

**SELECTMEN'S MEETING MINUTES  
UPSTAIRS MEETING ROOM  
1 AVENUE A, TURNERS FALLS, MA  
MONDAY, July 22, 2013**

*Meeting was opened at 7:00 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 8, 2013**

*Boutwell makes the motion that the Board of Selectmen approve the minutes of July 8, 2013 as presented with the changes that were requested by Mr. Fairbrother. Seconded by Nelson, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson – Aye*

**Registration for Assembly, Public Demonstration, or Use of Public Property, Upper Valley Music Festival, July 27, 2013, Noon to Midnight, Tommy and Jessica Byrnes**

T. Byrnes: Second year in town, there will be 5 venues where this event will take place; this is an all volunteer charity event, we donate every penny we make to the American Cancer Society. All venues are inside, there are no vendors. We wanted to have street musicians playing outside on Avenue A and on over on Third Street, down as far as the Rendezvous. We just want to have a few street musicians during the course of the day performing, not blocking the street, not hindering traffic or anything, just when people come out of one venue there is a musical connection between what is going on throughout town.

Discussion about how to permit this event without specific information

Nelson abstains from the vote as the event chairperson and representative for the American Cancer Society of Franklin County.

*Fairbrother makes the motion to allow use of public property to Tommy and Jessica Byrnes on behalf of Upper Valley Music Festival, On July 27, 2013 from noon until 10:00 PM for an assembly of street musicians (performers) on Avenue A between Second Street and Third Street, not to exceed 6 people playing in one place at a time certificate of insurance supplied, seconded by Boutwell, Fairbrother – Aye, Boutwell – Aye, Nelson – Abstain due to involvement with American Cancer Society*

**Sahirat, LLC d/b/a Carroll's Market, Vidyaben G. Patel as Manager, Votes may be taken  
Change of Liquor License type from Off Premise, Section 15 Wine and Malt Liquor License to Off Premise,  
Section 15, All Alcohol Liquor License.**

Boutwell abstains from this portion of the meeting

*Nelson makes the motion to approve the request to change the liquor license type for Sahirat, LLC d/b/a Carroll's Market, Vidyaben G. Patel as Manager, from Off Premise, Section 15 Wine and Malt Liquor License to Off Premise, Section 15, All Alcohol Liquor License liquor license ABCC License #073600019, Seconded by Fairbrother, approved. Fairbrother – Aye, Nelson - Aye*

**Robert Trombley, WPCF, Paul Gilbert, CDM Smith, Industrial Park Line Replacement  
Approve Payment No. 1 to Baltazar Construction in the amount of \$474,814.75**

*Boutwell makes the motion to approve payment in the amount of \$474,814.75 to Baltazar Contractors, Inc., project number: Highway 2013, contract date May 23, 2013. Seconded by Nelson, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson – Aye*

**Change Order #1 with Baltazar for Industrial Park Sewer Line Replacement**

*Boutwell makes the motion approve change order #1 to Baltazar Construction in the amount of \$191,750. Seconded by Nelson, Approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson – Aye.*

**Phase II**

Gilbert: As far as phase II goes and the ongoing work we talked about, we had 4 options a few weeks ago and we boiled it down to basically two. We prepared a preliminary layout and specifications that Bob and Tom will be

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reviewing; we have a scheduled bid opening for August 15 to evaluate the bids and make our recommendations the Town Administrator and yourselves in time for the Town Meeting. That is ongoing and on schedule.

Approve Industrial Blvd/Millers Falls Road Sewer Failure investigation, Design and Construction Support Services with CDM Smith

Work includes boring, geotechnical analysis, survey, topographic work being prepared by engineer not by the Town.

*Boutwell makes the motion to approve payment of \$37,852.38 to CDM Smith, 50 Hampshire St., Cambridge MA for work that has been done so far, invoice #80464462/1, Project #98349. Seconded by Nelson, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

*Boutwell makes the motion that the Board approve amendment #1 agreement between the Town of Montague and the engineer CDM Smith not to exceed \$50,000. Seconded by Nelson, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**Dog Complaint Hearing, Julie Fallon, Investigation of Vicious Dog**

7:43 PM

Fairbrother reads complaint letter to Ms. Fallon into the record; calls the meeting to order  
Joel Bryant, Jeremy Bryant, Julie Fallon, Dan Fallon, Chief Dodge are sworn in

Dodge reads Police report prepared by Detective Laster into the record

Ms. Fallon reads her statement into the record

Mr. Fallon tells Board how he has fenced yard entirely and they do intend to move. It would be my intentions to split the veterinarian bills with Joel down the middle. I was very offended when first incident happened and how it got back to me months later in a reverse form and I was quite upset. Juno has played with 100 – 150 dogs and there has never been a problem, thinks Juno and Josie are mortal enemies.

Joel Bryant gives statement about a previous incident, but Fairbrother says comments are restricted to current incident

Jeremy Bryant states that he saw Fallon's dog running with Bryant's dog in his mouth through the woods. When Bryant yelled Fallon's dog Juno released Bryant's dog Josie from its mouth. A woman yelled at Juno and the dog ran instantly into Fallon's yard.

Dodge: It appears they have taken necessary actions to keep their dog confined so there should never be another incident. The issue of Bryant's dog roaming as well has been raised. (Bryant says he leashes his dog).

Fairbrother: It appears Fallon's dog was not properly restrained at the time, Bryant allows his dog to be unrestrained. Fallon's have put the effort in to fence in their yard. Bryant told to fence in yard or leash dog while in his yard. Both dogs are to be kept away from each other. Both parties do not want the others dog put down.

*Nelson makes the motion to accept commitment from Joel Bryant and Julie Fallon to effectively restrain their dogs on their respective properties at all times. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**Event Application for use of Peskeompskut Park by Power Town Apartments on August 24, 2013 from 11:00 to 3:00 PM for picnic**

*Nelson makes the motion to approve the application for use of Peskeompskut Park by Power Town Apartments on August 24, 2013, set up starting at 11:00 AM clean up at 3:00 PM, all trash to be picked up and disposed of at their*

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*own location, event is a picnic with games for children and residents of Power Town Apartments, insurance certificate is on file, with a fee of \$25.00. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**Personnel Board, votes may be taken**

**Richard Suchanek 111F Status Update**

*Boutwell makes the motion to continue the 111F leave of Richard Suchanek to September 9, 2013. Seconded by Nelson, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**Hire per diem dispatcher, Jesse Sinclair at \$15.00/per hour**

*Boutwell makes the motion to hire Jesse Sinclair as a per diem dispatcher effective immediately at the rate of \$15.00 per hour based on his extensive resume. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**Hire WWTP Operator, Timothy Little, at Grade H5, Step 5, \$17.85/hour**

*Nelson makes the motion to hire WWTP Operator Timothy Litter at Grade H5, Step 5 at \$17.85 hour effective immediately. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**Charles Dodge, Police Chief,  
Two Letters of Commendation**

Dodge reads letter of commendation for William Bill Doyle dated July 16, 2013 into the record

Dodge reads letter of commendation for Lee Laster, James Deery, John Dempsey and Dispatcher Kyle Walker dated July 16, 2013 into the record

The Board thanks the officers for their hard work and dedication

**Other**

Fairbrother: What I would like to do with the Boards indulgence is we have a long agenda still including an executive session with various people who have come in. I'd like to cut some of the things off tonight's agenda that we don't really have to do tonight, and I would like to schedule a meeting for next week. Abbondanzio states he will be asking them to meet on Wednesday at 5:00 PM. to take up matters counsel needs taken up before Monday.

**Approve Proposal from BadgeQuest for Consulting Services to Design and Conduct a Sole Assessment Center for the Position of Montague Police Sergeant up to \$8,300**

*Nelson makes the motion to approve the proposal from BadgeQuest for Consulting Services to Design and Conduct a Sole Assessment Center for the Position of Montague Police Sergeant spending up to \$8,300. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**Other**

Dodge: Seventh Street is now posted with no parking on North Side of the street.

**Frank Abbondanzio, Town Administrator's Report**

**Other**

Abbondanzio: This is a motion and vote needed relating to the collective bargaining session held early with Gill. Nelson makes the motion that the municipal representative to the Gill Montague Regional School District Collective Bargaining Committee only support a contract that is accompanied by a financial plan that addresses affordability over the length of the contract. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson – Aye

**Appoint 2013 Turners Falls Block Party Steering Committee as a Municipal Entity**

Abbondanzio: At the last meeting you asked that I check with our insurance carrier whether the Block Party Event could be covered under the Towns insurances. I was told we could do as we did last year appointing the group as

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the organizers of the committee as a Special Municipal Entity. The only reservation they had is the Towns insurance cannot be used involving the use or sale of alcohol. Permission was granted at last meeting.

**Parking Concerns by David Carr, owner Basically Bicycles during events**

Signs will be put up for no event parking only business parking

**Request from Lake Pleasant Village Association to have access to the Town's legal services regarding talks they have had with the Turners Falls Water Department about the ownership, as well as current and future use of the Lake Pleasant Bridge, Bell Tower and Former Fire Department and the land connecting all of these. Requesting assistance with setting current agreements into legal documents including leases.**

Lahri Bond: President of Lake Pleasant Village Association: Been talking with the Water Department who owns some of the land and it has been brought to our attention that it is unclear who is responsible for what, who even owns the bridge. In terms of the land itself, the Water Department is talking about wanting to lease us the land up to the fire department including the fire department which we have eyes on turning into a village historical society. We have all our agreements in place just need to get them into legal form.

Abbondanzio: This is difficult. I think just to allow access to the Towns lawyers is not the way to go about this. The only way I can think to go about it is to use Community Development Discretionary money. If it is legal maybe it's within the limits, you will have to secure your own Counsel. Suggested Bond speak to a lawyer and come back with an estimate. Fairbrother would also like to see draft of agreements and see the Water Dept share the costs.

**Amend July 8, 2013 motions and votes relating to the Industrial Blvd. Emergency Sewer Project**

*Nelson makes the motion that the Board of Selectmen vote to request that the Mass. Department of Revenue (DOR), under the provisions of MGL Chapter 44, Section 31, increase the authority of Town departments to spend without appropriation by \$1.5 million, from \$500,000 to \$2,000,000 for costs associated with the sewer line emergency on Industrial Boulevard. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother - Aye, Nelson – Aye*

*Nelson makes the motion that the Board having determined that an extreme public safety emergency exists due to the failure of a sewer line, and subsequent collapse of the road pavement, on Industrial Boulevard in Turners Falls; and having determined that the need to respond to such emergency prevents the Town from complying with the bidding and notice requirements of MGL Chapter 30, Section 39M and MGL 149 in the interest of preserving and protecting public safety, do proceed with the reconstruction and replacement of said sewer line on an emergency basis to the extent necessary to abate the threat to public and safety and request a waiver of the applicable bidding requirements from the Commissioner of the Commonwealths Division of Capital Asset Management (DCAM) Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson – Aye.*

**East Main Street disposition including Commercial Homesteading Improvements**

Abbondanzio: We have a tentative agreement in place with the Bureks, we are not sure if we are going to proceed as we still have issues we are discussing with them. When we do know for sure, we do need to put it back out to bid under the commercial homesteading program. We will do that for all 4 properties. We've had discussions with Town Counsel and I've been assured I can proceed with the RFP and I will be subsequently be asking to use community development discretionary money to make some improvements on the buildings. There is a different path we will proceed with for the buildings that were formerly owned by Mr. Conley and the building that was formerly owned by Ms. Golrick. The Bureks have not officially backed out of the project yet. We should have resolution soon, but a lot of it should depend on what happens on the legal side of it. I spoke with Attorney Blake, the former owner of the Golricks property has contested ownership based on the claim the Town doesn't have a deed to the property and she did. Now Mr. Noone (who is present here at the table) currently has a deed, and now claims that he is the rightful owner. This is not the case. They have taken this to court; they lost on appeal, now Ms. Golrick has filed further appeal with the Supreme Judicial Court. The Supreme Judicial Court hasn't made their decision whether or not to hear her appeal is completely discretionary, they will be making a decision on that within a matter of days or weeks. Attorney Blakes feeling is the claim is without merit and it will not be heard by the SJC. Once they decide that case will be officially closed. Counsel assured me we were totally justified in going ahead

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with our commercial homesteading. We do own the property that the claims being made by Ms. Golrick and Mr. Noone they ignore the fact that the tax title foreclosure process is law and we are the owners as a result of the Tax Title foreclosure process that proceeded to land court. We are still going through appeals on the Powers Block eviction process. The Town will be inspecting the properties tomorrow and have an appearance before the court next Monday.

**Use of Community Development Discretionary Funds to make improvements to Town Property located at East Main Street Millers Falls, up to \$10,000**

What I'm asking the Board to do is, we have the right to make improvements to those properties assuming the Burek's don't go forward with their RFP. As a way of recognizing the rights of the neighbors and responsibilities of the Town to the neighborhood, that we use Community Development Discretionary money to make physical improvements to the property as we desire. I've gotten bids on painting and repairing the yellow house which is a total eye sore and at some point doing something to the Powers Block when we have the official green light on that building as well. If we have a property with curb appeal someone is going to be more interested in doing something with it.

For the record, I am Joseph Francis IV of the Noone family. I have a deed for that property (hands copy to M. Nelson)

Fairbrother: Mr. Noone, we are not listening to this, you have no standing here according to the courts and we are just not going to listen to this. Mr. Noone, I am not recognizing you tonight.....

Discussion.

This issue to be discussed at another meeting

**Policies and Procedures for issuance of Registrations for Assembly, Public Demonstration or Use of Public Property.**

Abbondanzio: I talked with Corbo today and he gave me some feedback on a discussion Mark had with him last week.

Fairbrother wishes not to discuss this tonight.

**Open Meeting Law Complaints**

**Discussion and possible vote re: July 11, 2013 complaint about discussion relating to Millers Falls Road/Industrial Blvd. sewer project during July 8, 2013 meeting**

Abbondanzio: I can discuss the open meeting law complaints and one raises an interesting issue whether the Board of Selectmen met to discuss the sewer, discussed health and safety and actually were deliberating as the Board of Health. We acknowledge compliance on this. There were meetings of the Board of Selectmen to make sure what was going on, health issues are incidental to this. We have things as the Board of Selectmen that we do to meet our obligations under the law as the Board of Selectmen. The Board of Health may be taking up the same issue, but they don't necessarily have to be discuss every joint meeting. The feeling of Counsel is we are within our rights to do what we did under the prevue of the Board of Selectmen, even though there were members of the Board of Health at that meeting.

**Discussion and possible vote re: June 27, 2013 complaint about decision to ratify Police Chief's decision to amend registration for assembly, public demonstration or use of public property during June 24, 2013 meeting.**

This is with the movie company Warner Bros. when they were amendments they wanted made to the permit and they were made outside of the meeting. Apparently some consultation occurred with the Chair, who consulted with the other members of the Board, quoted at a subsequent meeting to ratify and the Chairman admitted a violation. Town Counsel agreed this is a violation, it's called serial communication, you can't do it because it involved the Chairman speaking with other members of the Board outside of the meeting prior to. We admitted to this open meeting law violation, Counsel recommends the Chairman contact Mr. Golrick and ask that he hold off filing a

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complaint, and we are on record of admitting that there was a violation. There was no intent of deceiving the public and to deal with these kinds of circumstances in the future the feeling was we need to adopt policies and procedures for dealing with these kinds of occurrences where a permit has been issued and changes need to be made before the Board's next meeting. The way to deal with this is through policies and procedures. He asked that we have a policy where the Police Chief or myself with consultation with the chair could make those kinds of changes.

Fairbrother: I was hoping to have a much more extensive discussion of this tonight, but I'm not up for it at this point, considering the meeting is still a long ways from being over. I'm not going to make that request and he (Mr. Golrick) can do what he needs to do.

**Discussion and Possible vote re: timing and acceptance of Applications, issuance of registrations, conditions upon registrations and procedure for handling requests for amendment of registrations arising between meetings.**

To be discussed at a future meeting

**Appoint Charles Kelley to the Broadband/Telecommunications Committee until 6/30/14**

*Nelson makes the motion to appoint Charles Kelley to the Broadband/Telecommunications Committee until June 30, 2014. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**Town Facebook Page**

Nelson gives a brief review of the Facebook Page he created, this would be supplemental form of information to the Town's website. Specific people (department heads and clerical staff) would be authorized to use the facebook page. The Towns website is the primary site.

**Registration for Assembly, Public Demonstration, Use of Public Property: Lewis B. Collins, 23 Avenue A Between the Uprights on August 10, 2013 from 9:00 AM to 10:00 PM**

*Nelson makes the motion to approve the request for Lewis B. Collins, Between the Uprights for a permit on Saturday, August 10, 2013 from 9:00 AM to 10:00 PM for the purpose of having an outdoor café area with no music, designated for customers to enjoy cocktails outside during the block party, insurance information is on file. Seconded by Fairbrother, approved. Fairbrother – Aye, Nelson – Aye, Boutwell abstains*

*Nelson makes the motion at 9:35 PM to go into Executive Session under G.L. c 30A, Section 21 (a)(3) to discuss strategy with respect to Collective Bargaining – involving on-going contract negotiations with town unions (IBPO, U.E. and TOMEA), votes may be taken. Seconded by Fairbrother. Approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson – Aye.*

*Fairbrother makes the motion to adjourn the meeting at 10:00 PM. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*