

HUDSON, NH BOARD OF SELECTMEN
Minutes of the September 13, 2010 Meeting

1. CALL TO ORDER - by Chairman Massey the meeting of September 13, 2010 at 7:00 p.m. in the Selectmen's Meeting Room at Town Hall.

2. PLEDGE OF ALLEGIANCE - led by Selectman Shawn Jasper.

3. ATTENDANCE

Board of Selectmen: Roger Coutu, Ken Massey, Shawn Jasper, Rick Maddox and Ben Nadeau

Staff/Others: Steve Malizia, Town Administrator; Donna Graham, Executive Assistant; Assistant Town Administrator Mark Pearson; Recreation Director David Yates; Mike O'Keefe; Assistant Assessor Jim Michaud

4. PUBLIC INPUT

Chairman Massey asked if anyone in the audience wished to address the Board on any issue at this time.

Pat Nichols, 214 Pheasant Run Road, Hudson, NH. She was there to boost the dog park. She liked the idea and she thought Hudson would really, really love it. She thought it was a good idea.

Jerry Desrosiers, 97 Pelham Road, Hudson, NH. He was there to support the dog park. He thought it was a good idea. He has 2 dogs. As most of you know, he doesn't get around very well so it's very difficult for him to walk his dogs in the park which they love. If they had a dog park, he'd be able to bring his dogs and let them loose in the park to socialize with other dogs while he socialized with other people without having to walk around. Thank you.

Kimberly Guarino, 13 Windhaven Drive. She was also there for the dog park and she drives to Derry 2 to 3 times a week to take her dogs to the dog park there which is an excellent, excellent park. It's all done by volunteers. She wanted to show the Board a picture of her puppy that needs a park of his own.

Kathleen Guild, 35 River Road, Hudson, NH. She's a dog owner and she goes to many dog parks. She goes to Cambridge, MA, to Danahy Park. She takes her dog to Derry Park but not as often. She belongs to the Nashua Dog Group. They meet on Sundays. There's over 100 dogs sometimes there on Sunday. There's never been a problem. It's excellently run and everybody enjoys it. She's been going there for over a year. No problems whatsoever.

Bonnie Sherman, 171 Robinson Road, Hudson, NH. She was also there for the dog park. She has 2 dogs and they go to Derry and various camp grounds that have dog parks. They're really a nice way to contain the dogs and keep the stuff all in one place.

5. NOMINATIONS & APPOINTMENTS - None

6. CONSENT ITEMS

Chairman Massey asked if any Board member wished to remove any item for separate consideration. With the Board's indulgence, he would ask if they could remove Assessing Item #1 for separate consideration.

Motion by Selectman Coutu, seconded by Selectman Jasper, to approve consent items A, 2), 3), 4), C, D and E, as noted or appropriate, carried 5-0.

A. Assessing Items

1) Elderly Exemption Regualification - Map 204, Lot 006, Sub 922, w/recommendation to rescind prior denial and approve elderly exemption

Chairman Massey said item #1 was just a form of the motion.

Motion by Selectman Coutu, seconded by Selectman Jasper, to rescind a denial from the August 24, 2010 Board of Selectman meeting for regualification of an Elderly Exemption and to approve an Elderly Exemption per Assistant Assessor Jim Michaud's Memo dated September 13, 2010 for Map 204, Lot 006, Subdivision 922, carried 5-0.

- 2) Elderly Exemption Regualification - Map 191, Lot 082, w/recommendation to deny
- 3) Current Use Lien Releases - Map 230, Lots 22-8, 22-9, 22-11, w/recommendation to approve
- 4) Current Use Lien Releases - Map 217, Lots 33-2, 33-3, 33-4, 33-5 & 33-9, w/recommendation to approve

B. Water/Sewer Items - None

C. Licenses & Permits

- 1) Request to Solicit Funds by Campbell High School Varsity Spirit Team
- 2) Raffle Permit by Zach Tompkins Memorial Fund
- 3) Raffle Permit by Friends of Alvirne Ice Hockey (FAIH)
- 4) Request to Solicit Funds by Knights of Columbus

D. Acceptance of Minutes

- 1) Minutes of meeting on August 24, 2010.

E. Calendar

09/14 VOTING DAY
09/15 5:00 Water Utility Committee - BOS Meeting Room
09/15 7:00 Council on Aging - Community Development Meeting Room
09/15 7:00 Library Board of Trustees - BOS Meeting Room
09/16 7:00 Benson Park Committee - BOS Meeting Room
09/16 9:00 Budget Committee - Community Development Meeting Room
09/20 6:00 Hudson School Board - BOS Meeting Room
09/20 7:00 Energy Committee - Community Development Meeting Room
09/21 7:00 Cable Utility Committee - BOS Meeting Room
09/22 7:00 Benson Park - Landscape Subcommittee - BOS Meeting Room
09/22 7:00 Planning Board - Community Development Meeting Room
09/23 3:00 Trustees of the Trust Fund - Community Development Meeting Room
09/25 11:00 Benson Park Grand Opening
09/27 7:00 Recycling Committee - BOS Meeting Room
09/28 7:00 Board of Selectmen - BOS Meeting Room

7. OLD BUSINESS

A. Vote taken after Nonpublic Session on September 7, 2010

- 1) Motion to adjourn at 10:23 p.m. by Selectman Coutu, seconded by Selectman Jasper, carried 5-0.

B. 9 Industrial Drive - Proposal for Phase II Investigation

Chairman Massey recognized Selectman Maddox.

Thank you Mr. Chairman. Selectman Maddox said that the Town Administrator was nice enough to put this one, but there was really no reason for it to be there. They made action at the last meeting, the workshop, for not to exceed \$12,000 and that was all that they were going to go for. There is an additional charge for the work, but that will be being picked up by others. It will not be coming back to this Board.

Chairman Massey did understand that there's a possibility that NRPC has \$10,000 that are available that could offset the entire \$18,000. Selectman Maddox said no only \$10,000. This was evolving at a rapid pace and descending at a rapid pace. If he was to explain all that's happened in the last week, the dog park people would have gone to sleep. At this point, there is no need for additional monies. That was never going to be an option. The Town Administrator just wanted to make everybody aware of what was going on. Selectman Maddox heard today that Phase I has been returned. It had a few questions, but that should hopefully be done within the next couple of days. Selectman Maddox said they did have some people that are going to talk about..Chairman Massey said the brownfields application and timeline. He recognized at this time Assistant Town Administrator Mark Pearson, Mr. Lathrop from the Tompkins foundation and Christine Lombard from the EPA.

Thank you Mr. Chairman. Mr. Pearson said Ms. Lombard was very gracious to come up here today to answer some questions. She can speak about the deadline that is looming October 15 to get all the necessary paperwork in. At this time, he'd like to defer to her so that she can explain in detail relative to the October 15th deadline for Phase II that they thought they were on track for. There's been a little bit of change in circumstances here because of the time.

Ms. Lombard said it was their recommendation and the EPA brownfields team that the Board not apply for a cleanup grant at this time. You will still need to do the Phase II but that takes the rush out of it. It should not change the schedule of the cleanup and the redevelopment. It's just that they will work with the Board through other sources. With that being said, the Rockingham Economic Development Corporation to find money for cleanup rather than them going through the competitive process October 15th. The reason for that was Phase I which has to be AAI, All Appropriate Inquiry, or AST Standard is not there yet. Rather than rush anything and do it wrong and find out later that there was a problem, they're going to slow it down this part of the process. They will work with the Town throughout the whole process.

Selectman Maddox asked if they could apply on November 15th with all of their...Ms. Lombard said they will not apply to EPA directly. The Town will apply to the Rockingham Economic Development Corp. which has no schedule. Selectman Maddox said they were told that there was also a deadline for them. Ms. Lombard said there was a deadline for a competitive grant process. This was not a competitive grant process. Selectman Maddox said great. That helps a lot.

Selectman Coutu said Rockingham County only has \$500,000 available out of the \$1 million to appropriate for this. What happens if the cleanup should exceed \$500,000? Ms. Lombard said they would have to look for other sources of funding either through the State who gets funding every year or maybe other parties. Unfortunately the brownfields program they have a limit of \$200,000 per parcel. In this situation, they would request a waiver and she's already spoken with people in Washington. They feel like a waiver would be granted. They still would not be able to go over the \$500,000. Chairman Massey asked for clarification the \$500,000 from Rockingham or an additional \$500,000. Ms. Lombard said from Rockingham. She thought they didn't want to get that far ahead. Sometimes sites aren't as bad as you think. Phase II will tell them exactly what they have out there and exactly what it will cost for cleanup or it will give them a very good estimate of the cleanup costs and then they can brainstorm from that point.

Selectman Maddox said on September 15th the Board was sending people to do a seminar on filling out the forms. Are they the same basic forms? Ms. Lombard said they were going to be different forms. She would still recommend that somebody go to the session on the 15th because you may realize down the road that maybe there are other sites in Town that you want to look at. It gives you an overview of their program, what it's all about, how to get their money, how to write a good proposal. Its tips and tricks basically on how to be competitive with the rest of the nation.

Chairman Massey said it was basically good news because he agreed. As he's always said to the Board on many occasions, act in haste, repent in leisure. He thought it was good news for everybody all the way around. Ms. Lombard said they wanted to slow things down a bit. Chairman Massey thanked Ms. Lombard for taking the time to attend the meeting.

8. NEW BUSINESS

B. Public Hearing - Petition for Highway Layout and Alteration of Bush Hill Road - Jarry Subdivision

Chairman Massey recognized the applicant represented by Attorney Brad Westgate and Keach-Nordstrom the engineering firm. Give the Board a description of what it is they're requesting the Board to do and then they'll have the public hearing.

Good evening Mr. Chairman. Thank you members of the Board. My name is Brad Westgate. I'm a lawyer with Winer and Bennett in Nashua representing Michael and Rebecca Jarry. They're the Petitioners with respect to this highway layout or alteration involving a portion of Bush Hill Road. With him tonight are Jeff Merritt and Tony Basso of Keach-Nordstrom Associations. They're the project engineers. Michael and Rebecca Jarry are also there. With the Board's indulgence, they're going to give them some background on this matter and try to walk you through their own testimony in support of the Petition. He's going to give them a little introduction and turn it over to Jeff and Tony to take them through the plans he's just handed out and have it go back to him so he can tie together the provisions. They would respectfully request that the testimony they're giving be of course considered part of the public hearing. To the extent the public hearing be formally opened now, they would ask that they confirm that it is formally opened so that what they're saying is presented to them in the context of the public hearing. Of course members of the public may have their comment and questions as well.

Chairman Massey opened the public hearing at 7:15 p.m.

Thank you Mr. Chairman. Attorney Westgate said the Jarry's own property on the west side of Bush Hill Road, several different lots. This particular lot that involves the realignment of Bush Hill Road is Map 207, Lot 8. They also own 3 other parcels. In conjunction with their parcels as well as 2 other properties owned by third parties, they processed through the Planning Board an open spaced subdivision, a residential subdivision, consisting of 38 lots which the Planning Board approved on May 26, 2010. Just a few months back. In approving the subdivision, the Planning Board imposed 13 conditions, many of which were typical

conditions the Planning Board appends to any residential development. One of the conditions of the approval pertained to the realignment of a portion of Bush Hill Road. So the Planning Board approval is conditioned on the realignment of Bush Hill Road. If you take a look at the plans before you, and Mr. Merritt put up a larger scale set on the easel. The path that Attorney Westgate is pointing to in green is the existing portion of Bush Hill Road that runs into Mr. Jarry's property and other properties. Lot 207-8 is in the upper portion. The Planning Board approval required that Bush Hill Road be realigned along the path he pointed to in light brown. The Petition before the Board calls for a dedication of a right of way between the turquoise path out to the line shown in red. All that land mass will be dedicated to the Town as a right of way. Within that land mass, Attorney Westgate said Bush Hill Road will be realigned along the brown path that he's shown. You have smaller scaled versions of that same plan. The second sheet on the plan set that Jeff handed out shows what he was just pointing to.

[Attorney Westgate] Petitions for Highway Layout or Realignment or Alteration are governed by RSA 231 Section 8. That's the Statute under which they filed the Petition. That Statute requires a public hearing such as they're having that evening. It also sets forth a standard by which the Board of Selectmen may lay out or alter a highway. That standard effectively is that there be occasion to layout the highway. What they'll demonstrate to the Board is that there is in fact occasion to lay out or alter that section of Bush Hill Road for a variety of reasons which enhance the traveling public's ability to pass on that part of Bush Hill Road, enhance safety, enhance maintenance capability, and the like.

Obviously the entirety of the right of way that's being dedicated would not be paved surface only that portion that Attorney Westgate showed in brown would be the paved relocated surface of Bush Hill Road. The existing surface of that section of Bush Hill Road will be taken up the utility poles and lines taken down. They'd be relocated as underground lines along that new section of Bush Hill Road. All of that would be undertaken at the Jarry's expense. This is a no cost to the Town project. There'd be some drainage improvements, curbing, safety signage, curve signs, mile per hour signs, and that sort of thing. All of those as part of the proposal. Attorney Westgate would like to turn it over to Mr. Merritt. Jeff can outline the existing conditions on that section of Bush Hill Road and then give the Board some real detail on the proposed realignment and new layout. He's sure he'll make reference to the three plan set as he does so.

Good evening to the Board. Just for the record, he's Jeff Merritt the engineer of record for this project. If the Board could flip to the plan set that he just handed out, he'd like to quickly go through it. That plan set gives the Board a little bit of an illustration as to how Bush Hill Road is aligned today as well as what their proposed improvements are. The first sheet in the plan set entitled "Existing Roadway Plan Profile" is just that. It's the existing plan of Bush Hill Road and the profile of that roadway along the center line. The 2 blue lines that are shown on your plan represent the right of way of Bush Hill Road. The center colored strip in gray is the edge of pavement associated with Bush Hill Road. As you work from the top of the plan to the bottom of the plan, the elevation of Bush Hill Road falls. So you can picture this area up here as the crest of Bush Hill Road. Then it falls as you go south until it flattens out right around down here. As you can see the horizontal alignment of Bush Hill Road in this area and then there's an abrupt turn down in this lower section at the base of the hill. The pavement surface in this segment of roadway is roughly 22 to 24 feet wide. It is a little bit narrower than what the Town's current regulations would require. The grades in the hill portion average about 11.7 or 12 percent. There are sections of Bush Hill Road in that area that are approaching 14 percent. The average is roughly 11.7 or 12 percent.

Drainage. Mr. Merritt said there was a large hill that sheets storm water to a ditch on the east side of Bush Hill Road. This ditch conveys storm water down and around until it ultimately crosses Bush Hill Road via an existing cross culvert. Utility lines. As Mr. Westgate mentioned, utilities in this area of the roadway are overhead. They are poles and overhead utilities in that area. If you turn to the next sheet in the plan set entitled "Roadway Grading and Drainage Plan - Jarry Subdivision", Mr. Merritt said it illustrated what the proposal was for the reconstruction of that portion of Bush Hill Road as well as the realignment of the right of way. Again, the blue lines represent the right of way as it exists today. The magenta or purple line represents the plan location of the right of way. The area between the blue line on the left and the pink line is the area of the Jarry's property that would be conveyed to the Town for the right of way. That area totals about approximately 1.2 acres in area. The improvement will reconstruct about 800 feet of the roadway. It will be significantly reduced seeing the slope of the roadway out there. Again as Mr. Merritt mentioned moments earlier, the roadway slope out there is roughly 12 percent on average with sections upwards of 14 percent. This realignment lengthens Bush Hill Road enough such that they can lower the grade to be a consistent grade. The plan grade is just over 8 percent. It's 8.05 percent for all intense and purposes, it's an 8 percent grade here.

Next you can see as they do that and extend Bush Hill Road, the sharp corner that is at the base of the hill is no longer there. Mr. Merritt said there's a large radius which is of ample radius to support the traffic and the

speeds that they expect on the road. Of course as it flattens out, it does give a nice long tangent before the reverse curve that exists today. Mr. Merritt said the roadway width would conform to town standard. It would be 28 feet of paved section. They will be installing closed drainage so there will be slope granite curb. Storm water will be picked up by the curb line and directed into a series of catch basins that will be installed in the roadway. Then it will actually be piped into the subdivision. So piped into and along Moose Hill Road the drainage that was designed for the Jarry Subdivision. Within the interior of the Jarry Subdivision are some storm water facilities. There's a detention basin, treatment swales, and devices already designed to mitigate storm water runoff, (inaudible), and volume run off. They'll take the storm water from this section of Bush Hill Road and direct it through their drainage improvements that will be constructed as part of Moose Hill Road.

Utilities. Mr. Merritt thought the last time they were there the Board had suggested that their preference was to remove the overhead utilities that were along Bush Hill Road today and relocate them under ground. That has been reflected on the plan. Utilities will be dropped at the pole over here and this section of roadway where they're going to be doing their work; they will locate those utilities under ground. Mr. Westgate mentioned that they will be doing the installation of proper roadway signs. That includes chevron signs along the corner, warning that the hill is coming up - a proper roadway sign.

Guard rail. On the outside edge as you cross this area of the roadway just past the intersection, Mr. Merritt said there would be guard rails on the down hill slope. There is none today on that segment of Bush Hill Road. They will be posing it as part of the project. A few of the benefits to site distance are really the site distance that is gained for some of the abutting property owners out there. It's kind of a bi-product of doing the improvements. Mr. Merritt pointed to a driveway that belonged to owner of Lot 11. The site distance as you look south on Bush Hill Road will be greatly improved because that corner is going to be eliminated. So someone would actually be able to see through the area. Additionally, the driveways for lots 8 and 7, Map 207, the site distance looking in a northerly direction or off of Bush Hill Road would be greatly improved again by elimination of that sharp curve. You can now see across the corner.

Mr. Merritt said they did have the opportunity to present the plan to the Town's Road Agent. He worked with them on coming up with a design. He thought the Board would find that it met with his approval. They also attended the Highway Safety Committee meeting and they did have an opportunity to present that to the entire committee. Again, he believed that the Board would meet their satisfaction. With that, Mr. Merritt directed it back to Attorney Westgate.

Thank you Mr. Chairman. With that background and information in mind, Attorney Westgate would like to try to tie the circumstances into the standard for the Board of Selectmen finding an occasion to lay out or alter an existing highway. As he mentioned, RSA 231-8 is the Statute that gives selectmen the authority to lay out or alter a Class V road and certain other roads. Our State Supreme Court has looked at that Statute over the years a number of times mostly in historic vintage because this process is rarely used today frankly. Most new roads as the Board knows comes from subdivisions and dedication of new roadways on subdivision plans that go through the Planning Board process rather than the layout process. This process still exists of course.

In 2008, our State Supreme Court decided a case called Green Crow Corporation v. Town of New Ipswich. The only reason Attorney Westgate mentioned it is because it set up a two step process for finding occasion to layout or alter a highway. The first of the two steps that the Court mentioned was that they had to balance the public interest in the layout versus the rights of the affected landowner. The common case is that historically anyway a town would lay out a highway over land owned by various owners who necessarily weren't all interested in that occurring. That's not what we have here. In this case, Attorney Westgate said this alteration of Bush Hill Road would be on the Jarry's land. The Jarrys are the very Petitioners asking that the Board of Selectmen makes this alteration. So they being the affected landowner, that is the landowner upon whose land the road will be built, are obviously for this proposal. There's nothing to balance. That is their interests aren't adversely affected. They would like this to happen so therefore the public interest in laying it out certainly outweighs their lack of opposition. In fact they're acquiescence and desire that it occur. The first step becomes academic. You don't have any adverse property owner whose land is being taken for this alteration.

Attorney Westgate said the second step that the Supreme Court references is does the public interest justify the taking of the land without the landowner's consent. If so, in case we don't have that here, the second step is to balance the public interest in laying out or realigning the highway against the burden it imposes upon the town. So the balance is what's the public interest in the layout versus the burden that the layout imposes upon the town. They thought the second step is readily met as well. From the information that the Board has seen and frankly from your own personal knowledge of this area he believed and from what Jeff has said, there's a number of factors that show that the public interest has benefited in altering this section of

Bush Hill Road. They certainly far outweigh burdens imposed on the Town. In fact, they submit there's actually no burden imposed on the Town. There's benefits bestowed upon the Town by the road enhancements. There's certainly safety enhancements made. The flattening out or the smoothing of the curve. The dropping of the grade. The enhancement to site distance. The enhancements to drainage. You'll have for example in winter conditions icing no be as current today because of the removal of certain sheet drainage which would cause the road presently. This obviously is a benefit to public safety vehicles by a more safely traveled surface. Those are all elements that demonstrate that the laying out is in the public interest. All of which come at no cost to the Town in the context of the improvements themselves. The Jarry's have to bear those costs, understand they have to bear the costs as part of the subdivision approval conditions.

Also on a going forward basis after the improvements are made and this realignment is a reality, Attorney Westgate would submit that the cost to the Town, again, aren't enhanced but likely lessened. As Jeff was mentioning, significant drainage work will be done which will eliminate the existing lack of closed drainage which generates a lot of water coming down hill and then scouring the slopes along the side of Bush Hill Road presently because of not being controlled. The Town's need to maintain and sure that up from time to time is eliminated given the closed drainage arrangements. The steepness of the hill Attorney Westgate would think and the widening of the pavement enhances plowing capability as well. It makes that an easier chore. None of that is merely their statement but having gone through the Planning process for the subdivision which included the Highway Safety Committee review as Jeff referenced, obviously demonstrated to those agencies and boards that this was a good thing to do. It was appropriate to make those changes to Bush Hill Road as part of that development process.

One other point that the Court made in the Green Crow Corporation case is that when the Board of Selectmen is analyzing whether there's occasion to find a layout of the road or alteration of road should occur, the Board does not factor into its process the anticipated real estate development that might be associated with the road layout or alteration. The Board is required by the Supreme Court's analysis of RSA 231-8 to focus on the benefits presented by the alteration on highway layout versus the burdens imposed by the town visa vie the road itself and not with respect to burdens or perceived burdens that might occur because of ancillary real estate development.

To try to summarize Mr. Chairman, simply put Attorney Westgate said that portion of Bush Hill Road has steep grades in combination with non ideal curves which certainly can benefit from improvement. As Jeff mentioned, the realignment would drop the average grade of about 11.7 percent in this section of Bush Hill Road to effectively 8 percent, would smooth out the horizontal curve as well. Road drainage improvements would be made as Jeff detailed minimizing erosion, enhancing storm water management. Guard rails would be installed as with appropriate signage, neither of which exists today. Site distance for a variety of driveways would be enhanced. As Attorney Westgate mentioned icing conditions would be reduced. Again with the Jarrys paying, the cost to have this accomplished. With that Mr. Chairman, they would respectfully submit that there's occasion for this alteration of Bush Hill Road to be laid out and the Petition to be granted, and an appropriate return of Highway Layout be executed by the Board of Selectmen. Attorney Westgate made a Memorandum for the record that really pulls together all that he's said tonight and adds a little bit of detail but gives appropriate reference to those circumstances.

Chairman Massey asked the Board if they had any questions for the Applicant before they opened up for input from general public. Seeing none, Chairman Massey asked if there was anyone in the audience who wished to speak in favor of the application, has questions about the application, or is not in favor of the application. Seeing none, the matter is before the Board. What's the Board's pleasure?

Chairman Massey closed the public hearing at 7:36 p.m.

Motion by Selectman Jasper, seconded by Selectman Nadeau, to grant the Petition submitted by Michael and Rebecca Jarry for Highway Layout and Alteration of Existing Highway for the laying out and alteration of a portion of Bush Hill Road and to sign the Return of Highway Layout/Alteration for that portion of Bush Hill Road as shown on the roadway grading and drainage plan for the Jarry Subdivision revised through August 19, 2010.

Selectman Maddox had a question for Attorney Westgate. They don't do that very often. They are going to eliminate 600 feet of road frontage to Map 207, Lot 11 because that land in the middle becomes the Town's. Attorney Westgate said it would still be road frontage in that the right of way to be dedicated to the Town is that entire land mass. They will be separated from the paved surface a distance that is not as common certainly. That's not totally uncommon. There are a number of some locations in the Town where the right of way is relatively wide. The pavement is a good number of feet of the right of way extremities for example. They're not being land locked from Town access certainly. Selectman Maddox was just trying to put that out there so that there's no

questions in 5, 10, or 15 years when somebody says you have to go through Town land to get to the road. Attorney Westgate said it certainly would need a driveway to be done anew of course some day if they did.

The final question Selectman Maddox had is at what point during the development of the Jarry Subdivision will this work be done. Attorney Westgate said the Planning Board approval contemplated 3 phases if he recalled correctly. The work physically would have to be done at the same time that the north entrance to Moose Hill Road is done. It couldn't be done after that because it's a component of the physical work itself. Selectman Maddox said that there's 2 other segments to that development. Again, he's just asking the question. Attorney Westgate said it was conceivable he thought that if the south entrance several hundred feet below was the first phase and was built in a cul-de-sac length that didn't exceed the 1,000 foot cul-de-sac lane. This work not necessarily had to be done at that stage. Mr. Basso can add to that. He was involved in the Planning Board process.

Mr. Basso said that plan that he indicated was the plan that was approved by the Planning Board. They had depicted Phase I, which is the south section of Moose Hill Road up to a point which is a group of 9 or so lots. Then Phase II which is the northern leg, this is the phase where it would be anticipated that this must be built. You physically can't build this without building that. It would be part of the Phase II construction. Phase III is the remaining loop that connects. That needs to be done as the last phase because of the length of either one of those legs can't be more than 1,000 feet. They can't do a second leg there and then fill it in because it would get too distant. It is envisioned that it would be built at the beginning of Phase II. Selectman Maddox just wanted that on the record. That's all he was looking for Mr. Chairman because there was some confusion towards the end at the Planning Board end of it. Thank you.

Selectman Jasper wanted to comment on Selectman Maddox's first concern about taking away frontage would only be true if they were actually creating a lot. But they're not. They're just adding to their right of way. Chairman Massey said they have a similar situation down on Wason Road in front of Wason Heights. There's a section of that curve that the Town actually owns the right of way. If they ever wanted to straighten the road out, they could.

Vote: Motion carried 5-0.

With the Board's indulgence, Chairman Massey asked for a 5 minute recess at 7:40 p.m. The Board resumed at 7:50 p.m.

A. 2009 Abatement Applications - Shepherd's Hill Condo Development

Chairman Massey asked if anyone was there from Shepherd's Hill - no response (at the beginning of New Business).

At this time, I'd like to take up item 8. A. under New Business. He just had a conversation with Mr. Iacozzi and Mr. Thibeault and they're going to postpone the discussion on that item until after they've had a chance to have a conversation with Assistant Town Assessor Jim Michaud. Chairman Massey apologized for the disconnect but he thought as they discussed out in the hall Mr. Michaud's input is critical to this discussion. He understood from Mr. Thibeault that he was going to contact Mr. Michaud and see if they could come to some kind of a resolution. Mr. Thibeault said he hoped so.

C. Friends of Benson Park - request for a table at September 25th Benson Park Dedication

Chairman Massey recognized Kenneth Matthews. He wasn't there so Chairman Massey asked if there was anybody else there from The Friends of Benson. Crista Gagnon, 28 Chagnon Lane. She spoke to John Leone who happens to be on The Friends and they actually have their meeting tonight. Because the Board switched their meeting from Tuesday to Monday that's why no one was there to represent that. Chairman Massey asked what was the Board's pleasure.

Selectman Coutu said he opposed the idea. He's not going to make any motion for it. Chairman Massey asked if there was a consensus to either go forward with the request or not to. Selectman Maddox thought it was part of the opening. He thought it was a function of hopefully getting people that are going to go to the opening to at least see what's there. He thought just a cautionary note that it is a table set up to hand out information and not for soliciting of funds. Selectman Jasper thought that allowing them to do what they had let them do on the official opening day in the same location would be appropriated and cause a great disturbance at that time and as long as they are not actively soliciting and just there with information and signing people up for the committee, he thought that was appropriate.

Motion by Selectman Jasper to grant permission to grant The Friends of Benson Park, Inc. request to have a table at the September 25th, 2010 grand opening of Benson Park with the same stipulations and same location as the official opening of the park.

Chairman Massey asked if Selectman Jasper would include in that motion that no solicitations will be permitted. Selectman Jasper said it's in the definition of solicitation. They are signing people up. They're not allowing them to say come here. If that's your definition of solicitation, no active solicitation. Chairman Massey's definition would be as long as they're signing people up to The Friends of Benson Park, he thought that would be appropriate for the venue. He didn't think it would be appropriate to sell any merchandise or collect money. Selectman Jasper said other than for memberships.

Motion by Selectman Jasper, seconded by Selectman Maddox, to grant permission to The Friends of Benson Park, Inc.'s request to have a table at the September 25th, 2010 grand opening of Benson Park at the same location as the official opening of the park and that they be allowed only to hand out information and to sign up members for The Friends of Benson Park Committee but not to solicit donations above and beyond membership fees.

Selectman Nadeau thought that would be the perfect venue to get rid of the t-shirts and hats. He thought about when he saw that The Friends wanted to do this. He thought they should allow them to sell the t-shirts and hats just to get rid of them so that they could make some money to put money into their park. If you want to make that as an amendment, Selectman Jasper would agree to that to allow the hats and t-shirts to be sold.

Motion by Selectman Jasper, seconded by Selectman Maddox, to grant permission to The Friends of Benson Park, Inc.'s request to have a table at the September 25th, 2010 grand opening of Benson Park at the same location as the official opening of the park and that they be allowed only to hand out information and to sign up members for The Friends of Benson Park Committee but not to solicit donations above and beyond membership fees and to allow the selling of hats and t-shirts.

Selectman Coutu said the kiosk provides ample space for any organization to solicit memberships and to turn this into a circus. What are they going to have next, somebody coming in saying they want to sell ice cream and popcorn and raise money for this or that. It was a simple opening where people were going to be undisturbed, be able to come into the park, hear the speakers and hear about what the future of the park was going to be without having to have people sitting there with tables interrupting the flow of traffic. He's not going to support it and he thought selling shirts and hats was beyond anything he had expected. He's certainly not going to support it. He didn't think it was in the best interest of the park dedication. He thought it was taking away of the celebratory event that they're supposed to have for the opening of the park. He's not going to support it in any shape or form. Thank you.

Selectman Jasper said he understood Selectman Coutu's feelings and he has very mixed emotions about it. In terms of what's next, nothing is next. This is the committee that is set up with the sole goal of supporting Benson Park. This Board has continuously said we have to be very careful about town funds. They obviously didn't want to ask a lot of money from the taxpayers. This is the one way that they don't do that is by having The Friends of Benson Park do project and collect money. To think to say they don't want to spend town money on it but the one time when they're going to get a lot of people there who were enthused at one time about the park and probably are going to be looking for that type of thing to not let them in there he thought would be contrary. It didn't create a flow problem before. They're well away from where the celebration is going to be. There is actually another way into the park and people could avoid it altogether. With mixed feelings, Selectman Jasper is supporting it because this is what those folks are all about. He thought it would be a real kick in the teeth if they said no.

Unfortunately with the added amendment, Chairman Massey is also not going to be able to support it. When he first saw this come before the Board, his first thoughts were that was supposed to be a celebration. It is supposed to be a joyous occasion. Somehow there is some implied intimidation when you're selling things for something like that that if you don't purchase it, you're not supporting the program. He thought there's a time and a place to do it. He didn't think on a day that you're celebrating such a tremendous opportunity that it's appropriate.

Vote: Motion carried 3-2. Selectman Coutu and Chairman Massey in opposition.

D. Benson Park Dog Park

Chairman Massey recognized Chairman Harry Schibanoff of the Benson's Committee. Good evening Harry.

Good evening. Mr. Schibanoff was there to tell the Board about the subcommittee that they have called the Dog Park Committee. They came to them last fall with the idea of establishing a dog park within Benson Park. They gave a presentation to them last November. As a result of that presentation, they did have some concerns relative to DOT and whether or not any mitigated lands would be involved. Both of those issues were resolved. Finally they came back to them on August 5th, updated their presentation to the Committee, and the Committee voted unanimously to recommend approval to the Board of Selectmen for the dog park.

Cheryl Murray, 110 Belknap Road, Hudson, New Hampshire. David Brian, 110 Belknap Road, Hudson, New Hampshire. Ms. Murray said Dave is the Chairman of the Dog Park Committee. She wasn't sure if all of the Board was aware of the presentation that was aired in HCTV for the Benson's meeting. It did have their full

original proposal in the PowerPoint slide. It has changed slightly but not much. She believed the Board had all had a chance to review it. If she could just go through quickly slide by slide. Their mission is to create a dog park not funded by the Town. Basically the Town would only be granting them use of the land, which the Benson's Committee has already approved them to do. They are trying to create a 501C-3. They will be starting the process if approved very shortly of creating an LLC so that they can collect funds to put up the fencing, do the maintenance, and pay for any expenses that may occur. That will be solely run by donations and supporters of the dog park. The Town of Hudson in no way will be responsible for maintaining or running that facility.

Ms. Murray said they'd like to bring a sense of community to the dog owners in the area with a friendly place to let dogs play in a safe, controlled environment. As Selectmen she knows that they are aware of the fact that most of the roads in town do not have sidewalks. Living on busy roads, it is very hard to walk your dog and feel that you and your dog will be safe and not hit by traffic. The park allows people to bring their dogs, let them off leash, and run around in a safe place where you can control your dog and the dog will remain safe. It promotes responsible pet ownership. It also provides elderly and disabled persons a place to safely exercise their pets. As Jerry spoke before, people can go into Benson's with their dogs but some people are not able to actually walk them around the park. That would allow them a place to do so. This would be the one place that dogs would be legally allowed to run off leash in town. It will help bring visitors to the Town and promote economic growth for some of the stores and other things in the area. As they see with the Derry dog park, there are people who come from all around, including Hudson, to go to Derry because that would be the one dog park in the area. It's also a venue for responsible pet ownership. They can post notices as a reminder of vaccination laws, any pet training that could be provided, and other information such as when dog registration is due and possible fees for dog registration as well.

If you look at the proposed location, Ms. Murray said the existing entrance off of Kimball Hill Road will be used as the main driveway coming in. The dog park area would be on the other side of that right of way right now and they will have their own parking within the dog park so they would not be using the Benson Park parking lot. Going by the sea level grade, they believed it should be well more than 50 feet away from the wetland mitigation area. It would be adjacent to the parking area but not encroach on the parking area. It allows for dogs to easily be moved into the dog park without getting loose. It's next to the main entry road so if the entry road is plowed in the winter, it allowed Hudson residents to use the dog park during the winter. It's located on a sloping area and has ledge base so it would be unsuitable for some other buildings or possibly a playground which she knows has been suggested to be built. It's set back away from Kimball Hill Road. There would be greenery that is still there for a noise filter and for a view filter as well.

If you look at the allotted area layout, Ms. Murray said you can see that on the top and on the side they're allotting 20 feet in that area for dog park parking. You will not need to park in the Benson's parking lot to take up space there. There will be a small dog area and a main dog area where all dogs can be. The small dog park area would only be for smaller breeds. They might set a height or a weight limit. Most notable smaller breeds such as toys, which might get scared in the main dog area. There would also be double gated entries. Two in the main dog park area and one in the small area so you can bring your dog in, close the gate behind you, and then go into the main park. It saves the dogs from being escaping and it's a safety feature for humans as well. You can let your dog off leash in there and join the main dog park.

Ms. Murray said the majority of the work to be done will be removing the over growth. As they have seen with Benson's there is quite a lot of invasive species such as Russian Olive that has taken over the whole park, which the volunteers have done a great job removing in the main park. There is still some over in this area. That would be the majority of what needs to be removed. Any old growth trees that are in that area will remain. They're great to look at. Dogs love trees, and it provides shade for the dogs. The fencing and materials will be bought with funds and proceeds from donation. Nothing will be asked of the Town to donate anything. They also plan on planting bushes around the perimeter to cut down the view of any incoming dogs and also to liven up the area a bit so it's not just a big ugly fence. They also in the future would like to include some covered seating areas for the owners and the keep. It does get a little hot in the summer around here especially if you've been around this summer. So they would do covered seating areas, some shade places, and they'd like to include some agility training equipment, which they could build themselves or purchase with funds donated. That would be equipment for dog use only and additional ways to exercise your dog.

[Cheryl Murray] They also are planning an information board and would have first off the rules of the park so you can view them before you even enter the dog park and donors to the dog park for recognition. They would also have a bulletin board so local dog business such as food stores and training facilities can post their business cards there in an environment that will help them get more business. They can have notification of events, pet adoptions and lost dog signs. It's a community place where dog people can see

them. Also spay/neuter posters, vaccine clinics and also notifications of when dogs need to be registered in the town.

She had 2 pages of the dog park rules. Ms. Murray wasn't going to go over every single one of them. She was sure that the Board had read it. She did want to point out the first one of "Enter at your own risk. The Town of Hudson will not be held liable for any injury or damage caused by any dog on Town property." They do not want the Town of Hudson to be held liable for any damages, any dog getting hurt, any human getting hurt. This will be completely enter at your own risk. You're liable when you come in here. The Town of Hudson will not be liable and either will the Hudson Dog Park, LLC. They do have lots of rule that are for personal safety as well as dog safety. The rules can change from time to time. The opening hours would be the same as Benson Park. So if the Benson Park hours change seasonally or if in a couple of years it's opened earlier or later, they don't have to change the sign. It will be consistent with the park.

Selectman Coutu had several questions. He'll preface his remarks by saying that he did receive as some of the Selectmen may have received several letters in support of the park. He wanted it known that he had received as many if not more in opposition to the park so that for the record. The first thing Selectman Coutu was going to address because it was one of the last things that was addressed is the liability factor. Has anybody brought this package to the Town's attorney for review? Mr. Malizia said not at this time. Selectman Coutu would be reluctant to support it without having their attorney review the rules. He would need some assurance that they're not going to be held liable as a result of a dog bite. He's learned from history and the fact that he once when his kids were growing up they had an in-ground swimming pool that was completed fenced in with chain linked fence. It was locked and they had appropriate signage. Their attorney made it very clear to them that even though it says "no trespassing", even though its gated, even though its locked if somebody were to climb the fence and get in the pool and get hurt, they would be liable because it was on their property and they weren't able to close it off. Selectman Coutu was not convinced that somebody could not sue the Town of Hudson or the LLC for that matter if somebody got bite by a dog. Just to say on a sign that you're entering at your own risk, you'd have a hard time convincing a judge in court that a 7 or an 8 year old going in with their parent whose attacked by a dog that they might not have some liability at stake here in terms of their own community. He would be very reluctant to support that without having that assurance that there is absolutely no way they're going to be held liable if somebody gets bit by a dog in that park.

Selectman Coutu noticed that when he was looking at the rules, there are quite a few of them. He didn't think anybody was going to sit there and read all the rules, but while they're sitting in the park they may look over at the board and look at them. They're nice but who's going to monitor all of those things. Is somebody going to go ask somebody to give an ID that they're 18 or over to be in the park? Is somebody going to get an ID to see if a child is under 10 years of age? Is somebody going to go over and check and see if dogs are licensed? Somebody can have a license tag doesn't necessarily mean that the dog is properly licensed. We're having problems now with dogs in the park. People are walking their dogs unleashed. They're doing their business all over the park and not picking it up. Is there going to be anybody there that's going to monitor those activities on a regular and daily basis?

Ms. Murray said they would be setting a volunteer committee of the committee members right now plus any more volunteers who would want to come in and monitor it on a regular basis. They have already planned on doing that. From past experience at different dog parks, they're pretty much self regulated. If somebody sees something that's not right or somebody sees a small child entering, they will talk to the person and tell them that their child can get hurt in the park. You might want to leave them outside the gate and not return with that child. They're pretty much self governing because everyone in the fenced in area is concerned about their safety as well as their dog's safety. Yes they will be monitoring it on a regular basis and yes it is self regulating inside where if you see somebody not watching their dog and their dog goes to the bathroom, they're going to tell them to pick it up. Also if you see somebody that has food, you're going to tell them to exit with the food because it creates an unsafe environment.

Selectman Coutu said that was all fine and dandy if you have people there 7 days a week from the time Benson's opened until Benson's closes but he doubted that was going to happen. That's number one. Number two, lets assume the plan were to pass tonight. What is the LLC's next plan? Where do you go from here with this? Mr. Briand said they'd like to start getting the area cleaned up.

Chairman Massey said there were two issues they have to deal with tonight. The first issue is that they did send a letter to DOT back in May saying they were exercising their rights under the deed to give them 30 days notice to respond. They did not respond and he sent them back another letter on June 17th saying they were going to proceed. The only issue there is that the plan that the DOT saw back in November is not the plan in front of you. This plan is a smaller footprint than the original one. It starts further down the hill and it

is still outside of the conservation area. It does not impinge upon them. It is not the plan that the DOT saw back in November. The question that the Board has to deal with tonight is do they want to go on the basis that they have implicit and not explicit approval to go forward or because this plan has changed in terms of its actual location that they need to go back to DOT again. If the Board wants to go forward then the motions tonight could be to give the dog park committee the permission to start the construction. If the Board believes they need to go back to the DOT, then the motion has to be to request the DOT to approve this new location. That's where they have to go from there tonight.

Selectman Jasper wanted to respond on the first thing. He wasn't aware that the footprint was in a different location. He was aware it was smaller. He wouldn't have a problem if it was smaller but the outer bounds were in no different location than they were when they sent it to DOT. Certainly they're not going to object if it was smaller. If the fence was here and it moved to there, that does change things.

Chairman Massey said to Mr. Briand that the dog park has moved south based on this drawing correct. Mr. Briand said the lower end of the park hasn't moved at all. He believed he moved the top end of the fence got reduced down by 20 feet to allow for parking and the far back corner was brought in some too. Chairman Massey's recollection was they started up the hill a little further than it was. To make the accommodations if that's where the senior center was going to go, it had to move down the hill. Mr. Briand said no. That was the far back corner. That's why they had rounded that off and brought that back to allow for the roadway of the senior center if that was the case. They didn't want to be impeding on it. That's what Selectman Jasper thought. It got smaller. Chairman Massey said it did get smaller. The difference is between 2.5 acres to now 1.5. Mr. Briand said it was just about 2 acres and now its 1.53 because they brought that corner in to allow for the roadway. With the fact that the footprint has not expanded, Selectman Jasper didn't think the issue with DOT mattered at all. Chairman Massey told Selectman Coutu the answer is tonight if the Board wishes to go forward the motion would be to authorize the Dog Park Committee to begin construction unless there were things that needed to be taken care of prior to beginning. He didn't think based on the fact that this footprint is smaller that they needed to go back to the DOT.

The only other question Selectman Coutu had was he certainly wasn't going to support it without an attorney advising them. So he's not going to support anything tonight with regards to the dog park. The only question he had, and he thought Chairman Massey answered it, was his concern about its location visa vie the potential site for the senior center. Chairman Massey did check with the Town Engineer this morning. It was as he suspected. That footprint is the footprint that was put together that ties into if that's where it were to go, the footprint for the proposed senior center. Yes that would accommodate that. Selectman Coutu said he had other questions but he'd let them go because he was not prepared to vote on it without counsel's opinion.

Selectman Jasper said obviously the Town has insurance and obviously other towns have dog parks. They have brought the rules together looking at other communities but he didn't think it would hurt to look at those issues again and see if there was anything special that was done in that area. Most of the concerns that he thought Selectman Coutu had brought up could be applied to dogs in Benson Park right now. Dogs can be leashed but that doesn't mean that you can't be bitten by a leashed dog. He thought the liability always goes with the owner of the dog and can't be transferred in this case to the Town. He thought sovereign immunity probably applies in situations like that. It does behoove them to look at that.

Selectman Jasper is prepared to ask that the Board approve a concept tonight but that they shouldn't move forward with allowing construction until they had a document in place. He spoken to the Dog Park Committee about the fact that they need to have an agreement. It's all well and good to say that there'll be a 501C-3, that volunteers are going to do that but as he mentioned to them before, the Board needs an agreement similar to what they have with the folks at Freedom Field, similar to what they're going to be working on with the folks for Zach's field so that the Board knows that there is a structure in place. He knows that the Dog Park Committee didn't want to go that far with the 501C-3 until they knew it had approval. He thought it was appropriate to approve the concept and the location tonight subject to the issues of liability and a formal agreement with the Dog Park Committee.

Motion by Selectman Jasper, seconded by Selectman Nadeau, to approve the Dog Park Committee's proposal and the location subject to review by Town Counsel and the Local Government Center (Town's insurance carrier) and a formal agreement with the Dog Park Committee similar to the Agreement the Town has for Freedom Field.

Selectman Coutu said he would like to have a friendly amendment to the motion. He didn't want to have it just reviewed by the Town's Attorney. He wanted it reviewed by the Town's insurance company as well.

Chairman Massey asked if Selectman Jasper and Selectman Nadeau would accept that as a friendly amendment. Selectman Nadeau asked if it was the Local Government Center and said yes.

Selectman Maddox said that everybody talks about the Derry Dog Park. He doesn't know how they do it so maybe they can enlighten him. His concern is everybody is enthusiastic and this becomes Merrill Park. It was a great idea and then became abandoned and overgrown and forgotten. You're kind of committing to an awful lot of time not only to construct but to maintain and to supervise. Life goes in different directions and people move on. He's kind of asking how Derry does that. Is it because they're the only one and there's enough people to make that continue to work. He sees it just like it with Benson's. There's a certain amount of burnout after the 30th time they've told somebody to pick up the stuff. He was wondering what the Derry history was if he could.

Mr. Briand said he really couldn't speak to Derry. He knows it's still a volunteer organization and its run by volunteers. They thought it was run by the town and they looked into it and it's basically the same exact thing they're trying to do in Hudson. He wasn't even sure how long Derry has been around. He knows it's been around quite a while. Their 501C-3 will be set up so if one person steps down another person goes right in their place. It's not going to be basically these 5 people own it all. One moves on and one steps in. There's going to be no set person who takes it all. That's Selectman Maddox's concern. Again it's a daunting task in his estimation. With the hours that that park is open to be able to facilitate the support and controls that they're talking about in there, he saw that being all of a sudden left to the Town to deal with. He would like something from Derry and how they've managed for how long to make this work. How big is the fence 5 foot? 6 foot? Mr. Briand believed Derry was right around 6 feet. Again, Selectman Maddox asked if they were going to lease it to the LLC like they did with Freedom Fields. He's looking for some clarification where he doesn't have a problem with the concept of the dog park, the details as always with him.

Selectman Jasper said the devil is in the details and that's why the motion was to approve the proposal but not to allow construction to begin until that document is ready. That gives them the ability to say yes they have a location now. It's an approved location. He thought they may be overestimating what its going to take to do this. He didn't think there's going to be a need to be people in there constantly. The reality is if they fail and there's nobody to run it and there's problems, it's a gate. They padlock it until another group comes along and says they're willing to take on the responsibility. It's essentially an acre and a half out of 165 acres fenced in. You padlock it and nobody uses it if the people aren't running it and it has shrubbery around it that grows up. In a while you don't even know its there. Your concerns are valid but essentially you have an acre and a half with a few trees in it and sand cover, and the need to go around and scoop up the debris. If in fact there's somebody going in there with a vicious dog, you're going to call the police and have it removed because the person has a vicious dog. They work obviously. There are dog parks around. They're going to be looking into the liability issues. They're going to be getting an agreement with them that talks about the maintenance. It's no different than what's going on at Freedom Field. Freedom Field has a lot more to take care of. It's a lot of grass to mow. It's a low of fields to line. They do it and run it. This is a lot simpler than that.

Selectman Nadeau has been to the Derry dog park a couple of times. As you heard them say tonight, it's pretty much self governing. The day that he was there the dog officer from Derry went over and just looked around and talked to the people. It actually gives the dog officer or the animal officer, depending on what town you come from, another venue to talk to the people in town, tell them that the rabies clinic is in 3 weeks over at the police station, and it gives another avenue just for them to get out and meet the dog owners in town. If you look at the list of how many dog owners they have it town, there's quite a few. It's pretty much self governing. You'll have people that use it during the day because they work second shift. You'll have people that use it first thing in the morning because before they go to work they want to take their dog out. You'll start to see the familiar faces at 6 a.m. and you'll see the same ones at 6:30 p.m. Everybody gets to know each other at the dog parks. He felt like he was a little out there when he went because it was his first time going there. Everybody was friendly. You'll notice that most of them have on their leases the pooper scooper bags. Most of the people that go there, 90 percent, take care of their dogs. There is the 10 percent and a lot of times you'll see someone not taking care of their dog and ask them to leave. Two or three people will tell them to take care of their dog because they're going after the other dogs. After that happens once or twice and everybody has a cell phone today, it won't take long to either find out it's a nuisance or it's very well run. Selectman Nadeau said he'd have to go along with the proposal and see what they hear from the attorney when they get the Agreement and that will help the Board out a lot.

The one area that Chairman Massey believed they really needed to be clear on in both the Hudson United Soccer Club and the Bears club, they're talking about a multi-year agreement which requires Town approval for everything but the first year. In both cases, they were clearly made aware that although the Board can approve the first year, the Town voters have to approve the subsequent out years. If for whatever reason the

Town votes no, any monies that were invested in that first year are sunk costs. They didn't have to because the voters did approve the Hudson United proposal. This is kind of an interesting perspective because he originally had the idea that they were just going to create it then that the Town was going to be responsible for it. If they're going to enter into a multi-year agreement, he didn't see that they could do it without Town approval.

Selectman Jasper said that was a different animal. He didn't see that they would be leasing the land. He's not sure that under the terms of the deed they could actually lease any land to anybody. They would be giving them the right to operate the park that they created. They would be making a donation to the Town of the park and the Town would be entering into an agreement for them to run the facility. It's not like either of the 2 groups where they're bringing in sports teams. This is open to the public. That's the thing about the other two. It's not open to the public. You can't just bring your soccer team to Freedom Field. You can't just bring your football team. They control the use of the field. This group is not going to be controlling the use of the field. They're going to be running it for us. They are merely entering into an agreement for them to operate which will not require Town Meeting approval because they're not giving them up any rights. At any time, the Board could terminate the agreement saying they're not running it to their satisfaction. They're going to take it over and run it themselves or they're going to close the park. That's the difference there.

Chairman Massey said the offshoot to that is the committee going to be able to create that agreement for the Board to look at. How would you propose...Mr. Briand would assume the Town's attorney would create whatever agreement was needed or they could both sit down and work on one. Selectman Jasper thought they'll have to work on one from a boiler plate. He really thought that this was a benefit for the Town. He didn't think there was any harm and he thought it would be appropriate for the town attorney to work on it. It should be a pretty simple agreement. It's just going to talk about the initial donation of what went into it. You've got to have an organization and they'll be saying that they're giving the right to operate and collect funds which there would be a donation box there to maintain that would collect the funds and the exclusive use of those funds would be to maintain the park. He didn't think it was a complicated agreement.

Selectman Maddox said maybe somebody could contact Derry and they could take their document and scratch out Derry and put in Hudson. Selectman Jasper said it's pretty much as simple as that. That's what Selectman Maddox was hoping. If they've already fallen over all of the little details, maybe they can solve a lot of them by just asking them what they are doing presently and then getting that to an attorney. Having somebody craft it from start...Chairman Massey asked Mr. Briand to contact them and find out what's available. Selectman Jasper said Mr. Malizia should be able to contact Derry town government and find out what they have for an agreement. Mr. Malizia said he'd see what they have.

Ms. Murray said they did have one of their members contact the person who organizes the Derry dog park and they have yet to respond. They did ask them for their input on what they currently have for an agreement with the town because they do know it is volunteer lead. They haven't heard back from them as of yet but they have already tried contacting them. If the Board had possibly somebody in the town that they could contact from a Selectman angle, maybe that would get a better response.

Selectman Coutu had a question he'd like to have answered. That was with regard to having a donation box on the property. He thought that that maybe restricted by the deed. That's in essence a solicitation of funds on the property. Chairman Massey thought he was probably right.

Selectman Jasper thought that they were implicitly allowed to collect donations. He knows for a fact that in the deed they are allowed to have a museum store to charge admission to admission. It doesn't say to what. It says that they can charge admission. He knows it's not to the park but it talks about having a museum in their ability to sell items related to that. It talks about things of that nature. He's fairly sure that donations are implicitly allowed by the deed.

The question that Selectman Coutu raised, Chairman Massey thought before that would ever be contemplated, a great deal of thought would have to be given to vandalism. He can just see in the dead of night somebody coming down and ripping the box off of whatever it is and its gone. Selectman Jasper said the Benson Committee has already talked to them and said checks only. You steal a check it's not going to do you much good. If it says right on the box or mail to.

So we're all clear, Chairman Massey said no construction begins until the issues are resolved. The agreement in place between the park committee, the Board of Selectmen, and the issues of liability from both the Town's attorney and from the Local Government Center.

Vote: Motion carried 5-0.

E. Part-time Recreation Department Maintenance Person

Chairman Massey recognized Recreation Director David Yates. Good evening.

Mr. Yates recently received a letter of resignation from Reggie Provencal with the Town as the Rec. Department maintenance person for 34 years. Selectman Jasper asked if that would really be retirement at his age. Mr. Yates believed he's been a contractor at the Community Center for the last 6 years or more. He's in front of the Board to see if they can advertise for a new position. He spoke with Mr. Malizia and asked if it was possible to consolidate the 2 positions. Currently he works 15 hours a week at the Rec. Center and he's a contractor at the Community Center. He doesn't have a specific number of hours. He just gets a flat fee of \$195 a week. By making it a 25 hour position, he would maintain both buildings, so some park maintenance, do some things at Robinson Pond. He'd be a combination of Community Center, Rec. Center, and all other duties that Mr. Provencal is doing now. Mr. Yates sees it as being a major savings to the Community Center's budget. It's \$195 a week. They haven't come up with an exact range, probably from \$12, to \$15 an hour. If it's \$14 an hour, then at 10 hours that \$140 a week opposed to the \$195. Right up front they're saving \$55 a week. When Mr. Provencal does events, it's another \$125 at the Community Center. When he breaks down and sets up the Community Center, it's another \$50. With all that said, whoever they hire would have to have some flexibility for when they have events, help setting up for voting, comedy nights, and all the other events that are going on. In the long run, he thought it would be a savings and they're going to have better control. As a contractor right now, he comes and goes and Mr. Yates didn't always think they get their monies worth at the Community Center to be honest with the Board.

As an employee, Mr. Yates said that person would check in. They'd go through the schedule at the Community Center, the Rec. Center, the ball fields, and it would be a 25 hour a week job. Mr. Malizia said the interesting thing as a contractor because he's an employee those contractor hours actually go through payroll so they pay all the payroll taxes on them. Once you're classified as an employee, you can't be an employee and a contractor for the same entity. So they come through the payroll. What Mr. Yates is saying as far as the savings, they're not going to be paying somebody a flat \$195 plus the other add ons. They're looking to have hours for that person - 25 between all the rec. activities that they currently do and the Community Center. They're looking for a flexible schedule - something that Mr. Yates can control. To be frank, probably get somebody a little bit younger than Mr. Provencal. He's been here for a long time, and Mr. Malizia thought they could get a better level of service. When Mr. Malizia got here, they used to use a contractor over there and they weren't getting a responsive level of service. They went to another contractor and they ended up leaving the area, and then they brought Mr. Provencal. He basically bid on it. Because he's an employee, they've been paying him through the payroll. For all intense of purposes, they've already been doing it that way. All they're looking at is saying what might make more sense having somebody that's hourly that has some flexibility with those hours. They're not paying a flat fee every week. They're just looking to get 25 hours split between Rec., which is all the fields, lining the fields, Robinson Pond, and all that sort of activity in the Community Center - setting up and breaking up for the seniors; setting up and breaking down for comedy or what other activities go on in there. That's what Dave is trying to impress upon the Board - to consolidate.

Selectman Jasper said he was in favor of it. His only concern was they just talked about more rental opportunities for the building and the flexibility is 25 hours, a number the Board wants to stick with, or does the Board want to talk about 25 regular hours a week and then allow for the add ons for the rentals. That's his concern. If you schedule somebody, how are they going to do that if you have a week suddenly where you have 3 or 4 events in there and now you may be talking an additional 5 or 10 hours? Is that going to create a problem? Do they want to just use the regular hours that he has now, which they're figuring at 25 and allowing for additional hours not to exceed...Chairman Massey said he'd be treading very close on the labor laws if that individual works more than 30 hours.

Mr. Malizia said 35 hours qualifies somebody for a pension. So for all intense and purposes, 35 is the line for full time. If you go anywhere from 25 to 34, that's still part time. What might be more in keeping possibly is he hasn't done those revenue opportunities yet. You haven't discussed them yet. It may be something that when they interview people they ask what is their flexibility. If they were to add 5 hours, is that something you'd be able to do? He's only saying that if that's the avenue they're going to go down.

What Selectman Jasper doesn't want to do is lock them into 25 and then see that there's going to be certain weeks when its going to go above that then there's going to be controversy surrounding that. He thought they have to be recognized that there are going to be certain times when those regular hours are going to exceed. Mr. Malizia said it can also be seasonal too. For example when the building may get more use from basketball and it may need to be broken down and put back together quicker. They're not outlining fields or out doing Robinson Pond because it is the winter time when they normally do those activities. He thought there's a little balance also between the seasons if he's not mistaken.

Mr. Yates said it was more of an average over the year of 25 hours. The summers Mr. Yates was thinking are going to be 25 but he didn't know if they could put that in there up to 30 hours. That is a good point for some of the events. Typically they would try to make that person's hours no more than 25 a week.

Selectman Jasper thought the best way to do that was to look at what you have for a budget. This is what they've been budgeting and you may feel they can knock some money off of that but use a budget number. Higher somebody with the average hours not to exceed 34 hours a week and with the total dollars per year not to exceed the budget. That's the way probably to do that position because of the flexibility. Understand that they may only get 25 hours a week when you hire them. It may jump up more than that and get somebody who's flexible to do that. He would suggest that they do it that way.

Selectman Coutu asked Mr. Yates if it would be fair to say that in some weeks in the winter time he may need him only 5 or 10 hours a week. Mr. Yates didn't know if that few. He'd say 15. Even with Reggie at the Rec. Center he would have him staining picnic tables for the summer. Perhaps working on some of the summer stuff too. He built 4 or 5 tables from scratch last year. In the winter, they had him out in the garage doing some of those projects too. He would say a minimum would be 15. Again, the Community Center is still going to take a minimum of 5 hours a week even on the slow weeks because you still have to break tables for the seniors on Thursdays, set up for them on Wednesdays. Typically there's always something in there just in general cleaning just to keep the place looking halfway decent. On the quiet weeks, it may be 15 hours.

Selectman Maddox didn't see why they were going to hire somebody for 15, 25, 30 hours. Get a contractor in to clean. He can't justify putting somebody into that department for 25 hours which becomes 30, which becomes 35, now its full time to that list of examples of duties. Again he thought the Community Center you get a price to clean it and just do a better job of managing that. Because you are paying \$195 a week and not maybe getting value, shame on us. He didn't see what Mr. Yates was going to do with people half of the year. He can't see bringing somebody in. Then you're going to deal with overtime, what is their schedule, can you set it up that they're going to work any hour any day to be able to meet some sort of schedule as opposed to hiring a contractor. If there's multiple events that week, then they get more money because they're charging whoever for the use of the place and they would get X dollars to do whatever. He saw that as being not a good value.

Selectman Nadeau was on the Budget Committee at the time when they hired the contractor. It never seemed to work. Every time those things happened the contractor wasn't there, things weren't getting cleaned to Mr. Yates's specifications, then he'd have to track them down. This person would work for you and if you're doing it, you're out of here. Selectman Maddox said the same thing with contractors. Selectman Nadeau said it's harder to find them to do it. That's what he saw the last time they were dealing with the contractor. He thought if they put as little as 20 and as much as 34 hours, Selectman Nadeau thought that was reasonable. Reggie's been doing it for this long. Dave's kept him doing certain projects throughout the year. You go into the Rec. Center today and the bathrooms are clean. You go to the Community Center and it's clean. They have somebody that's accountable for that. He thought having a part-time employee has been working for them. Let's keep with it.

Selectman Jasper said they're not looking to add anything to the budget. Selectman Nadeau is absolutely right. He recalled that when they went out for a contract for the facility, they didn't exactly have people beating down the doors at a reasonable price. To expect to get a contractor for that type of thing and have them at your beck and call, people who do this have multiple clients if you're going to get a contractor in. You're not going to say, "I'll give you these hours and that's going to be what I'll give you." He thought if they can find somebody whose semi retired and tell them that they have 20 to 34 hours a week, we'll probably find somebody pretty easy. He knows he's going to get at least 20 hours a week. It seems right now we've had 15 in the budget and then at least another 5 but they've been paying another \$195 for that, you know what your budget is.

Motion by Selectman Jasper to authorize the posting and hiring process for the part-time Recreation Department maintenance position at a period of 20 to 34 hours a week not to exceed the budget for the two accounts.

Chairman Massey asked at what rate. Selectman Jasper said they post it and that's...Mr. Malizia said based on qualification and his experience for example. They'll see what they get. You're not going to hire somebody unless they talk to the Board. Selectman Jasper said they almost never put anything in the motion in the hourly rate.

Motion by Selectman Jasper, seconded by Selectman Nadeau, to authorize the posting and hiring process for the part-time Recreation Department maintenance position at a period of 20 to 34 hours a week not to exceed the budget for the two accounts.

Selectman Coutu will not support the motion. He agreed with Selectman Maddox. Just to willy nilly just hire somebody 20 this week, 10 next week, 35 next week it just doesn't make sense. They have a maintenance person here at Town Hall that does a commendable job. He thought it would be more appropriate for them to take another look at that and perhaps hire somebody that he can supervise and have him share responsibilities, set a permanent schedule of 20 to 25 hours a week. If he's needed in here to help him with a project, fine, and have everything filtered through the Town Administrator down to Wayne and have him assign the job accordingly that way there they're assured that the person is being used appropriately. He knew nothing about the job opening until

this evening. He's never heard of hiring people where you're going to work maybe 10 this week, maybe 30 next week, maybe 15 the week after. He certainly wouldn't pay more than \$12 an hour for the job at best. He can't support it in its present form.

Selectman Jasper said if they had a set number of things that had to be done on a regular basis Selectman Coutu he would agree with him. To say they have to have a person in there for the same number of hours every week regardless of whether the workload is the same or not is crazy. They're dealing with a volatile schedule. It depends on how many basketball games there are. It depends on how many other events there are, if there's comedy night, if there isn't. If there's an election or whether there isn't, this is something that is in flux for that building. We can say for the Recreation Department 20 hours a week, 15 hours a week. They can do that because there's certain things. The Community Center is on a volatile schedule. It doesn't make any sense to lock somebody in to a certain number of hours. That doesn't work to the taxpayer's advantage. Hey this week there's nothing going on at the Community Center, you have 20 hours. Next week there's one thing going on. You have 22 hours. The next week you have 4 or 5 and you're up to 30. That's what makes sense. That was the problem with doing the contract is that the person was getting \$195 every week. Some weeks maybe that was a bargain but probably most weeks it wasn't. He thought they needed to try something else. They need to trust that Dave is going to do a good job of regulating the use of that person. Again they're not talking a lot of dollars here. They're talking something that's entirely budgeted and let's see how they go. Selectman Jasper said they've already heard the Recreation Director say that he thinks he can save money in doing that, so that's going to behoove him because he's already told the Board he thinks he can do that. He didn't want to hamstring him either and have him have to come back and tell them he went to 32 hours one week and have the Board hollering at him about it.

Chairman Massey had a couple of question for Mr. Yates. The 15 hours, what's the current rate they're paying on that? Mr. Yates believed he was at \$13.29. Chairman Massey rounded it off to \$14 for the time being. He gets \$210 plus \$195 so that's \$405. He knows that he doesn't want to go the contractor route. They tried that with Town Hall and they never had the facility looking like it should have. When they went to the part-time custodian in this facility, there was an immediate improvement in the service. Now that that individual is full time, we benefited directly for having somebody on the payroll full time. At this time, Chairman Massey said he was not willing to support a motion that doesn't have a salary figure in it because if they're going to allow that individual to base their salary on time and experience, then the Board doesn't know what they're building in for next year's budget. He can see where the budget right now says you have to work within that \$405 but if you set the salary level wrong, then next year they may be faced with a much higher number than they would have been interested. Unless there's some specificity around the salary, he can't support the motion.

Selectman Jasper said that they set the salary when they hire the individual. Chairman Massey said that was correct. They're going to go out and ask the people if they want to work. The first question that's going to come out of their mouths is what does the job pay. Mr. Yates has got to be in a position to say I can pay you X number of dollars an hour. Selectman Jasper said I'll tell you if that's the first question out of their mouth, then he would say to Mr. Yates don't consider hiring that person. Chairman Massey would say the type of job it is salary is a critical component of whether they can do the job or not. Selectman Jasper said, "Please don't say salary because they're not putting somebody on a salary. This is an hourly rate." Chairman Massey said the bottom line is he's not prepared to support the motion at this point. Selectman Jasper asked if he would support a motion on a not to exceed hourly basis. They often set a range. He didn't want to say that they're going to pay somebody \$15 an hour and find somebody that doesn't have the experience of that but if you would accept an amendment to a not to exceed figure.

Chairman Massey wanted to look at some things. First of all, they just hired a maintenance individual for the police department for \$13.50 an hour. Mr. Malizia and Selectman Jasper said it was a high school student. Chairman Massey said it seemed to him that they were at the bottom. He's also very aware of what they're entry level positions for police and fire are.

Selectman Maddox thought it needed a little work. He thought that Mr. Yates needed to come back and show the Board what they're paying today and what they would be saving or paying and some sort of description here. They're all kicking around numbers and they're all guessing. This is basically just a part-time maintenance person job summary with really what is in the budget. A bunch of questions like that that they need to see on a piece of paper. His vote is no at this point. He just didn't see the value. He's not seeing much to be able to compare it to. In fairness to everybody, he thought it would be better if it was on a piece of paper breaking this out because he thought it was going no where at this point.

Well we certainly know how to create a mountain out of a mole hill Selectman Jasper will tell the Board. They're going to lose somebody from that position on September 30th. Now you're saying well Mr. Yates too bad you're not going to have anybody working there. This 25, 30 hours we have a payroll of almost a quarter of a million dollars a week and the Board's worried about somebody they might pay \$14 an hour - that might be a little high, or \$15 an hour. With a quarter of a million dollar payroll a week here folks, we not be getting our value, my god. This is just utterly ridiculous. He's got a budget right now. It's roughly \$15 times \$13.29 times 52, plus \$195, times 52. His motion was 20 hours a week to 34 hours a week not to exceed the budget. They can revisit it when they do the next budget. This wouldn't change a dime potentially of what they budgeted right now. Let's move forward here

and worry about it when he brings somebody in and look at what they've actually started doing. He won't vote to increase his budget for next year in that salary line. Then we can get a year's experience and see what they have. This is one of the smallest cost centers in this whole Town in their \$27 million budget, and this is a few thousand dollars. Chairman Massey said you watch the pennies and the dollars take care of themselves. Selectman Jasper said no. When you spend your whole time watching the pennies, the dollars just flow right out the door.

Vote: Motion carried 3-2. Selectman Coutu and Selectman Maddox in opposition.

Chairman Massey supported it because he too will not support any increase in that line item next year. So you're going to have to figure out what you can pay that individual and stay within that budget. Mr. Yates said there won't be an increase. The money they're saving there will not be an increase.

F. HCTV Access Center Lease Renewal

Chairman Massey recognized the Chairman of the Cable Television Committee Michael O'Keefe.

Good evening Mr. Chairman. This one will be quick right. As you know, Mr. O'Keefe said they currently lease space on Old Derry for the HCTV access center. They're currently in their second year of that lease. The lease provides them an option to renew for a third year at the same terms. They have to give the landlord 90 days notice. SO he's basically there to request that the Board approve the lease for the 2011 year, basically January through December of 2011 at the same terms of the current lease. As he mentioned, the money for that is budgeted. The access center is basically the base of operations at this point and is being utilized more and more every day. They've invested a significant amount of money equipping and outfitting the facility as well. He'd like to ask for the Board's support.

Selectman Maddox said nice packet, nice copy of the entire lease but no exhibit describing hours used at that facility. He knows that that's something he's been bringing up now for 2 years. You tell them there's more activity but all he sees on Channel 20 is stuff that's obviously bicycled in. Some of it seems a little risky now all of a sudden. How much production is being done out of that facility? Other than Julia Child and he's seen a couple of things that look like they come from that studio, are they getting \$20,000 worth of rent usage. That's been his question since they got that place.

Mr. O'Keefe can't give him an exact figure tonight. They can certainly generate that. He knows their facilitator keeps logs of all the activity at the facility. It's not just productions that go on there, it's also where all the equipment is stored, checked in and out. It's the office that the facilitator maintains there. He can't give the Board a specific answer tonight.

A follow up question Mr. Chairman. Selectman Maddox said Mr. O'Keefe told him that exact same statement a year ago that he'd get back to them with some sort of breakdown. They've never seen that. It's wearing thin on him to keep hearing they're adding more, they're doing more but they're not seeing anything. As far as some sort of a report that said there were 37 shows produced at whatever, he's just not seeing it. He's having a tough time saying they should be spending \$20,000. Thank you Mr. Chairman.

Chairman Massey has the same issue. He said originally he didn't see the need for that studio. He was concerned about where it was going to be located. Quite honestly he thought rather than make a decision tonight, he'd like to understand exactly what the production is at that facility before he would vote to support that motion. He can take a motion but he would prefer that they defer it until the first meeting in...Selectman Coutu said he moved to close the studio. Chairman Massey asked if they meet the deadline for the 30 days. Mr. Malizia said they have 90 days - October, November, and December. That's why it's on this agenda because you have one more meeting. Once you go into October, you are no longer 90 days.

Mr. O'Keefe said essentially they're planning to shut the operation down, they've invested so much money in the facility and they've really only been in operation for less than a year fully outfitted, it seemed like a rather rash decision to just cut it off at this point. That's not what Selectman Maddox said. Chairman Massey said he didn't hear anybody saying stop. What he heard Selectman Maddox and what he echoed was where's the rationale for continuing. Mr. O'Keefe said it seemed like the Board was giving them one option or the other - either continue or don't continue. He was a little concerned. Chairman Massey said that's because you either have to renew or not renew the lease.

Motion by Selectman Maddox to defer the extension of the lease until September 28, 2010. Chairman Massey said there being no second, the motion dies.

Motion by Selectman Jasper, seconded by Selectman Coutu, to approve a one year extension of the lease with Nadeau Park, LLC for the Hudson Cable Television public access center at 98 Old Derry Road. Said extension shall be for the period of January 1, 2011 to December 31, 2011, carried 3-2. Selectman Maddox and Chairman Massey in opposition.

G. Extension of Hours of Intern for Document Scanning

Chairman Massey recognized Assistant Town Administrator Mark Pearson. Good evening Mark.

Thank you Mr. Chairman and members of the Board. If you remember, Mr. Pearson came to the Board earlier this year in July and asked to hire an intern to replace another intern that left the employment of the Town to finish the seasonal internship in Community Development for the document scanning. Those hours are due to run out this Wednesday, September 15th, because that intern reached that previous limit of 336 hours that he came to the Board on July 13th. Since he came to the Board, they finally see the light at the end of the tunnel. Right now they believe they can finish up the document scanning if they chose to extend the hours of that particular intern and then not hire interns for the next 2 years, which results in a savings annually of over \$13,000 a year. The choice is they can let the internship end on Wednesday and they can hope to rehire somebody according to the previous schedule and only hire one for approximately 46 days in the spring to finish it up, or they can continue the hours now for approximately 46 days. It would use up the money in the current 2011 budget. Now that Mr. Pearson knows that when it comes time for the budget, he will not be submitting for any more money for the document scanning. Essentially they completed a 5-year project in 3 years and essentially all of the files in Community Development - Mylars, minutes, agendas are scanned in and the project is coming to a conclusion.

Motion by Selectman Jasper, seconded by Selectman Maddox, to re-hire Matthew Kleiner as an intern at a rate of \$12.00 per hour commencing September 16, 2010 and ending no later than November 30, 2010 for the purposes of working no more than 368 hours of document scanning.

Selectman Coutu asked Mr. Pearson what happens if the project is not done on November 30th. Will you come back and ask for another extension? Mr. Pearson said no Sir. That would be a drop dead because that's the rest of the money in this fiscal cycle. Essentially he'd be coming back to ask the Board for money that isn't in the budget. He's just asking for the access to the money sooner than later in the same budget cycle. He had no plans to go back. If it is not finished, then they will do it in house. They'll be some documents that will have to be continually scanned in anyway. They will just do it with regular staff.

Selectman Maddox keeps on saying government is glacial. This is one of those. This has been going on since he got elected. It's finally coming to an end. For those people that come in to Town Hall there's nobody going into a file draw to try to find - it's all scanned electronically. IT has a program where they're using a Terabyte of storage for all the files. It's a multiple win. They have space in Community Development; they have it electronically and don't have to go across to storage off site when they need stuff. He thought it was a great project. If it can be done sooner rather than later the better they can serve their customers.

Chairman Massey thought when the project first got started, it was at glacial speeds. He didn't think they were ever going to get it done. He would really like to commend Mr. Pearson and all of his staff. He knows that they've put a lot of dedicated effort into making it happen. He thought without Mr. Pearson's guidance on it, he didn't think it would have gotten done in the cycle it's gone. Thank you for taking the initiative to make it happen. Mr. Pearson said one of the questions he was frequently asked was how many files do they have. He's still waiting for that number. He went to IT and they gave him those figures that he incorporated in the Memo of 85.9 gigabytes or just under a terabyte. He also went to the Assessing Department to find out the number of living units in town. That's roughly 10,500. Then you have other things like copies of the Mylars and other land, files, and so forth. They're estimating around approximately 15,000 files. It would be labor intensive for the IT Department to actually go in. It might take them a few hours to actually come up with a number. It really doesn't serve a lot of purpose if they know that all of their files are in there. He and Mr. Malizia thought maybe it would be a little icon on the screen that would say this is how many files. It doesn't. It just gives you some raw data. It doesn't really matter as long as what you're looking for is in there. They can help the public, the Boards, send it electronically in PDF. They have space in Town Hall now. He will say that the interns and the caliber of the interns since he's been here have been pleasantly surprised. They start out, take over, keep on going, and there's really no fooling around. It really surprised him that they were able to get as much done in the short period of time.

Vote: Motion carried 5-0.

Chairman Massey wanted Mr. Pearson to extend to his staff and also to the interns. He knows they've worked very hard to make it happen.

H. Benson Park Bridges

Chairman Massey recognized the Chairman of the Benson Park Committee Harry Schibanoff and Dick Empey the person who is actually going to do the work.

Mr. Schibanoff introduced Dick Empey. He's one of the committee members. He's also the Chairman of the Trails Committee. He's been through many different departments in Town Hall recently. He's hoping that tonight will be the last one.

Good evening Mr. Chairman and Board. Mr. Empey was there to represent the Benson Park Committee to ask for approval of their plan to build 5 wetland crossings within the trails at Benson Park. This project has been approved by the Benson Park Committee, the Conservation Commission at which time they offered to fund the needed materials, and the Planning Board. The crossings are needed to keep people from trampling wetland vegetation, to get around seasonably muddy, wet areas which makes larger and larger mud puddles and is a detriment to the trail system and to the park in general. He thought he's been through the process fairly completely. At this time, Mr. Empey would like the Board's approval to go ahead and construct the structures.

Selectman Maddox said 32 inches wide. Does that meet whatever...Mr. Empey said 32 and whatever length that particular crossing is. Selectman Maddox was wondering ADA or anything that they have to be cognizant of. Mr. Empey said the locations would not generally be ADA accessible anyway. This was out in the trails and in the outer areas of the park. The reason why he chose 32 inches was because it would accommodate their brush mower but it would not accommodate four-wheelers, ATVs if any of those vehicles get into the park. He looked at the structures at other areas. Beaver Brook Association over in Hollis was one. Their boardwalks and bridges are actually as narrow as 24 inches, which he thought was inadequate for several reasons. When it snows, you end up with a narrow mound of snow and nothing left to walk on. He wanted to make them wider than that. Again without getting wide enough to accommodate vehicular traffic and other things that shouldn't be out there.

Selectman Maddox asked if it has gone to police and fire. He was wondering if somebody was injured back there would they be using the path to get RATV to go and bring rescue personnel or whatever. Just before they build those, he was asking those questions. Mr. Empey's suggestion would be that in an emergency situation such as that an ATV would just go through the wetland vegetation and get access to where they're going. Obviously they're trying to prevent that but in an emergency situation, you do what you have to do. It wouldn't prohibit access but it wouldn't be the chosen regular access they like to use.

Selectman Coutu asked Mr. Empey if this was not brought before the Planning Board. Mr. Empey said yes it was. Selectman Coutu has seen this presentation at least 3 times and he paid attention.

Motion by Selectman Coutu, seconded by Selectman Jasper, to approve the installation of five (5) pedestrian bridges within Benson Park as recommended by the Benson Park Committee and the Hudson Planning Board.

Just to make a couple of observations. Chairman Massey said one of the five bridges is an Eagle Scout project. Mr. Empey said yes it was. Chairman Massey said the other four is going to be done by Mr. Empey group correct. Mr. Empey said yes. Chairman Massey too has sat on all the commissions that have dealt with it and he thought they are going to be an asset to the trail system.

Vote: Motion carried 5-0.

Chairman Massey asked that the Eagle Scout project wants to get started before the snow sets in is that correct. Mr. Empey said it was a good possibility he'll be done before snow. He couldn't promise him that. At this point he believed he's on top of everything and it's going to go forward. He should have gone before the Eagle Board either tonight or tomorrow night. He's close.

I. Budget to Actuals

Chairman Massey recognized Town Administrator Steve Malizia.

Mr. Malizia said he got a little over exuberant. These are through August 31st not September 30th. He was in the month of September and just put September 30th. My apologies. He caught it today. My mistake. I apologize. When he was looking he tended to look at the treasurer because the treasurer is a direct linear budget and its 17 percent. He was thinking why is that 17 percent. They should be a quarter of the way through the year. He realized they're not a quarter of the way through the year. Mr. Malizia's apologies.

Overall just about where Mr. Malizia expected them to be. At this point from an expense side saw any major issues. Obviously the Highway Department Streets they get a little busier in the summer, finishing up their paving. If you look at the solid waste, they've encumbered that contract. They have not spent all of the money but they put the encumbrance on, i.e. the contract. It skews numbers somewhat. He thought overall on the expenditure side as always people watch their budgets and generally he didn't see anything that would cause any alarm at this early juncture. Mr. Malizia did update the revenue sheets at the back end particularly the auto and the interest they're keeping eye on those as usual. They did recognize about \$6,200 almost \$6,300 worth of interest in the past month, which is a lot better than the month before. Again, those numbers reflect the actions the Board took last week to reduce motor vehicles by \$100,000 and to reduce the interest down to \$60,000. That did get put in there. The percentages that you see expressed are against those adjusted numbers. It's still early in the year and it's always difficult to say that things are going to be perfect, but he hadn't seen anything right now that causes him any alarm. Again Mr. Malizia said things don't come in always in a straight line. For example, there's been no general property taxes booked. So that throws them off if you look at the bottom line you never know. Again, his apologies. He just caught it today when he came down.

Selectman Maddox said some of them take a while to cycle through because you have shutoff reconnect fees in the water funds year to date. From the reports that the Board gets, he would think that would not be true. So it's just something lagging on some of those. Mr. Malizia asked where it says zero for the shutoff reconnect fee. Selectman Maddox said yes. Mr. Malizia said he knows that one, ambulance are at least a month or so behind because that comes in afterwards. Things do lag. Things do drag sometimes.

Selectman Coutu asked if it was a wash. They just pay out what they charge us. Mr. Malizia said they paid Pennichuck so you have an expense and you have a revenue. Chairman Massey said it was like \$15, very modest. Mr. Malizia said we're still doing the work so he could say that it does help them. Selectman Maddox said it would be again another indicator of how much money that's taking.

J. Fiscal Year 2012 Budget Deliberation Schedule

Chairman Massey recognized Town Administrator Steve Malizia.

Mr. Malizia pointed the Board's attention to the top part of the second page because what they're looking for was the Board of Selectmen's budget schedule. As you can see, it helps with the Budget Committee which they do not approve or this Board does not approve their schedule. It was there for information purposes and Mr. Malizia did believe they were still working, as he understood it, on their schedule. They're interested in doing is setting their deliberative schedule. Obviously October is fast approaching. Those were the proposed dates and times. There may be a few shifting of some of the departments depending upon availability. He's trying to get the core days set so that the Board can adjust their schedules accordingly and let them know if it is an issue or a problem for anybody. Again, that's the intention of doing it now. That way they can set calendars. They can look forward and be ready to hit the ground running when they need to in October.

It's pretty standard Mr. Malizia said. This follows along with what they've been doing. The goal is to get the budget books to the Budget Committee by the 18th, which is the 3rd Thursday of November. That's the end date. That's really what it leads up to. He believed there's sufficient time in there. There's also the ability that if there were some lingering item or items, the Board could deliberate that and still get it incorporated before it went to the Budget Committee. That would be that meeting on the 9th of November. Just in case Mr. Malizia had a question, somebody comes back, or you get tired some night and you put off a couple of departments. It's a pretty standard schedule. It's been what they've been doing. It's here for the Board's consideration.

The other thing too Mr. Malizia would like to set tonight or discuss setting is the deliberative session, which isn't until February but this year the Town would be looking to be first, which would mean February 5, 2011. He believed it was the Town's turn to be first. He knows that Chairman Massey confirmed that. Chairman Massey said he did send a letter to the Chairman indicating that the custom has always been to rotate and based on the fact that the Town went second last year, the Town should be going first this year. He would hope Selectman Coutu could re-emphasize that after the meeting Thursday night. Is that correct? Selectman Coutu said yes. Chairman Massey said that would change the dates from late December to... Mr. Malizia said they might not necessarily. As long as their work is wrapped up, it doesn't really matter. They have public hearings that are generally the 13th and 18th, somewhere in that range, for the Budget Committee. For the Town's perspective, it didn't matter if they were first or second as long as they were all done by then. It's just a deliberative session. Everything is so far done at that point in time, it doesn't really matter.

Motion by Selectman Maddox, seconded by Selectman Nadeau, to approve the budget deliberation schedule for the Fiscal Year 2012 budget, carried 5-0.

Motion by Selectman Maddox, seconded by Selectman Nadeau, to schedule the Town's Deliberative Session for Saturday, February 5, 2011, carried 5-0.

9. OTHER BUSINESS/REMARKS BY THE SELECTMEN

Selectman Jasper - This is something that he didn't think was on the plan for the grand opening of Benson's was an Honor Guard to have a flag. He assumed they'd probably want to have a salute. They're going to have the B-Naturals there. Does the Board want to see if the Police Honor Guard could be there? Chairman Massey asked if that was the Board's consensus. Selectman Coutu asked if they paid for it. Chairman Massey said typically they do not. That's a volunteer function. As an example, they did not pay for any of the folks as far as he knew for the 9-11 observance. As far as Mr. Malizia knew, that's been the precedent. He wasn't aware that it isn't. Chairman Massey thought they should offer him the courtesy if they wanted to it if the Board would consider either police or fire depending on availability or both. Selectman Jasper said sure. There's no harm in having both of them there if they'd like.

Selectman Jasper said the polls were open tomorrow from 7 a.m. to 8 p.m. Chairman Massey said they were going to have two sets of ballot clerks tomorrow. They'll have the people that work from 7 a.m. to poll closing and

then they have a fresh going in because it is anticipated that the count is going to take far longer than they've done it at any time in the past.

Selectman Nadeau - He had a couple of things tonight. The website for the town still does not have the photos on it of the Selectmen that they've talked about in the past. He's been hearing problems with the computers in town. Are we having any problems with the computers or computer system? Mr. Malizia said on their overall system, day to day, he had a problem last week and he couldn't log on when he came into work. He knows that that's happened. He's not aware that the whole system has a problem. Selectman Nadeau said every now and then he's getting things that he can't open from Town because it's going through Comcast. As far as communication back and forth, Mr. Malizia said he wasn't an expert to tell him that that works or doesn't work. He hasn't been getting anything back that he's sent him, but that doesn't mean anything. He didn't know what Selectman Nadeau's filters are. Are you saying you can't receive something or you don't receive something? Selectman Nadeau said he tried opening documents that have been sent to him. Police was one of them but the other day when they received something from Community Development, it was the permits list and it wouldn't allow him to open them. He has the hard copy so it didn't bother him, but he just thought that was odd from Town. Mr. Malizia said he was not aware of that.

Selectman Nadeau asked if they usually have a town auction in the fall. Mr. Malizia said no. They usually have one in the spring. This spring they did not have enough material. He did another survey and they still don't have enough material so they're going to defer because he's not going to have an auction for three things. Mr. Malizia put that out to the department heads and that was the decision at this point. There's really not enough to conduct an auction. They're going to hold in abeyance until next spring.

The last item is the 9-11 Observance, which was held on Saturday at the Common. Selectman Nadeau said they had the fire and police department, the B-Naturals, the VFW and the American Legion and some people from Town with Reverend Howe. He talked to a few people afterwards and they still said that they're glad that the Town is holding it. It was in the newspaper, and there were some people there. He did see next year being the 10 year anniversary still continuing the 9-11 observance. He thought it was very well planned this year. They had the B-Naturals which was new, and he thought everything went well. Selectman Nadeau thanked everybody that helped them with it. For everybody that went, thank you for coming.

Selectman Coutu - He had nothing this evening.

Selectman Maddox - Unfortunately he had to work on Saturday. He really likes to hear Lieutenant Dyac sing. He's just amazing. He too agreed that next year they should absolutely do something.

[Selectman Maddox] A couple of months ago they accepted a grant for alcohol compliance. A gentleman came before the Board of Selectman and made some comments. He wanted to see first hand what it was like. He had a chance to ride along as they did the alcohol compliance. Again he saw what he thought he was going to see - a group of professionals doing a professional job. The State sent us a kid that looked 15. Again there was no entrapment. This wasn't like he was border line. They still found somebody that sold to him. Selectman Maddox talked to the Chief today. They're looking locally here to do a follow up. Going from 1 to 7 is unacceptable. He knew what he was going to see, but he got to see it first hand. Well run and nicely done. Again, trying to show that it is a requirement but also it is not fair to those that are doing it property to have people circumventing. All in all, it was an enlightening experience.

Finally, Selectman Maddox wanted to thank the Planning Board and this Board for their indulgence in their understanding. He thought that he was at least the local author of government "it's glacial". Trying to do what they've been trying to get 9 Industrial Ave. to be a stadium anytime soon has been a challenge. He knows that there's been a bunch of things flying back and forth. He appreciated their understanding and patience with not getting all the information in your packet, not getting it in a timely manner as they would like. Again, the Board heard when he heard for the first time that the EPA says that REDC is probably the venue to go to. Selectman Maddox said it has been evolving every day trying to get the various assessments done to meet their criteria so that they can get the grant money. He thanked the Planning Board for him asking for some money and the Rec. Committee with the help of Selectman Coutu and this Board's indulgence. Thank you Gentlemen. He truly believed that this will be something that when it is done, they will be very proud to have in their town. Thank you.

Selectman Massey - He had several items. The first one is on the nominations for the historic preservation which they were going to look into for Haselton Barn from the State. If you read the fine print on the application, it is simply no money involved. They pick 7 properties to qualify as historic preservation. Then their hope is that by having you selected as a historic preservation, you can find it easier to get grant monies, or volunteers, the town to spend money, etc., etc. Since they've already had the Haselton Barn declared a historic site, there is no need to go through that process. They did not go forward with doing the application.

The second one Chairman Massey has to tell them. This one he kind of felt he was going to run into this problem. His fears have been realized. He had a request from at least one individual wanting to know why the cable rates in Hudson were different than the cable rates in some surrounding towns. They gave him some basic differences in

numbers. Since he didn't have anything to really base it on, he sent a letter on behalf of the Board to the Government Affairs individual for Comcast in this region asking him to please send us a copy of the cable rates for Londonderry, Derry, Hudson, Litchfield, Nashua and Pelham. A month went by and no answer. They sent another letter to him 2 weeks ago asking him to please send us this information. Stone cold silence. Chairman Massey with the Board's consensus he wished to send a letter to Senator Shaheen and Representative Paul Hodes asking why a franchise with a monopoly is able to thumb its nose at the local franchisee. He found it intolerable that it didn't even have the courtesy to say we don't provide that information. Instead dead silence. He thought the customers need if they want that information should have it. The rates are all published. They're not locked up in a room. If you go to Derry and ask them what it's going to cost you, they have the rate sheet that they tell you.

Two things to that end Mr. Chairman. Selectman Maddox thought you could see that on line. He thought when he got his bill once a year they put the rates in and thought they showed other towns. His question would be if you look on your Comcast bill it says that if you have a problem you are to contact the Board of Selectmen in the Town of Hudson. In 6 ½ years if somebody from Comcast came into the room, they'd never know who they are and what does that grant them? What can they do if they had a problem? Obviously there's no connection between this Board..Chairman Massey said in this particular case Comcast told this individual that's a question you should ask your Selectmen. So he's said okay, then it's a question that's rightly asked of him. The only way he can find the information is to have Comcast tell them. Selectman Maddox didn't think writing to politicians was going to do them any good.

Selectman Jasper totally agreed with Chairman Massey. He wasn't sure that was a federal issue. He thought it was a State issue. Remember Verizon started to put in the FIOS lines because they wanted to...Mr. Malizia said they started negotiating with them for FIOS. Selectman Jasper said Verizon said they're leaving this State because this State is crazy. You have to get an agreement with each individual town so they started going to Rhode Island or some place. Chairman Massey asked who in the State they would send it to. Selectman Jasper said the Governor. Actually the Public Utilities Commission. It's ultimately a legislative issue in terms of why they have a crazy franchise system. The PUC could be more helpful than Hodes or Shaheen. Chairman Massey wasn't going to do it with Gregg was because he's a short timer. Selectman Maddox said it was nice to have the Town on the bill as being...Mr. Malizia said the Town was the franchising authority. People call Town Hall all the time complaining that their cable is out. We direct them to call 1-800-COMCAST. Selectman Maddox said it's not so much that, but they've gotten a number of letters over the last 12 months in regards to poor service, billing issues, and price increases. Much more since years before. It's great to put us on there, what does that mean? Can we bring somebody in and say why have you raised the rates, etc.

Thirdly, Chairman Massey said they have now completed all of the department reviews at the workshops. He felt that they should look at the Code book because they haven't been looked at in a while. To make it easier for the Board to all do it, he's going to sit down with Mr. Malizia in October and they're going to pick some key Codes and bring them to the Board of Selectmen at the November workshop with suggested changes to them so that they have a more productive discussion than just have it freefall. Chairman Massey is expecting its going to be somewhere between 10 and 15 of what they would pick as the critical ones that needed to be look at.

Speaking of the Codes, Selectman Nadeau said the Codes are not updated on the Town's website either. That needs to be done because a lot of people does use the Town's website to look at the Codes we have. If we have Code changes and we're not updating the ones on the internet where most people are looking at them, it's not doing them any good.

Lastly, Chairman Massey too thought that the 9-11 Observance was at the right tone and the right spirit. He was really interested that the article in The Telegraph probably 80 percent of it was what was happening in Nashua. Twenty percent was what was happening in Hudson. All of the pictures were from Hudson. He felt good about that. It appears that Hudson is one of the few communities that still do a Town observance as opposed to something being done at the local police, fire, Legions, or VFW folks. He still felt good about it. He said a long time ago, he thought if they're the only ones that show up, they still should do it. He thought especially next year. It's going to be one of those demarcation points. Chairman Massey thought it went very well.

At the end of the observance, Chairman Massey was approached by a couple of members of the VFW. They would like to do something to improve the sound quality at Library Park for when they have such occasions. He's going to speaking with Kevin Burns as he's responsible for maintaining that park. He was also going to speak with Mike O'Keefe and he's going to send him the names of the people who do that kind of work.

Selectman Jasper said they had that discussion after Memorial Day and there was supposed to be a committee that was looking into it. Selectman Nadeau said the Fire Chief was working on it. When Chairman Massey talked to the Fire Chief on Saturday, he got the impression he wants to...he'll follow up with Chief Murray then. Selectman Nadeau said the Legion was also interested. Selectman Jasper said if Chairman Massey went back to the minutes after Memorial Day, you should find something. They had this discussion. Selectman Maddox said Valerie from the Legion came in. Chairman Massey said they had until May to take care of it.

10. NONPUBLIC SESSION

Motion by Selectman Maddox, seconded by Selectman Jasper, to enter nonpublic session under 91-A:3 II (a) the dismissal, promotion, or compensation of any public employee; and (b) the hiring of any person as a public employee, carried 5-0 by roll call.

Nonpublic Session is being entered at 9:49 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. Open session is being entered at 9:51 p.m.

Motion by Selectman Jasper, seconded by Selectman Coutu, to hire Yolande Rowell as a School Crossing Guard substitute for the 2010-2011 school year at a starting salary of \$13.50 per hour effective September 14, 2010 per Chief Lavoie's Memo dated September 7, 2010, carried 5-0.

Motion by Selectman Coutu, seconded by Selectman Maddox, to approve Patricia Barry's request for the payout of her remaining 29.667 hours of earned time at her current hourly rate of \$25.19, carried 5-0.

11. ADJOURNMENT

Motion to adjourn at 9:53 p.m. by Selectman Jasper, seconded by Selectman Coutu, carried 5-0.

Recorded by HGTV and transcribed by Donna Graham, Recorder.

Kenneth J. Massey, Chairman

Richard J. Maddox, Vice-Chairman

Shawn N. Jasper, Selectman

Benjamin J. Nadeau, Selectman

Roger E. Coutu, Selectman