

**SELECTMEN'S MEETING MINUTES  
UPSTAIRS MEETING ROOM  
1 AVENUE A, TURNERS FALLS, MA  
MONDAY, May 5, 2014**

*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, Executive Assistant, Wendy Bogusz (absent)*

Meeting being Taped

**Approve Minutes of April 7, 14 and 22, 2014**

Minutes of April 7, 14 and 22, 2014 not available at this time

**Suzanne LoManto, RiverCulture**

**Use of Public Property: Parade (K St, 5<sup>th</sup> St, Avenue A, 2<sup>nd</sup> St.), 8/2/14**

*Nelson makes the motion to approve the parade request for the Turners Falls River Culture, c/o Suzanne LoManto for the annual block party on Saturday, August 2, 2014 from 3:00 to 3:30 PM with approximately 40 people and 4 vehicles; starting at the end of K Street, taking a left on Fifth Street, right onto Avenue A, a Right onto Second Street then ending at Unity Park. Insurance is covered by the Town and the Police Chief has signed off on the permit. Seconded by Boutwell, approved. Boutwell – Aye, Nelson – Aye, Fairbrother - Abstain*

**Use of Public Property: Close Alley behind 151 Third St., (River Station) 8/2/14**

*Nelson makes the motion to close the alley behind 151 Third Street, River Station for the purpose of the block party at Unity Park to the Turners Falls River Culture, c/o Suzanne LoManto on Saturday, August 2, 2014 from 2:00 PM to 8:00 PM with approximately 200 participants, Insurance is covered by the Town and the Police Chief has signed off on the permit. . Seconded by Boutwell, approved. Boutwell – Aye, Nelson – Aye, Fairbrother – Opposed.*

**Use of Public Property: Town Hall Parking lot for wave sensing radar, 5/15/14**

*Nelson makes the motion to approve the request to park a wave sensing radar on Town property in the lot located behind Town Hall to Suzanne LoManto, Turners Falls RiverCulture on May 15, 2014 for the purpose of the Third Thursday event, from 5:00 – 7:30 pm with approximately 50 people taking part in it, the police chief has signed off on it. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Nelson – Aye, Fairbrother - Aye*

**Use of Public Property: Permission to put 2 – 4 chairs on sidewalk in front of building at 104 Avenue A as part of an art installation on 5/15/14**

*Nelson makes the motion to approve the request to put up to 4 chairs on the sidewalk in front of 104 Avenue A as part of an art installation to Turners Falls RiverCulture, Suzanne LoManto on Thursday, May 15, 2014 from 5:00 – 9:00 PM with 50 people taking part in it, the Police Chief has signed off on it with a reminder not to block the sidewalk to through traffic. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Nelson – Aye, Fairbrother - Aye*

**Bruce Hunter, HRH Infrastructure Coordinator, Votes may be taken**

**Approve Authorization to Disburse No. 2, Payment Requisition #2, Unity Park Phase 2.2 Improvements Project, \$27,124.00**

*Boutwell makes the motion to approve payment of Requisition #2, Unity Park Phase 2.2 Improvements Project, in the amount of \$27,124.00 to Taylor Davis Landscaping. Seconded by Nelson, approved unanimously. Boutwell – Aye, Nelson – Aye, Fairbrother - Aye*

**Lisa Adams, Votes may be taken**

**Building Issue regarding reconstructing two barns on her property at 16 Hatchery Road**

Fairbrother: As I recall the last time we left this the major item was whose right of way we were talking about. Since then, if I'm not mistaken we've been told it's the County right of way. We can either vote tonight to allow it or disallow it, vote to approve it pending their approval; or deny it and you could go to the county and ask them to override it because it is their right of way; or we can vote to approve it contingent on their acceptance of it.

L. Adams: Since then, Walter has sent me copies of the reports from GPI that were supposed to be the second survey that was done in December 2013 for that right of way. When I looked over the information, some of it was

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incorrect and some of it validates that Hatchery Road is a 3 rod road and not a 4 rod road (rod being 16') meaning the road is 48 feet and the big barn might not be in the right of way anyway.

Abbondanzio: I spoke to the person at the Dept. of Transportation working on the Hatchery Road project and she reviewed the material submitted by Lisa and said it was not accurate and stand by their information.

Lengthy discussion about discrepancy on map and whether map is correct. Also whether road is 3 rods or 4 rods

Nelson: So the state is happy with the 17' in front of the barns and according to this they want 66 feet. What is the edge of the right of way on your house side of the road to the edge of the northern barn?

Adams: 30' one corner

Fairbrother: From the front of the barn to the other side of the right away in front of your house.

Adams: I don't know what the right of way is, because no one has verified what the actual right of way is. They are claiming its 66 feet now but that document claims its 3 rods wide.

Fairbrother: Do we agree it is a county right of way? I see a general shaking of the head yes. We are not sure actually how wide it is.

Nelson: Here is what I'm thinking; there is already buildings at that same spot plus or minus a few inches distance from the road. The state is building a new road, probably 50 years before another gets built so they won't be in a rush to do anything with that, they are happy with the road where it is now, that road is not going to be anywhere near these barns so we are not worried about the roads being in the way of said barns, nobody seems to know or care what the maps are other than for complication, so just put the barn there. If it's not going to be in anyone's way, nobody cares.

Fairbrother: This is the proposed barn, it's going to be in this same foot print as this other one. The barn that was right beside the road, you're going to move back.

L. Adams: yes, it was 4 feet from the road and we are moving it back 14' from the road, so it will actually be a little bit behind.

Abbondanzio: The attorney says that it is a license and it is revocable at any time and you should ask that the owner release and indemnify the Town from liability to be attached to the approval of the license.

#### Discussion

Jensen: The attorney at the end of his letter refers to the building code as a prohibition, not an optional thing against issuing building permits for construction in the right of way. You can allow encroachments into the right of way of 8' for banners, the only exception for the first 8' above grade is architectural features, this is the State Building Code.

Discussion about who has authority to grant permission to grant license

Fairbrother would like us to contact our lawyer again, tell them the board has voted to issue the license and allow the construction in what may be the county right of way with the provisions of a license and permission from the FRCOG. This time we need full research done to come up with any good reason why this can't be done. If what comes back, if there is any wiggle room what so ever, you are going to issue the permit.

Jensen: Are you ordering me to?

Fairbrother: Yes I am.

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Jensen: You can't do that.

Fairbrother: We don't have to reappoint you the end of June either.

Jensen: Is that a threat?

Fairbrother: No its an observation.

Jensen: I'm aware of the observation I'm just suggesting that you phrased it as a threat

Fairbrother: My observation at the last meeting was you clearly did not want this to happen, not just it's a law, at the last meeting you were clearly opposed to this. What I think has happened is you have found something to hang your hat on, and I'm curious if you do that on all building permits that come before you?

Nelson cuts the Chair off and brings them back to the situation at hand. The question is, how do we deal with two state laws that butt heads with each other and how to mitigate that? David has a point, he can't legally issue a permit that he can't give. So we need to find a way to cover David to get the permit given but also to do it the right way without David being thrown under the bus in the future by someone who might come after him for giving them an illegal permit. We need to make sure we do this properly.

Nelson makes the motion to authorize the license to use the Towns right of way to Lisa Adams, to build two barns at 16 Hatchery Road. The Barn on the Easterly portion to be built on same location as prior located with the Westerly barn being built in line with the first noted barn. This license is revocable and Ms. Adams releases and indemnifies the Town from liability and this license is pending further approval from the FRCOG and further review from Town Counsel, and any further stipulations from the FRCOG. Seconded by Boutwell.

Abbondanzio: I spoke with Mr. Lovejoy who represents us at FRCOG and he said once it goes over to them, if they decide they want to have it reviewed by their counsel, the Town would be obligated to pay Donna McNichol.

Adams: Is there a way we can have this right of way checked, because it's a mute point if the right of way is incorrect. I think there is enough information out there to conclude there is discrepancy in the right of way and how wide it is.

Nelson: I think that is what bothers me the most, is that there is such a variety in the right of way and if DOT was saying we had to have the right of way because we are going to be expanding the road x number of feet in so many years, then I would be more than inclined to say ok DOT we are on your side; but there is no clear intention that road is being built next year and it is going to last many decades. We will have flying cars before it needs to be rebuilt and is a problem anyways.

Fairbrother asks who is the decider on what the right of way is?

Jensen: There is another solution; change the right of way to put the barn out of the right of way. If you are willing to accept the notion the barn is placed where they are. You would have to petition the County to relay that. It would have to go to Town Meeting for approval.

Nelson: We would petition the FRCOG to make the official right of way 48', 50' whatever amount

Jensen: I'm just suggesting. It is your judgment that the barns don't interfere with the public's rights, than one of the solutions is change the rights of the public to reflect your thinking.

Nelson: This seems to be the most obvious thing to move forward

Further discussion about map

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*Nelson makes the motion to authorize the Town Administrator to begin the process of altering the right of way on Hatchery Road from the corner of Greenfield Road to the Corner of Turners Falls Road to change the right of way from whatever crazy number nobody knows it is, up to 50 feet. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**Chip Dodge, Police Chief, Votes may be taken  
Police Department Hiring Procedure**

Dodge: Town meeting approved us hiring a Tech School Resource Officer and I would like to have his start July 1, he won't be at the school for a while, maybe another officer will be there as this person will most likely need to go to the academy. I'm trying to make the hiring process flow a little bit easier, we can't just choose anybody; there are civil service guidelines we need to follow. This particular hire is going to be someone that is already is working for us. You still have the ultimate authority in the end.

*Nelson makes the motion to change the hiring procedure for the Police Dept. to be in line with all the other departments in Town wherein the Chief will do the vetting process and come to the Board with a candidate for potential hire. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**7<sup>th</sup> Street Parking Ban**

Dodge: We last left here with what I thought would be a good solution, the more we talked the better it sounded it was going to make everyone happy so we went with it and I paid dearly as well as Selectmen did with complaints. I'm not going to ask for no parking signs on the side streets to this, and there appears to only be two houses and the library effected by this. As police chief, I can't be nice to everyone all the time, if someone gets hurt or killed I am going to feel awful. I did not have any complaints while the parking was on the side of the church. This was in place two days and it never stopped.

C. Choleva expresses his concern about not being able to park on north side of the street. Parking on the south side makes it hard to see when pulling out of side streets. Would like the opportunity to park on his side of the street for a certain amount of time.

L. Hickman: I think parking on the North side of the street should stay in effect a bit longer, there is no easy solution.

Discussion

Dodge: I'm back here because the complaints started coming in right off the back. When it was the other way, no one was calling and complaining. I had the full intention of trying it until October, but I can't.

C. Choleva expresses his dislike with the current parking arrangements.

*Nelson makes the motion to authorize the Police Chief to meet with Frank and the Town DPW Superintendent to investigate and produce additional parking on Avenue A from 7<sup>th</sup> Street to Greenfield Savings Bank location to investigate new ways to utilize the parking there. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson – Aye*

*Nelson makes the motion to accept the Police Chief's formal request to reinstate the no parking signs along the North side of Seventh Street and allow parking the length of Seventh Street on the South Side from the Library up to*

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*L Street. There is also to be no parking here to corner sign on Seventh Street in front of Our Lady of Peace Church and before L Street and also across the intersection in front of St. Andrews on Seventh Street and before L Street. To become effective as soon as DPW can move the signs. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**Letter of Commendation, Sergeant Christopher Bonnett, Detective Brian Dobosz, Officer Kyle Whalley and Dispatcher Kyle Walker**

Dodge reads letter of commendation into the record for Sergeant Christopher Bonnett, Detective Brian Dobosz, Officer Kyle Whalley and Dispatcher Kyle Walker thanking them for the great job they did in handling the fire and solving the arson fire at 16 Hatchery Road, Montague.

**Michael Nelson, Votes may be taken**

**Registration for Assembly, Public Demonstration, or use of Public Property: Franklin County Pumpkinfest & Parade, Inc., Spring 5K Walk/Run and Spring Parade on 4/18/15**

*Boutwell makes the motion to approve the request for Franklin County Pumpkinfest, Kelsey Cadran and Michael Nelson for the 5K Road Race on April 18, 2015 from 9:00 AM to 2:00 PM, Insurance will be provided. Seconded by Fairbrother, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Abstain*

*Boutwell makes the motion to approve the request for Franklin County Pumpkinfest, Kelsey Cadran and Michael Nelson for the Spring Parade on April 18, 2015(rain date April 19, 2015) from 10:00 AM to 3:00 PM, parade route will be Crocker Avenue to Montague Street to Turnpike Road to Millers Falls Road to High Street to Crocker Avenue back to Sheffield School, 300 people estimated to participate and 30 vehicles to participate, police chief has signed off on permit and Insurance will be provided. Seconded by Fairbrother, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Abstain*

**Frank Abbondanzio, Town Administrator, Votes may be taken**

**Execute FY2012 Community Development Block Grant (CDBG) Contract Amendment**

*Boutwell makes the motion to authorize the Chairman to sign the FY2012 Community Development Block Grant (CDBG) Contract Amendment as presented. Seconded by Nelson, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**Sign letter regarding reimbursement of \$750 under the Small-Scale Initiative grant program of MassDEP's Sustainable Materials Recovery Program**

*Boutwell makes the motion that the Board authorize the Chair to sign the letter regarding reimbursement of \$750 under the Small-Scale Initiative grant program of MassDEP's Sustainable Materials Recovery Program. Seconded by Nelson, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson – Aye*

**Other**

**Request to use Peskeompskut Park - Entertainment Permit: Montague Public Libraries, 7/11/14 for puppet show**

*Nelson makes the motion to approve the application request to use Peskeompskut Park - Entertainment Permit to the Montague Public Libraries on Friday, July 11, 2014 from 8:30 AM to 12:30 PM for a puppet show, the only change to application is the first aid kit be on site during the show, event covered by Town insurance and Police Chief has signed off on the event. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*

**License to Place Directional/Informational Sign in the Public Right of Way: Melissa Winters, Connecticut River Liquor & Wines, 36 x 24 sandwich board in front of 123 Avenue A**

Boutwell abstains from this discussion

*Nelson makes the motion to approve the request to place /Informational Sign in the Public Right of Way to Melissa Winters dba Connecticut River Liquor & Wines, 123 Avenue A for a 36 x 24 sandwich board in front of store to advertise store happenings and friendly reminder not to block pedestrian traffic. Seconded by Fairbrother, approved. Fairbrother – Aye, Nelson – Aye, Boutwell – Abstain.*

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*Nelson makes the motion to adjourn the meeting at 9:00 PM. Seconded by Boutwell approved unanimously.  
Boutwell – Aye, Fairbrother – Aye, Nelson - Aye*