

**SELECTMEN'S MEETING MINUTES
UPSTAIRS MEETING ROOM
1 AVENUE A, TURNERS FALLS, MA
MONDAY, May 22, 2012**

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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; Janel Knockleby, Montague Reporter

Fairbrother announces meeting is being taped

Reorganization of the Board of Selectmen

Allen makes the motion to appoint Chris Boutwell as Chair for the coming year. Seconded by Fairbrother, approved. Allen – Aye, Fairbrother – Aye, Boutwell - Abstained

Allen makes the motion to appoint Mark Fairbrother as Clerk for the coming year. Seconded by Boutwell, approved. Allen – Aye, Boutwell - Aye, Fairbrother - Abstained

Approve minutes of April 17 and 23, 2012

Fairbrother makes the motion to approve the minutes of April 17 and 23, 2012. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother - Aye.

April 30 and May 7, 2012 minutes will be approved at the next meeting.

Montague Energy Committee, Solarize Mass. Update

Allen: We had our Solar 101 at the high school last week and more than 50 people showed up. Folks from CEC was present and the seminar was excellent. Vast majority wanted to continue on and want to be part of the project. September will be the date when you have to have your application in for this and the cost will be based on the total amount of kilowatts and the price comes at the end. Everyone will be treated with the same price structure. Sally will be at the next meeting with more information.

Lisa Davol, Director, Turners Falls River Culture, RiverCulture's Artistic Crosswalk Project

Davol: Would like to do an artistic cross walk across Avenue A and Third Street. We'd put out a call for proposals and have artist propose some kind of crosswalk. I talked to Tom about this and it turns out the Town has a bunch of paint left over that cannot be used in the current sprayers so we thought we could use it and make some use out of it and have an interesting crosswalk. We would choose the winners at the Feast for the Arts on June 30th where the public comes and has dinner and they get to choose which one wins. Then it comes back to you, if you think it is safe as well as Tom it will move forward. If an artist wanted to add an additional color, they would have to use that out of the award money. The minimum restrictions for a crosswalk is to have 2 parallel lines for people to walk through. This is a volunteer opportunity, if people would like to come and help do this together after the artist sketches it out, that would be fun. We could do an overnight party, have people paint at night. If your not familiar how Feast for the Arts works, we get food donated, people come and pay a ticket price and they get dinner and a vote on which proposal they like; all the money collected at the door up to \$1500 goes to pay the artist.

Fairbrother makes the motion to endorse the concept of the painted crosswalk program at Avenue A and Third Street. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother – Aye

Hipolito Baez, The Gill Montague Community School Partnership, Use of Public Property for Block Party, Avenue A between 1st & 5th, Application to place sign on Public Property for Block Party

This will be discussed at the next meeting due to Mr. Baez not being able to attend this meeting. Davol gives the details she is aware of.

Davol: It will be from the Shady Glen to Ristorante DiPaolo's. The new owner of the Shady Glen wants that block to be Classic Cars, the lantern parade will happen on that day too, maybe a dunking booth. The Gill Montague Community School Partnership is the leader and we are partnering with them and Hipolito works for the Partnership and is the coordinator of it. The Brickhouse is doing the music and they would like it to be in front of Spinner Park. Second and Fourth Street would be closed, but Third Street would be open. One of the questions out there is if the Town will continue to cover the insurance for the event and whether the lawn of the Old Cumberland Farms building could be utilized.

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Brief Discussion about both issues and will be decided further at the next meeting.

Bruce Hunter, Unity Park Change Order #1

Abbondanzio: We have a change order request for the Unity Park construction project. This is to cover the cost of a wood guard rail on the parking lot side, fencing on two sides of the rain garden and an additional bituminous walkway to the pavilion, they wanted to avoid having to go through the garden area. Bruce Hunter, project manager feels as long as there are no major surprises that will be enough to get us through the project.

Fairbrother makes the motion to approve change order #1 in the amount of \$21,230.23 for the Unity Park Phase I Improvement Project. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother - Aye

Updates on Unity Park project given by Tom Bergeron

Sign DEP Grant Invoice under the Small-Scale Initiative Grant Program

Allen makes the motion to sign the request for reimbursement for eligible costs through the Small Scale Initiative Grant Program through the MassDEP's Sustainable Materials Recovery Program as indicated in the letter of May 22, 2012 with a total spent of \$748.65, and signed by Mark Fairbrother. Seconded by Fairbrother, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother - ye

Summer Meeting Schedule

Fairbrother makes the motion to approve the summer meeting schedule as follows: May 22, June 4, June 18, July 2, July 16, July 30, August 13, August 27, and September 10, 2012. Seconded by Fairbrother, approved unanimously. Allen- Aye, Boutwell – Aye, Fairbrother – Aye

Invitation from TFHS to Awards Night and Graduation

The TFHS would like to invite the Board of Selectmen to awards night on Thursday, May 31, 2012 at 7:00 PM and Graduation on Friday, June 1, 2012 at 6:30 PM.

Cable Advisory Committee Appointment

Allen makes the motion to appoint Lisa Enzer to the Cable Advisory Committee for a 3 year term ending on June 30, 2015 beginning immediately. Seconded by Fairbrother, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother - Aye

EDIC Appointment

Fairbrother makes the motion to appoint Roy Rosenblatt to the Montague EDIC for a 3 year term as an at large member. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother - Aye

Topics Not Anticipated Covered in the 48 hour Posting Requirement

Abbondanzio: Just completed draft on RFP for the St. Annes Rectory and the buildings in Millers Falls. We are waiting to hear on the title report, but should be getting that this week on St. Annes. At that point, we will be ready to move forward with the application.

Announcements made for upcoming events

Dog Complaint Hearing, Jeremy Bouchard and Crystal Bailey, 75 Fifth Street, Apt. #2

- Meeting called to order at 7:30 PM
- Crystal Bailey comes to the table
- Meeting being taped
- Introductions: Board of Selectmen, Pat Allen, Chris Boutwell, Mark Fairbrother, Acting Police Chief Chris Williams, Press is present

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Boutwell opens the hearing and reads letters to Jeremy Bouchard and Crystal Bailey regarding public hearing dated May 9 and May 17, 2012 into the record.

Bailey asks that Jeremy Bouchard be removed from the record as he is not the owner

Boutwell swears in people giving testimony into the record: Chris Williams, Ellen Pike, Carrie Bailey, Rollas Batten, Selvin Galvez and Irma Martin

Bailey asks that Jeremy Bouchard be removed from the record as he is not the owner

- Boutwell: Are you aware of the complaint? Bailey: Yes;
- Boutwell: Did you receive a copy of the letters? Bailey: Yes ;
- Boutwell: Are the dogs still residing at 75 Fifth Street, Apt. #2? Bailey: No;
- Boutwell: Are your dogs presently licensed in Montague? Bailey: One just expired, (Demon); Lola the people fell through and we're working on getting her paperwork done and then all this happened so she hasn't been;
- Boutwell: Are your dogs rabies certificates current or expired? Bailey: Expired right now, both dogs (Demon in March and I just got a letter from my vet they are retiring, so I have to find a new vet);
- Boutwell: What steps have you taken to prevent the dogs from getting loose again? Bailey: I have been walking them by themselves, one on one, the incident that happened, Jeremy was walking a dog and when we do it one by one they have their muzzles but we usually go check and make sure no one is outside. This present time I guess she was gardening in between the house and the truck so we didn't see her down there and the dog lunged towards her so I don't know if she was bit or not, I don't know the circumstances. Bailey gives description of property.
- Boutwell: What additional steps are you planning to take? Bailey: To no longer have the dogs in Montague, I'm all done, I put them in nice homes, the woman who has Lola is here and Demon is no longer in Montague either. I just got rid of them, I was tired of getting into trouble
- Boutwell: Do you have any other pertinent information related to this hearing? Bailey: Yes, regarding the little boy that was bit, Britney Antunes and her 2 boys lived with me for 4 months prior to this, then this dog bite happened where Lola was quarantined and they wanted the dogs to be alone and not to be around anybody so Britney offered to take the dog out of spite so the dog would be saved and I was told that Britney left the kids unattended upstairs with the dog, and they didn't know the baby was bit until he came downstairs and there was blood on his face. Nobody witnessed the bite, how it happened or what happened. My dogs have never bit those boys and they lived with me for 4 months. This is the bite in Greenfield.

Chief Williams reads the report from Officer Dempsey into the record regarding the dog bite. (This states that Irma Martin – victim, believes dog was light brown in color) In the report, J. Bouchard also stated he was walking his brown dog Lola and Bouchard never mentioned his dog being muzzled during their first conversation. When called back on May 8 when asked if dog was muzzled, Bouchard said yes. Officer Dempsey's opinion is the dog was not muzzled as Bouchard would have mentioned it when he was originally questioned. (info in the police report).

Rollas Batten: I'm the landlord of the house for both tenants. I just wanted to add this was not the first time, Irma's daughter was previously bit; I thought there was an arrangement. I'd like to see these dogs banned from Town, there are a lot of children in that area, and the owners seem to be lax in restraining the animals

Karrie Bailey: I have a 3 year old and 8 year old and my kids are not very pleasant to the dogs at all. I have watched my kids hit both dogs repeatedly in the face with toys and they have never ever nipped my children, and they are not nice to animals. I have never seen these dogs go after anyone once.

Ellen Pike: For the record, Lola does not live in Montague, she lives in Greenfield, she is my dog and since I have had her on May 11th I have never seen any kind of vicious attacks and I have 12 children between the two of us and our grandkids range from the age of 1 year up to 12 years old and that dog is left alone with these kids and she has not bitten anybody. The dog officer from the Town of Greenfield with two officers came to my house last week and he himself could not believe how well behaved that dog was. My granddaughter was climbing on her and

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everything. Lola was lapping my granddaughter and everything. He said, clearly this dog is not vicious. If the dog has bitten in the past, then the dog has been provoked.

Selvin: Doesn't want this to be happening again because my wife and my daughter have both been bitten by this dog. I don't understand if his dog is okay or not, but why are they doing this to my family? I have a picture of my wife's bite. (photo shown to the board, he is asked to e-mail or print a copy and give to Selectboard office).

Britney Antunes arrives and is sworn in by Chris Boutwell

Antunes: My son was bit by one of the dogs and it was a serious bite on his face.

Boutwell: This was the Greenfield incident?

Antunes: Yes, I just want the dog put down and that's it. I have the hospital record and other than that I am just requesting the dog be put down.

Antunes gives the Board copies of the hospital records. Pictures were 2 weeks after it happened.

Fairbrother: Do you know which dog it was?

Antunes: It was the black dog

Bailey: Yeah, this is the one she took to keep him safe, she took him so he wouldn't be put down and now she wants him put down because he bit her kid, because she wasn't watching her kid.

Allen: Demon is also in Greenfield at this point?

Bailey: Demon, I don't know where he is, I put him on Craigslist and somebody came and got him from Ellen a couple of weeks ago. Demon hasn't been around. None of my dogs are around, I have none of them anymore. I was told by my landlord to get rid of my dogs or I don't have a place to live, so what am I going to do, I'm going to keep my apartment.

Allen asks Pike if she knows where Demon went?

Pike: I don't know who it was that picked him up, it was a guy. Like she said she put the thing on Craigslist and the guy came and got him.

Allen: Not in Greenfield?

Bailey: No he's not even around here ever again. Those dogs will...Lola is in Greenfield, the dog officer cleared her...

Pike: I really don't see why you guys have any problems with Lola now because she lives with me.

Bailey: Right, they don't want her in the Town of Montague, Lola is gone, Demon is gone, this is Demon's first bite ever, like I said, she lived with me for four months prior to this, nothing happened to her kids, nothing at all. If she was with her kids and he was at her house for a total of 6 hours, I called her, ah texted her at 5:49, he was fine upstairs laying on her bed, 6:00 I get a phone call screaming in my ear that my dog bit her kid. So within 15 minutes where was she from her kid and my dog. I'm sorry, I love her kids to death and I would never want to see a child get bit, but at the same time if you have a new dog in your home, you shouldn't have a dog alone with children, she took him to save his life

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Antunes: I agreed to take him for a couple hours. (Bailey and Antunes have a brief back and forth discussion about the matter and are asked to stop)

Antunes: I just want to say that dog is a very good dog but something has obviously happened and my son almost lost his eye because of this. It was less than ½ inch from his eyeball. It was a very serious bite, he now has nightmares now and is on anxiety medicine, sleep medicine and they said its not from the pain, its from the trauma. My son did not deserve this.

Boutwell asks if anyone else wishes to speak or if there are any more comments from the audience?

Public part of hearing closed at 7:58 PM

Fairbrother: The dogs Lola and Demon however nice they may be or whether they did or did not bite anybody previously the owners were in front of this Board for them and they left here with an order that the dogs were to be muzzled at all times when they were not inside the apartment.

Bailey: This happened inside an apartment, the little boy was inside

Fairbrother: That is Greenfield, I'm talking about ours here. That would appear not to have been the case, it was outside and did not have a muzzle. They are not in our jurisdiction, the dogs aren't physically, we just deal with the Town of Montague, but I would propose that we determine that if the dogs were to come back into the Town of Montague, that they immediately be taken by the animal control officer and humanely euthanized.

Fairbrother makes the motion that the owners were previously given orders that the two dogs Lola and Demon were to be muzzled at all times when they were not inside the apartment; that if either dogs were to come back into the Town of Montague, that they immediately be taken by the animal control officer and humanely euthanized. Seconded by Allen for the reasons that we feel these dogs were not muzzled, they have been shown to at least aggressively attack people and we have seen evidence of bites from the dogs and for the safety of the neighborhood is endangered by having those dogs here. Approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother - Aye

Allen makes the motion that both dogs Lola and Demon are nuisances by reason of vicious disposition based on the record before the Board. Seconded by Fairbrother, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother – Aye

Letter to be sent to Greenfield

If the dogs are seen back in Town, residents can call the Police Department or Dog Officer and they will be confiscated and euthanized.

Selvin: The dog Demon was seen in the apartment on Fifth Street on Sunday

Chief Williams: Once the order is in place, if we know it is there we can get a search warrant like a drug raid, we'll have to secure the house and get a warrant in order to get the dog.

Fairbrother: If you see the dog, call the police and they will come and do what they need to do to take the dog and it will be put down.

Kip Komosa, Guidance regarding removing 3 trees to obtain a driveway permit

Komosa: Five years ago I purchased land on Gunn Road between Rt. 47 and Rt. 63 primarily for the hay field and to build some new homes. While I've been building in Montague everyone with the building process has been very helpful; about three weeks ago I applied for a driveway permit as part of the building permit process and the permit was denied because of a safety issue. Tom felt the view was obscured looking to the North. I respectfully disagree that as you approach the edge of the road if you lean forward you can see around the trees and see to the bottom of

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the hill. I'm not here to debate his decision, I'm here to ask the town to remove the trees; I spoke to Tom and Mark about it and they said it was not in their budget to cover the cost of these trees at this time. I feel like I'm a good civic partner, in the 5 years I've owned this land I've paid over \$60,000 in taxes and it hasn't cost the community at all. The service I have used of the Town, I've paid dearly for. I feel I'm not asking the Town of Montague to pay for this, just use some of the money I have already paid and will continue to pay to remove these trees. I pay my taxes so the Town can provide services and the tree warden services is one that I need.

Boutwell: What kind of trees are they and are they healthy?

Komosa: They are pine trees and are healthy.

Bergeron: All three trees are in the way and are healthy. I went to inspect for the driveway permit and what I did was back my truck in like I was coming out of his driveway. To the immediate left there is already a catch basin and a utility pole. To the right, as you looked North, I had to creep out so the front of my bumper was actually into the drive lane of the North bound on Rt. 47. As my Forman and I looked, a trailer truck was coming up. The issue is if you think you're going to go, you have to swing out into the southbound land to go right because you have to creep out enough to look past these trees. Some of our thing is, they are healthy trees, they may be the Town of Montague trees, but it's not up to the Town of Montague to make so he can have a drive way permit. If he wants, the tree warden has already offered him to take down the trees at his expense and he'd get his permit, but as of now we don't feel it is up to us to take these trees down for his sake. They are not a danger to the public, they are not rotted, they are still good healthy trees. Rt. 47 is a state highway but it is under the Town of Montague's jurisdiction, so we basically own it. The trees are about a foot off the pavement and are along the tree belt. They are not a hindrance to traffic going by, again they are for his purpose. Unfortunately the lot he has, I think this is the only spot he has for a driveway permit.

Allen: I'm wondering if the Planning Board should look at this. The process seems awkward to me,

Bergeron: This is the beginning of the permitting process, the driveway permit. If the driveway permit doesn't work, then putting it in doesn't work for the property. We have to look at sight lines, speed limit signs, if he has enough site vision for both ways.

Mark Stevens, Tree Warden arrives at 8:11 PM

Stevens: I told him he could take them down at his will and his expense because I don't have the money. He wants to take them down take them down, it's blocking the view, sight.

Fairbrother: What's the general policy about taking trees down in the tree belt?

Stevens: You have a public tree hearing, but as the Tree Warden I have never, for a driveway opening permit, had a tree hearing, this is the first time someone has come before me for this.

Bergeron: It is very common for the contractor to take trees down and absorb that. They want the permit, they want to build the house, they take down the trees, that's part of the expense. This expense should not go onto the Town so he can put a driveway in and build a house. That is my opinion.

Fairbrother: I probably didn't voice my question correctly, under what circumstances do we generally take trees down?

Stevens: Circumstances, somebody wants a tree down we put out a public hearing on, unless it is a public safety hearing to the public right away, then you don't need a public hearing if it is a hazard.

Allen: Do you not consider this a public hearing if it is so close to the pavement?

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Stevens: I don't know, those trees are probably 2 feet caliber white pine and it is a site issue coming out of his driveway.

Bergeron: A hidden driveway sign should also be put up. There is a lot of truck traffic with the bridge being closed

General discussion

Fairbrother: Worried about the principal and the precedence being set
Abbondanzio: There is also the legal issue, you have to have a hearing.

Discussion about process

Allen: I think our consensus is that we are not going to take those trees down as a Town. If you want to take them down, then you do need a hearing because they are healthy tree, shade trees.

Stevens: Again, who is going to pay for the hearing?

Fairbrother: Who usually pays for the hearing?

Stevens: The Town usually pays for the hearing.

Fairbrother: Then the Town's going to pay for it.

Stevens: Why would the Town pay for a public hearing for a driveway permit? This is the first time. Driveway permits in the past, where the homeowner/contractor came in and took the trees down, and the Town did not pay one cent, for a hearing or to have the trees taken down. I refuses to pay for a hearing out of my budget.

Allen: Not if we tell you to

Discussion

Komosa: If I go to Mark and say I want these trees to be removed, we have to have a public hearing, I believe he is the one who has to initiate it and put it in the newspaper and post it for 7 days and have a hearing on it.

Allen: I think that's the way we have to go, I think we need to find out about the issue of who pays with the precedence is there. Sounds like you know what your plan is.

Komosa: I thought so, but the conversation I had with Mark was if I wanted to pay for it, take them down, and I wasn't comfortable with that.

Stevens: So if I hold a public hearing and everything goes, are you still going to pay for those trees to come down?

Komosa: I don't have much of a choice. I use this term loosely, but I feel like I'm being blackmailed. My issue was what I pay for what I'm going to get. Is there any paperwork I need to fill out?

Stevens: Nope. I will get it going on Tuesday.

Jampa Dhondupabele, Request to place sign in the Public Right of Way

Allen makes the motion to approve the request by Jampa Dhondupabele to license to place an informational sign in the public right of way at the intersection of Rt.47 and Rt. 63 crossover. The sign to be 2' x 1' metal, the island to be maintained by the applicant and total top height of the sign not to be higher than 3 tall and this would be good until December 31, 2012. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother – Aye

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The idea is to get the Red Fire Farm into the same type of permit cycle

Topics Not Anticipated Covered in the 48 hour Posting Requirement

David Jensen: I need to disclose a conflict of interest. There is a Zoning Board hearing coming up relative to 89 Fourth Street, to a building which I put a stop work order on and they are coming for a hearing for a variance and a special permits. Over the weekend while I was away, I got a notice that I am a 300' abutter for the zoning hearing. I'm interval to the history of what led up to this. I'm willing to go and represent the Town and not represent any interest I might have, to which I would like to confess I really don't have an interest because I'm an abutter; but the law presumes I do. My only remedy is to disclose it to you, you would make a decision whether I can participate or not and my suggestion would be I would only be participating for the benefit of the Town as the Board meets. While I was doing this, I was totally unaware that this was the case. I will prepare a letter and give it to the Town Clerk and Frank and hand it out at the zoning meeting

Fairbrother makes the motion to allow David Jensen, Town Building Inspector to participate in the upcoming zoning board hearing in service of the Town, recognizing that he is an abutter within the 300' zone. Seconded by Allen, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother - Aye

Allen makes the motion to go in Executive Session under G.L. c.30A, §21(a)(3) to discuss strategy with respect to litigation, votes will not be taken and only coming out to adjourn at 8:50 PM. Seconded by Fairbrother, approved unanimously. Allen – Aye, Boutwell – Aye, Fairbrother – Aye

Town Attorney: The Chair also has to declare that staying in open session will be detrimental to the Town litigation position, so just make that declaration.

Boutwell declares this would have a detrimental effect on the town's litigation position.

Fairbrother makes the motion to adjourn the meeting at 9:55 PM. Seconded by Allen approved unanimously. Allen - Aye, Boutwell – Aye, Fairbrother - Aye