

HUDSON, NH BOARD OF SELECTMEN
Minutes of the November 23, 2004 Meeting

6:30 p.m. -- Labor Relations Session, pursuant to RSA 91-A:2 I (b)

1. **CALL TO ORDER** by Chairman William P. Cole at 7:00 p.m.

2. **PLEDGE OF ALLEGIANCE**, led by Selectman Teresa Stewart.

3. **ATTENDANCE**

Selectmen: William P. Cole, Teresa Stewart, Kenneth J. Massey, Kathleen R. MacLean and Richard J. Maddox

Staff/Others: Steve Malizia, Town Administrator; Priscilla Boisvert, Executive Assistant; Richard Gendron, Chief of Police; Leo Bernard; Ray Rowell; Hal Kreider; Howard Dilworth, Jr; and Anne Lundregan from the TEL

4. **PUBLIC INPUT**

Hal Krieder, Kimball Hill Road, requested that the Noise Ordinance be amended. A couple weeks ago, his family experienced a severe noise and vibration problem at their house, so severe that it woke his teenage son. He presented a copy of what he suggested and spoke to the reasons why he thought they should be adopted. There isn't much good land left in Hudson, so blasting, chipping and things that are disruptive are not going to go away; they are going to get worse. There is a trend toward the 24-hour economy; people want to do things all the time. Time is money gets increasing emphasis. Equipment is more expensive, so people want to use it more frequently, all hours of the day and night. Driving that is the impetus for the contractors to want to use their equipment and do more things at all hours of the day and night. Related to that is another trend he sees in the 24 years he has lived in Town. The contractors are increasingly less courteous and show less respect for the people in the town and a general lack of consideration. He suggested that the Board look at his recommendations and consider adopting them. He also suggested that the Board work towards setting the tone as to how contractors within the town deal with residents. Whenever dealing with contractors, he encouraged the Board to talk with them about the expectation to think of the impact they have on the citizens when doing their work. To think about the spirit of the law, not just about following the letter of the law. As an example, the folks who were doing work on Wason Road for the new supermarket didn't even think about it when they did some major work on the intersection; they just decided to do it Monday morning. They didn't think about putting on additional police or people to help funnel the traffic. It took him close to a half hour to get from his house back onto Route 3. Later that day, they were not working there. When asked why they did it at 8:00 during rush hour, they said that's when they got to it. It wouldn't have hurt them to have waited. It's the same thing with the noise problem he experienced at his home. The contractor didn't have to work on Sunday, although he claimed the equipment wasn't available on other times. Other contractors in the area indicated that the equipment was available, that the contractor lied about it. It's a lack of consideration, and something that cannot be legislated. It has to be the attitude the Town takes, the expectation that contractors will be considerate and respectful. The most important item, in his opinion, was #4—no construction by commercial contractors from late Saturday afternoon till Monday morning. That's not a lot of time and he thinks the Town deserves some peace and quiet. The Noise Ordinance is pretty good from the respect that they have limits, but to consider what it's like to have a mosquito buzzing around your head. It's not that loud, but if it goes on continually, it's pretty annoying. When something starts on Saturday afternoon and continues throughout Sunday and into Monday morning, it is likewise annoying. He didn't think that was too much to ask to have some peace and quiet. If someone wants more information or to speak with him about this, he will make arrangements to meet.

Selectman Massey said he had spoken with the Community Development Director, who is going to see about putting a contact person on the Town website during off-hours. Mr. Kreider said that was one of the problems. He couldn't even figure out who the contractor was. He called all over the place to find out. When he finally reached the contractor, he basically said screw you. Chairman Cole didn't think the contractor said that. Mr. Kreider said what he actually said was, "I'd like to be a good neighbor. Do you have any suggestions?" Mr. Kreider suggested the contractor could stop working and wait until after 7:00 on Monday, and that's when the contractor said, "Screw you." Selectman MacLean said Mr. Krieder's message was kind and considerate and she appreciated his tone; he is certainly not like those contractors. Selectman Stewart asked what the procedure was to amend the Noise Ordinance. Chairman Cole and Mr. Malizia said that the voters approved allowing the Board to do things with two public hearings, unless a petition comes in that stops that procedure.

Mr. Kreider said #3 talks about striking 249-4, general nuisance and stuff like that. When things need to be documented, they have to be very specific. You can't go with, "I thought it was pretty bad." That doesn't cut it in court. That clause, basically, raises your hopes needlessly because there is nothing you can do about it. If you think it's a nuisance, it is just your opinion and nothing the Town can really enforce. It might make you feel good, but it needlessly raises your hopes. On general principles, he suggests striking it.

Selectman Maddox asked how many officers were trained in the operation of equipment to measure the noise. Chief Gendron said four. Mr. Krieder said the officer that came by his house was ready to do it, but they thought that maybe it was allowed because it was after a certain time. At that point, they didn't know the rules well enough. The test could have been run, but they just didn't push it. Chief Gendron said they can do a decibel reading that they pass on to Community Development for enforcement. If it was at night, they would shut it down. Selectman Maddox asked if people were ready, the equipment readily available and calibrated to meet the criteria for any

type of action. Mr. Kreider said as does the folks in Community Development. It wasn't until Tuesday, when he started writing the stuff up that Sean went out to see what the measurement was then, when they were way over on the other side, and it was still over the limit. When the chipping equipment is hitting the top of the hill, which is all granite, it vibrates through everything—worse than blasting, in many cases. He's been on vacation the past couple days, patching up all of the little cracks from that. The Town doesn't have any pneumatic hammer ordinances, so he didn't think anything could be done about it, from that perspective. The blasting ordinance talks about a pre-assessment, which they might want to consider doing for this, especially with houses near ledges and that sort of thing. He is sure they will run into more problems. Selectman Massey thanked Mr. Kreider, saying they often get the phone calls with somebody having a problem, but it's not very often that there is a follow-up with somebody offering a constructive and useful solution. Under Other Business, he will address a response to this. Chairman Cole said the Board would let Mr. Kreider know what action Selectman Massey was contemplating or what Town staff recommends. Mr. Kreider suggested that the Board talk with Sean Sullivan, who has been very helpful. After he talked with him on Monday, things really started to move.

5. CONSENT ITEMS

Chairman Cole asked if anyone wished to remove any item for separate consideration. Selectman Maddox removed A-5 and C-1.

Motion by Selectman Stewart, seconded by Selectman MacLean, to accept consent items, A, 1-4; B; C, 2 & 3; D; E & F, as noted or appropriate, carried 5-0.

A. Assessing Items

- 1) Abatements, prior years, 353 Central Street, w/recommendation to approve
- 2) 2004 Abatement, Physical Plant-Keyspan/Energy North, w/recommendation to approve
- 3) Veterans' Tax Credits/Disabled/Elderly Exemptions, w/recommendation to grant
- 4) Application for Abatement, 18A Quail Run Drive, w/recommendation to grant
- 5) **Supplemental Tax Bill, 2004, Verizon, w/recommendation to approve**

Selectman Maddox said he talked with Assessor Jim Michaud and the Rochester court case is still ongoing and could continue well into 2005. He just wanted to put an update on the record.

Motion by Selectman Maddox to approve, seconded by Selectman MacLean, carried 5-0.

B. Sewer/Water Utility Items

S-05-03 Sewer Abatement Applications, S-UTL-05-05, 8 Nevens Street; S-UTL-05-06, 39 Library Street, w/recommendation to grant.

C. Licenses and Permits

- 1) **Hawker/Peddler License request by Weir Tree Farms to sell Christmas Trees at the Hudson Mall from 12/1/04 – 12/22/04, w/recommendations by staff to approve.**

Selectman Maddox said there was nothing in the backup from the Health Officer. He asked if there was anyone staying there with the trees, overnight, since this person is coming down from the north country. Mr. Malizia said there is a trailer there, but didn't know if anyone was in it. Selectman Maddox asked if there were sanitary facilities within those confines. Chairman Cole said they didn't know, but there are sanitary facilities at the plaza where the tree sales are located. It was not known if the person spends the night there. Selectman Maddox said other licenses have a signoff by the Health Officer, but this one did not. Selectman MacLean said she was sure this vendor had everything under control.

Motion to approve by Selectman MacLean, seconded by Selectman Stewart, carried 4-1. Selectman Maddox voted in opposition.

- 2) Raffle Permit request by Alvirne Bronco Booster Club to benefit Bronco Booster projects
- 3) Raffle Permit request by Friends of Music, Alvirne HS, to benefit Friends of Music Scholarship program

D. Acceptance of Minutes

BOS Meeting of November 9, 2004

E. Other

- 1) Petition to Rezone Tax Map 234, Lots 36-44, from R-2 to B, verified by Clerk's Office, forwarded to Planning Bd
- 2) Board of Selectmen's Meeting Schedule for 2005

F. Committee Announcements

Nov 25 & 26 -- Town Hall closed for Thanksgiving Holiday
 Dec 1 9:00 am, Highway Safety Committee in CD Meeting Room
 Dec 1 7:00 Planning Board Workshop in CD Meeting Room
 Dec 6 6:30 School Board in BOS Meeting Room
 Dec 7 7:00 Library Building Committee in CD Meeting Room
 Dec 7 7:00 Budget Committee in BOS Meeting Room
 Dec 8 7:00 Planning Board in CD Meeting Room
 Dec 8 7:00 Budget Committee in BOS Meeting Room
 Dec 8 Last day to accept zoning petitions
 Dec 9 7:00 Sewer Utility Committee in BOS Meeting Room
 Dec 9 7:30 ZBA in CD Meeting Room
 Dec 9 6:30 Recreation Committee at Rec Center
 Dec 13 7:00 Budget Committee in BOS Meeting Room

Dec 14 7:00 Board of Selectmen in BOS Meeting Room
 Dec 14 6:00 Library Board of Trustees at Ferry Street Annex (changed from Dec 15, per Selectman MacLean)
 Dec 15 7:00 Budget Committee in BOS Meeting Room
 Dec 16 7:00 Budget Committee in BOS Meeting Room
 Dec 20 6:30 School Board in BOS Meeting Room
 Dec 20 7:30 Conservation Commission in CD Meeting Room
 Dec 21 7:00 Budget Committee in BOS Meeting Room
 Dec 22 7:00 Cable Utility Committee in BOS Meeting Room (added by Selectman MacLean)
 Dec 23 7:00 Open Space Subcommittee Meeting at Robinson Road Fire Station
 Dec 23 7:00 Lower Merrimack River Advisory Committee at NRPC
 Dec 24 Town Hall closed for Christmas Holiday
 Dec 28 7:00 Board of Selectmen in BOS Meeting Room
 Dec 29 7:00 Budget Committee in BOS Meeting Room
 Dec 31 Town Hall Closed—New Year's Eve
 Jan 11 Last day for Selectmen to publish notice of public hearing on bond/note over \$100,000
 Jan 11 Last day to submit petitioned warrant articles
 Jan 18 Last day to hold public hearing on bond/note over \$100,000
 Jan 19 – 28 Time period to file for candidacy
 Jan 31 Last day to post the warrant and budget
 Feb 5 School District Meeting
 Feb 12 Annual Town Meeting at Lions Hall
 Mar 8 Annual Elections

7. OLD BUSINESS

A. Public Hearing/Second Reading of Ordinance 04-05, (amending 04-03 that created a Water Utility Committee), which would include one member who may reside in a residence not served by water

Selectman Maddox said the Sewer Utility has this provision which he thought was worthwhile to put into the Water Utility so they can draw on all the resources of the Town, even if they don't reside in a water district. Chairman Cole opened the Public Hearing for the second reading of Ordinance 04-05 at 7:25 p.m. and asked if anyone in the audience wished to speak on this. There being no one, he closed the hearing. Chairman Cole asked what expertise a non-water user could bring to the committee. Selectman Massey said it had to do with getting five people to serve.

Motion by Selectman Stewart, seconded by Selectman Massey, to adopt Ordinance 04-05 carried 5-0.

B. Public Hearing on the receipt of a Donation of Services and Labor at an estimated cost of \$4,200 in support of renovations to the Police Department's Outdoor Firing Range from Continental Paving and Brox Industries.

Chairman Cole opened the Public Hearing at 7:28 p.m. and asked if anyone in the audience wished to speak on this. There being no response, he closed the hearing. Chairman Cole said this has already been completed, with special kudos to the Highway Department for their substantial role in completing this project. Chief Gendron said they actually did the site preparation for this. They expanded the facility to accommodate training with rifles and paved the whole area so they are not getting attacked by all kinds of insects. It's a nice range now and they have all qualified already.

Motion by Selectman Stewart, seconded by Selectman MacLean, to accept the donation with the Board's sincere appreciation carried 5-0.

8. NEW BUSINESS

Street Acceptances: MacCann Road, Breakneck Road and Flying Rock Road

Chairman Cole opened the Public Hearing at 7:30 p.m. and asked if anyone in the audience wished to speak. There being no response, he closed the hearing.

Motion by Selectman Massey, seconded by Selectman Stewart, to accept MacCann Road, Breakneck Road and Flying Rock Road as Town roads carried 5-0.

9. OTHER BUSINESS/REMARKS BY THE SELECTMEN

Terry Stewart said the Rec Department just wrapped up their Youth Fall Soccer League, which the Town Administrator's son participated in. Over 600 kids made use of the Freedom Field, which was quite successful. 2) On December 4, there is another Adult Comedy Night at Lions Hall. She heard Selectman Maddox has enjoyed himself at a previous Adult Comedy Night. Tickets are \$10 and can be purchased at the Town Clerk's Office. 3) DPW is gearing up for a busy winter season. They just completed \$13,000 worth of new guard rail on the bad corner of Dugout Road at no cost to the taxpayer, and the improvements to the Police Firing Range. They decorated Library Park, awaiting Santa's arrival on Friday. The Toy Soldiers were repaired and repainted at Alvirne for zero dollars. The Road Agent is now hoping to find someone to repaint Santa.

Ken Massey said Mr. Kreider should be complimented for having brought forward something he thinks would be worthwhile. He

believes the best way to handle this would be to ask Community Development Director Sean Sullivan to make a recommendation as to how many of Mr. Kreider's proposals should be changed. If they see fit, then hold the public hearings, as a prelude to adopting any of the changes. Chairman Cole believed there were some things that were not necessarily tied to the ordinance that the Town should be looking at, also. Selectman Massey said Mr. Sullivan told him that he would make changes on the home page of the Town so if a citizen happened to have a problem on the weekend, they would be able to get the contact information. Because not everyone in Town is on the internet, they would have to make some provisions for posting that information at certain public venues.

(Start Tape I-B)

There are some people in Town who are authorized to respond to development issues on a weekend basis. If they are health-related issues, the Health Officer can respond. In certain other issues, the Fire Department would respond. Mr. Sullivan may have others. Chairman Cole asked when he'd like the initial report back. Selectman Massey said they should hear by the first meeting in December whether or not they should proceed with a recommendation of the steps to take to get to a final resolution. Chairman Cole said it would be on the December 14th agenda as an Old Business item.

Kathleen MacLean thanked Mr. Cessana for his moving program at the VFW on November 10, and everyone that was involved with that. 2) The Cable Utility Committee is now underway and will meet on the third Tuesday of the month. In December, however, they will meet on the 22nd. They hope to have the policies and procedures for the Board's review by December 28. If the Board approves it, they can be ready to accept tapes for the public channel. 3) On a personal note, she wanted to paraphrase one of her favorite sayings. "We shall become a thanksgiving people when we weep, not because we've lost something, but because we've been given so much. Our gracious God has showered us with abundant blessings day after day, not just personally, but as a community we've been blessed, and it's a great time to take time to reflect on these." On an even more personal note, it's a blessing for her to be a Selectman, having the opportunity to be a voice for the people. She is truly grateful.

Rick Maddox said some of their documentation was the athletic field for the circumferential highway land. He thought that after the holiday season, when all of that joy is gone, they should sit down as a Board and invite the Department of Transportation to see what the plan for the circumferential is. At the last NRPC meeting that the DOT was there, they were told this was still moving forward, but he's not getting that same feeling from some of the communications they've now seen. As a Board, they need to decide what is going to be done and how they are going to approach a highway that isn't getting built very quickly, but at least sections of it should be, and if they want to have some input into the process that seems to now be ongoing. He thought they could set up something for January that works for everybody. If the highway sweeps through Town, where is it going to go? What is happening at the DOT level? Chairman Cole said he noticed in the distribution that Commissioner Murray was at NRPC two meetings ago. Selectman Maddox said the Town has always been led to believe this is something that is coming, but now that seems to be changing and he thinks they should be on top of what is happening before it is too late. He wanted more info from the DOT relative to their plans, since the Town based a lot of their zoning regulations on a highway going through it. Chairman Cole asked Selectman Maddox if he was under the impression that the circumferential was not on the back burner. Selectman Maddox thinks it has fallen behind the stove. Chairman Cole asked why, then, should they be talking with Commissioner Murray. Selectman Maddox said to hear that from her, to hear what their plans are and, if so, what is Hudson's plan, at that point. Chairman Cole asked how the Board wanted to address this, if a direct question should be posed to Commissioner Murray, funneled through Mr. Williams at NRPC. Selectman Maddox said the Board should have a discussion as to where they think the Town is headed. Chairman Cole asked if he wanted this on the next agenda for discussion, or if they should discuss it now. Selectman Maddox said the Town has never really got behind this item. They always thought it was going to be there. If the State is going to be looking to shed itself from the property, they'll have no ability to do this in the future. As a Town, they need to be prepared that if there is no roadway there, it is never going to get built, as opposed to yeah, it is going to happen when the real need arises, when there is enough uproar from the citizens, something might get done. If the land isn't there any more, it's going to be difficult to put that highway in. Chairman Cole said he didn't know the answer because he wasn't privy to the State's thought process. Personally, he feels that the highway is not going to be built and the issue that's going to be facing the Town is what is going to go into the land that the State may eventually sell, who they are going to sell the property to, the kinds of businesses or development. He agrees that the circumferential highway issue is well behind the stove and won't come out to see the light of day. A lot of land is still involved that the State is going to want to sell to get some sort of return on their investment. Selectman Maddox asked if Benson's falls under that category, as well, since they were using Benson's for mitigation. Chairman Cole said it was used for mitigation for other projects, not just the circumferential. Selectman Maddox said they didn't know that as a fact, at this point. Chairman Cole said that was what he was told by the State, that the mitigation was tied into the 93 projects.

Selectman Massey said that as long as the State carries it out beyond the 10-year plan, the Town won't be affected by development issues. If, however, the State has made the decision they are going to abandon any plans on the circumferential, then it does open up a whole development problem for the Town of Hudson. He agrees with Selectman Maddox that it would be better for them to know at the point in time the State intends to invoke that, to know it beforehand than to wait until it is all said and done and they're sitting there with some major development projects already in the planning stages, that are plopped down in front of the Planning Board, without the Board of Selectmen having had any ability to affect that issue. The Zoning Ordinance and a lot of the Site Plan regs that are in place in the Town today are because of where the road was going to go and some of the developments that are now taking place were developed with an eye towards their being access points on Routes 102, 111 and 3A. They don't have to necessarily sit down with Commissioner Murray, but it would be appropriate to create a person, face to face, that they can talk to and discuss the issues with so that, as time goes forward, it's more than just sending letters back and forth to Concord. There's a lot to be said to having a face attached to a name. Chairman Cole

asked at what particular level. Selectman Massey said it would have to be at the senior management level of the DOT, such as with Mr. Alex Vogt, or they could ask Commissioner Murray to assign an individual from her staff who could be a liaison for working the issues relative to the circumferential. Chairman Cole thought NRPC was tied into the State with regard to the circumferential and all types of transportation. Selectman Maddox said no, they are not; they are just an MPO. They are just the facilitator to get input from the communities to the DOT for approvals of the various projects. Chairman Cole thought they still have a pretty good sensing of what is going on, with what the State plans are. Selectman Maddox didn't think so. Chairman Cole asked what purpose they served, then, as an MPO. Selectman Maddox said they are a statutorily-required body that approves plans for the DOT. Asking them would be difficult, at best, because they aren't going to know what DOT's plans are. Asking the Commissioner to send someone would be much more appropriate. NRPC could tell them what happened afterwards, but not what the future holds.

Chairman Cole asked if someone wanted to draft a letter to send to Commissioner Murray, requesting that she designate someone to come down and talk to the Board. Selectman Maddox said absolutely, he'd do that. Chairman Cole said that if he'd draft something for the Chair's consideration, he'll move it forward. Selectman Maddox said it was foolish to sit in the background, not knowing what was going on. They might as well ask. Chairman Cole said he wasn't suggesting that there wasn't a question mark out there, but he doesn't have any in his mind. The highway is dead; it's never going to happen. A section of it may happen, a bridge may come in over the Merrimack and link up with 111 in the future. The highway is dead and he was more concerned of what was going to happen with any State-owned land in the Hudson area that they may decide to sell in the future to cut their losses. If Selectman Maddox can get the State to tell them what they are going to do in that regard, his hat is off to him. If Selectman Maddox will draft a letter to give them entree into the Commissioner's office, he'll be more than happy to send it forward. Selectman Maddox said he would.

Selectman Maddox said the Planning Board heard of the issue of Mr. Kreider and they are putting on all of the plans that are approved from now on that there shall be no construction on Sundays, in order to attempt to have some consistency from that end, so developers actually see it. Sometimes the people actually doing the work don't know the regulations, but if it's on the plans, as they make changes on the Town's side of it, they will probably change those same things. The Board felt that the project on that night was a TR zone, so they would start in those tight neighborhoods and, hopefully, work from there.

Bill Cole said they had a couple items of business that was addressed during their earlier labor-relations session:

Motion by Selectman Stewart, seconded by Selectman MacLean, to forward to the Fiscal Year 2006 Warrant, with the Board's recommendation, the multi-year contract negotiated between the Hudson Board of Selectmen and the Hudson Police Union AFSCME Local 3657 for wage and benefit increases carried 5-0.

Motion by Selectman Stewart, seconded by Selectman MacLean, to forward to the Fiscal Year 2006 Warrant, with the Board's recommendation, the multi-year contract negotiated between the Hudson Board of Selectmen and the Hudson Police, Fire and Town Supervisors' Association for wage and benefit increases carried 5-0.

On behalf of the Board, he wished Vice Chairman Stewart Happy "27th" Birthday.

Chairman Cole congratulated Fire Lt. Tim Kearns, who will celebrate 20 years with the Fire Department on December 23. He is a demonstrated professional and a known quantity. The Town is fortunate to have him and look forward to his continued service.

The Chairman reminded everyone that Santa will arrive at Library Park (AKA the Town Common) on Friday, November 26 at 4:00 p.m. on a fire truck to participate in the tree-lighting and caroling ceremony. His entourage then travels to Lions Hall, where there is a Christmas display. Children can visit with Santa, collect candy, cookies and juice, and work on various craft projects. Non-profit organizations participate in this event, including the Hudson Seniors, several Alvirne clubs and PTO's. There is no charge for participation in this event, which is sponsored by the Hudson-Litchfield News.

Lastly, Chairman Cole wished everyone Happy Thanksgiving. He hoped everyone would take a moment to think about the people and things that are important in each of their lives.

10. **NONPUBLIC SESSION**

Motion by Selectman Stewart, seconded by Selectman MacLean, to enter Nonpublic Session under 91-A:3 II (b) The hiring of any person as a public employee; (c) Matters which if discussed in public likely would affect adversely the reputation of any person, other than a member of the body or agency itself, unless such person requests an open meeting; (d) Consideration of the acquisition, sale or lease of real or personal property which if discussed in public would likely benefit a party whose interests are adverse to those of the general community; (e) consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the 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 7:54 p.m. and was terminated at 9:15 p.m.

Open session motions:

Motion by Selectman Stewart, seconded by Selectman MacLean, to hire Patrick Broderick and Roger Lamarche as full-time police officers, effective 12/12/04, starting at \$18.05 per hour, in accordance with the Police Union Contract carried 5-0.

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Motion by Selectman MacLean, seconded by Selectman Massey, to authorize the Chairman of the Board to sign the verified petition to revoke liquor license for the Zone Entertainment Complex, Inc. carried 4-1. Selectman Maddox was opposed.

11. ADJOURNMENT

Motion by Selectman Stewart, seconded by Selectman MacLean, to adjourn at 9:17 p.m. carried unanimously.

Recorded and Transcribed by Priscilla Boisvert, Executive Assistant

HUDSON, NH BOARD OF SELECTMEN

William P. Cole, Chairman

Teresa Stewart, Vice-Chairman

Kathleen R. MacLean, Selectman

Richard J. Maddox, Selectman

Kenneth J. Massey, Selectman