

**SELECTMEN'S MEETING MINUTES
UPSTAIRS MEETING ROOM
1 AVENUE A, TURNERS FALLS, MA
MONDAY, August 5, 2013**

Meeting was opened at 6:30 PM in the Upstairs Meeting Room. Present were Selectpersons, Mark Fairbrother, Chris Boutwell, Mike Nelson; Town Administrator, Frank Abbondanzio; Administrative Secretary, Wendy Bogusz;

Meeting being Taped

Approve Board of Selectmen's Minutes of July 22, 2013

Boutwell makes the motion that the Board of Selectmen approve the minutes of July 22, 2013, seconded by Nelson, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson – Aye

Personnel Board

Appoint Michelle Dugay as Reserve Officer, \$14.62/hour, effective 8/11/13

Nelson makes the motion to appoint Michelle Dugay as a Reserve Officer effective August 11, 2013 at the rate of \$14.62 per hour, with the understanding all certifications are in hand at the time. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye

Michael Nelson, Use of Public Property, Toll Booth fundraiser for Pumpkinfest on 9/21/13

Nelson recuses himself as Selectmen and moves to other side of the table

Boutwell makes the motion to approve the use of Avenue A and Seventh Street on September 21, 2013 beginning at 9:00 AM and ending at 12:30 PM for a toll booth fundraiser for the Pumpkinfest. Seconded by Fairbrother. Approved. Boutwell – Aye, Fairbrother – Aye. Nelson - Recused

Frank Abbondanzio, Town Administrator's Report, votes may be taken

Discussion of Possible Vote Re: June 27, 2013 Complaint About Decision to Ratify Police Chief's Decision to Amend the Registration for Assembly, Public Demonstration or Use of Public Property During the June 24, 2013 Meeting.

Abbondanzio: This involves a special permit that was issued to the film company to do the filming in Millers Falls, there were changes requested mid way before the next meeting. The Chief of Police conferred with the Chairman of the Board of Selectmen to try and get approval to change it and the Chairman actually had discussion with other Board Members and this is considered a serial communication and a clear violation of the open meeting law. At the last meeting we were making an admission that we violated the open meeting law, we had no intention of doing that and we wanted to announce our intention to adopt a policy that would avoid a repetition of such violations in the future. This might include such things as allowing the chief of police and the chairman to confer and make changes without having to comeback before the full board. It really comes down to having to draft some policies for dealing with all different types of situations that might come up including that kind of situation.

Discussion and Possible Vote Re: July 11, 2013 Complaint About Discussion Relating to Millers Falls Road/Industrial Boulevard Sewer Project During July 8, 2013 Meeting.

Abbondanzio: This has to do with emergency sewer work that was done on Millers Falls Road and Industrial Boulevard and the complaint related to the fact that because the Board of Selectmen acted and approved a declaration of a sewer emergency for health and safety reasons. Because health reasons were given, as one of the reasons for declaring that emergency and because the current board has two members who are also members of the Board of Health the complainant suggested that was a violation of the open meeting law because the Board of Health was meeting in an unposted meeting. We've been advised that really what the Board of Selectmen was doing was voting on the declaration of a sewer emergency to gain an exemption from the public bidding law which is under its jurisdiction as one of the responsibilities of the Board of Selectmen. They were acting as the Board of Selectmen when they made that vote; the Board of Health could have talked about the implications of this project for sewer project for health reasons, but they chose not to as a separate board. You can have these situations where both boards could be discussing the same project for different reasons, both of which would be under the jurisdiction of the respective boards. The feeling was the Selectmen were not violating the open meeting law.

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Gregg Corbo, Kopelman & Paige: You have a unique situation, where you have two separate boards that have three members each and you have two members overlapping both boards. The question is, what are the responsibilities in terms of posting notice under the open meeting law, for meeting as a Board of Selectmen vs. meeting as a Board of Health. Based on the facts I heard with respect to the sewer project, the Board of Selectmen were meeting as the Board of Selectmen to discuss a matter solely within the jurisdiction of the Board of Selectmen which is to declare an emergency from the public bidding laws. Often times there will be overlap between the jurisdictions of the two boards and as long as it is clear which board is acting in which capacity, then in my opinion there is not going to be a violation of the open meeting law. Example given

Fairbrother: For me, these two issues kinda come together; the Montague Board of Selectmen (BoS) is charged with issuing various kinds of permits, in particular: Use of public property, public signage or display, assembly or demonstration, and one-day alcohol. The BoS is required to do its due diligence to try to ensure that among other things: the request is appropriate for the time, place and reason requested; to make sure planning for all aspects of the event are full and sufficient to ensure public safety; to make sure proper coordination with any Town agencies has happened ; to ensure sufficient liability protection is in hand. To do this, the BoS needs sufficient prior notice to review all aspects of the proposal individually, to schedule a public meeting with the applicant at which questions or concerns the BoS, other Town departments, and the public can be aired and answered. Generally speaking, the larger or more complex the event, the longer the lead time should be. It has been my view that over the four-plus years I have been on the BoS the performance standards applied in granting permits have gotten more and more lax, or at least the BoS's due diligence in applying those standards has gotten more lax. I believe a review of BoS minutes for the past few years would bear out this view.

- Applicants for sometimes major events have waited until the very last meeting possible before coming before the BoS for permits.
- Applicants have advertised events as a done deal before coming to the BoS with incomplete information for the BoS to work properly on.
- Applicants with no Town affiliation have come in after advertising an event as a done deal and asking that the Town insure the event.

Some quick examples:

2013 Block Party; 2012 SoapBox Derby one-day alcohol permit; 2013 Third Thursday events; 2013 Upper Valley Music Festival; 2013 Shea Theater Movie in the Park

I suggest the following steps be taken to address a situation I feel has long ago gotten out of hand regarding permits for public events in Montague:

- A sliding schedule be established wherein the larger the event to be held, the further in advance the appropriate complete permit applications must be received by the BoS. As an example: If any street closings are required, all permits must be received no later than three months in advance.
- Applicants for a known annual event who wait until less than a month before the event to apply be denied.
- No applications be dealt with that are received under the "Items not reasonably anticipated within 48 hours" item on the BoS agenda if it would have been reasonable to expect the applicant to have approached the BoS sometime previous to the last second.
- Town insurance not be granted to any non-Town entity.
- The Police Chief for the Town of Montague does not have the authority to approve permits in the absence of the BoS. If an applicant waits too long for the BoS to act on a permit, the applicant is out of luck and the event does not happen. (In events like the movie filming where variables could reasonably be expected to cause changes in permit approvals, the BoS could designate the Chair (or other BoS members as spelled out) to make certain changes if such changes do not fundamentally alter the nature of the permit approvals)
- Other steps as the BoS may deem to be in the public interest and safety.

This topic will be put on another agenda to be discussed further

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Corbo: One item I would suggest that you take up here however is the issue of how you deal with requests to changes to permits that have already been issued when those requests need to be acted on between Board of Selectmen's meetings. One of the items that brought this matter to a head was the fact that a permit was issued by the board and there was the need to change the dates on that permit, in between board meetings; that led to the open meeting law complaint violation. I would recommend to at least start with a policy saying with respect to permits that have already been issued by the Board, that no requests or changes shall be permitted unless approved by the Chair, subject to ratification by the full board at its next meeting.

Boutwell makes the motion that a policy be made with respect to permits that have already been issued by the Board, that no requests or changes shall be permitted unless approved by the Chair, subject to ratification by the full board at its next meeting. Seconded by Nelson, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Boutwell - Aye

Nelson makes the motion to authorize Town Counsel to act on behalf of the Board of Selectmen in regards to the open meeting law complaint. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye

Use of Peskeompskut Park, Movie in the Park (TBD), 8/15/13

Nelson makes the motion to allow Sara Doyle, Turners Falls RiverCulture the use of Peskeompskut Park from 5:00 PM to 11:00 PM for a PG rated movie on August 15, 2013, with waiver of the fee. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye

Use of Public Property, Roving Street Performer, 8/15/13, Avenue A from 2nd Street to 5th Street, Spinner Park

Nelson makes the motion to approve the roving street performer on Avenue A from 2nd Street to 5th Street, including Spinner Park to Turners Falls River Culture, care of Sarah Doyle on August 15, 2013 from 5:30 PM to 7:30 PM and it has been signed off by the Police Chief. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye

Appoint Charles Kelley to the Cable Advisory Committee until 6/30/14

Boutwell make the motion to approve Charles Kelley to the Cable Advisory Committee until 6/30/14. Seconded by Nelson, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye

Un-appoint Albert Cummings as Veterans Graves Officer

Nelson makes the motion to un-appoint Albert Cummings as Veterans Graves Officer. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson – Aye

Appoint John Murphy as Veterans Graves Officer until 6/30/14

Boutwell makes the motion to appoint John Murphy effective immediately as Veterans Graves Officer for one year until June 30, 2014. Seconded by Nelson, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson – Aye

**David Detmold, Great Falls Skate Park Committee, Votes may be taken
Skate Park Status Update**

Detmold: The teenagers have been waiting very patiently since they first approached the Selectboard with the idea of a skate park. What we have seen lately is we have worked very hard to keep a temporary skate park happening for the teenagers in this town with their help and active support and fundraising efforts. We've moved that temporary skate park from place to place, often been locked for many years when we didn't have adequate funds to update the ramps that weren't sufficient construction to really last. Sadly there is no temporary skate park for the teens so they are using the Town. If you recall town meeting closed Williams Way and gave it to Unity Park. This was a town wide town meeting vote indicating clear support from Town Meeting. The Selectboard gave \$18,000 or nearly that from Program Income to design a permanent skate park. The Skate Park Committee worked very hard to design a new park and we would like to see that money be realized in terms of the finished product now. There has been a broad livability study downtown with about 60 residents taking part under the auspices of the Town Planner and the

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permanent skate park came out as the number one recreational priority of that group. The enthusiasm for it has not faded, it has grown. It is not just a recreational facility we are contemplating with, it is also a step in the Towns economic development. Some town in Franklin County is going to be the first one to take the step to have a real high quality permanent concrete skate park and we would like that to be Turners Falls. We are not looking for Town funds, town support, a little staff time to write this grant then we can all work together to make this happen. A lot of people have been offering fundraising help. Skate park committee is hoping to leave this meeting with a commitment so the Town planner can write a grant to bring this to town

Dobosz: Trying to work with Skate park committee to come up with a design that will work financially with the town. The P&R Commission and myself have been trying to meet with the skate park committee to see if we can bring costs down and to see if we can compromise on cost.

Abbondanzio: Spoke with architect today who said there are designs out there that could bring costs down. He mentioned there is a different type of skate park, the ones used by X games, really nice features. He felt we could get the costs down by as much as 40% going this route. Suggested they work with Spoon Ranch because materials are less expensive

Brian Dolan: Ellen, Sarah and I have been continuous throughout the whole process so we are on top of things. We got an estimate that we feel was off, it seemed very, very high. The company who would probably bid on a skate park around here is called Who Skates in Maine. He has given us a second estimate of \$250,000; I feel that is a valid estimate because Pittsfield just built a park for \$182,000, Hingham built one for \$250,000 and Holyoke is building one for \$250,000 all concrete. I think \$400,000 is an unreasonable number for a skate park for a Town this size, I don't think \$250,000 is. If we can't get a park grant, I'm out of ideas, if we were to get park grants, the Tony Hawk grant, a few private grants, some in kind donations and do a few fund raisers, we think we could get the amount the Town and community needs to contribute down to about \$25,000. Spoon Ranch is very competent they do make X games parks, but they also do sort of cookie cutter parks and I believe that is what I was shown. All we are asking is we give it a shot. I think if we really made a concerted effort to get this done, I think we could. We are asking the Town to try and get us a park grant, maybe include us in further CDBG; we ranked really high the first time we applied and stick with us and help us own the project. Once we have the major grant in place your going to see all these people mobilize and we are going to get the rest of it done.

Comments from audience

Dobosz: Park grant is still a possibility for funding.

Ellen Spring: Have been involved since the project began. In the beginning there was a subcommittee that investigated alternative approaches to building a skate park. The consensus and the recommendation was to go concrete, it will be there forever. The last time we met with the Rec committee they approved that so then our job was to get the costs down. We've gotten the costs down to half the original quote. I think that is reasonable. We are willing to do the work to raise funds but we have continually over the last couple years been pushed aside. It doesn't seem like the plan is going anywhere.

Sarah Parsons: I'm here tonight because I want to know how to move forward. I want to know what is wrong with our design besides costs and if it's costs what should we be looking at? We are here looking for guidance. We have a great design and we want to see it built, we think \$250,000 is a reasonable amount, but we don't know how to move forward.

Dobosz states they have been trying to meet with this group. Parsons feels like tasks that were set out before board didn't happen and they don't want to chase their tails for 5 more years. Dobosz has to follow up with Architect and there is fundraising money that could be used to get things moving.

Detmold: I think at this point the committee wants to know we can begin our process of local fundraising, Tony Hawk Grant fundraising and if we had from now till July to do that, that's 11 months we can probably raise a lot of

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that local match, \$75,000 if we have the assurance that if we are raising this money we are doing it for this park as designed with the Towns help come next July.

Dolan: Unless we feel it is a high quality skate park, we are not going to support it

Nelson makes the motion that the Board of Selectmen reaffirms their commitment to continue the process of building a skate park in Montague. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson – Aye.

Nelson asks that the Skate Park Committee come back before the Board every couple of months with updates.

Marion LaCoy, Twisters

Tables and Chairs License, 52 Avenue A, Turners Falls, votes may be taken

Nelson makes the motion to approve 3 table as presented 2 on Avenue A and one on Second Street and additionally approve 2 additional tables on Second Street if the Building Inspector approves it to Marion LaCoy, 52 Avenue A, Turners Falls; at the rate of \$10 per table per year (discount to half given for this year since 2 months left). Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye street

Bruce Hunter, FCRHRA, votes may be taken

Authorization to Disburse Payment Requisition #3, Unity Park Phase 2 Project, \$57,127.60

Nelson makes the motion to Disburse Payment Requisition #3, Unity Park Phase 2 Project, to Diversified Construction Services LLC in the amount of \$57,127.60. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye

Cable Advisory Committee, Votes may be taken

Approve draft of 10 year contract between Town of Montague and COMCAST

Not to be discussed at this time

St. Kazimierz Society, Votes may be taken

Request for Change of Manager, Jennifer Elie

Boutwell makes the motion to approve the request for change of manager to Jennifer L. Elie for St. Kazimierz Society, 197 Avenue A, Turners Falls, effective immediately, liquor license #07360002 seconded by Nelson, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye

Executive Session under G.L. c.30A, §21 (a)(6) to consider the sale of real Property; portion of Map 17 Lot 13 A, votes may be taken

Town Counsel – Report on Pending Matters

Meet with Town Counsel to discuss status of pending legal matters involving litigation and real estate, executive session expected

Nelson makes the motion at 8:00 PM to enter into Executive Session under G.L. c.30A, §21 (a)(6) to consider the sale of real Property; portion of Map 17 Lot 13 A, votes may be taken and also to meet with Town Counsel to discuss status of pending legal matters involving litigation and real estate, executive session will continue, we will end the executive session only to adjourn. Seconded by Boutwell approved unanimously. Boutwell – aye, Fairbrother – Aye, Nelson - Aye

Fairbrother as Chair declares the reason for going into executive session is because discussing these matters in open session may have a detrimental effect on the Towns negotiating or litigating position.