

HUDSON BOARD OF SELECTMEN
Minutes of the March 19, 1997 Meeting

1. CALL TO ORDER by Chairman Ann Seabury at 7:00 p.m.
2. PLEDGE OF ALLEGIANCE was led by Selectman E. Lorraine Madison
3. ATTENDANCE

Selectmen: Ann Seabury, Rhona Charbonneau, Howard Dilworth, Jr., Shawn N. Jasper and E. Lorraine Madison

Staff/Others: Paul Sharon, Town Administrator; Priscilla Boisvert, Executive Assistant; Cecile Nichols, Town Clerk/Tax Collector; Representatives Bob Clegg, Rudy Lessard and Don White; Budget Committee Members John Knowles, John Drabinowicz, John Beike, Paul Parker, Jim Sullivan; Ken Cantara and Cliff Steele; Fidele Bernasconi, HLN; John Bednar; Coleman Kelly; Paula Bradley; Barbara Locke; Bruce Nichols; Bruce Nichols, Jr; JT Nichols; Priscilla Clegg; Claire Wozniak

4. RECONSIDERATION OF RECOMMENDATIONS TO BE PLACED ON BALLOT

Chairman Seabury referred to the Town Clerk's memo dated today in which she states her reasons for not including recommendations by the Selectmen and Budget Committee on the Ballot. Chairman Seabury asked the Board what they wanted to do, in view of the position taken by the Town Clerk. Selectman Madison said the Board voted to include the recommendations on the Ballot at a previous meeting and felt that they should stick with that position.

Selectman Dilworth said if the recommendations are not printed on the Ballot, how was the Board going to get them there. Selectman Madison said they should follow the advice of the Town Attorney and direct the Town Clerk to put the Selectmen's recommendations on the Ballot, and that has to be done by a vote of the Board. If the Town Clerk chooses not to include the recommendations, that's her decision. She didn't think the Board had a choice in the matter.

Selectman Dilworth said he didn't agree with this and, since he chooses not to give either a pro or con recommendation, asked Priscilla to record his vote on the articles as an abstention. He said what they were doing was wrong.

Selectman Charbonneau said she spoke with Bob Ambrose, Assistant Secretary of State, and he told her the Selectmen is the governing body and, as such, as the ones to decide whether or not to include the recommendations on the Ballot.

Selectman Jasper said the law is as clear as it can be, under the circumstances, that the recommendations should be on the Warrant. He quoted from the RSA's, "When any purpose of appropriation submitted by a governing body or petition appears in the warrant as part of a special warrant article, the article shall contain a notation of whether or not that appropriation is recommended by the governing body and, if there is a Budget Committee, a notation of whether or not it is recommended by the Budget Committee." Then he read, also from the RSA's, "Forward final copies of final budgets to Clerk or Clerks, as required, and recommendations on special warrant articles to the respective governing body or bodies," and RSA 40:13 says, "All warrant articles shall be placed on the official ballot for a final vote." He said some people are playing semantics by saying that only the first session has warrant articles, the law is clear that they are warrant articles to be placed on the ballot. The zoning articles contain recommendations and appear the same way on the warrant and on the ballot. The Board needs to request the Town's Representatives and Senator to find a vehicle to amend this so it will be clear to everyone. The primary purpose of the Budget Committee is to make recommendations to the voters. The only way that can be accomplished effectively is to include that in the law. But the intent is clear.

Selectman Dilworth respectfully disagreed with Selectman Jasper's opinion, saying that they have already had that discussion. He did agree, however, that they should request the Representatives to the General Court to correct this in the law.

Cecile Nichols, Town Clerk, was recognized and stated that she believed Bob Clegg had something to say. Representative Robert Clegg disagreed with what Selectman Jasper had said. Under current legislation, they are not a home rule state, and Hudson cannot do anything that the legislature specifically allow them to do. The Secretary of State's Office has been bombarded with calls and have been said they can be included on the ballot 50% of the time, and 50% of the time, saying they can't be. Those against it include Bill Drescher, probably the best municipal attorney in the state. He said they addressed this problem of home rule CACR today. If it goes through, the Town will be able to resolve it themselves. The way the law is being interpreted by both the NHMA and originally by Bob Ambrose is that the recommendations can be on the warrant for the first meeting, but the Selectmen does not have the authority to put them on the ballot. As far as planning and zoning, the statute is explicit and that they have to have the recommendations on the ballot.

Selectman Madison asked how there could be two different opinions from Bob Ambrose. Representative Clegg said Bob Ambrose is getting so many calls from so many lawyers, he is trying to stay in the middle of the road and that is why his opinions are becoming confusing. Everyone is getting a different opinion. Bob Ambrose said he is saying to leave it to the Clerk's Association and the municipal attorneys. He has also recommended that the various towns get together to form a consensus and then ask their representatives to change the rules as a group, rather than individually.

Selectman Charbonneau said Bob Ambrose told her the Selectmen was the governing body and they can do this. If the governing body has that authority, they should go ahead with it.

Cecile Nichols said she has spent many hours on the phone talking to attorneys and to the Municipal Association relative to this issue and her decision was not made in a sloppy manner. Bob Ambrose told her that Bernie Waugh, at the very beginning of the process, thought the recommendations should go on the ballot. Two weeks later, Bob Ambrose told her that Bernie Waugh flip-flopped and felt that they should not go on the ballot. She had read two articles from Bernie Waugh, one of which said it would be very risky to include the recommendations on the ballot. Susan Slack's opinion was "do not put them on the ballot because you are leading yourself into a litigation suit." The Town Clerk said she didn't want to get into a contest of who is right or wrong; she was specifically told "do not put them on the ballot," and that is why she made the decision not to include the recommendations on the ballot; she did not make that decision lightly. She apologized if that is not what the Board wants to hear, but she is going by what she was told. She said when people call, they get different answers, such as with herself, Rhona and Bob. Today, Fidele did an informal survey in Town and every person he spoke with said they would be influenced by the recommendations on the ballot. She knows that for a fact because when she moved into Town, that is how she voted--by going by the recommendations listed on the ballot.

Continuing, Cecile said that at Town Meeting the Budget Committee stated they didn't recommend a contract because they didn't have the information in front of them. She didn't think that was a reason not to recommend it. That was one of the reasons she made the decision not to include the recommendations. The Budget Committee needs to study their positions before they make a recommendation and to say publicly they didn't have the paperwork is not doing their job. When people see an article not recommended by the Budget Committee, they will vote against it. She said she'd be glad to answer any questions.

Selectman Madison said this was not a reflection on the Town Clerk. It's not an issue of saying "recommended" or "not recommended." The Board of Selectman have already voted on this and the majority of the Board of Selectmen wanted the recommendations on there. And they have to follow the advice of their Attorney, who said the Board has to direct the Clerk to put them on. Where it goes from there is another story, but she never thought the Tow Clerk took it lightly. The Town Clerk understood her position, but said that when they had talked, Selectman Madison told her she thought the recommendations shouldn't be on the ballot, which meant that a majority of the Board felt that way, including Selectmen Seabury and Dilworth. Selectman Madison

didn't recall saying that because her vote was to put them on. But that's not the issue. The issue is they are the governing body and they voted to put them on, so she feels they should go on.

Ms. Nichols referenced 669, which is the preparation of the ballot, and that is up to the Town Clerk. She feels that she is in compliance with the RSA's that governs her ballot. She said they are all elected officials and they each have their own opinions, and it appears this will just go back and forth. She thinks that she has made the right decision, ethically.

Mr. Clegg said that Joe Wozniak asked him to inform the body that, at the school meeting, Attorney Barbara Loughman made a statement that things like recommendations, which are bracketed, are not allowed on the ballot. He couldn't get a copy of the tape, but thought the Selectmen probably could. He understands that now Attorney Loughman said you can include bracketed items. One of the reasons they didn't pursue what they wanted to at the school meeting was because Attorney Loughman said the recommendations can't be on the ballot.

Selectman Madison said she also spoke with Joe Wozniak and he informed her that both Attorney Ratigan and Attorney Loughman stood up at Town Meeting and School District Meeting this past weekend and said the recommendations would not be on the ballot. Selectman Madison said she was at Town Meeting all day long, and she did not recall Attorney Ratigan ever saying they should not be on the ballot. She asked Peter Dolloff to check to see if Barbara Loughman ever made that statement. He said he didn't hear it, and he was at the School District Meeting for the entire time. Whether or not it occurred, she does not know, but she did not hear it.

Selectman Dilworth said he was in the back of the hall on Friday night and he distinctly heard it; he did not hear it on Saturday. If anyone has any doubt, they can watch it on Channel 23.

Ken Cantara said they should throw caution to the wind and just use common sense. The Budget Committee and the Selectmen have more knowledge than the average voter on the issues on the ballot. The average voter looks to the Budget Committee and Selectmen for guidance on some things they are not as informed on. It's good common sense to include the recommendations. In some cases, one body recommends something that the other body does not. But it gives guidance. The voters need to know what they are thinking.

Selectman Charbonneau agreed, saying that before she became involved in politics, the recommendations gave her guidance. She reiterated that Bob Ambrose told her that the Selectmen was the governing body and they should have the recommendations on the ballot.

Ms. Nichols said she the Town has been a municipal budget town since 1939. In 1992, the Town returned to a Selectman form of government. In June of '92, there was a bond question on the ballot, a monied article. On that article, the Budget Committee did not make a recommendation either way, nor did the Selectmen at that time. She asked what the difference was, only Senate Bill 2? In 1993, there was a blind exemption article that did not contain any recommendations, either.

Fidele asked if he could have copies of the tapes (audio and video) the Town and School meetings for the press. He said he heard the statement himself, but wanted to verify it.

Selectman Jasper said that it is obvious that, regardless of what the Selectmen vote on, the recommendations will not appear on the ballot. He said Selectman Charbonneau had thought the Selectmen should take out an ad to make their recommendations known. He thought that was a good idea. Representative White agreed. (Talking over each other.) John Beike indicated this could also be included on the Web Page.

Motion by Selectman Jasper, seconded by Selectman Madison, that recommendations stay the same on all warrant articles that had no changes in the text, to include those that were amended only to correct the word "raise," carried unanimously.

Article 6 Ratification of a single-year
contract negotiated between the
Town and the Police Union for

Wage and Benefit increases.

"Shall the Town of Hudson approve the cost item included in the collective bargaining agreement reached between the Town of Hudson Board of Selectmen and Local 3657 A.F.S.C.M.E. (Police Union) which calls for the following increases in salaries and benefits:

Year	Estimated
Amount	
1997-1998	
	\$95,754

And further, to raise and appropriate the sum of \$95,754 for the 1997-1998 fiscal year, such sum representing the additional costs attributable to the increase in salaries and benefits over those paid in the prior fiscal year?" (This article has been designated by the Board of Selectmen as a special warrant article.)(At ATM 3/15/97 the word "raise"was inserted in place of "revise.")

Recommended by the Selectmen

Article 10 Wage and Benefit Increase for
Town Clerk/Tax Collector

"Shall the Town of Hudson raise and appropriate the sum of \$1,711 said sum representing the wage increase necessary to establish the Town Clerk pay at \$40,000, plus benefits?" (This article has been designated by the Board of Selectmen as a special warrant article.)(At ATM 3/15/97, \$1,140 was amended to \$1,711; \$39,500 was amended to \$40,000)

Motion by Selectman Jasper, seconded by Selectman Dilworth, to recommend this article.

Selectmen Madison and Seabury were in favor of a \$1,000 increase, but not \$1,500. They think Cecile does a good job, but felt that a \$1,500 increase was too much for that position. Selectman Charbonneau said she didn't vote for the raise.

Vote: Motion failed, 2-3. In favor were Selectmen Jasper and Dilworth; opposed were Selectmen Charbonneau, Madison and Seabury.

Not recommended by the Selectmen.

Article 11 Adopting the Town Operating Budget

"Shall the Town of Hudson raise and appropriate as an operating budget, not including appropriations by special warrant articles, the amount set forth on the budget posted with the warrant, for the purposes set forth therein, totaling \$13,327,373? Should this article be defeated, the operating budget shall be \$13,299,887, which is the same as last year, with certain adjustments required by previous actions of the Town of Hudson or by law or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only." (Increase \$13,305,223 by \$22,150 for 5060 Library)

Motion by Selectman Jasper, seconded by Selectman Dilworth, to recommend Article 11, carried unanimously.

Recommended by the Selectmen.

Article 15 Two Firefighters

"Shall the Town of Hudson raise and appropriate the sum of \$70,380, which represents the cost of wages and benefits necessary to hire two full-time emergency medical technician intermediate firefighters?" (This article has been designated by the Board of Selectmen as a special warrant article.) (Amount of \$74,031 amended to \$70,380)

Motion by Selectman Madison, seconded by Selectman Charbonneau, to recommend carried 3-0. Selectman Jasper abstained because it was a Fire Department issue. Selectman Dilworth was out of the room (aiding someone using the chair lift.)

Recommended by the Selectmen.

Article 22 Equipment for Cable Broadcasting

"Shall the Town of Hudson raise and appropriate the sum of \$68,032, which shall be used to purchase equipment and necessary services to commence broadcasting of public meetings and other town functions?" (This article has been designated by the Board of Selectmen as a special warrant article.)(Amended to include the words "and" and "services.")

Motion by Selectman Jasper, seconded by Selectman Madison, to recommend carried 4-0. Selectman Dilworth was out of the room (aiding someone using the chair lift.)

Recommended by the Selectmen.

Article 23 Elderly Property Tax Exemption

"Shall we modify the elderly exemptions from property tax in the Town of Hudson, based on assessed value, for qualified taxpayers, to be as follows: for a person 65 years of age up to 75 years, \$45,000; for a person 75 years of age up to 80 years, \$60,000; for a person 80 years of age or older, \$75,000?To qualify, the person must have been a New Hampshire resident for at least 5 years, own the real estate individually or jointly, or if the real estate is owned by such person's spouse, they must have been married for at least 5 years. In addition, the taxpayers must have a net income of not more than \$22,000 or, if married, a combined net income of less than \$29,000; own net assets not in excess of \$100,000 excluding the value of the person's residence. This article shall take effect for the 1998 property tax year." (\$20,000 was amended to \$22,000; \$27,000 was amended to \$29,000)

Motion by Selectman Jasper, seconded by Selectman Madison, to recommend carried 3-1. Selectman Charbonneau was opposed. Selectman Dilworth was out of the room (aiding someone using the chair lift.)

Recommended by the Selectmen.

Article 24 Totally and Permanently Disabled Property Tax Exemption

"Shall we adopt an exemption for the totally and permanently disabled? The exemption, based on assessed value, for qualified taxpayers shall be \$45,000. To qualify, the person must have been a New Hampshire resident for at least five years and own and occupy the real estate individually or jointly, or if the real estate is owned by a spouse, they must have been married for at least five years. In addition, the taxpayer must have a net income of not more than \$22,000, or, if married, a combined net income of not more than \$29,000; and own net assets not in excess of \$100,000 excluding the value of the residence." (\$40,000 was amended to \$45,000; \$10,000 was amended to \$22,000; \$12,000 was amended to \$29,000; and \$50,000 was amended to \$100,000)

Motion by Selectman Jasper, seconded by Selectman Madison, to not recommend.

Selectman Jasper said he was in favor, at their last meeting, of raising the income level, but since Social Security and other types of disability incomes are included, this is putting them in a situation where a person could have income in the \$40,000 range, or more, and still be able to get a \$45,000 exemption. He didn't think that was fair and equitable and could not support that.

(Start Tape 1, second side)

Vote carried 3-2. In favor were Selectmen Charbonneau, Jasper and Madison. Selectmen Seabury and Dilworth were opposed.

Not recommended by the Selectmen.

Article 25 Library Trustees Acceptance of Gifts

"Shall the Town of Hudson accept the provisions of RSA 202-A:4-d providing that any town at an annual meeting may adopt an article authorizing indefinitely, until specific rescission of such authority, the public library trustees to accept gifts of personal property, other than money, which may be offered to the library for any public purpose, provided, however, that no acceptance of personal property by the library trustees shall be deemed to bind the town or the library trustees to raise, appropriate or expend any public funds for the operation, maintenance, repair or replacement of such personal property?" (Entire text of RSA 202-A:4-c was replaced with RSA 202-A:4-d)

Motion by Selectman Jasper, seconded by Selectman Dilworth, to recommend carried unanimously.

Recommended by the Selectmen.

Article 26 Electioneering Activity at Town Meeting

"Shall the Town of Hudson authorize the Board of Selectmen to make bylaws regulating the distribution of campaign materials or electioneering within set distances of the polling place?" (The following words were deleted: "or any activity which affects the safety, welfare and rights of voters held for any purpose in the Town of Hudson," replaced with "within set distances of the polling place.")

Motion by Selectman Jasper, seconded by Selectman Dilworth, to recommend carried unanimously.

Recommended by the Selectmen.

Article 27 Birch Street/Lowell Road Traffic Signal

"Shall the Town of Hudson raise and appropriate the sum of Sixty-Five Thousand Dollars (\$65,000) for the purpose of installing a 3-way traffic signal at the intersection of Lowell Road and Birch Street?"

Motion by Selectman Madison, seconded by Selectman Charbonneau, to recommend carried unanimously.

Recommended by Selectmen.

Article 28 Animal Shelter

"Shall the Town of Hudson raise and appropriate the sum of Fifteen Thousand Dollars (\$15,000) to be used toward the building and/or equipping of an animal shelter, this sum to be added to the approximately \$90,000 that has already been raised?"

Motion by Selectman Madison, seconded by Selectman Dilworth, to recommend carried unanimously.

Recommended by the Board of Selectmen.

Motion by Selectman Jasper, seconded by Selectman Madison, to direct the Town Clerk to place the recommendations on the ballot for those articles that would normally have recommendations appearing on the warrant carried 3-2. Selectmen Dilworth and Seabury were opposed.

Motion by Selectman Jasper, seconded by Selectman Madison, that the Town purchase an ad that would list the warrant articles and the recommendations of the Board of Selectmen and the Budget Committee, if the Town Clerk chooses not to include the recommendations on the ballot, carried unanimously.

5. ADJOURNMENT

Motion to adjourn at 7:36 p.m. by Selectman Jasper, seconded by Selectman Dilworth, carried unanimously.

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

HUDSON BOARD OF SELECTMEN

Ann Seabury, Chairman

Rhona Charbonneau

Howard Dilworth, Jr.

Shawn N. Jasper

E. Lorraine Madison

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