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**HUDSON PLANNING BOARD
MEETING MINUTES
April 2, 2008**

I. CALL TO ORDER

Chairman Barnes called this Planning Board meeting to order at 7:00 p.m. on Wednesday, April 2, 2008, in the Community Development meeting room in the Hudson Town Hall basement.

II. PLEDGE OF ALLEGIANCE

Chairman Barnes asked Mr. Tom Murphy, a former member of the Board sitting in the audience, 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, Marilyn McGrath, Vincent Russo, Terry Stewart, Richard Maddox (Selectmen's Representative), George Hall (arrived at 7:33 p.m.), and Suellen Quinlan (arrived at 7:35 p.m.).

Members

Absent: None. (All present.)

Alternates

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

Alternates

Absent: Brian Carroll (excused) and Tierney Chardwick.

Staff

Present: Town Planner John Cashell.

Recorder: J. Bradford Seabury.

IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS

Chairman Barnes noted that there were no alternates present to sit in place of those members who had not yet arrived, but that there was a quorum present.

V. MINUTES OF PREVIOUS MEETING(S)

Chairman Barnes addressed the minutes for the meeting of October 5, 2005, asking if there were any changes or corrections .

Mr. Barnes referenced Page 5, 3rd paragraph from the bottom, stating that the dollar amounts did not make sense. Recorder Seabury stated that he would check on the numbers and make changes as appropriate.

No further changes or corrections being brought forward, Ms. McGrath moved to approve the 10-05-05 minutes as amended; Mr. Russo seconded the motion.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members present voted in favor, and Chairman Barnes declared the motion to have carried (5 -0)

Chairman Barnes addressed the minutes for the meeting of December 5, 2007, asking if there were any changes or corrections .

Mr. Barnes referenced Page 8, stating that there was a typographical error in the heading for Performance Sureties item A, in that "Scenic Lane" was spelled "Scenic Laner."

No further changes or corrections being brought forward, Ms. McGrath moved to approve the 12-05-07 minutes as amended; Mr. Russo seconded the motion.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members present voted in favor, and Chairman Barnes declared the motion to have carried (5 -0)

Chairman Barnes Chairman Barnes addressed the minutes for the meeting of February 13, 2008 , asking if there were any changes or corrections

Mr. Barnes referenced Page 17, 2nd paragraph, 1st sentence, stating that the spelling of the name of the Qroe Farm project was incorrect.

No further changes or corrections being brought forward, Ms. McGrath moved to accept the 02-13-08 minutes as amended; Mr. Russo seconded the motion.

VOTE: Chairman Barnes called for a verbal vote on the motion. All members present voted in favor, and Chairman Barnes declared the motion to have carried (5 -0)

Chairman Barnes stated that the minutes for the meetings of March 5, 2008, and March 12, 2008, would be reviewed at the April 23rd meeting , and he asked members to review those minutes for any changes.

VI. CORRESPONDENCE

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

VII. WORKSHOP

A. Review Winter Maintenance Bond Amendment to Article VIII C, § 289-40.

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

Town Planner Cashell noted he had prepared draft public hearing notice .

Ms. McGrath moved that the Planning Board conduct a public hearing on April 23, 2008, relative to the proposed amendment to the Planning Board's Subdivision of Land regulations, ARTICLE VIII C, *Street Disposition Awareness*, §289-40, by adding a new sub-subsection F, to read as follows:

- F. Prior to the issuance of a building permit for any dwelling or other habitable structure on an unaccepted street, the developer/owner of such a street shall be required to post a winter maintenance bond with the Town. The winter maintenance bond shall be separate from the subdivision performance bond and any escrow fees that the developer establishes with the Town. The winter maintenance bond shall be designed to reimburse the Town for the potential cost of maintaining an unaccepted street, should said party of responsibility fail to do so in a manner deemed acceptable by the Town Road Agent, resulting in the Town being forced to use the Emergency Lane Statute (i.e., RSA 231:59-a) to maintain the street.

Mr. Russo 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 (5 -0).

B. Discuss the Special Site Plan Committee Review and Notification Procedures.

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

Town Planner Cashell discussed the issue of whether the Board was being properly notified of the Minor Site Plan Committee's actions; he referenced Paragraph §275-24 C, saying this was clarified in Paragraph 3 of his staff report.

Ms. McGrath asked how the Planning Board would be notified of the decision. Mr. Cashell said it would be at the next meeting after the decision was rendered. Ms. McGrath asked if the notice would be verbal, written, a copy of the decision, or what. Mr. Cashell said it would be written. Ms. McGrath noted that the referenced paragraph did not say that. Chairman Barnes expressed agreement that the last sentence was vague.

Selectman Maddox asked if there were a form that someone filled out. Mr. Cashell answered in the affirmative. Selectman Maddox asked if the Board would get a copy of that form. Mr. Cashell replied in the affirmative.

Chairman Barnes expressed a belief that no action needed to be taken. Town Planner Cashell concurred, saying this was for information, only.

C. Review Proposed Amendments to the Planning Board By-Laws.

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

Town Planner Cashell noted that Mr. Massey and Mr. Hall, constituting a subcommittee for review of the by-laws, had submitted proposed amendments; he said he had made the changes and given them hard copies tonight, and there should be a meeting at the next workshop or at the coming joint workshop with the Zoning Board of Adjustment and the Conservation Commission.

Ms. McGrath asked what kind of changes were being made. Mr. Cashell said it seemed to be syntax, proper designation of member, proper terminology, etc. Ms. McGrath asked if the changes would be highlighted. Mr. Cashell said the printed versions would be multicolored, as recommended by Selectman Massey.

Mr. Russo moved to defer review of the Planning Board's by-laws, date specific, to the June 4, 2008, 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 (5 -0).

D. Review Section 275-4 of the Site Plan Review Regulations, regarding Change of Use.

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

Town Planner Cashell noted that Mr. Carroll had been a major proponent of wanting to review this section of the regulations and had asked if this discussion could be deferred for his benefit, as he would not be able to attend this evening. Ms. Stewart moved to defer review of the Site Plan Review Regulations, date specific, to the June 4, 2008, workshop. Ms. McGrath seconded the motion.

Selectman Maddox noted that a lot was being deferred. He asked if the Board intended to do anything with this, noting that the June workshop was two months away, with "change season" then being imminent.

Ms. McGrath suggested that the Board could talk about it if the Board members had any idea what Mr. Carroll was proposing. Mr. Cashell fetched some copies of Mr. Carroll's E-mail. Chairman Barnes noted that Mr. Carroll basically was proposing to change the language in order to include some metrics, such as to increase the parking space by more than 10%, or increasing traffic by 10%, or increasing water or sewage use.

VOTE: Chairman Barnes then called for a hand vote on the motion to defer the discussion of Section 275 -4 of the Site Plan Review Regulations, regarding Change of Use. 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 (3 -2).

Mr. J. Bradford Seabury, a member of the Zoning Board of Adjustment, noted that the next item on the agenda was to discuss the Sign Ordinance. He informed the Board that members of a ZBA subcommittee were also working on proposed changes to the sign ordinance and were proposing to discuss that at the forthcoming joint workshop.

R. Review Article XII – Signs – of the Town's Zoning Ordinance.

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

Town Planner Cashell noted that he had provided ordinances of Merrimack, Salem, Manchester, Londonderry, Derry, and Concord, but had not obtained the one from Nashua, as requested by some members; he noted that he had spent some time looking at the Nashua Web site, suggesting that city's ordinances were perhaps too detailed for Hudson's use. He said the Board might later want to go into a more extensive review of Hudson's own sign ordinance. He expressed doubt that the members would have had time to thoroughly review the material, which he had provided by E-mail the previous day.

Ms. Stewart noted that the main impetus for this review had been the Sunoco gas station sign. She expressed a desire to have language similar to Salem's provision to prohibit moving sign messages. She noted that the Londonderry ordinance (Paragraph 311.7.4, *Sign Movement*) also had some good language.

Mr. Hall arrived at the meeting at 19:33 p.m., during the preceding discussion, and Ms. Quinlan arrived at 19:35 p.m. Both took their regular seats at the table, although not yet recognized by the chairman with respect to the subject at hand.

Selectman Maddox asked if the Board had any inputs from Community Development Director Sullivan, who was the person who had to use the ordinance. Chairman Barnes expressed a belief that this would be very useful, asking how the Board could get it.

Selectman Maddox said he could have the applicable liaison request that Director Sullivan provide the Board with information concerning issues he had with the sign ordinance. He then expressed a desire to have text added to the sign permit form stating that the sign that would be erected would have to meet all of the requirements of the Hudson Zoning Ordinance .

Ms. Stewart referenced the last page of the Derry ordinance, Section H, asking if Hudson had anything similar with respect to prohibiting signs displaying nudity, specific sexual conduct or activities, and specific anatomical areas . She suggested the Board might look at this, to cover advertising for sex-oriented business advertising while the Board was at it.

Chairman Barnes said he had also noticed that paragraph. He suggested that the Board members should look at all of these things, noting that the ZBA was also going to propose some changes, and the Board could discuss it in detail later.

Chairman Barnes noted that Town Planner Cashell should get input from the Zoning Administrator as to what issues he had with the current sign ordinance, with respect to definitions or enforcement issues, noting that the Board would also be getting inputs from the Zoning Board of Adjustment .

Selectman Maddox asked that this item be deferred to the second meeting in April, so that the Board could be prepared for discussion with the ZBA at the Joint Meeting. He then moved to defer this item to the meeting of April 23rd. 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 (5 -0).

Chairman Barnes recognized Mr. Hall and Ms. Quinlan at this time, noting that they would be seated from this point on .

IX. OTHER BUSINESS

A. Review Agenda Items for Joint Session with the Board of Selectmen

Chairman Barnes read aloud the published notice, as repeated above. He then asked if the date for that meeting had been firmed.

Selectman Maddox said the new chairman of the Board of Selectmen had not yet released the workshop schedule, but he knew the Fire Department was scheduled for next month (May).

Chairman Barnes asked if any members of the Board had topics they wanted to have addressed at that meeting.

Selectman Massey said one issue to be discussed should be the proposed landscaping contract, stating that the Board of Selectmen had not been in favor of taking any action on that proposal until after the Selectmen had had a chance to discuss it with the Planning Board.

Ms. McGrath said another issue would be whether the Planning Board or any land-control board should have to pay fees to appeal a Zoning Administrator decision.

B. Review Agenda Items for Joint Sessions with the Zoning Board of Adjustment and the Conservation Commission

Chairman Barnes read aloud the published notice, as repeated above. He noted that the sign ordinance would be on the agenda, and that the Conservation Commission wanted to discuss shoreland protection. Selectman Maddox noted that the Conservation Commission was also working on a prime wetlands study and what changes would have to be made because of that. Ms. Quinlan said the Conservation Commission members wanted to discuss buffers around the prime wetlands, but she did not know when the written report on prime wetlands would be completed.

Town Planner Cashell said he would need the items for the agenda for the Joint Meeting by April 29th for the joint workshop meeting, which was scheduled for May 7th.

C. Request for Planning Board action with respect to failed warrant article re: 51 Bush Hill road.

Chairman Barnes said there was a last-minute handout tonight, consisting of a request from Ms. Bonnie Lavalley for the Planning Board to take some action on the zoning change that had not been passed by the voters because of the protest petition.

Ms. McGrath stepped down from this discussion.

Ms. Quinlan said there was a State Statute that said the Planning Board did not have authority to rezone, and therefore this Board did not have the power to change the zoning for Ms. Lavalley. She noted that the abutters had legal counsel and had instigated legal action against the Town, and the Board should not get involved with that action. She said Ms. Lavalley had presented her case, and the Board had voted to send it to the warrant, adding that the Board could not do any more. She noted that she had voted against it at that time, thinking the Board could not do revisionist history when that particular lot had not been zoned in that particular way.

Selectman Maddox said the request was to overturn the protest petition, which the Planning Board could not do even if it wanted to do so. He noted that this matter had come in as a last-night request just before the election and the Board had not had time to review the matter. He said the Planning Board could not overturn the vote of the people—adding that he had asked the Legislative liaison to consider amending the State Statutes so that the Planning Board would have more time to review items and make decisions.

Town Planner Cashell noted that the letter from Atty. deCalis had to do with the ZBA action and had nothing to do with Ms. Lavallee's recent request.

Ms. Quinlan said Ms. Lavallee and her abutters could come back in due time with a new petition and ask the Board what to put on the petition, and the Board could then vote on that petition —adding that they still could put in a citizens petition even if the Board decided to vote against it. She said they had this opportunity every year, and the Board was not shutting them down.

Selectman Massey noted that a citizen-initiated petition may not be changed by the governing bodies, adding that all the Board could do would be to vote YEA or NAY, to vote it up or down.

Ms. Quinlan said the petitioners could come early and ask if the Planning Board would care to propose a rezoning article—but they needed to come well in advance of the deadline. She noted that the petitioners for the changes on Robinson Road had come before the Board repeatedly over the course of a number of months, and anyone who wanted to propose a warrant article should do the same, bringing in all the associated documentation that the Board would need in order to consider the recommendation. She commented on the questions that had come up for discussion with the previous petition request, stating that information had been lacking.

Town Planner Cashell said a lesson he had learned from the rezoning petitions this year was that such petitions should be left to the proponents, rather than being carried forward by the Board.

Ms. McGrath returned to the table and resumed her positions as a regular member of the Board.

D. Community Development Block Grant for pump station off Ottarnic Pond

Town Planner Cashell said he wished to discuss a proposed CDBG (Community Development Block Grant) pump station at the mobile park off Ottarnic Pond. He displayed a topological view identifying the site, saying the intent was to take the trailer homes off the leaching fields and connect them to the Town sewer system, adding that it would be a 200-ft² building, ultimately owned and maintained by the Town. Noting that the Board's interest in such things in the past had been to see what the building would look like, or if there were architectural modifications that would be more aesthetically appropriate, and to ensure that there was landscaping and parking sufficient to handle daily maintenance visits by municipal employees, he asked if the Board would consider this a minor site plan or wanted it to come in for a full site plan review. He said there would be parking for two vehicles, noting that a Town employee would visit the site daily.

Selectman Maddox said it could not go to the Minor Site Plan Review Committee, because it did not meet the criteria. Claiming that it would be setting the plan up to fail, he said it should come before the Planning Board for a conceptual review.

Mr. Hall asked if the Town were going to install all the connections for the units. Selectman Massey said it would be a combined sewer and water project, and all the

Town was going to do was run the pipe line down the street with stub-outs, adding that it would be up to the homeowners to connect, with the work being paid for as a sewer betterment assessment district. He discussed the funding of the betterment district, saying that 50% of the cost would come from a Federal grant, 20% would come from the State, and the remaining 30% would be financed through a loan to the mobile park association, which would be paid back through a betterment district —adding that the only thing the Town would be responsible for would be to run the lines down the streets (all three streets: Otter Way, Pondview Drive, and Village Lane), with stub-outs to each individual property line.

Mr. Hall noted these were private streets. He asked where the pump station would pump to. Mr. Cashell said it would pump out to Ferry Street, and would be combined with other sources, heading west on Ferry Street. Mr. Hall said he was asking where the gravity system was being pumped to —where it joined the forced main. Mr. Cashell acknowledged that he did not know. Mr. Hall said there must be sewer at the top of the hill.

Chairman Barnes said the Planning Board needed to see this, not the minor site plan Committee, saying it should be brought in as a conceptual.

Mr. Hall asked if the mobile units would be forced to connect to the sewer. Selectman Massey said every septic system in the trailer park had failed and had to be pumped out monthly. Mr. Hall questioned how the Town could force people to connect. Selectman Massey said the Town had an agreement with the association, and the residents had signed on to the community development block grant and had agreed to do it. He said the billing would be for a single agency: the association.

Mr. Hall asked who would pay for repaving the streets. Selectman Massey said it was part of the arrangement, noting that the association had come to the Town, and had been able to procure a block grant to fund this project. Mr. Hall said he would like to hear the whole story —predicting that there would be a mess unless the association had agreement from all residents to pay for the connections. He expressed a belief that there should be a public hearing.

Selectman Massey asked what Mr. Hall was looking for by asking where it pumped to. Mr. Hall said he was trying to get an idea of the scope of the work, how much was in the shoulder, etc.

Town Planner Cashell said he would tell the engineers that they had to come in for a formal site plan review.

Selectman Massey said he would like to know when that could happen, as there was a sunset clause on the grant. He argued it should come in at the earliest possible time as this was a health and safety issue. Ms. Quiñlan concurred, noting that it impacted the estrification of Ottarnic Pond.

Selectman Maddox moved to schedule the Sewer Utility Committee/Town Engineer to present a Conceptual Site Plan for the Ottarnic Pond Sewer Pump Station at the April 23rd meeting, noting that there most likely was no site plan for the mobile park. Mr. Hall 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 (7 -0).

E. Announcement of Ice Cream Social for Town Volunteers

Selectman Massey reminded the Board members that Thursday, May 1st, would be the annual volunteer appreciation ice cream social, to be held at the Hudson Community Center at 7:00 p.m., and he asked that anyone planning to come should notify either himself or Chairman Barnes.

F. Request concerning proposed hotdog trailer business at Executive Park

Mr. Edward Kanto, 40 Ayer Road, Nashua, NH, and Mr. Brent Davis, 6 Sagittarius Lane, Townsend, MA, came before the Board. Mr. Kanto said they were planning to put a small concession trailer for lunchtime business down at Executive Park, stating that the trailer would be towed in and out each day. He said they had permission from Atrium Medical Corporation to be on that firm's property, adding that he owned a concession business and this would just be an extension of that. He said they had been advised to come to the Planning Board for permission, expressing a belief that Community Development Director Sullivan had provided the Board with some information. He said the trailer would stay hooked up during the day, similar to what had been done previously by someone else, but there would be nothing on site before they went in each day, and there would be nothing after they left. He said the business would operate on Monday through Friday, noting that he also owned the hotdog concession at Nashua's Home Depot store. Ms. Stewart expressed a belief that this should come under the category of hawkers and peddlers, and should go before the Board of Selectmen. She noted that there had been a hot dog issue before. Selectman Maddox said he had thought these gentlemen should come before the Planning Board under correspondence, but nothing had been provided for correspondence. He felt something needed to be put in writing and it needed to be on an agenda. Ms. Stewart noted that the flower guy got a permit from Valentine's Day to Labor Day; she asked if this were a long-term concept. Mr. Kanto said he had been considering that it would be year-round business.

Ms. McGrath said Director Sullivan should explain how this was different from the hot-dog stand that had been brought before the ZBA for a location at the Granite Hall. Ms. Quinlan asked what the hours would be. Mr. Kanto said the hours would be 6:00 a.m. until about 2:00 p.m. Ms. Quinlan said she had no problem with the idea, thinking it would help cut down on lunchtime traffic and would be on private property. If it needed to get a Hawkers and Peddlers permit, she suggested, they should go before the Board of Selectmen and get it. Mr. Kato said he had sat at the property for a week, watching the lunchtime traffic, and there had been a great outflow, so this would help cut down the congestion.

Ms. McGrath noted that the ZBA had denied the other request, saying that it had been pretty much the same sort of request. She said she had no real issue with this, but she felt everyone should be treated the same.

Selectman Massey said he felt something such as this should have to go before the ZBA if the site were not grandfathered. He referenced another similar case, a hot dog business that had been going to be at the intersection of West Road and Route 102, in which the business model had to be changed because the concessionaires did not have a grandfathered right to put a trailer on the property, so that that the trailer had to be kept moving, not being left at any one site for more than two hours, and could not be left overnight. He expressed agreement with Ms. McGrath, saying some conversation with the Zoning Administrator was needed to understand why this was different from other businesses.

Ms. Quinlan said she thought Selectman Massey was right in saying it had to come before the Zoning Board of Adjustment, but this was a private trailer coming in on a private business to help a business owner's employees. She argued that this was quite different from the Grange Hall proposal.

Town Planner Cashell referenced Home Depot concessions as an example, but noted that this type of operation could become a keg of dynamite because of complaints from competing businesses in the vicinity, such as sub shops, etc., who would argue that they had to pay taxes. He asked if the trailer would have rest-room facilities. Mr. Kanto said Atrium had given permission to use theirs. He said the sub-shop had a right to get a trailer, as well, saying he had decided to be a mobile business. He said there was a need for this sort of business. Mr. Davis said they had spoken to other businesses, who thought this was a fabulous idea and were welcoming them with open arms.

Ms. McGrath noted that the Grange Hall proposal had been just about the same thing, with two gentlemen bringing in a trailer and taking it home at night. She said she was not pro or con, but if others were required to go before the Zoning Board of Adjustment, what was the difference with these two gentlemen? Selectman Massey said the difference was that these gentlemen would be serving employees of a building, rather than people driving by on Central Street—adding that it sounded like a Hawkers & Peddlers issue to him.

Mr. Kanto said he did not want to get people upset; saying it was just a simple business idea, to him. He said any complaints would be taken seriously.

Mr. Russo said the Zoning Ordinance had an allowed use in an industrial park for this sort of service, and he suggested this was why Director Sullivan had told them to go to the Planning Board. He suggested it should be as conceptual review of the Atrium site plan.

Mr. Hall said the Board was wasting these gentlemen's time until the Community Development Director decided what category this belonged in. He said Director Sullivan needed to make a decision as to where the proposal belonged. He said he could see it both ways, but it was not up to the Planning Board to make a decision as to where the proposal belonged or to try to figure it out.

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Chairman Barnes said the Board needed to have Director Sullivan provide something in writing saying this was the appropriate venue for this request.

X. ADJOURNMENT

All scheduled items having been addressed, Ms. Stewart moved to adjourn; Ms. Quinlan 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 8:36 p.m.

Date: April 4, 2007

James Barnes , Chairman

J. Bradford Seabury, Recorder

Marilyn McGrath , Secretary

These minutes were accepted as amended following review at the 07-09-08 Planning Board meeting.

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**HUDSON PLANNING BOARD Meeting Minutes
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The following changes were made in accordance with the Board's review of these minutes at its July 9, 2008, meeting:

Page 1 — Former member Thomas Murphy was identified as the person who led the pledge, and Secretary McGrath was identified as the person who took the roll of attending members.