

DRAFT

WEDNESDAY, APRIL 14, 2004
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 P.M.
DURHAM PLANNING BOARD MINUTES

MEMBERS PRESENT: David Watt, Chair; Stephen Roberts, Vice Chair; Arthur Grant; Annmarie Harris; Nick Isaak; Amanda Merrill; Kevin Webb

MEMBERS ABSENT: Neil Wylie; Rachel Rouillard; Richard Ozenich

OTHERS PRESENT: Jim Campbell, Planner; Victoria Parmele, Minute Taker; members of the public

I. Call to Order

Chair Watt said that Kevin Webb would be voting in place of Neil Wylie for the meeting.

II. Approval of Agenda

*Councilor Grant **MOVED** to approve the Agenda. The motion was **SECONDED** by Amanda Merrill, and **PASSED** unanimously.*

III. Report of the Planner

Mr. Campbell noted the following materials in Board members' packets:

- Information concerning the Verizon application: the letter from Sentec, whose consultant had reviewed the noise report; the minutes from the site walk; the report from the consultant who reviewed the radio frequency report from Verizon; and Mr. Campbell's updated report on the application
- Letters regarding the tree cutting public hearing that people would like to have read into the record
- An update on Spruce Woods – which the Board would be talking about that evening
- A memo from his latest meeting with Doug Bencks of UNH
- A letter from the Town Attorney regarding the Stonemark v. Durham Case
- An additional request for technical review of an application, which he said would be discussing that evening

Mr. Campbell spoke about the Town Council public hearing on the draft Zoning Rewrite that had been held on Monday. He said it was not especially well attended and would be continued until April 26th, in part because it did not go out live because of a problem with the tape. He said he hoped Board members could attend this meeting as well.

He said the Planning office had received an application from Gary Lonsinger for a property off Timberbrook Lane, noting this had previously come in for a conceptual consultation. He said they were working to get that plan moving forward.

Mr. Campbell said that T Mobile was proposing a cell facility in Newmarket, off Simons Lane on land that abutted Durham. He said they had requested a right of way access through a parcel of land the Town of Durham owned, in order to be able to get to the site in Newmarket. He said the Town would be getting some of the lease funds as part of allowing use of the right of way. He noted the Town Attorney had said that T Mobile would have to come before both planning boards, and said a joint meeting was being considered. He said he and Clay Mitchell of Newmarket were trying to coordinate this, and noted that both boards would need to have a quorum, suggesting that Newmarket could hold the meeting and Durham Board members would come to it.

Mr. Campbell said he was applying for a State Planning and Research grant for a feasibility study of the Northern and Southern Connector, and noted the grant was due on April 15th.

He told Board members that on April 8th, he had participated in a training fire off of Spinney Lane with the Fire Department, and now had an even greater appreciation of what they did.

Mr. Campbell said he would not be at the April 28th meeting. He also said he would not be present for the continued Town Council public hearing on the Zoning Rewrite, so it was even more important that Planning Board members attend the hearing.

Amanda Merrill asked if Mr. Campbell could speak about the potential expansion of the Woodridge playing fields.

Mr. Campbell said expansion of the area where the baseball fields were was being considered, and noted a corner of the parcel abutted UNH property. He said there had been discussion of the possibility of receiving some land for UNH for the expansion, but said he was not sure yet whether this land would be needed.

Mr. Webb asked where the roundabout would be, and Mr. Campbell said it would be on Main Street, where the Loop Road was. He said the plan was being looked at by the Board of Trustees, and had been before the Traffic and Safety Committee. He also said there would be a Council presentation on this at some point. He explained that the roundabout was part of a long-range plan to create the loop road, and said the roundabout would avoid having to have a traffic signal.

Councilor Harris said she would like to know more about the possible expansion of parking that the University had proposed, and noted this was an area the University had promised would be left natural, as a protection for existing neighborhoods

Mr. Campbell said UNH was looking at possible expansion of the west edge lot area. He said another proposed expansion area was off the Mast Road extension, on a parcel across from RKG. He said they were looking at about 60 parking spaces for both locations.

Nick Isaak asked if the Board could get a copy of the drawings for the campus master plan, and Mr. Campbell said the plan was going to the Board of Trustees that week, and copies would be provided to others after this.

Mr. Webb asked if the southern underpass was related to the roundabout/loop road concept and Mr. Campbell said that it was.

IV. **Public Hearing Presentation** on proposed renovations to an existing barn on State property on Bunker Lane. The property is located on Map 11, Lot 21-0, within the Residential C Zoning District.

John Nelson, Chief of Marine Fisheries for NH Fish and Game explained that the State had purchased the property, located on Bunker Lane, 18-acre site. He said the barn dated back to the 1700's and said that it had been modified/restored in 1988. He noted that normally when the State acquired land like this, it took down the structure on the property. He said in this case, it turned out that NH Fish and Game decided it would like to use the building for storage, because they were currently using UNH barns for storage, and were gradually getting squeezed out.

Mr. Nelson said the barn would be used for passive storage, and said equipment to be stored there would be boats for summer, ATV's, snow mobiles, and various gear needed to open fish ladders. He said that activity at the storage facility varied depending on the season and program going on, and said that normally, crews were there for an hour or so, headed out, and might or might not be back to store their equipment.

He handed out and described a colored map of the Fish and Game parcel along with conservation parcels the State owned in proximity to the parcel. He also showed photos of the barn, which showed what has already been done to try to preserve the barn. He said the work that was done in the 1980s was structurally sound, and noted that about 2/3 of the building was restored at that time.

Councilor Grant MOVED to open the public hearing. The motion was SECONDED by Councilor Harris, and PASSED unanimously

Stephen Roberts asked if there were any activities on the site that would have any impact on any neighbors. Mr. Nelson said he couldn't think of any that would, and said as far as traffic was concerned, there would probably be a truck coming in once or twice a day, over a month's time, in spring and fall. He noted there was somewhat more activity in spring than in fall, when Fish and Game was getting their projects up and running.

Mr. Campbell said he had received a few calls as to whether Fish and Game had any intention to open up the class VI road for any more intense use.

Mr. Nelson said that usually when they bought property, they did so for wildlife purposes. He said he was surprised there was such a road, and said it was his hope that it would not be improved. He said the Fish and Game parcel was a nice piece of property and noted that the adjacent Hills property made the two together a good recreation area that would be good for hiking, hunting, etc. and would be open for all state residents. He noted that Bunker Lane was easy to miss, so it would most likely be locals who used the area.

Mr. Webb asked if there would be a public parking area on the property. Mr. Nelson said there would eventually be parking for 15-16 cars.

Joyce Mills, Durham Point Road asked if ATVs would be used on the property. Mr. Nelson clarified that the property was just for storage of these vehicles if officers needed them, and would be taken out on trailers. He said a management plan had not been developed for this property yet, but noted that plans for other Fish and Game properties usually didn't allow ATV use.

Councilor Harris MOVED to close the public hearing. The motion was SECONDED by Kevin Webb, and PASSED unanimously.

Board members agreed that Mr. Campbell should draft a letter to thank NH Fish and Game for coming, and for the care with which they presented their material.

Councilor Grant asked if there was any potential problem because of parking at the site, and Board members agreed there most likely wasn't a problem.

- V. **Public Hearing on a Site Plan Application** submitted by Verizon Wireless, Westborough, Massachusetts. The application is for a Personal Wireless Service Facility located on the Foss Farm Water Tank. The property is shown on Tax Map 6 Lot 1-18 and is within the Residence B Zoning District.

Amanda Merrill MOVED to open the public hearing. The motion was SECONDED by Kevin Webb, and PASSED unanimously.

Attorney Fienberg spoke before the Board, and provided a brief history of the proposed project. He explained as he had at previous meetings that presently Verizon had no cell coverage in Strafford County. He said the tank had been chosen because it was an existing site, and already had other carriers on it. He also noted that Verizon was mindful of the fact that the tank was owned by the Town, so the project could generate revenue for Durham.

Attorney Fienberg said by making use of existing structures, the proposed project was attempting to fulfill both the spirit and intent of the Zoning Ordinance. He said the location of the cell antennas on the Foss Farm tank would result in minimal impacts to the Town. He provided pictures to show there would not be a significant visual impact from the antennas. He also described the shelter that was planned to house equipment needed for operation of the facility, and asked for suggestions if the Town had a preference for a certain kind of landscaping to shield the shelter.

He said the facility would be unmanned, and would require one maintenance visit per month. He said the facility would be a benign use once operational, and would involve no dust or waste, and would draw on existing utilities. He said electric and telephone wiring would be installed underground, and said the facility would also include an emergency backup generator, which would function only in emergencies. He noted this generator would cover the backup generator needs of Verizon as well as another carrier at the site.

Attorney Fienberg said the noise study done by Mr. Schaedel was the starting point of addressing the noise issue, and said the study demonstrated that the generator would operate in full compliance with the Town's noise ordinance. He said that the independent review of this study, which he had just received, agreed that the facility would operate well within the limits of the noise ordinance. He noted the letter in Board members' packets which described how noise mitigation would be achieved, but said if all the calculations turned out

to be wrong, and the generator was too noisy, Verizon would simply shut it down and correct the situation.

Attorney Fienberg also noted the radio frequency report, which had indicated the proposed project was a good one. Mr. Schaedel spoke in some detail about this report, and noted that he had not provided the actual numbers in the report because results were below the limit that was required.

Ms. Merrill asked if the two existing facilities on the water tank did not have backup generators. Attorney Fienberg said there was presently no emergency backup equipment at the site, but said the proposed generator would be shared with Nextel, one of the other carriers there. He noted that Sprint, one of the other carriers there, usually did not use backup generators, but noted this might change.

Ms. Merrill asked if there was any recent history data as to how often the generator would need to operate. Attorney Fienberg said that snow/ice storms were the most likely times when the generator would be needed.

Mr. Roberts asked if there were elements of the sound reduction system that would have to be maintained. Mr. Schaedel said that an environmental protection system shielded the generator from the elements, and said there was an acoustically treated enclosure for the generator.

Mr. Roberts said that the more advanced units needed yearly torqueing, and noted he had experience with this in his business.

Mr. Schaedel said that diesel generator technology had improved considerably, and now operated much more smoothly than in the past.

Mr. Roberts noted that a mounting system for the generator had not been proposed, and asked whether the pad the generator would sit on would be within the enclosure.

Mr. Schaedel said in his experience, the enclosure was attached to the generator, and was not separately mounted.

Mr. Webb asked if the generator was essential double the capacity that would have been needed if the generator weren't going to be shared with Nextel. Mr. Schaedel said it was 80 kilowatts as compared to 60 kilowatts, and said it would not be significantly louder as a result.

Councilor Grant noted that at a previous meeting, the Board was told the generator would not start up until about 4 hours after the batteries ran out. This was confirmed by Verizon personnel.

Mr. Webb asked if, once the generator came on, it stayed on, or recharged the batteries and then shut itself off. Verizon personnel said he did not believe the generator would be hooked up to replenish the batteries.

Michael Barron, Woodside Apartments, said he was curious about the need for an additional cell structure in Durham, when there were already other providers in Durham. Attorney Fienberg said there were other providers but said the answer to the question of whether it

was needed, was that the system provided for competition. He said the FCC regulated the number of carriers who were licensed to provide wireless coverage, and said this went county by county. He said the usual number allowed was 4 carriers so there would not be a glutted market. He noted that Verizon had one of the licenses, but currently did not have any facilities in Strafford County, and only had two years to provide a network that would provide commercially acceptable service to Verizon customers.

Chair Watt said the money from the lease would be useful to the Town, and said the facility would also provide better service. But he said the question before the Board was whether the application was legal, and if there would be any impacts on the community.

Councilor Harris MOVED to close the public hearing. The motion was SECONDED by Councilor Roberts, and PASSED unanimously.

Chair Watt asked Mr. Campbell to draft the findings of fact and conditions of approval for the application.

Councilor Grant asked Attorney Fienberg whether based on Mr. Campbell's memo, the tank would need to be photographed and inspected before and after the installation. Attorney Fienberg said that was acceptable.

Councilor Grant also asked if the applicant would need to provide a bond, and Mr. Campbell said this had been noted in the memorandum.

Councilor Grant spoke of Code Enforcement Officer Johnson's concerns.

Mr. Campbell said some of these had been discussed: an enclosure for the generator; also, the cumulative effect of the noise; and whether the generator should be sized to accommodate Sprint and Nextel. He noted that Mr. Johnson asked whether generators for Sprint and Nextel had previously been denied by the Town, and said he had not found any evidence that they were. He also said Mr. Johnson had asked why the generator couldn't be put in a sound controlled building; how the diesel fuel would be delivered; the size and type of tank; and if there would be secondary containment for spill prevention. Mr. Campbell said the Board had received a memo from Attorney Fienberg addressing these issues.

Councilor Grant asked if the gentleman at the prior Board meeting who was an abutter, and who had some concerns about the application, had gone on the site walk. Chair Watt said he had not attended the site walk.

Mr. Campbell said the consultants for Verizon were asked to consider this gentleman's property in their review, and they did so.

Attorney Fienberg noted the two waiver requests had not been addressed.

Mr. Campbell said these would be addressed formally, but said the 2 ft contours had already been provided, and the other waiver was concerned not having to show all the wells and leach fields in the area. He said they would not have to provide the construction guarantee, but would be posting a bond for the maintenance.

Councilor Grant asked if the bond would cover liability on the water tank if there were damage during installation, and Mr. Campbell said he believed that insurance would cover this, and was part of the lease. He said he would check on this.

Chair Watt said this should be a condition of approval.

Mr. Campbell noted the requirement of certification of the noise report had essentially been satisfied.

Councilor Grant said that the requirement of an acoustical engineer should be changed in the site plan review regulations, since they were so hard to find.

Mr. Roberts noted that the noise ordinance had two sound classes, one for continuous sound, and the other for intermittent (5 dB lower) sound. He asked Mr. Campbell which should be used. There was discussion about this. It was agreed that the Board needed to take a serious look at the Town's noise ordinance to clarify this and perhaps other things.

Mr. Webb said one of the conditions suggested by Mr. Johnson, which Attorney Fienberg had agreed to, was that servicing of the generator would be done weekly, and would be limited to Tuesday-Thursday, 9-3 pm. It was agreed this would be put in the conditions of approval. Mr. Webb asked if there was anyone in the audience in earshot of the facility, and there was no response.

He also asked if a concrete curb could be placed around the double-walled fuel tank as well, noting there was a wetland downhill from the property.

Mr. Roberts asked if the current noise suppressive mounting systems widely in use would be of any assistance in noise containment. Mr. Schaedel said he had not analyzed that, so could not answer the question.

Mr. Roberts asked if this could at least be looked into. He said the equipment was not expensive. Mr. Schaedel said he would look into this, and would report his findings to Verizon.

There was discussion about the company that had reviewed the radio frequency report. Mr. Campbell said the company was Accentech, and noted the review had been provided to Board members.

Mr. Campbell asked if the concrete curbing was something the Board wanted placed in the Conditions of Approval. There was discussion about this.

Councilor Grant said the Board should recommend it, because there might be spillage by the fuel supplier. He said this was probably already in the specifications.

Mr. Roberts said there were also spill containment systems that fit as a pad and totally contained the area, about 12 inches high.

Attorney Fienberg said the specs for the generator pad said it was beveled. He also said there was a belly pan.

- VI. **Public Hearing** on a petition submitted by Public Service of New Hampshire, Manchester, New Hampshire, to trim and remove trees along Durham Point Road and Bay Road which are considered scenic roads in accordance with RSA 231:158.

Councilor Harris MOVED to open the public hearing. The motion was SECONDED by Nick Isaak, and PASSED unanimously.

David Crane of Public Service Company of NH said they were proposing to trim some trees in Durham as part of a five-year cycle. He said the location of trees to be cut in Durham this year was Bay Road and Durham Point Road, the last two miles before the road reached the Newmarket town line. He said the specifications were to remove any trees or limbs 4 inches in diameter or less, that were eight feet to the side of the lines, 15 feet over the lines, or 10 feet below the lines. He said they would remove larger trees on a case by case if they were dead or defective, and this year had identified 4 trees that needed to be removed, 2 which were dead, 1 which had root decay, and another which was uprooting.

He said the contractor Asplund, was required to contact abutting landowners before work was done, and to reach agreement on what work would be done. He said the work of contacting landowners was scheduled to start the next day, and cutting would start in about a month. He said there was one area where a crew needed to be brought in before growth started because of the proximity to the lines.

Councilor Harris noted there was some pretty radical cutting the previous year, and asked if the same person would be in charge of the cutting this year. Mr. Crane said there had been a change in supervision, although some of the crew would be the same. He noted that the Packers Falls work the previous year involved a much larger amount of growth to remove than this year's work.

Councilor Grant asked if the 4 trees to be removed had been tagged, and Mr. Crane said all would be marked by the next day, with red flagging.

Mr. Campbell noted that in Board members' packets the list of trees said 3 trees were on Adams Point Road, and 1 was on Bay Road. He said the pole numbers were 9-42 to 9-43. Mr. Crane said the Verizon poll numbers 115 and 116 would also help to find the trees. He provided additional information on poll numbers.

Councilor Grant asked if there was a total of 4 trees, plus 3 additional trees. Mr. Crane said there were three additional trees that he had just been located. He said in general, the lines were in very good shape.

Laurie Potter, Deer Meadow Road, said she had come because of concerns about cutting that had occurred the previous year, at the beginning of Durham Point Road. She said perhaps the same protocol was in place last year as this year, and said if it was, she was very concerned, because her sense was that it was not respected. She said the mature trees played a large role in preserving the rural feel of the road, but the first mile and a half of the road was dramatically and changed the previous year with the removal of the old, irreplaceable trees, and the exposure of the telephone lines.

She said she understood the need for trimming, but said this should be balanced with aesthetic concerns. She said Public Service had a second public trust - to act as a good neighbor, and said careful, discrete trimming would provide the same result as tree removal. She asked the Board to instruct the company to return to their former practice of tree trimming and not tree removal. She said Dick and Van Gsottschneider also lived on Durham Point Road, and had asked that she mention their name concerning this issue.

Joyce Mills, Durham Point Rd, said she was a long-time tree hugger and said she was dismayed at the cutting of the large pines, and pleaded with the Board that this shouldn't happen again, and to insist on tree trimming, noting this was after all a scenic road.

Mr. Campbell noted that Public Service was before the Board because the Scenic Roads statute pertained to trees within the public right-of-way, and a public hearing and approval of the Board was required. He noted that if the trees were on private land, the Town was not involved.

Michael Hoffman, Durham Point Road noted the Master Plan spoke about the scenic road requirements, and said many people were concerned about the beautiful canopy that had been opened up with the removal of the trees. He said the aesthetics of the area had been changed dramatically. He said the people of Durham had made it clear how important scenic roads were, and that they needed to be protected. He said he hoped there would be discrete trimming this year. He said there was no problem with power outages on this road, and also said that perhaps some bonding would be necessary so the company would be very sensitive to the cutting of trees.

Ed Valena provided minutes of a Board meeting from two years back that discussed the upcoming trimming of trees. He said the minutes indicated that the work should be overseen by a tree warden and he said this would be a good idea this year.

Donna Heald, Longmarsh Road, said she had been surprised at the nature of the trimming. She said the power lines were now very exposed and that is what most people now saw when they drove down the road. She said the careful cutting that used to be done was not what she was seeing now, and said the idea of a tree warden being part of the cutting program was a good idea.

Barry Ryan, 321 Dame Road, noted that the new zoning provisions were looking to protect rural character. He said the area where the large amount of cutting occurred was highly used because it was beautiful, and said most of the trees taken were pretty healthy pines. He said removal of scrub and growth dangerous to the wiring was all right, but said PSNH should preserve as much as possible. He said Adams Point Road, although not at this point a scenic road was highly used for recreation and the canopy there was very special.

Chair Watt read an email from Sally Ford, 433 Bay Road asking for assurances that there would be no massacre of the trees. He also read a letter from Joan and Frank Graf that asked that only trees that were certifiably dead be removed.

Councilor Grant said the Board had received assurances two years ago that there would be minimal trimming, and said the Board now needed to institute some kind of procedure to deal with this. He said Mr. Crane did not appear to supervise what went on with contractors, and said that once the work was done, not much could be done to remedy the situation. He

recommended that the Board have an arrangement where the tree warden would go out with Mr. Crane and inspect the trees, and to certify the trees that should be removed.

Ms. Merrill asked if the tree warden had oversight of the process two years ago. Councilor Harris said Director of Public Works Mike Lynch who is also the Town's Tree Warden, had oversight of this, and it was noted that he was not an arborist.

Joyce Mills said she spoke to Mike Lynch after this happened and said he seemed unconcerned. She said they needed someone else to oversee this.

Rachel Rouillard said the Board needed to hire an arborist to oversee this, who would be able to certify whether the trees actually needed to be trimmed, or removed. There was discussion about what kind of forestry professional should be hired.

Councilor Grant MOVED that the Town Planner make arrangements for a qualified forestry professional (Don Black) to inspect the trees that had been marked, who would indicate to the Planner his findings as to the need to remove those trees. The motion was SECONDED by Councilor Harris.

Ms. Rouillard said the Board should make clear to whoever did this, what the Board's expectations were concerning judicious trimming, because without this instruction, there might not be a different outcome.

Donna Heald said this was not just an issue of cutting the trees, but it was also important to keep the large limbs at the top that provided the canopy on scenic roads.

A member of the public asked if the problem resulted because the trees that were cut had been selected, or because the crew ran amuck. She said certification by a forester would have no bearing if the crew implementing the cut were not carefully supervised.

Members of the public said many of the trees that were cut were healthy, "money" trees.

Councilor Harris said perhaps a report needed to be prepared on how this over-cutting occurred. A member of the public said the report might be a good idea, so Mr. Lynch would understand how important the trees were to the community.

Chair Watt asked if trees that were not marked were taken, and members of the audience said there appeared to be 18-20 inch healthy trees that were taken unnecessarily.

Mr. Campbell said it was important to mark the right of way, to see which were to be cut at the behest of the landowner, and those that weren't.

Mr. Crane said a reasonable person would probably not have problems with the trees chosen for cutting this year, but he said he would be glad to go over this with those concerned.

Diane Carson, 163 Durham Point Road, suggested that Mr. Crane and members of the Board should drive down that road, so they would understand the emotions of the citizens.

Mr. Crane said that would be very helpful to him. He said he understood the emotions involved very well. He said Aspland was not paid by the tree, so there was no incentive to cut more trees.

Stefanie Daly, 551 Bay Road said Adams Point was not designated as a scenic road, but asked if the tree cutters would still be careful there. Mr. Crane said all the trees identified there were dead, and no live trees above 4 inches in diameter were marked for removal.

A member of the public asked if PSNH planned to do side roads off Durham Point Road as well. Mr. Crane said work was planned on Sandy Brook Drive.

A member of the public said citizens were also concerned about limbs. He said he had worked for Asplund, and noted that trimming a tree well took time. He said he hoped that PSNH would tell the crew to be careful.

Mr. Crane noted there had been a lot of delayed maintenance when PSNH was in trouble financially, so in some areas there had been a lot of re-growth. He said he would be glad to ride the entire length of the road in question to look at the present situation.

Mr. Campbell said this might be a good opportunity for PSNH to look at changing its standards for scenic roads, in terms of distances that limbs could be from the utility lines.

Mr. Crane said all roads were similar in terms of the way electric current flowed, and the rate at which trees grew, so the same factors applied to all roads. He said one could trim less, but there were safety risks involved in doing this.

Mr. Campbell said there still should be somewhat different standards for scenic roads, and said this was something to keep in mind.

Mr. Roberts asked if it would be appropriate for the Board to do a site walk of the area and to have minutes taken of the walk.

Chair Watt said the Board could discuss this. He asked if the Board could place conditions on the work to be done.

Mr. Campbell said they could, and noted that PSNH couldn't proceed without the blessing of the Planning Board. He said going through this process could be a win-win situation for everybody.

Councilor Harris recommended that audience members write letters to the Town Administrator on these past issues concerning tree cutting/trimming, so he would know about them.

Ms. Potter said that when the cut started last year, her husband got the names of people to contact, but this made no difference. She also said more notice needed to be given about trees removal/trimming plans on all roads.

A member of the public said the person doing on site monitoring needed to have authority to stop the cutting if needed.

Malcolm Sandberg, Durham Point Road, said he was devastated to see the trees coming down, noting that he was in Town Hall that day, and had asked for a cease and desist order early on. He said the Town was helpless because of the nature of the contract and limitations of the scenic roads ordinance. He said as he recalled, the Town had no true authority under the ordinance, but had the hearing so the message and sentiment could be

given to the company out there with the chainsaws. He said what was needed was more than having a person on site with no authority, and also said what was needed was a commitment from the supervisor to assure that whatever cuts were made were the most conservative, restrictive cuts.

He said judicious trimming took a lot of work, but said if it was a dollars and sense contract driving this, the Town would likely see a poor job. He said Durham wanted a high quality job, and had been known to pay for quality. He said that when citizens started seeing devastation of scenic roads, they were all affected. He asked that the Board ask PSNH for cooperation and goodwill to the extent that it could, and to exercise any and all authority it had, to ensure it would be a quality job, and not a quick and dirty job. He said it would be a long time before Durham Point Road recovered, and said sometimes people could become satiated with ugliness, but in situations like this the Town need to wake up and demand excellence from the people who were serving the public good.

Mr. Crane said he would work closely with the forester as well as the supervisor and do a site walk. He also noted differing crews had different levels of skill and different styles of working, and said they would be sure to select the foreman and crew that were best suited to this particular work.

Chair Watt recommended that the Board determine how to proceed. He said it was clear that the project needed an oversight agreement.

A member of the public said she had lived on Adams Point Road for over 20 years, and in all those years this kind of thing had never happened. She said the trimming had always been done judiciously. Another citizen living on Dame Road said people should be notified if cutting would affect their trees.

Mr. Crane said Asplund was required to do this, and would be contacting homeowners on Dame Road.

Councilor Grant MOVED to close the public hearing. The motion was SECONDED by Councilor Harris and PASSED unanimously.

There was discussion as to how to proceed.

Councilor Grant said there appeared to be agreement on the need to cut the dead trees, so the motion to have Don Black inspect the trees to be cut didn't make as much sense, when the real potential problems had to do with trimming of limbs and brush.

Chair Watt agreed they needed to look at the entire operation. He asked how the limbs to be removed were decided on, and Mr. Crane provided specific details about this. He said on this particular road, he wouldn't approve any cutting without looking at it.

Chair Watt said it was clear that the tree cutting/trimming policy seemed to have worked well for years, but then something changed.

Mr. Crane said it sounded like the scope of work was greater than just maintenance, since healthy trees were removed. He said the arborist for the project, Brian Sallis, was still with the company, and said he would talk with him to get some insights.

Ms. Rouillard said there were two key issues. She said the first was the importance of receiving assurances concerning tree trimming and cutting to be done, which would best be accomplished by having a forestry professional inspect the proposed work to be done. She said the second issue was that the work itself needed to be a quality job, and said Mr. Crane appeared to be willing to look out for this, and Mr. Campbell would be looking to find someone to work with him to achieve this.

There was also discussion about the importance of overseeing the work that was done. Mr. Campbell suggested a digital video camera could film the areas before and after the work was done.

Councilor Grant said a crucial part of the process was the person with the chainsaw, and said the Town needed to impress upon PSNH their role in preserving scenic roads in Durham. He recommended that conditions should be attached, that Mr. Crane would supervise the work of the contractor on site. He said Mr. Crane didn't have to be there the whole time, but said PSNH could invest a portion of his time to ensure that this kind of problem didn't occur again. Councilor Grant asked if Mr. Crane lived close enough to check the work each morning.

Mr. Crane said this would not be possible, but said he could go to the sites of the work at the beginning of the process, to ensure that the foreman understood what was wanted as well as what happened last time. He again said he would select the right crew and the right foreman for the job, and would also speak with the person who would be contacting the landowners.

Councilor Grant said on the basis of the discussion, he would withdraw his motion, because under the circumstances, the problem was supervision of the cutters, and Don Black couldn't do anything about that. He said the Board should send PSNH a very firm letter about the citizens' extreme dissatisfaction, and the Town's insistence that the cutting be done under Mr. Crane's supervision.

Mr. Crane suggested that if the Town hired a local person to help oversee the situation, this would be helpful to him, could help him keep an eye on things, and could contact him if there were any problems. He said he wanted to get the job done right, and said this wouldn't require that much time and work.

Ms. Rouillard said it made sense to hire someone, perhaps Mr. Black, because the Town wanted to start to set a precedence regarding trees on scenic roads, and perhaps could develop a process that would also work well in the future.

Mr. Isaak suggested drafting procedures to deal with tree cutting/trimming, and Chair Watt noted this would be a good punch list item for their quarterly meeting.

Mr. Campbell said the State Scenic Road statute allowed towns to create ordinances that went above and beyond the statute. He said the Board had heard that evening that this was probably in order. There was discussion about this.

Mr. Crane said he would make himself available for any kind of work session on this, in order to answer technical questions.

Chair Watt said it appeared this had not been a huge issue in the past, but it would be good to build in a culture of managing these kinds of issues better. He asked Board members if they wanted to hire a forester, and also have a public meeting /site walk on this.

Councilor Grant said based on Mr. Crane's suggestion, he would re-institute his recommendation that the Town hire a forester. It was agreed that Councilor Grant's original motion, which was seconded by Councilor Harris, would be incorporated into a new motion as follows:

Councilor Grant MOVED that the Town Planner make arrangements for a qualified forestry professional (Don Black) to inspect the trees that had been marked, who would indicate to the Planner his findings as to the need to remove those trees and that the Board approve the petition from PSNH subject to the following conditions:

David Crane will select the crew that understands the Town's wants and needs.

- ***There will be a supervisor on the site visit along with the Planning Board and Mr. Crane.***
- ***Mr. Crane will be there at the start of the job.***
- ***Mr. Crane will talk to the person who will be contacting citizens before the start of the job to pass along their concerns.***
- ***There will be a site visit by the Planning Board.***
- ***The trees to be removed and trimming to be done will be decided in the most conservative and judicious manner.***
- ***There will be a consulting forester to review and approve plans before any cutting occurs.***

The motion PASSED unanimously.

- VII. **Continued Design Review on an Application for Conservation Subdivision** submitted by Spruce Wood Retirement Trust, Dover, New Hampshire, on behalf of Douglas & William Worthen, Springfield, Virginia. The property involved is shown on Tax Map 13, Lot 14-2, is located at Mill Road and Packers Falls Road and is in the Residential B Zoning District.

Mr. Campbell said at the most recent meeting concerning this application, there had been discussion about the possibility of having water and sewer available for the subdivision. He said after discussions with various parties, it had been decided that the applicant would come back to the Board with a second plan to see how the development would look if there were sewer and water. He said the idea was that the Board would endorse one or the other.

He said if the hook ups would be coming, down the road, the applicant would take the plan to the wastewater committee and the Town Council before coming before the Board, instead of going through the subdivision process first. He said these plans would not be ready until May 12th, and noted that those involved in discussions had liked this process better than making the water and sewer a condition of Planning Board approval.

There was discussion that this process might also be good for future projects that needed water and wastewater hookups.

Mr. Roberts asked if there was a preference that the roads in the proposed subdivision be public or private, and he was informed that they would be public roads.

Other Business

A. Old Business:

B. New Business: **Request for Technical Review by Durham Marketplace**

Mr. Campbell said a 10 ft. x 9 ft. addition to the existing vestibule at the market was planned, and the applicant wanted to know if this could go through the Technical Review Committee process.

Ms. Rouillard asked if the applicant was confined by the dimensions of the lot, and also asked if they would be revitalizing the lot. There was discussion about this.

Kevin Webb MOVED to refer the application to the Technical Review Committee. The motion was SECONDED by Amanda Merrill, and PASSED unanimously,

Mr. Campbell said there was also a proposal to open a nail salon in Durham, which would be located in the building formerly occupied by Pulcinella's Restaurant next to Wildcat Pizza on Madbury Road.

Councilor Harris MOVED to refer the application to the Technical Review Committee. The motion was SECONDED by Kevin Webb, and PASSED unanimously,

C. Next meeting of the Board: **April 28, 2004**

VIII. Approval of Minutes – No minutes

IX. Adjournment

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

The meeting ADJOURNED at 10:00 pm.

Amanda Merrill, Secretary