

HUDSON BOARD OF SELECTMEN

Minutes for Meeting of November 26, 2002

1. CALL TO ORDER

Chairman Bill Cole called this meeting of the Hudson Board of Selectmen to order at 7:33 p.m. on Tuesday, November 26, 2002, in the Board of Selectmen's Meeting Room in the Hudson Town Hall basement, following a previously scheduled client-attorney session.

2. PLEDGE OF ALLEGIANCE

Chairman Cole asked Selectman Jasper to lead the assembly in pledging allegiance to the Flag of the United States of America.

3. ATTENDANCE

Those persons present were as follows:

Members

Present: Bill Cole, Shawn Jasper, Ann Seabury, and Terry Stewart.

Members

Absent Rhona Charbonneau.

Staff

Present: Paul Sharon, Town Administrator.

Recorder J. Bradford Seabury.

Chairman Cole stated that it had come to his attention that there had been a perception on the part of some individuals that the Town had not appropriately supported the funeral service for Mr. Leonard Smith during the preceding week. Chairman Cole said he had not been able to substantiate any facts to support such a perception, but that he realized and appreciated the role that perception played in people's daily lives and in the community. He then expressed his personal apology and sincere regrets to Mr. Smith's family for any possible discomfort this perception might have caused. As Chairman of the Board of Selectmen, he said, he took full responsibility for any action or perceived lack of action that resulted in this community being portrayed in anything less than a favorable light — adding that this responsibility rested entirely with the office of the Chairman, not with the Board of Selectmen as a whole nor with any department or employee of the Town.

4. PUBLIC INPUT

Chairman Cole noted that Mr. Benedetto Sgro, 21 Burns Hill Road, had signed up to speak to the Board of Selectmen concerning code enforcement issues. It was determined that Mr. Sgro was not present.

Chairman Cole asked if any other member of the public wished to address the Board. No one coming forward, he continued to the next agenda item.

5. NOMINATIONS AND APPOINTMENTS

Chairman Cole noted that there currently was a vacancy on the Benson's Committee and that an application had been received from Catherine Piotrowski, which had been on file for a couple weeks. It was determined that Ms. Piotrowski was not present. Chairman Cole suggested that this matter be put on hold to allow time to contact Ms. Piotrowski to find out what her current attentions were.

6. CONSENT ITEMS

Chairman Cole offered to entertain a motion to receive the items on the Consent Agenda, groups A through D with appropriate recommendations.

Selectman Jasper made a motion to move items A and B.

Chairman Cole offered to entertain a motion to receive the items on the Consent Agenda, groups C and D. Selectman Seabury so moved; Selectman Stewart seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

A. Assessing Items

- 1) Veteran's Tax Credit Application (96 Highland, Map 051/Lot 009; 93 Barbara Lane, Map 024/Lot 025/Sublot 102)

Chairman Cole offered to entertain a motion to grant the designated Veteran's Tax Credit Application, as recommended by the Assessor. Selectman Jasper so moved; Selectman Stewart seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

- 2) Supplemental Tax Bill (17 Lorraine Street, Map 046/Lot 096)

Chairman Cole offered to entertain a motion to grant the designated Supplemental Tax Bill, as recommended by the Assessor. Selectman Jasper so moved; Selectman Stewart seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

- 3) Application for Abatement (18 Third Street, Map 056/Lot 109)

Chairman Cole offered to entertain a motion to grant the designated Application for Abatement, as recommended by the Assessor. Selectman Jasper so moved; Selectman Stewart seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

B. Sewer Utility Items

- 1) Sewer Abatements (S-03-04; SUTL-03-08, 314 Fox run, Acct. 4524; SUTL-03-10, 216 Central Street, Acct. 1243)

Chairman Cole offered to entertain a motion to grant the designated Veteran's Tax Credit Application, as recommended by the Sewer Utility Committee. Selectman Jasper so moved; Selectman Stewart seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

- 2) Sewer Allocation Request (92 Ferry Street, Map 58/Lot 89-2)

Chairman Cole offered to entertain a motion to grant the designated Veteran's Tax Credit Application, as recommended by the Sewer Utility Committee. Selectman Jasper so moved; Selectman Seabury seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

- 3) Sewer Acceptance (Reeds Brook Village, Map 23, Lot 25-1)

Chairman Cole offered to entertain a motion to grant the designated Veteran's Tax Credit Application, as recommended by the Sewer Utility Committee. Selectman Stewart so moved; Selectman Jasper seconded the motion.

Selectman Seabury asked if someone on Town staff were keeping track of these sewer connections, to ensure that the town did not exceed its capacity. Mr. Sharon stated that Tom Sommers, the sewer consultant, was doing that. Selectman Jasper stated for the record that the Town was doing quite well and had actually moved in the opposite direction, since some large sewer users had closed their businesses in Hudson.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

4) Sewer Enforcement (connection of property to sewer)

Chairman Cole offered to entertain a motion to initiate enforcement action for the completion of permitting and connecting of sewer to the property located at 13 Park Avenue, as recommended by the Sewer Utility Committee. Selectman Seabury so moved, adding that this had been a long time coming; Selectman Jasper seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

5) Rewrite of the Sewer Utility Committee Policies and Procedures

Chairman Cole offered to entertain a motion to approve the proposed rewrite of the Sewer Utility committee policies and procedures, as recommended by the Sewer Consultant. Selectman Seabury so moved; Selectman Stewart seconded the motion.

Selectman Jasper expressed apologies to the Sewer Utility Committee for not having been at the meeting when this matter was discussed. He questioned whether there was a requirement for the Sewer Utility Committee to have an alternate member, pointing out that the Board of Selectmen and the School Board did not have alternates. He then asked if it might not be better for the Selectmen to be more in tune with the attendance records of the persons they appointed to the various boards — to look at the root cause of the problem rather than a band-aid solution. He then clarified that, in order to ensure a quorum, the Selectmen ought to appoint people who were willing to show up at the meetings — adding that he would vote "No" on the motion, as he felt the Board should be concentrating on the attendance of the people appointed and reappointed, rather than adding alternate members.

Chairman Cole asked for an explanation as to why this change was being proposed. Mr. Sharon said there had been a difficulty in earlier times in getting a quorum for the Sewer Utility Committee meetings but that this had not been the case for the past couple years. Mr. Sharon noted that this was a very important committee, saying there needed to be a mechanism to prevent a situation of meetings being skipped because no quorum was present.

Selectman Jasper said this was correct, but that he thought it would be better to change the rules so as to be able to remove someone who did not attend three meetings, adding that he thought the solution to this problem was to get rid of members who did not show; he also expressed concern about the likelihood that alternates who sat in on meetings but did not get to vote except every six meetings or so might lose interest. Selectman Seabury commented on the importance of alternates for the Zoning Board of Adjustment and the Planning Board, stating that most of the members and alternates on those boards showed up, with occasional problems in the summer time, but that one or more alternates had to be seated at almost every meeting. Selectman Jasper asked how often the seating or nonavailability of an alternate had been the difference between having or not having a quorum; Selectman Seabury replied that it was often a problem in the summer time, and Selectman Jasper said he felt this was a problem.

Chairman Cole, noting that he was opposed to alternates in general, said he would like to find out why this change had been proposed, and he then suggested that the motion be withdrawn until more information was obtained.

Mr. Howard Dilworth, Jr., 36 Old Derry Road, Vice-Chairman of the Sewer Utility Committee, said this situation had come up primarily because of difficulty in the past, several years ago, with respect to obtaining a quorum. He said the membership had changed since that time, but there routinely was at least one member not present for some reason or other. The primary reason for requesting this change, he continued, was that there was a lot involved in running the sewer utility, and the Committee liked to get involved in all details of the operation. He said the Committee had found that it was very difficult to get volunteers who wanted to be affiliated with this committee, as it was not a high-glamour position but was fairly technical. He pointed out that Hudson owned 12% of the Nashua treatment plant, adding that one

of the Committee's activities was to review Nashua's invoices relative to capital purchases for the system, adding that the Committee had sometimes found things that Nashua had tried to bill Hudson for charges that Hudson should not have to pay. In addition, he said, there were ongoing projects, such as inflow infiltration. He said the Committee wanted an additional person so that the person could start learning what was involved, so that the Committee would be able to advise the Board of Selectmen appropriately on actions that the Selectmen should be taking — reiterating that the purpose of the request was to get others involved so that they might start learning the operation of the system.

Chairman Cole expressed appreciation for Mr. Dilworth's comments, but said he was still not convinced that he understood the reason for this request, and he again asked that the motion be withdrawn, so that he could get more information. Selectman Seabury withdrew her motion.

Chairman Cole offered to entertain a motion to defer this item to the meeting of December 10th. Selectman Seabury so moved; Selectman Stewart seconded the motion

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

7. OLD BUSINESS

A. Warrant Articles

1) Blind Exemption

Chairman Cole asked if this were a follow-on to the warrant articles proposed for elderly and disabled exemptions. Town Assessor Jim Michaud answered in the affirmative, stating that the last adjustment for the blind was done in 1993, and he felt this might be an appropriate time to raise that exemption level, since there had been an increase in assessed value. He discussed exemptions used in other nearby communities, noting that there was a wide range, but he could not find any justification for making it different from the exemption for the disabled. He noted that there were only about 15 citizens receiving this exemption, adding that he recommended the \$75,000 figure, to keep it consistent with the disabled and elderly exemptions.

Chairman Cole offered to entertain a motion to forward this article to the warrant. Selectman Jasper so moved; Selectman Stewart seconded the motion.

Mr. Sharon suggested changing the "Shall we ..." opening to "To see if the Town will vote to ..." in order to be consistent with the other warrant articles. Selectman Jasper added this to his motion as a friendly amendment, and Selectman Stewart concurred.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

2) Ingersol Family Trust Land

Chairman Cole expressed a belief that the Board had moved this to the warrant at its 12 November 2002 meeting. Mr. Sharon concurred, noting that it had been moved with the provision that it be cleaned up with respect to language and dollar amount; he said the present version was in the proper format.

Selectman Jasper said it was important to provide sufficient backup material and justification to the Budget Committee, saying the Committee members needed that information to study prior to making a vote on such matters. Chairman Cole said he would expect that as much information as possible would be provided for all articles, but noted that some of them, such as the Benson's issue, were a work in process.

3) Greeley Street Drainage Construction

Chairman Cole expressed a belief that this item had been brought back because of some rewording. Mr. Sharon noted that there was a provision that part of the money required for the work would be dedicated by the developer. Town Agent Kevin Burns concurred. Chairman Cole offered to entertain a motion to forward the revised article to the warrant.

Selectman Jasper noted as a point of order that the item currently was tabled and must be removed from the table first. Selectman Seabury then moved to take the item from the table; Selectman Stewart seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion to take the item from the table. All members voted in favor, and Chairman Cole declared the motion to have carried.

Chairman Cole offered to entertain a motion to forward the item to the warrant. Selectman Jasper so moved; Selectman Stewart seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

4) Benson Property Development

Chairman Cole noted that this item had been moved to the warrant at the 12 November 2002 meeting. Mr. Sharon said the language had been consolidated and made a little clearer and more specific in the present version. Chairman Cole noted that there had also been an insertion that there was no tax impact.

5) Planning Board Expendable Trust Fund

Chairman Cole offered to entertain a motion to forward the proposed article to the warrant. Selectman Seabury so moved; Selectman Stewart seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor except for Selectman Jasper, who voted in opposition, and Chairman Cole declared the motion to have carried.

B. Benson's Property Transfer

Selectman Cole referenced an 11-18-02 letter from Carol Murray, the Commissioner of the NH Department of Transportation, officially informing the Town of Hudson of approval at the last meeting of the Governor and the Executive Council for transferring the Benson's property to Hudson. He said this meant that the Town was now waiting for a proposed deed with regard to the actual transfer, noting that the price would be \$188,000, and explaining that the property was evaluated at \$187,000 and then \$1,000 was added as an administrative fee. Selectman Cole said the proposed deed should be received within the next week or two, would then go to the Town Attorney for review, and then come back for approval by the Board of Selectmen. He then offered to entertain a motion to set a public hearing for this particular item, to be held on 23 December 2002. Selectman Stewart so moved; Selectman Jasper seconded the motion.

Selectman Cole asked if there were any comments before the vote, and he then stated that he felt this interval would give sufficient time to receive the proposed deed from the State and to have Town Counsel review it, adding that he felt the Board of Selectmen would be prepared after the public hearing to take action on the Town's part. Describing this event as a significant milestone with regard to the Benson's property, Selectman Cole said he wished to recognize and thank the members of the Benson's Committee, both present and past, with personal thanks to Town Administrator Sharon for his hard work and assistance on this project, as well as the Town's thanks to Commissioner Murray and her staff for their particular efforts and professionalism in getting this milestone completed.

C. Default budget (Police Department)

Police Captain Raymond Mello appeared before the Board, who stated that Chief Gendron had wanted to be here for this discussion but was currently in another meeting in Nashua. Captain Mello said the Police Department would make the default budget work and were taking steps to make that happen, but Chief Gendron had wanted the Board of Selectmen to be made aware of certain problem issues, with the first being the overtime situation. He noted that the overtime account would remain the same as this year's funding, whereas labor contracts would have an increase in costs, with the result that the Police Department would have difficulty staying within the allocated overtime amount.

Captain Mello stated that there were some contracts kicking in next year that he did not think Mr. Malizia had been aware of when laying out the default budget, dealing mostly with the computer system, with IMC and Aether. Based on this year's spending, he added, those new costs kicking in would be problematic. Selectman Jasper noted that those were not ongoing contracts, but were contracts that had provided maintenance without cost initially, but which the Police Department would now have to start paying for.

Selectman Cole said the Board of Selectmen had forwarded the default budget to the Budget Committee with the

belief that it included obligations that were either carried into 2004 or were beginning in 2004. He then said that the Board had wanted to give the department heads an opportunity to come before the Board and let the Selectmen know of any things they felt strongly about or anything that they felt the Selectmen might possibly have overlooked — and also to get the Board's approval to add an item or items, depending on the Board of Selectmen's subsequent decision, when their presentations when they went before the Budget Committee for the default budget and known obligations. Selectman Cole noted that there were a number of items listed as additional obligations, and he suggested that Captain Mello discuss them one at a time.

Captain Mello referenced the Aether contract, identified by Lisa Nute of Information Services. Selectman Cole asked for the line number; Captain Mello responded that he did not have a copy of the budget, explaining that the Department's copy was with Chief Gendron at this time. Selectman Seabury provided her copy to Captain Mello, and Selectman Cole suggested that Captain Mello start at the top, adding that he intended to give Chief Gendron a thumbs up or thumbs down on each item, with regards to the Police Department presenting that item to the Budget Committee in addition to the default budget.

Captain Mello said part of the increase for the departmental telephone system had to do with computer issues and the frame relay system that the department was putting together. He then suggested that it might be better to leave this item for Chief Gendron to address, as he was more familiar with the request.

Captain Mello then addressed the regular preventive maintenance on the cruisers, stating that some of the newer cruisers required more maintenance and had to go in for service more often than the Chevrolets that the Town used to buy. He noted that this account had been decreased by \$7500, saying this would hinder the department's ability to keep the fleet on line and ready to go.

Referring to Patrol Overtime, Captain Mello said the overtime had been decreased by \$37,500, yet the department had increases in the labor contracts and in mandatory coverage issues. He said it was being kept under control while the department was at full staff, but would become a tough area when anyone left the department.

Selectman Seabury noted that the total amount for account 5630 was just over 2.54 million dollars, while the default resulted in \$2,090,000, with the big variable being automobiles. He said the Town had been budgeting \$120,000 per year for replacement of cruisers, budgeted as if the Town had to pay 100% for the automobiles, but the reality was that the Town traded in cruisers — with \$62,000 spent this year, \$60,000 the year before, with \$101,000 spent in 2001 to cover two years. He then suggested that the shortage in the repair account could be made up very easily from the purchase account. Mr. Sharon asked if this account would not have to stay constant. Selectman Jasper answered that the Budget Committee could reallocate the money, based on what its members thought was going to occur; he then acknowledged, however, that it would be a whole different scenario if the Budget Committee simply cut \$60,000 out of the account, but he presumed the representative to the Budget Committee could present that case — that some of the money should be reallocated for those things that were real concerns, adding that this was the sort of thing to look for in a default situation: the areas where the Town could meet the services by finding other areas to transfer from, and this met that criterion. Mr. Sharon expressed concern that the Budget Committee might cut in both places. Selectman Jasper responded that the Department would have the ability to speak to the bottom line that the Board of Selectmen had approved, adding that the Board of Selectmen had not spoken to particular line items but had spoken to the bottom line, and he felt the department heads could make their cases to the Budget Committee, so long as they did not attempt to increase the bottom line with respect to their areas of responsibility.

Captain Mello next addressed account 660-2202, the maintenance contract for the computer system, noting that the department owed \$16,358, to be paid in July 2003. He explained that this pertained to Aether upgrades having to do with the IMC system and the report-writing system. He noted that the costs would drop back in 2005, but the 2004 costs would have to be paid in July of 2003. He then stated that the Town Data Processing unit was asking the Police Department to pick up the police portion of the contract in place of the SMS system, amounting to \$10,000. Mr. Malizia corrected this statement, saying that item had been placed back in the Finance Department account.

Selectman Jasper said the maintenance contract line item currently had \$16,980 left in it, and he questioned what other obligations would affect this. Captain Mello expressed a belief that the IMC came out of that line; Mr. Sharon demurred, stating that the IMC money had been expended.

Selectman Jasper excused himself at this time in order to obtain his budget book from his vehicle.

Chairman Cole offered to entertain a motion for a 5-minute break. Selectman Stewart so moved; Selectman Seabury seconded the motion.

VOTE: Chairman Cole called for a verbal vote on the motion. All members present voted in favor, and Chairman Cole declared the motion to have carried.

Chairman Cole then declared an intermission at 8:35 p.m., calling the meeting back to order at 8:40 p.m.

Captain Mello reported that he had received a cell-phone call from Chief Gendron, who was on his way, and Chairman Cole ruled that the Board would move on to the next item in the agenda and return to the discussion of the Police budget when Chief Gendron arrived.

At that time, Recorder Seabury stated that no vote had been taken with respect to the motion to set a public hearing on 23 December 2002 for the transfer of the Benson's property, under agenda item 7.B.

VOTE: Chairman Cole called for a verbal vote on the motion. All members present voted in favor, and Chairman Cole declared the motion to have carried.

D. Default Budget (Fire Department)

Chairman Cole announced that he had moved the discussion of the Fire Department budget to the next meeting of the Board, so as to ensure adequate time for that discussion.

E. Noise Ordinance

Community Development Director Sean Sullivan appeared before the Board to review the issue of noise complaints concerning the Cutler Road neighborhood. Director Sullivan then read from a memo written by Police Captain Mello and himself as a report of a meeting of both of them with Atty. David LeFevre and Noise Consultant Anthony Trouver and Code Enforcement Officer Robert Sousa. After much discussion and research, he reported, it was their opinion that the latest data of noise samples from the Cutler Road area indicated that there was no current violation of the Town's Noise Ordinance taking place by means of dirt-bike riding on property owned by David Robinson at 5 Cutler Road. Noting that the Town's Noise Ordinance contained both a continuous and an impulse decibel level for noise, and that the site in question had not been found to have been in violation of the maximum noise levels. He also noted that the State Fish & Game personnel and State Police had not used hand-held decibel level meters, since questions had arisen as to their accuracy—and hence their ability to be relied upon in court—so the reliability of the hand-held devices possessed by the Police Department and the Community Development Department was not tenable. Director Sullivan said that the State's Disorderly Conduct Statute, NH RSA 644:2, could govern the situation, as it limited a person from making loud or unreasonable noises in a private place such that they could be heard in a public place or in other private places, if such noises would disturb a person of average sensibilities. Director Sullivan then noted that there was a difficulty in using this statute, however, in that it was subjective and the authorities would be hard-pressed to argue that the noise disturbed a person of average sensibility if the noise did not violate the Town's Noise Ordinance. Director Sullivan concluded by stating that, based on their research, the Town had two options:

- (1) To lower the impulse decibel levels as they appeared in the Town's Noise Ordinance.
- (2) To determine that the issue of noise pollution in this particular instance does not violate the Hudson Noise Ordinance and as such is considered a civil matter between neighbors.

With reference to the latter option, Director Sullivan noted that the affected neighbors were always free to call the Police Department if they felt the Disorderly Conduct Statute was being violated—but that no action would be taken by the police if the noise levels were then found to be within the limits allowed by the Town's Noise Ordinance. Director Sullivan reported that it was the collective recommendation of the consulting group that the Board of Selectmen accept the second option,

Selectman Jasper said there was no doubt from his perspective that the Noise Ordinance was not being violated, but only because the Noise Ordinance required an hour of time, and it was almost impossible to ride a dirt bike around in a circle for an hour without stopping, breaking the continuity. He noted that the problem had been particularly acute this past Sunday, reporting that he had called the police, but had found it not to be a user-friendly way to go, as the police had sent him off with a complaint form that he had to find a Justice of the Peace to sign—adding that no one had told him what he was then supposed to do with the complaint form. He suggested that he was on his own and would have to go to court. He expressed a belief that the Town had more of an obligation to help people, and he suggested that the

Noise Ordinance should be changed along the lines of applying a lower level if the noise extended through a 30-minute span within an hour. He then added that he had thought that a recommendation would be coming back from the noise consultant as to how to amend the Noise Ordinance. Selectman Seabury expressed agreement. Selectman Jasper said he did not think the Board should arbitrarily change the ordinance so that it affected everyone, however, noting that this was an isolated situation.

Selectman Seabury noted that she had received a telephone call this weekend from a resident of that neighborhood, who had wanted her to come over to listen to the noise, but she had been in the middle of her evening meal. She expressed a belief that the problem stemmed from the fact that this was a long, narrow piece of property, close to the neighbors. She suggested that the Board should go back to the noise consultant and have him lower the decibel levels, so that the affected neighbors could have a decent quality of life during their weekends. She noted that she had called the police on that occasion, and that they had sent a cruiser over to the affected vicinity. She protested that leaving it as a civil matter placed too much of an obligation on the neighbors, reiterating that she felt the Board should lower the allowed decibel levels.

Chairman Cole asked if he were correct in thinking that the Noise Ordinance could not be fine-tuned so as to apply differently to different street areas. Director Sullivan indicated agreement.

Selectman Jasper asked if the noise data obtained by Director Sullivan indicated that the noise would exceed the allowed decibel limits if it continued for an hour. Director Sullivan said he had two sets of data: one set taken before Mr. Robinson put mufflers on his bikes and the other taken afterwards. He said the answer to the question would be "Yes" for the earlier set of data, but that he would say "No" for the second set of data, although it was sketchy at best. Selectman Jasper then stated that his house was at least a third and more likely half a mile away from the Robinson property, adding that, if the noise he had heard this past Sunday was acceptable, there was a problem with the Noise Ordinance. He added that he was skeptical as to whether all of the bikes on the property had mufflers, adding that the noise had been "really awful" this past weekend.

Director Sullivan said it had been difficult to make a recommendation to the Board, as Atty. LeFevre had said there was a State statute that applied, and the Town would not be able to exceed the authority that had been given by the State. If the Town lowered the decibel levels, he continued, the potential for new noise problems to arise in other areas of town was quite possible. He noted that noise complaints were received on occasion, adding that he could meet with the noise consultant and come back with some modified readings, if the Board wanted him to do so. Selectman Jasper said he shared Director Sullivan's concern about a blanket reduction, but the Board could not leave the abutters in their present situation, declaring that the Board had to do something for those people.

Director Sullivan asked if the Town could prosecute on behalf of the neighbors if the bike riding were determined to be a public nuisance. Selectman Jasper said this was what he had thought—that the police could go out and determine that it was a violation of the law, upon complaint of the citizens. Captain Mello said the police could in fact do that, but that the problem was that the public nuisance ordinance was very subjective. He then added that the officer who went out to that neighborhood on Sunday had said that the noise clearly was not going to exceed the limits, but that the problem was the constant droning nature of the bike sound. He added that this approach would be asking the police to take sides between the person who was using his property and the abutters who were offended, when the police did not have probable cause to say the statute had been violated—adding that the police often recommended that offended persons file a civil complaint if the police could not find probable cause to bring someone to court. He agreed that it definitely was a problem to the neighbors, but stated that the police did not feel it rose to finding a probable cause and would be problematic to the prosecutor.

Selectman Jasper said he had a problem, if the police and everyone else could agree that it was a problem, so why wasn't there some help from the Town? Chairman Cole said he would welcome any suggestions as to what the help from the Town would be, that could be isolated to that particular area. Selectman Jasper said it seemed to him that the police could take a stand that this was a public nuisance.

Selectman Seabury expressed disagreement with the idea of isolating to the particular area, saying the decibel levels should be lowered across the town if they were to be lowered. Chairman Cole explained that what Director Sullivan had been saying was that the possible impacts in other areas of the town if the decibel levels were lowered were not known, as unintended consequences. He suggested that the first thing to do should be to bring in the noise consultant to get an assessment of the spectrum of anticipated results if the Noise Ordinance were to be revised to such a level that this particular situation was covered. Selectman Seabury questioned why there could not have different classifications for different areas, just as the Zoning Ordinance did. Selectman Jasper noted that the Noise Ordinance spoke to day-time hours, night-time hours, and weekends, adding that at least one of the abutters felt very strongly that the activity in

question was in violation during evenings and weekends.

Captain Mello said the private complaints would be heard in court, even though the Police Department would not prosecute them, stating that it was a very simple procedure, in which the complainant would testify, telling his or her side of the story, and the defendants would then be given a chance to tell their side of the story, after which the judge would make a decision. He then added that the past Sunday's complaint would be heard in court.

Chairman Cole asked if there were agreement that Director Sullivan should get back with the noise consultant and find out what the impact, if any, would be if the noise ordinance were changed so as to cover the Cutler Road area. Selectman Jasper said the area to be looked at should be the duration of the noise and the number of dirt bikes simultaneously involved. He questioned why, for example, 59 minutes of noise would be okay but 60 would not. He then expressed concern about the fact that the Board kept being told that there were only hand-held units and that they were not calibrated, together with the fact that noise conditions were apt to change before anyone got out to the site with measuring equipment.

Selectman Seabury said the noise consultant involved with the complaints about the site in her neighborhood had set up meters at different locations along the perimeter of the site and had taken readings day and night for an extended period of time. She noted that the same thing had been done with respect to an industrial building down in the River Road area. Director Sullivan said that the same consultant had also done the same thing in the Cutler Road area in 1999, adding that the Noise Ordinance *was* being violated at that time, adding that Mr. Robinson subsequently had put mufflers on his bikes. Director Sullivan then noted that Mr. Robinson had been hurt earlier this year while riding his dirt bike on his property, with the result that the amount of dirt-bike riding had decreased, making it more difficult to test.

Selectman Jasper said that it needed to be made clear to Director Sullivan what the Town's drop-dead date was with respect to getting changes into the warrant. Director Sullivan expressed a belief that it could be done in time, provided that the noise consultant was accessible. Mr. Sharon said the information would have to be available by December 23rd, to be addressed by the Board at that time. Director Sullivan said he thought he could do that.

Chairman Cole noted that Chief Gendron was now present. He then asked the latter's indulgence, however, saying he wanted to go to Item 7.F, as there were people in the audience out of interest in that item.

F. Lions hall/Recreation Center

Community Development Director Sean Sullivan made a presentation concerning a feasibility study that had been performed by the Community Development Department in response to requests by the Board of Selectmen and the Town Administrator with respect to the concept of moving the Youth Recreation Center to the Lions Hall and moving the Lions Hall activities to the Recreation Center. He noted that Tom Sommers had helped out by drawing up the plans, and Road Agent Kevin Burns had helped out by determining some of the cost factors. Director Sullivan outlined two options as having been considered, the first involving significant modification of both buildings, and the other keeping both buildings as they currently were.

The first option, involving exterior and interior work for the proposed Youth Recreation Center and expansion of the proposed Senior/Community Center, would represent a cost of \$168,000. For the proposed Senior/Community Center at the existing Recreation Center, the parking lot would be expanded to a minimum of 43 parking spaces, where approximately 15 existed today, by removal of the sandbox, the basketball and volleyball courts, the swing set, and the existing canopy, and then to install landscaping and striping the parking lot. He also discussed signage and lighting details, but noted that the garage would be maintained for storage, and the kitchen area would be expanded by constructing a 12-ft by 20-ft addition, as well as to square off the back of the building with a 12-ft by 41-ft addition. He said the costs of the signage and lighting were projected at approximately \$3,000, with new kitchen appliances projected at approximately \$3,000, while site improvement costs were projected at approximately \$17,000 and structural improvements were projected at approximately \$90,000—for a total cost for that site of \$113,000.

For the proposed Youth Recreation Center at the existing Lions Hall, the changes would be to remove the pavement at the right side of the property and to construct a multipurpose ball field with fencing and irrigation, removing approximately 52 parking spaces. He discussed issues of the wetlands and PSNH easements on that property, and he clarified that the pavement on the left side of the building and across the street would be restriped, providing a total of 69 parking spaces, with access/egress improvement by means of curbing, sign markings, and traffic islands. He noted that the existing façade sign probably should be replaced, and that fencing should be installed for security purposes, and he

also discussed signage and lighting issues. He said a new canopy shelter would be needed. He identified the projected costs for the site improvements as being \$39,500 and the projected costs for signage, lighting, and canopy as \$15,500, for a total projected cost of \$55,000. He also reported that a local developer had committed to constructing the ball field at no cost to the Town.

Director Sullivan said the advantages of the first option would include expanded youth programs with improved utilization of the facility, with the larger building offering more capacity. He noted that the proposed Senior/Community Center would be closer to the center of municipal, emergency, and governmental services, offering space for more programs with an updated kitchen. He then noted that the disadvantages would be the \$168,000 cost and the significantly reduced number of parking spaces (from 145 at the current Lions Hall to 43 at the proposed Senior/Community Center). He also noted that there would be a limitation of use of the large existing Lions Hall for various civic purposes, including curtailment of long-standing periodic events scheduled for that building.

Chairman Cole asked if there were any questions or follow-on comments from members of the Board. Mr. Normal Cloutier, 36 Winnhaven Drive, sitting in the audience as a representative of the Seniors group, asked for permission to speak; Chairman Cole denied that request, saying the public would be able to provide input at the public hearing. No questions or comments being brought forward from the Board, Chairman Cole offered to entertain a motion to send this plan forward to a public hearing to be held at the 10 December 2002 Board of Selectmen meeting. Selectman Stewart so moved; no second was brought forward.

Selectman Jasper said he wished to comment, adding that his comments were not in any way slighting the work that had been done by Director Sullivan, who had done the job he had been asked to do. Selectman Jasper stated that he found the proposal to be without merit, adding that he could not justify the expense. He noted that the Lions Hall building would be rendered unusable for Town Elections, and he commented that nothing had been said about the possibility of using the large playground and play equipment on the school grounds across the street from the existing Youth Recreation Center. He felt the Town needed to work more closely with the School District, adding that he did not think the seniors had any interest in going to the smaller building, which he said would not suit their needs because of space and parking needs.

Selectman Seabury concurred, noting that the Board of Selectmen had just recently decided to use the Lions Hall for Town Meeting and adding that she thought this sort of use would expand in the future. She noted that the Town had a few good tenants using the Lions Hall, and she thought this use was good for the community, and she suggested that the Board of Selectmen would be better off to find some other way to handle the large number of children using the Youth Recreation Center during the summer months.

Selectman Stewart said the earlier discussion had been mainly just to let the Youth Center use the Lions Hall during the eight weeks of summer, noting that there was a problem getting the kids under cover on rainy days. Selectman Jasper stated that parents should be told to keep their children home on rainy days, but then added that he thought that the H.O. Smith gym should be able to used for such situations. He said he felt the Board of Selectmen needed to look to the schools, adding that he did not think that option had been explored. Selectman Stewart responded that the summer youth program was a great program, but that too many kids were involved.

Chairman Cole expressed himself as being mystified at this turn of events, stating that he had merely been asking for a public hearing to give all sides a chance to address the Board of Selectmen on the proposal.

Selectman Jasper stated that every comment he had heard since this idea was first made public had been negative, adding that he had no interest in a public hearing, which would just take up time. He suggested that any citizen feeling differently could telephone him at 595-9621 to request a public hearing, in which case he would approve it, but he did not find it warranted to date.

Chairman Cole again offered to entertain a motion to hold a public hearing on the matter at the 10 December 2002 meeting. No motion being brought forward, he declared the matter closed.

C. Default Budget (Police Department) (Continued)

Chairman Cole noted that Police Chief Gendron was now present, and he again stated that the purpose of this item on the agenda was to have the department heads speak about line items that they felt needed to be increased from the values given in the default budget—adding that he felt these would fall in one of two categories:

- (1) Contractual obligations of 2004 that the Board of Selectmen had not been aware of.

(2) Public safety issues.

Chairman Cole then added that the purpose of this discussion was to let the chief know what items the Board of Selectmen would approve his asking increases for when he made his departmental presentation to the Budget Committee.

Chief Gendron stated that he understood, adding that his only intent was to identify items based on contracts.

Chairman Cole said he would have Chief Gendron go down his list of items; he then asked whether the Board wished to discuss them one at a time or in total. The consensus was to deal with each item at a time.

Chief Gendron addressed the telephone system, noting that the account had been \$1500 overspent last year, so he expected that it would be that same amount or more next year. Discussion arose on the dedicated lines, and Selectman Stewart questioned line 208. Finance Director Malizia stated that this amount was incorrect, noting that it was covered on the next page in line 5610.

Selectman Jasper noted that line 5610 had been cut \$8,000, but he then expressed a belief that some of the \$8560 marked for equipment could be transferred. He then noticed that there was a \$1200 cut in uniforms, but added that he felt some moneys were not spoken for, saying he felt other sources could be used. Selectman Seabury expressed agreement. Mr. Sharon expressed concern that identification of these items made them a target.

Chairman Cole polled the board on the question of whether to approve this increase. **Vote:** Chairman Cole voted in favor; all others present voted in the negative. Chairman Cole declared that the NAYES had it.

Chief Gendron discussed expected maintenance increases on the cruisers. Selectman Seabury said she had thought that DPW could do this maintenance. Chief Gendron responded that the issue was who was to do it, saying Road Agent Burns would need another man in order to handle the maintenance on the police fleet. Selectman Seabury then commented on the need for good planning on trade-ins.

Chairman Cole polled the board on the question of whether to approve this increase. **Vote:** Chairman Cole voted in favor; all others present voted in the negative. Chairman Cole declared that the NAYES had it.

Chief Gendron addressed the overtime issue, noting that the overtime account was cut last year because of the expectation of vacancies, adding that he had questioned then what would happen with a full staff, which was the current situation. He predicted that overtime would be a serious problem next year, estimating that he would be \$37,000 in the hole, as he had to pay people to go to court, to go to Concord, or to participate in training activities. Selectman Seabury suggested that the chief could move funds from line 402; Chief Gendron expressed concern, saying he could not keep going to the same well.

Mr. Coleman Kelly, the Town's television specialist, requested a brief intermission to change the tape. Chairman Cole asked for a motion to take a break; Selectman Jasper so moved and Selectman Stewart seconded the motion. **Vote:** all members voted in favor, and Chairman Cole declared a break at 9:46 p.m., calling the meeting back to order at 9:57 p.m.

Selectman Jasper expressed a belief that there seemed to be a breakdown in communication. He stated that what the Board of Selectmen had done was approve a total budget, adding that he felt the Board should authorize the department heads to move amounts to different accounts so long as the bottom line was not increased, adding that he would make a motion to that effect. Selectman Seabury seconded the motion. Chairman Cole asked for clarification, and Selectman Jasper expressed a belief that the department heads did not feel that they had authority to request changes between different line items, and he expressed concern that the Budget Committee would cut those line items that they saw as unneeded. Selectman Jasper then expressed a belief that the department heads needed authority to make the case that they needed such overages elsewhere in their budget. Chairman Cole said he could not see having the department heads getting the Budget Committee to change amounts between lines, adding that he did not think the Budget Committee would cut one area and hold on another.

Selectman Jasper said the department heads felt tied by the Board of Selectmen's actions—that they could not tell the Budget Committee that they needed the money elsewhere. Town Administrator Sharon stated that the practice in the past had been that the Board of Selectmen would not tolerate department heads advocating for changes not authorized by the Board of Selectmen, adding that he felt the department heads needed some green light from the Board of Selectmen for this situation.

Selectman Jasper withdrew his motion and then made a motion that the Police Chief be given authority to transfer money from one account to another so long as the bottom line did not get changed. Chairman Cole argued that the bottom line should not change, saying that any contractual obligation that the Board of Selectmen had not been aware of in approving the default budget would have been included. Selectman Jasper and Selectman Seabury demurred. Selectman Jasper said he did not think these were items contracted for last year. Chairman Cole responded that he was looking for existing contractual needs, not desired ones, contending that the question was whether these things *had* to be done. Selectman Jasper responded that the department could live without a maintenance contract, but that it might cost more, reiterating that he thought the Board of Selectmen should allow the chief to make these changes. Chairman Cole stated that he felt the Board of Selectmen had left this to the managerial ability of the department heads. Selectman Jasper expressed doubt that the Police Chief could convince the Budget Committee of this, reiterating that the Board of Selectmen should let the Police Chief transfer funds. Chairman Cole stated that he did not see any confusion.

Selectman Jasper restated his motion as being to authorize the Police Chief to make changes by transferring moneys from other line items in his budget so long as the total bottom line did not increase. Selectman Seabury seconded the motion.

Chairman Cole questioned what this accomplished. Selectman Jasper stated that the department heads felt they could not alter the Selectmen-approved budget, adding that the Board of Selectmen had intended to give a pot of money to the department heads—and he then predicted that the Budget Committee would cut the amount.

Chairman Cole stated that he could not see a problem, since the Budget Committee knew what the Board of Selectmen was trying to do. He said his intent this evening had been to identify needed money increases.

Selectman Seabury stated that she would not vote for any increases. Selectman Jasper said he shared Selectman Seabury's presumption that these listed amounts would be additional. If the Town Administrator and the department heads had a perception that they could cross the line items, he said, they would not be here, but their perception was that the Budget Committee would view the budget area as a pot and that the Board of Selectmen had felt the Chief could live with the Selectmen-approved amounts, and that the Chief could not say he had authority to change the amounts.

Chief Gendron stated that he respectfully disagreed with Selectman Jasper, saying he could transfer money between line items, but that he felt his hands were tied by the limits. He said he was asking that a \$161,000 need should be made to the Budget Committee for the direct lines that were on a 3-year contract, adding that he would have to pay a penalty if the contracts were canceled. He then added that the listed items were things that he felt should have been identified in the default budget.

Selectman Jasper expressed a belief that everyone was confused about this situation. Chairman Cole demurred, stating that there would be no problem if the Budget Committee cut money from one line item but increased another line item. Selectman Jasper responded that the department heads were not authorized to increase the bottom line, adding that he himself would not approve any increase of the bottom-line number. He then stated that he felt his job was to look for areas to authorize the town to expend.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on Selectman Jasper's motion. Selectmen Jasper and Seabury voted in favor; Selectmen Stewart and Cole voted in opposition. Chairman Cole then declared the motion to have failed.

Chairman Cole returned to the original subject of patrol overtime, noting that Chief Gendron had said he could not keep going to the same well. Chief Gendron said the overtime was in serious difficulty because the department was now at full staff, with 43 officers on duty, stating that he knew this was not going to work as he would be \$37,000 in the hole on July 1, because he only had \$37,000 to carry him through to June—adding that the allocated \$115,000 was not as much as he had needed last year.

Chairman Cole polled the board on the question of whether to authorize Chief Gendron to go to the Budget Committee with regard to Line 563105, patrol overtime. **Vote:** Chairman Cole voted in favor; all others present voted in the negative. Chairman Cole declared that the NAYES had it.

Chairman Cole asked about the maintenance contract for computer systems. Chief Gendron said this was for the IMC software, the contracted record-keeping system, adding that he also had a contract for the cruiser laptops for a \$16,000 upgrade. With no money allocated, he argued, the result would be that any laptop which broke would not be

supported, and the upgrade would not be performed. Town Administrator Sharon asked if adoption of the default budget did not mean that some of the money went back into data processing. Chief Gendron said that covered the PCs in the Police Station, but not the MVT laptops in the cruisers. Chief Gendron then clarified that his concern was that he did not know what was going to happen in the budget process, saying he would really be in trouble if that money got cut. Chairman Cole asked what the figure was for contractual obligation for FY'2004. Chief Gendron said that the actual amount was \$28,550 more than the \$16,358 currently in the line item, which should be about \$45,000. Finance Director Malizia said the need was for \$18,550, as he had \$10,000 in the Finance account for this program.

Chairman Cole polled the board on the question of whether to authorize the Police Chief to go forward with line item 5660-202 in the amount of \$18,550. **Vote:** Chairman Cole and Selectman Stewart voted in favor; Selectman Jasper and Selectman Seabury voted in the negative. Chairman Cole declared that the quasi-motion had failed.

Chief Gendron addressed a contract on the Police Department's leased data lines, explaining that the department was in the second year of a 3-year contract, and noting that the lines connected the neighborhood substations to Police headquarters. If this contract were not renewed, he said, the department would have to terminate the contract and pay a penalty, which would lose the ability to use the substations in the way that had been intended.

Selectman Jasper asked where the FY'2003 appropriation for this continuing obligation was to be found. Chief Gendron said he would have to get the book, but he knew it was there somewhere.

Chairman Cole polled the board on the question of whether to authorize the Police Chief to go forward with line item 5660-208, *Leased Data Lines*, in the amount of \$4,670. **Vote:** Chairman Cole and Selectman Stewart voted in favor; Selectman Jasper and Selectman Seabury voted in the negative. Chairman Cole declared that the quasi-motion had failed.

Chief Gendron addressed the request for five ballistic shields for the cruisers, at a cost of \$800 each, noting that the other cruisers had been supplied out of another account, which was now exhausted. Selectman Stewart noted that there was \$7,500 in line item 5610-401, asking why this had been zeroed out. Chief Gendron said he thought this had been for fencing for the K-9 area, and the money was gone now.

Chairman Cole polled the board on the question of whether to authorize the Police Chief to go forward with the request for ballistic shields. **Vote:** Chairman Cole and Selectman Stewart voted in favor; Selectman Seabury and Selectman Jasper voted in the negative. Chairman Cole declared that the quasi-motion had failed.

Chief Gendron address the request for spare weapons, noting that the Atty. General's office had taken all weapons used at a recent incident, explaining that this event, in conjunction with the normal need to send weapons out for occasional repairs, had left the department in a position of having to share weapons. He said the Police Department wanted to have spare weapons on hand to cover such cases.

Selectman Stewart noted that there was \$5,600 in Fy'2003, which had been zeroed out. Finance Director Malizia said this was the defibrulators for the cruisers.

Selectman Jasper said he would support the chief on all of the safety items, in being able to buy them and transfer moneys from other areas, but he was not in favor of increasing the bottom line of the budget.

Chairman Cole polled the board on the question of whether to authorize the Police Chief to go forward to the Budget Committee with respect to line item 5610-403 in the amount of \$3,000. **Vote:** Selectman Stewart voted in favor; all others present voted in the negative. Chairman Cole declared that the NAYES had it.

Chief Gendron addressed the need for a third console station (PC) at the dispatch window, so that a third person could assist. He noted that whenever one of the PCs at the two-position console went down, the station was limited to one-station operation, which had been found to be very problematic in handling emergency calls.

Chairman Cole polled the board on the question of whether to authorize the Police Chief to go forward to the Budget Committee for line item 5620-411 in the amount of \$3,300. **Vote:** all members present voted in the negative.

Chairman Cole declared that the quasi-motion had failed.

Selectman Stewart suggested that the Board of Selectmen change the order of the day and address item 8.A out of deference to the young man involved with that request. The consensus of the Board was in favor, but Selectman Jasper asked to comment before leaving this Police Department budget issue, stating that he was now thoroughly confused about the process. Having made a motion to allow the Police Chief to request that line items be increased and moneys transferred from one area to another, with that motion having been denied by the Board, and with the Chief then requesting specific items, with those items all having been defeated by the Board, he said, he was now of the understanding that Chief Gendron may not defend increases in any line items beyond what the default budget has provided for him. Chairman Cole said he did not know that Chief Gendron would have to defend anything, unless the Budget Committee put him in that position — adding that he thought the Budget Committee understood what was before that group and how to approach it.

Selectman Jasper said he now had a sheet listing areas of concern that Chief Gendron had with respect to the budget process, adding that Chief Gendron would not be allowed to present these items to the Budget Committee, which therefore would never know about them — and therefore, when considering other line items that appeared to have too much money in them, would not know that there were other line items that did not have enough money. Town Administrator Sharon stated that the department heads would be able to answer the Budget Committee's questions. Selectman Jasper stated agreement with that, but expressed concern as to what would happen if no member of the Budget Committee asked such questions, adding that he did not understand the Board's failure to give authorization to the department heads to make their cases to the Budget Committee. Selectman Jasper said he agreed that Chief Gendron could do whatever he wanted with the budget following approval by the Budget Committee, but he might be "up the creek without a paddle" if the Budget Committee cut out the money it did not think was needed without knowing that the money was really needed elsewhere. Chief Gendron said this had been his point in coming to this session, identifying items that he felt should have been in the Board's default budget. Selectman Jasper then noted however, that he did not see any contract documentation and had not been able to find the telephone item anywhere in the budget book; he said the default budget was still in the possession of the Board of Selectmen, which still had the ability to change that number if there were true contractual items, but he had not seen that to be the case. Chief Gendron said he had said originally that he would support the Board and that he would make the budget work, but he had come asking for some consideration for day-in/day-out decisions for which he would be looking for money in FY'2004; he then concluded by referencing the overtime issue, noting that he was in the business of providing services and would have to add someone if someone called in sick.

8. NEW BUSINESS

A. Request from Hudson Fire Explorers for a fundraiser to be held at Lions Hall

Fire Explorers Post 551 Chief Jeff Labrie, accompanied by Post 551 Advisor Lt. David S. Morin, of the Hudson Fire Department, appeared before the Board to discuss a request by the Fire Explorers post to hold a FireFighter Buffs Day fundraiser event at Lions Hall on May 3, 2003. Chief Labrie explained that this event would feature a flea market, involving numerous vendors selling fire-fighting equipment, antiques, or collectibles, as well as demonstrations put on by vendors who sold fire-fighting equipment. He said the Fire Explorers would also stage a spaghetti dinner, followed by a guest speaker with a slide show. He explained that the purpose of the fundraiser was to get new safety equipment, as new explorers were joining the group on a regular basis. He then concluded by adding that the post would like the Board of Selectmen to consider letting the post use the Lions Hall at a reduced rental rate.

Selectman Seabury questioned whether the Board had to charge this group for using the Lions Hall; Chairman Cole said he would take care of that in the motion.

Chairman Cole offered to happily entertain a motion to approve the request to use the Lions Hall on 3 May 2003 and to waive the fee for the event, as indicated in the Hudson Fire Explorers Post 511's letter to the Board of Selectmen, dated 14 November 2002. Selectman Stewart so moved; Selectman Jasper seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members present voted in favor, and Chairman Cole declared the motion to have carried.

7. OLD BUSINESS (Continued)

G. National Accreditation On-Site Review/CALEA Update (HPD)

Police Lt. Bill Pease and Police Chief Gendron appeared before the Board to give an update on the accreditation process. Chief Gendron informed the Board that an on-site review would be held in two weeks, running from December 14th to December 18th. Lt. Pease stated that a team of three assessors would come in to review all the processes, policies, and personnel of the Hudson Police Department. He said a press release would be going out on Monday to advertise the assessment process, including the all-important public input meeting, which would be held at 7:00 p.m., Monday, December 16th, at the Hills Garrison School, with all members of the public, government officials, and other police agencies to come in and comment about the Hudson Police Department, with this event also being advertised by the local cable television station. He discussed what was expected to happen, reviewing the agenda, which included a complete tour of the Police Station on Sunday, December 15th, including a review of the Police Department policies, which were to be in compliance with 439 standards; ride-alongs with cruisers on patrol during the night; photo-opportunities at the Police Station on Monday, a public call-in telephone setup; the public hearing that evening; visits to community officials and personnel at Town Hall and the schools on Tuesday; and an exit interview on Wednesday, with formal accreditation to be presented in March in Orlando, Florida, if all went well.

Selectman Seabury asked if accreditation had to be continued after being obtained, asking if there were a cost factor. Lt. Pease said a team of inspectors would come back every three years to make sure that things were being kept up, at a cost of approximately \$15,000. Chief Gendron said he was budgeting \$5,000 per year to cover this, explaining that this included the cost of bringing the assessors in. Chief Gendron expressed a belief that the \$15,000 cost for continuing reaccreditation was a deal, as it would make sure that Hudson's Police Department was run as a professional police department. He reminded the Board that the Town of Hudson had spent \$105,000 in the 1980s for three separate studies, adding that all three of those studies had recommended that the Department go through the accreditation process. He reported that the memo from the national group had mentioned that Hudson's Police Department was one of the very few in the nation that had done a job task analysis as part of the standard. Noting that he had worked with a consultant on a part-time basis, he stated that bringing in a consultant for that same project would have cost from \$35,000 to \$40,000, but the Department had accomplished it by relying on New England PAC for help, at great savings to the community. He declared that Hudson's Police Department was much better off in 2002 than it had been in the 1980s, stating that the citizens should be proud of this department.

H. Animal Control Facility

Police Captain Raymond Mello and Animal Control Officer Jana McMillan appeared before the Board to discuss the proposed animal control facility. Capt. Mello reported that a bid had been received from Mason Brothers Construction for \$195,000, with options for scaling the facility back to a lesser cost. He reported that the account currently contained just over \$161,700. He noted that Road Agent Kevin Burns was having the DPW help out on the highway site work, but they could not get to this until April. He said he would return in the spring with a final plan, with options selected to match the available funding, and he recommended that this project be tabled until early spring — adding that the bottom line was that the Police Department could build the facility, but with questions remaining as to how functional it could be made to be and what it would look like.

Selectman Seabury asked if the original cost had been up just because of a desire to have the building match the existing Police Station. Capt. Mello said just having a brick veneer and a metal roof represented \$22,000 of the total cost; subtracting this would bring the cost down to \$173,000, and additional cost reductions could be obtained by downgrading some of the interior specifications. Selectman Seabury said she would not want to see the facility downgraded. She recalled that there had been talk of downgrading the roof of the Police Station when it was built, but she had been adamant about not reducing the quality just to save money. She then expressed a preference to find the \$34,000 somewhere. Chairman Cole expressed a belief that the Police Department would be working with the potential contractor to mold and shape this facility into a first-class operation and to maintain the character of the existing facility.

The consensus of the Board was that no formal vote was needed to put the project off until spring, and Chairman Cole asked Capt. Mello to come back on March 25th.

Selectman Seabury suggested that administration look into the possibility of finding a way to apply the income from dog fines to the fund for this facility.

8. NEW BUSINESS (Continued)

B. Request for Town-Owned Property

Town Administrator Sharon requested that this item be deferred to the December 10th meeting, as there were some major questions remaining about the potential use of this property. Selectman Jasper moved to defer this item to the December 10th meeting; Selectman Stewart seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor except for Selectman Seabury, who voted in opposition, and Chairman Cole declared the motion to have carried.

C. Grant Application for Developing a Lower Merrimack River Watershed Management Plan

Community Development Director Sean Sullivan appeared before the Board with Ms. Angela Rath, environmental planner for the NRPC. Ms. Rath described her function as mainly coordinating the activities of the Lower Merrimack River Local Advisory Committee, consisting of Nashua and the towns of Hudson, Merrimack, and Litchfield, which was charged to oversee all the activities that go on in the lower part of the Merrimack River, basically in the 100-year flood plain, as well as to assist and/or develop a river corridor management plan. Such a plan was developed in 1989, she reported, but the river had changed and the Committee believed that plan needed to be updated. She said NRPC was proposing to communities in the corridor to participate in that plan updating process by giving the support of professional planning staff. She explained that NRPC would be working on a grant requiring a 40% match, with the match being accomplished by in-kind services — some of which would be provided by the Local Advisory Committee, with the rest coming from community staff members. She then asked that Director Sullivan be allowed to provide five days of planning staff time over the next two years, to start in June. She explained that this would be accepted as an in-kind contribution of 40 manhours at \$40/hour, amounting to \$1600, with the total from all four communities being worth \$6400 in matching funds. She then referenced her draft letter and asked for support from the Board, noting that Director Sullivan had said he would make some of the required changes in the text.

Ms. Rath noted that Hudson had two members on the Committee, including Stan Witowski, who had not yet been confirmed. Chairman Cole said the Board would resolve that situation.

Chairman Cole offered to entertain a motion to support the grant proposal for developing a Lower Merrimack River watershed management plan and commit up to five days of planning staff time to assist with the implementation of the grant award. Selectman Stewart so moved; Selectman Jasper seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

D. Fire Department Issues (SNJ)

Selectman Jasper said he appreciated Chairman Cole's acceptance of blame for the lack of Fire Department involvement in the funeral of Mr. Smith. Chairman Cole interrupted to point out that he had not accepted responsibility for the Fire Department but had accepted responsibility for the Town; he added that Selectman Jasper could say what Selectman Jasper wanted but could not change what he had said.

Selectman Jasper apologized, changing it to Chairman Cole's acceptance of the blame for the lack of the Town's participation. Chairman Cole again interrupted, saying "for the perception," and demanding that Selectman Jasper keep his statements accurate. Selectman Jasper responded that he was an elected official and had the floor and had the right to his opinions, adding that Selectman Cole could have his own time, once he had finished, to disagree with anything he might say, but Selectman Cole was not to interrupt him while he was exercising his right to say what he wanted to say. Chairman Cole advised Selectman Jasper to "get off his soapbox" and keep his statements factual when referring to what Chairman Cole said. Selectman Jasper responded that he would say whatever he would like to say, but that it would be as factual as he recalled. He said he had been trying to say that he appreciated what Chairman Cole had said relative to what had happened, however there were issues that went beyond the town. Selectman Jasper noted that Chairman Cole had said he could not find anything that showed that anything else should have happened; he said that Chairman Cole had had items before him when he made that statement which did show a different story.

Selectman Jasper then read from a prepared note, declaring that any Town government should be judged by how it honored its most civic-minded and respected citizens when they passed on, adding that there could be no doubt that Leonard Smith was such a man. He said he had been deeply moved by the honor shown Mr. Smith by the Hudson Police Department, on which he had never served, but whose chief obviously recognized his importance to the community — the funeral procession was led by a police cruiser, and all intersections were manned by patrol officers so that the procession could pass uninterrupted, with the chief, the captains, and other members of the department present at the cemetery. His pride in the police was of little consolation, however, he continued, in the shame he felt at the Hudson Fire Department's lack of participation, with the root of that shame clearly lying with the chief of that department. He noted that Leonard Smith's name was found on the roster of the Fire Department from 1950 through 1979 and was due that honor. While he had his opinions as to the Fire Chief's decision not to have the department participate, he continued, those opinions were rendered unimportant by the fact that the chief's actions or lack thereof caused him to violate his own 2001 policy, which laid out the procedures to be followed — adding that none of them were. Selectman Jasper noted that the chief's own policy said that all members of the department should be held liable for the policy manual's contents and that violation of the rules should be grounds for disciplinary action. He noted that the chief had told a member of this Board that it was the family's responsibility to notify the department, which was clearly unreconcilable with the chief's own policy, and he then asked if the Board should hold the chief to a lesser standard of conduct than the chief demanded of personnel under his command. He commented on holding double standards and excusing behavior in violation of policy, and he expressed a need to expose what was wrong. He then asked the Board to act on the violations of policy and to investigate the statements made to selectmen that were contrary to written policy.

Selectman Seabury declared that this seemed pretty hypocritical, when a few short months ago some members of the Board of Selectmen did not want to reappoint Mr. Smith to the Planning Board, saying he was too old or was not serving his purpose, and she recalled that she had been chastised because her daughter had come before the board and spoken for Mr. Smith, and she questioned the integrity of two members of the Board who had not had the courage of their convictions to tell Mr. Smith to his face that they did not want him on the Planning Board but had said so behind his back. She pointed that she had had the courage to stand up and say to Mr. William Tate, although she loved him, that she did not want to put him on the Planning Board because she thought he had an agenda.

Selectman Stewart, stating she felt the preceding comments had been directed to her, said that what she had meant was that Mr. Smith had dedicated many years to the Planning Board but had been failing through the past year, so she had suggested to Marilyn McGrath that Mr. Smith should become an alternate, whereupon Ms. McGrath and Selectman Seabury's daughter had come before the Board of Selectmen and put the Board in a very bad position. Protesting that they could have had a party for Mr. Smith and honored him with a plaque, she reiterated that Mr. Smith had been failing, declaring that Selectman Seabury, as minute-taker at the Planning Board meetings, knew that for a fact — that Mr. Smith would misunderstand, get confused with the RSAs, etc. She said this was two separate issues, stating that the Fire Department had a policy that was supposed to be followed for former and current members of the department, and for Selectman Seabury to make these statements was totally out of line. Selectman Seabury responded that she disagreed.

Selectman Jasper said this was typical of what went on, saying he too had felt that Mr. Smith should not be returned to the Planning Board, but he had had the greatest respect for Mr. Smith and what he had accomplished for this town — adding that he perhaps had not had the courage to say it to Mr. Smith in person but he had respect for what he had done. He said that he would have sat down and talked with Mr. Smith, to tell him it was time, and given him a party and the recognition he deserved. He said he had not said that Mr. Smith was too old, adding that people who thought Mr. Smith was senile did not understand that Mr. Smith had a different view of things. He said that he and Mr. Smith had disagreed on many things and had had spirited debates, but he had the utmost respect for Mr. Smith's contributions to the community, and for the Board to ignore what was a clear violation

Selectman Seabury interrupted at this point to ask what Selectman Jasper wanted to do about it.

Selectman Jasper suggested that the Board should do exactly what the Chief said in his own policy, noting that the chief had said to Selectman Stewart that it was the family's responsibility to contact him when it was his responsibility, as stated in the policy manual. He declared that either the chief was ignorant of his own policies or he had not been truthful with a Selectman — either of which was unacceptable.

Selectman Seabury again asked what Selectman Jasper wanted to do. Selectman Jasper replied that he did not know, but that the Board should not do it in public, as people had rights as to being disciplined and one did not do it in public.

Chairman Cole asked if he understood right that Selectman Jasper had just said that the Selectmen should not do this in public — when Selectman Jasper's entire agenda this evening, in his opinion, *was* to do this in public, adding that

Selectman Jasper's agenda had been obvious from day one. Selectman Jasper said this was Chairman Cole's opinion, but he had been E-mailing Chairman Cole and talking to Town Administrator Sharon, and this was going nowhere, adding that he was getting the runaround and getting "B.S.," and the only way to do anything was in public, but the fact of the matter was that the personnel policies did not allow for disciplinary action to take place in public unless so requested by the employee. He then declared that there was nothing hypocritical in his bringing the policy to the attention of the Board and to point out those violations.

Chairman Cole stated that Selectman Jasper could feel free with regard to making his recommendation to the Chair regarding this item and to put it on the next agenda, either public or non-public — adding that the Chair would decide whether or not the item made it to the agenda. Selectman Jasper suggested that Chairman Cole should read *Robert's Rules of Order*. Chairman Cole said the Chair would decide what went on the agenda. Selectman Jasper responded in the negative, stating that Chairman Cole was charged with running the meeting, but any Selectman had the right to place whatever he wanted on the agenda and it *would* be heard by the Board of Selectmen, adding that Chairman Cole was only an equal one of five.

Chairman Cole suggested that Selectman Jasper should make his recommendations to the Chair for the next agenda. Selectman Jasper then suggested that Chairman Cole should stop trying to take powers which did not belong to him, adding that he did have other items to speak on.

Chairman Cole invited Selectman Jasper to continue.

Selectman Jasper said he had been speaking about his concern about the overtime in the Fire Department since last January, saying he had been going back and forth between the Chair and the Town Administrator. He noted that he had supplied sheets to the Board pertaining to overtime in both the Fire Department and the Police Department, stating that there clearly were problems in both areas but that there was a vast difference in the budget. Stating that Chairman Cole felt that some of these overtime charges were the result of new programs, collective bargaining contracts, Board-approved changes to Fire Department organization, and Board-approved enhanced station coverage, Selectman Jasper challenged anyone to find on the record where anyone ever came to this board and said "You're going to do this and it will have this effect on overtime" — adding that in fact it could be found that, when the Town started adding personnel, looking back to November 17, 1998, Chief Carpentino had said that all of the positions were needed and the two firefighters then being asked for would help in responding to calls, and this would reduce the cost of overtime. He said the message to the Board had been that adding people would reduce the need for callback, thereby reducing the cost of overtime.

Selectman Jasper said the shocking fact was that the Town was spending over \$10,000 a week on overtime in the Fire Department, which was going to add up to over half a million dollars. He said the Fire Department overtime right now represented 40% of the straight time, while the Police Department was spending at a rate of 15% of their regular budget to overtime. He said this was huge problem and the Board had to deal with it. Noting that there were 32 people in Suppression at this time, working a 42-hour week, he said that this equaled 1,344 manhours a week. He then stated that the Town paid out 981 hours of overtime two weeks ago, representing 73% of the normal work week, translating to 23 additional people — adding that the same rate of expenditure would translate to 750 hours per week in the Police Department, whereas the Police Department had actually had 60 hours of overtime in that same pay period. Selectman Jasper declared that one department head was managing, the other was not. When the Board had last visited this issue with the Fire Chief, several years ago, Selectman Jasper continued, the Board of Selectmen had directed the Fire Chief not to cover man-for-man — to drop back one man, possibly two men, per shift. At no point, Selectman Jasper said, had the Fire Chief come to the Board and say he was changing that directive, and there had been no discussion; he then challenged Chairman Cole to show where this Board had ever had any indication that it would get to the point where the Fire Department was spending overtime equal to 45% of the regular time. Selectman Jasper then declared that one person last week had a salary for the week of \$2600, declaring this was outrageous.

Selectman Jasper asked that the Board do a survey of the nearby communities to see what they were budgeting for overtime, as the Town of Hudson currently was budgeting one hour of overtime for every seven hours of work — adding that this was in the default budget, as determined by dividing the new salary numbers by the number of manhours and then multiplying the result by 50. Selectman Jasper noted that the Fire Chief had told the Board he needed another \$110,000 in that budget, but he currently had budgeted 10,391 hours of overtime, which was one hour for every seven hours worked. He said he would challenge Chairman Cole to show that anyone else was budgeting anywhere near that amount. Declaring that Fire Chief had gone \$140,000 overbudget last year in the overtime area, Selectman Jasper noted that this was \$70,000 more than the chief had requested.

Selectman Jasper said there were a lot of things the Town could be doing, saying this was not about safety. He said

it was time to deal with these issues, as this was out of control — adding that he had been trying to deal with these things quietly behind the scenes, saying he had been speaking to Town Administrator Sharon since last January, and it had gotten him nowhere.

Selectman Seabury said she could understand money and would go along with it.

Selectman Jasper said he had spent a lot of time this week, after receiving the request from the Fire Chief as to the moneys he needed, adding that he was now confused by the process, but he had come to a conclusion that did not understand this process at all. He noted that there were two budgetary line items that covered heating the stations, for heating oil and propane. He said the Fire Chief had asked for \$2500 more for heating oil, yet had requested \$17,000 between heating oil and propane when the default budget was \$20,500, and he was asking for more. Similarly, the Fire Chief was asking for more money in the ambulance account when he got \$10,000 more in the ambulance account than he had requested. Selectman Jasper said this went on and on, and he did not understand it, adding that the fact that this even got on the agenda was beyond him. Selectman Jasper then concluded by saying that the Town had a problem, adding that it had a department head who held people accountable and then does not hold himself accountable to the same standards, and who had told a Selectman something that was totally at odds with his own policy — asking how could the Board expect anyone in the department to be accountable to policies that someone else wrote when the person who wrote them and signed off on them did not know them and follow them himself.

Selectman Seabury asked when the Board would be looking at the Fire Department budget. Chairman Cole said that would take place at the next meeting.

9. OTHER BUSINESS

Chairman Cole asked if Selectman Stewart had any input at this time. She responded in the negative.

Chairman Cole asked if Selectman Seabury had any input. Selectman Seabury referenced the telephone call she had mentioned during the discussion of the Noise Ordinance, saying she did not like to receive such calls, as she did not want the citizens to be disturbed by noise, glare, dust, or other problems.

Chairman Cole asked if Selectman Jasper had any input. Selectman Jasper said he had no other business.

Chairman Cole said he wanted to comment on Mr. Smith's passing, noting that he had sent a note to all of the selectmen regarding possible ways of honoring Mr. Smith, and that he had received responses from Selectman Stewart, Selectman Seabury, and Selectman Charbonneau. One item, he noted, was dedicating the Town Report — adding that there had been talk of dedicating it to both Mr. Smith and Mr. Stanley Searles, but he now understood that the School District was dedicating its annual report to Mr. Searles. He then suggested that the Board dedicate this year's Annual Report to Mr. Smith. Selectman Seabury and Selectman Stewart Seabury expressed agreement. Selectman Jasper also agreed, but noted that the tradition in this town when multiple people had passed away was to dedicate the Annual Report to all of them, noting that Mr. Searles had been a long-time State Representative and had served on the Budget Committee in years past, and he thought it would be a disservice to overlook him; he then stated that the Annual Report should be dedicated to both of them.

Chairman Cole then conducted a poll of the Board, with Selectman Seabury, Selectman Stewart, and Selectman Cole agreeing that this year's Annual Report should be dedicated to Mr. Smith alone, with Chairman Cole expressing a belief that this would not be perceived as a slight of Mr. Searles, since the School District was dedicating its own annual report to him. Town Administrator Sharon added that dedicating the Town's report to both but the School report just to Mr. Searles would seem like a slap to Mr. Smith.

Selectman Seabury asked about renaming the Lions Hall after Mr. Smith. Chairman Cole said he would like to discuss that proposition at a later meeting.

Chairman Cole wished Selectman Stewart a very happy birthday.

10. REMARKS BY THE SELECTMEN

Chairman Cole asked if Selectman Seabury had any remarks. Selectman Seabury expressed apologies for arguing with her fellow Board members.

Selectman Jasper said the Board of Selectmen should not, by being unhappy how someone brings something about, ignore the duty the Selectmen were sworn to do.

Selectman Jasper reported that perambulation of the Town's bounds had been completed, noting that Selectman Stewart had joined him in that activity this day on the Litchfield and Londonderry bounds, and noting that the Hudson representatives had perambulated the Pelham line themselves as the Pelham officials had not responded. He reported that some long-lost bounds had been discovered, stating that he wanted to give credit to Gary Webster, who had done yeoman's work in finding old bounds, as had Betty Holt in the office.

Selectman Stewart expressed "Happy Birthday" greetings to Carla Anger, and she wished all present a Happy Thanksgiving, noting that she would not be at the December 10th meeting as she would be out of town, attending the Christmas gala at the White House.

11. NONPUBLIC SESSION

Chairman Cole offered to entertain a motion to enter nonpublic session under NH RSA 91-A: II (a), personnel issues; (c), the reputation of a person other than a member of the body; and (e), legal issues. Selectman Stewart so moved; Selectman Seabury seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a roll-call vote on the motion. All members present voted as follows:

Selectman Seabury	Aye
Selectman Stewart	Aye
Selectman Jasper	Aye
Selectman Cole	Yes

All persons having voted in the affirmative, Chairman Cole declared the motion to have carried; he then declared the Board to be going into Nonpublic Session at 11:47 p.m., and all members of the general public left at that time.

Following that Nonpublic Session, as reported under separate minutes of this same date, Chairman Cole reopened the meeting at 12:20 a.m.

Selectman Stewart made a motion to seal the minutes of the Nonpublic Session; Selectman Seabury seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

Chairman Cole offered to entertain a motion to grant a partial Tax Deferral for the property at 22 Ridgecrest Drive (Map 011/Lot 044), as recommended by the Assessor. Selectman Stewart so moved; Selectman Seabury seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

Chairman Cole offered to entertain a motion to accept the recommendation of the Police Chief with regard to the promotion of Jason Lavoie to the rank of Lieutenant, with the rate of pay of \$27.05 per hour, effective date 8 December 2002. Selectman Stewart so moved; Selectman Seabury seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

Chairman Cole offered to entertain a motion to accept the recommendation of the Police Chief with regard to the promotion of Lt. William Pease to the rank of Captain, with the rate of pay of \$30.19 per hour, effective date 8 December 2002. Selectman Stewart so moved; Selectman Seabury seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

12. ADJOURNMENT

All scheduled items having been addressed, Chairman Cole offered to entertain a motion to adjourn. Selectman Jasper so moved; Selectman Stewart seconded the motion.

VOTE: No further discussion being brought forward, Chairman Cole called for a verbal vote on the motion. All members voted in favor, and Chairman Cole declared the motion to have carried.

Chairman Cole then declared this meeting adjourned at 12:22 p.m.

Date: December 14, 2002

Bill Cole, Chairman

J. Bradford Seabury, Recorder

Shawn Jasper

Ann Seabury

Terry Stewart