

HUDSON, NH BOARD OF SELECTMEN
Minutes of the February 24, 2009 Meeting

1. **CALL TO ORDER** by Chairman Ben Nadeau at 7:01 p.m. in the Selectmen's Meeting Room at Town Hall.

2. **PLEDGE OF ALLEGIANCE** led by Roger from the Salvation Army.

3. **ATTENDANCE**

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

Staff/Others: Steve Malizia, Town Administrator; Mark Pearson, Assistant Town Administrator; Priscilla Boisvert, Executive Assistant; Shawn Murray, Fire Chief; Jason Lavoie, Chief of Police; Deputy Fire Chiefs Neal Carter and Rob Buxton; Fire Captains Todd Hansen and Dave Morin; Jacob Nazarian; Michael Truesdale; Len Lathrop and Gina Votour from the HLN

4. **PUBLIC INPUT**

Certificates of Appreciation were presented for 25 Years of dedicated public service to Fire Captain Todd Hansen and Fire Captain Dave Morin.

Certificate of Appreciation was presented to the Salvation Army for the support provided to the Town of Hudson during the December 2008 ice storm.

Mike Truesdale, 3 Watts Circle, spoke in favor of the cable program that is run by Jake Nazarian, who has taught people with no experience how to operate a camera and put together a program for public TV. By going through the program, he was able to go out and film people who participated in raising money for Special Olympics. This community has 65 athletes that participate in that program, and by putting this on television, it informs the public. There are other programs that would be beneficial for the residents to see, if other people go through Jake's program. He appreciated the work that Jake has done, and he realizes the power that being able to put a program like the Special Olympics on TV has. He was able to film a 7th and 8th grade Rec League basketball program with his daughter and color commentate it. It was a great experience. As a member of the community, he appreciated that the Selectmen allocated the money for Jake to put this program together and hoped he'd be able to continue to educate more people so they can participate in cable television programming.

Jake Nazarian, 108 Central Street, said the Board recently approved a plan for a cable access television station in Hudson that included a section to lease space for about \$25,000. In that plan, there was also a recommendation to approve more hours because it would take more energy and effort to execute it, although the recommendation was apparently not concise enough. He has heard the term "fiduciary responsibility" come up and he wondered if it was fiducially responsible to allocate funds for programs and then not support them. He didn't understand that the Board approved a plan back in December, and is now requesting another plan. He's not sure they are doing a good job of approving plans. The Board needs to look and see if that's wise and if that's their intent. He said Mr. Massey pointed out that the plan wasn't very concise and was unsure it was complete enough, but yet it was approved. He saw something on television a few weeks ago saying that the town would be in breach of contract if they were to approve and pay anything in excess of 45 hours to the cable facilitator, yet the three months previous to that, they did. It's interesting that, suddenly, there needs to be more paperwork and backup, yet for September, October and November, the Board approved the amount of hours in excess of 45, which, he guessed, put them in breach of contract. This was difficult for him because, unfortunately, he had to cross the line of being a contractor, or consultant for the town, into being a citizen, concerned with how dollars are being spent. Unfortunately, he finds himself in a quandary because, as he goes forward, he feels he will get a negative response. None of the issues regarding the contract were brought to light in the previous three months that the contract was paid.

It was decided by the Board to discuss this issue under Other Business.

5. **CONSENT ITEMS**

Motion by Selectman Coutu, seconded by Selectman Massey, to approve consent items, as noted or appropriate, carried 5-0.

A. Assessing Items

- 1) Property Tax Abatements, Map 207, Lot 3, w/recommendation to approve.
- 2) Current Use Lien Releases, Map 186, Lot 20-6; Map 186, Lot 20-3; Map 186, Lot 20-7, Map 186, Lot 20-4, w/recommendation to approve.
- 3) Tax exemptions and credits for 2009 tax year—Veteran Tax Credits (Map 156/Lot 008/sub 018; Map 148/Lot 039); Elderly exemptions to Map 204/Lot 006/sub 517; Map 175/Lot 034-028), w/recommendation to grant.

B. Licenses & Permits

- 1) Request by Girl Scout Troop 10762 of Merrimack to sell Girl Scout Cookies at Sam's Club on 3/8 & 15/09
- 2) Request by Half Moon Sober Festival to conduct Fundraising activities at Sam's Club on April 11, 2009

C. Acceptance of Minutes

- 1) Minutes of the Board of Selectmen's Workshop Meeting of February 3, 2009
- 2) Minutes of the Board of Selectmen's Special Meeting of February 7, 2009
- 3) Minutes of the Board of Selectmen's Meeting of February 10, 2009

D. Calendar

2/26 3:00 Trustees of the Trust Funds in CD Mtg. Rm.
2/27 4:00 Sewer Utility Workshop in BOS Mtg. Rm.
3/02 6:30 School Board in BOS Mtg. Rm.
3/03 7:00 Board of Selectmen in BOS Mtg. Rm.
3/04 7:00 Planning Board in CD Mtg. Rm.
3/09 7:00 Board of Selectmen in BOS Mtg. Rm.
3/09 7:00 Conservation Commission in CD Mtg. Rm.
3/10 7:00 am – 8:00 pm – Voting at the Community Center
3/11 7:00 Planning Board in CD Mtg. Rm.
3/12 7:30 ZBA in CD Mtg. Rm.
3/16 6:30 School Board in BOS Mtg. Rm.
3/16 7:00 Republican Committee in CD Mtg. Rm.
3/17 7:00 Benson's Committee in CD Mtg. Rm.
3/17 7:00 Cable Committee in BOS Mtg. Rm.
3/18 5:00 Water Utility in BOS Mtg. Rm.
3/18 7:00 Library Trustees in BOS Mtg. Rm.
3/18 7:00 Hudson Senior Council on Aging in CD Mtg. Rm.
3/19 7:30 Budget Committee in BOS Mtg. Rm.
3/19 5:30 Sewer Utility in CD Mtg. Rm.
3/23 7:00 Green Team in CD Mtg. Rm.
3/24 7:00 Board of Selectmen in BOS Mtg. Rm.
3/25 7:00 Planning Board in CD Mtg. Rm.
3/26 7:30 ZBA in CD Mtg. Rm.
3/30 7:00 Recycling Committee in BOS Mtg. Rm.
3/31 Noon – 7:00 pm -- Red Cross/Police Department Blood Drive at Community Center

6. OLD BUSINESS

A. Votes taken after Nonpublic Session on February 10, 2009

Motion by Selectman Massey, seconded by Selectman Coutu, to seal the minutes of the nonpublic session carried 3-1. Selectman Maddox voted in opposition.

Motion by Selectman Maddox, seconded by Selectman Massey, to extend the probationary period of Firefighter Ben Crane to August 10, 2009, as recommended by the Fire Chief, carried 4-0.

Motion to adjourn by Selectman Massey, seconded by Selectman Maddox at 8:15 p.m. carried 4-0.

B. Ordinance 09-01 Restricting use of Motorized Vehicles on Town-owned Property

Assistant Town Administrator Mark Pearson said tonight's draft includes all of the additional items the Selectmen requested at the last meeting--the fines or penalties section and some language changes that were recommended. If the Board concurs, they can move forward with holding two public hearings on this. Selectman Massey said this now includes all of the issues he was concerned with.

Selectman Jasper said it almost seemed silly, but the roads are owned by the town. It may go without saying, but this does not apply to town-accepted streets. This ordinance prohibits any motorized vehicle on town land. Streets are town land. He was carrying this to an extreme, but blamed his legislative training. It's the law of unintended consequences. Strictly reading this, it says they can't operate motor vehicles on town roads.

Selectman Massey referred to regulated activities, and asked if it sufficed to say, "shall operate a non-registered?" Selectman Jasper said no, they didn't want someone to drive a registered pickup truck all over town land.

Mr. Malizia suggested adding a sentence to Section 3, Definitions, sub-paragraph c, that says, "Town-accepted streets are exempt from this ordinance." He thought that would cover it.

Mr. Pearson said that Selectman Jasper raised a point that was silent in the ordinance, and he didn't know how to respond to that, if someone should challenge it. He went to the definitions in the book, under the OHRV section and drafted some of their language to incorporate into the ordinance. It's really talking about the restricted operation on town-owned land. There are probably a lot of conflicting statutes in the law. It goes without saying that town roads are regulated by another RSA.

Selectman Massey referred to Definitions and suggested adding to A, in front of the word "wheel," the term, "OHRV." Selectman Maddox said then someone could drive their registered vehicle on fields. Selectman Massey referred to Regulated Activities and suggested excluding "town-accepted streets," and include "state highway accepted," too.

They would catch those unregistered vehicles, if they were on the street. Selectman Maddox said many streets in town are not accepted. Selectman Jasper said then they are not owned by the town. Selectman Maddox said they are—Claveau Landing is part of the town, but it's not maintained as an approved roadway. Rather than trying to wordsmith this, the writer of this ordinance knows the Board's concerns, so when it comes back for the first public hearing, it will be addressed.

Selectman Coutu said if they're going to add some sort of a proviso to protect them from challenge on town-owned roads, or accepted roads, it would fall under Section VII, Validity, where they would add Section C, that all RSA's pertaining to motor vehicle code would be applicable, or whatever language is used, but that would probably be the best place to make an exemption on this ordinance applying to motor vehicles on accepted roads. Selectman Massey said there was no sense of urgency on this, so it would be better to refer it back to the Assistant Town Administrator, rather than set a public hearing now; they should wait until they see the language. Selectman Maddox said they public hearings are scheduled for April 14 and 28, so they've got all of March to wordsmith this.

Mr. Pearson said he would rework it so it would be clear, and bring it back.

Motion by Selectman Massey, seconded by Selectman Jasper, to forward Ordinance 09-01 to public hearings on April 14 and April 28, 2009, carried 5-0.

C. Capital Improvement Program

Town Administrator Steve Malizia said at the last meeting, the Board requested a legal opinion regarding the CIP. The opinion from Atty. Buckley states that while they don't strictly have to do a CIP every year, he recommended that they do, so as not to put any of the other plans in jeopardy, such as the Development of Municipal Services. They don't have to do a full blown CIP, but he recommends taking a look at it.

Selectman Jasper said his original thought was to do a plan every three years, so they would have a plan in place. The attorney never gets at the answer if a three or five year plan is acceptable.

Selectman Maddox said Hudson stepped away from its growth management because the growth hasn't been there. He was wondering if he still believes they are in that mode and this has to be there to tie to it. Further research needs to be done. The Planning Board recently said they were going to put it into hiatus because they've not hit it in three years and the article said that after three years, the Board may... and they put it out for five years. They'd have to have three years of growth, so they put it out five years. He may not be aware of that and is tying this to the fact he still believes they have growth management.

Mr. Malizia asked if they'd like another opinion that takes into account they've moved away from growth management. Selectman Massey said yes, plus Selectman Jasper's question, "Do you have to prepare physically a new one each year, or can you have a multi-year plan that you re-ratify every year?"

Selectman Jasper thought this whole Capital Improvement Plan was totally the bailiwick of the Planning Board. He didn't think the Board of Selectmen had a role in it, so he's not sure why they are dealing with this. It's the job of the Planning Board and he was suggesting they ask them to look at alternatives. Selectman Maddox said the Board of Selectmen was involved because the department heads are going there and if they decide this is something that needs to be fixed, they may not send them. Rather than doing that to the Planning Board, they wanted to have some facts before the liaison said something to the Planning Board, rather than having them go off and do it. He suggested tabling this to another evening, but not to a date specific because CIP didn't start until May.

Selectman Massey said it starts in March, recalling that the Budget Committee was always concerned that they couldn't attend the first meeting because it occurred before they had their March meeting and they wouldn't know who the representative from the Budget Committee would be. They need to look at this sooner rather than later, depending on the additional information they get from the attorney.

Mr. Pearson said, as a peripheral issue, he went over this with the Planning Director, who brought him up to speed on it. Staff is ready to move forward, should the Board decide to do that. They don't feel that it would be cumbersome to put out to the department heads the opportunity to put things forward for rating. Staff has done this for a few years and informed him they have it all down pretty well.

At some point in the near future when they are doing a study to tie in some impact fees, both the school and other impact fees, the CIP will probably be helpful with the research that needs to be done by the two consultants, so it may be relevant to studies in the near future that will be conducted to update the information that the boards rely on for impact fees. The last study was done in 2000. He wanted the Board to be aware of this instead of waiting till they are in the middle of a study on impact fees, and find they really need an updated CIP in order to give accurate feedback.

Selectman Massey said the CIP program assumes that everything in the town is going to be in one single priority list and he contends that the water utility capital improvements and the sewer utility capital improvements should not be lumped together with town capital improvements because they don't get paid for out of the same pot of money, and they should each have their own set of priorities. There needs to be three separate priority lists. Secondly,

Department heads should be coming to the Board of Selectmen first, so by the time they get to the CIP, they have the gravitas of reality. The Board of Selectmen ultimately makes the decision of what projects go forward. The first time they hear about some of these projects are after they are vetted before the CIP.

Selectman Jasper said the minutes would indicate they did instruct the department heads to come before the Board before they went to the CIP with any projects so they could take any off the table. He didn't know how well that has been done, but they had been doing that in the past.

Selectman Coutu asked if they were going to get a legal opinion, based on the questions that have been raised. Mr. Malizia said that's what he wrote down.

7. **NEW BUSINESS**

A. **Request by Police Department to hold semi-annual Blood Drive on September 22, 2009, at the Hudson Community Center**

Motion by Selectman Jasper, seconded by Selectman Maddox, to approve, carried 5-0.

B. **Request by Police Department to apply for a grant with the State of New Hampshire Department of Homeland Security for funds to enhance the Police Department's investigative capabilities.**

Police Chief Jason Lavoie was seeking Board authorization to start preparing for this grant, which isn't available just yet, but will be within the next month or two, through Homeland Security. They will be seeking approximately \$77,000 to help them deal with computer-related crimes. Homeland Security will be putting out \$1.6 billion, allocated to various states, with each state receiving roughly \$215 million, with 80% of those monies going to local law enforcement projects. One of the issues they have is computer forensics, recovering information of evidentiary value that they can utilize in order to combat crime or to prove their cases. Currently, they are using a laptop computer. They'd be able to take a look at the current folders. Now, they don't have the ability to retrieve information that has been deleted, nor the ability to crack a password if something is being protected. The computer software involved with this would allow them to do that. The grant includes the training for this, the equipment and the software. They started doing forensic recovery last March, 2008, and in that time, they had 43 cases to do; 43 hard drives had to be examined. They've already lost a couple of cases because they were not able to get information back from the state. They've had hard drives at the state since 2006, and cases have been dismissed because the hard drives haven't been analyzed. This is very serious. There was an incident in town with an employee at the Middle School, who was alleged to have done some things with his computer from the Middle School, but they still do not have the full detailed evidence from that case, either. By obtaining this equipment, they'd be able to do that themselves and it would also allow the officers to testify that they have the ability, knowledge and skills to obtain this information. From the computer end, the grant would be about \$50,000. They will then look for an additional \$26,000 in equipment and training, etc. That would be to enhance digital video surveillance films. A couple incidents are Ayotte's smash and grab and Roger's Variety Store in the south end and, in the past, they've had to take the video surveillance and send it out to have it enhanced. This equipment would allow them to enhance the video and allow them to blow up the image, without distorting the pixels. It would just be magnified, so they could see the picture better. They would use these tools to help them solve cases. It will take some time and work on the Police Department's part to prepare this grant so when it does become available, he will have the Board's approval to go forward with it. If they don't apply for the grant, they will be requesting some of these items in next year's budget.

Chairman Nadeau asked if they could go for anything else that the department doesn't have. Capt. Lavoie said they are waiting for the written grant to see what was allowed. They've just been prepped by the state that this was coming, with a target date of April. Pam Urban Morin from Concord will be overseeing this, but she doesn't have all of the particulars.

Selectman Jasper questioned the math—not the Chief's request or the amount, but if each state if getting \$215 million, that's way out of proportion. They should be applying for about \$400,000 on a per population basis. He can't believe that each state was going to get \$215 million. Chief Lavoie said 80% of that amount was being allocated towards law enforcement. Selectman Jasper said he still can't believe that New Hampshire and California are going to get the same amount of money. However, Congress is going lots and lots of crazy things. Chief Lavoie said he had the same thoughts, but he didn't have any additional formation yet.

Selectman Maddox asked if the Chief has checked to make sure the software was compatible with the town's system. Chief Lavoie said they'd be getting the computers, themselves. They won't run Microsoft Word, Excel, or anything like that. They will be a sterile lab, which makes their cases stronger when going into court. The only thing going through those computers is this type of information.

Selectman Massey said there were two cases that he was aware of, had the town had this capability, they could have prosecuted them much earlier in the cycle and it would have been a lot easier to identify the information that needed to be identified. In one instance, the state has so many requests from police departments, they are literally backlogged to such an extent that they can't rely on them for any reasonable amount of time to bring an investigation to closure. It's important to provide this to the Police Department.

Motion by Selectman Massey, seconded by Selectman Jasper, to authorize the Hudson Police Department to apply for a grant with the Department of Homeland Security for funds to enhance investigative capabilities within the Police Department when the funds become available, carried 5-0.

C. Senior Programs for the Summer

Selectman Massey said the Hudson Seniors have agreed to use the Oakwood Facility for the summer and Memorial School will be provided to the Seniors to allow them to use the school for line dancing and aerobics, if they so wished.

Motion by Selectman Massey, seconded by Selectman Coutu, for the Seniors to use the recreation building at Oakwood Street from Wednesday, June 24 through August 20, 2009, carried 5-0.

8. OTHER BUSINESS/REMARKS BY THE SELECTMEN

Selectman Coutu thanked the Chairman for filling in for him last Thursday at the Budget Committee meeting. He then expressed sincere appreciation to this outstanding community that he's spoken about in the past. Last week was a trying time for his wife and him, but they got through it. They appreciate all of the cards, sentiments of sympathy, the food and flowers that were sent to the funeral home and to their home. They had a house full of people, so the food came in handy. Many thanks for all that was done for them. They will always remember it. It just goes to show that Hudson is a great community.

Selectman Maddox said he wanted to talk about cable, completely independent from what the speaker brought up in Public Input. There is a significant amount of equipment in the new facility and he wondered what the security was for it, short of hiding the key under the rock by the door. He asked the Cable liaison to find out that information.

Selectman Coutu believed a security system has been installed, but he'll get the particulars. When they signed the lease, that was a priority—a security system that would monitor the facility for motion or break-in and the appropriate calls would be made so the police could get there as quickly as possible. He'll find out who they contracted with and what the service provides.

Selectman Jasper said the comments during Public Input were interesting. He had thought about the issue, but hadn't really looked into it in terms of what had gone on before the issue was caught. Now, they've been informed the invoices go back to September. They all bear some responsibility because they all sign the manifest, but most of them don't look into that level of detail, so he looked to the Chairman and Administrator to say "shame on the two of you." That calls into question the oversight that certain things receive and the Board needs to be more diligent in that. They had a plan that was approved and that plan was to equip the building and get it up and running, but it's quite clear that the Cable Committee was expected to come forward with a request for a certain number of hours. That was clear; it didn't leave any room for misunderstanding. The Board has been waiting for them to come forward to tell them what they anticipated doing and the number of hours to do it. He didn't think there was an issue that because they approved the plan for the facility that the hours had been increased. They had that discussion, it was in the plan, it was in the document, so he didn't see any fault lies with them for what happened.

Selectman Massey said his distinct recollection was that the request was, if they're asking for more hours for the facilitator, how that played with the fact they had been requested to create a new position called Senior Camera Operator, who was going to be responsible for scheduling and oversight of the camera operators, which was going to relieve the facilitator of those duties. The plan said, "tell us how those two positions are going to play out, given you told us that the Senior Camera Operator would be doing some of those duties to free up the facilitator." That's what they asked them to do; clarify what those two positions are doing. The original request was for 65 hours and the next time they saw it, it was for 85 hours. They haven't seen a plan yet that says how those two positions changed to a much larger scope than from the beginning.

Chairman Nadeau said he noticed it was over by four or five hours the first time, but that was when they were doing the negotiations for the new facility. The next month, it went up a little bit more, but they were still negotiating and the facilitator was doing more. When it went to a much larger number the last time, that's when he questioned it. A couple of hours here or there wasn't questioned, but when it went up by 20 hours, that's when he questioned it. Selectman Jasper said when something happens and you keep getting away with it, not that that was the intent here, but in general, you give a little bit, then a little bit, then it becomes more and then it becomes an issue. When you have a contract that says X number of hours, it doesn't matter if it's a half hour over. You get paid for what you contracted for, and that's what should have happened. When you try to be reasonable, it comes back to bite you. Over by a nickel, over by a dollar, the principle is the same.

Chairman Nadeau said it also says written permission by the Town Administrator was needed, but he didn't have that. Mr. Malizia said he signed them because the guy was within reason and he understood what he was doing, but he's gone up incrementally every month, and the latest was a big increment.

Selectman Maddox said a comment such as a breach of contract—maybe they all watch too much Perry Mason. They might have *implied* that both sides must stick to the contract. He didn't think they actually meant if they went over and were paid more, that would breach the contract. That was the intent of what they were looking for, so they probably did make that comment. He was still waiting for The Plan. He understands they are trying to get this off the ground and trying to be hands off, but they are talking about \$200,000 worth of equipment, salaries, whatever. They wouldn't let any department run with that and not be accountable. The Board supported the plan that said 45 hours. If they came back to justify why, they would have probably said more, but they haven't done that, so they've held them to what it says. They do support the facility. They were

hearing from citizens that it will become useful throughout Hudson, but they still need to manage this like every other department. Just because there are franchise fees doesn't make it immune from accountability. Shame on them for not looking at every angle and at every detail. The Cable Utility had some flexibility because they were starting this up, but now they have to be reined back in. He hasn't seen the new plan for the second phase of this when they open up the facility and how that's going to impact hours, etc. Hopefully, this discussion will move that forward.

Selectman Coutu said this is not a department, it's a facility being run by a 45-hour a month facilitator and a volunteer staff of appointed citizens who wanted to serve on the Cable Committee. He designed and forwarded to Mr. O'Keefe an outline for the detail that he thought would be expected by this Board, as a result of comments and concerns they've all raised about the facility, seeking justification for the changes they wanted to make. They are asking Mr. O'Keefe to spend a good eight, nine hours of time to write and edit this plan and bring it before the committee, and they might want to modify it and send it back. Mike O'Keefe volunteers a lot of his time as it is, and to sit down and commit from eight to 10 hours to draft the plan is asking a lot, but he realizes it has to be done and he is going to do it. Selectman Coutu offered to edit it and make sure some of the issues are addressed and they have clear, defined answers as to the two people they are paying in senior positions. With regard to the amount of hours, he agreed with Selectman Nadeau. Initially, the contract does say 45 hours and, at the time, the Facilitator was going around, looking at buildings, and wanted to enter into contract negotiations and if the hours exceeded by four or five hours, that was justifiable. It was the intent from the outset that if it could be justified, the Town Administrator would approve them, but then it got to the point where the Cable Committee realized that he would probably need more hours with the setup of the building, and the committee requested that he (Selectman Coutu) make a formal presentation to the Board of Selectmen, requesting that his hours be increased to 65. On the evening he was going to make a presentation, he received an e-mail from the Facilitator that afternoon, requesting 80 hours, which was not what the committee had recommended. That's when the problems began. Apparently, the Facilitator felt that he was just going to put in whatever amount of time he felt was necessary to get the job done. There was nothing that could justify the amount of hours he was charging—who he was speaking to and for what length of time. Then the Board handed down a mandate that he was not to exceed the 45 hours. Last month, at mid month, he was almost at his 45 hours and the Town Administrator told him to cease and desist. He doesn't know what January's invoice looks like. Mr. Malizia said 82.

Selectman Coutu said if he's told not to work beyond 45 hours, and he does, then he's assuming the responsibility to anything in excess of 45. There is a clear mandate until the plan comes in and that's where it stands. When they see a plan, they will take it from there, but they all concurred they aren't going to be able to run the facility on just 45 hours a month; they've agreed with that, so he didn't see the problem. They are willing to move forward, but they want to have something tangible in hand that documents the reasoning why. It's there. It's just a matter of getting it down on paper.

Selectman Massey said he has not agreed to a number of hours because they were told that the Facilitator would have time to do all these things because they were going to create this new position called a Senior Camera Operator. In the absence of any plan, he is not concurring that more than 45 hours is enough because he doesn't know. Selectman Maddox concurred with Selectman Massey. He has not said if the facility opens up, it can go to 80. Is it being used three hours a week or 30? Simply saying it's open doesn't automatically double the amount of hours.

► Selectman Maddox said he keeps hearing people still not having certificates of occupancy. At five years on the Board, he's surprised they still exist—or temporary CO's that just go on forever. Before he goes to the Community Development Department to ask them to clarify how many there may be, if the monies have been paid and the CO's issued, he wanted to get a sense of the Board. Since it is slow in Community Development because of the building hiatus, maybe this is the time to go back and find out if this is just lower or actual, and to try to come up with numbers.

Selectman Massey said it's important to look at least at the last two years. Depending on how much time it would take, they might look further back, depending on what they find. Selectman Jasper agreed. Tracking should be easy, if permits are issued and things are moving along, and then suddenly, there's no certificate of occupancy. There ought to be a follow up mechanism to see if that structure is, in fact, being occupied. If they just assume they stopped and don't do anything and it goes on and on, they have a problem, as apparently is the case here. It's something that should be looked at and they should figure out how they can better track it and have some triggers in place to make sure there is follow up, even if no one requests a CO, go out and see if the dwelling or structure is occupied.

Selectman Massey recalled two years ago on James Way, the banks were not going to give mortgages without a CO, so if they wind up with people occupying buildings and they have mortgages, how did they get it without a CO and asked if the Assistant Town Administrator could shed some light on this. Mr. Pearson said in the last couple months since he's been here, they've been working from this point forward, and also backwards. The memo in question was the result of them performing their due diligence, working backwards with some prior issues before his time. They may see more correspondence on these issues because they are uncovering it and, in fact, that's how it came to light. He didn't know the details of the MuniSmart system relative to input and triggering a CO, if there's a module in there or some kind of report that can be printed out, but he can look into that. They are trying to expand their accountability in the Community Development Department, and that's why the Board is seeing more memos generated, and more activity. He's heading in that direction anyway, but he'll certainly follow through with whatever the Board decides. There's more than one party responsible. Somebody bills, then somebody pays and that pattern never should have been allowed to go on, but it's easy enough to miss.

Selectman Jasper said the Board has some potential hirings tonight and if there is to be any discussion on whether or not it's prudent to actually fill a position, that discussion should take place in open session because it's not about an individual. If

anyone is of that mind, before they take the motion to go into nonpublic, they should have that discussion. Selectman Massey agreed that authorization to hire is not a nonpublic item. However, because the hiring of officers stems from the promotions that they will be dealing with and it makes sense to do the hiring after they do the promotions, they would have to come out of public and deal with it. Selectman Jasper said if they do the promotion, they don't necessarily have to do the hiring. If they don't do the promotions, there's one less hiring to do. His concern is that it ought to be on camera, with everybody seeing where the Board is coming from, not sending the camera people home, going into nonpublic and then coming back out with nobody watching.

The consensus of the Board was to ask the cable camera operator to stay.

►Selectman Jasper thanked the Junior Woman's Club for Candidates Night last week. He encouraged anyone who hasn't viewed it on cable, to do so. It's also available on the Internet. The opening comments by the candidates for Selectmen were particularly insightful. Everyone should have the opportunity to view those who are running for the Board of Selectmen.

►The Benson's Committee was meeting the same night as Candidates Night and asked the Chairman to reschedule the meeting, but that request was declined. He then requested that there be another meeting scheduled shortly thereafter, but that wasn't done, either. The next one is for March 17. He is obviously disappointed that there is a month between meetings. Without him there, he didn't know what the conversation was, but it certainly wasn't relative to what the Board discussed. He wondered if the Board wanted to cease and desist the Benson's Committee till they reformulate it, which might be the appropriate thing to do. There may not be much sense in continuing with a committee whose charge has ended. He didn't know where the Board wanted to go on this. He had requested meeting a little sooner than March 17 because he hoped the committee would work with him on a plan to come back to the Board for the subcommittees and have a whole package together, but that request was not granted. It's unfortunate they have to wait that much longer.

►Selectman Jasper said he wanted to comment on an anonymous letter that was addressed to him, but copied to the Board. People often sign such letters as, "a very concerned taxpayer." If people are sincere about their concerns, they have to take the responsibility to sign their name to give the Board the opportunity to call them and talk with them to find out the specifics. There are allegations of things that can't be confirmed—dates, etc.—so it's not helpful to write anonymously. Nobody will go after anyone for criticizing people about various departments, but if they want the Board to fix things, they have to have a discussion with the complainant. The most recent letter that came in, talking about the Highway Department, was not the least bit helpful because he has no ability to respond to it.

Selectman Nadeau said the Budget Committee would like the Selectmen to look into moving Town Meeting to April so they have more time to go over the budgets. He asked Selectman Jasper if that could be done. Selectman Jasper believed the elections are actually in May. They've had these general discussions in the past, and the feeling has always been that by May, people are busy doing a lot of other things. The School Board and Board of Selectmen have done a good job on budgets. The Budget Committee has been looking at the budgets very thoroughly and didn't cut either budget, so it's counter-intuitive to say they need more time when they are reviewing them pretty thoroughly. This is the same schedule they've been on for the years they've had the Budget Committee, so he's disinclined to change this to May. The last thing he wants is to stretch out the budget process for months and months and try to get people to come to a Saturday town meeting, and then set up a whole different Tuesday. What they've been doing works well.

Selectman Maddox said that wouldn't give the Budget Committee more time, it would just be shifting to a later date. The 20 meetings between the school and the town would just be moved up closer to May. This wouldn't get them anything. Selectman Jasper said this is the first time he's heard they want more time to review the budgets. In the past, the reason was to move the meeting dates away from the holidays. Selectman Massey said it would require a vote of the town to change; the Selectmen can't arbitrarily change it. It's a ballot issue, but it doesn't change the dynamics; it only puts it in a different time frame.

Chairman Nadeau said the other thing the Budget Committee brought up was how staff gave them what they wanted and how they get it. KC is working on that, the way they want their digital format or different things that they want can't be done certain ways for the town's budget. The School District does theirs a different way and they can do it on the computer, so they are going to try to work that out and see how they can do the budgets. The school does theirs in a format where they go on to the computer and move stuff around, but with MuniSmart, you can't do that.

9. **NONPUBLIC SESSION**

Motion by Selectman Massey, 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, unless the employee affected has a right to a meeting and requests that the meeting be open, in which case the request shall be granted; (b) The hiring of any person as a public employee; and (c) Matters which, if discussed in public, likely would affect adversely the reputation of any person, other than a member of the body or agency itself, unless such person requests an open meeting, carried 5-0 by roll call vote.

Chairman Nadeau stated that Nonpublic Session was being entered at 8:30 p.m. Open session was entered into at 9:48 p.m.

Selectman Maddox said they have two empty positions and wondered if it was prudent to leave those positions vacant for some amount of time. Selectman Jasper said in terms of the promotions, not making them makes very little economic

difference because they are only talking the delta between the positions they are now in and their new positions, so because there are already people in positions, they are really only saving a very small amount of money. They should make the promotions and then decide if they want to fill the vacancies at the bottom because they will save money by not hiring the patrol officers. Ultimately, they have three vacancies and they can fill them without making any promotions. The discussion needs to be about filling the vacancies at the bottom. Particularly with this economy, they are seeing more instances of crime in town, and they will undoubtedly see more, so there will be a need for police officers on the streets, as the economy gets tougher. In terms of the tax rate, the budget is in place for 2010. The question is if they get the default budget or the budget that has been approved at district meeting. However, in all likelihood, they'd still be able to manage the promotions. If the Board is of a mind not to do anything, he'd recommend that they not hire, perhaps, one of the patrol officers. He wouldn't support that motion at this time because he didn't think it was warranted, but that should be the first discussion.

Selectman Massey agreed. This is not the time to cut the force. The officers on the promotion steps are already here and the amount of money they are talking about is short money. If they were going to cut, he'd prefer that it be at the bottom. The money is in the budget for Fiscal10, so the tax rate won't change. It's hard to explain you've not hired somebody, but haven't changed the tax rate. The only practical way to make that happen is not have the position for Fiscal 2010, nor for Fiscal 2011. That's the only way somebody would see a difference in their tax rate. The budgets are done nine months before the start of the cycle. He's in favor of moving forward with the promotions and if they want to discuss the others at the end, but he wouldn't be prepared to make that motion.

Selectman Maddox said they had said they would look at any open positions before they filled them. He wondered, if they promote a Captain tonight, if that person could handle the Information Manager's duties for the next six months, since it has been vacant for a year and a half. He asked the Town Administrator where they were with the Police Department budget. Mr. Malizia said, in general, it was in pretty decent shape. He wasn't aware that they were looking at being over by the end of the year. FEMA reimbursement is coming back and they have to look at seeking reimbursement from the Trustees for Chief Gendron's retirement, or decide if they will absorb it in the budget. On March 9, they will review the budget to actuals.

Selectman Jasper asked Chief Lavoie if he could answer the question relative to the ability of his department to continue to absorb the responsibilities of the Information Manager within the command structure, and the consequences, should that position not be filled at this time. Chief Lavoie said one of the problems of not having this position is lack of continuity. All of the dispatchers have their own shift supervisor, a Lieutenant or a Sergeant, and they all rotate positions every six months. If a late night dispatcher, who is not as trained in the record keeping process, has a question on how a call should be answered or logged or how the information needs to be collected, the answer may not be consistent from one shift to another. When that information is reported, it may be a little bit off. They are lacking direct supervision in Records by someone very well versed in the Right to Know law. They are also seeing information being disseminated that shouldn't have been. When someone comes into the lobby with questions, the Information Manager should be able to answer a lot of them, without having to pull a Captain away from his duties. They have been doing it, and will continue to do so, but it's not the best situation and it hasn't been easy.

Selectman Jasper said he wanted to talk to the Board about the fiscal reality from the state. While he didn't think what the Governor was proposing was going to happen, but if it does, the reality for Hudson is losing all of its revenue sharing, rooms and meals, which is \$1.25 million to the town. The Governor is telling everyone not to worry, they will make everyone whole because the amount of money he was cutting goes into education, but he's not telling them that Hudson won't get \$1.25 million back on the education side, it's about \$1 million, so Hudson will be shorted about a quarter of a million dollars, roughly 10¢ on the tax rate this year and probably every year going forward, under his formula. That's not too bad for the taxpayer in general, but for the town, that's a loss of \$1.2 million. They can go to DRA and say they'll up the taxes and take the hit again and everyone can vote down the school budget and vote out the Selectmen, but they are looking at a potential loss. As they move forward, the budget will be set on the 10th with the revenues and everything else, and when they go to DRA in October, the only thing they can do to offset that is take more from surplus, but they've already run the surplus down to the limit. While they will probably need to do that, they need to try to build the surplus back up during the fiscal year. Until they know what the Legislature is going to do, it would probably be prudent for them to do two things right now, temporarily--not hire the Information Manager and leave the third vacancy on patrol open until they know what's going to happen. If things wash out and the Legislature does what it should, and hold the towns harmless, if they end up where they think they should from a revenue standpoint, then they can move forward.

Selectman Massey said he wouldn't be in favor of that, not because he didn't understand what Selectman Jasper said, but whether they hire or not hire these positions, the money is already in the budget that the town is going to vote on, so they won't change the tax rate starting in July and the only way to make people know they did something is to make the commitment, after the elections, to not filling those positions for the following year. That might make them feel good, but they haven't accomplished what they are trying to do, which is to manage the tax rate.

Selectman Jasper agreed, but if they were to move forward with the hiring, they can't have a vacancy in 2011. His intent, right now, is to hold that as an option. He disagreed with Selectman Massey in terms of 2010. The tax rate for the budget they adopt on March 10 will be set in October, and if the Board takes a number of actions between now and then, and if certain things happen at the state level affecting the revenues, they can take money from surplus and offset the tax rate, but then through these steps, they can replenish some of that surplus so they stay within range. That's the responsible thing to do because if they just move forward like everything was going to be alright, they've made the crisis worse in the long run. His hope is they will be able to fill two vacancies because the revenues will stabilize. He's hopeful they will have a better idea in April and fill these. If they do these tonight, he hopes the Board will move forward with the rest of the hirings.

Selectman Coutu asked if they've already advertised for April testing for the new recruits. Chief Lavoie said yes, which is good for a year. Mr. Malizia asked, once a pool of candidates are tested, how long it was before they were eligible for hire. Chief Lavoie said six months was the optimal amount of time. Mr. Malizia said even if they are testing, they are not committing to anything. Chairman Nadeau added that if a retirement occurred mid-year, they've already conducted a testing, so they are ahead of the game.

Motion by Selectman Jasper, seconded by Selectman Maddox, to not authorize the posting of an Information Manager's position and not authorize the posting for the third vacant patrol position at this time, carried 4-1. Selectman Massey voted in opposition.

Motion by Selectman Jasper, seconded by Selectman Massey, to fill the vacant position of Captain this evening carried 5-0.

Motion by Selectman Jasper to proceed with the other promotions that are on the nonpublic agenda. Selectman Massey didn't think that motion could be made until the Captain's position was filled because no vacancies exist until that time. Selectman Jasper said they've already had their debate, so they didn't need to do that in public. They came out of nonpublic to talk about the positions. Now they've settled the issue of moving forward, so they are done with public discussion.

Motion by Selectman Massey, seconded by Selectman Maddox, 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, unless the employee affected has a right to a meeting and requests that the meeting be open, in which case the request shall be granted; (b) The hiring of any person as a public employee, carried 5-0 by roll call vote.

Nonpublic Session was entered into at 10:15 p.m. Any votes taken upon entering open session will be listed on the Board's next agenda. Open session was entered at 10:24 p.m.

10. **ADJOURNMENT**

Motion by Selectman Massey, seconded by Selectman Jasper, to adjourn at 10:25 p.m., carried 5-0.

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

HUDSON BOARD OF SELECTMEN

Benjamin J. Nadeau, Chairman

Richard J. Maddox, Vice-Chairman

Shawn N. Jasper, Selectman

Kenneth J. Massey, Selectman

Roger E. Coutu, Selectman