

**HUDSON, NH BOARD OF SELECTMEN  
Minutes of the September 28, 2004 Meeting**

1. **CALL TO ORDER** Chairman William P. Cole at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE** was led by Selectman Rick Maddox.
3. **ATTENDANCE**

**Proclamation in recognition of Fire Prevention Week**

Chairman Cole read a proclamation in recognition of Fire Prevention Week, October 3–9 that was presented to Fire Prevention Officer Steve Dube. This year's theme is, "It's Fire Prevention Week; test your smoke alarms." FPO Dube presented Fire Prevention Week T-shirts to the Board members and Town Administrator.

**Proclamation to Support the Troops by Voting on Election Day, November 2, 2004**

Chairman Cole read a proclamation, encouraging residents to "support the troops" in the mid-East by exercising the right to vote, a privilege that Hudson's sons and daughters have fought and died to preserve, and are continuing to do. They are defending Freedom, so the least the residents can do is go to the polls and vote. This proclamation was a result of an initiative by Town Moderator Michael Keenan, who said this was an effort to increase participation at the polls. Given the current state of world affairs, he wanted to make sure Hudson's sons and daughters were supported and not forgotten. People can show they care by voting. The School Department's lower grades will be involved with a letter-writing project. Collections will also be made and sent to the Hudson servicemen and women. Selectman Maddox asked if there were collection points to drop things off. Mr. Keenan said there will be an area for that in the voting hall. As part of Alvirne Pride Week, they plan to make collections for the troops, as well. This will be a broad-based community effort, something he believes his community is up to and something the residents can all be proud of.

4. **PUBLIC INPUT** -- There was no response when Chairman Cole asked if anyone in the audience wished to address the Board.
5. **NOMINATIONS AND APPOINTMENTS**

**A. Hudson Community Access Television Committee**-- Appointment of Selectmen's Representative.

Chairman Cole said openings for this committee and the Water Utility Committee will be on next agenda.

*Motion by Selectman Stewart, seconded by Selectman Maddox, to appoint Selectman Kathleen MacLean as the Board of Selectmen representative/member, carried unanimously.*

**B. Cemetery Trustee** (1 Member, term to expire 2006.)

**Robert Haefner, 1 St. John Street** has been in Town for 28 years, has a Master's Degree and has been working for a Fortune 500 company for 35 years. This position has been vacant for awhile and he thinks it is important to fill, especially in recognition of the families of the people who are buried in the cemeteries. He hoped that some day, after he is gone and probably buried in a Hudson cemetery, someone cares enough to want to be a Cemetery Trustee, too. Selectman Maddox asked if he has ever attended a meeting, to which Mr. Haefner said no, he hadn't. Chairman Cole said anyone who can handle the Budget Committee for several years can handle being a Cemetery Trustee. The question was asked if the Trustees meet during the day. They generally meet in the evenings, on an as-need basis.

**Robert Kostecki, 32 Scottsdale Drive in Highland Woods** said he has lived there about six years. He works for a Fortune 500 company, also, and he'd like to learn more about the Town in which he lives by becoming involved, since he is an empty-nester now and has more time. When he filled out the application, he didn't indicate where he wanted to serve; it's wherever the Board thinks his skills could best be utilized. He is very dedicated when he commits to something. He has management and questioning skills, working in various industries for 30 years. In response to Selectman Maddox, he has not attended of the meetings for which he has applied. Referring to the application, Selectman Maddox asked about Mr. Kostecki's mediation work. Mr. Kosticki said he worked for an insurance company and at one of the companies, he established the mediation program and by the end of the year, he had 2,000 going. He is an advocate of it and ended up teaching it and promoting it. In Maryland, he was a volunteer mediator for the County. They took the small claims that were clogging up the court system and were resolved by using volunteer mediators. He currently is a volunteer mediator for the Nashua Public Health Department, doing family-type mediation. Selectman Maddox thought Mr. Kostecki would be an excellent candidate for the ZBA, where they have to look at both sides of an issue. Mr. Kostecki said he'd consider that if that would be helpful to the Town. Chairman Cole said Mr. Kostecki was listed under several different committees and asked if he'd consider having his name removed as a candidate for Cemetery Trustee and keep his name on for SWSCOM and NRPC. Mr. Kostecki said that would be fine. Chairman Cole said the NRPC is an organization that deals with regional issues. The Solid Waste Study Committee, however, isn't active. Selectman Massey thought that group should be dissolved and reconstituted. It was originally formed to help decide what to do upon the closure of the West Road landfill. This committee has not met since that time because the contracts are managed through the Highway Department, but there are issues relative to long-term solid waste disposal that should be addressed. It might be

worthwhile to look at the function of the committee.

Motion by Selectman Stewart, seconded by Selectman Maddox, to appoint Robert Haefner as a Cemetery Trustee, with a term to expire in 2006, carried unanimously.

C. **Nashua Regional Planning Commission** (2 Alternates, terms to expire Dec 31, 2006 & 2007)

**Robert Kostecki, 32 Scottsdale Drive**

Motion by Selectman Massey, seconded by Selectman MacLean to appoint Robert Kostecki to the NRPC for a term to expire 12/31/07, carried unanimously.

D. **Solid Waste Study Committee** (1 Member, term to expire December 31, 2005)

**Robert Kostecki, 32 Scottsdale Drive**

James Vayo, 172 Bush Hill Road -- Chairman Cole said Mr. Vayo was not present at the Board's last meeting, either. The numbers on his application are either no longer in service or don't ring through to his residence.

Motion by Selectman Massey, seconded by Selectman Stewart, to appoint Robert Kostecki to the SWSCOM, term to expire 12/31/05, carried 4-1. Selectman Maddox was opposed.

E. **Zoning Board of Adjustment** (2 Alternates, terms to expire December 31, 2005 and 2006)

**Deanna Fitzpatrick, 20 B Chandler Court** (Interviewed September 13, 2004)

**Dave Buhlman, 11 Bond Street** (Interviewed September 13, 2004)

James Vayo, 172 Bush Hill Road cannot be reached and was not present at this meeting or the last one.

Robert Kostecki, 32 Scottsdale Drive withdrew his name from this board.

Motion by Selectman Stewart, seconded by Selectmen Maddox and Massey, to appoint David Buhlman as an alternate to the ZBA, with a term to expire 12/31/06, carried unanimously.

Motion by Selectman Massey, seconded by Selectman MacLean, to appoint Deanna Fitzpatrick as an alternate to the ZBA, term to expire 12/31/05.

Selectman Maddox didn't think this was a good idea because the woman, although very well qualified, had a very young child. Asking anyone to bring their child to a meeting from 7:00 p.m. to midnight is unfair to all parties. No one would want a juror to carry in their one-year old. It might not be politically sensitive, but they should look at what the board does. The distraction of a young child at the table would be disruptive. The applicant said she was unable to do anything but bring the child to the meetings, and he didn't want to have to deal with this downstream. He thought a viable alternative would be to appoint her to the second opening on the NRPC, which would get her involved in the process without putting a strain on the ZBA, on her and on her child at all hours of the night. Selectman MacLean asked if they could put this applicant in the NRPC position without her consent. Chairman Cole said probably, but since she hasn't requested to be on that committee, it would be presumptuous of the Board to do so. Selectman MacLean said the applicant seems wonderfully qualified. Selectman Massey said Selectman Maddox raises a good idea, but it would be presumptuous of the Board to think the applicant could not do the job. There are procedures for removing someone from office if they cannot fulfill the duties of a position. If this individual truly wants to do the job, he believes she would do the right thing. If not, there are ways to rectify it, but at the front end, they should not presume what may or may not happen. Hopefully, she will see that the only way for this to work is for her to make other arrangements for child care, but the Board should not take that position at this point. Selectman Stewart said she supported Selectman Maddox because this is not the place for a baby. Considering the players that go to the ZBA or to the Planning Board, it could open the Town up to a lawsuit if an attorney felt their client did not get a fair hearing because of the disruption of a baby. She commended the applicant for wanting to serve but, at this time, she just couldn't see it. Unfortunately, and along with the other boards, the ZBA has a very important job and having a seven-month old, or a 10-year old, sitting there at 10:00 at night, when business needs to be conducted, it's not fair because some applicants are paying an attorney and/or an engineer to hear their case and to have the Chairman of the ZBA come back to the Board of Selectmen, or call for a recess every half hour, is not fair. Selectman MacLean asked for the Chairman's point of view. Chairman Cole said he supported the nomination because Mrs. Fitzpatrick strikes him as a highly-qualified, intelligent individual and she will undoubtedly immediately size up the situation and will decide if she thinks it is untenable, or has to make other arrangements. They are not telling this applicant to bring the baby with her. She may have already made child care arrangements. It's presumptuous of the Board to make assumptions. What he does know is that she is a qualified Hudson resident who wants to serve the Town.

(Start Tape 1-B)

Selectman Maddox said she told the Board that she was going to bring the child to the meetings. At best, her husband got out of work at 10:30 and he might be picking up the child. Chairman Cole said that was two weeks ago; he doesn't know what is going on in the Fitzpatrick family today. Two weeks ago, she probably had no idea what was involved. Possibly, she has done some homework. If she's watching TV tonight, she's getting a better flavor and she did strike him as highly intelligent who would adjust accordingly to the betterment of the Town and her family, as she sees fit. He didn't think her intention was to cause a disruption to Town government. She is a new resident who wants to learn and do something for the Town. As for him, he is going to give her a shot with his vote. He asked the Recorder to call the roll.

Motion carried 3-2. In favor were Selectmen Cole, Massey and MacLean. Selectmen Maddox and Stewart were opposed.

**6. CONSENT ITEMS**

Chairman Cole asked if anyone wished to remove any item for separate consideration. Selectman MacLean removed 6-B-2.

Motion by Selectman MacLean, seconded by Selectman Maddox, to receive the consent items, A, B-1, C, D & E, as noted or appropriate, carried unanimously.

**A. Assessing Items**

Veteran's Tax Credit, 18A Quail Run, w/recommendation to grant.

**B. Sewer/Water Utility Items**

1) S-05-01 (S-UTL-05-01, 25 Winnhaven Dr; S-UTL-05-03, 34 Cedar St; S-UTL-05-04, 7 Bradford Cir)  
w/recommendation by Sewer Utility Committee to grant.

2) **S-05-01A & 01B (S-UTL-05-02, 511 Elmwood Dr; ENF-05-01 30 Glen Dr) w/recommendation by Sewer Utility Committee to deny.**

Selectman MacLean said she was being charged for the amount she used. However, because the meter was mixed up with someone else, which was not her fault, she thought it was only fair for the Town to split the bill with her.

Motion by Selectman MacLean, seconded by Selectman Maddox, to approve the abatement.

Selectman Massey said he was the liaison to this committee and he sat in on this discussion. The bill is for the period of time from December 2000 through 2001. The original request for abatement was in 2002, at which time the applicant was asked to produce some sort of hardship, but that information never came forward. The Sewer Utility Committee found that the charge was, in fact, legitimate. There were 11 bills prior to the December bill that this individual had access to. The committee felt that a hardship abatement wasn't valid because the individual was able to hire an attorney to contest a \$427.39 bill. The recommendation in 2002 was to not approve the abatement, and no additional information was provided to cause them to change their recommendation. Therefore, the committee's unanimous decision was to deny. Selectman MacLean said she had paid her bills in good faith when she received them. She wasn't trying to rip anyone off. She was being told that "somebody" goofed up and now she owed more money. The woman's decision to hire an attorney should not be a consideration.

Vote: Motion failed 1-4. Selectman MacLean voted in favor.

**C. Licenses and Permits**

- 1) Block Party permit request by Michael Girouard for Richman Road on Oct 16, 2004, 9 am - 9 pm to approve
- 2) Raffle Permit by Wattannick Grange at Harvest Fest on October 9 to approve

**D. Acceptance of Minutes**

Board of Selectmen Minutes of September 13, 2004 Accepted, as presented, and referred to file.

**E. Committee Announcements**

Oct 3 – 9 Fire Prevention Week

Oct 4 5:00 Dedication of the Leonard A. Smith Central Fire Station

Oct 5 5:30 School Board in BOS Meeting Room

Oct 6 9 am, Highway Safety Cmt in CD Meeting Rm

Oct 6 5:30 School Board in BOS Meeting Room

Oct 6 7:00 Planning Workshop in CD Meeting Rm

Oct 7 6:30 School Board in BOS Meeting Room

Oct 9 Hudson Fire Department Open House

Oct 9 Harvest Fest @ Hills House on Derry Rd, 10-4

Oct 11 Columbus Day Holiday—Town Hall Closed

Oct 12 7:00 Board of Selectmen in BOS Meeting Rm

Oct 13 6:30 Benson's Committee in BOS Mtg Rm

Oct 13 7:00 Planning Board Meeting in CD Mtg Rm

Oct 13 7:00 Law Lecture Series @ PSNH in Manch

Oct 14 6:30 Recreation Committee @ Rec Center

Oct 14 6:30 School Board in BOS Meeting Room

Oct 14 7:00 Sewer Utility Committee in CD Office

Oct 14 7:30 ZBA in CD Meeting Room

Oct 16 5:30 HFD's Awards Dinner @ Am Legion

Oct 18 5:30 School Board in BOS Meeting Room

Oct 18 7:30 Conservation Commission in CD Meeting Room

Oct 20 6:00 Library Trustees @ Ferry Street Annex

Oct 20 7:00 Law Lecture Series @ PSNH in Manchester

Oct 20 7:00 BOS Budget Deliberations in BOS Meeting Room

Oct 21 5:00 School Board in BOS Meeting Room

Oct 21 7:30 Budget Committee in BOS Meeting Room

Oct 22 7:00 BOS Budget Deliberations in BOS Meeting Room

Oct 23 9 am, School Board in BOS Meeting Room

Oct 23 9 am – 2 pm Benson's Clean-up Day

Oct 26 7:00 Board of Selectmen in BOS Meeting Room  
 Oct 27 7:00 Planning Board in CD Meeting Room  
 Oct 27 7:00 Law Lecture Series @ PSNH in Manchester  
 Oct 28 7:30 ZBA in CD Meeting Room  
 Oct 29 CHIPS Fright Night @ Lions Hall  
 Oct 31 6:00 – 8:00 p.m. Trick or Treat in Hudson

7. **OLD BUSINESS**

A. **Petition for Layout of a Highway (Webster Street)**

Chairman Cole said the Board held a public hearing on this on September 21 at Lions Hall, with up to 60 people. About 30 residents spoke against the proposal and a couple spoke in favor. From the speakers that night, the majority was overwhelmingly opposed. At this point, they have three possible actions: accept the petition, which would involve filing official documentation that would be reviewed by the State and by the Federal Highway Department because of the federal funds involved in the bridge construction; the second option is to deny the petition, which would effectively terminate that particular activity; and the third option is to conduct further study and assessment as they work their way towards a decision.

*Motion by Selectman Stewart, seconded by Selectman Maddox, for a traffic study by NRPC, for the 102/Webster Street issue.* (Subsequently withdrawn.) Selectman Massey asked where the funds would come from. Selectman Stewart said she hasn't got that far yet. At the public hearing, there were good arguments before and against opening Webster Street. In order for them to go forward to the Executive Council, County Commissioners, Congressmen and Governor, they need to have a study to back up what needs to be done, and the related figures. Without a study, they will just be asked why it is needed. Another bridge across the Merrimack is needed, and the study will tell them the best location. They need to work with Nashua with the signal lights issue. Relative to funding, she hasn't had a chance to talk with the Town Administrator, but it needs to be addressed. Selectman Maddox agreed with Selectman Stewart. He was on Webster Street on Monday morning and there is a great deal of traffic that goes by the Exxon Station. This is a simplistic solution for a very complex problem. They need to look at the entire traffic situation. He asked the maker of the motion to direct this through the Town Planner, who could then utilize NRPC, who has more information. He didn't see a lot of speeding cars going down Webster Street when he was there. He did, however see people going around the Do Not Enter sign and he saw a tremendous amount of traffic going over the bridge. This is a regional issue, so he thinks they should move forward with a study so they will have hard data that would be able to support a more intensified solution. Selectman MacLean supported doing a study for all of the reasons mentioned, but she would like to first put the Webster Street thing the rest by denying the petition. Chairman Cole asked if she was making an amendment. Selectman MacLean said the motion was to go ahead with the study to find some solution, but not necessarily open up Webster Street, as the solution. Selectman Stewart said the study may come back saying opening up Webster Street is the way to go. Chairman Cole said they could get another petition and start from scratch. He asked if Selectman Stewart's motion included acceptance of the petition. Selectman Stewart said no; it was just to do a study. Chairman Cole said the motion on the table could be amended to include denial of the Road Agent's petition.

*Amendment by Selectman MacLean, seconded by Selectman Massey, to deny the petition, but go ahead with the study.*

Selectman Maddox said that was putting the cart before the horse. The study needs to be done to see if Webster Street needs to be part of the mix. It may be any number of things. A lot of people were coming down Grand Ave, trying to get around. They need to take a look at the study before they reject all of Kevin's work. It would be counterproductive to deny the petition at this point. They should see what the study says, and then make a decision. Selectman MacLean said the work that Kevin has done, and the public hearing, have led her to her decision to deny the petition. That was the purpose for all of that; to get a feel for the will of the people. Chairman Cole didn't think Selectman Stewart was talking about a study looking just at a Webster Street alteration, but a study that takes in the area to include Alternative #3 of the NRPC study, a bridge across the Merrimack, linking up with 111. Selectman Stewart said the Chairman was correct. Chairman Cole allowed the amendment. He then asked Selectman Massey to explain his handout, which he had distributed.

Selectman Massey said there was a red line from the center of the cul-de-sac to the end of the pavement of the Exxon gas station which indicated 400' which is the minimum required sight distance for Planning Board approval of a site plan. At the 270'-280' mark, the little triangular piece that touches Webster Street, is private property. Standing at the center of the cul-de-sac on Webster Street, looking up Webster Street to the left, there is a tremendous blind spot at that point. The only way to alleviate is to go on to private property and remove several large trees and probably other work. That is one of the reasons why it is ill-advised at this point to consider opening up Webster Street. Secondly, there are some clever people in Hudson and in the surrounding towns because at night, they come down Ferry Street, take a right on Campbell Street, take a left on Chase Street, left on Ferry Street then zip down Webster Street. They would end up with unintended consequences if they open up the road. There is room for only one car at the flat point of the hill and everything from the cul-de-sac down is on an incline. Given the blind spot and the fact the turn-out on to Webster Street would be very difficult. If someone missed one gap in the traffic, they would end up with road rage to the extreme. In looking at all of the facts, and in view of the fact that this is a regional problem,

he would not support opening up Webster Street and, therefore, he was in favor of the amendment.

Selectman Maddox agreed that it would be difficult for traffic exiting Webster Street, so part of the study would be proposed signalization at that intersection. A number of things would need to be done to coordinate with the existing traffic signals. If they kill this now, they would have to start all over again. The amendment is premature; they should look at the project as a whole. Also, a number of people said they wanted to get involved. If this goes away, they will, too. A good, hardworking group is needed to try to get that bridge across the Merrimack. They need to look at all of their options and Webster Street needs to be in the mix. Chairman Cole was in favor of the amendment. The involvement that he would like to see, if the study goes forward, is by the State Representatives and the Town's Executive Councillor—people he sees only during election time. These are the people who need to be involved. Only so much can be done at the Town level, especially when you are talking about Litchfield and Merrimack and crossing the river. It goes beyond the Board of Selectmen's "charter." If they do go forward with a study, he hopes it will contain a caveat about some legislative support. This year, 26 of them are running for 13 seats. That's the involvement he'd like to see, in addition to citizen participation. As a State rep said before, this is a solution to problem that he didn't think could be solved this way. The unintended consequences that Selectman Massey referred to are looming out there. It involves a lot more than just opening a road. They can study the lights in Nashua to death, but the solution is another bridge to link up with 111.

Vote: Amendment carried 3-2. Selectmen Maddox and Stewart voted in opposition.

Chairman Cole clarified that the amendment was to deny the Road Agent's petition of August 3 to the main motion to conduct a study. Selectman Massey said under normal circumstances, this would be a good idea, but if they think a traffic study will do anything but reiterate what everybody in the southern region knows, that the solution to the traffic congestion on 3-A, 102 and 111 is a bridge across the river. They also know that there is no money in the 10-year highway plan to do a bridge. Part of the reason why there is no money is because none of the communities have worked together on a regional basis to come up with a single, unified position that they can take to the State. He seconded the comments that Commissioner Charbonneau made the night of the public hearing—it's time for their Executive Councillor, State Senator, 13 State Representatives, the Board of Selectmen from Hudson, Litchfield and Londonderry and Nashua Board of Aldermen to present a united front to the NH DOT to get this on to the 10-Year Highway Plan to get the linkage effected.

(Start Tape 2-A)

Selectman Maddox said he would vote in opposition to the amended motion. The amendment gutted the ability of Hudson to do anything about extending Webster Street. He agreed that the study was gone, anyway, so there is no purpose in expending money to do nothing. Selectman MacLean said she, too, would vote against the amended motion. Chairman Cole asked Selectman Stewart if she wanted to flesh out the motion with regard to the money and where it might come from. Selectman Stewart said this Board is going to be a don-nothing Board because, basically, they have just thrown up their hands, unless Selectman Massey is ready for form a committee and Chair it right now. Selectman Massey said he would, if that's what it takes. Selectman Stewart also suggested that the calls the Road Agent will be getting will be forwarded to Selectman Massey. Without a study with hard numbers, the Executive Council or State Senator won't even listen to them. They'd be wasting their time, as well as the people who came out on this issue.

Chairman Cole asked if Selectman Stewart would consider withdrawing her motion and come back at another meeting, with a motion for a study, more details, funding sources and all applicable parameters. Motion by Selectman Stewart to defer this. Chairman Cole said it would be cleaner to withdraw the motion and put it on the October 26<sup>th</sup> agenda. Selectman Stewart asked for a "pretty please." Chairman Cole said they are now down to accepting or denying the Road Agent's petition. Selectman Massey asked if the item off the table was the study. Chairman Cole said it was.

Motion by Selectman MacLean, seconded by Selectman Massey, to deny the Road Agent's petition of 3 August to alter the layout of a highway, i.e., Webster Street.

Selectman Maddox didn't understand why they don't wait until they see what the study says. It may come back saying that it is relatively easy to do. Who knows? At this point it is premature to kill all the work they've done. It may make some people on Webster Street happy, but it would make people on 102 unhappy. To take it off the table until they find out what's better or worse makes them go back through the whole process again. He questioned the logic of taking away what they started to look at. Selectman MacLean said all of the work that was done was so the Board could make an informed decision. This vote isn't killing the work, it's saying thank you for all the work for bringing us to this conclusion. Selectman Massey asked if they wanted to bring this back to the table again, they'd have to have a petition and two public hearings. Chairman Cole said that was his understanding. Selectman Massey asked if this was left on the table, as Selectman Maddox suggests, what the implications were. Chairman Cole said there would be a great many people left out there, wandering around, wondering what was going to happen—those for and those against. The petition would just be sitting there, which he would find to be somewhat irresponsible on the Board's part, given where they are today. Selectman Massey said given the study, depending on what Selectman Stewart comes back with, it would probably be worthwhile to take it off the table now and if the study goes forward were to actually find that

Webster Street was a viable alternative, they would still have to hold public hearings for the people to look at the new data. He didn't think there would be any serious long-term harm if they take it off the table today. At least, for the time being, the people won't be wondering what was going to happen.

Vote: Motion to deny the petition for alteration of a highway (Webster St.) carried 4-1. Selectman Maddox was opposed.

Motion by Selectman Stewart, seconded by Selectman MacLean, for a 5-minute recess at 8:00 p.m. carried unanimously.

**B. Ball Field (adjacent to Stop & Shop)**

Chairman Cole said a number of things have transpired since the Board's last meeting, so he wanted to update everyone. On September 13, the Board accepted off-site improvements to Lowell & Wason Roads as substantially complete and operational. This was just one of the items on the punch list prior to a CO being issued to Stop & Shop. On September 15, the Town received a letter from NH DOT Commissioner Murray, approving the Town's request to use circumferential land adjacent to the Stop & Shop facility for the construction of an athletic field. Around September 16<sup>th</sup>, following a review by the Town Attorney, the Town informed Atty. Hollis, who is representing the developer, Manny and Kathleen Sousa and Hudson Wason Road Associates, that the Town intended to execute Article 1, §12 of the Site Plan Development Agreement, dated July 30, 2003. Basically, §12 says that if permission is received from the State to use circumferential land, the developer would have two years from the date of issuance of the CO to construct an athletic field, parking area and driveway, to the Town's satisfaction. Also, at this time, the Town returned the developer's \$25,000--§12's "default" alternative. In addition, Atty. Hollis was informed that the Town would require a performance bond in the amount of \$200K or other mutually agreeable amount in support of §12 completion, prior to issuance of a Certificate of Occupancy. On or about the 23<sup>rd</sup> of September, the Town received a proposed Letter Agreement from Atty. Hollis offering terms relative to §12 and, ultimately, the CO. Of special note, Atty. Hollis' letter offered a performance bond of \$68,330. On or about September 24<sup>th</sup>, Town Atty. Steve Buckley responded that subject to removal of one stipulation and agreement on amount of the performance bond, and if/when all remaining punch list items had been successfully addressed, the letter of agreement from Atty. Hollis would be acceptable to the Town and would be signed by Sean Sullivan, Director of Department of Community Development. With regard to coming up with an agreeable amount for a performance bond, the Town's engineering consultant (CLD) are currently analyzing the requirements and costs associated with the construction of an athletic field, as recommended by the Director of the Recreation department. That brings them full circle to this evening and the memo from David Yates, Rec Director.

Motion by Selectman Stewart, seconded by Selectman MacLean, that the request to the developer be for the construction of a soccer field carried unanimously.

Chairman Cole said it's anticipated that CLD will have a cost estimate soon for the construction of the soccer field, the driveway and the parking area. Hopefully, the Town will be able to come up with a mutually agreeable number with the developers, and move forward.

**C. Amending Duties and Responsibilities Section of the Hudson Community Access Committee**

Selectman Massey said given this is a new function, he and Selectman Maddox met and reviewed the document the Board passed at their last meeting and suggested changes to clarify the committee's duties were. Those changes were to add #5, that would ensure that if a Hudson cable customer has a problem with a cable provider, they would first contact the cable committee and only when it became necessary for it to be escalated to the Board of Selectmen would the Board be involved. Secondly, that they be the explicit preliminary interface with any cable company seeking to either renew their current cable franchise agreement, or if a new company decides to offer a service in Town, that they would do that. All the authority would continue to remain with the Board of Selectmen. Finally, to be explicit on who would be the appointing authority for the five citizen members, under §B-1. He also recommended that in A-7, B-1, C to strike the word "cable."

Motion by Selectman Massey, seconded by Selectman Maddox, to amend A by including A-5 and A-6. "Be the interface between cable companies doing business in Hudson and Hudson cable television subscribers," and "Represent the Town in any cable franchise agreement negotiations with cable companies doing business in Hudson and make recommendations to the Board of Selectmen, as franchising authority, for the adoption of new or renewal of existing cable franchise agreements;" add B-1, "The Board of Selectmen shall be the appointing authority for the five citizen members;" in A-7, B-1, C to strike the word "cable" before the word "committee." A further amendment to B-1 so it reads, "One Board of Selectmen member and one member appointed by the School Board. Amended to change the title to the Cable Utility Committee."

Amendment by Selectman Maddox, seconded by Selectman Massey, to re-title the committee the Cable Utility Committee.

Selectman Maddox said this should be called what it was, the Cable Utility Committee. At the last meeting, a point was raised that the PUC would become involved if the word "utility" was used. He called the attorney, who said there would be no such problem. This committee will look at the entire spectrum of the cable as it pertains to Hudson, not just access.

Vote on the amendment carried unanimously.

Selectman Maddox believes they have hammered out a committee very similar to the Sewer Utility and Water Utility and he's

looking forward to people coming forward to really taking this over. They've been dealing with it for too many months. Hopefully, they will see a lot of people to choose from on the next agenda. He hoped the people on the committee presently would step forward.

*Vote: Amended motion carried unanimously.*

**D. Road Improvement Project—Highland Street to McDonald's**

Selectman Maddox asked the Town Administrator if he did a letter. Mr. Malizia said no, there was a vote taken on August 10 that the Chairman of the Board would send a letter to the State stating that the Town's support of the 102 project was contingent upon a bid being awarded no later than April 2, 2005. His understanding is that Selectman Maddox might want to introduce a date change. Selectman Maddox said he had given the Town Administrator what he got from the DOT. Mr. Malizia said all he had was a possible date of October 1<sup>st</sup>. Chairman Cole asked for an understanding of what was being discussed. Selectman Maddox said during a discussion with the DOT as it pertains to the ball fields on the circumferential, there was some discussion on this issue, that the State asked for an extension of the April 2, 2005 deadline to October 1, 2005. He asked that a letter be sent, modifying the date, was in order.

*Motion by Selectman Maddox seconded by Selectman Massey, to modify the letter to change the date to October 1, 2005.*

Selectman Maddox said he thinks the State was going to agree to using the circumferential, but on their time schedule, not the Town's. They have many different projects in the fire. Holding them to a date they didn't think they could meet was counterproductive to everyone. Delaying this by another five months does not cause a problem. They might even get it done by the April date, but this gives them some "wobble room." He knows the Chairman isn't thrilled with this project, but it would be foolish not to go forward with it at this point, with all that has already been invested in it. He noticed that the price tag on an NRPC document showed a different price, considerably less, than the 10-Year Plan.

Selectman Massey said his recollection of the conversation with Commissioner Murray relative to this item and permission to use the circumferential was they faxed a suggested second page and when they talked with Commissioner Murray, they said it looked like it was good to go. He didn't believe that had a specific date on it. Selectman Maddox said that was the document he gave the Town Administrator.

Chairman Cole said maybe he is the only one who doesn't know, but wondered who talked to Commissioner Murray, and when. Selectman Maddox said he and Selectman Massey did, along with Rhona Charbonneau. Chairman Cole asked when all of this happened. Selectman Maddox said around the same time as the Wason Road issue. Selectman Massey said the Selectmen's meeting was on Monday (Sept. 13), when they heard that if they didn't have something by the time the CO was issued, they would be held to the \$25,000 deposit. Selectman Maddox contacted County Commissioner Charbonneau and she contacted Carol Murray, Commissioner of the Department of Transportation. To be honest, the Commissioner, basically, did some "horse trading." Selectman Massey thought it was a reasonable horse trade. In return for agreeing to the language that the Town wanted on the permission letter, she asked if the Town would be willing to change the date from April 1 to October 1. Given that this was a good exchange to get a ball field, he didn't think this would be a deal-breaker. He said he made a terrible assumption because it appears that he and Selectman Maddox are the only ones who knew about the quid pro quo.

Chairman Cole said a tragic assumption was made. Something was mentioned to him informally about it on election night at Lions Hall, but he wasn't aware that anything had been formalized with the County Commissioner and the DOT Commissioner. Selectman Maddox said they hadn't, at that time. Chairman said that was his point, that two Selectmen were holding these discussions and no one else on the Board knew about it. This was some sort of quid pro quo. What was wrong with giving the Town the land for the ball field that the Town has asked for for the past couple of years. He didn't see how these two issues got tied in together. One project has been languishing around for 10 years, suddenly the date of October 1 becomes magical. He didn't see the relationship between the project on 102 and the ball fields. He finds it an affront that the two of them are being linked together. Selectman Massey said the Chairman may consider it an affront but, at the time, time was of the essence to get the permission. Otherwise, the Town was going to be on the hook for any ball field that got built. By getting Commissioner Murray to agree to the Town's language on the permission letter. At the time they talked to her, the other conversation had already been held.

(Start Tape 2-B)

Chairman Cole said the letter to the State about the ball fields has been around since 2002, so no one at the State level has been moving at breakneck speed on it. He's had serious questions about the majority of individuals involved in a developer agreement on Stop & Shop were even interested in a ball field because, obviously, the \$25,000 default figure is nowhere near what it is going to cost. When the Planning Board, or whoever developed the agreement for the Town, if a ball field was even a consideration or just a matter of getting \$25,000 from a developer and putting it into yet another account.

Selectman MacLean asked if the October 1 date could be moved up to July 1. Selectman Maddox thought that everyone was going to get a copy of the letter that the Chairman had, but that doesn't have a date included. The Selectmen are choosing the

date to try to break between two points. The State wanted it open-ended, but he thought October 1<sup>st</sup> was more than enough time to make it happen. He apologized to the Board for not getting a copy of the letter. He had handed it in with the expectation that it would be distributed. He agreed with Selectman Massey that the Commissioner is probably being pulled in 100 different directions. By getting her attention through Rhona, she saw something on her desk. They did a quid pro quo that he believes benefits the Recreation Department. The Planning Board doesn't know how much a field is going to be. The \$25,000 figure probably didn't make sense, and shame of the Planning Board, but when you are looking at a project of that size, that was a small part of the issue. Selectman MacLean asked what would happen if they stuck to the April 1<sup>st</sup> deadline, if the Town would be punished in some way. Selectman Maddox said it would be counter productive for them to stick to the April 1<sup>st</sup> deadline, inasmuch as he already asked all of the other Selectmen at the elections if they had a problem with that. They are trying to give something back to the DOT for giving quick consideration. Two years is probably a long time to have something, but the State doesn't move very quickly on some issues and they may not have thought it was time-sensitive. So, they did some horse-trading. Selectman MacLean said she had thought it would be three or four months out, not six.

*Vote on the motion to amend the date to October carried 4-1.* Chairman Cole was opposed.

## 8. NEW BUSINESS

### A. 2004 Tax Rate

Finance Director Kathy Carpentier said she was recommending that the Board use \$1 million, as budgeted, of the Town's surplus of \$6,302,505 surplus to set a tax rate of approximately \$16.05 per thousand. This represents a 3.5% increase before revaluation and a 16.3% decrease after the revaluation. The \$1 million surplus use will leave 9.4% of FY 2005 gross appropriations. Good business practice dictates between 5%-10%. Last year, they had 7.9% surplus. She reviewed the backup documentation submitted with her packet. Selectman MacLean asked about the surplus, and what kind of emergency it could be used for. Ms. Carpentier said the Board could make recommendations, or for petitioned warrant articles. Last year, the voters approved using \$253,000 to develop the Benson's property. Mr. Malizia said they budget revenue, which is one of the most difficult things to budget. It's easy to budget for expenses because the Board of Selectmen and Budget Committee work together with the department heads and issue a directive that says your budget is \$2 million. Everyone knows not to overspend that bottom line. Revenue is more vague. It depends on the economy, building activity, new car activity. Having a healthy-retained surplus allows you to smooth out any dips in the economy where people don't register new cars, building activity goes down; you don't collect fees. This is where you would make that up if you had a deficiency in non-tax revenue. It's not so much the spending side. That's controlled by the Board and the Budget Committee and the voters. That's a number everyone can live with, barring an emergency. If you had an emergency, you could petition the court and the State, say to them, "We have an emergency. We need to take care of this... some natural disaster or something else that might occur."

*Motion by Selectman Massey, seconded by Selectman MacLean, to change the amount from surplus budgeted from \$1 million to \$1,244,130 which would effectively change the rate from \$16.05 to \$15.95.*

Selectman Massey said it is always a painful experience to have your evaluation go up and this would still leave over 8% in the surplus, which is higher than what they had last year. It is another way of helping ease the transition to the new valuations. If you want to raise \$1, you need \$2,441,000. Selectman MacLean questioned his mathematics. Mr. Malizia said they were. Selectman Massey said if they want to reduce the tax rate from \$16.05 to \$15.95 you would have to take another \$244,130 from the surplus.

*Vote: Motion carried 5-0 by roll call vote.*

BOS consensus authorizing the Finance Director to use less surplus if the Town gets more revenue than expected from the State. Selectman MacLean said, for the record, she opposed that. Selectman Stewart said the answer is to say no in March to all the extra goodies. People need to be aware that when they vote for things, there is a cost.

### B. Donation of \$481.50 to Police Dept.'s DARE Program from the Hudson Mall Merchants Association

*Motion by Selectman Maddox, seconded by Selectman Stewart to accept the donation, with the Board's thanks, carried 5-0.*

### C. Resignation of Police Prosecutor -- Moved to Nonpublic Session.

## 9. OTHER BUSINESS/REMARKS BY THE SELECTMEN

Selectman Massey said the Budget Committee has requested and Mr. Sommers has agreed to make a presentation to them at their November 18 meeting on the water utility to give them some background information so if and when any warrant articles come before them for their review and approval, and for the general cost of running the water utility, they will have an understanding of things. He asked for Board consensus to allow that meeting to be live cablecast so that every citizen will have an opportunity to learn about the water utility. He also asked to have live cablecast all of the Board of Selectmen and all of the School Board Budget Committee deliberations, as they did last year. Consensus was 5-0 for both requests.

Selectman Massey said he requested, through Sean Sullivan, to have the Highway Safety Committee review the possibility of installing a traffic signal at the corner of Chase and Central Street. With Selectman Stewart's approval, he'd like them to add on to that the issue of the feasibility of taking money out of the corridor accounts to implement a one-way traffic pattern on Chase and Library Streets, as a result of the public hearing on Webster Street. The project to signal Chase and Central and Library and Central and synchronize all five lights has been deleted from NRPC's funding. What he thought was going to happen in 2007 won't because the grant money was taken away.

That HSC meeting will be held next Wednesday. It was OK with Selectman Stewart.

Selectman MacLean thanked the Fire Department for the lovely tee-shirt with the nice Dalmatian on it, even though everyone knows she is partial to Smokey the Bear. Reference the proclamation that the Chairman read earlier, voting is really such a privilege that people don't understand. Other people in the world would love to vote for their leaders. It is a wonderful thing, so she hoped everyone does go out to vote. On a personal note, Fr. Jack, the Pastor of St. John's has been sick. He always watches the meetings, so she wished him a full and speedy recovery.

Selectman Maddox said, relative to the ball fields, he wanted to publicly thank Rhona Charbonneau. She had been watching and they got her the next day. Having a County Commissioner that responded to their needs and has a first-name relationship with the DOT Commissioner made a difference. Although it was a serpentine route to get there, ultimately, they got a ball field for the community, which is what the Planning Board was trying to do. Rhona really stepped up by cutting through the red tape and the Town will have something that Stop & Shop, Mr. Sousa and the Town can be proud of.

Secondly, he said he got to enjoy Comedy Night. It was a great time, and not advertised as much as it could be. \$10 at Lions Hall, put on by the Rec Department. Just an absolutely amazing night. It's a great time. The next one is coming up in November. People bring their own coolers and decorate their tables. The Red Sox game was on, which they actually turned off to watch Comedy Night. He got a little grief, but... that's why he ran for the job.

Finally, he concurred with Selectman MacLean. It fascinates him how people can find a non-reason to vote. He's heard a number of times that people didn't know what it was. If they have access to lighted signs, they could push the effort to get out to vote. They could put up banners at the end of Exit 2. Signs could say Tomorrow is Election Day, Today is Election Day. They really need to say someone may not like what the vote is, but everyone needs to participate. You can't just ignore the right to vote. Action is more important than who is on the ballot. He hoped that any method the Town has through the Town Administrator or Kevin Burns, they should push this great initiative. It would be great to see a tremendous turnout by the citizens of Hudson.

Chairman Cole said that by consensus, on September 21, the Board of Selectmen approved a raffle permit for a 50-50 raffle held on September 24 at Alvirne to benefit Alvirne Boys Varsity Soccer.

The Board gave unanimous approval to the Benson's Committee to hold another Clean Up Day on October 23 from 9 to 2. For the last two cleanups, weather has been bad, but the last one was especially bad. However, over 30 people showed up to work. Esther McGraw and the rest of the committee agreed they'd like to give it another shot. With a little luck, they will have decent weather. He told Esther if it rains on the 23<sup>rd</sup>, her days of Chairman are over. Selectman Maddox suggested getting rid of the shoe and getting an ark.

Esther McGraw and Betsy Hahn have been invited to speak at the District 5 Conference of the General Federation of Women's Clubs of NH on October 13. They will both give a small presentation on their efforts at Benson's, what has been going on, what is hoped for and projected in the future.

(Tape 3-A)

Chief Murray reminds everyone that the dedication of the Central Fire Station in memory of Leonard A. Smith will be on Monday, October 4 at 5:00 p.m. at the Station on School Street. The public is cordially invited to attend. Following the dedication, there will be an open house in conjunction with Fire Prevention Week. There will be a new sign in front of the Fire Station, a plaque inside and the Fire Department is putting together a time capsule. There will be refreshments, and possibly they can get Smokey the Bear there for Selectman MacLean.

#### 10. NONPUBLIC SESSION

*Motion by Selectman Stewart, seconded by Selectman Maddox, to enter Nonpublic Session under 91-A:3 II (b) The hiring of any person as a public employee carried 5-0 by roll call vote.*

Nonpublic Session was entered into at 9:04 p.m. and was terminated at 9:50 p.m.

*Motion by Selectman Stewart, seconded by Selectman MacLean, to seal the Nonpublic Session Minutes carried 4-1* Selectman Maddox was opposed.

#### 11. ADJOURNMENT

*Motion to adjourn at 9:53 p.m. by Selectman Maddox, seconded by Selectman MacLean, carried unanimously.*

Recorded and Transcribed by Priscilla Boisvert  
Executive Assistant

### HUDSON, NH BOARD OF SELECTMEN

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**William P. Cole, Chairman**

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**Teresa Stewart, Vice-Chairman**

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**Kenneth J. Massey, Selectman**

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**Kathleen R. MacLean, Selectman**

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**Richard J. Maddox, Selectman**