

**SELECTMEN'S MEETING
MONDAY, August 30, 2010
UPSTAIRS MEETING ROOM**

25b

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

Boutwell makes the motion to appoint Mark Fairbrother as acting chair for the meeting. Seconded by Fairbrother, approved unanimously. Boutwell – Aye, Fairbrother – Aye

Meeting is reconvening from earlier session that opened at 5:00 PM

Minutes were approved at 5:00 PM as well as Mark being appointed Chair

Mike Nelson, Franklin County Pumpkinfest Update

Nelson: Since the last time he met with the Board, they have come a long way:

- Have gone on a major media campaign,
- Have been working with different vendors in Town that do the block party. At the moment they have 10 official vendors and are expecting close to 30.
- There will be children activities going on,
- Connections have been made with two breweries who will be doing enclosed are at Peskeompskut Park
- Plans are in place for a full line up of entertainment for the band stage
- Connections have been made with different members in Town regarding electrical hook ups with the DPW, Building Inspector, Electrical Inspector and other things.

The event will be similar to the Keene event, just on a smaller scale. The event will be held on Saturday, October 23, 2010 from 3:00 to 9:00 PM. The Avenue will be blocked off at Noon. All the businesses on the Avenue have been notified.

Fairbrother would like Mike to come back before the Selectmen one more time with an updated version of his plan. Plans are in place for recycling and trash

Bergeron: We will put barriers up by each street corner which will have to be put across the streets.

Patricia Pruitt on behalf of Prospect and Central St. Neighborhood Association; Use of public property, Prospect Street Bridge, Celebrate completion of bridge

Pruitt: Still asking to use one lane of the bridge to allow traffic to get through. This will be the last celebration on the bridge; they would like to celebrate how nice it is. Tom Bergeron will put barriers up and barrels.

Fairbrother feels there are good sight lines

Boutwell makes the motion to allow Patricia Pruitt on behalf of the Prospect and Central St. Neighborhood Association to use Public Property, the bridge for a celebration of its completion on September 11, 2010 from 5:00 PM to 9:00 PM with conditions talked about. Police Chief has signed off on the event and Tom Bergeron is comfortable with the situation and will be working with them. Seconded by Fairbrother, approved unanimously. Boutwell – Aye, Fairbrother – Aye

Town Administrators Report

Appoint James Paulin to Building Maintenance Position in DPW

Boutwell makes the motion that the Board approve a request from Tom Bergeron, Highway Superintendent to appoint James Paulin to the Building Maintenance Position effective August 31, 2010, at Grade 3, Step 1 to start. Seconded by Fairbrother, approved unanimously. Boutwell – Aye, Fairbrother – Aye

Household Hazardous Waste Day

On Saturday, September 25, 2010 the FCSWMD will be holding their annual Hazardous Waste Clean Out. The dumpsters will be at the GCC Main Campus and the Orange Transfer Station. Pre-registration is required by September 17 and forms are available at Town Hall and the DPW and online at www.franklincountywastedistrict.org.

Sign September 14, 2010 State Primary

Abbondanzio goes over warrant

Boutwell makes the motion to sign the Warrant for the September 14, 2010 State Primary as presented. Seconded by Fairbrother, approved unanimously. Boutwell – Aye, Fairbrother – Aye

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Appoint Per-Diem Dispatchers

Boutwell makes the motion to approve Kara Breor as Per-Diem Dispatcher at the Montague Police Dept. effective August 18, 2010, pay scale will be Grade 2, Step 1. Seconded by Fairbrother, approved unanimously. Boutwell – Aye, Fairbrother – Aye.

Boutwell makes the motion to approve James Loynd and Laurie Fox as Per-Diem Dispatchers at the Montague Police Dept. effective August 18, 2010, pay scale will be Grade 2, Step 1. Seconded by Fairbrother, approved unanimously. Boutwell – Aye, Fairbrother – Aye.

Application filed by WMECO to increase Electric Distribution Rates

Applications were filed by WMECO for rate hikes and meetings were held last week. Ken Garber at WMECO can be contacted with any specific questions pertaining to how residents will be affected; his number is 413-585-1708.

Fairbrother asks Frank to look into the two street lights that are about to be shut off for nonpayment near the Discovery Center and behind the old Cumberland Farms building; bills were previously paid by MEDIC.

Dog Complaint Hearing

Fairbrother announces meeting is being taped, BOS Members introduced, Police Sgt. Bonnett present

Letter read into the record

Steve Crowningshield, dog owner tells the board what happened. His yard is fully enclosed except for driveway and walk way which he is in the process of enclosing. The dog has not been off the leash since this happened, he will not be until the yard is entirely fenced in and this will not happen again.

Bonnett: Mr. Crowningshields report seems to be fairly accurate, as far as we know this is the first and only incident with this particular dog. The complainant told us she is satisfied and feels Mr. Crowningshield has done an appropriate job of attempting to compensate her, be compassionate towards her and make thing right. There have been no further complaints to them from that reporting party.

Boutwell feels Mr. Crowningshield has taken steps to correct the problem.

Fairbrother is inclined to not take any disciplinary action as the owner has accepted responsibility and as long as nothing like this happens again. Frank will draft a letter to Mr. Crowningshield summarizing the hearing. Letter needs to state dog must be penned or leashed at all times, cannot run free on the street.

Hearing Closed at 7:45 PM

Notice of Intent to Request Release of Funds

Abbondanzio: The Town of Northfield is the lead town in the housing rehab program that was just awarded. Montague is a participant in that program and they have conducted the National Environmental Policy Act (NEPA) review and they have determined that the activity being proposed is categorically excluded under HUD regulations so they are releasing this for public comment. Comments should be sent to Tracy Rogers by August 26, 2010.

Single Point of Contact Person for WesternMA Connect

This is announcing that Deval Patrick and members of the Federal delegation have gathered to celebrate a \$45.4 million award of federal ARRA funds to the Mass. Broadband Institute. The Broadband Institute would like the Town to designate an individual to represent the Town in various meetings that will be held in the near future. I'm recommending we designate Walter Ramsey to be this person.

Fairbrother makes the motion to appoint Walter Ramsey to be the Town's representative to the Massachusetts Broadband Institute Initiative through June 30 2011. Seconded by Boutwell, approved unanimously. Fairbrother – Aye, Boutwell - Aye

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Appoint Franklin Regional Planning Board Rep.

Boutwell makes the motion to reappoint Mark Fairbrother as Franklin Regional Planning Board Representative for calendar year 2010 to 2011. Seconded by Fairbrother, approved unanimously. Boutwell – Aye, Fairbrother – Aye

Letter to Erving Board of Selectmen Regarding Millers Falls Sewer

Abbondanzio: This is a letter from the Board of Selectmen to the Chair of the Erving Board of Selectmen. This has to do with the additional costs that Erving has indicated they are expecting the Town of Montague to pay towards their Capital costs for the sewer project. Since receiving the letter we have had discussions with both town council and with our engineer Camp Dresser & McKee.

Abbondanzio reads letter into the record

Boutwell makes the motion to approve the letter from the Board of Selectmen to the Town of Erving regarding the sewer agreement between Montague and Erving dated August 30, 2010. Seconded by Fairbrother, approved unanimously. Boutwell – Aye, Fairbrother – Aye.

We are in the process of developing a scope of work with Camp Dresser and McKee and should have it ready for your signature within a couple of weeks.

APR Application – 76 West Mineral Road (Gendron) Enclosure E

This is an opportunity from the State Agricultural Preservation Restriction Program given to the town to weigh in, in terms of how it feels about APR applications. This is for 46 Acres of APR located on 76 West Mineral Road, Montague, MA. The commissioner of Agriculture makes the ultimate decision to adopt the Preservation Restrictions, but this form is an opportunity for the Town to make a statement about the application and offer support.

Fairbrother: If the ConCom had funding we probably would have voted some of it to contribute towards the project. Doesn't feel this is the right time to go to Town meeting and ask for them to contribute money.

Discussion about whether or not Fairbrother can sign the document as his signature is already there as Chair of the ConCom

Boutwell makes the motion that the Board of Selectmen endorse Application Form E Enclosure from the Agriculture Preservation Restriction Program (ARP) for Amanda and David Gendron of 76 West Mineral Road, Millers Falls, 01349, and approve the endorsement E plan which consists of 46 acres and there are no funds available from the Town of Montague for this program. Seconded by Fairbrother, approved unanimously. Boutwell – Aye, Fairbrother – Aye.

Other

- There will be a district meeting on November 18th at 6:30 PM at the Turners Falls High School Theater. Gill and Montague have to meet jointly to decide who they want to be the moderator and also issues with the G/M bridge should be discussed.

- Abbondanzio was on a conference call with the Supt. of Schools on Thursday with the Dept. of Education relative to the grant funds that they are receiving from the Feds. This translates into an additional \$280,000 that will come to the District and they have to use it on salaries, wages or benefits. If they are able to use it to apply to health benefits that would have a ripple down effect on the assessment reducing it by that amount for the two towns. In our case, our assessment would drop from \$7,601,808 down to \$7,362,942. Basically, it means we would have to appropriate an additional \$132,615 or make cuts. The fact of the matter is the school committee has the final say as to what they do with the funds.

- You have in your packet a conflict of interest on my part. This is something I did last year, disclosure of free or discounted travel in conjunction with NEPERS conference in Boston. This is a one day educational event, organized by IMN which brings together representatives retirement boards from throughout New England. I checked with Counsel and she confirmed that as long as it is for educational purposes and as long as I declare it to the BOS and notify Town Clerk. I'm asking that you authorize me to do this.

Fairbrother makes the motion acknowledging Franks disclosure in this matter and authorize him to accept the offer and attend the conference. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye

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Airport Commission, Sign Memorandum of Understanding: Turners Falls Airport Ceremonial Sites

Peter Golrick, Chair, Airport Commission: We present to the BOS the Memorandum of Understanding between the Turners Falls Municipal Airport and the Tribes and the MOU regarding tribal access procedure. We believe these documents will help us get the project back on track and move forward to a completion date before the end of this calendar year. The MOU regarding tribal access procedure is really just a codification of our existing procedure for anyone wanting access to the aircraft operating area (the fenced in part under the direct control of the airport manager). The existing procedure was forwarded to Town Counsel for review and their initial thought was that our existing procedure constituted a license and with some minor rewording, this document which does not constitute a license, it's a procedure for gaining access to the aircraft operating area. The Airport Commission voted unanimously to accept this procedure to be added to our policies and procedures manual with the expectation we will have a very similar document for public access to the aircraft operating area. This document is included because it is referred to in the MOU and does not require a vote of the Board of Selectmen. The issue that brings up the need for the MOU regarding the preservation of sites, comes about by the tribe's belief and feeling that those sites are not protected by the Federal Law or Massachusetts State Law once the project is complete. The Airport Comm. feels differently, we feel once these sites have been identified as important historical sites, we are bound to protect or preserve them. This document is to assure the tribes that that is in fact what we are doing, by putting this on paper, that it is our goal. This document has also been reviewed by Town Counsel to be sure we had the authority to do so and this document in and of itself grants nothing, it is a statement of understanding. The only thing this binds the Airport Commission to doing is in the very last paragraph, we're bound to draft a warrant article to bring to the Board of Selectmen and put on the Annual Town Meeting, because any transfer of rights to property has to happen at the annual town meeting, not just at a special. Town meeting is the only body that can authorize giving away anything. We're not really giving away anything; all we are going to be asking for is a conservation or preservation restriction that will prohibit us from developing those areas.

Fairbrother: That is giving something away

Golrick: It's giving away development rights basically, but it is giving away development rights in the flight path where we can't develop anyways. These areas are all within the Part77 runway surface area of the airport and we can't develop there anyways. We feel what we are giving up in terms of development rights in these small areas is a small price to pay to get the project completed. We feel with this document we can get the contractor back on site, get the project underway and get it completed by the end of the year. We think it will be extremely difficult without this document signed.

Boutwell: If the Board does vote to approve this MOU have the tribes even looked at this document?

Golrick: I believe they are currently reviewing this. This has been through a few iterations and one of the commissioners has been talking to one of the members of the tribes in order to see exactly what it is they are looking for and we feel pretty confident. This is the most the Airport Commission can do, there is nothing beyond this that we can do; we cannot offer any more. We feel this will be accepted by the tribes as a demonstration of our good faith going forward, that we are intending to preserve the site, but there is no guarantee they are going to accept it.

Fairbrother: By doing this, we're ceding some control of that land to the tribes, effectively? We're ceding control of that on their behalf, at their request?

Golrick: The wording of the warrant article would be to convey a preservation restriction to the ceremony sites to a non-profit organization to be designated by the Airport Commission, Board of Selectmen and tribes. I would presume that to mean some existing land trust.

Fairbrother: What are we getting back for it?

Golrick: The project moving forward.

Fairbrother: Why doesn't the project move forward now?

Golrick: Because the tribes show there is no protection at the site once the project is complete. We've struggled with this for many months ourselves before we brought it to you. After many months and many revisions we did wind up getting a unanimous vote from the Airport Commission, which was a difficult, lengthy battle. I think it is the right thing to do.

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Fairbrother: That project has been stalled for almost a year now, would it be fair to say it has been stalled for almost a year now and it was stalled for 2 years before that largely as a result of Native American concerns?

Golrick: Yes, I think the Native American concerns have slowed down the project.

Fairbrother: If we approve this, they do what?

Golrick: They proceed diligently to complete their aspects of the work and allow us to get the project complete.

Fairbrother: Our own Counsel's advice is that we don't have to sign this and all we are getting out of this is a somewhat nebulous promise that things will move expeditiously.

Golrick: There is no Federal or State law requiring us to sign this.

Fairbrother asks Golrick to speculate on what will happen if the document is not signed.

Golrick: I would be concerned that if we don't get this project done this calendar year, that in the near future after that, we will be faced with lawsuits after that from one or more multiple parties.

Fairbrother: Why wouldn't we get it done this year, even if we didn't sign this?

Golrick: That would be a question for the FAA

Fairbrother: My view is we're effectively being asked to sign this document under duress. (This is a statement, not a question). We have stopped your project and we will keep it stopped until you give us something that we want. Then we'll promise that we'll move expeditiously to move it forward. What does expeditiously mean?

Golrick: The project ownership is also one of those sticky whippets, where it is the Towns project, that's why as the airport commission is doing everything we can to move the project forward; but the Town of Montague is not paying for this project. The town of Montague has no direct route to discuss and negotiate with the tribes; we rely on our Federal government to talk to their Federal government. It is a government to government discussion and therefore the FAA who is footing 95% of the bill is a major party in the process. We can't make the FAA do anything. They told us it was our project and we told them we were going to proceed down path A, then they threw their hands in the air and said if you do that then we'll have to do this and that became we are going down path B.

Fairbrother gives his take on what the FAA's position is - "It is your project, but you're doing it our way, or we will mess up your funding".

Golrick: That is what it boils down to; if the Town of Montague is interested in paying for the project, and then the Town of Montague can do it the Town of Montague's way. The FAA is telling us what they will reimburse. Yes, the FAA wants us to sign this document.

David Brule, Airport Commissioner: My concern is, after talking this over with Mickey is pretty apparent. If we don't get the construction company back on site by September 20 – 25, I would feel, and I think I'm talking for the commission, that if they can't get back to work, they will either attempt to extricate themselves from the project or they will want to renegotiate something in the spring because the labor costs and everything are going to go up. One scenario is they could turn against the Town as project owner. On the other hand our sense is if we go to the tribes and tell them this is as far as we can go, Town Counsel has said we can do this, and we were told it has to go to the annual town meeting, which would give both sides of the issue time to educate the public, debate it in public. My sense is if we don't have the Selectboard signing this, it will not carry much weight with the tribes. They may decide that they don't want to go along with this yet. From your own experience you know there are 3 nations and the requirements to communicate amongst themselves and sort it out. The issue is if they don't come back and do the work, then ET&L (the construction company) will not come back. We are doing everything possible to get the tribes back here to do the clearing which should not take more than 2 days. The tribes want something in the land record and the only way do this is the town meeting vote.

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M. Longo: Clearly if signing of the document by the Commissioners and the Town Board would demonstrate at least to the FAA that we are doing everything within our power and I think we have demonstrated it to the tribes as well. It demonstrates on paper that we understand the cultural concerns and we wanted to do what we could within legal authority to protect them. I ask that the Board please give this consideration to signing this, Counsel has cleared it and we've worked diligently. We do have a serious of time constraint that we're working on, and any further delay could reflect badly on us, so we have to make any and every effort that we can.

Abbondanzio: I think the board should look at this as two different phases. The first phase is an expedient think where they really need to get the airport built and we need to avoid litigation. I think the second phase which is almost an entire year away until town meeting takes up the issue to transfer any rights or land or anything like that. I think this will give everyone a chance to weigh in on this and make it more of a community issue. Personally, I think the agreement is so carefully crafted that we are not giving up a whole lot, because sections 1 and 6 of the Historic Preservation Act would protect most of these things anyways, so we're basically just formalizing that in the agreement. It's just to get the short term expedient issue/concern addressed.

Boutwell: Not sure I'm prepared to make a decision on it tonight, and wondering if this could be tabled until the third member of the Selectboard is back, or to call a special meeting next week?

Discussion

Fairbrother: I've read this. Our side has done a pretty good job protecting us, but one of the things is we won't develop, we won't alter; I've been told that I/we can't go out there and mow certain places, or cut certain trees because that's not allowed anymore, and that galls the hell out of me. As I've put it before, I think some of these claims are extremely questionable in validity.

Golrick: In one particular area there is concern about some tree topping and how it would be managed. Not that it couldn't be done, but it would need to be managed in a different than we've done it in the past.

Further discussion regarding project, wording of the document and waiting to vote on the document until a later date.

Fairbrother asks what the tribes have given up in the spirit of moving the project forward?

Longo: They want to preserve their culture, things that are sacred to them. They want a recognition of these things that is what they are asking. In a back door sense they are saying if you recognize them, we'll cooperate and move the project ahead.

Further discussion about the project

The Board will meet on Tuesday, September 7, 2010

*Boutwell makes the motion to adjourn the meeting at 8:55 PM. Seconded by Fairbrother, approved unanimously.
Boutwell – Aye, Fairbrother - Aye*