

HUDSON, NH BOARD OF SELECTMEN
Minutes of the January 27, 2009 Meeting

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

2. **PLEDGE OF ALLEGIANCE** was led by Selectman Jasper.

Following the Pledge, Chairman Nadeau called for a moment of silence in memory of Gordon French, an Alvirne Trustee, who passed away.

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; School Superintendent Randy Bell; School Board Members Gary Rodgers and Rick Nolan; about 40 teachers; Gary Webster, Acting Town Engineer; John Byatt, CLD; Bob Stevens, Stevens Associate; Howard Dilworth, Jr; Gina Votour, HLN

4. **PUBLIC INPUT**

Chairman Nadeau asked if anyone in the audience wished to address the audience on any issue. There was no response.

5. **NOMINATIONS & APPOINTMENTS**

Sewer Utility Committee (1 alternate, term to expire 12/31/11)

John Parkhurst, 37 Bear Path Lane (is a sewer user) said he was a project manager at the Acton Waste Water Treatment Facility and has been in the field about 10 years. He worked at Lowell Waste Water for about seven of those years. He thought he could be helpful to this committee, as well as gain experience. He has attended committee meetings.

Motion by Selectman Jasper, seconded by Selectman Maddox, to waive the waiting period and appoint John Parkhurst to the alternate's seat on the Sewer Utility, term to expire 12/31/11, carried 5-0.

6. **CONSENT ITEMS**

Selectman Maddox removed Item B-1.

Motion by Selectman Coutu, seconded by Selectman Massey, to approve consent items, A, B 2 & 3, C & D, as noted or appropriate, carried 5-0.

A. **Assessing Items**

- 1) Veteran Tax Credit Application, Map 166/Lot 029, w/recommendation to grant.
- 2) BTLA Document, 22806-06PT, Docket 23549-07PT, 2006, 2007 & 2008 tax abatements for Map 222/Lot 10, w/recommendation to approve the proposed settlement agreement

B. **Licenses & Permits**

1) **Hawker/Peddler Permit by Glenn Smeltzer to sell flowers at True Value Hardware on Rte. 102**

Selectman Maddox said everything on his first page is all one name and then the person who has approval from the site has a different name. Was there a disconnect? Chairman Nadeau said this is the person that has been there for 100 years. Selectman Coutu said Mr. Kessler of the Blushing Rose wholesales flowers to Mr. Smeltzer, who sells the flowers at the True Value site. Selectman Jasper said this has been an ongoing arrangement, where Mr. Smeltzer sells on behalf of the Blushing Rose. It has always been that way.

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

Selectman Massey said he'd be talking to the Police Department relative to the Mobile Epicurean Delivery Service trucks because he hasn't seen any hawker/peddler permit for them. He is going to ask the Police Department to be checking to see if the people have valid hawker-peddler licenses.

- 2) Outdoor Gathering Permit by Hudson Kiwanis to hold an Ice Fishing Derby on Robinson Pond on February 15 from 7 a.m. to 2:00 p.m.
- 3) Request by Hudson Girl Scouts to sell Girl Scout cookies at various dates and locations in Hudson.

C. **Acceptance of Minutes**

Minutes of the Board of Selectmen's Minutes of January 13, 2009.

D. **Calendar**

- 1/28 7:00 Planning Board in CD Mtg. Rm.
- 1/30 Period for filing for Candidacy ends
- 1/31 9:00 School Board's Deliberative Session @ Community Center
- 1/31 6:00 Retirement Party for Richard Gendron @ Castleton
- 2/02 6:30 School Board in BOS Mtg. Rm.
- 2/02 7:00 Conservation Commission Workshop in CD Mtg. Rm.

2/03 7:00 Board of Selectmen in BOS Mtg. Rm.
2/04 7:00 Planning Board Workshop in CD Mtg. Rm.
2/07 9:00 Town Deliberative Session @ Community Center
2/09 7:00 Conservation Commission in CD Mtg. Rm.
2/10 7:00 Board of Selectmen in BOS Mtg. Rm.
2/11 7:00 Planning Board in CD Mtg. Rm.
2/12 5:30 Sewer Utility Committee in BOS Mtg. Rm.
2/12 7:30 Zoning Board of Adjustment in CD Mtg. Rm.
2/14 ♥Valentine's Day ♥
2/16 Presidents' Day—Town Hall Closed
2/16 7:00 School Board in CD Mtg. Rm.
2/17 7:00 Benson's Committee in CD Mtg. Rm.
2/17 7:00 Cable Committee in BOS Mtg. Rm.
2/18 5:00 Water Utility Committee in BOS Mtg. Rm.
2/18 7:00 Library Trustees in BOS Mtg. Rm.
2/18 7:00 Hudson Senior Council on Aging in CD Mtg. Rm.
2/19 7:30 Budget Committee in BOS Mtg. Rm.
2/23 6:00 Recycling Committee in BOS Mtg. Rm.
2/23 7:00 Green Team in CD Mtg. Rm.
2/24 7:00 Board of Selectmen in BOS Mtg. Rm.
2/25 7:00 Planning Board in CD Mtg. Rm.
2/26 7:30 Zoning Board of Adjustment in CD Mtg. Rm.

Motion by Selectman Jasper, seconded by Selectman Coutu, to change the order of the day to take up 8-A, carried 5-0.

School Board Request for a Meeting

Selectman Jasper said the Superintendent and two members of the School Board, who were the negotiating team for the teachers' contract were present to talk to the Board. The information they have is a little different from the information the Board got on the night they took a vote to not recommend the teachers' contract. In light of that information, the Board should listen and consider its position.

School Superintendent Randy Bell & School Board members Rich Nolan & Gary Rodgers were recognized. Supt. Bell said they wanted to talk about the teachers' contract and request the Board's reconsideration of their earlier vote. The context within which they negotiated the contract, and all their contracts, the goal from the beginning was to keep the total budget level-funded between this year and next year. The operating budget, including all of the three contracts and the proposed SAU salary increases results in a budget that is reduced by \$41,000 in the current year. In addition, the School Board is committed to a \$475,000 fund balance, which means next year's revenues will be more than \$490,000 higher than this year. The result of the entire context is an impact on the tax rate that will be over \$1/2 million reduction next year. It's one thing to look at each contract in isolation, but they wanted to have the Board of Selectmen know that the way they negotiate also is within a context. The second context they wanted to negotiate within was understanding that their teachers' salaries are substantially lower than those of neighboring communities. On the fifth page of the handout, there was a comparison of 2008-2009 salary schedules with about 10 of the neighboring communities. Hudson has more steps, particularly at the Masters level. Even by 2010-2011, the top Masters salary will be equal to the average of the Masters salaries for the other districts currently. They were negotiating within that context. The back of the front page summarizes the changes that have occurred because of the contract. The schedule changes by 2-1/2% each of the two years and the total salary increase in those two years is 4.37 and 4.69. That's the change in the schedule, plus the steps. In order to encourage teachers to pursue course growth, they've increase course reimbursement by \$10,000 each year. They did look to restructure the salary schedule and put more emphasis on the Masters Degree and the Masters Plus, so they increased the differential between the Bachelors scale and those scales and they reduced the Masters step salary by one step. That's a beginning point for future reductions and the length of the contract. The major increase the Board was looking for, para-professionals work the standard teacher day, which is seven hours. Currently, they work six and a half. The day has been extended, so part of the funds for the salary increase includes an increased work time on the part of their para-professionals. The rest of the contract is pretty clear. The warrant articles clearly state the salary increase is \$636,839, a 4.37% increase. The rest of it is benefits, which includes FICA and retirement. As an example, he wanted to show the Board the last time they negotiated, the District Warrant 2006, there was no salary increases. In 2007, it was \$753,000 6.8; \$801,000 6.8 and then 5.1, so this is a substantially smaller increase than those other years. Within this context, the Board has attempted to achieve those goals and, at the same time, have less on an increase than they've had in the past few years. He included, for the Board's review, the entire contract, annotated.

Selectman Massey moved to have the Board of Selectmen reconsider its instructions to its representative to the Budget Committee on the matter of the teachers' contract on the upcoming warrant. Selectman Jasper called for a Point of Order, saying there will be a new vote after the deliberative session, so reconsideration would not be appropriate at this time, since the action has already taken place. It would be a motion to instruct the Board's representative to vote in favor of the contract when the Budget Committee takes its final vote after the deliberative session.

Motion by Selectman Massey, seconded by Selectman Jasper, to instruct their representative to the Budget Committee to vote yes in support of the teachers' contract.

Selectman Massey said after the Board took their original vote, he was contacted by a couple members of the School Department and when he reflected on what they gave him for information, he realized that they had been dealing with a different set of numbers than what was before them tonight. He decided, at that time, it was probably appropriate to revisit it

and when he heard that Superintendent Bell was going to come and give them their actual numbers, he thought that was great because it would verify what he had been told informally. As a result, he thought it was appropriate for them to reconsider.

Selectman Jasper said when they took that vote some weeks ago, the information they had at the time indicated that the total cost of the salaries was in the 6.2% – 6.8% range and those were numbers he'd been hearing from numerous sources and, unfortunately, it appears that there were two contracts that the information was mixed up on, so they did not have the correct information. That was no one's fault or intent; it just happened. He had said to the Chairman right after the vote that if the total salary increases had been in the range of about 4-1/2% with the steps and the COLA, he could have supported that, but he couldn't support salary increases in the 6% - 7% range. Given the fact that's the case, and that was the standard, he was comfortable in recommending this and given the fact that the School Board has worked diligently to actually make sure their impact on the tax rate will be decreased by about 18¢, then with the factors of the teachers current pay, as it compares to area communities, then this contract is worthy of the Selectmen's support.

Selectman Massey regretted they were at this point because he distinctly remembered Selectman Maddox saying it's tough to make a decision when they don't have all of the facts in front of them. This is an example of where you act in haste and repent at leisure. He personally apologized to the School Department because he was acting on less than the appropriate information. Hopefully, this action will rectify that.

Selectman Maddox said they were in the same position they were the last time. It would behoove them to read all of the information after they've had a chance to read it, and not just look at the nice front cover that they just saw tonight. Selectman Jasper said there was a problem with that and why the information was requested back around Christmas. The deliberative session is Saturday. By the time the Selectmen have a chance to fully read this document, it will be after the fact and the warrant will have already been done. Unless the Board would like to have a special meeting between now and Saturday... He understood Selectman Maddox's position. They were in a position where they had plenty of time. There was a preliminary vote which came out of the public hearing, which is going to be deliberative, and so even though they didn't have all the information at that time, he wasn't terribly uncomfortable, knowing that they still had one more bite at the apple. It's unfortunate they didn't have that complete information a couple of weeks ago. If Selectman Maddox wanted to take a 10-15 minute recess to go through this to be more comfortable, he'd support that. Selectman Maddox said he'd go along with the majority on this one, but there were a lot of pages to zip through and get answers quickly.

Chairman Nadeau said he had a problem with this because they told their department heads, particularly the Library, that 4-1/2 was too much. They came back and asked for 3-1/2%, and the Board still said it was too much. Now, here they are, saying that 4.3% is OK. He has a hard time telling department heads they can't do this, but now they are instructing the liaison to the Budget Committee to go forward with 4.3%.

Selectman Jasper said when it comes to COLA, that is what they've done. He didn't know off the top of his head, but he suspected the Library employees didn't have steps. This is consistent with the Police contract that they approved last year. It was 3% COLA, consistent with the Library, but that same Police contract had step increases, which probably equaled about 1-1/2%. Taken in total context, this COLA is less than the town's parameters. It's 2-1/2% COLA; it's less than the parameters for the town, but it takes into consideration the step, something that is totally in line to what the town does because he always used that roughly somewhere in the neighborhood of 1-1/2% - 2% overall for step increases.

Selectman Maddox asked Selectman Coutu what the vote was on this, if the Selectmen were the tie breaker on this. The reply by several people speaking at once was 5-5, with one abstention.

Selectman Massey said every year they've done salary negotiations, they have only dealt with the COLA in terms of the negotiations. Yes, they did know that steps would increase that. Traditionally, they've either gone with the range, which at some point in time was 3% - 4%, based on the Boston Cost of Living Index, Consumer Price Index. Recently, they had the 3%, so for the School Department to have bargained on the basis of 2-1/2%, it's totally consistent with everything the town has ever done. On that basis, the 4-plus % is the factor of the steps.

Selectman Maddox asked Selectman Coutu, the Board's representative to the Budget Committee, what his vote was going to be on this. Selectman Coutu said he was going to vote to support the contract for two reasons. He has stated in the past that he could and would support any property negotiated contract. There was no information that ever came before him to indicate that this was not debated, discussed and arrived at anything other than good faith. The School Committee representative sat down with the teachers union and both sides bargained in good faith. He understands Superintendent Bell's argument in terms of trying to bring the teaching force to a pay level comparable to competing communities. Secondly, this is his first year on the Board of Selectmen and he heeded Selectman Jasper's advice in that in order to be properly educated and be a member of the Board of Selectmen, it behooves you to become a member of the Budget Committee, and he was thrust into that role. When he saw the paperwork that is involved in reviewing budgets, he was somewhat overwhelmed. He's run a federal program which, back then, was all done on paper and pencil. The line items were position by position. They had to justify every dime that was spent, across the board. This is a little more complex than running a federal program with \$15 million, much larger in the sense of a corporate administrative nightmare were much larger than a \$15 million budget. In the process of reviewing the contracts, he became somewhat confused between two contracts and the numbers that were before him. When he came back to the Board of Selectmen, he is the person who is fully responsible and should be the one apologizing to the School administration, the School Committee and the teaching staff within the community to having provided the Board with misinformation that led to the decision of the Board to instruct him to appear before the Budget Committee and to vote in

opposition of the contract. He apologized for the confusion that was created by looking at numbers from two contracts and confusing the two. In terms of the argument that was presented by the Chairman, whom he hoped would reconsider when making his decision, and consider that the teachers pay raise equates to 2-1/2% and the bottom line is 4.37% when you factor in the steps. They must also keep in mind that although they have brought in a budget on the town side not to exceed 3%, they do have employees who have step increases and they never looked at that real number and how that impact affected the overall percentage rate at the end of the day. This contract is in line with what they have offered the town employees who are on a step scale. Board members are not responsible for establishing the step scales for the teachers' side. They serve as their own entity, as the town does their own. Yes, he is going to support the contract. It behooves the Board to consider in the future, which has bothered him for a considerable amount of time, so he will seize upon this opportunity because the school administration is well-represented tonight, as is the School Committee, that he thinks it would be in the best interest of the town to have a member of the Selectmen be represented at the School Board meetings and vice-versa. That's probably an issue for another day, but it's something that he'd like to see his colleagues consider. Yes, he will support sending him back to the Budget Committee with a recommendation in favor of the contract, which was properly negotiated and in terms of when they review all of the numbers and look at how Hudson compares, not only in terms of salary, but the product delivered to the town, the teachers deserve the pay increase.

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

Mr. Nolan thanked the Board for the vote. Relative to the apologies, the important thing was that everything got reconsidered and got aired properly, which he appreciated. Mistakes happen.

Chairman Nadeau declared a brief recess in order for the room to clear.

7. **OLD BUSINESS**

A. **Vote taken after Nonpublic Session on January 13, 2009**

Motion to adjourn at 8:46 p.m. by Selectman Massey, seconded by Selectman Maddox, carried 5-0.

B. **Pelham Road Dam, Contract Amendment #4**

Gary Webster, Acting Town Engineer, said Design Engineer Bob Stevens from Stevens Associates and John Byatt from CLD were present with him to discuss the Pelham Road dam project, which they hope to do this summer and which involves a road closure. The contract before them was part of the warrant article that was approved a couple of years ago at Town Meeting and everything has been taken care of by another account, so they are starting fresh. He hoped the Board would approve this amendment so they could get going on this project.

Selectman Jasper said the warrant article was \$350,000. Mr. Malizia said yes and this contract would be for \$134,150 which leaves a balance of \$215,850 for actual construction. Selectman Jasper said 50% of the cost of doing the project was engineering. If that is realistic, that tells him they aren't going to have enough money to do the project. He thinks they have got a real problem because of that. If they can do it for the balance, then the amount for engineering is pretty outrageous for a project of that size.

Mr. Stevens said he often gets questions like this. The thing about dams they need to remember is that they are regulation driven and the degree of analysis and design required at permitting, etc., required for a dam is significant compared to the construction. They are not just building an embankment; they are building a dam. A dam is shaped like an embankment and it's comprised of similar materials, but the degree of analysis and design and permitting that goes into the layout and the construction of that dam has a high degree of scrutiny and results in higher costs, with respect to construction than just about any other structure that they engineer.

Selectman Jasper asked if there was enough money to do the project. Mr. Stevens said they believe it does, based on their estimates for construction from last year that were based on some preliminary designs. They are also well aware that the construction industry is soft right now and the town should reap some benefit from that, as well. Mr. Malizia said Kevin Burns and Heidi Marshall were in the room when this was discussed about a week and a half ago because it was a concern that he and Gary shared when they saw the numbers. His understanding of the actual dam construction was not steel-driven and did not involve steel workers. It's mostly earth and embankment work and the earth work contractors are, right now, looking for work. If they can get this out to bid by the end of May, they expect to get some favorable prices. Kevin was looking forward to working with Continental, or whomever. The goal would be to get the engineering and permitting down so they can get this project going and completed before school opens back up again in the fall. Coupled with the soft economy and what they know to be some possible capacity out there to absorb this work, and the nature of the actual dam construction, when they met with Kevin, Heidi and the two gentlemen before them tonight, the thought was they should be pretty close to these numbers.

Mr. Stevens said the estimate they prepared for construction falls within the monies that are left. The soft construction industry right now will add a degree of cushion to that. They believe, at this point, that it should work. Selectman Jasper said when he saw the numbers, he was a bit shocked. Mr. Malizia said that's why they had the meeting.

Selectman Maddox asked who was doing the secondary review on this project. Mr. Byatt asked if he meant the construction inspection. Selectman Maddox said when a parcel comes before the Planning Board, there is an engineer that provides something, then CLD takes a second look at that. He asked if CLD was taking a second look

at their own work. Mr. Byatt said they check their work in-house; they don't have an independent person review the work. Selectman Maddox asked if CLD was also the engineering firm that just did the Library and Central Street [project]. Mr. Webster said yes, CLD did the signalization project. Selectman Maddox said they had to take the divider out because the road wasn't big enough. He was wondering where the second set of eyes were, that Selectmen had to see there was a problem because the engineering firm didn't. Mr. Byatt said part of the process of preparing for construction of the dam is a permitting process and the state Dams Bureau, which consists of engineers who monitor the dams, review the permit, the construction documents, before the permit is issued.

Selectman Massey said to answer Selectman Jasper, this contract involves three items. The first one is to actually do the design and technical specifications, including a bid spec, so when they are finished, the town will have a document they can send out to qualified bidders for the actual construction. Obviously, the permit application is the second thing they just talked about and finally, they are going to provide the oversight to the construction company that is awarded, some time down the road. Their cost includes the engineering observation and reporting context, once the construction starts.

Motion by Selectman Massey, seconded by Selectman Jasper, to waive the bid requirement and approve Amendment #4 to the Pelham Road Dam engineering contract with CLD Consulting Engineers in the not-to-exceed amount of \$134,150 for final dam design and construction management services; further, the funding for this amendment will come from Fiscal Year 2008 Warrant Article 12, Design/Reconstruction/Repair of Pelham Road Dam over Second Brook.

Selectman Massey said the reason for motioning to waive the bid process is that if they were to take this out for bid, they would not get done in this construction cycle and they would be looking, at the earliest, next year. They have to do this when school is not in session. Given the fact they've already spent considerable money with CLD on this project, and it's important to get the work done this year. It is prudent to waive the bid requirements.

Selectman Coutu asked where the \$350,000 was. Mr. Malizia said in a warrant article that was approved by the voters at the past Town Meeting. Selectman Coutu asked what provisions were made in the event that the bid process exceeds \$215,850. Mr. Malizia said they'd have two choices. If it's a modest amount, they may appropriate into that article from some other line item in the budget. They can do that, they can put something from the operating budget into the warrant article. If it was a much higher number, they'd most likely have to go back to the voters and ask for more money at a subsequent Town Meeting. Selectman Coutu said to assume that the bids come in in excess of \$100,000 more than the \$215,000 balance after the engineering fees are paid, and they have to go back to the voters. How does that affect the contract with CLD? Mr. Malizia said they have a not-to-exceed amount to provide a certain level of service when they go to construction, so he assumes they would be on hold till they got to that construction, when they'd be required, under their contract, to provide the inspection services. Selectman Coutu asked if, until such time they have as have a contract in place for the construction of the dam, CLD services are not provided. Mr. Malizia said they'd be providing other things until the dam was constructed—preparing the documents to go out to bid and making sure the applicable permits are in order. They won't be inspecting something that's not actually being constructed. It would be on hold until a construction company got going. Selectman Coutu asked if part of the \$134,000 would be eaten up prior to construction. Mr. Malizia said no question about it.

Selectman Jasper said they had those numbers. The preconstruction would be \$54,000; services during construction, \$86,000, etc. Selectman Coutu said to assume it is \$54,000, which leaves a balance of \$80,000 for CLD. If they had to go to the voters and request an additional amount of money because there wasn't enough to cover it within their own budget, would that mean they would also have to add monies for CLD? Chairman Nadeau said no, once they have a bid package, that's it. (Talking over each other.) Mr. Malizia said just because someone submits a bid doesn't mean they have to award it. Selectman Coutu asked if the \$54,000 would be a one-time expense. Mr. Nadeau said yes. Selectman Coutu said that answered his questions and he'd support the motion.

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

C. Discussion re. Cable

Chairman Nadeau said he was the one who requested this item be put on tonight's agenda. He recalled that the Board had put limitations on the hours for the Facilitator, which was not to exceed 45 hours a month, unless authorized by the Town Administrator, in writing. This week, he was presented with a purchase order to sign [for the Facilitator] that was for 69 hours. He asked what the Board wanted to do with this. The Facilitator used to be under the Cable Committee Chairman, but the Board changed it so the Facilitator reports to the Town Administrator. He didn't know if that was working out all that well. He wondered if that was something they should go back and reconsider or think about, and move it back to Mike O'Keefe. He's not sure what the Board wants to do.

Selectman Jasper said they have a contract that calls for a not to exceed number, unless a request is received in writing and the Town Administrator approves it. He didn't see why they would pay any number in excess of 45 if there is no authorization in writing. At that point, they should be working at their own pleasure. They are not obligated to pay for more than the 45 contracted hours. The Board took it away from the Cable Committee, primarily for that type of reason. It may be appropriate, now that they have an Assistant Town Administrator, who is going to be doing a number of tasks, to have him take on that responsibility. If the Cable Committee feels that they need to extend the

hours, which they would like to do, once they get the new facility up and running, that's fine, but until the contract is amended, or authorization is made, they need to stay within the parameters already set. If the Facilitator comes before the Board to say why he did it and asks to be paid for those excess hours, that's another story. They can't just pay the invoice just because he submitted the hours. They would not be spending the rate payers' money wisely.

Selectman Coutu said they had this very discussion when the bill was presented for payment. He has shared the same concerns the Chairman has expressed, and he has discussed this with the Town Administrator. This has also been discussed at the Cable Utility Committee meetings. Mr. O'Keefe is the person that should be overseeing the work that's being done by the Facilitator. It's very difficult for the Town Administrator to be able to ascertain if the documents being presented to him are accurate. They reason they are submitted to him is because the contract states that's who the Facilitator reports to. Steven's plate is full enough; he's not going to ride around and follow the Facilitator. Mike O'Keefe has a better handle on what needs to be done, and set some priorities in terms of being able to document the hours that the Facilitator is presenting for payment. The Cable Utility Committee asked him to ask the Board of Selectmen to consider re-writing one line in the contract, eliminating the line that has the Facilitator reporting to the Town Administrator and revert back to the original contract, where he would report to the Cable Committee Chairman and he would verify and document the work and the hours, and he would be submitting the time sheets. Secondly, he and Mr. O'Keefe are going to meet with the president of a New England Public Access Cable Network on Thursday because in her community, they have a full operational cable facility up and running. She has a good handle on what it takes to get it up and running and whether or not they are going off in the wrong direction. She is going to give better guidance so they have better control of what's going on. He understands the perplexity that is faced when the Chairman sees the time sheets when the Facilitator puts in merely that he met with this one, that one and the next one for X number of hours. That doesn't give the Board the kind of detail to justify the amount of hours that he is putting in. He appreciates the fact that the Chairman reads the invoices because it's still the people's money and it needs to be properly accounted for. He's not saying anything was askew, but they still need a better system of control in place. He strongly believes, as does the Cable Utility Committee, that the best solution, at this point, would be to rewrite that one line in the contract, have him report to Mr. O'Keefe, who has been a strong advocate of public access television and very concerned about where the monies are being spent and he thinks he would be more attentive to the work assignment and the amount of time involved because he has a better handle than any of them do, he's much more experienced and he can determine if the hours are justified.

Selectman Jasper said part of this discussion needs to be held in nonpublic, under matters which if discussed in public would likely affect adversely the reputation of any person, other than a member of the body because, based on some things that have gone on in the last year or so, his believe is he can't have a conversation about this without perhaps damaging someone's reputation. What he can say, and he knows the Board did it before, but the more he thinks about it and the more he thinks about the fiduciary responsibilities, he is very uncomfortable having someone—and he can't really think of anybody else or committee in town, which has the discretion to expend funds, or oversee employees who are not either elected or hired as managers by the town and report directly to the Board of Selectmen. He's not comfortable giving an appointed committee that has no fiduciary responsibility to the town to the Cable Utility that authority. They had it at one time, but they need to find a better way to make this happen, particularly because of the amount of money that is now involved in this whole thing. It's getting to be a much larger operation, whereas before, the vast majority of the money was going into a capital reserve fund. Next year, none of the money is going into the capital reserve fund, so the Board needs to be much more diligent in exercising its fiduciary responsibility with that money. They need to think long and hard about this. Regardless, the contractor with the town knew the parameters. He knew he was only authorized to receive payment for 45 hours in a month. There is something wrong if someone submits a bill for 69 hours, which is 24 hours, not a slight discrepancy. It's not an oops at the end of the month, finding he was five hours over. They're talking more than a 50% deviance from the contracted amount. The solution to that problem isn't to let someone else oversee it. They need to find out why that happened to begin with and deal with it. Here's why this won't happen again, because you're not going to get paid for that variance because you didn't follow the contract. There's not other case he can think of where they just simply slough it off. The contractor has an obligation to keep track, at least in his own journal, of how much he's working on a monthly basis. When he gets to the end of two weeks and he's already used up his time, he needs to come in and talk to the Town Administrator. That didn't happen. That should not be rewarded. They went to an extremely high rate of pay per hour when they hired this contractor. He would not have agreed to do that, based on a 69 hour month. He agreed to it because, as was presented to them, the amount of work could be done by this individual in 45 hours a month, indicative of his skill and ability to perform the tasks that were given to him.

Selectman Maddox said this was starting to look like the bailout at the congressional level. They should have a plan, like Selectman Massey has said for the longest time. He should know what his month should look like. If he's got 45 hours, he should know what that roughly is—X amount on this, X amount on that—absolutely. 50% in two weeks, he's doing fine. If he went over five hours a month here and there, not a problem, but a 50% overrun? He's not managing his time. He gets big dollars now. They've hired an assistant with a senior camera operator. Where are they going to go with this? There's no plan. They are just spending money. They need to go back to, explain to the Town Administrator; He didn't want it to go to the Cable Committee Chairman, as much as he is knowledgeable and he's a good guy. This gentleman works for them, he understands the criteria the Board has set to be able to manage the money, and it's big money at \$27 an hour. They are paying a significant amount of money for this individual and one of the skill sets should be time management. So, 45 hours unless there is a damn good reason that he's already gone to the Town Administrator and gotten approval for, and he's not going any further than that position.

Selectman Massey said they are where they are because of what the Board hasn't done, and Selectman Maddox said it well. Without a plan, there's no way you can hold somebody accountable because they are done when they say they are done. Without a plan, you don't know whether they are done because they've set a set of deliverables or because they simply say they're done. Secondly, they were told they would offload a lot of work from the Facilitator if they created this other position called Senior Camera Operator. If they are going to offload work, to him, that translates to less than 45 hours a month. His recollection is there has been two invoices, one for 82 hours, if he's not mistaken. Mr. Malizia didn't believe he's seen an invoice for 82 hours. Selectman Massey said he signed one, and than he saw the one the Chairman referred to. Before they go too much further, they have to have the Cable Committee tell the Board what their plans are of how they utilize this workforce. Personally, he would never go back to having a single person, as Selectman Jasper has indicated, who has no fiduciary responsibility to the town, from a statutory perspective, be the sole determiner of whether a person should or shouldn't get paid. If they were ever to go back that way, which he is not prepared to, it would have to be the committee, as a whole, would approve the work schedule. In the absence of no plan, they are going to continue these conversations every month. Until he sees how they have decided they are going to determine that the workload is how much is on the Facilitator's responsibility and how much is on the Senior Operator, they are going to be back here. They need a plan before they go any further.

Selectman Jasper said he didn't disagree entirely with Selectman Massey and the need for a plan as they move forward in these things, but they've had a Facilitator who has had a contract, going back years, and there has been a set number of hours. That Facilitator was reporting to the committee, but the Board was unhappy with that, so he's now reporting to the Town Administrator. That hasn't been allowed to fully work. What they are faced with here is a failure of the Facilitator to understand the limitations on his hours, and understand the consequences of that. If this has happened before, shame on them—or maybe on Steve—but the first time an invoice came through that was not authorized to exceed the 45 hours, a stop should have been put on that. The Facilitator has never needed to have a plan. He has a job to get done and it has been indicated to the Board, through the committee, that has a plan or doesn't have a plan, but at least knows what's supposed to be done on a monthly basis, Board of Selectmen, we need a Facilitator to work 45 hours a month. The night the Board agreed to hire a Senior Camera Operator he was not present, but his understanding was that was to reduce the hours of the Facilitator, not from the 45 hours, but to free him up to do other tasks within that 45 hours. He never understood it to be reducing his 45 hours. They hired the Senior Camera Operator, yet they are still at the 69 hours [for the Facilitator] per month. There is a total failure of the system and it will continue to fail unless the Board of Selectmen, through the Chairman, who he hoped hasn't signed the invoice, directs that only 45 hours be paid, in the absence of an authorization to exceed. Chairman Nadeau said no, he hasn't signed the PO; it's still upstairs. Selectman Jasper said that will stop any future abuse. That will force somebody to come up with some sort of a plan, if there is a need for more than 45 hours. They've just allowed it to happen, ignoring the contract.

Selectman Coutu asked if the current contract for the Facilitator says he is limited to 45 hours, or if it says not to exceed 45 hours. Mr. Malizia said it says not to exceed 45 hours per month. The plan from the Cable Utility Committee that was presented to the Selectmen, and which they approved, recommends an increase from 45 hours per month to 65. That was the recommendation, based on the access center. Selectman Jasper said he hoped the others remembered this the way he did. There was an indication that night that they recognized that in order to get to that 65 hours, they had to come back to the Board for authorization. That was referenced in the plan as the number of hours expected, but they knew they had to come back to the Board for authorization to go to 65 hours. That center is not up and running, at this point. They have not come back, and there was a clear understanding that to go to 65 hours, they needed to come to the Board for authorization. That's how he remembers it. Selectman Maddox said it's right there; Chairman Nadeau said the same thing. Selectman Maddox emphasized *when* it was up and running. Selectman Jasper read, "the facilitator's contract will *likely* need to be modified," so that's a clear recognition that that's not an approval.

Selectman Massey called the Board's attention to the meeting minutes of December 23, 2008; it's the first paragraph that's the issue. "Selectman Coutu said he had requested from the Cable Utility Committee to provide him with a speaking document to cover this topic [operation of the access center], but he was disappointed and dismayed that it was appointed to him late this afternoon. It didn't agree with what was proposed and the intent of the access plan, which was to increase the hours from 45 to 65 for the Facilitator. Today, it was presented as 80 hours, which was a shock to him, in light of the justification for extending the hours." It goes on to say, "They were supposed to come back to the Board and have a properly prepared document in which they were going to explain how they wanted to utilize the Facilitator," and the Board hasn't seen that. The Cable Committee comes before the Board, in light of the things that have happened. He can recognize that things change and that if things change, they need to revisit them, but to change without any oversight is where they are going off the rails. It's incumbent on the Cable Utility Committee to come before the Board, sooner rather than later, and explain what is causing them to want to increase the work hours of the Facilitator by almost 100%, if they go from 45 to 80 hours, and how that fits with what they did with the Senior Cable Operator. It would be his recommendation that they instruct the Cable Committee to come back to the Board of Selectmen.

Motion by Selectman Massey, seconded by Selectman Coutu, that the Cable Committee present to the Board of Selectmen at the meeting on February 24, a plan for the change in direction and/or requirements for the cable Facilitator. Selectman Coutu said the Cable Committee voted that a plan is to be drafted, which the Chairman is

working on and which Selectman Coutu will review with the Chairman. He suspects that it will be ready for the meeting on February 24. They plan to come in in February to present the plan to the Board of Selectmen. Selectman Massey said that as OK to him, as long as it's the Cable Committee who is coming forth with the proposal, not the Chairman of the committee. Selectman Coutu said the Chairman was going to draft the plan and present it to the Cable Committee. Selectman Massey said that would fit right in there, that the Cable Committee would come forward with an action plan on the 24th of February for change in scope for the cable operation.

Selectman Jasper said he was hesitant to support the motion because this committee isn't meeting until the 17th, and then the Board wants them to come forward in seven days with a plan. Selectman Massey changed his motion to the workshop of March 3. Selectman Jasper said that was a little more realistic, but he thinks they are mixing apples and oranges because they've gone from the problem of the hours on to a plan. Selectman Massey said no, that's still the motion that's coming. There are two separate issues. One is the overall problem. Selectman Jasper said they went to the second one before they finished with the first one, which totally confused him.

Selectman Maddox said he wasn't going to vote in favor of this. The Cable Committee needs the time to do it right, and to give them a deadline of having a meeting, hashing it out, then they don't have a time to go back. The Selectmen are putting them in the same position they were with the School Board's information. When they are ready, they will come back, but there will be no expenditures beyond 45 hours per month until such time as a plan is brought before the Board of Selectmen and approved. It makes more sense than telling them to make up a plan, hurry up, hurry up, so we can get him more hours, and there's no real thought process. They don't have the time to deliberate, make changes from that one meeting to the next before they have to come in to the Selectmen. Putting a deadline on is setting them up for failure and the Selectmen up for more of these discussions.

Selectman Massey said that made a great deal of sense and withdrew his motion. Selectman Coutu withdrew his 2nd.

Selectman Maddox said they should pay the cable Facilitator for 45 hours. If he can justify to the Town Administrator the need for those additional hours, the Town Administrator will approve or disapprove... Selectman Jasper said no, not to put it on the Town Administrator. Mr. Malizia said he has no technical basis to make a determination whatsoever. Selectman Jasper said it's too late; it's after the fact. They're trying to close the barn door after the horse is out. The time for justification was before. You screw up and do something you're not authorized to do, you don't get paid for it. In this case, his opinion is those hours between 45 and 69 were in violation of the contract, so he does not get paid for them, period, end of discussion. He should have known that he needed to go in and talk to Steve. If he wants to come in and talk to the Board, then he's willing to listen. He didn't want to put Steve in the middle of this. He also has a great deal of heartburn how he (the Facilitator) lumped the meetings together. He "met with Selectman Jasper and then met with the Cable Chairman, 4-1/2 hours," or whatever it was. Neither nor the Cable Committee Chairman know how much time he spent with the other one, so there's no way to tell if that 4-1/2 hours is justified. When you're dealing with the people's money, there has to be verification. In his case, he met with him less than an hour, which should have been spelled out, as the amount of time spent with the Cable Chairman should have. That is a problem. He's not saying there's was an intention to confuse, but as a matter of course, that's an inappropriate way to do it because it's easy to write down how long he met with each person.

Selectman Massey said he wanted to pick up on something Selectman Maddox said, who he thought was on the right course, but then he threw him. Selectman Massey said he agreed to withdraw his motion because Selectman Maddox's enforcement mechanism was the appropriate one, which is to continue down the road with 45 hours until such time as the Cable Committee comes before the Board with a plan that would suggest otherwise. There's no need to have the Town Administrator have to justify things. As long as the hours are under 45, it's within the contract. Until the Cable Committee says that they have a plan that suggests more hours, it continued to be 45, and that's all they pay—45 hours. He would support Selectman Jasper if the individual came forward and indicated to this Board why he should be paid for the additional hours, but the invoice itself should be denied.

Selectman Maddox said in a rare moment of kindness and civility, he decided that he might have, in the enthusiasm of trying to get all of this going and all of the meetings and whatever, he lost track. If he could justify to the Town Administrator, he didn't want to set them off on the path of dampening enthusiasm when maybe there was some confusion. After tonight, when there is a motion made at some point, that it's 45 hours, period, without further notice or whatever, but he was just trying to be somewhat understanding of he was doing a number of different things, looking to set up, and it could have over-reached his hours. He's sorry he disappointed the Board.

Motion by Selectman Maddox to have the 45 hours paid from the invoice and after justification to the Town Administrator, any hours above that to the 69 will be paid. Selectman Massey said he thought Selectman Maddox was going to go slightly different, and he would have then supported the motion. In the interest of moving this forward, he'd be willing to accept the full 69 hours. There's no way the Town Administrator is going to know that the X hours he spent with Selectman Jasper was justified and the other problem you wind up with is which 45 hours do you pick as the hours that are justified and which 24 do you pick that were unjustified? It's a no-win situation for the Administrator. They either deny the 24 hours outright, or for this particular case, they accept that perhaps the enthusiasm got there and they did the 69 hours, but make it clear, no future, going forward, till the plan.

Motion by Selectman Massey, seconded by Selectman Coutu, to authorize the payment of the invoice for 69 hours and that all subsequent invoices may not exceed 45 hours until such time as the Cable Utility Committee comes to the Board of Selectmen with a plan for increased hours.

Selectman Jasper said he would not vote for the motion, but would recommend to those who are going to that, for the record, that when they refer back to the minutes, that it be clear when this is read at some point, that there be a statement in there saying something to the effect, "paying the 24 hours, which were in violation of the contract," so there is a clear record that the contract was violated, and the contract was violated, whether the majority of the Board feels that was a justification or not. The record should indicate the contract was violated and they [Board members voting in favor of the motion] specifically and with intent, authorized payment of that violation. Selectman Massey said he had no problem with the record so indicating. Selectman Coutu said he seconded the motion, not necessarily because he supported it but because he wanted to hear some discussion. He is not a lawyer, but he understands the legalese that goes on in the court system in the state of NH with regard to various contracts, especially those that involve employment, and Selectman Jasper has raised a very interesting point. The Facilitator has a contract that clearly states that he is to work for no more than 45 hours. He clearly understands that and he's sure they all do, and he's sure the Facilitator did. If they pay in excess of the 45 hours, they have set a precedent, and if he should submit a document in the future that exceeds the 45 hours, and the town refuses to pay in excess of the 45 hours, subsequent to their paying in excess now, they have violated the contract and the Facilitator may have recourse in the court system to come after the town. He may already have recourse in that they've already paid in excess of 45 hours on previous time sheets he submitted. It behooves them to either draw the line and this has to be the result—they either agree to approve the motion with the stipulation that they clearly enunciate in the minutes that it's in violation of the contract, but they make it very, very clear that under no circumstance is he to exceed the 45 hours without the Cable Committee coming before them with a plan. Until such time, he cannot exceed 45 hours, that the practice will cease and desist.

Selectman Maddox said to throw the wrinkle in, the contract says now not to exceed 45 hours without the approval of the Town Administrator, so he can exceed 45 hours. He just failed to get the approval of the Town Administrator, so they need to back up from that statement because his contract clearly says something different.

Selectman Coutu asked if the 45 hours were exceeded with the Town Administrator's permission or if the Facilitator met with the Town Administrator, saying he was over and needed to do this. Mr. Malizia said he gets the invoice; the horse has left the barn. This month when the Facilitator came to him, he told him to stop. Selectman Coutu asked what the Facilitator's hours were at that point. Mr. Malizia said the Facilitator told him he was either reaching his number, or at his number, so the Town Administrator told the Facilitator to stop, unless the Board of Selectmen directed him to do something. It's impossible to follow him around; it's just not feasible. He works a lot of hours. He's not also giving him the day to day direction the Cable Utility could. There are technical things that he's not familiar with. He doesn't follow the Police Chief around, or the Fire Chief, either, but they talk and he has an idea of what they are doing. He also knows what the Engineer is doing and the Assistant is doing; he sees them and works with them, but he's not a cable guy. He doesn't even know what he is talking about. In the past, the Chairman of the Cable Utility verified the work so there was some technical review of it, and then he signed off on the PO. He has no technical skill when it comes to cable; he doesn't even have cable. He's not sure from a committee perspective, or individual perspective, what's being required or asked of the Facilitator. "Start up a facility." What does that mean? It means something. Can you do it in 45 hours a month? He's not technically savvy enough to tell them. He told the Facilitator to come back with a plan, through the Cable Committee, to tell the Board what he was doing with the hours. It's not possible for him to follow the Facilitator around on a weekend. Selectman Jasper said he shouldn't have to.

Selectman Maddox said it brings them to the fabulous plan they don't have. They don't have anything to hold him to or to try to understand. He will not vote in favor of paying for all the hours. He understands the difficulty on the part of the Town Administrator, but he'd have a tough time paying for all of it. Selectman Nadeau agreed. They should pay the 45 hours and if the rest can be justified, he didn't mind paying it, because he was getting the facility ready.

Vote: Motion failed, 0-5.

Selectman Coutu asked if the Board could agree by consensus that the Chairman should authorize the payment of 45 hours. He agreed with the Chairman and Selectman Maddox in that if the Facilitator wants to get paid in excess of 45 hours, and he wants to come in to justify it, the Board can consider it. Selectman Maddox said if you look at the FY09 budget at \$186,000 and the FY10, it's \$194,000. This is not chicken feed. It's big dollars and they need to set the tone from the beginning that the Board is watching a lot of money being spent.

Chairman Nadeau clarified that the consensus of the Board was to pay the 45 hours and if the Facilitator comes in with the rest of the documentation to the Board, they'll listen. Selectman Jasper didn't know if it was documentation. He was looking for justification. He was looking to figure out why he violated his contract because that's what he did. Selectman Jasper was having a hard time believing the Facilitator didn't realize what 45 hours was. If it was 50, or maybe even 55, but this is way beyond. He has concerns that somebody they've hired at \$27 an hour is unable, which is a fact, not a criticism, he was unable to follow the contract. There's no argument there. He billed the town for 69. He should be familiar with his contract. He has an obligation to himself and to the town to be familiar with the contract he has signed and recognize that when he reaches the point, he needs to go talk to Steve. Now Steve then

may say he's got to call Mike O'Keefe a call to find out whether or not to authorize additional hours. That's the process he envisioned. It's a check and balance. They all need to recognize Steve isn't the cable guy, but he's the guy who is smart enough to know, if that question is asked, who to go to to find out because he's working for the Board of Selectmen. Mike O'Keefe is not working for the Board. That's not a criticism, it's the reality and where he was going with fiduciary responsibility. At this point, the Chairman has an obligation not to pay more than the contractual amount, and they move on. The contractor can come in and talk to the Board as any contractor would who felt they were owed more money and they'll have that discussion. When the Cable Committee has a plan and they want to request additional hours, they will come in and talk to the Board. He didn't think they needed to take any further action tonight on this, unless the Chairman was confused.

Chairman Nadeau said no, he'd sign the purchase order for 45 hours and go from there.

8. NEW BUSINESS

A. School Board Request for a Meeting

This item was taken up prior to Old Business.

B. Request by GFWC Hudson Woman's Club to waive the fee for use of the Community Center for Candidates' Night at the end of February and for the annual Bunny Breakfast on March 28.

Motion by Selectman Jasper, seconded by Selectman Massey, to approve the request by the GFWC Hudson Woman's Club to hold Candidates' Night and the Bunny Breakfast at the Community Center and to waive the fee, as proceeds from the breakfast goes back into the community, carried 5-0.

Chairman Nadeau declared a recess at 9:25 p.m. The meeting resumed at 9:35 p.m.

C. Benson's Discussion—Appointments and Charge to the Committee

Benson's Committee Member Selectman Shawn Jasper said they had their first Benson's Committee meeting in almost two years and it was very productive. They talked about some direction they'd like to go in, and in order to do that, he needed to talk to the Board. As a point of reference, two members of the committee are people who were appointed from the Recreation Committee and the Historical Society. The Board may choose to keep that as it is. When the Board established the Benson's Committee, it was not the intent to be lifetime appointments. There aren't any town committees where the members serve longer than three years. Most of these appointments were made in 2003 and 2004. It's his recommendation that they establish the Benson's Committee as a permanent committee, and that they do appointments as they would with other committees. The Board may wish to keep the permanent representatives from the Rec Committee and Historical Society, or they may determine that's no longer appropriate because that was primarily for a planning purpose. The Board may also decide to ask everyone to reapply and appoint the incumbent members who may choose to reapply and then they can stagger the termination dates in order to get everything in sync. What he envisioned and what the Benson's Committee thought was reasonable, since this is such a huge project that they'll be working on it long after all of them are dead, because there won't be any end to what needs to be done, was to involve the community. As a model, he used what they do at Alvirne in the vocational program. There is a vocational committee that oversees the subcommittees. They have people who are interested just in wetlands, the farm, the building trades--all those different subcommittees--and those people don't have to worry about anything they are not interested in, and one committee oversees all of the subcommittees. The Benson's Committee would report back to the Board with any of the projects that the subcommittees have recommended that require financing. After the Board appoints the Benson's Committee, they would go out and look for people to serve on the subcommittees. It would be smart of them to include people who may live in Nashua, Merrimack, etc.—people who are really interested in this project. Mr. Provencher's niece and nephew showed up at the Benson's meeting and the niece was at the Governor and Council's meeting. They can make this a great project by doing that. He wasn't asking for anything set in stone tonight; it was for discussion. They would potentially have a committee that was just interested in the trails, and all they would do is focus on developing those trails. They would have a committee interested in just the grounds, somebody else interested in the Haselton Barn and maybe the Elephant Barn, if that's salvageable, one dealing with the train depot and the office building, so it's broken up into small sub-sets so that nobody would be overwhelmed. They can accomplish some great things if they do things that way. They don't need to do anything tonight; he was bringing this up as something for the Board to think about. They don't need to act in haste. He just wants them to think about how they want to reconstitute the committee, if they want to start fresh and have eight people appointed by the Board and have nobody from the Historical Society and nobody from the Rec. If someone chooses to reply from there, great, or do they want to keep a committee that has lifetime appointments and they just go on till they leave and then fill those seats. It's up to the Board.

Selectman Massey thought Selectman Jasper's general idea was good. As a reference point, they have the Conservation Commission, who actually has at least one or two subcommittees that they've appointed members to, and they are focused on a very specific task, such as the Open Space Committee, and they report back to the Conservation Commission and any funds they spend have to be authorized by the Conservation Commission, as a whole. He thinks it would be appropriate to have a Benson's Committee as a standing committee with an odd number, perhaps seven, with staggered terms. They wouldn't need to designate any one organization in town as having a permanent membership on it because this is not a one or two year project. This will be a lifetime project.

There are eight voting members on the current committee. The standing committee has got to be focused on two items. The first is the completion of the preservation plan, which means they have to go back and relook at it, even if they have to hire some of the consultants from before, to come up with a cost estimate and a time schedule for taking care of the barn, the depot and the office. Finally, a governance requirement for the ongoing cost of managing and operating that park. At first blush, that may seem to be a trivial matter, but if you want to have a park that is self-sustaining, then you have to have a budget for maintenance, and that has to include such things as trail clearance and maybe volunteers will do it, but you still have to have the governance one. To make a long story short, he was in favor of a standing committee with staggered terms and, by all means, the more subcommittees that they can involve to get things done, but in the end, the responsibility to the town is the standing committee, not the subcommittees.

Selectman Coutu said he appreciated what Selectman Jasper presented to them, his ideas of a standing committee and appointed subcommittees. The community the involved Benson's is far and wide, well outside of Hudson's geographic boundaries. He received a communiqué from a friend of his who is a professor at Tufts University. He is married, has a child and lives in Arlington and he wrote, "In addition to being a professor at Tufts University in Boston, I am also a fine art and documentary photographer and that is why I decided to contact you. I read a brief article about Hudson obtaining the property where the former Benson's was located in the Boston Sunday Globe and it brought back many memories. I was wondering if it might be possible to obtain permission to access the property, with the intention of making what may well be the very last photos of what remains of Benson's. I would approach this as a documentary project, and would make photographs available for nonprofit use. For example, to use in a possible exhibition featuring Benson's at some later date for the town of Hudson. I would probably need to access the property a few times during the course of the project. Is this something you might be able to help me with? Anyway, I look forward to hearing from you. Best regards." Selectman Coutu said he communicated back, saying access wouldn't be possible before the spring, but these are the kinds of interest that will be generated. The success or failure of Benson's depends on the broad geography of people who came here and there are a lot of memories. He shared with Selectman Jasper the formation of a formal committee, with subcommittees, who can look at these kind of ideas and whether or not there will be some sort of a historical structure there and what they could bring to that historical structure to make it more inviting to people so they would want to come and see it again. What they are going to do to restore Benson's will put Hudson on the map, not that they are not already on the map, but it will bring a lot of attention to the town and bring in tourists, which is going to be great for the community, as a whole.

Selectman Maddox said he was going to be the stick in the mud. Benson's is gone; there is no more Benson's. He's walked it a couple of times and there's a few buildings left, but there's no more Benson's. The whole idea of this was passive recreation, to be able to walk in some interesting flora and fauna. He didn't have a problem with having a Benson's committee. He just thinks they are going to be dividing up the ability to how it's going to be used, which is primarily recreation, albeit passive. He didn't see them opening up Benson's II. People want to go back, but he went to Benson's twice and all he remembers is that it smelled and the wire hanger that held the bumper sticker on. This is a money pit if they are not careful. The first thing they need to look at is what they're going to have for a budget, and they are going to be fighting with the Rec Committee, the Highway Department and the Police Department for funds to try to maintain this. This comes right back to an earlier conversation about the cable. There needs to be a plan—a realistic plan. They are just not going to get elephants and lions and tigers and bears, or even some of the buildings back. They need to look at this as an open space beautiful area for passive recreation, and little else.

Selectman Jasper said he agreed with Selectman Maddox to a large degree. He was going to jump on Selectman Coutu's words of "restore Benson's," which sent a shiver up his spine. There are some buildings there that can be restored, but precious few. They will never restore Benson's. People over 35 would be able to walk through and remember where certain things were, and they might have some remembrances, but it won't be long before there won't be anyone who knows what they are talking about when they say Benson's, except through photographs, which they would view as being interesting, not with fond memories. It is going to be primarily passive recreation. There's going to be some opportunities for a little more than passive. The amphitheater will give them the opportunity to have some nice summer concerts. The committee was talking about skating on the pond, but the pond is pretty well weed-choked at this point. You can't skate over weeds very well. If they are going to have an area like that out in the middle of nowhere, there's a lot of planning to be done. You can't have a 12 year old go out there. At Robinson Pond, at least, you can pretty much see who is out there and there's a lot of people out there. This is in the middle of nowhere and you've got to be concerned about how that is dealt with, so there are a lot of things that can be done, if there's general consensus in keeping with Selectman Massey's wise counsel to have a plan. The Benson's Committee is meeting on the 16th next and he could go back to them and start working on a structure of responsibilities. Their first responsibility, which they could begin to do this winter, is get the roofs taken care of. That's not the subcommittee's work; they have to do that. They have to oversee the budget. Luckily, they still have a substantial amount of money that's going to allow them to do the stabilizations and some of the early work, but they can develop an outline for what the committee's responsibilities will be, and he sees the committees as varying in sizes, depending on how many people want to join and partake and he sees them as real hands-on committees. These subcommittees aren't going to be like a Board of Selectmen or a Planning Board or Budget Committee that sit around tables. These are going to be committees where people are committed to going out and finding the volunteers and finding the resources and doing the work themselves of the various projects. That is the only way they'll be able to afford it, with volunteers to pound some nails and cut some boards. He wouldn't put people on the roofs, but there's a lot of projects that are within the scope that volunteers can do. Currently, there are essentially nine voting members and that should probably stay the same. There are one from Rec, one from the Historical Society, six public and the Selectman's rep.

That's nine who are voting, and then they have some other people who are non-voting that it's probably no longer appropriate to have them as members of the committee. They may choose to participate in some other way. If that general parameter works, he can go back to the committee and they can begin to come up with an outline of the structure, but not the detail of how they are going to do things. They have to get the structure approved first and develop it slowly with the various pieces.

Selectman Nadeau asked if 11 might not be a better number than nine because of all of the subcommittees they are going to be looking at. This is a big project and he didn't think nine was enough, but that'd be up to the Board.

Selectman Massey said a camel is a horse designed by a committee. If you get too many people on a committee, it becomes very hard to manage. He thought the appropriate number would be either seven or nine. He said he was going to go out on a limb. He thought what Selectman Maddox said was *the* thing to be said. It truly is where they are, so if they want to make a break with the past, and he's thought about this several times over the last two or three months, they should seriously consider renaming the park. If everybody in the world thinks Benson's is going to be what Selectman Maddox says it's not, then they will... he used to live in a little town called Southwick, Massachusetts, and every summer on Sunday afternoons, it never failed, in the heat of the summer, somebody would come into the center of town, a carload of kids in a station wagon, all screaming, and they were frustrated. And they would stop and they'd say, "Sir, can you tell me where the Southwick Zoo is?" Yeah, turn around 90 miles east in Webster, Mass you'll find the Southwick Zoo. The problem is Benson's has got a historical connotation to it, and he's just raising it right now, which is probably not popular, but one way to break with the past in terms of what the park is going to be would be to change its name. That's his radical thing. Tomorrow, he'll probably be burned at the stake, but Benson's is not going to be anything remotely resembling what it was, even when Play Land took over, never mind what it was when Colossus the Gorilla was romping around in his gorilla cage. The bottom line is, it's very important right now to make a determination whether the people on that committee today are the people that are going to be there because, make no mistake about it, if they start down this road with them and a month from now, say they are going to reconstitute the committee, they either have to say that's the one, but they also have to put terms, stagger the terms so that it is not a permanent committee, but a standing committee, that they are prepared, by the time March or April rolls around, that they are going to have staggered terms.

Selectman Maddox said they need to look at the big picture. More than seven is stretching it. People that want to volunteer to help don't need to be on some formal committee. They are going to want to go help. If the Boy Scouts, or whoever, want to go out and help, they don't need to be on the Path Committee. A group that needs to oversee this parcel, and he's not convinced it needs its own group, the medium-sized the better it's going to be, otherwise you're going to have people all pulling in a different direction so they can't get some things with five, so seven is the magic number for him. He just didn't see the amphitheater. It's surrounded by swamp. Unless you got the mosquito spray concession, that's not going to fly. The intent is during a beautiful day, even snowshoeing at this time of the year, going through that park of 165 acres is probably a gorgeous place. The times that he's gone in there, it's absolutely amazing to think that surrounded by thousands of homes is this 165 acre parcel, and to be able to walk that, to be able to enjoy that, the first thing they need to do is get this thing documented—what they just bought from the state needs to be documents. Whether they use that, or utilize some photography, hire someone to actually come in and document what they got when they got it is priority one so that, at some point, they know how far they've gotten. Seven is his magic number and document what they got and try to make it into the best... he asked how much money there actually was in the Benson's coffers, after the train station.

Mr. Malizia said there is 47k worth of interest they haven't spent from the account where they purchased the property; there's 100k in an account from Shepherds Hill, and depending on the grant and how much they have to come up with, if anything, for the train depot, there's another 190k or so. That was in a warrant article that lapsed, but they got permission to carry it forward because they were still negotiating. The 47k can't be touched until it's appropriated because it's interest and they've never had authorization to spend it. The 100k from Shepherds Hill can be spent and the 190k. Selectman Maddox said the 190 was committed to the train station. Selectman Jasper said no, only a portion of it was. Selectman Maddox said there's \$150,000 between Fiscal Year 2009 and 2010 because they didn't appropriate any money for Benson's. That's \$75,000 a year, so by the time they stabilize the roofs, they are probably at zero, give or take. They don't know, but there's not a lot of money there to do anything until FY11.

Selectman Coutu asked Selectman Jasper to take back to the committee that it would be great if they could recruit somebody that can research and write grants. There's monies available through the Audubon Society and the Sierra Club to help with the development of the property. He wouldn't support any name that resembled Maddox Madness Zoo, or anything similar unless Selectman Maddox would pull out that gorilla uniform he's been telling them about, get in the gorilla cage and entertain those people who wish to go and visit the property.

Selectman Jasper said the name needs to be Benson's Park. Selectman Coutu agreed. Selectman Jasper said if people come in and are looking for the wild animal farm after 20 years, so be it. It's not like the place just closed. The name Benson's Park without the name Benson's Wild Animal Farm is not going to be a huge draw, but for people in town it's reminiscent. There's going to be some place on there a Benson's Museum with artifacts that are being collected and donated. There's a lot of stuff out there that people want to contribute and there are things that will be coming in and there will be some memories there. The amphitheater isn't going to happen right away, if it happens at all. He didn't ever recall being swarmed by mosquitoes in there, so he didn't know that's a huge issue, but it's

something they'd deal with as they go along and see what happens. They have the Master Plan, and they work from there, but it's going to be slow. Most of the things beyond stabilizing the buildings are things that they can accomplish with volunteers. There is a lot of grant money out there, as Selectman Coutu has said, for things like this. As they develop the special projects and come up with ideas, they will be able to find monies to support some of these things. Are they going to have to have an operating budget? Sure. They will have to put money into that; they always knew that. One of the big issues out there and one of the subcommittees they talked about is security because that is going to be one of their biggest challenges; how to control motorized vehicles in that site and how to control the juveniles coming in after hours. One of the things that they've talked about is using the office building as a potential care takers place. It could be a retired person—give them an electric golf cart that could be kept in the barn and a police two-way radio and they could patrol the area. Somebody could actually live there. Not an employee who would be paid a huge salary and huge benefits, but somebody who may have retired from a job and is looking for a place. There are people who do this all the time, people who do caretaking like they had at the Historical Society for years. Those are the types of things they can look at. Somebody said they couldn't do that with that building, so he pulled out the deed and showed them they certainly can do that with that building. They can do a lot of things with the buildings. They don't have to be the same things they always were. It's historical context with an adaptive use. They have the flexibility to do those things, but that's going to be a huge challenge out there. They need to do this slowly. The first thing is absolutely document where they are at and start on the contracts on the roof. Clearly, one side of Haselton Barn needs to be done. The cupola is off and the question is do they want to start and get the people involved who were interested before and get the cupola back on the building at the same time they do the roof? That would make sense, but it doesn't necessarily have to happen that way. He's got to get into that building and see if they're starting to get water damage in there and how much time they've got. The train station roof can be done any time, before it gets moved. The office building can be done at any time and those are two small roofs that won't cost huge, huge amounts of money. He thinks nine is a good number; to take the committee from where it is and back that down probably isn't the best thing to do. In thinking about it, he would simply open it up, let everybody apply and the Board may find a lot of talent and may want to expand the committee to 11. This year, he didn't want to use the Budget Committee of how a committee of 11 can work, but a committee of 11 can certainly work. They can invite the people who are already on the committee to reapply, but it's time where, just like they do with everybody, they don't say because you've been there for a long time, you're automatically on. This committee will continue to work, knowing that if they work and produce a product the Board of Selectmen is happy with, the Board will likely reappoint those people to the Benson's Committee. He didn't think it was wrong to tell them how the Board is going to do it. Those who are truly interested will redouble their efforts in an effort to get on the final committee. Some of them may say they don't want to be on the big committee, but on a subcommittee.

Selectman Massey said fortunately they've got the law on their side on this. It would be important, given what Selectman Jasper talked about, that they should consider, very quickly, drafting an ordinance and having public hearings that would restrict motorized vehicles on the property because now that they own it, then can do that. The deed specifically says there will be no motorized vehicles, except for... and that would be important because that would start giving them the ability now to issue citations if somebody does violate the ordinance.

Motion by Selectman Massey, seconded by Selectman Jasper, to draft an ordinance restricting motorized vehicles, which carried 5-0.

Selectman Massey said he was back and forth between the seven and nine. Any more than nine isn't going to be doable. Given they currently have nine people on the committee, and a good number of them will be reapplying. At the front end, it makes sense to keep it that way, but he thinks the Board should decide by the next meeting, at next week's workshop, the staggered terms, so that they just create the nine so there's going to be three of them for 2010, three for 2011 and three for 2012, which he then changed to 09, 10 and 11. Selectman Jasper said one of the members if a member of the Board of Selectmen. There are eight public members. Selectman Massey suggested that they used the same thing they used for all the others, that there's a nine member board, with a liaison from the Board of Selectmen. Regardless, they should establish now that there are three terms to expire 2009, December 31, three to expire 2010 and three, 2011. Selectman Jasper said then he's making it a 10-member committee because the Board of Selectmen is a member. Selectman Massey said if the Selectman is not a voting member, then it doesn't matter. Selectman Jasper said he would highly recommend against that. This is a very, very important thing they are doing and it's critical that they establish the committee with a member of the Board of Selectmen as a full voting member, like the Budget Committee and the Planning Board. With something that is going to be consuming so many resources and involve so many people, not to have a Selectman on there as a full voting member would ultimately be a real mistake. Selectman Massey, for him to get a sense, it depends on the other Board members because he was going to make a motion relative to a voting membership for the Board of Selectmen. Chairman Nadeau agreed with Selectman Jasper; Selectman Coutu also agreed.

Motion by Selectman Massey, seconded by Selectman Jasper, to create the full Benson's Committee with a voting member from the Board of Selectmen, three year terms to expire on December 31, 2011, three members terms to expire on December 31, 2010 and two members whose terms would expire on 2009.

Selectman Maddox said the most important thing they do is public safety. This is really far down on the list, so he's going to disagree with them there. If that's what they want to do, but he thinks with very limited budgets, greatest

planning in the world... he's not sure where he's going. Selectman Massey said he had one more piece that he wanted to do, but it won't involve a motion, but it's going to address what he thinks Selectman Maddox is after.

Vote: Motion carried 5-0.

Selectman Massey said success has a thousand fathers, failure is an orphan. Everybody, and they've already seen the examples of it, will want to get involved, and it's great from that perspective, but they are going to have a very hard time managing expectations and one of the ways they are going to have a hard time managing expectations is, as one example, people are going to want to have this museum. Well, the creation of a museum is not the issue. The ongoing cost to maintain and operate it is going to be the more expensive issue and whenever they do any one of these items, they need to not only cost out what it's going to take to create the entity, but then what they would be projecting for five and anything beyond that's probably not possible, but a five year operating budget because if they were the create this museum, and suddenly find out the only way it could truly be operated is paid staff, they've created a nightmare because they've set expectations that's going to be there and then they don't have the wherewithal to fund it because remember, they, be the terms of the agreement of the deed, whatever they charge for admission to this park, if they do, for any purpose, that charge has to be charged to Hudson and non-resident citizens alike. No differentiation between what it costs. So, when this committee is working on things and presenting plans to this Board, the things they need to be cognizant of is not just what the cost of creating something is going to be, but what is going to be the long term operating obligations of this, and he's mindful of what Selectman Jasper just... to give you some idea. One of the reasons why they fought so hard and long and successful won with the state on this historic preservation issue was, they had an estimate at the time that, just to paint the barn every four years, they were probably looking at \$50,000. Now, you put that into a Capital Reserve Fund and you've already \$12,500 a year that you've put into a maintenance budget, so he'd just caution them that they need to keep the enthusiasm going, but they have to temper it by the fact that they have a fiduciary responsibility to the citizens of Hudson to take care of the people outside that want to do it, but it's the citizens of Hudson that are going to predominantly by paying to maintain this park, and it's not cheap to keep a park operational.

Selectman Jasper said one thing they probably didn't clarify well enough in the motion on the committee, they didn't really set a time for advertising or a time for appointments, nor did they specify that the current committee continues until the new committee is constituted. Since three of them are up for election, it might be appropriate that the appointments be made after the elections. If they can do that be consensus, they can put out the applications sometime in February, after they get a better idea of the description and come up with an idea and try to get some parameters for what the big committee is going to be doing, what their job description is going to be because that's going to be important. Largely, this committee, is an administrative committee. There will probably be liaisons from every committee that are going to be working with people on subcommittees and will probably get their hands dirty there, but the overall committee is going to be looking at budgets and at projects and proposals that come in and interviewing people for the various committees and deciding what is going to go there.

Selectman Maddox said all good ideas, but what keeps popping up in his head is the fact that the Master Plan, which was written with the best of intent, is \$7 million to do all of the things they wanted to do. They should back up. He agreed with the fact that security needs to be the first step. To spend \$300,000 to renovate roofs and whatever to have a building vandalized makes no sense. They need to find a way how that's going to work. His fear, and where he thinks he was going with the nine, is it makes it even harder for them for a consensus inasmuch as what they are going to do with X amount of dollars. They only have limited resources, even if they got a grant, does that fit into the Master Plan? These people are going to be charged with an awful lot to go and try to do, so he agreed to wait until after the elections, see who applies. The Board needs to look at what Selectman Massey said. What do they want to do, but what are the long terms costs? If they are not providing security up front, they are setting themselves up for disappointment and, again, for those that have walked the property, it's gorgeous. When Kevin and his crew went down there and cleared the paths, what a difference. There's a few places where the pavement from the original walkways has buckled, but for the most part... he and Steve walked around without too much blockage. You walk out to the back and the fences have just been driven over, ridden around, so that needs to be something this committee needs to look at with a very limited budget. Get them started, but temper that with the cost for the long term.

Selectman Massey said in the spirit of he who proposes, disposes, he thinks Selectman Jasper has the right idea about taking the time to make this happen right, so if he's agreeable, and the Board is agreeable, he would be willing to work with Selectman Jasper to come up with, in the next month, an actual job description of what this committee is, what its charges are, what its responsibilities are and how they would operate, and they'd use that for the basis of interviewing people, and that would then definitely take them past, so if the Board is agreeable and Selectman Jasper is agreeable and willing, he'd be glad to work with him on defining the charter for that committee. Chairman Nadeau said that sounded good to him. Selectman Jasper agreed. Selectman Massey asked Selectman Jasper to pick a time when they can get together.

Chairman Nadeau declared a recess at 9:25 p.m. The meeting resumed at 9:35 p.m.

D. Deliberative Session Speaker Designation

By consensus, the Selectmen approved the designated Selectman speakers for the deliberative session of Town Meeting, as indicated in the memo from Town Administrator Steve Malizia, dated January 16, 2009.

Mr. Malizia said, relative to the petitioned article, he looked at the operating budgets through the years to get an idea of what the percentage increase was for the budgets versus the CPI. He passed out a document with that information, saying it was for the Board to have an idea of the historical information. He took the national CPIU and determined what that number was for the preceding 12 months prior to the annual meeting. The big increase in 1998 was when they bought the water utility. These things aren't always going to be clear cut. There will be things that will happen, such as with the Sewer Utility moving monies from reserves into the operating capital reserve fund from the surplus, which comes through the operating budget. It's going to affect the percentage, and that has happened a couple of times. It's not always going to track the cost of living, based on certain things the Board forwards.

Selectman Massey asked the Town Administrator to add another column, the revenue change, from year to year, because that's what that whole article, if it were to pass, would be based on. Mr. Malizia said in reading the legal opinion, he's not sure what it is based on. Selectman Massey said he understood the legal opinion, unfortunately, or fortunately, depending on... but at least it would give some... one of the things you see here in a couple of areas, there are one time only expenses that are in some of the budgets. Mr. Malizia said in the operating budget, that was correct. Selectman Massey said it might be worthwhile to see the revenue side, as well, the increase. Mr. Malizia said he'd do whatever the Board liked, but he didn't want to confuse people. He was just trying to look at the cost of living versus the budget. If they start twisting themselves into a pretzel, they'll make it worse. That's his concern, and that's what they'd end up doing. Selectman Massey said the Town Administrator was right and to leave it as it is. Mr. Malizia said the ultimate arbiter of this was in no case was it more than the cost of living.

Selectman Jasper said this was good information to have and it varies. They haven't done too badly over the years. There's a couple bills in Concord that he refers to as stop-me-before-I-vote-again act because one is being proposed for the Legislature to do the same thing. They're telling themselves how they have to vote in the future. In this case, the voters, who approve the budget, are telling them what to do. They should be telling the Budget Committee what to do, but ultimately keeping an eye on it and voting accordingly. These things really aggravate him. The only ones that make sense to him, if you have a city council, a city form of government where the voters never have direct control over the budget, that makes sense, because it's the voters telling the people they elect. Here's what we want you to do. In this case, we're proposing, they dispose. Don't tell the proposers what you've got to get because it's up to you. They do the best that they can, and he thinks they do a pretty good job of it. In 2010, 1.6%. Mr. Malizia said the cost of living numbers are not anywhere near that. Selectman Jasper said that's got to be the real problem. You gotta go back three years. Mr. Malizia said he didn't have them. That's crazy. How do you even determine that? Mr. Malizia said he put together this document because he thought it would be good for the Board to have some idea of where the cost of living was relative to the operating budget. The revenue side may just muddy this information.

E. NHMA Municipal Advisory Committee Meeting

Steve Malizia, Town Administrator, said the NH Municipal Association is holding a January membership meeting in Concord this week. They are looking at possibly articulating a recommendation to the Legislature, to state government, as to revenue. In the past, they've stayed away from that, but they're deliberating discussing, from a municipality perspective, the municipality's perspective, if there's to be a revenue change/enhancement, and he thinks what they are looking for is if the town could send a representative to this meeting, that they be given voting authority to vote with NHMA to articulate some sort of recommendation. In the past, Selectman Massey has been on NHMA committees, so he may be the person this is referring to. In the past, the Board has given Selectman Massey guidance as to whether or not the Board wants to take a position and what that position is. He didn't think they have to do anything, but it's up to the Board, if they want to.

Selectman Jasper said he was totally confused. Selectman Massey said he was the Board's representative to that organization, sitting on the Governmental Affairs subcommittee for the MAC, and he has gone to this particular meeting every year, so if the Board so directs, he'll do it again this year. Selectman Maddox said there are no questions being asked. Several responses indicated that yes, there were. Selectman Coutu said it's about tax revenue. Mr. Malizia said the document was copied for everyone for the agenda. Selectman Coutu said he also received an e-mail on it. Chairman Nadeau added "that had questions." Mr. Malizia said this was all he got.

Selectman Massey said, recalling from last year's meeting, of the gas taxes that are raised, more than \$10 million of that money is diverted away from the purposes for which it was raised and is being used for several of the agencies. If a bill were to be presented into the Legislature that would require that all of the gas tax money be used for the purpose for which it was raised, then the state would have an additional operating deficit, so the general consensus last year was not to go forward with a request to have that money retained within the purpose of it. It's always been interesting to him because the highway transportation lobby successfully lobbied against the state using some of the gas tax money for the railroad service from the corridor down to Boston on the basis that the Constitution says the money can't be used for anything but highways. But, as he learned last year, a significant amount of that money is being diverted to offset the cost of some of these agencies, so that's going to be one of the items, and he would think that, reluctantly, he would be taking the position, if he is so directed, not to let any of that money be... to continue to allow the money to be diverted. Otherwise, they'll be faced with an additional shortfall in the state's operating budget, which is going to put pressure on the state to look at other forms of taxation and they all know what the 800-lb. gorilla item on that item is. That's what he thinks this is all about and why they wanted the whole association to vote on it, as opposed to having the MAC committee, which only has about 30 people on it.

Selectman Maddox has no problem with Selectman Massey doing what he believes to be right, even though he disagrees. That's how sales taxes go from 2% to 3% because they all have a good purpose and taking money out of what's supposed to be used for repairing the infrastructure goes to good causes, that's how you get there. He disagreed on that particular item, but he's sure he'll look at them all and look at the best interest of Hudson, and he's not spending any of the town's money, so it's OK.

Selectman Jasper said this whole thing is a very slippery slope and he's disappointed they've decided to go down this path because the last thing the Legislature needs right now is a group like this coming together and just arbitrarily, without a great deal of study, making recommendations that people are going to hold up and say here's what the Municipal Association thinks we ought to do, and it's really going to be based on a bunch of people who haven't had any real knowledge of the state revenue system necessarily to begin with coming in, making recommendations. It's just going to be more pontificating. They all saw what happened this last week with the Police Association on gambling and from what he's hearing, they never thought anybody was going to get wind of that and they were just saying let's look at it. Now, it's a big deal, and he's afraid the same thing will happen here. It's just going to be used as a prop, so at the end of the day, he hoped if "he" agreed with that, "he'd" make that case, that "he" shouldn't be making a recommendation because that's not the proper role of the Municipal Association. They should be advocating for causes of the cities and towns, to protect their revenues and to watch out for legislation that is harmful or not in the best interest... not to set tax policy for the State of NH. For the Municipal Association to stick its nose in, trying to set tax policy for the State of NH by saying they should raise the cigarette tax, or raise the gas tax, or have an income tax, or have a sales tax, just is not the proper role of the Municipal Association.

Selectman Massey said, on an ancillary note, he didn't know if anyone saw it, but the NH Firefighters Association has won a court case that requires the Local Government Center... the Supreme Court of the State of NH has ruled that the Local Government Center IS a public entity, not a private entity and, as such, they must open their books to the public and the context was that the NFPLA wants to know what the true cost of running the insurance programs are and their rationale which, in his mind, is certainly a valid rationale is if they're being asked to contribute more to the cost of insurance, they would like to know what the overall cost is to make sure they're not being asked to take an undue burden on themselves. The Supreme Court did rule that now the Local Government Center is not a private entity, but is in fact, subject to the Right to Know Law.

Selectman Massey said he'd use his best judgment, taking into consideration what Selectmen Jasper and Maddox have said, and it will be worthwhile. He will dutifully report back to them next week its outcome.

Motion by Selectman Maddox, seconded by Selectman Coutu, to appoint Selectman Massey as a voting delegate to the NHMA Municipal Advisory Committee Meeting on Friday, January 30, 2009, carried 5-0.

9. OTHER BUSINESS/REMARKS BY THE SELECTMEN

Selectman Coutu thanked Chairman Luszey of the Budget Committee and the members of the Budget Committee and expressed his sincere appreciation to Kathy Carpentier, the Finance Director, and thanked the Assistant Town Administrator for all of the help and guidance they provided him with regards to the budget deliberations this year. He especially commend Chairman Luszey for the manner in which he conducted the budget sessions. It was a great learning experience for him and Chairman Luszey represented the interests of the town very well.

➤He discovered this weekend that Selectman Jasper was indeed not born in 1492. He turned 50 last Friday. He may have gained 10 or 15 more years when he was at the State House with them. He wished him a belated Happy Birthday, although he did extend those wishes on Friday. He understands Selectman Jasper dined with the Governor. Selectman Jasper interjected that was a false rumor. Selectman Coutu said something that was not a false rumor was that he, Selectman Nadeau and Selectman Massey discovered a beautiful and tasteful little patisserie across the street from the State House. They are going to assign Selectman Jasper to shag some nice little pastries every other week or so, and some French croton.

Selectman Maddox said it's so tough to follow Selectman Coutu. To all of them sitting at home waiting for another municipal meeting, the Planning Board's meeting tomorrow night has been cancelled because, alas, there will be snow in New Hampshire. Shocking. All of the items that were on the agenda have been deferred to future meetings.

Selectman Jasper said it's extremely important, particularly with the kindergarten petitions, because as they are presented, they don't really represent the true cost of kindergarten. He thinks there will be an amendment coming forward that will detail the true cost so that when the warrant is out there, it will show the true cost of kindergarten. It will be important to have people there to make sure those true costs are represented in an amended form. It's also important to note it would be the wrong thing to do to zero out the kindergarten article. If there's no dollars in there and they vote for kindergarten that's free, that happened to another community and they passed it, but now the courts have deemed that even though there was no dollar amount in there, in fact, the voters have indicated their support of kindergarten, therefore, they accepted the responsibility. So, they could be in deep trouble if that were to happen, and that's why it's important to have the true cost so it can go to the ballot and people know exactly what they are voting for and not some false number, or no number at all. It really is important to have people there and it doesn't matter if you're for or against kindergarten. It matters that they want people to know what the actual cost is. Selectman Massey said he wanted to understand something. He just read yesterday in the NH Government magazine that no means no, that if, in fact, the item is zeroed out, the town is not authorized to spend any money on that for that year.

Selectman Jasper said that normally is true, but this is a case where the state has mandated kindergarten, so in some convoluted way, the courts have said it's a 28-A issue, that unless they accept the responsibility, and even though there were no dollars attached, the courts found that the town, by voting yes for kindergarten, even though there was no money, had accepted that responsibility. Selectman Massey said he wanted to make sure everybody would do it when they do in there, they've got to understand that no does not mean no, in this particular case. Selectman Jasper said that was correct. Selectman Massey said, in this case, if it fails, they are going to be OK. If it were to pass, even though there's no dollars... Selectman Jasper said if it goes forward with a true cost, and that passes, they are on the hook for it and that will nullify the case that the School Board is bringing forward. Most of the people he has talked to in the legal community, who have any knowledge in this area, think it's a slam dunk because they don't have kindergarten. The Supreme Court had some very strange opinions out there because 28-A was about as clear—no new, modified or expanded—and the courts just recently have determined in a couple of cases well, if you have it, if you're doing something already, and it just expands a little bit, that's not a 28-A issue. It's a slippery slope. He didn't know where they were coming from on some of this stuff, but they've got to be very careful they know exactly what they are doing when they deal with kindergarten issues. Selectman Massey said the other piece of it that he was kind of surprised is it appears if you take a line item in the operating budget and zero it out, and there was a formal vote at the deliberative session to zero it out, that the no means no law pertains to that line item, as well. If, for instance, there was an item in there called Legal and somebody zeroed out the entire cost, the way he read the opinion, and obviously, he doesn't see the whole thing, is you wouldn't be able to spend any money on legal fees that year because you wouldn't be able to transfer money from another line item to that line item. That was different from what he originally understood the no means no law. It would be worthwhile to get a clarification on that.

Selectman Massey said he'd like to piggy-back on top of Selectman Coutu and say that although he may not have come over here in 1492, they did discover in the Governor's Councilors' room, a portrait of a near-ancestor of their Selectman who came over here in 16-aught something. Someone interjected, "Ebenezer Scrooge." (Laughter)

Selectman Nadeau said Selectman Maddox missed a good time on Friday in the Governor's chambers. Selectman Maddox said it's really a drag that he has to work.

►This Saturday is the school budget deliberations, at the Community Center on Lions Ave.

10. NONPUBLIC SESSION

Motion by Selectman Jasper, seconded by Selectman Maddox, to enter Nonpublic Session under RSA 91-A:3 II (c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant; (d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community; (e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the public body or any subdivision thereof, or against any member thereof because of his or her membership in such public body, until the claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph, carried 5-0.

Nonpublic session was entered at 10:04 p.m., ending the televised portion of the meeting. Any votes taken upon entering open session will be listed on the Board's next agenda. Open session was entered at 11:00 p.m.

Motion by Selectman Jasper, seconded by Selectman Massey, to seal the nonpublic session minutes carried 5-0.

11. ADJOURNMENT

Motion to adjourn at 11:03 by Selectman Coutu, seconded by Selectman Massey, 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