

HUDSON, NH BOARD OF SELECTMEN
Minutes of the Workshop Meeting of February 3, 2009

1. **CALL TO ORDER** by Chairman Nadeau at 7:00 in the Selectmen's Meeting Room at Town Hall.

2. **PLEDGE OF ALLEGIANCE** was led by Bob Iannaco.

3. **ATTENDANCE**

Selectmen: Ben Nadeau, Rick Maddox, Shawn Jasper, Ken Massey (arrived at 7:20) and Roger Coutu

Staff/Others: Steve Malizia, Town Administrator; Mark Pearson, Assistant Town Administrator; Recreation Committee Members Keith Bowen and Bob Iannaco

4. **DISCUSSION ITEMS**

A. **Budget to Actuals**

Town Administrator Steve Malizia said they are 58% through the year. The reimbursement from FEMA for the ice storm was not included yet, but it is expected before the end of the fiscal year. There were about \$175,000 of expenses of which they can expect 75% reimbursement. That money will go back into the accounts from which it was expended—Police, Fire and predominantly, Highway.

He suggested moving the Budget to Actuals to the Board's first regular meeting of the month instead of reviewing them at the workshop so they will all have time to look at the document.

Motion by Selectman Jasper, seconded by Selectman Coutu, that henceforth, the review of the Budget to Actuals Summary be done at the first regular meeting of the month, carried 4-0.

Selectman Maddox asked to have information on where the reimbursement would hit and where they should be. Mr. Malizia said he's asked the Road Agent for the breakdown. Mr. Malizia said at the last meeting, they talked about automobile registrations and Planning Board fees.

Relative to Planning Board fees, there was a miscommunication when they went from the VAX to MuniSmart, which has been corrected so now the monies are going into the appropriate account. They are about at \$11,000 out of a \$25,000 budget, through December. The number is not zero; there is actually Planning Board revenue.

Mr. Malizia said the motor vehicle report was generated through December and, according to the data, last year they collected about 44.6% in the first half of the fiscal year and this year, they are at 43.9%, so they are within the same range. He could update this every month, if the Board wanted. He does not have any reason to believe it won't be the same for the second half of the year. Selectman Maddox said they budgeted for \$4.2 million. Last year they were down \$267,000 so they will probably be down closer to \$300,000 from what they budgeted. Mr. Malizia said that was quite possible. They've all seen the data out there. From what he's seen, the second half is better than the first half. Selectman Maddox asked what they budgeted for income for 2010. Mr. Malizia said it's certainly not more than the \$4.2 million, but he'd have to look to see what the number was.

B. **Recreation Committee By-laws**

Recreation Committee members Bob Iannaco and Keith Bowen were recognized, saying the Recreation Committee developed these bylaws over the past few committee meetings. Selectman Coutu stated the bylaws have been vetted by the town's attorney, with minor changes to the language. A lot of time and effort was put into the development of the bylaws and he expressed his appreciation to the committee members for their work.

Motion by Selectman Coutu, seconded by Selectman Maddox, to approve the Recreation Committee By-laws that were adopted by the Recreation Committee on January 8, 2009.

Selectman Maddox said the membership in the Town Code states five, but the bylaws state the committee consists of "no less than" seven, with one alternate, so that has to be changed in the Code. He questioned that wording. Selectman Jasper was surprised that the attorney vetted this and allowed "no less than," in there because the implication is there may be more, but not how they get to more.

Motion by Selectman Jasper, seconded by Selectman Maddox to amend Section IV, Membership, A, by striking "no less than," carried 4-0.

Selectman Jasper asked if they have seven voting members now. He was told yes. Selectman Maddox said the Code states five members and no provision for an alternate. Selectman Jasper said this action should trigger the change in the Code. Selectman Maddox said the Rec Committee was the Executive Committee. One of the committee members stated that the purpose of that was that they intended to establish subcommittees, such as the Robinson Pond area. They were working off other bylaws and were open to any changes the Board wanted to make. Selectman Maddox said there were subcommittees of nearly all of the boards, but the main committee is not termed Executive Committee and he didn't see a good reason for it in this instance. Selectman Coutu said the question, which was still outstanding, was whether or not the Selectmen's liaison would be a voting member. As the current

liaison, he was restricted from making motions or voting on them, but when Selectman Nadeau was the liaison, he did. One of the committee members said it was going to be up to the Board of Selectmen to direct them in that area.

Selectman Jasper was not opposed for the liaison to be a voting member, but when he was on the committee, he did not vote. Referring to the last sentence in that paragraph, he said the wording was a little ambiguous.

Motion by Selectman Jasper, seconded by Selectman Coutu, to reword the last sentence to say, "A subcommittee shall have at least two members of the Executive Committee."

Selectman Nadeau asked if they should get rid of "Executive Committee." Selectman Jasper said no. He understood they may establish subcommittees and it may be a little clearer. Selectman Maddox said it was wasteful hyperbole to call the Recreation Committee the Executive Committee. The Planning Board didn't do that and they have subcommittees. Selectman Jasper said he didn't care and would be glad to change his motion depending on how the rest of the Board felt. The Board engaged in wordsmithing the motion. Selectman Massey said they were getting caught up in their underwear; it's a committee that can establish subcommittees. The Executive Committee language just introduces a whole train of thought and it should be stricken. It should just say, "the Committee may establish subcommittees." Selectman Jasper clarified that it should say, "The Committee may establish subcommittees for special events, special projects and other activities when it deems it necessary." He then went on to reword the last sentence to, "At least two members of any subcommittee shall be from the Committee." Selectman Coutu thought it should say, "The subcommittee shall have at least two members of the Recreation Committee." Selectman Jasper didn't think that flowed well. Discussion continued.

Selectman Jasper withdrew his motion; Selectman Coutu withdrew his second.

Motion by Selectman Jasper, seconded by Selectman Coutu, to change the wording to, "The Committee may establish subcommittees for special events, special projects and other activities when it deems it necessary. At least two members of any subcommittee shall be from the Committee," carried 5-0.

Selectman Maddox referred to Item B and asked if someone who wanted to apply to serve on the Recreation Committee had to apply to the Committee and not the Board of Selectmen. Selectman Jasper agreed the language was inappropriate and if they agreed to it here, they'd be setting a precedent for the rest of the town boards. They can choose their own subcommittees, but the applications for the committees need to come to the Board of Selectmen.

Motion by Selectman Jasper, seconded by Selectman Maddox, to remove Item B in its entirety, carried 5-0.

Motion by Selectman Massey, seconded by Selectman Jasper Maddox, to remove [renumbered] B 2, "Sitting of at least one subcommittee."

Selectman Massey said there may be only one subcommittee at some point, or not even any. Selectman Jasper tried to decide how to word it so that if there were subcommittees, members were required to serve on them. If they were saying there's got to be two members of a subcommittee, they don't want the same two members on four different subcommittees. Selectman Maddox asked how many subcommittees they have now. The members answered two; and what Selectman Jasper said was the intention. They didn't want the same people sitting on every subcommittee.

Selectman Jasper asked if this was an eight voting member committee—seven members and one voting Selectman liaison. Several people answered yes.

Selectman Jasper asked if the following language worked: Sitting on at least one subcommittee, as necessary. Someone indicated that no, it didn't. Selectman Massey said people sitting on this committee are there because they want to be actively involved. People were on this committee because they want to participate. Both the Conservation Commission and the Planning Board bylaws say the chairman may appoint people to subcommittees, and it has worked very well, without a requirement saying you have to be on a subcommittee.

Selectman Jasper withdrew his second. Selectman Maddox seconded it. Selectmen Massey and Maddox said they were making this too complicated. Discussion continued.

Vote: Motion carried 3-2. Opposed were Selectmen Jasper and Nadeau.

Selectman Coutu referred to renumbered Item D, Vacancies in mid-term, in order to be consistent with previously adopted items, #4 should read, "The Committee shall advertise via public notice," striking out, "and the Committee shall interview applicants." He would also eliminate #5, "The Committee will present the Board of Selectmen with a list of qualified candidates along with the Committee recommendation." The rest of the items would be renumbered accordingly. Selectman Jasper said this was a violation of Selectmen's policy; they determined the Board was going to handle appointments the same as every other committee.

Motion by Selectman Jasper, seconded by Selectman Massey, to [renumbered] D, to say, "Committee Vacancy in mid-term: when a Committee vacancy occurs and the member's term has not been completed, the Committee shall

notify the Board of Selectmen of the vacancy," carried 5-0. Selectman Massey asked if the intent was that the rest of that section [Items 1-7] be eliminated. Selectman Jasper said yes.

Selectman Massey referred to the deleted #B, saying it should say, "A term on the Committee shall be for three years," and then the staggered terms have to be identified. That should be identified in the bylaws. Selectman Jasper disagreed, saying this was an established committee and the terms were already staggered. Selectman Maddox said all of that was already in the Town Code. Selectman Jasper asked the Assistant TA to get a copy of the Town Code.

Relative to [renumbered] Item F, Selectman Jasper wondered how that would tie in because there is an Ethics Committee to deal with some of these things. He wondered if it should say, "After a public hearing and finding by the Ethics Committee, members and alternate members of the Recreation Committee may be removed by the Board of Selectmen upon findings of inefficiency, neglect of duty or malfeasance in office." That's the normal process. Mr. Malizia said if someone doesn't show up for four meetings in a row, that may be neglect of duty, but it wouldn't be an ethical issue. Selectman Maddox said they should just take out, "after public hearing," and then it would come to the Board the way it normally does.

Motion by Selectman Jasper, ~~seconded by Selectman Massey~~, seconded by Selectman Coutu, [to renumbered Item F], "Members and alternate members of the Recreation Committee may be removed by the Board of Selectmen upon written findings of inefficiency, neglect of duty or malfeasance in office."

Selectman Maddox said the Board should step back from this one and look at all the committees. These may not be the only reasons for removal, and they should be consistent with all of the boards. Selectman Jasper said the Recreation Committee was a little different than the Planning Board and ZBA because those are statutory committees, but the Rec Committee is a creation of the Board of Selectmen, similar to the Benson's Committee.

Selectman Jasper indicated he had the Code Book now and read, "There shall be a Recreation Commission consisting of five members and one alternate, appointed by the Board of Selectmen, for terms of three years. Such terms to be staggered. Vacancies shall be filled by appointment of the Board of Selectmen for the unexpired term." Selectman Massey said that takes care of his concern.

Selectman Massey removed his second from the motion, saying there were enough current methods for removing someone from office, such as the Ethics Committee. Mr. Malizia said if someone simply does not show up, that's not an ethics issue. (Talking over each other.) Selectman Massey said if someone misses five meetings in a year, or three consecutive meetings, they clearly are not interested in that committee. Selectman Jasper said that's neglect of duty. Selectman Massey said right now, the only way someone can be removed from office is if they don't show up and have no excuse. Selectman Jasper said the committee liaison can always come back to the Board with a justifiable reason to remove someone and the Board can take action, if they so choose. Selectman Massey said all of the other boards' bylaws say the committee may recommend to the Board of Selectmen removal for any member who is absent for three consecutive meetings. It doesn't say anywhere in those bylaws that the Board of Selectmen may unilaterally remove someone. The committee should be responsible enough to tell the Board of Selectmen that a member should or shouldn't be recommended for removal. It's not the liaison's task to do that.

Selectman Jasper said with the Budget Committee, it's three unexcused meetings under state statute. Someone on the Rec Committee could be a 10 year member and suddenly miss three or four meetings. Will they automatically remove that person? They should look at the length of time served, the commitment and reasons for missing meetings. He thinks that renumbered C is written is fine, but to have a much broader section to say members and alternate members of the Recreation Committee may be removed by the Board of Selectmen. That doesn't preclude the Recreation Committee from making a recommendation to the Board. They can wordsmith this to the point that they create a box they can't get out of. He didn't know what else there is. Inefficiency would probably be that they were all over the board, trying to get into the day to day operations and trying to tell the Rec Director what to do, or trying to run a program on their own. Neglect of duty, not coming to meetings and malfeasance is covered in the Code of Ethics, and there is a process for that. What else would they want to put in there?

Chairman Nadeau asked if [renumbered] Item F would stay as is. There was a discussion of who said what, etc. Selectman Coutu agreed with the motion that Selectman Maddox had removed his second from, so he seconded it.

Vote: Motion carried 3-1. Selectman Maddox voted in opposition.

Selectman Massey abstained, saying if a member has missed three consecutive members, for whatever reason, the committee sends a letter to the Board of Selectmen, recommending the person be removed. No other board has that language in their bylaws—inefficiency, neglect of duty or malfeasance in office, so he agreed with Selectman Maddox. If they are going to do anything, they should be consisted with all the boards. They are tying the Recreation Committee's hands by a lot of this language.

Selectman Jasper said the Recreation Committee brought their bylaws to the Board for review and comment and the Board is just removing the things that are the Board's prerogative. The Board has just maintained its domain—the appointment process. Also, the public hearing issue on F is not clear and it's not up to the Recreation Committee to

tell the Board of Selectmen how to run its business. If the Board wishes to, it can. It is STUPID for an appointing authority to have to wait for a committee for a committee it appoints to come back to it with a recommendation for someone's removal. If someone has neglected his duty or is guilty of malfeasance, the Board has the obligation to remove that member. To wait for a recommendation to do that from the committee is stupid. He apologized for his state of mind, saying he had a very long day.

Mr. Malizia said this was a committee that served predominantly the younger population, and the Board would be mortified if someone was convicted of a sexual, or some other, offense and they didn't have any way to remove them. They are probably better off having something in there that at least allows them to react to something like that. It may be a little different from a Planning Board or ZBA, only because they have a duty with the young population to make sure they are protected. Malfeasance would cover a situation like that, and at least the Board would have the ability to deal with that accordingly.

Selectman Massey said his point was that they were spending an awful lot of time on this, adding that he agreed with Selectman Jasper about things not ever being an issue on any other board. Selectman Jasper said this was the first time in his years in office that he's dealt with a committee's bylaws. He's never seen the Planning Board bylaws and they haven't approved them, nor the ZBA's. He didn't care what the committees adopt as their own rules because the Selectmen haven't had anything to do with them. Selectman Maddox said and this would probably be the last one.

Selectman Massey asked why they committee held their reorganization in June and not January. The members replied that they followed the school calendar, pretty much the way it has always been, so the continued with that.

Motion by Selectman Jasper, seconded by Selectman Massey, in Section V, Item 4, strike the word "Executive" carried 5-0. This was done to be consistent with earlier Board action.

Under Section VI, Item B, Selectman Maddox thought all of the meetings were held at the Rec Center. The members answered that sometimes they were held at the Community Center during the summer. Also, they may be using Town Hall because the suggested was made to televise their meetings.

Selectman Maddox thought Section VI, Item F should be stricken and asked the Board's parliamentarian for his opinion. Selectman Jasper agreed, saying moreover, the committee doesn't have the ability to amend the rules and procedures; that is only done by the Board of Selectmen.

Motion by Selectman Jasper, seconded by Selectman Maddox, to strike Item F and relettering the items accordingly carried 5-0.

Selectman Jasper referred to Section VI, I (renumbered as Item H) and didn't think everything listed under nonpublic session was appropriate. The committee does not hire or promote anyone, and the only item listed that was appropriate was item (c). The members indicated that including just (c) would work for them.

Motion by Selectman Jasper, seconded by Selectman Massey, to reword [relettered H], "The committee may move to enter into non-public session under RSA 91-A:3 (c), carried 5-0.

Relative to Section VII, Selectman Jasper said this allows the committee to amend the bylaws, and that wasn't appropriate.

Motion by Selectman Jasper, seconded by Selectman Maddox, to reword Section VII, Amendments, as "At least annually, or more often should the Committee consider it necessary, the Committee shall review these Rules of Procedure and recommend any amendments to the Board of Selectmen for adoption; Any recommendation of amendments shall be submitted in writing to the Recreation Committee and read into the minutes of the Committee at a regularly scheduled meeting."

Selectman Coutu said he was either hearing wrong or the Board was being inconsistent, if they don't do this for any other committee. Apparently, other committees must amend their own bylaws, since the Board never sees them. They're holding the Recreation Committee to a different standard and he asked why. Selectman Jasper explained that they were brought to the Board by the Rec Committee. He hasn't read any of the other committees' bylaws. This committee, unlike the Planning Board and ZBA, is not covered under state law; it's a creation of the Board of Selectmen. If they were a Recreation Commission, things would be different. Many of the things in the bylaws were not things the Recreation Committee had the power of their own volition to do. They can establish rules for their operation outside of the bylaws, he supposed, but if they are going to do it in the manner they are doing tonight, they do need the Board of Selectmen. He'd be glad to look at any of the other bylaws that have been adopted by other committees and see if they are inconsistent with state law and try to delegate powers that otherwise belong to the Board of Selectmen. Since the Recreation Committee asked to come to the Board of Selectmen, clearly they wanted the Board to vet these bylaws. They can't do that and then give them the power to amend their bylaws at a later date—or they could, but he didn't think that would be appropriate because they could put anything back in there. If a Board creates a committee, they have the duty and obligation to oversee all of those functions.

Selectman Maddox recommended that committee liaisons should check to see if their committees even have bylaws, and to review what is in there. If they say they can hire under 91-A, they can't, so the Board should look to see what they do have for bylaws, if anything. There could be some concerns, especially if they copied some someone else's bylaws, such as from the Planning Board. All of the bylaws should be looked at, at some point.

Selectman Jasper amended the second paragraph under that section to say, "Any recommendation of amendments shall be submitted in writing to the Recreation Committee and read into the minutes of the Committee at a regularly scheduled meeting." As the seconder, Selectman Maddox agreed to that wording.

Vote: Motion carried 5-0.

Selectman Maddox referred to Section III B asked if this happened now. The members said yes, the Director has been reviewing the financials with the committee. Selectman Maddox referred to renumbered and relettered Section IV B 3, "Representing fairly and honestly the interests of the Hudson Recreation Committee," but there are no definitions as to what "interests" are. He asked if they meant "purposes." Someone else suggested "programs." Selectman Coutu thought it was "intents." Selectman Jasper thought this should say, "Representing fairly and honestly the interests of the Town of Hudson," and the next one should say, "The commitment of time and effort to further the interests of the Hudson Recreation program." Selectman Maddox said "interests" should be "purposes," which is defined under Section II.

Motion by Selectman Jasper, seconded by Selectman Maddox, to change the wording to say, "Representing fairly and honestly the interests of the Town of Hudson," and "The commitment of time and effort to further the purposes of the Hudson Recreation program."

Selectman Coutu asked if the word "interest" in the first sentence should be changed, as well. Selectman Jasper said no, that it was in a different context.

Vote: Motion carried 5-0.

Vote on the main motion by Selectman Coutu, seconded by Selectman Maddox, to ~~approve~~ adopt, as amended, the Recreation Committee By-laws that were adopted by the Recreation Committee on January 8, 2009, carried 5-0.

C. Draft of Town Ordinance (OHRV's)

Chairman Nadeau asked if this covered all town property. Town Administrator Malizia said yes—Benson's, Musquash, Town Hall, fire stations, Robinson Pond—if the town owns it, it's covered. Mr. Pearson said the intent was to be all inclusive of all town-owned land. Selectman Massey said if the town adopts such an ordinance, it has much stronger enforcement mechanisms that just the state RSA's, in particular to the \$1,000 fine. He referred to the Definitions section and said they needed to add to, "which travel on one or more wheels," "or treads and/or runners." There are motorized vehicles that operate without wheels, like a snowmobile or a sled. He asked about the language in RSA 215-A:1, XIV and asked if the Board could add additional requirements. Mr. Pearson said this came from the definitions of the RSA, but they also have a definition in there that deals with snowmobiles, so that could be incorporated into this document. Mr. Pearson said he didn't want to include that because all that was mentioned that night was OHRVs and ATVs. Selectman Massey said what he mentioned that night was motorized vehicles, and snowmobiles would definitely have to be included.

Mr. Pearson said the problem with technology and time, they've seen the evolution of segues, so who knows what the future will bring. What came to mind to him was the motorized skateboards with a hand-held control; it has wheels and a motor. They can get crazy with their imagination on some of the contraptions they can come up with. Selectman Massey said the key is electrically operated and has wheels. If they add the definition of snowmobiles or generic treads and runners, then they capture the other types of vehicles that should be included in this. Mr. Pearson said this was just a draft, trying to stay within the parameters of the Board's motion last Tuesday. He didn't expect the Board to adopt this tonight; he expected feedback and he also touched base with the Chief of Police, who offered some comments that could probably improve it for the enforcement side. This is something to start from.

Selectman Jasper certainly wanted snowmobiles included. Any motorized vehicle on town property should be excluded, unless there is a designated trail area. Mr. Pearson said he researched the snowmobile issue in Hudson and asked questions of the people who enforce the OHRVs and they explained over the evolution of time, a lot of the snowmobile trails that were once here have gone away because of development. One of the issues he dealt with in his prior job was that snowmobiles have a different application than ATV's as they usually ride on top of ice or snow or hard packed trails. One of the reasons why the Board wanted an ordinance drawn up was to prevent the destruction of property and the erosion and driving through places people are not supposed to during the warm weather on wetlands, etc. Then there is the frozen side, which probably doesn't impact it. He didn't know the topography and geography of all of Hudson. He knew the town had bodies of water and, once they freeze, technically, people are allowed to ride snowmobiles on them. It's not considered town property if the body of water is so many acres. He didn't want to go down that road if it was going to start offending a group of people that go from Point A to Point B to get to the lakes or ponds, which wasn't the topic of discussion last Tuesday. He was very careful on not going there. He didn't know if it's an issue or not.

Chairman Nadeau said snowmobiles do just as much damage as OHRVs when the ground is not frozen, such as during the first snowfall. They destroy fields and vegetation, so they should be included in this. Mr. Pearson said they can just go to the appropriate section and use the state law definition, which is what they use to enforce it. He wanted the Board to realize this isn't a duplication of effort if they create a town ordinance for a town property. The OHRV laws can be enforced right now on private property, if they don't have permission. It's kind of a gray area to be enforced on town property. He's sure it can be enforced, but this really codifies it, clears it up and provides them with a mechanism to post, like with the basketball courts, which have established curfews. Posting signs will warn the public to let them know. By adopting a town ordinance, the fines that the Board establishes, which aren't in here, come back to the town, which provides a source of revenue.

He and the Chief talked about first, second and third offenses, and then they get into a whole different area. Is it a convicted offense or if a person is caught on Wednesday, again on Thursday and again on Friday, is that a subsequent offense or is it a conviction because, to compare with DWI laws, in order to be charged with a second DWI offense, you have to be convicted of the first. You could get a DWI on Wednesday, again on Thursday and it's not a second offense, because you weren't convicted of the first one. That's just a little nuance in the law.

Selectman Coutu said they were complicating the matter in terms of fines. A first offense is a first offense when you're speeding, and the second offense is the next time you get caught speeding. You could have 20 speeding tickets and don't have to be convicted of the first to get the next 19. If a person is caught on one day violating the ordinance, he should be subjected to whatever the fines are they impose and if he gets caught the second day, he's going to be subjected to whatever fines is imposed for a second violation. He didn't like the term that this is a revenue-generating ordinance. That's not the purpose of the ordinance, which is to protect the town's land. He didn't want the citizens of Hudson to think they were creating laws to try to catch people so they can raise revenue. He didn't like that being said and he wasn't going to be a party to that kind of language.

Selectman Massey said he is the one who wanted this drafted because Benson's deed from the state explicitly says no motorized vehicles will be permitted, and there were some exceptions. The fact that it includes all town property makes it easier. The language under the Penalties section was difficult for him to understand. Using the language he was used to, if you get stopped for a speeding violation, that's a citation, and the citation gets disposed of in court. If you are in violation of the town zoning or site plan regulations and you get a citation, that carries with it a fine and in the case of the zoning and site plan regulations, you could legally issue a citation every day that the violation occurs. In practice, the judges look only at the first one and say you gotta give the person time to clear up the problem. The penalty either has to be explicit. If it says, "shall not exceed," that leaves all kinds of openings. He could argue in court it should only be \$1. Unless there is some specific RSA language, the language in this ordinance should cite what the penalties are for violation.

Selectman Jasper agreed with Selectman Massey. They have to set up a fine schedule. It's not a revenue raiser, but it will certainly offset some of the costs the taxpayers will have to incur in catching some of these people. During snowstorms, Old Derry Road is the new snowmobile trail; they go up and down Old Derry Road all night long during snowstorms now. Selectman Coutu said that was a policing matter.

Selectman Maddox said they were looking to prevent damage to town property, not just passing through, so it would be during times there is insufficient snow cover. Maybe that's something they could take a look at. What he'd like to see under the penalties was to add "D," It would be the policy of the town to put such fines into a fund for repairs or whatever of conservation land." It wouldn't be the Police Department getting the money, but the town to be used to offset the repairs and cover it that way. Mr. Pearson said all town ordinances come back to the town. It's the function of an ordinance. The revenue doesn't go to the state. He was just making a point that the revenue can be used to offset the cost to enforce it. If there is an ordinance that deals with littering, they'd have the ability to fine someone. You bring the revenue back because you have to clean up the mess from the litter. You probably don't get back in fines what it costs to clean it up, so it's not the revenue-generating that was the intent. It's that the other option is to enforce the OHRVs under the state law, it goes to court and that money goes to the state. It's a simple as that.

The snow cover issue is a little difficult to do. Are they going to write in that there has to be 12" of snow on the ground before going on certain town property? There are snowmobile trails that are steep in some areas and with multiple snowmobiles going over it, there is no longer 12" covering. It could get down to dirt, and the snowmobiles turn up the dirt. They either have to say yes or no. They can't say it's OK only on the second Wednesday of April to do it. Snow coverage is going to vary. It may blow right off in one area and be two feet in another area, and who is going to determine this. It's got to be yes or no, and his answer is no. It's not fair to give one class of recreational users permission to do something that another class isn't. If you're on foot or a bicycle, it's OK. If you're on a motorize vehicle, you can't. End of discussion.

Selectman Massey referred to Enforcement and said it should say, "...shall be enforceable by the Hudson Police Department which is..." They should come up with an explicit fine structure. For this purpose, it would be appropriate to put under Penalties, D, that the monies so collected shall be used to repair, etc. Selectman Jasper said that doesn't belong in the ordinance; that's a separate town policy... (talking over each other)... Selectman Massey said B covers it, anyway. He said that was it, the fee structure, along with the grammatical change. Selectman Jasper said

along with the snowmobile and make sure to capture all motorized vehicles. Selectman Massey said if the change is made in the definitions, it has to be changed under regulated activities.

Selectman Maddox said B refers to seeking restitution. If there is a fine, it doesn't say where it's going. Selectman Jasper said that doesn't belong in the ordinance. Selectman Maddox thought the amount of the fine should be in this section. Selectman Massey said fines would be there.

Selectman Coutu said his understanding was that the town could seek restitution for damages in lieu of the fine. It could be a negotiated plea. He asked the Assistant Town Administrator if that was correct. Mr. Pearson said that was correct. Expanding on that, he said sometimes you have to think of the worst-case scenario where there's a lot of damage and a \$100 fine is probably not appropriate. When you put a dollar amount to the damage that was caused, it gives them the avenue to get restitution. That's not designed to be a penalty; that's designed to cover the cost. If someone tore up a ball field with a dirt bike, it could cost thousands of dollars to repair the damage. If someone was to walk away with a fine of \$100, it still would cost \$2,000 to repair it. There are provisions on the statutes that deals with criminal mischief, where if juveniles that commit criminal mischief, the parents can actually be responsible for them. If someone tears up a lawn or ball field with a motorized vehicle, ultimately, you can go after the parents for restitution. There are restitution provisions in the statute.

Selectman Massey said under Effective Date/Amendments, the Town Code already talks about the power to amend. All this has to say is the effective date of the ordinance, and to do an ordinance, they have to have two public hearings, anyway. Mr. Malizia said the Board has the ability to amend ordinances, as authorized by Town Meeting.

Mr. Malizia asked if the Board wanted to discuss fines, if they wanted a sliding scale--\$100 first offense, \$200 for the second, \$1,000 for the third? Selectman Jasper said yes, third and subsequent offenses, \$1,000; \$100, \$250 then right to \$1,000. Selectman Coutu agreed. Mr. Pearson suggested coming back with a couple of proposals. He'll check other ordinances to see what the fines are and will give them the melted down version of what they have for different things. Selectman Massey suggested checking with other cities and towns to find out what their fee structures are. Mr. Malizia said it can't be more than \$1,000. Selectman Massey said the Conservation Commission is in favor of \$1,000 for a first occurrence because there has been a lot of damage done to Musquash and the Town Forest, and that would make it harder for people to ignore the ordinance. However, they need to look at what other towns are doing and adopt a similar policy.

Chairman Nadeau agreed, to look at what other towns were doing, and they could go from there. Selectman Coutu also suggested that Mark look at NH Fish and Game for their regulations because they patrol the snowmobile trails that are approved by the state and they have a fine structure. Mr. Pearson knew they were looking at the global picture of Hudson, but if it's private property, such as the power lines, this would not apply. That's a whole nother issue that can only be enforced only state law, as they are currently doing. Selectman Massey said the town has directed patrols that work in conjunction with Fish and Game in the summertime.

5. OTHER BUSINESS/REMARKS BY THE SELECTMEN

Selectman Jasper said a nice time was had by all at Chief Gendron's retirement party last Saturday night. It was a good time to reminisce with a tremendous crowd of people there, which was a testament to his dedication and service to the town of Hudson. He will miss him, but he has trained Chief Lavoie well and the town is left in very capable hands.

In looking at the Town Code, something that has always bothered him, and asked that at the next time this is done... the Town Council, in all their wisdom and anticipation of creating lots and lots of legislation, left more things reserved in the Code than there are things to look at. When you go to the index, you might have three or four things on a page, and the rest is sections that are reserved. They really ought to clean this up and get rid of all the reserved sections and number them... even if they don't change the numbers, get rid of listing the 532 things in there that are reserved that are never going to happen so you can find things quickly. This is really stupid. When you go through the book, there is a whole bunch of pages which aren't even necessarily sequential and say reserved and refer back to something years ago. It's time to clean this book up, but it may be more just the index than anything else. He saw a few reserved pages in there, but they didn't seem to be everywhere. The index is garbage because you have to go through so many pages. If the Board agrees with that consensus, hopefully, they can make that happen.

Selectman Jasper said he should tell the Board about two bills that were held today or will be held this week, and the one that would most directly affect them is HB 593 that has to do with destination gambling casinos. The Hudson Delegation met with the backers of this bill because it could potentially involve a site in Hudson. He didn't know if the legislation is going to go any place. Some people tell him it's dead in the water, but it's appropriate to mention that the idea is out there. It would be a destination hotel. There would be authorization to have up to three in the state, one in the southern tier and one in the north country. The people would apply for that and be granted a license to run this establishment would pay a \$50 million fee to the state upon approval and 5% of that would go directly to the town that it was sited in. There are a lot of provisions in the bill. One would require no less than X amount of acres, an 18-hole golf course, a certain size convention center with a minimum amount of space and hotel rooms and a capital investment in the southern tier of no less than \$300 million. It certainly has the potential, were something like that to come to fruition, to have quite an impact on Hudson. He didn't want to go into detail, but people may be able to guess what site in Hudson may be being considered. Selectman Maddox said his only concern was if

there was something in the legislation that said, with all the best of intentions, that state is getting \$50 million, that they could bypass the town's zoning requirements.

Selectman Maddox said he found out this evening that Richard Gendron got an advanced copy of his new book, "How to cause Trouble for Dummies." He will be signing copies at the Haselton Barns with Nobles. He wished the Chief well. They may have disagreed on occasions, but he has the greatest respect and hope he enjoys his retirement.

Selectman Coutu said he'd try to get the Governor to show up for that signing. He will want his own copy, for sure. He, too, had a great time Saturday evening. They had them rolling in the aisles. They all have a tremendous amount of respect for their retired Police Chief and they all wish him well. He hopes that they can follow in the direction he has given them, and that they give their full support to the new Police Chief and let him put his own fingerprint on the Police Department. He wished Police Chief Jason Lavoie the best of luck.

Selectman Massey said he went to the NH Municipal Association meeting on Friday and the subject was the issue relative to highways and byways. The Legislature passed legislation that's now RSA 9:9-B, which limits the further growth of non-highway bridge expenditures from the highway fund and it requires at least 74% of the Highway Trust Fund revenue to go to the DOT, 24% to safety and 2% to other agencies. The effective date is July 1, 2009.

In 1988, there were about 1,990 employees in DOT, responsible for approximately 19,500 miles of roads. In 2007, there were about 1,830 employees responsible for 24,500 miles of roads. They are doing more roads with fewer people.

HB 644 is in the Legislature right now which would propose to raise the gas tax 5¢ a year for three years, 2009, 2010 and 2011. It would establish a NH Road and Bridges account and all of the monies raised by that ultimate 15¢ per gallon would be required to go to the construction, reconstruction and maintenance of state and municipal roads and bridges. No exceptions or diversions would be permitted. 12% directly to cities and towns. Since that was what they were primarily meeting on, the vote was 30-14 to support that legislation. It takes 2/3rds vote for any of those types of recommendations to be supported by the Associated and since it got 2/3rds, that will be the position of NHMA when they go before the House and Senate.

Selectman Nadeau wished Chief Gendron good luck with his retirement and the new Chief good luck with taking over the Police Department. He has some big shoes to fill.

He hoped to see everyone at Town Meeting on Saturday at 9:00 at the Community Center. Mr. Malizia said if anyone needed any data or facts for Town Meeting, just to let him know. The Moderator asked if anyone was going to speak on the petitioned article, or to provide rebuttal. He told Mr. Inderbitzen that the Board hadn't talked about that, but he'd mention it to them, if they wanted to speak pro or con on that article. Selectman Jasper said he spoke against it at the School Board meeting, so he'd be glad to speak it against it on Saturday, and hoped Chairman Alukonis would speak against it, as well.

6. NONPUBLIC SESSION

Motion by Selectman Coutu, seconded by Selectman Massey, to enter Nonpublic Session under RSA 91-A:3 II (a) The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted carried 5-0 by roll call vote.

Nonpublic Session was entered into at 8:55 p.m., thus ending the televised portion of the meeting. Any votes taken after the Board enters open session will be listed on the Board's next agenda. Open session was entered into at 10:02 p.m.

Motion by Selectman Jasper, seconded by Selectman Maddox, to pay Assistant Town Administrator Mark Pearson an annual salary of \$91,611 for 230 days of work with no benefits carried 4-0. Selectman Coutu abstained.

General discussion of Radziewicz's e-mail regarding ZBA stipulations on the LaVallee (Burns Hill Road) variance.

7. ADJOURNMENT

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

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

HUDSON BOARD OF SELECTMEN

Benjamin J. Nadeau, Chairman

Shawn N. Jasper, Selectman

Richard J. Maddox, Vice-Chairman

Kenneth J. Massey, Selectman

Roger E. Coutu, Selectman