

HUDSON BOARD OF SELECTMEN

Minutes of the April 8, 2003 Meeting

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

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2. **PLEDGE OF ALLEGIANCE** was led by Selectman Ken Massey.

3. **ATTENDANCE**

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

Staff/Others: Steve Malizia, Town Administrator; Priscilla Boisvert, Executive Assistant; Richard Gendron, Chief of Police; Capt. Ray Mello; Jana McMillan, Animal Control Officer; Sean Sullivan, Director of Community Development; Tom Sommers, Engineer/Sewer Consultant; Marilyn McGrath; Mike Juliano, Hudson United Soccer Club; Jean Serino; Michelle Champion; Emery Nadeau; Ray Rowell; Leo Bernard; Howard Dilworth, Jr; Ann Pramus, SUN; Anne Lundregan, TEL

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Chairman Cole said the people at Town Hall were saddened to learn of the passing of Paul Sharpe over the weekend. Paul was a resident of Hudson, as well as a 22-year employee of the DPW. Paul's co-workers and other Town employees all spoke of Paul in glowing terms with regard to his commitment and dedication to the DPW and their mission. They also spoke to Paul's humanity, his devotion to his family, his concern for others, and the light he brought into the lives of those that he came in contact with. On behalf of the entire community, he expressed deepest condolences and sincere sympathy to his wife, Claudette, and his family. There will be a memorial service honoring Paul on Saturday at 3:00 p.m. at the Davis Funeral Home.

4. **PUBLIC INPUT**

Jean Serino, 118 Robinson Road & Michelle Champion, 7 Chiswick Road re: Nadeau Farm – Ms. Serino said a majority of the people wanted them to negotiate for the Nadeau Farm and thought the first step would be to ask the Board to appoint an official committee to proceed. She knows a real estate lawyer in Cambridge, who offered his services at no cost. Selectman Seabury asked how much time they had to work with. Mr. Nadeau said not too much. Ms. Serino said Mr. Nadeau currently has an offer on the table and it would be wonderful for the Town to make a deal, with the help of a real estate lawyer who could figure out how to have tax benefits sufficient to what a developer would pay. Selectman Jasper said preliminary discussions should take place in Nonpublic. Selectman Massey commended Ms. Serino and the rest of her group for taking such an active interest in this and hoped something could be worked out. Ms. Serino hoped that she and Mr. Massey would be on the committee. Ms. Champion requested that someone from the Conservation also be appointed to the committee.

5. **CONSENT ITEMS**

Motion by Selectman Stewart, seconded by Selectman Jasper, to accept Items A-C, as recommended/appropriate carried 5-0.

A. **Assessing Items**

- 1) Applications for Elderly Exemptions, w/recommendation to grant. (106 Pelham Road, 74 Dracut Road, 922 Fox Hollow Drive, 9 Meadowlark Drive, 23 Alvirne Drive)
- 2) Yield Tax Warrant, w/recommendation to sign. (9 Boyd Road)
- 3) Yield Tax Warrant, w/recommendation to sign. (Eagle Trace Subdivision, Bradford Circle & Sheffield St)
- 4) Yield Tax Warrant, w/recommendation to sign. (Sagamore Plaza, Lowell & Wason Roads)
- 5) Yield Tax Warrant, w/recommendation to sign. (Royal Oak Estates, Gabrielle Drive)
- 6) Yield Tax Warrant, w/recommendation to sign. (Woodland Heights Condominium)
- 7) Application for Current Use, w/recommendation to grant. (288 Webster Street)
- 8) Current Use Lien, Full Release, w/recommendation to approve. (Thurston's Landing, Map 21/4, 6-30, 6-36)
- 9) Veteran's Tax Credit Application, w/recommendation to grant. (7 Cheney Drive)
- 10) Application for Blind Exemption, w/recommendation to grant. (13 Timothy Lane)
- 11) Good Cause Abatement Request, w/recommendation to grant. (13 Timothy Lane)
- 12) 2002 Abatement Application, w/recommendation to approve (6 Daniel Webster Drive)
- 13) 2002 Abatement Application, w/recommendation to approve. (5 Page Road)
- 14) 2002 Abatement Application, w/recommendation to approve. (5 Kris Court)
- 15) Abatement Application, w/recommendation to deny. (118 Dracut Road)
- 16) Abatement Application, w/recommendation to deny. (2A Mark Street)

B. **Acceptance of Minutes**

Minutes of the Board of Selectmen's Meeting of March 25, 2003

C. **Committee Announcements**

04/09 7:00 Planning Board in CD Meeting Room
04/10 6:30 Recreation Committee at Rec Center

04/10 7:00 Sewer Utility Committee in BOS Meeting Room
 04/10 7:30 ZBA in CD Meeting Room
 04/11 Grand Opening of Omni, 46 River Road
 04/15 7:00 NH DOT Informational Hearing re 102-West Road Improvements in BOS Meeting Room
 04/16 5:15 Benson's Committee in BOS Meeting Room
 04/17 7:30 Budget Committee in CD Meeting Room
 04/21 6:30 School Board in BOS Meeting Room
 04/21 7:30 Conservation Commission in CD Meeting Room
 04/22 7:30 BOS in BOS Meeting Room
 04/22 1:00 Trustees of the Trust Funds
 04/23 7:00 Planning Board in CD Meeting Room
 04/24 7:30 ZBA in CD Meeting Room

6. **OLD BUSINESS**

A. **Public Hearing relative to Renaming Central Fire Station in Memory of Leonard A. Smith**

Chairman Cole opened the public hearing at 7:39 p.m. and asked if anyone wished to speak.

Richard Marshall, 12 Gillis Street, opposed renaming Central Fire Station. Lenny Smith was a good man, and the suggestion was well intended, but there are a lot of other good people--Oscar Campbell, the Shepherds, Gordon Smith, who designed and installed the kitchen in the Central Fire Station and Frank Nutting, who was a Selectman and brought the ambulance service into Town. Jim Taylor, a fire fighter who was killed in the line of duty while responding to a call, only has a bronze plaque on the flag pole at Station 4.

Howard Dilworth, Jr., 15 Sycamore Street, opposed renaming Central Fire Station after Lenny Smith. There have been a lot of comments by a lot of well-meaning people, but he's probably one of the few who actually went to fires with Lenny. Mr. Dilworth said when he joined the Fire Department 30 years ago, he got to know a lot of the guys--Verian Scott, Arthur Shepherd, Jr., and Sr., Harry Chesnulevitch and Mac MacLevy. He also got to know Lenny's brother, who put in the kitchen at Central Station. It's an institutional kitchen and they used to feed several hundred at Fire Warden suppers there before they carved up the station. While they seek to honor Lenny Smith, to single him out is to show disservice to everyone else. Leon Hammond, known as Mr. Ham & Beans, kept them all fed for more than 60 years. Frank Nutting was a Selectman for 21 of the 45 years he was on the Fire Department. If anyone was Mr. Hudson, it was Frank Nutting. Paul Buxton was a member of the Fire Department before it was the Hudson Fire Department, having joined in 1919. He gave up his position in 1949 so there would be a place for his son, Bob. Additional spaces were created later on, one of which was for Paul. He was a member of the Hudson Fire Department for 60 years. He also was one of the ones who wrote zoning for the Town in 1942. In the Town Report in the late 1950's and early 60's, every committee in Town had one or two firemen on it, including Selectmen. Some, like Roger Boucher, are still serving. It's not wrong to name Central Fire Station after Lenny Smith; it's just not the right thing to do. Lenny Smith should be honored by making plans to honor all those who came before.

Dave Morin, 29 Library Street, spoke against renaming Central Fire Station. He has no ill feelings against Mr. Smith, having worked with him on several projects over the years, including the Fire Fighters Memorial. He wrote an article in the unofficial Fire Department newsletter about Lenny's contributions to the construction of the Central Fire Station. Lenny is well-deserving of an honor in his name, but not Central Fire Station. On July 27, 1981, Fire Fighter James Taylor gave his life in the line of duty. He made the ultimate sacrifice and renaming Central Fire Station would be a dishonor to Fire Fighter Taylor. The Jr. Women's Club graciously placed a 6" x 8" plaque, which hangs on a flagpole at the Burns Hill Fire Station. No other honors were given to Fire Fighter Taylor. Fire Fighter Taylor is memorialized at the Fire Fighters Memorial, but it took 18 years after he gave his life to honor his memory. Central Fire Station should be named for Fire Fighter Taylor, if it's to be renamed at all. Mr. Smith was involved in all aspects of the Town and a fitting memorial would be in the area where the public, as a whole, would enjoy it, such as Lions Hall, an area in the Benson's property, or another appropriate location. This issue has caused disagreement. People should properly relish the memory of this impressive citizen instead of having his name tarnished because of lasting controversies.

Chairman Cole said the issue was how to best honor Lenny Smith, not necessarily renaming Central Fire Station.

Selectman Jasper said it's not about Lenny's service to the Fire Department. The station will remain Central Fire Station, with the addition of Leonard A Smith. It's about his lifetime of service to the community, which is unmatched. Because of Lenny's love of that building and great pride in the fact that he designed it, it is appropriate to name Central Fire Station for him--not because it's a fire station and not because he was a fire fighter, but because of his lifetime achievement that is unrivaled. Lenny always had the best interest of the Town at heart. He contributed to the Town on many levels. A previous speaker said the on-going controversy would tarnish Lenny's image, but that is because those people are making it an issue. The editorial in the HLN suggested that the letters on the Fire Station would be taken down, which were dedicated to Oscar Campbell and Hershey Cook, but no one has ever suggested that, except for the Hudson News. He hoped they would move forward on this because it is absolutely the right thing to do.

There being no further speakers, Chairman Cole declared the public hearing closed at 7:53 p.m.

B. Noise Ordinance

Chairman Cole recognized Sean Sullivan, Director of Community Development and Tony Hoover of Cavanaugh Tocci Associates, Inc. Mr. Sullivan said in November 2002, he and Capt. Mello appeared before the Selectmen. They had been asked to look into the existing language in the Noise Ordinance. The Board voted to seek assistance from an acoustician to make recommendations to improve the ordinance. He and Mr. Hoover were present to answer any technical questions and see if they can resolve the noise issue that exists.

Mr. Hoover said the attorney representing the Town indicated the ordinance was not applicable because State law supersedes it. Mr. Hoover thought that if there was no conflict between the two ordinances, then both would apply. He researched other towns' ordinances to see if there was some other verbiage that could be included into Hudson's ordinance. His bottom line conclusion was that the Town has it just right. The Town ordinance has provisions, a way of measuring and a quantitative way of determining if there is a violation of the Noise Ordinance. The State ordinance is really a testing procedure, which requires that a vehicle be started and accelerated in a certain fashion and measured in a variety of positions. It satisfies certain criteria, but it has very little bearing on what kind of noises you would expect from the community, or what might bother residents. That brings them back to the local ordinance, which suggests they measure the background noise that is fairly steady in any given period and then measure the sound levels associated with a particular event. If the sound measured is 10 db's or more greater than the background sound, there has been a violation of the Town Ordinance.

Selectman Seabury asked if dirt bike decibels were as loud as noise produced by a cement factory. Mr. Hoover said part of it is where someone is in relation to one of those activities and what other activities are occurring at the same time, so he couldn't say one thing was louder than the other.

(Start Tape 1, Second Side)

Selectman Seabury said she and her group are the ones who started the Noise Ordinance because of their close proximity to a cement factory. At that time, Mr. Cavanaugh told them noise cannot go over the property boundaries to interfere with other people's enjoyment of their property. Mr. Hoover said the ordinance says you are entitled to enjoyment of your property, but he has been addressing the numbers that can be applied for activities. Selectman Seabury said residents came in to complain about the noise dirt bikes were making. This parcel is a long, narrow piece of property, with houses on either side. The Selectmen wanted to know if they should be lowering the decibel levels for motor bikes because they are not as loud as car racing or industrial factories. People who have lived in that neighborhood a long time were so desperate, they were thinking of moving, and that's not right. The Selectmen have to ensure staff is trained on the appropriate equipment and wondered about the cost of that. Mr. Hoover didn't know what the cost was. It might take a half day for training on the use of a sound pressure level meter, which he's already talked to Sean Sullivan about. Selectman Seabury wanted to make sure the Town's ordinance was "up to snuff" in order to handle the dirt bike situation--and if it was enforceable.

Selectman Jasper said that information on how the ordinance was applied was news to him and asked if that was the way it was interpreted when the police was taking readings. Mr. Sullivan said when Community Development took a reading, they used that standard, but they had a Radio Shack meter. He's not sure what the Police Department used. (Later in the discussion, Capt. Mello arrived and was asked what type of meter the Police Department used. He said it was the same version as the Community Development's.) Selectman Jasper said this is becoming an increasingly big problem in Town. Ten decibels over the background noise isn't much--it would not take much for someone to be in violation, yet, the Town continually has said there is no violation and the advice was to go to court on an nuisance complaint. From what he heard before, the reading was well above 10 decibels, but it didn't occur for one hour, or it wasn't at the right time of day, etc., so it wasn't a violation. Mr. Sullivan said when Cavanaugh Tocci did the last official test, he was informed by the former Town Administrator that there was an exceedance, so mufflers were put on the dirt bikes in an effort by the property owner to reduce the decibel level so it would not exceed ten.

Mr. Hoover said he tested in November 2000, on a warm, clear day. He measured background levels periodically throughout the visit and they ranged from 38 to 43 decibels. He measured five events between 1:25 and 1:40 p.m. with the following results: 72, 61, 64, 68 and 67. Those readings were associated with the dirt bike pass-bys and clearly 10 decibels higher than the background sound. Both he and Mr. Sullivan thought that it was a clear cut violation and they were confused by the Attorney's opinion that the State ordinance takes precedence. The Radio Shack meters don't have the precision or measuring capability to even record background noise.

Chairman Cole said the problem appears to be enforcement, having a difficult time measuring a potential violation, given the nature of the motor bike noise. Mr. Hoover said it should be do-able, with the correct meter and proper training. Chairman Cole asked when the person who is properly trained and has the right equipment know when to be there, which he termed, "thecop-in-the-bush-approach." Mr. Hoover said when he measured the dirt bike noise, he was told to be there early on a Saturday. Chairman Cole said violators don't normally say they are going to violate something. The recommendation in the written report submitted by Mr. Hoover was to follow the SAE methodology. He assumes that means the individual that owns the motor bikes voluntarily submits to their being tested. If they don't, the Town has two choices: don't test or violate their constitutional rights. Mr. Hoover said the Town's ordinance allows him to do what he did—he walked up to the property line, but did not trespass on their property, and stood there with a meter at a time that had been indicated to him. Knowing when to measure intermittent noises is tough. His suggestion to possibly lower the db number was something the Board could consider if there were many repeated complaints.

Chairman Cole said the key question was if, in fact, the Town was to revise its Noise Ordinance and reduce the level, what the unintended consequences might be on other activities, such as lawn mowers, snow blowers, etc. They can't get there, if a strong breeze is going to jimmy the system. They can put all the rules and regulations and ordinances in effect, but with this problem, there is a difficulty in enforcing it.

Selectman Jasper said when there is a violation, the police are called, and they go out and take the reading. The problem has been with interpretation. If the Town invests in the meters and provides training for enough personnel, then they just need to rely on residents calling and complaining. It's not like a motorcycle that speeds by, it's a noise that goes on hour after hour. It's a quality of life thing. The Selectmen need to get someone here to teach the course to a number of employees so there will be enough people to cover the times when this is likely to happen and then get a couple meters. They owe it to the people of the Town to take care of the problem. Selectman Seabury agreed.

Chairman Cole said the direction would be for Sean Sullivan to come back at the Board's next meeting, or the subsequent meeting, with a proposal for their consideration, with regard to the purchase of the appropriate piece or pieces of equipment and, included in that would be the appropriate training for Town personnel. Selectman Jasper said, if possible, the next meeting would be preferable. Chairman Cole also asked Mr. Sullivan to find out which ordinance takes precedence—the State or the Town. Selectman Jasper said at State level, there is a bill winnowing its way through, reducing dba's on motorcycles by 10. Mr. Sullivan might be able to find that out, as well. Chairman Cole asked Mr. Sullivan if he had any question on the Board's direction. He answered no, he did not.

C. Hudson United Soccer Club/Freedom Fields, with Mike Juliano, President of Hudson United Soccer Club.

Community Development Director Sean Sullivan said a couple months ago, Hudson United Soccer Club came to the Board and expressed a desire to utilize a portion of land that abuts Hills Garrison School. After proceeding to the Planning Board, HUSC, in working with the Town Attorney, is ready to sign an agreement to use this land. HUSC will construct and maintain the fields, and working with the Recreation Department. The original request from HUSC was for a term of 15 years. The Attorney's opinion was that the Selectmen's authority would only allow an agreement up to one year and a Town Meeting vote would be needed for any term beyond that. In the Board's packet is a draft of a proposed warrant article, should the Board have an interest to put it forth for the next Town Meeting. The Planning Board gave this plan a favorable recommendation, with some concerns that are outlined in their Minutes of 11/13/02.

Selectman Stewart asked where in the document it referred to the Recreation Department. Chairman Cole wondered why the agreement talked about the Recreation Department giving consent, if it has to be approved by the Selectmen. Mr. Sullivan said if there was a scheduling conflict, the Rec Director would work that out with the HUSC president but, if there was an issue of greater importance that needed to be resolved, the Board of Selectmen would be approached. Mr. Juliano said this agreement started with a paragraph HUSC submitted, which turned into a 10-page document drafted by the Town's lawyers and then went back and forth for about four months for editing. HUSC's intent is to share the field with the Rec Department to promote soccer in Town. Selectman Stewart wanted to see it spelled out in writing, so there wouldn't be any confusion later on down the road. Selectman Jasper expressed concern about overusing the field and felt there should be an understanding about how often it was reasonable to play soccer on those fields. HUSC can set their calendar first and then the Town would have the right to use the fields for X number of days.

(Start Tape 2, Side A)

Chairman Cole said a long time ago, they had hoped to have the 15-year use issue penned out on a cocktail napkin--which has evolved into this and they all share in the accolades that have gotten them to this multi-page document they now have. If the Board goes along with the agreement, they would be granting it for one year and can submit a warrant article at Town Meeting, requesting 14 or 15 years and, if the voters turn it down, or if they decide not to go to Town Meeting, the Selectmen could renew the agreement on an annual basis. Selectman Massey said it sounds like the Board of Selectmen is delegating to the Recreation Department the right to decide field use. If that's not the intention, then excising that sentence would be appropriate. Then the Board of Selectmen are the only ones that would make the decision as to whether or not the field could be used for other purposes.

Selectman Stewart said the sentence, "No other group or individual may use the premises during the regular soccer season, March 1 thru November 30," excludes the Recreation Department. She thought the Recreation Department should be able to use the fields. Selectman Massey said the governing language was, ". . . shall not be unreasonably withheld by HUSC." Selectman Jasper said the second portion of the Semi-Exclusive Use paragraph refers to the period from December 1 to April 30, saying the field can't be used for anything else in that period without consent. He thought that language was appropriate and why the attorney put it in there. Chairman Cole said the last sentence of that paragraph should be removed. Selectman Jasper disagreed, saying requests should be routed through the Rec Director.

Motion by Selectman Massey, seconded by Selectman Jasper, that the Town of Hudson amend the proposed Agreement with the Hudson United Soccer Club by striking, in the Use of Premises clause, "approved by the Hudson Planning Board entitled 'Freedom Fields' dated July 26, 2002," and replace it with: "Hudson United Soccer Club may use the two soccer fields on the premises as its 'Home Field' in conjunction with its participation in the NHSA in accordance with its Site Plan, entitled Freedom Fields, as presented and reviewed at the November 13, 2002 meeting of the Hudson Planning Board. Said use shall commence on September 1, 2003. Site work by HUSC may commence on April 9, 2003, and all work will be performed in accordance with the Site Plan as reviewed by the Hudson Planning Board."

Selectman Massey said this outlines the contractual dates the HUSC can have access to the fields. Selectman Jasper said they could amend this, with the understanding that with the passage of this amendment, they could commence the work, absent the agreement. The Semi-Exclusive Use clause prevents the Board from signing the document tonight, but construction could begin. Chairman Cole asked Mr. Juliano if he'd be opposed to initialing something this evening. Mr. Juliano said he'd rather have his attorney review the changes first. He thought this was a land use agreement, that the construction piece was already settled and the purpose of tonight's meeting was to sign the land use agreement. Four months ago, Chairman Cole approached him, asking him to put together an agreement for the Board to sign on a land use agreement. They got approval from the Board to go ahead with the plans. Chairman Cole asked where the date for site work to commence came from. Mr. Sullivan said knowing that the soccer group was anxious to begin to work, if the Board were to vote to

authorize something, they could begin cutting trees tomorrow. Selectman Jasper referred to RSA 674:54 and said his understanding was that the Board of Selectmen allowed HUSC to begin the process. After they went to the Planning Board, HUSC was to come back to the Selectmen. Until the Selectmen approves the agreement, there isn't one.

Motion by Selectman Jasper, seconded by Selectman Massey, for a recess at 8:40 p.m. carried 5-0. The meeting reconvened at 9:00 p.m.

Vote: Motion carried 5-0.

Selectman Jasper said on 3/11/02, the Board approved United Soccer Club to proceed under the provisions of RSA 674:54 but it was not followed. They had a plan that hadn't gone to the Planning Board, so last November they had a meeting and told them what they had to do. 674:54 requires that a plan go forward to the Planning Board. Within 30 days after the Planning Board review, they submit their comments to the Selectmen, who could then either incorporate them into the plan or ignore them. Unfortunately, the Selectmen never received written comments from the Planning Board until tonight's packet, but not recommendations by a vote of the Planning Board. He he's ready to approve the site plan, with the caveat in the agreement that if the parking becomes an issue, they will have to come back to the Selectmen to address it. He didn't want to create a situation where parking would interfere with the school.

Motion by Selectman Jasper, seconded by Selectman Massey, that language be incorporated in the final document that if parking becomes an issue as determined by the Board of Selectmen, the Hudson United Soccer Club shall have to address the issue of providing adequate on-site parking carried 5-0.

Selectman Massey thought a wording change to the Semi-Exclusive Use as Home Field, along the lines that there would be a calendar that the Soccer Club would publish on some pre-arranged date for the period between March 1 and November 30' would address the usage issue. Any other days in that period, and all the time between December 1 and the last day of February, other groups could use it, subject to written approval by both the Soccer Club and the Board of Selectmen—and he offered to wordsmith it. Days not on HUSC's calendar would be available upon written approval by both groups. He asked if that would be acceptable to HUSC. Mr. Juliano said he'd have to see the wording and let his attorney review it. They were going to split Saturdays, with Rec in the mornings and HUSC in the afternoons. He asked for someone to outline the steps that need to be taken so when he leaves the room tonight, things can get done. Selectman Jasper said his intent is to move to approve the plan tonight, so they can start work tomorrow.

Chairman Cole asked Selectman Massey to put forth a motion to address the rewording and then get with Mr. Sullivan.

Motion by Selectman Massey, seconded by Selectman Jasper, to amend Semi-Exclusive Use as Home Field and the appropriate place for parking to include language that basically states who the approving authority is and at what point in time the field is available for non-HUSC activities.

Selectman Jasper said it ought to include a maximum number of days the field can be used so that's clear. Obviously, you can't use the field from 8:00 a.m. till 7:00 at night because you'll end up with a field of dirt.

Vote: Motion carried 5-0.

Motion by Selectman Jasper, seconded by Selectman Stewart, that the Board of Selectmen approve the site plan presented this evening so construction may begin immediately, but that use of the field will be subject to a final, executed agreement.

Selectman Massey said, in the absence of an approved agreement, there is exposure of risk in the event they don't come to an agreement regarding land use. Mr. Juliano said Nashua Corp has informed them that they will not be able to use their field this fall, which means 140 kids in the program will disperse to other towns to play soccer.

Vote: Motion carried 5-0.

(Start Tape 2, Second Side)

D. Lowell Road/Presentation of Mary Entrance Gates

Engineer Tom Sommers was recognized and said the Town's commitment required that they deal with moving the gate because it contributes to the historic value of that area. The original Town's share estimate was \$50,000, but in looking at the splits, the Town has a one-third portion because the State uses a different formula. Hudson has paid its portion, or \$23,600. However, it has been determined that it's actually going to cost \$238,500 to move the pillars and paying for a historic preservationist--and Hudson's share of that is \$110,664. Subtracting the balance already paid, the Town's share is \$87,064. In reviewing the PMA-Hudson agreement, it appears the Town has an obligation to that and when dealing with federal money and federal projects, if you don't move forward with some of the historic things as you said you would, funding could be jeopardized. If sent back for review, it gets much more complicated. On that basis, his recommendation was to move forward. The Finance Director said there is money available for this.

Selectman Jasper said this was absolute insanity and they should appeal it. No one envisioned physically picking up the gates and moving them. He's sure they could work with PMA, who probably don't care about the bricks. The thing to do is tear down the gates and rebuild them. To spend \$1/4 million to move them back is government totally run amuck. Selectman Seabury asked if the gates were moved once before. Selectman Massey said an abutter, who has lived in Town since he was born a long time ago, told him that when Lowell Road was widened in the early 60's, they moved that arch back but, because the brick work was not salvageable, the only thing they retained from the original arch was the iron work. The bricks are 1960's-era.

Mr. Sommers said appealing the decision may save money, but there will be time delays, etc. in the project and he's not sure what the cost of that will end up being. He's also not sure how to proceed in the process because the State preservationists have been weighing in on the project, so the decision might not even be up to PMA. Selectman Jasper said the Presentation of Mary could decide tomorrow that they don't want the gates any more, so it is totally within their purview. He suggested that it was well worth investing some time in trying to save \$1/4 million. They could start by talking with the nuns to see if they are agreeable. They can find out the process through the State, but they shouldn't move forward without investigating this. Mr. Sommers said they can investigate to find out what would be slowed down and what could go forward. There is an asbestos issue being worked on. There are still issues with PMA with respect to the driveway, which will be brought to the Selectmen another time. It is worthwhile to investigate further. Selectman Massey asked if the driveway was the one by the arch or the proposed extension off Executive Drive. Mr. Sommers said the latter, but the former enters into the situation.

Selectman Seabury asked who was going to approach the nuns. Chairman Cole said if the Board doesn't go forward with this tonight, the appropriate agencies have to be notified of where they are in the process. With regard to the agreement that the Board signed with the Presentation of Mary, the relocation of the gate was a separate item. He asked what the thinking was at that time. Selectman Jasper said that the gate was going to be torn down and moved. Nobody ever thought that the gates were going to be physically lifted up and moved. Chairman Cole said the contract says "relocate the existing gates" and was signed by the Board September 10, 2001. To him that means taking the original and relocating it, not tearing it down. Selectman Jasper said that was just semantics. Chairman Cole said the determination hasn't been made yet that PMA is a historic site, so they might not even qualify.

Selectman Massey believes they have the ability to renegotiate the agreement on the basis of Item 3, "The parties agree that the costs associated with the construction detailed in items A through G above are approximately \$75,800." Mr. Malizia said that was a different issue because the issue of relocating the gates were excluded. Chairman Cole said they stripped "H" out for a reason; it didn't just fall off. Mr. Sommers said they also need to be talking to them about the other, so they might as well combine both things. Selectman Jasper said since he was involved in the original agreement, he'd like to represent the Board. Chairman Cole asked Selectman Jasper to coordinate the effort with the Town Engineer and Community Development Director on behalf of the Board, with regard to the federal funding issue. He asked Mr. Sullivan and Mr. Sommers if they understood the feeling of the Board. They said they did. Chairman Cole said they should come back to the Board as soon as possible with the results.

E. Animal Control Facility

Chairman Cole recognized Police Chief Gendron, Capt. Mello and Animal Control Officer Jana McMillan. Chief Gendron recognized Tom Sommers to explain the engineering. Mr. Sommers said he was asked to do the site design for the proposed animal control facility. He indicated the tee shape on a display board. There would be appropriate parking in front with a looping drive that connects with the existing one. It would be serviced by sewer and water and has been designed to meet Town standards and ordinances in terms of the normal Planning Board process so that everything is in compliance. They put in a couple of new trees, a landscaped mulched garden area and the rest is grass.

Chief Gendron said this is a 2,200 sq. ft. facility, projected to meet the demands of the Town for 15, 20 years. It will be constructed on Town-owned land, directly across the street from the Police Facility, adjacent to the training and fitness center. It's a brick structure with a metal roof, a garage bay, 10 kennels with galvanized chain link partitions, a reception area, a small office, and bathroom/shower. The office area will be heated and air conditioned, while the kennels will be heated and a ventilation system to provide proper flow of air. The building is set up to allow for future expansion to add kennels in the back. Mason Brothers Construction came in at \$195,012. There is \$77,841.28 in private funds that was raised through donations. Town funds are \$85,441.94 for a total of \$163,283.22. They are proposing to transfer \$34,750 from nine different accounts in the current police budget to ensure completion. DPW will assist in doing the site work, which save a lot of money. The Road Agent also indicated his department will do the minimal landscaping and will try to do the paving during the town wide paving project. They are looking at a completion date of September 03. The Town's agreement with Litchfield expires December 31, 2003. Chairman Cole asked if the Town was going to be involved in the adoption of animals. Jana said that will be handled by the Humane Society.

Selectman Massey said there is an agreement between the Police Department and the Trustees of the Trust Funds that allows people to drop off their cats and dogs for a fee. Adoptions will be done through the local humane societies and other places. If an animal needs to be euthanized by order of a veterinarian, it will be done off-premises. The stipulations require court approval to change.

Chairman Cole said the intent is to move this project by authorizing the Chief to go to the Planning Board on April 23 under RSA 674:54 and present the plan for site plan review. The Selectmen will then receive comments back from the Planning Board and it is then anticipated the Chief would come to the Selectmen's May 13th meeting. At that time, the Board would entertain the possibility of approving the entire project and moving it forward.

Motion by Selectman Jasper, seconded by Selectman Massey, to authorize the Police Department to submit the plans for the Animal Control Facility to the Planning Board for site plan review, as governmental land, in accordance with RSA 674:54, with a positive recommendation by the Board of Selectmen, carried 5-0.

Chairman Cole asked the (new) liaison to the Planning Board to make sure this actually happens on the 23rd.

7. **NEW BUSINESS**

A. **Police Cruisers**

Chief Gendron said the department received five cruiser bids, including two State bids—Hillsboro Ford for the Crown Vic and Wyman Chevrolet for the Impalas. The low bid on a Crown Vic, after trade-in, was \$82,340. On the Chevy Impala, it was \$59,295. The Town purchased the Impalas in 2000 and they didn't have any problems with those vehicles. The vehicles have been modified by a shorter shift so it won't interfere with the laptop. The officers believe the Impalas handle better and have a better braking system. The department's recommendation was to award the bid to Wyman Chevrolet of Hillsboro, NH.

(Start Tape 3, Side A)

He thinks they should take advantage of the Impalas' good price. He recommended purchasing a sixth vehicle for a total cost of \$75,354, which is cheaper than buying five Fords. The lowest price they got on warranties for 75,000 miles, zero deductible for three years was MacMulkin Chevrolet at \$2,410 apiece. That covers just about everything in the police cruiser, except the normal wear and tear items—tires, brakes, batteries. He thinks they should take advantage of that because they seem to run short on repairs.

Motion by Selectman Massey, seconded by Selectman Stewart, to award the bid for the FY 2003 Police Cruisers to Wyman Chevrolet for the procurement of six units in the amount of \$75,354 from 5630-401 and further to authorize the purchase of extended warranties for these vehicles from MacMulkin Chevrolet in the amount of \$14,460 carried 5-0.

Motion by Selectman Stewart, seconded by Selectman Jasper, for a recess at 9:40 p.m. The meeting resumed at 9:50 p.m.

B. **Public Hearing for receipt of a \$700 donation to the Police Department**

Chairman Cole opened the Public Hearing at 9:50 p.m. and asked if anyone wished to speak on the donation from Paul and Katie Wiggins, owners of Scorz. There was no response, so he closed the hearing at 9:51 p.m.

Motion by Selectman Stewart, seconded by Selectman Massey, to accept the donation from Paul and Katie Wiggins of Scorz in support of the Hudson Police Department's DARE program, with the Board's appreciation, carried 5-0.

C. **Installation of Water-metering Pits**

Tom Sommers, Engineer, said only one bid was received, which would have allowed the installation of one meter pit this year. If the Highway Department does the work, they could do two pits. They will still need some expertise for wet-tapping. One of the most important things they can do is get the meter pits in to determine how much water is going in and out of Town between Litchfield and Hudson and to Pelham. Right now, the Town is relying on Pennichuck's reading of individual home meters and businesses, but doesn't take into account normal, on-going losses in a system. Selectman Seabury said there is a large water truck from a local developer that goes to a hydrant across from the skate park and fills his tank up. Mr. Malizia said that is allowable, if they get permission first.

Motion by Selectman Jasper, seconded by Selectman Stewart, to reject the sole bid for the FY 2003 water meter pit installation and authorize the Hudson Highway Department to perform the water meter pit installation at a cost not to exceed \$87,000 carried 5-0.

D. **Lowell Road Improvement Project, SEA Amendment #10**

Tom Sommers, Engineer, said this was a contract for on-call services during the construction process. He feels that \$10,000 is a fair number, not that it has to be reached. If the State wanted them there, they would have to coordinate with the Town. He and the Director of Community Development are recommending the Board approve this. Selectman Massey questioned the wording, "not expected to exceed \$10,000," which indicates to him that it is possible it could go over that amount. Mr. Sommers said this is on-call services, so it is up to the Town to control that.

Motion by Selectman Massey, seconded by Selectman Stewart, to approve Amendment #10 to the Lowell Road Improvement Contract with SEA Consultants in an amount not to exceed \$10,000 to be taken from Account #6015 and that any services performed are to be approved by the Town, prior to being performed carried 5-0.

E. **Lions Hall Cleaning/Maintenance Contract**

Sean Sullivan, Director of Community Development, said they received nine responses to the Lions Hall cleaning bid, adding that the CATV message board was extremely helpful. In evaluating the bids, they looked at technical expertise, cost and availability, as getting to a

facility in short order is an important consideration. To create an even keel, the evaluation process included a base cost, two extra events per week and then annualized the cost. His recommendation was Reginald Provencal, at \$23,740--an amount in the middle of the pack. Mr. Provencal provided maintenance services on an interim basis, so Mr. Sullivan has had an opportunity to evaluate his work and is comfortable with it. He has worked for the Rec Department for many years, providing janitorial and maintenance services.

Motion by Selectman Stewart, seconded by Selectman Jasper, to appoint Reginald Provencal as the cleaning/ maintenance contractor for Lions Hall, under the supervision of the Community Development Department; said contract to be in effect for a term of one year, commencing on 13 April 2003 and expiring 12 April 2004 carried 5-0.

F. Disposal of Mobile Home at 35 Mobile Drive

Town Administrator Steve Malizia said the Town took this property in June 2001 and it has laid vacant since then. There is virtually no floor left in the property. The Road Agent and the Assessor have looked at the property and their recommendation is to raze it. There were two other units in that park that were taken by the Town, which were demolished. The Road Agent will coordinate the effort. Selectman Jasper said in the future if this happens, they should get it out right away. He's surprised that the park owner didn't push the issue. Mr. Malizia agreed, adding that he has been on the job only three weeks. It is his goal to handle these much more expeditiously in the future.

Motion by Selectman Jasper, seconded by Selectman Stewart, to authorize the demolition of a Townowned mobile home located at 35 Mobile Drive, Hudson (Map 27, Lot 15-45) at a cost of approximately \$4,600 which will be transferred from 5910-117 5-0.

G. Liaison Assignments

Motion by Selectman Stewart, seconded by Selectman Seabury, to approve the liaison assignments, as put forth in the Chairman's memo of April 8, 2003 carried unanimously.

Selectman Jasper said by statutory authority, Planning and Budget Committee members should be handled separately. Selectman Stewart resigned as alternate to the Planning Board.

Motion by Selectman Massey, seconded by Selectman Seabury, to acknowledge Selectmen Stewart's resignation from the Planning Board carried 5-0.

Motion by Selectman Stewart, seconded by Selectman Jasper, to appoint Selectman Stewart as Budget Committee member and Selectman Seabury as the alternate; and to appoint Selectman Massey as Planning Board member and Selectman Jasper as the alternate carried unanimously.

H. Legal Contract

Town Administrator Steve Malizia said that every April, the Board decides whether or not they want to go out to bid on the legal contract. When the Board decided to switch firms several years ago, the legal bills were very high because of the transition. Selectman Jasper said they should propose to Bossie, Kelly and Hodes that the Town continue their legal services under the same terms and conditions as the previous year and see what their response it.

Motion by Selectman Jasper, seconded by Selectman Stewart, to enter into a contract with Bossie, Kelly, Hodes, Buckley & Wilson for the period 7/1/03 through 6/30/04, subject to agreement by said law firm carried 5-0.

8. OTHER BUSINESS

A. Renaming Central Fire Station the Leonard A. Smith Central Fire Station

Selectman Jasper said he'd like to see them move forward on this at this time in order to have enough time to do the proper planning for a Memorial Day dedication. He wanted to hear from the other Board members. Selectman Seabury said she loved Lenny, but there was a lot of negativity out there about this and someone suggested to her that maybe a public opinion poll should be conducted. Selectman Jasper said when it comes to the Hudson News, you have to consider the relationship between Robin Rodgers and her husband, the Deputy Fire Chief, and see that the negativity has come from members and former members of the Fire Department.

(Start Tape 3, Second Side)

Naming Lions Hall after Lenny would be an insult because that's not Lenny's type of architecture. This issue was first brought to light by Ms. McGrath a couple of months ago; a public hearing was set; discussions were held; they've already heard what input there is on this and he's ready to move forward.

Chairman Cole said if he had to vote tonight, it would be no because he didn't see the plan—when it's going to happen, how it's going to happen, who is going to be involved, how it's going to be financed, etc. The Board needs to see that in order to make an informed

decision. If the Board decides to go ahead with a respectful, solemn and tasteful ceremony, it will get swallowed up in all of the other Memorial Day festivities. Selectman Jasper said he would probably agree that Memorial Day might not be the best time. His intent was that when the Fire Department marches down to their park and everyone is assembled, that would be the appropriate time. He said he will put in writing what the plans are. He asked if he could get some input from the Board. Selectman Stewart said she'd prefer the Firefighters Day, given the current world situation. Selectman Massey agreed, saying Memorial Day focuses on honoring servicemen, and a ceremony to honor Lenny Smith would get lost. However, given all of the comments they've heard, he wondered if the Fire Department would be amenable to go forward with the event.

Chairman Cole said the Town Administrator mentioned that Lenny's birthday is July 5th, so they might possibly consider the 4th of July. They're not taking about a Fire Department activity; it's a Town activity. Lenny's influence on the Town was across-the-board. Selectman Seabury agreed, as did Selectman Massey, who said if the Board decides to honor Lenny Smith in this fashion, making a separate event emphasizes the message of honoring an individual who gave over 70 years of his life in service to the Town. It is going to be very hard for anyone to ever match that level of service today and thought July 5 would be appropriate. Selectman Jasper said on Memorial Day, everyone from the Fire Department is there, along with the Honor Guard, and it would be easy to bring in other people and have them participate. He didn't think July 5th was good because many people are out of Town at that time.

Chairman Cole said if they are to go forward with this, he'd like to see participation by the Fire Department, the Police Department, the School, etc., to encompass all of the things Lenny touched. The issue is Lenny, not the Fire Station. He understood from Ms. McGrath, who got the ball rolling, that the intent was to do something to honor Lenny. Selectman Jasper asked how much support there was for renaming Central Station for Lenny. Selectmen Stewart and Massey said they supported it. Chairman Cole clarified that Selectman Jasper and Marilyn McGrath will be at the Board's next meeting to lay out what is being proposed. Selectman Jasper agreed.

B. Benson's Committee's Non-voting Member

Chairman Cole said this was a request by Andrew Singelakis because of the staff relationship between NRPC and the Town. It has nothing to do with the individual, nor does it change the capabilities and contribution.

Motion by Selectman Jasper, seconded by Selectman Stewart, to rescind the action whereby the Board made the staff member from Nashua Regional Planning Commission a voting member carried unanimously.

Motion by Selectman Jasper, seconded by Selectman Stewart, to reaffirm that the Nashua Regional Planning Commission staff person continue as a non-voting member of the Benson's Committee carried 5-0.

C. Rail Service from Nashua to Lowell

Selectman Seabury said, as the NRPC liaison, she was remiss in not bringing up the issue of rail service between Nashua and Lowell sooner, which was defeated by the Executive Council in Concord. Andrew Singelakis called her last week to ask the Board if they were in favor of the commuter line. If they are, he asked that the Board initiate a resolution and, in addition, write a letter to the Executive Council to reconsider the vote. She said that Councillor Wieczorek has ties to the trucking industry through his son in law, and the trucking industry doesn't want the rail line.

Selectman Jasper didn't know about Councillor Wieczorek's ties to the trucking industry, but there is a constitutional amendment that requires that all monies raised from road toll taxes go into a separate trust fund for the improvement and construction of the highway system—and railroads do not fall under the highway system. No monies are paid by the railroad industry into the highway fund and, therefore, he thinks it is unconstitutional to take money from the highway fund. He would not be in favor of a resolution, although he supports the railroad system.

Selectman Massey said he is a rail fan but, regarding the constitutional question, the road trust funds have been used for things other than road improvements and for the same reason the other projects in the State have been constructed using this money, you could make that same argument for the rail service. The fact that the trucking industry has raised this issue about a constitutional requirement is somewhat of a red herring in that the State has used that money for ancillary projects in support of the highways. This project would support the use of the highways by removing lots of cars off the roads. Reasonable people have come up with two different interpretations. He believed the service needs to be put in, all the way to Concord because it's a known phenomenon that within 10 to 15 years after a highway is expanded it's at saturation point. If you build a road, they will come—industry, buildings, shops, etc. because it's easy to get to. Rail service all over the country is being subsidized by the states. California leads the nation and Los Angeles has got one of the finest light rail systems in the country. He supported doing something on this process.

Chairman Cole said Andrew mentioned this to him yesterday. There is a resolution that the Selectmen can have in their packet for their next meeting for consideration.

D. New Tables and Chairs for Lions Hall

Selectman Seabury said new tables and more comfortable chairs are needed at Lions Hall and wondered if that request could be put in the budget. Mr. Malizia said yes, it could. Chairman Cole said that facility is getting more use in a community-support role and they have to

look at rehabilitating the building—chairs, tables, sound-proofing, making it user-friendly for television, etc. Selectman Jasper, the liaison to Community Development, is to ask Mr. Sullivan to come in with an idea, plan or proposals with regard to what they can do to spruce up the building and make it more community-friendly for a variety of events. Selectman Jasper said he'd speak with Sean Sullivan.

E. Solicitation Ordinance/Kudos to DPW/Rec Dance

Selectman Stewart said she wanted to make residents aware that the Town has an ordinance that prohibits door-to-door solicitation for people selling meats, books, etc., without first getting a permit from the Police Department. It does not apply, however, to the Scouts or church groups.

She thanked DPW for the great job they did with snow removal this year.

The Recreation Department will be having an adult dance on April 25 at Lions Hall, \$10, BYOB.

She thanked the Town of Merrimack's Board of Selectmen for making Hudson look real good.

F. Master Patrol Officer Paul Balukonis

Chairman Cole said he's been notified that Master Patrol Officer Paul Balukonis has been recalled to active duty for a period of 166 days, effective April 28, 2003. Paul is a 16-year veteran with the Hudson Police Department, currently serving as a School Resource Officer where he is known as Officer Paul. He resides in Hudson with his wife, Shelby, and his daughters, Julie and Lauren. Paul has 20 years in the Army Reserves and currently holds the rank of Major in the Military Police Corps. In 2001, Paul was called up for four months in support of Operation Noble Eagle. He'll be doing this assignment with the 94th Regional Support Command at Ft. Devens, MA, serving as Provost Marshal and Anti-Terrorism Officer. He wished Paul well and appreciate his service to the country during this difficult time.

9. REMARKS BY THE SELECTMEN

Selectman Massey said Thursday is the 40th anniversary of the beginning of the Eternal Patrol for the USS Thresher; 129 officers, crewmen and civilian technicians began that Eternal Patrol and tonight he thought it would be appropriate to remember them and the 52 submarines and 3,000 crewmen from WWII, who are on Eternal Patrol. He asked for a moment of silence.

10. NONPUBLIC SESSION

Motion by Selectman Jasper, seconded by Selectman Stewart, to enter Nonpublic Session under RSA 91A: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 Town Administrator; and (d) The consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community carried 5-0 by roll call vote.

(Start Tape 4, Side A)

Nonpublic Session was entered into at 10:43 p.m. and was terminated at 11:30 p.m.

Motion by Selectman Massey, seconded by Selectman Jasper and Selectman Stewart, to appoint Steve Malizia as Town Administrator at a salary of \$74,000 per year, effective immediately.

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Chairman Cole noted that Steve's first official duty is to terminate the services of NHMA's re. search for a Town Administrator.

11. ADJOURNMENT

Motion to adjourn at 11:31 p.m. by Selectman Stewart, seconded by Selectman Jasper, 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