

HUDSON, NH BOARD OF SELECTMEN
Minutes of the December 5, 2005 Meeting

1. **Call to Order** by Chairman Ken Massey at 6:37 p.m. in the Community Development Meeting Room at Hudson Town Hall.
2. **Pledge of Allegiance** was led by Chairman Massey.
3. **Attendance**

Selectmen: Ken Massey, Terry Stewart, Bill Cole, Kathleen MacLean and Rick Maddox

Staff/Others: Steve Malizia, Town Administrator; Priscilla Boisvert, Executive Assistant; Kathy Carpentier, Finance Director; John Sauter, Systems Operator; Jess Forrence, Union Steward; Police Chief Richard Gendron; Fire Chief Shawn Murray; Cecile Nichols, Town Clerk/Tax Collector; Kevin Burns, Road Agent; Jim Michaud, Assessor; John Cashell, Town Planner; Tom Sommers, Engineer

4. **Nonpublic Session**

Chairman Massey said this item, that had been scheduled for nonpublic, was going to be held in open session, at the request of John Sauter. Chairman Massey said the Board would hear Mr. Sauter's comments, then Kathy Carpentier's comments. The Board would then have an opportunity to ask questions, followed by nonpublic session. Chairman Massey asked if Mr. Sauter had union representation. Mr. Forrence indicated his presence, but Mr. Sauter preferred to represent himself.

Mr. Sauter thanked the Board for hearing his grievance, saying that the Board should have his preliminary statement and his monthly report for the past month. He was hired in 1995 as the Computer Systems Operator. There is a written job description for that position. For the last 10 years, Cathy Hawkins has been cross-training him to substitute in her absence. When he was on vacation, she would substitute for him. It was easier for her to train him because his job is much more clerical—putting toner in printers and that sort of thing. He got to the point where he was able to fix things when they went wrong, but if a real nasty thing went wrong, he'd ask if it could wait until Cathy got back. When Cathy left abruptly on September 13, he operated under the assumption that she would be replaced soon, so he filled in for her, taking the attitude that it was like she was on vacation and he wanted to bridge the gap until she was replaced. After awhile, it became clear to him that no effort was being made to replace her, so he was in a difficult position. He could continue to be the Programmer, although he was still being paid as a Systems Operator; he could refuse to continue to substitute for Cathy, but that would mean that certain very important things that the Town was doing would stop working, whereas he was in a position to keep them working, and it offended his pride to allow something to fail that he knew he could fix, especially when it's important. He didn't want to do either of those two things, so he filed a grievance. He didn't think there was any doubt that he was being asked to perform functions that are not in his job description. As an example, as he mentioned last week in a different environment, the property tax bills for 2005. In his monthly report, starting on Page 3 and ending at the bottom of Page 5 is a blow-by-blow description of all that went on. The software part ends at the top of Page 5. There was a lot of software he wrote and debugged in order to make that stuff work, and that's not the job of a Computer Operator; it's the job of the Senior Programmer.

Selectman Maddox asked if that was the issue by which he was grieved. Mr. Sauter said no, the particular issue he was grieving was that he was being asked to perform duties that are not within his job description. Selectman Maddox asked how many hours a week Mr. Sauter was doing things not in his job description, based on a 40-hour week. Mr. Sauter estimated about 20, but he hasn't tried to keep track of that in detail. Selectman Maddox asked if John was saying that 50% of his time was performing jobs he did not do before. Mr. Sauter said jobs that are not in his job description.

Selectman Cole asked John how his grievance could be resolved to his satisfaction. Mr. Sauter said his proposal for the resolution is two-fold. Number one, replace Cathy Hawkins. Number two, compensate him for the work that he does between the time Cathy Hawkins left and the time the replacement arrives. Selectman Cole asked what type of scale the compensation would be based on. He wondered how they would determine what to pay him. Mr. Sauter said the budget has a certain amount of money for salaries for the Computer Services Department. During the time that he is the only person in the Computer Services Department, all of that salary should go to him. Selectman Cole referred to the job description and asked Mr. Sauter what the term, "Performs all other duties as assigned," meant to him. Mr. Sauter said he included the draft job description by Lydia Angell only for historical reasons. The actual job description was another document. Selectman Cole asked the Finance Director if the job description included the term, "All other duties as assigned." Ms. Carpentier said she had seen copies of the two job descriptions, one apparently predating the other. The latest one hasn't been adopted. Selectman Cole asked if he was hiring someone tomorrow, if the job description would include the term, "Performs all other duties as assigned." She said most job descriptions do contain that phrase. The latest job description was something Cathy Hawkins was working on when she left. Selectman Cole asked John what the term, "Performs all other duties as assigned," meant to him, hypothetically speaking. Mr. Sauter said if he is given an assignment by his supervisor, within the scope of his duties, he is to carry it out. Selectman Cole said he didn't say anything about the scope of his duties. Mr. Sauter said that was implied by the rest of the text in the job description.

Selectman Stewart said she was a little confused by the backup; the reports seemed inconsistent. On Page 2 of the info with the cover sheet dated November 1 (not discernable). Mr. Sauter explained that Section 1 are the things that were finished in the subject month, and Section 2 are the things that are still ongoing. Things in Section 2 will be carried over to Section 1 of the following month, if they get finished—or left in Section 2 if it's still unfinished.

Selectman MacLean said she gathered that Mr. Sauter's job description dealt mainly with hardware and Cathy Hawkins' dealt mainly with software. She read some of the things that Mr. Sauter does: "I rebooted," "I configured," "I modified, etc." There were some things about printers. The job description states, "Assist in print runs of voter checklists and other programs, as requested." She didn't know how long it takes to do all of that, but it must take him a lot of time just to write up what he does because it is very detailed. "I power-cycled the printer," "We printed it again." There is a lot of stuff about the printer in the reports. She didn't know how one thing was different than the other. One happened months before Cathy left and one happened after. Chairman Massey said the issue wasn't how long something takes--Mr. Sauter believes he was asked to do something outside his job description. Selectman MacLean said Mr. Sauter had written things he did with the printer beforehand, and was part of his job description, so she didn't know how the tax bill thing was different. Mr. Sauter said the place where he draws the line between software and hardware is the point of being creative when producing new software, or when producing fixes to existing software. When the printer fails and he gets it working again, that's hardware. If he's given a checklist to go down, and he performs everything on it, that's a clerical job and does not involve creativity, so he does not consider that outside of his job description. Selectman MacLean asked if what he did for the tax bills was. Mr. Sauter said yes, because he had to create new software to be able to bring the tax data from the Assessor's machine to the VAX.

Chairman Massey said the grievance was filed in September, subsequent to Ms. Hawkins' leaving. Mr. Sauter confirmed that that was correct. Chairman Massey said in the August report, dated September 1, 2005, Item 1.3, indicated, "After searching in vain on Betty's PC for some sort of document she might have used, I created a report on the VAX that prints all current reports by account number." He asked John if that was a case where he went outside his hardware support duties. Mr. Sauter said yes. Chairman Massey referred to Page 19, Item 2.3, "Our GIS can accept the drawing from the AutoCAD showing the items and a new layer, provided they are made in a NH State (not discernable) field. Tim will get with Tom Sommers to draw (not discernable) using the AutoCAD, which is installed on Tom's PC. I will then take that drawing and figure out how to display it, using GIS." He asked if that was outside John's job description. Mr. Sauter said that was on the edge, just barely outside, but he has received training in GIS. Chairman Massey referred to Page 22, at the end of the lengthy Item 2.9, "After not hearing from Troy for several days, I e-mailed Bob. He send me (sic) the check's print stream catcher file I had sent him and asked me to print it, using the Troy Print Utility Program. I did and it printed correctly. My emphasis. I then modified Joyce's PC to again capture the printer screen, copied it to my PC and printed it." He asked Mr. Sauter if that was in the scope of his job. Mr. Sauter said yes, but Bob had explained over the phone how to do the capture, and he carried out those instructions. Chairman Massey asked how that could be considered different, when he's modified someone's work. Mr. Sauter said it's not actually a modification. You go into the print (not discernable) and you click on the button that Bob told him how to find, and it does the capture. Chairman Massey referred to the September report, dated October 3, Page 6, Item 116, "I found the report in the budget software. It was called prelim.budget. The additional line is caused by incorrect record. I am reluctant to simply delete it because it might require other adjustments. I asked Catherine to run her (not discernable) report so I could fix them." He asked if that was within the scope of Mr. Sauter's job. Mr. Sauter said that sort of fix is not within the scope of his job description. Chairman Massey said in August, Mr. Sauter was doing work outside the scope of his job and asked why he didn't file a grievance at that time, or at any other time he did similar work. Mr. Sauter said because he was doing it on a temporary basis while Cathy was out of the office or on vacation. Whenever she was out of the office, he would substitute for her, based on the training she had given him.

Selectman Maddox asked if Mr. Sauter was saying approximately 50% of his time was spent on jobs outside of his job description. Mr. Sauter said approximately. Selectman Maddox said in reading Mr. Sauter's reports, before and after Cathy Hawkins' departure, he saw very little variance, no great difference, in Mr. Sauter's activities. Most times in reviewing a grievance, it is to a specific point in the contract; this just says generally he had to fill in. Where is the break between filling in and helping, whether someone left or was out or on vacation, or whatever, vs. filing a grievance? Mr. Sauter said one of the things missing from the paperwork is Cathy Hawkins' reports. He didn't know if she ever wrote any but, if she did, they would describe what she was doing and those reports would stop on September 13, when she left. He has filled in for all of the things she had been doing that she ceased to do upon her departure. Without seeing her reports, it's hard to judge that. His reports are based on his style of writing and what he thinks is interesting. Sometimes, if he gets real busy, he forgets something, and that sort of thing. While his reports are valuable, they're not as good as following him around all day, to see where he spends his time. On the second point, as time passed—10 years—he slowly became more and more capable of doing the things Cathy was doing, as a result of her training. As long as she was always there to back him up, he didn't mind doing that. If he got in trouble, if he couldn't fix something, or if he fixed something really badly and totally broke it, he knew she was there to fix it. When that becomes permanent, that's the point where it goes from helping out to being exploited. Selectman Maddox asked, with Mr. Sauter spending 50% of his time doing Cathy Hawkins' job, what was happening with his work. Mr. Sauter said some things get put off more than he'd like. There is a printer at the Highway Department that he should have fixed last week that he probably won't get to until tomorrow. Some things get put off for months. They had a problem at the Fire Station with the Captain's PC, but Mr. Sauter had to keep apologizing for telling him he just didn't have time. In another case, Doug Bosteels showed up to help, and Mr. Sauter had him do a job he had been putting off for a long while, changing the CD ROM reader on one of the machines at Fire. Things get delayed more than he'd like, but nothing has been done badly. He is proud to say he has not done a bad job on anything. What he has done, instead, is tell people he's sorry, he can't get to that right now.

There being no further questions for Mr. Sauter, Chairman Massey recognized Finance Director Kathy Carpentier (Mr. Sauter's supervisor) for her explanation for denying Mr. Sauter's original grievance. Ms. Carpentier said Cathy Hawkins gave her resignation on Tuesday, the 13th. Less than two weeks later, John filed his grievance. At that point, they hadn't formulated a plan. They may not replace a body; they are looking at how they want to deal with the situation, and that's why time has gone by. She took exception to Mr. Sauter's statement that no effort was made to replace Ms. Hawkins. Less than 30 days after Cathy left, Ms. Carpentier signed a proposal with an outside consultant to look at the infrastructure. There are two jobs in the budget—Systems Operator and Data Processing Manager. She has taken on the bulk of managing the IT Department, along with her job of Finance

Director, deciding what gets put on the web site, what the consultant should be working on, including helping John with hardware, just to get things moving. All of them have done a little bit more than they have done in the past, except for John, who has done things in the past to cover, so he hasn't done anything outside of his job description since Cathy left. Technically, they haven't programmed anything. John has modified things, but she had asked him to do things like that in the past, prior to Cathy's leaving, so no changes happened there. To his credit, they have been able to get things out the door, but to the credit of other people, too, including the Assessor, the Police Department's IT Manager, etc. It has been a collective effort to fill the need. Some people go directly to John, asking him to do things, so she doesn't have a lot of control on what he decides to do or not. She is trying to stay on top of things, like fixing a printer. If he decides to modify on his own, under his own direction (not discernable).

Selectman Maddox asked how often job descriptions are updated because, in computer years, 1995 is prehistoric. Some of the items don't apply any more. Ms. Carpentier realized that and said it was part of Cathy's action plan for the year, had she chosen to stay. John doesn't carry a beeper, as his job description says. Selectman Maddox asked if Mr. Sauter maintains the Police Department's VAX. Ms. Carpentier said no, they are independent. If they decide to go longer term with the consultant, drafting a new job description will be assigned to him. Selectman Cole said it would take a brave soul to change something that the former Finance Director drafted. There being no further questions, Chairman Massey declared the public portion of the meeting over.

Motion by Selectman Cole, seconded by Selectman Stewart, to enter Nonpublic Session pursuant to 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 (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted and (d) Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community, carried 5-0 by roll call vote.

Nonpublic session was entered into at 7:04 p.m. and was terminated at 9:10 p.m.

Motion by Selectman Cole, seconded by Selectman MacLean, to seal the minutes, carried 5-0.

5. Adjournment

Motion by Selectman Cole, seconded by Selectman Stewart, to adjourn at 9:11 p.m. carried 5-0.

Recorded and transcribed by Priscilla Boisvert
Executive Assistant

HUDSON BOARD OF SELECTMEN

Kenneth J. Massey, Chairman

Teresa Stewart, Vice-Chairman

William P. Cole, Selectman

Kathleen R. MacLean, Selectman

Richard J. Maddox, Selectman