

HUDSON, NH BOARD OF SELECTMEN
Minutes of the Workshop Meeting of June 3, 2008

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

2. **PLEDGE OF ALLEGIANCE** was led by Marilyn McGrath.

3. **ATTENDANCE**

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

Staff: Steve Malizia, Town Administrator; Planning Board Chairman Jim Barnes and Vice Chairman Vinnie Russo; Members George Hall and Marilyn McGrath and Alternates Brion Carroll and Tierney Chadwick

4. **DISCUSSION ITEMS**

A. **Planning Board Items**

1) **As-Built Plans Depicted from Approved Site Plans**

Mr. Barnes said the issue they were having a problem with that was brought to the attention of the Town Planner was sites that get built out and end up being different than what the Planning Board had approved. There were discrepancies in parking, the foot print of the building, etc. They are trying to make sure town staff inspects these and compares them with the approved site plans and if they diverge from the site plans, then the Planning Board needs to be notified.

Chairman Nadeau asked if this happened very often. Mr. Barnes said he's seen it a few times, but couldn't recall any specific incident. Mr. Russo said the most recent one was with the dental office on Old Derry Road, where there are definitely some discrepancies between what is there and what was approved on their. One going back about five years-- River Road, State Line Office. Mr. Barnes said they built a mezzanine that wasn't on the plan. Someone interjected that sometimes they don't know until someone comes in to do a change and what they are looking at is the site plan record that no way reflects what the actual existing structures are. By that time, they are past the point, having been there for a year or two. They look at it and don't even see how the two match up. The potential for evolution of these, either the first day they get occupancy, or over time, either one of those could be something they'd have concern over, so if they can catch them in the sense of making sure they adhere to what they plan for... it might be that the engineer that designed it is not necessarily the executing engineer or the architectural firm or the design shop that puts it in place and they have some lenience in their own mind. It might be totally unintentional, but the fact is having it so that there is an actual affirmation that they met plan before they get a CO. That's what they are asking for; some structure of that type.

Selectman Massey said about two years ago, there was some discussion that said that after the foundation was laid, the developer should submit another Mylar that could be superimposed at the same scale as the original Mylar so they could see that the as-built matched the site plan and, if it didn't, there had to be documentation as to why it was deviated. What happened to that? Did that prove to be impractical, or did they just decide not to do it? Mr. Barnes said there were times when that clause was added as a stipulation, but he hasn't seen that for the past year or so. That may be something they can go back to doing, as part of their standard motions. But they still don't come back to the Planning Board. It has to be town staff that needs to make that comparison. It has to be handled at Town Hall.

An unidentified speaker said there are some subtleties, as the case that Mr. Russo brought up, the professional building on Derry Road has a different finish for the fence, which happened to be a notation on the plan. That wouldn't be noticed through that process and the lights are higher and brighter than they originally expected them to be, so there are subtleties that exists. It sounds good to have a superimposed thing that says this is the footprint, this is what we built on it and this is (not discernable), but there should be an on-site visit. The incidentals could also cause abutters concern. Mr. Russo said when they do come back to them, the applicant or the developer has already built something. They were given permits, for whatever reason. It has been built and they are looking for occupancy. They were looking for staff to be a little more stringent in giving out occupancies, making sure that everything meets, before and prior to the applicant actually using the facility.

Selectman Coutu said as he understood the process, having watched them on television, they go through an exhaustive process in the approval process for building permits in town. Now he is led to believe that once the Planning Board approves a set of plans, with or without stipulations, that some contractors are just going willy-nilly, building however they wish, and the town is granting occupancy permits. No one is going in on a periodic basis to check to make sure the plans that were approved are the plans and designs by which the building is being built. He asked if that was what they are being told. Mr. Barnes said he wouldn't classify it as a lot of developers doing that. There are cases where they've had some issues. Selectman Coutu said whether it's one or 101, it concerns him. The number is not relevant, it's the fact that the Planning Board goes through the process in order to make sure that whatever is being proposed gets built in a certain fashion, which is in conformity with the town by-laws and rules that govern construction. What shocks him, at this point, and he's new at this game, especially when it comes to planning, is that there are staff who are well aware of what's being proposed, who sit at the meetings, and now the Board is being told that there's no one going out there, checking the process to make sure everything the Planning Board insists be done and adhered to be done, and they are just granting occupancy permits. Mr. Barnes said the person who sits at their meetings is the Town Planner. He's not the one who grants the occupancy permits. Other people are doing that. Selectman Coutu asked if that would be the Community Development Department. Mr. Barnes said it would be.

Ms. McGrath said it's important to note that neither does he give the building permits. He doesn't authorize or give the building permits. He also does not issue the certificate of occupancy permit. That responsibility lies with the Community Development Department, but Mr. Cashell, who is the Town Planner and who sits at the meetings, is part of that department, but he is not charged with those authorizations. He can't issue a building permit. That lies within the Building Inspector's and Community Development Director's purview; the same with the occupancy permit. Selectman Coutu asked if Mr. Barnes and Ms. McGrath, as members of the Planning Board, asking the Selectmen to address this problem and set in motion a set of actions or rules to staff that would make sure the plans they approve are adhered to. Mr. Barnes said absolutely. Selectman Coutu said he would support that.

Selectman Maddox said that was absolutely right, but he thinks it comes down to some of this misgiving is their fault. They separated engineering from Community Development. There is a disconnect, at times, between town staff. One thing he's talked about, but they haven't been able to get off the ground, is a permitting sign-off that is more than a piece of paper with initials, all written by the same hand, with dates written beside them. It's not the way a town of 25,000 gets done. It is a system that is built to be flawed. It is a system that one hand doesn't sometimes know what the other is doing. It is something they need to look at to correct that particular avenue. It is disappointing, disheartening for members of any land use board, any volunteer group that sits at night and spends hours on a project to come out with an agreement that both sides give up something to facilitate progress; that agreed to a set of rules, and to have those rules driven over the next day is disheartening. It's something they need to address within how this building gets something done, and how this building is accountable for how that gets done, why someone is not walking around with the stamped plans is what they use to go by, reading the stipulations that says you can do this or not do this, or whatever it may be, and people understanding that those things need to be followed up on. It's disheartening to the Planning Board, or any land use board, to say you will park your cars for display on the side of the building, because that's what you wanted and that's what you showed, and they're out front, parked on the lawn. It's very disheartening that the Code Enforcement Officer seems to drive by it and doesn't see it at all. There's a number of people frustrated by that and it's something that they, at the Board of Selectmen level, need to address. Community Development should envelop Engineering, but that's a discussion for another night, but it's something that needs to be coordinated.

Selectman Jasper said they just barely separated Engineering from Community Development, he didn't think any of these problems can be blamed on that. These are not things that just happened in the last two months, so that's not part of the problem. The problem is that people who are giving out the permits are not as familiar with the site plans as they should be. There is a disconnect in the process and this is an age-old problem. It has been going on forever and ever and no matter how many times they seem to bring staff in to tell them they need to be aware of this, within a few months, they are right back where they started from. Obviously, there needs to be a different process than what they are using because saying they've got to be aware of it doesn't work. They've been down that path way too many times. Part of the problem is, for instance, colors of the fence. Personally, he didn't think that was any of the town's business, but that was a stipulation on the plan. He didn't think that's something that would kick in for a Building Inspector, looking at the plan to see if there was a note as to the color. That's not something that would normally pop up. It's a tough situation unless there's something on a plan that says the lights shall be no more than such and such, or there are going to be no lights. Some of these things don't even really require permits to install. A fence does, or a parking lot or electrical permit for outside lighting. He didn't know how to solve the problem, but they do need to. They've obviously made no progress in all these many years that this has been a subject of discussion, and for as long as he can recall.

Ms. McGrath said when staff goes out to look at these sites, they could take the approved plan, as well as the notice of decision, which lists the stipulations that have been approved for that plan. It's an 8-1/2 x 11 sheet of paper that they can easily scan and see what the stipulations of approval are. In regards to the site that has been mentioned and the color of the fence and some of the other items that were approved, that was a negotiation between the applicant and the abutters, who voiced a great deal of concern over that business actually being allowed to be built there. The applicant was so anxious to get approval that he was willing to agreed to just about anything, and the abutters were desperate to have some measure of protection, visual protection, from that site and they wanted it to blend in with what they perceived to be their neighborhood. That was agreed upon by the Planning Board, the applicant and the abutters. The abutters were very vocal about this particular site—they are watching it, they are concerned about it—so it's imperative that staff makes sure that plan be built according to plan, as they should all plans. The other site that was mentioned earlier, the one at the south end of town, there weren't any abutters that would even notice that they had increased the additional space of the building by building the mezzanine. It's no less of a concern, but some cases generate a great deal of interest and concern by the abutters, and as every knows, there's a lot of negotiations between Planning Board members and the applicants and the people that come out to either express their concern or their agreement with what was being proposed.

Mr. Carroll said he hated to be like an A, B, C school kind of guy, but the fact is this isn't a hard thing to fix. If a Town Engineer, or the person that's going to provide the visual flyover of the location, what was built, how it complied with the standard as defined on the plan, if that individual not only has to sign something, but has to sign a checklist, just like when they submit something to the Planning Board, they have to say yes, I've done this, etc. and they have to notify, be consciously aware and say yes, I did. If a form was created that merely went through and required that that individual(s) that are responsible for issuing building permits of CO's are required to put their John Hancock next to something that says I did review the plan of record and I did ensure that all things comply, as stated in stipulations, etc., it's a very strong statement and for that individual to go blindly boom, boom, boom and mark it and not have done it, you've then got a concern with that individual in the employ of the town. He didn't think that was actually going to

happen. Probably people are finding too many things to do, to many things to get done, jumping over, trusting someone or they are seeing it and not fully realizing what they've read. If the town just establishes something that is a checklist that would cause someone to be consciously confident of going through the steps and recording the fact they did, they would actually get to where it becomes natural and not something that's done for three months, then forgotten.

Selectman Jasper said he wasn't a big fan of committees, but suggested doing that, saying the only way to solve this problem is to get the stake holders involved in a meeting to develop a procedure to ensure that the site plans are followed. It's important to have the people who are tasked with doing a job participate in finding a solution. It would seem appropriate to have a representative of the Planning Board, the Building Inspector, Gary Webster from the Engineering Department, Sean Sullivan and John Cashell get together, discuss the problem and come up with a solution. That's the only way they are going to get this solved. Selectman Maddox said it's worth as much as anything else they've tried. He didn't disagree that it needs to be fixed. It's the people that do it every day, and unless they're in the loop, and they are the ones that's going to drive this, it's probably not going to go very far, so he didn't have a problem with Selectman Jasper's motion, if that's what it was. Chairman Nadeau said they had a consensus. Selectman Jasper said perhaps they should task Steve with putting this meeting together, or calling the first meeting and maybe facilitating it. Hopefully, it could be done in only one meeting. That's probably the most practical way to get it done. Just what Steve needs—something else on his plate.

Ms. McGrath asked what this proposed committee was going to do at the end of the process. Come back with a suggestion of corrective action so the Board could establish it as policy? Selectman Jasper said the goal is to have a checklist. They don't generally get involved in the forms. They need to be aware of what it is and they need to make sure that the people understand that once this has been established and agreed to, they will be held accountable to making sure this is followed. If they need to make it as a policy, that's something that would come back from the committee. He didn't want to get into that level of detail, at this time. The idea is to make sure there is a procedure that is followed and, at the end of the day, there is accountability for incidents for where that procedure is not followed because this continues to go on and on.

Selectman Massey said it's not a question of a checklist; it's a question of accountability, pure and simple, and any accountability has to be premised on the fact that if he is responsible for task A, you are not authorized to sign off that task A was completed unless there's some sort of delegation. There's lots of different ways you can do it. He and Selectman Maddox have talked about it. Basically, the general concept in the business world is something called document management. He didn't want to tell that group how to do it. All he wants to be able to do is say here is the set of tasks that need to be done; here, who is the signed person accountable for making sure that task is completed, and their signature indicates yes, I reviewed it; it meets the requirement; sign it and date it. It's accountability that this committee should be looking at to make sure the plans... and this doesn't apply just to the Planning Board. When the Zoning Board makes a determination and there are stipulations that are made on the variance, that same set of actions should take place that the applicant, when they do what the variance says they were allowed to do, they meet the stipulations because all too often, the Zoning Board will make a decision on Thursday night and on Friday morning, the applicant, who was denied the variance, is doing exactly what they were charted to do, or they left out a stipulation. It's accountability that they are really trying to zero in on.

Ms. McGrath said the Planning Board doesn't have any authority with any of the individuals who would be attending that meeting. If there's a disagreement over the procedure, how is that going to get rectified? That's a concern. They need to know who that someone is who has the authority to make the final determination. It's not just as-built plans and how the plans are carried out, it's also that building permits not be issued until the approved plan has been signed by the Planning Board and registered with the Registry of Deeds. That has happened in the past, as well, where a building permit has been issued for a plan... a few years ago, Digital Credit Union had an approved plan. However, there was a stipulation and when the plan came before the Board to be signed, the stipulation wasn't met, so the plan wasn't signed. She drove by on her way to work, and they were already building the building because they had been given a building permit. That's a very dangerous thing to have happen, and something they need to be aware of and they need to make sure the plans have been signed and registered before permits are issued.

Selectman Jasper said one of the reason for forming the committee is to make sure the Planning Board's concerns are addressed. The Planning Board representative would be there to make sure that all the stakeholders, the people who give out permits, understand what the issues are and to address those issues. That would be the charge from the Board of Selectmen, to see that the Planning Board's concerns were addressed and that there is a procedure for accountability. That was his intent. If the task isn't completed until the Planning Board, the representative in this case, is satisfied that the Planning Board's goal, the procedure, is in place; the accountability is the Selectmen's domain. The procedure should ensure that somebody is supposed to look at the plan and do certain things before anything is done.

Selectman Coutu said he would support a motion for a committee as put forth by Selectman Jasper, and he would hope that however this is resolved in order to address Ms. McGrath's concerns, is that the Board of Selectmen make it very clear to the department head that whatever policy is established, they want it implemented. What he is most concerned with, and the Planning Board representative should bring to the attention of the committee, is that the most egregious of these violations is that having a plan brought before the Planning Board, with a specific scope and size of a structure, only to find the contractor has added on a 20 x 20 piece that was not previously approved. They need to formulate some sort of policy of how they are going to handle that if, once a building is built, they go in prior to issuing an occupancy

permit, they find there is an additional 400 sq. ft. that weren't approved on the plan, or the footprint doesn't meet the original plan. That's probably one of the toughest issues they are going to have to address, if it's already built and it's there. What do they do, make them tear it down? Go to court? Ms. McGrath said she'd say yes, tear it down. Selectman Coutu agreed with that.

Mr. Carroll said putting this committee together would put together a procedure or establishes as a set of steps, checklists, signatures, establishing accountability at different points in the building and occupancy process is very important. He's surprised there isn't already one. There's probably five or six different roles the get involved in this. If the Planning Board blindly says, "You should be doing this," he has a feeling they will hear from the other side that it isn't all that easy. They may find that they will not only be defining a process, but may be trying to outline and dissipate roadblocks that these other individuals and roles find that they run into, so it probably isn't going to be as cut and dried as a checklist of signatures. There probably will be other things that they may need as assistance from the Board of Selectmen or policies from interdepartmental cooperation. That would be the best approach.

Selectman Massey if this accountability is in place, then you catch a violation before it occurs when it is being built. If, after it is built, and somebody does something in the interior that was not part of the site plan, then if you've documented all of the things that were supposed to have happened all along and you have the signatures, then the applicant can't come back and say, "You said I could," because now they have the accountability sitting there and they can preclude problems they've seen crop up because they've happened after the fact, and then the Planning Board is put in the unfortunate position of looking like the Grinch at Christmas if they don't grant the applicant all that they are asking for. This accountability is a pretty strong statement because it does put people on notice. It would give more teeth to telling someone to tear it down. He is aware of situations where the foundation was built in the easement and the people were told to move the foundation—and they did. It wasn't Hudson who told them to move it, it was the person who owned the easement.

Ms. McGrath suggested a member of the Board of Selectmen attend that meeting, which would give more weight to what was being discussed and, ultimately, agreed to, as a policy. Mr. Hall said they were talking about how to resolve the thing after it has happened, but in a number of these cases, a building permit was issued for what was built. Unfortunately, the building permit and the plans that were submitted with the building permit were different than what the Planning Board approved. After the thing is built, someone realizes that a more intense structure has been constructed that's contrary to the site plan approval, but the gentleman got a building permit, so who is at fault? They can't tell the guy to tear it down because he got a building permit. He can show them the building permit, saying he didn't understand that what was built was that different than what the Planning Board approved; the square of the building is the same. Just because I added a second floor, that shouldn't be anything different, not realizing that affects the sq. footage of the building, the CAP fee that is paid and affects parking requirements. At that site, the parking requirements were already tight; there was no storage space on his site, so there were a number of complications and the Planning Board is in a situation where the gentleman built something and he was given a building permit and he built exactly what he asked for. That's a mistake. Who pays the price for that? The best they can do is increase the CAP fee, but they are stuck with a site that doesn't have enough parking. Those are mistakes that are going to happen, no matter what. The disconnect is how careful the checking is between the building permit application and what was issued for a site plan. Can he say he'd never miss the fact that a gentleman added a mezzanine into the building permit and issue him a building permit and didn't realize it wasn't on the site plan? Those things happen; mistakes are always going to happen. Are they going to try to crucify someone for that? All they're asking for is a little more careful coordination between the building permit process and the site plan review. The Planner should be the most familiar with what was approved on the site plan, and he didn't know how much he was involved, prior to issuing a building permit. He can understand all the Building Inspector does is verify the fact that there was a site plan approve for this site, the footprint of the building... who should be responsible for checking that? They can't sit there and decide who that is. There are many circumstances that are going to be mistakes. What they are asking for is try to develop the checklist that would help to point out some of those problems and tighten up some of the loose ends. He has to believe there is some checklist they have today. Maybe it's not being followed; he didn't know.

Selectman Jasper thought they've beat this horse as far as they can. It's time to either agree or disagree to set up this committee or task force to see what they can come up with; have the Planning Board and Board of Selectmen take a look at it. He didn't know if a formal motion was needed to do that, or if they could just agree. Probably the best way to get this done is to task Steve with putting this together and any member of the boards should be able to attend the meeting, if they are able, but the more people they have participating, the more difficult it's going to be to get this off the ground. To a large degree, it should be at the availability of whoever the Planning Board appoints to this task force, whatever works for them. Then staff can come together to work on their schedule to have this meeting and see what they come up with. They have an outline that they all understand. He asked if there was a consensus of the Board to proceed in that manner. All members indicated in the affirmative. Selectman Jasper said as soon as the Planning Board gets a name, Steve can get this moving.

Selectman Maddox said, having ridden with the Building Inspector, there needs to be some reorganization of time management. Bill is a great guy and does an excellent job, but they literally drove from one end of town to the other, doing all spectrum of inspections, from a deck around a pool to a new house to Shepherd's Hill to a septic system and that was just the morning. Time management to say the wiring inspectors, the building inspectors do the north end of town on Mondays, Wednesdays and Fridays so he's not driving all over town, to better utilize his time and take the

time that's necessary. If he stops driving around to get to all these stops... and he's trying to make people happy who want an inspection tomorrow... that gets them halfway over the cliff of trying to have him take a look at what he should be looking at. They are going to take some heat, as much as it might take two days to get that inspection, because they are only doing them on some set schedule; mornings on south end, or whatever. Some of it is time management, trying to expect one person to do 15 inspections in one day of all different types. Do the documentation. Do the research to know what the Planning Board approved. It's a challenge. Maybe that's part of a discussion for the committee.

Mr. Carroll said he's brought this up before, but this committee establishes a procedure/method/accountability, and there will be fallout from that process—not negative fallout, political or any of that—there will be things where, as Selectman Maddox said, all of a sudden you realize there is a problem with the Building Inspector's availability, and that's why he challenges the ability to succeed in some things. You're going to get, probably from each role, a different thing they say if you can make my day better, I can guarantee you a better result, so he's reminding them of the fact that probably will percolate up. They can expect that, but that's a good thing.

2) **Fees for Appeals**

Mr. Barnes, explaining the background for this item, said the Zoning Administrator made a ruling about a particular application for a business; the applicant needed to get a variance, but he hadn't gone to the ZBA. The Planning Board discussed it and a majority of the members felt this was an unfair application of the zoning ordinance to this applicant and they voted to appeal the decision. When a board member went to file the appeal, he was asked to provide the fees for the appeal, so they'd like to have some kind of a waiver in cases where the Planning Board, as a body, is making an appeal of the Zoning Administrator's decision. Selectman Massey so moved, seconded by Selectman Maddox.

Selectman Massey said this was an official action of a board, making a challenge to a determination. It doesn't make sense for one part of an organization to be charging another part of the organization. It would be different if an individual on a board, on their own, wanted to challenge that determination. Selectman Jasper said he was familiar with the case, but he was having some heartburn with this. The applicant is also a member of the Legislature and spoke to Selectman Jasper about it in Concord one day. He thinks the decision that was made was wrong. However, the Planning Board isn't really a party of interest in this case, even though it was a bad decision. The decision didn't, per se, affect the Planning Board. It affected the applicant. Now they are on that slippery slope of when does the Planning Board get involved in a case that involves a private individual. A better approach is when the town makes a mistake, and a decision is overturned, they refund the amount for the appeal because a bad decision was made by the town. He didn't think an individual should have to pay for a bad decision when it's ruled that way. The Planning Board really doesn't have any interest; they don't have a dog in the fight. They look at it as justice; this was not a just decision, so the better way to do that is through the normal process and just refund the fees when an applicant overturns the decision of the Zoning Administrator. If the Board was of the opinion to approve this, he thinks it should first be run by the Town Attorney because there are some potential unintended consequences.

Mr. Hall thought Selectman Jasper was using a lot of specifics to this case in making a determination. In a situation like that, what is the Planning Board supposed to do? Take up a collection among themselves and come up with the money for the fee? Where is the Planning Board going to get the money? Whether Selectman Jasper is right or not on whether the Planning Board has standing, the Planning Board felt that they did, otherwise the vote wouldn't have passed. On this particular case, he wasn't present at that meeting, so he didn't have any idea of what the case was about, but he has been present when the Planning Board has appealed a decision of the Zoning Administrator and they used the Planning Board's fund to pay for it, but only for the mailings. What Selectman Jasper was saying, essentially, was that the Planning Board didn't have the right to make any appeals. Apparently, there were enough members of the Planning Board that felt they had standing, but in many cases, the Planning Board does have standing and why would they have to take up a collection to make an appeal? He didn't think that was right.

Selectman Maddox said he'd like to split the baby. He agreed with Selectman Jasper inasmuch as a lot of other people coming to the Planning Board. Both the Planning Board and Conservation Commission have funds available. Are they willing to put their collective monies where their votes are? That's a much better way to go, taking it from a discretionary fund. He agreed with George, that if they want to make an appeal, they're not going to whip out \$20, and if the vote is four to three, do just the four pay? If it's a vote of the board to do that, remove monies from the discretionary fund and appeal. That's a much better way to go, or else they'd have a line of people thinking they could get it for free, if they go through somebody on the Planning Board. They'd have to vote to spend their own money.

Chairman Nadeau asked how much the appeal was. Selectman Maddox said \$130; Mr. Hall said plus mailing costs. Selectman Maddox said depending on how many abutters there are, it could be \$150. Mr. Hall said the Planning Board doesn't have the right to spend that money; they have to come to the Selectmen to get the actual disbursement of those funds and, in some cases, the Selectmen have not concurred with the Planning Board, so it's not easy. Selectman Maddox said it wasn't supposed to be easy. Selectman Jasper said he was applying this to one case because that's the only one he is familiar with. He's trying to figure out in what other cases the Planning Board would be harmed by a decision. He didn't understand. Would they make an approval of something, and then the Zoning Administrator would say that action was illegal, and appeal that? If that's the case, then certainly, but in this case, he wouldn't want any town funds spent on this. It was the wrong decision. There is a cost of doing business, and if that cost is \$150-\$200, so

be it. Otherwise, you'd have people coming in making their case to the Planning Board and the Planning Board could make decisions viewed by some as not being consistent, and then they'd get sued and end up arguing in court of what should be appealed and what shouldn't. Unless it only involved an interest that was relative only to the Planning Board, and he doesn't know when the Zoning Administrator can make a decision that was harmful to the Planning Board. He's not saying it's not possible; he just doesn't understand it.

Ms. McGrath said she'd give him two examples. Derry Road was issued a building permit that would have allowed a commercial venture that the Planning Board appealed. They didn't have a site plan. The Planning Board appealed that building permit and went before the Zoning Board and it was overturned because a site plan would have been required of anyone else. Another instance was on Bush Hill Road. Again, a site plan issue. A zoning determination had been made by the Community Development Director that the Planning Board felt was in error. The Planning Board took a vote to appeal that decision and they were successful in that, as well. The Zoning Board overturned that particular decision. She brought in the paperwork for that decision and can't recall if Steve was the Town Administrator at the time, but the fee was not required. The Planning Board did not have to pay the fees. This is a new process because the other appeals that the Planning Board has made over the years, and there aren't numerous ones, probably half a dozen over the past several years, but with those appeals, the majority of the Planning Board members felt that an appeal was warranted. Those fees weren't required to be paid, so she is perplexed at this particular decision. She wasn't at the meeting when this case was discussed and wasn't part of that vote, but she was perplexed at why, all of a sudden, fees are being required when, in the past, they weren't.

Selectman Massey said the case he was going to cite was Constitution Drive, the Waste Management project. The Planning Board clearly felt that what was being proposed did not meet the use variances, so they appealed. He has been around the Planning Board for five years, and he can recall only two or three times that the Planning Board has wanted to appeal a decision, so he didn't think they were going to see a run on people. He gives the Planning Board enough credit that they are not going to normally... because an applicant thinks they can get it for free, they are going to get someone on the Planning Board to do it. He didn't think the Planning Board was going to give that enough weight that it would carry. Reflecting on what Ms. McGrath said, these fees were not collected in the past, so he was of the opinion that they should be waived for town boards.

Selectman Jasper said he has been enlightened. In the cases Ms. McGrath mentioned, he felt those fees should have been waived. That is a jurisdictional issue. The other issue could also be viewed that way, but there was clearly a party of interest who had the ability to appeal. On the other interest, it would have been appealing on behalf of the people in the town of the Hudson to uphold their zoning. In those cases, he could clearly say yes, there should be no fees and the Planning Board should be able to do that, but in the case of someone coming in for a business and they are denied when they have the ability to appeal, then they need to find another remedy because that's the slippery slope. If they can split the baby, but he didn't know what the right wording would be, he'd support that. Otherwise, if it's going to be carte blanche, they need to consult with the attorney. He has some concerns if they are acting on behalf of private interests that clearly have a right to do. They could say an abutter someplace else, if they knew they could appeal, but that's so nebulous, he didn't think that was an easy one to go down.

Selectman Massey saw no distinction between an applicant coming before the Planning Board, or any other land use board, asking to do something and being told they can't do it, or an applicant coming and being told they can do something and the Planning Board clearly thinks otherwise. Both of them are the same thing. Selectman Jasper said then they should have a discussion with the attorney because he sees it differently.

Mr. Russo said he was the one who initiated the last appeal because they get a copy of all zoning determinations that are made by the Zoning Administrator. It's an extra set of eyes to see what is going on in town to make sure the zoning regulations are being upheld. The Planning Board members spend a lot of time working on permitted uses, tables of uses, dimensional requirements, etc. Most of that stuff is initiated by the Planning Board. It comes to them and they are tasked with setting up the rules and then they have to get approved. That is why he had approached the Planning Board with this—not because an applicant came to them—but they had just completed a whole new table of permitted uses and then see that a person who wants to put a business in town is then denied that opportunity, without going through an extra step. Whether or not that person is going to be entitled to getting their money back, he didn't know. If he was, it would be fair to the applicant, but postage and things like that aren't going to be refunded to the town, and the time that's spent on an application won't come back. Those fees are there for a reason. The Planning Board does not just come out and do this on a regular basis. He's been there five years and has seen three appeals. It's not something that happens all that often and certainly not something that's abused. The intention is not to abuse a privilege, for sure. It's to make sure that the zoning ordinance, that the Planning Board typically ensures through site plan regulations, and they are tasked with updating. If anybody is going to have a good idea, a board, as to what the intention of these regulations should be, certainly the Planning Board would be one of them. For the Board, itself, to come to the them and say this needs to be addressed, this applicant was treated improperly, whether they come to the Board and ask, but they've never seen that, and he didn't believe this was something that's going to encourage that. Their agendas don't allow for that; they don't sit there and wait for people to come in and say they'd like the Board to appeal something for them. That's not something the Planning Board can do. They don't have time to do it and they would, without question, put it right to the Community Development Director and say this is the path you have to take. Applicants have had issues in the past and they've told them that this is a civil action and you need to deal with it. If it's town staff, you need to deal there. This was not a case... Selectman Jasper was right. It wasn't where something was issued or permitted that

shouldn't have been, which could have caused harm to the town, but on the other hand, the rules do go both ways. That was how he felt about it and he got the majority of the Board to agree with him and that is why they came forth with it. What he hasn't heard is if this is the case, Selectman Jasper had said if they had gotten the fees, to pay for those fees, the Planning Board would have to come to the Selectmen in a certain time period, because there's only so much time to appeal a decision, come to the Selectmen, get an approval and then get a check processed for that in order for this to happen. He'll make it very clear. Without a check going over the counter that day, staff came to a halt on this decision. There was, basically, no support, other than, which he agreed with, "go to the Selectmen." They are the ones who have to ask the Selectmen to spend fees or monies that they have, whether or not they would get them back.... again, postage doesn't come back. This is the cost of doing business in town and a way of making sure everyone is treated fairly, in both directions—the town and the applicants, the business owners who are coming to town to establish a business.

Ms. McGrath said relative to Planning Board members making these requests, they recently had a Planning Board member that thought a decision should be appealed, but the majority of the Board members disagreed and didn't pursue it, despite some vigorous argument on both sides. It's not something that the Planning Board members take lightly, nor do they make decisions lightly. If they decide to appeal a case, it's because the majority of the members feel it is warranted. Another instance that the Board may or may not remember, but there was a decision issued by the Community Development Director for a business, a day care that was replacing a commercial site. She expressed her concern to him at that time that she felt that a site plan was warranted because it was a change of use—a clear change of use from a retail establishment to a day-care facility. He disagreed and she didn't pursue it or bring it before the Planning Board to appeal that case. She just let it go. That business went belly-up; it vanished. Shortly thereafter, at a Planning Board meeting, they had a business owner come in with his engineer with a site plan prepared for that site, and it was for a retail operation. When he was questioned about it, it was because the Community Development Director had decided that that business required a site plan. So, they went from a retail business to a day care center, without a site plan being required, and then they went from a day care center, back to a retail business, with a site plan being required. The Planning Board, that night, voted not to require the site plan and they also voted to return the fees that they had paid. What they weren't able to do was to return the fees that that individual had paid to his engineer to draw up those plans, do the survey and necessary work that was required to do a site plan. Had they known about that decision prior to the applicant coming in with all of their plans, she is confident the Planning Board... or at least she would have been seeking to file an appeal. That would have been on behalf of an individual, but in that case, it was warranted. It was the right thing to do. It was unfair. It was unfair that he was required to prepare that site plan; it was unfair that he was required to come before the Board; and it was unfair that the individual that had the day care center, that really should have had the site plan, wasn't required to do anything. They can say the Planning Board shouldn't be getting involved in private sites, but they are the ones that deal with this on a regular basis. Maybe that applicant should have known to appeal that decision before he spent all of that money, but he didn't, and it's unfortunate.

Mr. Hall said he wouldn't beat this to death, but he concurred with Mr. Russo's points, as well as Ms. McGrath's. He implored the Selectmen to have a little confidence in the Planning Board. It's not going to be that frequent that the members will agree that an appeal is warranted. He can't believe they could write enough words to make it crystal clear which case is due the fees and which ones will have the fees waived. That decision would have to be made at the counter upstairs because it's within a few days that the appeal has to be filed, so someone at the counter.. they will have to write something that someone at the counter can decide, at that time, whether the fees are due or not. He can't imagine that happening. There's only one way this can work and it's worked in the past; the fees have been waived. He's mystified why, all of a sudden, someone has decided that they are due.

Selectman Jasper said regardless of what happened in the past, and he's sympathetic to what he's heard, he implored the Board to sit down and have a conversation with the attorney because there is the potential for equal protection here because the Planning Board is never going to win 100% of the appeals, and neither are the applicants. If the Planning Board appeals something and they lose, and somebody else were to make a case and they win, geez, the Planning Board should have picked up on that one, then it appears the town of Hudson is playing favorites. Rightly or wrongly, that's the appearance because they're not going to win all the time and there's an issue there. All he is asking is to... and maybe he's totally off base... this is an important issue which could wind them up in court. Maybe they've been lucky in the past. Who knows? Maybe there is no problem, but they should talk with their land use attorney first. If this has been going on for some time, waiting another couple of weeks or a month isn't going to hurt. It's important that they have that conversation.

Chairman Nadeau asked if the Town Administrator was all set with that. Mr. Malizia said yes. Selectman Massey said there was still a motion on the floor. He asked Selectman Jasper that if they were to take his suggestion and consult with the attorney, and he comes back and says there is no impediment to the Board taking such action, if he would then support it. Selectman Jasper said if he can ask all his questions and the attorney tells him he's all wet, then yes. Selectman Massey said he'd withdraw his motion, on the basis of seeking an opinion from their land use attorney. Selectman Maddox agreed, saying there wasn't a rush to do this. This isn't a crisis where they need an answer tonight, and he has some of the same concerns as Selectman Jasper. They should remove the motion and do the research before getting back to the Planning Board. He withdrew his second to the motion.

Mr. Carroll said he wanted to bring up a point because something that was said caught him off the side, and it was a very important point and it's related to the dialogue with the lawyer. "You" said if there's an instance where the Planning Board appeals something, whether they pay out of my cash or his cash or it gets done for free is an immaterial

point to what "you" said. "You" said if the Planning Board goes after and appeals a Zoning Board or Community Development Director pronouncement and we win, we lose, and then someone else, in an equal situation, does not get represented by the Board in that appeal, then "you" said we may not be giving equal service and that's a very important point, regardless of who pays for it, that's not even the topic. The topic is whether they have the right to appeal something on behalf of the Planning Board through their own judgment and if that judgment is inconsistent, could someone actually cause legal action brought against them because they are not consistent in the way they apply the appeal process. If that's what "you" were talking about, that's a very important thing for the lawyers to talk about and has nothing to do with, really, who pays for it. Selectman Jasper said if he didn't articulate that to begin with, that's what he was trying to say. It's an equal protection issue.

Ms. McGrath asked who decided that the waiving of fees was not to happen because it has happened in the past. There has been a reversal of that decision. Is that something the Selectmen decided, or was it decided by the Community Development Department? Selectman Jasper said he was not aware of the fact that the Planning Board had the ability to appeal with the fee being waived. He asked when the last free appeal was and then they could go from there to determine if it was Sean Sullivan or somebody else before him. He didn't have any idea, but the Board didn't vote on it; at least, not while he's been on the Board. Selectman Maddox believed it has been a policy for eons. Ms. McGrath was the facilitator of the two that were not charged and she used that persuasion that she has. She did what she had to do to get it done. Ms. McGrath corrected him, saying she was not the facilitator on the first one. Selectman Maddox said he stood corrected. It has always been there. They just decided to waive it.

3) **Check-list for Permitting Procedure**

Mr. Barnes couldn't recall why this was on here. Several members said this issue went along with the first one. Mr. Russo said he had raised a concern. He had asked when someone goes into the Community Development Department to apply for a permit—electrical, water line, etc.—who pulls the plan and checks? He wasn't talking about plans that have been approved and built; this is something that might be 15 years old. Who is charged with pulling that plan and making sure, before a permit is issued, that there are no stipulations or concerns on that plan that would stop this from being issued? This ties into number one, but it goes back to past site plans that were approved that have come back for permits. Selectman Maddox thinks this is the infamous no retail on site maneuver and nobody looking at the plan before going through the electrical; to expedite this, they can roll this right into number one. The horse is already dead. They can just move on to the next corral.

4) **Implement Policy for Final Site Plan Approval, i.e., Town Approval only if all Engineering Opinions Coalesce**

Mr. Barnes said this was probably the result of the transition in staff within the Engineering Department. They got some cases where a site plan has gotten final approval by town staff, but not all town staff has necessarily reviewed and agreed to that. They'd like to make sure that all of the participants within staff are participating in the review and the approval and no one is getting skipped.

Selectman Maddox said again, this one goes back to number one. The charge is getting longer, so it might be two meetings, but he agreed that if they put it on as a standard note, and kudos who came up with the line, "Plan subject to final Engineering Review." No one really knows what that is expecting. One of the things that needs to happen is a set of goals for that final engineering review. Is it the Engineer goes, "Yeah, OK," or "The Planning Board had these outstanding issues with drainage." One of the things he'd like to see, and probably this is an off-line discussion, is how much they farm out, for lack of a better term, to CLD, the people who are hired to review for the Planning Board, putting more of the responsibility for final engineering review and the Town Engineer, when they have one, has final say, but they have a much bigger role to play in that. They kind of go to a certain point. Once the Planning Board approves the plan, they kind of drop off... if there are still outstanding issues, it's contingent upon the Town Engineer to pick that up. Maybe they need to possibly utilizing them for that final step, but they can roll this one right into number one. Selectman Jasper said he totally agrees with that.

Chairman Nadeau declared a brief recess, calling the meeting back to order at 8:30 p.m.

5) **CIP-BOS Encouraging Departments to Participate**

Mr. Barnes said the CIP (Capital Improvements Projects) is a very important part of their overall planning process, relating to the Master Plan and the impact fees they can assess to developers. CIP is reviewed each year. Projects are proposed from the town departments and other groups within the town, such as the Conservation Commission and the School Board. Participation is very inconsistent. Sometimes they will get a set of projects from a department for a particular year, but there's nothing following out. The CIP is supposed to give a view five or six years ahead. The Fire Department has had a very specific set of plans for rotating the capital equipment, so they can see where it's headed and the impacts on upcoming years and that's the most valuable part. They can see what's coming up for the year, but also down the road. As a planning document, the CIP is important and an important part of the budget approval process. They are looking for encouragement and support from the Board of Selectmen so the various town department participate fully in the process.

Ms. Chadwick said she chaired the CIP committee this year, which was frustrating. A lot of times the town departments' presentations are not realistic. They present a wish list that is not thought out. They haven't taken the time to give the CIP committee accurate costs, what the expenditures are truly for and they kind of throw together a list. They haven't even really thought about timing—a year, two years or three years. They are just throwing it out there, hoping to see if somebody bites at what they are hoping for. The CIP has tried to get the School Board and Budget Committee to join the CIP because it's important to get their input. It's important for the Board of Selectmen to encourage some of the other committees to get involved in CIP and work jointly. It would improve the overall process.

Selectman Jasper said the CIP process was broken and they were not going to get any realistic cooperation until they fix the process. He understands how important it is for all the reasons she already stated, but it's viewed as a total waste of time by the departments, realistically so. The Board of Selectmen doesn't pay any attention to it and neither does the Budget Committee. Part of the problem is every time anything ends up on there, because of state grants and everything else, roads end up at the top of the list. That's always the first thing. Roads and bridges are the highest priority in town, so that's part of the problem. The state has a 10-year highway plan, which may be a seven-year plan now, and if they did this as a long range planning tool, and did five year blocks, have them come in with their wish lists for the next five years. Whether they review that on the third year, or every five years, but have all the things out there and they could rate them, but they would pick and choose and then at the end of the five years, here's what we've got done; what are the next things? It's not working the way it is right now and nobody is paying any attention to it. It just doesn't end up making any sense.

Selectman Maddox said they were preaching to the choir—and the choir isn't always listening. They need to go to the Budget Committee and School Board and get some buy-in from them. It's a useful tool, if it's done right and he didn't terribly disagree with Selectman Jasper inasmuch as without all of the entities in town that will expend taxpayer dollars, it becomes a one-sided deal. It's probably better for some of those other groups to not submit something because they don't want to go through it. The come in, put it on the ballot, if it passes, it does, if it doesn't, they try again next year. To have it on the CIP almost rates things town-wide. It probably goes back to the Legislature coming up with a... they say you have to have this, but there's no clear guidance how it's supposed to blend together. Somewhere down the road, it needs to get better. What they have now is flawed. Maybe a group can come together from the School Board and Budget Committee to keep the CIP alive through the winter and see if there is some way to make this work better. They can instruct town staff to put forth what they believe is in the best interest of the community over the next X years, but if that's only a third of town expenditures, it's tough to be able to say that makes any sense at the ballot. It's one of those things that's going to be broken until it gets fixed from on high. If there is some way of saying unless there is a warrant article that has been vetted through the CIP, it can't get a bond, then people will take it seriously. They don't have that power. It really comes from an agreement between all of the people that want to spend their money. If the Chairman of the CIP would take her road trip to the Budget Committee and School Board, maybe they'd see some progress towards progress.

Ms. Tierney said she attempted the road to the Budget Committee, but failed in completing her way through, so she can probably do that. She thinks the CIP might be helpful for the citizens to get a little more familiar with. While it's one thing for a warrant article to show up on a ballot, if people actually had a thought process of understanding five years down the road that they have a fire station that's deteriorating and improvements need to be made, and they were made aware of it ahead of time, and for a couple of years, it was in the back of the taxpayers' minds, they might have an easier time in explaining, from a budgetary standpoint, why funds are being set aside. They too often allow something to come up on a bond warrant article, and a lot of times in town they've seen that a number of times with the library, there's an outcry of anger from the taxpayers as to the amount of money being requested. If a little more warning, through the process of CIP about improvements that need to be made within this town might help the citizens swallow the tax burden a little bit better.

Mr. Carroll said he was caught by what "you" said; this time it's a different kind of catching. "You" said the departments feel it's like a joke, or they don't take it seriously, which would be like a joke. That surprises him because he's been in business for a long time; he's fairly old. He didn't know a single business that can survive unless they have a one, three and five year plan. It gets more ambiguous the further out you go, but there's some definition. It seems very loose now. It seems that people can say "I want" and throw it on a ballot and maybe they'll get it and then it surprises everyone when it comes up and it surprises everyone when it either passes or fails. If you look at why they ask for it, there's no real history because there's no plan, so it seems very strange to him that the Board of Selectmen, or the town of Hudson, he didn't know who to point to, don't have a requirement of the individuals that are going to spend the town's money to actually put their things in a pecking order against each other as it relates to the betterment of the town. It seems that it should be the first priority they have, not the ninth or the 14th; the first, that they are positioned to make sure that what they spend money on is actually in line with where they are going, as a town. The Planning Board has to deal with how people are zoning and where they're laying out and how they are evolving the landscape, but they trust the Board of Selectmen to really sit there and say this is where we're going as a fiscal entity and this is how we're going to use those funds to better the town's development, so it would seem that the Board of Selectmen would really stand arm in arm with the Planning Board, if they are responsible for the CIP, which he calls a toothless dog, because the Planning Board has no teeth in any of this and all they are doing is chasing their tail. It would seem that the Selectmen would sit with them and try to establish a framework where if they are not good at planning, let's get better. If they're not good at following the plan, let's get better. If they are calling the plan something that is not of interest, then they really want to start looking at themselves in the mirror and ask why that is so. What he

would really respectfully request of the Board of Selectmen, take this as something that is the map of the town financially and really get more teeth in the way they treat it. He's not saying they are putting it down. They are reflecting what they see, so this is a very important point. One, three, five years. How are they spending money? Not just, all of a sudden, in year four, want a library. Where did that come from? Well, people have been talking about it. There is a history in the CIP that gives them the ability to move money forward and there's a way in which they can work together, Planning Board and Board of Selectmen, along with all the others, to make sure it has meaning.

Mr. Barnes said to address what Selectman Jasper said earlier about not having a way to look forward, in order for them to make this work, they need to... if they come back with a revised process, some other way of getting the input and putting it into a plan, they're still going to need the support of the Board of Selectmen because it's the town departments that are providing the input. It's very inconsistent in participation of the various groups within town.

Ms. McGrath asked if the CIP wasn't a requirement of the state in order for the Planning Board to collect impact fees. Someone answered absolutely. Ms. McGrath said if that's the case, and they have no support of the Board of Selectmen and department heads and they don't have a CIP process in place, then the Planning Board cannot collect impact fees that offset costs to the taxpayer. It's a decision the Selectmen need to make. Do they want the Planning Board to be able to continue to collect CAP fees?.. and she would think the citizens of the town would want them to... then find a way to support it.

Selectman Massey said Selectman Maddox, as usual, pinpointed the key on this. There is no self-policing mechanism on this. If you couldn't put a warrant article on the warrant without a CIP approval, then a lot of things wouldn't wind up on the warrant. But there are some other areas. The most important is the school is an autonomous entity and they are free to choose to put their own set of projects on, regardless of what the CIP is doing. In terms of the Selectmen, the CIP puts together a set of processes, but in the final analysis, it's the Board of Selectmen that has to decide what the priorities are. By the time the Board of Selectmen gets the CIP, it's way too late in the budgeting cycle to really give serious thought, so if they were going to do something on this, in order to do what "you" are suggesting, which is to provide a more balanced, forward-looking plan, it has to start much earlier in the cycle. By the time September rolls around, they have a fairly good idea of what the whole process is going to be. Finally, his pet bugaboo, in the case of the town, the sewer and water utilities should be totally separate. They should not be ranked with other town projects because the funding from them comes from sewer or water user fees and, therefore, they should stand on the merits of what that utility needs, not how it balances up against putting a road in or a new building. The issue about the separation from a financial perspective and legal perspective between the school and the town is a hurdle and, finally, they have to recognize the way it's structured now, and why he'd welcome it being changed, is the Board of Selectmen has to make the final decision on what the priorities are.

Selectman Jasper said while he hears what Ms. McGrath is saying, and it's all true, the problem is don't tell them, hey! we've got a broken system that nobody likes, but use it or tough luck. That's not going to work. He's been involved in the CIP process as a Selectman and as a Budget Committee member for years and years and has made suggestion after suggestion, which seem to fall on deaf ears year after year. He's never come in and sat before the Planning Board and pontificated on any of it, but he has made the various chairmen aware of the problem. What he was suggesting, and he totally agreed with Selectman Massey, there should be rankings for town, school, water and for sewer. They should be separate. They shouldn't be co-mingled. It's also totally ridiculous to say here's this plan and this year we have eight items, and none of them get approved, and do the whole thing over again the next year. To do a good job and give the level of detail being asked for is asking the department heads to invest too much time. He thinks it ought to be the Selectmen bringing the components to the CIP, not the various departments. The departments should come to the Board of Selectmen and the Selectmen should make the presentation because they are the ones who say yea or nay on whether or not something is going on the ballot. If they had a five year plan, with X number of dollar values, with an update of those numbers on a yearly basis, that wouldn't take long, but if they do two, they get knocked off. If the plan is to do five a year, and they only do two, well something has got to get knocked off the five year plan because now the plan is behind. There can be a fairly simple updating mechanism, whether it's three years or five years, but every year is too much time and serves no real value. If you've got 20 projects and you rank eight for this year, well, hello! they've never done eight projects in a year. What makes anyone think they're going to do eight projects? It's never happened before, so why do they keep putting eight on for fiscal 09, or whatever. It doesn't make any sense because that's not the way they operate. Whether the people think they ought to or not, they just don't. There is too much time involved. Sometimes, even if they don't give a year value, say here are the things we'd like to accomplish in the next five years, and don't even have a year on them and maybe not even a ranking. Certain things happen and they can pick and choose and say alright, we're going to do this one and this one, and they come off the plan. It's as simple as that. The ranking ends up being meaningless. It should be what do we need to accomplish? And the RSA is not specific as to how they have this plan, so if they made it as user-friendly and uncomplicated... who cares that there's federal funds available for a bridge, in terms of the number one priority for the town of Hudson. That's how the rankings work. Everything gets pushed up because there are federal funds available. He gets frustrated every time he looks at the forms, and some of it is the department heads, but it poses an immediate threat to life and safety? Not having a new police station poses a threat to the life and safety of the people of Hudson? That's a joke. Give him the documentation that shows if they don't put an addition on the back of the police station or fire station, or whatever, that people are going to start dying in the town of Hudson, but that moves it up in the ranking because they check that box. It's silly; it really is silly, and that's the problem that's got to be fixed. Then they can push, and he will push to make it a usable process. He'd be glad

to spend more time working with anybody to try to fix what's wrong with it, but he's not going to encourage anybody to participate in a broken process, and it is very broken.

Selectman Maddox thanked Selectman Jasper for finally coming around his way. When he said a couple of years ago he wanted a three, five and 10-year plan, Selectman Jasper said no one can look out past three years because Selectmen change. He's glad he got Selectman Jasper up to at least five years. Selectman Maddox disagreed with Ms. McGrath; this Board does take it seriously and they direct the department heads to come in with plans that they believe are required. The Board of Selectmen has done its part; it's the people the Board doesn't control. And they want that money because it does offset taxpayer expenses, but they don't control the School Board or some of the departments that should come in. He does have a suggestion that might make it more prominent. If they changed the CIP to stand for Citizen Income Protector, people would pay attention to it because what this is looking to do is say how much are they going to spend over X number of years. Everybody, well... it doesn't count, it doesn't count, but it gives you.. it opens a window to say how much money is the town... the Selectmen controlled portion, the library is its own entity, the School Board... what are they looking to take from the citizens for tax dollars or rates. He disagreed with his esteemed colleague—citizens' money is citizens' money, whether it's taken out of sewerage check or tax bill. It doesn't make any difference. You're still taking their money and they need to see how that money will be taken from them for whatever good project they so desire. His final thing is Hudson has built a culture around if you can get it cheap, go for it, and that's what it comes down to. If the state is going to stop funding the Melendy Road Bridge in 2011 and they they're going to pay 80%, why would they wait until 2015 to fix the bridge and pay the whole freight? Those move up, good, bad or indifferent. If somebody else is writing 80% of it, they're going to go that way. They're built that way in Hudson.

Ms. Chadwick said she wanted to reassure Selectman Jasper that they do, in fact, ask the questions of each of the individuals that come in, regardless of what they are proposing of why they think they ought to get what they are asking for. In all seriousness, there is often times that they have looked at each other, thanked them for their time and have been able to send them on their way, understanding that what they were looking to get out of the CIP process is not what the CIP process is about, and that comes back to the idea that they need to talk to the department heads and let them understand the purpose of the program. It is not a wish list and she's not Santa Claus. These things aren't going to happen just because they ask very nicely for them, although Selectman Maddox thinks she is Santa Claus.

Mr. Carroll said the exchange was very good, honest, but a futuristic view of where it is and where it needs to go. What would be the actionable steps out of this dialogue? Is there going to be another team built to try to fix the CIP? Selectman Jasper said the CIP process belongs to the Planning Board. There is nothing the Selectmen can do to fix it. It's the Planning Board's baby. Mr. Carroll requested that there be someone on the Board of Selectmen, or a representative thereof, that is involved in the Planning Board establishing a CIP process that the Board of Selectmen would, therefore, then support because there has been times where it feels like he is throwing darts in the dark and when he turns the light on, he sees that he's missed it again, so he turns the lights off and throws it again. That game isn't for them. It would be nice to have a Selectman sitting with them, whoever us is, and say if you can do that with the CIP, I believe the departments would begin to back it and the process would be effective and it would be a success.

Selectman Jasper said if the Planning Board formed a committee to reformat CIP and invited the Selectmen, the School Board and the Budget Committee to participate, they would probably get that participation in trying to fix it because the problem is those groups have seen it as a broken promise.

Selectman Massey wanted to correct a comment Selectman Maddox made. Yes, the monies for town, sewer and water come from the citizens, but the justification for the three of them are from different perspectives. The justification for doing a water project is based on the needs of the water utility and the ability of the water utility to fund it. It is not being funded through taxes; it's being funded through user fees, so only those people who are on water are going to pay for those improvements. They still need to be evaluated on their individual merits and you can have two major projects, one from sewer and one from town, on the same ballot in any given year, but they are being funded separately. Selectman Maddox said they are being funded from the citizens. Selectman Massey said they're not being funded by the same checkbook; and there is a difference. Selectman Maddox said Selectman Massey's ready for the State House. Ms. Chadwick said the Water Utility wasn't very sure about that issue, and they actually had a discussion with them about the funding and when asked, Do you have the money for this, that was how they learned they do have user fees. They came to CIP, initially, not indicating that. There was some disconnect between the money they had available to them that they didn't even realize they had to use for projects.

6) **Green Meadow—"Enthusiastic Support of Town"**

Mr. Barnes said one of the recommendations from the consultant were the impacts associated with this project, if it was to go forward, that they somehow need to get the enthusiastic support of the town. The Planning Board was unsure of how they should go about doing that. In the case where roads are impacted or the interchange that's being proposed, they don't have any control of that, so part of the enthusiastic support would have to come from the Board of Selectmen, as the roads in town do belong to town government. They are looking for some ideas and ways of soliciting this enthusiastic support when it comes time, if it comes time. They're not sure this is going to go forward, or how far forward it will go, at this point, but some way of getting support from the various boards and responsibly parties in town. It will be important with whatever ends up getting proposed.

Selectman Coutu said he'll tread on this lightly—again. He didn't quite understand precisely what the gist of this was all about, but if it's what he thinks it is in the way he interprets it—he's heard Ms. McGrath say several times at several board meetings that, in essence, if it makes sense, she can support it; if it doesn't and she doesn't understand it, she can't support it—it's a little premature to have the Board of Selectmen say they can enthusiastically support anything, not knowing what it's going to be. Having watched the meetings, they've going through this quite exhaustively. Last week, he commented that he was somewhat surprised that they get top billing when there are other citizens that are sitting and waiting to be heard, over proposing roadways they don't know where they are going, what they are going to service, the impact on the overall traffic plan, who is going to be responsible for the roadways, who will fund all of this, etc. To suggest that the Board of Selectmen should enthusiastically support it, if it fits, if it makes sense and it's doable and viable and an asset to the town, he'll enthusiastically support it. Until he see that, as a member of the Board of Selectmen, he's not going to endorse or enthusiastically support anything until it makes sense to him. Selectman Jasper dittoed what Selectman Coutu said.

Selectman Massey said as the Selectmen's alternate to the Planning Board, he'd tread lightly, but it seems to him that before they can ever go down the road for enthusiastic support, he would echo everything that Selectman Coutu said, but at the same time, they are being counter-productive when all they keep seeing is the same plan, design review, with no meat behind it. To be able to talk about what roads are going to be without knowing who the developer is, what the proposed project is, they're almost in the position of when 495 was built. It was the state's goal to move the high tech industry away from 128 and out into the outer suburbs. It took 15 years after that road was built for any substantive development to occur, but that was because the state said we want to create a corridor that will expand commercial and high tech industries in the state, so they made the commitment up front to build that highway. This whole process right now, it's not clear how and when everything gets done and who is responsible and it's all because, at the moment, all they are dealing with are design review plans that say this is what I think a road ought to look like, but I'm not ready to tell you what's going to be there. If you tell me you're going to build something that can only sustain 25,000 cars, or whatever the number would be, then I know if you come in with a plan that's going to have 40,000 cars, that your plan is a non-starter. That's where they are. The road is being proposed without any clear indication of its purpose.

Mr. Carroll said he wanted to change the game a bit. The reason he thinks this should be here is there is a owner of a large plot of land that says we're giving it up. It's called Green Meadows; he doesn't really care what it is called, or who owns it, or what family it is, or if it's 90,000 families, they say we're going to relocate this to something else. It's not going to be a golf course, although he does like golfing and was there this morning. The fact of the matter is, again, the Board of Selectmen should be looking at this plot of land that's going to go somewhere, turn into something, and say what do we, as a town, want that plot of land to look like? Do we want it to have commercial office space so it has a higher appeal? Do we want that to become little plots of land that little sub-developments are built on so that it begins to evolve like moss? Or do they want large retail to compete against south Nashua. The Board of Selectman should have some kind of view. The Planning Board believes they have some. They think they know what they don't want, just based on what it is going to do to the area. There's the Community Development Director, there's the Board of Selectmen, and there's the NH Dept. of Commerce and all these other things that he believes they could look at and say let's try to influence where this plot of land is going to go. Let's try to establish what kind of a foot we want to land, to create a footprint and that would be through the Board of Selectmen's involvement. He didn't care if they called it enthusiastic support--he'd call it active involvement—in the charting of where that plot of land is going to. They seem to be standing there every time and say tell us what we are supposed to do. We want to develop this land. And “they” keep saying that's not the answer. Back to throwing darts in the dark again. You hope you hit the dartboard and if you're lucky, you might catch a bulls eye, but that's one in a million. The Board of Selectman should take an active participation in some aspect of it, whether it's assigning the Director of Community Development or someone to actively work with the developers, the owners of that land to say what do we want to encourage to come here. What kind of influence can we create that will encourage those types of entities, whether they are commercial buildings or medical centers or what, to come into this town to want to locate in there. He guaranteed these types of things are not developed by accident in the towns they see around. Large plots of land get developed uniformly because somebody actually focused on how that was going to happen. He'll bet there was more involvement with the town than they are giving them.

Selectman Massey said Mr. Carroll should have come to the last Board of Selectmen's meeting because that's exactly what Selectman Maddox proposed and they tasked the Town Administrator to initiate the process. Mr. Carroll said then he stands silent. He is a week late, but he feels very strongly about this, so he's glad.

Selectman Coutu understands Mr. Carroll enthusiastically supports the right thing for the piece of property, and so do the Selectmen, but they have no control over how it's going to be developed, what he's going to do with that land. They have some controls, but in terms of who he sells the land to, whether he wants to develop it himself, whether he wants to bring in a private developer... he's heard time after time after time Attorney Leonard say to the Planning Board that they were exploring every avenue because they don't know where they are going to go. They may have this vision of a humongous or smaller retail development. Who's developing today? Retailers are closing. They're not going to commit to a major project like that. He can't see Neiman Marcus coming to Hudson and he can't see Target building in Hudson. From one extreme to another, everyone has tightened their belts. They are projecting this will last another three years and it will get worse before it gets better. They've nowhere near peaked. Those in the business community are aware of that. The Board of Selectmen will support whatever will fit on the project that makes sense for the town and if it makes sense, they will enthusiastically support it.

Mr. Carroll said he feels very good about that and he agreed. The whole Planning Board is looking for the right answer and the right development. It's good to see there's enthusiastic support if the right answer comes.

Mr. Russo said he's been silent on this whole issue and wanted to speak to it. It would appear from Mr. Kennedy that the developer is at a standstill. He can't make a decision which way to go because he can't get an access off of that road to his property and that's a problem. He didn't want to beat a dead horse, but he agreed with Mr. Carroll in that they have to decide what they want that to be. The Planning Board can't decide what they want that to be because that's not their job. It's their job to decide if it meets the regulations. What it's going to be is the town, as a whole, as far as the Selectmen, the citizens, but the Planning Board can't sit there and say out loud I'd like to see you do this. He didn't give any insight whatsoever to them as to what he would like. That's totally immaterial because that jeopardizes his position as a voting member on that board, but he did understand their dilemma so much that if they can't get access off that road, then what's going to end up happening is they are going to develop this thing one little piece at a time and they are going to get a representative time and time again going we can get the traffic going through Lowell Road. Watch. We can do it and we'll have a good level of service, and then they are going to show reports that say that and then everyone is going to be up in arms screaming again because that is what tends to happen. As soon as a retail development goes in, something happens. There's more traffic over a period of 15 years and they hear you guys approved all of this. Well, they approved it because they were told by the developer that traffic was not going to be an issue and who are they to argue. It's hiring the right representative to make sure they are on track. But he strongly agreed with the fact that the Board of Selectmen need to work with the developer through staff and decide because that task is charged to the Selectmen. What they want there. The Planning Board doesn't have much say in the whole thing. If they can't get access off of that—it's not even a highway. It's an access to a highway. If they can't break off of that, then whether it's in three years the economy starts to boom again, or five years, or 10 years, he's not going to want to travel down in south Hudson. He didn't today. He doesn't go down there during the peak hours. He stays away from it. He doesn't have to go there, but if it gets to that point, it's going to get pretty ugly. He wishes he'd seen the meeting, but he doesn't have access to those meetings on regular cable, but he strongly supports the idea that 'you guys' are going to get involved and actually work with that developer to whatever extent it might be, or with staff to work with that developer, but certainly not the Planning Board's task.

Selectman Jasper disagreed with Selectman Maddox then and he disagrees with him now. It's not the Selectmen's job to tell the developer what to have, or suggest to the developer—the property owner, in this case. They are golf course owners who are trying to develop their property. What they're going to have there is their job to come forward with proposals. The Selectmen may support those proposals and may work with them towards that end if they feel that they are appropriate. As far as the access road goes, they've got to come up with a design that the Board can support. So far, they haven't come up with one that he can support at this time, or one that the state can support at this time. It's true that they could parcel that off, but it's also true that the Planning Board has the ability to recognize that that is a large parcel and not to look at subdividing it and doing it piece by piece in a vacuum. They can require a master plan and then they can require a long-term traffic solution that fits that master plan and hold them to that. That's his understanding of how that works. They can't make them build it all at once, but they can say you've got a master plan, here's what you're going to do with your 400 acres, or whatever it is, your master plan shows 40,000 trips a day, or whatever the number is, and at the end of certain phases, you've got to do certain things to handle that traffic so it's not, as Mr. Russo suggested, come in and say they are taking 25 acres and going to do this little patch and then come in with another 25 acres. There needs to be a plan; that's innately part of the word Planning Board—planning for the future. He didn't see it as his role to reach out to the developer and say hey, let's talk about what you want to put on your land, but if they come in and say they'd like to have a dialogue with the Board and present options and ask what the Board would support, he'd be willing to do that—but that's as far as he sees the Board's role going.

Selectman Coutu hoped they were not beating a dead horse, but this was very important to the community, as a whole. It's important to understand, and the taxpayers of the town of Hudson are not fully aware of all of the intricacies that are involved with the highway. Why it's so difficult for them to be able to accept a plan without first having firsthand knowledge of what the costs to the town are, with having to accept that portion of the highway as their responsibility as a result of allowing, or the state allowing them to put some other circumferential exit ramps to get into their property. That's number one. Number two, to echo what Selectman Jasper said, he has a very difficult time as a Selectman, trying to partner with the developer and suggest to them what he thinks might be best for the town. He didn't see that as the Selectmen's role and he has an even more difficult time allowing members of the staff to work with them and suggest to them what might be best for that land, even though that was the consensus of the Board. The Selectmen are not developers and they don't have that kind of planning foresight or intelligence to suggest to them that maybe you ought to do this. He'd like to see a huge hotel casino complex, but it's not going to happen. Short of that, he didn't see anything else that might work there. He'd love to see that because it'd be great for the tax base in the state and it'd be great for the town of Hudson. He just has a very difficult time partnering with any developer in any portion of the town, whether it's a small or large project. Basically, unless he's misunderstanding, that's what the Selectmen are being asked to do, but he can't see them doing that. They're going to have every developer in town come in to ask them to partner with them, and come up with ideas for their property. If he could do that, he'd be in the engineering business and get out of politics.

Selectman Maddox asked that Priscilla pull his words of wisdom and get a copy to the Planning Board members so they'd know what was agreed to. He didn't remember the word partner. He thought that Steve was looking into other avenues of funding, of other avenues of economic development type of ideas. He didn't think they ever said the word

partner, so they need to go back and relook at what he might have pontificated on. He's going to walk a very delicate line of because where he sits. He didn't know where this is going. None of them can predict what is going to happen here. Over the weekend, he took a number of trips down that roadway because he wanted to see on a normal weekend day how the merges went and on the weekends, there seems to be an influx of Commonwealthians who come up and that roadway, with those merges, are a challenge today. The plan they have last seen doubles the amount of channels of traffic merging on to the roadway, so the word enthusiastic is going to have to be precluded by solution, but that is to be seen at a later date. They need to get what they were trying to do, and it wasn't partnering, it was looking to do something with economic development. He could even see them going to the citizens and saying are you willing to put some money up to make it something else, but again, that's a question they have to look at as a Board. What are they trying to do here? They shouldn't be in the business of developing. That's not what they are doing. They are in the business of protecting Hudson and its citizens, and they can't stick their head in the sand and pretend 400 acres on the border of Massachusetts is just going to stay a golf course. There's going to be some hard decisions to be made but he didn't think there were answers to make those decisions from. It's a continuing saga the Planning Board, the Board of Selectmen and the citizens are all going to have to grapple with until those answers are put forth.

Mr. Russo said he wanted to clarify something with Selectman Coutu because partnering with someone was not what he was suggesting. He was suggesting, having been on the board for five years, he's seen a lot of developers come in and spend hours, years planning how they are going to get a project approved and what they are going to tell them and what they are not going to tell them can drastically affect their decisions. The never tell them everything because they'd be turning them down left and right. If they were to turn a blind eye and just wait for them to come across and say something to the effect that well, it meets the regulations; it looks like it's going to be OK; it looks like traffic is going to be fine, and the Planning Board says OK, and then the next one comes along a couple of years later and they do the same thing. Without that watchdog in place, without somebody kind of overseeing what is going on there, it's going to be detrimental to the community and that's what he's asking. A watchdog. That's what they need. Someone to keep their eye on what's going on down there and you can't keep your eye on something if you're not involved. You have to be involved. The Planning Board can't do it. Their job as a Planning Board is not to sit there and tell them what to do. Somebody has to be involved because if you close your eyes and hope that all the stopgap measures that are in place work, guess what? They are not going to work. If they turn a blind eye, that's fine, or if they want to hope that things are going to work that's fine, but his suggestion is no, don't be a partner, but be involved with them. Very intimately. The closer they can get to them, the better they will have a chance of controlling what goes in there and what will work for the town.

Mr. Carroll said he won't repeat everything Mr. Russo said because he can't remember it, but it was very good. The Selectmen aren't developers, but there are developers under the wing of the Board of Selectmen's control, so from that perspective, the organization that the Board actually runs, or have word on what they do, that's what the Planning Board is looking for. There is a Community Development Director who should have a helicopter view of what Hudson looks like. He should have an understanding of how the economics of the town runs and what it needs and what it definitely does not need, and if he doesn't have that, then he should sit with the Planning Board and dialogue a bit out of the watchful eye of any developer. The Community Development Director should be able to sit with them, envision with them and go to the Selectmen with opportunities that that large chunk of land could turn into. This isn't a two-acre lot or a five-acre lot. This isn't protective wildlife or wetlands abundant. This is a fairly rich plot of land that is sitting right on the border of Massachusetts. Somebody is letting that go. He very much encouraged the Selectmen to have some say in what happens to the town of Hudson.

Ms. McGrath had a concern about some of the statements being made and what the perceived roll of the Board of Selectmen is in this process, the Planning Board's roll and the citizens' roll. As she understands it, there is a developer that owns a piece of land and it's up to them to tell the town of Hudson what they want to do with that property. If it falls, and it meets within the regulations and the guidelines that have been set down by this town and the state of NH, the Planning Board is obligated to approve those plans. They don't have a choice, IF they meet those regulations. If they don't then the Planning Board has the obligation and the authority to deny those plans. She didn't believe it was within the purview of this Board, or anyone else, to be going to that developer and making suggestions about what they should and shouldn't do. It's up to them. What do they want to develop that property with? What do they think is going to meet with the least resistance by the town? What do they think they can get before the Planning Board that the Planning Board, as reasonable, intelligent members of this community, is going to approve? She just didn't think that any member of this Board or any member of government, should be meeting with that developer. They are going to get into the same mess that was created when W/S came in a few years ago. The Board of Selectmen got involved with that. They had staff going to meetings up at the state with them. The perception by this community was there were secret deals being made between the developer and the Selectmen and she didn't think they should be doing that.

Selectman Jasper said he agreed totally with Ms. McGrath. He was left with an impression, after a statement made by Selectman Maddox, that the Board of Selectmen had tasked Steve and staff to begin some dialogue. He didn't think that happened at all. They had a discussion, but he didn't think a decision had been made. Selectman Massey said his recollection was there was. Selectman Maddox asked if the Town Administrator believed there was. (Talking over each other.) Mr. Malizia said he didn't believe there was, but he told him the next day, and he follows direction. (More talking over each other.) Selectman Massey said his understanding was that the Town Administrator was going to contact the state to see if there were other areas the town could be looking at. Mr. Malizia said the intention was for him to tell someone else on staff to do it. Selectman Massey said TIFS, Tax Incentive Funds. Selectman Jasper said

they had a discussion, but he didn't recall there being any consensus and he'd like to see that from the Minutes or the tape that there was a consensus to direct anybody to do anything because he didn't understand that there was. He remembers speaking against that, saying he was fairly sure there was no tax incentive available. He talked about the crop zones that had existed, but believed went away and didn't apply down here. There was a general discussion without any consensus or certainly any votes. Something of that magnitude should have been voted on. Mr. Malizia said there wasn't a motion. Selectman Massey said they better look at the minutes because he was under the impression they were going to go do something. Chairman Nadeau thought they were going to go see if there were any tax incentives or anything. Selectman Maddox thought the Chairman was the third nod, but obviously, they've all gotten amnesia.

Mr. Carroll asked if that meant the Board of Selectmen do not have anything tasked to initiate any kind of dialogue and, therefore, the 32 minutes of dialogue they just had, where there was a lot of nodding of heads, there was actually no nodding of heads and they're not going to do anything. He asked if that was what he heard just now. He wants to get an answer out of that. If they can give him the answer, that would be great.

Selectman Coutu said he listened attentively to what everyone has said. He respects what Mr. Carroll and Mr. Russo have said and understands where they are coming from and what they are saying, but he has difficulty with entering into a dialogue with 'them.' They have existing staff and he will enthusiastically support a directive from the Board, if it is presented, that the Board make the Community Development Director aware that the Selectmen are very concerned about what takes place on that property, and they want him to keep the Board abreast at all times. When W/S Development was here, they paid for, in partnership with the town, a town staff person to be there, so they had firsthand knowledge. He didn't want the Planning Board to think this dialogue was a waste of time. It's not. He understands where they are coming from, but as a Selectman, he has a difficult time having discussions with either the developer or their attorney, which is the message some of them are trying to convey. He didn't want to be seen as a co-conspirator, but he will enthusiastically support having some commitment of overview from staff as to what's going on to have firsthand knowledge of what's going on. If there is something the Board of Selectmen needs to address, they will address it forthwith and at that time, before it goes too far, if they know it's going to be unacceptable. He asked if that was the kind of commitment Mr. Carroll and Mr. Russo were looking for.

Mr. Carroll said, at this time, that's all they can ask for. There's no genie that's going to push a button and all of a sudden, bing!, a perfect solution. He doesn't believe any official board should be cooperating with them in a culpable way to develop something that, in essence, is out of the mind and eye of the public, but it is important, and Mr. Kennedy does it on their behalf. He says you are not going to get there from here if you try that approach. Individuals of the town who are knowledgeable, trained and capable of developing this community, because that's what they are paid to do, should have an eye on what's happening so it doesn't go 800 miles in the wrong direction, or gives it a little tap so that they can at least think in areas, or look for ways in which to encourage businesses to come into this area, if that's a possibility. Any of those types of things that facilitate moving in the direction. Some mind's eye toward that is very important and if they just ignore it all, they just get what they get, which isn't necessarily the best way to think.

Mr. Russo said he wanted to respond, as well. What he (Selectman Coutu) was saying was somewhat accurate, but he remembered when this first project came out and remembered that once it came up that the Selectmen had sort of knew about this before the Planning Board and there was a lot of citizen involvement going on, and the citizens, especially those in south Hudson who were affected directly, were up in arms; it was a big conspiracy. It's unfortunate that it happened, but after this has been out there for the better part of three years, almost four years, he would hope that the people of Hudson, especially those that are going to be affected by this, realize that getting involved doesn't mean you're going to bed with them. It means you're watching them and it's that simple. You have to get close to see what's going on and if you don't, it's going to be a big problem. People now realize that nobody stonewalled this project. This developer ran into a lot of issues, all on their own. He's heard time and time again from other towns, "I can't believe the Planning Board didn't let this thing go through." He told them he didn't know what they were talking about, saying this never came to the Planning Board for any type of dialogue. They ran into their own problems. They did not have what it took to get through all the different processes. They didn't have all the pieces in place. It was their own demise that brought this on because of the difficulty of developing this property and where it was located, so they chose the easy path and they went over to Nashua, and that's fine. He thinks they are smart enough to realize that now. The Planning Board is there, working on the behalf of the people of Hudson and the involvement with the town and those tasked with overseeing the town need to be involved.

There being no further discussion, Chairman Nadeau said Mr. Barnes had said he had another item he wanted to talk about.

7) **Landscape Site Plan Regulations**

Mr. Barnes said there was some information in the packet about the request made recently by the Planning Board to the Board of Selectmen to disburse some funds to review the landscape site plan regulations. They had worked with Cynthia May in the past and the Planning Board wanted to employ her to review the existing regulations and suggest changes to those regulations, but the Board of Selectmen turned down that request. They would like some feedback from the Board of Selectmen about their reasons for denying the request and what kind of direction the Planning Board should take because the Planning Board would like to make some changes to the landscape regulations, but they're not sure how to take this forward.

Selectman Jasper said he was against this. He has a philosophical problem with everybody having to have a landscape architect come in and stamp and approve every plan. If he wants to build a building, and he tells them he likes grass, and there aren't any neighbors that he needs to shield because of abutter concerns, then that should be his right. He owns and maintains the property and the Planning Board shouldn't be able to tell him he ought to have a maple tree over here and a pine tree over there. They do that now, but this goes a step beyond to have a landscape architect. He didn't like the regulation because this is American, and there is private property and he should be able to landscape his property the way he sees fit, as long as he is developing his property within the town's regulations. He can't support taking this step.

Selectman Maddox said they have extensive landscape regulations. For the most part, the plans that come before the Planning Board are well landscaped. To put the additional burden, to say they have to be stamped and expend \$3,000, no matter where it comes from, to have someone redo them, he didn't see as a cost effective method. They are working on signs and any number of things. Landscaping that the Planning Board gets, plan in and plan out, for the most part, a reasonable set of layouts of shrubs and bushes and trees and whatever. To put a more onerous set of requirements down, he can't support.

Mr. Hall didn't participate in that vote, but he didn't understand that those two conditions were the result of spending \$3,000. His recollection was that while Cynthia May was employed by the town, she was working on some suggestions and updating the landscape regulations. There is another whole concept of the issue of landscape stamping and a registered landscape architect being required to stamp plans that are submitted. Those two things are separate, to him. He didn't know how they get to assume that because they are spending \$3,000 to update their regulations that one of the requirements that a landscape architect was going to be part of the regulations. How did they get to assume that was going to be one of the regulations? Someone answered yes. Mr. Hall asked if that was correct, if the motion was that was going to be a requirement. Mr. Barnes didn't recall that as being part of the motion, but he thought they were approving asking Cynthia to review the existing regulations and propose some changes. There was a separate regulation that was passed by the state that put in place the registered landscape architect approvals, but he didn't recall having discussions about requiring that as part of the site plan. Even if they did, it would probably only be for the major ones, and not smaller site plans or subdivisions. Mr. Hall said he would not support that, himself, but since Cynthia had been employed by the town, had noticed some things she wanted to improve in the landscape regulations, that the majority of the Board thought it was worthwhile to see what her suggestions were, and she needed compensation for completing that. There was some question as to whether \$3,000 was an appropriate amount of money. There were discussions whether there should have been a bidding process, but if you're asking somebody to come up with an opinion, there's no way to have a bid on that, unless they identify the goals. Their thought was they had enough faith in Ms. May to ask her for her recommendations. That didn't mean they were going to adopt any of them, but they felt it was practical and something the Board wanted to pursue. He wouldn't support requiring a landscape architect to stamp all of the plans.

Selectman Coutu said in the paperwork in their packet for this evening, he had the motion that was presented by Ms. Stewart with regards to the hiring of Ms. May, and as it was presented to the Selectmen. It clearly represents that the Planning Board is asking to hire Ms. May for a fee of \$3,000 to review and make suggestions or change the rules that apply to landscaping. However, when it came before the Selectmen, and someone did infer this meant they were going to have to have a stamped landscaping plan for everybody that comes before the Board. He thought that was outrageous, imposing another rule on the private citizen that they could ill afford. He'd be insulted if someone said to him they wanted him to have two rhododendrons in a certain area, if he didn't like rhododendrons--if he was told that's what he had to do if he wanted to build. That's why the Board objected to it. If, as it is presented now, it is exactly as the language appears, that it's for her to revise the landscaping requirements and review the plans and make suggestions, and the Planning Board decides whether or not they are acceptable by majority vote, he can support that. He can't support, however, anything that would impose another obstacle on the part of a builder or homeowner to want to do something without having to plant rhododendrons and pine trees and whatever.

Ms. McGrath said she agreed completely with Mr. Hall. It's her understanding that the idea of a landscape architect signing plans was presented by someone to the state legislature, but she didn't believe it was a mandate, that the Planning Board require any developer—not a homeowner, because a homeowner doesn't come before the Planning Board; it's a site plan review process—to have a licensed architect sign landscaping plans. Ms. May is the perfect person to review the Planning Board's landscaping requirements to see if they are appropriate. Maybe they are too stringent. Maybe they are not stringent enough. She is the perfect person to review them and make a recommendation to the Planning Board on whether or not they should adopt her recommendations or change the regulations.

Mr. Russo wanted to address Mr. Coutu, saying he agreed with him. As a developer or a landowner, if he wants to put up a business, the landscape is his business. However, the Planning Board, on a regular basis, looks for the opinion of someone that is knowledgeable in that to make sure it is a cohesive landscape design. None of them on the Board have that expertise. None one of them is a licensed landscape architect and, therefore, they do look for that. While it's important the Planning Board, before they approve a plan, ensure that the planned landscape is reviewed by a licensed landscape architect, that should be a requirement of the Planning Board to make sure it's a cohesive landscape design. He didn't necessarily believe that the landowner should have to hire someone just to submit that plan. If they want to pay for the review process of the landscape architect, and pay for it over and over because they keep shooting darts in the dark because they don't know what they are doing; they are just kind of throwing it out there and are waiting for

feedback. They're spending their money because the Planning Board charges... the fees are collected by the Planning Board so those reviews can be done. He agreed a licensed landscape architect should be reviewing these, but absolutely not by... he didn't believe the landowner, himself, but it might make sense, in some cases, to have one review them and design it for them. He didn't think a stamping was at all required.

Ms. McGrath didn't believe they've required a landscape architect to review landscaping plans that have been presented to the Planning Board. They have a consulting engineering firm, which is typically CLD, and they review all aspects of the plan. They don't know whether it's a landscape architect that's looking at the landscaping; they just know that it's CLD, or the consulting engineering they are using. They need to make that distinction because they have a consulting engineering firm that reviews the plans to make sure that they meet the regulations, but they don't know whether or not it's a landscape architect, and they're not requiring the developers to submit landscaping plans that have been signed or approved by a landscape architect.

Selectman Maddox said to move this along, the Selectmen will buy into the fact that's not what they're trying to have done, but at this point, in the history of the town and the Planning Board's agendas, which in his decade on the Planning Board are as light as they have ever been, rather than sending this out, he thinks they can do it in-house. They have a Town Planner that's more than capable of looking at the regulations and coming back with suggestions, like he has done over the last few months with other issues that come before the Planning Board. He has more time now. Simply have him take a look at this and bring it back, which makes just as much sense.

Mr. Carroll said with all due respect, the Town Planner would probably end up pulling together a bunch of different landscape regulations, as per Derry, Londonderry, Pelham, Salem, Concord, etc., putting them in front of the Planning Board, asking which ones they wanted to pick. He'd rather have someone who actually is knowledgeable in the regulations and has the ability to take their learning and their broader knowledge and apply it and bring to the Planning Board a recommendation that's consolidated, concise, rather than just getting a bunch of things, so he'd prefer it went that way. The Selectmen can do what they want, but he'd prefer it went that way because they won't have to spend seven hours at meetings, trying to bust it up. Selectman Maddox said they still will.

Ms. McGrath said Ms. May's area of expertise is landscaping, so she is the appropriate person to do this. John Cashell's area of expertise is planning. She didn't believe he would convey to any of them that he was an expert in landscaping. Ms. May, however, is.

A motion by Selectman Coutu that the Board of Selectmen approve the Planning Board's request to authorize the expenditure of \$3,000 from the Planning Board's expendable funds account, 2050-200, relative to revising the landscape requirements, including both the site plan review and subdivision of land regulations did not receive a second, so it failed.

8) **Mammoth Green**

Selectman Maddox said they all got copies in their packet of the Mammoth Green paperwork, the development agreement, and before the Chairman signs off on this, he's just trying to get this right. There's such concern about getting Mr. Baldwin's vision put on a piece of paper. He thinks that's the challenge now of what he presented to them would happen out there and to put that on to a set of drawings to put that into a set of development agreements, he would think they just need to have some answers to some of the questions some of them have in regards to what will ultimately be built out there and will that be consistent with what was presented at the very beginning by Mr. Baldwin.

Selectman Jasper said he was very concerned about what's going on out there. You look at the entrance and it's ugly. It's not the vision and it doesn't appear there's going to be anything there they will do to keep it from being ugly. Be that as it may, he read an e-mail that came today from the Road Agent, paraphrasing part of it. "I'm writing to inform the Board of a meeting that took place at the Highway Department during the initial planning stages of this project. I met with Mr. Bob Baldwin and several other gentlemen who accompanied him to discuss this project. They came to meet with me, as I was strongly opposed to the concept they were proposing. After a lengthy and sometimes heated discussion between Mr. Baldwin and myself, we compromised. I came to understand his vision and he seemed to understand his long-term maintenance concerns. There were three major points we agreed upon. The first was a paved main road of 24' that the town would maintain. The next issue was the gravel roads off the main paved road that we had agree to. Mr. Baldwin agreed these would remain private, as the gravel roads were an integral part of his vision. As they were to be private, I had no issue. The last main area of concern was the drainage along the road. I was in favor of a closed drainage system. Mr. Baldwin agreed to build gentle sloping grass swales that would be mowed by the association, as they would have the farming equipment available, anyway. I agreed, as the town did not have the equipment to mow this area. The meeting ended and I thought it was very productive. My original thought was that this was a developer trying to save money at the town's expense. At the end of the meeting, I understood this was a concerned builder, trying to preserve the feel of the land. I also think he understood my long-term concerns. It was my understanding after this meeting that the town would be responsible only for the plowing, sanding, sweeping and paving repairs of the main road. The town was also responsible for solid waste collection. The association would maintain the gradual, sloping grass swales." Nowhere in the development agreement or any of the documents is that indicated. The town is on the hook for the maintenance of those swales and the right of way, and if you go out there, they are not, for the most part, gentle sloping swales. Many of them are riprap, which is going to be subject to all kinds of junk and trees growing up over them and not easy to maintain or mow. Many of the so-called gentle sloping swales

are not gentle. Many of them are very abrupt at the edges of the fields and some of them go straight up and the town cannot be responsible for maintaining them. That's why the developer had a reduced pavement (not discernable) had an open drainage system and no sidewalks and curbing. Right now, the town is going to be responsible for that mess, if they sign this agreement.

Selectman Maddox said there's a lot of just housekeeping. They're calling it the Nadeau Farm Homeowners Association in the development agreement, but the Homeowners Association is called Mammoth Green Estates. There's 25 of those in the document and they need to clear that up because there's going to be confusion. They call it one road in one part and another name of a road in another part. It's all over the place as far as details. There's a bunch of things, such as who is responsible. Members of the Board of Directors of this thing don't have to live there. Actually, there is a problem with that that makes no sense at all. It says no person shall serve as a director who is not a member of the association, but then it goes on to say, and this is interesting, the president must be a member of the association, but the other officers need not be, then the next section says the president, clerk and treasurer of the association shall be chosen annually by and from the board, which means the three directors will be the three officers, so it contradicts itself. That's not really their issues, but it should be something they are concerned about. The other issue he has with the shared driveways is that it appears from everything he can read into the document, there are four shared driveways—seven, seven, seven and two—and those people get to decide by majority vote how their driveways are maintained. You could have a totally different standard on all four driveways on how they are going to be maintained, not controlled by the association. None of them saw that as the case and that certainly is a problem when you've only got two people on one driveway, so he sees that as a problem down the road which, ultimately, may or may not come back to haunt them. His big concern is the Planning Board cannot sign that on behalf of the town unless the town is off the hook on the right of way maintenance because that was clearly part of the vision and he spoke to the Planning Board about this last winter, and it's not here. They've not been protected, as a town, in the document.

Ms. Chadwick said her only suggestion was that, as a first step, the Planning Board go back to what has been said over the course of the meetings and what was relayed and utilize that to go back to the developer and explain that what they have in front of them was not what was envisioned, but she also recommended that the Planning Board consider another consultation with the Town Attorney with respect to this project, given what they discussed last week. It's likely they are going to need to have a further consultation with the attorney with regards to this.

Mr. Carroll said "you've got notes." Selectman Jasper said he had an e-mail from Kevin, who had a clear recollection of the initial... Mr. Carroll said yes, he remembers him sitting there. He said the question is if the workshop tomorrow included that topic. Someone said no. Mr. Carroll said he agreed; they have to get Buckley involved because he sat there and was their eyes and ears on that process and they gave much to the dialogue and he sat at the Board meeting and said I took everything that you said and I believe all of that is in there. Ms. Chadwick said to leave that alone and cautioned not to get into attorney-client privilege. Mr. Carroll said he was just saying they need to drive with him again to take the points he (Selectman Jasper) had that may have been missed. It's very possible.

Selectman Jasper said although it is clear in the document, the farm belt will have to be mowed, regardless. He was fairly comfortable with that. He's not sure what shows up where. The problem he has is there are three drainage swales, two at the top of the hill. There's no mention of them being maintained by the association. That needs to be a clear understanding, as well, that those will be maintained by the association because you're not driving a farm tractor in those. There's going to be areas they mow, but there will be additional areas that will need to be mowed, as well, because the way he's cut things up and done "these things," you're not going to be able to maintain, so the association has to understand that they need to be responsible for maintaining those, as well. Clarification needs to be made in here.

Selectman Maddox asked the Planning Board members, who just got them in their packets, to look at them to get their input. Maybe they can put all of these together and give them to Mr. Cashell, strap him to a chair with the Town Attorney and resolve this because they do want to move this forward, but they don't want to sign for something with problems. He didn't want to be sitting at a Planning Board meeting or a Board of Selectmen's meeting, having the citizens come in (audio difficulties). There needs to be something, as sign as they enter this property, this is a unique property, there are special areas of concern, however the legalese want to deal with it, but there's a document that clearly outlines the responsibilities that a homeowner has when they buy into this project because if something isn't said up front, they're going to sit, much like they did with some of the other developments that have come before the Planning Board and then migrated to the Selectmen, saying well, we didn't know, how could that happen?, blah, blah, blah. He'd like to see them resolve those first. Again, this project was important to the town to the Planning Board. It deserves the attention to get what Mr. Baldwin presented. Maybe they can talk about it more tomorrow night.

Selectman Massey said to follow up on something triggered by Selectman Maddox. He didn't think that handing any prospective owner the copy of the easement document in and of itself will satisfy the issue about buying into a special... there has to be an abstract of that document that people can read in English because this has got so much legalese in it, it's hard to follow the train of thought, but it's pretty clear that if you're going to buy into this property, you're buying into some differences in the way property is owned than anything you've probably ever bought in your life. Ms. Chadwick said, unfortunately, it isn't the Planning Board's role to do that. She hoped that any person who decides to buy that property has the wherewithal to consult an attorney before they would sign a developer agreement such as that, which is before them. She agreed that it is not clear and not easy to understand, but you hope that most

people have the wherewithal to identify their own weakness and can see that they may need to consult counsel with respect to buying a home.

Selectman Jasper said he should have made notes, but was pretty sure this was the last thing in his mental notes. There is a ¾-acre building envelope out there, 30 of them. He challenged anyone to go out there and find them. How in the world, if they don't do it be metes and bounds... he can see someone from the Planning Board coming back, saying hey, they went over (not discernable) in the wrong place. Nobody is going to have a clue. You can look at the map and say oh, that's nice, but unless there are metes and bounds for those 30 lots, those 30 ¾-acre spots, how are you going to know they are in the right place? How are you going to know they've only used ¾'s of an acre. Don't expect town staff to go out and start measuring out ¾'s of an acre 30 times out there, every time somebody decides I've only used ½ an acre, now I'm going to ¼ of an acre. There's got to be metes and bounds out there. There's got to be markers to identify those 30 building envelopes and he didn't know why that's not in there because that's a no brainer that you're just going to have to identify them by something other than just throwing... Mr. Carroll said it's called a dart in the dark. There's a colored marker that's not on the plan yet.

Selectman Maddox said his final thing was, again, you need to make people aware... the first time someone comes with a manure spreader across your front yard, you're going to be visiting some board. They need to understand that what they're getting into is a very unique setup. When it's finished, it's going to be gorgeous and it's going to be a benefit. It's just getting to that step. Those kind of calls will be few and far between if they do their homework up front.

Chairman Nadeau asked if there were any further items for discussion. Mr. Russo said something that just came to mind, and this brought it on. He likes the fact that with the town of Hudson, if he wants to know what happens at these meetings because he doesn't have it on TV, he can go on line and get the minutes off of there. He asked this of Selectman Maddox and was curious if the Board of Selectmen has considered going back and putting Planning Board minutes on the town web site so they can be reviewed, not only by Planning Board members, when they have to go back and see what Mr. Baldwin said, they have some pretty extensive, very well put-together minutes, and he didn't see them there and was wondering... Selectman Massey said they're there. Mr. Russo said on the web site? Selectman Maddox said go to Board, under the Planning Board. Mr. Russo asked how long this has been happening because... (talking back and forth). He asked if these were the decisions or the actual minutes. Selectman Maddox said the approved minutes, some of which are 21 pages. He's seen them.

There being no further items of discussion, Chairman Nadeau thanked the Planning Board for coming. Selectman Maddox said although the Planning Board members were leaving, it was important for the Selectmen and the town recognize the hard work of the Planning Board, and all of their land use boards. He was disheartened to see the letter of resignation from Tim Quinn, who was hard working, always behind the scenes, did a lot of stuff on his own time and was a great, great member of the Conservation Commission and asked the Chairman to send a letter of thanks. Selectman Jasper said that would probably be a regular item at the Board's next meeting.

Selectman Maddox asked how much stuff was on the agenda for next week. Mr. Malizia said it hasn't closed yet. Selectman Maddox said they could defer the rest of the meeting because he didn't see anything that couldn't wait until next week. Mr. Malizia said budget to actuals aren't going to change between now and next Tuesday.

Motion by Selectman Maddox, seconded by Selectman Jasper, to defer until next week carried 5-0.

B. Budget to Actuals (Deferred to June 10, 2008)

5. OTHER BUSINESS/REMARKS BY THE SELECTMEN

6. ADJOURNMENT

Motion to adjourn at 10:15 p.m. by Selectman Maddox, seconded by Selectman Jasper, carried 5-0.

Recorded by HGTV; transcribed by Priscilla Boisvert, Executive Assistant

HUDSON BOARD OF SELECTMEN

Benjamin J. Nadeau, Chairman

Richard J. Maddox, Vice-Chairman

Kenneth J. Massey, Selectman

Shawn N. Jasper, Selectman

Roger E. Coutu, Selectman