

HUDSON BOARD OF SELECTMEN

Minutes of the June 8, 1999 Meeting

1. **CALL TO ORDER** by Chairman E. Lorraine Madison at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE**, led by Selectman Rhona Charbonneau
3. **ATTENDANCE**

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

Staff/Others: Paul D. Sharon, Town Administrator; Priscilla Boisvert, Executive Assistant/Recorder; Frank Carpentino, Fire Chief; Jim Michaud, Assessor; Attorneys John Ratigan and Phil Pettis from Donahue, Tucker & Ciandella; Attorneys Mark Gearreald and Chris Bandazian from Borofsky, Lewis, Amodeo-Vickery; Attorney Jay Hodes from Bossie, Kelly, Hodes & Buckley; Howard Dilworth; Nancy Regan; Ruth Parker; Dave & Joyce Goodwin; Public Input speakers; Bill Ivers,SUN; Fidele Bernasconi, HLN

4. **INTERVIEW SESSION WITH LEGAL FIRMS**

- A. **Borofsky, Lewis & Amodeo-Vickery -- Atty. Mark Gearreald and Atty. Chris Bandazian**

Attorney Bandazian said the firm, in existence since 1978, with offices in Portsmouth, Manchester and Nashua, is geared toward civil litigation. Atty. Lewis of the Portsmouth office has a strong background in employment law and labor negotiations, having worked in NY City in the EEOC, and is Chairman of the State Board of Education. He, himself, is Vice Chair of the Bedford ZBA. Atty. Gearreald has practiced for 20 years, but has been with the firm about a year, with a background in representing municipalities, and wants to develop that area of practice. He has worked closely with Nottingham, Northwood, Exeter, Kingston, Hampton and Hampton Falls. He represented Kingston in a hazardous waste case, the longest case in NH history. He also represented Nottingham in a long-standing case involving a nudist camp on Route 125, whose motto was, "Grin and bear it." He appeared before the NH Supreme Court approximately 19 times on various types of cases, including tax abatement and zoning issues. About half of his work is municipal and the other half is civil litigation. They know their way around the courts and are comfortable there.

Atty. Gearreald knew the Town used the same legal counsel for many years and wondered what prompted this process. Chairman Madison said the Town goes out to bid every year. He then asked why the Town's legal expenses were so high in 1996 and was told it was preparation for the take over of the water company. Atty. Gearreald asked if there were any landfills in Town that needed to be closed. Chairman Madison said one has been closed and it is being monitored. Selectman Jasper said another one was closed in the 70's, but never capped, and there are some issues with it. Atty. Gearreald said that he was handling a landfill closure case for the town of Hampton.

Selectman Seabury asked about the mileage. Mr. Sharon said that was covered in the RFP.

Selectman Jasper said they were interviewing other firms because there was some feeling on the Board that they should look around and that he has had some long-standing issues with the current Town Counsel. If they do switch, they would want the present Attorney to stay on those cases that he is currently working on. He asked Atty. Gearreald how he would advise the client if the client wanted to take someone to court. Atty. Gearreald said they're not afraid to do that, that they are would be comfortable doing that, but it can be an expensive, wearing

process. They would have to evaluate the strengths and weaknesses of the case before making the decision to go to court. They should be prepared from the time it comes in the door as if they are going to court so they would know what they are up against. As long as they have a complete understanding of all the problems, they can generally talk to opposing counsel, as the NH Bar is still small enough so they're not all strangers to one another, and problems can be headed off. Sometimes, that's not possible and, in those instances, they have to go to court.

Selectman Jasper asked Atty. Gearreald if he made it a practice to advise the clients on what their percentages were of winning, or if he pointed out the pitfalls of a case. Atty. Gearreald said the Town is paying for a judgement by the attorneys, so it's only fair for them to tell the Selectmen what they felt their chances were.

Selectman Seabury asked if the firm would be willing to appear before Planning and Zoning Boards, when requested. Atty. Gearreald said they would, but the ZBA has the appellate jurisdiction for administrative decisions and appellate jurisdiction for Planning Board decisions. If someone doesn't like the Code Enforcement Officer's decision, he would appeal that to the ZBA. He asked who would represent the Code Enforcement Officer in front of the ZBA and who would advise the ZBA.

Chairman Madison asked Atty. Gearreald if they had any experience with elections and warrant articles. Atty. Gearreald said yes. Chairman Madison asked how familiar he was with Hudson. Atty. Gearreald said not a lot, but he's examined the annual reports and the Town's web site. Atty. Bandazian said he was, having started out in the Nashua office.

There being no further questions, Chairman Madison thanked Attorneys Bandazian and Gearreald and they thanked the Board for inviting them.

B. Bossie, Kelly, Hodes & Buckley -- Atty. Jay Hodes

Atty. Hodes said he was representing a seven-person firm, located in Manchester, with five principals: Robert Bossie, Lawrence Kelly, Steven Buckley, Heather Burns and him, with extensive experience in municipal law. For many years, they have represented Merrimack, Litchfield and Deering, as well as other towns for shorter periods, such as Hooksett and Weare. They have also served as special counsel to many towns, such as representing a Zoning Board, or handling a tax abatement case.

Within the firm, they all have their own area of practice. He handles real estate and tax matters, business issues and is the Right to Know specialist. He generally deals with the Town Clerks, Tax Collectors, Boards of Selectmen and Zoning and Planning. Bob Bossie, was on the Ballot Commission for a number of years, is a former Alderman and State Senator, knows about election laws, and is the Parliamentarian. He handles election issues and is the first person to review the Warrant, which he then assigns to other people in the firm who have special knowledge in certain areas, and he deals with procedural questions. Larry Kelly is a litigator and his area is in personal injury, so accident or liability issues, union questions are what he would get involved in. Heather Burns is their employment law specialist. She deals with discrimination issues, ADA, sex discrimination, hiring, firing, promotions, things of that nature. Steve Buckley does a lot of planning and land use issues. He currently sits as a member of the Bow Planning Board and is an executive director of the Central NH Regional Planning Commission. Atty. Hodes said he was on the Londonderry ZBA for several years and served on the Budget Committee for about four years. Most of them have sat on boards, so they know what it is like to sit on both sides of the table.

They are very accessible, easy to work with, and their philosophy is to avoid litigation, which they have found to be counter-productive. Towns are not businesses. The Supreme Court

mandated that town boards and commissions should be cooperative with the citizens, not adversarial. There should be mutual respect, but sometimes that's impossible. By and large, the attorneys try to assist the Town in avoiding litigation.

Atty. Hodes said if he writes an opinion on an issue, such as a change in the law, he will circulate it to the towns he represents. If a Supreme Court case comes down involving an issue of importance to a town, or a change in a procedure, his firm will inform the town, with a recommendation to implement it. Because they work on a retainer with most of the other towns they represent, they review their policies, personnel manuals, ordinances and make suggestions as they go along. They try to guide the town so they don't run into a mine field, which works to cut down on needless litigation. There will, however, always be people disgruntled by decisions that a board or commission makes. People are also going to violate the laws in town and they have to be dealt with accordingly.

Selectman Jasper asked if they would advise a client on what their percentage was of winning, or if they would just take a case and run with it because that's what the client wants. Atty. Hodes said they would definitely guide the client, advising them of a case's strengths and weaknesses. If they feel they are wrong, and sometimes a town is wrong, they would advise that they think a mistake was made and they might need to try to settle it. On the other hand, if it's a violation of the Code, they will advise what they think the percentage might be. Litigation is expensive and sometimes a victory is hollow. The only one who makes out in that situation is the law firm. Sometimes Zoning and Planning Boards, sitting in quasi-judicial capacities, want the attorney to make the decision, but that's not their place. They will give them guidance on the law and lay out the criteria, but are reluctant to tell them how to come down on an issue.

Selectman Jasper asked Atty Hodes if they would advise the Board of Selectmen if the Planning Board or ZBA, a board or commission, did something improper, or if they would just work with that board on it. Selectman Jasper asked who he felt the client was. Atty. Hodes said the client is the Town and the Board of Selectmen have the authority to run the affairs of the Town, including control of who the attorney talks to and who they represent. If a Planning Board does something wrong, the attorney would have a frank discussion with them and lay out the standards of law that apply in the situation, and suggest that they may want to reconsider, but it's not likely the attorney would go to the Board of Selectmen and say they did something wrong because they don't want to lose the confidence of town boards, either. They'd try to deal with the board and guide them through it.

Chairman Madison asked if representing Hudson would be a problem, since Hudson is a neighbor of Litchfield, and Bossie, Kelly, Hodes & Buckley is Litchfield's attorney. Atty. Hodes said he spoke to Paul Sharon about this and, with the pending matter, he would have to decline to represent the Hudson. If, in the future an issue arose with regard to any disputes, the firm would decline to represent either town. Each town would have to get special counsel.

Chairman Madison asked about the fee range of \$110 - \$175. Atty. Hodes said that is their normal billing rate, but would charge the Town \$110. Chairman Madison asked about paralegals. Atty. Hodes said they don't have paralegals right now, but if they did, the fee would be \$65 an hour.

There being no further questions, Chairman Madison thanked Atty. Hodes.

3. Donahue, Tucker & Ciandella -- Atty. John Ratigan and Atty. Phil Pettis

Atty. Ratigan said their proposal was much like the ones they submitted in previous years. They have 11 attorneys, who practice in different areas of expertise, and are known throughout the State as a municipal law firm, representing over 40 municipalities. The Town

receives his historical knowledge and has access to specialty work that most other municipalities don't enjoy. (He spoke on the Water Co case, but his remarks were masked by background noise.) Last week, they had an issue involving a cross-access easement regarding a landfill, that he shared it with Mike Donahue, who bills out work at \$170 an hour. He reviewed it and made some suggestions, all at \$110 per hour. Susan Snide had some questions about the telecommunications ordinance. Sue Chamberlain, a former PUC attorney, advised her on how to approach variance applications going before the Zoning Board. They bring a level of depth and expertise not seen in the other finalists. The firms they compete with across the State--Upton, Sanders & Smith and Barbara Loughman's firm--were eliminated due to price, but DTC is still offering a low rate because of the long relationship they've enjoyed with the Town, a relationship that they value. They feel they have provided good service with good results. He didn't think the other two finalists really know much about Hudson affairs. Atty. Hodes' experience is in advising Litchfield regarding the Water Company and Atty. Gearreald's firm does mainly personal injury and domestic work. He didn't know what kind of depth they have, but he didn't think it compares with DTC. If the Town goes with another firm, they will have to be trained and the Town will have to pay for something that they wouldn't if the Town stays with DTC.

Selectman Jasper asked Atty. Ratigan if he'd continue with the cases he's already working on, if the Board goes with a different firm. Atty. Ratigan said yes, but as of July 1, the rate will go up to \$140. The \$110 is a real discount, and not offered to anyone else. Since 1994, they raised the rates only once, from \$100 to \$110. Selectman Charbonneau asked how many cases are pending. Atty. Ratigan said about five or six cases, mostly land use issues. When he first came to Hudson, there were 25 cases in litigation. Generally, they have had a small number in the last few years.

Chairman Madison thanked Atty. Ratigan and announced that this would be taken up under Old Business.

5. PUBLIC INPUT

1. John Kather, 51 Greeley Street, 579-0645, requests permission to drive his tractor-trailer in early mornings from his home on Greeley Street to Route 111 in order to get to work

Mr. Kather said he drives a tractor trailer and has lived on Greeley Street for about a year. When he was looking for a house, they stayed away from streets where there were truck restriction signs. When he found the house on Greeley street, he checked both ends of the street, and there were no truck restriction signs. Next to 60 Greeley Street, there is a lot with a dirt parking lot that he uses to get his truck off the road. When he went to the Police Station to see if it was alright to park his truck there, he was told he could. Recently, signs went up on Greeley Street, restricting truck traffic at certain times. For almost a year, he's been leaving his house to go to work from 5:15 - 5:30 every morning, until they put the signs up. When he was at the Police Station, he asked about the signs and they said it was in compliance with a Town Ordinance that has been on the books for 10, 15 years. Since he had seen the restriction signs on other streets, he didn't think about asking whether or not Greeley Street was restricted because there is a sand and gravel company with tractor trailers that run up and down the street all the time. The police told him if he continues to drive on that street before 6:00 am, he will get a ticket. Lt. Breault had suggested he talk to the Selectmen to get authorization to drive on Greeley Street ½ hour before 6:00 am to get to work on time. One of

his neighbors is glad his truck is parked where it is because, prior to that, underage kids have been parking there, going into the woods and drinking. The other neighbors he's asked have no problem with his parking there and Lt. Breault doesn't, either, as long as there are no complaints. His truck isn't as loud as the sand and gravel trucks and he tries to be as quiet as he can in the mornings. There are motorcycles that go by at midnight that shake him out of bed. The woman who lives right next to the truck said she doesn't even hear him in the mornings.

Chairman Madison said the Board would take this up later under Other Business.

2. Tom Cason, Super Scoops Ice Cream, Route 102 -- Picnic Tables and Business Operation

Mr. Cason said they opened Super Scoops Ice Cream several weeks ago, having gotten temporary approval from the Town to set up picnic tables, pending a site plan improvement. However, they found out that there was no existing site plan on the property. Until they can get the original site plan approved, they have been asked to remove the picnic tables from the area, which is crucial for them because they don't have any inside seating. Dennis Demarais has retained an engineering firm to do a site plan and bring everything into compliance. The Cason's were asking to keep the tables out so they can continue to operate while they are working on getting the required paperwork. With the tables stacked up, people driving by think they are closed.

Chairman Madison said the Selectmen can't grant permission as this is a Planning Board issue. Mr. Cason understood Susan Snide to say it was the Selectmen that said the tables had to be removed. Mr. Sharon said he got in the middle of this because of a question about how could this go on because the person who asked didn't recall that anything had happened. When he talked to the Zoning Administrator, she said it had been proposed as an interior fitup, for interior on-site consumption of ice cream that would not involve site plan changes or approval. She, at that point, wasn't aware that customers were eating outside. That's when she notified the Cason's that they needed to stop and to take the picnic tables down, pending site plan approval by the Planning Board.

Mr. Cason's understanding was that they could temporary permission to have the tables out, pending site plan improvement. They hadn't known there was never an original site plan and when they requested permission to put the tables out, it was pending a site plan improvement. They don't own the property and were just asking permission to utilize the space. This is the way they make their living and need to keep the place open. Mr. Demarais has retained an engineering firm to do what the Town has requested. In the week they have been open, there has been a dramatic drop in sales as a result of the change. They never applied for inside sales. Paul said whether or not there was a site plan years ago isn't relevant. If there was something to change the business as it currently was being conducted on the site, that would trigger the need for a site plan, just like any other change in use would. It's really Planning Board jurisdiction. Mr. Cason said they pretty much put it in the hands of the Zoning Administrator and at the Planning Board's last meeting, they decided they were not going to make a decision. Mr. Sharon said Ms. Snide told them they needed to get site plan approval. Mr. Cason said they needed to get an improvement of the site plan, and she gave them temporary pending approval, and it was at that time they realized that the previous site plan didn't exist. Mr. Sharon asked when they were given temporary approval. Mr. Cason said prior to their opening. Mr. Sharon asked if it was verbal. Mr. Cason said it was. Mr. Sharon said that wasn't his understanding.

Selectman Jasper said this was an unfortunate situation, but that it was really up to the Zoning Administrator. He suggested going back to the Planning Board, maybe with the Zoning

Administrator's recommendation, to get something temporary, but he didn't think that will happen until that site is brought into compliance, which is Mr. Demarais' responsibility, i.e., unregistered vehicles on site. Mr. Cason said not any longer. Selectman Jasper said if the site is in compliance, there is a much better chance because that wasn't the case last week, and would certainly work against them. He hoped the Planning Board would be sympathetic to the Cason's plight because they have no fault in this situation. Mr. Cason said unfortunately, there's a couple members on the Board that are definitely following through to the letter of the law. They will go back to the Planning Board if they have to, but they've been going round and round. Meanwhile, it's affecting business.

(Start Tape 2, Side A)

Chairman Madison said, hopefully, the Planning Board will work with them. Mr. Cason asked why Susan advised them to talk to the Selectmen. Chairman Madison said residents are entitled to come before them for public input and Ms. Snide wasn't present to answer. Mr. Sharon said Ms. Snide knows that it is a Planning Board issue.

Mr. Cason said they are doing their best to let people know they are open, but there is no place for them to sit. Selectman Seabury said there is a fabulous ice cream place by the Tyngsboro bridge that doesn't have benches, but customers flock in. You don't need benches, just good ice cream and a good reputation. Mr. Cason said that is their objective, with or without benches.

Selectman Charbonneau asked if they were issued an occupancy permit. Mr. Cason said yes. Mr. Sharon said there was a building permit issued for interior work. Mr. Cason said a permit was pulled for interior fitups and they retained a general contractor to do the outside work, who they thought had pulled the permit to do the exterior fitups, but he was under the impression that the Cason's had done so. He said there were definitely some errors that occurred, some communication gaps in policies and procedures that they were not aware of.

Selectman Jasper suggested they move the picnic tables out of view because it makes them look more like they are closed. Chairman Madison said the Cason's need to go back to the Planning Board and follow their rules and regulations. Selectman Jasper said the Cason's should ask Susan if there's anything else on site that's an issue and, if so, to take care of it. Mr. Cason said Susan told them that as far as she is concerned, everything complies. It's just a matter of getting the Town's approval. Selectman Jasper said if she would put that in writing or verbalize it to the Town Planner and get the support, hopefully, it will happen. He feels badly for the Cason's--they do have good ice cream. Sarah loves the strawberry!

6. CORRESPONDENCE RECEIVED

A. FROM: Highway Safety Committee

RE: 099-02, Installation of Stop Sign on Canna and Iris Path

REFER TO: New Business

B. FROM: David Yates, Recreation Director

RE: Acceptance of a Donation

REFER TO: New Business

C. FROM: Sewer Utility Committee

RE: Sewer Acceptance, Lockwood Estates, Map 24, Lot 9

REFER TO: New Business

D. FROM: Sewer Utility Committee

RE: Various Items

REFER TO: New Business

E. FROM: Jim Michaud, Assessor

RE: Various Items

REFER TO: New Business

F. FROM: Aerial Electric & Refrigeration, Inc.

RE: Proposal for Work at Lions Hall

REFER TO: New Business

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

7. OLD BUSINESS

Legal Contract

Motion by Selectman Jasper, seconded by Selectman Stewart, that they hire the firm of Bossie, Kelly, Hodes and Buckley.

Selectman Seabury opposed the motion. She understands there are personality issues on the Board regarding the current firm for past slights, but feels they know a great deal about Hudson. They have a large group of attorneys that can help in many different areas. She is extremely pleased with the way they handled the water company, they've familiar with the Town and there's more abatements coming forward. They should stay with the present firm because the known is better than the unknown.

Chairman Madison agreed with the previous speaker. There are some personality conflicts and things that have happened that people never let go. No matter who the attorney is, mistakes will be made because people are not perfect. The present firm does an excellent job, has stood well by the Town, and has kept litigation down. She will vote against going with a different firm.

Vote: Motion carried 3-2. Selectmen Madison and Seabury voted in opposition.

Chairman Madison announced that the law firm of Bossie, Kelly, Hodes and Buckley was the new law firm for the Town of Hudson. Atty. Ratigan appreciated the votes he received, even though he didn't get the support of the majority of the Board. His firm will honor the contract until the end of the year, adding that it has been a pleasure working with the Town of Hudson. Chairman Madison and Selectman Seabury said it was a pleasure to have him, and thanked him.

8. NEW BUSINESS

A. Public Hearing/Board Action on Ordinance 099-02, Installing Stop Signs on Canna & Iris Path

Chairman Madison opened the Public Hearing at 8:05 p.m.

Howard Dilworth, Jr., 36A Old Derry Road, said the camp lots along Ottarnic Pond had

exceptionally small streets, paved only a few years ago. Three stop signs in this area is ridiculous. It isn't going to help anything because it's local traffic, not a major thoroughfare.

Joyce Goodwin, 4 Marshmallow Path, said she has lived there most of her life and lives two streets down from the proposed stop signs. The neighborhood is small, with so few cars, the kids race around on their bicycles. She's yelled countless times at them. If stop signs are erected, they should also go up on every street corner in the neighborhood. This ordinance is the result of a recent accident, where a little girl got hit. No one has gotten hurt till now. Parents should teach their kids to stop at intersections and not run around the neighborhood. The girl who hit the little girl was not speeding. Most of them drive at 10 mph because they know about the kids. Stop signs aren't going to help.

Dave Goodwin, 4 Marshmallow Path, said one of his neighbors suggested speed bumps, which would slow down traffic. This accident couldn't have been helped. The child ran out from a side street, into the path of the car. The driver's view was obstructed by bushes, which have been cut back.

Fidele Bernasconi said the ordinance called for three stop signs, but the Highway Safety Committee recommended one three-way stop sign. Chairman Madison said it was three individual stop signs.

There being no further comments, Chairman Madison closed the Public Hearing at 8:10 p.m. and said the Highway Safety Committee has recommended adoption of 099-02. Mr. Sharon said, in conversations with the Police Department, they did feel that that was a preventable accident because of the vegetation, which has since been taken care of, and because of a wall that is there. Mrs. Goodwin said there is a retaining wall there, but you can see over it. The bushes were the problem. This particular child was seen on numerous occasions barreling out of that street, with the attitude that she has the right of way. All of the kids whip around on go-carts and bicycles. She often stops them and calls their parents.

Selectman Jasper said every time something bad happens, the reaction is to do something. He agreed with the previous speakers. The streets in that neighborhood are very narrow and slow and they can't put up stop signs on every street. If people don't have enough common sense to slow down, a stop sign isn't going to do any good--and seven year old kids shouldn't be riding around on the streets.

B. Acceptance of Donation to the Rec Dept. by Len Fournier in memory of Elizabeth Fournier

Motion by Selectman Charbonneau, seconded by Selectman Jasper, to accept the \$220 donation, with thanks, carried unanimously.

C. Sewer Utility Items

1) Sewer Acceptance, Lockwood Estates, Map 24, Lot 89

Motion by Selectman Jasper, seconded by Selectman Charbonneau, to accept Lot 89, which was inadvertently omitted when the original sewer acceptance was submitted to the Board of Selectmen and approved on April 27, 1999 carried unanimously.

2) Sewer Connection Waiver Requests

a) Louis Michaud, 228 Webster Street

Motion by Selectman Charbonneau, seconded by Selectman Jasper, to deny, as there is no valid reason for not hooking up carried unanimously.

b) G. Philip Rodgers, 13 Park Avenue

Motion by Selectman Charbonneau, seconded by Selectman Stewart, to deny, as there is no valid reason for not hooking up carried unanimously.

3) Sewer Abatement Requests, S-99-16

Motion by Selectman Stewart, seconded by Selectman Jasper, to grant the abatements, as recommended by the Sewer Utility Committee carried unanimously.

4) CLD Contract

Chairman Madison said there are no changes from last year's contract.

Motion by Selectman Jasper, seconded by Selectman Stewart, to approve the contract renewal carried unanimously.

D. Assessing Items

1) Elderly Exemption Application (Gerald F. McMillen)

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

2) Veteran's Tax Credit Application (Joseph Jordan; James Cancelliere)

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

3) Discretionary Easement Application (Ruth Parker)

Chairman Madison recognized the Assessor, Jim Michaud, who introduced the applicant, Ruth Parker. Mr. Michaud said the last discretionary easement was for historical purposes; this one is dealing with environmental aspects and wildlife conservation. What was before the Board was what he and Ms. Parker worked through relative to the language and qualifying properties, such as what it will be assessed at, the length of the term, and whether or not there will be any penalty provisions at the end of the term. He put forth a sample discretionary easement deed that will work for Ms. Parker's purposes, but it's up to the Board as to how they want to work it, adding that it pretty much mirrors the last one that was done. It will be assessed at what it's currently assessed at, current use values. While the term of the last one was 25 years, this one is for 10 years, which is the minimum. At the end of the term, she would have to reapply. Ms. Parker said this was a renewal. The original application was for 10 years, but this will be the third consecutive 10 year period. There are two easements: Map 39, Lot 5 and Map 39, Lot 17.

Motion by Selectman Jasper, seconded by Selectman Stewart, to approve the two

discretionary easements for a period of 10 years, assessment to be based on current use land value, and a penalty to be 10% for early termination carried unanimously.

E. Aerial Electric & Refrigeration, Inc.'s Proposal for Duct Work at Lions Hall

Chairman Madison recognized Town Administrator Paul Sharon, who said this would replace the old bag system in the ceiling at Lions Hall. They had a difficult time finding a proper contractor. J. Lawrence Hall submitted a proposal for \$23,400. They made a couple other inquiries, both of whom declined to bid because of their backlogged workload. This is a good proposal and he recommended approval. The next step, after this, is to have the suspended ceiling put in, which would be 12' or 13.'

Selectman Charbonneau asked if smoking was allowed during wrestling matches. Mr. Sharon said it's a No Smoking facility. Selectman Charbonneau thought smoking would ruin a new, lower ceiling. Mr. Sharon said the No Smoking policy could be reinforced. Chairman Madison believed no smoking was allowed in any public building. Selectman Jasper said when the facility is rented out for a private function, it no longer is a public facility.

(Start Tape 2, Second Side)

Mr. Sharon said work will take about three days, it will be scheduled around Seniors and other events, and will probably be done at night. Selectman Charbonneau wanted to know what else they were going to do with Lions Hall, following the new duct work. Mr. Sharon said the ceiling will be done, then it will be painted. After that, they'll address the flooring. Chairman Madison thought it needed a real good cleaning, after which a finish could be put on it.

Motion by Selectman Charbonneau, seconded by Selectman Jasper, to award the contract to Aerial Electric & Refrigeration, in an amount not to exceed \$16,000, carried unanimously.

9. OTHER BUSINESS

A. G. Philip Rodgers request for a Sewer Connection Waiver

Selectman Seabury said these are the industrial buildings on Park Avenue, but they've had sewer down there for years. Sewer Utility Committee member, Howard Dilworth was recognized and said possibly the park was built prior to the installation of sewer. Selectman Seabury was surprised Mr. Rodgers never hooked up. Mr. Dilworth said there are a few others that have expressed reluctance to do so, too.

B. Tracking the Fees for the new Attorney

Selectman Seabury requested that the Town Administrator track the legal fees during the upcoming year to compare to prior year's. Mr. Sharon said he would, adding that it's not quite that easy to compare. If there is the same level of activity, the new firm will show more hours because of the learning curve, but the Town is also on the decline with cases.

C. Water Pipe on Water Lily Path

Selectman Stewart said she has spoken with a resident (who was present) and with Mr. Sharon about a pipe that the DPW put in on Water Lily Path. Mr. Sharon said he not only talked to the Road Agent, but he went out there himself to look at it. If it is the pipe that used to be a swale, all that did was enclose a surface drainage course. Another pipe was run down Ferry Street that intercepts with the catch basin on Water Lily Path. If you try to control the water on the surface at the corner, it's going to end up in that person's basement or by his footing drains and then it will get pumped onto the yard. The Highway Department installed catch basins, which is an improvement over that kind of drainage pass off over private property. It will trap sand, sticks, oil and other debris. Chairman Madison asked what action Selectman Stewart was looking for. Selectman Stewart said she was just wondering if staff looked into it.

Mr. Goodwin was recognized and he said the pipe was extended an additional 10, 15' from where it used to be and now the water goes directly into the pond. Mrs. Goodwin said when she asked if they contacted somebody about what damage might be caused by the water going directly into the pond, and what effect it might have, and the answer she got was it's been like that for years. In other cases, she's heard that just because they did it like that before, doesn't mean it's right. She asked what would happen to a private land owner if they ran a pipe directly into the pond. Mr. Sharon said if she was talking about the downstream section, enclosing a swale is allowable. Mrs. Goodwin said there's further leaching where it comes out. It still has sand and stuff to go through so it's filtered further before it hits the pond. Mr. Sharon said they are picking up the sand in the catch basins.

Chairman Madison said they wouldn't be able to solve this tonight. The Town Administrator will have to go back and talk to the Road Agent. Mrs. Goodwin asked if they could bring this before the Conservation Commission. Mr. Sharon said sure. Selectman Jasper said that type of drainage is what they do everywhere in Town. Mrs. Goodwin asked if that makes it right. Selectman Jasper said it probably does from an environmental standpoint, because that's what gets approved. Everything dumps directly into the streams and the rivers and that's how the pipes are designed and run with catch basins. He didn't really like it, but that's the way it is. Chairman Madison said the Town Administrator would look into it.

D. Mr. Kather's Request for a Waiver to drive his Tractor-Trailer on Greeley St. before 6:00 am

Selectman Jasper said he'd be in favor of granting a waiver, after two questions are answered. They need to know who owns the property he parks on and whether or not it is zoned residential. If it is, truck parking is not allowed, period. He was disturbed if the police, in fact, said Mr. Kather could park on that piece of property without knowing who it belongs to.

Mr. Sharon said the Police Department does not have the authority to just let someone park on a piece of property. There may have been a misunderstanding. There has been problems with truck traffic, principally with Brox, and to some degree, with Hudson Paving. This year, a resident who lives up there complained several times, but they were never able to observe the trucks that she was talking about. Brox said it wasn't them. The Road Agent said when he drives down Greeley Street on his way to work, the Brox trucks are waiting for 6:00 a.m. at Thompson's Market parking lot. The resident asked the Town to do something, and that's what the Town is trying to do.

Mr. Kather said when he went to the Police Department, they said there used to be a house there (where he parks his trailer), with wetlands behind it. He thinks the property belongs to the Town. Chairman Madison said they would find out who owns it. Mr. Kather said another truck has permission to be on that road before 6:00. He asked the cops why that truck was on there and he was told that he has special permission. Chairman Madison said maybe that's the truck people have been complaining about. They will look into it further and it will be on the

next agenda. Selectman Jasper said if a special exemption was given to someone, a copy should be on file. Mr. Kather said he was pleading because it was his livelihood and he needs to leave early--and his truck isn't loud. It doesn't even disturb the woman who lives next to the truck, who is glad to have him park there. He went to three houses in the immediate area, and none of them had any problem. Selectman Charbonneau suggested he get that in writing.

Selectman Jasper said this is not an uncommon problem. When they told other people they couldn't park in a residential area, they found other locations to park. In the short term, he will need to find an alternative location to park and then drive to the truck. Selectman Seabury suggested the depot up at the Industrial Park on Park Avenue, off Route 111.

10. LICENSES AND PERMITS

Request by Dennis Audet for a Block Party Permit on 6/26/99 at 1 Maple Avenue from Noon to 8 p.m.

Motion by Selectman Jasper, seconded by Selectman Stewart, to approve carried unanimously.

11. ACCEPTANCE OF MINUTES

Minutes of the May 25, 1999 BOS Meeting

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

12. COMMITTEE ANNOUNCEMENTS

6/09 7:00 Planning Board Mtg. in P/Z Mtg. Rm.

6/09 7:30 Public Hearing on 3A Road Widening at Nottingham West

6/10 7:30 ZBA in P/Z Mtg. Rm.

6/10 7:30 SUC in BOS Mtg. Rm.

6/17 7:30 Budget Cmt. in P/Z Mtg. Rm.

6/21 7:30 Conservation Cmsn. in P/Z Mtg. Rm.

6/22 7:30 BOS Mtg. in BOS Mtg. Rm.

13. REMARKS BY THE SELECTMEN

Rhona Charbonneau said she felt bad for the Super Scoops ice cream people. Whoever owned the building should have made sure everything was in proper order. She has a problem in that she sees many, many other things out there that no one is doing anything about. Maybe it wasn't right for him to have the picnic tables out, but there are many other areas of not being enforced. This guy just opened up, and now he's stuck. He's trying to make a living, pay for all of the equipment, and he can't put a couple of picnic tables out. That doesn't make sense to her. She understands the Planning Board wants a site plan., but these people thought they were doing the right thing, and she cannot understand why a few picnic tables are such a big deal when so many other things out there are much worse.

Terry Stewart agreed with the previous speaker. She noticed that Liaison Reports was not on the agenda, and she had a lot to report. Chairman Madison clarified that that is done at the last meeting of the month, so she will have to save it till the next meeting. Selectman Stewart thanked the HLN for publishing all of the various meetings the Selectmen have to attend. Most people don't realize how many commitments

they have. She thanked the Police Department for letting her drive the Police Harley through the obstacle course, apologizing in case she bruised some egos, as one of the officers ended up in the woods.

Ann Seabury felt bad about the ice cream people, too, but they've got to start somewhere. If they let him go, they'll have to let Rodier put out his wood again. They slam the Zoning Administrator all the time, but then when she does something, it is still not right, so they've got to find a happy medium, which is always a difficult thing to do. The Board cannot interfere in Zoning and Planning issues. It's not their jurisdiction.

(Start Tape 3, Side A)

E. Lorraine Madison, in speaking on the same thing, said two wrongs do not make a right. Out behind Town Hall, there is a bevy of signs that the Zoning Administrator has been busy picking up everywhere.

Shawn N. Jasper said since ice cream was on people's minds, he thinks they can send their sentiments to the Planning Board, via their representative, that, if this site is cleaned up and meets all the requirements, maybe the Planning Board will give them a time-table to let these people have their picnic tables, because they are suffering unduly and it appears to be little of their own fault. Selectman Stewart said they have cleaned up the site a lot from what it was before. Selectman Jasper said two days ago, the vehicles were still out there. The big trailer got moved across from Alvirne. Chairman Madison asked Selectman Stewart to convey the Board's feelings to the Planning Board, adding that by the nature of their business, Super Scoops are going to be really busy within the next couple of months. If it takes them too long to get through the Planning Board process, the ice cream season will be over.

14. NONPUBLIC SESSIONS

Motion by Selectman Jasper, seconded by Selectman Stewart, to enter Nonpublic Session under 91-A:3 II (a) The dismissal, promotion or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted, and (b) The hiring of any person as a public employee carried 5-0 by roll call vote.

Nonpublic Session was entered into at 8:50 p.m. and was terminated at 9:10 p.m.

Motion by Selectman Stewart, seconded by Selectman Charbonneau, to hire Jason Stiver, Tom Small and David Brideau as firefighters, on probationary status, effective June 27, 1999 at \$24,270.08 per the union contract carried 4-0. Selectman Jasper, a Call firefighter, abstained.

15. ADJOURNMENT

Motion by Selectman Jasper, seconded by Selectman Stewart, to adjourn at 9:15 p.m. carried unanimously.

Recorded and Transcribed by Priscilla Boisvert

Executive Assistant to the Board of Selectmen

HUDSON BOARD OF SELECTMEN

E. Lorraine Madison, Chairman

Rhona Charbonneau

Shawn N. Jasper

Ann Seabury

Terry Stewart