

**SELECTMEN'S MEETING**  
**Tuesday, April 19, 2011**  
**UPSTAIRS MEETING ROOM**

#11

*Meeting was opened at 7:00 PM in the Upstairs Meeting Room. Present were Selectpersons, Mark Fairbrother, Chris Boutwell, Patricia Allen, Town Administrator, Frank Abbondanzio ; Administrative Secretary, Wendy Bogusz (absent); Arn Albertini, Greenfield Recorder, Jeff Tirrell, WHAI, Janel Nockleby, Montague Reporter*

*Allen announces meeting is being taped*

**Approve Minutes of April 11, 2011**

Minutes of April 11, 2011 not available

**Frank Abbondanzio, Town Administrators Report**

**Execute FY11 Engineering Agreement for Landfill Monitoring Services**

Abbondanzio: This is an annual agreement; we did hold off this year on awarding the contract for the second half of the year because we thought the FCSWMD was going to be able to get a bid out for that, and it turns out to be more complicated than they thought, so they cannot do it this time around. Tighe and Bond needs to get started on that work to meet our annual monitoring requirements.

Boutwell makes the motion that the Board approve the agreement with Tighe and Bond as the FY11 Engineering Agreement Landfill Monitoring Services for the Town of Montague with the scope of the work as in the contract that is presented. Seconded by Fairbrother, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Allen – Aye.

Donna Estabrooks, Jeri Case and Elma Kuklewicz, home owners near the Lake Pleasant Railroad Crossing, Noise and fumes from multiple train engines idling next to their homes for days and nights at a time

Abbondanzio moves into the audience because he is involved with this issue

Abbondanzio: Basically we've had a lot of complaints that have come in from both Lake Pleasant and Millers Falls to the Police Dept. and directly to the Selectmen's office about the trains that diesel, idle for hours at a time. I understand that in Lake Pleasant it has actually been 3 – 4 days at a time. There is a real concern about the air quality as well as the noise and the complaints don't seem to do a lot of good. The Chief promised to provide a history of all the complaints that have been made in the last 3 years. Tonight, we are asking to have a joint public hearing between the Selectboard and Board of Health and invite the appropriate people to attend that hearing including the residents from the neighborhood that have the issue with the Railroad over this dieseling, but also the regulatory agencies representatives from the Federal EPA and State DEP and also someone to give us legal advice on this. It is a situation that is going to come to ahead; the Board of Health has actually been involved in it already so there have been discussions between the Town and the Surface Transportation Board.

Gina McNeely: And the Railroad itself. PanAm, I've talked to their chief counsel , written letters since 2008 (has packets for everyone). Goes over recent response from the Railroad stating attitude of Railroad as far as being a well subtle law that operations of railroads fall under the "exclusive" jurisdiction of the Interstate Commerce Commission Termination Act of 1995 and the Federal Railway safety act; both of which preempt all local and/or state laws, regulations seeking to govern railroad operations.

Question regarding if they are exempt, why did the State go to all the trouble to make Railway laws?

Abbondanzio responds: This preemption thing goes back to 100 years ago when the railroads were instrumental in founding our country. I think the idea is to remove obstacles for that continued development and essentially I think that is how it is interpreted by the railroad. The State and local government are pretty much irrelevant in this case. The question is how can you totally disregard the Clean Air Act when people are being impacted by it. We have 30 selective signatures from Millers Falls and I know there are other signatures that have been gathered in Lake Pleasant, but the goal is to get a joint public hearing when people have the opportunity to speak and make their concerns known.

E. Kuklewicz: This has been ongoing for about 25 years, there are times in spring, summer or fall if you have your windows open you have turn your T.V. up as loud as it will go, the smell is terrible, there have been times the railroad has left a train parked running for 40 hours, a whole week during a strike they had, with nobody on it. Kids go down there and

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play on it, I'm also concerned about the water supply of Lake Pleasant because if you walk down the tracks you will see where things have come out of the train, and eventually it is going to make it to the water supply.

?? The three of us all own houses right next to the crossing in Lake Pleasant; I had a painter at my house one summer and after a couple of days of it left during one of the 4 day stretches where the train was parked there and he had his radio up full blast and still couldn't stand it. I wear those things that jack hammerer's wear and I still can't sleep.

Discussion: The air breaks sound is deafening. When you hear a train you hold your breath that it is going to stop. Lengthy discussion about idling trains and where they are parking the trains, calls to train dispatchers, conflicting information that is given to residents. Discussion about what is considered "maintenance". It is not so much that the trains are running, it's just that they are running in the neighborhood. Trains should go to the train yard or where there is just woods. Supposedly the RR yard has been jammed up, that is why they are parking a mile up the tracks, because they can't get into the yard.

Abbondanzio: Several years ago there was a hearing with Guilford Railroad and I noticed there was a big change in terms of their policy towards dieseling for a while. Since PanAm has taken over it pretty much has gone back to the way it used to be years ago. We had Guilford Transportation in here, they met with the Board of Selectmen, they gave us personal numbers that we could them at home.

Kuklewicz: Since PanAm has taken over they go flying buy, I have stuff rattling and falling off the walls.

Allen: We are going to ask to have this joint public hearing, can you write down the specific issues, talk about the speed all the things. Maybe put it in priority of what we think we could effect for changes. Gina, can we ask that your department (you), work with Frank to get a joint public hearing as requested.

Kuklewicz: It's hard to have company over in the spring and summer, when you're sitting there having a cookout and have people over and all you can smell is the diesel and you get a headache from the train running.

Questions about whether someone could test the air quality. The Town does not have the equipment to do this, but Gina could ask around and possibly DEP would have air monitoring equipment and be able to go out when a train is dieseling or idling.

McNeely: I just want to say, when I started getting calls, I really thought I was going to get somewhere with the Railroad and it has just fallen flat. It is very frustrating.

Fairbrother: Those engines, as long as they are running no matter what they are doing, they are going to produce fumes, going down the tracks. At this point it is probably fairly quantifiable; I think the problem here isn't the fact that they are producing the fumes they will produce when they run, it's the fact that they are sitting in one place, running all the time. It probably wouldn't hurt if you could document how long a train is sitting there, from when to when.

Abbondanzio: The sad thing is the technology is there for much lower emissions and that is what EPA is trying to get the Railroad to do, to implement this. A lot of the engines are 50 years old, and they are retrofitting them really slowly. Suggests mapping out areas where there are clusters of neighborhoods, and where the areas are that are in the boondocks that are away from where people live.

The plan is to have a public hearing scheduled within a month

**Announcement:**

2<sup>nd</sup> half of FY11 Real Estate and District tax bills are due by Monday, May 2, 2011

**Robert Trombley, WPCF Superintendent, FY11 Sewer Abatements**

Trombley goes over guidelines to apply for Sewer Abatement

*Fairbrother makes the motion to abate the second half FY11 Sewer bill for 43 Central Street, Turners Falls in the amount of \$252.00. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen – Aye*

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*Fairbrother makes the motion to abate the second half FY11 Sewer bill for 7 Church Street, Millers Falls in the amount of \$126.00. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen – Aye*

*Fairbrother makes the motion to abate the second half FY11 Sewer bill for 75 Park Street, Turners Falls in the amount of \$552.00. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen – Aye*

*Fairbrother makes the motion NOT to abate the second half FY11 Sewer bill for 7 Bridge Street, Millers Falls. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen – Aye*

*Fairbrother makes the motion to defer billing for the second half FY11 Sewer bill until the water department reads the meter in 1 month for 148 L Street, Turners Falls. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen – Aye*

*Fairbrother makes the motion NOT to abate the second half FY11 Sewer bill for 54 Vladish Avenue, Turners Falls. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen – Aye*

*Fairbrother makes the motion NOT to abate the second half FY11 Sewer bill for 32 Highland Street, Millers Falls. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen – Aye*

*Fairbrother makes the motion NOT to abate the second half FY11 Sewer bill for 11 G Street, Turners Falls. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen – Aye*

**Robert Trombley, WPCF Superintendent – Other**

- I'd like to hire 2 people for summer help and I have the money in my budget
- Garage extension project is moving along, the garage superstructure is up, the galvanized steel roofing is on and they started working on installing the insulated panel boards at the sides of the building today.

*Fairbrother makes the motion to authorize Bob Trombley to hire a seasonal employee when he gets out of high school in June and the other seasonal employee to start tomorrow and work through the end of August, both will work 40 hours a week (will be adjusted if needed) and neither employee will get benefits. The rate will be \$8.00/hour for both employees. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen - Aye*

**Registration for Assembly, Public Demonstration, or Use of Public Property: Franklin County 2012 Spring Parade**

*Fairbrother makes the motion to issue a permit for assembly and public demonstration and use of public property to Michael Nelson, Greenfield Road Montague for the 2<sup>nd</sup> Annual Franklin County Spring Parade on April 12, 2012 with severe weather date on April 19, 2012 from 10:00 AM to 3:00 PM same route as this year and the police chief has signed off on the event. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen - Aye*

**Application to Place Sign on Peskeompskut Park: Peter Cottontail's EGGstravaganza**

*Fairbrother makes the motion to issue to Jon Dobosz, Montague Parks & Rec Department a permit to place sign, being a promotional vinyl banner for the Peter Cottontail's Eggstravaganza at Peskeompskut Park from Wednesday, April 20, 2011 until Saturday, April 23, 2011. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen - Aye*

**Event Application for use of Peskeompskut Park: Montague Community Band**

*Fairbrother makes the motion to issue a permit to Lauren Clough, for the Montague Community Band for the Summer Concert Series on June 20, July 4, July 11, July 18 and August 1, 2011 at the Band Shell at Peskeompskut Park, concerts are from 7:00 PM to 9:00 PM, set up starts at 6:00 PM and clean up goes until 10:00 PM, expected attendance about 100 people and a request for waiver on the fee. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen - Aye*

Announcement made of upcoming events.

**Other**

Peter Golrick: I have a couple of open meeting law concerns under the new open meeting law I bring them to the authorities first, so that is what I am doing tonight. The concerns are around the By-Law Review Committee. On April 4<sup>th</sup>

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you appointed the By-Law Review Committee and checking today, not all of the members have completed the requirements of the open meeting law. My first request is that you follow up on that as the appointing authority to see that they have all completed that and in the alternative I'm asking that if they are not able to do that by the end of this week, then they should be removed from the committee. The other thing revolves around there was an article discussed at last weeks meeting regarding by-laws; It seems like everything is out of order to me. On March 7<sup>th</sup> this Board voted to close the warrant articles on March 24<sup>th</sup>. I've seen no articles about By-laws between then and then. Then last week, you discussed the by-law and the by-law committee hasn't even been fully vested yet. It just has the appearances of being all out of order. Hopefully, I'm mistaken on some of those facts and you will be able to get those corrected and let me know where I've added.

*Fairbrother makes the motion to go into executive session for # 3 Litigation regarding Erving WWTP and also Executive Session #3for First Light issues and the third one is #6 Real Estate for the Colle in pursuant to General Laws, Chapter 30A, Section 21A and exemption #3 for the first 2 and exemption #6 on the last one and only coming out to convene the meeting. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell – Aye, Allen – Aye*