

HUDSON, NH BOARD OF SELECTMEN

Minutes of the January 26, 2021 Meeting

1. CALL TO ORDER - by Chairman Morin the meeting of January 26, 2021 at 7:17 p.m. in the Hudson Community Center.
2. PLEDGE OF ALLEGIANCE led by Chairman Morin. After the Pledge of Allegiance, Selectman Coutu asked for a moment to recognize the one year anniversary of the death of Hudson resident, Captain Ryan Phaneuf. Selectman Coutu read Captain Phaneuf's obituary followed by a moment of silence.

3. ATTENDANCE

Board of Selectmen: David Morin, Kara Roy, Normand Martin, Roger Coutu, Marilyn McGrath participated remotely from her residence

Staff/Others: Town Administrator Steve Malizia; Chrissy Peterson - Recreation Director; Bill Avery - Police Chief; Elvis Dhima - Town Engineer; Gary Gasdia- School Board Member; Jill Laffin - Executive Assistant

4. PUBLIC INPUT

Chairman Morin asked if there was anyone who would like to speak on anything the Board has control over at this time. A number of residents wished to speak. The Chairman reminded the audience, we are only here tonight to discuss the sewer. So please hold your comments to just that.

Bill Kallgren, 11 Winslow Farm Road. Mr. Kallgren started off saying, I appreciate the opportunity to ask these questions. I'm not an expert in the full subject matter and appreciate the graciousness of the Board with public input. The Town packet was only available a few days ago, so accept my apologies if there's any errors. Regarding the Hillwood application to connection to the sewer. Town Code 270-17-b-1, I get worked up talking in public. I apologize for that as well. I want to bring into question Smolack & Vaughans letter dated January 20th, page 6 section 13.1. In the request the applicant is requesting an exemption from the allocation process outlined in Town Code section 27--17-b-1. They state here the use is essential for public health, safety and welfare of the Town of Hudson. I would question whether or not the distribution facility is necessarily meeting the requirements of essential for public health, safety or the welfare of the Town. In my opinion the developer has stated on numerous occasions that one building is not a final round delivery station and second is a once in a lifetime only purchase. Regarding Town Code 270-17-c-1-a I'd also bring into question Smolack & Vaughans letter, page 6 13.2 and 13.3. The applicants put emphasis that the request needs to be approved due to allowed exemptions under 270-17 referencing 270-17-c-1-a, subdivisions or site plans that were in conformity to RSA 67439 on August 17, 1999 would be exempt. But I don't know that it meets the requirement of having commenced active and substantial construction of the project site within one year of the date of approval, dating back to 1999. Furthermore it does allow the Board to make exemptions and I would just bring into context that Hillwood apparently made substantial modifications to the subdivision through their application to bring this into a condominium arrangement. I do believe that from 1999 to 2020 they would have exceeded the exemption period that was allowed. I may be in error of my understanding, but I just wanted to bring that up. Thank you very much.

James Crowley, 11 Fairway Drive. Mr. Crowley said, the Green Meadow Golf Course sewer allocation reconsideration request should be tabled by the Board of Selectmen tonight for several reasons before deliberating and voting on it. Other members of the public can elaborate in more eloquent knowledgeable language than me but here is my short summary of reasons why to table it. Read BC young environmental land law letters to the Board of Selectmen dated January 12th and 26th and make them part of public record. Your packet does not include plans and documents that

are also applicable to any type of reconsideration deliberation. Since the public is only allowed to speak prior the reconsideration agenda item, I have to assume the Board of Selectmen will not table the request and vote to continue deliberations even when legal advice exists recommending not to proceed. If that is the case, please keep the following points in mind during your deliberations. At a minimum the following should have also been included in your packet. Hayner - Swanson's drawing, sheets two and three of five, and SPF land title survey for Green Meadow Golf Course revised February 18, 2020. Sewer easement to Town of Hudson book 5316, page 1674 on Sam's Walmart land. These plans and easements are necessary to get an overview perspective of tonight's reconsideration deliberation. Because no conclusive actual signed agreement has been presented by the applicant grandfathering sewer allocation and connection rights. Please look at all the 1991 documents for funding and construction of sewer and use of the Sagamore Industrial Park pump station. You only see Sams Walmart, Common Crossing Restaurant and Sprague Electric, now its Mercury Systems, names on them. Green Meadow Golf Course is not listed. Sprague Electric was not connected directly to the gravity sewer system because of the pipe slope limitations so they had to install an additional pump station on their property and a force main by appropriating funds, Sprague reserves sewer allocation rights to be connected to the Sagamore pump station. Please ask why didn't Green Meadow Golf Course directly provide any funds to reserve sewer allocation and connection rights in 1991. Please examine closely all sewer easement language in your packet and additional ones listed previously. Do any of the grantors of the various sewer easements reserve any connection rights to benefit them in the language? If some of the additional easements were included in your packet you would notice if any language to benefit the various grantors are included. You do not see any benefit language to the grantor Green Meadow Golf Course and the one easement in your current packet. The grantor namely Sam's Walmart, of sewer easements on their parcel has no benefit to connect language. They paid additional funds in 1991 to reserve a right to a sewer allocation and a right to connect to the Sagamore pump station collection system. So ask yourself again, why, Green Meadow Golf Course, didn't reserve sewer allocation or connection rights through the Sagamore pump station. Could it have something to do with their large parcel size and that reasonable and character development could be obtained with a subsurface septic system? And that wet lands obstructed a future sewer connection? You could examine the sewer connection sewer easement location closely if additional plans were in your packet. You would see the easement placement is in the nonbailable side setback area and also notice the surrounding wetland boundaries. The easement is isolated from the main Green Meadow Golf Course parcel by a brook and extensive amount of wetlands. Due to its location the Green Meadow Golf Course ever really expect to use it? Or thought they had access to it? Was Green Meadow Golf Course already compensated another way by the grantors Sam Walmart with a nonexclusive existing easement and right of way document by their property? This important assessment can be more thoroughly done by asking, by taking the time to look at drawings and documents not submitted in the present Board of Selectmen packet. I can give you my short list of additional reference information that should have been previously submitted by Hillwood and Green Meadow Golf Course if you want. Please remember the applicant is trying to imply with their current submitted documents that they are a substitute for a legal signed agreement to grandfathered sewer rights in the Town of Hudson sewer district. Many conditions counter what the applicant and Green Meadow Golf Course want the Board of Selectmen to assume before voting. The BC Young environmental land law documents definitely supply legal opposition language. Please keep all this in mind during your reconsideration deliberations. Please at a minimum request these additional documents for review and an independent legal opinion prior to any type of voting. Thank you for your time.

Jim Dobens, 4 Eagle Drive. Mr. Dobens started off by saying, 4 Eagle Drive in Hudson for the last 30 years. Thank you for the opportunity to address the Board tonight. I have read Hillwood's request for reconsideration multiple times. I struggled with all nine pages about nothing new. It's filled with hearsay, entitlement and misleading information. I find the context frankly disrespectful. I respectfully ask the Select Board members not to reconsider the request for sewer access from Hillwood. They had their chance and they were denied. I cannot help but if they were not prepared with the facts but rather hearsay and old potential development plans. There's no valid reason to reconsider. Times have changed, new rules put into place, and they should be honored by all Select Board members. Hillwood has given the residents and Town little respect beginning with the very first meeting that was held. The failure to answer many questions. Failure to provide us with a similar site and the

constant false promises, fuzzy math and very misleading marketing. I have lots to say about their deceptive marketing campaign within the Town and recently a very misleading survey being conducted by Saint Anslem's, which I hope you are aware. But that's for another meeting. I was a resident here and participated in the meetings back in 1983 with the Sanders development. As well as the early 90's with Sam's Club and Walmart when development of the south end really started to heat up. I remember the sewer request that the residents in south Hudson tried to make during those times and we were told no. However if sewer was to be expanded, the residential needs will be met first. If I could remember who told us that I would go back to that person. I am looking. I do not remember any Green Meadow involvement or contributions to upgrade the system but instead I do remember Walmart and possibly the old Sprague Company, now Mercury Systems, offering to contribute. I am quite sure a larger pipe was installed just in case the flow was greater and possibly in case there would be future expansion to south Hudson residential areas. Not the golf course and not for the Friel's. I do remember that. Why you should not reconsider. They are outside the sewer district boundaries for service. Period. In the email dated September 3, 2020, from the sewer utility administrative staff in a message to Elvis read, I don't know what the intent is in regards to sewer for this project. The address doesn't have access and is outside the sewer district. 2) I have not seen any written agreement between the Town of Hudson and Green Meadow that guarantees them access to the sewer. It is based on hearsay. If one existed it would be known to the sewer district and Hillwood would have it from the Friel's. Where is that signed document spelling out that agreement? 3) They failed to connect to the sewer system throughout the years and were aware of the new rules that establish boundaries and capacity usage requirements in the late 90's. Those are rules in place and they must be honored by the Select Board. Green Meadow did not do a thing to make sure they still had access, says to me they had no such agreement and it never existed. If it did they would have protected it. 4) The Hudson Logistics Center is not essential for the public health, safety and welfare of the Town of Hudson. Actually that makes me laugh. Why is it not essential? A. it does not manufacture any goods, products or provide services that are of essential nature to our residents. It ships products out of Hudson, not to Hudson residents. It's a darn warehouse. B. all goods they ship are readily available today from Lowes, Home Depot, Walmart etc. and go down the list. We have lived all these years without Amazon. They do not fill any missing essential role. C. this facility will be adding hundreds of tractor trailer trucks and box trucks spewing fumes and diesel particulates with a known group one carcinogen. And thousands of cars polluting the air we breathe creating the significant noise issues, adding to our traffic congestion making our roads more unsafe and polluting our waters; wetlands, aquifers, and the Merrimack River. How is this essential to our health and safety? It's just the opposite. Calling out connecting to the sewer will protect the sensitive resources of our considerable wetlands and Merrimack River watershed. As if they care while they destroy hundreds of acres of green space. What do you think the site is going to do with the trucks and car emissions and diesel particulates and the runoffs from the parking lots? They use these types of arguments as they see fit. I have an idea, don't build it and we protect our sensitive resources. E) Dangling out that \$5 million dollars in tax revenue is the carrot at the end of the stick as a reason. I find that repulsive at best. It's good old fashioned positioning of holding us ransom to get money. F) It will create jobs. Where? Hudson's unemployment rate is 4.0% and heading back down to pre-pandemic levels of 3%. Hudson has approximately 500 unemployed residents with maybe half of those unemployable for some reason. Full employment is considered 3.5-4% the workers will be coming from Massachusetts where the local Towns of Methuen, Haverhill, Lowell, Lawrence, Billerica and Burlington where the unemployment rates are between 6-9.4%. Their payroll will be heading south of the border. Lastly they end their reasoning by calling out Hillwood will contribute to helping us with our infiltration and inflow program provided the Board reconsiders and obviously changes its decision. Nice way to end the reason to reconsider with an attempt to buying the Board with additional funding. Again, I find this very repulsive at best. For all these reasons and more this matter should not be reconsidered. Rules were made for reasons and to break them breaks the trust the Town's residents have provided you with to protect our Town as a great place to call home. Don't destroy that trust with allowing this facility approval to our sewer system by reconsidering. It will set a precedent in more than one way. Thank you.

John Debuc, 11 Eagle Drive. Mr. Debuc stated, thank you for providing me the opportunity to speak tonight and for all you do for the residents in the Town of Hudson. My name is John Debuc and my families resided at 11 Eagle Drive coming up on 19 years. I wanted to speak about the

reconsideration request of the Hillwood-Amazon development sewer connection request. My first point I want to make is a developer provided a massive amount of information to the Board late last week. Much of the information so blurred that neither the Board, the Town Engineer, residents or the applicant can read it properly and use it to make decisions. These are readily available from the Register of Deeds. I went to the site in a format that is clear and legible and they did not provide that in their letter to you. I wanted to talk about the developers claim on January 12th Board of Selectmen meeting that there is a significant opportunity for catastrophic event if anything is discharged to the ground. I was concerned so I went to the Environmental Protection Agency website and found lots of information regarding large capacity septic systems that would be required by Hudson Town ordinance for this development. The EPA states that a septic system is a large capacity septic system if it receives solely sanitary water from either multiple dwellings or from a nonresidential establishment. A system has a capacity to serve 20 or more persons per day. In general LCSS may be found serving the following facilities. Office, industrial and commercial buildings which they are. Shopping malls, hotels and restaurants and even casinos can have septic systems put in. this is something that's done all of the time and is well regulated. The question was why does the EPA regulate large capacity septic systems? The Safe Water Drinking Act directs the EPA to establish minimum federal requirements for state and tribal underground injection programs to protect underground sources of drinking water. How is the EPA helping to improve the performance of large capacity septic systems? EPA's working with state and local health departments to ensure that the minimum federal requirements for class five wells are met before any LCSS is permitted. In addition to educating owners and operators EPA has a wide variety of tools and resources to assist state and local governments in improving the management and performance of septic systems. I ask all of you to look at the EPA site and look at the large septic systems. The cooperative relationship between the EPA, states and communities can ensure that all LCS's are managed and regulated at the local level consistent with the manner that protects the drinking water. The last thing I'd like to speak about, any confusion the Board and residents may have regarding the public health, safety and welfare and septic systems. When I was researching public health, safety and welfare for discussion this evening I could not find any information about public health, safety and welfare in the need to bypass well designed septic systems. I found interesting items in a Minnesota city chapter 12 public health safety and welfare regulation. The first thing I found was six mentions of sewer in their regulation but none mentioned the requirement to hook up for the public health, safety and welfare of the residents. I did find in their regulations that the Hudson residents have been quite concerned about regarding this development. In the same regulation that talks about six sewer systems with nothing about hooking up, they talk about noise. Any distinctive and loudly audible noises that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any person or precludes their enjoyment of property or affects its property value. That's something we'll end up getting to at some point. This Minnesota town has defined noise as a public health, safety and welfare issue but does not require a connection to sewer or bypassing a well-designed septic system. This sure clarified any questions I had regarding a well-designed septic system for any development in Hudson that's outside of the sewer district. Hudson New Hampshire does not have any regulations or ordinances requiring a sewer hookup. In fact they have a clearly defined sewer district which this development is not part of and does not provide the right for them to connect. The decision you made at the last Board of Selectmen meeting was the correct decision that enforces the Town ordinance and I ask that you stand by your last vote by enforcing our ordinances and protecting our Towns limited sewer capacity. Thank you for your time.

At this point Chairman Morin said, just so everybody knows all of the speakers I've been allowing ten minutes which is over our normal time. You guys are just barely making it so just keep that in mind if anybody else would like to speak.

Kathy Leary, 8 Par Lane. Ms. Leary said since 1988. I've reviewed the Town Engineers letter of January 7th and Attorney Passey of January 5th and I compared them to the letter written by Attorney Smollack on January 20th. Based on that review it's my opinion that the Board of Selectmen should not entertain a motion to reconsider your prior vote, should not reconsider it or should maintain the decision you made the last time because it was the correct one for these reasons. The issues raised in Attorney Smollack's letter are the same issues raised, considered and voted on at the January 12th meeting. Such as they talked about subdivisions, pipes, easements etc. there may have been a lot

more paper submitted this time but no new issues. The January 20th letter and attachments took approximately 70 pages to restate and rehash the same issues already considered and decided upon. More pages and more legalese language do not make this new information to justify a vote to reconsider. The Board has already decided this issue and the burden is on the Board of Selectmen to show that a vote to reconsider is justified. If this additional paperwork is so important to the Board's decision it was incumbent upon Hillwood to have presented it at the last meeting. Apparently Hillwood may have thought this was going to sail through without it. As noted during the January 12th meeting, the Friel's have had numerous opportunities to work with the Town to make sure that this site was in the sewer district, which it is not. They could have done this back in the 1990's, they could have done it the time the Town Charter provision was enacted, at the time the sewer district was enacted or established and during or after any of the prior proposals that were submitted for the Green Meadow property. It was also mentioned at the last meeting that for this particular property, excuse me, it was mentioned at the last meeting that prior proposals never got to talking about sewer. But just as then and now, if that's the cases, the developers erred not trying to get to the Board sooner to get that sewer allocation that was so important to the process. The Board of Selectmen and the Town must uphold the Town Charter regardless of these prior discussions between the Friel's and the Town. Section 270-17 states in furtherance of this new policy of allocation the Board establishes the following standards; except as provided in the subsection, they will not approve new sewer allocations from the remaining capacity and that's the 195,000 gallons not that larger 300,000 that's been talked about previously. They will not approve new allocations from that remaining capacity for uses outside the district. The exceptions being for schools, hospitals, other public community or governmental uses. Or for other residential, commercial or industrial uses that are essential for public health, safety and welfare of the Town. For property outside the district, the remaining capacity is at 195,000 gallons. The language, new policy of allocation indicates to me that the Town Charter language was intended to provide the governing standard to be followed in this instance. It is the use, the Hudson Logistics Center that must be essential and not any connection to the sewer. By that I'm referring to Attorney Smollack's request for reconsideration, section B 46, page 84 of your packet. He states that even if section 270-17 is applicable it requires that quote "the requested connection be essential to health, safety and welfare" that language is put in quotes as if it's coming from the Town Charter section, which it is not. That is not the language or the standard. It's the use that's the standard, not any connection to the sewer. Also in the request for reconsideration section B-47, again he puts the language "the sewer is essential" in quotes as if he is quoting from the Town Charter section. But that is not the language that is applicable or the standard to be applied. Those references are almost kind of misleading. Attorney Smollack also says that the section is vague. Not so. Any ordinary person can figure out what essential is. Especially when you're compare the HLC to a school or hospital it becomes pretty clear what the Town Charter and the Board and Town anticipate of what is considered to be an essential use. As people have said before, this proposed logistics center is not essential. We've survived without it, we will survive in the future. Just because some of the things they mentioned may be nice to have doesn't make it essential. They also mention the impact of Covid on making ecommerce essential such as generators and commodities. Again, nice to have, not essential. Plus what happens if you buy that argument that Covid makes the logistics center essential and Covid settles down? What do we do then? All of a sudden it's not essential? But we've already made a decision potentially to build and construction could have started. At that point it's too late. So in conclusion, there are no new issues, just more paperwork. The use must be essential, not the sewer or connection to the sewer. The issue is not whether sewer or septic is better. The issue is whether the Hudson Logistic itself is essential for public health, safety and welfare. So since there is no new information, the Select Board should not entertain a motion to reconsider your prior vote. You should vote to deny a request if you got that far and you should not change your prior decision since it was the correct one. In fact, given all this information, I find it kind of surprising that your January 12th vote wasn't unanimous to deny the allocation. Thank you.

Urs Nager, 8 Par Lane. Mr. Nager stated, I almost wasn't a resident on August 7th when I got gassed out by WR Grace and had to meet my neighborhood at Alvrine. Thank you for the opportunity. I respectfully ask the Select Board not to reconsider this request for sewer access to Hillwood. In fact, having watched the vote last week, I am concerned with the potential conflict of interest with Board members and Town members around this application and its consideration for approval. Several

officials have been participating in meetings and activities supporting the project on social media. This has been seen in documents going back to February 20, 2020. The involvement of these officials in several meetings in early 2020 as part of the team consisting of Hillwood, State of New Hampshire, DOT, state officials and the Governor, the brothers etc. It's understandable that you'd have meetings to align but realize that meeting occupancy timelines were discussed, creativity, and timely solutions, team approach to mitigating any DES, Fish and Game, historic impacts, timely approval from Hudson and creative solutions were all part of those meetings. With the goal of we will work together to meet occupants and timeline. This was all discussed and aligned to before any Town resident....Chairman Morin interrupted saying, excuse me sir, hold on a minute. Selectman Martin was recognized saying, point of order. Let's talk about the sewer. Mr. Nager said, I'm talking about the sewer. Chairman Morin replied, the meetings have nothing to do with the sewer. Mr. Nager replied, no the meetings had to do with the total plan. Chairman Morin said, we're talking about the sewer. Selectman Martin said, we're not talking about the total plan. Chairman Morin said we're talking about the sewer, that's what I said when we started. Mr. Nager replied, I am talking about the sewer. The sewer allocation. Chairman Morin replied, okay, let's see how it's going to the sewer then. Mr. Nager continued on saying, so really until all this information is gathered and rocks are overturned, I really think you can't make a decision tonight to change this here without looking at the total picture. That's my point and thank you very much.

Paige Schaller 213 Fox Hollow Drive. Ms. Schaller started off saying, I would like to thank the Select Board for the opportunity to speak this evening. I am talking about the sewer issue. The applicants 2021-January 18th conditional use permit application supplemental filing to the Conservation Commission gives an in-depth description of buildings A & B together and building C separately, as that building is not the same as what's to be used in A & B. I'm going to paraphrase a little bit of all of this, so don't worry I'm not going to take 20 minutes here. But building C is designed as a cross dock building this type of building is the most commonly desired and in highest demand, for distribution facilities as they afford significant flexibility for multitenant or larger industrial tenant operations. Yet there's no tenant for building C. it's very important. Paragraph three. Cross dock logistic facilities are in critical demand that demand has considerably depleted the inventory of these types of facilities in the greater New England are, particularly in the age of Covid-19 which caused widespread shortages of every day household commodities and food supplies and which underscored the need for enhanced logistics models as a back up to traditional brick and mortar retail opening options. Considering again, there's no tenant for this essential building C. they also mention that in the Boston consolidated metropolitan statistical area is just 5.4% vacant of the inventory, which is a near 20 year low. Again, we still don't have a tenant there. And as for those essential items that they're saying would be in building C as for building C being the answer to the toilet paper and hand sanitizer shortage it would have been empty for those projects anyway. As manufacturers of toilet paper, paper towels and hand sanitizers and various cleaning products, consumption out stripped demand for paper towels and such because we're not using them at work, we're using them at home. So yes, it was out of stock everywhere. Whether we had building C or not, it still would have been out of stock. Also if you remember China was shut down. So were we. There wasn't manufacturing going on. So if we had this essential building C it still would have been empty. Another thing, I am at high risk. I've actually been contacted by my primary care that I can get a vaccine very shortly. I still come to all these meetings because this is very important to me. And yet, I still have not purchased anything, I've made it through the pandemic, Hudson has made it through the pandemic, without the HLC. It's not that essential to us. Thank you.

Dean Sakati 11 Fairway Drive. Mr. Sakati started by saying, I'll try to be quick. First and foremost, I'm like to thank the three Select Persons who voted to deny the applicant. Chairman Morin interrupted Mr. Sakati saying, one second. At this point Selectman Coutu said, can you say your name slowly? Mr. Sakati then said, my name is Dean Sakati, 11 Fairway Drive. First and foremost I'd like to thank the three Select Persons who voted to deny the applicant access to city sewerage. My residence in southern New Hampshire is outside the sewer district. Would I prefer city sewerage? Yes. But I realized when I bought the house 30 years ago that was a tradeoff that I made. But I especially appreciate your adherence to the code which was written to preserve the character of the Town and

so clearly stipulates, and I won't read it because it's already been read about public health, safety and welfare and frankly in being here tonight I'm absolutely amazed we're back here today rehashing this issue. I presume Hillwood, being an experience developer, must have done cursory due diligence when they started the process. To have come back again, after being denied, shows a lack of preparation and seriousness in the first meeting. I can't imagine any new information magically appeared in the last two weeks albeit 40 pages of filler. Folks, I say this as respectfully as I can, the applicant needs a little less packaging and a little more competence. Secondly, the request is not simply by utilizing 36,000-37,000 gallons of sewerage, you also need to add the capacity for all the employees that will want to live in Hudson. If you add 1,000 employees, just being hypothetical, and the usage is 400 gallons, that's 400,000 per year. So basically the vote before you is putting all your chips on the table for the future of Hudson given the limited capacity that we have. Lastly, I'd like to sincerely, and I say this in the most sincere way, ask the Board of Selectmen to apply the same standard that you set when you removed Mr. Cole for the perception of bias. Hence, I'd like to formally ask anyone who is on the Board to professionally recuse themselves from any vote related to this application if, if, if they have shown favor for or are predisposed to support the project. This would include telling the State, the applicant, the Friel's or their representatives, social media groups or each other that they're in favor or predisposed to support the project. At this point Chairman Morin interrupted asking Mr. Sakati to stay to the sewer. Mr. Sakati continued saying, if I could just add one more thing. The perception of bias is a standard that you set and I think you need to adhere, you should adhere to it as well. I say that in the most respectful way. And again, and always, I thank you for your consideration and for the time you put into this selfless community service, I sincerely thank you and Mr. Coutu I sincerely, as an Army veteran, I appreciate your recognizing Cpt. Phaneuf. Thank you.

Karen Anastasiou-Nevin, 3 Eagle Drive. Ms. Nevin explained, I live at 3 Eagle Drive. I've lived there since 1985. I'll be short and sweet. I respectfully request the Board of Selectmen not to reconsider access to sewer. Hillwood is not, and I repeat, is not an essential business and is actually opposite to public health, safety and welfare for the Town of Hudson and those around surrounding communities. I again, request the Board of Selectmen not to reconsider access to sewer.

At this point Chairman Morin asked if there was anyone else. Atty. Leonard was heading to the microphone when Chairman Morin asked, are you speaking in reference to the reconsideration? To which Atty. Leonard replied yes sir. The Chairman replied, we'd rather have you wait until we bring that up. Atty. Leonard then said, okay, just so you know who I am, I think you probably do, but for purposes of the record, my name is Thomas J. Leonard and I'm here on behalf of Green Meadow Golf Club and the Friel family and I'd like to have something to say on the subject. I do have information that had been requested. But thank you. Chairman Morin then asked if anyone else would like to speak. Seeing no one he said, we'll move on.

5. RECOGNITIONS, NOMINATIONS & APPOINTMENTS

A. Appointments

Zoning Board

Leo Fauvel, currently an alternate member of the ZBA is seeking full member seat on the ZBA which expires 12/31/23. Selectman Coutu made a motion, seconded by Selectman Roy to appoint Leo Fauvel as a full member of the Zoning Board with a term to expire 12/31/23. A roll call vote was taken. Carried 5-0.

Planning Board

Leo Fauvel is seeking an alternate member position on the Planning Board with a term that expires 12/31/22. Selectman Coutu made a motion, seconded by Selectman Roy to appoint Leo Fauvel as an alternate member of the Planning Board with a term to expire 12/31/22. A roll call vote was taken. Carried 5-0.

Chairman Morin went on to Consent Items and asked, does any Board member wish to remove any item for separate consideration on consent items?

Selectman Coutu made a motion, seconded by Selectman Martin to approve consent items 6A, B, C, D, & F a & 7A as noted and appropriate. A roll call vote was taken. Carried 5-0.

6. CONSENT ITEMS

Assessing Items

1) Veterans Tax Credit: Map 168, Lot 68, Sub 47

2) 2020 Abatement Applications: Map 134, Lot 1-6 6 Beechwood Rd.

A. Water/Sewer Items - none

B. License, Permits, Policies

1) Hawker/Peddler/Itinerant Vendor's License - Spring Hill Catering

2) Raffle Permit - Hudson Fish & Game

3) Raffle Permit - The Bar

4) Dance Hall/Place of Assembly Permit - Lynn's 102 Tavern

C. Donations - none

D. Acceptance of Minutes

Minutes of December 8, 2020

Minutes of December 29, 2020

Minutes of January 4, 2021

E. Calendar

1/27 7:00 Planning Board - Hudson Community Center

1/28 7:00 Zoning Board - Hudson Community Center

1/30 9:00 AM Town Deliberative Session - Hudson Community Center

2/3 7:00 Highway Safety Committee - Buxton Meeting Room

2/6 9:00 AM School Deliberative Session - Hudson Community Center

2/8 7:00 Conservation Commission - Hudson Community Center

2/9 7:00 Board of Selectmen - Remote

7. OLD BUSINESS

A. Votes taken after nonpublic session January 12, 2021 meeting

- 1) Selectman Roy made a motion, seconded by Selectman Martin to hire Thomas Cahill as a truck driver/laborer, with a starting pay of \$20.12 per hour (grade VII, Step One, in accordance with the Hudson Public Works Department Local #1801 AFSCME Agreement, effective January 17, 2021. A roll call vote was taken. Carried 5-0.

- 2) Selectman Roy made a motion, seconded by Selectman Martin to provide two IT Specialists and One IT Technician 80 hours each additional earned time which cannot be bought back and is to be used within the next two years. A roll call vote was taken. Carried 5-0.
- 3) Selectman Martin made a motion, seconded by Selectman Coutu to promote Firefighter/Paramedic Benjamin Crane to the position of Lieutenant/Paramedic, a non-exempt position, in accordance with the International Association of Firefighters Local #3154, Step 1, with an hourly rate of \$29.80 effective Sunday, January 31, 2021 as recommended by the Fire Chief. A roll call vote was taken. Carried 5-0.
- 4) Selectman Martin made a motion, seconded by Selectman Coutu to move forward warrant article 19 to the warrant to discontinue Caldwell Road as an open highway and make subject to bars and gates as provided in RSA 231:45. A roll call vote was taken. Carried 5-0.
- 5) Selectman McGrath made a motion, seconded by Selectman Coutu to retain the services of former Town Clerk/Tax Collector Patti Barry for the period beginning January 18, 2021 through March 31, 2021 at the rate of \$35.00 per hour without benefits. A roll call vote was taken. Carried 4-1 with Selectman Martin in opposition.
- 6) Motion to adjourn at 11:14 p.m. by Selectman Roy seconded by Selectman Coutu. A roll call vote was taken. Carried 5-0.

After the Town Administrator read the previous votes, Chiarnan Morin said, next up is the Green Meadow Golf Course sewer allocation request. According to parliamentayr procedure, a reconsideration vote has to be taken up at the end of the meeting after all other business has been completed. So we are going to defer this item to the end of the meeting. We only have a few short things that we have to cover then we'll get right into it.

8. NEW BUSINESS

A. Recreation Department - 2021 Lacrosse Season Discussion

The Chairman recognized Chrissy Peterson, Rec Director. Ms. Peterson explained a few weeks ago in preparation for the upcoming lacrosse season that would begin on March 1st I had reached out to Chief Buxton as the first step in seeking EOC approval to host lacrosse. After their careful consideration it was determined that they're in opposition of the season. Specifically because it's a travel sport. Our lacrosse program does differ than the majority of our sporting programs in the sense that we enter them into a state league, the New Hampshire Youth Lacrosse Association. So we do not have control over what towns they play or how many towns the play throughout their season. With Covid numbers still relatively high in Town and surrounding towns the EOC feels that hosting a traveling sport poses an increase in the risk of exposure and possibly community transmission of the virus. So I wanted to come in tonight and explain that they're basically recommending to cancel the season. If you have any questions, I'd be happy to answer them. Selectman Roy replied, unfortunately I agree with the EOC reasoning. I think it's just too risky although I understand we have a plan for the spring to help get kids outside. Ms. Peterson replied, yes. I do plan to come back to you. I did have a conversation with Chief Buxton regarding and I do think it's important to offer something to the youth in Town. It would be an in town only outdoor program. He was in support of it. As soon as I work out the logistics I will return to you for that. Selectman Coutu made a motion, seconded by Selectman Roy to cancel the 2021 travel lacrosse season. A roll call vote was taken. Carried 5-0.

B. Proposal to Replace Lights at DPW

Chairman Morin recognized Linda Kipnes of the Sustainability Committee. Ms. Kipnes began by saying, good evening everybody, I'm Linda Kipnes. 23 Nathaniel Drive, from the Sustainability Committee. The Sustainability Committee obtained proposals from two companies which were part of the Selectmen's Packet. I hope you've had a chance to look at them, to replace the lights at the Highway garage with LED lights. Both proposals show considerable energy and dollar savings. We've seen from the experience at the library that where they did replace their lights with LED lights and did experience considerable money and energy savings so we would like to recommend that the Town replace the lights in the Highway garage and eventually in all Town buildings with LED lights and we recommend acceptance of one of these proposals.

Selectman Coutu was recognized and he said I had a discussion with Linda relative to the difference between the two proposals so I would appreciate if you would share that information with the Board. We had one proposal with a net cost of \$15,035 and a second one at a net cost of \$13,055. Having read through both of them I showed favor towards the lesser of the cost and I wanted to make sure I wasn't missing something so I asked Linda to explain to me the difference between the two and I'd like her to share that with everyone. Ms. Kipnes responded saying, well the two proposals were quite different. In the second proposal the dollars that you mentioned were both from the same company, they were slightly different lighting in the office area of the Highway garage which is the difference in their prices. The other proposal was quite a bit more. The net cost was \$30,000. Selectman Coutu then said, the one that I favor, is that not the one that was used at the library? Ms. Kipnes replied yes. Selectman Coutu then asked they haven't indicated they've had any problems. They're using the LED stripping in their lighting system. Ms. Kipnes replied yes. That is the company that did the lights at the Library and also that helped the Library track their savings over time after the installation was done. So we can expect that also at the Highway garage that we would see a tracking of the energy savings and the dollar savings. The difference in the two proposals the \$15,000 versus the \$13,000 was there's a difference quality of lights. I think these may be the ones they were talking about where you don't see the actual lighting tubes. It's just a bar of light. Those are slightly more expensive. Selectman Coutu thanked Ms. Kipnes for the correction. He then said on the basis of the information I was able to gather and having familiarity with the Library, I'm satisfied to recommend to the Board if you reviewed the projects the lesser cost because it is as effective as the other. It's just the lighting is different. Chairman Morin asked if there were any other comments. Selectman Roy was recognized and said, I just have kind of a technical question that's probably for Mr. Malizia. Where would this come out of? The Town Administrator responded, as it's an unbudgeted expense, the only place that logically could come out of is the Energy Efficiency Capital Reserve Fund which was established last year at Town meeting. That has a balance of \$25,000. You could be reimbursed from that. There is no budget for this project but you could put in a request to get rebated back through the Energy Capital Reserve Fund. Selectman Coutu made a motion, seconded by Selectman Roy to award the project for the replacement of the Public Works garage lights to LB Resources LLC in the gross amount of \$22,340 with the funds to come from the Energy Efficiency Capital Reserve Fund established by the voters March 10, 2020 Town Meeting. A roll call vote was taken. Carried 5-0. After the vote Ms. Kipnes asked I'd like to know how to proceed from here. Do I notify them? Does the Town? The Chairman replied, you'll work with Mr. Malizia he'll help you get through this.

C. Fiscal Year 2022 Town Warrant and Warrant Article Speaker Designation

Chairman Morin recognized the Town Administrator. The Town Administrator explained this is the list of warrant articles that need to be spoken to at Deliberative Session. What I've put together is a list of speakers following the liaison assignments. If something doesn't have a liaison I've assigned it to either the Chair or whoever is the subject matter expert in the case of the Veterans Credits. You've

approved this in the past by consensus. But this is basically the speaker designation to introduce warrant articles at the Deliberative Session. Selectman McGrath said I'm planning to attend the Deliberative Session. She explained that she is not currently able to stand due to her injury recovery. She asked if the Moderator might allow her to remain seated for her introductions this year. The Town Administrator replied that he'd speak to the Moderator to get the okay for that. The Board's consensus was in agreement with the speaker designation order that the Town Administrator presented.

D. Green Meadow Golf Club - Sewer Allocation Request

Chairman Morin started asking if anybody had any input on this. Selectman McGrath said, I'd like to have some input on this if I could. Selectman McGrath went on to say, I was impressed with the speakers tonight. Particularly, instead of trying to point out one and I hesitate to do that, but I thought his presentation was most impressive and that was Mr. Dobens. That doesn't take away from anyone else that got up and spoke but I thought his presentation really was very effective. She went on to say I tried to rattle my brain and tried to think of different scenarios that have happened over the years. And Green Meadow has neglected to try and seize on the opportunity to have that property included in the sewer district. They've had multiple opportunity. I think it was Sam's Club had the sewer pipe installed. They had the opportunity then and they didn't take it. They had the opportunity when they presented two different site plans for the same property and failed to do it then. They didn't even raise the issue so I'm not inclined to change my vote. I don't think that this is, first of all they haven't made the argument as far as I'm concerned that it's a necessity to have this development that it's essential for our safety, our health, our welfare. They haven't made that argument in an effective way. I know that we're probably going to hear speeches tonight from both attorneys but that won't convince me either because one of the attorneys has been involved with the Friel property I think probably since he was a child. Again, hasn't made that argument in the past to include it in the sewer district. So my vote will be not to rehear it and if the vote passes that it is to rehear then I'm going to have a negative vote to approve. That's where I stand.

Selectman Roy was recognized and said, I am not persuaded that Hillwood has presented any new information that would rise to the level of motion for reconsideration. They've rehashed what they said before. They've added some things about something that happened in 1991 and then sort of cherry picked out of there the RSA and the section, section 270 of how to apply that. That's really the only change in the argument that I could ascertain out of all the information they gave us they neglected to point out that there should have been and there was not substantial activity or development since it was approved and they have not done that in 30 years. And now they want to hold us to that Town Planning meeting from 199. Their argument again doesn't rise to the level of a motion for reconsideration. That's all I have.

Selectman Martin was recognized and said, thank you Mr. Chairman. The reason why this is in front of this Board again is because of me. Okay. Me. The reason why I did not vote to approve the allocation was because I thought and no ill will towards anybody that it was a backdoor deal a back room deal done in 1991 when people shook hands in a meeting and said yup we'll guarantee this. But I found out, and if you look at the Board's packet online there's documentation submitted. Okay? And I asked for that documentation. I didn't vote no to stop a project, I voted no to because I thought it was a backdoor deal. But while I'm scrolling down here I'll continue to talk. I tend to find arguments, if I were a judge I'd be a lousy judge cuz attorneys arguments are boring. I will tell you that. So if you look at the documentation, don't even read the letter, look at the documentation submitted. Proposal to consolidate tax map 7. This is from a Planning Board meeting July 24, 1991 7:00 pm. Proposal to consolidate tax map 7 lots 39, 40, 41 and 42 and part of tax map 7 lot 5. It talks about Sam's Club in this and those are the minutes and if I go down to this next exhibit it says notes. I don't know where it came from but its here. It says owners of record are lot 7-5 Green Meadow Golf Course. I heard people say that it was never mentioned in any of the meetings tonight. I heard people say that. It says lot 7-41 and it gives the page 7-42. 7-40 was Robert C and Martha Smith, 257 Lowell Road. 739 is Walmart Stores Inc. then another point in here says site is identified as lots 539, 40, 41, and 42 on tax map #7. Total area of parcel is 367.829 acres. Original lot areas, lot 5, 336.93 acres and then it lists out 39, 40,

41, 42 and number 5 specifically on this document says the intent of this plan is to consolidate five parcels of land totaling 367.829 acres and then re-subdivide this new parcel into seven parcels four of which are one acre lots along Lowell Road one of which is for future road widening, 5.72 acres. Another lot is for retail site of 26 acres and the remaining 331.847 acres remain as lot 7-5. Now remember I just said lot 7-5 Green Meadow Golf Course.

Selectman Martin went on saying, number seven, and site is to be served by municipal sewer and water. Sewerage pump station is required. Remember I said I thought it was a back door deal? Well here's somebody, some people went together and had a meeting and put plans together for future development of Green Meadow Golf Course. I believe that in 2002 was the last year they made the payment to the Town with regards of that sewer pump station and then low and behold here we are in 2021 saying that the Town accepted money for the 18" pipe and Green Meadow property gave the Town an easement but yet wait a minute, we'll take the money but we're not going to allow you to connect. I think that's highway robbery Mr. Chairman. In my mind because I asked for more evidence I'm ready, when the discussion is over, to make a motion to reconsider because this documentation, no insult to anybody, I did not read the Attorney's pages, I read what I needed to read to make my mind. I don't read those arguments because yes, they do go on and on and on and on. And I'm sure that some of you have sat on a jury and they go on and on and on like I have. So it was me that requested it. It's me that's here and it's me that neither voted to deny it to hold up a project or voting to overturn my vote to get the project going. It's the right thing to do. Just like it's the right thing to do if you're an attorney and you represent somebody that's sitting on the Board to come out and say I represent that person, that's the right thing to do Mr. Chairman and that's why I'm voting the way I'm voting.

Selectman Coutu was recognized and said, I want to make a couple of statements relative to what we've been subjected to in the past several weeks. First of all I want to thank the immediate abutters for your class. You've represented yourselves well. You spoke with intensity and I hear you but I want to make a couple of points very clear. I'm one of the two people who voted to allow them to proceed with the sewer allocation. Number 1) we have not seen all of the plan and I didn't want to see this come to an absolute halt because I want to see the plan in its entirety and see what concessions Hillwood Development is willing to make in order to appease me as a citizen of the Town and as a person that's very interested in what happens in this Town. Approving the sewerage allocation does not approve the project. It just moves it forward. That was the reason I voted that way. How I'm gonna vote in the end, I still can't tell you. I have my good days with the project and I have some bad days with the project and we are going to have ample opportunity when we move forward to be able to listen to more detail about the project and we'll have our back and forth, the Planning Board and Hillwood Development, to see what kinds of concessions they're willing to make, if they wish to have a positive vote, certainly from me, on the project. I don't appreciate....some of the things I don't appreciate, because the bulk of the emails we received this week have been, we've heard most of what you've heard tonight because we received your emails. And we appreciate that. I read every single email. Positive or negative. We received a numerous number of emails also from proponents of the project who reside in the south end of Town as well as the north end of Town. I have friends that are for it and I have friends that are against it. And I tell them that I still have not made up my mind even though I'm being challenged about that. It bothers me that someone would come up here and suggest that people should recuse themselves if they've expressed or had conversation with Hillwood Developers or whatever. In other words if you're for it you should recuse yourself. I didn't hear them say anything about if you've made remarks that show you're against it you should also recuse yourself. I've said this before and I'm going to repeat it. As a member of the Planning Board, representing the Board of Selectmen, I take the same oath that they do when I sit in my office as a member of the Board of Selectmen and that oath is to uphold the constitution of the United States, State of New Hampshire and the laws and bylaws that govern the Town of Hudson. I will do so in every aspect of this project as I would any other. So that you know, unless you're already aware of it, a few weeks ago, we had a project come before us, the Board of Selectmen, that was outside the sewer district. This developer asked if he could tie into the sewer. We looked at it. We listened and we gave them access to sewer. This is a much larger project but in the same vein as the other open that was requested to us. He didn't have any pipes going to his property. He was distinctly out of the sewer district. I forget how many homes, but there was several homes that was being proposed for the development and the Board of Selectmen gave them access

to the sewer. We didn't want to prohibit his ability to have access, the pipes were readily available immediately adjacent to the property, as is the pipe coming down the Circumventual Highway towards the Friel property. So I hope I made myself clear. I know in the end I'm either going to make a lot of people happy or a lot of people unhappy and regardless of the one single email which I thought was a personal email to me and I just discovered today that it was sent out to a lot of people criticizing me and challenging me and my integrity. I can tell you that person doesn't know me and doesn't want to know me. He pretends to know me. Thank you very much Mr. Chairman.

Chairman Morin then said, I just got a couple things I'd like to touch on myself. Selectman Coutu covered the Greeley Street sewer decision that we made at our last meeting so I won't go into that. And I just want to clarify, I've seen a lot of emails and I saw some emails today reference to meetings that we attended. What you got to understand is our employees have a purpose. They have to attend these meetings, whether you think they're secret or whatever they're not. That's part of their job. Part of our job is to represent this whole Town. And that's part of our job so we attended the meetings also. This was not done in secret. It was done because it's their jobs and our job. You need to understand that.

The Chairman went on to say, there was also a lot of discussion tonight is this development essential. Let me read something to you. Governor Sununu's order April 2020. Order #17. Employees or firms providing services that enable logistics operations including cooling, storage, packaging, distributing products or wholesale or retail sale use which I kind of see this project falling under. That's from the Governor. Sitting on the EOC as the representative of the Board of Selectmen, we've had a lot of discussion on this. We've done a lot of research and a lot of work. We know what we're talking about. And I can tell you that there are many people in this community alone that use businesses like this not just this one but Walmart was mentioned tonight and a couple others, that were used because they didn't want to leave their house and they wanted stuff brought to them. It was essential. They didn't go out in the public. They didn't get sick. And they were trying to stay safe. Anybody else have anything they'd like to add?

Selectman McGrath was recognized and said I have a question concerning Selectman Coutu's comments about the Planning Board and how we're going to be reviewing the plans and that the sewer allocation will come up at that point. So after reviewing the plans you determine and I'm aiming this at Selectman Coutu but this really belongs to the entire Board. If after the Planning Board reviews those plans and decides that the sewer allocation isn't appropriate for that project, would you reconsider the vote that's taken tonight if it's a positive vote to allow them to go ahead and present to the Planning Board that they have a sewer allocation? Selectman Coutu replied, I want to make sure I understand the question Selectman McGrath. If there is a motion to reconsider you can only reconsider a motion once. This would be the end of it. If it fails if the motion to reconsider fails then the Board is voting by majority either way. Then it's a moot point. Hillwood would have to, they'd have several options available to them at that point. They can take legal action to get an interpretation from the court. They can appeal to the Board of Selectmen who are sewer commissioners for an allocation directly. And they have other avenues to pursue. I think what you're asking me and if I'm wrong, Selectman McGrath, please explain. I think you're asking me if a majority of members of the Planning Board felt that sewer allocation was not deemed legal would I change my vote. Selectman McGrath said appropriate. Selectman Coutu then said, if they say they don't feel it's appropriate and there's a majority voting to support that statement, legally that's not binding. The decision made here is what's binding. We are the sewer commissioners. Selectman McGrath responded, I understand that. You had mentioned in your comments that the Planning Board hasn't seen the full plan set yet. And if at that time they think that the Board of Selectmen made a premature decision or one that as probably in the best interest of the Town, would that be something that we could reconsider and bring it back before the Board of Selectmen and then deny the request again? Selectman Coutu replied, no. you can only reconsider once and if a motion is made this evening that would be the final reconsideration. Selectman McGrath then said, so again I think that we're probably in a gray area and I would like to request legal advice from our Town Attorney about that because this is such a momentous project. One that this Town has never seen in its past. The biggest development for an impact to the Town was like Walmart and Sam's Club. That was it and I'm not so certain that I voted for either one of them. And I'd have to go back in the records and look because I was certainly part of the Planning Board at that time. But this is going

to create such havoc throughout the Town not just the south end, but the entire Town and if people understood really what they're facing. The concern level is just it boggles the mind. So if the Planning Board at some point decides that our vote was premature or not in the best interest of the Town, I'd like to know whether or not we could reconsider it. Because I can see where the vote is going to go tonight. And you know I can count heads like everybody else can and I'm not voting in favor of it. But I think that we need to get some good legal advice about whether or not if we made a decision in haste that we couldn't reconsider it in the future. Selectman Coutu replied, I respect your opinion, Selectman McGrath, as you know, ultimately, if the project is not palatable I certainly wouldn't vote for it. And we're going to have plenty of time to review and scrutinize the project in full detail and I expect that I will ask some pretty tough questions. I don't just get chastised once in a while from our good friends down the south, I get hit every now and then from people from Hillwood. Perhaps not liking some of the questions that I ask but I will continue to do so in the interest of the citizens of the Hudson. That's what we're elected to do. I know I'm going to be accused of promoting myself again but that's not what I'm doing. I'm trying to clearly state that I want to see the package in its entirety. What it's going to look like when it's done, what it's going to encompass, have a better overview of what the traffic situation is going to be and have Hillwood explain themselves. If they can't convince seven members, a majority of seven members of the Planning Board, it's probably because I'm going to be on the opposing side. If they do have all of their data and their mapping and their explanations in order and it becomes a fit for the Town of Hudson. Right now I'm still undecided. Even though there's an email that went around and said I've already made up my mind, again, I reference, that person does not know me. At all. Wouldn't even shake my hand. He doesn't even know me. And I don't care to know him either so be it as it may. Thank you.

Selectman McGrath then said, can I make another comment? So, I too have read all of the emails that have gotten sent out to us. I'm still on the email chain. I haven't responded to any of them. Because I too want to remain as neutral as I possibly can. It's difficult for me because I'm a lifelong resident of the Town. I've seen development that's been beneficial and some not so. So I have those concerns and I want what's best for the Town. I may be coming to the end of my days of being on a board or being active within the Town but as I'm long as I'm able to take breaths and still offer some comments then I'm going to do that. But I'm not responding to any of the emails that go out. But I've read each and every one of them. So my concerns remain and I think that, I don't know that it's necessary to hear the comments from the attorneys again, because they're just going to regurgitate what they've already presented to this Board and I consider it to be sort of a waste of our time. Because we've already heard it. Chairman Morin asked, if Selectman McGrath was all set to which she replied, thank you, yes I am. Chairman Morin then said, I want you to know a note has been made to talk to the Attorney tomorrow and try to get you some answers for your questions. And in reference to the attorney, I'm going to allow them to speak because if there is new information that Selectman Martin brought forward, I'd like to hear what they have to say also.

At this point Selectman Roy was recognized and she said, so I guess I would kind of piggyback kind of on what Selectman McGrath said and that I would question the timeliness of it. In retrospect, and maybe if I had thought it out a little more before the last vote, but why wouldn't we do this after the whole plan has been presented. So we know what we have. It's almost illogical to do it in the middle of the Planning Board process and not know where it goes. So I would agree with Selectman McGrath at least to defer the reconsideration until after either we seek legal counsel or the entirety of the plan is brought forward. We're basing our decision on incomplete information. Chairman Morin said, you all set? At this point it was put on the agenda. If somebody would like to make a motion either way we'll take that up when the time comes. Selectman Martin was recognized and said, Mr. Chairman, I agree, Selectman McGrath, I'll answer your question directly about reconsidering. I would reconsider if the Planning Board said you made a decision in haste. I support that all the way. I'm sorry Mr. Chairman, these comments coming from the peanut gallery. Can they stop please? Chairman Morin replied, I'm going to take care of that in a minute because I got hearing aids and I can hear them, so that is a problem. Selectman Martin replied, I haven't said anything when they were talking. Chairman Morin then said, let's just be polite while we discuss, they're here, they're tax payers, and they're here for a reason. Selectman Martin said, I understand that but we were quiet when they talked they can be quiet when we talk. That's all I'm asking. Single etiquette. Chairman Morin replied, I'll take care of it in a second once you're done. Selectman Martin replied, thank you Mr. Chairman. He went on to say, so

to Selectman Coutu's point about reconsideration, I'm prepared to make a motion to reconsider our vote from last meeting. Okay and I'm prepared to support the approval. Now a new motion is being made after we reconsider to approve the connection so there would be an opportunity in my opinion to reconsider that motion at a later date. That's just my opinion. Chairman Morin replied, right but we'll get a decision on that tomorrow. That's two. I would ask that the audience please refrain from talking if you would please. Thank you.

Selectman Coutu was recognized and said, I forgot what I was going to say. But I apologize. You're not a peanut gallery. I think that was a misspeak and I apologize for that. I did have another point I wanted to make and we went back and forth but I want to say this, I don't believe Mr. Malizia that this Board has ever formally adopted Robert's Rules. From my understanding sitting here in my 13th year it's just been used as a guide for us pretty much. Typically the rules of order are that if a motion is made and somebody on the prevailing side wishes to have it reconsidered because they acquired new information or they discovered that somebody gave them false information initially to lend them to make a vote one way or the other. I'm not saying that applies here I'm just stating as an example. We can reconsider but it has to be done at the next official meeting of the body of which this pertains to. Planning Board, Board of Selectmen, ZBA or other Boards. So the motion made here this evening does not approve the plans. If there is a motion to reconsider and it passes, all we're doing, and I recollect what I wanted to talk about and it's what I'm going to bring up right now. An opportunity for Hillwood to design a formal package, a formal plan. If we don't give them an opportunity to connect to the sewer then we put them into a position where their plan could substantially increase the cost of the project because you're going to have to design two sets of plans. One with the sewer and one with a leach field and treatment facility for the sewerage. So they're gonna have to design two sets of plans. I just want to see the plan in its entirety. If it doesn't pass muster then I'll make a decision at that point. That's what Hillwood expects us to do. They expect us review it as a Town. They presented a plan in good faith for the parcel and they expect a hearing, and I don't know, we've had other hearings, though not of this magnitude, but we don't have people coming in at every single meeting wanting to speak and we've been very, very generous about that. Both on the Planning Board side as well as the Board of Selectmen. So with all due respect to everybody, you have to admit that I think you've been given due process. But this isn't over. It doesn't end tonight. Whether this passes or fails it's not going to end this evening. There's an awful lot invested in this parcel presently, I think we owe the developer an opportunity to present the package in its entirety. I hope I clarified the matter a little bit.

Selectman Roy was recognized and said, so I guess I would suggest that if we only use Robert's Rules as a guide then we can have an exemption to that and again wait until we have the entirety of the plan. That would still give them their due process, it wouldn't close the issue but we would have more information about what direction the Planning Board was going into. Right? You know I would rather make this on something when we have as much information as we can. Again, contrary to Selectman Martin's contention, there was no new information in that packet that rose to the level of a motion of reconsideration. But if we're gonna go in that route I think we should do it not tonight, but give some time to again see the whole plan. Get some guidance from Town Counsel and then do the reconsideration. Chairman Morin replied, I understand what you're saying Selectman Roy but you also got to remember as Selectman Coutu said we're not going to make or break this project and we do not have the final decision on it. So us making a vote tonight one way or the other doesn't affect anything because the Planning Board is the ones that make the final decision. All we're letting happen tonight is to move on so they can present a proper set of plans one way or the other to the Planning Board. That's all we're doing. Our decision doesn't make this project. It doesn't. Anyone else? Selectman McGrath was recognized and said, I have a question, was there a second to Selectman Martin's motion. Chairman Morin replied he hasn't made a motion yet. Selectman McGrath then asked, so there's no motion on the floor? The Chairman replied, not at this point. Only discussion. Selectman McGrath then said, again, I would like to request that we defer this action until the next Board of Selectmen meeting so that we have an opportunity to hear from our Town Attorney about the proposition that I talked about earlier. Selectman Coutu stated to speak and Chairman Morin said, hold on there's a motion on the floor so we need to have a second. Selectman Coutu asked, there is? Chairman Morin replied, yes she just made a motion to defer. Selectman Coutu asked, she did? Selectman Roy said I'll second that motion. Chairman Morin then said, motion on the floor by Selectman McGrath seconded by Selectman Roy, discussion. She did, she just made a motion.

Chairman Morin then said, motion on the floor is to defer. An I vote is to defer a no vote is not to defer. Selectman Roy asked, can I ask for a clarification from Selectman McGrath. It's only to defer to the next regularly scheduled Board of Selectmen meeting? Selectman McGrath replied, correct. To get information from the Town Attorney whether or not we can defer this until after the plans have been submitted to the Planning Board. We haven't seen the whole thing. And by the way, I'm going back to the Planning Board meeting tomorrow night so I'll be participating from this point forward on Planning Board as an alternate to Selectman Coutu. I really believe that this is premature. The Chairman then called for a roll call vote. 3-2 with Selectman Roy and McGrath opposed. Motion does not carry.

Selectman Martin then made a motion to reconsider the denial from January 12, 2020. This was seconded by Selectman Coutu. Chairman Morin asked if there was any further discussion. Selectman Roy was recognized and said so as I said about three times now, I'm not persuaded that Hillwood has presented any new information that would rise to the motion for reconsideration but here we are. Attorney Smollack's first point in connection to the public sewer is required by Town sewer ordinance. The Town sewer ordinance requires us to consider the fact that laid out in Town Code in the instant case section 270, section B1 is as the prevailing authority. It says the Selectmen, may in their sole discretion, grant a request to deliver sewer outside the existing boundary described in exhibit A for public use such as schools other uses, community facilities such as hospitals, public utilities or for other residential or commercial or industrial uses that in the opinion of the Board of Selectmen are essential for the public health, safety and the welfare of the Town. Now what Mr. Smollack said is connection to the public sewer is required by Town sewer ordinance. So to suggest that we, as the elected representatives of this Town, are required to vote in a particular way is contrary to our democratic form of government. His next point, connection to the public sewer located on the property is required pursuant to the previous subdivision approvals by the Planning Board. As you point out there was an approved site plan in 1991. However you failed to consider is Town Code section 270 paragraph C-1a that interlay states subdivisions or site plans for uses were in conformity of RSA 674-39 on August 17, 1999 will be exempt from the allocation limits. The subdivision or site plan must have been approved by the Hudson Planning Board and must have recorded at the Hillsborough County Registry of Deeds which it was, and must have commenced active and substantial construction at the project site within one year of the date of approval. In addition the subdivision or site plan must remain in compliance with the Planning Board terms and conditions of approval and not require Planning Board approval for a substantially modified subdivision or site plan. This plan obviously requires approval of the Planning Board and is substantially modified subdivision.

Selectman Roy went on to say, the third point he makes is interaction with the Town pursuant to 1991 Planning Board approvals indicate the upgrade of the sewer facility by the Friel's and their co-applicants at the request of the Town were designed and constructed in a manner to accommodate future development of property. This may have been true in 1991, however active and substantial construction on this property did not happen and it is no longer in compliance with section 270 or the RSA. To think that some 30 years later we somehow are bound by a site plan approval that was never commenced is ridiculous. To the extent the Board of Selectmen find the property is not within the boundaries of the sewer system the property is exempt from Town application from the application of the allocation process outlined in Town Code 270-17 b1. Again, contrary to your assertion, the subdivision has not vested in accordance with RSA 673-39 which again, requires active and substantial development or building to begun to qualify for the exemption from the application of allotment. The final point, if the Board of Selectmen find that Hillwood is not exempt Hillwood requests sewer allocation essential for the public health, safety and welfare of the Town of Hudson under the circumstance in the general public interest in ensuring development is serviced by public sewer, where like here the same is readily accessible and significant capacity is available. So we all agree that this is not a public facility such as a school or other government use. It's not a community facility such as a hospital and it's not a public utility. It is for commercial or industrial use. Therefore we must look to the next prong of the test. Is this project essential for the public health, safety or welfare of the Town of Hudson? Public health will not benefit from this project. Public safety could be negatively impact when we take into account the increase of traffic therefore an increase in chance of accidents, pollution all of that stuff. General welfare does not benefit. It was argued when we first heard this case that general welfare can be approved because we'd be able to receive goods overnight. That argument simply does not hold water. As a small example, today, I ordered on Amazon, to appointment calendars. Both will arrive tomorrow without the existence of an Amazon distribution facility in Hudson. The tie in to the sewer is

for the benefit of the project. It is not for the benefit of the public welfare of the Town of Hudson. Lastly, you claim there will be \$5 million in tax revenue for the Town. So I'm just curious if that is before or after you ask the Town for tax credits and abatements as you have done in several of the communities you have developed for Amazon. I will echo Selectman Coutu remarks that I also was elected to represent the entirety of the town. I listen to all those emails. I read all those emails. And although there have been some emails I have received in support of the project, overwhelmingly from all over the Town the Town is against this project. Thank you for the time Mr. Chairman.

Chairman Morin called Elvis Dhima, Town Engineer to the microphone. He said this question is for you Mr. Dhima and Mr. Malizia. Before the first vote came in front of this Board, all this information was sent to the Town Attorney, correct? And he even wrote up the motion, correct? Mr. Dhima replied, the first time, that is correct. Chairman Morin reiterated, for the first vote we had. So this has been reviewed as Ms. McGrath has concerns with upon her other question which we're going to get taken care of. Mr. Dhima said, the entire packet for tonight was submitted to the Attorney. Chairman Morin said, this went to our attorney in total and he approved it? Mr. Dhima replied, he didn't approve it, he didn't have any feedback regarding because it simply falls under your jurisdiction as sewer commissioners to. Just like the sewer ordinance clearly states for anything outside the sewer district. Chairman Morin then said, so what Selectman Roy just read is something I would expect because she's defending the other people and the Town, which this Board falls under, the Town Attorney, reviewed this and had no comments and forwarded a motion for you for us to bring up. So in theory he was all set with the way we were doing this vote. Mr. Dhima replied, it's my understanding that goes for me as well, we cannot make a recommendation to which way to go. Ultimately that decision is yours. We simply can put the paperwork together and his was basically looking at everything and drafting the motion that you might consider. Ultimately the decision is yours as the sewer commissioner so there will not be anything from the attorney or even from myself for that matter telling you which way you need to go. It's ultimately yours. Chairman Morin then said, always in the past, when we've had questions for concerns like this type of situation our attorney has reviewed it and this Board has gone by our attorneys suggestions in most cases because that's what we pay him for and that's where we get our information from because this stuff is the legal stuff that needs to be clarified before it even gets to us. Correct? Which makes your job and Mr. Malizia's job a lot easier? Am I correct? So we did what we're supposed to do with the Town lawyer? Mr. Dhima replied, when we submit things like this we ask for red flags anything that might jump out and that wasn't the case. You're more than welcome to ask Mr. Lefevre again obviously, but everything was submitted. The motion was drafted the first time. The package was submitted again. You're more than welcome to ask him directly to come back, it's up to you, it's up to the Board. Chairman Morin then said, I'm comfortable that we went through our proper channels with our Attorney. I understand what Selectman Roy is reading, again, that attorney is defending the residents against this case. The Town has followed our Attorney's suggestions and that's the way we're moving forward. Am I correct? We followed our Attorney? Mr. Dhima said we submitted everything to the Attorney. There wasn't anything that stated do not do this tomorrow night. As clear as that. Is that correct Mr. Malizia? Mr. Malizia replied, yes. Selectman Roy was recognized and said, so I have two questions for you. Correct me if I'm wrong but Town Counsel is doing a legal review making sure there are no legal red flags. He's not doing it to forward an opinion or anything, correct? Mr. Dhima replied, correct. That was my understanding. Selectman Roy then said, and then just a question you stated that before the last meeting he received the same package that we have tonight? Mr. Dhima replied, correct, and....Selectman Roy interrupted Mr. Dhima saying so there was no new information is what you're saying. Mr. Dhima replied, there was new information. Everything as far as what he got the first time was the map, the memo we received from Mr. Smollack, my memo, the packet the second time is much larger, as you can tell. It's over 70 pages. Selectman Roy then asked, so did that go to Town Counsel? That second, the one that we received tonight. Did that go to Town Counsel? Mr. Dhima replied yes, that's what I said earlier. So that went through as well. Now remember, most of the information being presented to you tonight, all the exhibits, were produced by the Town of Hudson after the last meeting at Selectman Martins request. Those were finding the easement, finding the communications about the minutes, finding the commutations about the Sewer Utility Committee. Then Donna Sommers who is the admin for the Sewer Utility was able to find information related to Walmart fees that were paid at the time in 1991 when there was discussions about increasing the pipe size. Contribution to the sewer pump station currently known as the Sagamore Pump Station. All that information was provided by the Town of Hudson to the applicant. Selectman Roy then said, and today,

I believe, we received an email in response to a question from Mr. Malizia we received an email from Town Counsel that simply said he didn't believe the argument that the Town, the property was vested in the sewer. Mr. Dhima replied, I was outside of that email, I did not see that email. Selectman Roy went on to say, nor did he believe the historical part of it about 1991 should not prevail. Mr. Dhima replied, I understand that and that's why I was trying to raise my hand. They're not saying they're vested, the information provided tonight is just simply showing history. That's what their legal will talk about tonight. They're not saying they're vested. They're not saying they're in they're simply saying this is the documentation provided in the past. Ultimately it's your decision tonight to decide either way. The ordinance clearly states that if you in your opinion, consider it one way or the other, within the mechanism within the sewer ordinance you can make the decision. They're not saying they're entitled to it. That is not what I'm getting out of the memos. So that is your decision tonight. Selectman Roy then said, one final thing, I just want to clarify, I don't represent anyone here. You said...Chairman Morin said, no, no, I meant their attorney, not you as an attorney. I mean their attorney wrote that you were just reading what they wrote. I apologize.

Chairman Morin then reiterated, motion on the floor by Selectman Martin, seconded by Selectman Coutu, to reconsider the sewer allocation for the project. Roll call please. The Executive Assistant called the roll. Motion passed 3-2 with Selectman Roy and Selectman McGrath in opposition.

Chairman Morin said, what we're going to do now is listen to what they're going to provide and we're going to take a vote on if we'll do it or not. Selectman Coutu then said we didn't have a motion on the floor to allow discussion of something we may not even consider. Chairman Morin said well if he just asked for a reconsideration I would think that would open the floor up for discussion. Selectmen Coutu said, no, what we did is we nullified the vote taken at the last Board of Selectman meeting. Now we have nothing on the floor. Selectman Martin said Elvis is going to present you all the information in our packet and it's online by the way. The Chairman said, he's going to make a presentation now. Chairman Morin said would you like to make a motion to feel comfortable? Then go ahead and do it. Selectman Coutu then asked do you remember the language of the last meeting, Steve. What it was for the allocation? Selectman Coutu made a motion to grant the request of Hillwood Enterprises LP for access to the Town's municipal sewer system with the sewer allocation for an average daily use of not to exceed 36,900 gallons per day for the amount of \$130,257. This authorization is contingent upon final Planning Board site plan approval. This was seconded by Selectman Martin. Chairman Morin then said, I just have one question. What was the comment you said that we were at that we totally say your statement again if you would? Selectman Coutu asked, relative to what? Chairman said, the vote we just took to reconsider. Selectman Coutu said the first vote was to nullify the action taken at the last meeting to deny the access. Now we've reversed it now we're making a motion to grant them the access pending the Planning Board approval of their project obviously. Planning Board will have the final say over the entire project whether we give them sewer or not the Planning Board is going to decide. The Chairman said I understand. My only concern is Selectman Coutu, in your motion you said to grant, because we have new evidence. I think we should listen to the presentation before use that word grant. Because if we approve that motion we just approved it. You understand what I'm saying? Because you said approve. Selectman Coutu said, I understand, I'm going to restate the position I took earlier. I don't want to put Hillwood in a situation where there gonna have to come in with two sets of plans. One with sewer allocation and one with a septic system. They're gonna have to design two sets of plans because they don't know which way to go so that's a very expensive process. Ultimately regardless of what they do if they want to put in sewer or if they want to hook up to the main, the Planning Board is going to decide one way or the other, I don't think it's going be based on sewerage, I think they're gonna meet all of the expectations of how to manage a sewer system whether it's through a pipeline or on their property there are other mitigating factors involved in this whole project that are going to take a lot more precedent because I don't think sewer is a major issue. They're gonna have to have sewerage one way or another. I just want them to go forward with a single plan and keep their costs down. I'm sure they got plenty of money but it doesn't make sense to have them come in with two different designs they have a right to know which way this is gonna go. I just want to see a final plan. Not two plans. Chairman Morin then said, I know exactly what you're saying, but if we pass this motion in my option, where it says, to grant, there's no need to listen to anybody because we already granted it. You understand what I'm saying? Mr. Dhima was recognized and said, that is okay. That is the intent tonight to basically go over exactly what, I think the Board of Selectmen went basically over

the packet. What you said earlier is exactly what was going to go over. Legal was going to do that. So you kind of already undertook that task. It's basically nothing new that you haven't gone over it. To add to it would be easier for the Planning Board to know and for the applicant to know which way they would need to go. It's my understanding they were trying to get a decision tonight from the Board of Selectmen if they can connect to sewer or not. I think that would serve them, and you and the Planning Board better to understand which what this is going to go. Chairman Morin then said, okay, motion on the floor by Selectman Coutu, seconded by Selectman Martin. Any further discussion? Selectman McGrath said, I'm just going to maintain my negative vote on this. I think it's really unnecessary. *A roll call vote was taken. Carried 3-2 with Selectman McGrath and Selectman Roy in opposition.*

9. REMARKS BY THE SCHOOL BOARD - Gary Gasdia was present for the School Board and said, yeah, so um, just to provide a quick update, the schools went back on January 11th. Either a hybrid model or full time. Really want to take a minute to thank the nurses, the teachers, and the staff. The students and really all the parents. Well there are some Covid cases it's really been under control. We haven't had to really reconsider any type of going back into remote. The cases are still high in Town so the plea goes out to everyone, please do everything you can. The kid's that need to be in school, need to be in school they stay in school if we all do our part. I would be remiss if I didn't say it would not have happened if it wasn't for the cooperation of the entire Town especially Chief Buxton and many members of the Board so we really thank you.

10. REMARKS BY THE TOWN ADMINISTRATOR - Mr. Malizia said quick reminder that Deliberative Session is this Saturday. It will be held in this building. There will also be an opportunity for people to phone in if they have questions, we'll be installing a tent. We've worked out with the School collaboratively that the tent will remain in place until their Deliberate Session to handle any overflow due to capacity issues. So that starts at 9:00am this Saturday. We also posted two public hearings for the Speedway. The Speedway came in at a recent meeting requesting additional race dates so public hearings have been scheduled for February 9th and February 23rd. that's been advertised.

11. OTHER BUSINESS/REMARKS BY THE SELECTMEN

Selectman Roy - sure I just have two things. One I think it's unfortunate that the Town Code was not followed tonight nor was the statute, but I would also be remiss if I didn't say that folks should take this as a lesson to pay attention to zoning amendments, zoning laws, because I think if we did that some 10, 15, 20 years ago we wouldn't have these types of issues. So I hope to see everybody at the Deliberative Session.

Selectman Coutu - nothing this evening

Selectman McGrath - nothing this evening

Selectman Martin - nothing this evening

Chairman Morin - only thing I've got is for the Board. Due to some other commitments by Chief Buxton he'll only be holding one EOC meeting this week and that will be on Wednesday afternoon. I'll get the information out as soon as we have it.

12. ADJOURNMENT

Motion to adjourn at 9:21 p.m. by Selectman Roy seconded by Selectman Martin. A roll call vote was taken. Carried 5-0.

Recorded by HCTV and transcribed by Jill Laffin, Executive Assistant.

David S. Morin, Chairman

Kara Roy, Vice-Chairman

Marilyn E. McGrath, Selectman

Roger E. Coutu, Selectman

Normand G. Martin, Selectman

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