accountant's office will most likely go on the new system beginning with Fiscal 2010 since the Fiscal 2009 information has not yet been put on the new system and the Town is about seven months into the fiscal year. She did not know if it was best for all of the departments to begin the new system together or bring one department on at a time. Since it was unknown at this time who the new Collector/Treasurer will be, it may be best to wait on expanding the system. Garron felt it might be better to have some experience with the Accountant's office before expanding it to other departments.

D. Plymouth County Retirement Funds

Because towns opted to pay for employees as they retired instead of a set amount each year and because of the current investment situation which has resulted in lost revenue, the Plymouth County Retirement Board is looking at several options to fund the accrued liabilities. One option would extend the payments over a three year period and result in higher assessments for those three years. While the other three options would result in smaller increases in the assessment each year, the time period over which the liability would be paid off was unacceptable to the Selectmen. The Selectmen agreed it would be better to pay the difference over a shorter period of time even though the assessment would be higher for that period than the other options.

Bruno felt it was time to revise the current pension system. He felt it should be eliminated because it was becoming too burdensome for municipalities to pick up the escalating cost each year. He predicted that more money would eventually go to paying for the retirement system than for providing services to townspeople.

E. Revenue Assumptions

Seelig informed the Board the Finance Committee will be reviewing the revenue assumptions for Fiscal 2010 at its meeting next Tuesday. Fitzgerald opined the Town's current revenue plan was still valid even if the State cuts

the March local aid payment. She felt the Selectmen should have a philosophy not to cut any hours or personnel this current fiscal year and to make up any shortfall from the Stabilization Fund. She recognized some cuts might have to be made next year. Seelig stated the Town may be able to avoid cuts both this year and next. Fitzgerald wanted to share with the Finance Committee that any monies available in the Town’s contingency plan should be used to offset layoffs and cutting of hours for the rest of this year and hopefully next year.

EXECUTIVE SESSION

Moved by Garron and seconded by Bruno, Board voted as follows to enter into Executive Session at 9:20 p.m. to discuss potential litigation:

| | | |
|------------------------|---|-----|
| 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 not reconvene in open session.

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

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

There being no further business, moved by Fitzgerald and seconded by Bruno, Board voted to adjourn the meeting at 9:50 p.m.

Troy E. Garron
Clerk

/bfs