

HUDSON, NH BOARD OF SELECTMEN
Minutes of the June 9, 2009 Meeting

1. **CALL TO ORDER** by Chairman Coutu at 7:01 p.m. in the Selectmen's Meeting room at Town Hall.
2. **PLEDGE OF ALLEGIANCE**, led by Ed Mercer.
3. **ATTENDANCE**

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

Staff/Others: Steve Malizia, Town Administrator; Priscilla Boisvert, Executive Assistant; Kevin Burns, Road Agent; Bill Abbott; Ed and Karen Mercer; Kathy Brown; Dennis Haerinck; Deb Winter; Susan Fiorenza; Diane Morrissette

4. **PUBLIC INPUT**

Bill Abbott, 48 School Street, read the following statement. "I'd like to correct the poor choice of words at the Selectmen's workshop last Thursday. I said that the Sewer Utility discussed 'buying' the Vac replacement truck. This was a simplification. A couple of years ago, the Sewer Utility created a capital reserve account to fund the purchase of the Vactor truck. The utility budgeted \$120,000 to fund its half of the thing. The other half was to be funded by (not discernable). What went to warrant was the use of the capital reserve as a down payment for the balance to be paid by a leased purchase arrangement. As they all know, the voters turned down the warrant article. The committee then discussed funding of the capital reserve account to the budget process to bring it up to the total amount of what the Vactor truck would cost. It was in this context I said that the utility would be buying the Vaccon truck, so they weren't really buying it, but they were, through the utility, providing all the funds. The legality of that approach was discussed at one or two of the meetings. I want to emphasize that at no time did the committee remotely consider circumventing the process." Chairman Coutu thanked him for his remarks.

Kathleen Brown, 5 Lawrence Road, said she was there to compliment, not complain. When she went to Town Hall, today, she was greeted with a wonderful, welcoming smile, asking how they could help her. That's a lot different than what she used to receive. The last letter she received from this Board, the police were called. As they found out, it wasn't necessary, but it was part of the show. She complimented the Board on the changes, which stems from new attitudes, fresh thinking and customer service, which is what that office is about, whether the like who comes through the door or not. She cannot apologize for her last behavior because it was warranted. For the record, however, she did not curse. She is coming back with another issue of public safety, as she sees it. She went to the Highway Safety Committee, which was another refreshing board. They listened and were concerned and have taken action where they can. Something nice is happening in Hudson. "We're here to help you; we're here to serve you," rather than close the windows and duck, here she comes.

Chairman Coutu said last week, he made it a point to say that he felt that this Board had five relatively intelligent people, who are quite observant and they are aware of what goes on in Town Hall and outside of Town Hall and if they have a problem, they take it directly to the department head and resolve the issue. It has been his position since he became a member of the Board of Selectmen that he wants is for people to feel comfortable, whether they come before the Board directly to state their position, or come into the building, or call a department to secure some sort of service. He can't speak for what has happened in the past; he can only speak since he was fortunate enough to be appointed to the Board and, most recently, elected. He, personally, has observed that this is a welcoming atmosphere for people to come into and, at times, there are people who are not satisfied with the end result, but the job was done and it was done to the people's best ability in order to try to satisfy the inquiry or the need of service provided to the community. He is proud of that record and he intends to maintain that record.

5. **CONSENT ITEMS**

Motion by Selectman Jasper, seconded by Selectman Massey, to approve consent items A, B-1 and C, as noted or appropriate, carried 5-0.

A. Assessing Items

- 1) Excavation Tax Warrant, M/L 115/003, w/recommendation to sign
- 2) Current Use Lien Releases, M/L 230/22-6, 22-5, 22-4, 22-3, 22-2, 22-1, w/recommendation to approve
- 3) Yield Tax Warrant, M/L 155/005, w/recommendation to approve and sign

B. Licenses & Permits

- 1) Request by Nashua Elks Crusaders, a Member of the American Youth Football Organization, to raise funds at SAM's Club on July 18 for new uniforms for the cheerleaders
- 2) **Request by Lydia Mulligan to raise funds at SAM's on June 11 & 12 for Cure for Breast Cancer 3-day Walk**
Chairman Coutu felt that, although the request appears to be a worthwhile cause, there was no documentation or verification that this is being authorized by the organization for whom the funds are being collected. Any citizen can throw a piece of paper in a computer and say they are soliciting funds. This may be perfectly legitimate, but he felt that further documentation was needed.

Selectman Massey said SAM's Club has given approval for this to be done and if they are going to require extra verification from this, they will need it from the item coming up under New Business. They are going down a slippery slope. The requestor would be subject to legal issues if they were mishandling the money.

He didn't have any problems with approving it. Selectman Jasper said there have been many scams around the country, but this person followed the requirements of the permit. If the permit needs to be modified, they can do that in the future. He would have hoped SAM's Club would have looked at it more carefully. Anybody can create a letterhead on a computer.

Motion by Selectman Jasper, seconded by Selectman Massey, to approve the request.

Selectman Maddox said both sides probably look to each other. There is a procedure for fraud. If something was to go wrong, the police have good investigative skills. They don't need to get into this, so he will vote in favor of this. Chairman Coutu thought there was a policy on when solicitation requests were received, i.e., in the office 30 days in advance of the request, and this one was dated May 30. Mr. Malizia didn't think so, and this request came in prior to the agenda deadline. Selectman Maddox thought they had such a policy. Selectman Jasper said this one came in within two weeks. He didn't think they had a 30-day policy. Selectman Massey thought it was 14 days. Mrs. Boisvert said she'd double check the policies upstairs, but it did come in before the deadline for the agenda. Mr. Malizia said as a routine practice, if the requests come in in time for the packets, they are included on the agenda.

Vote: Motion carried 4-1. Selectman Coutu voted in opposition.

Selectman Jasper remarked that he found what he was looking for, that there was no address for the applicant, just an e-mail address and a phone number, and that really bothers him. That was troubling because phones and e-mails are so easy to dispose of. Maybe this person should be called to provide an address or perhaps have someone call the foundation to verify the information. Since he was on the prevailing side of the motion, he moved to reconsider the vote, seconded by Selectman Nadeau.

Selectman Jasper said if that passes, he'd make a motion to approve it, contingent on Administration confirming that Lydia Mulligan has made arrangements with Susan Koman to make the donations and to have an address that can be verified. Selectman Maddox asked that the policy come before them at a future meeting. If he wanted to collect money for something and then give it to them, does he have to tell them in advance, and would they know who he was? They need to review the policy and to put this one in the blender is suspect on both sides. Selectman Massey said the issue is the policy before them says you have to identify by name, address, phone number and e-mail, in case there are questions, so as long as they can verify that this person has an address that can be verified, that's supportable.

Vote: Motion to reconsider carried 5-0.

Motion by Selectman Jasper, seconded by Selectman Nadeau, to strike the motion to approve and insert approval is contingent on verification that there has been contact made with Susan Koman relative to this fundraising effort and that an address for Lydia Mulligan can be obtained and verified.

Selectman Jasper said normally they deal with established organizations, so they haven't been as concerned. This is the first time he can recall that it's an individual. Chairman Coutu said he challenged one a year ago and it turned out to be a phony. Selectman Jasper said they do need to look at the policy to determine if individuals should have a different standard than they do for organizations. Selectman Massey said Selectman Jasper made a good point--they've always dealt with organizations. The fact this is an individual, they should do due diligence, so he will support the motion. Chairman Coutu said he would, too, because he'd like to see verified documentation.

Vote: Motion carried 5-0.

C. Calendar

- 6/10 7:00 Planning Board in CD Meeting Room
- 6/11 7:00 Benson's Committee in CD Meeting Room
- 6/11 5:30 Sewer Utility Committee in BOS Meeting Room
- 6/15 6:30 School Board in BOS Meeting Room
- 6/16 7:00 Cable Utility Committee in BOS Meeting Room
- 6/17 5:00 Water Utility Committee in BOS Meeting Room
- 6/17 7:00 Library Board of Trustees in BOS Meeting Room
- 6/17 7:00 Hudson Senior Council on Aging in CD Meeting Room
- 6/18 7:30 Budget Committee in CD Meeting Room
- 6/22 6:00 Recycling Committee in BOS Meeting Room
- 6/22 7:00 The Green Team in CD Meeting Room
- 6/23 7:00 Board of Selectmen in BOS Meeting Room
- 6/24 7:00 Planning Board in CD Meeting Room
- 6/25 3:00 Trustees of the Trust Funds in CD Meeting Room
- 6/25 7:30 ZBA in CD Meeting Room

6. **OLD BUSINESS**

A. **Votes taken after Nonpublic Sessions**

May 26, 2009:

•Motion by Selectman Massey, seconded by Selectman Maddox, to hire Sam White as an intern in the Engineering Department at \$12 per hour, from May 27 through August 21, 2009, as recommended by the Acting Town Engineer, carried 4-0.

•Motion to adjourn at 8:30 p.m. by Selectman Massey, seconded by Selectman Maddox, carried 4-0.

June 2, 2009, 2009:

•Motion to adjourn by Selectman Massey, seconded by Selectman Maddox, at 10:16 p.m. carried 5-0.

B. **Public Hearing on Ordinance 09-02 [Temporary] Closure of Claveau's Landing at Ottarnic Pond**

Town Administrator Steve Malizia said at the Board's May 26 meeting, it discussed sending an ordinance for the closure of Claveau's Landing to vehicular traffic to a public hearing tonight, preventing folks from launching motorized watercraft into the pond while it is being treated for Milfoil and Fanwort.

Chairman Coutu opened the public hearing at 7:25 p.m.

Ed Mercer, 93 Highland Street, spoke in favor of the adoption of 09-02, as recommended by the Conservation Commission and NH DES, based on the treatment plan in place. The first treatment was June 1 with a second treatment scheduled for June 22 and the third on July 3. It's a slow herbicide that takes two to three weeks to notice any visible symptoms on the plants and it may take four to six weeks for plant growth to stop completely and eight to 10 weeks for plants to die back. The slow action is to kill the roots and provide multiple year control. The Advocates for Ottarnic Pond have worked successfully for the weed watcher program and water sampling program to work continuously to restore the beautiful condition of Ottarnic Pond. Unfortunately, after the milfoil treatment, the fanwort, which was present during that treatment stage, was heavily activated and the pond is 98% - 100% invested with the fanwort problem. They've made several attempts at application for support through the Lakes Association and this year, they were granted matching funding through the Hudson Conservation Commission, which initialized the program. They are excited about the program and look forward to the betterment of the pond. The ultimate goal is not to keep the pond closed, but because it's in such a severe condition of overgrowth, it's both beneficial and highly recommended by DES to close the pond at this time to motorized watercraft because the activity of the motor craft continues to churn up the weeds and spread the growth. It also attaches itself to boats and trailers that visit that pond and carries it to other water bodies, which creates a greater problem across the state with water contamination. The closure would eliminate all motorized water craft for the ensuing year, but canoes and kayaks would be acceptable.

Chairman Coutu asked if there were any comments. Selectman Massey said the town isn't a bricks and mortar but people, and this volunteer organization did an outstanding job managing Ottarnic Pond, especially with monitoring the boats coming in and out. Technically, they are not closing the pond; this ordinance is prohibiting any motor vehicles from using the boat landing, which has the effect of closing the pond to motorized vehicles. He asked if the association was going to restrict any of their motorized water craft from using the pond. Mr. Mercer said yes.

Chairman Coutu asked if there were any more comments or questions. Selectman Maddox asked why the ordinance didn't just ban motorized vehicles from the pond. Selectman Jasper called for a point of order, saying this was the public hearing portion and the members could discuss things after it was closed.

There being no further speakers, Chairman Coutu closed the public hearing at 7:30 p.m.

Motion by Selectman Massey, seconded by Selectman Jasper, to approve the ordinance amending Chapter 317 of the Hudson, NH Town Code, Vehicles and Traffic, Article 2, Closure of Claveau's Landing, and it would be to 317-13.1 Closure of Claveau's Landing, Claveau's Landing on Ottarnic Pond shall be closed to all vehicular traffic from June 10, 2009 through December 31, 2009, at which time this ordinance shall lapse.

Selectman Maddox asked if they were going to put something at Highland Street to block vehicular traffic, if the intent was to keep motorized boats off of Ottarnic Pond. He wanted to make sure this ordinance does what it is intended to do. Mr. Malizia said Claveau's Landing was the only public access point that he was aware of on the pond. Selectman Maddox asked where it was going to be blocked off. Mr. Malizia said it would be barricaded. Mr. Burns said if this ordinances passed, tomorrow morning the Highway Department was prepared to put up two Jersey barriers, just past the last driveway, with a chain in between them so the Fire Department has access.

Chairman Coutu asked if Claveau's Landing was the only access for motorized boats. Selectman Jasper said that wasn't the issue they have control over. If they want the pond to be closed, they have to petition the Department of Safety to do that. Whether or not people can find another way in is a different question. Claveau's Landing is the only public access to the pond, so they can close that. They could petition to have the pond closed, but it would take 60 days or longer, which would put them into August. While that may be a wise thing to do, they should see how this works.

Selectman Massey said as the liaison to the Conservation Commission, the DES made a presentation back in March and they ranked the lakes and ponds in NH that require attention and two of the bodies are in Hudson—Ottarnic Pond and Robinson Pond. Unfortunately, the cutoff for money was at #15, and Robinson Pond was #16. The only way Robinson Pond was going to be in the program this year was if one of the other communities opted not to participate because this is a matching funds program. The state is putting up about \$35,000. Ottarnic Pond is so seriously infected, it needs to be addressed. They will probably look at Robinson Pond next year.

Vote: Motion carried 5-0.

C. Stop & Shop Escrow Funds

Before them was a letter from Atty. Hollis, representing the Stop & Shop Company. Stop & Shop had a deposit with the town to build a sporting field behind their store. They've asked for their money back and the town returned the amount they asked for. They sent a letter back, saying that, due to a clerical error, that wasn't the correct amount and were asking for an additional \$10,000.

Motion by Selectman Jasper, seconded by Selectman Massey, to return the additional \$10,000 per the request.

Selectman Jasper said the Board discussed this in nonpublic and, at the time, he did not feel that playing "Gotcha" was appropriate. There was a clerical error in the letter, but it was clear what they were looking for. He wasn't going to play this charade. Unfortunately, the town didn't get the ball field, unfortunately, because of the lack of cooperation on the part of DOT. It was no fault of Stop & Shop.

Selectman Massey said the original agreement was for Stop & Shop to build a ball field behind their store, which is in the right of way for the defunct circumferential highway, but there was a two year window in which the town had to secure the OK from the state. They had a letter from DOT, giving the town authorization, but the then-Commissioner left and there is now a law on the books that says any state property has to be sold at auction, as opposed to offering it to a local municipality at an attractive rate and it has to be done through a commercial real estate process. He did not think that Stop & Shop ever wanted to get out from under the obligation, or because they dragged their heels that caused this to happen. He applauded them for the extra \$5,000 as a good will gesture. For the sake of disclosure, he shops at Stop & Shop, but that has never been part of his thinking in this and it wouldn't have impacted what he thought was the right thing to do in this. Therefore, he won't recuse himself from the vote.

Selectman Maddox said he wasn't going to vote for the motion, and maybe it was a little bit of "gotcha," but having sat on the Planning Board when they managed to get... some say blackmail and some say extract... fields for the town, something that is costly to do. They had construction on site and the town thought it made sense. He was in the Selectmen's Office when Rhona Charbonneau got then-Commissioner Murray to send the letter, but the town wanted a better letter. If they had stipulated that the field be built prior to the CO being issued, there would be kids playing soccer on that field today. If the lawyer didn't read the letter he signed, he should be held to what he offered.

Selectman Jasper said he didn't want to go down this road, but... if you read the statute on these types of "donations," or as he calls them, "blackmail," it's based on an impact that the business will cause in the community and, therefore, they care going to do something to try to modify that impact. Clearly, a grocery store that was built on the site of a church had no impact on the recreational facilities of the town. He never thought it was a proper extraction to begin with. It was not something the Legislature said they could do. Businesses very often say it's not worth fighting, so they do it, but in this case, there was a good faith effort made on both parts. The state wouldn't go for it and the town clearly owes them the money back. Their attorney made a drafting error, but the right amount was on the first page. It's wrong for the town to try to hold that business hostage for what is clearly a clerical error. The town has held the money well beyond the two years and it's time to move on—and it should be a unanimous vote.

Vote: Motion carried 3-2. Selectmen Maddox and Nadeau voted in opposition.

7. NEW BUSINESS

A. Budget to Actuals

Town Administrator Steve Malizia said this set covers 11 months, through the end of May. For the general fund, they are around 90%, so they are a little under, which is good. According to his calculations, if they keep spending at the rate they have been spending, they'd most likely spend about \$1.6 million, which leave about \$300,000. At this point, they will make the budget, and be a little under. Fuel has been creeping up lately, but they got a break on that item for the majority of the year and everybody has done a good job with monitoring their budgets, keeping track of what they are doing. Revenues are a little soft in a couple of areas, predominantly motor vehicles, about \$300,000 short there, but they've had additional ambulance revenues and a few things here and there that helped make up some of that. When the audit is performed this summer, they will get a final reconciliation, but they should be OK from an expenditure perspective. On the revenue side, he can't make people spend more money than they do, so it is what it is. At the last meeting, he had some proposed transfers and/or items for the Board to consider. During the budget process, there was some discussion about doing a couple of things. He updated the document (and passed out a copy for the Board) to give them an opportunity, while there is still time in this fiscal year, to consider a couple of things. They had a couple of retirements from the Police Department that needs to be covered, and he's proposing to

cover that from the gas. He didn't need the Board to do much with the contingency budgets, but it's obvious the Police Department won't be able to make up that substantial amount, the \$59,000 and the \$20,000. Administration is already over budget because of that. There is a memo from Fire Chief Murray that was also attached. They've talked about the Central Station roof as being one of the priorities that the Board would like to accomplish. The money is available, if the Board does want to get going on that. Also, the Chief considers the water rescue boat to be a priority and the third one is something they've been talking about as a life-safety issue, and that's placing defibrillators in town buildings—Town Hall, Oakwood facility, Fire Administration—for about \$930 each, that the average citizen could use. If someone was having a heart issue, it would be beneficial to have a unit in this building. They are already in the Community Center and the cruisers have them. If any of these items are of interest to the Board, this would be the best time to discuss it, before they get to the end of the year. The money would come from the Selectmen's contingency, the amount transferred at the beginning of the fiscal year for the anticipation of increased gas prices.

Selectman Jasper said at a later date, they will deal with encumbrances. Mr. Malizia said at the meeting on the 23rd, there will be an encumbrance list for the Board, such as the Pelham Road dam article, and other items they have PO's towards, items they've committed to but not necessarily completed by the end of the year, so that money is encumbered and carried forward from this year's budget into next year's. The sum total of encumbrances and actual expenses cannot exceed the budget, so they are not over-expending. They just get to a point, from an accounting perspective, they won't be able to wrap everything up, therefore, they are permitted by law to carry things forward, with the Board's approval. The Board has to approve the encumbrance list.

Motion by Selectman Jasper, seconded by Selectman Massey, to approve the proposed budget transfers dated June 9, 2009, totaling \$107,600.

As previously discussed, the bulk of this is termination pay in the Police Department, totaling nearly \$80,000. It's not wise to take that much out of the earned time fund. They've tried not to do that because they want to build that fund up to fund a liability. Beyond that is the Central Station roof over the ladder bay for \$17,000. The water rescue boat is essentially replacing the rubber raft which has been repaired and cannot be repaired again. It would not behoove them to put a boat out into the water to rescue people when they know it has gone beyond its useful life. If they were to do that and something were to happen, they would all feel like a bunch of heels and the town would be in an extremely bad light. At this point, it would be an irresponsible decision not to replace the boat and the same thing with the defibrillators. They have proven their worth time and time again and to not spend the \$4,700 would put the town in an extremely bad light, if something were to happen. The transfers, without the salaries, would be \$28,000, so for that money, it would be a mistake not to do it.

Selectman Massey said they all understand about earned time. The original idea was to get to 50% liability funded, but they've never achieved more than 25%, so this is a good use of funds. They always said if there was surplus at the end of the year, they would apply it towards the fire station. The only question he had was with the rescue boat and the defibrillators, but he thinks that's a prudent use of money, so he will support the motion.

Selectman Maddox thought they should use any leftover money in the police budget to pay for the salaries and that's what this fund is for. Just taking it out of contingency because it's there... he's sitting on the fence. He understands they want to build up that fund, but it has never been there. That's what it's there for. Either take it out of there or out of the department it should come out of. Chairman Coutu said Mr. Malizia works on the numbers on a daily basis, so he asked if the Police Department was going to have \$80,000 left at the end of the year to be able to cover 5610 and 5671. Mr. Malizia said 5610 is already over by \$44,000. He's not sure there will be \$80,000 left.

Selectman Jasper said it's a wash. The only question is if they drain down the fund or allow these to happen. At the end of the day, if the Chief has surplus left in the budget, it's going to go back to the surplus account. It's extremely close at this point. He didn't want to drain the fund because the goal is to build it up. Next year, would they support tripling the money they put in there? If this is the way they are going to do it every year, then they need to triple the budget because it will be drained down this year, which puts them in a negative. They can't have it both ways.

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

Chairman Coutu, with regard to budget to actuals, he was satisfied they are pretty close to budget. Selectman Massey said although they are looking good for this year, there are some concerns for the upcoming budget cycle. Selectman Maddox agreed with Selectman Massey. Selectman Jasper had concerns with the state's revenue sharing. The town may not be getting several hundred thousand dollars from the state. He'll know more as the week goes on. He asked about the land use tax fund, if they've put 100% of that elsewhere. Mr. Malizia said it's 50%. Discussion continued, with the consensus being they are in reasonably good shape, but they have to be careful.

B. MDA Boot Drives

Firefighter Dennis Haerincq said this was the annual request to hold this fundraiser for "Jerry's Kids." For the past 11 years, they have raised the most money than any other organization. Last year, it was around \$18,000 down significantly from the prior year, which was \$25,000. Due to the economy, they will probably take a hit this year. The dates they are look for to collect funds are three Saturdays—June 20, July 18 and August 22, from 9 a.m. - 2 p.m. They plan to have a barbeque afterwards, as opposed to just getting lunch as you go.

The consensus of the Selectmen was favorable because of the procedures that have been established and followed over the past few years. It was also noted that the money collected in Hudson stays in the state, aside from the organizational fees, and Hudson benefits greatly.

Motion by Selectman Nadeau, seconded by Selectman Maddox, to approve the MDA Boot Drives for June 20, July 18 and August 22, 2009, as outlined in the letter from Kevin Blinn, dated June 1, 2009, carried 5-0.

C. Townwide Paving Project Bid Recommendation

Road Agent Kevin Burns said they received four bids and he was recommending awarding the bid to the low bidder. \$400,000 was budget, but because of the default budget, he plans on spending only \$250,000. He needs to reserve some funds for increased trash expenses, salt, etc. Selectman Massey reminded those watching that this was an example of a consequence of the voters' decision, and the town has to make a lot of difficult choices.

Selectman Maddox asked if a performance bond was required. Mr. Burns said yes. Selectman Jasper said he wasn't familiar with the company and asked if Kevin did his due diligence. Mr. Burns said they do most of their work around the lakes region, but they come highly recommended. They work closely with Pike Industries. They did the paving recently as part of the sewer project at Pond View, off of Ferry Street, so he's seen their work. They have nice equipment and seem to know what they are doing.

Chairman Coutu asked about the transport, saying they have heated trucks. Mr. Burns said yes, and they are hauling only from Hooksett, not too far away. In years past when Pike had the contract, they hauled from Hooksett.

Motion by Selectman Jasper, seconded by Selectman Massey, to award the bid for the townwide paving project to the low bidder, CLD Acquisitions in the not to exceed amount of \$270,530, as recommended by the Road Agent and Finance Director, carried 5-0.

Mr. Burns said they are rapidly going down the road of very bad roads. They are on a rotation of almost 140 years between pavings. This will come back to haunt the town in the not too distant future. If anyone can recall how the roads were 25 years ago, they were a disaster. To reclaim and repave a mile of road now is \$176,000 and there are 190 miles of road in town. This is something that could get very, very costly soon.

Chairman Coutu asked if anyone has contacted the state about any available monies for road projects, and could critical areas of the town be documented for the need so the town may be able to qualify for any stimulus money. As he understands, monies are coming in quickly in terms of road repair and the state is concerned about the highways. There may be some monies available for municipalities, if the need can be justified, and the town certainly has a budget shortfall. Mr. Burns said his sources at the state tell him the state is using all of the state's stimulus money on paving. They are advertising that they are doing three times as much paving this year as they did previously. The money that is coming into the state is staying at the state, not coming to the towns.

Selectman Maddox asked if 111 was going to be one of those roads. Mr. Burns said yes. They are going to grind out some of the rough areas and repave. Chairman Coutu asked how much roadway was going to be paid with this amount of money. Mr. Burns said about two miles.

Selectman Massey said this may be time to look at something they discussed a couple of years ago, a comprehensive townwide paving program that would extend over a 20 year period and figure out a bonding mechanism. Mr. Malizia said they had looked at it in terms of time, and time is money. If they want to do it quicker, cash is king. Selectman Massey said people pick up on their trash being picked up and driving safely on the roads, two quality of life issues. Selectman Jasper didn't think they want to bond road work. They know they got roughly 200 miles of road, 10 miles of road a year to get them on a 20-year rotation is going to be \$1.7 million a year. They can't bond for the next 10 years. They'd put someone else in an awful situation when suddenly all the roads need to be repaved at once. The only way they can do this is to ramp up the budget to get there. Some roads are going to last a lot longer than 20 years, the side streets, that aren't in horrendous shape that have a good base put down there. They need to get that up to \$1 million, and that has to be done on an annual appropriation. They can either put it in the budget, or put the regular amount in and then put in a warrant article. The problem is they've been at \$400,000 and then down to \$250,000 because of the economics, and now they've created a bigger delta. They have to face up to this problem and it's got to be an annual expense. Unfortunately, the state made that mistake with school building aid and bonding the road and the state treasurer has said if you keep doing this, you're going to be paying more in interest than you would have with annual expenses and at that point, you don't have anything to show for it because you are just paying interest. It's a dangerous road to go down.

D. Photocopier Bid Recommendation

Town Administrator Steve Malizia said this bid contains a non-appropriation clause, which means if money isn't appropriated in future years, it goes back, no penalty. If the Board signs this contract with the low bidder, the town will be getting a check for \$10,000. It's a competitive market out there, so as part of the bid document, they guaranteed the town a \$10,000 rebate, up front.

Motion by Selectman Massey, seconded by Selectman Maddox, to award the bid for a 36-month lease for photocopiers to the lowest bidder, Ricoh Americas Corporation, in the amount of \$15,881 per year for three replacement copy machines, as recommended by the Finance Director, carried 5-0.

E. Energy Efficiency and Conservation Block Grant

Town Administrator Steve Malizia said the US Department of Energy has informed the town it's eligible for a grant in the amount of \$104,500. There was an announcement in the paper about six weeks ago, saying Manchester, Nashua and Hudson were going to get grants and \$104,500 is allocated to Hudson for energy programs. The deadline for the application is June 25. He and the Assistant Town Administrator Mark Pearson have been working on this, getting all kinds of coding numbers from the federal government and a myriad of forms to fill out, which only prepares them. He solicited input from the department heads what kinds of energy programs they would be looking at, which ranges from the Community Center to the replacement of the Police Department's chiller refrigeration unit, which has been causing problems for them. This is part of the stimulus and there's no match on the part of the town.

Selectman Massey said if they are going to replace the exterior doors and frames at the Community Center to make them more handicapped accessible. Mr. Malizia said that's not what the grant was for; it's an energy efficiency grant. Selectman Massey suggested finding the monies to add the additional cost of making them handicapped accessible, saying he thought that would be well worth the money. Mr. Malizia asked why he thought they were not already handicapped accessible. (Talking over each other.) Selectman Massey said there's that and the hump on them. Those doors need to both open up, or they'd have to put in a wider door. It's very tight trying to put a wheelchair through there. The door needs to be much wider. This is something they must do. They should look at what it costs to add the additional monies and find it in the budget.

Secondly, he thought the replacement server program was already in the budget, doing it in a two year cycle. Mr. Malizia said this is one of those two years that would complete the whole project. Selectman Jasper thought the funding was lost in the default. Selectman Massey said no. One of the requests they had to take care of the default was the IT Director did ask the Board to approve \$55,000 to put back in, and they approved that. Mr. Malizia said this would do it in one fell swoop, as opposed to two years. Selectman Massey asked if this was a \$90,000 project. Mr. Malizia said there is \$35,700 here and \$50,000 in the budget, so it's \$80,000 plus. It's the PD and Town Hall. Selectman Massey said he'd like more information because they were talking about \$60,000 to do the whole project.

Selectman Jasper said even taking the \$17,000 out, they are still \$29,000 over. At the elections, they've talked about having the doors automatic and there was a consensus that with that much volume of traffic, it would be more of a problem than a help. There are always people there to open and close the doors. If you put a button there with that amount of traffic, someone is likely to get whacked in the face. Selectman Massey was less concerned about election day than he was with the other 364 days of the year that people access the Community Center. They owe it to the people in town to make it so anybody, regardless of their circumstances, can access the building on their own initiative. Selectman Jasper said that hasn't been budgeted for, so it's a discussion they can have. Selectman Massey said he was just asking to find out what it would cost, if they are going to include that item in the grant application. As a separate action, they should find out what it would cost, at the town's dime, to add the additional capabilities to make it fully automated. The need to address the width of the doors and the fact there is a lip on the door itself, which means a wheelchair has a problem getting up over it. Mr. Malizia didn't think it was that serious. He thought it was a modest threshold. Selectman Massey said it's a threshold. Selectman Jasper said you have to have a threshold there.

Selectman Maddox totally agreed with replacing the furnace with a 98% efficient gas fired boiler, but how is the flat roof and virtualize servers energy efficient items. Mr. Malizia said by virtualizing the servers, they will take some of them off line and save electricity to the tune of \$5,000 - \$6,000 a year. Selectman Maddox asked where the exterior doors were to be replaced, at Oakwood or the Community Center. Mr. Malizia said both need doors replaced. At the Community Center, you can see daylight on the doors along the side. If they put in a 98% efficient furnace, it makes sense to replace the doors at the same time. The rear doors have some insulation. Selectman Maddox hoped they would look at the most sensible paybacks because the wish list is more than the amount they are going to get.

Mr. Malizia said they've already replaced one place of the chiller at the police station. The one being proposed would use a different refrigerant product, which is green. The EPA is phasing out the current refrigerant product. If the chiller is replaced by this grant, it would save the town a big chunk of significant money. Some of the solicitations he received from the departments were obviously modest, such as the programmable thermostats. The two big ticket items are the chiller and the virtualization of the servers. The roof would be removed, which would be done with the money already transferred. It looks like they need to cut another \$29,000, but there's nothing for that amount. They can't do part of the chiller; it's all or nothing. They could probably scale back virtualization of the servers. Selectman Massey said the stimulus program was being used to fund existing funded projects. Since they already made a commitment to do the virtualization project, part of it this year and the rest of it next year, that's what should be removed. Nothing else on the list ever came up on any of the budget cycles, so he would support all the rest.

Selectman Nadeau thought they should keep in virtualization of the servers because it would move up the program a little bit faster and will also save money in energy efficiency. He thought the \$3,000 for the dispatchers' air conditioner could be found in the Fire Department's budget somewhere. They could save \$270 in programmable thermostats by changing them themselves, both in the Fire Department and at Town Hall, and the same with pipe insulation. Instead of placing all of the exterior door frames at the Community Center, do the front door, making it handicap accessible,

and use some of the maintenance money they will be saving when they put in the new energy efficient boiler to fund the rest of the door frames they have to do. Take out the air conditioner, the thermostats, some of the money for the existing doors, they can get down there instead of taking it all out in one section, and maybe go down to \$30,000 on the virtualization of the servers and try to save a little there. He didn't think cutting out virtualization of the servers is the way to go on this deal.

Selectman Jasper asked if they needed to decide the projects tonight. Mr. Malizia said they were going to submit a list of at least \$104,500 and they'd get the money. All of the items had supporting documentation that was available in the Selectmen's Office for the Board to look at. Selectman Jasper said all they needed to do tonight was authorize the grant application. They could decide the projects later.

Motion by Selectman Jasper, seconded by Selectman Maddox, to authorize the Town Administrator to apply for the US Department of Energy Efficiency and Conservation Block Grant.

Selectman Maddox said they should apply for everything, less the \$17,000 and fight for the money at a later date. Selectman Massey thought they should remove the programmable thermostats and pipe insulation because that was short money and should be found in the operating budgets. If they can't, something is wrong. He'd be embarrassed to see that on the request. Chairman Coutu said department heads jotted down things that they felt were energy efficient items, regardless of the cost. He had asked the Town Administrator to check to see if the virtualized servers were already fully funded over the next two years and if that is the case, that's the item that should be removed.

Vote: Motion carried 5-0.

Chairman Coutu declared a recess at 8:45 p.m. and resumed at 8:55 p.m.

- F. **Acceptance of \$1,000 from Wal-Mart for Community Policing**
Motion by Selectman Massey, seconded by Selectman Jasper, to accept the donation, with the Board's thanks and appreciation, carried 5-0.

8. **OTHER BUSINESS/REMARKS BY THE SELECTMEN**

Selectman Nadeau said last night he went to the High School Scholarship Dinner at the Community Center. There are many different civic groups in town that get funds through the help of people in town and they gave out a huge amount of money to the Alvirne seniors this year for their scholarships. They said their scholarships were down this year because of the economy. It was good to see all of the scholarships that were made available through memorials to people. He thanked the Lions Club for putting on a very nice spaghetti supper last night.

►The Chamber did a fundraiser at SAM's Club and they were able to raise \$2,200 for the scholarships they give out; they raised \$1,200 and \$1,000 matching grant from SAM's Club. That's another great thing being done for students in town.

►He had a wonderful time at the Chili Festival on Saturday, which was a beautiful day and there was a lot of community involvement.

Selectman Maddox said there was another event going on that involved food. Another beautiful day. A nice ceremony. The Library Trustees are to be commended on their punctuality. It was a nice balance of all the people that spoke. Selectman Jasper spoke, as liaison to the Library, and he gave a nice history. The whole thing was well put on and the food provided by the Rodgers... he didn't even eat because the line just snaked forever... but a good time, beautiful building and, hopefully, people will come to enjoy the new library as much as they enjoyed the old.

Selectman Jasper said he was at both of the events with food. He wanted to speak to the volunteers, but it would be hard to mention the individuals without slighting someone, but the large portion of the help there was the Old Home Days crew, who are well versed in food prep. They were prepared for 500 people, and they were served in a little over an hour. It was a phenomenal task and the food was excellent. It was a nice time and it was good to see a lot of long time residents of Hudson, some who hadn't been out and around much lately. As he told the Library Trustees at the last meeting he went to, the one thing they did that just ensured that everything was going to go right was hiring Bernie Manor. When they made that decision, any concerns he may have had were gone. He did a phenomenal job for the town in that project, and the projects came in under budget. That is one fantastic facility and will be enjoyed by everyone for at least the next 100 years.

►Relative to the state of the state, budget negotiations have started and are supposed to be wrapped up on the 24th, but he'll believe it when he sees it. They are worlds apart right now. There's \$400 million in one-time stimulus money in that budget and that's based on a huge percentage. Once they get through with the budget, they'll be facing another major problem in two years. In addition to that, the gambling proposal that made it out of the Senate does not approve of casino gambling, so the Hudson facility the Friel's had proposed is not included in that. There is about \$110 million in licensing one-time fees in there, if you believe there will be five or six slot parlors in the state. They are looking at a \$50 million licensing fee for Rockingham, \$20 million each for Seabrook and Belmont and then two \$10 million each in the north country, which no one has shown any interest in at this point. They have about another \$95 million in revenues coming in from the profits off the slots in the next year. It will be virtually impossible for that to happen because of the promulgation of the rules and getting the slot parlors up and running, even if they were all to be licensed. Many of them believe, because they are just slot parlors, they won't be much of a

draw and won't keep people from going to Foxwoods and Mohegan Sun. They are probably creating another huge hole if they go down that path. The budget is still up and in total over the last two years ending this July and the next two years, state spending will have been up 24%. Look at their town budget. They've hardly been up at all, but the state's up 24%, so there's no real effort to keep state spending down. He has no hope they're going to be able to find the money to fund the revenue sharing for the town. Every time the revenue numbers come out, they are down. This year, ending June 30, the revenue deficit is \$275 - \$300 million. Many of them are skeptical the Governor's cuts will get anywhere near that number, so while they are projecting, they are only going to pull down the Rainy Day Fund a little bit. They may well end up draining that, but that remains to be seen. He hasn't seen an expenditure report, a document that always seems to be missing. They see the revenues, but never see the expenditures. There is another \$110 million, aside from the stimulus, which is rating the doctors' liability pool, another \$110 million at one time, so it just gets worse and worse. God help the state of New Hampshire.

Chairman Coutu said he was a small businessman himself, and the past six years have not been easy on small businesses. Contrary to what people believe, there is a state income tax in NH. The business profits tax is based on the amount of money they pay out in payroll, so they pay 5% employment tax. What was an even greater insult this year, the state is now charging a fee to collect the meals tax, so small businesses are tax collectors have to pay for the privilege of collecting that tax. Some of this is sheer insanity and he didn't know where it was going to end. He had been a Republican for Lynch, but may have to reconsider in the future as a result of some of the legislation that was passed this year.

Selectman Massey said the state and the federal government is equally guilty. There's an assumption they can balance the budget by shoving everything down hill, but whether the tax is paid at the state level or local level, the people are the ones who pay. He didn't understand what was going on at the state right now; it's insanity, especially in the fact that anyone in the state that thinks a personal income tax is viable does not understand the economics that the Supreme Court has ruled that if you work in Massachusetts and work in New Hampshire, you pay the Massachusetts state income tax first and only if the New Hampshire tax is greater do you pay the delta to the state of New Hampshire. An income tax is not the answer right now.

► Selectman Jasper received a call from Arthur Provencher this morning, wanting to know when the Board would like to have the viewing for the town officials, and suggested Friday, June 26 at 6:00 p.m. The opening is going to be the 28th. He didn't know who else from the town was going to be invited, but certainly the Benson's Committee is part of that. Mr. Malizia believed the intent was the Board of Selectmen and Benson's Committee. Selectman Jasper said, barring any objection, then that's what it would be and he'd get back in touch with Mr. Provencher tomorrow.

► Relative to Benson's, the RFP's are out there and the bids will be back by 3:00 on the 19th, which will not give the Board much of an opportunity to look at them for the meeting on the following Tuesday, so he'd like to suggest the Board meet on Monday, June 29 because Selectman Massey isn't available on the 30th. They could even do encumbrances at that time, giving a little more time to look at what's going on. They could do them on the 23rd, but to specifically look at the bids for Benson's and see if the Board would like to make the award. It would also give the Benson's Committee the opportunity to have looked at them and prioritize the bids at their meeting on the 25th.

Motion by Selectman Jasper, seconded by Selectman Massey, to schedule a special meeting of the Board of Selectmen on Monday, June 29.

Selectman Maddox said they'd look at the bids, but have no wiggle room. It will be yea or nay, without time for questions because they have to do this by the 30th. Selectman Jasper said, hopefully, they would be available the 20th, so they'd have the week in between to ask questions of Mark, at least. Selectman Maddox said it comes down to the philosophical. Maybe they kick that around at the next meeting. He just didn't want it to be a meeting about Benson's. He got his permission slip to go to Benson's this week and at his age and size, he was able to break in. There's a couple of breaks in the chain link fence and a couple of issues. He's not in favor of demolishing any of the buildings, but he is convinced he doesn't want to spend any money on them, either. They will have quite the philosophical discussion on the 29th, if this bid comes in for whatever monies there are. They are putting their backs to the wall. Either they talk about it at the next regular meeting for some time, so any questions they may have can be asked at that point, before they lock themselves in on the 29th. Selectman Jasper said that was fine with him, to have a discussion on the 23rd, get questions out there and then have a week. It would be worse to try to award them on the 23rd.

Chairman Coutu directed that a general discussion of Benson's be on the agenda for the 23rd.

Vote: Motion carried 5-0.

Selectman Massey said being a judge for Chili Fest was interesting. Although you are sampling each item, by the end of the afternoon, you've had a full meal. They judged eight salsa recipes, eight green chili recipes and 15 red chili recipes, and the red chilies were fantastic. It was all for a good cause, to support Alvirne Friends of Music programs. It was a great day with a lot of people there.

► The library is definitely a great, airy building. When Selectman Jasper was giving his history, at one point, Mrs. Massey thought he was going to give a year by year history. During his comments, he mentioned an individual by the name of Don White, who was a tireless worker for the library. He started a program where you could pledge money on a monthly basis, and that lasted for over 18 months. That's part of the money that went into the library funds. It was a great day and a valuable asset. Thanks to the Rodgers Brothers for having done it.

►He was thinking about something that arose a couple of meetings ago. It would be appropriate for the Board to work with the Town Clerk's Office that when a volunteer is sworn into office, they are given a copy of the Right to Know law and a document that specifies what the duties and obligations are of a public official, whether elected or appointed, when it comes to their conduct at meetings, relative to what the Right to Know law means, what constitutes a quorum and what constitutes a public meeting. As a result, they would have avoided the case that occurred a couple of months ago. Selectman Massey said he'd volunteer to work with the Town Clerk's Office to come up with something, since he was the one that was proposing this.

Selectman Maddox said he'd put that on the Town Clerk, that the new ZBA member or Planning Board member, gets a packet that has the zoning ordinances, the state booklet with the RSA's for land use—that should be a document that gets to the new member, not so much with their swearing in, but when they are... Selectman Massey said doing it when they are sworn in is concrete and not something that could be overlooked; it'd be part of their swearing in. They'd recognize it as part of their job, obligations under the Right to Know law, but he will think about that piece of it. Chairman Coutu said they would get sworn in, and then sent to the Selectmen's Office to get the packet that would be prepared for them.

Selectman Jasper said that brings him to his quandary of the day. A member of the Benson's Committee hasn't been sworn in and he got a memo from the Town Clerk, relative to that. It has always bothered him giving oaths of office to committee members. The oath of office is for town officials; town officers. What are they doing giving Benson's Committee members the oath of office? Priscilla had suggested to him that he could swear in the member at a meeting, but he said he wasn't going to give the oath of office to somebody who is not supposed to be receiving the oath of office for a town officer. Now, they are supposed to be filling out the Code of Ethics, and giving information like that. Apparently, at some point, the Town Council decided everybody was supposed to take this oath of office. He's not sure, under the state statute, who is supposed to. Everybody who is elected is supposed to, but he's unclear if that is supposed to include appointed people on land use boards because they do have statutory authority, but the Benson's Committee is merely an advisory committee to the Board of Selectmen. They have no authority to make any decisions to do anything. They don't have any duties or responsibilities. He didn't know where the Board wants to go with that. It can't be found in the Town Code any place and it certainly is not part of state law. They're having people taking oaths he didn't believe they should be taking.

Chairman Coutu suggested getting a list of the town's committees and boards by name and asking Town Counsel who should be taking the oath of office, whether it's appointed or elected. After getting a legal opinion, they will know where they stand.

Selectman Jasper said they should all be filling out the Financial Information Disclosure Form, which does go through the Town Clerk. That's the appropriate point to get the packet to them, which could come from the Selectmen's Office. "Here's a copy of the Financial Information Disclosure Form and a copy of the RSA," but Selectmen Massey is going to work on that.

Chairman Coutu said in light of the e-mails they've all received on that Benson's Committee member who has not been sworn in, up to this point it has been the practice to swear everybody in. If they haven't come in within 30 days, or whatever it is, that creates a vacancy. That has been the policy, even if it was unwritten. Selectman Jasper said it has been the policy, but state law says town officers. There is nothing in the Town Code or in their policies; they has just been a fait accompli. He didn't know if there has ever been an issue there because probably some people haven't taken the oath nor shown up, but in this case, the person hasn't taken the oath but is showing up. Chairman Coutu asked why they haven't taken the oath. Selectman Jasper said they haven't come in to be sworn in and, as suggested, he could administer it at a meeting, but he wasn't going to because he didn't believe in giving the oath to somebody who shouldn't be taking the oath. What's in that oath is not applicable to someone an advisory committee to the Board of Selectmen. Chairman Coutu said everyone else has taken the oath, so from his perspective, until they get clear clarification, they should require the person to come in to take the oath. In essence, based on past procedure and policy, written or unwritten, that person has created a vacancy. Selectman Jasper said they don't have that as a policy. He didn't know that it has been applied any place. He's not aware of it ever occurring before. This is the first time he heard anyone say a vacancy was being created because of this and that's what piqued his interest. Usually, you'd say you're being removed because of a policy, but all they have is a state statute, which does not apply to a committee member. Chairman Coutu said what concerns him the most is that this person was asked to come into the Town Clerks' Office to be sworn in, but never showed up. Selectman Jasper said he couldn't answer that.

Selectman Maddox said he's sworn in a couple of people at the Planning Board meeting. Sometimes people work until 6:30 and show up in time for a meeting. He didn't know if they should or should not; he thought the Planning Board was one of those groups who do. He makes a note of the date and time he sworn in the member and gives that information to the Town Clerk, who then makes out the paperwork. Maybe they should make a policy of what groups do get sworn in.

►Selectman Massey said it's the people that make up a community, not bricks and mortar, and this is a fantastic community. One member of the community, Curt Laffin, has been steadfast in their support of the Conservation Commission. He was the Chairman for many, many years and he continues to support conservation efforts in the town, even to the extent he has put together a very informative set of thoughts and things that ought to be done at Benson's. On behalf of the Board, he extended condolences to Curt and his family for the recent passing of his wife, Ellen, of many years. He is going to miss her. The Board should thank Curt for all he has done for the town, and she supported him in that. Visiting hours will be Saturday, June 13 at the Dumont Funeral Home from 10:00 - 1:00 p.m. and there will be a prayer service shortly after 1:00.

Chairman Coutu said this gentleman lost the love of his life, but he made a commitment to the Benson's Committee that he would be there Thursday evening to make a presentation--and he will be there. That just goes to show the kind of person he is.

►Selectman Massey said a week ago, he went to Benson's with a committee member and he took pictures of all of the structures and the interior of the barn, and they will be available in the Selectmen's Office for anyone to look at. Surprisingly, the inside of the barn looks to be in fairly good condition.

Selectman Coutu said he went to the library dedication and spoke with both Al and Phil Rodgers to express, on behalf of the town, sincere appreciation for their generous donation to the town. He echoed Selectman Jasper's sentiments about Bernie Manor's involvement and without him, it wouldn't have gone as smoothly as it has. He did a fantastic job.

►To show that he bears no animosity against people because they want to express their opinion, tomorrow evening, the game was rescheduled from Nashua to Manchester, he will be attending the Alvirne High School baseball semi-finals in the tournament to win the championship tomorrow evening in Manchester with newspaper editor Led Lathrop from the Hudson Litchfield News, despite his opinions and his cartoons. They remain friends. They had a conversation today. Len respects his opinion and his right to express himself in the newspaper and Chairman Coutu said he must and has to respect Len's right to publish whatever he may deem necessary. They know each other's positions and they respectfully disagree with each other. That doesn't affect their friendship and he is going because h knows a lot of the kids who play on the team. Another moment for Hudson to shine and he hoped the basketball team would have made it to the finals. He would have attended that, too.

9. **NONPUBLIC SESSION**

Motion by Selectman Jasper, seconded by Selectman Maddox, to enter nonpublic session under 91-A:3 II (b) The hiring of any person as a public employee; (d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community; (e) 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.

Nonpublic session was entered at 9:30 p.m., thus ending the televised portion of the meeting. Any votes taken upon exiting nonpublic session will be listed on the Board's next agenda. Open session was entered at 11:38 p.m.

Motion by Selectman Massey, seconded by Selectman Maddox, to accept the offer of \$170,000 for the property located at 49 Ferry Street carried 5-0.

Motion by Selectman Maddox, seconded by Selectman Massey, to broaden the pool for the position of Executive Assistant carried 5-0.

10. **Adjournment**

Motion to adjourn at 11:40 by Selectman Maddox, seconded by Selectman Jasper, carried 5-0.

Recorded by HGTV and transcribed by Priscilla Boisvert, Executive Assistant.

HUDSON BOARD OF SELECTMEN

Roger E. Coutu, Chairman

Kenneth J. Massey, Vice-Chairman

Shawn N. Jasper, Selectman

Richard J. Maddox, Vice-Chairman

Benjamin J. Nadeau, Chairman