

**SELECTMEN'S MEETING
UPSTAIRS MEETING ROOM
1 AVENUE A, TURNERS FALLS, MA
MONDAY, April 25, 2016**

Meeting was opened at 7:00 PM in the Upstairs Meeting Room. Present were Selectpersons Chris Boutwell, Mike Nelson, and Rich Kuklewicz. Town Administrator Frank Abbondanzio and Executive Assistant Wendy Bogusz

Approve Selectmen minutes of April 11, 2016

Not available

Public Comment Period: Individuals will be limited to two (2) minutes each and the Board of Selectmen will strictly adhere to time allotted for public comment:

Ms. Golrick expresses concern regarding trucks going north on Rte. 63 taking left turn at the intersection by her house and would like it posted further down on Rte. 63 to turn left onto Lake Pleasant Road. Nelson responds that Chief Dodge has been in contact with the State and recently reminded them about the signs (paperwork was misplaced) and the state assured the Chief they would take care of this. Kuklewicz asks about making that intersection "no left turn" for all vehicles and is told a hearing is required.

Rodney Madison asks for a public apology from the Selectboard for comments that were allowed to be made about him at a previous public meeting. Michael Nelson personally and publicly offers his apology, that at the particular meeting in question, there was some conversation that went beyond the bounds of this board that was inappropriate and should not have been discussed.

Kevin Hart and Rob Steinberg, Broadband Committee, Updates

Hart: July 31, 2015 an RFQ went out by the Mass Broadband initiative for the Town of Montague's unserved areas. There were two respondents, Comcast and Matrix/Millennium Communications. MBI has not rendered a decision on that yet. On March 17, 2016 there was a conference call. Their reasoning was the executive director of mass broadband said they were going to disqualify Matrix and their reasoning was because they were a "bait and switch" operation as far as pricing, they use inferior equipment. That was immediately rebutted because an agreement from the Matrix proposal said there can't be a price increase on the proposal if it goes over CPI without the Town's approval and the equipment they use is Calyx, Corning and Cisco; the three industry leaders in the optical network equipment. That was immediately refuted and retreated back and what it resulted in was on April 12, 2016 per the order of Rep Kulik, MBI was ordered to come in and meet with The Town, Broadband Committee, any selectboard member or any town administrator that wanted to attend; allow Matrix/millennium to attend then have a discussion about why they were pushing us towards the Comcast solution. That meeting was postponed/canceled and now postponed. They said there would be a decision made by MBI on April 29 or thereafter. Since then Senator Stanley Rosenberg, Rep. Kulik and Linda Dunlavy from the Franklin Regional Council of Governments have reassured various members of the community and said there would be a sit down discussion between towns and MBI; yet they (MBI) is the only organization that has not agreed to this meeting so that brings us to where we are today and what we want to do.

Steinberg: On January 29 we filed our freedom of information request looking for MBI's operating budget, their size and the projects funded for this fiscal year to get a sense of what they are doing. We got an answer on the 22nd. Of note is about \$147,000 worth of projects this year \$45,000 for a pilot program incorporating both wireless and wired then WiredWest last mile for \$42,000 and then a bunch of \$5000 expenses. We also found out that their personnel expenses for the year were \$1.95 million just short of \$200,000 a year. Financial assistance, which isn't part of what they delineated is \$3.5 million, so basically they have spent \$3.3 million in professional fees some of which is to fund the lawsuit defense against the two providers of the middle mile to a tune of almost \$20 million. It looks like they spent \$8 million and change to get about \$140,000 last year, which is how they are operating. We also found out through the Town of Hardwick that the legislation appropriated almost \$5 million which is Representative Kulik's baby which is advised by Comcast. What we are seeing is a strong bias for Comcast over Matrix and the goal seems to be Comcast. No matter what, we do not feel as a Broadband Committee that we should except an inferior solution even though it is a pre-existing condition of the funding; it looks like it's been a done deal all along.

Hart: As a broadband committee, when we initially launched, we identified 59 houses that were unserved, that number is 205 now. Of the redacted proposal that was submitted July 31 last year the only numbers that we can believe is that 64 houses are proposed to be built by Comcast that leaves 141 houses unbuilt they gave us a map with

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highlights; that's impossible because poles do not go from point A to point B, there is a break that when you look at that map and what they say they're going to build according to the highlights there are 160 houses but it's only written and proposed to build 64. None of us know which houses of the 164 highlighted are the 64 to be built.

Steinberg: The presentation we gave back in March is still accurate. On every objective criteria we could identify Comcast is inferior; what MBI has pointed out is that Matrix hasn't done a residential broadband center but in fact nobody has. The only one that has is Crocker and they started Leverett nine months ago. So we don't believe it's in the town's best interest to acquiesce Comcast. What we are after tonight is confirmation that this battle is worth fighting; it's getting tough. We don't want to see an inferior solution we need MBI funding to make ready because Matrix is putting in close to \$700,000 in capital which will not fund a make ready, that's another \$450,000 to \$470,000. At the meeting I wrote a rather strong letter which the Broadband Committee approved we would like to get a sense if you approve us continuing the fight? We are going for an MLP at the town meeting which we hope will be approved and then the Broadband Committee will be dissolved and the MLP will take over. We know other towns are rapidly forming MLPs and going their own way, Greenfield for example.

Steinberg reads letter into the record

Kuklewicz: Supports work they have done but would need some time to review more documents. Agrees feels there is political pressure to push a singular solution whether that is correct or not. Feels it would be better to build out with fiber and not copper.

Hart: Solution by Comcast would reduce the number of houses to be built down to a level where no small company would want to come in and build out the rest of the town.

Discussion

The Board feels they should keep up the good fight

Charles Kelley feels MBI will not be funding this and we should be speaking with Leverett and doing what they are doing.

Purpose of MLP would be to procure money for unserved and then can broaden out to the whole town.

Ariel Elan, Pipeline Updates

This item will be discussed later

Town Administrators Report

Common Victualers License Application and License, The Country Creemee, 52 Avenue A, Turners Falls

Kuklewicz makes the motion to approve the Common Victualers license for the Country Creemee at 52 Avenue A, Turners Falls. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Kuklewicz – Aye, Nelson – Aye

Table and Chairs License, The Country Creemee, 52 Avenue A, Turners Falls

Kuklewicz makes the motion to approve the request from the Country Creemee for Tables and Chairs at 52 Avenue A, Turners Falls (permit 01-2016) as per sketch, insurance is provided and fee is \$40.00. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Kuklewicz – Aye, Nelson - Aye

Sign May 16, 2016 Election Warrant

Kuklewicz makes the motion to approve the May 16, 2016 Election Warrant as written and read into the minutes. Seconded by Boutwell, approved. Boutwell – Aye, Kuklewicz – Aye, Nelson - Aye

Event Application, Peskeompskut Park: Montague Public Libraries, Angela Rovatti-Leonard, , July 29, 2016, 8:30 AM – 12:30 PM for a puppet show

Kuklewicz makes the motion to approve the request by Montague Public Libraries, Angela Rovatti-Leonard to use Peskeompskut Park for a puppet show on July 29, 2016 from 8:30 AM to 12:30 PM application has been signed by the Police Chief. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Kuklewicz – Aye, Nelson - aye

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Community Development Discretionary Hearing: Shea Theater, \$1,000 (NFPA 25 and MA State Code inspections-every 5 years)

Kuklewicz makes the motion to authorize the expenditure of \$1,000 for Shea Theater renovation work as required by NFPA 25 and MA State Code inspections. Seconded by Boutwell, approved. Boutwell – Aye, Kuklewicz – Aye, Nelson - Aye

**Board of Health and Gina McNeely, Director, Board of Health Al Cummings, Chairman
Review of Noise Regulation**

Al Cummings calls the Board of Health Meeting to Order at 7:45 PM. Present: Al Cummings, Chris Boutwell, Gina McNeely. Nelson recuses himself from the Board of Health

Boutwell recuses himself from the Board of Selectmen and is acting as a Board of Health agent.

Kuklewicz: About a month ago Gina passed out a draft proposal for people to review and get back to us with comments or suggested changes.

McNeely: Received one set of regulations back with comments that it should be discussed if it goes to a Board of Health hearing. If you can audibly hear something 200' away that is a violation even without a sound meter. I agree and think it should be rewarded, if you can hear this clearly in someone's home it should be a violation.

McNeely made a map showing a 200' radius from Hubies because it is mentioned all the time.

Lynn Hubert expresses her concern as this is about Hubies and feels they are being singled out.

Kuklewicz goes over current regulation that was adopted in 2005 and goes over other nuisances or noise hazards and states how that would be handled and it gives the Board of Health some authority in enforcing those rules and gives the Police the authority to enforce them if it is a town wide ordinance. Thought it looked reasonable for areas outside of the business district.

General discussion about temporary sound and different types of noise, amplification, entertainment district, level of noise at Hubies

David Jensen wants to make sure the Board knows that Mr. Thorne is not the only one complaining about the loud music, there are several others.

S. Hubert states he is willing to put money into it and do whatever it takes to help mitigate the sound he is just not given the chance to do something about it

L. Hubert wants it to be fair between all businesses and they are compared apples to apples

M. Thorne expresses that he feels this concerns were ignored by S. Hubert

Jensen: Hubert seems unwilling to do anything about the noise and he is there to plead with the government to restore the peace

K McCarthy: Happy there is music in town and there is place to go listen to it.

McNeely: Invites anyone and everyone to do research. What I'm finding is Boston, New York, San Diego have zero tolerance for outdoor music and bars. I could be wrong, I'm only one person sitting at my desk reading these regs. City noise is city noise

Sticking by current regulations, BOH will consider updating them at a later date

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Kuklewicz: I'm looking to both boards to say do we want to continue because obviously this proposal Gina had is very comprehensive. It's been studied and for me to get anywhere I think the boards need to come back with a concrete plan then have a public hearing and say this is the plan we plan on pursuing. We could sit here all night Long tonight and have a back-and-forth amongst individuals; we are going to get nowhere. I would like to see us come up with a comprehensive regulation that is enforceable and reasonable throughout the town so when a similar situation comes up the police cannot say they have nothing to go by. That was my intent when this was brought up last summer for us to come up with something to have discussions on and to try and come up with something that addresses other issues that were just as troublesome whether they were in the downtown area or other areas were neighbors were negatively impacted

L. Hubert is told she needs to meet the current regulation as written

Boutwell makes the motion to adjourn BOH meeting at 8:41 PM. Seconded by Cummings approved. Boutwell – Aye, Cummings - Aye

Executive Session under G.L. c 30A, Section 21 (a)(3) to discuss litigation, Regarding Kinder Morgan Pipeline, Votes may be taken

Nelson declares having this executive session in open session will be detrimental to the public good

Kuklewicz makes the motion at 8:41 PM to go into Executive Session under G.L. c 30A, Section 21 (a)(3) to discuss litigation, Regarding Kinder Morgan Pipeline, Votes may be taken. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Kuklewicz – Aye, Nelson - Aye

The Board resumes back in open session at 9:12 PM.

Attorney Richard Kanoff and Ariel Elan, Pipeline Updates

Kanoff : Over last month or two Montague as a town, has sponsored witness testimony which basically said the supply path part of the Kinder Morgan Pipeline contracts is not necessary and also said the moratorium imposed on Montague and other communities is not necessary either. Essentially this expert looked at Berkshires planning for NED and with respect to the moratorium they concluded they went in the wrong direction in both of those choices. With respect to NED and after testimony was filed, and after a couple months of contested participation in the hearing process, KM last week suspended its participation in the NED project. We have all been struggling with what that means. Does it mean the pipeline is cancelled, this is game over? Does it mean Kindermorgan is looking in another direction and using this as an opportunity to go refinance, recast or recontract for this pipeline we don't know. We don't know if it's game over or they are just trying to use the time to come back with a new proposal. Because we don't know what the answer is, what we do know is we should not proceed as business as usual with these hearings that are going on, so we filed a motion to dismiss the hearing in Boston on behalf of Montague on Friday. The company came in and asked that the hearing be stayed. We are really looking to see if there is going to be a filing to cancel at FERC. If it's cancelled it is in fact, game over, if not cancelled with FERC it will continue in some way. Hoping the petitions will be withdrawn at both the state and federal level. Montague as a town, the Selectboard as a Board, their participation was very important to the effort that resulted in the suspension. One of the reasons given by KM was the difficulty it had and continues to have in getting its contracts approved at the state level and part of that difficulty is because towns like Montague have come forward and say it's not a good idea. In fact, testimony states it is a bad idea and the company never should have stated there was a moratorium and it should be reversed.

Further discussion

Nelson: During our executive session it was discussed and decided that the Board will stay the course with the pipeline.

Sign letter to Millers River Watershed Council regarding “Montague Pipeline Fund Donation Button”

Kuklewicz makes the motion to authorize the chair to sign the letter to the Millers River Watershed Council regarding its offer to create a button and allow donations to the Montague challenge to the NED agreement. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Kuklewicz – Aye, Nelson – Aye

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Sign inter-municipal agreement between Town of Montague and Northfield regarding Northfield funding of \$5,000 in support of legal fees for pipeline

Kuklewicz makes the motion to sign the inter-municipal agreement between Town of Montague and Northfield regarding Northfield funding of \$5,000 in support of legal fees for pipeline. Seconded by Boutwell approved unanimously. Boutwell – Aye, Kuklewicz – Aye, Nelson - Aye

Topics not anticipated in the 48 hour posting requirements

None

Executive Session under G.L. c. 30A §21(a)(3) to discuss strategy with respect to collective Bargaining, IBPO, TOMEA, UE, votes may be taken

Nelson declares holding executive session in open session will be detrimental to the public good.

Kuklewicz makes the motion at 9:28 PM to go into Executive Session under G.L. c. 30A §21(a)(3) to discuss strategy with respect to collective Bargaining, IBPO, TOMEA, UE, votes may be taken. Seconded by Boutwell, approved. Boutwell – Aye, Kuklewicz – Aye, Nelson - Aye

Executive Session under G.L. c. 30A §21(a)(6) to consider Colle Building lease renewal, votes may be taken

Nelson declares holding executive session in open session will be detrimental to the public good.

Kuklewicz makes the motion to go into executive session at 9:29 PM under G.L. c30A 30A §21(a)(6) to consider Colle Building lease renewal, votes may be taken. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Nelson – Aye, Kuklewicz- Aye

Boutwell makes the motion to adjourn the meeting at 10:55 PM. Seconded by Kuklewicz, approved unanimously. Kuklewicz – Aye, Boutwell – Aye, Nelson – Aye

List of Documents and Exhibits:

- No minutes
- Common Victuallers License and Application, Country Creemee
- Table & Chairs License, Country Creemee
- Letter to Millers River Watershed Council
- May 16, 2016 Election Warrant
- Event Application, Peskeompskut Park: Montague Public Libraries