

Friday, January 16, 2009

Safety concerns at VY continue

Editor of the Reformer:

Now there is another leak at Vermont Yankee. This mess would be funny if it weren't so terribly dangerous.

The combination of government and business controlling VY, with various offices scattered over Vermont, Florida and Washington, has managed the plant in a scattered and incoherent manner, and after all these years this management has been unable to make us feel safe.

This matter of public safety should be brought entirely under the control of the people who are sworn to protect public safety -- our representatives in the state Legislature. They should study streamlining the control of the plant by taking it under eminent domain.

Petitions are being circulated for the EDoVY resolution. This is a flexible proposal to first study the feasibility of a take-over by eminent domain.

It states "... the people of Brattleboro hereby urge the state legislature to initiate a feasibility study on taking the plant by eminent domain in order to benefit the health and welfare of the people of Vermont ..."

The proposal doesn't dictate what to do with the plant. But we are sure we don't want to wait until 2012. If the state determines that the plant should be taken, of course the plant would be assessed at a negative value to include cleanup costs.

In other words, Entergy might very well owe money when the plant is transferred

to the state. And people should remember that government is by no means perfect, but it can hire experts and operate facilities as well as big business does. Getting control entirely under one roof would certainly simplify things.

The government recently took \$700 billion of public funds for private use (the bank bailout), saying it was for the public good. Now the state can do this because we say it is for our good. This is the message to send to Montpelier. Sign the petition at 145 or 143 Main St.; or 16 Washington St. any time, and contact bushindictment@gmail.com to help.

Kurt Daims,

Activists want VY decom costs reviewed

[By BOB AUDETTE](#)

~~ April 2010

 BRATTLEBORO -- What will be the true cost of decommissioning Vermont Yankee nuclear power plant in Vernon when the plant closes down, either in 2012 or in 2032?

Two activists opposed to the plant's continued operation want that question answered and have come up with a unique way to do so.

Last week they turned in a petition signed by 500 Brattleboro residents to the Town Clerk's Office that could place a resolution on the town ballot asking the state to consider taking the power plant site as an act of eminent domain.

Entergy has applied to the Nuclear Regulatory Commission to extend the operating license of Yankee for another 20 years, from 2012 to 2032. In addition to NRC approval, Entergy must also receive a certificate of public good from the Public Service Board and the approval of the Vermont Legislature.

The Eminent Domain over Vermont Yankee resolution is an opportunity for Brattleboro voters to demand the state reassess the clean-up costs of the site in Vernon, said Kurt Daims of Brattleboro and Sally Shaw of Gill, Mass.

"The real costs to the public have never been factored in," said Shaw, who wants the state to look at decommissioning from the ground up.

The Nuclear Regulatory Commission says it will cost about \$550 million to clean up the site to its standard.

But when Entergy bought the plant in 2002, it promised the state that it would clean up the site to a higher standard that would allow unlimited use of

Advertisement



the site post-shutdown.

Some experts have claimed it could cost \$1 billion or more to meet the state's standard.

Clean-up costs for Maine Yankee, in Wiscasset, Connecticut Yankee in Haddam Neck and Yankee Rowe, in Rowe, Mass., were underestimated by 50 to 100 percent, said Daims and Shaw, due to unanticipated contamination of soil and groundwater.

"The owners were allowed to pass these costs to the ratepayers," said Shaw. "If Vermont doesn't learn the lesson, the cost will fall on all of the ratepayers. It's happened over and over."

Because a "multi-billion-dollar cleanup is a threat to the public welfare," they stated in a written description of the resolution, the public good trumps the right of private property.

That's where eminent domain comes into play, said Daims.

If the state were to invoke eminent domain against Entergy, it would pay the company for the site, but only after it has assessed the true costs of cleanup against the purchase price, he said.

"Entergy might even owe money to the state at transfer," stated a written description of the resolution.

"This is a way to provide an alternate assessment of what the costs are," said Shaw.

"The state has our interests closer to heart than Entergy," said Daims. "It can assess the clean-up costs with the public interest in mind."

Both Daims and Shaw believe the voice of the general public hasn't been taken into account during the relicensing process.

"The process is broken like the plant," said Daims.

"We have been disenfranchised from the decision-making process," said Shaw, whose home is within the emergency preparedness zone surrounding the power plant.

On Tuesday night, the Brattleboro Selectboard will discuss the resolution and whether it should be placed on the ballot.

During its last regular meeting, Daims attempted to present the resolution during the public hearing portion of the meeting, but was thwarted when he was told it was inappropriate to discuss when only four of its five members were present.

Daims said the board's actions were inappropriate and improper.

"We want the Selectboard to do its lawful duty," said Daims, "and that's not to protect the plant."

Boards have ruled in the past that some resolutions are not town business but because Brattleboro has official intervenor status in the relicensing procedures, this does become town business, Daims and Shaw contended.

Their attorney believes they have an "absolute and enforceable right" to have the resolution on the ballot.

"This is 100 percent town business," said Daims.

IBrattleboro.com
~~ 14 Sept, 2010

I just talked with the EMDOVY lawyer, Paul Gillies. He says this really is a big thing for Vermont Democracy, and he is proud of his contribution. The citings in the decision reflect EXACTLY my warnings to the selectboard from the Jan 10, 2010 meeting before their illegal action. It's amazing how stubborn they are, not just undemocratic. This was exactly the case Mr. Gillies was waiting for. Interesting: I guess you cant just tell the courts that you don't like the way things are going, and you want a ruling on a certain principle. You have to wait for the right case to come along.

A statement . . . :

This is progress for Brattleboro against VY. Entergy wants relicensing and is trying everything to keep its claws in our pockets. The EMDOVY resolution asks the state legislature to study eminent domain as a way of putting our claws on them for the cleanup. Eminent domain has been used in novel ways in the last few years. We could take advantage of some surprising court rulings. But even if EMDOVY should fail at the polls, the court's decision is a victory for Vermont's unique style of democracy, which the selectboard majority disrespected when they followed Martha O'Connor's call to be "Gatekeepers of Public Sentiment." * Thanks to Mr. Gillies generous and valiant counsel, our fragile democracy is advanced.

On September 8 the District Court in Newfane ruled that the selectboard had illegally removed the EMDOVY resolution from the ballot. The controversial resolution is only a request for the state legislature to study eminent domain as a way of forcing Entergy to close VY and fully pay cleanup costs. But the board majority chose again to act as the "Gatekeepers of public sentiment" in the words of Martha O'Connor. The court's decision is not only good for Brattleboro (bad for VY), but the re-interpretation of the previous cases is exactly what EMDOVY attorney Paul Gillies wanted in order to reverse an undemocratic trend in Vermont election law. The most obvious and most timely remedy recommended by the court is to put EMDOVY on the ballot for November. Coming on the heels of their PAYT defeat, the decision should make the board less eager to interfere with citizen initiatives.

But then, what's the sense of our anti-VY stance if we keep paying for VY electricity ?? It only makes sense if we -- as a community -- STOP buying VY electric power. Jericho, Vermont is the first to stop. We should, too. It's common sense. This reduces Entergy's incentive to be in business. This can be done by Brattleboro purchasing its power through the CVPS Cow Power program. It costs 28% more, but the investing makes the price go down. It's time to get real. In March, 34 of 47 voting age people in downtown Brattleboro favored a resolution for their town to purchase only electricity from renewable sources. This new resolution addresses the concerns of many people who are afraid that the closing of VY will mean that there won't be enough power. This develops the alternative power sources, and leaves the conservation/reduction/efficiency issue for later. Let's get the plant closed and put Brattleboro on a renewable energy plan.

Like the PR man from VY said, it's not over yet. Let us not rest while Entergy mobilizes. Please gather a few signatures (Brattleboro voters) to put this Equal Output resolution on the ballot. for November. Please be in touch if you will gather signatures. I must submit them by Friday, September 24. So, let's get them to me by noon that day. Here's the resolution text:

Whereas the voters of Brattleboro have resolved that Vermont Yankee shall be closed;
Whereas many people are concerned to maintain equal output when

*Vermont Yankee is closed; and
Whereas the Central Vermont Public Service Corporation (CVPS)
maintains a program called Cow Power for developing investments in
renewable energy that can replace nuclear power;
We voters of Brattleboro resolve by this writing, to be known as the
Equal Output Resolution, that electric power purchased by the town
shall be generated from renewable sources like Cow Power, and we
recommend further that residents of Brattleboro also should consider
this choice for their homes.*

Posted by Chris Grotke \

IBrattleboro.com

~~ Sept 15, 2010

Last year, Kurt Daims began collecting signatures for an advisory petition to urge the state legislature to initiate a feasibility study on taking the Vermont Yankee nuclear plant by eminent domain. The petition got enough signatures to qualify for a Town Meeting warning, but it never made it past the Selectboard.

Daims came before the Brattleboro Selectboard during public participation on January 5 to make sure that the petition would be warned for Town Meeting in March. John Allen and Martha O'Connor told him that his petition must be put on the selectboard's agenda to be considered, and it wasn't.

Later, the selectboard took the position that they had discretion to determine whether advisory articles should be included, even if the petition was properly collected. They decided that the VY petition should not be discussed at Town Meeting.

This led to Kurt Daims, Plaintiff v. Town of Brattleboro, Defendant, a court case.

On September 8th in Newfane at Windham Superior Court, Judge John P. Wesley wrote his decision in favor of Daims: "This case turns on a purely legal question: When five percent of the voters of Brattleboro sign a petition to include in the town meeting an article to reflect public sentiment and be advisory only, does the selectboard have discretion to refuse the article in the warning? ... The Court concludes that the plain language of the Brattleboro Town Charter mandates inclusion of an advisory article which is subject of a petition signed by at least five percent of the voters."

The judge cites Article II of the Brattleboro Town Charter, and says that Subsection 2(A) (1) explicitly addresses petitions for advisory articles: "The voters of the town shall have

the power to petition for inclusion in the warning of an article to reflect public sentiment and be advisory only." Wesley goes on to say that it says the selectboard "shall place the article on the warning."

The Town put forth examples of cases in their favor from places such as Burlington, but the court said that Brattleboro's Town Charter was unique and clear on this matter: "there is no uncertain language susceptible of further construction." Brattleboro's Charter says the selectboard must warn an advisory article that has the required number of petition signatures.

What happens next? Each party has 20 days to come to an agreement regarding a remedy - the original article was intended for the March 2010 Town Meeting. One possibility may be an agreement to place it on next year's warning.

Mr. Daims says "This is progress for Brattleboro against VY. Entergy wants relicensing and is trying everything to keep its claws in our pockets. The EMDOVY resolution asks the state legislature to study eminent domain as a way of putting our claws on them for the cleanup. Eminent domain has been used in novel ways in the last few years. We could take advantage of some surprising court rulings."

He sees success for citizens of Vermont even if the article eventually gets voted down. "Even if EMDOVY should fail at the polls, the court's decision is a victory for Vermont's unique style of democracy, which the selectboard majority disrespected when they followed Martha O'Connor's call to be "Gatekeepers of Public Sentiment." (See Reformer January 29, 2009) Thanks to Mr. Gillies generous and valiant counsel, our fragile democracy is advanced. "

He is now working on a new resolution asking that electric power purchased by the town of Brattleboro shall be generated from renewable sources like Cow Power, the CVPS renewable energy program, and recommending further that residents of Brattleboro also should consider this choice for their homes. The petition deadline is September 24 for it to appear on the November ballot.

opinion letter in the Brattleboro Reformer September 21, 2010

It Doesn't Take a Genius (sic!)
(submitted as The Genius of Nuclear Power)

In his August 3 letter Mr. Fagelson complains that "geniuses" in Brattleboro are uninformed and trying to get the town to shut the plant down by eminent domain, although the plant is located in Vernon. With a stroke of genius he might properly inform himself: there are roughly 500 geniuses here who want the STATE to study the possibility of doing so (They signed a ballot petition for the EMDOVY Resolution). The letter also implores the Reformer to abandon its anti-nuclear stance for its own self-

interest. The Reformer has published many articles on the subject, and is criticized by both sides, but in consistent reading I have never seen the Reformer endorse or condemn the plant.

The issue is studied repeatedly, and both sides criticize the studies. One study, published recently in the Reformer, implied that opposition to nuclear power is based too much in fear. The genius who performed the study didn't noticed that fear of economic damage motivates the other side. Another favorable study published in the Reformer was conducted by VY itself. Like BP, the nuclear industry is in bed with its regulators, and is proficient at painting itself green. Lately VY has been publicizing the "unbiased" support of its regulators, especially the ones that attend the private parties of VY executives. It doesn't take a genius to see which studies are biased, when you have the information.

Which brings us to the question of what we don't know. Many people don't realize that nuclear power makes fuel for the nuclear weapons industry. (It's a two-headed monster.) Most people don't notice that high-level nuclear waste disposal is funded by the Energy Department, and you pay for it through your federal taxes, not through your electric bill. People pay for nuclear power in ways they don't know. Another thing people don't know is that we are paying for their "insurance". That's right. By federal law – the 1957 Price-Anderson Nuclear Industries Indemnity Act, the nuclear power industry does not have to buy insurance. No company would insure a power plant against the damage that would be done to people and neighboring regions in a nuclear accident. It doesn't take a genius to know, it's because the risks are incalculably high.

The August 3 letter also predicts the loss to the community by the elimination of 1000 jobs, though many of those jobs belong to contract workers who do not invest their salaries locally, and the author ignores the jobs that will be developed if Vermont invests in better energy sources. There will soon be many more geniuses supporting the Brattleboro Renewable Energy Resolution,

providing for the town to purchase energy only from renewable sources. Four per cent of Brattleboro households already do this through the Cow Power program of CVPS. That's a lot of geniuses in Brattleboro.

I am partly glad that the August 3 letter raises the issue in a scornful manner, because it illustrates how misinformation motivates support for nuclear power. On the other hand, there are famous, well-informed geniuses like Albert Einstein, and Robert Oppenheimer. Both of these men lived to publicly regret their contributions to nuclear power, and they opposed it before they died.

Board: VY vote will be Nov. 2

By JAIME CONE / Reformer Staff

 Wednesday September 22, 2010

BRATTLEBORO -- The controversial issue of whether the state should investigate taking Vermont Yankee nuclear power plant by eminent domain will be put to a townwide vote in Brattleboro on Nov. 2, the day of the general election.

Last January, the Selectboard voted against putting the article on the warning for the annual Town Meeting despite the fact that a petition to include it, signed by 5 percent of Brattleboro residents, was presented by Kurt Daims.

On Sept. 8, the Windham Superior Court ruled that the Selectboard did not have the authority to reject the advisory article.

"The court concludes that the plain language of the Brattleboro Town Charter mandates inclusion of an advisory article which is the subject of a petition signed by at least five percent of the voters," the Superior Court judgment states.

The court also decided that in order to remedy the mistake, the board and Daims should agree on a date when the vote would be held.

At their regular meeting Tuesday evening, the Brattleboro Selectboard voted 3-1 not to appeal the court's decision. There was no discussion of the issue during the meeting, but the board did meet earlier in the day to discuss the matter in executive session.

The board was assured that Daims was amenable to the Nov. 2 voting date.

People who have already requested absentee ballots will be mailed a separate ballot that includes the additional question,

said Richard DeGray, Selectboard chairman.

Board member Jesse Corum, who voted against the motion, said after the meeting adjourned that the board's decision concerns him.

"It has nothing to do with town affairs," he said of the question that will be put to town vote.

"We've got plenty to do, and there's other avenues to deal with these issues," he added. "Protests and letters to the editor come to mind."

He said that in the future, other people could potentially use the precedent set by the court's decision to back their right to bring more questions to a vote, regardless of how relevant those questions may be to the town.

"I don't think that's what democracy is about," he said, and pointed out that it costs the town about \$2,500 to hold a special vote.

Daims has maintained throughout the process that the issue of taking Vermont Yankee by eminent domain does concern the town and that it is the only way to determine exactly how much it will cost to decommission the plant when it shuts down.

Dora Bouboulis, the one board member who voted to include the article back in January, said she stands by her original decision because the Brattleboro Charter clearly states that questions like Daims' should be brought to a vote if the petitioners get the adequate amount of signatures.

DeGray said he would have voted to appeal the court's decision if the Brattleboro Charter was not currently under review.

"With the charter review coming up, (I thought) let it go through and take the case to the charter committee," he said, adding that he intends to go before the committee to explain the effect the current charter's specific language surrounding advisory questions has on the community.

The Brattleboro Charter Revision Commission plans to hold a public hearing at 6:30 p.m. on Sept. 28 and 29.

Jaime Cone can be reached at jccone@reformer.com or 802-254-2311, ext. 277.

Wednesday September 22, 2010

Reformer off the mark with recent editorial

Editor of the Reformer:

Has the *Reformer* turned against democracy? Does the editorial staff really believe that the Selectboard should have discretionary powers not given to them by our Town Charter?

Last Thursday's editorial -- Half-right still wrong -- addressed Vermont Superior Court's ruling that the Selectboard's rejection of Kurt Daim's petition about Vermont Yankee was incorrect and it should have been placed on last March's Town Meeting ballot. In the editorial they referenced the Selectboard's similar refusal to put a valid petition to the voters in the recent PAYT controversy.

The issue is not whether the *Reformer* or the Selectboard like or respect the petitioners; whether they are in favor PAYT or relicensing Vermont Yankee; or whether they regret the charter addressing "Powers of the People" in the form of initiatives and referendums. The issue, as spelled out in Judge Wesley's ruling, is that "Brattleboro's Charter explicitly requires that its selectboard must (present it to the voters)." Does anyone have any doubt now that if the court had ruled on the PAYT petition that the Selectboard would have been eating their second helping of crow served up by Superior Court instead of their first?

Reading such sophmoric comments in the editorial as "vitriolic attacks," "hogwash," "back room deal," "besmirching" and "bellyaching" made me wonder if the editorial was written by one of the Selectboard member's over-protective mother.

The *Reformer* seems to be exhibiting schizophrenic tendencies on this issue. Looking back, on April 3, 2010 Mom must have been away as the *Reformer* supported the charter and democracy on the PAYT issue when they wrote, " ... as we have seen ... over the last couple of years, three Selectboard members can thwart the will of a majority of voters. ... (the issue) is about whether the voters of this town have the right to challenge a decision made by the Selectboard and by Town Meeting Representatives, as called for under the Town Charter. (The Selectboard) should approve the petition and let the people decide."

I find it interesting that the *Reformer* is "consternated" that some citizens in our community are upset with the Selectboard's denial of these two petitions. I feel that everybody should be upset by the Selectboard's actions. If anybody for any purpose circulates a petition allowed by the charter, however far afield from the Selectboard members' personal politics, and gets the requisite number of signatures the Selectboard does not have the option of putting the question to the voters -- they must, say the charter and Superior Court.

Democracy in Brattleboro would be better served by Selectboard members who accept petitions, not Selectboard members who reject them.

Moss Kahler,

Brattleboro, Sept. 18

VY eminent domain measure gets nod

By JAIME CONE / Reformer Staff



Kurt Daims stands outside the Brattleboro Union High School, Tuesday morning. (Zachary P. Stephens/Reformer)

Wednesday November 3, 2010

BRATTLEBORO -- At the polls Tuesday, Brattleboro residents voted 2,387 to 1,826 in favor of the state Legislature investigating the feasibility of taking Vermont Yankee Nuclear Power Plant by eminent domain.

Kurt Daims, who drafted the petition necessary to add the advisory question to the ballot, said he's hopeful the Legislature will be receptive to the idea of conducting a study. Just looking into the issue would cause the state to do its own assessment of what it would cost to decommission the plant, he said.

"Our delegation should receive official letters saying that the majority of Brattleboro voters say, 'Take the gloves off and find every possible way to fight (Entergy), that predatory corporation,'" said Daims. "They will hopefully advocate in the Legislature to begin the process of eminent domain."

Daims began the process of getting the advisory question on the ballot when he gathered the signatures of more than 5 percent of Brattleboro's legal voters. But when he brought the petition to the Selectboard in January, the board voted 4-1 against accepting the petition, saying that the question was not germane to the town.

Daims fought the decision, and in September the Windham Superior Court ruled in favor of Daims, saying that the question must be brought to the townspeople.

Daims said he takes the results as a sign that most people are against relicensing Vermont Yankee in 2012, but Brattleboro

Selectboard Chairman Richard DeGray said he's not so sure the vote is an accurate reflection of public opinion.

"Annette Cappy (Brattleboro town clerk) said quite a few votes hadn't been cast on that question, which speaks volumes to me that people just didn't believe that the issue was germane to Brattleboro," DeGray said.

The final results show that of the 4,353 Brattleboro residents who cast a vote for governor, 140 chose not to weigh in on the Vermont Yankee issue.

"People are struggling and having a difficult time," DeGray added. "There's unemployment, and we're coming into a difficult next several months with heating bills facing us ... I think there's more important issues that people should be focusing their energies on than the symbolic question or whether the state takes Vermont Yankee by eminent domain."

At the Brattleboro Union High School Tuesday afternoon, Peter Van der Does of Brattleboro stood on the curb holding a sign that read, "Yes eminent domain, V-Y pay full clean-up." He said his number-one concern was the safety of the plant.

"It's a last ditch effort, if all else fails," Van der Does said of taking the plant by eminent domain.

It's not yet at the point where there are no other options for closing Vermont Yankee, but if the power plant is relicensed in 2012 then further steps should be taken, he said.

"If there's still a major problem with it (down the road), then it will be high time the town take it over, have them shut down, clean it up and get out of here," Van der Does said.

Voters leaving the polls had mixed reactions to the added question.

Several said they weren't aware that it was added to the ballot until just a couple days ago. One voter in the category DeGray described said she skipped the question and left both the "yes" and "no" boxes unchecked.

"I really didn't know that much about it, so I put it aside," said Barb Southworth of Brattleboro. "Then when I came back to it I thought, 'I'll just pass,' and I didn't vote."

"I voted for it," said Ronny Johnson of Brattleboro. "I don't think there's anything wrong with investigating it ... it's a good idea to find out more about it."

Rick Shuman of Brattleboro works for Vermont Yankee and said that taking the power plant by eminent domain is a "silly idea."

"It would cost millions," he said. "It would be fiscally irresponsible."

"Regardless of whether I work there or not, I feel that the state has other things to worry about," Shuman added. "The plant can take care of itself ... we have more pressing issues, like education and health care, in that order."

Other voters, like Carol Jaenson of Guilford, felt torn.

"I have friends who work for Vermont Yankee," she said.

After weighing the pros and cons, Jaenson said she planned to vote yes on the initiative later that day in her home town. At the time, she was standing outside the Brattleboro polls selling baked goods to raise money for a student trip to Switzerland.

"If the decision was made to close Vermont Yankee, it would have a huge economic impact on those families who rely on it for their livelihood," she said.

But, she added, ultimately she approves of closing the plant because she believes it's too dangerous to keep it open beyond 2012.

Daims said that regardless of the ultimate results, he's glad he was involved in the process and thrilled with the work of his lawyer, Paul Gillies, of Montpelier.

"Mr. Gillies really advanced democracy," he said.

"That core decision that he got (from the Superior Court), working pro bono, is groundbreaking," he added. "I'm glad to have been part of it."
