

HUDSON, NH BOARD OF SELECTMEN
Minutes of the March 8, 2004 Meeting

1. **CALL TO ORDER** by Chairman William P. Cole at 7:30 p.m. in the Selectmen's Meeting Room, Town Hall

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

3. **ATTENDANCE**

Board of Selectmen: William P. Cole, Kenneth J. Massey, Shawn N. Jasper, Ann Seabury and Teresa Stewart

Staff/Others: Steve Malizia, Town Administrator; Priscilla Boisvert, Executive Assistant; Kevin Burns, Road Agent; Jim Michaud, Assessor; Fire Lt. Dave Morin; Police Lt. Don Breault; Linda Walkely-Kipnes; Michelle Champion; Leo Bernard; Jean Serino; Anne Lundregan, TEL

4. **PUBLIC INPUT**

Linda Kipnes, 23 Nathaniel Drive, re Open Space – Ms. Kipnes said a presentation was given by the Center of Land Conservation to the Friends of Hudson's Natural Resources and the Conservation Commission on March 1st relative to the financial benefits a town can realize over time of purchasing open space, even if the purchase price is high. As well as aesthetic, environmental, ecological, emotional and spiritual reasons, studies have been done that prove towns with more open space have lower taxes. The Cost of Community Services studies look at a town budget and allocate every expense to residential, commercial/industrial land use or open space. They also look at taxes from those categories and calculate a ratio of cost of services for each dollar in revenue. Twelve towns in NH have had the study done and all but one of them showed the cost of residential services is higher than the income they generate. Every new housing unit that's built will require more services than it pays for in taxes. Investing in open space is expensive and an up-front cost, but an investment that will pay off in the long run. With no development, the cost will be stabilized. The investment to protect open space in Town will have wonderful returns for future generations. Plans had been made for the program to be taped and televised to inform the voters of the benefits of purchasing open space, but they were not allowed to follow through with that.

Michelle Champion, 7 Chiswick Road, re Taping/Televising Issues – Ms. Champion was outraged that Chairman Cole decided unilaterally that Coleman Kelly could not tape or televise the March 1st Dollars and Cents of Open Space presentation, which was meant to provide information to the public prior to tomorrow's vote. This presentation, given throughout NH, has been effective in gaining support for open space initiatives. In Pelham, the presentation was instrumental in gaining the Selectmen's support for a \$3 million bond article for open space. Hudson's Conservation Commission and Friends of Hudson's Natural Resources felt this valuable information should be presented to the public, which she hoped they would be able to do in January, but that was a busy month agenda-wise, so she asked that it be shown in February because she felt the information would be relevant to the March 9th vote on the Nadeau Farm.. She received an email, saying that it was put on the May agenda. Since much of the discussion on this warrant article involved the tax impact of open space versus residential development, the Friends decided to give the full-length presentation at their March 1st meeting and made the necessary preparations. She subsequently received an email from Selectman Cole, stating that Coleman Kelly was not authorized to commit to such an obligation. She offered to pay Mr. Kelly herself and he offered to bring his own equipment, but Chairman Cole ordered Mr. Kelly not to tape or televise the presentation. She could understand that decision if they were a radical, fringe group or an unknown entity, but the presentation was co-sponsored by the Conservation Commission and Friends of Hudson's Natural Resources, two boards that report their activities in the Annual Report. She wondered why this information would be alright for May, but not at this time and wondered if Mr. Cole thought the information might be counter to his views on the Nadeau Farm article. Mr. Cole had also told her that he suddenly realized the Town didn't have a policy for deciding what could be aired. She said past practice was to ask Coleman to televise an event, which was the procedure used by the Junior Women's Club for Candidates Night on March 2, without objection. She wondered if the distinction between the two events was that Mr. Cole did not like the message presented on Monday night. Selectman Cole had told her he made the decision in the best interest of the Town, but she didn't know when preventing information that could help citizens make informed decisions was not good for the Town. She urged the Selectmen to develop a fair policy for the use of public access TV, for independent review, not controlled by the Selectmen. It should maximize the ability of the public to provide information and express their views.

Selectman Jasper was outraged, too, because the de facto policy has been to let Coleman Kelly decide what is aired. To date, the Board of Selectmen has never interfered with the placement of anything on TV, which includes a religious program by the Baptist Church and programming from Alvirne. A member of the Board has no legal authority, and he has warned the Board of that in the past. He believes the Town has a dictatorship, with the consent of two. If the Board wanted to do the right thing, they would remove Mr. Cole as Chairman and would never return him to that office because he takes it upon himself to make decisions for which he has no authority. These people were denied the right that everyone else in Town has had access to--a violation of the Freedom of Speech. It is also a violation of the Code of Ethics. No Town official or employee can claim to act on behalf of the Selectmen, boards or departments without prior authorization from said body or department and, that is exactly what happened. An action was taken by one Selectman that prevented another action. This is wrong.

Selectman Seabury said she, too, received a phone call and her gut reaction was that the five-man board had to make the decision, but it was too late to do anything when Linda called her. Although she doesn't have cable, she thought public TV was--for the public. She did not think that the Board of Selectmen had the authority to put whatever they wanted on cable, but it appears they do have a strong hand in it. Former Selectman Rhona Charbonneau was instrumental in getting cable in Town. After the Selectmen's meetings were televised, they decided that the School Board should be, too, then it was the Budget Committee. They also publicized the water company and the Police accreditation, which the Selectmen supported. Everything has been slanted toward the Selectmen. She hated to think that access to cable was denied because a project wasn't favorable to the majority of the Board. She plans to make a motion later in the meeting that she hopes will solve whatever difficulties occur in the future.

Charlie Carey, 10 Terra Lane, re Nadeau Farm — Mr. Carey said he embraced Selectman Jasper's comments. In 1993, he received permission from the Nadeaus to put a bluebird trailer on their property. His records show that he has put over 526 bluebirds back into the area. The bird houses

are located near the barn, the ponds and the upper field. When he makes his rounds, he enjoys watching God's beautiful sunsets and will continue doing so until he is no longer allowed on the property. This sanctuary shouldn't be destroyed for the sake of progress. The voters should decide; the farm and its simple pleasures can be enjoyed by all. They have an obligation to preserve something this precious for the youth of the future to enjoy forever.

Jean Serino, 118 Robinson Road, re Inappropriate Remarks – Ms. Serino talked about the accumulation of life experiences that defines one's personal values and beliefs and the manner in which one reacts to them defines one's character. She recounted an incident that occurred in the Selectmen's Office when she came in to get a list of State Senators to urge them to vote against Senate Bill 147, which would not recognize marriages by gay and lesbian couples who are married in other states. A discussion ensued between her and Chairman Cole wherein she said Chairman Cole used derogatory terms relative to sexual persuasion and ethnicity. She said he also made other statements that she felt were outrageous, inappropriate and cruel. She dreaded coming here tonight, but she believes that for good to prevail, one must expose bigotry, hatred, racism and sexism wherever it is found. She said two employees witnessed the verbal exchange. Selectman Massey asked who the two employees were and was told it was the Town Administrator and Executive Assistant. Chairman Cole indicated that Ms. Serino's accounting was taken out of context and that she, too, used some derogatory terms about nationalities, which she denied. Chairman Cole said their conversation, which he stopped short of calling lighthearted, covered a number of things, but he couldn't recall one of the accusations she made. He said the point he had tried to suggest to her was that they were a lot closer than she thought on certain issues, that derogatory representations were made on both sides, but not in a negative way. Ms. Serino denied using derogatory language.

Selectman Massey said unless the employees who heard it are willing to corroborate that both sides were involved, they are in a he-said-she-said situation, but if there's a modicum of truth, it does not speak well for the Town. Selectman Jasper said Selectman Cole just admitted to the charge--and it doesn't matter whether or not a private resident made those comments, or exhibited that behavior. He believed Ms. Serino, and they don't have a he-said-she-said situation, it's a she-said-he-agrees, he said-she disagrees and thought Chairman Cole should resign from the Board. Selectman Jasper, Chairman of the Legislative Ethics Committee, said if those comments had been made by a State Representative, the Committee would likely have recommended expulsion. This Board does not have the ability to remove Selectman Cole from office, unfortunately, but what was brought to the Board's attention tonight is not acceptable for a Selectman, and certainly not for a Chairman.

(Start of Tape 1, Second Side)

Selectman Massey moved to refer this to the Ethics Committee for censure of Chairman Cole and to investigate the charges and make appropriate recommendations. Selectman Jasper said he has reviewed the Code and the Ethics Committee has no jurisdiction relative to the remarks. They can, however, address the abuse of office in taking unauthorized action.

Selectman Massey asked to hear from the other two Selectmen. Selectman Seabury agreed with Selectman Jasper, saying that the Ethics Committee dealt mainly with financial-related issues. Selectman Jasper said that was correct, with the exception of the first charge, which the Ethics Committee could deal with. Selectman Seabury thought Ms. Serino was probably right, but they would have to find someone who heard what was said. Selectman Jasper said the Board has the ability to remove the Chairman from that position because he admitted to it and it is essential for someone in a public capacity not to have that type of conversation on any level. The Board has the ability, perhaps with legal counsel, to interview the witnesses under oath, without Chairman Cole being present, if the Board so wished, but it does place those employees in a very difficult place, particularly if Chairman Cole remains Chairman and exercises the authority which he has taken in many areas of governing the Town.

Selectman Massey thought the charges warranted legal counsel on how to proceed as this language was inappropriate for anyone, let alone a member of a governing board, which carries significant weight. It would be in the best interest of the Town to determine what occurred and what was warranted in terms of discipline or removal from office, but they need to follow due process before acting totally precipitously. He thanked Ms. Serino for her courage in bringing this information forward publicly.

Motion by Selectman Massey, seconded by Selectman Jasper, that the Board of Selectmen meet with Town Counsel and determine a course of action to be taken, to act upon the charge made by Ms. Serino tonight carried.

Selectman Jasper said he's heard it said that that if you're not afraid, it's not courage—and he applauded Ms. Serino's courage.

5. **CONSENT ITEMS**

Motion by Selectman Stewart, seconded by Selectman Massey, to receive the Consent Items, as appropriate, carried.

A. **Assessing Items**

- 1) 2003 Applications (15 Regina St, 5B Hedgerow Dr, 14 Wade Rd, 7 Sir Isaac Way, 130 Musquash Rd, 115 Barbara Lane, 11 Glover Brook Lane) w/recommendation to grant
- 2) Veteran's Tax Credit, 79 Pelham Rd, w/recommendation to grant
- 3) Elderly Exemption & Abatement, 1 Chapin St, w/recommendation to grant
- 4) Veteran's Credits & Abatements (3 Amanda Dr, 14 Gabrielle Dr, 9 Blackstone St) w/recommendation to grant

B. **Acceptance of Minutes**

- 1) Minutes of the February 17, 2004 BOS Workshop with the Fire Department (to file)
- 2) Minutes of the February 24, 2004 BOS Meeting (to file)

C. **Committee Announcements**

- 03/08/04 7:30 Monday--BOS Meeting in BOS Meeting Room
03/09/04 Tuesday, 7:00 a.m.--8:00 p.m. Voting @ Lions Hall

03/10/04 6:00 Benson's Committee in BOS Meeting Room
 03/10/04 7:00 Planning Board in CD Meeting Room
 03/11/04 7:30 Sewer Utility Committee in BOS Meeting Room
 03/11/04 7:30 ZBA in CD Meeting Room
 03/15/04 7:30 Conservation Commission in CD Meeting Room
 03/16/04 Noon-7:00 Blood Drive at Lions Hall
 03/18/04 7:30 Budget Committee in BOS Meeting Room
 03/23/04 7:30 BOS in BOS Meeting Room
 03/23/04 1:00 Trustees of the Trust Funds
 03/24/04 7:00 Planning Board in CD Meeting Room
 03/25/04 7:30 ZBA in CD Meeting Room
 03/30/04 10:00 Tax Relief Program at Lions Hall w/Assessor
 04/01/04 6:30 Regional Water District Committee in Bedford
 04/04/04 Daylight Savings Time begins
 04/05/04 7:00 Friends of Hudson's Natural Resources in CD Meeting Room
 04/06/04 7:30 Library Board of Trustees in Annex
 04/07/04 9:00 a.m. Highway Safety Committee in CD Meeting Room
 04/07/04 7:00 Planning Board Workshop in CD Meeting Room
 04/08/04 7:00 CIP in BOS Meeting Room
 04/08/04 7:30 ZBA in CD Meeting Room
 04/08/04 7:30 SUC in Community Development Department Offices
 04/13/04 7:30 BOS Meeting in BOS Meeting Room
 04/14/04 7:00 Planning Board in CD Meeting Room
 04/15/04 7:30 Budget Committee in BOS Meeting Room
 04/19/04 7:30 Conservation Commission in CD Meeting Room
 04/22/04 7:00 CIP in BOS Meeting Room
 04/22/04 7:30 ZBA in CD Meeting Room
 04/27/04 7:30 BOS in BOS Meeting Room
 04/28/04 7:00 Planning Board in CD Meeting Room
 04/29/04 7:00 CIP in BOS Meeting Room

6. NEW BUSINESS

A. Extension of Townwide Paving Contract

Road Agent Kevin Burns said Brox was offering an extension to the contract at the existing prices, which would mean three consecutive years without an increase in the Town's paving costs.

Motion by Selectman Stewart, seconded by Selectman Jasper, to extend the current Townwide Paving Contract with Brox Industries into fiscal year 2005 in an amount not to exceed \$350,000 carried.

B. Fire Department

1) Hammond Park/Firefighters' Memorial, Granite Sign

Fire Lt. Dave Morin distributed updated copies of the granite sign, which went from 6' to 4'. The Hudson Litchfield News has allowed them to use their picture of Leon Hammond, which will be etched into the stone. The lettering may or may not be gold-leafed. He will talk with Mr. Hammond's family before they go forward with things. The price is \$5,450 without the gold leaf; with, \$5,830. They have about \$3,500 and will continue fundraising until they have the full amount. The next step is the Planning Board process.

Motion by Selectman Jasper, seconded by Selectman Stewart, to approve the new version of the design, either with or without the gold leaf, whatever the fundraising will allow. carried.

2) Use of Lions Hall for Hudson Firefighters' Ball

Lt. Dave Morin said this Firefighters' Ball, scheduled for May 22 at Lions Hall, will be the first in seven years. It will not be a fundraiser. The tickets will be for the exact price of the cost, but they are asking for the \$200 rental fee to be waived. Selectman Jasper said he would vote in favor of the motion only because it was not a fundraising event. Otherwise, he'd have some questions and concerns with other issues.

Motion by Selectman Stewart, seconded by Selectman Jasper, to waive the fee for use of the hall carried.

3) Fire Department Trading Cards

Lt. Morin said they hope to have the proofs from Presstek within two weeks. As soon as they get the cards, they will get back to the Board.

C. **Donations**

From Nottingham West Lions Club, \$500 to the Fire Dept, \$250 to the Police Dept and \$250 to Animal Control

Motion by Selectman Stewart, seconded by Selectman Jasper, to accept the three donations, with the Board's appreciation, carried unanimously.

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

Selectman Terry Stewart extended best wishes to Steve and his wife in their travels and looks forward to seeing the pictures. Her prayers will be with them. She made the trip once, and it was an exciting event. She encouraged people to get out and vote because every vote counts.

Selectman Ken Massey wished the Malizias good luck and a safe journey in Russian. He said street sweeping has begun, which alternates yearly between the north and south ends. This year, they will start in the center of Town and work south. Relative to Glen Drive sewer, the Sewer Committee is meeting Thursday night, March 11 and people have the opportunity to be heard as the Committee acts upon the suggestions that were made at the public hearing on February 18. The Committee will make a recommendation to the Board of Selectmen on how to implement that sewer betterment district.

Relative to the Meadows property, last week the Planning Board voted to send an unfavorable recommendation to the ZBA with stipulations that, if the ZBA grants the wetlands special exception, they have to meet the stipulations forwarded by the Conservation Commission and, if granted, it has to be a bridge crossing, not dredge-and-fill. Selectman Jasper said the Planning Board has to be careful because the dry land they wish to cross is asbestos-filled and was capped with State funds. Selectman Massey said the Planning Board is on record as wanting to have EPA and any other agency's input, prior to any further action and, in particular, any issues relative to the disturbance of the asbestos-filled areas. If the project is approved, the Planning Board needs to know ahead of time what kind of stipulations need to be placed on the property prior to any work being done.

Selectman Shawn Jasper said it has been 20 years since he and Selectman Seabury left the Board of Selectmen, and here they are, leaving again. His quote in the paper was, "Twenty years ago, it was a calm end to a fiery past." This ends up being a fiery end to a somewhat turbulent past. It's good to take a break from something when you've been at it for a long period of time. The direction in which this Board is moving is unacceptable to him. Feeling ineffective, he felt it best to depart. The type of activity that was brought to light tonight is what brought him to that conclusion. Coming events might show he left a little too soon and there might be a change in direction, but it's for the best to have new faces and new ideas into the mix. He loves the Town of Hudson, loves serving, and he plans to continue, as long as the voters allow him to do so. He wished everyone good luck.

Selectman Ann Seabury asked what advice the attorney give the Conservation Commission about recommendations on wetlands special exceptions. Selectman Massey said the attorney will be meeting with them on the 15th but it is within their realm to send an unfavorable recommendation to the ZBA and, if they do, they can add stipulations, should the ZBA grant the special exception. She didn't want the Selectmen remaining on the Board to sell any Town land.

(Start Tape 2, Side A)

There was a wonderful piece in the paper about the Library, which is a very important facility. She hoped everyone supports it. Relative to the Nadeau land, she agreed with the two members of the Conservation Commission that spoke during Public Input. At Candidates Night, people were saying the Selectmen should be pro-active. Now that they have that opportunity, only two Selectmen support it. It's something that won't cost the taxpayers any money and will come back to the Board to decide whether or not to buy it. She has pushed the people who have called her toward voting for that article.

Continuing, she thanked the people who have thanked her for her years of service to the Town. She enjoyed it and it was a labor of love, but looks like she is still going to be busy if she is elected to the Board of Ethics. She made the following motion:

Motion by Selectman Seabury, seconded by Selectman Jasper, that the Board of Selectmen put a policy in place on the policy and procedures in regard to the use of the cable, to be done within 30 days.

She felt bad for the members of the Conservation Commission, a committee appointed by the Board of Selectmen. She hoped the Board would support and respect them. They should have had an opportunity to put this before the public; she hadn't realized that a policy was needed for that. Selectman Jasper said, apparently, it is important to have a policy, something he never gave much thought to because the system had operated without any assistance from the Board. He suggested the policy be developed by the Town Administrator, in consultation with the Cable Committee. Other towns probably have policies that they could borrow from.

Selectman Massey said what has fallen through the cracks is the three channels in Town should be used separately for three things: government channel, public/community information, and school. Currently, everything is run simultaneously on all three channels. The money to run the cable comes from the franchise fee, so it is incumbent upon the Board to have a policy on how the governmental channel is used, but the community channel has the most need of being updated. The School Committee would decide how the education channel is used. The Cable Committee should be charged with making a proposal on how to implement those channels and to clearly differentiate between them. The community channel should

have a disclaimer that the content is not official Town information and isn't subject to the same restrictions as the government channel. Channel 22 should be used for the Selectmen's meetings and other Town board meetings. The School Board should be on Channel 21.

Chairman Cole said last Wednesday, he met with Coleman Kelly and asked him to sketch out the various options, with the goal of coming back to the Board with recommendations on April 13. At the very least, the Board needs to be educated on exactly what it is they have, how it should work relative to the FCC, what programming is currently running, what has been shown in the past, where it falls, etc., and to review the makeup of the Cable Committee. Possibly, they should include someone from the school side of the house as a member. Selectman Seabury asked if there would be a public hearing on the proposal. Chairman Cole said not at this stage, that it was just to educate the Board and for the Board to give guidance to Coleman and the Cable Committee, etc., on what they want to do in the future to avoid any difficulties in any of the three channels. They are beginning to move into an area where there may be more demand to use the channels and it behooves the Town to know exactly what can and can't be put on TV on any one of the three arenas. He asked Selectman Seabury if it was acceptable to her for Coleman to come back to the Board on April 13th for discussion and possibly to make recommendations. She said it was.

Vote: Motion carried.

Chairman William P. Cole said on 2/24/04 the Board authorized the Fire Chief to offer the position of Dispatcher to Warren Glenn, who has accepted, effective 3/14/04, at an hourly rate of \$13.10 in accordance with Firefighters' Union Local 3154.

Motion by Selectman Jasper, seconded by Selectman Stewart, to approve the raffle permit submitted by the Alvirne Bronco Boosters to benefit the track team. Raffle to be held on April 16, 2004 at the High School carried.

Chairman Cole reminded folks to vote tomorrow and on March 16, the blood drive is from noon-7:00, both at lions Hall. Relative to hiring a Fire Training Safety Officer, the Chief hopes to bring a recommendation to the Board on April 13.

Chairman Cole extended best wishes to Steve and his wife on their trip to Russia, then offered his best wishes to Selectmen Seabury and Jasper at tomorrow's elections. On behalf of the community, he thanked them for their service, saying that sometimes members may be at odds with each other, but it takes a special individual to be a Selectman, and both Shawn and Ann have demonstrated their special-ness in this regard. Successful Selectmen have been able to get past any one single issue and be involved in a variety of issues that face the Board in order to provide essential services to the community. Ann and Shawn have done an outstanding job over the years and undoubtedly will continue to do so in other capacities. As a Selectman, there is a good chance you are not going to be universally liked or agreed with, but you have to get used to that, to develop a thick skin and understand that what you do and the positions you represent are in the best interest of the Town, as you see it. Ann and Shawn have always had the best interest of the Town at heart. If you sign on to be loved, you've signed on to the wrong job. He thanked them for their service and wished them luck and if either decides to run for Selectman again, he would look upon that favorably. Selectman Jasper thanked the Chairman for the kind words--words they could agree on in terms of not making everyone happy.

Selectmen Stewart and Seabury presented Chairman Cole with a birthday cake and balloons, in recognition of his 60th birthday.

8. NONPUBLIC SESSION

..... Motion by Selectman Stewart, seconded by Selectman Jasper, to enter Nonpublic Session under RSA 91-A:3 II (a) ersonnel issues; (b) hiring of a public employee; (d) real estate issues; (e) pending claims or litigation carried 5-0 by roll call vote.

Following a brief recess, Nonpublic Session was entered into at 8:47 p.m., and was terminated at 9:13 p.m. The following motions were all made by Selectman Stewart, seconded by Selectman Jasper, and carried unanimously.

Motion to approve an abatement on property taxes for 52 Shadowbrook Dr, Map 177/Lot 5, recommended by the Town Assessor.

Motion to hire John Barbuti as Babe Ruth Baseball Director for the 2004 season, for the fee of \$600, effective 9 Mar 04; to hire John Hall as Men's Softball Director & Cindy Holton as Ladies Softball Director, for 2004 at \$500 each, effective 9 Mar 04; to hire Shawn O'Donaghue as Teen Basketball League Director for the 2004 season, effective 12 April 04, for \$750; and to hire Heather Murphy as the 2004 Summer Program Director, effective 2 June 04, for a fee of \$5,000.

9. ADJOURNMENT

Motion by Selectman Seabury, seconded by Selectman Stewart, to adjourn at 9:16 p.m. carried.

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

Kenneth J. Massey, Selectman

Richard J. Maddox, Selectman