

TOWN COUNCIL MEETING MINUTES
Wednesday, September 9, 2015

CALL TO ORDER

Chair Sullivan called the meeting to order at 6:30 pm.

ROLL CALL – ATTENDANCE

Marc Miville, Nancy Comai, David Ross, Robert Duhaime, Donald Winterton, Adam Jennings (left at 9:03 pm), Timothy Tsantoulis, James Levesque, Chair James Sullivan, Dr. Dean E. Shankle, Jr. (Town Administrator)

PLEDGE OF ALLEGIANCE

SPECIAL RECOGNITIONS

APPROVAL OF MINUTES

a. Public: August 26, 2015

M. Miville: As Council Secretary, I have reviewed the votes tallied and confirm they are accurate.

R. Duhaime motioned to accept the public minutes of August 26, 2015 with edits. Seconded by A. Jennings.

Vote unanimously in favor; N. Comai abstained due to prior absence.

AGENDA OVERVIEW

Chair Sullivan provided an overview of tonight's agenda.

PUBLIC HEARINGS

a. Public Hearing for the Town Council to give the public **Whitehall Terrace**, Hooksett, NH speed limit study data and to get their comments about this roadway for the Town Council to establish a speed limit for Whitehall Terrace.

J. Sullivan: *"The Hooksett Town Council will be holding a public hearing on Wednesday, September 9, 2015 @ 6:30pm at the Hooksett Town Hall Council Chambers, 35 Main Street, Hooksett, NH. The purpose of the public hearing is for the Town Council to give the public Whitehall Terrace, Hooksett, NH speed limit study data and to get their comments about this roadway for the Town Council to establish a speed limit for Whitehall Terrace. The speed limit study is available for viewing in the Administration Dept. and questions should be directed to them at 603-485-8472."* On behalf of Council, I declare the public hearing open. We have info in our packet from the Town Engineer's assessment of the road, and according to the traffic study from Stephen G. Pernaw, he concurs the speed limit should be posted at 25 mph.

Cutler Brown, 13 Whitehall Terrace: I moved here in July 1972. The street was a dead-end cul de sac, and the speed limit was posted at 20. There were 85 children on our street who played in the street and not in their yards. Sometime later, Mr. Hanley broke the road through to Farmer Rd. Thru traffic comes from Farmer Rd. to avoid the traffic light at Bypass 28 and Rte 27. Since then, along Farmer Rd, a lot of development has occurred and we have become a drainage area to Cawley School. My background is in urban planning and traffic engineering. Streets serve different functions. Our street has become a collector street as has Farmer Rd. One collects to Bypass 28 the other to Rt 27. In my opinion as an urban planner, the new developments on Farmer Rd. have wide sidewalks and curbs that are very wide which encourages thru traffic. The roads were meant to access houses, not as a cut through road. Parking on street is another problem. Our street is the only access to Cawley and we get all that traffic. My neighbors have young children, and I am glad they are here to support us. The speed limit is posted at 25; I challenge anyone to drive it at 35 and stop in time before hitting a child. Legal speed limits on local roads are 30 mph. We have a road 21' wide, with no sidewalks or shoulders; strollers/kids/dogs walk on the road and there is through traffic. I have some ideas on what should be done however it may cost the town a bit of money. I moved into a residential area, not a thoroughfare.

J. Sullivan: Are you concurring with the recommendation to post it at 25?

C. Brown: We would be happy to have it enforced at 25. They aren't going to go 25. Maybe other alternatives need to be looked at. We could have nice sidewalks with a curb on the other side. That would discourage what is happening now. Speed humps might slow people down. I've gotten the Highway Department's feelings on the ones by SNHU. Plow drivers don't like those; they are tough to deal with. I'm not sure how effective they are. Speaking for myself I would be happy with an enforceable 25 mph limit.

J. Sullivan: We are here to officially post it at 25 mph so the police are able to enforce that speed limit.

Bill Beaulieu, 21 Whitehall Terrace: I've been a resident for 46 years, and there have been many changes. It was a dead end cul de sac at 15 mph because of the width and length. I did a study myself, measuring neighborhood roads. Farmer Rd, Misty Rd, Quarry Rd, all these locales off Farmer Rd. The new developments measured in excess of 27' wide; ours is 21'. I have worked with Chief Agrafiotas, I worked with Acting Chief LaPlante, and also with the present Chief. I respect him greatly, but our frustration and the fact we have been overlooked far too long has created all this correspondence back and forth. I appreciate all of your efforts but you must realize this: the police chief came to my home and explained to him that the remote radar unit is broken, and he doesn't want to fix it. Even when it was set up, speeds were recorded at 37 mph. Chief Agrafiotas and now the present Chief tells me they don't have the manpower to monitor streets in the morning. Our street is the only direct access road to Cawley School. The police Chief did a study - in one week, 2800 cars traveled our street. I asked how this study was performed and he told me there was a box mounted to a phone pole that monitored speed and number of cars; he admitted that speeds in approaching 35 mph were recorded. The width of the street is 21'. In the morning, commuter traffic coming off of Farmer Rd, using our road as a direct street, put the children who are walking to the bus stop in peril. I've got all this correspondence, all the measurements, but I need to tell you when we were a cul de sac it was opened up and they used the excuse the plow driver couldn't make the turn. Today they won't support speed bumps because of the plow driver. We have been inconvenienced enough; if the plow driver can maneuver the speed bumps by SNHU, they can certainly do it on our street, considering the uniqueness of it. I have emails from those who could not attend stating the same thing. If you can't do speed humps, although there are some in town, I'd ask when those are going to be removed.

J. Sullivan: Are you agreeing that the 25 mph speed limit posting is needed?

B. Beaulieu: They use the excuse the speed humps were grandfathered. We started a petition when the town initiated a 20 mph speed limit in town. Chief Agrafiotal said he could not enforce it unless they raised it to 25; we never saw a single police presence on our street. The present Chief told me the average was 32 mph and cars were exceeding 35 mph. Petitions have been issued to the town; we wanted 20 mph for years. We don't see police presence now. I asked the current Chief if any tickets have been issued; he said they issue them all the time. 5 minutes later he said they were not able to enforce the speed limit and issue tickets. This safety is not for me, it's for the children going to the school. 7:15-8:00 am and from 2:30-3:30 pm are the most severe times with the speed on our street. I ask for your consideration and appreciation for our dilemma. We need some solution. Thank you.

Matt Murphy, 18 Whitehall Terrace: Thank you for your time. I have been on Whitehall for 3-3 ½ years. We have 3 young children. I have been stopped going by Underhill School where that is posted at 25 mph also. The enforcement has been there on Martin's Ferry Rd, just in the past 2 weeks or so. It's great, even though I got caught, to know enforcement is out there. 2:30-3:30 and also around 5:00 when I am out with the kids in front of the house. People go fast. It's real and whatever you can do, I don't know what the answer is. Any help is greatly appreciated. I don't understand how you can't enforce 20 or 25 mph. It's posted at 25.

Dr. Shankle: Under state law, all local roads are presumed to be 30 mph. It can't be lowered more than 25 and the only way to do that is to have a traffic engineering study. Our study conducted by Mr. Pernaw says 25 is appropriate and the Town Engineer concurs. In order to do that, we have to have a public hearing. If everyone agrees that it should be 25, we will vote at the next meeting and it will be enforced at 25.

Robert Tibbo, 12 Whitehall Terrace: I have lived here for 4 years and have 4 children, 2 of them walk to the bus stop. I walk them. We can't go for a family walk until after 7 pm – it's not safe. I don't think we should have to do that. We should be able to take our bikes and dogs and walk on our street without getting killed. My 7 year-old was almost hit and I went after the person who almost hit him. You can't put a price on a child's life. Picture living on a street where small children can't go for a walk or ride their bikes. We have to drive to another neighborhood to go for a walk. That isn't right, considering the taxes we pay in this town. We can't get law enforcement to enforce a 25 mph speed limit. People are not going to drive the speed limit. It needs to be enforced. You can talk about speed limits until you are blue in the face, but unless it is enforced, it's not going to work.

J. Sullivan: We need to go through the process to post it at 25 which will give the police the proper authority to enforce that.

R. Tibbo: We live at the end of the road; my wife won't let the kids play on the front lawn for fear that a ball will go out into the street and they will get hit. If we can resolve this before someone gets hurt, I would appreciate it.

R. Duhaime: When subdivisions were created, people moved in and raised their families. The kids grew up, they retired and they want to sell their homes. They don't want it on a busy street with speeders on it. You can't sell your house and if you do, the new residents raise their families and people are speeding through their neighborhood. Look at the whole picture, if it was your neighborhood, what would you do?

N. Comai: As far as other towns that have 20 mph (Lee, NH) you have to go 20. With Whitehall being direct access to the school, why isn't it a school zone posted at 20? I see the flashing lights during school hours. I don't know how far away it is from the school. That is one option on top of others that our Administrator is coming up with.

J. Sullivan: This building used to be a school and I remember a flashing light during school hours. Dr. Shankle is writing down what are the official requirements for a school zone, same as Martin's Ferry. That could be another part of the solution.

D. Winterton: I thank the residents for coming in and want them to know the Council is listening. I keep hearing how we spend our public safety dollars. As a town, we need to decide how to spend them. I am hearing loud and clear from residents of Whitehall Rd, they want money spent on enforcement. As Councilor of District 5, I will work for them.

D. Ross: I have been fighting about Martin's Ferry for 14 years, and we are hearing the same situation brought forward here. It's in far better condition than Martin's Ferry; there is only one curve and there is plenty of room to push snow off the road. This is your town and you have the authority; we are your representatives and we are here to do what you want us to do. I am fully in favor of the 25 mph speed limit.

J. Levesque: Living on the Hackett Hill Speedway, recently the Chief has been instrumental in traffic stops on our road. The biggest thing is the trucks. The enforcement works; the trucks are going a lot slower than they were. The word is out that Hackett Hill is not the place to speed. Maybe we need a daytime officer just doing traffic duty around town. 25 mph speed limit gives the police something to work with. If someone is going 32, they have a good reason to stop them.

T. Tsantoulis: I'd like to thank Mr. Murphy for his honesty. No one wants to admit they are guilty of that offense. This is the 2nd traffic study we have dealt with in my short time here. The recommendations from the company, he felt compelled to report that several speeders had an origin or destination on Whitehall Terrace. Safety, in my view, is a shared responsibility. If, in fact, the numbers show that almost every car on that street was going over the speed limit, that also includes residents. We have to look at ourselves as well as other people. I understand where you are coming from, but you need to understand my point of view that we all need to watch how fast we go, not just in this neighborhood but in every neighborhood in Hooksett.

M. Miville: Thank you all for coming; I appreciate all the public input that comes in. According to the study, Whitehall Terrace is 23' in width (not 21') and is not a collector road, even though it says it is (it's

not on the list of collector roads we have). We just had our last 2 meetings on Martin's Ferry Rd which came up with basically the same conclusions – there are a lot of speeders above 25, in fact almost nobody goes 25 on either Martin's Ferry Rd or Whitehall Terrace. It says several speeders were residents on Whitehall Terrace. Although the study was the same for both, there are 2 different conclusions which troubles me greatly. Whitehall Terrace is a better, safer road and the recommendation is to lower it, but the recommendation is to raise Martin's Ferry. The average speed is 31 mph; the study would confirm that 30 mph should be the speed limit. As I mentioned before, there are many roads in town posted illegally. We have this legacy to correct; I am a little torn about this. To vote for one street that is in my view far more dangerous (Martin's Ferry) at a higher speed limit than Whitehall Terrace where there is parking on the street; you can't park a car on either side of Martin's Ferry. It's difficult to plow and the kids only have a 1' space to walk to school. Despite what speed limit we decide to post this road at, speed calming mitigations are necessary here as well. You have 2 speed limit signs going both ways. Martin's Ferry has 1 on one side and 2 on the other, and is a much longer road.

R. Duhaime: Barberry, Farmer Rd, Heritage Estates, Gardensong and a 2-unit subdivision and they are attaching a road through to Auburn. Another cluster subdivision was approved but not developed. There is going to continue to be residential homes in that area with children taking a shortcut to school. This should have been done when Cawley went in. I can understand residents trying to cut through. Whatever we can do, we should do. Allentown just put in a solar-powered speed limit sign. We should definitely look at that.

J. Sullivan: At our next meeting, we will vote on the recommendation of 25 mph. Other issues brought up are for Administration to look into. After the next public hearing, I am going to ask if we can move up the presentation of the Eagle Scouts.

- b. Public Hearing to give public notice of a proposed street name of **Water Works Drive**, Hooksett, NH for the closed off portion/loop of Industrial Park Dr. that will be closed off due to the GE Expansion. The southern leg of the road will remain Industrial Park Dr.; however the northern leg will need a new name with the proposal of Water Works Drive.

J. Sullivan: *"The Hooksett Town Council will be holding a public hearing on Wednesday, September 9, 2015 @ 6:30pm at the Hooksett Town Hall Council Chambers, 35 Main Street, Hooksett, NH. The purpose of the public hearing is for the Town Council to give public notice of a proposed street name of Water Works Drive, Hooksett, NH for the closed off portion/loop of Industrial Park Dr. that will be closed off due to the GE Expansion. The southern leg of the road will remain Industrial Park Dr.; however the northern leg will need a new name with the proposal of Water Works Drive. Proposed plan designs are available for viewing in the Community Development Dept. Questions should be directed to the Administration Dept. 603-485-8472."* I declare this public hearing open.

R. Duhaime: It would be nice to name it after a famous resident, but on the other hand it is an industrial area.

D. Winterton: GE had the opportunity to expand and they went over Industrial Park Dr. and disconnected the road. We need to rename it as the water precinct is there; I hesitate to name a dead end road after a famous person. That is why this name was chosen.

Dr. Shankle: If you want to come back with another suggestion, you can do that.

D. Ross: These 2 addresses – are they both Water Works addresses? What about the other businesses at 32 and 34?

D. Fitzpatrick: I spoke to Assistant Town Planner, Carolyn Cronin. There was an abutter notice sent out. 32 and 34 will be the only business impacted and will have new numbers after the road is renamed. One is Central Water Precinct and there is another business.

Matt Lavoie, Code Enforcement Officer: We have to rename one of the roads, and instead of renaming Industrial Park Dr., we chose this one because it has less of an impact. The only 2 businesses are the Central Water Precinct and a vacant building behind GE. This has the least impact and is easier to do.

CONSENT AGENDA

- a. Landscape Surety Release \$4,835.00 Bond Auto Parts
- b. Landscape Surety Release \$8,290.00 AutoZone, Inc.
- c. Landscape Surety Release \$10,808.50 Ritchie Bros. Inc.
- d. Landscape Surety Release \$6,560.00 United Rental Realty
- e. Donation of granite bench valued at \$832.00 from Diane Boyce to Hooksett Pinnacle Park

M. Miville: I would like to pull out item “e” for further discussion and put it in non-public.

***M. Miville motioned to remove “e” from Consent Agenda. Seconded by N. Comai.
Vote unanimously in favor.***

A. Jennings motioned to approve items “a-d” as presented. Seconded by J. Levesque.

J. Sullivan: The landscape surety releases were separated, and I thought we should put them in as we always had, but Dr. Shankle thought it was prudent to have them as individual items to discuss in more detail. Do you want to continue to have them on the consent agenda or as separate items?

D. Ross: These landscape surety and bond releases should be handled individually because some of them are fairly significant dollar amounts and they should be individually voted on, I think.

J. Sullivan: That is one of the reasons that Dr. Shankle suggested doing them separately. This is for items on future agendas; tonight we will handle them as we have been in the consent agenda.

A. Jennings: I don’t mind having them all together as long as both the Public Works Director and Town Administrator concur. We can pull them out as needed if one or the other disagree or Councilors drive by and see something.

N. Comai: We have to let the Public Works Director and Town Administrator do their jobs; we have a lot of other things to cover. We can set a maximum dollar amount to keep them together. Let’s keep it simple.

D. Winterton: I agree with Councilor Jennings, and every Councilor has the right to pull something out of the consent agenda.

J. Sullivan: We will continue the way we have been doing it but still allow individual items to be pulled out for further discussion.

D. Ross: I was approached by someone who said the inspection process was not amicable at all. I think it should be known to whoever did or said whatever it was, that it wasn’t amicable. The nature of how I heard it was troubling.

J. Sullivan: You should discuss that with Dr. Shankle so it can be addressed.

Vote unanimously in favor.

J. Sullivan: Can we move on to the Scheduled Appointment at this point?

SCHEDULED APPOINTMENTS

- a. Eagle Scouts – Town Projects

D. Fitzpatrick: There was an Eagle Scout presentation expected tonight but they were unable to attend.

J. Sullivan: We pulled out item “e” from the consent agenda.

M. Miville: I’d like to discuss this in non-public.

Dr. Shankle: I am not sure if we can do it. I would prefer if we table it. There is no rush – we can figure out what the best way to approach it.

M. Miville motioned to table item consent agenda item “e.” Seconded by N. Comai. Vote unanimously in favor.

TOWN ADMINISTRATOR’S REPORT

- State’s project on the Main St. bridge is still ahead of schedule
- Tomorrow on the Lilac Bridge, Oak Hill Environmental is conducting a mussel survey to see if there are endangered mussels in the river where they are going to drop the bridge. Water district would like to put their water line on and they are working with the engineers on that.
- I brought this up last year – I got a letter from Comcast; we get info from them because you are the franchising authority and they want to let you know what is going on (*see attachment A*). Not having access to broadband and being in the school district is a bad thing.

D. Ross: Maybe the Family Services department should have a copy posted on the wall here too.

- LeeAnn Moynihan finished another IAAO course – Fundamentals of Mass Appraisals. We had a 5-year contract with the assessor and it’s up in December. I posted an RFP to see if this is an appropriate time to change assessors or not.
- We are trying to get more information from data we get – the acting fire Chief is going to a seminar to learn Firehouse better and use the analysis better.
- Katie Rosengren will give you an update on the Old Town Hall and LCHIP Grant; they had a site visit the other day.

K. Rosengren: We submitted an application to restore some windows; we gave them a tour and submitted photos to the review board. I understand the process is a bit complicated because the state budget hasn’t passed yet. Hopefully we will hear by December if we have been awarded the funds. They were satisfied with the answers we gave to their questions and also satisfied that we had existing walls they could use to restore.

J. Sullivan: You mentioned the water precinct taking advantage of the bridge; would that be possible additional contributions of funding to the project? That would be good.

PUBLIC INPUT

Harold Murray, 311 Hackett Hill Rd: I’d like to comment on the 20 mph blinking light. It’s a yellow sign totally different from a regular sign that says “when blinking” at the bottom. It can only blink during school hours. It will do nothing for you on weekends, nights or any other time school is not in session.

N. Comai: I just meant it was an add-on, not the only solution.

J. Sullivan: As Chairman, I am the only one who can respond so let’s be careful.

H. Murray: 2 years ago I stepped down as Warden and I came, at the request of Dr. Shankle, before Council on the town forest. I said at that time we have a tremendous amount of timber that can be selectively harvested. This has never been done. I have been through the last 3 town managers to request this and Dr. Shankle is the only one to start to get something done. There has been an attempt to make a real project out of this and I said don’t reinvent the wheel. This was put into the Highway Department and that got changed around. I don’t have off the top of my head how many acres the town owns, but I know there are 90+ acres on S. Bow Rd. and another 7 or 8 acres on Hackett Hill. It was hit by a windstorm and there are many trees there all uprooted and are useless after a couple of months. I would suggest strongly we get something going. That would be money coming in. The next thing is the town has to perambulate town property every 7 years, by state law. It hasn’t been done here, completely, in the last 14 years. The whole area is the Hackett Hill bound; there are witness rock not a bound – when they find that they see Hookset-Manchester and think that is the bound but it isn’t. The bound is a black oak 4’ away from that. The black oak is going to disappear. Manchester could care less if you ever figure these bounds out. They are the only ones who will gain anything if you do nothing. This is also a county bound; if there is any money that could be spent, the county can come in and you might be able to get something from them. You will find there was a curb cut issue for the new project in Manchester on Hackett Hill. There is supposed to be a buffer, but the trees are gone. The one up above, there was a 26’ buffer put in. When the occupants bought the house, they cut the trees down anyway. This isn’t being taken care of because there is a bound problem – Hooksett goes through an apartment house in Manchester. If you push it, you’ll have to pick up their garbage and put their kids through school. I spent

quite a bit of time there with Councilor Comai. Bounds have been removed and by state law, you can't just dig a hole and put the bound back in. The state has to do it. The Manchester bound was removed. We went back and looked at it and Manchester had put another bound in. One of the bounds encroaches into Manchester by 4' and takes porches off those new houses down there. It can be a problem when someone sells their house and finds out they don't own the porch. Denise Pichette-Volk is an expert on bounds, if anyone wants more information. Manchester has no desire to change this. One of the bounds is in the Merrimack River and doesn't exist except on paper; you can only get to the bounds on the bank. Thank you very much.

NOMINATIONS AND APPOINTMENTS

a. Appointment: Todd Lizotte – Conservation Commission, Alternate

R. Duhaime motioned to appoint Todd Lizotte as Alternate to Conservation Commission expiring 6/2018. Seconded by M. Miville.

Vote unanimously in favor.

10 MINUTE RECESS

OLD BUSINESS

a. 15-047 Establishing Speed Limit for Martin's Ferry Road

Note: Please see attached e-mails as Attachment B for additional public input received by the Council Chair and to be included into the record of these minutes.

D. Winterton motioned to take this item off the table. Seconded by N. Comai.

Vote unanimously in favor.

J. Sullivan: We are here to officially establish the speed limit for Martin's Ferry at 25 mph.

D. Winterton: The motion that was tabled was to post the speed limit at 25 mph.

D. Ross: Speed limitations 265:62 – the state has a method for changing speed limits on state roads. Traffic studies are not the sole item to be considered by the state, nor should it be by us. They allow more than just a traffic study to determine speed limits. If that was the case, the state would have an engineer to set speed limits. 265:60 – actual and potential hazards is also addressed in the traffic studies themselves. The engineering study pointed out someone walking a baby carriage on Whitehall Terrace; I see that on Martin's Ferry all the time, along with bikes, pedestrians, and students. I challenge anyone to say Martin's Ferry is a safer road than Whitehall Terrace; even the residents of Whitehall Terrace agree. There are 10 times as many cars on Martin's Ferry as well. Continuing to expand the college is going to increase the traffic. I drove Martin's Ferry from 15,000-20,000 times since I have lived here; my study carries plenty of weight and says it's not suitable for any speed in excess of 30, which means it should be posted no higher than 25 because we know they aren't going to get stopped for going 26 or 27. How is it that on one hand we have to be worried about the letter of the law for signage as opposed to enforcing it; and I would love to hear how many tickets were successfully contested. When it comes to enforcement, even if someone says we can't enforce 25-30 mph, they can write the ticket for going 35 in a 30 mph zone, even though the sign says 25 and get the signs changed someday. The other option is to change the signs to orange or yellow. We need to have a copy of the uniform signs document. Our job is to serve the constituents; we are supposed to do what they ask us to. Not one constituent has contacted me, or I would guess anyone else, to say we should raise the speed limit to 30. It's our job to fight it; if we need to spend money to fight speeding tickets, so be it. It's their money, not ours.

J. Sullivan: Our job is to establish an official speed limit. The current speed limit was not posted properly. The police department was hesitant to issue any tickets because they had no official vote by this body to do that. If this motion passes, the speed limit will be established and law enforcement will do their best to enforce it. There is something that will allow us to post at 25 based on information provided. If our posting turns out to be problematic, the administration will bring it to our attention. Then we can discuss any road improvements, mitigations, etc. That is a whole different issue.

J. Levesque: After reading the RSA's it seems the traffic studies are one man's opinion. I think it's up to us to gather all the info and make a decision about the speed limit. We have looked at all the data and we are well within our rights to set it at what we decide to set it at. We will support the police department

and see where it goes. If someone wants to take us to court to fight a 31 mph speeding ticket, so be it. We aren't going to find out unless we try it.

A. Jennings: While I concur the road could be in better condition, state law requires us to have a traffic study to give our police and prosecutor ammunition to go to battle and fight these. I think 30 mph is a better idea, then we can stop people going 31. Going back to Windham – we have a letter from their attorney (*see Attachment B*). It states the town will be violating NH state law, and I think we would be putting our police in legal and ethical dilemma by lowering it to 25 without the accompanying traffic study.

N. Comai: What I'd like to know is the Council can set the speed limit after having the traffic study; does it mean that we have to follow the traffic study?

Dr. Shankle: Yes, it says based on.

D. Ross: The state accepts testimony; why can't we?

N. Comai: Traffic study states 30 mph is the recommended speed limit. The RSA for NH states this legislative body has ability to set the speed limit. At which point are the 2 connected?

Dr. Shankle: That is why I provided the letter from Windham. The Chief had our prosecutor review this letter and she agrees with this as well. You have to take it into account; this is not about what staff and lawyers think. My job is to give you the information so you can make legal decisions. I don't see anything in state law that says you can ignore that traffic study. If you want to keep having traffic studies until one recommends lowering the speed limit, we can do that. We have done our job.

J. Sullivan: The letter says greater or less than the recommendation.

N. Comai: That's the study. If the study states 30, we could go to 35.

Dr. Shankle: If you look at the study carefully, he almost recommended the speed limit go up to 35 mph. By state law, the speed limit is set at 30 mph. If you want to go above or below that, you need a traffic study to support it. In this case he is saying the state limit for that type of road is appropriate and there is no reason to go higher or lower.

D. Winterton: It's clear to me that if we are following state law, we set it at 30; if we set it at 50 or 10, it doesn't matter. What matters is allocating the money we spend on public safety to enforce that speed limit. I will vote to make it 30 but I will also endeavor to give our enforcers the funds to dedicate people to enforce that speed limit. Most of the public input mentioned enforcement. If we issue more tickets, as we did on Hackett Hill, I think we can mitigate some of that traffic. We are never going to be able to control the speed on that road as Town Councilors. These roads were built before the town grew up. I can attest to where I live – I will not walk on Smyth Road – it is too dangerous.

M. Miville: I read loopholes in this and I am still undecided – if we just have to rubber stamp an engineering study then why are we here?

R. Duhaime: Steve Pernaw – he found another road in town that he recommends be posted at 25. You take the good with the bad. The whole point is we spent money and we got advice. We have staff, attorney, why would you hire all these people and not take their advice. That is tax payer money. There are a lot of improvements that have not happened. Nothing has been done and it shows; that's why it creates a safety issue. You can call all the traffic engineers you want, I don't think anyone is going to come back with a different recommendation. The road probably needs to be re-designed.

M. Miville: He asked what authority we have to go against a study; it says in 265:63 the local authority may declare a reasonable, safe prima fascia limit. We are the local authority. That seems to be the loophole. If we are deliberating for a month on a study we are supposed to rubber stamp, and another study comes up for a different road with a different result; it seems both roads should be 30 or both should be 25. A lot of roads have been artificially lowered to 25 illegally and now we have a big problem to fix. Why set a speed limit at 25 when you really know it's 30. We need to post it based on the law. We

are sworn to follow the letter of the law whether we like it or not. I am trying to determine what the law is and I see a loophole here. I'm referring to the letter from Mr. Hodes from last meeting's packet.

J. Sullivan: We have the letter from Mr. Hodes, the letter from Windham and they are being interpreted 2 different ways.

Dr. Shankle: This paragraph is from a specific court case, which is why it's different than the law. It's a court decision.

J. Sullivan: We need to, as the authority, post a speed limit. We have a motion to establish it at 25. If that passes, we have to deal with that. If we find out that is not accomplishing what we want it to, we may have to revisit it.

Dr. Shankle: There is a speed limit there, it's 30 mph based on state statute. If you do nothing, the only thing we need to do is change the sign to 30 because that is state law.

M. Miville: If we already knew the speed limits were wrong, why are they still existing? I swore to uphold the law. I am trying to find out what the letter of the law is; I'd like to hear from the Chief. I am torn between if we vote 25 on Martin's Ferry, will he be able to enforce it because he doesn't have a study to support that? If we post Whitehall at 30, but it's recommended at 25, would the police be able to enforce that?

D. Winterton: With all due respect to my colleagues, we have paid for legal advice to the town. It's not my job to scour the RSA to find a loophole. We have a court decision. If it's challenged this judgment is the first thing the court will refer to. If we ignore the RSA, the traffic study, the town engineer and our Town Administrator and pretend we are lawyers, I don't think we ought to do that. We should set it at 30, and give them the resources to enforce it.

J. Sullivan called the question.

Roll Call –

D. Winterton – No
N. Comai – Abstained due to needing more information
T. Tsantoulis – No
J. Levesque – Yes
A. Jennings – No
R. Duhaime – No
D. Ross – Yes
M. Miville – Yes
J. Sullivan – Yes

Motion fails 4-4 with 1 abstention.

D. Winterton motioned to set the speed limit on Martin's Ferry Road at 30 mph and request the Chief meet with the public safety committee to examine ways to mitigate the speed on that road. Seconded by M. Miville.

N. Comai: If we do nothing, it stays at the state speed limit of 30. We, as Councilors, can then mitigate the speed by enforcement.

J. Sullivan: We can't control what happened 14 years ago. This is our attempt to fix past mistakes. It reverts to 30 automatically. Mitigation is the key; enforcement becomes the question. We are establishing it at 30 mph and it becomes enforceable at 30 based on state statute and all the recommendations we have.

Roll Call-

T. Tsantoulis – Yes
D. Ross – No
R. Duhaime – Yes
A. Jennings – Yes

J. Levesque – No
D. Winterton – Yes
N. Comai – Abstained due to needing more information
M. Miville – Yes
J. Sullivan – Yes

Vote 6-2 in favor with 1 abstention.

N. Comai: Can we ask for a timeline on when we can expect information?

Dr. Shankle: The engineer reviewed the roads after last meeting. The Chief and I have talked about some of the things we would like to do. If you want to hear what he is already planning, that might be good.

Chief Bartlett: I talked to Mr. Beaulieu on Whitehall Terrace and Mr. Smith on Martin's Ferry. The issue isn't 5 mph it's enforcement and our ability to do that. When I look at deployment issues based on assets, man hours to do those types of things in addition to respond to the calls we have it's about personnel. I'd like to explore the option of hiring part time officers. We have one now who works 30 hours in the schools. We have another part time officer who retired and we kept on. That position has been used sparingly for holiday shift work or details on the road. If I can get 5 additional part time officers, we can dedicate some of those man hours to enforcement. Rate of pay is \$19.40/hour. SRO is 30 hours/week; it's about \$46,000/year for a force of part time officers. Uniforms are purchased by them and I'd envision we would purchase firearms, weapon systems, leather gear is on them. Preliminarily I am looking at a startup cost of about \$65,000 to have 5 additional part time officers, including equipment. That will drop off so it will be about \$46,000 per year for part time officers. We are looking at ways to increase personnel so we can dedicate our work hours for proactive things. We have other priorities: human trafficking, prostitution, drug kingpin. We have done a lot of good police work in neighborhoods in the last couple years. This is another one. To put cruisers on the street in the hopes of catching someone, they are going to get called away for shoplifting. This is just one way to mitigate those things so we can get back to doing a lot of proactive policing. Thank you.

N. Comai: Thank you for having some proactive thoughts on this. Constituents were commenting on lack of enforcement and I know you had reasons for that (labor and no legal teeth). This group of part-timers would be rotating throughout town as you see fit so it's not so predicted? Have you thought that through to keep on budget?

Chief Bartlett: Once they are set in place and equipment is purchased, unless the hourly rate goes up it will not change. The one part time school resource officer, established before I came here, hasn't increased since before I came here. Mandatory training we were covering for the second position (firearms, use of force, etc.). Those dollars are not at an OT rate, as they are not working 40 hours/week. I see an officer working a few hours a couple times a week or a full day a couple times a week or an additional officer on a shift to look at this data and put an officer to have visible police presence for a particular area. It's deployment based on need. Yes, I can see it rotating throughout town based on needs that come up. If there is no need, they won't drive around doing nothing. There have to be some results for the ongoing effort.

Dr. Shankle: At Whitehall Terrace, it came up that between 5pm-7pm was a safety concern; having part time officers would give you more flexibility to address something like that, correct?

Chief Bartlett: We can put them on a shift during commuter hours. If we have these additional officers, we can tailor their deployment to the needs we are finding.

D. Ross: When people pay fines for tickets, does the town receive any of that money?

Chief Bartlett: No.

D. Ross: Would it be possible to park an empty cruiser in some areas? That is all you need sometimes.

Chief Bartlett: I don't believe that is a good idea.

J. Sullivan: If I get at \$100 ticket in Hooksett, where does it go?

Chief Bartlett: Fines go to state and there are penalty assessment fees – hands free fine is \$100 but the ticket is \$124, \$24 goes to penalty assessment. The penalty assessment fees collected around the state get broken up to help fund the police standards and training academy, victim witness assistance programs and the courts. None of that money goes back to the town.

R. Duhaime: I always wondered why there wasn't an officer after school on Martin's Ferry to direct traffic trying to get out from Underhill.

Chief Bartlett: Shift change is difficult; I recently changed schedules so the shifts overlap. We could do that with these officers – for example, a red light bus violation that is the purpose of these part time officers. We can also use them for shift coverage instead of forcing someone to work a 16-hour shift.

R. Duhaime: Will there be a cost savings in your budget in the future?

Chief Bartlett: I don't know, these are just preliminary numbers. I don't want to replace full time officers with part time officers. I would look for certified officers. There are time frames we have to deal with in terms of certification that need to be addressed. This is to augment our current personnel.

N. Comai: Are there cost savings in place this fiscal year that we could find \$65,000 upfront to use for part time officers in your current budget? How do we approach this so you can get moving on this?

M. Miville: I would think any officers being hired would need to be on a warrant article for citizens to approve. I did not see this. I was talking about more speed limit signs; crosswalk at Underhill; cutting the brush. I was not talking about adding 5 officers, who the Chief said, weren't dedicated to traffic mitigation. I think it's more than \$65,000 – are they involved in raise increases year after year?

D. Winterton: It is my understanding if we raise the rate for part time officers that is not part of the Collective Bargaining Agreement.

M. Miville: I imagined measures we have talked about in the past – low key, traffic mitigations. Not 5 officers.

J. Sullivan: This would be part of the equation. Enforcement is one aspect and the other aspect is road inspection and changes, and the Highway Department will come back with that. How long would that take?

Dr. Shankle: The highway safety committee talked about stop signs and some other things. One of the recurring themes was enforcement. Cutting brush makes it easier for people to go faster. The highway safety committee does that.

J. Sullivan: If we give you the money to hire additional officers, can we request they be used in specific ways?

Chief Bartlett: I think we can utilize that personnel for the betterment of the entire community with some statistical analysis and decide where we can use those resources. Some of this is ongoing and fluid; you can't catch every speeder on every road in this community. We can make an effort to be more visible and more engaging to address certain issues.

D. Winterton: I applaud the Chief for coming forward with an idea. If we add an officer through a warrant article that is \$90,000. He has come with an idea that doesn't add any full time employees, anything to our insurance or police retirement. If we hired a full time officer at \$19/hour we would also have to pay \$5/hour towards retirement that these part time officers, dedicated to problem areas, could accomplish.

M. Miville: My constituents talked about the safety of the road. My aspect was we wanted to address the safety matters of it. I am looking at what can we do to this road to make it safer? Self-policing when they are not there. Those are the things I was looking at for my constituents.

Chief Bartlett: That is what the traffic committee will do: myself, town engineer, town planner, public works director. We will look at mitigating factors on that road. 3 or 4-way stop signs are not appealing for traffic calming, because accident data will increase. We will come back with something for you.

NEW BUSINESS

a. 15-069 Building Permit/Mechanical Permit Fees

Dr. Shankle: Last time these were changed was in 2001; they attempted to change them in 2010 and for whatever reason, Council decided not to do it at that time. This is one way to increase revenues. If you think you want to move ahead with it, you should have a public hearing before you make a decision.

M. Lavoie: Referring to Section R108 of the building code, I am the authority to govern enforcement of the code but you are the authority to set the fees. The research at that time indicates they were trying to double the fees from 2001 in 2007-2008. Electrical and plumbing is only \$10 and not worth their time to go get the permit – my suggestion is make it \$50. People are going to be more apt to get a permit. They aren't saving money, it's more than a fee. You can see the proposed increases on the sheet in your packet. We have added some items not included in previous codes. When prices were doubled in 2001, an air admittance valve was not in code. The re-inspection fee is \$25 but we can't find where it came from. I would like to have it legitimized by having you approve that. I think this is a necessity.

D. Winterton: On the permit cost comparisons, I think we should include towns that do and do not have impact fees. We can say permitting for a house is \$400 and we want to raise it to \$600.

M. Lavoie: That is only on new lots, not for existing lots. I can do that but it's something to think about.

J. Levesque: This is very reasonable. If you look at the cost of him having to go out to do the inspections. I think they are fine and I will be in favor of it.

R. Duhaime: On the cost comparison, Goffstown is a similar size and their commercial is considerably higher. Why is Londonderry 4 times higher?

M. Lavoie: My guess is there is no construction in Goffstown and Londonderry is booming right now.

N. Comai: Wouldn't this permit cost comparison be beneficial to post on our website to show potential builders coming in what it costs to do business in Hooksett compared to other towns?

M. Lavoie: Absolutely.

D. Ross: These are very inexpensive fees. I think re-inspection fees should be higher. If you need to re-inspect, it means they failed. There should be a bit more punishment for failing. You have to change your schedule and that can be frustrating.

R. Duhaime: Everyone pays taxes in this town. Now you have to pay a permit fee to improve your house and your house gets re-appraised. We should keep it to a minimum but I also understand the other side.

M. Lavoie: A generator fee is \$35, no matter what the size is, it's not proportional.

M. Miville: I assume the fee is fed down to the residents.

M. Lavoie: Yes, the contractor isn't going to eat that fee. It is factored into the overall costs.

Dr. Shankle: In Merrimack, we made sure the fees covered all the costs in the department. Some places see them as user fees; it's a philosophical difference.

***M. Miville motioned to direct Administration to schedule a public hearing for 10/14/15. Seconded by N. Comai.
Vote unanimously in favor.***

***J. Sullivan motioned to extend the meeting to 9:50pm. Seconded by R. Duhaime.
Vote unanimously in favor.***

b. 15-070 Signing of 2015 MS-535 Financial Report

M. Miville motioned to authorize the Town Council to sign the 2015 MS-535 Financial Report of the Town, City, or Village District Budget. Seconded by R. Duhaime.

C. Soucie: This is the state form we use to report budget to actuals. After the audit, they reviewed the report and the audit and the report match. Unfortunately we put this agenda item in front of the quarterly report which details those items. If you want to move ahead, that would make sense.

J. Sullivan: OK, let's go to quarterly report and come back to this.

c. 15-071 June 30th Quarterly Financial Report

C. Soucie: The auditors did not make any changes; these are the numbers in our financial statements. We spent \$13,472,877, leaving \$884,405 in unspent budget due to staff turnover. We had 20 full time employees who left (17% of staff). There were unspent wages of \$226,000 which is the net difference. Our OT was overspent but our wages were underspent. Most of the time we were returning anywhere from \$300,000-\$500,000; this \$800,000 is a large amount. We collected \$5,433,048 for the year. We had \$638,735 collected revenue over budget. Health Trust added \$197,000 of unanticipated revenue, and our Motor Vehicle collections were higher than expected also. We collected \$300,000 from Health Trust for insurance premium refunds and that ended up on our revenue. None of the departments were over budget this year. Under Administration, there was a steady increase in spending; property liability and workers comp are in this department. There was an increase of \$60,000 for those 3 years for property liability and another \$30,000 increase in workers comp. We bid them out and found savings and will continue to do that as we move forward. Fire and rescue came in about the same as prior year. They had a large turnover of staff and hire through an eligibility list. Their positions are only vacant for a month to 6 weeks. Police has been consistent year over year. The budget increase seems large, but I want to remind you we moved \$171,000 from police to DPW; it didn't really increase to \$390,000. Public Works – lack of staff contributed to the decrease. We moved some paving into this budget from 2013-2014 (\$502,000). Last winter was hard; we spent \$230,000 in salt, OT and plow blades. They also had to bear the cost for engineering of the Lilac Bridge. Recycle & Transfer is very consistent over last 3 years. All of these years had automated collection the full year. In 2008-2009, their budget was \$1.07M budget; actuals were \$826,000 spent. Motor Vehicles is the top revenue source and steadily increasing. No increase in the number of vehicles registered, just the types are more expensive to register.

D. Winterton: Those rates are set to the state, correct? We can add to them based on what the state allows us to add?

C. Soucie: Interest and penalties is a hard number to budget for; we usually do some trending. Building permits is the negative side on revenue, due to the number of multi-family and commercial permits dropped over the last year. State budget is up for review; I heard the state was looking to cut a lot of funding for the town.

R. Duhaime: When the new visitor center went in, there was something about that.

C. Soucie: That is in property taxes, and I didn't report on that.

N. Comai: I have confidence in the Board of Assessors and the assessor that came through on that. It all worked out well.

Vote unanimously in favor.

SUB-COMMITTEE REPORTS

D. Winterton: Hookset Youth Achiever met tonight and there will be a presentation at the next Council meeting. And under new business, I'd like to direct the Town Administrator to take advantage of the town's timber.

R. Duhaime: We need Councilors to sign up to help out with the Old Home Day booth.

M. Miville: The first budget committee meeting is on 9/17 to elect chair, vice chair, etc. Economic Development is meeting Wednesday and we are still looking for volunteers to interview local businesses. Contact Community Development or show up at 10am or 6pm on Wednesday 9/16.

J. Levesque: ZBA had 2 public hearings: Severino's pit on Pine St. They asked for 2 more years and it was granted. The other was Pike Industries requested to amend excavation permit and a site walk is scheduled.

PUBLIC INPUT

Dennis Desrochers, 71 Farmer Road: I have been a resident for 46 years and a town employee for 28 years; I have plowed Martin's Ferry and I understand the conditions on that road. I'm all for having more people out there, but I think there might be other options – speed trailers with cameras is an option. They are 24/7 and can be moved and you don't have to pay for benefits. Just another option to look at and see. We can move it to different roads.

J. Sullivan: I am going to close the public hearings on Whitehall Terrace and the proposed street name change.

J. Sullivan motioned to enter non-public session at 9:45pm. Seconded by T. Tsantoulis.

Roll Call -

R. Duhaime – Yes

M. Miville – Yes

D. Ross – Yes

J. Levesque – Yes

N. Comai – Yes

D. Winterton – Yes

T. Tsantoulis – Yes

J. Sullivan - Yes

Vote unanimously in favor.

NON-PUBLIC SESSION

- **NH RSA 91-A:3 II (a)** The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her.
- **NH RSA 91-A:3 II (c)** Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself.

D. Ross motioned to extend the non-public session from 9:50pm to 10:20pm. Seconded by J. Levesque.

Vote unanimously in favor.

D. Winterton motioned to exit non-public at 10:20pm. Seconded by D. Ross.

Vote unanimously in favor.

J. Levesque motioned to seal the non-public minutes of 9/9/15. Seconded by D. Ross.

Vote unanimously in favor.

D. Ross motioned to adjourn at 10:20pm. Seconded by J. Levesque.

Vote unanimously in favor.

NOTE: The Town website www.hooksett.org may have attachments to these Town Council minutes for documents referred to in the minutes, reading file material, and/or ancillary documents that the Town Council Chair has signed as agent to expend as a result of the Council's prior approval of the documents.

Respectfully Submitted,

Tiffany Verney
Recording Clerk



August 24, 2015

Town Council
Town of Hooksett
35 Main Street
Hooksett, NH 03106

Dear Chairman and Members of the Council:

As we begin our fourth year offering Internet EssentialsSM and with the back to school season upon us, we would welcome the opportunity for you to help share information to the families and students in your community who may be eligible to take advantage of Internet EssentialsSM.

Internet EssentialsSM provides families with children eligible for the National School Lunch Program (NSLP – Free and Reduced) with access to low-cost broadband service. Features of Internet Essentials include:

- \$9.95 per month + applicable taxes with no term contract or credit checks
- No activation or equipment fees
- WiFi router included
- Access to an affordable desktop or laptop computer for just \$149.99
- Free in-person and online web classes

Additional information on Internet EssentialsSM can be found at www.internetessentials.com. To get involved in spreading the word about the program, sign up on our partner portal, www.internetessentials.com/partner to download materials or order material such as flyers, brochures and posters all at no charge to you.

If you have questions or would like additional information regarding Internet EssentialsSM please feel free to contact me @ bryan_christiansen@cable.comcast.com or by telephone at 603-224-1871, ext. 202.

Sincerely,

Bryan Christiansen

Bryan Christiansen, Sr. Manager
Government & Regulatory Affairs

To qualify for Internet Essentials, households must be located where Comcast offers Internet service, have not subscribed to Comcast Internet service within the last 90 days and do not have an overdue Comcast bill or unreturned equipment in the past year.

Dean Shankle

From: David G Smith <accesslocksafe7@gmail.com>
Sent: Tuesday, August 25, 2015 2:56 PM
To: Adam Jennings; Cyrus Moulton; Dean Shankle; David Ross (personal); Donald Winterton; James A. Levesque; James Sullivan; Marc Miville; Nancy Comai; Robert Duhaime; Timothy Tsantoulis; Peter Bartlett
Cc: Joel Breton; radrn64@yahoo.com; a.edelberg@comcast.net; socchockey@yahoo.com; David Breault; Joan Mahoney; Patrick Dietrich; Matthew Harding
Subject: Martins ferry rd 8-25-2015

I would like to remind the Hooksett board about the facts from the three surveys conducted by the Town either through the Police department or an outside company finding. The total amount of auto's traveling on our Rd at it's peak, **daily is 4,271.7** almost all are commuters. **42%** are traveling over 34 MPH. that is very fast. The Chief stated the police department wrote only 24 tickets in a years time.

It was not easy to gather all of the residents to attend and speak at the resent meeting. I hope the counselors will side with the safety and peace of our street and vote to keep the 25 MPH speed limit and have the police actively enforce it. Without enforcement this whole movement will be for nothing.

In review all three surveys showed excessive speeds on the road at approximately 40%. I personally feel those numbers say it all. Speeding is the problem!

Please vote with the residents on this matter. Keep the 25 MPH and enforce it.

Thank you
David G. Smith

Dean Shankle

From: Lorie <socchockey@yahoo.com>
Sent: Wednesday, August 26, 2015 2:23 PM
To: David G Smith
Cc: Adam Jennings; Cyrus Moulton; Dean Shankle; David Ross (personal); Donald Winterton; James A. Levesque; James Sullivan; Marc Miville; Nancy Comai; Robert Duhaime; Timothy Tsantoulis; Peter Bartlett; Joel Breton; radrn64@yahoo.com; a.edelberg@comcast.net; David Breault; Joan Mahoney; Patrick Dietrich; Matthew Harding
Subject: Re: Martins ferry rd 8-25-2015

Dear Hooksett Board Members,

I would like to remind you all of the town meeting that was held on Aug. 12th. Subject being the speed limit on Martins Ferry Road.

Please remember the presence, and concerns of the residents on Martins Ferry Rd. The safety of the children, runners, bikers, walkers and pets. We are also concerned of the traffic noise and the littering.

Yes, some may find it difficult to keep their speed at 25MPH I guess..... but we all have rules to follow, and to be responsible behind the wheel of a vehicle. When you see and hear the concerns of the residents, the distance, width, and condition of the road on which you're traveling on, and the **staggering** number of the daily volume of traffic, wouldn't you want to go slower for your safety and for others? Think of it has your neighborhood?

Please vote with the residents to keep the 25 MPH speed limit, and the police presence to enforce it.

Thank you,
Lorie Bell
18 Martins Ferry Road

Sent from my iPhone

On Aug 25, 2015, at 2:56 PM, David G Smith <accesslocksaf7@gmail.com> wrote:

I would like to remind the Hooksett board about the facts from the three surveys conducted by the Town either through the Police department or an outside company finding. The total amount of auto's traveling on our Rd at it's peak, **daily is 4,271.7** almost all are commuters. **42%** are traveling over 34 MPH. that is very fast. The Chief stated the police department wrote only 24 tickets in a years time.

It was not easy to gather all of the residents to attend and speak at the resent meeting. I hope the counselors will side with the safety and peace of our street and vote to keep the 25 MPH speed limit and have the police actively enforce it. Without enforcement this whole movement will be for nothing.

In review all three surveys showed excessive speeds on the road at approximately 40%. I personally feel those numbers say it all. Speeding is the problem!

Please vote with the residents on this matter. Keep the 25 MPH and enforce it.

At this time there hasn't been any changes to improve safety on our Rd. There have been many suggestions but no action.

Very soon we will have the opportunity to assign our police officers to Martins Ferry Rd at the best times to observe and ticket drivers entering and leaving our neighborhood. School is about to open and the last thing we need is to present an unsafe environment for our children.

It is very important that we put this to the test. I don't believe there has ever been a police presence during the very busiest times during the day. Specifically before and after the grade school and also during college activities. Before long, we will see the groups of runners from the college training for their sports.

Please don't vote against your constituents who have worked to improve the quality of life in our neighborhood. Please support our concerns for a safer Hooksett neighborhood.

Keep the speed limit at 25MPH and assign out police force to enforce it.

Sincerely,

Joan
Mahoney

28 Martins Ferry

Rd.

Dean Shankle

From: david breault <s80v99@yahoo.com>
Sent: Wednesday, August 26, 2015 11:51 AM
To: Joan Mahoney; David G Smith
Cc: Adam Jennings; Cyrus Moulton; Dean Shankle; David Ross (personal); Donald Winterton; James A. Levesque; James Sullivan; Marc Miville; Nancy Comai; Robert Duhaime; Timothy Tsantoulis; Peter Bartlett; Joel Breton; radrn64@yahoo.com; a.edelberg@comcast.net; socchockey@yahoo.com; Patrick Dietrich; Matthew Harding
Subject: Re: Martins ferry rd 8-25-2015

Good morning to all of you,

The first thing I saw when I looked out my window this morning was a school bus going up the road toward Rte 3. It reminded me of the very important decision that is being made tonight regarding the speed limit for Martins Ferry Rd. Yes, I have been thinking about this decision for quite some time as I am sure all of you have as well. Here are some thoughts that I have been thinking about on this issue.

The first, of course, is the overall concern for the safety of those many people who use this road. There are the many categories of walkers and runners - students for the elementary school, college residents and the overall public at large, there are walkers/runners everyday. Then there are the bicyclists who use this road a lot, it must be a recommended route of travel as there are many who bike by our home in full gear - several early in the day, sometimes during the school day arrival time. Then, as we all know, the vehicle traffic that traverses over this road whether in residence, business ventures, school and college personnel, and, the many who use this road as a "short cut" or alternate route instead of Rte. 3.

This is a lot of use - and we must remember, also, that the road is very narrow, curvy and passes within a short distance to the elementary school. As it was stated in our previous meeting, it is only .7 miles long . . . only seconds of travel, very important travel, but a short distance in time. There are the Route 3 lights near McDonalds on one end and, on the other, after the "hair pin curve", is SNHU where the speed limit of travel is 20 mph. I don't know how long that stretch that goes through the college is, but it must be another .5 miles. My point here is the no one should be traveling this road with any mind of speed. Please consider how this road is used and how much travel exists on it already - consider, too, how the travel on this road should be limited to in speed because of all its uses - safety has to be the main concern, the safety for all that use this road.

There has been a great effort here regarding this issue by all of you here in Hooksett - certainly, a wonderful community who cares about its residents. The input and conversations that have taken place, the studies, the absolute concern of our leaders - thank you. Now it is time to vote and voice a decision regarding the overall safety on Martins Ferry Rd. Surely, posting it properly, monitoring its use, and keeping the speed limit at 25 mph would be the safest way.

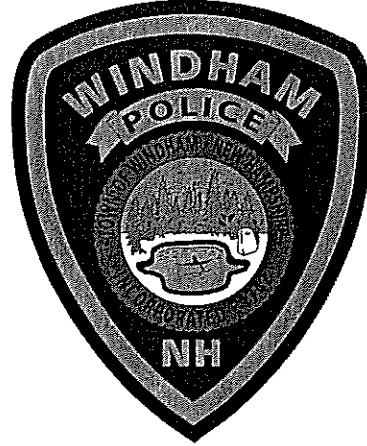
Again, thank you for all your considerations.

David Breault
28 Martins Ferry Rd.

On Tuesday, August 25, 2015 6:00 PM, Joan Mahoney <jmbftgog@gmail.com> wrote:

I would also like to ask the Hooksett Board to vote to keep the 25MPH speed limit

Memorandum



To: Chief Lewis
From: Attorney Heather Newell
CC: File
Date: November 25, 2008
Re: Speed Limits

This memorandum is intended to address the current issue of whether or not the Town can/should change posted speed limits on roads in Town without an engineering study. The two relevant statutes are listed below.

RSA 265:60, I, provides that no person shall drive a vehicle on a way at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Below the maximum speed limit of sixty-five miles per hour, the statute does not specify speeds beyond which travel is per se prohibited, but provides that travel in excess of the speeds specified in this section or **established as hereinafter authorized**, is prima facie evidence of unreasonable speed, RSA 265:60, II; *State v. Condict*, 122 N.H. 1133 (1982).

Currently RSA 265:60 sets prima facie speed limits of 30 mph in any business or urban residence district, and 35 in any rural or class V highway outside the compact part of any city or town

RSA 265:62, I, :63, I; states that either the commissioner of transportation or local authorities may alter the prima facie speed limits of RSA 265:60 for roads within their jurisdictions, **but only if they determine, on the basis of an engineering and traffic investigation, that the prima facie speed limit is greater or less than is reasonable or safe under the conditions found to exist at the particular location.** *State v. Condict, 122 N.H. At 1135-1136.* .

The altered speed limits become effective upon the posting of **appropriate** signs giving notice thereof, RSA 265:62, I, 63, III.

In summary, the Statutes and case law state that in order to change the speed limit on a town road, there must be an engineering and traffic investigation. The results of that investigation must show that the speed limit must be changed because it is not reasonable or safe under the conditions that exist in that area. The statute also says that changing the speed limit is not effective until there is an “appropriate” posting of a sign.

In looking at the e-mail regarding the Christina Downs case, it appears that the interpretation of the New Hampshire Supreme Courts decision is slightly incorrect. I will not address the decision rendered by the Maine Supreme Court as it is not controlling and therefore irrelevant to New Hampshire law. State courts will only look at the decisions of courts in other jurisdictions for guidance when there is no controlling law issued within the State of New Hampshire. In this instance, the New Hampshire Supreme Court directly decided this issue in *State v. Christina M. Downs, 2008 N.H. 1009, 218*. Upon reading the actual Opinion of the Justices in that case (see attached appendix), the Court spells out the two statutes mentioned above.

The holding of the Court is that when a speed limit is posted, the Court will make the presumption that it is valid. The burden of rebutting the presumption rests upon the party seeking to overcome it. *State v. Shannon, 155 N.H. 135 (2007)*. In this case that only means that the State does not have to prove that a engineering and traffic study exists or provide that study to the defendant. It means that it is the defendant's burden to prove that no study exists. The Court held that the defendant must introduce competent evidence tending to show a lack of strict compliance with the statutory procedures.” *State v. Downs (2008)*.

Therefore to summarize, Ms. Downs lost her case not because she didn't “show relevancy of an engineering study,” (See e-mail), but because she did not prove that there was no study done. Had she provided evidence to the Court that there was in fact no study than she likely would have won her case. This was specifically addressed in *State v. Langley, 92 N.H. 136 (1942)*, where a speeding charge was quashed because the defendant proved that the speed limit was not validly posted.

My concerns for the Town and specifically the Police Department is that we should not be altering speed limits on town roads when doing so does not comply with statutory requirements. The Town, in essence, would be violating New Hampshire State Law. This obviously poses both a legal and ethical dilemma.

From the standpoint specifically of the police department, a police officer must have probable cause to arrest or issue an individual a summons. RSA 594:10. If the police department and its officers is aware that a posted speed limit is not valid, then arguably he lacks probable cause to issue a citation based upon that posted limit. Thus, to do so would clearly be in violation of RSA 594:10.

In addition, as an Attorney and a Prosecutor, I have certain legal and ethical obligations to the Court. First a Prosecutor “shall refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause,” **Rule 3.8** (Special Responsibilities of a Prosecutor) of the Attorney Code of Ethics. The Prosecutor also has an obligation to “disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client.” **Rule 3.3** (Candor Toward the Tribunal) of Attorney Code of Ethics. Thus if I were to prosecute such a case knowing the law in *State v. Downs* and knowing that the signs are not validly posted, I could arguably be censured, or suspended by the New Hampshire Bar for an ethics violation.



HOOKSETT (225)

1. CERTIFY THIS FORM

Under penalties of perjury, I declare that I have examined the information contained in this form and to the best of my belief it is true, correct and complete.

Preparer's First Name

Christine

Preparer's Last Name

Soucie

Date

Sep 3, 2015

Audited Unaudited Compilation Report Attached

2. SAVE AND EMAIL THIS FORM

Please save and e-mail the completed PDF form to your Municipal Bureau Advisor:

- Michelle Clark: michelle.clark@dra.nh.gov
- Jamie Dow: jamie.dow@dra.nh.gov
- Shelley Gerlarneau: shelly.gerlarneau@dra.nh.gov
- Stephanie Derosier: stephanie.derosier@dra.nh.gov

3. PRINT, SIGN, AND UPLOAD THIS FORM


This completed PDF form must be PRINTED, SIGNED, SCANNED, and UPLOADED onto the Municipal Tax Rate Setting Portal (MTRSP) at <http://proptax.org/nh/>. If you have any questions, please contact your Municipal Bureau Advisor.

GOVERNING BODY CERTIFICATION

Under penalties of perjury, I declare that I have examined the information contained in this form and to the best of my belief it is true, correct and complete.

 **TIMOTHY R. TSASTUM**
Governing Body Member's Signature and Title

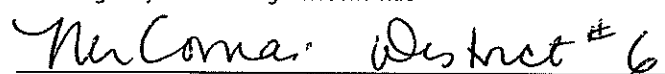
 **James A. Levesque, Dist 3**
Governing Body Member's Signature and Title

 **Robert DeBaine, District 2 Councilor**
Governing Body Member's Signature and Title

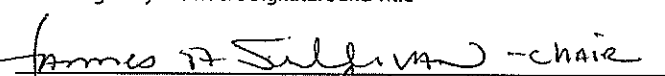
Governing Body Member's Signature and Title

 **Marc Murrelle, District 4**
Governing Body Member's Signature and Title


Governing Body Member's Signature and Title

 **Ken Comas, District # 6**
Governing Body Member's Signature and Title

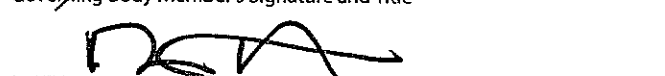
Governing Body Member's Signature and Title

 **James P. Sullivan - chair**
Governing Body Member's Signature and Title

Governing Body Member's Signature and Title

 **District 5**
Governing Body Member's Signature and Title

Governing Body Member's Signature and Title

 **District 6**
Governing Body Member's Signature and Title

Governing Body Member's Signature and Title