

HUDSON, NH BOARD OF SELECTMEN
Minutes of the July 28, 2009 Meeting

1. **CALL TO ORDER** by Chairman Roger Coutu at 7:00 p.m. in the Selectman's Meeting Room at Town Hall.
2. **PLEDGE OF ALLEGIANCE**, led by Selectman Maddox.

Chairman Coutu asked everyone to remain standing to observe a moment of silence at the passing of former Call Firefighter and former Benson's Committee member, Ray Parker.

3. **ATTENDANCE**

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

Staff/Others: Steve Malizia, Town Administrator; Mark Pearson, Assistant Town Administrator; Jim Michaud, Assistant Assessor; Brad Seabury, ZBA Chairman; Vinny Russo, Planning Board Chairman; Bob Haefner, Conservation Commission Chairman; Mary Ellen Davis; Jeanine LeBlanc; Kerrie Diers and Jim Roach from NRPC; Howard Dilworth, Jr; Stuart Schneiderman; several others, including Mr. Collins from the Lowell Sun and Gina Votour, HLN

4. **PUBLIC INPUT**

Certificates of Appreciation for Police Captain Donald Breault, Master Patrol Officer Douglas Dubuque and Ken Adams of the Highway Department for 20 years of dedicated public service were not taken up because they were not present. If they cannot attend a subsequent meeting, the awards will be presented to them in another fashion, to thank them for their service.

Mary Ellen Davis, 14 Nathaniel Drive, said speaking on behalf of herself and her family as a taxpayer and someone who is partaking in the summer rec program, she wanted the Board to know what a wonderful program it is. This is the first year her son has been in the program. It's too bad they didn't take advantage of it before; this will probably be his last year because he's getting too old. She wanted to recognize Dave Yates and his staff, a wonderful group of people, doing an awesome job. Her son loves it, and for him to love it, that's a good thing. It's a wonderful program that keeps the kids busy with lots of activities.

Secondly, speaking on behalf of herself and an unsolicited opinion as a member of the ZBA, she wanted to recognize three employees for the work they've been doing—Mr. Pearson, Mr. Oleksak and Susie. There is a lot of work being done in the code enforcement area and in zoning. Mr. Pearson, who is leading that organization, is doing a fabulous job, in her humble opinion. There is still a lot to be done, but he has made some unbelievable changes, has put rigor around a lot of the ordinances and Mr. Oleksak is diligently going out and working all of those. Susie put it upon herself to work on the ALU project that was recently passed and has done a good job on it. She wanted to recognize them because they are very quick to complain, but seldom take the time to give recognition when it's due, and it's due.

Chairman Coutu recognized Jeanine LeBlanc and said he had asked the Town Administrator to obtain a legal opinion on the information that was provided to the Board. In light of the legal opinion, he suggested that the Board allow Ms. LeBlanc to present a five minute summary of her items, prior to the Board taking this up as an agenda item.

Ms. LeBlanc said she wanted a determination on time lines, when some actual zoning enforcement issues are going to be resolved regarding her abutter, not notice of violation letters, when something will actually go forward. On driveway issues, who has the authority? Her reading of the Code says the Planning Board does, but when she went to them, it was kicked back to zoning, so she wanted clarification on that. She wants to know what the abutters' rights are. Chairman Coutu asked as it pertained to the driveway issue, or to any case that needed to be adjudicated, similar to a driveway issue. Ms. LeBlanc said basic driveways. Does the Planning Board or Zoning Board have the authority? Chairman Coutu asked if she meant about abutters' rights. Ms. LeBlanc said all the abutters on her particular issue. Also, as time goes by, she doesn't want to miss any deadlines. She has written to the Planning Board, but hasn't received a response and didn't know if she will receive one, so she wants to know if there are deadlines she should be aware of. She wants clarification on when they issue a building permit, the procedures the town takes to ensure it actually matches what is being built. She wants clarification on anything built in an R-1 zone, that it has to blend in with the neighborhood. As far as she knows, her neighbor missed the deadline to bring the matter on this particular garage to the ZBA for a special variance. Is there a deadline he has to remove the building and to remove all of the commercial equipment that has been on his yard for 10 years? The next question is how long commercial equipment can stay on a residential property. From her reading of the Code, you cannot have more than one, and she thought 10 years was more than sufficient time. It took him 10 years to start that garage, but it's still there and he can go another 10 years and let it sit there. What is the procedure for the town and the abutters' rights to get that pursued? Relative to town records, what procedures are in place to ensure they are accurate? Every time she has been in, things are missing. She has asked for the current records, but they are not in there. She has done name searches instead of the map and lot and has come up with all kinds of file numbers for the same property. The town had hired someone to do the scanning, but there's nothing in place to ensure it was done correctly. She brought up 300-page documents that have maybe six different items in that one scan that don't have anything to do with each other, so she wanted to know how the town ensures that town records are accurate. Also, she has private litigation going on with this neighbor, and it is made a part of the town file and she'd like to know why. That's what she wants to know—timelines, abutter rights, when the town is going to move on this neighbor and when they can expect to see some kind of movement on it. Those are the main things that she has been asking for for 16 months.

Chairman Coutu said this item was not too far down on the agenda, so it wouldn't be long before they addressed her concerns.

5. CONSENT ITEMS

Selectman Massey removed Item A from the consent items; Selectman Coutu removed C, 2 and 3.

Motion by Selectman Massey, seconded by Selectman Maddox, to approve the consent items, B, C-1, D & E, as noted or appropriate, carried 5-0.

A. Assessing Items

Abatement Application, Map 246/Lot 041 (deferred from July 14, 2009) w/recommendation to grant.

Selectman Massey said this was deferred from action at the last meeting because there was some question as to how it was arrived at when it appeared there was an increase in value and they were looking at a decrease in the valuation. Before them is a re-do of the memo from the Assistant Assessor. The easiest way to say it is in the interest of brevity, they made a short-cut when they put down the information and didn't include all of the detail. When everything is added up all together, you do come up with the actual revaluation of \$382,700.

Motion by Selectman Massey, seconded by Selectman Nadeau, to grant the 2008 abatement for Map 246/Lot 041, 1 Fairway Drive, as recommended by the Assistant Assessor.

Chairman Coutu said this raises some serious concerns with regard to the assessment presented. Having gone through this a second time, he didn't see any significant changes. A lot of it is quite subjective. The fact remains that the recreation room has increased from 20% - 70%, it would appear there's an additional living unit because they added an additional kitchen because there was no evidence at the time that an assessor had gone on the property doesn't mean this may not be used as an in-law apartment and he didn't understand on the second portion of the assessment, Item B, remove an 8 x 8 area of the basement. What did they do, go in with a bulldozer? It doesn't really explain anything to him, and he didn't see how the logic...the only depreciation he sees is in the land value and the argument given for that is probably the most (background coughing) that he found on the document, which had to do with its proximity to the golf course. It was determined that this property enjoys limited contributory value for its proximity to the golf course and adjusted the value accordingly to result a decrease of \$7,300 to the land valuation section. If he even bought that argument, he has difficulty with the fact that the finished area of the recreation room increased 70% and the fact there is an additional kitchen in that area lends it to the potential for an in-law use, if it isn't, and it still increases the value of the property.

Selectman Massey said it's not a kitchen, it's a wet bar and the Assessing Department actually was in there, and it's in fair condition. There's no stove. Chairman Coutu said he still has a difficult time seeing a decrease in the value.

Selectman Maddox said if they are ever looking for something to put on a workshop agenda, an assessing workshop would be interesting. They are always asked to do these, so maybe some input from the Assistant Assessor would help all of them because when he reads some of them, he relies on Mr. Michaud's expertise.

Selectman Jasper didn't know if the Chairman has spoken with the Assistant Assessor, but suggested that he should have. Talking in this manner with these questions, as Chairman of the Board to the public, it would appear to put him [the Assistant Assessor] in a bad light by questioning his judgment. Selectman Jasper's years on the Board has shown him that Jim Michaud is a very good Assistant Assessor, very accomplished at what he is doing. He is also very busy and agreed that the memo probably does not give the level of detail that the Board might like to have, but he would have hoped that the questions the Chairman raised would have caused him to call Mr. Michaud and either ask him to be present tonight or to talk to him on the phone because it really does not put him in the light he deserves to be put in, with all due respect. Chairman Coutu said he accepted that criticism.

Vote: Motion carried 3-0. Selectmen Nadeau and Coutu voted in opposition.

B. Water/Sewer Items

- 1) FY 2010 Sewer Rate to be kept the same, as recommended by the Sewer Utility Committee
- 2) Water Utility Abatements, W-UTL-09-08, 23 Executive Drive and W-UTL-09-09, 6 Cedar Street, w/recommendation to approve.

C. Licenses & Permits

- 1) Raffle Permit by Hannah Dustin Quilters for May 1, 2010 at the Community Center
- 2) **Outdoor Gathering Permit for Old Home Days, August 6 - 9, 2009 at the Hills House on Derry Road.**
- 3) **Outdoor Gathering Permit for Hudson Harvest Fest on October 10, 2009 at the Hills House on Derry Road**

Chairman Coutu said he removed these items because Selectman Nadeau's name was on the applications. Selectman Nadeau said it does, but he has voted on this in the past. Selectman Jasper said when he was Chairman of the Board of Directors of the Hudson Historical Society, his name was often on the form and he

also voted on it because Old Home Days does not benefit a member of the society in any shape, manner or form. The only way there would be a conflict is if the member had something to gain personally and he assured the Board that the only thing anyone has to lose is probably some weight, sweating things out during the four day period, including set up and take down. It sets a bad precedent if every time a member of some organization, or an officer, needed to abstain. That could create problems. He didn't think there was anything in the Town Code that would require Selectman Nadeau to step down.

Motion by Selectman Massey, seconded by Selectman Jasper, to approve consent items two and three, carried 5-0.

D. Acceptance of Minutes

Minutes of the Board of Selectmen's Meeting of July 14, 2009.

E. Calendar

7/29 7:00 Library Trustees in BOS Meeting Room
7/30 7:00 Benson's Committee in BOS Meeting Room
8/03 6:00 Hudson School Board in BOS Meeting Room
8/04 7:00 Board of Selectmen's Workshop in BOS Meeting Room
8/05 7:00 Planning Board in Community Development Meeting Room
8/06 6:30 Recreation Department in BOS Meeting Room
8/6 - 9 Old Home Days at Hills House on Derry Road
8/10 7:00 Republican Committee in BOS Meeting Room
8/10 7:30 Conservation Commission in CD Meeting Room
8/11 7:00 Board of Selectmen in BOS Meeting Room
8/12 7:00 Planning Board in Community Development Meeting Room
8/13 5:30 Sewer Utility Committee Room in BOS Meeting Room
8/13 7:00 Benson's Committee in CD Meeting Room
8/17 6:30 Hudson School Board in BOS Meeting Room
8/18 7:00 Cable Utility in BOS Meeting Room
8/19 5:00 Water Utility in BOS Meeting Room
8/19 7:00 Library Trustees in BOS Meeting Room
8/19 7:00 Hudson Seniors in Community Development Meeting Room
8/20 7:30 Budget Committee in Community Development Meeting Room
8/24 7:00 Green Team in Community Development Meeting Room
8/24 6:00 Recycling Committee in BOS Meeting Room
8/25 7:00 Board of Selectmen in BOS Meeting Room
8/26 7:00 Planning Board in Community Development Meeting Room
8/27 3:00 Trustees of the Trust Funds in Community Development Meeting Room
8/27 7:00 Benson's Committee in BOS Meeting Room
8/27 7:30 ZBA in Community Development Meeting Room

6. OLD BUSINESS

A. Votes taken after Nonpublic Session on July 14, 2009:

Motion by Selectman Massey, seconded by Selectman Maddox, to agree to the settlement in the matter of Jean Russell and William Russell v. Michael P. Davis and Town of Hudson, as recommended by Attorney Dewhirst and to authorize Chairman Coutu to sign the Consent to Settle Civil Litigation agreement, carried 5-0.

Motion to adjourn at 11:00 p.m. by Selectman Massey, seconded by Selectman Maddox, carried 5-0.

B. Zoning Issue (Jeanine LeBlanc)

Chairman Coutu said this was the Board's discussion on the items presented by Ms. LeBlanc.

Town Administrator Steve Malizia said he spoke to the attorney on the Board's behalf. The attorney feels, for the most part, the town followed the procedures they should be following. Sometimes things don't happen expeditiously, but the things that have been done, in the attorney's opinion, were done properly.

Selectman Jasper said after reading the material in depth, he was troubled with how the town has proceeded in this case. He would be very frustrated if he lived in that neighborhood. This is an R-1 zone, which is the most restrictive. Generally, people petition for R-1 zones. Yesterday, he spoke at length to Mark Pearson and Mr. Webster about his concerns and he also drove by the site to see for himself. From the road, it's a nice looking, well maintained property, but it is also a very overbuilt site. From what he read, he was led to believe the second driveway was put in after the addition was put in, which was well after 1982. Is there the possibility there was a wood path there? Possibly, but there was no need and there's no evidence...as a matter of fact, the property owner said it was a path.

Selectman Massey called for a Point of Order, saying they were getting into some very Planning Board-specific determinations, that Selectman Jasper's basis of whether he thinks there is or isn't something there is prejudicial to the Planning Board, if and when it comes before them. Selectman Jasper said he was not a member of the Planning Board and didn't have any say in what happens on the Planning Board and if he is restricted because a piece of property may go before the Planning Board at some time, that's very dangerous.

Selectman Massey said his point was they shouldn't be saying it is or isn't something. Chairman Coutu agreed. He thought Selectman Jasper was going down the right path, speaking generally. Selectman Jasper said he was going to get quite specific. He was given a packet and the Board could muzzle him if they wanted to vote to do that, but he was not going to go quietly in giving up his rights to comment on things that are before the Board. They are not in litigation. He has nothing threatened in writing of litigation and he intends to say his piece.

Selectman Maddox said this was kind of déjà vu-ish that the next one they are going to talk about is this issue on a different level. He agreed with Selectman Jasper. Selectman Maddox and he may need to be a little more cautious, as the representatives to the Planning Board, but Selectman Jasper has a duty to be able to bring forth issues that he feels are of concern to the Board. He and Selectman Massey, at some point, may have to go back from this, but Selectman Jasper has the right to say what he believes is the right thing for the town.

Chairman Coutu said today he and the Town Administrator had a conversation with the Town Attorney with regard to this matter and the manner in which to proceed. In light of his conversation with Selectman Jasper this weekend on this item, he will allow him to proceed. Selectman Massey said one of the items that will be before this Board is one of the abutters has submitted an application to the Planning Board for an adjudication of this issue. It would be going down a perilous path to start talking about whether something is or isn't when an application has been submitted to the Planning Board, requesting a determination on the driveway.

Selectman Jasper said what he was going to say would somewhat quell his fears. All he was going to say is that his concern is, when dealing with an R-1 residential zone and there is no evidence that the driveway existed, the burden of proof is on the person who appears to be in violation of this and needs to be showing that the driveway wasn't there. He didn't know if it was there before 1982 or not. His personal belief is there would have been no reason for it to be there because of the terrain and whatnot and the primary driveway without the addition there, it appears to be quite clear to him that would have been the primary access to the rear of the property, but he doesn't know. He thinks the town ought to do a better job of standing up for its regulations. It's a difficult issue. He has spoken at length to the Assistant Town Administrator about the issue of second driveways. Many of them in that area are just the loop driveways. It's a second curb cut, but it's not a second driveway. Those are very common around town, particularly older driveways. It was an easier way to do it so people didn't have to back out into traffic. This is not the case here at all. That is a concern to him. He didn't think, in cases where it was R zoning regulations abutters should have to fight that fight. The town needs to do a better job of documenting and having people document it. He understands this is a difficult case, but that was the first issue that really gave him concern because everybody in the correspondence seemed to focus on 1997 about the setback, where 1982 was really the controlling date. The other thing that bothered him was the applicant applied for a building permit; several were applied for, different sizes at all times, but the most recent one was 35 x 45. By the town's own measures, it was 35 x 50 foundation that was actually placed. A back corner of it has been cut, but only because of the setback. No mention in any of the documentation was made to the fact that the foundation never met the permit application, so that's a concern to him. Does he think the applicant had the right to a 35 x 50 garage? If he had the space to do it, he probably did. Unfortunately, in residential areas, he didn't know that they really have much in the way of zoning that talks about how many square feet you can build on and how many you can have as green space. This begs the case there may be people that try to build on or pave virtually every square foot of their back yard and this may open up something for the Planning Board to have a discussion about. There's nothing in the zoning that talks about the requirement to blend in. He didn't think that's necessarily a good thing, although perhaps in a R-1 zone, it should be in keeping. There's talk about construction equipment and they know it's 13,000 and perhaps this vehicle is 11,000, which may not violate the zoning. Those things, while not terribly great for the neighborhood may not be a violation, but what really concerned him, and what concerns him most of all, is the issue of unregistered vehicles on the site, and this particular site, with the same person, if he was recalling correctly, goes back to 1993 when there's first something in the file saying there's more than the number of unregistered vehicles—registered the vehicles and they go on a few more years, and they catch the person again, and he is told he has to register them, so he registers them. Then a few more years elapse and they are at the same point. At every point in the process, they take the exact same stance—you've got to come into compliance. To him, once they notify a person that they are in violation and tell them the process, work with them, get them to register the vehicles, then it's their responsibility to keep those vehicles registered for that whole time. If it's a second time, it's off to court. They've already had their notice. Just because five or six years have elapsed, they can probably assume that after the first time they registered it, it lapsed. Mrs. LeBlanc had mentioned registrations expiring after 10 days, if they don't have the vehicle inspected, but that's not the case. The law is that if you register a vehicle, you can drive it for 10 days before you have to have it inspected. If you get caught on the 11th day driving it on a public way, without an inspection, you are then in violation of the law, but that registration is good for the whole year. There is a weakness in registering vehicles because as long as you've got a VIN, you can register anything. If you're got a frame in the back year and it has a VIN, you can register it. This is something they need to be a little more concerned about, particularly in the R-1 residential. If it's not in a garage and it's outside, it should be a vehicle that's inspected within that first year of registration. If it's not inspected by then, perhaps it should not be allowed there. People have to have some opportunity to work on vehicles, but at some point, it becomes nothing more than an eyesore in the neighborhood, and that's not the intent. If they want to do certain things, go to the general zone and get a bigger lot. He didn't come away from this with the feeling that he was proud of how the Town of Hudson had behaved in this while situation and he's not today. He has empathy for Mrs. LeBlanc because it is very frustrating. This is not a general zone. He has great concerns that a person putting up a building that's 35 x 50 and has a business, which is commercial, owns their own crane, etc., etc., that they have to be very careful that this does not

become another business. There's already one permitted there and he didn't know where they go, but they have to be a little more sympathetic to the neighbors and the people who work and live in that zone as they have forward.

Selectman Maddox said Selectman Jasper may not have liked what he saw, but hoped he saw some improvement. This Board recognized that this was an issue for a long time and they reorganized the Community Development Department, brought in a new person whose mantra was fair and consistent, and that has been driven home by this Board and from everybody he's talked to that has dealt with the Community Development Department. They may not like the answer, but they are getting a consistent and fair answer. To Ms. LeBlanc's issue with how long it has taken, some of it is due to that. They made some personnel changes. Mr. Oleksak is doing yeoman's work. He's not only the Building Inspector--and hopefully, they will fix some of that this evening--the Code Enforcement, Zoning Administrator and Health Officer. Not to say that's a good reason, but that's probably the biggest reason--they've had some personnel changes and these things take time. If you look at the code enforcement process, and you're addendum 2, which, hopefully, will be on the website, so people can see what they are talking about, there is a process and this Board has asked in the past that they try to work with the person who is coming before...in the enforcement process and sometimes it takes awhile. They've had agreements with people to remove junk from yards and whatever. As long as they are fairly and consistently following this process, it may take some time. Hopefully, it will get better is that neighborhood for her, but some of this was history and now there's a certain amount of time that it is taking. Remember his phrase--government is glacial. The records are what concerned him, so he talked to Mr. Pearson, who told him about 3,000 have been scanned to date out of 9,000. Selectman Maddox suggested taking 5% of that, about 150 and took 50 random files and one before and one after it and the people that are presently doing the scanning stand down for a couple of days and go back and see if there is a problem, come back and report to this Board that out of those files, there was 2% or 30%, so the Board has somewhere to go, up to and including probably taking 10 files and actually going back to the storage where the paper files are stored to verify what might be missing. Come back to this Board and say we found the problem and they are only a third of the way through and see what measures need to be done to correct it, just not continue to scan if the problem does exist. That's his suggestion, send Community Development Department off to come back at a future meeting, hopefully the next meeting, and be able to give the Board a report on that status. Continuing, he said he wanted to talk about driveways which, by statute, goes to the Planning Board, with the proviso that the Planning Board may delegate that to someone within the town staff. That had been the practice for the longest time and still is that the Planning Board delegates that responsibility to the Engineer, now Acting Town Engineer. If that person says there's an issue he does not feel comfortable with, or has questions about, then he will bump it to the Planning Board, but the Planning Board can't go out looking to bring people in. The Planning Board can only act on what is brought before them, so if there is a complaint about the second driveway, it will go through the process and that person has the right to then go to the Planning Board and request a second driveway and then the Planning Board will have to make a decision, but they can't bring people in. It's not something that...and that's the way the process should work. There was a little confusion about what it was supposed to be, but that's what it is and that's where it's going to be headed. As for the civil suit in the file, he didn't know why it was there or if it serves any purpose for it to be there and, as such, probably should be removed.

Chairman Coutu asked Mr. Pearson how the matter of the civil litigation ended up in the file and if any corrective action has been taken, or if it justified to have that information in the file and, if so, why. Mr. Pearson said when that matter was brought to his attention, he researched it. There are two litigants, Mr. LeBlanc and Mr. Lashua. Mr. Lashua brought in a copy of that litigation and asked that it be placed in his file. He guessed that the reason Mr. Lashua wanted it in there is because it's an on-going issue that keeps getting brought up and he wanted to bring it to the attention of staff that there is civil litigation of that issue. At this point, it's a judgment call as to whether or not to keep it in the file. Now that they know there is civil litigation, it could be removed from the file. If anybody asks them to put something in their file that is related to their building or lot, there are no procedures in place to say someone can't do that. He didn't see a problem with it, nor did he think it would change any of the facts or circumstances. In addition, just for the record, relative to Selectman Maddox's question about the web site, the process will be put on the web site if that is his direction, but it is not on the web site at the present time. Selectman Maddox thought the right answer was that it would be on the web site. Mr. Pearson said they could do that, if that's what he was directed to do. The second thing was the number of records, and when they're talking about a lot of numbers, it gets confusing. What he had indicated to Selectman Maddox was they are over 3,000 records just in 2009. There was a scanning that went on in 2008, which he guessed was somewhere around 10,000 files. If they did 3,500 in 2008 and they've done over 3,000 to date and except to do 4,000 this year, they are in the 7,000 - 7,500 records that are scanned in two years.

Selectman Massey thought they were going to be dealing with four issues tonight, but at least one more surfaced and Selectman Jasper has identified two other areas he thinks they need the answer to. The first one is the timeline for the enforcement. The state statutes clearly encourage the town and the person for whom enforcement is being enacted to come to a conclusion without going to court. The courts typically are going to ask if you made every effort possible to make a settlement, so there is no statutorily codified time. However, prudence would dictate that a reasonable amount of time would be 30 days. He talked with Mr. Pearson this afternoon and they are going to be directing the land owner to come up with a date by which they have to do one of two things, either go to the Zoning Board with a request to have a lot line incursion or to physically remove that portion of the garage that is intruding on the lot line. If they don't meet that time line, then they will consider going to court. Secondly, if you are cited for a violation, you correct the violation. Five years later, you are cited for the same violation. He's not so sure the courts would look favorably on the town taking that immediately to court, but it also brings to mind the other issue, that the NH courts have consistently said, that no means no. You can't keep going back to the Zoning Board, asking for a variance and shopping for the appropriate right number of votes. Once they have a no, that's final, unless they have a new set of circumstances.

He'd like them to follow up on that, unless Selectman Maddox knows the answer. If you have a violation and you correct it, and you subsequently have another violation, is that immediate grounds for going to court, or do you have to try and cure it again?

Selectman Maddox said he didn't know, but didn't think that was something the legislature has really put in place, so he'd say no. Selectman Jasper didn't think there was a good answer to that question. They should find out what the courts say because, at some point, they have an obligation to the abutters. If the judge says they have to work with him again, so be it. He'd rather be more pro-active, rather than allowing somebody to think they can get away with something time and time again and if they don't catch him for three or four years, it's not going to cost him anything. He'll just have to register his vehicles again, but will have saved the last four years or registration. That's where they need to be more aggressive. He was clear to Mr. Pearson and Mr. Webster that he was not being critical of them. He knows how far that department has come in recent times, but nonetheless, it's a very frustrating situation and he had to put himself in the situation of the abutters and they need to press a little harder with things like this.

Selectman Massey said the second issue was the civil matter, and that is truly between the litigants and since the town was not named as a party in that, they are not involved in its resolution. He concurred with Mr. Pearson that he didn't see any useful purpose in having it in the files, now that they know there's a case. On the driveway issue, it has been one of those messy things because driveways don't often come before the Planning Board, nor do they often come to the attention of the Engineering Department. However, when it did come, the Acting Town Engineer made a written record that he was unable to determine when the driveway existed. Subsequent to that, the applicant withdrew his request for a second driveway. Subsequent to that, one of the abutters, Ms. LeBlanc, has filed with the Planning Board a letter outlining why she believes, and she submitted her own documentation to substantiate her belief, that the driveway is not grandfathered. He talked with Mr. Pearson and Mr. Cashell today and the correspondence is going to be on the agenda for next Wednesday at the Planning Board and they will subsequently schedule a date to hear those requests. In terms of the abutters' rights, because the individual said, "I believe it's not appropriate; here's the documentation that proves, in my mind, it's not appropriate," he thinks they have the right in court before the Planning Board, to have the Planning Board either say yea or nay to that. Any abutter or any applicant has always got the right to appeal a decision. In this case, since there is no land use board that's involved... the Planning Board is, but it's not a zoning issue. It's his expectations that if any party to this is not happy with that Planning Board hearing, they can go to Superior Court to seek relief. The only issue that he is concerned with right now is because they should be hearing that case very quickly because the letter was submitted last week by Ms. LeBlanc. The other issue that Selectman Jasper brought to his attention that they don't know the answer to but hopes they can find it. If the building permit said 35 x 45, is there any reason why, as long as they stayed within the setbacks, that they could change the dimensions, or does that mean the permit has to be reapplied for.

Mr. Pearson said it was his opinion that if somebody makes a representation that it's 35 x 45, that's what they should build. If they want to deviate from that, they need to clarify that with the Building Inspector to make sure there's no additional issues and for the proper inspection, they should notify of any changes, just as they do with electrical. If somebody pulls a permit, they do one room and then they deviate into another room, they should let the town know they deviated and they follow up with the proper inspections, so the answer is they should not deviate unless the town is aware of that. Selectman Massey asked if, in this case, the permit pulled was for 35 x 45. Mr. Pearson said that was correct. Selectman Massey asked if it currently measures 50 feet. Mr. Pearson said yes. Selectman Jasper said it was kitty-corner. Mr. Pearson said it will be on an angle and one wall will be 50' and one wall will be 45', which will still be bigger than 35 x 45. Selectman Massey asked if there would be corrective action on that. Mr. Pearson said there would be. Selectman Massey said when they are talking about rights, any time a decision is made, it's appealable. In the case of a building permit decision, there's 30 days, and that's primarily the reason why an applicant is cautioned not to do anything for 30 days after the permit is issued because if they do, they are subject to those 30 days the decision can be appealed and if they don't like the decision they get from the Building Department, then you take it to the appropriate land use board, and if they don't like that decision, Superior Court is the next avenue. His last question which was brought up tonight and the first time it has come to him is in R-1, you're allowed vehicles less than 13,000 gross vehicle weight. Is there something about this particular lot that allows it to have heavy construction equipment on it? Mr. Pearson said just for the purpose of erecting the steel frame for the garage. If that vehicle is over 13,000 lbs., once the construction is completed, the crane would have to be removed from the lot.

Selectman Jasper said the building permit has been revoked, so the crane shouldn't be there because there is no building permit. He can cut the corner back, which is highly irregular and given the fact he built what he didn't have a permit for, he should be made to go back to the 45. It's not a good idea to start giving out building permits for buildings that move, according to the setbacks of the land so they don't have square corners. They could probably do that, but when you violated your permit to begin with because of doing that which you weren't supposed to, at the very least, the equipment ought to be off the lot until that is satisfied, particularly since it has been there in violation these many years. As to the litigation in the file, if it relates to the land, can't a land owner request that it be put in his own personal file? If he wants that in the file, it seems that would be his right to have that in the file. They need to be careful about saying he can't put that in his own file, if it relates to the property. He didn't think it didn't any harm and he was hesitant to start telling people the town isn't going to put these things in the file. If they are, they need to have a very clear policy on what can and can't go in a file.

Mr. Pearson wanted to respond to the record keeping issue, which was a major issue for Ms. LeBlanc. The goal with any public record is transparency. There are about 10,000 records that go back some length of time. The interns have seen records over 80 years old, so filing has been done by many people, some of which don't even work for the town

any more, so it's understandable that some documents can get misfiled. Over time, some of the folders break down because the information in them gets bigger and bigger and when they break loose, papers slide underneath. When they are found during the process of cleaning out the cabinets, they are put in the right files. That is no excuse, but things like that do happen.

Relative to accountability of records, in his last job, he was responsible for police records and a lot of them were confidential files, having to do with juveniles, annulments, police records, freedom of information, criminal records, etc., so he is familiar with record-keeping. There needs to be accountability of record-keeping, and there needs to be a keeper of the records because someone needs to be responsible and in times of going to court, they need to bring that person to court. Short of writing a policy about record keeping in Community Development, he has assigned Deb Winters to oversee that and she oversees the two interns that are scanning the files. Some of the comments by the Board deal with correcting the records and when there are issues that are brought to his attention that need correction, the process is working. The document server that was put at the front counter in the first 45 days after he took over was the vehicle that Ms. LeBlanc used to do a name search to locate some of the records she was looking for. That goes to show that the process is going to work. If all the records are scanned in and someone puts in a name, they can find those documents. Without that type of technology, you would just have a bunch of file cabinets and good luck trying to find something. The scanning project is very useful. The originals will stay in storage and will provide computer backup in electronic files. Ms. LeBlanc has made allegations about missing files, and there probably were pages missing. She brought up the fact of a missing file folder, which was eventually found.

Relative to an audit of the files that Selectman Maddox brought up, he thought it would be inappropriate to have the interns checking their own work. The proper way would be to have Deb Winters, him and a third person do it. He used to do audits of evidence rooms and record keeping, etc., and to have an independent person outside of the office be there with them because it's a fact finding mission; finding weaknesses in the record keeping and trying to correct it. They have nothing to hide. It's his intention to do that in the near future.

The IT Department is also working with Deb, the interns and him to correct those things. If they find a document that is misfiled, that document needs to be placed in the correct file, so the IT Department has indicated they can capture that one document electronically and shift it back into the correct file. This is a work in progress that involves more than one department.

Relative to confidential files, he has taken the necessary steps to put those under lock and key and to make somebody accountable for those files. He plans on keeping the records in order and being held accountable in holding other people accountable. Right now, Deb Winters has been put in charge of the accountability of records and with a policy he put out, it will help guide her to proper record keeping. They are trying to find all of the documents that people are looking for and try to assist people the best way that they can.

Chairman Coutu said as to a person requesting certain documents that they have that relate to civil litigation, something that is personal to them, has no effect on the office. They would be setting a bad precedent if they allow people to come in and say, "Take this and put it in my file." They will be duplicating an awful lot of records that will just confuse the issue. Personally, he is not in favor of doing that. In terms of the audit of records, that should be an internal affair, a decision Mr. Pearson should be making. He was not saying this is fraught with error, but Mr. Pearson said it was a good system of checks and balances to ascertain that the records are being kept properly. In the past, as he is sure Selectman Nadeau will recall, there was some digging going on, looking for some records for something they needed at that time, and they were all over the place. Now they are assimilating all of the files and properly recording them, finding files that were misplaced or on the bottom of the drawer. In his own file at home, he finds pieces of paper on the bottom of the drawer that he looking for a year ago. As long as they know there is a process in place, which there is, and in that process, going through all of the files, they are starting to assimilate all of the records, putting them in the proper order, he was satisfied with that. The audit is something Mr. Pearson should address and make a decision on because it is his department.

Selectman Maddox said the Chairman already said most of what he wanted to say, but again, for the people watching on the other side of those screens, there has been an accusation made, there has been some validation, but it would be nice to know what those percentages are. If he looks through the book provided to them, some of the pages are stamped 'scanned' and some of them aren't, so he didn't know if they've been done before or after. It would be nice to know the results of the audit so they can feel more comfortable when someone comes in with an issue, they have some basis of fact to say yea or nay. As far as what gets put in their files, when the Assistant Town Administrator has a few moments, that's a policy that needs to be drafted. He goes on the side that if someone brings it in and wants it put in their file, put it in there. They need to hash out that policy at some point. That's something they need to work on, what will be put into the Community Development files. If it's there at the request of the owner of that lot of record, then it should stay. That's a policy that needs to be addressed. Hopefully, they answered all of the questions that were brought to them.

Selectman Massey wanted to echo Ms. Davis' comments at the beginning of the meeting. There has been a marked improvement in the efficiency, professionalism, production, any kind of words you want to use that have occurred since they made the reorganization and brought Mr. Pearson on and it is reflected in the work attitudes of all of the individuals in that department. He commended Mr. Pearson and his department because they are doing exactly what the Board wanted him to do when they reorganized that department.

Selectman Jasper said when Mr. Lashua withdrew his application for a second driveway permit, in there he stated that the Planning Board had 30 days to act on this and it's now 58 days. Mr. Lashua has misinterpreted the statute because the Planning Board took action within 30 days and rescheduled it for another meeting. Some statutes say, and the legislature intends, 'final action by,' or words to that effect. The legislation and the law only requires the Planning Board to have dealt with that application in some manner within the 30 days and if they felt it necessary to go to another meeting, then that was perfectly within the statutory intent. That was not addressed by anyone and he didn't think Mr. Lashua should be left with the impression that the town was in violation of the timeframe because the town acted properly within the 30 days and then had whatever time it needed to finally adjudicate his application.

Ms. LeBlanc said she had another question. Chairman Coutu asked for the will of the body. Selectman Jasper said since she was still here and if she didn't cover old ground... Ms. LeBlanc said it would only take a second. They raised an issue about the structure keeping... there was no zoning requirement or code, and she read in the code book and wanted clarification, 3:34:16, #c, No permit, however shall be issued unless the structure will present a reasonable appearance and will be in keeping with the neighborhood, unless the building is to be finished in the exterior in a permanent manner and is to be (not discernable) painted on the outside whatever the same is of wood or material customarily painted," so she wanted clarification on that. Is that pertaining to something else?

Chairman Coutu said that's a matter that needs to be taken up with the Planning Board. The Board of Selectmen has no right to adjudicate a land issue or abutter... Ms. LeBlanc said, "the Planning Board?" It's on the garage and thought zoning has the... (talking back and forth). Selectman Jasper told Ms. LeBlanc she needs to speak to Mr. Pearson to find out who promulgated that. It's probably a Planning Board regulation and the Planning Board could answer what it means. It didn't seem that complicated to him. If it's painted, it's got to be finished on the outside. It's a matter of interpretation. Selectman Maddox said again, it's in keeping with the neighborhood, but again, that can be a very interesting discussion. Ms. LeBlanc said that's why she wanted clarification. Chairman Coutu said that's an issue that should be taken up directly with the planning administrator and, as always, she knows because she has been in communication with a couple of them on an on-going basis, he applauds her for being patient through the transition. She knew, because he explained to her a year ago, that the transition was going to take some time; they are not going to rush to fill the position and reorganize a department. They are going to take their time and they are somewhat satisfied with the product, as expressed by Selectman Massey. They've come a long way. He appreciated Ms. LeBlanc's patience and he understands her frustration, but they've opened the doors for her and all of them have spoken individually to Mr. Pearson and he knows that they've talked to him about this case. He's convinced Mr. Pearson is on top of it and he's going to respond in kind and assist her and Mr. Lashua with whatever the requests are. Ms. LeBlanc said she appreciated that.

C. Discussion with Land Use Board Chairmen (Planning Board, ZBA and Conservation Commission)

Chairman Coutu said this was an item Selectman Massey wanted to place on the agenda and asked the chairmen to introduce themselves--ZBA Chairman Brad Seabury, Planning Board Chairman Vincent Russo and Conservation Commission Chairman Bob Haefner. He thanked them for taking the time to come before the Board, as requested.

Selectman Massey said he put this item on the agenda because he was made aware of an incident that occurred at a land use board's meeting, in which certain allegations were made against one or more people in town. Reflecting back on the Planning Board, one of the issues they dealt with two or three years ago, and it was a good policy for them and may be a policy the Zoning Board and Conservation Commission should look at, and that was if a member of the Planning Board had an issue they wanted to deal with the Community Development Department, they would, through the chair, request that information. The purpose of that, first of all, was that it was something that the Planning Board felt was an important issue that needed to be addressed and secondly, they could keep the lines of communication between the Community Development Department and the Planning Board clear and you didn't have a lot of people putting requests for resources on to the department. That was that piece of it, a member of the Planning Board who wanted information who put the request through the chairman and if it was approved, it would then go to the appropriate person within Community Development and the response would be disseminated to everybody on the Planning Board. When he was made aware of this incident that he was now referring to, he felt that maybe they ought to relook at what their roles on government are. To him, they have a very important role they plan and sometimes when they say things because of who they are, they take on added weight. A zoning violation or a site plan violation is not a violation until a formal request has been made of the appropriate department to make a determination. Once the department has issued a written determination, then it is either a violation or not, based on the investigation. For any of them in any of their meetings to say someone is in violation of their site plan or has a zoning violation doesn't do them any good because it blames someone and causes a lot of bad roar and he wanted to get their [the chairmen's] thoughts on whether it is appropriate for any of them, the Board of Selectmen or any of the land use boards, to have members of the board make allegations against an individual where there has not been a determination made as to whether that allegation is true or not true.

Selectman Jasper said he felt very strongly that something needs to be cleared up before they get into this debate because it has been troubling him for some time, and that was the letter that was sent to the Chairman on June 29 by ZBA Chairman Seabury. When he read the letter, which he quoted, "I did happen to hear the June 2nd meeting in which Selectman Jasper declared that he did not intend to debate, but was going to tell us what was what." Selectman Jasper questioned if could have possibly said that because it was an extremely arrogant comment, not that he hasn't been accused of arrogance in the past, but he didn't think that he had done that. Continuing, Selectman

Jasper read, " 'What was what' sounds very much to me as though the Board of Selectmen had decided to rescind the First Amendment of the Constitution of the United States of America. Perhaps we should consult with legal counsel." That troubled Selectman Jasper quite a bit. It is not at all in context of what he said. They had a long debate relative to this subject matter. Selectman Maddox had talked about the fact they should give them a little bit of information, and Selectman Jasper said he had said he didn't totally disagree, but "if they [the Board of Selectmen] are inviting them in so they can explain what is appropriate conduct, I didn't think there was anything for them to prepare for because I didn't intend to have a running debate with them. The Board of Selectmen is the appointing authority for those boards. The Selectmen will be telling them this is part of the criteria for which future appointments will be based and people who violate the standards could expect not to receive a positive recommendation from the Selectmen if they violate the standard that we set up." He said he stands by that comment and feels it is appropriate. If the appointing authority says, "Here's how I expect you to act and if you don't act that way, then you need to know up front that you can expect not to be reappointed." Members of the Board, having that information, can continue to say whatever they want and act however they want, but when their 3-year term is up, they can expect the Board of Selectmen will not reappoint them, based on the criteria they have decided they will base their appointments on. That's a reasonable policy and it's important to let them know up front. That was not saying 'what was what,' but what the policy is and what their standards are and how they expect the Board's appointees to behave in representing the Board and the town. Hopefully, the Board agrees with him. If they don't, no one disagreed with him that night, but he certainly wanted to put that into context as they begin, that that was the basis for the Board to have this meeting, to say here's the standards of conduct that we expect our appointees to behave under.

Selectman Massey asked for some reflection from the three land use board chairmen as to what they think about that being a modus operandi, that it should be inappropriate behavior on the part of a board member to make in public allegations that have not been determined by the Zoning Administrator or Building Inspector. Chairman Coutu said or no record on file that a complaint had ever been lodged against that particular individual. Selectman Massey said what the Board was thinking about that night was exactly what Selectman Jasper said, that if that was an on-going conduct of a member of the Board, then it would be a legitimate reason to look at why the Board should not reappoint them when their term is up.

Mr. Seabury said he and Selectman Massey had a conversation subsequent to that meeting and he pointed out at that time that that's always the prerogative of the Board of Selectmen, and a perfectly appropriate one. He presumed that if the members of the Board of Selectmen felt that somebody wasn't worthy of the task, they wouldn't appoint that person. Certainly, it's always in the interest of the town for the Board of Selectmen to find the best person they can to fill the position. He didn't think any of them would have any problem with that. He'd have more of a problem with the fact the Board of Selectmen doesn't do that. For example, he's been trying to get a 10th alternate for something like six years now; it hasn't happened. Selectman Massey asked if it was because there were no applicants or... Mr. Seabury said it hasn't happened because nobody has been appointed. Whether or not there have been applicants, he didn't know. When he was young, the Board of Selectmen used to go out and find people. They didn't wait for Tom, Dick and Harry to come in and say, "I want to be on the board." In those days, he was interested in the preceding discussion because the operating records for the town were kept in a bureau in a closet by the only secretary in the building, who happened to be a German war bride who didn't speak English very well. If the Board thinks they have problems finding files now, they should have been here then. Selectman Massey asked if there was an alternate's position available. Mr. Seabury said yes. Selectman Massey said they should take it upon themselves to advertise for the alternate's position. Chairman Coutu said they just did.

Selectman Massey said as to the other issue, did he think it was something that would merit cause for not reappointment, if it's a consistent... they all make mistakes and they all say things they wish they hadn't said. Mr. Seabury said they should be looking for the best person for the position. That doesn't necessarily mean that person is always going to agree with you. There are people on the board he doesn't agree with and there are people who don't agree with him, but they live with each other.

Mr. Haefner said with respect to what Selectman Jasper said, his first thought was the chairmen and entire committees need to know what the expectations are of a board and he thinks they do, but if there is some expectation they don't know about, they need to know that they are not meeting that expectation, the appointing board has the obvious right to not reappoint. Going beyond that, he would think it's their obligation, as members of the boards, to always be doing the right thing. There may be a disagreement with what's right or what isn't, but it's their obligation to do the right thing. If somebody on a board is doing something that is perceived as being wrong, they need to call it to their attention. That's their job to do that, and that would hopefully correct that situation, whatever it is. As far as the specific issue that they've brought up with someone saying someone was in violation, yeah, they are right. They certainly need to clarify it to say this may be a violation that will have to come up before the board. You can't obviously say they are in violation, but there isn't anything wrong with saying they may be in violation.

Selectman Massey asked what he thought about the policy the Planning Board had adopted, which was that all requests for information be put through the chair and that it be the voice of the committee, as opposed to somebody just unilaterally sending a letter to the chairman, saying they need information from the Community Development Department. Mr. Haefner said he was perfectly OK with that. They do that on lots of committees because of limited resources, you go through the chair. He would be happy if it was chair and/or vice chair, depending on who was available.

Selectman Jasper said they need to get back to the heart of what, on May 12th, Selectman Massey brought up as a point of discussion, which really led to their being there, to clarify what the process is. What Selectman Massey said, and Selectman Jasper agreed with him, he thought there was an agreement with the land use boards that any requests for support for any member of those boards would go through the chair of the board to the appropriate department. The purpose was to make sure they didn't flood the department head with a lot of different requests and by going through the chairman would ensure that all members of the body would receive follow-up information. In the course of the meeting, allegations were made by a member of the board relative to two businesses in town. That's the heart of the problem. He still thinks it is wrong in a public meeting, televised now, for somebody to come up and say that they believe ABC Variety is in violation because that sends out to the whole community, telegraphing that a member the Selectmen have appointed to a land use board believes there is a violation. Mr. Haefner said point well taken. Selectman Jasper said what they had said, and established as policy to department heads, these had to come in from members of the ZBA, Conservation or Planning Board, the same way any other citizen of the town does—fill out a formal form, saying they would like them to look into this, and it would go through the normal process. The land use board members cannot be using their positions as a bully pulpit to try to correct problems that they perceive, but they may not have all the evidence. The point is it sends out this message to a lot of people to maybe stay away from that business, that maybe they are not conducting themselves right, or it gives that individual business owner a bad reputation. If he thinks Selectman Maddox is the greatest person in the town and if he made a statement about this business that he believes might be in violation, therefore, it must be so. Depending on who says it, those types of statements carry different weight and can be construed and then they get all these things going on. Every one of them need to use the same process to take care of what they perceive to be a violation. Meetings are not the place to bring those up and use that bully pulpit. That's what they all agreed on the night of May 12. They didn't want that to happen. If somebody did that, they [chairmen] need to shut them down and say there's a process to follow. If somebody says, "I think there's a violation at...", gavel them out of order and end it. That's not how they want the town to conduct business. That's where they were at and what they are trying to get across here.

Selectman Maddox said they have some great people sitting on their land use boards and much like earlier, he might not agree with Selectman Jasper all the time, but he will defend his right to say what he believes he should say. That's a given. Same thing with their land use boards. The process they talked about this evening, correcting some deficiencies they saw in the Community Development Department, those comments will probably go away because the frustration is, when you get passionate people—at this level, the land use boards or recreation—if you are going to sit on a Planning Board and expend probably 150 hours a year of your personal time, you are going to be passionate. You want those people to be passionate. When they saw, in their minds, things being ignored, it wasn't getting done at Community Development, made comments and they said things like, "I believe there was a violation." Personally, he thinks the corrections they made in Community Development, that will go away. The form should be available at night so if they see something, they don't have to make a special trip to Town Hall. It can be taken by whoever the representative is at the various meetings and put into the system, but again, the passion—and if they know they might not be reappointed, that's their decision. He didn't think they were going to see at any given time that they are going to give up passion for uniformity—because he and Selectman Jasper aren't going to fit. They need to be able to give them guidance and understand there is a policy they're going to have to come up with for what they're looking for, but again, the passion you have to have to come and do the work that any of their volunteers do, sometimes they get frustrated by the lack of, like Ms. LeBlanc saw, it doesn't get done, they may have said something that got everybody's attention, so he guess he won't totally not agreed with what he said that they need to come up with a procedure that says if these are violations, if you will, you may not be reappointed and everybody understands that, so be it.

Selectman Jasper didn't totally disagree, but thought Selectman Maddox, perhaps, has taken things a little out of context. Tonight, his comments were relative to something that was placed on the agenda, something within the Board's purview. Most of them are talking about things that are not on the agenda and which the Board has no control over. The Board of Adjustment, the Planning Board, they are not enforcement boards. They don't have any... they can't direct anybody to do anything, therefore, talking about those things...it's appropriate for them, if they want, to come in here, as citizens, and to say, "We've seen what we believe to be violations at this business, this business, this business," fine. They have the right to do that. The Selectmen will then tell them to go to Community Development and fill out the appropriate paperwork. But they have the right to come here and tell the Selectmen whatever they want. It's a different context than in the ZBA. Selectman Maddox said (not discernable) sometimes covers that. Selectman Jasper said Other Business has to be that over which the body has control. If they were to start giving directives to the President of the United States, the people who appoint the Selectmen would probably say those people are all nuts and not elect them any more. They have to stay within the scope of their duties. That's his direction and hopes that's the direction of the Board. There's a process for everything. People have a right to do that, but to bring out accusations at a board meeting when that board has no ability to direct... in theory, they can come to the Board of Selectmen and the Selectmen can tell the Zoning Administrator they've had complaints come in and tell him to go out and look at them, but as a Board, they don't have to fill out the paperwork because he works for them. That's the context he's trying to put it in, and that's his concern.

Mr. Haefner said he said something that kicked off that whole discussion. Just so it's clear, he didn't even think of saying that there may be a violation here in the context of it being a business, or that it was a bully platform. His thought was you see somebody, they've got mulch they've put down in a wetlands buffer. That's probably a violation. He was thinking only in that context, not as a business, but it's a point well taken.

Mr. Russo said he heard a lot of great comments and a lot of good points. As a Planning Board member for almost seven years, he can see where this can happen very easily because, as Selectman Maddox suggested, those people there are people that care and want to get things done. They should absolutely be sticking to the agenda and the business at hand. He didn't believe that under Other Business zoning violations should be coming up by individual board members. That's inappropriate. These board members are citizens of the town and there is a process. Maybe the process doesn't always work as fast as they'd like it to, but they need to adhere to the process. In some situations, this can be a little tricky, especially for the Planning Board when they are dealing with a set of plans. It comes before them and most of the time, they are prepared and ready, but there are board members that will have questions as to things they are seeing on the plan, especially on an existing site, and they want to get clarification from the Zoning Administrator, so there's going to be those situations where that is going to come up, and rightfully so. In most other cases, they should probably be a little more careful and he would ask that if there is something in particular, some sort of policy the Board would like to institute, if they could get that in writing as soon as possible so they can give it to the other board members, or read it to them, to let them review it to get them up to speed because there are board members, again, they are people, too, and they think they are doing the right thing. In some cases, they cross over the line a little bit.

Selectman Massey said the process they are talking about, since Mr. Pearson has come on board, is there is a form, which he believed was available on the web, that you can fill out and you can choose to do it either anonymously or your name. If you put your name down, it's going to go to the top of the pile because they now have something they can go ask somebody and secondly, they can give a response back to somebody, etc. If it's an anonymous allegation, then depending on the nature of the allegation, such as a wetlands violation, they are going to go out and look at that immediately because that's something that's serious, but they are going to use their judgment on the anonymous ones and it's going to go to wherever it fits in the pile. If they find there is no violation, who do they talk to? The problem with the anonymous is how to respond back so there's the transparency they want. The form is there and it's available. If people are running around town and happen to see something, by all means, fill out the form and send it in as a private citizen, not as a member of the board, which carries a much different connotation.

Selectman Jasper said Chairman Russo made a good point and hoped he didn't leave the impression that he didn't feel that a plan or a variance or application is before a land use board they don't have a duty and an obligation to make sure that everything is kosher; they do. If they have a plan before them and somebody on the board thinks there is a violation out there, and is not being corrected by the application, the Planning Board or ZBA would have a duty to ask code enforcement to take a look at that. They shouldn't be working on a plan and ignoring something, nor should an individual member have to go through that process, if it's a plan before the board. He was talking about things that are not before the board on that particular evening. That's all they are talking about; things not before them.

Chairman Coutu said, with all due respect to the three Chairmen, if the Vinny Russo Company is in existence just in this town and he's doing business, how would he feel if he was watching television some night and one of the boards is entertaining an agenda of issues that relate to violations, applications, exceptions, and then out of the clear blue, after the meeting is over and they get to public comment, one of the members gets up and says, "Oh, by the way, the Vinny Russo Company, they're in violation because they're doing this." Well, who said they are in violation? No complaint has ever been filed, no inspection was ever made, no citation ever issued, but now you've been tagged as a business that's operating...you're doing something illegal. That's the crux of the matter. That's what took place and that's what precipitated this item being put on the agenda. It wasn't fair to the two businesses that were identified, both of which are legitimate business operations in town, neither of which has been inspected nor has anyone filed a complaint against them for being in violation and in both cases, he took the time to review the minutes and records to ascertain there were no footnotes or anything discussed that put any limitations that was suggested were taking place at these businesses and he found that, based on his evaluation, they were in compliance with their business permits. He believes some other members did the same thing. Both businesses approached him and said if this persists, they would seek legal action against the town for defaming their businesses when they didn't have any right to do so. Not only wasn't a complaint issued and they weren't cited, they were not in violation. He thinks Mr. Russo would be upset. They're not looking so much to set a policy. The will of the Board at this point is to make the chairmen aware that it does go on and if they see it happening... once it's out of the mouth, it's pretty hard to gavel it, but warn them they are not going to allow them to make claim that is not true, that if they have a problem, advise them that if they are riding around town and see something that appears to be in violation, they do as any other citizen would and file a complaint and have it go through the process and address it in that fashion.

Mr. Russo said if a board member makes a statement he feels might be inappropriate...Planning Board members can spend an hour hashing out whether someone said something that was inappropriate. They are really good at this. It's really not his job as a chairman to police what's already been said. He can't stop that. By the same token, it would be very difficult to tell them not to say anything else. He could try, but at this point, he doesn't have... it's never been in his purview to tell people what to say. It doesn't work that way. They have a right to speak what they feel is appropriate. If it's inappropriate, he really feels it needs to go back to the board that appointed these people. If he sees it, he can certainly note it and bring it to the Selectmen's attention and they can review the meetings. There are two Selectmen that are there that have witnessed it, and then the Selectmen can make a proper judgment call from there, but he didn't know how he can be the hard-hand. He didn't know what he could tell somebody that would stop them from continuing to say what they want to say. It's difficult. He's having a hard time... he can suggest that an issue is not before the board and they are not going to discuss it, but if they continue, there's not much he can do about it.

Chairman Coutu said he could call them out of order. Mr. Russo laughed and asked if Chairman Coutu had been to a Planning Board...if he'd been to a Planning Board meeting, he'd see. Chairman Coutu said he watches all of the committee meetings on television. He attends several, but watches them. He understands how difficult it is sometimes to be chairman. Mr. Russo said that's why he asked for some sort of written policy, which would help the chairmen, to have something to bring to their boards to show them what's expected of them, not his opinion, but what the Selectmen, as the appointing authority, expects of the members.

Mr. Seabury said he would second that. The policy that Selectman Massey referred to earlier has a long history behind it that had to do with the inability of some members of the Planning Board to get satisfaction from people who, at that time, were on town staff. He didn't think the policy was ever as firm as Selectman Massey indicated that it was. If this Board of Selectmen came up with a policy that the chairmen should follow, that would be something they could use as a guide. The members that the Board of Selectmen has appointed to serve on the boards usually are pretty passionate people. They have pretty strong feelings. Then tend to say what they think. For example, earlier in this meeting, on at least two occasions, where some members of the Board felt other members of the Board were already overstepping the line. All of the members were being very dignified at that time, but sometimes on the Zoning and Planning Boards, dignity is not quite that concrete. But people do get wrapped up in these things and they say what they believe and they are also speaking from a point of view of a long history of not feeling that other people were listening to them. Does that mean they should transfer the opportunity to speak on television as a way of getting what they wanted? No, they shouldn't. He did have a concern, though. As he recalled, the meeting that he heard, there was a comment made that suggested the Board of Selectmen felt members of this Board should never mention the name of any other applicant who wasn't before them that night. Sometimes that's very difficult because they are making comparisons. These decisions aren't made in a vacuum and they have to make a decision based on something they did with another company. You can't really walk around in circles and not mention that company's name because nobody knows who you are talking about.

Selectman Jasper agreed with Chairman Seabury. He thought the comment was in the context of negative comments and sometimes that's difficult, as well, when you're talking about a comparison case history. "We had this difficulty with this company when we were dealing with their application and we solved it this way," is probably more appropriate than saying, "We had a similar problem with ABC Company and we gave them this and now they are in violation." Then it is more appropriate to say, if the member feels that way, "We had a similar situation in the past with another company. We did this for them and they are now in violation. Let's not go down that path again." If they believe they are in violation, they are other methods...they just have to be very careful about impugning the reputation of other people who are not there to defend themselves, did not put themselves on the agenda and were not placed on the agenda and have no knowledge they are going to be brought up and then they find themselves impugned and it's sometimes difficult to know if they then should put themselves on the next agenda and go in and fight with the board and fight with what they said, or just let it go. It is appropriate for chairmen, at times, to say something is out of order, that they would not discuss it that evening, but if the member persists and the chairman can't control it, that's something the Board of Selectmen needs to find out and take into consideration during the appointment process. The board chairmen do have an obligation to try to keep their members focused on the agenda, but he understands that sometimes that can be difficult. Most people, when they are ruled out of order three times, will finally make their final comment and be quiet.

Selectman Massey said Chairman Seabury hit on a crucial point, and it's a distinction, too. When a land use board has a case before them, it is appropriate to talk about how they dealt with other cases. The key point is that other case has already been in public and everything about that case has been in the public record and is capable of being...so, at that point, they are not impugning anybody, just stating the facts of a case that is public record. That's perfectly right and it does help in the discussion. No one would deny that people on these boards are passionate. He sees it on the Planning Board and he saw it when he was a member of the Zoning Board and he sees it when he attends Conservation Commission meetings. He wants to make sure everyone is treated fairly and in a way each of them would want to be treated. He didn't want to read in the Wall Street Journal that he is alleged to have done something when he never even had a chance to defend himself.

Chairman Coutu said he was in awe of all three land use board chairmen. He is a political junky and habitually watches their meetings. From his observation, and he's sure that of the public, they are all three very, very professional in the way they conduct their meetings and he appreciates that a citizen, when they go before them, are treated with a tremendous amount of dignity and respect and they are made to feel comfortable in their presentations, whether it's an applicant or a contracting firm or a developer, they are given ample opportunity to present their cases and the chairmen act in a very professional fashion. He understands what Mr. Seabury alluded to with regards to trying to control and keeping things in perspective and dignified. He's been fortunate in being shown a tremendous amount of respect by his peers and he tries to quell the fires before they come to the meeting because the sparks are flaming during the week and it's his job to try to put out some of the fires. The other chairmen can't anticipate that. This is a Board that sees each other on a regular basis and might go over agenda items individually to try to get a perspective of what they are dealing with. The land use board chairmen have a different and unique situation and are dealing with the public almost on a daily basis. He wants them to know, and speaking on behalf of the Board of Selectmen, that they appreciate the dedication, time and service they bring to this community and the Board certainly appreciates all of the time and effort and energies each and every member of their respective committees put into serving the community. That is not being set aside. That is foremost in their minds. It's a volunteer effort, it's time, and it is appreciated. The Board of Selectmen may schedule this as an item for a future workshop. They will take another

look at this and they will develop a policy. Once something is said, it's out there, as Mr. Russo said, but it's a matter of trying to cut the conversation at that point and say, "This is not a matter before the Board. If you have a problem, there's a process, go through the process," and if they persist, there's not much they can do at that point, other than be a tyrant. The chairman could ask for an adjournment, but he would respect that all of them are very professional in what they do, they will do the best they can to try to keep businesses in this community and the reputation of the public in this community that may appear before the boards in the best of light at all times and up to this point, they've done that. A couple of board members just got carried away and it became an issue that the Selectmen felt needed to be discussed with the other chairmen. This was a healthy discussion and affords the Selectmen to express their appreciation at the same time.

Mr. Haefner said he should probably keep his mouth shut and be done with it, but he will bring this up at the next Conservation Commission meeting a week from Monday. A policy would be nice, but if people know what the expectation is, they understand what the issue was that was brought up tonight, good people will do the right thing.

Motion by Selectman Jasper, seconded by Selectman Massey, to change the Order of the Day and take up Item 7-A. There was no objection, so Chairman Coutu said the next item would be 7-A.

D. 47 Ferry Street Real Estate Proposals

This item was deferred on July 14 to afford Selectman Jasper an opportunity to review the proposals.

Selectman Jasper said he took the time to go through the proposals in detail. The Board, on July 14, was ready to go with one firm that was suggesting \$179,900 but looking at the comparables, the proposal and marketing strategy, he believed they should be asking at least \$195,000. They can always go down, but they can never go back up. Coldwell Banker has done a very thorough proposal. They did do the visit and they have extensive resources behind them in order to effectively market this. The commission is 1-1/2% higher, but they are suggesting it has a substantially higher worth. It's their due diligence to maximize the value of the property for the tax payers.

Motion by Selectman Jasper, seconded by Selectman Massey, to award the bid to Coldwell Banker.

Selectman Massey said if the Board told bidders two, three and four the town wanted to put the property on the market for \$195,000 if that would change his mind. He asked if price was driving Selectman Jasper's decision. Selectman Jasper said partly. The other part was the resources they put out there for their marketing strategy. It's comprehensive and they have many different avenues available to them. Number four was just "multiple listing." There was a lot more marketing in the Coldwell proposal. Selectman Massey asked how he felt about the second vendor. Selectman Jasper said that vendor didn't feel there was much value at \$162,000. If a vendor comes in at a certain price, he wouldn't expect that vendor to be very aggressive if the Board wants a higher price because they don't believe that's the worth. They have to believe in what they're doing.

Chairman Coutu said at the last meeting, he was a strong advocate to #4 and he thought they had the votes, but they extended the courtesy to Selectman Jasper to review the proposals. He had a discussion with him with regards to those who were at the open house and they felt one of those, who took the time to attend the open house, should get the bid. He was somewhat sold on two things Selectman Jasper told him to consider—you can always go down, but you can't go up and marketing plan. He's talked with people who were satisfied with both #3 and #4. He's not sure they can't offer it to the one they were considering last week, telling them they want a price range, as opposed to a fixed price. He wasn't satisfied that the \$185,000 - \$195,000 was realistic. He was weighing that against the difference in commission.

Selectman Nadeau said he was familiar with all of the real estate companies listed and 4% is a very reasonable commission--and they could be told to do a price range. He didn't think they'd get more than \$179,900 for that house. He goes to auctions all the time during the week and he sees what's out there and this house is nice, but they won't get \$195,000 for it, or even \$185,000. It's not in that desirable a location and they shouldn't pay 1-1/2% more. Chairman Coutu asked if he thought they'd have gotten \$170,000 for the other house. Selectman Nadeau said yes.

Selectman Maddox said it would be a \$2,700 delta, if they both sell it for \$180,000. If they sold it for \$195,000, they are still... they are going to have to sell the house for like \$225,000 to make up the difference between 4% and 5%. Mr. Malizia said if the house sold for \$195,000 at 5-1/2% commission, that would be \$10,725 worth of commission, which would net the town \$184,000. If the other one sold it for \$179,000 with a 4% commission, they would pay \$7,196, but would net \$172,000. He's not a real estate professional, so he didn't know what it would sell for. These people came in and looked at it, gave comps and their best estimate. They are all qualified, but they don't know what it will sell for. At auction, they weren't getting anything, so anything listed here is better.

Selectman Jasper said, unlike Selectman Nadeau, he didn't have a crystal ball. What he did know was the side by side comparisons, and he cited some of the examples. However, he didn't have the dates of the sales when Chairman Coutu asked for them. They have an obligation to get the most money for the property. They could also negotiate the percentages, but if they don't believe the property is worth much and don't have an aggressive marketing strategy, that's what you're going to get. It's a nice house with a beautiful back yard. They need to try harder. If they want to go back to the table with the high percentage... they got \$170,000 for the house next door and

this is a much nicer piece of property. Chairman Coutu said they've got a new one that's going up for auction. Selectman Jasper said they all know the history with auctions. When Ben talks about going to auctions, auctions are viewed by a large degree as fire sales. Somebody is looking to get rid of it, so people go to auctions where the prices are much lower than with aggressive marketing. It happens to be who shows up and they are all looking for a deal. That's a fact of line on auctions. They can't compare an auction to a sale like this.

Chairman Coutu said all of these figures were subjective. In light of the overall plan as presented, he felt that Harmony presented the most realistic figure, but that's his opinion, and he felt they came in with a more than fair commission rate. He was still torn, in light of Selectman Jasper's arguments. They can go to one and tell them to lower their rate or they can go to the other one and tell them to raise the listing.

Vote: Motion failed, 3-1. Selectman Jasper voted in the affirmative. Selectman Nadeau abstained.

Motion by Selectman Maddox, seconded by Selectman Massey, to award the bid to Harmony Real Estate.

Selectman Jasper said this was a very thin proposal. There were a few houses that sold and they do have dates on them. They sold for \$20,000 or so higher, most in the same general area. They are making a mistake. They have a fiduciary responsibility to try to get the most money for the property. He's at a total loss to understand where the Board was coming from. None of them were realtors. The only thing they seem to be stuck on is the low commission. He implored the Board to talk to other realtors and see if that commission rate is negotiable. They are making a mistake at \$179,900. He didn't understand the Board's basis. He understands there's issues in the back yard because of the asbestos there, but that's not an issue if they are just going to mow the lawn. He was trying to get the Board to give him some basis. Another house on the street in a similar situation that sold in the last six months?

Selectman Maddox said the house next door sold for \$170,000. Selectman Jasper said they didn't market it. Selectman Maddox said the prices vary from \$130,000 to \$250,000. He thought the price of Harmony was realistic and the commission rate was low, so it will sell quickly, hopefully, and they will make more money. They could hold on to it for another two months and get \$6,000 more, but they won't net more money. Selectman Jasper said they will. (Talking back and forth.) Chairman Coutu said the sooner it's on the tax rolls, the sooner they will generate revenue. As Selectman Jasper said, they are not realtors. Discussion continued. Chairman Coutu said if he was going to sell his house on the basis of what sold in his neighborhood this year as opposed to what sold four years ago, he's taking a \$100,000 hit. Selectman Jasper said the Assistant Assessor was in the audience and he could be given the list. They could put this off for 10 minutes and he could go upstairs and label when the properties were sold.

Selectman Nadeau said there are five houses on Ferry Street for sale right now. One of them is smaller and it's a little less money than they are asking here. There's two or three by Dairy Queen for sale. Nothing is moving out there. If they want \$184,000, put that down, but the commission rate is still 4%. They went to the open house, they are a local business. Everything is done on the internet nowadays. Half the houses people look at are on the internet and that's it. It's totally different than five years ago when they actually had to go look at the houses. People weed down their top five and then they go look at them. Once they're on the MLS, they're out there for everybody to see. Some people like to put them in the HLN, some people like to put them in the Telegraph. Nobody is looking at those papers any more.

Chairman Coutu asked if the Board was ready to vote, or if they wanted the Assistant Assessor to look up the sales. Selectman Maddox didn't have a problem looking, but he was looking at percentage and what he thinks they are going to realize. Selectman Massey said if there were five other houses on Ferry Street that were having a hard time selling, that's looking like a good price all the way around. Looking at the other prices wouldn't make any difference in this. Selectman Jasper said one of the arguments thrown against him was they didn't know when the properties were sold and now that he gives them the opportunity to find out, they don't want to know. Selectman Nadeau has thrown out some figures, but they didn't have those listings in front of them or how much they were asking. He suggested talking to Coldwell, but the other Board members' minds are made up and, unfortunately, nobody has given him any reason why they should give away \$15,000 without any effort, less \$2,700. They will do what they want, but he is at a loss to understand it. He's given them opportunities they don't want to take advantage of, so it is what it is.

Vote: Motion carried 3-1. Selectman Jasper voted in opposition. Selectman Nadeau abstained.

Selectman Jasper said for the record for the future, when you abstain, that means you abstain from the discussion, which is different than recusing yourself, which is stepping away. You cannot properly discuss and advocate for a position and then abstain on the vote and Selectman Nadeau had previously stated he'd be abstaining because he has worked with this particular realtor. They can't have it both ways. Chairman Coutu said that point was well taken and he relies on Selectman Jasper as the Parliamentarian. They had these discussions last week and Selectman Nadeau participated and abstained. He waited for Selectman Jasper to object, but he didn't, so he thought everything was kosher. Selectman Jasper said he apologized for that. Sometimes his mind isn't where it should be on certain things. Nobody asked him. After he did that and the two came together, he realized it. His intent is not to criticize Selectman Nadeau. His point is it isn't proper to do both. When you abstain, you abstain from the conversation. When you recuse yourself, you sit back and you're not even part of the deliberative body. It was his mistake for not pointing that out last week. It didn't occur to him. Obviously, if he had said that, it would have worked more to his advantage to have said that early on. If it had clicked then, Selectman Nadeau wouldn't have been able to make any of the comments that he did, which worked against his position. It wasn't meant in that way. He just realized it.

7. NEW BUSINESS

A. Nashua Regional Planning Commission

Executive Director Kerrie Diers and Assistant Director and MPO Coordinator Tim Roache of the Nashua Regional Planning Commission were recognized. Ms. Diers said they wanted to talk about transportation issues and NRPC's status as the metropolitan planning organization for the area. She also hoped to get a sense of priorities the Selectmen have for the town and follow up with the Town Administrator to see where they might be of assistance. The brochure she provided the Board in advance covers the things they've been working on over the last year and things they hope to accomplish this year. Three of Hudson's commissioners were present—Mr. Schneiderman, Mr. Dilworth and Selectman Maddox. NRPC would not be able to do what they do without all of the volunteer commissioners who serve their communities, as well as the region, and they appreciate that. She wanted to go over the four program elements and they would entertain questions. She deals with land use and environment issues and Tim specializes in transportation issues. They also have a GIS department that does all the mapping. They brought for the Board some street maps and environmental overlay maps, which are nice and beautiful.

Selectman Massey said the overriding concern for the town and region is the third bridge across the river. Everything else pales in comparison to that. He wondered where NRPC was relative to being able to...and he knows what the problems are at state level, but it pains him to see a bridge from Hooksett, from the Bedford toll gate going over to the airport, yet Hudson can't get a bridge to take care of the people who daily commute back and forth to work. What can they do to really try and get this back up on to the radar of the DOT?

Mr. Roache said he'd use that as his segue into transportation. One of the most important roles NRPC plays is that of the Metropolitan Planning Organization (MPO). It's really a transportation oriented policy making organization made up of local governments, NH DOT, federal highway, federal transit and Nashua transit systems are all part of that organization. It's required under federal legislation for any urbanized area with more than 50,000 people, which this area does have and the purpose is to ensure that transportation investments are made in compliance with federal regulations, a C-3 process—cooperative, comprehensive and continuous—and they use those regulations as their guidelines. Funding is the big issue of the bridge. For DOT or any federal agency to use highway funds to build something like that bridge, the MPO must exist and that's one of their key roles. They maintain their long-range transportation plan with projects such as the bridge and others he will talk about later. They maintain the Transportation Improvement Program, which is a four year CIP. It's a fiscally constrained document that lists all the projects in the region and they have to make sure those projects that are listed meet the quality requirements. They do all of this in cooperation with the local communities and various transportation agencies. He didn't think the bridge was off the radar; it's certainly not off NRPC's radar. It's in their long-range plan. About 18 months ago, NRPC stepped forward as the lead agency to try and work with some private developers to get a bridge across the river on the old circumferential highway alignment, but that proposal would have severely impacted some neighborhoods in Nashua and has been put aside for the time being. He didn't know if that alignment was the only one out there, or that that one was even dead. The best thing Hudson can do is be active in the MPO and John Cashell is on the Transportation Technical Advisory Committee and Selectman Maddox is there, along with Stuart and Howard, supporting this work. NRPC's goal is to get back to the front office and try and push this again. They have to really work on opportunities like the one they had about 18 months ago for private partnerships with other funders because federal funding is difficult to come by for new projects.

Selectman Massey asked how it was that over the last 10 years, Manchester has been able to put an exit on to Granite Street Bridge, widen and improve the interchange between 101 and Route 3 and now this bridge from the Bedford tolls to the airport. He didn't understand how they can get all of that and the southern tier is left begging after all of these years to try and get this bridge. What's the magic that they're able to get those funds?

Selectman Jasper said those projects had agreement; 'they' can't get all parties to agree. Every time they have a proposal, there's somebody, usually on the opposite side of the river, who disagrees with the proposal. DOT says they'll take their money and go someplace where everyone is in agreement. DOT is not going to come down and fight 'our' battle. Until they come to an agreement where the bridge can be, and substantially everybody likes it, it isn't going to happen. Mr. Roache said that's the role the MPO is intended to play, to try and foster those agreements. Chairman Coutu said if this had been benchmarked and the plans in place, they might have qualified for some of the stimulus money and the project would be underway at this time.

Ms. Diers said NRPC is 50 years old this year. When it was started, it was Nashua and Hudson that got together and formed the commission. The first item of business was the bridge. Paul Buxton was the original chair of the commission. At that time, they needed a comprehensive plan, so couldn't get federal funding. At that time, there was substantial agreement about a location.

Mr. Roache said the NRPC transportation planners are available for any technical assistance the town's staff needs while working with Gary Webster and John Cashell in a couple of Transportation Enhancement proposals for the upcoming funding round. They've been doing some work on the CTAP project for the idea of a parkway between the Sagamore Bridge and Route 111. He hoped to have a report in September for that. They are available if any assistance is needed.

Selectman Maddox said collaboratively within the district, is there monies available? He sees all kinds of monies. What do they need to do to be able...is there more pavement money? Hudson is always falling behind the curve on being able to pave on a town wide level. Is there something right now that they are able to get a grant to be able to match the pavement they are putting in? These are the kinds of things they are hoping NRPC is looking for, the federal monies, to see if there's anything, as well as the DOT. The DOT is flush with cash. If they can help take any of it from them, and what they need to do for NRPC to make them aware of that because, again, they know they are falling behind in the paving program. They know that's an issue that's going to come up to bite some Selectmen in the future. Anything NRPC can see that Hudson can go after would be appreciated.

Mr. Roache said what would help with grant funding is maintaining the road inventory, making sure they get credit for all the road miles they have. Outside of that, there has been a lot of hope some of the stimulus money would allow other state funds to become available for projects that towns are falling behind on. They can track that and try to work closely with town staff to see if they can help out.

Selectman Maddox said the rail project. He knows NRPC is on the board at state level. Mr. Diers said NH Rail Transit Authority. Selectman Maddox sees Exit 4 on 93 going very well, even the ones coming from Exit 6 in Nashua, going down Route 3. Isn't that more practical, as far as cost analysis? He keeps hearing numbers in the \$200 million range to get tracks that are suitable to get even to Manchester. Buy an awful lot of buses, move an awful lot of people today, as opposed to possibly 20 years from now, at the rate this thing has been going. The circumferential and train are probably at the same pace. Is there also someone looking at how well the buses are working and expanding that program? Mr. Roache said he's dealt with this issue in his former position at the Seacoast MPO. From a cost perspective, it depends on how you look at it. If you are going to compare investing in new track, maybe you have to consider the cost of the highway and construction and maintenance, as well, to get an equal balance. Chances are, buses will still probably be a little more cost effective, a little cheaper. In working with Scenic Trailways and Boston Express on the Seacoast, they were concerned. They've seen situations where in Providence when the MBTA extended to Providence it really hurt the bus service because there's a lot of preference for the convenience and consistency of trains where buses have a tendency to be stuck in traffic. The real issue is these systems need to be integrated, there needs to be a balance of both. On the Seacoast with the Downeaster Service, they integrated ticketing with the buses that you can take the bus or the train with one ticket and the two systems are complementary and gives the commuter flexibility. In the very long run, that's the better system for this southeastern portion of the state, a balance of both.

Selectman Maddox said he was reading the Pelham-Windham paper and they had an article about a ride service that they pay by districts; they don't have a regional bus service. Mr. Roache asked if it was CART. Selectman Maddox said yes and asked if it was something available here. Mr. Roache said not yet. There's a number of issues going on with DHHS and DOT to try to coordinate human service oriented transportation and that's where CART got its origins, but they are working with a number of communities to try and provide rides for non-emergency medical type of trips. Right now, they are focused on the Souhegan Valley side of the Planning Commission's region, but they'd like to see that expand and be able to offer more regional service, similar to what CART does. CART is a regional transit provider. It's not a fixed route, it's on demand. You call and get your ride, for a fee of \$2. That's how the Seacoast bus service got started, and that grew into a full, fixed route regional service and CART would like to go there and Nashua Transit Service would like to be able to do the same thing throughout the Planning Commission's region.

Selectman Maddox said Nashua Regional Transit comes through Hudson, but on a very, very limited... this sounded like someone could call up and say they have a doctor's appointment next Tuesday at 9:30 and schedule a ride for a very reasonable fee. Ms. Diers said that's what they are doing with Souhegan Valley Transit they started in the Milford area and NTS is providing the bus service. It's the same there where someone calls, saying they have a medical appointment, \$2 ride, they schedule that in and they are picked up. Mr. Roache said the key is that it's based through the communities' dues structure. The communities that are serviced pay in a certain amount and there is a funding formula for CART. The Souhegan group has been relying on charitable donations and some support from the communities of Milford, Hollis and Brookline. Ms. Diers said Hollis, via town meeting, added a \$1 to vehicle registrations to pay their part of it. Mr. Roache said that service is much more expensive than a fixed route, so it's not cost effective. The on-demand services can be \$35 a ride, but the person is only charged \$2, so it's heavily subsidized. Selectman Maddox said the bus goes down Lowell Road only every three hours (talking over each other). This is something they should probably get some information on so they can at least look at that.

Chairman Coutu said he wasn't a great fan of NRPC. Other than a couple of maps, what do they provide for the money? Ms. Diers said NRPC is a dues organization where they have \$155,000 in dues that leverages \$1.7 million and that encompasses all of their programs, transportation program that keeps federal dollars flowing into the region. Chairman Coutu asked how much Hudson has received. Ms. Diers asked the question back. Mr. Roache asked if he was talking about federal transportation dollars. Chairman Coutu said yes. Mr. Roache said he didn't have that answer off the top of his head, but he could get that amount. Ms. Diers said they are currently doing the project with the town to look at the parkway, figure out cost estimates for that, the household hazardous waste program, a number of other initiatives. They do customized training. For example, they had at the town offices training on small energy systems, which was well attended. That was requested, so they did that. Off the top of her head, she can't quantify the dollar amount; she'd have to get that for the Board.

Selectman Massey said in the last three months, the town has had three major projects that they've gone to the DOT and gotten funding for them and some of that is federal funding. The question is were they able to get that federal funding because there was something NRPC did that allowed the federal government to say, "Aha, that's part of a regional effort and, therefore, we're willing to commit the federal portion of it." From the perspective of going after the projects, Hudson didn't know about NRPC in the sense their name isn't on the grant. He was talking about Lowell sidewalk... Mr. Roache said yes. One of the things they do is provide the forum and support for town staff to produce applications and be competitive for those transportation enhancement funds. They communicate regularly with John Cashell and Gary Webster and NRPC does their best to make sure the ARRA funds, the stimulus money, was going to be come available which, in turn, saved the town from having to pay the match on those projects. He can't say that they did that, but they have a role in that process. Hudson's support of NRPC, which keeps the MPO functioning is the reason they got the ARRA funds in the long run. If the MPO wasn't able to function, and it takes every community in the region to do that. Some years they will get a lot more money and services than other years. It's definitely important and they play a role in funds coming in.

Selectman Nadeau asked if NRPC currently has any services Hudson should be taking advantage of that they are not, any programs they should be looking at for Hudson they don't have now, or any suggestions for the Board. Ms. Diers said the Brownsfield program is starting up again, that's economic development, where they look at sites that may be polluted that they do some assessments on. That could be something. One of the things they've been working with the Planning Board and John Cashell to provide, specific training. They talk about workshops and provide that for free to the communities. If there's anything they want assistance with or more information on, they can provide that. The one thing they've been working with on their energy program. The town has a green team and NRPC has offered assistance to that group to help and support them.

Mr. Roache interjected the Safe Routes to School program, which is a program to encourage elementary/middle school children to walk, bike or find some other mode of transportation to school. There's 100% federal money available for infrastructure projects, such as sidewalks and other educational programs, as well, in the vicinity of the schools. No match required at all and it's a process that runs through the Planning Commission and DOT, similar to the transportation enhancements programs. Hudson is already pretty active in the MPO with John Cashell, but it is a body that can have influence over how funding is used in the region. One of his goals is to strengthen their position in the state by having a very active membership on the (not discernable) planning organization and technical advisory committee, so continue to have staff support that and work with them on it, and he thinks they will make a difference.

Ms. Diers said one other item, the hazard mitigation planning that the town has, she thinks has to be updated every five years in order to receive funding if there's a natural disaster and she thinks 2004 or 2005 was the date on the Hudson one, so that, through NRPC, can be updated and they work with the police, fire, public works, everybody that has any kind of program that, like roads, culverts, that kind of thing, and then they can be eligible for funding through the mitigation program, so that's coming up.

Selectman Maddox said now they can see why he questions raising \$1 on the fee. This is the Board he has to deal with when he comes back. NRPC also has Mr. Dilworth as an executive commissioner, and he keeps a very close rein on the dollars. For the support Hudson gets, the maps, the engineering, and they know how cheap he is, it's reasonable. They are light years ahead of where they were when he was first appointed to NRPC five or six years ago. When they look at just that one item, at the monies, if they could just take advantage of, any infrastructures at 100%, they could be putting in place, as they see the expense of sidewalks, \$300,000 to go down 102. There's probably some around Pelham Road they need to get done. Here's an avenue to get that done. Mr. Roache said that's an open enrollment program right now, so the town can work with NRPC to apply. Selectman Maddox said Mr. Cashell will be calling in the morning.

Chairman Coutu declared a recess at 9:00 p.m. The meeting resumed at 9:27 p.m.

B. Request to Post Position in Assessing Department

Assistant Assessor Jim Michaud was recognized and said the Assessment Technician has given tentative notice that she will be leaving Hudson. She'll know for sure Friday, but is 99% sure now. The memo he submitted outlines some of the challenges in that department. The past discussion about the status of the market really plays into what they are heading into for 2009, which is likely an increased abatement load. They are seeing an increase in inquiries about property values and assessments. He expects there will be a healthy amount of people applying. He still has the documents from last year. He will post the position only after he gets a written letter of resignation, indicating the effective date.

Motion by Selectman Maddox, seconded by Selectman Massey, to approve the request to post the position of a full-time Assessment Technician in the Assessing Department.

Selectman Massey said they plowed this ground several years ago about the need to have the current staffing in that office. They've worked hard and the results have borne out what Mr. Michaud and his department have done. It makes sense to continue to fill this position, especially in light of what they expect to see this year. The town is getting value for its money when you look at the work being done in that department with the amount of staff it has.

Chairman Coutu said he is constantly reminded of Mr. Michaud's professionalism and his ability in the past to recruit some of the finest people in the field to work for the community. They have an outstanding Assessing Department, led by Mr. Michaud and this Board of Selectmen. What he said earlier in regards to the abatement, it didn't imply in any way that he looks disparagingly upon him or his staff. They do an outstanding job, but he didn't understand the technicalities sometimes of the evaluations on the requests, but he didn't think it was incumbent on him to call every department to explain everything to him because he spends enough time at Town Hall, besides running his business. With this one, he questioned it last week and maybe he should have extended that courtesy to the Assistant Assessor and for that, he apologized. In no way were his remarks with reference to that abatement request an indication he was unhappy with what Mr. Michaud does in the Assessing Department. He does an outstanding job and it is appreciated.

Vote: Motion carried 5-0.

C. Benson's Property—Elephant Barn Structural Review (179:50)

Selectman Maddox said on the 29th, the Board approved the expenditure of some monies that were going to expire the next day. They did three meetings worth in one night. At a subsequent meeting, a contract was brought in for the removal of brush and trees around the buildings that two members expressed they thought should have been done as part of the roof project. When he saw this, he just wanted to make sure that the Board has a clear understanding of what they are going to end up with at the end of the expenditure of the \$42,000. The contractor was present, so the Board could hear from his mouth because on the 29th, they heard from soup to nuts. He's not sure what that means with a structural building. So there's no disappointment later or animosity or misunderstanding, he wanted to hear tonight what they were going to get so they all, at the end of this, know what the deliverables are going to be. Is it going to be a brand new roof on a building with rotted timbers, or are they going to replace all the way down to the footings, whatever it needs to be, he wants to know before construction starts what they are going to get.

Chairman Coutu thanked Selectman Maddox for taking the time last Saturday to stay with him to have this discussion at the Benson's property. Hopefully, they will reach a resolve this evening. He recognized Mr. Shadan of Shadan Construction, 54 Keys Hill Road in Pelham. Chairman Coutu said the main barn was a roofing job, but he and Selectman Maddox were concerned about the addition. He asked if Mr. Shadan has given any thought about the asbestos in the ceiling. Mr. Shadan said he was not touching that. Selectman Jasper said that's got nothing to do with the roof. Chairman Coutu said he wanted to make sure it's on the record and that people know that there was nothing in the contract about the asbestos. When they leave the main barn and head into the back, the first thing they see is a total collapse of the connector and the structural beam as they enter into the adjoining monkey/reptile cages. He asked what Mr. Shadan's intent was for that immediate section.

Mr. Shadan said he will support everything that's hanging because they can't just tear it down. He will support what's there, hold it and then cut away all the bad, rotted, collapsed wood. Chairman Coutu believed that would also mean jacking portions of the building up for support. Mr. Shadan said absolutely. He'll work his way slowly into it. He won't go in there and collapse the whole building on itself. That would just make a big mess. They will support everything, the dormer that's there, jack it all up, cut away all the rotten, broken timbers and rebuild it the way it was, better than new, and reroof the whole building.

Chairman Coutu said he made a proposal for a compromise and they might be able to achieve something. He vetted Mr. Shadan and his company, and he has a great reputation, which speaks for his work. A lot of people, including competitors, said, "this guy knows what he's doing." Chairman Coutu said he is not uncomfortable with Mr. Shadan's work, but he wants to make sure they all know what they are going to get at the end of the day. He didn't know how Mr. Shadan was going to do that work for what he bid. Mr. Shadan said he wouldn't be there if he didn't think he could do it. Chairman Coutu said the bid was \$43,004 for the project. He asked if they gave Mr. Shadan 50% up front, and at the completion of the project, they would have a certified building engineer look at the building, or the town's building inspector look at it and, upon assurances that the building is structurally sound, and the job was done to their expectations, Mr. Shadan will receive the balance.

Mr. Shadan said as long as he looks at what he did and not the rest of the building. If he finds a footing or foundation that's not proper... Chairman Coutu said that's not in the contract. They want to make sure the building is structurally sound, and he's not going to be looking at asbestos. Mr. Shadan said the building is built very well. The foundation is sound. He didn't see any termite or ant damage. It's a sound building. When they put the roofs on years ago, whoever did it, compromised the roof and the water got behind the roof and rotted out the structure. Where the rubber is intact, the roofs are good. It's in good shape, other than what they see. Chairman Coutu said a lot of it is cement block and there is absolutely no deterioration or sanding of cement that usually deteriorates in the joints. It looked very sound. Mr. Shadan said the building was in good shape, considering it has been sitting there for over 20 years. Chairman Coutu said his concerns were satisfied.

Selectman Maddox said when this is done, there will be a brand new roof. He asked if the building will be weather-tight. Mr. Shadan said yes. Selectman Maddox said they'd hash out at another meeting a structural engineer to say what they did was sound and the building is all set, structurally, and they'll make the payment. He's satisfied that the Board knows what its getting, which was his only concern. After the meeting of the brush and Selectmen thinking that that was going to be done as part of the roofing contract, he didn't want Mr. Shadan coming in, asking for \$22,000

more. If Mr. Shadan said he's going to do the work, knows he's not going to get paid until it's structurally inspected, it's going to be weather-tight so they have time to deal with whatever is going to happen in the future....

Selectman Jasper said when they talk about weather-tight, Mr. Shadan is talking about the roof. He's not responsible for windows, doors or walls and siding. Selectman Maddox said they'd be letting the weather in to be a contributing factor. Selectman Jasper said they were going to deal with that as soon as... Mr. Shadan said he was responsible for all the fascia and soffits and cover them with white aluminum trim. That will clean it up and the appearance will be nice and clean. They can clean up the outside with some scraping and paint, some clapboards. After he is done, the work will be cosmetic.

Chairman Coutu said he was concerned that with the original barn, the structural support was there to support a new roof. In the rear, Mr. Shadan is going to have to pretty much rebuild almost all of the beams. Mr. Shadan agreed. Selectman Jasper said there are three that are gone. Mr. Shadan said from about 20-25 feet in. It's hard to say what's gone until he gets into it. It's one of those kinds of jobs. (Talking over each other.)

Selectman Massey said of all of the buildings out there, this is the one where they are going to act in haste and repent in leisure. At a cursory look, there are some structural problems with that building. The time to determine whether it's structurally sound to do what is being proposed is before the work starts. If you put 50% of the money in now, then the work is done, what happens if somebody comes back and says it's structurally not sound. Mr. Shadan said he'll continue until he makes it sound. Selectman Massey said if they are going to go down this road, before they contract out the work, they have money in the Benson's account to hire a structural engineer come in and tell them that what is being proposed is going to solve the problem. If it doesn't solve the problem, it's too late to get the money back. He was opposed to this in the beginning for a different reason. The only way this makes sense is to bring in a structural engineer, especially in light of the fact a structural engineer said that this was not worth salvaging. That building has some serious problems with it, and he wants to make sure that when they put real money into it that it's not being wasted.

Selectman Nadeau referenced the dormer in the middle of the building that's falling in and asked if Mr. Shadan was planning on getting rid of that totally. Mr. Shadan said he plans on leaving it the way it is. It comes across and drops down about a foot. It was up there at one time so it can go back up there. Selectman Nadeau asked if it was necessary to keep it, or if it would be easier to get rid of it. Mr. Shadan said he liked it because it fits the building; it's part of the building. He'd do more damage taking it out of there than leaving it. Selectman Nadeau asked if Mr. Shadan has looked at the back wall since the brush was removed. Mr. Shadan said he was there today. Selectman Nadeau asked if the big crack in the back made him nervous at all. Mr. Shadan said no. It's all typical of an older building.

Selectman Jasper said that crack had been remortared, and that was over 22 years ago, and it hasn't moved. That's a real ugly wall and he hoped they could get Mr. Shadan to bring out a soffit so they can put something on that wall to finish it. Right now, the overhand just goes there. If he could bring it out so they could have a typical soffit... Mr. Shadan said 10-inch. Selectman Jasper said that'd give them the ability to go in later and put some strapping on the wall and plywood or vinyl it or something. In terms of the skylight, probably when Brent Bronson was still there, he or someone winterized that and they took away the ability to use that as a skylight. Once that's opened up and they put windows in it, that's going to open up that building inside. If it's salvageable, it serves a real important part of the building. The only part of the building that is going to need some work, but it's a small wall, is the end wall of the addition. There's some evidence of some rot, but it's not... the structural walls are the front and back walls. The gable end doesn't support things; that's an easy fix. They can do that with volunteers. He always envisioned what they'd do with the building after the roof and that would be with volunteers. The asbestos, whether they go over it or take it down, that's an issue that's the same if they take the building down or leave it. It's a non-factor in this. Why the state didn't do that while they were removing the asbestos, he didn't know. Perhaps it's because the building stayed and that's non-friable asbestos, the same thing he's got in his kitchen and bathroom at home. No different than that, so that doesn't concern him in the least bit. The main structure, the supporting walls are all good. The crack is old. He has worse cracks that are worse than that; there's nothing to move it. He has no concern about that. He didn't have a lot of use for structural engineers because they really can't... they can tell you a lot about building a new building; they can't tell you anything about an old building. They don't know what the wood up there is going to support. They can tell you what it should support. They don't know what a wall is going to do. His father had structural engineers look at their hen houses years ago and they all told him they didn't understand how they were still standing—and they are still standing today. The one building they had engineered collapsed when it was 12 years old, so a long time ago he said structural engineers may be great when they are designing something because they can tell you the load, but they can't tell you anything about a building that's there. He'd rather have Bill Oleksak look at it and tell him if that is good because Bill knows construction and structural engineers don't know construction; you need people who know construction. His brother-in-law is a builder and architects design things for him all the time and he tells them it is not possible to build things, so they shouldn't go down that path. It's a waste. Structural engineers would probably tell them Town Hall should fall in. Mr. Shadan said that's the truth. They can't visualize the problem. They can do calculations on the loads and things like that.

Selectman Massey said if a structural engineer can't do it at the front end, why would they have anybody come in at the back end? If somebody can do it at the back end, they can do it at the front end. That's his only point.

Selectman Jasper said as he [Mr. Shadan] is tearing it apart, Bill should go out there and look at it and say yes, I'm satisfied, or no, this piece is rotted, because they're talking only about the roof decking timbers. Are they rotted, or are they not rotted? He can tell them that with his pocket knife and that's all they are talking about, and that's what Bill will be able to tell them, so if he's willing to do the 50%, that's fine. His concern is that he [the contractor] is taking off what is rotted and damaged and replacing that with good material. It's really pretty simple because if you build it the same way, there's three carrying beams that's going to be replaced and everything else is short rafters and then decking, and that's all plywood. Mr. Shadan agreed. Selectman Jasper said they've got three good beams and they've got to be replaced. They've got to go back to that point, which is about 30'....the existing elevation, jack up the dormer so it's straight and looks good and fill it back in. It's simple, a piece of cake.

Selectman Jasper said this is a simple structure. There's nothing complicated about this building at all. Mr. Shadan agreed, adding that it is built good.

Chairman Coutu said he'd entertain a motion. Selectman Maddox said a motion wasn't necessary. He just wanted to make sure the Board... Selectman Jasper said they already awarded the contract. Chairman Coutu said yes, but they will have to enter into a motion to withhold 50%... Selectman Jasper said that should be written as part of the contract that he signed. Mr. Shadan said that was Article 5 of the contract. Chairman Coutu asked if the contract has already been rewritten. Mr. Shadan said it has been rewritten a couple of times. Article 5 is where the payment schedule is. Selectman Jasper said it should be changed, if they needed to do that. Chairman Coutu said Articles 4 and 5 covered what he proposed. Mr. Shadan said yes. Chairman Coutu asked Mr. Pearson if that was correct. Mr. Pearson said that's the first time he saw that. Chairman Coutu said Article 4 and 5 would cover what he proposed, which was the town shall pay the contractor from completion of the work in accordance with the contract document in the amount equal to the sum of the itemized lump sum bid price of \$21,504. The town shall make full payment to the contractor within 15 days of completion of the acceptance of the work by the town. Mr. Shadan said yes. Chairman Coutu said if there was no objection, they'd move forward with the contract.

Selectman Massey said he was objecting. (Talking over each other.) Selectman Maddox said as long as this gentleman understands that they are going to hash out who is going to inspect it. He still wants someone who has a stamp to put on that drawing, or whatever, that piece of paper. They'll hash that out later, but somebody is going to inspect this to say it's structurally sound. Mr. Shadan said they could have a weekly inspection by the Building Inspector, or he can come out every day to inspect it. Selectman Maddox said that's not what he was looking for. The contract was awarded and he is just making sure this Board understands what they are getting.

Selectman Jasper said the issue was, and he didn't want to get into it at the nth hour, is if they want somebody to go out there and stamp this afterwards, they didn't have that on the A-frame or the Gorilla House or on Hazelton Barn. It's going to be very difficult for somebody to put their name on there and he didn't know if you can ever get anybody to do that on a building they didn't design. Nobody is going to put their license...he thinks they have to...Bill Oleksak inspects every building that's built in town and none of them he has inspected have collapsed. Between Mark and Bill, they have to be the Board's eyes and ears. If they get down, and this gentleman has fixed it to the Board's satisfaction, but now Rick is saying he wants a stamp of an engineer on there, they're not going to get it, so now where are they? Selectman Maddox said maybe that's what they need to decide tonight. Selectman Jasper said they do need to decide that tonight. Chairman Coutu said he spoke to a structural engineer that was recommended by the Acting Engineer and he's willing to do it. Selectman Jasper said OK, that's fine.

Selectman Massey said they shouldn't put their own town employees at... Selectman Jasper said that's what they do every day when the... Selectman Massey said this is such a special issue that to have him under pressure to say yes or no... he thinks an independent voice would be important. He's not necessarily wedded to a structural engineer. As a matter of fact, what pops to his mind is to get somebody from the New Hampshire Preservation of Barns Association, somebody like Betsy Hahn, who is familiar with that type of work, but it should be an independent individual, somebody that's not attached to the town.

Selectman Jasper said they have to understand the basic expectations. They've all been in there; they know what the area of collapse is. There are three beams. They know what they are. They will replace them in kind. That's what has held up the building. Then you put a deck on it, then you put a roof on it. That's all there is. They're talking... the only issue here is three beams, so they are making... they sound like this is a multi-storied building. It's three beams. The question is are you putting the right beams in place, and that's the only time anyone really needs to look at these beams. When his 12-year old building collapsed, it was because they used 2 x 8's with three knots and the snow load took it down, and then it went like dominos, so if you put beams in there with knots all together, that's the issue. Mr. Shadan agreed. Selectman Jasper said they want to inspect the material as it's going in, if they are concerned. He just didn't know where they were going with this and he was concerned.

Chairman Coutu thought they had an understanding. Selectman Maddox said he just wanted to make sure than when they end up, they will end up with a building that can be used from that point on and one contractor said it was unsafe to go in. Half of them didn't bid it. It raises concerns. He wasn't on the prevailing side, but as long as the Board understands what cliff it is driving over, so be it. He just didn't want to be in the position of the same thing as the brush. At least they now know that this gentleman understands he is going to be expected to put the roof to structural, will be inspected; he's confident he can do it for that price. He guessed that's where they were going to head.

Chairman Coutu asked if there was a consensus that they will have an engineer look at the building, at its completion, prior to paying the final payment to assure them that the work that was done was done to satisfaction. Selectman Nadeau didn't know if an engineer... if the Building Inspector looks at it and says it's done right. There's going to be enough people going through there, looking at it while he's working on it. If town staff says it's fine, he didn't think they need to spend the money on an engineer to look at it. Selectman Jasper said every dwelling that's built in town, the Building Inspector looks at it, multi-storied, multi-floored. This is a shed roof. That's all it is. A shed roof. He just can't believe this. It's a shed roof, with a dormer on it. Selectman Maddox asked why then did the other contractors decide... Selectman Jasper said because they didn't want to get into the firth and dirt of it.

Selectman Maddox believed they needed to have someone look at it outside of town staff. Mr. Shadan said the only reason the building collapsed is because the roof was compromised. It wouldn't have if they didn't do the rubber the way they did it. The roof is really good, other than the part that collapsed. Once he rebuilds what's there, it's good to go. Chairman Coutu said, as a layman, from the naked eye, it's water rot and it's water rot because it collapsed as a result of a flaw in securing the water from getting into the beams. The beams rotted and when the support beams on that end collapsed, it started pulling everything down and it opened up the entry-way between the two buildings. Mr. Shadan said they put the rubber up the wall and put strapping across the wall. The water got behind the strapping and as soon as they got a little snow load on it and a little rot over the 20 years, it just collapsed. Chairman asked if the connecter was a flat roof. Selectman Jasper said it doesn't have a great deal of pitch on it.

Chairman Coutu said they were going nowhere with this very fast and were belaboring the point. He was of the understanding—and he was getting upset, but was trying to compose himself—there was no dissent in his conversation with 'you' that we could compromise and get this thing done and they would have a structural engineer look at it and now they're arguing against a structural engineer. He supports having an independent structural engineer look at it. He would feel more comfortable with that. He believes that Mr. Shadan has some integrity when it comes to barns, especially after looking at [Selectman Jasper's] barn, but that's what he agreed to in order to diffuse any debate in even saving this barn, which was the direction he thought was going to end up happening. He can't seem to get a consensus; it's two to two and he didn't know which way Selectman Massey was going.

Selectman Massey said he already said an independent engineer, and he didn't care if it was a structural engineer. Chairman Coutu said it was 3-2, and they would go with an independent structural engineer to look at it. Selectman Massey said he believed that they need somebody who is familiar with these types of construction, so if somebody like a Betsy Hahn... not necessarily someone to put a stamp on it Mr. Malizia suggested Arron Sturgis. Selectman Massey said yes, he was involved with the original assessment. Selectman Jasper said yes, he was the one who took the cupola off the barn. Selectman Massey said that would be his recommendation. Chairman Coutu asked Selectman Maddox if that was satisfactory, not a structural engineer, but somebody who was familiar with barn construction. Selectman Maddox said yes, he was willing to compromise.

Chairman Coutu addressed Mr. Shadan, saying the Town Administrator will look at the language one last time. He's not satisfied that it is... Mr. Malizia said there were a couple of iterations in the folder and he wanted to make sure they have the right one. Chairman Coutu said he looked at it and was not happy with the change, but that can all be done in the morning and he'll sign it. They are looking at... Mr. Malizia said according to Article 4, all the town is going to pay Mr. Shadan \$21,500 and he didn't think that's what Mr. Shadan wanted. Mr. Shadan said no, it was supposed to be twice. Chairman Coutu said that's not what that says. (Talking over each other.) Mr. Shadan said he didn't have that contract; he has the one with a total sum amount. Chairman Coutu said this would be reviewed in the morning and would be ready for his signature and Mr. Shadan's. 212:05

D. Update on LGC Request for Litigation Funding

Town Administrator Steve Malizia said some time ago, the town was approached by LGC to pay into a legal pool to defend or possible sue the state, based on some anti-constitutional pension cost downloading. It appears with the last legislative session that the town is going to be paying more of a share of what the state has traditionally paid towards police and fire pensions. It looks like the LGC is preparing to go forward with a suit, which the town has already paid into. They are recommending the town file a letter to protect the town's rights in the future, should... they are paying under protest. This is in keeping with the original spirit of what they funded the money for on February 12, 2008. He wanted the Board to be aware of this and why it was before them tonight.

Selectman Jasper said he must have missed that meeting. Chairman Coutu reminded him he was at that meeting, and he voted for it. (The minutes of 2/12/08 were attached.) Selectman Maddox asked Selectman Jasper if he felt that would be problematic at the state level. Selectman Jasper said he was convinced the town was going to win the kindergarten suit because that was clear cut and dry. This isn't exactly a mandate because they can opt out of the state retirement system. Based on the court's ruling on kindergarten, that's what they might say here. "If you don't like the new rules, you can get out of it." He didn't think this lawsuit was going to get them anyplace, unfortunately.

Selectman Massey believed the contracts obligate the town to contribute to the pension, and the language in the contracts specifies the state retirement system. Mr. Malizia said he'd give a qualified yes, but he'd have to read them. Selectman Jasper said then they will say, "Shame on you. That's your own fault." The court isn't going to concern itself with what the town has negotiated with its employees. They will ask if the town has an opt out provision. If the town feels this is an undue burden, can the town get out of this obligation? The answer to that is yes. It would be very

expensive and he didn't know if they'd want to do that, but that's what the courts are going to say in this matter. It's not an unfunded mandate because they don't have to be in the system.

Selectman Massey said his understanding was the reason why the School Board did not move forward was because they didn't believe, based on what the judge ruled, that they would be successful at the next level and the judge ruled that they did not prove that they could not meet the requirements. When he read the court's findings, he wasn't surprised that the school opted to drop the suit. The real key was unless such programs are fully funded by the state or unless such programs are approved by the local legislative body. It would be appropriate to at least preserve the ability to do this. Selectman Jasper said he wasn't suggesting they don't. They need to. The School Board should have gone to the next level for a different reason, but they didn't. Here, it's going to be an easy out for the court.

Motion by Selectman Massey, seconded by Selectman Nadeau, to approve the protest letter to the New Hampshire Retirement System, with blanket authority to be transmit this every time they transmit their monthly contributions to the State Retirement System, carried 5-0.

E. Receipt of \$1,000 Donation from Southern NH Radio Control Club to the Recreation Department

Town Administrator Steve Malizia said this was a generous donation, made on a fairly regular basis by the Southern NH Radio Control Club, which should be accepted with appreciation and thanks. Selectman Jasper said this was at the old landfill and this club has a grass strip there, which is what this is for.

Motion by Selectman Massey, seconded by Selectman Nadeau, to accept the donation, with the Board's thanks and appreciation, carried 5-0.

8. OTHER BUSINESS/REMARKS BY THE SELECTMEN

Selectman Jasper thanked Selectmen Massey and Nadeau for attending the services for Ray Parker. He intended to be there, but thought the service was this morning and he was at a doctor's appointment. Ray was a great person. He was a member of the Benson's Committee and a member of the Call Fire Department for many, many years. He put in countless hours on the command trailer that Chief Brian Mason had gotten a number of years ago. He worked on that forever. He also worked with Steve Dube in Prevention and constantly volunteered. Ray was a member of one of the very oldest families in town, the Robinson family of Robinson Pond. He was very sorry for his family's loss and even more sorry he neglected to attend the memorial service today.

►As they all know, the Police and Fire Departments are under a great deal of monetary constraints. The Fire Chief wants to make sure he has the Board's support to have the full detail at Old Home Days. He's not asking for money for that, but if the Board does support that, at the end of the year, if he gets down on labor, that they remember this was something they wanted him to do. Last year, the labor was \$1,168 for EMS coverage, coverage at the booth. He has a hard time getting the staffing. He projects it could cost as much as \$3,108 if he has all of the staffing. If he does it at the same level as last year, it will be about \$1,100. The Chief was looking for direction. Should he staff it at no more than last year? Not staff it at all? Fully staff it? Selectman Jasper thinks it's important to have the EMT coverage there, but the Chief doesn't want to go into this and then find out the Board hadn't wanted him to spend that money. Chairman Coutu said it's important to have EMS coverage for public safety, but not necessary to pay people to man a booth. The other Selectmen agreed with that assessment. Selectman Jasper said he'd tell the Chief to provide EMS coverage and volunteers have to man the booth because no one will be paid for that.

►Thanks to Selectman Nadeau for his coordination of volunteers for the Benson's cleanup. It's unfortunate they hadn't coordinated better and talked more in advance. People out there did a fantastic job. Ultimately, Tip Top Tree did come in and do the trees that he was concerned about. He wasn't aware until Friday night that more was going on this weekend, but it wasn't possible on either weekend for him to put much time in, given schedules, but he appreciated all of the work that was done out there. These are the types of things they are going to have to work together on and try to coordinate and talk to each other about. He's a little concerned that there are two tracts going on here and nobody is talking to him. He would appreciate, as liaison to the Benson's Committee, knowing what's going on. Al Hogan, the Road Agent many years ago, had a hat that Selectmen Jasper loved. It said, "Which way did they go? How many of them were there? I must find them. I am their leader." He is feeling a little bit like that in this endeavor. All he was asking for, not that he was asking to approve what was going on, he'd just like to be kept in the loop. He hoped that wasn't an unreasonable request because they are going to need a lot of volunteers and there's going to be a lot of committees doing things, once they are up and running. This is his hope for the project. It's just difficult when you don't know what's happening.

►New Hampshire Chronicle came in to the Benson's display and will be airing their segment on that on August 3, he thinks at 7:30. The final details are coming into place. Tomorrow, the Library Trustees are meeting and the Benson's display will run again during Old Home Days, which has been in the paper. This is where it gets into a... but he didn't want to get into a full blown discussion tonight because it's coming up on 11:00 p.m., but he has had conversations with Mr. Provencher about what his intention is for the memorabilia items. Mr. Provencher would like to be able to give them to Hudson, but he's not in a financial position to be able to do that. Selectman Jasper would like to have conversations about how to accomplish making that happen and what ways they can do that. He's not suggesting anything at this time, but if it is able to happen, then the display, hopefully, will stay there longer than just through the 6th and discussion will go on about if it is possible for the town to be able to own those items. He wanted the Board to know those discussions have taken place on a cursory level to see what Mr. Provencher's intent was. He'd like the collection to stay together and to stay in Hudson. If that can happen, it will take some

time. He'd go into more detail, but it was late. His intent is to get the Library Trustees to allow the memorabilia to stay at the Hills Library, until they have a use for that room. Mr. Provencher may come in to open it up once in awhile, if it stays there.

►An update on the dam. He attended a meeting in Concord last Thursday with the consultants, Gary Webster and three people from the dam bureau. Two of them were very cooperative, but he didn't get good vibes from the other one. The bottom line is they don't have a permit and they won't have one for at least a few weeks, so that construction is not going to happen. The state's primary concern is they've love to see a dam that will hold back all the water in the world and nothing would ever overflow, but that can't happen. At least two of the three from the state understand that, so their concern is making sure that the water that may overflow in those 50 or 100 year floods does not erode the back side of the dam and take the dam with it. The town's engineers believe that they have already addressed all of those problems, and many others, and don't think the state has done their due diligence in looking at them. The chief engineer has committed to fast track the review of this and having a dialogue so they can get there as quickly as possible. The town also gave them information he didn't think they understood about the problems that exist down near Lowell Road and what that all means. Obviously, in a perfect world, that would be a bridge and not a dam, but then Lowell Road would be washed out in a 100 year flood. They are monitoring that and keeping him in the loop with emails, but the chief engineer was out of state this week, so he's not sure how far those are going. In light of that, he took it upon himself to call the Superintendent and tell him that construction would not take place in time for the opening of school and he did not know what that meant to the schedule. He didn't know where they were going. He didn't know that means there's a possibility they start in September. He didn't know if it means they can hold everything in place and do it next summer, but he suggested to the Superintendent it might be a good idea for them to develop some contingency busing plans, in case they do decide what they have to do. Obviously, if they can permit it and get it done, they have an obligation for the safety of everybody. They're doing this to get it done this year. He suggested they may want to think about contingency plans rather than tell them in September they are going to start construction on this and need to close Pelham Road for three weeks or a month.

Selectman Massey said the Governor and DES Commissioner need to be apprised of the urgency of this; the town can't wait until they get off their duffs, adding he couldn't talk about it because he was tired. Selectman Jasper said he's been in contact with the Governor's Office.

Selectman Nadeau said the Highway Department has been working very hard. They replaced the 60" culvert at Bush Hill and Pelham Road, which was an in-house project. They did all the drainage and reclaimed, widened and paved Griffin Road to 20'. They are replacing sewer mains on quite a few streets. They've also reclaimed Clement Road by Smith Farm, which was done with matching impact fees. They finished up Fuller Road, Putnam Road, Andrews Avenue and Edgar Court with the finished coat of pavement that they reclaimed last year. They also assisted the school district in grading of the farm at the high school and they replaced some drainage at the girls' softball field. They are also still working on the brush from the sides of the roads from the ice storm. In August, they are starting to service and prep the fleet for the upcoming winter.

►Benson's cleanup update. For the last two weekends, over 50 volunteers came out, including students from Alvirne. Quite a few businesses helped them out during this endeavor. Jerry Desrosiers manned the gate and had everybody sign the paperwork. They have a complete list of who was in there and what they did. The Old Lady in the Shoe is nicely cleaned out, which is an item that is going to be brought up at the Benson's meeting. It's a project someone is willing to take on, clean it up and open it up. Businesses that helped out were Wally's Pizza, Pizza Man, Hudson House of Pizza and Viera's and many people dropped off baked goods—cookies and cakes—Esther McGraw and Eloise. They had plenty of food; it was a well catered event. Water was also donated. Tip Top Tree Service helped. They also chipped up the brush and left them to be used as mulch in other areas of the park. Dick Dunfey, another tree guy, was there. There's a lot of photographs of the work that was done throughout the park. He had a crash course on the camcorder, so they did some videos, which have to be edited, and then can be shown on cable TV. Many groups and individuals approached them, wanting to know what subcommittees were available. They are having trouble finding out what the subcommittees are. Selectman Jasper asked if Jerry didn't have the sheets. Selectman Nadeau said yes, he did, and signed up anyone that he came across. Someone is interested in making mountain bike trails. He has quite an extensive list of people who are interested in doing different projects. Carpenters want to work on a Wednesday or Thursday to button up the Gorilla House, once the roof is on, because their weekends are busy. They would be willing to come in to get it ready for the winter. They were concerned about being able to the work in their timeframes. They want to know if they can do something like 6 - 8 at night to do siding. Someone proposed painting the ticket booth back to its original colors, which will also be brought up at the Benson's Committee meeting this week. A lot of people want to paint. Someone said they were interested in painting the A-Frame to get it weather tight for the winter. They have names and numbers of people who want to get involved. He'd like to let everyone walk through as soon as the roofing is done, let more people become interested in the projects that are there for them to do. There's still a lot of cleanup work. People came in with big tractors to do brush cutting. The Hazelton Barn is totally cleared around it. KSL was very helpful in moving stuff, while they were there. Things went very well during the cleanups. The Benson's Committee would like to do one more before they open the park. They are almost there in getting it ready to let people walk around the park in September. Kevin Burns was very helpful in cleaning out the brush this week from Sunday's cleanup that wasn't chipped. They put the chips in a pile, so when the Old Lady in the Shoe is done, they can mulch around that. There are some very nice plants out there and he made sure any that were salvageable were salvaged. Everything went well and he thanked all of the volunteers that helped.

Selectman Maddox asked for Board guidance. The Planning Board is going through a review of signage, primarily electronic changing signs. He will not be making a vote without coming back to the Board of Selectmen to see where they want to go. It's quite the challenge to balance being able to provide businesses a method by which they can advertise and still keep Hudson from looking honky-tonk or like Las Vegas. He wants an opinion from the Board before he votes on it at the Planning Board meeting. He thinks it is going to be, at the end, difficult to make that leap, from none to wherever they are going to go. This is

something to keep in the back of their minds and something he'll be looking for in the future. Selectman Massey thought it would be useful if everyone on the Board got a copy of the ordinance. Selectman Maddox said he could make that happen in the second round when it comes back, working with the Chamber, trying to look at where they want to go as a town. He was having a problem with, as the thing is set up right now. It's not going to happen because of cost factor, but you could see one of these every 100' with this large, illuminated sign. He's not sure they want to be, but that's what they have to think about.

Selectman Coutu said Mr. Collins just left and he wanted to thank him. Mr. lives in town and is a reporter for the Lowell SUN. In today's SUN, there is an outstanding article about Smith Farm being the last surviving active farm in Hudson. It was a well done story with photographs of the Smith family and how his son is going to carry on the business, after having tried a lot of ventures. If you love the history of Hudson, get a copy of today's SUN for 75¢; it's worth the read.

► Selectman Coutu expressed his appreciation to the Hudson Police Department for the manner in which they handled a break-in on Dracut Road this past weekend. He lives in the south end of town, as does Selectman Massey, and sometimes they feel like an isolated island, but when it comes to public safety and service in the public service area in the southern end of town, not to diminish from any work that Kevin does down there because he's always been there at Selectman Coutu's request, as well, but there was a break-in at 2:30 in the morning on Monday. This is a business that adjoins the owner's property and he was a wife and small child. If it hadn't been for his dog, God knows what they would have gotten off with. The police were there very quickly and were able to apprehend the people, so he wanted to acknowledge the work that the public safety crew does.

► Selectman Coutu congratulated the Hudson American Legion baseball team, which Acting Town Engineer Gary Webster is very involved with and is coached by Mike Lee, made it all the way to today. They thought they were going to make it to the finals, but they had a heartbreaking finish to their... a lot of these kids played for Alvirne High School, they were seniors at Alvirne High and playing for the Legion these past couple of years, and they brought them so close, but the arms just weren't there to carry them through the pitching yesterday and they lost. It was unfortunate. Coach Lee had said anyone who had an arm, be ready to pitch because all of their starting pitchers had really worn themselves out. It would have been very difficult for them to continue their winning streak with only a day or day and a half rest. His hat is off to them. He is as proud of them today as he would have been had they won the whole thing with what they accomplished as a high school team. He failed to recognize Mike Lee when they discussed the progress the high school baseball team had made. Coach Lee is getting married this weekend and he was wished the best of luck.

► Compliments to Selectman Nadeau and to Jerry Desrosiers for all of the work they have done at Benson's. Yes, he was there and pulled a few weeds and did a little raking, but those guys made it all happen. They pulled it all together. Jerry did a lot of the coordination for the food, but both he and Ben were instrumental in coordinating the activities. Having spent a lot of hours there the past two weekends, he remembers, during his campaign, he said he was looking forward to putting on gloves and going down there and doing it. Selectman Massey was there working. They've all participated in some way. Selectman Maddox sometimes expresses his concern that there may not be a lot of people involved, but Selectman Maddox and his wife, Eloise, were there this weekend. He takes very seriously the amount of work put into it and where they are going with the project. They all are aware of Selectman Jasper's and his wife's passion for Benson's. If they haven't learned by now, they never will, if you don't ask people to do things, maybe they won't volunteer, but if you ask, they come across. A classic example of that is Tip Top Tree Service. They came in and did for free the amount of work they proposed to do for \$2,800. The other gentlemen who does tree work did an extensive amount of tree work. People are welcome to go to a web site called BensonsWildAnimalFarm.com and look at all of the albums Jerry and his wife and Jim Freed, a photographer, did. Yes, Ben did get a very quick lesson on how to run a camera via his cell phone and Jim MacIntosh from the Cable Committee. They will editing it and he [Selectman Coutu] will do some narration. A formal presentation of the Benson's cleanup will be on cable TV.

9. **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 or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected has a right to a meeting and requests that the meeting be open, in which case it shall be; (b) The hiring of any person as a public employee; (c) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the public body or any subdivision thereof, or against any member thereof because of his or her membership in such public body, until the claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph, carried 5-0 by roll call vote.

Nonpublic session was being entered into at 11:19 p.m., thus ending the televised portion of the meeting. Any votes taken after exiting nonpublic session will be listed on the Board's next agenda. The public was asked to leave the room.

Nonpublic session was terminated at 11:45 p.m.

► *Motion by Selectman Massey, seconded by Selectman Jasper, to hire Steve Porter as the 2009 Soccer Director for the fee of \$1,275, effective August 1, 2009, as recommended by the Recreation Director, carried 3-2. Selectmen Coutu and Maddox voted in opposition.*

►Motion by Selectman Maddox, seconded by Selectman Jasper, to hire Blake Miller as part-time Building Inspector, effective August 2, 2009, at \$21.65 per hour, Step 1 of the Building Inspector salary scale, in accordance with the Administrative and Support Staff AFSCME Local 1801 contract, carried 5-0.

10. **ADJOURNMENT**

Motion to adjourn at 11:46 p.m. by Selectman Maddox, seconded by Selectman Jasper, carried 4-0. Selectman Massey was out of the room.

Recorded by HGTV and transcribed by Priscilla Boisvert.

HUDSON BOARD OF SELECTMEN

Roger E. Coutu, Chairman

Kenneth J. Massey, Vice-Chairman

Shawn N. Jasper, Selectman

Richard J. Maddox, Selectman

Benjamin J. Nadeau, Selectman