

## HUDSON, NH BOARD OF SELECTMEN

### Minutes of the June 25, 2019 Meeting

1. CALL TO ORDER - by Vice-Chairman Roy the meeting of June 25, 2019 at 7:00 p.m. in the Selectmen's Meeting Room at Town Hall.
2. PLEDGE OF ALLEGIANCE - led by Selectman Martin.
3. ATTENDANCE  
Board of Selectmen: Kara Roy, Roger Coutu, Marilyn McGrath, Normand Martin  
Absent: David Morin  
Staff/Others: Steve Malizia, Town Administrator; Donna Graham, Executive Assistant; Jess Forrence, DPW Director; Police Chief Bill Avery; Kathy Carpentier, Finance Director
4. PUBLIC INPUT

Vice-Chairman Roy asked does anyone in the audience wish to address the Board on any issue which the Board has control of at this time.

Richard Kahn - 147 Robinson Road. The reason I am here I'm a member of the Sustainability Committee but I am not representing or on behalf of that. I had a good chat with Dave Morin about this issue and I took exception to this body's requirement that we all town employees including volunteers showing a picture ID in order to get the town issued picture ID to the point where I actually sent out a letter saying if I have to show a government issued picture ID to get this, then I will not comply and I will have to resign from the Sustainability Committee. Before I did that, I wanted to find out what was the Board's rationale for even having an ID requirement for volunteers. Is there a rationale? Is it tied to a federal or State recommendation?

Selectman Coutu said I raised the issue initially and what we discussed initially was having a readily available and identifiable ID badge for all of our town employees so that when a citizen comes into Town Hall when there's a problem they're not calling one of us or writing one of us and saying it was like a blond woman. She works down the hall. This way here if they have an ID with their name on it they could say it was a girl named Ann. We can pretty much identify who it is as long as they know what office it was in. From that point, I believe that if you want to chime in, you had some discussion about it and it was decided that anyone who was involved with the government should probably have an ID and it's only for the use when they come into the building I believe.

Kathy Carpentier said right. We had in the Personnel Policy created an identification badge policy and it is for employees, volunteers, and elected officials. It is just a badge. We are not requiring anybody to show identification to get an ID badge. If anybody questioned who you were, I would vouch for you and there would be 10 other people who would vouch for you. We wouldn't ask for a badge to give you a badge.

Vice-Chairman Roy said to Mr. Kahn I believe that was the issue that the young woman wanting to take your picture didn't know who you were. Is that correct?

Richard Kahn said well no. Actually it didn't go that far. What happened was my wife and I was vacationing up in Lancaster, NH, and I just found out about it. I happened to check my e-mails and then I saw that. I said what's this and the e-mail that I have - I think it went from Kathy Wilson through Dave Morin and then to the committee chairs who sent it to us. That thing said you're going to have to show a picture ID to get this. I can forward the e-mail but if you're telling me that's not the case that was a misunderstanding on somebody's part.

Kathy Carpentier said that is correct because Kathy Wilson is my employee. She sent it department liaisons so then I am the staff liaison for the Budget Committee. I turned around and sent it to the Budget Committee and at no time did I say that they needed to show ID. An ID is your personal business and she didn't need to know your personal business. If she didn't know who you were, she could ask somebody and somebody would vouch for you.

Richard Kahn noted which is what Selectman Morin did thanks to him. You might want to straighten that out. Related to that, there are some people - I won't mention names but I'm sure it's public record if you watch the video of the Sustainability Committee last night. Some people were upset about that besides myself. I think there may be some concern especially those of us who are volunteers to begin with. Had I gotten that misinformation at the time, I probably would not have applied for it. Obviously that would have been a...Ms. Carpentier said I do believe that you were given the policy and nowhere in the policy does it say that I need a driver's license to get an ID. Mr. Kahn said I did not see this. I do have it now. I did not see that if it was sent to me by e-mail and I didn't get the attachment because through the jumps it didn't quite make it. The e-mail got dropped or the attachment whatever. I do know it doesn't say that. The reason partly is besides my personal aversion to doing that in the first place, the Sustainability Committee has for the first time since I can remember had a full slate of members. The only thing is one alternate opening left so that's a good thing. A lot of people are showing an interest and I think it would be a mistake to - you might want to clarify that for the future - put it somewhere that bring some proof like a property tax bill, or something, or get somebody to vouch for you that you don't need the government issued one just to clarify it.

Kathy Carpentier said I don't know where it's written down. I told the Budget Committee just show up and they're just going to show up. There's no ID necessary.

Richard Kahn stated the other thing is the volunteers like us the only time I'm in Town Hall on business is once a month when we have our committee meetings and personally I'd like to see the volunteer thing stricken from it. If there is any way this Board could at least strike that one item there, it would be helpful. I was actually considering filing a petitioned warrant article to have that one item removed but I wanted to give the Board a chance to talk with them to see if there's an alternative.

If I'm understanding you correctly, Selectman Martin said you're averse to having that ID badge. Mr. Kahn said yes and no. I am averse to having it in the first place because I didn't need it before. One of the reasons that I was given for even having it in the first place was they cited the tragedy at Virginia Beach and this is not going to prevent a tragedy like what happened at Virginia Beach. That was one of the reasons given to me in support of this. I could give you the whole history lesson which I don't think anybody has time but it goes back to my grandparents who had to escape Nazi Germany which is anybody who's friends with me on Facebook can see I got a picture of my grandparents there and a little story of why I'm opposed to it. I'll work out my term and determine whether I want to continue at that point. I think it's a mistake to require volunteers to have this unless they're in town during regular business hours in Town Hall if that's the concern.

Kathy Carpentier indicated if I'm a staff member and I'm working here and you are walking around, I do know you, but if you're walking around and I don't know you it is a courtesy for me to see a badge and to know who you are. Mr. Kahn said if I'm walking in here as a private citizen like to renew my car you wouldn't need to see this.

Madam Chair, Selectman Coutu said point of order. Can we put this to bed please? Let me just say this. There are times that you may have to go out in the field as a committee and it would be ideal for you to be wearing those badges so that people in the neighborhood that are there wondering what are these people doing here would have an idea that you can just show them we're members of the Sustainability Committee. Okay thank you. You know we appreciate everything the volunteers do in this town. We can't say thank you enough times but we can't strike certain committees and not have others because there are a lot of committees that do field trips. It is a courtesy to wear the badge. It's not a big deal. You have it. I really don't know Richard to akin this to Nazi Germany is a little over the edge. I don't need an explanation. It's a little over the edge. This is the policy and we hope that people will accept it. If they have any questions and if they're reluctant as a result of a misprint or lack of proper

information on the form getting to them, we will correct that. We will do everything we can to correct that on our end. Thank you Sir.

Before you go, Selectman McGrath said I want to ask a question of this Board. For clarification purposes, do the volunteers whether it's Planning Board, Zoning Board, Sustainability Committee, Conservation Commission does this Board expect those members to wear their badges when they're in attendance at the meetings or only if they're going out like doing a site walk, or doing a cleanup in a neighborhood because I don't think that that's clear.

Vice-Chairman Roy said my understanding of the policy is if they're inside Town Hall or representing the town outside of Town Hall. So at one of those meetings at a site visit or at a cleanup and when they're in Town Hall. That's my understanding of it.

Selectman McGrath stated if they're attending a meeting and they're not walking - first of all the meetings are in the evening and that's all they're doing is attending a meeting in a room like this or in the Buxton room across the way they have name plates in front of them. Is it necessary for them to have their badge with them at all times? If they're going out on a site walk on private property and they're representing the town and the board that they're on - Zoning Board goes out and does site walks when a case is before them. Planning Board does the same thing. Conservation Commission does the same thing. Sustainability as far as I know the only time that they go out is when they're doing roadway cleanup and that's an approved process and happens once or twice a year. That I can understand that maybe they should have identification with them but when they're attending a meeting and you're sitting in a room like this with a name plate in front of them, I don't think it's necessary that they have a badge wrapped around their neck. That's my personal opinion.

Vice-Chairman stated I want to bring Police Chief Avery up for a minute and talk about the issue that caused concern to quite a few citizens last night and I just want the Chief to speak to it so we understand what happened.

Good evening members of the Board. Chief Avery explained last night there was a serious incident that was taking place in Bedford, NH. The Southern NH Regional Operations Unit and the Swat team responded to this incident as a subject had barricaded himself in a motor vehicle. In a neighborhood in Bedford, the Bedford Police and the NH State Police sent out an alert that was supposed to be for the people in that general neighborhood to shelter in place meaning there was a danger in the nearby neighborhood. Unfortunately this message went out pretty much throughout Hillsborough County and we received several hundred calls at the Police Department that they didn't know anything was going on. I can assure the residents if there was something going on, we would have immediately had something both on Facebook, Twitter, and by all means feel welcome to call the Hudson Police Department if you're concerned. Selectman Roy contacted me. I had contacted the Police Department and they assured me there was no emergency in Hudson. Hudson's not the only community this affected but I know some people are very upset and were nervous. You could see the comments on Facebook that we received that there was genuine concern. I do want to assure the public that if there is an emergency we will be on it. We will send out an alert to shelter in place. We will follow up with Facebook and Twitter as soon as we have resources available to make that post.

Selectman McGrath suggested that if something like that were to happen could we have it put on the cable TV station because some people don't have access or don't know how to get access to Facebook or Twitter. I can but a lot of people don't have that ability. Just for you to consider. Chief Avery said absolutely. We've had several of these incidents where we've had to have people shelter in place. It takes a little bit of time to get enough resources there to get somebody available to send out a Facebook alert or a Twitter alert but I can assure you we will do it as quickly as possible and we will get in onto cable TV as well.

Selectman Coutu asked do you have Jim and Mike O'Keefe's phone number because they can do it from home and post it up. Chief Avery stated we will have somebody - I think our dispatchers can do it. I know one of our employees had it readily available to type it in but I have Mr. McIntosh's cell phone number in my back pocket all the time. I can reach out to him and have it posted. Not a problem.

5. RECOGNITIONS, NOMINATIONS & APPOINTMENTS - None

6. CONSENT ITEMS

Vice-Chairman Roy asked does any Board member wish to remove any item for separate consideration.

Selectman Coutu said I have two Madam Chair C. 2. and E.

Motion by Selectman McGrath, seconded by Selectman Martin, to approve consent items A, B, C. 1., D, and F as noted or appropriate, carried 4-0.

A. Assessing Items

- 1) Gravel Tax Warrant - Map 170, Lot 034 - 33 Constitution Drive, w/recommendation to grant
- 2) Certification of Yield Taxes Assessed/Timber Warrant - Map 170, Lot 034 - 33 Constitution Drive, w/recommendation to grant
- 3) Tax Deferral Application - Map 151, Lot 005, Sub 002 - 38B Barretts hill Road, w/recommendation to grant
- 4) 2016 Tax Abatements - Map 100, Lot 8; Map 167, Lot 9; Map 190, Lot 192; Map 179, Lot 31; Map 107, Lot 30; Map 208, Lot 11; Map 107, Lot 3-1; Map 144, Lot 8; Map 175, Lot 153; Map 182, Lot 181; Map 162, Lot 80; Map 138, Lot 36; Map 179, Lot 11; Map 195, Lot 5; Map 175, Lot 6; Map 171, Lot 30; Map 171, Lot 31; Map 162, Lot 16; Map 135, Lot 7; Map 135, Lot 2; Map 171, Lot 46; Map 138, Lot 56; Map 175, Lot 153-2; Map 138, Lot 86, w/recommendation to deny

B. Water/Sewer Items - None

C. Licenses & Permits & Policies

- 1) Block Party Permit - Ted Trost
- 2) Block Party Permit - James McGlaughlin

Selectman Coutu said there are two such requests for block parties. Item C. 2. if you read the back part where the signatures are and the fourth stanza down, "the normal noise curfew is 9 p.m. I am requesting the curfew be extended to 11 p.m. on Friday and Saturday. On Saturday there is going to be a 10 piece funk band." If we start making these exceptions beyond 9 p.m., we're going to be deluged with these requests. I'm not opposed to the party. I'm opposed to the noise beyond 9 p.m. That is the policy. It's an established policy and to rescind this now is going to open a Pandora's Box in the future. I would ask the Board to concur with me and notify the persons that we would support the block party but the noise would have to cease at 9 p.m.

Motion by Selectman Coutu, seconded by Selectman McGrath, to amend Consent Item 6. C. 2. By change the time from 11 p.m. to 9 p.m.

Selectman McGrath said I noticed that as well on this application. The other thing I noticed that I want to point out is that it is the last one for this particular block party. Vice-Chairman Roy said it's the 20<sup>th</sup> one. Selectman McGrath noted he will not be back next year. I just wanted to point that out.

Vote: Motion carried 4-0.

D. Donations - None

E. Acceptance of Minutes

1) Minutes of the June 11, 2019 Meeting

Selectman Coutu stated on page 3 at the top. It would be second paragraph where it says "Chairman Morin". On the last line in that paragraph "Mr. Horsley". Can we change that to Ms. Horsley. I have other notes but it's basically how many times did the Town Engineer use the word "basically". A total of ten in his presentation. Other than that, that's fine. I'll make a motion.

Motion by Selectman Coutu, seconded by Selectman McGrath, to approve the June 11<sup>th</sup> minutes as amended, carried 4-0.

F. Calendar

06/26 7:00 Planning Bd - Buxton CD Meeting Room  
06/27 7:00 Zoning Bd of Adjustment - Buxton CD Meeting Room  
~~07/03 7:00 Budget Cte - Buxton CD Meeting Room~~  
07/04 FOURTH OF JULY - TOWN HALL CLOSED  
07/08 7:00 Conservation Cmsn - Buxton CD Meeting Room  
07/08 7:00 Cable Utility Cte - Cable Access Center  
07/09 7:00 Board of Selectmen - BOS Meeting Room  
07/10 7:00 Planning Bd - Buxton CD Meeting Room  
07/11 7:00 Zoning Bd - Buxton CD Meeting Room  
07/15 7:00 Cemetery Trustees - BOS Meeting Room  
07/16 7:00 Municipal Utility Cte - BOS Meeting Room  
07/17 6:00 Library Trustees - Hills Memorial Library  
07/18 7:00 Benson Park Cte - HCTV  
07/22 7:00 Sustainability Cte - Buxton CD Meeting Room  
07/23 7:00 Board of Selectmen - BOS Meeting Room  
07/24 7:00 Planning Bd - Buxton CD Meeting Room  
07/25 31:00 Trustees of Trust Fund - Buxton CD Meeting Room  
07/25 7:00 Zoning Bd of Adjustment - Buxton CD Meeting Room

7. OLD BUSINESS

A. Votes taken after Nonpublic Session on June 11, 2019

- 1) *Motion by Selectman McGrath, seconded by Selectman Roy, to approve the Memorandum of Understanding between the Town of Hudson and the Hudson Police Employee Association effective July 1, 2019, carried 4-0.*
- 2) *Motion by Selectman McGrath, seconded by Selectman Roy, to enter into a Purchase and Sale Agreement with Kay's Realty Inc. in the amount of \$235,000 for the purchase of tax deeded, town owned property located at 32 Cross Street, carried 4-0.*
- 3) *Motion to adjourn at 9:39 p.m. by Selectman Martin, seconded by Selectman McGrath, carried 4-0.*

8. NEW BUSINESS

A. Town of Hudson Sewerage Leakage Into Residence

Vice-Chairman Roy recognized Selectman Roger Coutu to speak on this item.

Selectman Coutu indicated we had a brief discussion about the potentiality of this coming before us. Mr. Harvey - Rick if you wish you can sit up at the table and why don't you state your name and address for the record and then I'll do the introduction and then you can pick it up.

Richard Harvey - 3A & B Hedgerow Drive.

Selectman Coutu explained Mr. Harvey as you read in your packet had a sewerage that impacted the internal part of his duplex which he occupies on one side and I believe it's your sister that occupies the other side. Mr. Harvey said she has since moved and we own both now. Selectman Coutu said many, many years ago Rick Harvey was an employee of mine. He lives in Hudson. He's well known in the baseball circuit. We contributed as we could to help the Legion team which now you manager. You took over Gary's position in managing all of the operation. That's Gary Webster. He reached out to me and he told me what had happened. He hasn't deviated one iota in his packet. He reached out to me because he knew me. I told him what the initial process would be for him to come before us. The only thing that I felt was missing Rick unless it was on your drive were pictures. Rick Harvey said they were on the drive. Selectman Coutu asked did you look at the drive. There were pictures. So as it states here, the insurance company only pays \$3,500. He estimates that he has damages well in excess of that and I feel on the basis of the information that was provided regardless of what took place in the past and I'm sorry it did happen in the past as such that it is my opinion regardless who is sitting there that if our sewerage flows into somebody's home we should have some liability here not just \$3,500.

Selectman Coutu said I can't believe we have an insurance policy. I know that you said Mr. Malizia that we had a similar case in the past and it was denied on the base of \$3,500 and that they had the right to go to court if they wanted to. I just don't like the potential incurrence of legal costs on something that I personally feel that we have responsibility for. Rick if you want to take it from there. The only question I would have with regards to your submission was, and you can answer these questions when you make your presentation, why is it that you didn't get more than - it looks like you're showing us one estimate. Why you didn't get more estimates and if we don't have the pictures then shame on us. We should have copies of the copies. If they were on the thumb drive, it might be hard and time consuming to download and do them. Rick why don't you pick it up from there.

Rick Harvey explained on a Thursday morning I went down to my finished basement and noticed a spot on the rug was wet. We lived in the house in 1987 and I waited about a year and a half before I had both basements finished on both sides of the duplex. Maybe a year later they blasted the cul-de-sac on top of Hedgerow Drive and I'm not sure how much time later we did have water in our cellar not a lot to cause a lot of problems. We lost our rug. We took care of it but it happened. We didn't have water for two years. So work out flow is a one-time deal. It happened one other time after that so we put a sublet on my sister's side of the duplex. It took care of the problem for many, many years until we had a blackout. So we got a generator to take care of that. We eventually got a whole house generator and never had a problem 6, 7, 8 years it's been bone dry.

Mr. Harvey said I was kind of curious of why I had water in my cellar because the sump pump isn't working and it's been bone dry. It hadn't worked for two months. I went over and I saw the water it was not only on that rug but also along the front wall of our duplex. It wasn't really dirty water. It looked okay. I really couldn't tell what it was. It didn't smell that badly. We have a sewer cleanout on both corners of our finished basement and there was a big puddle on top of that. It's about this deep in the floor. I went to my sister's side of the basement and at this time she ended up moving to Virginia. She was packing. She actually had a big box on top of the clean out and it had collapsed from sucking the water up. I assumed it was water. I didn't think it was sewerage. I went and got my wet vac. I decided to take the sewer clean off after I pushed the water into the hole and when I took that off, it blasted into the cellar. It just came right in. I put the cover back on right away. I told my wife what was going on so we called Roto Router. He put his unit in about 9 feet and saw nothing. He put his camera in about 120 feet and still saw nothing. He said something is wrong here so let's go to the street. He's the one that pulled the sewer basement cover off first and was probably 2/3 full. He said we have a problem here. It's not your problem it's a town problem and you better call the town.

Rick Harvey noted we did and Jess and his crew came right away. They were great. They pulled the cover off and saw the issue and they just couldn't believe what they saw. I will say the first things out of Jess' mouth he was great he says you know don't worry about it whatever issues there is the town is going to take care of it. So instead of (inaudible) in the basement below, it took about a half an hour to

get it down to a point that they could see the pipe and the trough in the hole. They said we'll see what happens tomorrow and they came back. They came back the next day and it already started filling up again the basement itself. They decided they'd do something about it. They put a camera inside and saw a blockage. Long story short when we built the houses in the development in '87, my neighbor across the street - I'm not sure who he had for a contractor - we subbed our own house out. Somebody had put a 4 inch PVC pipe inside the 6 inch PVC pipe from the house to the street whether by accident or not so all those years it was inside that pipe sliding back and forth basically. It finally went to the street and that's what clogged 2/3 of the pipe in the street. They decided they had to take care of it on that Friday which was the 17<sup>th</sup>. They pulled a street opening. It took them about six hours. They fixed the problem and sealed it up. I would say that we normally go away. We have a lake house up in Newfound Lake. If we had gone Wednesday night and not have been home, we wouldn't have gotten home until Sunday, I'm not sure what would have happened to our house. That would have been going all weekend. We're lucky we were home.

Mr. Harvey said once the problem (inaudible) do we incur their bills, they took three days to clean the problem. They cut the walls up about a foot and half and in front of the house and a little bit on each side of the other room. Again in talking with Jess, he said give us your bills, give your bills and we'll take care of them. We'll submit them. Then we heard from the insurance company and they were only going to offer us \$3,500 if we signed off saying the Town was not liable which I would not do. I even reached out to Steve and went to Steve's office. He wasn't there. I left a message with his secretary and he called back and talked to my wife. He said the same thing - once the insurance company was involved it was kind of out of their hands. The next thing I thought about was going to Roger because I knew Roger and submit the costs. The reasons why we didn't go for another bid, my cousin is owns Federal Carpet in Lowell. He did my carpeting. He's done it twice in the basement so I got him and did my sister's carpeting. My son who is moving in next door is having contract work done as we speak and he got the contractor who was going to do the work in the house to give the bid to ourselves because he was there. That's the only reason why we didn't get second bids. That's basically where we're at. We haven't touched the cellar since and we're just waiting to hear from Roger when this meeting is going to take place.

Selectman McGrath said I have a question not for this gentleman but for Steve. In the past we've rejected other requests for additional coverage beyond what the insurance company is...Steve Malizia said you have had one other similar incident two years ago that was rejected by this Board. In this instance, Selectman McGrath said when we didn't take care of the previous problem by giving them additional funding to correct whatever needed to be corrected, what would we be facing going forward? Is that setting a precedent for any type of other future events such as this whether it's the sewer or water that ends up going into a home? What affect does that have on the town? Steve Malizia said I can only assume that if you pay claims of this nature and someone else comes with a claim and you don't pay their claim under this relative same circumstances, you may have some sort of legal lawsuit against you. I don't know.

Vice-Chairman Roy said there would be an argument for precedence that you've done this before and given this similarly situated that you don't do it for them. I can't answer this question but that may fall outside of any insurance coverage we have so it would be on us to pay that.

Selectman McGrath stated that leads me to another question. If we go forward this evening and decide to take care of the problems that this gentleman has had in his home, what does that do for the people that we denied a couple of years ago? Would they be able to come back to the town and say now you've done it for someone else? Mr. Malizia indicted they signed a document when they accepted the \$3,500. I can only assume that that document would not allow them to come back but I'm not a lawyer.

Vice-Chairman Roy noted I'm not sure how that would stand up in court and I don't know what the Statute of Limitations or anything like that in New Hampshire.

Selectman McGrath suggested I think is that this Board have a discussion about what we want to do not only in this case but also going forward for anybody else that might have a similar problem. Are we going to establish a policy that we're going to take care of problems like that to a certain dollar limit?

Vice-Chairman Roy said I would suggest that that's why we carry insurance though so that the insurance company picks up and determines who is liable and to what extent. That's what they do professionally. It's what they're designed to do. It would be my suggestion.

Selectman Coutu suggested that somebody call Primex and say find out what it costs to get proper insurance. I have insurance for such matters in my home and they cover it. We're giving someone \$3,500 for \$20,000 worth of damage. It just seems unreasonable and unreasonable for Primex - if it happened two years ago, I sat on the Board. How I voted I don't know. Why I voted the way I voted I don't know. I don't recall the case at all. I know you brought it up and I know that (inaudible) are a lot better than mine. I can see to that. What was the reason and I believe I asked you and if I didn't then I failed you, had you filed a claim with your insurance company and did you say something about they said they wouldn't cover it because it was the town's responsibility.

Rick Harvey indicated our insurance company offered \$2,000 and that was the max that they could give us. We didn't even file a claim they just sent it to us. They probably gave us \$2,000 with my homeowners insurance. That's all they would give us. Selectman Coutu asked did they give you a document stating that's all they would give you. Mr. Harvey said yup. I've actually talked to a couple of insurance people who are friends and they had the same exact kind of policy that small amount of money. There's no such thing as sewerage. It's almost like a courtesy they give you some money towards it. It's not an official policy.

Selectman McGrath repeated you said \$2,000 so in addition to the \$3,500 that Primex offered, that would be \$5,500. What's your estimate \$7,500? Mr. Harvey said no it was around \$22,000 total including the cost we already incurred. You understand if you saw the pictures, they had to cut the walls. We had to do it in both basements which includes suspended ceilings and the whole nine yards. You can't fix that. Its drywall with plywood on top of it. They had to cut a hole down to the studs because of the sewerage going up the walls. It sucked up the walls.

Selectman McGrath asked to continue with questions. Is each unit insured separately? Rick Harvey said no. This house was built with one deed. It's a duplex. My sister and I built it together. We had one mortgage. Selectman McGrath indicated you have two units and you said your son is going to live in the other side. Mr. Harvey said he's living on the other side and eventually he will own the whole property when he can refinance. He sold a house in Manchester. He's going to end up owning the house. We own the house. We just pay taxes. The house is paid for. Both units got damaged. Its two separate homes so one cellar were finished, they both had to be replaced.

Vice-Chairman Roy indicated my initial thoughts are we're setting a dangerous precedent. It would be a very expensive precedent for the town. I don't practice in insurance law but I do believe that there's a way to reject that offer and maybe open up a negotiation with Primex.

Selectman Coutu noted he can also sue the town. Vice-Chairman Roy indicated and he can sue the town.

Rick Harvey (inaudible) if it doesn't work out for me, that's the next thing I'm doing and I'm done with this (inaudible) and I'm going to go after the lawyers' fees too. It's not infrastructure that caused my problem. Once you leave our property, it's the town's responsibility for those pipes and that block was in the town pipe. I was the only person in the development to have a problem because I'm the lowest person on that street. If I would have left my house on that Wednesday night, I might have lost my home. Other people might have had a problem because the sewerage would have been backing up all weekend. We caught the problem very, very early. With having a town (inaudible) in the right of way, it's not my responsibility. I called Gary Webster who's a retired Town Engineer and told me exactly the same thing. I'm hearing from all the employees it was a town issue. It was their pipe. I'm not going to go away easy.

Selectman McGrath stated I'm willing to make a motion to defer this to get advice from legal counsel and beyond that if that fails then I'm ready to make a second motion.

Motion by Selectman McGrath to defer this matter to get advice from legal counsel, failed due to lack of a seconder.

Motion by Selectman McGrath, seconded by Selectman Martin, to deny reimbursement to the Harveys on Hedgerow Drive in the amount of \$18,264.16 due to a sewer backup.

Selectman Martin said we are responsible. It was our pipe. It was a backup that happened. Unfortunately I think the insurance coverage needs to be looked at on our end because they should be protecting our resident's homes from sewer backup. Yes there are residents with septic systems but that's a different story. This is something that's publicly owned and publicly it was not working well. It was caught and unfortunately a resident had to expend an exorbitant amount of money. I wasn't here two years ago when that other thing happened but I'm not willing to spend the attorney's fees to go to court as you heard. That's what's going to happen. I'm willing to give him some of his costs back and not the whole amount.

Selectman McGrath commented as sympathetic as I might be to this, I think that we are setting a dangerous precedent. If this Board in the past has denied these types of claims because we do have insurance that the insurance company has determined what the appropriate amount is for coverage, I think to go beyond that is setting the town up to face numerous claims such as this. I also don't like sitting here as a representative for the entire town that we this Board is being threatened. I am not going to put up with that. I'm not going to vote - you can disagree with me but I have to make a decision that I think is right and in the best interest of the entire town. The entire community that I'm supposed to represent. I'm not going to take a threat such as that lightly. I made a motion to defer to get legal advice. It failed. We have an attorney on staff just for these reasons. That's my reason.

Rick Harvey asked may I speak. I'm not sure why you think of it as threat. As a homeowner if that happened to your home, you would do what I'm doing and you'd try to do a proper...Selectman McGrath noted we have a motion on the floor Madam Chairman and this isn't appropriate.

Selectman Coutu indicated she's correct. We're in a discussion mode. All right a couple of things. I made two notes. One we're talking about these cases. How long have you been here Mr. Malizia as the Town Administrator? Steve Malizia said 16 years. Selectman Coutu stated you know of this would be the second case to your recollection. Mr. Malizia said to the best of my recollection. Selectman Coutu said these cases - this is the second time this has come. As far as the word "threat" is concerned, he certainly didn't threaten anybody. He never said he was going to sue. I said he always has - I didn't say it in those exact terms but he has legal recourse. He can go to court. He can sue us. I've not had that discussion with him. I didn't say why don't you just sue us if we deny it. That discussion didn't occur. He never threatened me. It wasn't even a vail threat implied let alone stated. He did say that that will be my recourse. I will go to court and he has a right to say that. He's not threatening us. I know that that possibility exists. Mr. Malizia when you and I had this discussion a week ago, you and I agreed that he has that recourse. He can go to court if he wants to. He can sue.

As far as the money was concerned, Selectman Coutu believed that our funds - how much do we have in reserves in the sewerage account Mr. Malizia approximately. Steve Malizia said we have specific reserves that are \$8 million. Selectman Coutu said I don't think considering we have \$8 million in the bank...Mr. Malizia said that's the capital reserve fund. You're talking a fund balance, there may be a couple million. Selectman Coutu stated this is the first case in two years and that was the first case probably in two years. This is the second case in whatever number of years you said you were here - 16 years. I don't think it's unreasonable for him to make a request. I would agree with Selectman Martin that this could be arbitrated to a lower amount. I'm sure that - it's beyond me how I represent a town as a result of not negligence of the town but an infrastructure problem. This town wants to walk away from its citizens and say well let's talk to our lawyer and see what he says. This is absolutely - when do people and politics start using common sense? I've seen so much nonsensical things in the past two years. It's starting to really royal inside of me day in and day out as to whether or not volunteering to serve the public and not be able to do the right thing is the kind of thing that I like to do. Right now it isn't and I'm very upset about it and I can't believe that someone would be accused of threatening us when he never even threatened us. He has a right to legal recourse. I just wanted to avoid that because I think he'd

win in court. I just assume pay it and be done with it. I'm done commenting on this. Thank you for the time Madam Chair.

Selectman Martin noted there is a motion on the floor and I'm withdrawing my second.

Motion by Selectman McGrath to deny reimbursement to the Harveys on Hedgerow Drive in the amount of \$18,264.16 due to a sewer backup, failed due to withdrawal of seconder.

Vice-Chairman Roy asked if there was another motion.

Selectman Martin said I'm willing to make a motion to help offset these costs but because of the fact that it is an infrastructure problem that it was fixed. It was discovered, staff came down, found the problem, fixed it. I'm willing to give the resident the amount of \$15,000.

Motion by Selectman Martin, seconded by Selectman Coutu, to help offset the costs in the amount of \$15,000.

Vice-Chairman Roy stated that I agree with Selectman McGrath that we are looking at the whole town. I think it sets a dangerous and expensive precedent. I don't necessarily disagree with you about finding maybe a higher coverage limit, however, I think that would come with a cost and I think it's something we need to analyze carefully. If nobody has anything else.

Selectman McGrath asked for roll call.

Yea: Coutu, Martin

Nay: McGrath, Roy

Vote: Motion failed 2-2.

Rick Harvey thanked the Board for their time. You'll be hearing from my lawyer. I was willing to take the \$15,000. I was here to negotiate in good faith. I didn't want to sue. I will do the right thing and I was willing to take the \$15,000 when you said that number. I'd be more than happy with that. Thank you.

Selectman Coutu told Rick he was sorry.

B. Public Hearing - Amending Hudson Town Code Chapter 205, Fees, Planning Department Fees

Vice-Chairman Roy recognized the Town Administrator to speak on this item.

If you recall, Steve Malizia indicated we had a discussion at one of our recent meetings regarding raising the costs for the advertising that we charged for planning, for public hearings. That's a cost borne by any applicant. As you recall, we were at \$40. The cost is much closer to \$80. We're looking to raise that in our Town Code the fee section. You need a public hearing to accomplish that. If there aren't any questions from the Board, you can open a public hearing, take public comment. If there's no comment, you close the hearing and then after that you can adopt this.

Vice-Chairman Roy opened the public hearing at 7:49 p.m. Does anyone in the audience wish to speak on this item? Seeing none, I will close the public hearing at 7:49 p.m.

Motion by Selectman Martin, seconded by Selectman McGrath, to adopt the proposed fee increase for Chapter 205 Fees, Section 205-7 Planning Department Fees. A. (3) Advertising (per notification, per hearing) for all subdivisions: \$40 to \$80, and B. (3) Advertising (per notification, per hearing) for all site plans: (\$40 to \$80), carried 3-1. Selectman Coutu in opposition.

C. Involuntarily Merged Lot Application - 16 Robinson Road, Map 144, Lot 002

Vice-Chairman Roy recognized the Town Administrator Steve Malizia to speak on this item.

Steve Malizia explained the town received an application for an involuntary merged lot over at Robinson Pond Drive. There's a stack of information here but in essence the current owner was looking to unmerge many lots. I forgot how many there are in total. I think there is 19 parcels which effective were merged by I believe a prior property owner which was more than likely his father or parent. In essence if somebody has voluntarily merged something, it was not involuntarily merged. In other words, they took an action either over it or on purpose so therefore I ran it through staff which includes Town Planner, Zoning Administrator, Chief Assess, and I had a legal review done. From all the documentation that we were presented, it appears that this was voluntarily merged and therefore it is not appropriate to be involuntarily merged. The Statute only talks about involuntarily merged. If you voluntarily merge something, this is not the way to unmerge it. We recommend that you deny this request for involuntary merger.

*Motion by Selectman Coutu, seconded by Selectman McGrath, to deny the Application for Restoration of Involuntarily Merged Lots Pursuant to RSA 674:33-aa for property located at 16 Robinson Road, Map 144, Lot 002, carried 4-0.*

D. Sale of Town Owned Property - 7 Alpha Street

Vice-Chairman Roy said I'm going to ask somebody to make a motion that we defer that to the next meeting.

Steve Malizia stated I have some information I need to find out before I bring it back to the Board. I'm requesting that we defer it to the next meeting.

Selectman Coutu asked before we do that Madam Chair what is the property value. There is no information relative to the property value and what is it that we're going to be seeking to list it at.

Steve Malizia indicated I don't know what we're going to list it at because we'd have to award it to a realtor. The basic assessed value on this property is \$191,200.

Selectman Coutu asked why are we deferring it. What is the information that we need? Mr. Malizia said I would need to speak to the Board in nonpublic about that because it's something that...Selectman Coutu asked are you deferring it to the nonpublic session. Vice-Chairman Roy said we're deferring it to the next meeting so we can get some information but we can explain in nonpublic.

*Motion by Selectman Coutu, seconded by Selectman McGrath, to defer until the next meeting, carried 4-0.*

E. Accrued Time Payouts

Vice-Chairman Roy recognized the Finance Director Kathy Carpentier to speak on this item.

Kathy Carpentier said, believe it or not it's the end of Fiscal Year '19! Included in my responsibilities are to update you on accrued time payouts. We've had 170 full time payouts this year. Twenty-two employees have left employment. Fourteen earned time max payouts. The department heads have incurred \$555,000 of salary and benefits which puts us at about 98 percent with still two weeks of payroll to go. We have a possibility of being overspent because of the \$555,000. At this point, I propose a motion to potentially get up to \$200,000 from the Capital Reserve Fund and Employees Earned Time Fund. The fund is currently 40 percent funded. We've never tapped into it but, this motion protects us from being overspent. Do you have any questions? Did I go too fast?

Selectman Coutu asked what was unexpended fund balance going to be at the end of the year do you know. Approximately? Kathy Carpentier indicated we can only tell you what last June was because the

revenues aren't done and expenditures aren't done. It's still about 8.9 percent. There's a little over \$16,000.

Selectman Coutu asked what about this year's budget how much are we going to have unspent. Do you know? I know you don't it's not the end of the month. Ms. Carpentier said if I'm predicting it's looking like we might be about \$100,000 over spent. To protect the town, I'm asking you to but we've absorbed \$555,000. I'm asking you to get a possible reimbursement from the Capital Reserve Fund up to \$200,000. If some of the blanket POs come in less than what we're anticipating in the next two to three weeks, we wouldn't need to tap into that Capital Reserve Fund which is what's happened in the past. This is the only time I can come to you to ask for that so hopefully we don't need it. A trash bill hasn't come in yet - the last month of June, two more payrolls need to hit, any last minute electric bills, phone bills, and that type of stuff.

Steve Malizia noted it's more just to cover us. We've done this every year. Typically if you look at the very back of the thing, we have \$800,000 in the reserve fund. We haven't tapped into that. Ms. Carpentier said we're no longer funding it either. Mr. Malizia stated it's there for this type of purpose. What we're basically doing is what you've done every year I'm saying just in case.

Selectman Coutu said the School Department has a \$700,000 surplus. Vice-Chairman Roy indicated they spent it. Selectman Coutu said we're only going to get \$120,000 back. Why don't they give us the money? We can cover our expenses. Kathy Carpentier indicated we can't share. They also have a \$50 million budget. They had a lot more too. Selectman Coutu said it's there and they're going to spend it all. Mr. Malizia said they very well may. Ms. Carpentier said I don't speak on their behalf. Selectman Coutu said that's ridiculous. I don't have any objection.

Vice-Chairman Roy asked are we typically this close at this point. Kathy Carpentier said yes. Last year we were about \$400,000. The department heads are doing their best to absorb all these payouts. The Police Department has had a lot of turnover this year. As people are leaving especially the senior people - meaning the people who have been here for a long time, they're going out with their accrued time so they're taking payouts as they're going because they have vacation time on the books and we're paying them out. So then the departments are trying to absorb that money and covering most of it. So they're a little over spent so you'd see police or fire might be overspent for that type of thing. I think also Highway but it's because the department heads are covering those expenses which they're not responsible for because the Board has always taken the position to let them absorb it.

Vice-Chairman Roy noted we've had an exceptionally high year of overturn. Okay. Just wanted to be clear.

*Motion by Selectman McGrath, seconded by Coutu, that the Board of Selectmen as Agents to expend request the distribution of up to \$200,000 from the Employees' Earned Time Fund from the Trustees of the Trust Funds as reimbursement for Fiscal Year 2019 appropriations if needed, carried 4-0.*

Kathy Carpentier indicated if needed so if it's not needed and as long as we have a buck left on the books then I wouldn't request any money back from the Trustees.

#### F. Fiscal Year 2019 Encumbrances

Vice-Chairman Roy recognized Finance Director Kathy Carpentier to speak on this item.

Kathy Carpentier explained at year end I ask all the department heads and committee chairs for encumbrances. Encumbrances are any financial liabilities for projects or warrant articles for projects that were started in Fiscal 2019 that haven't been completed, paid for. So the liability is still on the books. We're encumbering the funds and carrying them over into Fiscal 2020. This number is pretty large. A lot of it has to do with the Sagamore Bridge - \$1.4 million. That's a big piece of it. We're also doing water, sewer, conservation, donations. It is a long list but I don't see anything that jumps out at me. If you've had a chance to look it over, I'd be happy to answer any of your questions. This is the backup that your department heads gave me a copy of all the POs that go along with it.

Steve Malizia stated this is the maximum number. It could be reduced if things get done. For example they've been installing a lift at the Public Works garage. If the bill comes in, it comes off this list. This is just to cover anything that you've contracted for this year that slides into next year. Again at year end this is the only opportunity she has to do this that's why she does it at this meeting.

Motion by Selectman Coutu, seconded by Selectman McGrath, to encumber the not to exceed amount of \$3,345,142.19 for Fiscal Year 2019 as recommended by the Finance Director, carried 4-0.

9. REMARKS BY SCHOOL BOARD - No School Board member present.

10. OTHER BUSINESS/REMARKS BY THE SELECTMEN

Selectman McGrath - Tomorrow night there is going to be a Planning Board meeting and the Dakota formerly the Friary property is going to be discussed. I would encourage anyone that's interested and wants to add commentary now is the time to do it. It may be your last opportunity if the Planning Board acts on it tomorrow night. It will be in the Buxton room on the other side of Town Hall. That's tomorrow night at 7 p.m.

Selectman McGrath noted next week is 4<sup>th</sup> of July and just wishing everybody a happy 4<sup>th</sup> of July and recognizing what it means to this country.

Selectman Coutu - First of all thank you Selectman McGrath for bringing that up. I was at house party this weekend as I said over at Dr. Gosselin's house and there were approximately 50 people there. Almost all of them were Hudson residents. Two things that kept coming up in conversation was traffic problem and the second one were the apartment buildings. Like you I watched last week's meeting. The Planning Board meeting especially. I took some notes because I don't have a document in front of me. I didn't have as detailed a document as we have for our minutes so I was able to read all of your minutes Donna and that's the only reason I caught that. Typically I don't read them because I know you're typing from the tape. The other thing was not in favor of the apartments. I said where were you at the meeting. It's just amazes me that there's so much written in the paper relative to the project. There were so many thumbs down in the paper about the project. I haven't read a single thumbs up or anything on Facebook with a thumbs up. I have to be careful what I say because it might put the town in trouble so I have to be careful. The point is that if you have an opinion and you have an opportunity to state that opinion, you should do so by attending the meetings that are being conducted specifically addressing what you might not or you might want it and you should come and let us know. Sometimes you assume that everybody is against it. It may just be a very small number but people have an opportunity to step forward and they didn't. Be it as it may, I want to thank Dr. Gosselin for inviting me for Franco American weekend. Great festivity. Great crowd.

Selectman Coutu indicated another thing I ceased on the opportunity of an invitation handed to me by the Nashua Area Radio Society. They were set up at the Hudson Middle School this weekend - Saturday and Sunday. What an impressive display of antennae and equipment. They had approximately \$3 million worth of equipment there this weekend. Tents, several antennae - I mean quite a few. I learned quite a bit and I was so impressed and so happy to hear. I congratulate the Middle School Principal Keith Bowen for incorporating some of this into their curriculum in the school. They let the radio operators come in with their equipment and hold classes for these kids. They look forward to coming in and doing that. They learn so much about aerospace. As a matter of fact, this past year not more than 2 or 3 months ago, they were talking from the middle school through this operation unit to the space station. They were talking to the astronauts. The astronauts gave them a half an hour of air time to be able to communicate with them and it was a great experience for those kids. With regards to this, I want to thank Craig Barry for inviting me. He's a very active member of the group.

Again, Selectman Coutu noted Selectman McGrath mentioned the following weekend coming is the 4<sup>th</sup> of July. It's on a Thursday but people celebrate from Thursday I'm sure through Sunday. Please drive with care. Please remember what that holiday is all about. It's not just about fireworks, going to the

beach, having cookouts. Remember the independence of our country. It protects us and provides us with continually with that independence to this day.

On a personal note if I might, Selectman Coutu stated I know you're watching honey. Happy 56<sup>th</sup> anniversary. It will be this Saturday - 56 years. Very proud of it and I don't mind broadcasting it.

Selectman Martin - Happy 4<sup>th</sup> of July to everybody in town. Enjoy the weather if it's nice. Be good out there because a lot of things have happened in this State and worldwide. Continue to remember all the Veterans that are providing the very freedom that we are enjoying.

Selectman Martin noted I'm going to go for some Fire Department updates. Five probationary firefighters are progressing very well. New dispatcher has completed orientation and is operating on shift currently. The new ladder is in service and operating very well. The Chief is working on the closeout of the fiscal year and continuing to work on process improvement in Inspectional Services Department.

Selectman Martin indicated I won't be as cumbersome as I was last week and I missed this last week that's why I'm bringing it up this week. I also want to thank the Police Chief and his staff. They're doing a phenomenal job out there. I see them. They're very, very busy. One time you past a motorcycle and the next time he's turned around with his lights on. They're out there working hard and I really, really appreciate you out there protecting us. Thank you for all your hard work both police officers and firemen. Thank you.

Selectman Roy - I will reiterate what everybody else has said to enjoy the 4<sup>th</sup> of July. There is a point to what Selectman McGrath and Selectman Coutu said - the basis of our country is everybody has a voice. You should use that voice at every opportunity and I want to wish a happy anniversary to the Coutu's. That's a great feat. It truly is.

#### 10. NONPUBLIC SESSION

*Motion by Selectman Coutu, seconded by Selectman Martin, to enter nonpublic session pursuant to RSA 91-A:2 (a) The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted; (b) The hiring of any person as a public employee; and (c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant, carried 4-0 by roll call.*

Vice-Chairman Roy entered nonpublic session at 8:09 p.m., thus ending the televised portion of the meeting. Any votes taken upon entering open session will be listed on the Board's next agenda. The public is asked to leave the room.

Vice-Chairman Roy entered open session at 8:58 p.m.

*Motion by Selectman Coutu, seconded by Selectman Martin, to hire Chloe Kroner as a Regular Special Shift Employee at a rate of \$12.50 per hour, carried 4-0.*

*Motion by Selectman McGrath, seconded by Selectman Martin, to promote Master Patrol Officer Kevin Riley and Master Patrol Officer Patrick McStravick to the position of Sergeant at \$35.53 per hour according to the Hudson Police Employee Association Union Contract (Step 5). This elevation in rank would be effective July 1, 2019, carried 4-0.*

*Motion by Selectman McGrath, seconded by Selectman Martin, to hire Zachary Nardini, Leandro Sosa, Shane Grayson, Giomar Colon, Kraig Hoag, and Matthew Horton to the position of Full-Time Police Officers with a starting salary of \$23.68 per hour according to the Hudson Police Employee*

*Association Union Contract. This will be contingent upon all six candidates passing the psychological and medical exams, carried 4-0.*

11. ADJOURNMENT

*Motion to adjourn at 8:59 p.m. by Selectman McGrath, seconded by Selectman Coutu, carried 4-0.*

Recorded by HCTV and transcribed by Donna Graham, Executive Assistant.

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Kara Roy, Vice-Chairman

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Roger E. Coutu, Selectman

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Marilyn E. McGrath, Selectman

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Normand G. Martin, Selectman