

These minutes were approved at the February 27, 2004 meeting.

**DURHAM BOARD PLANNING BOARD
WEDNESDAY, JANUARY 28, 2004
TOWN COUNCIL CHAMBERS - DURHAM TOWN HALL
7:00 P.M.**

MEMBERS PRESENT: Chair Watt, Councilor Arthur Grant; Kevin Webb; Nick Isaak; Richard Ozenich, Rachel Rouillard, Amanda Merrill, Neil Wylie

MEMBERS ABSENT: Annmarie Harris; Stephen Roberts

OTHERS PRESENT: Jim Campbell, Town Planner; Bob Levesque, Town Engineer; members of the public

MINUTES PREPARED BY: Victoria Parmele

I. Call to Order

Chair Watt called the meeting to order and said Kevin Webb would be a voting member of the Board that evening.

II. Approval of Agenda

Neil Wylie MOVED to approve the Agenda. The motion was SECONDED by Amanda Merrill, and PASSED unanimously.

III. Durham Storm Water Ordinance

Jim Campbell provided an introduction concerning the draft ordinance. He noted that Town Engineer Bob Levesque had spoken to the Board some months back about Phase II Storm water Rules developed by EPA. He said DPW had come up with a five-year management plan for the Town to follow, and the ordinance was part of that effort to make the Town compliant with the new rules.

Bob Levesque said the ordinance was intended to establish an enforcement piece for storm water management in Durham. He said the second phase of regulatory compliance was to insert water quality Best Management Practices (BMPs) in the subdivision regulations. He said storm water management in Durham was currently focused more on water quantity and runoff volume, than on water quality. He explained that EPA hadn't really provided water quality standards in the Phase II Storm water Rules, but said there was a lot of data from the west coast and other parts of the country where the rules had already been implemented. Mr. Levesque noted that Durham needed to be especially concerned about phosphates and nitrates in storm water runoff.

Mr. Levesque explained that under the new federal rules, developers were required to apply to EPA if they disturbed more than an acre of land. He noted this was essentially a

rubber stamp process once they applied, and was part of the reason why EPA had asked towns to establish storm water ordinances within 5 years so they would become the enforcement piece. He said Durham was somewhat ahead of other towns in developing the ordinance and that it was especially appropriate now since the Town was currently involved in revising the Zoning Ordinance and Subdivision Regulations.

Amanda Merrill asked if the storm water ordinance would become part of the land use ordinance and it was clarified that it would be. Mr. Levesque also explained that the Zoning Administrator would enforce the ordinance, with his (Mr. Levesque's) engineering expertise as a backup. He said the Planning Board would address storm water management as characterized in the Storm water II rules, as another item in the subdivision and site plan review.

Kevin Webb noted that a substantial amount of work had been done on the draft.

Mr. Levesque explained that it was a combination of three ordinances from around the country, including California and Louisiana, that had "teeth" in them, noting a lot of storm water ordinances did not have such "teeth".

Mr. Webb asked if other towns in New Hampshire were developing such ordinances and Mr. Levesque said Durham was probably one of the first towns in the State to do so. He noted the Office of Energy and Planning was supposed to assist towns in developing their storm water ordinances, but because of its recent reorganization, had not been able to provide him with much assistance.

It was agreed that it would be good to have someone from the State look at the draft document. Jim Campbell said he would find someone at the Office of Energy and Planning to look at it.

Mr. Webb said it would be important to have an attorney look at the draft ordinance as well, especially because it would be a "lightning rod" as one of the first such ordinances in the State.

Rachel Rouillard suggested it might be worth researching what north shore Massachusetts towns had done concerning their storm water regulations in response to the federal mandate, because they were often on the cutting edge in terms of river protection.

Chair Watt asked what the "teeth" were in the draft ordinance. Mr. Levesque explained that currently in New Hampshire, the State came to look at an erosion problem after it had occurred, but no mitigation was required other than to fix what had happened. He said this new enforcement capability would allow the Town to deal with people who created chronic erosion problems. He said enforcement included being able to actually go back to illicit discharges, over time, and impose fines up to \$5000 for true violators. He said other places in the country he talked to found they rarely had to do this but it was a great preventive measure.

Jim Campbell noted there were great specifics in the draft ordinance, like compliance monitoring, remedies, enforcement actions, right of entry, inspection sampling and publishing of dischargers, as ways to impact those who were causing problems.

Mr. Levesque said that in his mind, the storm water ordinance applied to the University – as a performance ordinance, not a use ordinance, noting the Town was liable for the area within the MS4 (Municipal Separate Storm Sewer System).

Mr. Campbell spoke about the draft ordinance's use of red tags for properties/property owners chronically not in compliance, so that this information would appear when that property owner brought an application before the Planning Board. He said it was not clear yet whether this would pass muster in Durham, but was an example of how the ordinance was taking strong steps to solve the problem.

Rachel Rouillard asked how the Board would know the draft ordinance would pass muster. She also asked whether, once the ordinance went to the Town Council, it would be responsible for establishing fees. Mr. Levesque explained the process that would be followed when there was a runoff problem. He said the Code Enforcement Officer would submit the violation, and if there was no compliance, there would be a hearing before a board of appeals, in this case the ZBA, which could issue a fine.

Amanda Merrill asked about regulation of pesticides and fertilizers as described in the draft ordinance, noting the language seemed broader than the storm water runoff issue. She also said this was an area that was already covered at the State level. Mr. Levesque said pesticides provisions were included in the draft ordinance in case the Town had to monitor them in the future, if such monitoring fell through the cracks at the State level.

Neil Wylie asked if the Town's wastewater system was completely separate from the storm water system. Mr. Levesque said it was supposed to be totally separate, but probably was not completely so. He said the University was at fault in some of this, and also said there were examples of homeowners who pumped sump pump water into the sewer system. He said DPW saw spikes during rain events where storm water got into the wastewater system.

Neil Wylie said perhaps the ordinance should specifically state that it did not apply to wastewater, noting a potential area of confusion in it which said a homeowner could discharge a sump pump into a storm drain system. He said someone might assume this meant they could discharge a sump pump into a sewer line.

Richard Ozenich asked about backwater from swimming pools, and also asked what people generally did concerning hot tubs. Mr. Levesque said chlorine concentration was the problem with swimming pool backwater. He explained that it was all right to discharge water from a pool to a catch basin as long as the pool hadn't been chlorinated for 5 days before doing so. He also said it was better to discharge water from a hot tub to the grass, where it could infiltrate into the soil, rather than discharge it directly into a catch basin.

Kevin Webb asked what the water quality problems in Durham were, relating to storm water runoff, and if there was much data on this. Mr. Levesque said there was definitely a problem with coli form, for various reasons, including domestic animals. He also noted the University had a significant number of outfalls, some of which it didn't know it had. Mr. Webb asked where the outfalls were, and Mr. Levesque said some were to Pettee Brook and College Brook, and not just out into the woods. He said that some of the outfalls were probably deactivated but the problem couldn't be grasped without visual monitoring, and if needed, coli form sampling. He noted this would take some time to accomplish.

Mr. Webb asked what the level of water quality treatment was provided by the catch basins in Town. Mr. Levesque said in reality most of the Town's catch basins provided little treatment, except for newer models, and noted that maintenance of catch basins was important.

Mr. Webb asked whether, based on the draft storm water ordinance, the Town itself would turn out to be the biggest violator. Mr. Levesque said he didn't see the Town would be the biggest violator, and explained that the goal was to provide a way for entities, including the Town, to change their processes where necessary.

Ms. Rouillard asked if phosphorus broke down similarly to some other chemicals, if discharged over land. Mr. Levesque said it did not, and explained that the best way to treat phosphorus was with wetlands. He also said a good practice was the use of natural ditches, which provided natural treatment of runoff, as compared to closed, granite systems.

Ms. Rouillard asked if action was being taken against people in Durham who filled in these natural ditches, and Mr. Levesque asked that he be notified when citizens saw this happening.

Ms. Merrill asked what the bracketed language was in the draft ordinance, and Mr. Levesque explained that this was suggested language. Mr. Campbell noted that the MS4 map should be included in the ordinance when it was submitted.

Mr. Levesque agreed, but explained that the ordinance had been developed for the Town of Durham, not just the MS4 area, and this included not only the Oyster River system but also the Lamprey River system, which was receiving greater scrutiny at the State level. He said that some time down the road, the Town would be mandated to regulate all of this area.

Mr. Campbell noted that other documents were also cited in the storm water ordinance, and an appendix should be developed to include them. He also asked where the language on page 18 – concerning “a period of at least 3 years” – came from.

Mr. Levesque said this was not a mandate, and it could be scaled back to yearly, but from general practice, 3 years appeared to be an appropriate time period because it allowed landscaping to get well established.

Mr. Wylie asked if bonding would be required for this. Mr. Levesque explained that the operator was the party that was liable, not the contractor.

Amanda Merrill quoted a statement on page 8, which said the [Town Engineer] could make the determination if a discharge was polluting, and that the correctness of the determination could be reviewed in any administrative or judicial proceeding. She said this language seemed very broad, but acknowledged she didn't know how it fit with existing state and federal procedures

Mr. Levesque said his reason for including this wording was that he felt EPA was going to tell the Town within five years, once the regulations were established, that it would have to go out and monitor. He said when he had to observe a site that was in violation of the regulations, he wanted to have this review of his determination by other experts as a backup. He said he didn't want the Town Engineer to have too much authority at that point. Mr. Levesque noted again that the EPA was looking to local governments to do their enforcement.

Board members commented that this appeared to be another un-funded mandate. Mr. Levesque said the federal government realized they couldn't do it on their own, and had therefore pushed the responsibility off to the towns. But he said in general, towns should be doing this. He spoke about the funding aspect of the storm water program, and noted that he and Jim Campbell were looking at the idea of using impact fees. He also noted the Town had received a \$10,000 grant from the State for storm water related GIS mapping.

Councilor Grant MOVED to send the Durham Storm Water Ordinance draft to an appropriate attorney for review and advisement, to the University for review and advisement, and also to appropriate State agencies and the Strafford Regional Planning Commission. The motion was SECONDED by Neil Wylie.

Mr. Wylie said he was still concerned about possible confusion by the public between wastewater and storm water, and said the regulations for each should somehow appear together so people would be able to make the distinction between them.

Mr. Levesque agreed it would be a good idea to put the storm water ordinance and the wastewater ordinance together for people to look at, and also said an educational effort regarding this whole issue would be worthwhile.

Councilor Grant said the word "DRAFT" should be made larger on the document so this would be made perfectly clear.

Mr. Webb recommended that Mr. Campbell find the most qualified attorney to review the document.

The motion PASSED unanimously.

IV. Lamprey and Oyster River Protection

Jim Campbell provided background information. He said he had received the Oyster River water supply protection letter on Jan 13th, although NHDES had sent it out some weeks prior to this. He noted that Paul Susca of NHDES was concerned about the timing, and Mr. Campbell said he had told him he would get feedback from the Board, and it was understood he could therefore ignore the deadline in Mr. Susca's letter. Mr. Campbell said there would be further meetings as the process developed, including public hearings.

He noted there was also a Draft of the Lamprey River water supply protection proposal, and said he had spoken with people at UNH about it. He said Mr. Susca expressed concern about bringing both the Oyster River and Lamprey River proposals forward, and also having hearings on reclassifying the Spruce Hole aquifer, all at the same time. Mr. Campbell said it was important to consider whether the Town should bring them all forward now or wait until later. He noted that in both the Oyster River and Lamprey River documents, Lee was hit much harder than Durham because it had more acreage in their watersheds, and also contained land that was part of the Spruce Hole aquifer. He said NHDES at this point was looking for some feedback from Durham

Amanda Merrill asked what stage the Lamprey River protection proposal was at, and Mr. Campbell said no hearings had been held yet concerning it or the Oyster River proposal, although some language had been developed for the Lamprey proposal. She asked if both proposals flowed from the petition process. Bob Levesque said the proposals flowed from the fact that they were public water supplies. He said the Lamprey river protection process was a much tougher sell.

Councilor Grant said that since Lamprey River water was treated at the water treatment plant, why would the Town want to pass an ordinance to prohibit uses.

Jim Campbell said there wouldn't be a local ordinance, but the regulations would be in NHDES administrative rules.

Councilor Grant questioned why the Town would want to be a part of this, and Mr. Campbell said if that was the case, the State needed to hear that. Councilor Grant said he was not concerned about the land development aspects of the rules, but was concerned about regulating recreational use of the river. There was discussion about this.

Rachel Rouillard asked whether, if these would be State rules, Durham had local authority for enforcement. She also asked how the proposed protection would interface with protection provided by the Town's shoreland overlay district regulations. Bob Levesque said although they would be State rules, they wanted to pass enforcement to the municipalities. He also said he was not sure concerning the shoreland regulations.

Councilor Grant noted this was yet another un-funded mandate.

Jim Campbell said these rules in most respects would be more restrictive than the Town's shoreland regulations

Ms. Rouillard said that if the State had the rules and wanted the Town to enforce them, if the Town had the authority to impose its own rules that might be more restrictive, clearly this was something the Town would enforce anyway. She said as usual, it appeared the Town could impose more restrictive rules than the State.

Councilor Grant asked that the map developed by NHDES provide more detail. He also recommended that Mr. Campbell reply to NHDES regarding the proposed Oyster River Protection proposal and tell them to proceed. He recommended there was need to postpone the Lamprey River process for approximately 6 months, because it was a much bigger deal. He said the Lamprey River proposal required a lot of input and review, and said the Lamprey River Association and the Conservation Commission should be consulted.

Neil Wylie said both of the proposed water supply protection programs required more study, and said he would like to hear from the Conservation Commission, both river associations, as well as members of the Legislature who lived along the Lamprey River.

Councilor Grant asked that Mr. Campbell respond to NHDES' letter and say that the Town wanted a 6-month postponement, and cite in this letter the various entities that the Town needed to receive input from.

Others Board members agreed that this was the best way to proceed.

Councilor Grant said he would like to have a discussion concerning the issuance of water permits during the period when a review of the Town's water supply (review of a Dufresne & Henry water supply allocation report) was taking place.

Neil Wylie explained that the summer shortages of water in Durham, even though most of the students were gone at this time, had raised the issue of how much water capacity actually existed. He said his concern was whether or not there was any basis for taking action regarding this, saying the Planning Board was not going to approve any more water connections until the water supply question was answered. He said it would seem pointless to hear applications during this period of time, and recommended a temporary moratorium, which he acknowledged was a fairly drastic step. But he said not doing this, and reviewing applications, only to have the Town say it would not issue a permit, would waste everyone's time. He said it was important to sort this out, so the Planning Board could meaningfully operate.

Councilor Grant said the Board needed to understand what was meant by "review of a Dufresne & Henry water supply allocation report" and how long this review was going to take. He said he didn't feel there should be a moratorium, but instead there should be an interim procedure where applications would be heard, but it would be explained upfront to applicants that water permits wouldn't be granted until after a certain date. He said if an application was approved and then a permit was not granted, the Board would need some legal basis for this.

Bob Levesque provided an overview on the water supply allocation study that was being conducted, and why it was being done. He said the Town Council had expressed concern over water supply when the last two applications had come before it. He also said it was hard for him to speak about water supply with certainty because nature controlled so many of the variables. He provided detailed data on the current water supply situation.

He said the goal in Dufresne & Henry's review of the present system and their previous data was to come up with an allocation number that would allow the Town to decide if it needed to come up with another source of water. He said there was also now data from the Wiswall Dam study done by the Army Corps of Engineers. He said Dufresne & Henry was doing their analysis now, and should have recommendations for the Town within approximately 60 days.

Mr. Campbell explained he needed to let applicants know that this was happening, and that the chance of getting approval was not good, and it made sense to wait. He said he didn't see any problem doing that, and noted some recent applications didn't involve Town water. He said if an applicant pushed the situation, the Planning Board had the option to state that the development was scattered and premature, because the Town didn't have the water supply.

Councilor Grant said for applications like Craig Meadows, the Town needed a finite explanation on the moratorium on permits, and roughly when it would be lifted. He said he believed it should be an order from the Town Administrator, or one from the Town Administrator that was adopted by the Town Council, that stated what the situation was, and roughly when the moratorium would be lifted.

Chair Watt noted the analysis might find there would not be enough water, and new supplies would have to be found.

Ms. Rouillard spoke about groundwater flows in Durham and the fact that not a lot was known about them. She noted it would be expensive to determine this, but asked if there was a sense of how the wells feeding large developments would affect groundwater, which in turn affected the Town's surface water and groundwater capacity.

Mr. Levesque said that an in depth analysis of groundwater, including Spruce Hole, was needed. He said groundwater was a precious commodity for every town in the Seacoast, and that the crunch had been coming for many years but it seemed like it was getting worse. He said a State formulated committee was looking at groundwater sustainability, but accurate data on this was limited, and further State data collection would be minimal, so the Town would have to take responsibility for getting good data.

Ms. Rouillard spoke about the costs involved with getting good groundwater data.

Mr. Levesque said Tom Ballistero, a professor at UNH, had good information on Spruce Hole, and said he would like to see him do this analysis. Mr. Levesque also said he was very concerned about septic system wastewater being put into the aquifer.

Councilor Grant pointed out that putting a hold on water permits applied to the University as well as the Town.

Neil Wylie said it was important to get clarity on this as soon as possible, for various reasons, including the fact that the Town was in some ways encouraging development in the core of the Town and preserving the outer areas, yet currently could not provide certainty about the Town's available water supply.

Rachel Rouillard asked if Mr. Levesque has seen the new septic regulations in the Zoning Ordinance draft, and when told he had not seen them, asked for feedback from him on them.

It was agreed that the Planning Board should not act unilaterally about this issue, and that Councilor Grant's recommendation should be followed.

V. Communication among Boards/Committees

Jim Campbell explained this issue was being addressed because there was sometimes a disconnect between the different boards and committee, so that relevant information concerning applications and issues sometimes appeared late in the process.

Chair Watt noted that as part of developing a better process for updating the Master Plan, it made sense to solicit information on a quarterly basis from the various boards regarding their concerns. He said if there were a specific venue to do this, it would encourage better communication between boards. He noted complaints he had received about numerous nonconforming uses having to go before the ZBA, which he said had not been told about by the ZBA.

Jim Campbell suggested that he could work with Planning Board representatives on other Boards to disseminate Planning Board activities to these other Boards once a month, and get feedback on this at quarterly meetings.

Chair Watt said he was concerned that this would be one more monthly thing for Mr. Campbell to do, when he already had so much to do. There was discussion about the most efficient way to do this.

Neil Wylie said it would be good to have a joint meeting once a year, which gathered together all members of the Town's various boards and committees to have general discussions. He suggested this should be a low-key effort, but would be a way to make the Town work better.

Councilor Grant said that was a good idea, but suggested they should start with a meeting between Chairs of the various boards and committees, so that important interrelationships between them could be identified. He said they might be able to accomplish what Mr. Wylie was talking about, over time, but noted this would need to be well structured.

Mr. Campbell suggested there should be an annual get-together of Chairs of the various boards and committees.

Councilor Grant said this suggestion should go to the Town Council. But he said he thought, by charter, the Council was supposed to have an annual meeting of the boards and commissions. He said this had been done for years but was extremely unproductive. He noted that when done at the Council level, unless someone was watching on TV, no one got the message except the Council and members of the committees who happened to be reporting that night. He said it would be more useful if the Council hosted the board Chairs so they could talk to one another.

Councilor Grant also said the Town's listserv could be useful in making connections between the boards and committees, and others agreed it had already been helpful.

Mr. Campbell summarized that there would be an annual meeting of board and committee Chairs after new members were on board, and at least quarterly, the Board would solicit input from other boards/committees on issues they thought were important for the Planning Board to discuss at its quarterly planning meeting.

VI. Legislative Update

Jim Campbell reviewed the following House and Senate Bills he felt might affect Durham, and said if Planning Board members wanted to take a position on any of them, he would be happy to express their views to the proper committee.

HB 0385 *Requiring compliance with local ordinances in the establishment of public ATV and trail bike trails on private roads.* Mr. Campbell said the bill had been returned to interim study, which would most likely be done over this summer, and would return in the fall. He noted other bills in the past concerning this issue had taken the opposite approach.

HB 0713 *Relative to penalty for violating zoning ordinance relative to governmental land uses, and relative to notice of zoning re-hearings.* Mr. Campbell said for Durham, this bill related to UNH, and said it required the board or governing body to have public hearings, and to issue reports. He said the bill also made nongovernmental use, construction or development of governmentally owned or occupied land subject to all local land use regulations. He noted the bill had passed in the House.

HB 0761 *Enabling towns to adopt subdivision regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control and relative to preliminary review of subdivisions.* Mr. Campbell said the bill added density rights to innovative land use controls, and allowed transfer of those rights. He also explained it allowed towns to require innovative land use controls where supported by the Master Plan; gave planning boards the power to require preliminary subdivision review; and removed the applicant's option to forego this when required by the subdivision regulations.

Kevin Webb asked if this bill was likely to pass, and Mr. Campbell said it had passed the House, had gone on to the Senate, and did not appear to be in trouble.

HB 803 *Establishing the NH downtown development program.* Mr. Campbell said this bill had died in the House the past week, and there was no indication when it would return.

HB 1137 *Relative to the use of impact fees for the purchase of public open space.* Mr. Campbell said a hearing on the bill was set for Feb. 10th.

HB 1148 *Defining a wetland (in RSA 42:A) for the purpose of fill and dredge in wetlands.* Mr. Campbell said this bill eliminated soils criteria, so the definition of wetland would be based on hydrology and vegetation (currently is no definition in this regulation). He said NHDES supported the bill, and there had recently been a subcommittee work session on it.

HB 1187 *Allowing municipalities to deposit land use change tax revenues into a heritage fund.* Mr. Campbell noted Durham didn't have a Heritage Commission, but if it ever developed one, the passage of this bill would probably be a good thing. He said this would allow a commission to purchase anything it felt was culturally important.

HB 1211 *Relative to the expenditure of land use change tax revenues.* Mr. Campbell said this bill changed the existing rules, and allowed a municipality to put the revenue into the general fund, etc. He said the Bill was still active, but was not sure it would go anywhere. There was discussion about what the advantage of this would be.

HB 1236 *Relative to municipal use of impact fees.* Mr. Campbell explained it eliminated the restrictions on the accounting for impact fees, and eliminated the six-year time frame to spend the money. He said this would be good for towns, and a hearing was scheduled for Feb. 10th.

HB 1283 *Relative to wetlands permits.* Mr. Campbell said the bill made the decision by NHDES final after appeal, and would not allow a Town to say no to a wetlands permit for dredge and fill. He said the bill was still in committee, and a subcommittee would be looking at it, and noted that the NH Planners' Association had opposed the bill.

HB 1284 *Relative to setbacks from wetlands.* Mr. Campbell said the bill required NHDES to define wetlands and establish minimal setbacks for wetlands, and said local towns could not establish standards that were different (could not be more restrictive). He said a subcommittee was currently looking at the bill, and noted he would definitely be following it.

Ms. Merrill said there were concerns about the three wetlands bills before the House.

HB1359 *Relative to the notice requirements for public hearings on certain zoning changes.* Mr. Campbell said this bill would require notice by registered mail to all property owners affected by restrictions to existing use of residential property, or the expansion of a dwelling unit, and changes in zoning from residential to nonresidential

districts. He said there would be a hearing on the bill on Feb. 4th, and said hopefully the bill would fail because it would affect most of the Town if it passed, and would be expensive to administer.

HB 1375 *Relative to powers of conservation commissions* Mr. Campbell said the bill would allow conservation commissions to contribute money from their fund to certain qualified organizations for the purchase of property interests to be held by the organization. He said this would allow the commission to leverage funds they had in the purchase of property, and noted a Feb. 10th work session on the bill was planned. He said he had been told the bill was beginning to come unglued, and told Board members he would follow up on it.

Councilor Grant said the problem was that different lawyers interpreted the statute differently, so that some said the local conservation commission could use its money in partnership with LCIP, the Forest Society, etc, to acquire easements, etc., while other lawyers said the mingling of public monies with non-profit trust monies was not allowed. He said this bill would make it clear the money could be used to match the non-profit funds, even though there was no ownership in the property.

Jim Campbell said he might stop in at the hearing on Feb. 10th.

HB1392 – *Relative to preliminary review of proposals submitted to a local planning board.* He explained that the bill set time limits for pre-application review of applications, whether required or voluntary, and noted that if the pre-application process were no longer voluntary, this would carry some weight. He said it also allowed for appeals to the ZBA in some situations.

SB 095 *Relative to the development of workforce housing within communities* Mr. Campbell said this bill had been killed the previous week, after passing the Senate. He said the bill would have required municipality land use ordinances to provide for creation of workforce housing, including an expedited appeal for projects that were denied.

SB 155 *Establishing a commission to study issues relative to large groundwater withdrawals.* Mr. Campbell said this came about because of the USA Springs issue, and a final report on this would be required by November of this year. He said he would update the Board on the findings in the report.

Amanda Merrill asked if appointments had been made for this commission, and wondered if there were still opportunities for various people who might be interested to get involved.

SB 157 *Establishing a committee to study certain issues relative to municipal planning.* Mr. Campbell said this bill had passed into law, and reported last year, and as a result, SB414 had been developed. He noted he had testified before the committee on SB157.

SB 162 *Establishing a committee to study water resources.* Mr. Campbell said the issues studied would include desalinization and future municipal water needs in NH, and said the committee was supposed to report its findings and recommendations by November 1st of each year. He noted this would be an on-going committee.

SB 176 *Relative to standards for plats recorded in the registry of deeds* Mr. Campbell said this required plats to be uniform in terms of formatting, and if the bill passed, the Board would have to make some adjustments to the subdivision regulations.

SB 359 *Relative to the erection of buildings on certain private roads.* Mr. Campbell said this would allow for additional authority for construction of buildings on existing, proposed or private streets, and essentially relaxed the standards for allowing a building on a private road, among other things. He said the bill was still in the Senate, and if passed would still have to go to the House.

SB 414 *Relative to impact fees and certain other land use regulations.* Mr. Campbell noted this bill came out of SB157, and said there was a public hearing on it that day. He said this bill would clarify the laws relating to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations. He said this bill, if passed, would have some implications for the Durham, and could significantly change the way impact fees were handled.

He noted the bill included impact fees in the group of laws that were exempt from the four year zoning exemption provided by RSA 674:39, and said this meant there was no development that would receive grandfathering protection. Mr. Campbell said that on the flip side, there were requirements for planning boards to specify by regulation what was meant by “active and substantial”, and the failure to do so would automatically give a development the four-year exemption.

He said the bill also restored the authority to levy off-site improvements, and also codified *Precella v. Farmington*, which said that planning boards could waive provisions of subdivision regulations. He noted this was in State statutes for site plan review regulations but not for subdivision regulations. He said the hearing on this had just been held, and he would follow up on the bill.

SB 481 *Relative to the Great Bay estuary.* Mr. Campbell explained this bill established the Great Bay sewer district for the purposes of developing a regional sewerage treatment plant and outfall delivery system. He noted the Board had talked about this issue before.

VII. Public Education Campaign

Jim Campbell passed out a first draft of several different educational pamphlets he had developed with the assistance of an intern, and said he was providing them to Board members in order to get feedback. He noted that the Master Plan had suggested some of these ideas for educating the public, and also suggested that this information should be given to real estate agents, to give to people before they bought properties in Durham.

The titles of the brochures were as follows:

- Getting to know your Planning Board
- Pedestrian & Bicycle Safety in Durham
- Land Conservation and Preventing Sprawl
- Wetlands & Shoreland Protection
- Volunteerism and Getting Involved
- Voluntary Wildlife Habitat Conservation Program

He said there had been several requests that the Planning Board make more effort to educate the public more on what it did.

Councilor Grant suggested there should be a brochure on the 3-unrelated persons issue, which could also include useful information for students about the Durham Landlord Association and the Rental Housing Commission.

Amanda Merrill noted that the UNH website provided information on renting in Durham, which included a type of student handbook for living off-campus.

Neil Wylie said a brochure on how to file a complaint would also be a useful topic to cover in a brochure.

Mr. Campbell noted that when someone had filed a health complaint the past year, Code Administrator Johnson responded to the complaint, and as a result, word got around and a flood of additional people filed complaints. He said the process worked well.

VIII. Process for Updating Master Plan and Continuous Ordinance

Jim Campbell noted that Chair Watt had recommended, as part of developing a better process for updating the Master Plan, that the Board should solicit information on a quarterly basis from the various boards regarding their concerns, as part of a continuous ordinance revision. He said this was a very good idea, and also noted another good idea Chair Watt had suggested was that identified chapters and sections in the Master Plan in need of reconsideration should be addressed by appointed working groups.

Chair Watt said that having survived the rewrite of the Zoning Ordinance, it was critical to avoid the “Manhattan Project” approach to working on this large, ambitious document that people had so much invested in, that often contradicted itself and was subject to so much interpretation. He said it made more sense if the changes were developed in discrete, manageable sections on a continuous basis. He acknowledged that periodically there would have to be a more global look at the Master Plan, but could be more of a consolidation of the previous changes, if these changes were made on a continuous basis.

Mr. Wylie showed an earlier master plan as compared to the most recent one, which was significantly larger. He said the State regulations only required two sections in the Master Plan, the vision section and the land use section. He also noted that an implementation section was suggested by State regulations. He said the next time this was undertaken, there should be guidelines for length, and some sections should be parsed out. He

provided detail on how this might be accomplished. He said the Master Plan was a wonderful document, but it was too hard to implement something this large.

Chair Watt said having an implementation section in the Master Plan would have made working with it much easier.

Councilor Grant suggested that in 2005, the Planning Board might consider establishing a process by which the 2000 Master Plan would be reviewed, and they would focus first on areas that hadn't been addressed, and consider whether those would be the main features of the Master Plan for 2010. He said they knew that half the things in the 2000 plan had not yet been addressed.

Ms. Merrill noted that contradictions that had appeared could also be addressed in this way.

Ms. Rouillard said she had not participated in the previous Master Planning process. But she said that she had worked in Manchester, which had a succinct Master Plan document, containing 3 pages for each issue, one of which listed implementation steps. She said it was easy to find specifics in this documents, and might be useful to look at in considering ways to reorganize and consolidate the Durham Master Plan.

Mr. Campbell said the implementation strategy needed to include who was going to address each of the various issues. He said in his previous experience, a number of committees had worked on the various implementation strategies.

Neil Wylie noted that the Community Development Plan had contained an implementation section, and that the model that was used to create it would work well for the Master Plan.

Nick Isaak asked if outside consultants had worked on the most recent Master Plan, and was told they had not. There was discussion about the pros and cons of working with consultants on the master planning process.

Chair Watt asked if quarterly planning meetings were included in the Board's rules of procedure, and there was discussion about how this should be handled in order to better codify the process. He said he would like his legacy on the Board to be that the process the Planning Board had gone through in rewriting the Zoning Ordinance and Subdivision Regulations should never have to happen again.

Neil Wylie and others agreed that updating the Master Plan should be done one piece at a time.

Kevin Webb also recommended that a priority list should be developed.

Councilor Grant said a retreat would be a good time to identify and develop this concept. Board members agreed it would be a good topic for the retreat.

IX. Retreat

Jim Campbell noted that the Board had previously said they would like to have two retreats per year, one before new members came on the Board, and one after. There was discussion on the best way to proceed.

Councilor Grant said he would like to see the Board defer the retreat until the Zoning Ordinance had gone to the Town Council, and other Board members agreed.

Jim Campbell said May-June would be good, and the topic of the meeting could be the process of updating the Master Plan and ordinance revision.

Mr. Wylie said this would also be a good opportunity to solicit input from the other boards and committees.

Kevin Webb said for new members, it would be helpful to have, at one of their first board meetings, the opportunity to get the big picture before having to get right into the details.

Mr. Campbell said that he could try to schedule that first meeting after the elections as a planning meeting.

IX. Other Business

A. Old Business

None

B. New Business

Chair Watt noted the Public Hearing on the Zoning Ordinance would be held on February 4th, and would be followed by a Zoning Rewrite meeting.

It was also clarified that the Hotel application was coming before the Town Council on February 16th, at the applicant's request.

X. Adjournment

Councilor Grant MOVED to adjourn the meeting. The motion was SECONDED by Kevin Webb, and PASSED unanimously.

The meeting ADJOURNED at 9:30 pm.

Amanda Merrill, Secretary