

HUDSON, NH BOARD OF SELECTMEN
Minutes of the May 13, 2003 Meeting

1. **CALL TO ORDER** by Chairman William P. Cole at 7:30 p.m.
2. **PLEDGE OF ALLEGIANCE** was led by Selectman Shawn N. Jasper
3. **ATTENDANCE**

Selectmen: William P. Cole, Shawn N. Jasper, Ken Massey, Ann Seabury and Teresa Stewart

Staff/Others: Steve Malizia, Town Administrator; Priscilla Boisvert, Exec Asst; Atty. Mark Broth; David Yates, Rec Director; Frank Carpentino, Fire Chief; Shawn Murray, Asst. Fire Chief; Lt. Mickey Rudolph; Patti Laine; Steve Dube, Fire Prevention Officer; Steve Benton; Police Capt. Ray Mello; Police Capt. Bill Pease; Jana MacMillan, Animal Control Officer; Tom Sommers, Engineer; Bill Oleksak, Bldg. Inspector; Jim Michaud, Assessor; Brian Mason; Al Hopkins; Charlotte Schweiss; Tim Upham; Fred Giuffrida; Joyce Goodwin; Howard Dilworth, Jr; Ray Rowell; Leo Bernard; Mr. & Mrs. Bob Webber; Lt. Kevin Blinn; Ben Nadeau; Laurie Jasper; Lars Christiansen; Jean Serino; Len Lathrop, HLN; Anne Lundregan, TEL; Rita Savard, SUN

4. **PUBLIC INPUT**

Laurie Jasper, 83 Old Derry Road – Mrs. Jasper read the following prepared statement, in support of her husband, Call Fire Fighter Shawn N. Jasper, objecting to his release from the Call Force. (Copy on file.)

I find it unfortunate that I must come before this Board tonight, but in the interest of truth and justice, I feel compelled to do so. On tonight's agenda is the release of FF Jasper, brought forth by the Fire Chief, the culmination of his continuous, vindictive attempts to get rid of Shawn. I am here to request the Board truly looks at all the issues involved and does not allow the Fire Chief to succeed in his unabashed witch hunt. In April 2002, the Town of Hudson and Shawn Jasper reached a mediated agreement over the suspension of FF Jasper by the Fire Chief. This entire process cost the Town over \$14,000 and resulted in a one-page agreement, signed by Town Administrator Paul Sharon and Shawn Jasper. After his suspension, Shawn Jasper was reassigned by the Fire Chief to Company 3, after 19 years at Robinson Road, which violated the Town of Hudson Personnel Policy of non-reprisal, which states that the presentation of a grievance will not subject the employees to restraint, interference, discrimination, or any reprisal in the course of his or her employment with the Town. This transfer is a further distance and takes longer to drive and is a blatant retaliatory decision by the Fire Chief against Shawn Jasper. In fact, FF Jasper's evaluation states, "CFF Jasper was reassigned to Company 3 after receiving a suspension from the Department." Also, the Fire Chief originally suspended FF Jasper indefinitely, which violates Town Policy, yet no actions were taken on the Fire Chief by the Town Administrator, except to give him another chance to comply with the Town policy. The Fire Chief is also in violation of the Town's nepotism policy, which states that "immediate relatives will not be employed in regular full-time or regular part-time positions where: 1) one relative would have the authority to supervise, appoint, remove, discipline or evaluate the performance of the other." Shawn's Call Lieutenant at Company 3 is also her own sister's Lieutenant. The Fire Chief states, in writing, that one of the reasons for Shawn's reassignment, after 19 years at Robinson Road Station, has to do with his "working relationship with the employees at the Central Station. It was explained to him that he needed to develop and mend relationships with the employees at this station." This seems to be in direct conflict with the Fire Chief's 2001 annual report, in which he states that It must be clearly understood that the membership in the Department's Call Force comes with a commitment to serve the community; it is not a social club. Members must complete their training, maintain their skills, respond on calls for assistance, while trying to balance their personal and professional life. This is not an easy task for any of us. It takes a special type of person with a strong commitment to fill this role in this or any other organization." I submit to you that, based on this, the Fire Chief would not be able to be a Call Fire Fighter and he conflicts with his own words in order to attack Shawn. Another reason the Fire Chief has given for this transfer is that FF Jasper was only used as a driver at Company 1, which was not true, yet in his evaluation is now criticized by the Fire Chief for not becoming a qualified driver of apparatus at Central Station. It should be brought to the attention of the Board and the public that Shawn's Company 3 Lieutenant is not a qualified driver and, in fact, cannot drive the engines. Is it fair to attack one person while allowing the same behavior in others within the same company? Shawn is criticized in his evaluation for "...difficulty remembering the policies of the Department." However, the Fire Chief has consistently violated his own policies, as well as those of the Town. In fact, the HFD Policy Manual includes the Town of Hudson Personnel Policies within its sections. I refer specifically to the HFD Disciplinary Policy and Discipline Checklist. In the mediated agreement, it was determined that FF Jasper did not violate the chain of command and, further, that the Hudson Fire Department Administration recognized its obligations to abide by the HFD's rules and regulations in the administration of discipline. In his 2002 report, the Fire Chief states that the "employees of the department's Call Force need to focus on training and change their primary role from emergency responders to fire safety specialist and educators." Further, he said, "the employees of the Call Force continue to provide a valuable service to the community, but on a far less frequency than they have before." I would like to point out, at this time, as an aside, that in reading these reports I found numerous spelling and grammatical errors, which you should find unacceptable for a department with two secretaries. It is a fact that the Fire Chief has changed the calls which Call fire fighters can respond to, preventing them from responding to calls they were able to in the past. What I find most disturbing is that the Fire Chief is being allowed to continue his vindictive, spiteful attack on Shawn, and he is continually allowed to violate Town and Fire Department policies. His personnel file should be full of violations, setting up the logical and long-overdue outcome of the removal of the Fire Chief. Once again, as I did on May 28, 2002, I submit to the Board a citizen complaint against the Fire Chief for numerous, documented policy violations. CFF Jasper is a life-long resident of Hudson, who continually works hard for the Town he loves. As his wife, I know better than most that he has always taken his job as a Call Fire Fighter seriously, responding to calls 24 hours a day, seven days a week, regardless of weather, holidays, or family plans. Sure, it has not always been easy and oftentimes is inconvenient, but a look back at his record is proof that he is a dedicated Call Fire Fighter who helps members of the community, as well as his fellow Call Fire Fighters and the full-time crews. In removing Shawn from Station One, the Fire Chief proves he does not care for the Town of Hudson and its residents. He doesn't even live in Hudson. In closing, it is my hope that the Board of Selectmen will be interested in the truth and not allow a tyrannical dictator to prevail in the 21st Century.

When Chairman Cole asked if anyone else in the audience wished to address the Board, there was no response.

5. NOMINATIONS AND APPOINTMENTS

A. **Building Board of Appeals** (1 Member, Term to expire 12/31/03) There were no applicants.

B. **Sewer Utility Committee** (1 Alternate, Term to expire 12/31/05)

Anne Engelhardt (Arrived late and was interviewed at that time.) Ms. Engelhardt said she has lived in Hudson since February and believes in contributing to the community in which she lives.

Motion by Selectman Jasper, seconded by Selectman Seabury, to appoint Anne Engelhardt as the Sewer Utility Committee alternate, with a term to expire 12/31/05, carried unanimously.

C. **Trustee of the Trust Funds** (1 Member to fill unexpired term until the March 2004 elections)

- 1) **Gerald Dearborn** was not present.
- 2) **Alton Hopkins** withdrew, since there was another applicant.

6. CONSENT ITEMS

Selectman Massey removed B and D-1; Selectman Stewart removed D-5; Selectman Jasper removed A-5, 6 & 7.

Motion by Selectman Jasper, seconded by Selectman Massey, to accept Consent Items A-1, 3, 4, 8, 9, 10, 11 & 12; C; D2, 3 & 4; and E, carried unanimously.

A. **Assessing Items**

- 1) 2002 Abatement Application, 18 Rena Avenue, w/recommendation to approve.
- 2) ~~Abatement Application, 220 Lowell Road~~ (Removed by the Assessor.)
- 3) Charitable Exemption Request, Hitchcock Clinic, 321 Derry Road, w/recommendation to deny.
- 4) Charitable Exemption Requests, w/recommendation to grant. (American Legion Post 48; Kiwanis Club of Hudson; Hudson Memorial VFW Post 5791; The PLUS Company; Hudson Congregation of Jehovah's Witness; Bethel Baptist Church; Roman Catholic Bishop of Manchester; Sisters of Presentation of Mary; First Baptist Church; Calvary Assembly of God; United Pentecostal Church and Parsonage; Community Church of Hudson; Oblate Retreat House; Wattanick Grange)

5) **Current Use Lien Release, Map 41/Lot 7, Noury Investments LLC**

Motion by Selectman Jasper, seconded by Selectman Massey to approve, as recommended by the Assessor, carried unanimously.
Selectman Jasper noted that with this, \$25,800 will go into the fund to purchase development rights.

6) **Current Use Lien Release, Map 25/Lots 25, 25-11, 25-13, 25-15, 25-17, 25-19, 25-21, 25-23, 25-25, 25-27, Greenleaf Estates, 176R Highland Street LLC**

Motion by Selectman Jasper, seconded by Selectman Stewart, to approve, as recommended by the Assessor, carried unanimously.
Selectman Jasper noted that with the approval of this, \$85,500 will go into the fund to purchase development rights.

7) **Current Use Lien Release, Map 41/Lot 11, Volume Inc.**

Motion by Selectman Jasper, seconded by Selectman Stewart, to approve, as recommended by the Assessor, carried unanimously.
Selectman Jasper noted that with the approval of this, \$9,900 will go into the fund to purchase development rights.

- 8) Disabled Tax Deferral Application, 7 Alpha Street
- 9) Yield Tax Warrants, Map 033/Lot 039/Sublot 001
- 10) Yield Tax Warrants, Map 009/Lot 068 and Map 019/Lot 016
- 11) Application for Veteran's Tax Credit, 2 Glasgow Circle, Map 024/Lot 039/Sub 040
- 12) Applications for Elderly Exemption, 327 Fox Hollow Drive, 6 Elaine Street, 29 A Street, 323 Abbott Farm Lane, 140 Melendy Road

B. **Minutes of the Board of Selectmen's Meeting of April 22, 2003**

Selectman Massey referred to Page 4, 3rd line down in the 2nd paragraph, changing "from" to "to."

Motion by Selectman Massey, seconded by Selectman Jasper, to accept the amended Minutes carried 5-0.

C. **Sewer Utility Items**

- 1) Request for Sewer Allocation, 45 Derry Road, Map 55/Lot 66 w/recommendation to approve.
- 2) Request for Sewer Allocation, 11 Melendy Road, Map 48/Lot 99, w/recommendation to approve.

D. **Licenses & Permits**

1. **Block Party Permit for Michael Girouard on Richman Road, June 7 from 9 a.m. – 11 p.m. w/a rain date of June 8**

Motion by Selectman Massey, seconded by Selectman Jasper, that Mr. Girouard meet with a representative from the Police Department

if the street is going to be blocked off, as recommended by the Chief of Police, carried unanimously.

Motion by Selectman Jasper, seconded by Selectman Stewart, to approve the permit, as amended, carried unanimously.

2. Raffle Permit for Chiropractic Works to hold a fundraiser to benefit Big Brothers and Big Sisters of Nashua, at Brook Plaza on Lowell Road on May 17, 2003.
3. Raffle Permit for the Nashua Center for the Multiple Handicapped, Inc., to hold a fundraiser from May 19-May 22, 2003 at the World Cup Golf Center to benefit the Nashua Center.
4. Outdoor Gathering Permit by the Alvirne High School Friends of Music to hold a Chili Cook-off Fundraiser at the Hills House on Derry Road on June 8, 2003.
5. **Speedway Permit**

Motion by Selectman Stewart, seconded by Selectman Massey, to conditionally approved the Hudson Speedway license to operate a motor vehicle race track, in accordance with Chapter 264 of the Hudson Town Code, in compliance with Police Chief Richard Gendron's memo of 14 April 2003, and upon completion of the items listed in the memos of Building Inspector Bill Oleksak and Fire Prevention Officer Steve Dube, dated 13 May 2003 and, further, that the license be signed by the Chairman of the Board of Selectmen by the end of the week, upon final inspection by the Building and Fire Departments.

Selectman Seabury thought that if the permit wasn't applied for by April 1, it wouldn't be considered and that if the site isn't used in a year, that use goes away. Chairman Cole said the application was late coming in, but the Fire Department and the Building Inspector have been out there on various occasions and came up with a list of deficiencies and have been working with the owners to get them resolved. Selectman Massey said the Town Code says that the license must be received by April 1; the Town didn't receive it until April 8. However, given that the applicant invested time and money in meeting the requirements of the license, it would be an injustice to say now that he can't have the license.

Selectman Jasper was concerned because if they dismiss one section of the Code, that opens the door to the possibility of dismissing any part they don't like. Selectman Massey said the applicant did not meet the ordinance requirement, but the Town, through the Fire and Building Departments, has engaged in activities with the applicant and the applicant has invested time and money in getting ready to open and it would be an injustice to not consider the application at this point. If they were to deny it, the Town should reimburse the applicant the monies invested. Selectman Jasper understood Selectman Massey's rationale, and agreed.

(Start Tape 1, Second Side)

Selectman Stewart asked Fire Prevention Officer Dube if the deep fat fryers and hood duct systems were corrected. Officer Dube said the owner indicated he would be removing the fryers and two griddles. The two liquid propane tanks have been removed already. Selectman Massey thought the fryers were being removed, period. Officer Dube said that was correct. Selectman Stewart didn't want to see this listed again next year. Chairman Cole said he wouldn't sign on behalf of the Board until all of the deficiencies have been resolved and he wants to see a laundry list of all of the deficiencies they started with and where they are with each one. He will be available to meet or talk with Mr. Dube or Mr. Oleksak, prior to signing the permit.

Vote: Motion carried 4-1. Selectman Seabury voted in opposition.

Motion by Selectman Jasper, seconded by Selectman Massey, that no inspection shall take place at the Hudson Speedway unless a permit has been applied for by March 1st of each year. It shall be the duty of the owners of the Hudson Speedway to schedule inspections with the Town of Hudson, prior to March 1st and that all deficiencies shall have been corrected prior to the permit being placed on the agenda for approval.

Selectman Jasper said the intent was that inspections be scheduled by March 1, but have not necessarily taken place. Given scheduling and needing to take care of deficiencies, anything less than a month would not be sufficient. All the owner has to do is get things scheduled by March 1 and have the permit in hand. If they go two weeks before the meeting, there isn't enough time to guarantee that the inspections and re-inspections can take place. Nothing has to happen physically before they come to the Board. In most months, they are talking about the last meeting of the Board being around the 20th or 24th.

Selectman Massey wondered if February 1st might be more appropriate. Selectman Jasper said Mr. Webber knows how far in advance he needs to schedule appointments, and the Town has been very responsive. In March, there is still snow on the ground and, often, it's going to be very tight to get in to do inspections. Someone may propose, in the future, that they be licensed by May 1st.

Vote: Motion carried 5-0.

Selectman Jasper said a copy of the previously adopted motion should be attached to this year's permit.

E. Committee Announcements Any changes or additions?

- 05/14 7:00 Planning Board in CD Meeting Room
- 05/15 7:30 Budget Committee in CD Meeting Room
- 05/19 6:30 School Board in BOS Meeting Room
- 05/19 7:30 Conservation Commission in CD Meeting Room
- 05/20 7:30 Library Trustees in Library Annex
- 05/21 7:00 Benson's Committee in BOS Meeting Room

05/22 7:00 CIP in BOS Meeting Room
 05/22 7:30 ZBA in CD Meeting Room
 05/26 Memorial Day Holiday—Town Hall closed
 05/27 1:00 Trustees of the Trust Funds
 05/27 7:30 BOS in BOS Meeting Room
 05/28 7:30 Planning Board in CD Meeting Room
 05/29 7:00 CIP in BOS Meeting Room

7. **OLD BUSINESS**

A. **Public Hearing on Animal Control Facility**

Police Capt. Ray Mello said the Planning Board approved the site plan, but had a couple of issues, including placing a dumpster on site, which he didn't think was necessary because there already is one close by behind the Police Station, and the planting of three trees behind the proposed facility for a buffer. Capt. Mello didn't think that was necessary, either, because there already was a forest 30' behind the building and the property line extends about 150' from behind the facility, so noise shouldn't be an issue. Planning Board liaison Selectman Massey said the Planning Board voted to send the plan to the Selectmen, with the recommendation that it be the official plan of record and that trees be planted and a trash receptacle be included.

Chairman Cole opened the Public Hearing at 8:20 p.m. and asked if anyone wished to speak.

Jean Serino, 118 Robinson Road, was glad to see this come to fruition. She thanked the people who raised money for this community project, including Ken Massey who advised her not to let that money go into the General Fund. He had the courage and integrity to stand up to people who wanted a dog pound. She praised the ACO, Jana MacMillan.

Regarding the issue with Call Fire Fighter Jasper, Ms. Serino said both Shawn and the Chief are good people. She wished there was less vindictiveness and bitterness between them because it can't lead to anything good, referring to a statement made by Mrs. Jasper. Ms. Serino hoped Shawn stayed, wishing everyone "peace and love."

There being no further speakers, Chairman Cole closed the hearing at 8:25 p.m.

Motion by Selectman Stewart, seconded by Selectman Massey, that the bid for the construction of the Animal Control Facility be awarded to Mason Bros. Construction Corp. in the amount of \$195,012, carried unanimously.

Motion by Selectman Jasper, seconded by Selectman Massey, to approve the site plan, as presented to the Planning Board, pursuant to RSA 674:54, with stipulations 1 & 2, as recommended by the Planning Board, carried unanimously.

B. **CIP Projects**

Staff made brief presentations and explained their projects in their respective areas:

- 1) **Recreation Center Expansion** (David Yates, Recreation Director)
- 2) **Community Development Department** (Tom Sommers, Engineer)
 - a) **102/West/Robinson Road**
 - b) **Water Storage, South Hudson**
 - c) **Water Storage, Barretts Hill**
- 3) **Police Department** (Capt. Bill Pease)
 - a) **Police Facility Expansion 2006**
- 4) **Combined Dispatch (Police and Fire)** (Fire Chief Carpentino; Police Capt. Bill Pease)

Chairman Cole said this would be on the next agenda, May 27, 2003, for an in-depth discussion. Minutes to be researched on the three-phase program, what each phase was to consist of.

- 5) **Fire Department** (Chief Carpentino)
 - a) **Water Tanker**
 - b) **Fire Station Project, Burns Hill**
- 6) **Library Expansion** (No one was present to speak on this.)

Motion by Selectman Stewart, seconded by Selectman Jasper, for a recess at 9:07 p.m. carried unanimously. The meeting resumed at 9:20 p.m.

C. **Legal Contract**

Chairman Cole said a couple of meetings ago, the Board voted to continue with the current law firm. The Board usually goes with a one-year contract, but this one came back as a two year contract.

Motion by Selectman Stewart, seconded by Selectman Massey, to enter into a contract for legal services with the law firm of Bossie, Kelly, Hodes, Buckley & Wilson for the period 1 July 2003 through 30 June 2005 for the terms as specified in the Contract of Employment dated 17 April 03, carried unanimously.

8. **NEW BUSINESS**A. **Listing of contacts with the Budget Committee**

Selectman Jasper said the morning after the last Board of Selectmen's meeting, he was surprised to receive an e-mail from Chairman Cole to the department heads, cc'd to the Board, of a policy that stated, "Effective May 1, request you provide a monthly listing of contacts with each member of the Budget Committee by your department in the following format... .. and please provide your submission to the Chairman of the Board of Selectmen." Selectman Jasper was disturbed because the Board had met the night before, and this wasn't discussed, even though the e-mail inferred that. When Chairman Cole was re-elected as Chairman, the Board discussed the fact that one Selectman does not have the authority to act on his own. He called the other members of the Board who agreed that this policy should be put on hold until it could be discussed. His concern wasn't the contents of the policy but the fact that it had been issued at all.

Chairman Cole said it was a request, not a policy and thought he was safe in saying the Board was in agreement with the Budget Committee's mission. Selectman Massey said it is wise for department heads to discuss things with Budget Committee members because the more united front the Selectmen and Budget Committee has, the better prepared they will be to defend things. If every little detail has to be reported, the department heads will be afraid to discuss things with the Budget Committee. If a report *is* generated, it should be to the full Board. Selectman Stewart said department heads should touch base with their liaisons, who could report that back to the full Board. Chairman Cole said the information he received would not stay just with him. Reporting to the liaisons is fine, but he didn't think Selectman Massey would be comfortable with that, either. Selectman Massey said if the liaison process is working the way it should, the department heads are going to be keeping their liaisons informed, so when they get into the budget, the liaison would be able to plead their case. It's unnecessary for department heads to document everything; that's too much paperwork.

Selectman Jasper said when a department head receives a request from the Chairman of the Board of Selectmen, that is not seen as optional. He felt that it was too much like Big Brother watching. They should have more faith in their department heads, give them some flexibility and not make them feel there is an adversarial relationship between the Budget Committee and Board of Selectmen. The policy is ill-advised and should not go into effect.

Selectman Seabury said the Chairman attended all of the Budget Committee meetings last year and probably saw an advantage of knowing what type of information the Budget Committee was asking for. Several members of the Budget Committee contacted her, apprehensive that, because of this request, the department heads may be reluctant to meet with them. She understood the reason behind the request, but thought it was the wrong venue.

Selectman Massey concurred with Selectman Stewart's suggestion, that information should be funneled through the liaisons, who should be able to make the case at Town Meeting to get those items passed. The Selectmen have a responsibility to work with the departments in a manner that gives meaning to the job.

Chairman Cole said the request was looked upon as a joint effort between the Board of Selectmen and the Budget Committee, and then he recognized the Chairman of the Budget Committee, Charlotte Schweiss, and asked if she had any comments. Ms. Schweiss said she, the Vice-Chair and Clerk all had thought the email was from the entire Board of Selectmen. When she found out that the other Selectmen didn't know anything about it, she thought that was strange because Town boards should work as a unit. The Budget Committee hasn't discussed it yet because they were waiting for the outcome of this meeting, but they will continue to visit departments, check things out and ask questions because that is part of their mission. If the Selectmen want the department heads to submit monthly reports, that is their prerogative. She recalled a speech the Chairman gave at Town Meeting that the Budget Committee tends to ask for too much information, which puts a burden on department heads. Generating a report would put another burden on them. Her concern was that the Chairman made a unilateral decision without discussing it with the others.

Chairman Cole asked if anyone had any guidance for him. Selectman Jasper said if department heads feel a visit with the Budget Committee was significant enough to report, they should do so, but it shouldn't be a requirement. Chairman Cole said he intends to send that email out again tomorrow morning, unless the Board votes for something else.

Motion by Selectman Jasper, seconded by Selectman Massey, that department heads not be required to provide the Chairman or the Board or Selectmen with a list of contacts with the Budget Committee carried 5-0.

Chairman Cole said he'd take the vote under consideration as to what he is going to do in the best interest of the Town because the motion said they weren't interested in knowing anything that's going on—and he didn't think that's what Selectman Jasper meant to say. Selectman Jasper said the motion was very clear. Chairman Cole said, as the Chairman, he would consider it from his perspective and whatever action he takes, he's sure the Board will respond appropriately.

B. **Award of Bid for the 2003 Pavement Marking Project**

Motion by Selectman Stewart, seconded by Selectman Massey, that the bid for the FY2004 Pavement Marking Program be awarded to (the low bidder) L & D Safety Marking, in the amount of \$0.0185 per linear ft. of yellow and \$.02 per linear ft. of white, for a total of \$17,352.50 carried unanimously.

C. ~~**Request by Hudson Police Explorer Post 320 to rent Lions Hall on May 16, 2003 for a Dance**~~

This item was removed from the agenda at the request of Sgt. Bianchi.

D. **Request by IAFF Local 3154 to hold Three Boot Drives this Year**

Steve Benton, Vice President of Local 3154, was recognized and said he was requesting permission to conduct three fundraising boot drives for Muscular Dystrophy. Last year, they raised over \$17,000 all of which went to the State MDA. In six years, they've raised over \$70,000.

(Start Tape 3, Side A)

For raising so much money during their boot drives, they received a special plaque from the district office that featured a bottle of Tabasco Sauce, because Local 3154 is such hot stuff. In the last six years, they have been the highest local in the State for collecting money. He thanked the Board for authorizing this fundraising event in the past, and a variety of others for their time, effort and participation to help make this fundraiser such a financial success.

Motion by Selectman Stewart, seconded by Selectman Seabury, to approve the Fill the Boot drives for 28 June 03, 19 July 03 and 23 August 03 at the intersection of Derry, Chase and Ferry Streets, carried unanimously.

E. Public Hearing on Receipt of a \$1,000 Donation from Wal*Mart to the Police Department for digital cameras for the Police Cruisers

Chairman Cole opened the Public Hearing at 9:45 p.m. and asked if anyone wished to speak. There was no response, so he closed the hearing.

Motion by Selectman Massey, seconded by Selectman Stewart, to accept the \$1,000 donation, with the Board's appreciation, carried unanimously.

Selectman Massey said Wal*Mart deserved a special thank you because, although they sell digital cameras in their store, this donation was not earmarked to buy cameras specifically from them.

F. Request to purchase Town-owned Land, Map 002/Lot 0013, 92 River Road

Town Administrator Malizia said the Town has had two other opportunities to sell this land and, both times, the Board opted to retain ownership as a buffer for the neighbors in that area.

Motion by Selectman Jasper, seconded by Selectman Stewart, that the Town retains ownership of the parcel located at 92 River Road, Map 002/Lot 0013, as recommended by the Town Administrator, carried unanimously.

G. Request to purchase Town-owned Land, Map 2/Lot 20, Winslow Farm Road and Joan Avenue

Town Administrator Malizia said this is a 12-acre lot in the southern part of Town, for which the Rec Director thought there might be some possible future recreational use. They will also explore the option of putting a water tower on that land, although he didn't think it had the necessary elevation. Selectman Massey didn't think the parcel lent itself to be used for recreational purposes because the area was so thickly settled, but given the fact that it might be considered for locating a water storage tank there, he was in favor of retaining the land. Selectman Seabury thought someone had requested this parcel already so they could put in some houses, and that request was denied. She thinks it is more cost effective to keep open land than to sell it and have houses built that will add a tremendous burden to the taxpayers.

Motion by Selectman Massey, seconded by Selectman Jasper, that the Town retains ownership of the parcel located at Map 2/Lot 20, as recommended by the Town Administrator, carried unanimously.

H. Release of Call Fire Fighter

Chairman Cole stated that in Fire Chief Carpentino's letter, dated 18 April 2003, Call Firefighter Shawn Jasper was notified on 21 April 2003 of the Fire Department's intention to recommend his release from the Call Force to the Board of Selectmen at its 13 May 2003 meeting. Call Firefighter Jasper requested that hearing be conducted in Public Session.

Selectman Jasper said when Call Fire Fighter Jasper was disciplined over a year ago, he had legal representation, and so informed the Town. That ended up in a great expense to him and to the Town. This time, Call Fire Fighter Jasper did not hire legal representation, but *Selectman Jasper* and three other members of the Board found out just this evening that the Town hired legal representation. The Town Administrator didn't know about it until today. The Town has a policy for legal requests that has to be signed off on. Some weeks ago, he spoke to the board about ethics and for the Town to be spending money tonight, and has already spent to terminate a Call Fire Fighter, is unethical, particularly when the governing body and the Town Administrator are not aware of the expense being incurred. It would be appropriate for the Board to dismiss the attorney tonight and to let the two sides battle it out with no cost to the Town or the individual involved. With that, he recused himself and sat in the audience at 9:55 p.m. Selectman Seabury asked if the legal request procedure was followed. Mr. Malizia said a form wasn't filled out, with he and the Chairman saying either the Town Administrator or the Chairman is authorized to sign it. Chairman Cole said he was asked if he thought it was in the best interest of the Town to have the attorney present and if he would authorize it, and he did.

Selectman Massey said if the attorney was going to be present, it was incumbent upon them to notify the Call Fire Fighter in question, who may now be at a disadvantage. Chairman Cole said Attorney Broth was present to represent the interests of the Town and, if required, to add clarification with regard to policies, procedures, etc.

Selectman Massey moved to defer this case until the 27th of May so that if the Call Fire Fighter in question desires to have legal counsel present, he may do so, seconded by Selectman Seabury. Selectman Massey said this was in fairness to the individual, especially given the severity of what is being contemplated. The Chair recognized Fire Fighter Jasper, who said he appreciated the motion, but he was not going to expend funds on this and, at this point, he did not wish to put himself or his family through an extension of this process. He deferred to the good judgement of the Board in considering the process that has taken place in their deliberations. He wanted this resolved tonight, if possible. Selectman Massey withdrew his motion; Selectman Seabury withdrew her second.

Chairman Cole said the Board would take comment from the Fire Department's Administration in support of the recommendation to release Call Fire Fighter Jasper, then they would take comment from Call Fire Fighter Jasper. At any time, the Board members may ask questions for clarification. Unless there was opposition by the majority of Board members, the Selectmen's deliberations would be conducted during their Nonpublic Session, with any decision being rendered in public. Selectman Massey asked if the only people who would be speaking tonight were the representatives of both sides. Chairman Cole said yes, and the only questions taken will be those asked by the Board of Selectmen. There will

be no cross-examination between the parties. Selectman Massey asked if the Chair would allow someone in the audience, who wished to speak, to do so. Chairman Cole said he would take it under consideration.

Assistant Chief Murray read a lengthy prepared message, outlining the reasons for recommending the termination of Call Fire Fighter Jasper, adding that five others received the same recommendation, following their review. The request to terminate was the result of CFF Jasper's failure and refusal to abide by the Fire Department's rules and regulations, which led to the charge of insubordination; insubordination was when an employee has received an order, understood it and willfully refused to obey it. AC Murray said CFF Jasper significantly reduced his involvement so the Department can no longer rely on him to respond to calls on a regular basis. The following list briefly outlines the Fire Department's justification to terminate CFF Jasper:

- 1) CFF Jasper joined the force in 1983, assigned to Robinson Road Station until 2002, and was reassigned to Central Station to provide him training opportunities and because the personnel mix at Robinson Road had declining morale, leading to declining effectiveness. Throughout his employment, CFF Jasper did not progress in rank.
- 2) Since his reassignment to Central Station, CFF Jasper's level of activity and participation in Fire Department activities markedly declined.
- 3) In December 2002, CFF Jasper initiated a self-imposed boycott of responding to calls, which he said was for concerns of his safety because of alleged threats by other members of the Fire Department.
- 4) On December 9, 2002 CFF Jasper did not respond to a call, and then a second incident call, because he was at a Historical Society Meeting and then at a budget meeting, even though he knew the station needed coverage. CFF Jasper has stated that coming to the station was not a good use of his time.
- 5) On one occasion, CFF Jasper was in Lt. Rudolph's office when a call came in, and he chose not to respond.
- 6) CFF Jasper refused to complete driver training on apparatus at Central Station, saying it wasn't necessary.
- 7) CFF Jasper routinely failed to check his e-mails and other correspondence as he is required to do, which are distributed regularly to apprise personnel of information, including changes in policy, rules and/or procedures.

(Start Tape 3, Second Side)

- 8) CFF Jasper was not filling out time cards for his attendance at training and calls, which places the department at risk of violating State and Federal Labor Laws.
- 9) On April 11, 2002, CFF Jasper signed an agreement to accept a 15-day unpaid suspension, imposed as a result of insubordination. The agreement states the chain of command is to be followed, but CFF Jasper violated that via comments made at Board of Selectmen meetings, to local media and in writing to the Board of Selectmen.

AC Murray said the recommendation of termination must be upheld in order to preserve the organizational structure, morale and disciplinary process of the Fire Department. There is additional information dating back to 1997 that documents issues relative to CFF Jasper's failure to use the chain of command: In February 1997, Failure to Comply letter due to failure to return a written survey; June 1998, Failure to Comply letter on failure to follow the orders of a superior; September 1998, Comments on evaluation re. use of chain of command; July 2000, Comments on evaluation re. use of chain of command; September 2001, Record of Communication addressing the need to use the chain of command and warning to CFF Jasper that further incidents that violate rules, regs, policies and procedures will result in disciplinary action; January 2002, 15 day suspension for insubordination.

The Fire Department recognizes the time that CFF Jasper has given to the department. However, when the ability of the Fire Department to maintain morale, foster positive, harmonious working relationships, and maintain positive perceptions of the Fire Department is compromised, it is necessary to make recommendations to terminate personnel for the betterment of the organization.

Selectman Massey said Item 2 states that CFF Jasper has only recorded 2.25 hours in responses and 1.5 hours in training. He asked how many hours were available to respond to. AC Murray said from 12/1/02 to 4/18/03, Engine 3, what CFF Jasper is assigned to, responded about 95 times during that time period. The potential for CFF Jasper to respond would be based on when there was a full tone for him to come in and cover. Given that, there was potentially 40 hours for CFF Jasper to come in to cover the station. Selectman Massey asked if there was a minimum amount of hours for training that the HFD's policies mandate. AC Murray said it's a percentage of the total amount of training conducted in a year. Selectman Massey asked if the 1.5 hours represented how much of the total training that was available. AC Murray said the Call Fire Fighters are offered training four times a month, at a minimum—two fire trainings and two EMS trainings. He hasn't calculated out what percentage that 1.5 hours represents, but from January to April, four months offers 16 potential trainings.

Selectman Massey asked how CFF Jasper's self-imposed boycott of responding to calls was communicated to the Fire Department. AC Murray said when an employee responds in for a call, they are expected to put their time on a card, or sign in with the dispatcher, and that's how they log their participation. Selectman Massey said the Fire Department was inferring that CFF Jasper was boycotting, not that CFF Jasper specifically told that to the Fire Department. AC Murray said there was a period of time that CFF Jasper said he feared for his safety and was not going to come in for calls. He read the following excerpt from a e-mail memo to CFF Jasper from Acting Lt. Michelle Rudolph, dated 3/7/02, re Response Status. "On Friday, February 22, I placed a call to you regarding some on-going issues. You had previously stated that you and your wife had an agreement that you would not be responding to calls. At that time, you could not give me any time frame for when you would respond to calls." Selectman Massey said that response was sufficient.

Selectman Stewart had a copy of CFF Jasper's evaluation dated February 14, 2003 by Chief Carpentino. It said that CFF Jasper attended 73% of his required training during the year, responded to 46 calls for assistance since February 02. She asked if the 73% was from February 02 to February 03. Also, Item 2 states that CFF Jasper only did 1.5 hours training and wondered how that related to attending 73% of training. AC

Murray said the 73% was for the previous year, from February 02 to December 02, as was his response to 46 calls. The training after that occurred in 2003. Selectman Stewart asked how many total calls went out to CFF Jasper that he responded to 46. AC Murray didn't have that figure, but he had statistics that showed a steady decline from September 2000 to December 31, 2002.

Selectman Massey asked AC Murray to clarify what he meant by his statement CFF Jasper's comments during recent public sessions of the Board of Selectman meetings... are in clear violation of the Department's chain of command procedures and the agreement that he signed in April 2002," and how they related to the request to terminate. AC Murray said the policies and procedures outline the procedure to take place to bring complaints forward. In the Board of Selectmen's public session, he made a public statement about his pending termination without going through the chain of command, or at least the advise the administration that he was going to do so. Selectman Massey asked if that was a one-time thing. AC Murray said no, there are other instances. In an e-mail from Chief Carpentino, sent on March 3, 2003 to AC Murray and Lt. Rudolph, with the subject being CFF Jasper. He quoted, "Last Monday, I received a telephone call from Rhona Charbonneau, regarding a fire prevention item. After we completed discussing the item, Rhona asked me what was going on with CFF Shawn Jasper and was I requesting to release him from the Call Force. Rhona stated that she had received an e-mail from Selectman Terry Stewart regarding the item. After speaking with Rhona, I sent out an e-mail to Bill Cole and Paul Sharon regarding this item. Paul Sharon returned a message stating that he already had a long, one-way conversation with CFF Jasper regarding this item. Paul also stated that he felt CFF Jasper had also spoken to Selectman Stewart about this item, as well. Both of these items are clear violations of the Department's chain of command and Rule and Regulation #17. CFF Jasper does not know about both of these items and appears as he has chosen not to follow them." Selectman Massey asked AC Murray to be more specific about how CFF Jasper violated the chain of command in that instance, what the subject matter was and why, when he brought it up to a Selectman or then-Administrator Paul Sharon, it was outside the chain of command. AC Murray said an evaluation had been completed and a recommendation in the evaluation was to go forward to the Board of Selectmen for termination. Before Selectman Jasper even formed any appeal, or discussed it with the Fire Department, he chose to go to the Town Administrator. He asked if the Fire Department policies say that if they have a disciplinary action pending that the first step is to grieve the action within the Fire Department and, if in this instance, that policy was not followed. AC Murray said yes, there are specific steps to follow when a grievance is initiated, and there are rules and regulations outlining the process. There is also evidence that when Lt. Rudolph reviewed CFF Jasper's evaluation with him, she clearly stated to him that if he had and concerns or issues about any portion of the review, he could take them through the chain of command for discussion. He read from Rules and Regulations, #17, "Nomember, either verbally or in writing, shall directly or indirectly present any correspondence, complaint or grievance to the Town Administrator, Board of Selectmen, or any other elected or appointed official relative to the business operations or affairs of the Fire Department without first having presented such grievance or complaint in writing to the Fire Chief."

Selectman Stewart asked if AC Murray had FF Jasper's hours in training for the year December 01- March 02. AC Murray asked if she'd accept January 02 – March 31, 02; Selectman Stewart said she would. AC Murray said his call back hours were 8.75; his fire training hours were 6.5. From January 1, 2001 to March 31, 2001, his call back hours were 75.25 hours; his fire training was 9.25 hours.

Motion by Selectman Massey, seconded by Selectman Stewart, to recess at 10:40 p.m. carried unanimously. The meeting was called back to order at 10:45 p.m.

(Start Tape 4, Side A)

CFF Jasper responded to the charges outlined by AC Murray.

CFF Jasper said that if everything said about him tonight was accurate, then he should be terminated from the Fire Department, but it is not. April 18 was not the first time he was told that he was going to be dismissed from the department. The Chief's document dated February 14th from the Chief recommended CFF Jasper's termination, but it did not offer any leeway, or suggest talking to work out a solution. Almost everything he is being faulted for occurred in that window of time from February 14 to April 18 when he was taking actions he thought was appropriate to keep himself from being terminated. He said AC Murray said there was an opportunity for training four times a month. Each Call fire fighter is required to go to one one-hour training a month. They have to go to eight training sessions a year. If you are not an EMT, there is no requirement to go to EMS training.

CFF Jasper said the Board should ask to see a copy of the e-mail, from February 02, not February 03, that AC Murray referred to that supposedly documented his saying he would not respond. That was when his wife had serious concerns about him going back to work, and he agreed that he wouldn't respond to calls until she became comfortable with his returning to work. Relative to Item 1, where the Chief spoke to the need to change the employee mix at Robinson Road, which had become stagnant and had declining morale and effectiveness, that was simply not true. The Chief was talking about Robinson Station as it was in January and February of 02. CFF Jasper said all you need to do is go to the Minutes of the 2002 Town Meeting, where the Fire Chief, when asked about manning Robinson Road, spoke about how effective it was, what a good group there was there and how well they were doing—totally opposite of what the Board was told tonight. Most of the people that were there in 02 had been on the department one to two years—hardly a stagnant group.

Continuing, CFF Jasper referred to Item 3, relative to his initiating a self-imposed boycott, was not true. In early 2002, he had some concerns about his safety, but he never refused to respond to a call when he was available. This is why the rating period covers a calendar year, clearly outlined in the policies. The Lieutenants are to review the employees' performance every quarter and make recommendations for areas of improvement. In January, February and March, as he explained to his Lt., he had just gone back to the Legislature and those were going to be his busiest months; he was not going to be available a lot of time. In addition, it was a very snowy winter and he was either plowing or shoveling and he couldn't leave his business. Also, his wife had her tonsils out and that prevented him from responding for about two weeks. He also had to deal with empty apartments and frozen sewer pipes. When he was toned, it was times when he was doing something he couldn't leave. CFF Jasper said he did not attempt to justify his refusal to respond to calls on threats of his safety. He was concerned about that, but at no time did it ever come down to his staying at home and not going on a call. He was just not available.

Relative to the Historical Society meeting he was at, CFF Jasper said the statement in the memo is false. By the time he got here, the call was under control. A Call fire fighter cannot always put the Fire Department first and he cannot always put the best interests of the Fire Department first. He has never said coming to the fire station wasn't a good use of his time. What he had said was that he now has to decide what is the best use of his time because of the further distance to Central Station. By the time he hits Highland Street, every truck is signed on and before he hits

Ferry Street, the station is covered. He has to justify leaving his job versus standing by in the station. He has spent half of his career standing by at Robinson Road Station, but there were trucks and a possibility of use. He has to make those decisions in his best interest. He said Mr. Giuffrida was present during the discussion he mentioned and would testify on his behalf.

Item 6, relative to driving, CFF Jasper said that the statement, "...his refusal to train was jeopardizing his status as a member of the Call force," was absolutely false, and Mr. Giuffrida can attest to that, too. CFF Jasper said he made it clear to the Chief that he needs to train in a manner that is going to be consistent. He would not be comfortable driving a truck once or twice a year in an emergency situation. At Robinson Road, he was on the truck hundreds of times a year. The Chief said he wouldn't force CFF Jasper to become a driver if he didn't want to be. As to the e-mails, that policy was only put in place this January, right in the middle of the period of time when he was having the worst time of his life. His password wasn't operable; he didn't even know how to use the system. He wasn't required to check e-mails. When he was at Robinson Road, the system didn't work half the time, so he just gave up on it because he felt that if it was important, it would be posted someplace. When the policy went into effect, he sent a copy to his Lt. on March 30, saying he'd gone to see John Sauter and Torrey and got a new password. Since that time, he has been logging in every week. He was informed of the policy by his Lt. on March 25. As soon as he was told, he complied. Relative to time sheets, he never failed to fill out a time card at a fire call. There were two trainings that he did not. The first one was February 20, when his Lt. informed him he was going to be terminated. That night he just forgot about filling out the time card. He wondered why the Town should have to pay him for training that he is not going to use. It didn't seem like a big deal to him and, morally and ethically, it didn't seem right. His understanding was that attendance at training sessions was kept track of by whomever does the training via the training sheets.

CFF Jasper doesn't believe he has violated the Department Rules and Regulations. The chain of command is Admin 41, and stops at the Fire Chief. The Town Administrator and the Board of Selectmen are outside of the chain of command. He spoke to the Board and Town Administrator about his personal situation—which does not fall in the category of business operations or affairs. The Town Administrator administrates the Town's Personnel Policies, so when he has a question about Town policies, he goes to the Town Administrator. In terms of termination, there wasn't anything to talk to the Chief about, so he went to the Board and to the Town Administrator. He chose not to grieve this this time. The letter in the Hudson Heat and HLN that bashed him contained personal things and inaccuracies. At that time, he was told that a person has a Constitutional right to do those things, so does he have fewer rights when it's about what is happening to him?

Relative to a quote credited to CFF Jasper in the memo which says, "At Company 3, there is no team. I would question how one becomes part of a team that does not exist," he said that was in a document to the Chief. Company 3 learned about it only if the Chief waved it around to them, or by hearing it tonight. That statement was taken out of context. He was explaining to the Chief, who had told CFF Jasper that he didn't understand teamwork, that there was teamwork at Robinson Road. Every Sunday, they trained together; they had coffee and donuts together; their families got together occasionally for sporting events; they socialized together; they had schedules. At Company 3, there is no structure and they have never gotten together.

Relative to the Failure to Comply letter for failure to return a written survey in February of 1997, he is a busy person and simply forget he had the survey. He had apologized for forgetting about it, and turned it in late. In June 1998 he received a Failure to Comply letter for failure to follow the orders of a superior. That was a relatively minor situation, and it wouldn't serve any purpose to go into it. September 1998—evaluation comments on use of chain of command. There wasn't even a policy on the chain of command until May 2002, which was finally admitted in the agreement he signed during his suspension.

At this point, CFF Jasper read his prepared text. (Abridged version follows; full copy on file.)

CFF Jasper made reference to quotes in his evaluations from 1998 – 2002, in which he was praised and commended for his high response to calls in Company 1. He still wants to serve and believes he has been an asset to the Town as a Call Fire Fighter. He listed many organizations he was involved with, including State and Town government, and on which he served and serves in leadership roles, which belies the allegation that he has little sense of teamwork and lacks the ability to get along with his peers and supervisors. Given his overall performance, perhaps *he* is not the problem. In his February 2003 evaluation, the Chief recommended his termination and CFF Jasper responded in writing and, to date, hasn't received a response to any of the issues he raised in those two letters. The Department's policy on evaluations states they will not be used as a disciplinary tool. In the Town Policy, termination is a form of discipline. CFF Jasper didn't think his infractions justified his removal, and he laid out his reasons for believing he was not eligible for dismissal. He was ordered by the Chief to attend a meeting on March 7, 2003 that CFF Jasper wanted to tape, but the Chief would not agree to it. Truth doesn't appear to be a goal of those meetings. He had met with the Chief and others at a previous meeting to discuss his reassignment to Central Station relative to travel times and why it would make sense for him to stay at Robinson Road Station. He also questioned the Chief's understanding of the Chain of Command policy, which was promulgated as a result of the agreement that was signed on April 11, 2002 but not written to address the problem that necessitated that agreement. Even though the Chief claims he failed to respond to calls when he was available, CFF Jasper said he has made himself available for emergencies and station coverage thousands of times in his 20 years of service, leaving family dinners, work, meetings and social occasions. Availability is the decision of the Call Fire Fighter; the Chief cannot make that call. Relative to his not responding to a because he was at a meeting, if he left, there wouldn't be a quorum and he was chairing the meeting. He also knew there would be a lot of fire fighters at Town Hall because they would be attending the budget meeting. When he got to the second meeting, the call was under control, so as the alternate Budget Committee representative, it was appropriate for him to attend that meeting. The Chief was at that meeting and could have told him to provide coverage at that time. He wonders why he wasn't written up at that time. In another incident, CFF Jasper said the Chief faults him for not reporting to the Officer in Charge. He was with his Lt. at the time of the alarm, and he believed she was the OIC. He didn't want to go into the reasons, but felt that he wasn't in the proper frame of mind to perform emergency services at that time, which he explained to his Lt., who did not order him to respond. His Lt. did not respond, either, but didn't think it was because of him. The call was under control and his Lt. suggested he leave by the back door. He assumes his Lt. discussed this matter with a chief officer and CFF Jasper was troubled that the incident was twisted into something different than the facts. Relative to the Chief's charge that he failed to establish and maintain good relationships with co-workers and supervisors, CFF Jasper where the evidence was to that. He recollected that he had a problem with one member who is not assigned to Central, but that issue never caused a problem while he was on duty. One of the most damning charges against him is that he refused to be paid for attending training. He was informed three months ago that he was going to be terminated, never thinking it would drag on this long. CFF Jasper said he has requested the specific policy that he violated, but nothing has been provided. He hoped the Board wouldn't find a donation of time to be an offense worthy of termination. Concerning the charge that he failed to review Department policies in a timely manner, on March 30, 2003 he informed his Lt. through an e-mail that he had been reviewing policies in the Selectmen's Office. The Chief's response to that was "absolutely not." CFF Jasper asked what that meant, but had never received a reply. As

to personal attacks, CFF Jasper said they began in August 2001 of the Chief's attacks on him. He challenged the truthfulness of the Fire Chief, as he pointed out to the Board on numerous occasions. The Chief may believe the quote from the February 28, 2003 HLN in which he (CFF Jasper) said, "The man is a liar and no one makes me quit," to be directed at the Chief, but the article does not connect that statement to him. The Chief might believe that, as in similar circumstances, he will not be held accountable for his exaggerations. In his evaluation dated February 14, 2003 the Chief recommended that CFF Jasper be released from the Department's Call Force. In the Chief's letter of April 18, 2003, he stated that he could discern no significant improvement in CFF Jasper's performance or attitude since his earlier evaluation. CFF Jasper said that since he was informed that he was going to be terminated, he made every effort to attend training and respond to calls, whereas most people would have just given up. CFF Jasper said the Chief's mind was clearly made up about terminating him; there was no leeway for discussion. CFF Jasper believes that if he had not gone public, he would have been terminated the night before the March 11 election. March 10 was not a regular meeting night and fewer voters would have been watching to know what went on at that meeting. By calling attention to what was going on, CFF Jasper was protecting himself. He asked the Board to consider if it was reasonable to leave an employee hanging in limbo for three months and at the same time, expect improvement in their performance. He hoped the Board would not take the easy way out and dismiss him. He asked them to look at the facts, that his situation was the tip of the iceberg. He said it's time to stop making him the whipping boy for the problems in the Fire Department and to evaluate the whole situation. The Board needs to look at the big picture.

Selectman Massey said it appears that one of the root issues is chain of command, failure to follow orders, etc. They heard about an e-mail from AC Murray that talked about CFF Jasper planning on not responding to training. CFF Jasper had indicated that that e-mail was dated in 2002, not 2003, as the Board might have been led to believe. Deciding that CFF Jasper wouldn't respond to calls was the issue, not the dates. He asked CFF Jasper to respond. CFF Jasper said he had just come off a suspension. The Town had given him two weeks, but by the time they worked through the process, it had actually been a month. This was during a difficult period of time for him and his family considerations had to come first. He told his Lt. that, but that was a year ago. When he came back, he started responding to calls more than once a week for the remainder of the year, based on 46 calls. There is someone on the Call Force in Company 3 that has responded to fewer calls than CFF Jasper did during the calendar year and has not been asked to resign and is not being terminated. His evaluation points out that he responded in the middle range for Company 3.

Selectman Massey referred to AC Murray's memo where he talked about issues regarding chain of command and asked CFF Jasper why he didn't respond to the June 1998 item. CFF Jasper said it was highly unusual to be bringing up something that occurred five years ago. He said they were at a brush fire under the power lines. The fire was moving, but it was a band of fire. He could hop over it any time and get out of the way of the fire. The Lt. or Capt. in charge said they had to shut everything down and put more hose on it. He said to put a couple hundred feet of hose on. On a brush fire--and he's fought a lot of them--that is too much hose to try to add on at once. He said to the officer in charge at time, since they had been spraying water for a time and it was a 250 gallon tank, he asked if they shouldn't check the water supply. The Lt. said he didn't have time for that. CFF Jasper said you always have time to check to see if they have water. By the time they got the hose dragged out and charged the line, what water was left in the tank only filled the 200' of hose. Then they were ordered to retreat. CFF Jasper said he has never left Town equipment abandoned in his life and this was a silly little brush fire. It was at no time a dangerous situation. He was dragging the hose back with him. He was complying with the order at all times because he was making forward movement towards the Lt. and kept saying, "I'm coming, I'm coming, but I'm getting the hose." CFF Jasper said he was pretty teed off that everybody was leaving the hose and the response was, "We know who started the fire and the kid's parents are going to have to pay for the hose." CFF Jasper said the officer finally ordered him to drop the hose and come up, so he did. When a direct order was issued to him, he obeyed.

Selectman Massey said it was noted that evaluations would not be used as a disciplinary tool. He asked CFF Jasper to be specific on how this evaluation was used that way. CFF Jasper said on the evaluation, the Chief recommended termination. Both the Town and Fire Department policies say you don't use the evaluation for a disciplinary tool. The evaluation is supposed to be used as an opportunity for an employee to improve their performance. Termination is clearly discipline. Selectman Massey asked what Selectman Jasper meant about the Chief's signature being on the evaluation form at all. CFF Jasper said it was a violation of the policy for the Chief to have a line for termination, not that he be on the form.

Selectman Seabury said in the old days, when the tone went out, people would run to the fires. She asked if times had changed. CFF Jasper said he's been coming in for coverage a couple of times in the last two weeks, and there was only two or three people in the station. It takes him forever to get to Central Station and there are no trucks left, he hears the dispatcher say there's no coverage at Station 1, or Engine 1 hasn't signed on. He has been depressed about this whole situation and clearly views it as retaliation. The Chief attempted to fire him and wasn't able to. CFF Jasper said he started telling Paul Sharon and other people back in December that the Chief would be coming forward to terminate him. Someone may tell him he made it easy by not responding, but CFF Jasper said he never did not respond when he could have. He shouldn't be judged on three months of responses. This was a hellacious winter. He did not believe he violated the chain of command; he believed he was acting appropriately and in accordance with past practice that the Town had clearly allowed.

Selectman Seabury asked if CFF Jasper stayed at Central Station when he responded to a call or if he turned around and went back home if all the trucks were gone. CFF Jasper said it depended on what he was doing when he was called. His being self-employed, it gives him flexibility, but that doesn't make his job less important. Selectman Seabury said she's known CFF Jasper a long time and she's not vindictive or mean-spirited. She enjoys his company and has always respected him, but she has some issues. She said there was a former Lt. at Robinson Road that, according to rumor, let CFF Jasper "call the shots." CFF Jasper denied he was calling the shots. Lt. Emmanuelson had no problem giving him a direct order but, when you have people with a lot of experience, it behooves an officer to listen to what they have to say—which is what Lt. Emmanuelson did. Selectman Seabury said there was also the rumor that the members that left the Fire Department did so because of morale issues, the constant altercations. CFF Jasper said that's where he gets used as the red herring. It is difficult for him to get into some of the things he knows because he won't violate a confidence. No one likes the controversy, but it didn't start with him. It started by the Fire Chief on August 14, 2001. Before that, if he had an issue, he would talk to the Town Administrator or the Chairman. He was attacked that night. That's when things started to get out of control, and the personal attacks have kept up. He still has a good relationship with the people in the department, in most cases. He said he'd gladly talk to the Board in non-public about some of the things that he knows. The information that is out there suits the administration's needs.

Selectman Seabury said it's difficult to wear hats of both a Call Fire Fighter and a Selectman. When he walks out of this room, the Fire Chief and Assistant Chief are CFF Jasper's bosses, and he has to follow their orders if he stays on. CFF Jasper said he clearly understands that. In the past, it has always been made clear to the Board that on the fire grounds, and in his role as a fire fighter, he has always accepted the orders. One time he hesitated to follow an order when he was dragging hose and he wasn't moving fast enough. Other than that, there are no allegations that he has not

followed the chain of command on the fire grounds. Since the agreement, when it comes to issues with the business operations and affairs, policy issues and questions that he may have as a fire fighter, he's gone through the proper chain. He views his termination as being outside of that because that sits with the Board of Selectmen. When the Chief told him he was going to be terminated, the Board of Selectmen is the next in authority and who will make the final decision. That's who he went to. There was nothing to talk to the Chief about, who didn't leave him an out, who simply said he was recommending termination. He did what he thought he was supposed to do, which he thought was proper and reasonable. He didn't intentionally violate the chain of command. He has one discipline in his file; he was suspended once. He is essentially a volunteer and loves the Town and what he is doing. There is something else going on; the Board has to look at the whole picture. He is just a stumbling block.

Chairman Cole asked if CFF Jasper thought that a Call Fire Fighter was a Town employee.

(Start Tape 5, Side A)

CFF Jasper said he had his job description. Chairman Cole asked CFF Jasper if he would acknowledge that, as an employee, he is subject to the Town's Personnel Policies and Procedures. CFF Jasper said he was, that he has already quoted them, that it would be a violation of that policy to terminate him because the policy hasn't been followed. The discipline policy leading to termination is clear. Chairman Cole referred to CFF Jasper's evaluation and asked CFF Jasper what the three possibilities the Chief recommended were. CFF Jasper said retention, termination and counseling. Chairman Cole said the words separation or release do not appear there. CFF Jasper agreed that they did not. Chairman Cole said termination could be reasonably expected to cover disciplinary actions and non-disciplinary actions. CFF Jasper said no--termination is the release from service, which is dismissal. Playing this word game is typical of what is going on, pretending termination could be something else. Chairman Cole said he was just trying to clarify something. He asked CFF Jasper if he agreed that, as an employee, he should be familiar with the Town's Personnel Policies and Procedures. CFF Jasper said to a reasonable degree. Chairman Cole asked if CFF Jasper was familiar with the Town's Personnel Policies and Procedures. CFF Jasper said when he has a need to look something up, he familiarizes himself with it. As a State Legislator, he does not know all the RSA's; as a business owner, he cannot quote chapter and verse his Articles of Incorporation. He knows they exist and when he needs to look something up, he knows where to find it.

Chairman Cole read from the Town's Personnel Policies, §IV, Conduct, D, Political Activity, Statement of Purpose, 2-c, Influence and Coercion, "Town employees may not use their official authority or influence for the purpose of interfering with or affecting the results of any Town election." He asked if everyone agreed that's what it said. CFF Jasper said absolutely. Chairman Cole read from §IV, Conduct, J, Discipline, 5, Causes for Disciplinary Action, "Disciplinary action may be imposed when the actions of an employee bring discredit to the Town, fail to meet reasonable standards of job performance, or fail to meet reasonable standards of personal or professional conduct. The acts or offenses that may constitute grounds for disciplinary action include, but are not limited to... b) Acts of disrespect toward the public, Town officials or other Town employees which include uncivil or discourteous attitudes, insolence, or the use of indecent or inappropriate language or conduct." He asked if they agreed that's what it says. CFF Jasper said they agree that's what the policy says.

Chairman Cole referred to the HLN article dated 28 February 2003, and read the following quote: "The man is a liar." He asked who CFF Jasper was referring to. CFF Jasper said he thought he was having a private conversation and was not aware that he was being quoted for the newspaper. However, that statement in that article is in no way connected to anyone. It's a statement that stands alone and he has no reason to divulge who he was referring to because the article doesn't do that. It's not necessary for him to do that. However, if the Chairman wants to go down that road, CFF Jasper said go to August 14, 2001, when the Chief..." Chairman Cole stopped CFF Jasper and told him not to try to intimidate the Board. He wanted to know who CFF Jasper was referring to in that article and if he didn't want to answer, he didn't have to. CFF Jasper said he didn't see any reason to.

Chairman Cole said further down in that article, according to the reporter, a statement that CFF Jasper made prior to a Board of Selectmen's meeting on 25 February was, "It is in my best interest to get this out before the vote. My goal here is to get a change on the Board." He asked CFF Jasper what he was trying to do, as a Call Fire Fighter, with regard to the Board a week or so before the elections. CFF Jasper said, as a Call Fire Fighter, nothing. Chairman Cole asked if he had responded as a Call Fire Fighter or as a Selectman. CFF Jasper said he was getting information out to the public and how that information impacted the public was up to the public. It was well known within Town what was going on. He thought the Chairman was going to use that as political activity. Chairman Cole said he was just trying to clarify something and asked if CFF Jasper was being quoted as a Call Fire Fighter or as a Selectman or as a State Legislator in the article. CFF Jasper said Shawn Jasper is always a Call Fire Fighter, a Selectman and a Representative until he loses one of those; he is always all of those people. He has continuously told the Board he does not try to separate himself into different compartments. He is who he is.

Chairman Cole said in that same article, CFF Jasper is quoted as saying, "Does this Board care about the truth? This has always been about how to get rid of me." He assumed that statement was being made as a Call Fire Fighter and asked if that was accurate. CFF Jasper said he makes his statements as Shawn Jasper. Chairman Cole asked if he thought the Board was out to get citizen Jasper. CFF Jasper said no, the Fire Chief, for a long, long time has been out to terminate him, to dismiss him. Chairman Cole said the article was predicated on remarks made prior to or during Public Input of 25 February. In Public Input, CFF Jasper said, "You, the Board of Selectmen, will merely be continuing the unethical and immoral behavior, which I see in our government today." At that time, he believed the Board was being addressed by CFF Jasper. CFF Jasper said he was addressing the Board as Shawn Jasper. Whatever hat the Chairman wants to assign to him, he is who he is. Chairman Cole said he didn't put hats on anyone. CFF Jasper said in certain circumstances he has to step down from his Selectman's seat and sit at the table as Shawn Jasper, citizen. When he sits there as a citizen, he is still a Selectman; he is still a Call Fire Fighter. He is who he is. He is what he is. He can't be divided into little pieces. Chairman Cole said he wasn't trying to divide him, he was just trying to find out who Mr. Jasper was when he made those statements. CFF Jasper said he would tell them when he is a Town employee. He is a Town employee when he is on the clock, when he has responded to an emergency situation and when he is under the command of the officer of the Hudson Fire Department. That's when he is a Town employee. He is not a Town employee, in his mind, any other time. That's the only time he's performing his duties. When he is on his personal time, he is his own person.

Chairman Cole said during that Public Input on 25 February, a paragraph started, "The Chairman of this Board had a long-standing problem with me." In the next sentence or two, he is either talking about the Chairman or the Board, "We need leaders who want to do the right thing. We need leaders who will respond honestly. We need leaders who will work for the truth." Chairman Cole asked if those statements were being made as Shawn Jasper. CFF Jasper said that was correct. Chairman Cole asked if he was suggesting that the Board was dishonest, untruthful or disinterested in those items. CFF Jasper said he was clearly suggesting the Board should be interested in those things and that the members that sit on the Board should be interested in those things. He was not saying that any member sitting on the Board wasn't interested in those things. In his

mind, he was defining what leaders should be.

There being no further questions, Chairman Cole thanked CFF Jasper, who returned to the table as Selectman Jasper.

9. OTHER BUSINESS

A. Kudos to the DPW

Selectman Stewart thanked the DPW for putting together the mini-skateboard park and for moving forward with the sidewalks on Melendy Road from the skate park down to Thorning Road.

B. More Kudos to the Highway Department

Selectman Massey said this has been a difficult winter and there is tons of salt and sand on the roads, but Hudson's Road Agent and his crew have been working seven days a week to get the streets swept. Because of the volume of salt and sand, and because it was a long winter, there are a lot of streets that still aren't swept. Many people in his neighborhood are sweeping it up themselves—the good old New Hampshire way. He thanked the Highway Department for their yeomen's work in getting the streets cleaned. Selectman Seabury said she was going to clean up the street in front of her house, too, but someone drove over her broom.

C. Update on Benson's and Presentation of Mary Gates

Selectman Jasper said last Thursday, he personally delivered the Town's response to the Benson's draft deed personally to Commissioner Murray at NH DOT. At that time, he explained some of the major concerns with the deed and he felt she was very receptive to those concerns. He looks forward to a productive meeting in the future.

Regarding the PMA gates, he met with and delivered the correspondence to Congressman Bass, Senator Gregg and Governor Benson regarding the Town's concerns and suggestions. When everyone realized the bricks were only 16 years old, they were aghast. He has been told that the State is taking a second look at the issue and will be re-bidding for a different method of moving the gates that should result in a much lower cost, closer to the original estimate.

D. Memorandum of Understanding

Selectman Jasper said he didn't want to go into the details regarding a Memorandum of Understanding because he wasn't sure what was public on it. When he first saw it, it wasn't signed; however, the copy he now has is signed. He spoke to the Town Administrator about it and told Selectman Jasper that the procedure has been that either the Chairman of the Board or the Town Administrator has signed them. Selectman Jasper didn't think that was proper. He wasn't aware of that ever happening, probably because they had been kept out of the loop. Selectman Jasper complimented the present Town Administrator, who is very good about making sure the Board is given as much information as possible, but when something is signed on behalf of the Town, it should be because the governing body agreed to it, not because one person has agreed to it. This is an issue that needs to be discussed, but he didn't know what the proper format was. Selectman Seabury said she agreed. Selectman Jasper asked if there was a consensus on this because he doubted if the majority of the Board was aware of that past practice—and decisions have to be made by the whole Board. Chairman Cole said it would be taken under consideration.

E. Hudson United Soccer Club/Freedom Fields

Selectman Massey said he heard from Mike Juliano today that the HUSC will sign the amended agreement. He expects to see two copies for the Board to sign within the next two or three days. The Recreation Director said they are already doing quite a job on the fields.

F. Raffle Permit by Alvirne Mechanics Club

Motion by Selectman Stewart, seconded by Selectman Jasper, to approve a raffle permit from Ben Nadeau for May 18, 2003 at Alvirne carried unanimously.

G. HPD's Justice Band

Chairman Cole said on May 22 at 7:30 p.m., at HPD's Community Room, members of the Justice Band (Capt. Ray Mello, Sgt. Chuck Dyac, Officer Chuck Gilbert and Nashua Police Department employee Jim Turmel) will receive the Community Recognition Awards from the Hudson Grange #11. Everyone is cordially invited to attend.

H. Happy Birthday

Chairman Cole wished Selectman Massey a happy belated birthday, who celebrated his fill-in-the-blank birthday two days ago. Selectman Massey said he no longer has to ask if the Senior discount applies!

10. REMARKS BY THE SELECTMEN

The rest of the Board wished Selectman Massey a Happy Birthday, with many more.

11. NONPUBLIC SESSION

Motion by Selectman Massey, seconded by Selectman Stewart, to enter Nonpublic Session under RSA 91-A:II (a) The dismissal, promotion or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him, unless the employee affected 1) has a right to a

meeting and 2) requests that the meeting be open, in which case the request shall be granted; (b) the hiring of any person as a public employee; (e) Pending litigation.

Selectman Jasper said if the Board was intending to go into nonpublic to further discuss or deliberate on his pending dismissal, he believes he has a right to have that meeting open and was requesting that it be open. If the Board determines they are going to go into nonpublic anyway, he requested that he be allowed to be present if the Fire Chief was going to be, and that the Board view the attorney as representing the interests of the Fire Department and not of the Town of Hudson, as he was not hired by the Board of Selectmen. He was hired to represent the Fire Department's interests, which are in competition with his and, therefore, would not provide impartial information.

Selectman Massey said if this attorney is not representing the Selectmen, then he should not be allowed into nonpublic session for the purposes of discussing Call Fire Fighter Jasper. Chairman Cole said the attorney was representing the Town of Hudson. They should put aside the myth that the Fire Department isn't part of the Town of Hudson. Selectman Massey said the Chairman indicated at the beginning that this attorney was a labor attorney here on behalf of the Fire Department. Chairman Cole clarified that what he said was the attorney was the Town's labor attorney here to represent the best interests and support the best interests of the Town. The Fire Department is an organic element of the Town. The Board of Selectmen is the governing body of the Town. The Fire Department is not a separate entity that goes out and hires its own attorney. This attorney represents the Town, as do the members of the Board of Selectmen.

Selectman Jasper said he disagreed with what the Chairman said because the Board of Selectmen did not bring the attorney into the process. The Board did not consult with him relative to this matter. It was a consultation with the Fire Department and the Chief's interest in this matter is not necessarily in the best interest of the Town. That's up to the Board of Selectmen to decide. This attorney has clearly developed a prejudicial view of that situation and has not taken direction from the Board.

Vote: Motion carried 4-1 by roll call vote. Selectman Jasper was opposed.

Nonpublic Session was entered into at 12:10 a.m. on May 14, 2003 and was terminated at 1:30 a.m.

(Start Tape 5, Second Side)

OPEN SESSION MOTIONS:

A. Motion by Selectman Stewart, seconded by Selectman Jasper, to hire Meigan Barreira as the 2003 Tennis Instructor for \$10 per hour, effective June 18, 2003, carried unanimously.

B. Motion by Selectman Stewart, seconded by Selectman Massey, to hire Jaci Bergeron, Sarah Jardim, Gina Magnuson and Kaitlin Laquerre as Counselors in Training at \$5.50 per hour and Lindsay Groves and Krista Stott as substitute Counselors in Training at \$5.50 per hour for the 2003 summer program, effective June 18, 2003, carried unanimously.

C. Motion by Selectman Stewart, seconded by selectman Massey, to hire the following individuals as the 2003 Summer Recreation Department staff, effective 18 June 03: At \$8.75 per hour: Frank Girginis and Kim Malley; At \$8.25 per hour: Jennifer Beike, Katie Farland, Heather Leyden, Shawn O'Donoghue, Christine Shaw and Debra Smith; At \$7.75 per hour: Michele Martineau, Michael Simoneau, Shad Smith and Janice Walsh; At \$7.25 per hour: Leslie Desrosiers, Michael Morin, Ryan O'Toole and Sean Sendall; and to hire the following individuals as Substitute Counselors: At \$8.25 per hour: Erin Murphy, Kelly Nadeau, Alaina Rines and Kristin Yates; At \$7.75 per hour, Thomas Tollefson; and At \$7.25 per hour, Ralph Carpentier, carried unanimously.

D. Motion by Selectman Massey, seconded by Selectman Jasper, to acknowledge the resignation of Reginald O. Burt, effective 23 May, 2003, carried unanimously.

E. Motion by Selectman Stewart, seconded by Selectman Seabury, to hire Kevin Blinn as a Fire Fighter/EMT-I, effective May 25, 2003 at \$12.57 per hour, with an adjustment to \$12.95 July 1, 2003 plus an increase after probation, in accordance with the IAFF Local 3154 union contract carried unanimously.

F. Motion by Selectman Massey, seconded by Selectman Seabury, to have Call Fire Fighter Shawn N. Jasper removed from the Hudson Call Force, effectively immediately, carried 4-0 by roll call vote. Selectman Jasper recused himself.

12. ADJOURNMENT

Motion by Selectman Stewart, seconded by Selectman Massey, to adjourn at 1:39 a.m. on Wednesday, May 14, 2003, carried unanimously.

Recorded and Transcribed by Priscilla Boisvert
Executive Assistant to the Board of Selectmen

HUDSON BOARD OF SELECTMEN

William P. Cole, Chairman

Teresa Stewart, Vice-Chairman

Shawn N. Jasper, Selectman

Kenneth J. Massey, Selectman

Ann Seabury, Selectman