

HUDSON, NH BOARD OF SELECTMEN
Minutes of the November 8, 2005 Meeting

6:30 Consultation with legal counsel.

1. **CALL TO ORDER** by Chairman Ken Massey at p.m. in the Selectmen's Meeting Room at Town Hall, 12 School Street, Hudson, NH

2. **PLEDGE OF ALLEGIANCE** was led by Selectman William P. Cole

3. **ATTENDANCE**

Board of Selectmen: Kenneth Massey, William Cole, Kathleen MacLean and Richard Maddox. Teresa Stewart was on vacation.
Staff/Others: Steve Malizia, Town Administrator; Priscilla Boisvert, Executive Assistant; Fire Chief Shawn Murray; Deputy Fire Chief Gary Rodgers; Sean Sullivan, Community Development Director; Ray Rowell; Howard Dilworth, Jr; Tracy Meehan; Doug Robinson, HLN

4. **PUBLIC INPUT**

Certificate of Appreciation and \$100 gift certificate was presented to Deputy Chief Gary Rodgers for 25 years in the Fire Dept. No one in the audience wished to address the Board at this time.

5. **NOMINATIONS & APPOINTMENTS**

The next round of interviews will be on December 13 for the year-end term expirations. Appointments will be made on December 27 and will commence after the first of the year, after the appointees have been sworn in by the Town Clerk's Office.

6. **CONSENT ITEMS**

Motion by Selectman MacLean, seconded by Selectman Cole, to accept the consent items, as noted or appropriate, carried 3-1.
Selectman Maddox voted in the negative.

A. **Assessing Items**

Granting of 2005 Abatement Application, 92 Speare Road, as recommended by the Assessor.

B. **Sewer/Water Items**

C. **Licenses and Permits**

- 1) Hawker & Peddler Permit by Weir Tree Farms to sell Christmas trees at the Hudson Mall from 12/1-23/05.
- 2) Raffle Permit by Alvirne Friends of Music on 12/8 at Alvirne HS to benefit the Scholarship Fund.
- 3) Alvirne HS Chorus w/Friends of Music for a Choral trip in May—cash prizes, donated items.

D. **Acceptance of Minutes**

Minutes of the Board of Selectmen's Meeting of October 25, 2005

E. **Calendar**

11/09 7:00 Planning Board in CD Meeting Room
11/10 6:30 Recreation Committee at Rec Center
11/10 7:00 Sewer Utility Committee in BOS Meeting Room
11/10 7:30 ZBA in CD Meeting Room
11/11 Veterans' Day—Town Hall closed
11/11 7:30 @ VFW, 15 Bockes Road—Veterans' Day Program
11/14 First day zoning petitions can be received by BOS office
11/15 4:00 Swearing in of police officers/dedication of HPD Community Room to the late Ann Seabury
11/15 7:00 Cable Utility Committee in BOS Meeting Room
11/16 NHMA Annual Conference in Manchester
11/16 6:00 Library Trustees in BOS Meeting Room
11/16 5:00 Water Utility Committee in CD Meeting Room
11/17 NHMA Annual Conference in Manchester
11/17 7:30 Budget Committee in BOS Meeting Room
11/18 NHMA Annual Conference in Manchester
11/21 6:30 School Board in BOS Meeting Room
11/21 7:00 Conservation Commission in CD Meeting Room
11/22 7:00 BOS in BOS Meeting Room
11/24 Town Hall closed for Thanksgiving Holiday
11/25 Town Hall closed for Thanksgiving Holiday
11/28 7:00 Budget Committee in BOS Meeting Room
11/29 7:00 Budget Committee in BOS Meeting Room

7. **OLD BUSINESS**

Route 102 Improvement Project--Highland Street to McDonald's

Community Development Director Sean Sullivan said he provided a chronology in his October 31 memo to the Board, detailing the history of the project. The DOT will award the bid to the low bidder, if the Board approves the expenditure of funds. The grand total for the project is \$4,309,756. The Town's share is \$861,951.20, which represents an increase of about 31% over the last estimate from the State. The Town had initially authorized a payment of \$656,058, their 20% share. Because of the increase in cost, the Town's share increased by \$205,893. The projected start date is early December--removal of the Hogan property, removal of old utility poles and setting of new ones. In March '06, asbestos would be removed, particularly near the car wash. In the spring and summer of '06, full project commencement would take place, including extensive drainage improvements.

Selectman Maddox was amazed at the increase in price. When the Town requested this in 2001, it was \$318,000. When they first wanted to get this done in 1996, the cost would have been \$95,000. Now, it's going to cost 10 times more to do the same length of roadway. Chairman Massey asked what the financial exposure was, if the Town decided not to go forward. Mr. Sullivan said according to Commissioner Murray, in her letter dated October, 2004 it was \$668,788 at that time. He speculated that, in today's dollars, they could add at least \$100,000 to last year's figure. Chairman Massey said whether or not the Town decides to go forward, they still have a substantial financial obligation. Selectman Maddox said the State has dragged their feet and they also expanded the project well beyond the scope of what the Town originally wanted. The Town will pay a lot of much money, but won't realize much benefit. He hopes this is the final time the State would come in to say the cost has gone up again.

Selectman Cole asked why would happen if the Board votes no, aside from the liability they might incur. Mr. Sullivan said the project would be put on hold, potentially indefinitely. Selectman Cole said he was told that if the Town "played nice" on this project, they might get a little consideration on some other projects, which hasn't happened, either—the ball field and Benson's. Playing nice didn't work too well. If they don't vote in favor of this, they will end up going bankrupt pretty soon. He referred to Bob Barry's memo dated October 18 and asked what right of way was included. Mr. Sullivan said that would include any property the State needed to purchase to make the improvements work which, at a minimum, would include the Hogan property. Selectman Cole asked where the \$1 million was for asbestos removal. Mr. Sullivan said it was built in to one of the numbers in his memo. Selectman Cole then asked what a "force account" was. Mr. Sullivan wasn't sure. Selectman MacLean said if the Town goes ahead with the project, their cost will be \$800,000; if they don't go ahead with it, their cost will be \$700,000. Therefore, she would vote in favor of the project.

Motion by Selectman MacLean, seconded by Selectman Cole, to authorize the Community Development Department to expend \$205,893 from the Route 3A corridor account to be added to the previously approved expenditure of \$656,058 for a total expenditure of \$861,951.20 to improve NH Route 102 from Highland Street to McDonald's: the scope of the project shall include rebuilding ½ mile of road by providing a center dual-use turn lane, adding shoulders for bicycles, adding curbing for sidewalks on both sides of the road and improving drainage. Said funds shall be expended from the Route 3A and Route 102 corridor accounts, as recommended by the Community Development Director in his memo dated October 31, 2005 carried 3-1. Selectman Maddox voted in the negative.

8. NEW BUSINESS

A. Discussion of the Emergency Management Tabletop Exercise that was held on October 26, 2005

Fire Chief Shawn Murray said this drill scenario was an ice storm. He explained what was done, speaking from the material presented for the agenda packet, how the emergency management staff activated the emergency operations center and worked through the drill. Chief Murray was pleased with the outcome of the drill, relative to the activation and response effort. There are areas to work on, however, which will be addressed.

B. \$1,000 donation by Sam's Club to the Hudson Police Department to purchase less-lethal weapons

Motion by Selectman MacLean, seconded by Selectman Cole, to accept the donation with appreciation, carried 4-0.

(Start Tape 1-B)

C. Request for Reimbursement—26 Bradford Circle

Community Development Director Sean Sullivan said Kimball Heights consists of two subdivisions—Kimball Heights I and Kimball Heights II—but are on one large plan. The property in question is one of the last lots on Kimball Heights I. He asked everyone to visualize a long, narrow throat with a bulb at the end, with the roadway providing frontage for a number of lots. In 2001, the Planning Board approved Kimball Heights II, which meant that the bulb portion at the end of the existing cul-de-sac would be eliminated and the road would be made straight, so that area that was part of the bulb would not become deeded to those lots on which it originally fronted. The property owner had inquired from the Community Development Department a number of times as to the status of the deed to her property, which would be coming from the builder. Mr. Sullivan said they contacted the builder on a number of occasions, but didn't get a response. At the time, all but one lot in the subdivision had been constructed. After conferring with the Town Attorney, Mr. Sullivan advised the property owner that if the time frame she was hoping for could not be met, then she should consider getting an attorney to speed up the process and remedy the alleged dilemma she saw to her property, which she chose to do. Several months afterwards, the developer of Kimball Heights I came in for a building permit, but the Town wasn't going to issue it until he provided the deeds. He did that in draft form, which have been submitted to the Town Attorney. The easements have been revised, and the Attorney is confident those revisions are sufficient. Once the deeds are received, the property owners will be asked to sign and record them. This will take the bulb portion and join that property to the three lots in question. In a perfect world, if he could turn the clock back, they would have encouraged the Planning Board to include a stipulation of approval that no building permit will be issued until those lots that are impacted by the removal of a bulb of a cul-de-sac have the deeds in hand, signed and recorded at the Registry of Deeds. That would front-end the issue and avoid a lingering impact to a resident.

Selectman Maddox said the drawing shows a drainage easement. When he connects the two straight parts, the drainage easement is eliminated. There is no way to front it on to Bradford Circle. He asked if that was being considered. Mr. Sullivan said the Town Attorney has been reviewing the deeds in detail, and it is presumed he is aware of that since he has a full set of plans. Selectman Maddox said he'd bring this back to the Planning Board, that this is one of those issues that comes up occasionally, more often than they'd like, that the developer puts in a cul-de-sac which should be an end of the road, but then it is blown through at a later date, much like this situation, which changes the amount of frontage that those houses have. The Planning Board needs to be aware of this. He spoke with Mr. Sullivan today,

asking him to make up a boilerplate caveat for the plans that comes in that says prior to the first building permit, that these kinds of issues are addressed. It was unfair to put this homeowner in the position of chasing down the deed. If restrictions are put on, things will undoubtedly get done a lot faster and with fewer headaches.

Selectman MacLean, after reading the backup, didn't think the property owner should have been put in this position. It wasn't the developer's responsibility any more because he got his bond back and said goodbye. She asked if it was the Town's responsibility to get the deeds for the people. Mr. Sullivan said ideally, yes, but the if the properties were to change hands, he felt it could be done with minimum problems. Mr. Malizia said there is a statute that says if the Town doesn't receive a benefit, they shouldn't be paying for something. Selectman MacLean said the amount the property owner was requesting was far less than it would have cost to chase down the developer and bring him to court. She was in favor of reimbursement, but didn't want to do anything that was against the law. Budget Committee Chairman Dilworth stated that Article 5 (not discernable) prohibits the expenditure of public money to something in which the Town does not receive a benefit from. In an opinion of the Justices of the Supreme Court of NH from 1952, they speak to the requirement that the Town receive a quid pro quo for any money that they pay out for some kind of exemption.

Motion by Selectman Cole, seconded by Selectman MacLean, to reimburse Tracy A. Meehan, 26 Bradford Circle, for legal fees in the amount of \$796.

Selectman Cole said the quid pro quo is doing the right thing and the benefit the Town will derive is knowing it did the right thing. Selectman MacLean said it seemed to her that someone dropped the ball. Selectman Maddox said he'd vote against the motion. It would be more prudent for them to have the Community Development Director contact either Phase I or Phase II's developer. The cul-de-sac being blown out caused this problem, so the developer should make it right. The property owner should be made whole, but not with the Town's money. The Town still holds the bond on Phase II, so there is money that can be utilized. Once the developer hears about the problem, he hoped they would fix it. Selectman Cole felt the Town should reimburse the property owner now, and then go after the developer to get the money back. If the onus is put back on the owner, it still may not happen. Selectman Maddox said he'd rather vote against the motion, then ask the Community Development Director to pursue either or both of the two developers.

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

Motion by Selectman Cole, seconded by Selectman MacLean, that the Board direct the Director of the Community Development Office to do whatever it takes to get the \$796 back from the appropriate Phase I or Phase II developer carried 4-0. Selectman Maddox said this should be done for all of the lots, so no more of this will be coming back.

D. Board of Selectmen's Calendar for 2006

Motion by Selectman Cole, seconded by Selectman MacLean, to approve the Board of Selectmen's meeting schedule for 2006, changing September 12 to September 11 because the NH Primary is on September 12, and to hold workshops on the open Tuesdays in January, May, August and October, at the discretion of the Chairman.

Selectman Maddox said in January, May, August and October there are five Tuesdays. He wondered if the Board wanted to start using those nights to hold workshops that they talked about a year ago. He thinks it is time to dedicating those Tuesdays to workshops to hash out ideas for the long-term, such as where departments are going, where the Town is heading growth-wise, ordinances, meeting with the Planning Board, etc. Things that take up time, but don't get on a regular agenda, could be discussed at a workshop. Hopefully, they could make progress in long-term planning. Selectman Cole asked what would be "at the Chairman's discretion." Selectman Maddox said whatever one of the open Tuesdays the Chairman picks, whether it's the first, third or fifth. Selectman Cole asked what would be accomplished at the workshops, or would they just decide as they go along. Selectman Maddox said one of the first things he'd like to see is for the Selectmen to meet with the Planning Board. Selectman Cole said anyone who suggests that the Selectmen run the Town by simply meeting every other week is a disingenuous statement made by a complete fool because they all put in a lot of time, week in and week out, in service to the Town. Selectman MacLean asked if the motion passes that the Board will automatically have a third meeting in those months. Chairman Massey said yes. Selectman MacLean thought that it was sufficient to call meetings, as needed.

Motion by Selectman Maddox, seconded by Selectman Cole, carried 3-1. Selectman MacLean voted in the negative.

9. OTHER BUSINESS/REMARKS BY THE SELECTMEN

Bill Cole said, relative to the doors at Central Fire Station, two proposals were received as a result of the RFP, which had a cutoff date of October 31. The proposals are currently being evaluated by Chief Murray and his staff and anticipates this item will come back to the Board on November 22 or December 13, with a recommendation.

The Economic Development Conference Steering Committee is progressing. He and Sean Sullivan met with Brian Lane, the Principal of Alvirne, two weeks ago. Alvirne is very enthusiastic with regard to providing a venue for the conference and to support the conference, as they did back in 1992. Jane Parkin, Director of the Webb Palmer Voc Tech Center has joined the steering committee, along with someone from the Rotary. The next meeting is tomorrow at Alvirne at 3:30. It will be more beneficial to have their meetings on-site. They are still looking at a May date for the conference.

Back in October 2004, the Town signed a development agreement with Stop & Shop/Sousa—Realty Trust. One of the stipulations dealt with the playing field behind Stop & Shop on some circumferential highway land, which was going to be deeded or leased or turned over by the State to the Town of Hudson to build on. In support of that, \$100,000 was negotiated between the Realty Trust and the Town of Hudson to be put in an escrow account to support that construction. Mr. Sullivan confirmed that that money was in an account. The caveat, however, is that the Town has to do something within two years of the CO being issued, which was October 2004. One year has passed, and the Town has done nothing. Back in November 2004, the Board received a letter from Commissioner Murray, telling them that the State might sell that land at \$750,000 to \$1.3 million. The Board, at that time, had to decide whether or not they wanted to actually put in a playing field there. The consensus was yes. The clock is ticking and he asked what the Board wanted to do about this issue. Some informal inquiring have been made to the realty group with regard to allowing the Town to shift the \$100,000 to another location. The Town did not receive a “warm and fuzzy” response to that question. If he were a businessman, he wouldn’t either because if they don’t execute in two years, the default position is a \$25,000 contribution. The State has given their permission to use that land. Do they want to move forward and execute that portion of the development agreement and have whoever it is start building a playing field there? Selectman Maddox said yes. Selectman MacLean said yes, then asked who would actually build it. Selectman Maddox said “they” do. Mr. Malizia said the money is a performance guarantee. Selectman MacLean asked what they would do if another year goes by and they haven’t started building it yet. It wouldn’t be the Board’s fault because they said to go forward with it last year. Selectman Cole said the Board said they wanted to do something, but the Board has never taken a formal action, and the reason he was bringing it up this evening. Chairman Massey asked if Selectman Cole was suggesting that the Board request an easement document from the State. Without that, nothing will be done on that property. Selectman Cole said there were several steps to this particular dance. The Town will have to get an easement and get the Commissioner to agree that she, in fact, agreed to give them the land. If they do nothing, the \$100,000 goes away and the Town gets a \$25,000 donation to the Rec Center and they’ve accomplished nothing with regard to getting a playing field in south Hudson. Another possibility is to make a formal request to Stop & Shop, or whatever the entity is, with regard to that \$100,000 being used for another location, at which time he’d have the Rec Director seriously into that 11 or 12 acres in south Hudson off Winslow Farm Road.

Motion by Selectman Cole, seconded by Selectman Maddox, to formally approach Stop & Shop at the earliest opportunity with a request that the \$100,000 that is currently covered by this development agreement be allowed, if the Town so chooses, to be used in another location of the Town’s choice carried 4-0. Selectman Cole said if they say no, he’ll be prepared to make another motion on November 22.

Chief Murray wanted him to update the Board on the ladder truck. It will be back in CT, as of November 23, from Nebraska. Hopefully, it will be back in Hudson for operations not later than December 5.

Kathleen MacLean offered a debt to gratitude to all of the Veterans, on behalf of the Town.

Rick Maddox said relative to the “infamous boondoggle,” he didn’t disagree with the motion that was made that night because he thought it would be good for Selectman MacLean to get out on Thursday nights to do some planning, but she is fighting it. Selectman MacLean interjected that she works on Thursday nights. Selectman Maddox said she should adjust. As this is probably just an exercise in waistline expansion, Hudson’s presence is probably a good thing. Since they were looking for someone who was on the Board, as well as a Planning Board member, so that puts the bull’s eye on him. That’s the other reason why he had voted for Selectman MacLean. Suellen Quinlan, a member of the Planning Board and Conservation Commission, has volunteered to serve on that board.

Motion by Selectman Cole, seconded by Selectman MacLean, to remove the two people already appointed to the CTAP and appoint Selectman Maddox as the member and Suellen Quinlan as the alternate.

Selectman MacLean didn’t want Selectman Maddox to be a martyr. He serves in many different areas and is out all the time. She wondered if the appointee really had to be a Selectman. Selectman Maddox said that’s what they wanted. At first, he didn’t want to have to be out on Thursday nights, too, but Eloise gave the OK. She had gone to the initial meeting and thought it was a good thing to be involved with, so he is offering his time. Selectman Cole said until he read the Telegraph yesterday, he thought this was one of the biggest boondoggles, but the Telegraph was talking about the reimbursements for the legislative trips around the country and overseas has taken over. As the maker of the original motion, he was surprised when he got a second to that motion, and was in total shock when the Board approved it. His first thought was to make a motion to reconsider, but then he thought that maybe this unorthodox approach that the Board had taken might get the CTAP powers to be to actually rethink the format, the scope and exactly how they were going to do it. He was somewhat confirmed in that when, about a month later, the Telegraph—with its usual nose for the news, albeit a month later—jumped on this story. They had an above-the-fold headline and then there was a scathing editorial. What caught his interest when he read the article was a reference about the Antioch Research Center making some relationship between the positive value of food and adult learning. That has led him to a couple of conclusions, one that the Food Court at the Pheasant Lane Mall should be designated as a center of higher learning and secondly, they might want to consider having a buffet line at their Tuesday meetings. He appreciates Selectman Maddox coming forward, especially in view of his busy schedule, so he will support the motion, with the sincere hope that the CTAP powers to be will rethink the format and the scope of what it is they are trying to accomplish and that this exercise will not simply be checking off a box on somebody’s “let’s placate the local community” scorecard. Chairman Massey said those comments captured his feelings to a tee.

(Start Tape 3-A)

Vote: Motion carried 4-0.

It's that time of year when appointments are made to various Town boards. On the Town's web site, there is a link to the application form. It also gives a breakdown of what the job entails and the schedule of meetings. He hoped that people who are interested in applying will go to the meetings to get a flavor of them. It's a question he will be asking the applicants. The Planning Board meeting is tomorrow night. He encouraged people to get involved in their community.

Comedy night last Saturday was a great success, a full house. They ran out of chairs. For \$10, it's a great time. Thanks to Dave Yates and the Recreation Department—which isn't just for small kids.

Relative to CO's, he has asked the Director of Community Development to give them a roadmap of how they get from Point A to the final Point Z on how a CO is issued for residential, commercial or industrial. They need to get a handle on this. With the Town expanding the way it is, and the way it will continue to, they need to have a firm process in place so that all the sign-offs are done before people move into facilities and, if they don't have one, what they are going to do. He hoped the Community Development Director could have something for the Board by the next meeting so they can have a firm policy in place.

He echoed Selectman MacLean's thanks to the Veterans and hoped they'd see a lot of people on Friday.

Ken Massey said they are back to their drumbeat—deafening silence from the State DOT and their Executive Councillor relative to the safety issue of the State's responsibility to plow a portion of Kimball Hill.

Motion by Selectman Cole, seconded by Selectman MacLean, to authorize the Chairman of the Board of Selectmen to send a letter to the Department of Transportation, with copies to the Governor and the Town's representative on the Executive Council, indicating that every time the Town has to plow the stretch of highway that is the State's responsibility, the Town will bill the State for that work.

Selectman MacLean said it sounds great to send a bill, but it doesn't mean the State is going to pay it. The Town may have to take over plowing that road for the State. Chairman Massey asked if she had a better suggestion. If so, he advised her to vote against the motion. Selectman Cole said the reality is that, for safety reasons, the road had to be maintained. That's a reality. If the Town has to do it, they have to have recourse to be reimbursed. If the State doesn't cooperate, there is no other answer. Unfortunately, they will have to wait and see who pays the piper, but the problem has to be addressed.

Vote: motion carried 4-0.

The VFW ceremony will be at 7:30 on Bockes Road on Friday, November 11. Everyone is cordially invited to attend. Along those lines, the American Legion Post 48 has extended an invitation to the Board to participate in their ceremony honoring the attack on Pearl Harbor on Sunday, December 4. Breakfast is from 7:00 to 11:00 at which time there will be a parade down Central Street to the Veterans' Memorial Bridge, where a wreath will be tossed into the river.

10. NONPUBLIC SESSION

Motion by Selectman MacLean, seconded by Selectman Maddox, to enter Nonpublic Session under 91-A:3 II (e) Consideration/negotiation of pending claims or litigation and (d) real estate issues carried 4-0 by roll call vote. Nonpublic Session was entered into at 8:45 p.m. and was terminated at 9:55 p.m.

Motion by Selectman Maddox, seconded by Selectman Cole, to seal the nonpublic session minutes carried 4-0.

11. ADJOURNMENT

Motion by Selectman MacLean, seconded by Selectman Cole, to adjourn at 9:56 p.m. carried unanimously

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