

These minutes were approved at the July 13, 2005 meeting.

**DURHAM PLANNING BOARD
WEDNESDAY, MAY 4, 2005
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 PM**

MEMBERS PRESENT: Stephen Roberts; Richard Kelley; Kevin Webb; Nick Isaak; Richard Ozenich; Bill McGowan; Annmarie Harris; Susan Fuller; Lorne Parnell; Councilor Gerald Needell

MEMBERS ABSENT: Diana Carroll

OTHERS PRESENT: Jim Campbell, Town Planner; Mark Eyerman, Planning Consultant; Victoria Parmele, Minutes Taker

I. Call to Order

II. Election of New Officers

Chair

Arthur Grant MOVED To nominate Richard Kelley as Chair of the Planning Board. The motion was SECONDED by Nick Isaak and PASSED unanimously.

Mr. Roberts noted that former Board Secretary Amanda Merrill had taken minutes for site walks. He said this had been valuable, and was something the Board should continue to do.

Vice Chair

Nick Isaak MOVED to nominate Arthur Grant as Vice Chair of the Planning Board. Kevin Webb SECONDED the motion.

Mr. Grant said he would prefer to have someone else serve in this capacity, and said he would assist in any way that he could.

Mr. Roberts asked if Mr. Webb would like to serve as Vice Chair.

Mr. Webb asked what kind of commitment was required for this.

Mr. Isaak, who had served the previous year as Vice Chair, provided details on this. He said it was not a significant additional commitment, but noted the Vice Chair had to be ready to step in when the Chair was unable to run a meeting.

Mr. Roberts said he had had to do this the previous year, during the Zoning Rewrite process. He noted the Board had some heavy issues to deal with at present, but said Mr. Webb certainly had the qualifications needed for this.

Mr. Webb said he would accept this position.

Mr. Isaak withdrew his nomination of Mr. Grant.

Stephen Roberts MOVED to nominate Kevin Webb as Vice Chair of the Planning Board. Arthur Grant SECONDED the motion and it PASSED unanimously.

Secretary

In answer to Board members, Mr. Grant said he would be willing to serve in this capacity.

Stephen Roberts MOVED to nominate Arthur Grant as Secretary of the Planning Board. Councilor Needell SECONDED the motion and it PASSED unanimously.

III. Appointment of one member to the Historic District Commission and one member to the Conservation Commission

Mr. Isaak said he would be willing to continue as the Planning Board representative to the HDC.

Mr. Webb said he was currently the Board's representative to the Conservation Commission, but said as the new Vice Chair, he would need more preparation time for his work on the Board.

Mr. Roberts noted that Mr. Ozenich had had significant involvement on Conservation Commissions in other communities.

Arthur Grant MOVED to nominate Nick Isaak as the Planning Board representative to the HDC and Richard Ozenich as Planning Board representative to the Conservation Commission. Stephen Roberts SECONDED the motion and it PASSED unanimously.

Chair Kelley introduced new alternates Susan Fuller and Lorne Parnell.

IV. Approval of Agenda

Arthur Grant MOVED to approve the Agenda. Stephen Roberts SECONDED the motion and it PASSED unanimously.

V. Introduction

VI. Public Hearing on Zoning Ordinance Amendments – Final review of shoreland overlay, aquifer overlay, wetland overlay, wetland related definitions.

Kevin Webb MOVED to open the Public Hearing on the shoreland overlay zoning amendments. The motion was SECONDED by Arthur Grant, and it PASSED unanimously.

There were no public comments on the proposed amendments.

Councilor Needell MOVED to close the public hearing on the shoreland overlay zoning amendments. The motion was SECONDED by Nick Isaak, and PASSED unanimously.

The Board agreed there would be a discussion around the table after all the public hearings for the proposed zoning amendments were closed.

Councilor Needell MOVED to open the public hearing on the aquifer protection overlay zoning amendments. The motion was SECONDED by Kevin Webb and PASSED unanimously.

There were no public comments at the meeting on the proposed amendments.

Arthur Grant MOVED to close the public hearing on the aquifer protection overlay zoning amendments. The motion was SECONDED by Nick Isaak. The motion PASSED unanimously.

Mr. Webb noted that Jack Farrell had previously provided written comments on the proposed amendments, and said he wanted to make sure those comments were read into the record. There was discussion about this.

Mr. Webb read Mr. Farrell's letter into the public record. The letter read as follows:

"The procedure for a landowner to challenge the location for the APD overlay district requires proof that the land in question is not an aquifer as defined by the Town in Article II. That definition says an aquifer is a formation which is capable of supplying water for municipal or private water supplies, both in stratified drift and bedrock formations, in high or significant quantities. In the old ordinance, this amount was defined as 200 GPM to a large diameter well.

In the absence of similar definition, I foresee problems with implementation of the new standard. It will always be a matter of interpretation as to what is high or significant, and will be very difficult to resolve. The old definition made it clear that only very productive sources deserved the kind of draconian protection that the ordinance requires. If you want the ordinance to stand a court challenge, you need to specifically define the size of aquifer that needs protection. Also, given that any land which receives this designation where sewer is not available is essentially useless, application of the ordinance will be considered a taking and will require compensation. You should limit this liability to areas that truly present a potential

water source which would be worth paying for. Otherwise, the ordinance is just growth control in aquifer clothing and would probably not stand a challenge.

The district boundary needs better definition. If such a map is referenced, it should be more specifically identified in the ordinance (publisher, source of inform, date of publication, etc.)

In low density situations I disagree with the requirement for sewer for residential uses. In addition to the problems noted above, there is the opinion of the rest of the world, as evidenced in aquifer zoning ordinances in most other towns. In almost every other case, residential septic systems are allowed in these overlays, provided the density is two or three acres or more. The fact is, these stratified drift soils are the best soils in town for septic systems, and they protect groundwater much better than most of the soils in Durham. Perhaps a way to deal with this issue is to require higher densities for residential uses in APD zones where septic systems are used, and to require that septic systems are designed by a civil engineer and subject to periodic inspections. Disallowing septic systems in this zone, in my view, bucks the common wisdom and would not beat a court challenge.

Aquifers need to be protected against the industrial uses and potential contaminant sources that are listed over and above septic systems. These are the only issues that the consultant brought up during the presentations on changing the designation of aquifers in town a few years ago. They should remain. In addition, if the ordinance doesn't already include this, you could prohibit use of chemical pesticides and fertilizers, and even limit tree clearing and lawn areas.

If there is concern to prevent a USA Springs-type application, then you should add a section which disallows withdrawals of that nature. It would be reasonable to have an ordinance that says that water in Durham is reserved for residents of Durham and its immediate neighbors, and is not for export.

The terms of the hydro study are too severe and not necessary in every case if the other stipulations of the ordinance are in place. In some cases, such a study may be reasonable. In others, you may want much more. A "one size fits all" strategy really benefits nobody. Instead, there should be a consensus on what level of study is required between the applicant's consultant and the town's independent consultant. Especially since the burden of proof is on the landowner, special care should be taken to not place an undue burden through excessive study.

Finally, language in 175-86 E-10, under prohibited uses, is ambiguous and should be clarified. Excavation for sand and gravel appears to be permitted if done above the 8 foot to ESHW level. But it suggests conflict to have a permitted activity listed under Prohibited Uses."

Mr. Isaak MOVED to open the public hearing on the wetland overlay zoning amendments. The motion was SECONDED by Councilor Needell and PASSED unanimously.

There were no public comments on the proposed amendments.

Arthur Grant MOVED to close the public hearing on the wetland overlay zoning amendments. The motion was SECONDED by Councilor Needell and PASSED unanimously.

Chair Kelley said the Board would now have discussion on the various proposed amendments, including the limited public testimony on the aquifer protection overlay provisions.

Mr. Webb said he would like to move things ahead concerning the proposed aquifer protection overlay provisions. He said he was comfortable enough with these provisions, and was not prepared to do a point by point rebuttal of Mr. Farrell's letter. He said he appreciated these comments but said there might be some misunderstanding in them concerning some aspects of the provisions.

He said he had found no other ordinance in New Hampshire that contained Durham's previous aquifer definition, concerning the specific yield of 200 GPM. He said the aquifer protection overlay district referenced USGS maps, and was defined by those maps. He said he believed the provisions were solid because they were completely in line with USGS, NHDES, and EPA aquifer definitions, and said he therefore had no qualms with moving them ahead.

Mr. Webb said Mr. Farrell had made some good suggestions concerning allowing septic systems on larger lots, and said the Board could look into this more. He said perhaps Mr. Farrell would bring his comments before the Council, and if the Council desired, some things might come back to the Board. He noted that Mr. Farrell had pointed out several areas in the provisions where the Town might be opening itself up to court challenge, but said he would leave concerns about that up to the Council.

He said the Planning Board's charge was to write an ordinance that adequately protected the Town's drinking water resources, and said the provisions had been written with this in mind.

Mr. Grant said he recalled that when the Board first discussed possible changes to the aquifer overlay provisions quite some time back, a USGS geologist from Concord had said the definitions in the existing aquifer protection provisions were totally inadequate. He noted this person had provided the aquifer definition that had now been incorporated, and said it specifically removed the 200 GPM language.

Mr. Campbell said he believed it was Nancy Girard of the Conservation Law Foundation who had provided this input.

Mr. Grant said he agreed with Mr. Webb that the Board should move the aquifer protection overlay provisions on, and said it might be that the Council would want to ask the Town Attorney to review this particular provision. He said this would be an appropriate step.

Mr. Isaak said he would like to encourage the Board to move the aquifer protection overlay provisions forward to the Town Council.

Mr. Roberts said he was somewhat concerned about the USA Springs issue, and said he would like to make sure that the aquifer overlay provisions relative to this were looked at. But he said the recommendations made by Mr. Farrell were probably too comprehensive at present.

Mr. Webb said the Table of Uses specifically said that if a use was not listed there, it was prohibited. He said commercial water development was not listed in the Table, and said this therefore provided some margin of protection.

Mr. Campbell said if it was all right with the Board, he would look into this, to see what could be added in the future.

Board members agreed with this, and also agreed that the aquifer protection overlay provisions could still move forward.

Councilor Needell said it was reasonable to move ahead, but said he was concerned that the USA Springs issue might come up at the Council level, and then would have to come back to the Planning Board. He asked how the Board wanted to deal with this.

Chair Kelley said Mr. Campbell would have time to look into this issue, and said the Zoning Rewrite committee could then give testimony before the Council if the issue was that serious. He said the Council could then turn it back and ask the Board to do something about it.

Mr. Roberts said it might make sense to present to the Council the aquifer protection ordinance the Planning Board had come up with, along with an explanation of some additional issues that were brought up by the public and Board members as part of the public hearing process. He noted two such issues were commercial water withdrawal at high rates, and the possibility of using properly designed septic systems on larger residential lots. He noted that these were both political issues, and said the Council could decide to turn these back to the Board.

Councilor Needell asked if the Town Attorney typically reviewed these ordinances.

Mr. Campbell said he had sent him specific provisions when there was debate by the Board on them.

Councilor Needell asked Mr. Grant if he would want the Town Attorney to do a review of the entire aquifer protection ordinance, or just specific sections.

There was discussion on this, and it was agreed that the Town Attorney would be directed to specific provisions.

Mr. McGowan asked if there needed to be more specifics in the aquifer overlay provisions concerning the aquifer district boundaries.

Mr. Webb said it was the USGS stratified drift aquifer map done in 1988-89 that showed the district boundaries, and noted he had not been able to find any updates to that map. He said what did not appear to be on the map was the 2-3 challenges to the district boundary that were successful, one at Allen Farm, and another at Thompson's Field. He said with the Zoning Rewrite process, the Board was trying to limit the potential for further reduction of the district.

There was additional discussion about the map, including the accuracy of it.

Mr. Campbell said that was why people had the ability to challenge the aquifer district boundaries with engineering studies if they said it didn't match what was found in the field. He said the two areas referred to by Mr. Webb that were removed from the district resulted from site specific engineering studies.

Mr. Grant said he had some questions about the shoreland overlay district provisions on page 4, concerning planting of various kinds of vegetation.

Mr. Webb said in many respects, the additional language was duplicative, but he said it was meant to address concerns that people not plant vegetation that was invasive.

Mr. Ozenich referred to page 5 of the shoreland overlay provisions concerning construction of nature trails and paths, and asked if there was a definition for trail and path.

Mr. Isaak said this language did seem open ended, and could mean something comprised of asphalt, that was 6 feet wide, etc. He asked what the intention of this provision was, and there was discussion about this.

Councilor Needell noted that the Parks and Recreation Committee had discussed whether to put a wooden set of planks and bridges across the Longmarsh area, in order to reconnect areas flooded by the beavers there. He asked whether something like that would be permitted.

Chair Kelley posed the question of what would happen if language was used that pointed in a single direction, and then the Town wanted to put in an ADA compliant trail down to the water at Wagon Hill. There was discussion about this.

Mr. Isaak suggested that language like permeable, non impervious might be included in regard to trails and paths.

Chair Kelley noted that this use would have to be approved by the Planning Board, with the advice of the Conservation Commission, and would also have to be permitted by the Zoning Administrator. He said this would perhaps be sufficient review.

Mr. Webb said the intent of the language was clear, and was probably good enough.

Arthur Grant MOVED to forward to the Town Council the proposed amendments to Chapter 175 relative to the Shoreland Protection Overlay District, the proposed amendments to Chapter 175 relative to the Aquifer Protection Overlay District, and the proposed amendments to Chapter 175 relative to the Wetlands Conservation Overlay District, with minor edits. Richard Ozenich SECONDED the motion and it PASSED unanimously.

- VII. Vote to Recommend** the non-residential zoning district provisions, table of uses, table of dimensional requirements, definitions, zoning map, overlay districts and light manufacturing performance standards to the Town Council.

It was clarified that under this item, overlay district referred to the Historic District overlay and the Personal wireless overlay.

Arthur Grant MOVED to recommend the non-residential zoning district provisions, table of uses, table of dimensional requirements, definitions, zoning map, overlay districts and light manufacturing performance standards to the Town Council. The motion was SECONDED by Nick Isaak

Councilor Needell asked if the lighting provisions were included in this.

Mr. Campbell said they were not coming forward at that time. He said Joe Murdoch, a very well respected lighting specialist, had reviewed them, and noted he had done the lighting plan for the Gibbs station. Mr. Campbell said he would be redrafting the lighting provisions, and would put them forward at another time. He noted that there was nothing of major concern about lighting in the Master Plan.

Councilor Needell referred to page 30 of the nonresidential zoning district provisions, and asked what uses were allowed on open space at Business Park. He noted there was nothing there concerning athletic fields, but in the Table of Uses, outdoor recreational playing fields were allowed as a conditional use. He asked whether, if someone proposed to build fields at the Business Park, they could be part of the open space.

Mr. Campbell said yes, noting that the definition for open space included recreational areas.

Councilor Needell noted that in the Table of Uses, uses specifically not allowed at the Business Park were libraries, religious use facilities and cemeteries.

Mr. Campbell said the Board had spoken about religious facilities at great length. He also said that although private libraries wouldn't be allowed there, public libraries would be allowed. He noted this whole issue had been considered in relation to the possibility that a community center might be moved out to the location of the Business Park.

Mr. Eyerman noted that implicit in the adoption of the non-residential zoning amendments was adoption of the revised zoning map, which included the re-designation of the nonresidential districts, yet there was no specific language concerning this. He suggested that the motion to recommend moving the amendments forward should include wording on the amended zoning map

It was noted that the November 30, 2004 zoning map was the most recent map, and the Board discussed details of this most recent map.

Arthur Grant MOVED to recommend to the Town Council the nonresidential zoning district provisions, table of uses, table of dimensional requirements definitions, amended zoning map dated November 30th, 2004, the Historic District Overlay and Personal Wireless District overlays, and the light manufacturing performance standards. Nick Isaak SECONDED the motion and it PASSED unanimously.

There was discussion about the status of the Town's lighting, parking, sign, and landscaping regulations. Mr. Campbell said hopefully, he would be able to concentrate on them in the upcoming months.

VIII. Impact Fee Ordinance and Discussion on Town Council initiative to establish impact fees.

Mr. Campbell said this had been on the Town Council's work plan for some time, and he reviewed the process by which the draft ordinance had been developed. He noted the ordinance had been reviewed by Bruce Mayberry, a well-known expert on impact fees. He said there had been lengthy discussion on the draft ordinance at a recent Town Council meeting, and said the discussion would continue at a future Council meeting.

He explained that the Planning Board had the authority by statute to assess impact fees, and said these would be different than exactions. He explained that with exactions, if a developer came to town and said the water lines, for example, were too small, the Board could require the developer to pay for his share of updating those lines. He said the Town had 6 years to make those improvements, and noted the Town would have to pay some of the cost.

Mr. Campbell said impact fees were assessed based on a methodology. He said the assessment was made at the time of Planning Board approval, and the impact fee was actually collected at the time of the certificate of occupancy. He said the Town had six years to spend the money on the capital improvement the fee had been collected for.

He noted that with a school impact fee, the Town would be able to put the fee toward a bond that had been taken out to make improvements to the school. He said this could also be done concerning improvements to sewer, water, stormwater drainage, public facilities including libraries, and public safety. He noted that exactions could only be charged for highway, sewer and water improvements.

Mr. Webb asked whether, if impact fees were assessed to pay off a school bond, if any future impact fees could be put into a capital fund account to offset the construction for any new facilities.

Mr. Campbell said this could be done, if there was a plan for that capital improvement, and if the Town used the money within six years.

Councilor Needell asked if impact fees could be assessed to a new development in order to help pay off the current school bond.

Mr. Campbell said he believed they could, because the school was built with the capacity to add more students, and the development would be adding students to the school.

Councilor Needell said he assumed this would also apply to existing capital bonding for sewer and water.

Mr. Campbell noted that State statute provided a list of what improvements impact fees could be assessed for. He noted that impact fees could not be used to pay for public open space, but could be used to pay for recreational facilities.

He also said that 175-5 and 6 said the ability to assess impact fees rested with the Planning Board. He said there had been discussion at the Council meeting as to what the Council's role was in this process, including how Council's master fee schedule related to this. He said the way he looked at it, the Board's role would be to assess the fee, and would have to look at the fee every year to make sure it was appropriate. He said this all needed to be spelled out.

Councilor Needell said a question he had was whether there should be wording that the Council should have to sign off on the fee schedule.

There was detailed discussion on the need for clarification concerning the appropriate roles of the two groups concerning the impact fee process.

Mr. Campbell said intent of the authors of the ordinance was for the methodologies to be laid out by the Planning Board, and for the fee to be assessed by the Board using the methodology, at which time the exact number of the impact fee would be arrived at.

Councilor Needell said the discomfort expressed by the Council was that once the ordinance was approved, the Council would not have any oversight of the fee schedule.

Mr. Roberts said the fee schedule referred to was a methodology, not a specific amount, and he provided details about this.

Councilor Needell noted that the RSA said the delegation of the responsibility could be given to the Planning Board, but didn't have to happen, so could be retained by the Council. He said he was not advocating anything.

Mr. Campbell said he thought the Council could be involved in the process, but said he did not have specifics yet as to how it was going to happen. He said his concern was that the Board could assess a fee for a particular development, and the Council would then decide it should be higher. He said he was afraid that could happen if it was politicized at the Council. He said a solution might be as simple as incorporating the methodologies into the master fee schedule that the Council adopted. He said this would still allow the Board to do the assessment on a project by project basis.

Mr. Roberts asked if there was concern about politicizing this process, or if there were some way around this.

Mr. Grant said he personally as a Planning Board member would want the comfort of having the methodology by which the fees were assessed approved by the Council. He noted he had been a long term advocate of an impact fee ordinance, but said he hoped the Board could minimize its involvement in the actual computations for these fees, because the capital budget was so largely done by the Council now. He said it was subject to fluctuation every year by Council vote, and said it was hard for the Board to say what was going to be in effect for 6 years.

Mr. Campbell said that put another responsibility on the Town Council. He said the CIP was a Planning Board document, and noted the Board in recent years had taken a more aggressive view as to what was in it. He said it would be proper for the Council to appropriate the funds that the Board was collecting impact fees for, noting that the Board couldn't do that. He said it was very important that the two entities work carefully together on this.

Mr. Roberts said there was a Council approved CIP, which the Board would refer to when a developer came in. He said if the Council wanted to vary from that document, it would have to send the Board an amendment.

Mr. Grant he said the past year, the CIP included a proposal that this year would be the library appropriation, and had a commitment for it. But he said although it had been included in the CIP, the Council had deferred it for another year.

There was discussion as to how the collection of impact fees could take place in a situation such as this. There was additional discussion as to how the responsibilities for impact fees would be shared.

Mr. Campbell noted that Mr. Johnson would also be responsible for assessing impact fees.

Mr. Isaak said he didn't see any mention of UNH in the draft ordinance, and asked if it was exempt from impact fees. He asked if there should be some mention of this in the ordinance, if that was the case.

There was discussion about this issue. There was also discussion about the timing if impact fee payments.

Mr. McGowan asked if the Board could discuss impact fee assessment methodologies when the ordinance hadn't been passed yet. He noted the discussion had largely been about methodologies, and not about the ordinance itself.

Mr. Campbell said the Town could adopt the ordinance and then would have it on the books. He noted other towns had done this.

Councilor Needell said some people had said it was appropriate to adopt both at the same time. He noted there had been no public comment on the impact fee ordinance at the Council's public hearing, but said it might be that it was the methodology where the comments would come in.

Mr. Roberts said State law said that towns couldn't make assessments for public utilities if there wasn't an impact fee ordinance on the books. He said this ordinance was a basis for this even if there were no impact fee per se.

Mr. Campbell noted that the impact fee ordinance would be part of the Town code, so the Board would not have to take any action on it. But he said the Council did want the Board's feedback on it.

Councilor Needell said there would be a tremendous amount of work for the Board as a result of this ordinance.

Mr. Campbell noted that the Board had the power to hire independent people and have the developer pay for it.

Mr. Roberts noted that the Waiver discussion had generated a lot of discussion at the Council meeting.

Mr. Campbell referred to 175-9 A, noting that when it was written, it just included developments with residents age 62 or older as those that could apply for waivers. He said the reason he did this was that it would be a policy decision of the Council concerning what it wanted to do concerning elderly housing. He noted that it was generally understood that age 55 developments could have kids, and said the question was whether the Town would want them to be exempt if they did. He said someone on the Council had asked why the age in the ordinance wasn't 55, and another Councilor had asked why the waiver was in there at all.

Councilor Needell said he had raised the question of why the age factor wasn't included in the methodology of assessing the fee, as opposed to being included through a waiver.

Mr. Campbell said he believed the waiver language would establish the policy of doing the waiver at the time of assessment.

There was discussion about how this might play out. There was also discussion about what the appeal process was if a waiver were denied.

Mr. Roberts said research on age 55 and older developments in the region had indicated that if there were any that had kids, the number was so small that any impact fee would also be very small.

Mr. Campbell said he had put the age 62 number in the impact fee ordinance because these developments were not likely to have kids. But he said there was some indication in general that age 55 communities could have kids.

Mr. Ozenich asked how impact fees related to private roads, where there wasn't any snow plowing, garbage pickup, etc.

Mr. Roberts said there would be a different methodology for assessing an impact fee for a development on a private road as compared to one on a public road.

Mr. Campbell said a draft for the methodology for the school impact fees had been developed, but said the others hadn't been developed yet. He noted that the Planning Board and Council might want the Board to deal with some things through exactions.

Mr. Webb asked if this would require regulatory updates from the school district relative to costs per capital, and Mr. Campbell said this would be gone over every year.

Mr. Grant said that since the Town had established age 55 as the senior citizen age for housing, he thought they also had to go with age 55 in the impact fee ordinance.

Chair Kelley asked if 175-9 A was part of the State RSA requirements.

Mr. Campbell said all the statute said was that the ordinance may provide for waivers, but he said it didn't spell out details on waivers.

There was discussion about the RSA on elderly housing.

Arthur Grant MOVED to change the age in 175-9 A to 55, and to reference the Zoning Ordinance provision regarding elderly housing development. Stephen Roberts SECONDED the motion.

Mr. Grant said that since this had been raised by the Council, he thought it would be appropriate for the Planning Board to go on record as saying the age should be 55.

Mr. Campbell said he would take the Board's comments on the draft impact fee ordinance back to the Council. He provided additional information on the process the Council was going through concerning the ordinance, noting that Councilor Van Asselt was in the process of developing some language changes for the ordinance.

Mr. Grant said the present seating arrangement at the Board meeting, where some alternates had to sit in the audience because there wasn't enough room at the table, needed to be changed. There was discussion as to how this could be worked out.

Mr. Grant said the Board would like to express its appreciation to Steve Roberts for his hard work the past year as Chair of the Planning board. He said he personally appreciated it very much, and knew other Board members did as well. He also said he would like thank Amanda Merrill for all her work as a Planning Board member.

In answer to a question from Chair Kelley, Mr. Campbell explained that impact fees could be spent on capital improvements, but not on the design of a capital improvement project.

Chair Kelley said asked if it was possible that a savvy developer could come in and look at the CIP and decide it would be wise to wait because he saw an addition was going to be made to the school.

Mr. Grant said he believed the ordinance said the developer would be subject to the bond then in effect. But he said this needed to be researched. There was discussion about this kind of scenario.

Chair Kelley asked if the school impact fee offset just Durham's cost, and Mr. Campbell said it addressed the proportional share of a capital improvement.

Chair Kelley said he would like to recognize Nick Isaak for his work as Vice Chair of the Planning Board the past year, and he also thanked Kevin Webb for his valuable work as the Board's representative on the Conservation Commission.

Arthur Grant MOVED to adjourn the meeting. Richard Ozenich SECONDED the motion and it PASSED unanimously.

The meeting ADJOURNED at 8:40 PM.

W. Arthur Grant, Secretary