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**HUDSON PLANNING BOARD
MEETING MINUTES
November 5, 2008**

I. CALL TO ORDER

Chairman Barnes called this Planning Board meeting to order at 7:04 p.m. on Wednesday, November 5, 2008, in the Community Development meeting room in the Hudson Town Hall basement.

II. PLEDGE OF ALLEGIANCE

Chairman Barnes asked Mr. McInerney, a member of the ZBA, to lead the assembly in pledging allegiance to the Flag of the United States of America.

III. ROLL CALL

Chairman Barnes asked Secretary McGrath to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

Members

Present: James Barnes, George Hall, Marilyn McGrath, Suellen Quinlan, Vincent Russo, Terry Stewart (arrived at 7:08 p.m.), and Richard Maddox (Selectmen's Representative) .

ZBA Members

Present: Ms. Maryellen Davis, Mr. Kevin Houle, Mr. Michael Petrie, Mr. William McInerney, Ms. Donna Shuman, and Mr. J. Bradford Seabury (and also Ms. McGrath, a dual-member of both boards). Selectman Roger Coutou, the Selectmen's Liaison to the Zoning Board of Adjustment, also was present.

Absent: Suellen Quinlan .

Alternates

Present: Ken Massey (Selectmen's Representative Alternate) .

Alternates

Absent: Brion Carroll (excused) and Tierney Chadwick.

Staff

Present: Town Planner John Cashell.

Recorder: J. Bradford Seabury.

IV. SEATING OF ALTERNATE S AND ANNOUNCEMENTS

Chairman Barnes noted that no alternates were present to be seated in place of the absent member.

V. MINUTES OF PREVIOUS MEETING(S)

Chairman Barnes said he would defer the review of minutes of past meetings until next week's meeting, noting that these would be the minutes for the meetings of September 3 and 10.

VI. CORRESPONDENCE

Chairman Barnes noted that items of correspondence received in tonight's handouts would be taken up in conjunction with the associated hearings, with any remaining items being taken up under **Other Business** at the end of the meeting.

VII. PERFORMANCE SURETIES

No **Performance Sureties** items were addressed this evening.

VIII. JOINT DISCUSSION REVIEW WITH ZBA

A. Review with the Zoning Board of Adjustment (ZBA), Article XII – Sign Ordinance

Chairman Barnes read aloud the published notice, as repeated above.

Town Planner Cashell said some Board members had felt the existing ordinance was sufficient, while others had felt there was a need to move forward with respect to establishing some restrictions for flashing lights.

Ms. Davis said her recollection was that the Board had decided to move forward but leaving off Section G, so the new packet, labeled Item A, had all the changes except the electronic sign. She then expressed a belief that the proposal missed the mark, since LED signs were not referenced.

Selectman Maddox expressed a belief that LED signs were covered by the fact that they were not listed as allowed, and therefore were not allowed.

Ms. McGrath noted that Selectman Maddox had suggested bringing in people to talk about signs; she asked who such "experts" would be. Selectman Maddox said he felt NRPC had been dealing with this on a regional level, adding that there must be people in the area.

Mr. Petrie asked why the definition from Version C could not be incorporated into Version A, and then be done with it.

Ms. McGrath said her recollection was the same as Ms. Davis' s, in that the group had been satisfied with the changes except for the LED signs —adding that she felt Mr. Petrie had just made a good point. Further, she continued, this was the first time in all the several discussions that the idea had been brought up of bringing new people in. She said she felt this was more than ready to be put to a public hearing.

Selectman Massey referenced the proposed Section 334-60 H. noting that there were LED traffic signs, which had a legitimate need to inform the public of problems ahead, adding that there might be others.

Selectman Massey noted that the proposed 334-60 L referenced images to specific anatomical areas, saying this meant to him that a dentist could not display a tooth, or a doctor could not display any part of the body. Ms. Davis said this text specifically referred to nudity and/or sexual activities. Selectman Massey said this could be parsed both ways, saying there would have to be some connotation indicating that the last part of the sentence applied to all of the previous text.

Mr. Russo referenced Section H, saying his concern was that this was taking away all electronic signs, but he agreed that definitions had to be provided, so that something could not be slipped in. He agreed that there was a need for emergency signs, but argued that these were temporary signs and were not permanent in nature.

Ms. Stewart said this text had been plagiarized from the ordinance of another community, noting that sexually oriented businesses could only be in industrial parks in this community, so she was okay with the way the paragraph was worded.

Mr. Seabury expressed agreement about moving the definition of subsection C to subsection A, but he said he was concerned about the statement that the town did not have to worry about LEDs because they were not in the ordinance and therefore were not allowed. He pointed out that this whole discussion of changing the sign ordinance had started when the fueling station on Lowell Road had installed them, which had been permitted apparently in error by the Town, and the Zoning Board then had to allow the sign because of a legal situation. He said that decision had made it clear that this was an exception to the rule and that such things would not be allowed in the future, but Mr. Russo had recently brought to his attention that the recently departed Zoning Administrator had allowed another one at the Irving station at the intersection of Route 102 and Robinson Road prior to his departure, with that sign having been installed a few weeks ago. He pointed out that the ZBA had felt this sort of sign was prohibited by the existing ordinance, but some people, including high-priced attorneys, had felt these signs were not covered by that definition. He concluded by stating that he felt the Planning Board had an obligation to make it clear, one way or the other.

Selectman Maddox said he understood the first sign was allowed, whereas the second had been approved despite the fact that an unsigned portion of the application said that it was in compliance. He noted that people in Concord had already taken these LED signs to court, adding that the Board of Selectmen was about to hire a new Zoning Administrator, and he felt that person needed time to get things under his belt.

He expressed doubt that things could be defined closely enough, saying it seemed to be more of a paperwork problem.

Ms. Davis said the ordinance should be a living, breathing ordinance, which had to be changed with the changing times.

Ms. McGrath referenced Item 334 -60 H, saying she felt Mr. Russo had made a good point in suggesting that the definition should come out and what had been read should remain, making it clear that electronic signs of any kind were prohibited. She said changes might be made at a future date, adding that the future Zoning Administrator would also have that opportunity, just as the previous Zoning Administrator had done — adding that this Planning Board had rejected many of the changes that had been suggested by that previous individual.

Mr. Petrie expressed agreement that adding “LEDs are not allowed” would take care of the problem, letting 334 -60 H stand as written.

Ms. Davis said the intent had been to separate LEDs with respect to changing signs.

Chairman Barnes said he was sensing a reasonable consensus to move forward, perhaps with some changes. He asked if he were reading that correctly.

Mr. Hall asked what changes were being discussed. He said LEDs were the lighting source of the future, noting that most new traffic signals now were LEDs, and LEDs were the most efficient lighting source, so saying the Town did not want them did not make sense to him, and he asked what difference it made what kind of bulb was used.

Ms. Davis said what was being said was not that LEDs were not allowed, as LEDs in internally-illuminated signs were allowed —but that what was not allowed were signs that flash with changing messages.

Mr. Seabury expressed agreement with Mr. Hall, saying he felt there was confusion as to what an LED was. Noting that an LED was simply a light-emitting diode, he said the concern was that some LED signs were designed such that the message could be changed very easily —noting that he recently had made a trip to London, where he saw signs that appeared to be approximately 150 feet long by 50 feet high, with constantly changing photographic displays —adding that these signs made the one on Nashua’s Amherst Road look like a tinker toy. He expressed concern that someone in Hudson might think such signs were just what was needed to drum up some business in these economic times, adding that what the Zoning Board had been after was a way of prohibiting such message-changing signs, as a majority of the ZBA members felt that these would be a source of distraction to drivers going by.

Selectman Coutou said he had no problem with the ordinance, but he had a problem if a business man had an LED sign and the only thing he was allowed to do was to change the price by entering a new price. He said the price of cigarettes might only change once every three or four months, expressing a belief that the current wording of the ordinance would not prohibit him from doing that. He said he had no problem with preventing signs that might be distracting, but he had no problem with signs that changed only once in a great while. He said signs being put out now were all LED-lit, as that was the way that signs were going. He said there was a need to make it easier

to the business man, rather than forcing him to go out in inclement weather to change the sign. He then expressed a desire to allow single changes of price signs that did not flash or have other motion, saying he otherwise could not vote to support that restriction.

Ms. Stewart said she agreed, but she had an issue with the sign on Amherst Street, or with the price signs at the gas station on Lowell Road, saying she did not want flashing signs creating a driving hazard. She said the brightness could be discussed, but she had no problem with the changing.

Selectman Coutou said he thought Selectman Maddox had been going in the right direction, saying the gentleman who owned Long's Lighting Express had offered to come in and explain what LEDs were and how the lighting intensity could be controlled by setting lumen criteria. He said he saw no reason to object except if the lumens were too bright and distracting to the eye. He then suggested removing any mention of LEDs and taking a look at priced-changing signs.

Ms. Davis said this was exactly where the discussion ended at the previous meeting.

Mr. Russo expressed disagreement with Ms. Stewart and Selectman Coutou, saying the lights would have to be allowed to all. He questioned who would determine the acceptable level of lighting and who would enforce it, saying it would be too difficult to make sure that everyone was being treated fairly. Once one started, he said, everyone would want to do it, and the town would be bright.

Ms. Davis noted that Mr. McInerney had made a study of the signs currently on Lowell Road, finding there were between 110 and 120 signs. She said the issue was what did the Board want to be the flavor of Hudson, predicting that the allowed signs would morphosize into something else. She noted there were a lot of homes remaining on Lowell Road, saying the Board had to consider what was best for the residents.

Selectman Maddox expressed a belief that the existing ordinance would suffice, adding that the members of this Board were not experts, but someone was available to discuss the signs, and he suggested getting them in and crafting a better ordinance for next year.

Ms. McGrath moved to amend Draft Copy A Section §334-60 H, to read "Electronic changing signs are not permitted in any district." Ms. Stewart seconded the motion. Chairman Barnes noted that this essentially was discarding the rewritten version and putting the text back to the original version. Ms. McGrath expressed agreement.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6-0).

Ms. McGrath moved to amend Draft Copy A Section 334-58 B, Item (21), to strike the words "LED signs," so that 21 would read "*Temporary construction signs.* Construction signs for public safety and/or information, including Electronic Changing Signs (ECS) and Electronic Message Centers (EMC) being used to inform the public at or near the construction site(s) or on the premises." She noted that she had added the

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parenthetical "s" after "construction site" in case there were more than one involved. Ms. Stewart seconded the motion.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6 -0).

Chairman Barnes suggested that a change was needed, since the amendment to remove LED signs now agreed with §334-58 B (21), but there was also a change needed in the last paragraph of §334-63, from which the phrase "roof-mounted" was being struck, as that text was not in the version A, which would be posted. He said the paragraphs needed to be made to agree.

Ms. McGrath moved to amend Draft Copy B, Section §334-63, the last paragraph, to include the words "roof-mounted," so that the paragraph would read "Each individual business may have one additional wall, roof-mounted, or projecting sign to identify side or rear entrances

Ms. Davis demurred, saying "roof-mounted" should be struck, so that there would be nothing higher than the building. Ms. McGrath concurred, saying Section 63, including the strikeout, should be included in attachment A. She then moved to amend Draft Copy A, to include section 334-63, Business and Industrial building signs, so that the last paragraph would read as shown in Draft Copy B, with the words "roof-mounted" being struck. Ms. Stewart seconded the motion.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6 -0).

Mr. Hall asked for clarification with respect to the first motion. Ms. McGrath said she had removed the suggested language and reverted back to what was in the ordinance today. Mr. Hall said if nothing was going to be changed, why not just leave Draft Copy B as it was. Ms. McGrath concurred.

Mr. Russo asked if the discussion were about removing the definition of electronic-changing signs.

Mr. Hall said the intent was not to change paragraph H, so there should be no reference to it in the posted notice. Mr. Russo expressed understanding.

Ms. McGrath moved to strike paragraph H in its entirety from Draft Copy A, so that it would not be advertised as a change to the Zoning Ordinance. Ms. Stewart seconded the motion.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6 -0).

Ms. McGrath moved to send Draft Copy A and Draft Copy B , as amended, to a public hearing on December 10, 2008. Ms. Stewart seconded the motion.

Selectman Maddox said nothing had been done, other than moving a few words around. He said LEDs were the issue, and the Board should wait until it could deal with that. Ms. McGrath demurred, saying sending it to a public hearing would give the public an opportunity to come in and provide input, after which the Planning Board could decide on whether or not to send it to the ballot. She noted that this would also give the "experts" sufficient opportunity to come in and provide information .

Mr. Russo said the proposed changes took care of a few other problems, including the nudity aspects, and he thought this change would be an improvement.

Town Planner Cashell said he would like to have just bold, not bold underlining , for the changes in the public notice.

VOTE: Chairman Barnes then called for a verbal vote on the motion. All members present voted in favor except for Selectman Maddox, who voted in opposition, and Chairman Barnes declared the motion to have carried (5 -1).

B. Discussion with ZBA on Possible Amendments to the Home Occupation Special Exception Ordinance

Chairman Barnes read aloud the published notice, as repeated above.

Town Planner Cashell summarized where the Board had left off, saying that one important change since this past summer was the affordable housing statute signed into law by the State legislature this year , becoming effective in July 2009. He expressed a belief that towns would get credit for allowing home occupations and accessory living units (ALUs) within the Zoning Ordinance. He said a multitude of affordable housing allowances were involved, and he did not think the Town wanted to exclude them.

Ms. Davis said she did not know if the Town Assessor carried anything that would identify these buildings so that they could be considered part of the affordable workforce housing, adding that this would be critical when discussing ALUs. She noted that the only change that the boards had expressed disagreement on in the previous discussion was in Subsection §334 -24 G, with respect to the percentage of finished living space.

Selectman Massey asked if a plumber or home contractor would be considered as a home occupation, since services would not be provided at home, which would simply constitute a call center. Ms. Davis answered in the affirmative. Selectman Massey said he was having problems with Subsection L, which said "not be allowed in the front yard or setbacks." He asked if commercial vehicles were the only ones not being allowed, asking what the first sentence referred to. Ms. Davis said the first sentence was referring to customer vehicles, which would have to be in the driveway. Selectman

Massey asked if he would be in violation by having two pickup trucks. Ms. Davis expressed a belief that he would not be, depending on the size of the trucks. Selectman Massey noted that magnetic signs could be added to the vehicles easily, questioning how the Code Enforcement Officer could enforce this. Ms. Davis said personal vehicles used in commerce were excluded, saying this was intended more for vehicles bigger than a van, such as a box truck full of equipment.

Selectman Massey said this would make many businesses illegal, saying this was making a regulation for a problem that did not exist. Ms. David said this was not talking about people that drove off to do business elsewhere, saying what was not wanted was the blocking of roads when others were dropping children off. Selectman Massey suggested daycare as an example; Ms. Davis said daycares were desired, but not when they would lead to parking in the roads. Selectman Massey said this seemed awfully inclusive.

Ms. McGrath said this ordinance had been written years ago because people wanted to keep their neighborhoods residential. She said there had been a hue and cry some years ago because businesses were being established in residential neighborhoods, and she thought tightening it up was a good idea.

Ms. Davis added that renters could have a home occupation, and this proposed text defined who would be liable in such situations.

Chairman Barnes said he was having a problem that the new Subsection D was the old Subsection B. Ms. Davis said it had been very difficult to redraft, based on the old ordinance. Chairman Barnes said his concern was that it looked as though much of this were new, when in fact was not. He asked if the same results could be obtained just by changing some of the identifier letters.

Selectman Massey, referring to his years of sitting on the ZBA, said this ordinance definitely was needed. He cited instances of past attempts, saying the ordinance had made it possible for the ZBA to control the character of the neighborhood, to prevent off-site people from coming in to provide services. He said he felt the language addressed many issues that the ZBA had experienced over the years.

Selectman Maddox asked if the recent change in the Table of Permitted Uses, which prohibited retail uses in residential districts, did not already address that issue. He then asked why home occupations would be allowed in the Industrial zone. Ms. McGrath pointed out that some residences were in fact located in the Industrial zoning district; Ms. Davis added that this was also true of the Business and General districts.

Mr. Petrie referenced §334-24, 2nd paragraph, saying he felt it should be changed to the location for such a business, to cover home occupations getting too large. Ms. Davis suggested different wording, adding "or moved to its own location, as appropriate for the business." Mr. Petrie expressed agreement. Ms. Davis said the last line of the text would read: "The applicant acknowledges that, if the business grows and no longer meets the listed requirements, the business shall be moved to a zoning district that is appropriate to that type of business."

Ms. Stewart questioned Subsection C, asking if the ZBA asked these questions of the applicants—questioning, as an example, if the ZBA would ask the applicant for a

daycare center about having the number of employees needed for the number of children, or also in the case of a beauty parlor . Ms. Davis and Mr. Seabury answered in the affirmative, saying this was a regular part of the procedure, noting that some applications had been denied because they did not comply.

Ms. McGrath moved to amend Draft Copy A , 2nd paragraph, to read "The intent of providing a Home Occupation Special Exception is to allow the growth and development of a small in -home business while retaining the character of residential areas. The applicant acknowledges that, if a business grows and no longer meets the listed requirements, the business shall be moved to a zone that is appropriate for that type of business ." Ms. Stewart seconded the motion.

Ms. Davis said she would work with Mr. Cashell to make sure the format was correct.

VOTE: Chairman Barnes then called for a verbal vote on the motion. All members present voted in favor except for Selectman Maddox, who voted in opposition, and Chairman Barnes declared the motion to have carried (5-1).

Selectman Massey noted the prohibition of retail sales in Subsection F , saying this implied that wholesale sales would be allowed.

Mr. Russo said an online-type business would be an example. He suggested using "cash and carry" sales. Ms. Davis and Mr. Petrie said the ZBA had allowed that online types of business. Ms. McGrath asked what the consensus was about "retail sales." Ms. Davis said that was being left as it was, noting that this was unchanged from the existing ordinance text.

Mr. Russo asked if Subsection C pertained to family members. Ms. McGrath answered in the negative, saying the ZBA allowed family members to work there. Ms. Davis said this was covered in Subsection B, and she also noted that the Zoning Board had allowed a home occupation window replacement business that fit this description.

Ms. McGrath moved to send Article VI, Special Exceptions, Draft Copy A, to a public hearing on December 10, 2008. Ms. Stewart seconded the motion.

Mr. Hall said he would have to vote in the negative, because the motion reads , based on the discussion, to send Draft Copy A after it was redone. He contended that this text was far from being ready for a public hearing, adding that the format was very confusing, making it difficult to understand what was being changed.

VOTE: No further comment being brought forward, Chairman Barnes called for a hand vote on the motion. Ms. McGrath and Ms. Stewart voted in favor; Mr. Hall Mr. Russo and Selectman Maddox voted in opposition, and Mr. Barnes abstained. Chairman Barnes then declared the motion to have failed (2-3-1).

Mr. Russo said he had voted in the negative because he did not believe it was anyone's business how much of a person's home was used for the business use, as there were too many types of variation and would be unenforceable.

Town Planner Cashell said he would have a different version for the next workshop, in December.

Ms. McGrath moved to defer further review of this item, date specific, to the December 3, 2008, Planning Board Workshop; Ms. Stewart seconded the motion.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6 -0).

C. Review with the ZBA of Contents of Article XIII A – Accessory Living Units (In-Law Apartments)

Chairman Barnes read aloud the published notice, as repeated above.

Ms. Davis said ALUs could be counted as workforce housing units, saying this would be important for the town because of the new statute recently passed by the Legislature.

Chairman Barnes asked if the only change was the change to Section §334 -65. Ms. Davis said the change was to put some rigor around requiring the applicants to confirm that the residents were family members.

Ms. McGrath moved to send the proposed change to a public hearing on December 10, 2008. Ms. Stewart seconded the motion.

Ms. Davis said staff would be required to document residency, if this were approved.

Selectman Massey questioned what would happen if staff failed to do it by January 1st. Ms. Davis said it would become a code-enforcement issue, adding that a letter would have to be sent out or the Code Enforcement Officer would have to go to the property to confirm that was being done.

Selectman Coutou asked what would be done about the 500 such units that existed without being allowed, which had never been listed. He said he agreed with the proposed change, but there were "a lot of them out there."

Mr. Russo said he would reiterate what he had said, saying he felt ALUs should be eliminated, and he felt what one did with one's own home was that person's business. He said the Town could not stop people from renting out a room to a boarder, and creating an ALU was creating something that had to be monitored. He contended that there was no difference between a single-family home and a home that had an ALU, arguing that it was not a problem if people were having in-laws live with them, and he contended that there were other ways to deal with people renting out part of their homes.

Ms. Stewart expressed disagreement, saying duplexes were not allowed in some zones and these illegal places became duplexes. She said it was okay to take in an elderly parent so long as criteria were being met. She cited a notorious case on Bush Hill Road as an example.

Mr. Russo said most duplexes had different services, adding that multiple driveways were already not allowed. He said the Town could not stop what people did not tell the Town they were going to do. He then asked what would distinguish the ALU from a single-family home. Ms. Davis said a separate kitchen distinguished it, saying putting rigor into the ordinance would prevent an expansion of two-family homes that were not allowed, because they were not up to code (such as illegal kitchens in basements without a permit).

Mr. Petrie noted that he had an ALU. Suggesting that the reason for creating ALUs had been to prevent multifamily houses, he said his home looked like a single-family home, which was the intent of the ordinance.

Ms. Stewart said she knew of a ranch that had started as an ALU. Mr. Russo said this was his point: that ALUs promoted duplexes.

Ms. Davis said the intent of the changes had been to monitor the situation, to prevent that. Mr. Russo said this would create an expense for the town.

Selectman Maddox said this ordinance was continuing to punish the people who followed the rules, saying this was going in the wrong direction.

Ms. McGrath commented that having a requirement to request an ALU ensured that life safety codes were followed.

Ms. Davis said having an ALU was not a god-given right, but was an allowable exception, noting that people registered their cars every year.

Ms. McGrath said having the notice in the assessor's office meant that people coming in to check on the building would find it was an ALU and what it stood for.

Mr. Russo said there was no ordinance against having two kitchens in a home, questioning who would stop him. Mr. Seabury said he hoped the Building Inspector would do so. Mr. Russo said the Building Inspector had told him there was nothing against it. He contended that it did not become a problem until someone tried to rent it out, but the Town had no way to control that, saying it would be too difficult.

Ms. Davis said the discussion was not about a second kitchen in a home but about a second living unit with a kitchen in it, saying the Building Inspector or the Code Enforcement officer should be making sure it came out.

Ms. McGrath moved the question.

VOTE: Chairman Barnes then called for a verbal vote on Ms. McGrath's motion to send the proposed changes forward to a public hearing on December 10th. All members present voted in favor except for Selectman Maddox and Mr. Russo, who

both voted in opposition, and Chairman Barnes declared the motion to have carried (4 -2).

Chairman Barnes declared a break at 8:45 p.m., calling the meeting back to order at 9:01 p.m., with Ms. Shuman, Mr. House, and M r. McInerney having departed from the meeting during the break.

IX. WORKSHOP.

A. Review of "The Workforce Housing Law" – SB 342 – Chapter 299, Laws of 2008

Chairman Barnes read aloud the published notice, as repeated above.

Town Planner Cashell discussed the recent law change.

Chairman Barnes noted that he had received only the odd -numbered pages. Other members confirmed that their copies were the same. Town Planner Cashell then distributed full copies.

Chairman Barnes noted that there had been a discussion of this law and its import at a recent OEP law lecture, noting that changes would be in effect by July 2009, but he expressed doubt that the Board could put any changes in place before that time. He noted that NRPC had already been asked for a review of the current housing stock of this town, saying it might be that no changes would be needed.

Selectman Maddox expressed concern about rushing into changes that might not be needed, saying he anticipated that this issue would be going to court, anyway.

Town Planner Cashell said NRPC had most of the data, saying he expected to have it by next week's meeting. He said Hudson probably did not comply with the strict meaning but was very close to it. He noted that Hudson already had many references allowing for affordable housing: ALUs, duplexes throughout the R -2, G, and G-1 zoning districts, manufactured housing, mobile parks, multifamily housing, etc. —adding that there six pages of text dealing with affordable housing in the Hudson Master Plan.

Ms. Stewart moved to defer further review of the Workforce Housing Law, Senate Bill 342, Chapter 299, Laws of 2008, date specific, to the December 3, 2008, workshop. Ms. McGrath seconded the motion.

Mr. Hall noted that Atty. J. Bradford Westgate, of the firm of Winer and Bennett, LLP, 111 Concord Street, Nashua NH, was present, and he asked if Atty. Westgate had anything to add. Atty. Westgate said he was on the Greater Nashua Workforce Housing Coalition, adding that he was on that group's steering committee. He stated that addressing this issue could be a pretty substantial task. He noted that what the Nashua Regional Planning Commission had assembled was a projection of the number of housing units to 2015, noting that this was merely a projection, but the missing piece was how many housing units met what was going to be thought of as the affordable

housing standard, which probably would be based on what could be borrowed at 30% of gross household income that could be converted into a loan which could be used to purchase the residence. He suggested that the Board would want to get that kind of data and also might want to have people come in to speak on this, suggesting that the Board would want to rely on the New Hampshire Housing Finance Authority, which was the group developing the model ordinances, and get their input.

Town Planner Cashell said the timeframe for adoption was almost impossible to comprehend. He asked if Atty. Westgate's group was possibly considering asking for an extension of the time. Atty. Westgate responded that his group was considering the economic effect of the lack of workforce housing in the region, noting that this was a volunteer group.

Mr. Cashell said the workforce housing law was based on a voluntary approach by the developer, based on profit that the developer might obtain.

Atty. Westgate noted issues in the suggested model ordinance, designed to prevent the housing from becoming a windfall—adding that the best approach might be to have a third party regulate that, rather than the town. Mr. Cashell said he felt this statute was really set up for communities that did not really allow for affordable housing, but he did not think Hudson was one of those communities.

VOTE: Chairman Barnes called for a verbal vote on the motion to defer. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6 –0).

B. Review of Zoning Ordinance Article XIX – Growth Management

Chairman Barnes read aloud the published notice, as repeated above. He then noted that the recent law lecture series discussion had said a sunset date was needed. Town Planner Cashell said the Hudson ordinance was adopted under a previous law, which did not require an ending date. He noted that another mandate in the new law was that the Planning Board was supposed to assess the performance on an annual basis to make sure that the plan was being implemented and was tied in with the Master Plan. He said the staff report dealt with the reality of what Hudson was dealing with over the past four years, in accordance with the statutes—saying the Board might want to contemplate suspending the Growth Management Ordinance until such time as growth conflicted with the growth of infrastructure.

Selectman Maddox noted that there was a draft motion to defer, but he noted that the ordinance said the Planning Board may consider the suspension of the growth management if it does not provide for a sustainable rate; he then moved to suspend Article XIX, Growth Management for a period of three years, starting today. Ms. Stewart seconded the motion.

Town Planner Cashell said it was a Zoning Ordinance, and he did not know if the Board could do it. Selectman Maddox said the language of the text said the Planning Board could suspend.

Town Planner Cashell said statistics got slippery, saying available certificates last year were 153, but only 90 were available this year, with 56 already issued, even though the percentages were higher.

Ms. Davis said the text was based on the actuals, and it might be much higher for 2008. Chairman Barnes said it would be a higher percentage but of a lower number. Ms. Davis said the formula went by the percentages. Town Planner Cashell said it was impossible; Selectman Maddox concurred, saying builders would not be able to stockpile them.

Mr. Seabury asked who would remember this suspension in 2011, suggesting some text needed to be added. Mr. Russo suggested putting a date in the Zoning Ordinance, so that it would be identifiable as a suspension that began on this date and would last until November 4, 2011. Selectman Massey expressed agreement with that concept.

Mr. Hall said this did not seem to have been a limiting factor of the past two years, anyway, as no one had asked for more permits than had been available.

Chairman Barnes said the Town Planner could check with Town Counsel as to what the appropriate procedure would be for providing notice to the future public.

VOTE: Chairman Barnes then called for a verbal vote on the motion. All members present voted in favor except for Ms. McGrath, who voted in opposition, and Chairman Barnes declared the motion to have carried (5 -1).

C. Review of RSA 674.63 – Small Wind Energy Systems – and Model Ordinance

Chairman Barnes read aloud the published notice, as repeated above.

Town Planner Cashell referenced the discussion at the recent OEP law lecture, noting that he had provided a complete copy of the model ordinance.

Mr. Russo asked if there were anything in the existing Zoning Ordinance that prevented such things. Mr. Cashell noted that they were not listed, implying that they therefore were not allowed, and Selectman Maddox pointed out that Hudson's Zoning Ordinance had a 38-foot height limitation. Mr. Cashell expressed doubt that the 38-foot height restriction would be allowable in court for these systems. Mr. Russo said he did not see the need for any rush.

Selectman Massey read the text, saying noting that restrictions on height that did not specifically allow for the height of small wind energy systems would not be acceptable. He expressed a belief that the Town would have a problem enforcing the 38-foot limitation if someone wanted to put up such a system.

Mr. Seabury noted that the attorneys giving the talk at the law lecture, one of whom was the Town's Legal Counsel, had warned against trying to prevent these systems with height limitations developed for residences, saying a generic height restriction

would not be allowed and that a specific limitation would have to be created for these systems. Ms. Davis said she had discussed this with Mr. Seabury after that law lecture and had offered to take a stab at drafting a customized renewable energy ordinance.

Ms. Stewart said she had one of these systems, used to power her boat, adding that she intended to see if it would power a ceiling fan. She said she would provide some information for a future discussion.

Selectman Massey said he would prefer half a loaf to no loaf, and the only way would be to address the wind energy programs. He said the payback was supposed to be 5 to 7 years, so there would be a lot of interest. He then questioned where in Hudson one would find sufficient sustainable winds.

Town Planner Cashell noted that he had a draft motion. He suggested sending this to Town Counsel for review.

Selectman Maddox said this would also go to court, if communities were not going to be given time to deal with the issue in an effective manner. He expressed doubt that there was a need to rush into this.

Ms. McGrath moved to have Town Counsel review the public hearing notice and proposed Small Wind Energy Systems zoning ordinance, relative to determining if both comply with NH RSA's with respect to proper notification to parties of concern and if they would meet the requirements for the 2009 Town Warrant. Ms. Stewart seconded the motion.

VOTE: Chairman Barnes then called for a verbal vote on the motion. All members present voted in favor except for Selectman Maddox and Mr. Barnes, who both voted in opposition, and Chairman Barnes declared the motion to have carried (4 -2).

D. Review of Proposed Amendments to the Planning Board Bylaws

Chairman Barnes read aloud the published notice, as repeated above.

Town Planner Cashell said this could come to a conclusion tonight, after a year and a half of effort on the part of the Planning Board and the committee.

Selectman Maddox commented that it had taken a year and a half to change the bylaws, which had been three-quarters written, but the Board was racing to complete two huge projects for January.

Ms. Stewart moved to adopt, as written, the revised Planning Board Rules of Procedure (amended as of November 5, 2008). Mr. Hall seconded the motion.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members present voted in favor except for Ms. McGrath, who voted in opposition, and Chairman Barnes declared the motion to have carried (5 -1).

E. Review of Draft Notice on-Revised Table of Dimensional Regulations

Chairman Barnes read aloud the published notice, as repeated above.

Town Planner Cashell said he thought his proposed notice accurately reflected the changes that had been discussed at the October 1st workshop.

Mr. Hall demurred, saying this was not what he had had in mind. He said the whole thing had been awkward, and it could not be fixed with a footnote, adding that it did not clearly state that 60,000 ft² was required for a duplex. He said the whole thing needed to be fixed, similar to what was done in other towns, where this proposed fix only fixed one thing, pertaining to the area requirement for a single-family home in an R-1 zoning district, and the Board already had a zoning determination that said that was what it was.

Selectman Maddox noted that the text said "use," not "zoning district."

Town Planner Cashell said the problem was to clarify what a single-family home required in the R-2 zoning district, and this had seemed the simplest, cleanest way to do that. He recommended that the proposed change be sent to public hearing.

Ms. McGrath asked if the Town Counsel had looked at this. Mr. Cashell said the Town Counsel's office was aware of the issues but had not looked at this specific proposal. Ms. McGrath expressed a belief that it would be a good idea to have Town Counsel review this. Mr. Hall noted that Town Counsel had reviewed the previous change last year.

Town Planner Cashell said he thought this Board could make the change, as the Board was aware of what the problem was.

Selectman Maddox questioned allowing a single family in an R-2 zone, when 60,000 ft², was required. Mr. Cashell said only 43,000 ft² was needed for a single-family home.

Ms. McGrath moved to send Article VII, HTC §334-27, to a public hearing on December 10th. Ms. Stewart seconded the motion.

VOTE: Chairman Barnes then called for a verbal vote on the motion. All members present voted in favor except for Mr. Hall, who voted in opposition, and Chairman Barnes declared the motion to have carried (5-1).

X. NEW BUSINESS/PUBLIC HEARINGS

No **New Business** items were addressed this evening.

XI. OTHER BUSINESS

Mr. Russo referenced the sign recently installed at the Irving station on Route 102, asking if the Board wished to address this. Noting that there had been a notice in the

October packet of permission granted to the Irving station to change their signs; he said today was the day to act on it.

Mr. Seabury questioned what the Board could do, noting that the concept of estoppel applied in this case, the same as it had with the station on Lowell Road.

Mr. Russo asked if there were some way to flag such applications. Town Planner Cashell said what needed to be changed was to make signs be the provenance of the Planning Board.

Ms. Davis said something should be placed in the record that the permit to Irving had been granted in error.

Mr. Russo expressed a belief that there was a need to rewrite the language such that signs got placed before the Planning Board.

Selectman Massey said the clock started ticking when the permit was granted. He commented that there was a sign in the Building office saying that construction was at the applicants' risk within the first 30 days.

Ms. McGrath said this was why the ZBA and the PB received notices of zoning administrations.

Selectman Massey said a developer could go to court and would win.

Mr. Russo suggested that this be discussed with the Town Attorney. Chairman Barnes asked if Mr. Russo were looking to have all signs brought before the Planning Board; Mr. Russo answered in the affirmative.

Selectman Maddox said spending an hour a meeting to review signs would be dragging, and he felt this was what staff was for.

Ms. McGrath said the Planning Board the past had reviewed signs, but this authority for some reason had been given to the Zoning Administrator. She said the signs were part of the site plan and she felt the Planning Board should be looking at them.

Mr. Russo asked whose authority it was now. Town Planner Cashell said it was the responsibility of the Building Inspector, who was acting as Interim Zoning Administrator.

Ms. McGrath asked if the site plan regulations could be changed to have the Planning Board review signs, bringing that obligation back before this board, where she felt it belonged.

Selectman Maddox said the Board should be looking at signs for the site plan, but the issue was signs that were added or changed afterward. Ms. McGrath said this was an amendment of the site plan, which should require the property owners to come back before this Board.

Town Planner Cashell said signs without question should be the purview of the Planning Board, saying he had been surprised when he came to Hudson to find that was not the case here, as this was an important part of site development.

Selectman Maddox suggested that this had been changed by the former Zoning Administrator, who was gone, and he suggested that it should be a part of site plan review. Town Planner Cashell said that was a great idea, saying the Code Enforcement should make sure that signs be in compliance, with no subsequent deviation allowed. Mr. Russo said the Zoning Ordinance had to be changed, as it currently said no signs could be erected without a permit issued by the Building Inspector and approved by the Zoning Administrator.

Selectman Maddox said the Planning Board set the big picture, but it was up to staff to follow through, reiterating that this was what the town had staff for. He expressed doubt that the Planning Board wanted to take on responsibility for all sign changes.

Town Planner Cashell said it was the Planning Board's responsibility to change the zoning rules, which the Zoning Administrator then had to enforce. He said most signs were in accordance with zoning.

Ms. McGrath said the bottom line was whether the Planning Board wanted to take back responsibility for reviewing signs as part of the site plan review process. Chairman Barnes suggested that signs could be put on the checklist. Ms. McGrath said she was asking if the Planning Board wanted to go back to reviewing signs as part of the site plan review process. Mr. Cashell said he could add text to the checklist. Mr. Russo said he thought signs should come before the Planning Board, saying he thought the text should be amended, noting that there were funny-looking signs coming into being that the Board might not want to exist.

Ms. McGrath said it only required striking or inserting a few words, and she felt it could be done this year.

Town Planner Cashell a motion would be needed. Mr. Hall questioned if everyone understood what was being suggested. He said nothing needed to be changed, if the Board wanted to accept that amount of responsibility, but an awful lot of other signs got approved that had nothing to do with site plans. He questioned how the Board would deal with every sign change for every business.

Mr. Russo said he was concerned with free-standing and building-mounted signs, as well as signs that were illuminated. Mr. Hall said the signs that were to be addressed had to be identified, contending that illuminated signs did not have to be addressed by a change of the regulations. He expressed concern about taking this responsibility from the Building Inspector.

Chairman Barnes said he wanted to know how many signs were being changed. Town Planner Cashell acknowledged that he did not know.

Town Planner Cashell suggested having a separate subcommittee. Members of the Board expressed strong disinterest in this idea.

Ms. McGrath said she was suggesting that the Planning Board review signs as part of the site plan review process from this point forward. She said changes should come in to this Board or to the minor Site Plan Review Committee.

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Ms. McGrath moved for the Planning Board to review signs as part of the site plan review process. Ms. Stewart seconded the motion.

Selectman Maddox said the Board had never relinquished that authority, so there was no need to take it back.

Mr. Hall said the only thing needed was to put sign details on the checklist.

Mr. Russo said already existing signs should be put to the Minor Site Plan Review Committee.

Ms. McGrath said it would not be fair to require businesses with existing signs that had been approved by someone upstairs to have to come back, but she felt signs should be reviewed as a part of the process going forward, with subsequent changes having to come back.

Ms. Davis said Selectman Maddox had said the permit asked the applicant if the sign complied. She asked if the Town Attorney should be asked if the Town had the right to enforce if the sign did not comply.

VOTE: Chairman Barnes called for a verbal vote on the motion to review signs as part of the site plan review process. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6 -0).

Ms. Stewart asked what the status was with respect to the Derry Street professional building. Town Planner Cashell said that property would be before the Planning Board next week—adding, however, that the Town might not be ready to go forward. Selectman Massey asked why the Town would not be ready to go forward. Mr. Cashell said the applicant was submitting changes, and CLD did not agree with some of the data that had been submitted. Selectman Massey reminded the Board that this property had been brought in last June, saying he saw this as a continual deferral of what needed to be fixed, and he asked where the incentive was for this applicant to close this matter out.

Ms. Stewart said there were serious parking issues there, with two or three cars using the same parking space. Town Planner Cashell expressed agreement, saying the property owner had been made aware of this several times. Ms. Stewart pointed out that the practice had not stopped.

Ms. McGrath said she would not be averse to making a motion to revoke the site plan if the applicant were dragging his feet. She said the neighbors had been part of the process and had come in repeatedly and had initiated complaints to the Community Development Department. Mr. Cashell said all of the complaints were listed, adding that some changes might not be acceptable to the Board.

Ms. McGrath said it might be helpful to have copies of the minutes for the meeting at which the applicant had agreed to the conditions of the site plan.

Mr. Seabury reminded that the Planning Board had spent a significant amount of money six years ago, just before the former Community Development Director had been hired, in having NRPC prepare a booklet detailing the requirements and procedures for developing a property, but the former Community Development Director had said he had no use for that booklet. He then suggested that the Board might consider getting some benefit from that expense, now that the Community Development Director was gone.

Selectman Maddox said a committee was working on detailing that information. He then expressed doubt that the previous booklet would have been of use, saying the present committee might be producing a better product.

Selectman Maddox asked if the Board would be interested in using the moneys in the Recreation Contribution Fund to do a feasibility study of Robinson Pond, for building a complex. He said two groups were interested in moving forward with respect to developing field space for the community. He said the groups were interested in a soccer field, as well as possibly several other fields, still leaving space for a recreation building and associated parking. He said this seemed to be the kind of thing that these fees would be used for.

Selectman Massey said there were about 20 acres on the property, adding that the groups had done a rough layout, but money needed to be spent to get a field survey to ensure that these things could get done. He said a scope of work and set of deliverables would be required—adding that it was a concern that nothing could be done if this were put on the warrant and the warrant for whatever reason was turned down. He said one group was interested in football and the other was looking for a baseball field.

Mr. Hall asked when this building project would take place. Selectman Maddox said the groups just wanted a field at this time, and the intent was to do the engineering to see if it were feasible. Mr. Hall expressed concern that this had not been mentioned in the CIP Report, which had just been done; saying this was what the CIP was for.

Selectman Maddox said the groups were willing to spend money to build the field, but the Town needed to find out if there were space for this along with a recreation building.

Ms. Stewart said this study would go nowhere, as so many other earlier studies had done. She asked if anyone in NRPC could help out at much less cost.

Selectman Maddox said the Planning Board had been trying to facilitate playground space, and these groups, which the Town had not known existed, had offered to help. He declared that the CIP process was broken.

Mr. Hall objected to the term “study,” saying what was needed was an existing conditions plan of Town-owned property, to find out where fields could be sited in conjunction with a possible future town building. Saying there should be a proposal to

that effect before the Board, he expressed doubt that this could be accomplished for \$50,000. Selectman Massey said the Board of Selectmen would be meeting with the groups the following evening. Mr. Hall said there was a need to get bids, adding that what would-be obtained would be real information, not a study.

XIII. ADJOURNMENT

All scheduled items having been addressed, Ms. McGrath moved to adjourn; Ms. Stewart seconded the motion.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members voted in favor.

Chairman Barnes then declared the meeting to be adjourned at 10:46 p.m.

Date: November 15, 2008

James Barnes, Chairman

J. Bradford Seabury, Recorder

Marilyn McGrath, Secretary

These minutes were accepted as amended following review at the 12-10-08 Planning Board meeting.

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**HUDSON PLANNING BOARD Meeting Minutes
November 5, 2008**

Page 22

The following changes were made in accordance with the Board's review of these minutes at its December 10, 2008 meeting:

Page 10, 3rd paragraph under Case C, 2nd sentence — changed “vigor” to “rigor” so that the sentence now reads: “Ms. Davis said the change was to put some rigor around requiring the applicants to confirm that the residents were family members. ”

Page 11, 2nd paragraph, 5th line — Changed “vigor” to “rigor” so that the sentence now reads: “Ms. Davis said a separate kitchen distinguished it, saying putting rigor into the ordinance would prevent an expansion of two -family homes that were not allowed”

Page 11, 7th paragraph, 2nd line — Removed back -slash character from “co\des” so that the phrase now reads “life safety co \des were followed .”

Page 12, 1st full paragraph, 2nd line — Changed mistyped “Me.” So that Mr. McInerney would be correctly identified.

Page 21, signoff section following adjournment — Corrected submission date from “May 9, 2008 ” to “November 15, 2008. ”