

## HUDSON, NH BOARD OF SELECTMEN

Minutes of the June 22, 2004 Meeting

1. CALL TO ORDER by William P. Cole at 7:00 p.m.
2. PLEDGE OF ALLEGIANCE was led by Selectman Cole.
3. ATTENDANCE

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

Staff/Others: Steve Malizia, Town Administrator; Priscilla Boisvert, Executive Assistant; Kathy Carpentier, Finance Director; Fire Chief Shawn Murray; FF Steve Benton, Local 3154 President; FF Jamie Paquette; FF Pat Robertson; FF Dean Sulin; Gary Webster, Civil Engineer; Marc Caesar and Nancy Mayville, NH DOT; Pete Noury, Empire Homes; Tony Basso, Hayner-Swanson Engineers; Atty. Scott Hogan; Senator Robert Clegg; Kevin Slattery, Etchstone Properties; Jeff Terrio, Maynard & Paquette Engineers; Marilyn McGrath; Frank Bogan and son; Howard Dilworth, Jr; Leo Fauvel; Leo Bernard; Ray Rowell; Joe MacLean; Julia MacLean; Scott Brooks, Union Leader; Anne Lundregan, TEL

4. PUBLIC INPUT

NH Preservation Alliance Award -- Chairman Cole said the Benson's Committee received an award from the NH Preservation Alliance. The ceremony was held on Thursday, June 17, in Manchester, attended by the Committee Chairman Esther McGraw, Duane King, Betsy Hahn, Preservation Consultant Lisa Sassor, and Aaron Sturgis. The award was presented to the Town for the outstanding stewardship and planning of Benson's. He congratulated and thanked the Benson's Committee and the volunteers who have been working on projects over the past couple of years. This is the highest award this organization gives on a annual basis and the Town doesn't yet own the property.

5. CONSENT ITEMS

Selectman Massey announced that the Budget Committee meeting for July 15<sup>th</sup> was cancelled. Selectman Maddox removed B-2. Motion by Selectman MacLean, seconded by Selectman Massey, to receive consent items 5 A, B 1 & 3, C & D, as noted, carried unanimously.

- A. Assessing Items

- 1) Requalification and Regranting of Elderly Exemption, 7 Abbott Street, w/recommendation to grant
  - 2) Veteran's Tax Credits (32 Krystal Dr, 324 Fox Run, 109 Highland, 12 Newland, 51 Greeley) w/recommendation to grant.
  - 3) 2002 & 2003 Veteran Credit Abatements (8 Watts Cir, 140 Old Derry Rd, 27 Scottsdale Dr) w/recommendation to grant.

- B. Sewer Utility Items

- 1) SUTL0412, 7 Bradford Circle, Acct 5724 (Ref S0408) w/recommendation to approve
- 2) SUTL0413, 353 Central Street, Acct 4898 (Ref S0408) w/recommendation to approve

Selectman Maddox said the paperwork indicated this property has been owned by the State for a number of years. Mr. Malizia said it was taken by the State in the 60's, according to the backup. Selectman Stewart said a few years back, the Town sold a parcel abutting this lot to a company who does ceramics. Mr. Malizia said there was some tax-deeded property that was sold. Selectman Massey said even if someone other than the DOT owned it, this never should have been a sewer account because the sewer does not go that far up Route 111. This property was tagged in error.

Motion by Selectman Massey, seconded by Selectman Stewart, to approve, carried unanimously.

- 3) ENF0404, 1 Prince Drive, Acct 6378 (Ref S0407) w/recommendation to approve

C. Acceptance of Minutes

- 1) Board of Selectmen Minutes of May 18, 2004 to accept, as presented, and refer to file
- 2) Board of Selectmen Minutes of May 25, 2004 to accept, as presented, and refer to file
- 3) Board of Selectmen Minutes of June 8, 2004 to accept, as presented, and refer to file

D. Committee Announcements

- 6/23 7:00 Planning Board in CD Meeting Room
- 6/24 7:00 Conservation Commission/Open Space Committee in BOS Meeting Room
- 6/29 ~~7:30~~ 7:00 BOS Attorney-Client in BOS Meeting Room (Correction by Selectman Maddox)
- 7/05 4<sup>th</sup> of July Holiday—Monday, July 5, Town Hall closed
- 7/06 7:00 Library Building Committee @ Ferry Street Annex
- 7/07 7:00 Planning Board Workshop in CD Meeting Room
- 7/08 6:30 Recreation Committee @ Rec Center
- 7/08 7:00 Sewer Utility Committee in BOS Meeting Room
- 7/08 7:30 ZBA in CD Meeting Room
- 7/12 6:30 School Board in BOS Meeting Room
- 7/13 7:00 Board of Selectmen in BOS Meeting Room
- 7/14 7:00 Planning Board in CD Meeting Room
- 7/14 6:00 Benson's Committee in BOS Meeting Room
- ~~7/15 7:30 Budget Committee in CD Meeting Room~~ (Removed, per Selectman Massey.)
- 7/19 6:30 School Board in BOS Meeting Room
- 7/19 7:30 Conservation Commission in CD Meeting Room
- 7/21 6:00 Library Board of Trustees @ Ferry Street Annex
- 7/22 7:30 ZBA in CD Meeting Room
- 7/24 Local 3154 Firefighters' Boot Drive to benefit MDA, at Chase/Ferry/Derry Intersection
- 7/27 7:00 Board of Selectmen in BOS Meeting Room
- 7/27 1:00 Trustees of the Trust Funds
- 7/28 7:00 Planning Board in CD Meeting Room
- 7/31 8:00 am-2:00 PM, Cleanup Day @ West Road Landfill

6. OLD BUSINESS

A. Report on the MDA Boot Drive held on June 12, 2004

Fire Fighter Steve Benton, President of Local 3154 thanked everyone who offered their support and encouragement for the MDA boot drives, which was greatly appreciated. He also thanked Marilyn Martilini of Hills Garrison, her staff and the kids for their walk-a-thon, held during their lunch periods. They collected \$2,318.42 which, added to the monies from Nottingham West School, brought in a total of \$2,468.98 before the boot drive even started. As a thank you to the kids, FF Benton and FF Pat Robertson visited the schools and handed out glow necklaces to them. FF Benson thanked Governor

Benson and Senator Clegg for being present for the boot drive kick-off. He thanked the Cadets, friends and family that helped out. This is the 50<sup>th</sup> anniversary of the MDA and the Professional Firefighters working together to fight this disease. On June 12, they set a record for a one day total--\$9,279.62, which proves that this intersection is the best place to hold boot drives. They hope to be the highest collection Local in the State for the eighth consecutive year. He referred to the packet of information he had provided to the Board for the agenda, saying that the boot drives are done safer and better than before. He hoped the Board would approve the next two dates. Selectman MacLean displayed the decal she received when she put money into a boot, adding that she thought the drive was very professionally done. Selectman Maddox said he, too, went through the intersection and was pleased to see that signs were posted to make people well aware of the boot drive. Everyone was doing everything the Selectman asked them to do. It was well run, and they had great weather.

*Motion by Selectman Stewart, seconded by Selectman Maddox, to approve the dates of July 24 and August 28 for the IAFF MDA Boot Drive collections carried unanimously.*

#### B. Dedication of the **Leonard A. Smith Central Fire Station**

Marilyn McGrath was recognized and said Mr. Jasper had forwarded the suggested wording for a plaque, which he committed to raising the funds for. Delivery would be six weeks after the order is placed. She is committed to paying for the sign over Central Fire Station to include the name of Leonard A. Smith. Delivery time by A & B Signs would be one week. There has been some question about the placement of the plaque. Mr. Jasper suggested that the appropriate place for Lenny's plaque would be by the gold axe. The final decision, however, is up to the Board of Selectmen and the Fire Chief. She and Mr. Jasper also talked about a date for the dedication ceremony and thought the Saturday of Old Home Days would be good, which would give them enough time to get everything done. Reverend Howe agreed to give a blessing at the ceremony, if he was not committed to something else. She asked for authorization to place the orders for the plaque and the sign. Chairman Cole thought September might be a better time because more people would be around. Selectman Maddox suggested the first Saturday after Labor Day. Selectman MacLean reminded everyone that that was 9/11. It was decided to set the date at the July 13<sup>th</sup> meeting so everyone could check their schedules.

*Motion by Selectman Stewart, seconded by Selectman Maddox, to authorize 'dedication committee' to place the orders for the sign and plaque carried unanimously.*

Chairman Cole asked Ms. McGrath to read the final version, because he had more than one iteration. She read: CENTRAL FIRE STATION--DEDICATED TO THE MEMORY OF LEONARD A. SMITH--JULY 5, 1915--NOVEMBER 10, 2002--COMMUNITY LEADER FOR OVER 50 YEARS--WORLD WAR II VETERAN--VOLUNTEER FIRE FIGHTER--STATE LEGISLATOR--BUDGET COMMITTEE--PLANNING BOARD--ALVIRNE TRUSTEE--BUILDING BOARD OF APPEALS--HILLS MEMORIAL LIBRARY TRUSTEE--NASHUA REGIONAL PLANNING COMMISSIONER--DESIGNER OF THIS AND OTHER TOWN BUILDINGS--IN GRATEFUL APPRECIATION OF A LIFETIME OF SERVICE--2004. Selectman Maddox thought, to be consistent, the word 'member' should appear after the individual boards. Ms. McGrath said she removed the word 'member,' following a discussion with Mr. Cole, who thought the inscription was too wordy. Chairman Cole said his suggestion was to delete everything after '50 years' up to 'in grateful appreciation,' believing Lenny would not want a laundry list of his accomplishments on a plaque. Ms. McGrath thought that it was important to list all of Lenny's achievements and contributions, not for those who knew him, but for those who will come after, so they will understand why the station was named after him. Selectman Massey agreed--just saying he was a community leader wasn't enough. By listing everything, you get a real sense of Lenny's dedication to the Town. Selectman MacLean asked if anyone checked with Lenny's family for their preference. Ms. McGrath said she spoke with Lenny's daughter relative to dedicating Central Fire Station to Lenny, but not about specific wording on the plaque.

*Motion by Selectman Stewart, seconded by Selectman Massey, that the plaque be written in full, as presented this evening, listing all of Lenny's commitments to the Town of Hudson.*

Selectman MacLean felt that less was more and preferred the shorter version, but she didn't know Mr. Smith so she didn't know which way to vote. Chairman Cole said they would take a roll call vote, which would give her an indication of how the other members felt. He asked what the size of the plaque was. Ms. McGrath said Ted Luszey from Bronze Craft indicated it was 18 x 15 w/a single line border, leatherette background, light oxide stain finish and gloss diamond shield coating with a concealed

mounting.

Vote: Motion carried 5-0.

(Start of Tape 1, Second Side)

C. Land Use Change Tax Penalty, Abatement Application, Frank Bogan

Chairman Cole said this came before the Board at a subsequent meeting, at which time the recommendation was to deny the application. Since then, additional information has become available, which caused the Assessor to reverse his recommendation.

Motion by Selectman MacLean, seconded by Selectman Massey, to sign the abatement sheet for the Land Use Change Tax Penalty for Map 117/Lot 37, as recommended by the Assessor, carried 4-1.  
Selectman Maddox voted in opposition.

D. Auction of Hudson Water Utility Land

Town Administrator Steve Malizia said at a previous meeting, the Board directed him to initiate the process of auctioning Town-owned property in Derry and Londonderry. He and Jim Michaud met with Jim St. Jean of James St. Jean Auctioneers, who have conducted many auctions for other towns and for the State. They will handle all of the advertising and have approximately 2,300 people on their mailing list, which assures a good turnout. He spoke with Mr. St. Jean today about the fact that there wasn't a minimum bid and the rationale was that it would attract more attention. Language would be included that the Town reserves the right to reject any and all bids. That way, a lone bid of \$2,000 could be rejected without penalty. However, if the Town insists on including a bid, Mr. St. Jean recommended \$25,000 as he believes these lots will be attractive to builders. Both of the properties have old, dilapidated structures on them and if the property was marketed, those structures would have to be mitigated, so auctioning is probably the way to go; the property is sold 'as is' to the high bidder, if everything is copacetic. They are looking at a 30-day close, with a \$5,000 down-payment. St. Jean Auctioneers' fee is 7½% which comes out of the buyer's pocket, not the Town's. Mr. Malizia said a P & S would be drawn up through the Town's lawyer for Mr. St. Jean. The actual auction will be conducted in four to six weeks. Selectman Maddox preferred that the \$25,000 be included. Selectman Massey asked if the Town has to pay the advertising costs if they reject the bids after putting in a minimum bid amount. Mr. Malizia said yes, there was some risk to rejecting a bid. Chairman Cole and Selectman Massey opposed including a minimum bid. Selectman Massey said there might be the expectation that if someone bid the minimum, they would get it. Chairman Cole said the object was to get rid of the properties.

Motion by Selectman Massey, seconded by Selectman Stewart, to contract with James St. Jean Auctioneers to auction off Town of Hudson Water Utility property located in Derry and Londonderry, under the terms and conditions outlined in their proposal of June 15, 2004, and as recommended by the Town Administrator.

Selectman MacLean thought there should be a minimum bid, but after talking with Mr. Malizia, realized it might discourage some people from bidding. If it is a good lot, and someone really wants it, the bid price might not be as high and the Town can refuse any ridiculously low bid. Chairman Cole asked Selectman Maddox if he wanted to offer an amendment, but he declined.

Vote: Motion carried 5-0.

E. Offsite Improvement Account (Constitution Drive/Clement Road)

Town Administrator Steve Malizia said the Board, through the request of Selectman Maddox, asked him to look into the \$75,000 off-site contribution that was made when the Town sold the property off Constitution Drive. He submitted a memo to the Board, explaining how it got deposited into the General Fund. Subsequently, he spoke with the Town's auditors and asked if there was a way to correct it. He was told to send a letter, requesting the auditors make a previous-year adjustment. He would then take it out of the General Fund surplus, where it currently resides, and put it into an off-site improvement account in the Agency Fee Accounts.

Chairman Cole asked just what this money was to be used for. Mr. Malizia said it was a contribution from the buyer of the lot to be put into an account earmarked for improvements coming out of that park

to Route 111. It was in the sales agreement, but the money got put into the General Fund with the sales proceeds. Before speaking with the auditor, he thought this money was not recoverable. When they recognized the sales proceeds, along with this money, it was an unbudgeted revenue so it went into the General Fund surplus, which is presently at \$4 million. Selectman Maddox said the \$75,000 contribution is to be used for access improvements to Constitution Drive from Route 11; it does not specify Clement Road. Chairman Cole said the thought of taking money out of the General Fund doesn't sit well with him. Selectman Maddox said a lot has been sold in that park, which was assessed a \$7,500 contribution, which will be added to the \$75,000 in that offsite improvement account. Selectman Massey said they weren't taking money out of surplus; they were correcting an error--the \$75,000 should never have gone into the General Fund to begin with.

Motion by Selectman Massey, seconded by Selectman Maddox, to authorize the Town Administrator to send a letter to the Town's auditor requesting a prior year adjustment to transfer \$75,000 from the General Fund surplus account to an offsite improvement agency account for Constitution Drive to Route 111 improvements carried 4-1 by roll call vote. Chairman Cole voted in opposition.

## 7. NEW BUSINESS

### A. Public Hearing on Proposed Ordinance 04-02 to prohibit Parking on the West Side of Able Street

Fire Chief Murray of the Highway Safety Committee, said they had received a request to look at a parking issue on Able Street, off of Melendy Road, in the area of the Kiwanis Hall, where Bingo is held. The parking creates a safety issue because emergency vehicles would be unable to gain access to the storage sheds on that street. Chairman Cole opened the public hearing at 7:47 p.m. and asked if anyone wished to speak. There being no response, he closed the hearing.

Motion by Selectman Stewart, seconded by Selectman MacLean, to Adopt Ordinance 04-02, prohibiting parking on the west side of Able Street carried 5-0.

### B. NH DOT Lowell Road/3-A Widening Project

Chairman Cole recognized Civil Engineer Gary Webster, who thanked all of the Selectmen for participating in the Memorial Day activities, which was a first. He said they were in the final stages of the Lowell Road widening project, namely the PMA gate relocation, for which the State was requesting an additional \$42,480. Money is available in the corridor account for this.

Motion by Selectman Stewart, seconded by Selectman Massey, to approve the additional expenditure of \$42,480 to complete the Lowell Road gate relocation project, as requested by NH Department of Transportation and referenced in their letter of 6/21/04.

Marc Caesar, Project Manager for Lowell Road and Nancy Mayville, Project Manager for DOT were present. Selectman Maddox asked if the gates were on the National Historical Register. Ms. Mayville said no, but they are eligible, which grants them the same protection. The Town cannot take away their potential for being on the register. Selectman Maddox said he would not vote for a project that costs \$1/4 million to move a stone arch. Selectman MacLean asked if he preferred to get rid of them. Selectman Maddox said yes. Mr. Webster said the historic value was in the wrought iron and granite pieces. The Town has a contract with PMA to move the arch, so they have an obligation to do so. They tried alternate methods, but nothing worked out.

(Start Tape 2, Side A)

Selectman Massey said the \$50,000 was a bogus estimate because the individual who made it wasn't capable of doing the work. The contract between the Town and PMA does not state an amount; it just says the Town will move the gates. Out of nine bids, only two were valid. On this one, he will hold his nose and vote. Selectman MacLean said it breaks her financial heart to spend that much money, but the PMA property is beautiful and the Sisters contribute so much to the community, the Town almost owes it to them to preserve what is there. Selectman Maddox asked where the gates would be relocated. Mr. Caesar said about 75' back from where they are now. Selectman Maddox asked if there was going to be a curb cut for the new location, or if they were gates to nowhere. Mr. Webster said there will be grass w/no curb cut. Selectman Maddox suggested asking the Sisters if those gates are \$1/4-million important. He'd rather give them \$100,000 to put towards some other project. The gates are not attractive and moving them back a bit doesn't seem to make a lot of sense. Ms. Mayville said an in-

depth study was conducted, as part of the project, and it involved officials at both the State and Federal levels who decide what can or can't happen. The original decision was that the gate would be moved as one unified piece. However, it was later determined that the gate was rehabilitated in the 80's and the brick was replaced. The setting, like the walkway and the gate, is part of the historic features of the property. Selectman Maddox asked if, when the decision was made, they knew it was going to cost \$1/4 million. Ms. Mayville said in retrospect, they didn't have a good handle on the cost, but it's not unusual. The arches have a lot of weight, and there is a lot of technical work to design adequate foundations to prevent tipping, cracking and settling. Selectman Massey asked if the height was an issue. Mr. Caesar said no, it was not. Chairman Cole recommended that when you sit down to negotiate with Sister Mary Read-the Fine-Print, you do just that because there are a few gaps that the Town wasn't paying attention to when they signed the contract, including moving the arches and putting in the new driveway. Mr. Webster said in the final analysis, PMA got their money's worth.

Vote: By roll call, motion carried 4-1. Selectman Maddox voted in opposition.

Motion by Selectman Stewart, seconded by Selectman Maddox, for a recess at 8:04 p.m. The meeting resumed at 8:17 p.m.

### C. Wason Road Water Line Extension (Super Stop & Shop)

Selectman Maddox said this developer came before the Planning Board with several ideas on how to get water to his proposed development on Wason Road, one of which was to bring a pipe from the existing water main on Lowell Road up Wason Road, in conjunction with the construction for the Super Stop & Shop. He was encouraged to make a presentation to the Board of Selectmen. Chairman Cole recognized Pete Noury of Empire Homes and Tony Basso of Hayner-Swanson. Mr. Basso said this project on Wason Road was about 2,500' from the Stop & Shop driveway. The intent is to supply water to that area because of well water issues. They have had conversations with Tom Sommers and are in the Planning Board process, but since there is proposed paving on Wason Road by Stop & Shop, this extension has to happen fairly quickly, even though the subdivision will take longer. Tom Sommers is doing an area-wide study through Weston & Sampson, paid for by Empire Homes, which will take care of the entire system in that area.

Mr. Webster said 400' will bring them short of Holly Lane and the work being done by Stop & Shop will be short of Colson Road. They are trying to realign up to Holly Lane, do an 8" cross to Colson Road to feed that development. Chairman Cole asked how much it would cost to dig up the road to put in a 12" line and fix up a highway. Mr. Webster said about \$40,000 without the finished course. Mr. Basso said the bids are coming in at around \$100 a foot. Selectman Maddox said the Planning Board sent Mr. Noury to the Board of Selectmen because of the eminent construction and paving of Wason Road by Stop & Shop, as a Town ordinance prohibits digging up a road for three years after it was paved. This is an effort to coordinate the builder's project with Stop & Shop's. He believed Mr. Noury was willing to pay for the 8" portion of the pipe, that the Town could up-size to 12". Mr. Noury said his verbal understanding with John Cashell is that he will pay for the cost of the 8" pipe for 2,400' and the Town would reimburse him the difference between the 8" and 12" for material and labor because they would use the water line for future development. The Town would also pay for the curb stops along the way for the existing 24 homes and would waive the connection fee within the 18 lots. Selectman Massey said as soon as the Stop & Shop pre-construction conference for Lowell Road is held, their contractor can begin work. Their goal is to have an occupancy permit by August 15, so there is a narrow window of time in which this work can be done—which includes putting it out to bid, then awarding it.

Chairman Cole said at this point, the Town's relationship with Mr. Noury is through the Planning Board. The Board of Selectmen has to decide whether it's feasible or possible to put in a 12" line up Wason Road and if they can get the ball rolling tonight. If this project goes forward and a 12" line is put in, then at some point in the future, if Mr. Noury gets permission on his project—probably with stipulations—then at that time, they can revisit the issue of compensation on the delta between the 12" and 8" lines. Right now, the Selectmen have to decide if it's in the best interest of the Town to get a 12" line 400' up to Holly Lane. The Town has no idea when the preconstruction conference is going to be, or when they can start doing something after that. Selectman Massey said the Board could approve the concept and then authorize the Town Engineer to go to bid. Tomorrow, he could post the bid and get it in at least one local paper for Friday, to send the bid specs to at least five local contractors who have the capability to do drainage work and, on that basis, have a bid spec available by July 2. The Board could then meet on July 6 to award the bid. The Town has 30 days from the time the bids are opened to award a bid. Both Holly Lane and Colson could use Town water, so there is rationale for putting in the line. The current water line stops at the back end of the Market Basket building, so the 400'

extension would be from that point to Holly Lane. Stop & Shop's site plan approval requirement is to reconstruct from Lowell Road to Colson Road.

Chairman Cole asked if the Engineering Department was prepared to move forward with this tomorrow. Mr. Webster said yes. Selectman Maddox said his problem was with the money, as they wasn't something the Town planned to do. He felt they needed some sort of commitment from Empire Homes by which the Town will be reimbursed for the 8" line that the Town had no intention of putting in. He'd like the Town Engineer or Town Administrator to work with the attorney and Empire Homes to develop an agreement. Chairman Cole said he wanted to separate that action from getting in a water line because he felt the two weren't related. Selectman Maddox said believed they were and he wouldn't spend the money unless Empire Homes was paying 80% of it. Selectman Massey said the Finance Director said there is \$40,000 available in the water utility budget.

Selectman MacLean asked the Town Administrator and Civil Engineer if they thought this was in the best interest of the Town. Mr. Malizia said there are water issues in the south end, so anything they do that will help down the road can't be bad. Mr. Webster believed that it was in the best interest of the Town, looking to the future. Even if nothing happens with Mr. Noury, at least they will have the line in to perhaps extend the line. His office receives a lot of calls from people having trouble with their wells in that area. Mr. Basso said his client's attorney would be happy to work with the Town on an agreement, as their goal was to get something started ASAP. Chairman Cole said up until tonight, most of the Board members weren't even aware of this situation in any great detail. Mr. Basso said there are well issues as well as pressure and circulation issues and this will work towards resolving that.

(Start Tape 2, Second Side)

*Motion by Selectman Stewart, seconded by Selectman MacLean, to approve the concept for the water line extension, as outlined in Tom Sommers' memo to the Board of Selectmen in his memo to the Board of Selectmen, dated June 11, 2004, "Wason Road Water Line Extension, Super Stop & Shop, and to authorize this project to go out to bid, with proposals to be received in Town Hall by 3:00 p.m., Friday, July 2, 2004 carried 5-0.*

Selectman Massey said if there was going to be a parallel agreement, a motion should be made to that effect. Chairman Cole asked how this dovetailed with the action just taken. Selectman Maddox said the Planning Board's concern was that this development really needs Town water. Super Stop & Shop's plan to dig up Wason Road has thrown this into overdrive. A six-month project suddenly became a six-week project. Chairman Cole asked the Town Administrator what he needed to put this into effect. Mr. Malizia said the Board could direct him to do as they wished, and he would do it.

#### D. Oblate Property, 200 Lowell Road, Entrance Drive and Lowell Road Improvements

Kevin Slattery, President of Etchstone Properties and Project Engineer Jeff Terrio from Maynard and Paquette Engineers were recognized. Mr. Slattery referred to proposed motions drafted by Atty. Brad Westgate relative to improvements to the Oblate property on Lowell Road that they hoped the Board would approve this evening. Mr. Slattery said they have been to the Planning Board and improvements to the egress and access to the site have been recommended. As this project coincides with the Town's Lowell Road widening project, there are some areas that need to be coordinated between Etchstone, the Town and the State DOT. Chairman Cole asked what the Board was being asked to do. Selectman Maddox said the Planning Board is well aware of the fact that this is a Town road, under the jurisdiction of the Board of Selectmen. Therefore, the Planning Board asked the applicant to get authorization from the Selectmen to do work on Lowell Road—putting in an underground conduit, changing the driveway configurations, inclusion of a sidewalk. Although the plan is still under the purview of the Planning Board, they felt it would be prudent for the applicant to appear before the Selectmen to see if there was any concern.

Selectman Massey wondered if the Board of Selectmen was giving the applicant authority to negotiate an agreement with DOT to do something on the road, with no further requirement from the Town, or if any negotiation they have with the State had to first be approved by the Planning Board and then, if necessary, by the Board of Selectmen. Selectman Maddox said this was an information-sharing effort to make the Board of Selectmen aware of what was going on, just in case there were any issues. Most of the applicant's communications will be through the Town's Civil Engineer. The applicant is working with the State on the driveway. The Planning Board felt that an elderly complex with over 100 units needed a sidewalk to Market Basket and they also wanted an underground conduit put in for a possible future

signalization to prevent Lowell Road from being dug up again, both of which will be paid for by the developer. The applicant's issues are detail work and have no impact to the Town; this is a communications issue.

Mr. Slattery said, as a result of the Planning Board's recommendation for the new entrance, they have sent the plans and traffic studies to the State for review and, according to Nancy Mayville tonight, they hoped to have a response back within a couple of days. The changes are not hugely significant and Etchstone is prepared to pay for them. He thought the State might be reluctant to go much further if the Board of Selectmen didn't allow them to communicate with the State. Chairman Cole didn't think there was any problem with Etchstone communicating with the State, but when it came to approving a sidewalk, he wasn't so sure. He asked what Mr. Slattery would like to take with him when he walks out the door tonight. Mr. Slattery said he'd like the Board to act on the motions drafted by Atty. Westgate.

Selectman Massey said developers talk to the State all the time when they are trying to get approvals for curb cuts, etc. Other than the sidewalk issue, he didn't see a need for any motion. Chairman Cole said the request was to acknowledge that Etchstone Properties may communicate and work with the State--a comfort food for some people, but in reality was a non-statement. The second proposed motion was for the Board of Selectmen to consent to the final designs and construction of such improvements, as approved by the Planning Board and/or State of NH. He assumed that that dovetailed into the sidewalk, the conduit and the potential improvements to Executive Drive. Mr. Webster said that was correct.

Mr. Slattery said because the section in question is part of the urban compact, the Town of Hudson owns the land and right of way, but has authorized the State to construct the road widening project. The jurisdiction issue makes this a unique situation. Mr. Webster said the Town owns the right of way, but gives the State an easement, a signed document. When the project is all done, the State will return it back to the Town. Any work that is done on Lowell Road by Etchstone has to go through DOT for their review because, technically, the State 'owns' the road right now. He thought it would be a good idea for the Selectmen to give permission to the developer to talk to DOT, who is reviewing the plan for the Town relative to the curb cut onto Lowell Road and with the sidewalks. Mr. Slattery would like to be able to coordinate the work with Continental Paving, who is working for the State. The Board of Selectmen's involvement would make it official. Selectman Maddox said, unlike a new road, this is not under the purview of the Planning Board. If the Board of Selectmen isn't interested in having a sidewalk installed, the Planning Board needs to know that, which is one of the reasons it is on tonight's agenda. This was merely a matter of communications as there needs to be coordination between the Town Civil Engineer, the State and the developer to facilitate this work. The question was whether or not the Board was comfortable with the sidewalk being installed and with the developer contracting with Continental Paving/the State for improvements that will potentially benefit Etchstone's development. Chairman Cole asked if this has been approved by the Planning Board. Selectman Maddox said this project has not completed the process, but these issues are being recommended by the Planning Board to the Board of Selectmen.

Chairman Cole realized time was of the essence, but the Board has the responsibility to make a prudent decision. He asked if anyone wanted to make a motion to approve communications between Etchstone Properties and NH DOT. Selectman Stewart so moved, seconded by Selectman MacLean. Selectman Massey didn't think a motion was necessary and he didn't wish to set a precedent. No other case before the Planning Board is required to come before the Board of Selectmen for permission to talk to the State. A courtesy update to the Board of Selectmen would have been sufficient. Selectman Maddox agreed with Selectman Massey's comments, saying that he, too, would be voting against the motion.

Chairman Cole asked what the reality was if the motion failed. Mr. Webster said it was a matter of timing. Continental is working on the same side of Lowell Road as the driveway in question. Chairman Cole asked if the State would refuse to talk to Mr. Slattery if the Board didn't approve the motion. Mr. Webster believed the State would approve the concept anyway. Mr. Slattery said because this is in the urban compact, in the Town's right of way, the State would be reluctant to impose on the Town's jurisdictional authority. Since the Town will inherit the right of way back after the State has completed the widening project, the State would feel more comfortable if the Board of Selectmen sanctioned the project. For instance, if the State decided that a catch basin had to be moved 15' and Etchstone agreed to pay for it, and if Continental Paving and DOT project engineers OK'd it, he would have to come back before the Board of Selectmen because the Town owns the right of way.



Selectman MacLean couldn't understand why Selectman Maddox opposed the motion because this was his idea and he spoke in favor of open communications. Selectman Maddox said he was against the motion, not the plan and thought a follow-up motion would be appropriate, that the Board of Selectmen has no issues with the improvements specified by Etchstone Properties and it would be in the Civil Engineer's jurisdiction to communicate with the State--something of that genre. Selectman Stewart withdrew her motion and Selectman MacLean withdrew her second. Motion by Selectman Maddox, seconded by Selectman Stewart that the Selectmen have no issues with the project and authorizes the Hudson Civil Engineer to communicate that to the State and deal with any issues coming forth from this plan. Selectman Massey said the Board of Selectmen only gets involved with Planning Board issues when, among other things, a sidewalk is involved. He didn't know whether or not he could agree with what Etchstone is doing because it would be premature for the Board of Selectmen to vote in agreement with the plans, which do not have Planning Board approval. The Board of Selectmen is treading on dangerous ground when they start usurping the responsibilities of the Planning Board. Chairman Cole said he didn't know anything about the plans because he hadn't seen them and he has no idea what they were talking about, so he couldn't agree to the plans, either. He asked what the motion would do, if it was approved. Selectman Maddox said it says the Board of Selectmen has no issues with it and that the Civil Engineer will speak with the State and Mr. Slattery relative to the details. The Planning Board doesn't have jurisdiction on a Town road.

(Start Tape 3, Side A)

Chairman Cole said they have nothing in front of them; he had no idea what the sidewalk project was. Mr. Slattery asked if a motion could be made that would say the Board of Selectmen looks to the authority of the Planning Board and Engineering Department to oversee and review the matters and, as a result, doesn't have a problem with them. Selectman Maddox apologized to the Board because, as a Planning Board member, he knew the plan. The sidewalk issue was what the Planning Board was most concerned about and was looking for input from the Board of Selectmen. If the Board wanted more information in order to be comfortable, they could defer this. In the past, the Selectmen have told the Planning Board not to be putting in sidewalks. Chairman Cole said he'd want to see some sort of recommendation from the Planning Board, and the justification in support of it, but the Planning Board has not officially recommended anything to the Board of Selectmen and, until they do, he can't take an official action.

Selectman Massey suggested a compromise motion, that the Board of Selectmen agrees with the Planning Board that it is necessary for Etchstone Properties to discuss issues relative to Lowell Road that need to be finalized with the Planning Board. Selectman Maddox thought that sounded circular, but he withdrew his motion. Selectman Stewart withdrew her second.

*Motion by Selectman Massey, seconded by Selectman Maddox, that the Board of Selectmen has no objection to Etchstone Properties discussing the Oblate Property at 200 Lowell Road with the State relative to issues before the Planning Board.*

Selectman Maddox said his second came with an amendment that this plan comes back to the Board of Selectmen at a future date, with specifics, so the Board can make an informed decision. Chairman Cole thought that was a de facto parameter because the Board of Selectmen owns the road. Selectman Massey said the only thing that needs to come before the Board of Selectmen is approval of the sidewalk plan. Everything else is the responsibility of the Planning Board or the Town Engineer regarding curb cuts. He thought the amendment was superfluous. Selectman Maddox decided against making the amendment.

*Vote: Motion carried 5-0.*

#### E. Year-end Encumbrances

Finance Director Kathy Carpentier said the encumbrances were broken down by General Fund, Sewer Fund, Water Fund, Library Fund and Donations and includes the \$40,000 for Wason Road. Selectman Maddox asked why donations had to be encumbered. Ms. Carpentier said because they are designated to be used for a specific purpose in the future. Mr. Malizia said if that money isn't encumbered, the auditors will include it as revenue. Selectman Stewart asked what the Police Department grants were. Mr. Malizia said they are multi-year COPS grants that include a remainder of money on that Chief Gendron doesn't want to lose.

Motion by Selectman Stewart, seconded by Selectman Maddox, to encumber an amount not to exceed \$1,763,210.98 for FY-2004, as recommended by the Finance Director, carried 5-0.

#### F. Public Hearing on Petition to Release and Discharge Dedicated Way from Public Servitude

Town Administrator Steve Malizia said a petition was received to release and discharge from public servitude a paper street known as Bond Street. On a plan back in 1910, that street would have intersected and crossed Adelaide over to the power lines, but it never got built. In 1996, the Town release a portion of the paper street, which actually touches Adelaide and is between two lots that front on Adelaide. The back portion of the Bond Street paper street keeps going. Atty. Hogan was representing the Lavenbergs, who made the request that the back portion be released that abuts the other lot they own. Once the Board agrees to release the street, it gets split down the middle by the Lavenbergs and PSNH. Mr. Lavenberg has paid all of the associated fees, abutter notices, public notices, his attorney's attendance. Chairman Cole opened the public hearing at 9:25 p.m.

Atty. Scott Hogan of Baldwin, Callen & Hogan in Concord said he made the initial request in January 2003, at which time the Town's suggestion was to file a petition to quiet title in Superior Court. That was at the time the Town's new tax maps were being made public, at which time an error was noticed on these lots. The tax map was amended, which was used for the present petition. Releasing the back portion of this paper street is simply an administrative matter. There being no further speakers, Chairman Cole closed the hearing at 9:28 p.m.

Motion by Selectman MacLean, seconded by Selectman Stewart, o release from public servitude the unconstructed portion of Bond Street between Lots 149 and 153 on Tax Map 175 carried 5-0.

#### G. Request to negotiate Successor Agreements with Police and Highway Department Unions

Town Administrator Steve Malizia said correspondence was received, asking for negotiations to commence.

Motion by Selectman Massey, seconded by Selectman MacLean, to enter into negotiations for successor contracts with the Police Union (AFSCME 3657) and the Highway Union (AFSCME 1801) and to appoint Selectman Cole liaison to the Police negotiating team and Selectman Stewart as liaison to the Highway negotiating team carried 5-0.

#### H. Fire Department Uniform Policy Change, Class A Overcoat

Fire Chief Shawn Murray said he was asking the Board to approve the addition of a Class A Overcoat to the list of approved clothing purchases that personnel are allowed to make. Selectman Maddox asked if that was the only change. Chief Murray said it was. Selectman Stewart asked if there were any specifications on style, color, etc. Chief Murray said navy blue in the style of a lined London Fog raincoat. Selectman Maddox said the document indicated that Class A is an optional uniform. Chief Murray said they purchase Class A's for the collective bargaining units, but for other people, it is optional. Selectman Maddox couldn't understand how it could be called optional if it is given to everyone. Chairman Cole said action not everybody is going to get issued an overcoat. They are giving the individual firefighter the ability to use the clothing allowance for this item of clothing, if they decide to buy it.

Motion by Selectman Stewart, seconded by Selectman MacLean, to include "Class A Overcoat" to Addendum D of General Order ADMN-21 carried 5-0.

#### 8. OTHER BUSINESS/REMARKS BY THE SELECTMEN

Selectman Teresa Stewart said she received the new trash pickup schedule with WMI, starting the week of July 5. There will be designated days, as opposed to BFI's one-day a week for the Town. Secondly, she attended the Conservation Commission's meeting last evening and there was some discussion of creating a dog play park and wanted the Board to know they were looking at properties for this activity. Also, Sandra Rumbaugh conveyed thanks for the Finance Director for her help. Lastly, she hoped her husband continues on the road to recovery.

Selectman Ken Massey said the Library Building Committee has scheduled three meetings to begin the process of letting the Town understand what they are proposing. On August 4, they will meet with the Highway Safety Committee to review their proposed curb cut on Ferry Street. On August 9, they will be on the Selectmen's agenda to review their current plans and on August 10, they will be on the Planning Board's agenda for a conceptual review of

their plans. The Trustees would be looking to have a warrant article for 2006 for the building and have the plans before the Planning Board as an official site plan review next fall, so by the deliberative session, they will have an approved site plan, with construction costs. Secondly, the Budget Committee met last Thursday, with a lot of discussion about the Board having authorized the over-expenditure for the SCBA's for the Fire Department. The question was raised why money continues to be spent on the Benson project when the Town doesn't even own it. Selectman Massey told them that the money spent to date has come from grants and the Town wants to impress upon the State that the Town is serious about acquiring the property.

(Start Tape 3, Second Side)

The Budget Committee is interested in a unit manning document from each department to show the current organization by position. They would like to see metrics on how you measure what an individual does so they would know if it was appropriate to hire an individual, or not to. Selectman Massey said he asked a hypothetical question: "If the Nationwide standard is that the Police Department has one policeman for every 1,300 residents, if Hudson was less than one per 1,300 and asked for another hire, if the Budget Committee would approve it and the answer was no. The Budget Committee would have to know if the standard was correct. In the end, it's really about affordability.

Selectman Kathleen MacLean apologized to Selectman Maddox for her reaction during the discussion of a previous agenda item.

Selectman Richard Maddox said he attended the NRPC meeting last week and there was lively debate on a number of issues, one of which was the circumferential, which the Board is looking to get a price on some of the options, other than the full-build. Secondly, on Saturday, he was out with the Citizens' Police Academy. They did a great job; it was good PR. They did some traffic stops and everyone got to see what the police have to work with. Everyone enjoyed the presentation. Thirdly, he asked when the Board of Selectmen were going to set budget parameters. Chairman Cole thought probably late July, early August.

Chairman William Cole said the Police Department has received the 10 Taser Systems, with a press conference scheduled for tomorrow for a demonstration. They are waiting to get the holsters in, and hope to have this weapon on the street by mid-July. Chairman Cole reminded everyone that graduation for the Citizens' Police Academy is June 23 at 6:30 p.m. in the Community Room. On Friday, June 25, at 4:00 p.m., there will be a swearing-in ceremony for Sgt. Kevin DiNapoli and a Life Saving Award presented to Sgt. Bianchi. He reminded the Board of the Attorney-Client session on June 29 at 7:00 relative to cable access television. Lastly, he asked Chief Murray how the Town auction went. Chief said it went very well, bringing in over \$2,500.

## 9. NONPUBLIC SESSION

Motion to enter Nonpublic Session by Selectman Stewart, seconded by Selectman MacLean, under RSA 91-A:3 II (a) Dismissal, promotion or compensation of a 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) Hiring of a public employee; (c) Matters which, if discussed in public, would affect adversely the reputation of any person, other than a member of the body itself, unless such person requests an open meeting carried 5-0 by roll call vote.

Nonpublic session was entered into at 9:50 p.m. and was terminated at 11:07 p.m. The following motions were taken in open session:

A. Motion by Selectman Stewart, seconded by Selectman Maddox, to authorize the Fire Chief to post, both internally and externally, the non-exempt position of Fire Captain Training Officer carried 5-0.

B. Motion by Selectman Stewart, seconded by Selectman MacLean, to hire Shawn O'Donoghue as 2004 Soccer Director for \$1,000 and Leslie Desrosiers as Assistant Soccer Director for \$500, effective August 1, 2004, carried 5-0.

C. Motion by Selectman Stewart, seconded by Selectman Maddox, to hire the following substitute counselors for the 2004 Summer Recreation Staff—Katrina Farland at \$8.75 per hour and Richard Charette, Timothy O'Donoghue and Amanda Parent at \$7.75 per hour carried 5-0.

D. Motion by Selectman Maddox, seconded by Selectman Stewart, to adjust Joyce Williamson's rate of pay from Grade VIII, Step 1 to Step 2 at \$13.87 per hour, effective July 1, 2004, carried 5-0.

E. Motion by Selectman Stewart, seconded by Selectman Massey, to approve a 3.8% wage increase for nonunion personnel, effective July 1, 2004, which reflects a change to 3% contained in Warrant

Article 21 (Police Chief, Town Administrator, Community Development Director, Road Agent, Finance Director, Police Prosecutor, Executive Assistant and Recreation Director), carried 3-2. Selectmen MacLean and Maddox voted in opposition.

10. ADJOURNMENT

Motion by Selectman Stewart, seconded by Selectman MacLean, to adjourn at 11:12 p.m. carried unanimously.

Recorded and Transcribed by Priscilla Boisvert, Executive Assistant

HUDSON, NH BOARD OF SELECTMEN

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William P. Cole, Chairman

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Teresa Stewart, Vice-Chairman

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Kenneth J. Massey, Selectman

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Kathleen R. MacLean, Selectman

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Richard J. Maddox, Selectman