

**SELECTMEN'S MEETING
MONDAY, JULY 20, 2009
UPSTAIRS MEETING ROOM**

#21-09

#21

Meeting was opened at 7:00 PM in the Upstairs Meeting Room. Present were Selectpersons Patricia Pruitt; Patricia Allen, Mark Fairbrother, Town Administrator, Frank Abbondanzio; Administrative Secretary Wendy Bogusz; Anita Fritz, Recorder; Dawn Montague, Montague Reporter;

Approve minutes of July 6, 2009

Fairbrother makes the motion to approve the minutes of July 6, 2009. Seconded by Allen, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother - Aye

Mark Canon, LaBodega, Update on Grand Opening Celebration

Thanks the BOS and BOH for waiving the fees for the Grand Opening Celebration as they raised \$100.00 for the Brickhouse.

Other

Fairbrother reads announcement of upcoming public hearing for a park in Montague City on July 22, 2009 at 7:00 PM

FRCOG updates given by P. Allen

At the quarterly meeting of the FRCOG held last week;

- FRCOG looking for answers for the Quinn Bill Questions. Rather than every town asking their lawyers, they thought they could do it in one group and get answers back to everyone.
- Lt. Governor and municipal departments will be in Greenfield Thursday from 10:30 – 12:00 at the GCC – downtown
- Apparently stimulus money is still available for shovel ready projects and they will be looking for people to resubmit some of their projects, then they will prioritize them and write them up.
- There will be a conference on Regionalism on September 3, 2009
- At the F.C. Selectmen's Association e-board meeting one town said when they present the warrant number for the school budget, it is the Selectmen's or Finance Committees number. The schools had told them they couldn't do it that way, but Kopelman & Paige told them they could. I thought this should be followed up on.

Dog Hearing, Roberto Rivera, Investigation of Vicious or Barking Dogs

7:10 PM

We have a dog hearing with Roberto Rivera who is not present at the moment. The Board is waiting for Mr. Rivera to show up.

Appt. of Council on Aging Director

Fairbrother makes the motion to appoint Roberta Potter as the Council on Aging Director for 17 hours per week, unbenefited at the rate of Grade 6 Step 1 effective July 15, 2009. Seconded by Allen, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother - Aye

Announce APR Program (Map 39, Lots 35, 47; Map 42, Lot 8 – Meadow Road)

Allen makes the motion to change the notification period from 120 days to 2 days for the APR request for Map 39, Lot 35 and 47; and Map 42, Lot 8 on Meadow Road, correct number of acres is 128 plus or minus. Seconded by Fairbrother, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother - Aye,

Request for removal of Brownfields

Abbondanzio: This is a request for a Phase I Brownfields study for Tim DeChristopher's property at 151 Third Street; which will be funded from a grant through the FRCOG.

Fairbrother makes the motion to issue a support letter for the Brownfields Phase 1 study for Tim DeChristopher at 151 Third Street, Turners Falls. Seconded by Allen, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother - Aye

Still waiting for Mr. Rivera, the Board will give him 5 more minutes

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- Calling for interested people to get on the committee that will be looking at the Regional Agreement for the Gill and Montague Schools. Send letters of interest to Wendy.

- The other committee is a 3 member committee regarding future school configurations appointed by Ray Godin, a School Committee Member or the Superintendent is required to be 1 of the 3 members.

Request to place Tables and Chairs outside at Beijing Station, 57 Avenue A

Fairbrother makes the motion to approve the request for Table and Chairs at Beijing Station, 57 Avenue A, Turners Falls pending certificate of insurance and the fee. Seconded by Allen. Allen – Aye, Pruitt – Aye, Fairbrother – Aye.

(Now 15 minutes later)

Dog Hearing, Roberto Rivera, Investigation of Vicious or Barking Dogs

Sgt. Dodge has an officer going to Mr. Rivera's house to remind him of the hearing.

Rivera did tell Sgt. Dodge he would be at the hearing tonight.

Sign August 5th Special Town Meeting Warrant

Fairbrother makes the motion to place Articles 1 – 6 on the August 5, 2009 Special Town Meeting Warrant as follows:

*ARTICLE 1. To see if the Town will vote to raise and appropriate, transfer from available funds, borrow or otherwise provide the sum of \$202,878, or any other amount, for the purpose of supplementing the appropriation made under Article 12 of the June 6, 2009 annual town meeting for Montague's share of the assessment for the yearly operation of the Gill Montague Regional School Districts. Said additional sum being necessary to fund the Gill Montague Regional School District assessment of \$7,328,077 as voted by the Gill Montague Regional School District Committee on July 7, 2009 or pass any vote or votes in relation thereto. *Seconded by Allen, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother - Aye**

*ARTICLE 2. To see if the Town of Montague will vote to accept G.L. c. 64L, Section 2(a) to impose a local meals excise, or to pass any vote or votes in relation thereto. *Seconded by Allen, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother - Aye**

*ARTICLE 3. To see if the Town of Montague will vote to accept G.L. c. 64G, Section 3A to impose a local room occupancy excise at the rate of 6 percent, or to pass any vote or votes in relation thereto. *Seconded by Allen, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother - Aye**

*ARTICLE 4. To see if the Town will vote to authorize the Board of Selectmen to use the sum of \$140,000, or any other amount, from the Sewer Enterprise Fund retained earnings for the purpose of stabilizing and/or reducing the sewer rates for the fiscal year beginning on July 1, 2009, or pass any vote or votes in relation thereto *Seconded by Allen, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother - Aye**

*ARTICLE 5. To see if the Town will vote to petition the Massachusetts General Court to adopt special legislation permitting the Town of Montague to increase its quota of Section 12 (On-Premises) all alcohol liquor licenses available to be issued under Mass. General Law Chapter 138, said license is being requested by the Montague Performing Arts Center, The Oak Room and the Fire Stones Martini bar and restaurant at 25 Sixth Street, Turners Falls, MA, or pass any vote or votes in relation thereto. *Seconded by Allen, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother - Aye**

Article 6 approved after dog hearing

Mark Stevens, Tree Warden, Tree removal on Prospect Street for bridge repairs

Stevens: I'm here to request the Board to permit a tree removal on 20 Prospect St. for the Prospect St. bridge construction without a public hearing. The Board can oversee that without going to a hearing because of bridge construction and a road widening. They started to remove some trees without my knowledge and when I talked to

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Mark Fitzgerald from the construction company, he said when they went to bid on the tree work but the people didn't pass the bid in so they had a free day so they came up and started cutting anyways. When I met with Mark, he had one tree in question and the tree was in front of 20 Prospect St on the tree belt. The reason it has to come down is because they are going to be putting metal sheathing in for the concrete retaining wall and the tree is directly in line where the sheathing is going.

Fairbrother makes the motion for the Tree Warden to oversee the taking down of said tree on 20 Prospect Street for reasons of construction of the Prospect Street bridge. Seconded by Allen approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother – Aye.

Dog Hearing (Sgt. Charles Dodge, Montague Police Dept.)

Dodge: We sent an officer to Mr. Rivera's but he wasn't home and his mother was trying to locate him. Discussion whether the hearing could/should continue.

Abbondanzio suggests starting the hearing, taking a vote and leave the hearing open and let Mr. Rivera know it will be finalized at the next meeting.

Pruitt: We are going to go ahead with this hearing and hear all the pertinent information from Sgt. Dodge and will receive comments from the public if they are so moved. The person of question is not here at the moment. The press is present as well.

Dodge: I'm here to represent the dept. and bring to the Selectmen's attention a complaint we have about 2 dogs belonging to Roberto Rivera who lives at 89 Fourth St. There are three occasions I wanted to bring to the Selectmen's attention where these dogs were vicious and not being properly contained by the owner. (Pruitt swears in Sgt. Dodge)

Allen reads letter sent to Mr. Rivera on 7/15/09 into the record.

Dodge goes over history of the three incidents with Jax and Bandit. The Police Dept. has had numerous nuisance calls on these dogs. Our biggest concerns now are that these dogs have attacked and injured people. Both dogs have actually bit someone. Dogs were registered with the Town Clerk on the day Mr. Rivera was served paper work.

Allen: It's tough because the questions we usually ask, are what have you done and what are you going to do to keep the dogs restrained, on the other hand in a rather short period of time, the dogs have inflicted injury three times and I think that is rather extreme.

Dodge: My recommendation at least, is they not have access to the general public. They have to be kept separate. It has been proven three times they will attack.

Allen: Yes, quickly and unprovoked. My own feeling is the dogs should be put down. I don't think we should make anyone responsible for having to protect themselves against dogs that have shown themselves quite capable of going after anybody and anything if they feel like it.

Pruitt asks Dodge how he feels about a muzzle:

Dodge is not an animal expert and does not offer an opinion. He does know that some kind of barrier at the minimum has to be set up. The problem I see here is Mr. Rivera has moved so often in such a short amount of time; until he establishes a permanent residency where he is going to invest that kind of money into a permanent barrier, I don't know.

Allen: If you don't own the residence, you can't put up a barrier.

Pruitt: There doesn't seem to be much likelihood of Mr. Rivera being able to keep them out of the public's way. I'm always hesitant to put an animal down that has been a pet to somebody.

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Dodge: Reading the reports, the other dog (Bandit) has also bitten people.

Allen doesn't feel Mr. Rivera will take the steps to guarantee the safety of others.

Dodge: On April 8th, Mr. Rivera actually signed an agreement with the Montague Health Dept. that he was going to get his dogs licensed and he forgot to do so. It wasn't until July 15th when I had to serve him notice that he came here and licensed them. For 2 months he defaulted on that agreement.

Fairbrother: Ultimately we have to protect the public and we have 2 dogs that are not, from a physical point of view, probably not in the best of places, being a rental situation like that, it is hard to contain them in a humane way.

7:55 PM Mr. Rivera shows up

Fairbrother: I think we need to either have them put down or can we order them out of town?

Allen: That is not fair to another town.

Pruitt: While waiting for you we got started, so we are going to go back to the beginning a little bit and introduce ourselves.

Introductions made to Mr. Rivera and Pruitt swears in Mr. Rivera

Pruitt goes over complaints about the dogs to Mr. Rivera.

Rivera is aware of 2 incidents. Dodge goes over attacks to Rivera. He is now aware of all three attacks.

Pruitt explains that Dodge feels the dogs need to be kept out of interacting with the public, because they seem to be very aggressive.

Rivera: Had planned to get a house, but plans fell through, right now he is trying to get homes for the dogs. Contacted the animal shelter but couldn't get an interview for 2 weeks and they will only take Bandit not Jax. I don't want to get rid of them, but I don't want them hurting anyone else either. I am trying to resolve the problem as quickly as I can.

Pruitt: One member of our board feels the appropriate action would be to put both dogs down and we feel they are not likely to give that behavior up. They are very excitable and very aggressive.

Rivera: I usually walk them in the park and they don't attack anyone like that when they are out in public. It seems like when they are in the fence and when they are being let out to be brought back upstairs. I would rather get them homes than put them down.

Pruitt: We feel a certain responsibility to other owners or other Towns where the dogs may end up, because we can't guarantee they are going to wake up one morning and be nice peaceful dogs.

Allen makes the motion that both dogs Jax and Bandit be put down for the following reasons: that on three separate incidents, April 4, April 8 and July 3, 2009 bit people, unprovoked including a boy on his bike riding down the middle of the street; neither dog had been licensed at the time; and when they were finally licensed it was several months after agreeing that they would be licensed and it was at the instigation of a police officer. It also seems there is an inability for the dogs to be controlled by the owner or the person who is in charge of the dogs at the moment and doesn't seem to be a capability to control the dogs the way they need to be controlled. For the safety of the citizens of the Town of Montague, the dogs should be put down. Fairbrother seconds (regretfully). Allen – Aye, Fairbrother – Aye, Pruitt – Aye

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Pruitt: This is a very difficult decision to make, we try very often to find alternative solutions when there is a problem with the dog's behavior, but in all the previous cases we've had, it has not involved someone being bitten and multiple cases of a dog biting; because of that, we go to the most extreme remedy of that. I'm sorry for that.

Allen tells Mr. Rivera about 10 day appeal process through the courts. The Town will take possession of the dogs during the appeal process.

Mr. Rivera tells the Board how sorry he is. The last thing he would want is for his dogs to hurt somebody.

Pruitt closes the hearing.

Holy Smokes, Lou and Leslie Ekus

Lou Ekus: Project is in the early stages but it would involve a small shop in Crocker building. It would be nice to sell for off premise use only, beer and wine that would go with the food we are selling there. It would be mostly cold food to bring home and heat. It would not be a restaurant. We would do some sandwiches to sell, it would be like a fine food delicatessen. We also want to hunt down local products that would go with foods we would be selling. Beer and Wine would be for take out only. We are in the very early stages. There are no specifics worked out yet.

Fairbrother makes the motion to place article 6 on the warrant as follows: ARTICLE 6. To see if the Town will vote to petition the Massachusetts General Court to adopt special legislation permitting the Town of Montague to increase its quota of Section 15 (Off Premises) beer and wine liquor licenses available to be issued under Mass. General Law Chapter 138, said license is being requested by Holy Smokes Ltd, d/b/a/ Holy Smokes Barbeque Delicatessen at the corner of Avenue A and Second Street, Turners Falls, MA or pass any vote or votes in relation thereto. Seconded by Allen, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother - Aye

Other - Abbondanzio

- Abbondanzio: There may be some Brownfield money available to remove the debris pile from the fire at the Strathmore building. This would require the Town take control or ownership of the pile for this purpose.
- Progress is being made on RR Salvage. The receiver has reached an agreement with the new owner James Bent who has already done the survey work and is preparing the asbestos removal. The actual demolition of the building is a long term project and could take up to 18 months. The unstable part of the building will be taken down along with a couple of levels, so the building will remain safe and possibly the road can be opened up at that point.
- Energy Committee is almost ready to come before the Selectboard and ask to move ahead with the investment grade audit. We are refining the things Siemens should be looking at.
- Dan is working on the Green Communities initiative and will be bringing it to the Selectboard on August 3, 3009.

Entertainment Permit

Fairbrother makes the motion to issue a one day entertainment license to Bill Holbrook of Jakes Tavern for Saturday, August 22, 2009 from 6:00 PM to 10:00 PM. At 66 Avenue A (the outside portion). Seconded by Allen, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother – Aye.

Fairbrother makes the motion to go into executive session for the purpose of Real Estate at 8:18 PM. Seconded by Allen, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother – Aye.

Fairbrother makes the motion to adjourn the meeting at 8:32 PM. Seconded by Allen, approved unanimously. Allen – Aye, Pruitt – Aye, Fairbrother - Aye