

HUDSON, NH BOARD OF SELECTMEN

Minutes of the February 22, 2000 Meeting

7:00 p.m.

Public Hearing on Sewer Moratorium

Present: Selectmen E. Lorraine Madison, Rhona Charbonneau, Shawn N. Jasper, Terry Stewart and Ann Seabury; Paul D. Sharon, Town Administrator; Priscilla Boisvert, Executive Assistant to the Board of Selectmen/Recorder; Tom Sommers, CLD (Sewer Utility Consultant); Atty. Steve Buckley; Atty. Brad Westgate; Atty. Andrew Prolman; Kevin Slattery; Manny Sousa; John Drabinowicz; Howard Dilworth, Jr; Jeromy Muller; David Marc Forman; Suellen Quinlan; Julie Mehegan, SUN

Chairman E. Lorraine Madison opened the Public Hearing at 7:00 p.m., which had been continued from January 4, 2000 and asked if anyone wished to speak, adding that this hearing would probably be continued one more time.

Atty. Brad Westgate of Winer and Bennet in Nashua, said Etchstone Properties, the developer of Lexington Place, an elderly condominium project on Derry Lane, are in the process of seeking approval for Phase II of that project. On January 4, 2000 he submitted two letters to the Selectmen, one of which was a particular discussion on the situation involving Lexington Place Phase II. He asked if there was a revised amendment to Ordinance 77 and, if not, when it might be available. Chairman Madison said hopefully, by March 28. Tom Sommers said he'd try to have the draft ready two weeks before the hearing, but it should be reviewed by Atty. Buckley first. They are taking into consideration the issues Atty. Westgate addressed in his letter. Atty. Buckley said he'd work closely with Tom Sommers to make sure the revised version is ready at least two weeks prior to the hearing. Atty. Westgate asked when the second 60-day extension was up. Chairman Madison said on the 11th but they expected to extend it to April 1.

Atty. Westgate had concerns relative to the state of approval for the Phase II of Lexington Place. Part of what he requested in the correspondence of January 4 was definitive determination by the Selectmen that the sewer moratorium does not apply to Phase II of Lexington Place. He has had a number of communications with Atty. Buckley, passing information back and forth, and discussions but they have to come to grips with the processing of their request and the Selectmen determining that they are not subject to the moratorium. He thinks last month they would have received Planning Board approval for Phase II but, the Planning Board feels they are in a position where they can't act on a project. In a late January meeting, the application was almost denied because of the circumstance regarding approval. The Planning Board has deferred the project a couple of times. The 65-day review period that they are entitled to under law will expire mid-March. Lexington Place and Berkley Estates were two projects approved by the Planning Board in August 1998. Berkley Estates was a 17-lot, open-space, single-family subdivision and Lexington Place was a 34-unit, elderly housing condominium form of ownership. Lexington Place is essentially complete. In the spring and summer of 1999, they developed plans to convert Berkley Estates into Phase II of Lexington Place. They obtained a variance from the ZBA and filed for site plan approval, etc. The site plan approval has been held up because some staff memos have brought into question the status of the sewer approval, as it pertains to Berkley Estates, now Lexington Place, Phase II. They have tried to indicate that the approval they had for these two projects was a single, comprehensive approval for the projects combined, not a separate approval for one or the other. That's evident by the fact that a significant amount of off-site sewer was built and accepted by the Board of Selectmen well before the August moratorium was in place. More than 1,000' of off-site sewer was brought up Derry Lane from Webster Street to Lexington Place, across the brook into the Berkley Estates-Lexington Place Phase II site, under an approved design that contemplates running the sewer out of Berkley Estates-Lexington Place Phase II back to Derry Lane so that a future extension could be made from Derry Lane north to 102. The state granted the Town a permit for this single, unified project design. That approval is still viable, in effect and implemented in substance because most of the off-site work has been completed, as well as significant on-site work for Lexington Place Phase I. The gallonage that is allocated to this approval is enough to cover Lexington Place Phase I & II. The state permit doesn't require any more gallonage allocation. When Tom Sommers put together the Master Plan amendment for the Board's consideration, in calculating the remaining 200,000 gallons a day available to the Town, he took off the top that gallonage allocated to the combined project of Lexington Place and Berkley Estates. He subtracted above the line before getting to the 200,000 per day the allocated gallonage for this combined project. There are a couple memos in Town files involving the Sewer Committee and Engineer's Office, which clearly indicate that this is a combined design. The moratorium has three exceptions to it, which he feels needs greater expansion because there are a number of other type cases that shouldn't fall under the sewer moratorium. He has urged the Selectmen to contemplate the additional exceptions, which he listed in his letter. One of the exceptions is projects for which facilities plan approval has been granted. No one at Town Hall can seem to find the form that says, "Facilities Plan Approval," for this project. However, there is correspondence that indicates that the approval form was prepared and there is an acceptance of the actual construction of what's out there by the Selectmen. There's no way that what they've already built substantially under this unified design could have been built without the plan approval process having been followed in the first place. The document is missing. There is now confusion as to whether the facilities plan approval is a separate approval, or it's part of Planning Board approval. It has to have some status. It's clear that, within the wording of the moratorium itself, they are exempt from the sewer moratorium provisions pertaining to Lexington Place Phase II and they encourage the Board to come to that decision and confirm that to the Planning Board so they can proceed.

Motion by Selectman Charbonneau, seconded by Selectman Jasper, to continue the Public Hearing until March 28, 2000 at 7:00 p.m. carried unanimously. (Motion to extend the sewer moratorium taken up under Other Business.)

The Board entered Attorney-Client session at 7:20 p.m., pursuant to RSA 91-A:2 I (c), which terminated at 7:35 p.m.

1. **CALL TO ORDER** by Chairman E. Lorraine Madison at 7:42 p.m.
2. **PLEDGE OF ALLEGIANCE**, led by Selectman Terry Stewart.
3. **ATTENDANCE**

Selectmen: Chairman E. Lorraine Madison, Rhona Charbonneau, Shawn N. Jasper, Terry Stewart and Ann Seabury

Staff/Others: Paul D. Sharon, Town Administrator; Priscilla Boisvert, Executive Assistant; Frank Carpentino, Fire Chief; Matt St. Laurent, Assistant Fire Chief; John Drabinowicz; Howard Dilworth, Jr; Jeromy Muller; David Marc Forman; Suellen Quinlan; Julie Mehegan, SUN

4. **PUBLIC INPUT**

Jeromy Muller, 61 Burns Hill Road, re. Marchand v Hudson, said this case should be appealed to the Supreme Court. Contrary to Federal and State law, the Superior Court overturned a unanimous decision of the ZBA in favor of one individual's desires. In effect, taking self-determination away from the voters and placed it in the hands of a single individual. This case is not about the Town fighting for the rights of a single individual, but for the rights of the Selectmen, the ZBA, the residents and voters of the Town. If the Town does not appeal this decision, then a single individual, who brought the case to court, will have subjugated the will of the people. The Selectmen must protect the rights of the people to self-determination by filing an appeal. If not, it will open the door for anyone who wishes to dictate his or her desires to all the residents of the Town. The court's decision is unlawful and unjust.

Atty. Andrew Prolman, who represents Suzanne Marchand, disagreed with some of Mr. Muller's remarks. The Superior Court granted Mr. Muller's motion to intervene in the case, making him a party to that case. Mr. Muller himself can appeal and fund the appeal to the Supreme Court, as opposed to the Town of Hudson doing it.

5. **CORRESPONDENCE**

A. From: Jim Michaud, Assessor

Re: Various Assessing Items

Refer to: New Business

B. From: Bell Atlantic

Re: Licensing of Poles

Refer to: New Business

Motion by Selectman Charbonneau, seconded by Selectman Stewart, to receive Items A & B, with appropriate referral carried unanimously.

1. **NOMINATIONS AND APPOINTMENTS**

A. **Planning Board** (2 Alternates, one term to expire 12/31/00 and one to expire 12/31/02)

Motion by Selectman Charbonneau, seconded by Selectman Stewart, to place in nomination the following individuals for the Alternate's position, w/expiration date of 12/31/02 then asked the Recorder to call the roll:

Mark Balba (Interviewed at a previous meeting)

David Marc Forman (Interviewed at a previous meeting)

Terry McLlarky (Interviewed at a previous meeting)

Jeromy Muller (Interviewed at a previous meeting)

Suellen Quinlan* said she had served on the Planning Board before and enjoyed it, and wanted to throw her hat into the ring again.

Selectmen Charbonneau, Jasper, Stewart and Madison voted for Quinlan; Selectman Seabury abstained.

**Suellen Quinlan was appointed to the Alternate's seat that expires 12/31/02.*

Motion by Selectman Jasper, seconded by Selectman Stewart, to place in nomination the remaining four applicants for the

Alternate's position w/an expiration of 12/31/00, then asked the Recorder to call the roll:

Mark Balba

David Marc Forman*

Terry McLlarky

Jeromy Muller

Selectmen Stewart, Charbonneau, Seabury and Madison voted for Forman; Selectman Jasper voted for McLlarky.

*David Marc Forman was appointed to the Alternate's seat that expires 12/31/00.

B. Building Board of Appeals (2 Members, terms to expire 12/31/01; 1 Member, term to expire 12/31/02)

Roger Boucher, who is retired, spoke at length about his desire to be of service to the Town and he will take that responsibility very seriously. He is committee to doing a good job.

Motion by Selectman Jasper, seconded by Selectman Stewart, to appoint Roger Boucher to the seat that expires 12/31/02 carried unanimously.

C. Nashua Regional Planning Commission (1 Alternate, term to expire 12/31/03)

Howard Dilworth, Jr., said upon finding out that there was still no one who applied for this position, was willing to step forward to serve, having served as a commissioner in the past.

Motion by Selectman Charbonneau, seconded by Selectman Stewart, to appoint Howard Dilworth, Jr. to the NRPC Alternate's seat, with an expiration date of 12/31/03, carried unanimously.

D. Recreation Committee (1 Alternate, term to expire 12/31/01)

Ed Caban, Jr. (Interviewed at a previous meeting.)

Motion by Selectman Charbonneau, seconded by Selectman Stewart, to appoint Ed Caban, Jr. to the Recreation Committee's Alternate's seat, with an expiration date of 12/31/01, carried unanimously.

D. Solid Waste Study Committee (1 Member, term to expire 12/31/02)

There were no applicants to this board.

7. OLD BUSINESS

Hudson Speedway License

Chairman Madison said this was deferred at the last meeting in order to get the school calendar, which indicates that the last day of school this year is June 19. If there are more snow days, they will be added on to that. The first day of school in the Fall is September 7.

Motion by Selectman Jasper to approve the license, amending the June 18th race to 3:00 p.m. to 8:30 p.m., seconded by Selectman Stewart, carried unanimously.

Selectman Charbonneau said at the last meeting, she raised the issue of the \$100 fee, which she thinks is too low, and wondered if anyone looked into increasing it. Selectman Jasper said that fee is set by the state legislature.

8. NEW BUSINESS

A. Assessing Items

1) Elderly Exemption Application and Abatement, Map 28, Lot 13

Motion by Selectman Stewart, seconded by Selectman Jasper, to grant, as recommended by the Assessor, carried unanimously.

2) Veteran's Tax Credit Application, Map 21, Lot 4, Sublot 23

Motion by Selectman Charbonneau, seconded by Selectman Stewart, to grant, as recommended by the Assessor, carried unanimously.

1. Abatement Application for 1999, Map 42, Lot 25

Motion by Selectman Jasper, seconded by Selectman Charbonneau, to grant, as recommended by the Assessor, carried unanimously.

A. Bell Atlantic Pole Licensing

Motion by Selectman Jasper, seconded by Selectman Charbonneau, to license the underground cable on St. Mary's Drive carried unanimously.

9. OTHER BUSINESS

Sewer Moratorium Extension

Motion by Selectman Jasper, seconded by Selectman Charbonneau, to extend the sewer moratorium, pursuant to the Town's sewer ordinance, Chapter 270, 9-C, on the issuance of sewer permits, which was put in place on August 17, 1999, renewed for additional 60-day periods on November 12, 1999 (extended to January 11, 2000) and January 4, 2000 (extended to March 11, 2000) for an additional period of time, until April 1, 2000 to allow the Board of Selectmen to amend the Town's sewer ordinance, in accordance with Sewer Master Plan update, which was adopted by the Board of Selectmen on November 9, 1999, carried unanimously.

10. ACCEPTANCE OF MINUTES

Minutes of the February 8, 2000 Board of Selectmen Meeting.

Motion by Selectman Charbonneau, seconded by Selectman Jasper, to accept the Minutes, as presented, and refer to file carried unanimously.

11. COMMITTEE ANNOUNCEMENTS

- 2/23 7:00 Planning Board in the P/Z Meeting Room
- 2/24 7:30 ZBA in the P/Z Meeting Room
- 3/01 7:00 Planning Board in the P/Z Meeting Room
- 3/06 7:00 Visioning Committee in the P/Z Meeting Room
- 3/07 7:30 BOS in the BOS Meeting Room

12. LIAISON REPORTS

Selectman Jasper said the new Highway facility is almost done, and everything came out better than he could have hoped for. They are all anxious to move in.

(Start Tape 1, second side)

Selectman Charbonneau said she has to get together with Frank one of these days.

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13. REMARKS BY THE SELECTMEN

Selectman Charbonneau is looking forward to Spring.

Selectman Jasper said it's a shame that there are people trying to divide the Town into "old natives" v "new natives," whether or not people care about education, etc., instead of looking at the validity of people's arguments. A number of people are making the debate very personal, which can really tear a community apart, and there's no need for that.

Selectman Stewart said tomorrow evening Chairman Madison and she will be on Channel 13 at 7:30 for Candidates' Night. Chairman Madison added that the third candidate, Mr. Bednar, would be there, too, as well as the Town Administrator and School Business

Administrator at 7:00 p.m., who will talk about issues on the Warrant.

14. NONPUBLIC SESSION

Motion by Selectman Jasper, seconded by Selectman Stewart to enter Nonpublic Session under RSA 91-A:3 (a) personnel issues and (e) pending claims or litigation carried 5-0 by roll call vote.

Nonpublic Session was entered into at 8:10 p.m. and was terminated at 8:40 p.m.

Motion by Selectman Jasper, seconded by Selectman Charbonneau, to seal the Minutes carried unanimously.

Motion by Selectman Charbonneau, seconded by Selectman Stewart, to accept the resignation of Matt Cox in the Fire Department, effective February 23, 2000 carried 4-0. Selectman Jasper abstained.

Motion by Selectman Seabury, seconded by Selectman Stewart, to authorize the Zoning Administrator to advertise for the position of Receptionist in the Planning/Zoning Department carried unanimously.

15. ADJOURNMENT

Motion by Selectman Jasper, seconded by Selectman Stewart, to adjourn at 8:42 p.m. carried unanimously.

Recorded and Transcribed by Priscilla Boisvert

Executive Assistant to the Board of Selectmen

HUDSON BOARD OF SELECTMEN

Chairman E. Lorraine Madison

Rhona Charbonneau

Shawn N. Jasper

Ann Seabury

Terry Stewart