

HUDSON, NH BOARD OF SELECTMEN
Minutes of the October 10, 2006 Meeting

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

2. **PLEDGE OF ALLEGIANCE** led by Selectman Ken Massey.

3. **ATTENDANCE**

Selectmen: Richard J. Maddox, Shawn N. Jasper, Kathleen R. MacLean, Kenneth J. Massey and Benjamin J. Nadeau

Staff/Others: Steve Malizia, Town Administrator; Priscilla Boisvert, Executive Assistant; Kathy Carpentier, Finance Director; Shawn Murray, Fire Chief; Donald LaForest; Howard Dilworth, Jr; Ashley Smith, TEL

4. **PUBLIC INPUT**

Donald LaForest, 4 Airline Drive, Amherst, NH, re. 8 Pine Road – Mr. LaForest said he was called by Mr. Sullivan last week, who said the Town was going to vote at tonight's meeting in regards to giving a building permit for 8 Pine Road. He owns the property at 6 Pine Road, which belonged to his brother. Before that, it belonged to his mother and father; before that, it belonged to his grandmother; and before that, it belonged to his aunt and uncle. He has all of the deeds going back to 1945 and he has spent quite a bit of time at the Registry of Deeds and on the computer to compile all of the information, as well as the information that he was provided by the Town in regards to plot plans, land pins and whatnot. The Town had a surveyor go in there for the school. He was never made aware of it until he got a call from his sister that the property was being chopped up, debris cleaned out and whatnot. When he went over there to inquire about it, they told him that they had gone before the commission to see if it would be a buildable lot. How the commission ever said it was a buildable lot, he didn't know, but that's not his concern at this time. His concern is that, by the way the Town did their surveying, and by the way the deeds read from 1947 up to now, it shows that he had 338' total on the property. When his brother was given a section of land back in 1967, he produced a plot plan for his home and septic system and whatnot through the Town. They had the 338' then. Now, all of a sudden, they don't have 338'. If you take 150' off of 338' it leaves him with around 168, or a little more; he'd have to look at his figures. If he had that amount of land, then the land the Town is trying to build on would not be buildable because they don't have the footage; it would transfer the line over 20' feet more towards the wetland, and the plan that the Selectmen have before them for the school, part of the garage is in the wetlands, anyway. He used a large sketch pad on an easel to draw a visual explanation. When they bought the land and his brother built his house, Pine Road did not exist. On the end of his property, he had a brook running across the road. Back in 1945, they didn't have culverts, and they didn't have a road there. If water was running through a property, they take the middle of the brook and consider that the culvert, or any runoff water. (He learned that today through the Probate of Deeds today.) He pointed to two markers, which he said have never moved. When the Town put the road in, they took one of the pins out and took some of the property. He continued to sketch, explaining the pins that were moved, and pointing to areas on the property. A culvert was put in, and they made the culvert the property line, but he didn't know if that culvert was put on the right property line. He continued to point to various areas on his drawing as he spoke. The Town wouldn't have enough property to build the home on, so they took the culvert as the starting point and came over 150' which moved the property line straight down. The Town gained 20' on the side and about 25-30' in the back. That is quite a bit of land. The land in question is all filled. Some of it was done by his brother, Raymond LaForest, who lived there, and part of it was done by the Town. When the Town took the property over, the septic systems were too much because the water used to flow right through the person's house. They also had an oil spill on that property where the School Board wants to put a well. That has never been addressed. There is debris scattered all along the bank. If the State Wetlands Commission ever saw it, they would make the Town, or whomever bought the property, remove it because it was fill that was put in illegally. They needed a permit to do it. A couple of Selectmen walked the property, and they observed all of this; it's not his imagination. He said he also has purchased.

When they purchased the land, his father's house was the only one there. There were none other in the whole area. They were the only people on that road. Over the years, lots were put in all around their property, surrounding it in a domed configuration. All of the drainage from all of those lots comes onto his property and has ruined all of his backland, with streams and brooks running through it, into the brook. His land now becomes useless. Also, if the Town permits the building to go up, he has sketches of the elevation of the land, which he knows has been filled in. Even the Town, itself, has said the land has been filled in illegally—but now the Town is saying the land is good. It can't be bad one minute, and good the next—and he has documentation from Paul Sharon and the Building Inspectors. His concern is that the Town has used the culvert to take a marker, and that's not the legal pin or marker for that road. If the measuring was done from one of the original pins, they would get a more accurate reading. Starting from the culvert is questionable because the Town put in the culvert. If you looked at the route of that brook, you could tell it has been moved and pushed over by the Town because the Town put the road in; the builders didn't do it, the Town did. By pushing it over, they pushed the wetlands over, too. If the Town wins by setting the new marker, and they gain that 20', then it's legal to put a house there. So, what does the Town do? It pushes its luck and has a permit for a house, saying the land isn't as bad as everyone said it was, it is clean fill that has been there for years, it isn't contaminated. But that is a laugh because if you took a 'dozer or backhoe and dug in there, they would see that it's all fill—and wetlands cannot be filled, even if it's less than an acre. He didn't think anyone has applied to the State to locate a house there. When he brought this up at another meeting, he was told that, because it was under an acre, they didn't have to apply for a wetlands permit, but the State told him they didn't care if was half an acre that, if it was wetlands, they had to apply through the State—but the Town hasn't done that. The Town keeps telling him he has to go out and have his land surveyed, but at whose expense? He just spent \$3,500 and all he got out of that was a piece of paper that is totally different than the Town's. Who is going to win? If he had the land, and it's still there, they can't take it away. It didn't shrink up and disappear. If the Board of Selectmen does give a permit, he'd like to be notified so he can take further action, if need be. If anyone wanted to see his documentation, they were welcome to look at it. He indicated the Selectmen that he's shown it to, including Selectmen Jasper, Nadeau and MacLean. He also visited Mr. Malizia in his office and he said there was nothing wrong with the land. When the land was taken by the Town, because Beneficial Finance didn't want to

go in there and spend all that money to clean it up and dredge out all the waste and fill that was in there, they gave it to the Town, and the Town burned the house down. He has copies of the old plot plan on how the house was put there, how at that time, the biggest that house could be, because of the wetland, was 32' wide. The house grew to 56' and the Town said they couldn't do that because they didn't have a building permit and was infringing on somebody else's property because they have to have a buffer zone between property lines, and he ate his up by building an addition on to it. The driveway is still there; it still exists where the garage was, where the new addition was. Now the Town wants to come over an additional 25' beyond the driveway that still exists. His concern is where does it stop?

Motion by Selectman Massey, seconded by Selectman Jasper, to change the Order of the Day and take up 7-B, 8 Pine Road, carried 5-0.

Selectman Jasper said he has Selectman Seabury's voice, on this particular lot, stuck in his head, saying this is not a buildable lot; we'll never be able to do anything with it. That, in fact, was the opinion the Board of Selectmen took, at the time of the taking, because of the wetlands issue. He had been out there before, and he remembers the grade back then, and it has been filled in, in the area that clearly infringes in the wetlands. When this property was taken, it was very clear in the Board's minds that this was not a buildable lot. The issue that Mr. LaForest has with the frontage is something he can't speak directly to, except that he read the deed, which said "338 feet, more or less," which is standard in old deeds. When they subdivided that, it was very clear they were taking 150' out, but there was no new deed on the other property, specifying what the frontage left was. What does concern him is that pin is there, which very clearly should have been the rear lot line because, when the original plot was done, Pine Road wasn't there, so now they move forward to the middle of the road, and you end up where that is and it appears to him that it is very clear that the Town is saying, "here is the middle of the road, and we're taking our 25' which we don't have a deed to," and now Mr. LaForest loses 25' in the back., because the original deed would have gone to the middle of the road. He has more of a problem, and he can justify that issue more than he can justify, in his own mind, whether or not they are 20' over from one side to the other, because Mr. LaForest's deed is not clear. When you have something that says "more or less," that can be more or less by a good number of feet, and he didn't know where that is. The Town has the plot plan, but he can't explain how that pin ends up there, which does make sense, under his scenario. His is of the opinion that when they took that land, it was not a buildable lot and it didn't get any better over the years, so he didn't think it should become a buildable lot. He would have not problem putting it up for auction and selling it to an abutter as a non-buildable lot. He feels badly that the Board of Selectmen got involved in this with the high school, but they shouldn't be overlooking the fact that there are problems with that lot.

Selectman MacLean said Mr. LaForest had said earlier, "if the Town wins," and this wasn't something the Town was trying to win, or beat somebody else. It was supposed to be just a great, win-win project. Mr. LaForest said it was great; he wasn't disputing what the kids are doing. It's a wonderful thing, and he has no objection to it, but this wasn't a proper way to teach somebody how to build a house and go into the real estate business by taking somebody else's property. Selectman MacLean asked, if the Town's deed was wrong, and they were to follow Mr. LaForest's deed, if the house would then not fit; then they could move it over 20' and that's it. Chairman Maddox said they wouldn't have the frontage. They'd have to go back and get a variance. However, the Town has a lot of records. Selectman Jasper said the issue is the setbacks on the side lot. He thinks they are selling at least 25' of his back land. Nobody has been able to explain to him why that pin is there, and how to square it up, the difference from the reality when the deed was laid out to the road. Are they taking the measurements from the middle of Pine Road now, or starting 25' from the middle of Pine Road? They don't know that.

Chairman Maddox said the School Board hired a licensed, certified surveyor, who gave a drawing to the School Board and to the Town that says this is a buildable lot, and he put his stamp on the drawing. They can talk about could-a, would-a, should-a, but the Town has a certified document that says this is a buildable lot. Selectman Jasper said, in looking at the Town's plan, the surveyor has done exactly what he suggested; they are starting the 300' from 25' back from Pine Road. That could not have been how the original deed was done because there was no Pine Road at that time. That's the problem. So, if no other problem exists, they are going back beyond that iron pipe, and they shouldn't be going back beyond that pipe. That's the least of the problems he has. They did go get a variance, but there is fill in that area that goes into the wetlands that is not original material, whether it was put in there by Mr. LaForest's brother, or the Town, or both, he's not sure, but he's not happy about this situation. When the Town acquired that building and that lot, it was not to be a buildable lot. If they just go along with this, and Mr. LaForest's decides that he wants to take action, he loses, the taxpayers lose and, depending on how long it drags out, somebody else may lose—the School District or somebody who buys it. This is not a good situation at all.

Selectman Massey said the Town does have a licensed land surveyor's map, but as he recently learned, that's no guarantee that you have the right map. The only way you ever do it is, if you have a dispute between two landowners, they both get their own licensed land surveyors and then there has to be, at some level, either an agreement that one or the other took the wrong readings, or there's an agreement between the two parties to do something. The case he's referring to is Southern NH Medical Center and the adjacent property had a dispute of 15' of frontage. It was a very narrow triangular shaped property. The surveyor for the adjacent property owner took their readings from a certain point. The other surveyor went all the way down to Cutler or Pine Road and they took their point from there. When you look at what they did, you can understand how they came to the conclusion that the 15' belonged to them. That's the long way around saying, in the absence of two certified plot plans, and then an agreement on how to go forward, he didn't think they could be 100% certain today that this land survey is the absolute, definitive, correct one. On that basis, he's not certain that even he would want to go forward with something. They are not going to be able to convey this property unless they have absolute certainty that it's conveyable. He thinks enough information has been raised tonight that would lead him to believe they are a long ways from having an absolutely certainty that this is the Town's property, as indicated on the Town's certified document.

Selectman Nadeau asked, if they didn't go back 25' from the rear pin, if that lot would still be buildable. Selectman Jasper said under today's standard, no, but that is a lot of record, so that back distance makes no difference to whether or not that is buildable or not. A lot of record, if you can meet the requirements for septic, well and setbacks, you can build on a lot, regardless of the size. That's the situation they had with those camp lots down off Ayers Pond Road. Selectman Nadeau didn't have a problem building a house on that lot. He walked it, and there is some problems with the wetlands, but he wouldn't have a problem putting a single family home on that lot, if they didn't put a garage on it. It would fit in with the neighborhood. As long as they make sure they don't take any of his rear lot, the 25' from the pin. They measured from the center of the road back. The frontage is a legal lot of record, plus or minus, and it could be as much as 20'. He'd be very comfortable just putting in a single family home there, with no garage, as long as it is landscaped properly. No problem at all.

Chairman Maddox asked Selectman Jasper if he assumed that the iron pin Mr. LaForest was showing on his drawing was the 25' that they've taken, coming back to that iron pin, then going across. Selectman Jasper said that, at least, would resolve that issue in his mind. He's not sure it's entirely the Town's responsibility to resolve the other issue of where that 150' starts from. But if the Board decides they want this to go on, then he would suggest that the house move over to the area that was being allowed for the variance to allow for any possible future problems to be avoided, so if there is a discrepancy of 15'-20' and they move the whole house over 15'-20', then at least, if action is taken, and the Town loses by 15' or 20', the house is not on somebody else's property. It could, possibly, be within the setback, but at least would not be on another piece of property.

Selectman Massey said if this was a dispute between two property owners that were private citizens, he would say it was up to the person who is challenging the lot line to determine whether or not the plan they have in front of them is the correct plan, but given that this is a Town action, he thinks it would be extremely unwise for them to get into a situation where they think they've conveyed an appropriate property, and then find out that, through other processes, that it's not, and then they end up with all kinds of problems.

Motion by Selectman Massey, seconded by Selectman Jasper, to withdraw from participation with the School District in siting a house on 8 Pine Road.

Selectman Massey said there are enough unanswered questions on this that he didn't think he wanted the Town to be in a position of having a questionable deed conveyed to a potential owner. It's prudent to just withdraw from the site. If they could find another site that's appropriate to work with the School District to do it, fine, but this site would not now, in his mind, be the appropriate place to do it.

Chairman Maddox said he was going to vote against the motion because Selectman Nadeau put up a reasonable alternative. Between talking to the Town Attorney and Town Engineer, if this is a lot of record, they could move it over and settle that issue. He understands the concern, but it is late in the game. They have a stamped plan and the gentleman before them has raised "could be" issues. At the present time, the Town has a stamped drawing by a surveyor that says it is correct. They are giving this gentleman the benefit of the doubt, not making him expend money, but they still shouldn't just walk away because the Town has a certified plan that this is a buildable lot.

(Start Tape 1-B)

Selectman Nadeau asked Mr. LaForest would feel better if they moved the house over and got rid of the garage. Mr. LaForest said before he answers that, they were squawking about the person who did the survey for the Town. He also had a survey done for his property by Maynard & Paquette, the ones who did the original property back in 1965. Just by those two drawings, there are so many discrepancies, the paper he paid \$3,500 for isn't worth anything because it goes totally against the Town's. His father's property has been there since 1962. Measurements were taken and he has the certified plot plan, which was given through the Town. It shows the measurements from the building going back from the house to the line they are talking about; shows 77'. The party for the Town did the same thing. They tried to take that same 77' measurement from the house, and it doesn't work. The survey he got from Maynard & Paquette isn't worth putting through the Registry of Deeds because it's worthless. Now, some 40 years later, the measurements are different, it went to 83', but the house hasn't moved. The reason for that is, if they had gone the 77' like they were supposed to, it would throw that line off again. The plot plan done by Maynard's father back in 1960 was good back then because the Town accepted it. They also have the plan done for the school, and he has the latest one done by Maynard & Paquette—and the measurements have changed again. In 45 years, because of all the development around his land, markers are going to get thrown off, or thrown into discrepancy. Their family was established there first. Now, 40 odd years later, he's being told that, somehow, he has lost 20'. All of the paperwork he has, he obtained from the Town. If the Town researched those records, they could see the discrepancy. It won't just show up now, but it will show up later. They haven't even got into the contamination of the property. Their own "Town Selectman chairman, Paul Sharon," wrote the letters that says, "the soil was contaminated by an oil spill, so this will also be on the list for remedial action." The Town burned the house down, filled it in, covered it up, waited 10 years to let the vegetation grown, and now it's a buildable lot because no contaminated soil can be seen there. The Town saw it back then, though. He said there was another one—remove the rear additions; the study came back clean and they will now proceed to take action. There is another one he has that says there was fill and illegal dumping on that property, on the wetland. If they eliminate the garage and put the house over, what are they putting the house on? Part of the wetlands, and if the State sees it, they are going to make the Town take it out because it was illegally dumped there, and the Town even contributed to it—not to take it out, but to cover it up. It's still there; you don't hide that. If the Town wants to take the chance, that's fine with him. He was offered to buy that land by Paul Sharon, but they didn't want it because it was contaminated and it would have cost an arm and a leg to clean it up, yet the Town isn't spending any money to clean it up; the Town is going to cover it up. Is that proper? Is that a way to do business with somebody? Somebody will buy that house and when the problems come back, it is going to haunt the Town, and the Town will be held responsible. He didn't care what the Town does; he stated the facts and he has nothing to hide. He wasn't ever going to do anything with that property, and

that property isn't ever going to do anything for him. It is gone; it's a piece of wasted land, but they will have an impact on his property, as well. Selectman Jasper called for a Point of Order, saying the Board was in a discussion and Selectman Nadeau asked a simple question, which the Board can take as "no."

Selectman MacLean said a lot of time and energy has been invested in the project, along with joy and excitement, because they thought it was going to be a wonderful thing. She hates to say forget it, but she was leading towards supporting Selectman Massey's motion. If they decide to look into this more, they will just end up spending more money on it and will come to the same conclusion—it will never be definitive, so she will support the motion.

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

Chairman Maddox said the Town would not be doing anything further, as far as building a house on that lot, but he didn't think they could walk away from this. There has been contamination on that site and filling in of the wetlands, so they need to send this to the Conservation Commission for follow-through. Selectman Jasper said, as he recalls there was an oil tank in the cellar (Mr. LaForest interjected that it was outside by the brook), so he didn't think there was going to be any contamination left from a 250-gallon tank. That should no longer be an issue, but it can certainly be looked into. However, the place to start on the issue of the wetlands, or the fill, is to talk to the Highway Department because they were involved in that, and there are employees there who would, no doubt, remember what happened at the time. This had sort of gone away, but his intention had been to talk to somebody in the Highway Department back in the spring when he met with Mr. LaForest, but it never raised its ugly head and he moved on to other things—but that's a place to start.

Selectman Massey said it would be worthwhile to reexamine any Town properties where siting this house might still be appropriate. The consensus of the Board ought to be to ask the School Department and the Town Administrator to reexamine the properties they originally looked at to see if there was another one that meets the criteria. Chairman Maddox said absolutely. There is a building ready to be put up somewhere and the Town had made a commitment; they just need to find a property that is suitable for putting that structure on. He didn't just to walk away and asked if this was going to be an action item for the Town Administrator to follow up with the Highway Department to find out what material was dumped in there and what needs to be done to correct it. Now that Mr. LaForest has brought this to their attention, they can't just walk away from it again. Selectman Massey said plus look for another suitable piece of property. Chairman Maddox said that was correct.

Mr. LaForest asked if he'd be notified. Chairman Maddox told him he just was, and didn't know what else they could tell him. Mr. LaForest asked what was going to happen in the future. If he was to die tomorrow, his wife didn't know a thing about what is going on. Paul Sharon assured them that there would never be a building put on that land; now, 10 years later, Steve 'Mazella' is saying there is going to be a house put on there. Is the Town going to wait 10 more years, or wait until he's dead, and then say the house is buildable? Selectman MacLean said Selectman Jasper would still be around then.

Chairman Maddox said they should still look into what's on that property, if it is bad as it was presented. It might come back, at some point. He didn't want to say it will never be built on. This is Hudson. Mr. LaForest said that was true; he's been in Hudson all his life, so he knows how things work—and they haven't even addressed what it would do to his property, raising up the elevation for the septic systems. They didn't get that far to be able to discuss that, but there's no need to; it's dead. He asked if that was right. Chairman Maddox said it was dead for right now. Selectman Jasper said Mr. Sharon did say he wondered why there were cemeteries in Hudson because nothing ever died here. Chairman Maddox said Mr. Sharon is no longer here.

5. NOMINATIONS & APPOINTMENTS

Benson's Committee Membership

Chairman Maddox said they had a letter from the Benson's Committee about the liaison to the Recreation Department, who has not attended meetings. He hoped that they get together with the Recreation Department to have them assign someone else that is able to make the meetings, taking care of it at the Rec level. Selectman Jasper said it's important that they do talk to the Rec Committee, rather than just filling the vacancy because the position was specifically for the Rec Committee, and it is entirely possible that the rest of the committee is not aware that their representative is not attending meetings. They ought to ask them if they'd like to continue to participate because their early participation was important, in terms of siting the fields that are proposed. He hoped they would want to continue to participate because of those potential fields that may be developed there. Selectman Nadeau said he'd bring that up on Thursday night at the Rec Committee meeting.

Selectman MacLean said Mr. Prince should know that he is more than welcome and should be encouraged to come to the meetings, if he is interested. Even if he's not a voting member, he certainly—and all people—are encouraged to attend all of the meetings to find out what is going on, and even provide input.

Chairman Maddox said that brings up a larger question, in regard to attendance on these boards. The CIP members on the Planning Board were quite disheartened by some of the attendance from some of the various liaisons, so maybe an attendance record should be required, as they look at people at the end of the year for reappointment. If they've never shown up, it's kind of a disservice to those that do. The School Board member for the CIP never showed up. Maybe this is something they need to look at. He didn't think a motion was necessary, if Selectman Nadeau is going to take care of this (Rec Committee liaison to the Benson's Committee) Thursday night.

6. CONSENT ITEMS

Selectman Jasper removed Items A-2 & 3 and Selectman Massey removed Item A-1 for separate consideration.

Motion by Selectman MacLean, seconded by Selectman Massey, to accept the consent items, A-4 & B, carried 5-0.

A. Licenses & Permits

- 1) Petition and License for two new Pedestals (PC1 & PC2), License Petition #9AA1E8, Paula Circle, w/recommendation by Highway and Engineering staff for approval.

Selectman Massey said he had a question on this and, if he was right, this pole siting is on a road off of Belknap that is the subject of a current subdivision plan on Belknap, and asked if he was correct. Mr. Malizia said this has been through site plan and has already been approved and built. Selectman Massey said he was mistaken, then, and the property he had been thinking of was on A Street. Chairman Maddox said this was that little six-lot cul-de-sac.

Motion by Selectman Massey, seconded by Selectman MacLean, to approve Item A-1, carried 5-0.

- 2) Raffle Permit for Friends of Music at Alvirne, w/raffle table at Cabaret Show.
- 3) Raffle Permit for Hudson Kiwanis to benefit Hudson Girls' Softball League and the Kiwanis at the Kiwanis Field at Cross and Oban Drive on October 28, 2006.

Selectman Jasper said the only reason he removed these two items was that both of the dates of ticket sales pre-date tonight. He didn't know what they could do about that, but felt it should be noted. Friends of Music started on Sunday and the one for Kiwanis started on October 1. In the future, when they see these coming through, since they are supposed to have permission beforehand, things ought to be changed to reflect the time; it was their fault for not getting them in sooner. He won't vote against them, but he wanted to mention the problem with the dates. Chairman Maddox said the viewing public should know that this takes almost three weeks to turn it around, depending on what it is submitted. The permits should be approved before ticket sales begin. He received a call from someone from the Friends of Music, who wanted to start selling tickets at Harvest Fest, but he told them it was going before the Board tonight. He didn't see them selling tickets so, obviously, they held off. People need to be aware that it needs to get in sooner than a day before the meetings, and staff needs to take a look at what those dates. They need to make them aware that if it won't be heard until the 10th, and they start selling tickets on the 1st, that could be a problem.

Motion to approve Items 2 & 3 by Selectman MacLean, seconded by Selectman Nadeau, carried 5-0.

- 4) Request for a Tag Day Fundraiser Permit by Nashua Fast Pitch Girls' Travel Softball Team to collect monies at the NH Liquor and Wine Outlet Store, #53, in Hudson.

B. Calendar

Oct 11 7:00 Planning Board in CD Mtg Rm	Oct 19 7:30 Budget Committee-BOS Mtg Rm
Oct 11 7:00 Benson's Committee, BOS Off	Oct 19 5:00 School Bd in CD Meeting Rm
Oct 12 6:30 Rec Committee @ Rec Center	Oct 20 6:00-9:00 Fright Night at Community Ctr
Oct 12 5:30 Sewer Utility in BOS Mtg Rm	Oct 23 7:00 BOS in BOS Meeting Room
Oct 12 7:30 ZBA in CD Meeting Room	Oct 23 7:00 Conservation Cmsn-CD Mtg Rm
Oct 14 5:30 HFD's Medals/Awards Night	Oct 24 7:00 BOS in BOS Meeting Room
Oct 16 5:00 School Board in BOS Mtg Rm	Oct 24 5:00 School Bd in CD Meeting Room
Oct 17 7:00 BOS in BOS Meeting Room	Oct 25 7:00 Planning Board in CD Mtg Rm
Oct 17 7:00 Cable Committee in Lunch Rm	Oct 25 7:00 Seniors in BOS Mtg Rm
Oct 17 5:00 School Bd in CD Meeting Rm	Oct 26 1:00 Trustees of the Trust Funds in BOS Mtg Rm
Oct 18 7:00 BOS in BOS Meeting Room	Oct 26 7:00 Open Space in BOS Mtg Rm
Oct 18 5:00 Water Utility in CD Mtg Rm	Oct 26 7:30 ZBA in CD Meeting Rm
Oct 18 7:00 Library in CD Meeting Room	
Oct 31 6:00 - 8:00 Trick or Treat in Hudson	

7. OLD BUSINESS

A. Vote taken after NPS on September 26, 2006:

Motion by Selectman Jasper, seconded by Selectman MacLean, to seal the Nonpublic Session Minutes carried 5-0.

B. 8 Pine Road (deferred from 9/26/06)

This item was taken up earlier, under Public Input.

C. **Volunteer Recognition Program** (deferred from 9/26/06)

Selectman Massey said he took what he thought were the comments from the previous meeting and put together the proposal for implementing the program. Cognizant of what he has said all along, perpetuation or memorialization is the key. If they were to add a liaison position to the Board of Selectmen, and that position would be responsible for managing this program, that that would go a long ways towards creating the perpetuation. Could he guarantee that it would happen? No, he can't, but he can guarantee that, as long as he is on this Board, it will happen—but he can't speak for future boards. In that light, this is his proposal for the Board's consideration, which has four elements: 1) the liaison position on the Board of Selectmen; 2) an annual volunteer recognition; 3) a service award for volunteers with five, 10, 15, etc., years of volunteer service to the Town; and 4) and ice cream social for the volunteers.

His intent is the responsibility of the liaison would be to in contact with all of the various boards and committees that have volunteer services to the Town, including, but not limited to the Planning Board, Zoning Board, Conservation Commission, Benson's, Solid Waste, the Budget Committee, etc., and it would be that individual's responsibility to work with the chairs of those boards and commissions to find out who, on those boards, would be eligible for the service awards. It would also be this individual's responsibility to do the logistics on the ice cream social and to make sure that the appropriate people are notified, as to the service awards.

Selectman MacLean asked if just the five, 10, 15, etc., year people that are invited to the ice cream social. Selectman Massey said no, it would be all volunteers. Selectman MacLean asked if the five, 10, 15, etc., people would get a certificate. Selectman Massey said yes. Selectman MacLean said the issue she had was that if they were going to thank people, to tell them they can only bring one person seems a little odd. Selectman Massey said he debated this long and hard and, ultimately, in his mind, it came down to cost. He felt that most people, if they wanted to come to one of these things, would want to bring somebody, and if it is opened up to more than one guest, the cost gets beyond something he would think they ought to support. That's why he said he thought they'd be talking about \$1,000 which is \$400 more than he originally estimated, if they just had the volunteers, themselves, come together. He is certainly not stuck on any one implementation of that; it's a cost-driven item, and a logistics item. Chairman Maddox asked if Selectman MacLean's question was answered. She replied that yes, but when a motion is on the table, she might have a comment.

Selectman Jasper said he liked the proposal. The only thing he would do different was, rather than ask everyone to come into a Board meeting to get their awards, perhaps it would be appropriate to read off the names for the general public, but to actually give out their certificates at the social, so they wouldn't have to come in twice. Selectman Massey said, to his way of thinking, that would certainly be an excellent way to do it. He hadn't really thought about 20 people coming in here to get their certificates. Actually, it would have a lot more impact if it were done in the context of the social. Selectman Jasper believed so and thought that would be a great idea and, perhaps after the first time they do it, and see how many people actually show up, they might be able to open it up to more people. Everybody is not going to be able to show up and everybody is not going to bring a guest, so it might be fine to let people bring their spouses and children.

Selectman Massey said, lest there be no mistaking, to him it's a make-your-own-sundae kind of social, where the fun is, anyway, on these types of events, and they will supply small bowls because what he found out, as an example, people that are on a diet, if you take them to an ice cream social and you give half the people a small bowl and half the people a large bowl, both groups will fill the bowl up—so they will use small bowls.

Chairman Maddox said he was going to be the stick in the mud, and from a man who spends a lot of time bellied up to the ice cream bar. He thinks they are building a logistical nightmare. It's great that Selectman Massey has volunteered, and he appreciates his doing that, but if Selectman Massey was to retire from the Board, they would have to get someone to take that position and keep carrying this forward. They are just building something that is going to be problematic. If they want to recognize volunteers, absolutely. His plan from last time is looking better and better. With the ice cream social, they will never know if 250 people are going to show up, or 27. He can't vote for this because it's putting some Selectmen in a position of having to be the liaison to this. With the best of intentions, with the best of ideas, it becomes problematic. Selectman Jasper thought the king had similar thoughts when he was forced to sign the Magna Carta—"Do you know what you are getting into?" He thinks it's worth trying. Nothing ventured, nothing gained. Hopefully, they will have someone who would be willing to carry it on. Usually, something like this, once it's established, and has gone on a couple years—and Ken will be here for two more years—then it's easier for someone else to pick up the reins. Even if he doesn't come back for another term on the Board, maybe he will volunteer to do this one thing.

Motion by Selectman Massey, seconded by Selectman Nadeau, to create a Board of Selectmen liaison for volunteers and establish an annual Town Volunteer Recognition Week for the first week in May, program to be implemented in accordance with the plan outlined in Selectman Massey's memo of October 5, 2006.

Selectman MacLean said she agreed with the Chairman. Numbers 1, 2 and 3, she totally supports—but Selectman Massey is so kind-hearted and she knows he loves ice cream, but she thinks the Board should not be spending someone's time and money on ice cream. The volunteers that she comes in contact with know by the respect she gives them, and the thanks and admiration she has for them, that they are very well appreciated. She won't vote for this just for number 4. She asked, if this passes, if the Selectmen can go to the ice cream social. Selectman Massey said he

thinks it would be di rigore for them to attend. It's the Selectmen thanking the people in Town who take the effort to provide services to the provide. Yes, he would expect the Selectmen's full and faithful cooperation.

Chairman Maddox referred to #3, saying he agreed with Selectman Jasper. He thinks it would be more fitting if the liaison to that particular board went to their last meeting in April and made the presentations at their particular board, rather than bringing them back to the Selectmen's meeting. Selectman Massey said he needed to modify that; it's not the last Board meeting in April, and it would be given to the recipients at the social.

Vote: Motion carried 3-2. Selectmen Maddox and MacLean were opposed.

Chairman Maddox said he would be going to the ice cream social. Selectman MacLean hoped it would be before March. Chairman Maddox realized he might not be going. Selectman Massey said it was the Chairman's decision to appoint the liaison now. Since he has proposed, he is willing to dispose—but to be aware that, if appointed, he was going to be calling on his fellow Board members to provide assistance, in one form or another. Chairman Maddox said he would gladly and thankfully put Selectman Massey in charge of the Volunteer Recognition Program.

(Start Tape 2-A)

8. NEW BUSINESS

A. Public Hearing/Acceptance of Sheffield Street as a Town Street

Town Administrator Steve Malizia said in order to do this property, the Planning Board should vote on this to recommend approval. He received a memo today from Tom Sommers, asking the Board of Selectmen to defer this until some time in November.

Motion by Selectman MacLean, seconded by Selectman Massey, to defer the acceptance of Sheffield Street as a Town Street until after Planning Board action, carried 5-0.

B. Request by CHIPS to hold Fright Night on October 20, from 6–9 p.m. at the Community Center.

Motion by Selectman Jasper, seconded by Selectman Nadeau, to approve the request and to waive the fee for use of the hall for this annual event.

Selectman Nadeau asked if there was anything going on with the Rec Department on that night. Mr. Malizia said no; they've already checked and wouldn't have put it on the agenda, if there was. Selectman Nadeau said this event is only two weeks from now and this request should have come in a month ago. Chairman Maddox said they should put the person in charge of the blood drive in charge of this because they ask a year in advance. Selectman Jasper said it came in on the 28th, but they didn't look at the meeting schedule.

Vote: Motion carried 5-0.

C. Request by Nottingham West Lions Club to waive the Rental Fee for use of the Community Center on November 4, 2006 and March 31, 2007.

Town Administrator Steve Malizia said it is codified in the Code Book that this organization will pay a fee of \$150 for every rental. In order to waive it, they would have to hold a public hearing. Selectman Jasper thought there were two Lions Club. He was told that both of them were in there. Selectman MacLean asked why they would have to have a public hearing on this. Mr. Malizia said because the fee has been codified, and to change something in the Code Book, it has to be done by a public hearing. Selectman Jasper said he didn't recall the specifics, but it was part of the agreement when the hall was sold. They agreed to pay rental fees for the hall, and that was the deal. Chairman Maddox said but the statute indicated the fees were set in February 2002. Mr. Malizia said the Code Book is constantly being updated, and 2002 was the last iteration.

Selectman Massey said when the Town purchased the building from the Lions Club, everybody who was using that facility was paying fees, so he thinks it would have been consistent with the thinking at that time that the reason it was codified into the Code was to make sure everyone understood that the sale was not contingent upon them having free access to the building any more. Given the fact that the Town has changed its rules for the use of that facility since that time, he thinks it would be worthwhile to re-look at the Code, with the idea of removing the item from the Code because, right now, the Town policy is it's only open to Town organizations and there is a fee schedule that is set—but the Board has been waiving that fee for almost everybody that's been using it that's a Town organization, he believed. He can't remember a recent Town organization that they've charged a fee to. He thinks having the public hearing to look at changing the Code, or removing this in its entirety, might be appropriate.

Selectman Jasper said there was no fee for the Seniors or the Boy Scouts; essentially, it was Hannah Dustin Quilters, the Junior Women's Club and the two Lions Clubs were the four organizations that still are charged fees. He thinks the request was to use the hall for a fundraiser. If they were using it a fundraiser, unlike Hannah Dustin, who uses the hall for their own activity and are not raising funds, he didn't have a problem waiving the fee. He's not sure that it's

necessary to change the Code because if they are going to be using it for their meetings or something like that, it might be appropriate for them to pay their fee. If any organization is going to do something that directly benefits the community, he didn't know that they need to change the Code. He thinks they can still waive the fee, and he would be willing to bet that if they looked back, they have done that for the Lions Club for fundraisers over the years. Chairman Maddox said there was no provision in the Code for the Selectmen to be able to waive the fee, so he assumes they can't. Selectman Massey said they had a similar case with the Hawker and Peddler's license that indicated what the Code said they could or couldn't do, and they had the same issue there. As a result, because it was in the Code, they had to follow it, not what they thought might be the right thing. If there is no process in the Code to waive a fee, they would have to have a public hearing to change the Code. Selectman Jasper said that was fair enough.

Motion by Selectman Massey to hold a public hearing on the Town Code relative to the use of the Community Center by the Lions Club on Tuesday, October 24, 2006. Mr. Malizia asked Priscilla if that was enough time to advertise She said the Attorney would have to be consulted because some items in the Code need to have two public hearings, and others need only one. (Talking over each other.) Chairman Maddox asked if the motion was to waive the fee for the Lions Club. Selectman Massey said that was not his motion because he didn't believe they can waive it. If the Code says they have to do it, and there is no waiver provision in the Code, then they don't have the leeway to waive. His motion was to have a public hearing to eliminate the item in the Code Book. Chairman Maddox asked if there was a second to the motion. Selectman MacLean said she'd second it for discussion purposes and asked if this wasn't a Town club. Mr. Malizia said it's not under the Board's purview; it's a charitable organization in Town. Selectman MacLean said the Seniors aren't a Town organization, either. Selectman Massey said but they have a different legal right to the use of the Community Center, and the Code states that they do not have to pay a fee. They would be better served by changing the Code to read "Community Center," and put in something that says the Selectmen can waive this, rather than try to go back and take one out. They should fix it once so they don't have to keep coming back to it.

Selectman Jasper said he was going to do just that and suggested they add an "E," that says the Board of Selectmen may waive the rental fee, if in their determination, the event to be held is to benefit the Town of Hudson and it's citizens. Chairman Maddox said that was a little different than the original motion. Selectman Massey said he would change his motion to include the statement that the Board of Selectmen, at its option, can waive the fee, but he wouldn't want to put any caveat on what those options are. Selectman Jasper said, just a simple, "E. The Board of Selectmen may, at its discretion, waive the rental fee," and to change the title to "Community Center," as opposed to Lions Hall. Selectman Massey agree to the proposed amended motion. Chairman Maddox said the motion was to come back at the October 24th meeting, if it was doable, and have a public hearing on changing the Code.

Vote on the motion by Selectman Massey, seconded by Selectman MacLean, hold a public hearing on October 24, if possible, to amend Chapter 205-16 of the Town Code by changing "Lions Hall" to "Hudson Community Center," and by adding "E. The Board of Selectmen may, at its discretion, waive the rental fee," carried 5-0.

D. 2006 Tax Rate

Finance Director Kathy Carpentier said her recommendation is to use \$1,450,000 of the Town's surplus of \$6,823,161, which would give them an approximate tax rate of \$17.22 per thousand. This tax rate represents a 4.4% increase over the \$16.50 of last year. On the Town side, this is what they budgeted, the \$1,450,000. The revenues were pretty much where they budgeted. They are a little under what they projected when they did the Fiscal 07 budget, which has to do with overlay. The Assessor has recommended less overlay than they have had in the past, so they are able to come in at 7¢ on the Town side less than what they projected. They projected \$4.72; they are coming in at \$4.64. The Town side has a 3.3% increase in their tax rate; the school has approximately 5.2% and for the County, she estimates 1.5%, based on a memo she received from them. This leaves the surplus in a good position, 8.7%. In the past, the recommendation is between 5% - 10% of the gross appropriations. Last year, they were about 8.9%, backing out the warrant articles that didn't pass, so it was pretty much what was budgeted for, and what she was recommending, at this point. Selectman Massey said he likes low numbers, and the actual percent increase is 4.36%, which sounds a little better than 4.4%.

Motion by Selectman Massey, seconded by Selectman Jasper, to authorize the use of \$1,450,000 of the Town's \$6,823,161 surplus in support of a tax rate of approximately \$17.22 per thousand, as recommended by the Finance Director.

Selectman Jasper was pleased to say that, at least, they have stopped the huge drop in the surplus that they were experiencing. They were pulling the numbers down quite a bit and this looks like a reduction in the surplus from what they had when they got done last year of about \$385,000 in round numbers, so that's not too bad. They had been pulling those numbers down pretty substantially. He didn't like to see them go down at all, but 8.7% is a very healthy number. Chairman Maddox said the second part of this is to talk about where to put any additional monies coming in.

Selectman Massey said the other positive for them, and the reason he thinks it is healthy, is last year, in addition to the \$1.45 million they took out, they also took out of surplus an additional \$690,000 for those three warrant articles—the radio communications system, fire truck and the land use change tax, so they've actually reduced what they've taken out of surplus this year by almost \$700,000. He thinks that is good news for the Board and for the Town.

Vote: Motion carried 5-0.

Chairman Maddox asked what the consensus of the Board was if the Town gets more revenue than estimated—should they use the surplus to reduce the tax rate, or keep it in surplus?

Selectman Nadeau said to keep it in surplus. Selectman Massey said the two areas they are most likely to see the State say the Town has more money is in the Rooms & Meals tax and some other minor ones. He had a conversation with the Finance Director this morning and it's unlikely they will increase the estimates for the auto registrations, which is the other large number; 4.4% is OK, but if it comes down a little less than that, it's even better because they are not taking any money out of the current surplus to do it, and given that the State recommends anywhere between 5% and 10%, iv they stay at 87%, that's on the high side. He is hearing that other towns are dipping way down into their surplus funds. The problem is, if you take money out of surplus this year, in order to keep the tax rate the same the following year, you have to take out the same amount of money. The only reason it's not a problem this year is \$700,000 that they took out of the surplus was a one time only expense, so taking additional revenue estimates this year doesn't impact the existing surplus. It's on that basis that he thinks it makes sense, if they get more revenue on Rooms & Meals tax, that they use that to reduce the tax rate.

Selectman Jasper wished he looked at that particular number before he came down tonight, but he believe Rooms & Meals were actually off this year, so he didn't think there was going to be anything; they might get slightly less. He didn't think there were any extras there. If they do get any extra, it is going to be very small, so it should just be turned back to surplus. Either 4.4%--or 3.64%--is very reasonable, and to reduce that further, anything that can happen next year will make that worse. He'd rather have the cushion because Rooms & Meals is not going to perform terribly well this year. Overall, he didn't know where they were going to be.

Chairman Maddox said it was two to two—Selectmen Massey and MacLean were in favor of reducing the tax rate and Selectmen Nadeau and Jasper were in favor of putting it into surplus. Selectman Massey said, based on what Selectman Jasper has said, he changed his opinion and went with putting it into surplus. Chairman Maddox said he didn't have any problem putting it into surplus, either. He'd rather have a bigger surplus going into next year than less. Selectman MacLean said the taxpayers would prefer to have their own surplus, going into next year, and that's why they should reduce the tax rate, if they have the opportunity. Selectman Jasper said the budget is the best place to do that.

Relative to the use of any additional revenues from the State, the consensus of the Board was to put it in surplus.

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

Ken Massey said he didn't have anything to report this evening.

Ben Nadeau thanked everyone for coming to Harvest Fest. It was a beautiful Saturday and very successful.

The Older Person's Advisory Council is getting ready to turn in their report for the October 15th deadline, which the Board will have for their next meeting.

Shawn Jasper said when he was going through his mailbox upstairs, he saw the invitation from DES Solid Waste Technical Assistance, who is hosting a free dinner on Wednesday, October 25 for the first 60 town Selectmen and Town Managers. It covers solid waste surcharge, pay as you throw, recycling, composting and electronics. It seems to him the Town ought to be represented there. He would like to take the time to go, and wondered if anybody else wants to go. It starts at 6:00 at the Red Blazer, so he will leave Town around 5:00. Selectman Massey said he thought about it, but that's Planning Board night. Selectman Nadeau will check his schedule. Selectman Jasper asked Priscilla to RSVP for him, and for anyone else who wants to attend to let her know so she can RSVP for them, also.

Kathleen MacLean said she didn't have anything this evening.

Rick Maddox said he echoed Selectman Nadeau's sentiments about Harvest Fest. Beautiful weather, with a lot of citizens coming to enjoy something that is a throwback to something years and years ago. Over the day, there had to be over 1,000 people. It's nice to see community involvement. The weather probably had a lot to do with it, but a good time was had by all.

The Planning Board still has issues with the code enforcement process, so he and Selectman Massey need to put something together to come before this Board to continue on with that endeavor. As the Town continues to develop, sometimes parcels that no one thought would ever get developed—and maybe 8 Pine Road is symptomatic of that—that there becomes more and more issues for the Building Department and zoning enforcement that they need to take a look at and continue forward with the process that they started over the year. The Planning Board was certainly disheartened by the Selectmen's lack of forward progress. As he tells them, government is glacial, but it is moving—just not as fast as they'd like to see it. The Planning Board was concerned with the Green Meadow Project and how the Selectmen have taken the reins of that issue. He did make them aware, and it's on the agenda for their meeting of the fourth Wednesday, that VHB will be before them to give them kind of an overview of where the process is with the scoping. He did talk to the Town Planner this evening and they are not going to have a lot because it's still in that infancy. There's not a lot of documents, per se, but it will be brought up. He's hoping, by that point, the Planning Board will be televised so the citizens can watch it, but at this point, from what he's being told by Town staff, Marty Kennedy does not have a lot to really put down any type of presentation. They are still in the process of gathering the data and codifying the methods by which they will accept the data. Again, a long process.

Selectman Massey said the good news was that tonight, for the first time in the history of the Town, they are simultaneously cablecasting two meetings--the Board of Selectmen and the School Board in the Community Development Room. Chairman Maddox said kudos to the Cable Utility Committee. Over the past year and a half, the amount of product they are putting out is a testament to their hard work. Operating the cameras takes training and commitment, and the Cable Utility Committee is one of those groups that nobody sees, but through them, the citizens get to see the Board.

10. NONPUBLIC SESSION

Motion by Selectman MacLean, Massey, to enter Nonpublic Session under RSA 91-A:3 II (a) The dismissal, promotion or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him, unless the employee affected has a right to a meeting and requests that the meeting be open, in which case the request shall be granted; (b) The hiring of any person as a public employee; (e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the body or agency or any subdivision thereof, or against any member thereof because of his membership in such body or agency, until the claim or litigation has been fully adjudicated or otherwise settled, carried 5-0 by roll call vote.

Nonpublic Session was entered into at 8:40 p.m., concluding the televised portion of the meeting, following a brief recess. Any votes taken after Nonpublic Session will be listed on the Board's next agenda. Open session was entered at 10:20 p.m.

Motion by Selectman Jasper, seconded by Selectman Nadeau, to give a temporary hourly rate increase to Lisa Labrie, Town Accountant, from Step 4 (\$26.73) to Step 5 (\$28.22), effective 10/15/06, to end upon the return of the Finance Department to full staff, or six months, whichever is less, carried 5-0.

Motion by Selectman Jasper, seconded by Selectman Nadeau, to give a temporary hourly rate increase to Pam Bisbing, Water Utility Clerk, from Step 5 (\$15.31) to Step 6, (\$15.91), effective 10/15/06, to end upon the return of the Finance Department to full staff, or six months, whichever is less, carried 5-0.

Motion by Selectman Jasper, seconded by Selectman Nadeau, to temporarily increase the hours of Pam Bisbing, Water Utility Clerk, from 30 to 40 hours per week, effective 10/15/06, to end upon the return of the Finance Department to full staff, or six months, whichever is less, carried 5-0.

Motion by Selectman MacLean, seconded by Selectman Nadeau, to authorize the Finance Director to fill the Temporarily vacant position for 30 hours per week (Pam Bisbing's position), effective 10/15/06, with temporary labor, carried 5-0.

Motion by Selectman Jasper, seconded by Selectman Nadeau, to promote Lt. Dave Morin to Captain Training/Safety Officer in the Fire Administration Division of the Fire Department, a non-exempt position in accordance with the Police, Fire and Town Supervisors Association, Step 1, at a hourly rate of \$29.06, subject to the probationary requirements established by the Board of Selectmen, effective 10/15/06, as recommended by the Fire Chief, carried 4-1. Selectman Maddox voted in opposition.

Motion by Selectman Jasper, seconded by Selectman MacLean, to authorize the Fire Chief to advertise for a Fire Lieutenant's position within the Fire Suppression Division of the Fire Department, internally and externally, for an hourly position in accordance with the salary pay schedule in the International Association of Fire Fighters, Local 3154, carried 5-0.

Motion by Selectman Jasper, seconded by Selectman Massey, to authorize the Fire Chief to temporarily fill the Fire Lt.'s position with an acting Lieutenant within the Fire Suppression of the Fire Department and to authorize the Fire Chief to temporarily fill a fire fighter vacancy with a temporary fire fighter, Toby Provencal, within the Fire Suppression Division of the Fire Department, effective 10/15/06; additionally, these are hourly positions, paid in accordance with the pay scale provided in the International Association of Fire Fighters, Local 3154, carried 5-0.

11. ADJOURNMENT

Motion by Selectman MacLean, seconded by Selectman Nadeau, to adjourn at 10:30 p.m., carried 5-0.

Recorded and transcribed by Priscilla Boisvert, Executive Assistant

HUDSON BOARD OF SELECTMEN

Richard J. Maddox, Chairman

Shawn N. Jasper, Vice-Chairman

Kathleen R. MacLean, Selectman

Kenneth J. Massey, Selectman

Benjamin J. Nadeau, Selectman