

These minutes were approved at the December 10, 2008 meeting.

**DURHAM PLANNING BOARD MEETING MINUTES
WEDNESDAY, OCTOBER 15, 2008
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL
7:00 P.M.**

REGULAR MEMBERS PRESENT: Chair Bill McGowan; Vice Chair Lorne Parnell; Steve Roberts; Richard Ozenich; Richard Kelley; Councilor Julian Smith

ALTERNATES PRESENT: Councilor Jerry Needell

MEMBERS ABSENT: Secretary Susan Fuller; Wayne Lewis; Kevin Gardner

I. Call to Order

II. Approval of the Agenda

Steve Roberts MOVED to approve the Agenda as submitted. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 4-0.

Mr. Ozenich arrived at the meeting at 7:05 pm.

III. Report of the Planner

Mr. Campbell first updated the Planning board on the recent October 10th EDC meeting. He said the Committee had discussed Durham's gateways relative to Zoning; the creation of an Economic Development Strategic Plan; the Zoning amendments that were before the Town Council; the idea of working with the Conservation Commission on the issue of developable land and conservation land in Durham; and the EDC's 2009 budget. He said the Committee's next meeting would be held on October 24th.

He said that on October 9th, the Main Street West Committee had held a kickoff meeting for the Transportation Enhancement Main Street project with the Maguire Group, the firm hired to develop the design for the project. He said the hope was to have a 30% design by mid-October, and said construction would occur during the summer of 2009.

Mr. Campbell said he and University Planner Doug Bencks had recently held their monthly meeting.

IV. Acceptance Consideration of and Action on an Application for Boundary Line Adjustment submitted by Dale Rollins Valena, Sherwood Rollins and Alger Rollins, Andover, Massachusetts and David J. Murphy, Durham, New Hampshire to adjust the boundary between two properties. The properties involved are shown on Tax Map 20, Lot 12-5 and Lot 15-0, are located at 313 Durham Point Road and 283 Durham Point Road respectively, and are in the Residence C Zoning District.

Mr. Rollins explained that his surveyor had discovered while doing recent survey work that there

was a piece of land that had been thought to belong to the Murphy's next door, which actually belonged to his family. He noted that there was a freshwater brook that the family had thought was the boundary line, but it was actually beyond it to the north, so a boundary line adjustment was needed to move the boundary back to that spot. He said this survey mistake went back about 50 years.

Mr. Parnell asked if the Murphys were in agreement with the boundary line adjustment, and Mr. Murphy said he was.

Mr. Campbell noted that this was a modified procedure, so the Board could accept as well as deliberate on the application at the same meeting.

Richard Ozenich MOVED to accept an Application for a Boundary Line Adjustment submitted by Dale Rollins Valena, Sherwood Rollins and Alger Rollins, Andover, Massachusetts and David J. Murphy, Durham, New Hampshire to adjust the boundary between two properties, shown on Tax Map 20, Lot 12-5 and Lot 15-0, and located at 313 Durham Point Road and 283 Durham Point Road respectively, in the Residence C Zoning District. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 5-0.

Mr. Campbell said there were minimal conditions of approval, and he briefly reviewed them.

Steve Roberts MOVED to approve the Findings of Fact and Conditions of Approval for a Boundary Line Adjustment submitted by Dale Rollins Valena, Sherwood Rollins and Alger Rollins, Andover, Massachusetts and David J. Murphy, Durham, New Hampshire to adjust the boundary between two properties, shown on Tax Map 20, Lot 12-5 and Lot 15-0, and located at 313 Durham Point Road and 283 Durham Point Road respectively, in the Residence C Zoning District. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 5-0.

- V. **Acceptance Consideration of a Site Plan Review Application** submitted by Park Court Properties, Inc, Durham, New Hampshire for the construction of a mixed-use, multi-unit building which would create 32 units, with 124 beds. The property involved is shown on Tax Map 13, Lot 5-0, is located at 262 Mast Road and is in the Multi-Unit Dwelling/Office Research Zoning District.
- VI. **Acceptance Consideration of Conditional Use Permit Application** submitted by Park Court Properties, Inc, Durham, New Hampshire for the construction of a mixed-use, multi-unit building which would create 32 units, with 124 beds. The property involved is shown on Tax Map 13, Lot 5-0, is located at 262 Mast Road and is in the Multi-Unit Dwelling/Office Research Zoning District.

Bill Doucet of Doucet Survey represented the developer, Perry Bryant, and said the design for the project now was the same as the one presented to the Planning Board in August. He said the previous week the design team had made presentations to University professors and department heads, and said there were also some upcoming design charettes involving UNH and the Durham community. He said they had also met with the Conservation Commission relative to the conditional use permit application for the development.

Mr. Doucet noted that there were two parts to the conditional use process for this project, one regarding allowing multi-unit development as a conditional use in the MUDOR district, and the

other to allow construction within the Wetlands Protection Overlay district.

Clay Mitchell, one of the members of the design team, said that despite the current turmoil in the economy and the political environment, the team hadn't wavered concerning this project. He said this had not been a standard project, and had required a lot of expertise and a lot of give and take between those involved in it. He noted that there had been meetings with the Durham Energy Committee, and he also spoke about current challenges in the marketplace, which had necessitated some flexibility in the design process.

Mr. Mitchell spoke about how typical land use patterns fractured open space and wildlife habitat, and also had negative energy and transportation impacts. He said the design team had realized there was a LEED framework already out there for green building, and said this framework had informed a lot of their decisions. But he said there were some aspects of the project, like integration of the development within the community, that weren't heavily emphasized by LEED. He said the team had used LEED ideas, but said the objective was not to get LEED certification.

He said the design process had been collaborative, and said team members had come to the project without preconceptions and with an open mind. He said they had worked this way with the community as well. He said there had been challenges that had forced them back to the beginning on several aspects of the design, but said this had developed into an even more collaborative, web-like design approach that related the various issues to each other. He noted that this approach took a great deal more time and resources than a more traditional, linear design approach.

Mr. Mitchell said the project included a life cycle cost analysis, which among other things took into consideration construction materials and techniques, energy systems, and operation and maintenance costs of the facility over the long term.

He spoke in some detail on the buildings that were proposed, and said they were designed to fit within their surroundings, and to minimize the impact on the environment. He said the development was also designed to take into account the water cycle on the site, as well as energy and transportation demands and options, and the idea of local food production.

He said the idea was to share the successes they had with the various technologies they included in the development, and said this would include educating Durham residents on them. He also said the hope was that this low impact development approach could be a part of improving the way development occurred in NH.

The Water Cycle

Mr. Mitchell spoke in some detail on the water related design aspects of the project. He noted that a benefit of this location was its proximity to the UNH Stormwater Center, and said porous pavement would be used on the site. He said it was also hoped that green roofs could be used, which would assist with water management on the site while also helping to reduce some of the energy loads. He said there would be a greywater system on the site, which would reuse this water.

He spoke in some detail on the existing wetland area on the site, and the fact that it would be restored with low maintenance, native plantings. He said the area would then be monitored to see how successful the restoration was, and would be used to provide education opportunities concerning wetlands restoration.

Energy

Mr. Mitchell spoke in detail about the energy system(s) proposed for the development, involving solar thermal as well as geothermal approaches, and said the system that had been designed had become more and more innovative over time. He also said evolving technologies, such as vertical access wind turbines would be considered for the development in the future. He said energy use would be reduced by using high performance buildings, which among other things would be super-insulated, and would have solar shading and passive ventilation.

He said energy use would be monitored and reported to the residents of the development and beyond, and said they all would learn what worked and what didn't work. He said this was a great opportunity to educate the community on this. He noted that one of the great new solar technologies that would be used on the site was the hybrid solar panel, which provided heat as well as electricity. He said that using the same square footage, this panel could provide three times the energy as a regular solar panel. He also spoke about the fact that a recent provision that was included in the federal bailout bill was the extension until 2016 of renewable energy tax credits for both solar heating and electricity.

Transportation

Mr. Mitchell said they planned to provide shared vehicles in order to reduce the number of car trips as well as the amount of parking that was needed on the site, and said they were looking to provide alternative fuels for these vehicles. He said plug in hybrids would make sense by 2010, and said the development could collaborate with UNH concerning this. . He said pedestrian and bike transportation options would be integrated into the project, especially because the facility was an especially appropriate location for this.

He spoke of the importance of linking available public transportation in the area to the shared vehicles the facility would offer, and said this would allow them to implement a multi-modal approach, and to keep more cars off the road.

Mr. Mitchell said the website for the project was www.Bryantparkwest.com. He said it demonstrated that a lot of work had gone into the site design, and into research on the energy and transportation systems that they had decided to include in the project. He said the design team was interested in receiving reasonable commentary on the project at the website, and in keeping the ideas flowing on more innovations that were possible.

Mr. Doucet said the applicant encouraged additional input on the project from the Planning Board and the Durham community.

Chair McGowan asked if the application was complete.

Mr. Campbell said he believed it was ready for acceptance, although there were some issues the Board needed to deal with. He said there was a waiver request from the applicant concerning the required 1200 ft of separation between the driveways on Mast Road. He said there was no way for the applicant to do this because he didn't own enough road frontage there.

Mr. Campbell said there was also the issue of the incursion into the wetland buffer. He noted that the

Board had discussed this at the previous meeting, and said as part of this there had also been the key discussion as to whether this development was a residential or a commercial venture. He said no decision had been made on this at the meeting, and said he had asked Code Administrator Tom Johnson for his opinion on this.

He said Mr. Johnson's response was in Board members' packets, and said the Board would need to resolve this issue. He said if they did consider this to be a commercial development, the applicant didn't need to go for a variance. But he said if the Board believed it was residential, either a variance or a Zoning change would be needed.

Mr. Campbell said he had also made note of some information that needed to be put on the plans.

Mr. Roberts, the Board's representative to the Conservation Commission, provided details on the Commission's perspective concerning the project. He said that after reviewing the plans, they didn't really have any issues with it. He said it had been noted that the wetland on the site was already somewhat compromised, and that what was proposed would actually be improving it.

There was brief discussion on the issue of the number of parking spaces that would be provided, and that both the Police Department and the Fire Department had some concerns that not enough spaces were being provided.

There was discussion on the fact that the fire code required a 20 ft wide access road, while the application showed an 18 ft road, and that this would need to be addressed. Mr. Doucet said the applicant would address this at the appropriate time.

Councilor Julian Smith noted the issue of fire lanes, and Mr. Campbell said the applicant had agreed to use signage concerning parking in fire lanes. He noted that Mr. Bryant had been known to tow people who parked illegally on the properties he owned and managed.

Waiver Request from Section 9.02 of the Site Plan Regulations

Mr. Doucet said the applicant proposed to move the location of the driveway to the west, further from the single-family residence there. He said the hope was that this driveway could be shared with UNH in the future, which would eliminate the need for a future curb cut on the UNH property.

Councilor Julian Smith MOVED to grant the waiver request from Section 9.02 of the Site Plan Regulations. Lorne Parnell SECONDED the motion, and it PASSED unanimously 5-0.

Councilor Needell noted that UNH was listed as a co-owner and Mr. Doucet said that once the Boundary Line Adjustment was finalized, Mr. Bryant would be the only owner listed.

Mr. Campbell noted that the final signatures for the Boundary Line Adjustment had been received.

Commercial vs. Residential

Mr. Doucet said that within the spirit of the Wetlands Conservation Overlay District, it could only be speculated as to why it distinguished between residential and commercial uses. He said he believed

that the key issue was how a property was managed, and said this project would be managed in a centralized way, as a commercial entity. He said Mr. Bryant was aware of what needed to be done to carefully maintain and manage the site. He noted that if there were simply four residential houses on the site, there would not be the same level of control.

There was discussion on this with the Board. Councilor Needell said it was a good question as to what the intent was of distinguishing between residential and commercial uses in regard to the Wetlands Protection Overlay District. But he said there was also the question of whether the Board had the discretion to question this.

Roger Burlingame, the applicant's attorney, said that traditionally, "residential" related to dwellings where an owner resided on the property, whereas a commercial housing development would not have owner occupancy. He said none of the occupants of the proposed apartments would have any ownership in the units they lived in, and also noted that one wouldn't classify a hotel as residential. He said what was proposed in this development was one step away from a hotel operation.

Mr. Roberts said it would be a good idea to get a recommendation on this from the Board's attorney. But he said he didn't feel this issue should hold up the acceptance of the application.

Mr. Campbell agreed that the application should be accepted, and that in the mean time, the Board could get an opinion from its attorney. He also said that in the future, he would like to look into making an adjustment to the Ordinance to eliminate the residential/commercial distinction that had been made in the Wetlands Conservation Overlay District. He said he didn't know the reasoning behind it, and said it didn't make sense, so should be looked at.

Councilor Needell asked if there was any historical information on how this distinction had come about, and Mr. Campbell said he had begun to look into this.

Chair McGowan said the consensus of the Board was that it wouldn't rule on this issue that evening, but did have enough information to accept the application.

Mr. Ozenich asked if there was any length of stay limitation, and Mr. Doucet said he wasn't aware of any prohibition concerning this. Mr. Ozenich said a motel was considered a commercial enterprise, and said he didn't see the difference between that and the multi-unit development that was proposed.

Mr. Roberts said his only concern was other parties who might have issues with the proposal, so it was important to have the opinion from the Board's attorney on the residential vs. commercial issue.

Mr. Ozenich agreed that the Board should get a legal opinion, but said to him, this was strictly a commercial enterprise that was proposed.

Councilor Needell asked whether, if the Board's attorney agreed with Mr. Johnson that the language was what it was, this meant that the application process would have to stop.

Mr. Campbell said the Board could then tell the applicant that he needed a variance, but he said the site plan and conditional use permit application processes could continue.

Councilor Needell said he was uncomfortable with the idea of these applications moving forward while the Zoning issue was in flux. He asked what happened if the variance was denied.

Mr. Parnell agreed. He noted that the ZBA met once a month, and he said there could be substantial delays. He said he thought the applicant might be better off to proceed now as if this was a residential use as opposed to waiting for a future decision that might change things considerably.

Mr. Doucet said the applicant's preference was to do the site plan and conditional use permit process concurrently with a possible variance request. He said if the additional step of applying for a variance was needed, this step would be taken.

There was discussion that there had been other applications before the Planning Board that involved concurrent variance requests before the ZBA. Mr. Campbell noted that obtaining a variance had been a condition of approval for a site plan a few years back.

Steve Roberts MOVED to accept the Site Plan Review Application and the Conditional Use Permit Application submitted by Park Court Properties, Inc, Durham, New Hampshire for the construction of a mixed-use, multi-unit building which would create 32 units, with 124 beds, for the property shown on Tax Map 13, Lot 5- located at 262 Mast Road, in the Multi-Unit Dwelling/Office Research Zoning District; and schedules a Public Hearing for October 29, 2008. Councilor Julian Smith SECONDED the motion, and it PASSED 5-0-1, with Richard Kelley abstaining because he had not been present for the discussion.

(Mr. Kelley arrived at the meeting just prior to the motion being made.)

The Board agreed to hold a site walk on Friday, October 24th at 8:30 am.

- VII. Acceptance Consideration of an Application for Subdivision** submitted by David T. Sawyer, Durham, New Hampshire on behalf of Albert Sawyer, Durham, New Hampshire, to subdivide on lot into two lots. The property involved is shown on Tax Map 9, Lot 18-0, is located at 6 Spinney Lane, and is in the Multi-Unit Dwelling/Office Research Zoning District.

Mr. Sawyer spoke before the Board. He said he had been before the ZBA the previous evening in part to determine if he could get a variance to allow a single family residence in the MUDOR district, where this was not a permitted use. He said the ZBA had granted the variance, recognizing that most of the neighbors lived in single-family residences. He said a variance had also been granted concerning a wetlands incursion, in recognition of the fact that it would be hard to develop the site any differently than what was proposed.

Mr. Kelley asked if the application was complete, and Mr. Campbell said it was. He noted that the subdivision was exempt from the conservation subdivision requirements. He said the Board would have to approve waiver requests from the following sections of the Subdivision Regulations:

Section 7.01 – Phase I Conceptual

Section 7.02- Phase II Design Review

Section 7.05 – Construction Plan

Section 9.06 – Engineered Stormwater Analysis

Mr. Campbell said he had no problems with these waivers requests. He noted that in addition to granting the applicant two variances the previous evening, the ZBA had also granted a special exception to allow some variation from the minimum frontage that was required.

Mr. Roberts spoke about the fact that single-family residences were no longer a permitted use in that area because of the Zoning change to MUDOR, and said the use should be put back in the Table of Uses as a permitted use.

Mr. Campbell said given the ZBA approvals of the variances and the special exception, the application was ready for acceptance. He said the Board should also vote on the waiver requests now.

Richard Kelley MOVED that per the request of the applicant, the Board will allow waivers from Subdivision Regulation Sections 7.01, 7.02, 7.05 and 9.06. Steve Roberts SECONDED the motion, and it PASSED unanimously 6-0.

Richard Kelley MOVED to accept the Application for Subdivision submitted by David T. Sawyer, Durham, New Hampshire on behalf of Albert Sawyer, Durham, New Hampshire, to subdivide on lot into two lots, for the property shown on Tax Map 9, Lot 18-0, located at 6 Spinney Lane in the Multi-Unit Dwelling/Office Research Zoning District; and schedules a Public Hearing for Oct 29, 2008. Steve Roberts SECONDED the motion, and it PASSED unanimously 6-0.

The Board agreed that the site walk would be held on Friday, October 24th, at 8:00 am.

VIII. Conceptual Consultation on a possible new building on a parcel. The property involved is shown on Tax Map 2, Lot 6-3, is located at 16 Strafford Ave, and is in the Professional Office Zoning District.

Bill Hersman said he was looking at possibly expanding his existing facility on Strafford Ave. by replacing an existing building with a larger building, which would be 105 ft wide and 200 ft deep. He said he wanted to consult with the Planning Board before having an architect design the facility, and explained that he had designed three possible plans that showed a range of ideas he thought were worth exploring. He said it was important that the new facility could be constructed without disturbing the existing Xemed facility.

Mr. Hersman said his first question was regarding parking, and he noted the parking design in each of the three preliminary plans that he had developed. He explained that due to the requirement of preserving the existing facility while constructing the future facility, a large area around the front of the property wouldn't be converted to its future use until the end of the project. He said he couldn't see any way of optimizing the facility without at least one parking lot in the front of the new facility.

He explained that there appeared to be two options for placement of the new structure, and said the preferred one was to locate the structure at the center of the property just behind the present structure. He said the second option was to locate it at the far back of the property. He said the first option had aesthetic and functional advantages, but could constrain the size of the property. He said locating the building at the back of the property maximized square footage, but reduced the options

for multiple entry points.

Mr. Hersman explained that placing the structure in the center of the property required one-way driveways on both sides of the building. He said a second option with a single two-way driveway paved on one side of the building was also looked at. He said this option would require variances for building in the side setback and the rear setback, and said it would still be a smaller facility.

He said if all paved surfaces were impermeable, including both driveways on the side setbacks and all parking spaces, this option would slightly exceed the 75% extended limit for impermeable cover. He noted that with his previous application, he had been granted a waiver to allow 75% impervious cover. He said he believed this option maximized the utility and versatility of the facility, and said he would consider using permeable paving.

Mr. Hersman said part of the work Xemed did was the assembly and testing of a tall apparatus, and said the layout contemplated was three usable floors, each with a fairly high ceiling. He said if a peaked roof was included, the height would likely exceed 35 ft, and could reach as high as 50 ft.

There was discussion that the current development standards in the Zoning Ordinance did not allow parking between the front line of the property and the front wall of the building, so a variance would be needed for this in order for the Board to approve a site plan application for the project.

Mr. Roberts said he had strongly recommended that the conditional use process be used in this district, which would allow some flexibility regarding the parking requirements.

There was detailed discussion on the previous variance approval regarding impervious cover.

Councilor Needell said the front of the site currently had 7 spaces. He said these spaces would be able to stay, but said expansion of the amount of parking there in front was the issue.

Mr. Parnell asked why there was so much road area designed around the building in one of the designs, which resulted in a lot of paved area. There was discussion on this with Mr. Hersman.

Councilor Needell asked if there were any wetland issues on the site, and Mr. Hersman said he didn't believe that the wetland buffer extended onto his property.

Mr. Roberts asked what abutters in the neighborhood thought about what was being proposed on the site, and Mr. Hersman said they appeared to be supportive. He provided some details on this, and said he hoped it would be the most attractive building in the neighborhood.

There was discussion about how the new facility might fit into the surrounding area. There was discussion about the height of other buildings in the area, and it was noted that Mr. Kimball, an abutter, had been granted a waiver concerning the height of his multi-use development. It was also noted that the New England Center was located across the street.

The Board continued to discuss in some detail with Mr. Hersman the three different designs he had developed for the development. Among other things, there was discussion on circulation issues on the site, and the importance of talking about this with the Fire Department. Mr. Campbell said the

Department would probably be happier with the third design, in terms of the access issue

Councilor Needell said access appeared to be limited, in the first two designs. He said that other than this, he thought Mr. Hersman should go for the variance he wanted.

There was discussion on the amount of impervious coverage in the third plan. It was noted that there were six parking spots now, and if they were relocated on the site, they could stay. Mr. Kelley asked for details on the orientation of the parking in the back, in the third design, and Mr. Hersman provided details on this.

IX. Discussion of 2009-2018 Capital Improvement Program (CIP) with Town Administrator, Todd Selig, and Business Manager, Gail Jablonski

Administrator Selig noted that he had gone through the items in the draft CIP with the Planning Board a month ago. He said while there were already concerns about the economy at that time, things had gotten worse since then. He said the Town needed to be very sensitive to the economic climate, and said he was hearing more and more concern about taxes, including hearing from people he hadn't heard from in the past concerning taxes. He said he was taking a hard look at everything, and was looking at getting to a 0% increase in spending, which would result in some reduction in services. He said he would walk the Board through the major items in the CIP, to give them an idea of what he was thinking concerning the various items in it. He said he would value the Board's input on these items.

CIP items discussed by Administrator Selig and the Planning Board included the following:

New Fire Department building.

Administrator Selig said after further discussion on this issue, there had been collective agreement to remove the building needs assessment, and to retain the new facility in the CIP, but to push off the \$1,000,000 further into the future until there was a better sense of when the Town would want this building.

New Library

Administrator Selig said the Library Board of Trustees wanted to move forward with a new library, which would require \$790,000 for 2009, which would include \$190,000 from the Town (to be bonded), with the rest, \$600,000, coming from the Trustees. He said he was concerned about spending any bonded funds on this at the present time. He said the Trustees had some funds to do a site analysis, and said he recommended putting \$600,000 in the CIP, which represented money the Trustees already had on hand.

Planning Board members agreed with this approach

New Town Hall Facility

Administrator Selig said he recommended leaving this at 2016 for the time being. He said more work needed to be done on where a new Town Hall could be located. He said for the time being, Town staff could make do at the existing Town Hall. He also recommended striking Town Hall Renovations from the list.

Main Street West improvements

Administrator Selig said the \$490,000 for this project involved mostly federal funding. He said the Town contributed about \$50,000, and said this should therefore stay in the CIP.

Mr. Campbell said if the Town delayed funding this, it would be likely to lose the State funding. He also said it was likely that more than \$490,000 would be needed for the project. He noted that the grant had been applied for in 2003, and that costs had gone up since then.

Mr. Lynch said the road itself was in disrepair.

Administrator Selig said the State didn't have a lot of money to spend, and if it sensed that the Town wasn't serious about moving this project forward, it would shift the funds to a town that did want to move forward with a project.

Parking Plan – (for downtown parking situation).

Administrator Selig said he recommended pushing the \$15,000 that had been allocated out a year, to 2010.

Wagon Hill Parking

Administrator Selig recommended leaving the \$26,500 in for now, but said it was not an essential item, and had been pushed out in time before.

NW SE transportation link

There was discussion as to whether this was a possible reality, politically speaking and in terms of where the money for it would come from.

Mr. Roberts said the Town was at a 97% load at their intersection, and said it would be irresponsible not to put something in the CIP concerning this. He said if they had a good plan, who knew where the money might wind up coming from.

Mr. Campbell said the funds for this would most likely come from TCE grant funds. He also said the Town would need to get concrete figures on such a project to the State in order to get plugged into the State's long range transportation plan, and hopefully then move the project up in time. He and Chair McGowan agreed that using the joint Town/UNH transportation money would be a good first step, in the short term.

Mr. Roberts noted that Mr. Pesci and Mr. Bencks had spoken in favor of the Town doing this kind of planning.

Administrator Selig agreed this should be kept in the CIP to provide some leverage to get the project into the State plan. He noted that the issue was driven by the existence of the UNH in Durham, and said the State should therefore help.

Vehicle replacement

Administrator Selig said he thought the Town should forego the replacement of any of the police cruisers this year, noting that they had a good vehicle maintenance staff.

Councilor Needell asked if it made sense to have Town staff using cars that got lousy mileage, and if this was perhaps a good opportunity to scrap that plan and come up with a different one.

There was discussion on this, with Administrator Selig explaining that while in the future, they would all be driving hybrid vehicles, right now it was hard to justify the investment in these vehicles because the savings just weren't there yet.

Councilor Needell said he wasn't necessarily thinking about the hybrid approach, and there was further discussion.

Building Needs Assessment and Renovation, Police Department.

Administrator Selig explained that as part of the building needs assessment being done at the Evangelical Church, it was being evaluated whether the Police Department could perhaps have its headquarters there, which would negate the need for the renovations at the current building. He said even if this idea didn't make sense, he didn't think the building needs assessment needed to be done for renovations to the existing Police Department building in 2009 as currently proposed. He recommended pushing it out further in time.

Mr. Kelley asked that the rationale for these renovations be provided.

Fire Department Vehicles

Administrator Selig said he recommended funding a replacement for the Medic 1 vehicle. He noted that this was funded through the Fire Department's capital reserve fund, so didn't impact the tax rate directly. He recommended striking from the CIP for the time being the 4x4 utility vehicle, the fire prevention vehicle, and the Segway. He said the Fire Department could propose these again next year.

Mr. Kelley said the rationale that had been provided for these vehicles didn't include cost benefit analyses, and said it was important to have this information.

There was discussion on this, with Administrator Selig explaining that UNH liked the Segway idea, as part of its efforts to aggressively promote green technologies. He said while it was a fun idea, he didn't feel it was critical to Town operations.

Public Works Department Roads Program

Administrator Selig said that typically, the Town spent \$300,000-320,000 per year on the road surfacing program. He said the Town might need to forego some of this spending this year, and he asked what priority the Planning Board placed on this issue.

There was discussion that there had been an escalation in the cost of materials. Public Works Director Mike Lynch said the thought was to eliminate from the program one of the roads planned for upgrade that was in the best condition at this point. He said the Town could get away with shimming this road, at least in the short term.

Mr. Kelley received clarification from Mr. Lynch that Public Works employees walked the roads annually to see what kind of shape the Town's roads were in. Mr. Kelley said something that was lacking was the University's contribution to the Town's road system, and he spoke about the fact

that UNH was the major generator of truck traffic in Durham. He urged Administrator Selig and Mr. Lynch to discuss this issue with the University, and to try to make some progress on it. He said the University should certainly be contributing to the upkeep of the major arterial roads, like Madbury Road, which came into Durham.

Mill Pond Dredging

Administrator Selig outlined the issues concerned with this project, and recommended using Conservation Commission land use change tax funds exclusively for this. He provided details on the de-watering and inspection of the dam, and said if it turned out that the cost to replace or repair the dam was significant, the Town might want to revisit whether it wanted to retain it.

He noted that significant funding was likely to be available for dam removal, in which case the Town could avoid the repair costs now and recurring costs, and could essentially restore the channel to what it was prior to the establishment of the dam. But he said there were also historic and aesthetic issues involved.

Mr. Roberts asked how much mud would go into the estuary if the dam were removed, and Mr. Lynch said it would be a tremendous erosion control project. He said the transition of what used to be a pond into usable land would be a significant project.

Mr. Kelley said the area would certainly have to be stabilized.

Administrator Selig said if the Town did this, a question was whether there would then be some Town owned land where perhaps a new Town Hall/Library could be put.

Mr. Lynch said if the area were properly filled and erosion control measures were put in place, this would make some very valuable land. It was noted that only one side of the channel belonged to the Town.

Mr. Kelley said if the report on the dam came back favorable and the goal was to retain it, he thought that the rationale in the CIP needed to talk about the benefits of doing the dredging.

Administrator Selig said there would be the historic and aesthetic benefits as well as the environmental benefits.

Mr. Roberts said a graduate student report had identified these benefits, but he said if it cost \$1 million to repair it, he wasn't so sure about that

Park Court drainage

Mr. Lynch explained that the church nearby wanted to upgrade its property, and was not happy with the drainage coming off of Park Court in what was a tight, urbanized area. He said the church was thinking of taking down the existing garage in the area, bringing drainage pipes in, and then bring the garage back. He said it was the Town's obligation to do something, and said it could do the excavation and the laying of the drainage pipe.

Administrator Selig said he supported this project, and would like Planning Board feedback on it.

Mr. Kelley said he would like to see the Town do more of this smaller type of repair work, and also said he would like to see further development of the skills of Public Works Department employees.

Mr. Lynch said all Department employees were cross-trained on multiple projects, except for technical things like some of the work at the wastewater treatment plant. He said it all depended on what was going on at the time. He noted that the Highway Department had three people, and was involved with 40 to 50 projects at any given time.

Cedar Point Road drainage problem.

There was discussion that the intention was to work with a contractor who could do the ditching and the grading faster than the Town could, and that the Town could provide the gravel and some of the other work that needed to be done on the road.

Mr. Ozenich asked where the water on Cedar Point Road would go as a result of this drainage work, and Mr. Lynch said it would go into a series of treatment swales before going into Great Bay.

Mr. Cedarholm described the drainage problems on the road and what was proposed to address them. He said the road needed to be raised in some places, but said it wasn't clear at present where the right of way was along that road, noting that in some cases, the septic systems were right up close to the road. He said everyone on the street would need to be on board with what Public Works wanted to do, and would have to give up some of their yards.

There was discussion about whether a new, paved road was needed there. Mr Cedarholm said gravel roads worked fine, if there was a drainage system to get the stormwater away from the road. He said that at present, there wasn't 100% consensus from the neighbors that they wanted a paved road, and he noted a policy established in Town some years back that required that there be 100% consensus for this kind of project.

Water Fund - Spruce Hole Well development

Mr. Cedarholm said the Department had just gotten comments back from the State on the preliminary well siting report. He provided details on this report, and said the comments were fairly benign.

He said Underwood Engineering had prepared a preliminary engineering report, which looked at 5 alternatives for connecting the well to the Town's water system. He provided details on this, and said the most cost effective alternative turned out to be converting a portion of the Lamprey River raw water main to a clean water pipe, and extending it to connect it to the Foss Farm water tank.

He said this raised questions about what the Town would be doing with the pump station on the Lamprey River. He said if it moved forward with the alternative, it would commit to using the water pumped from the Lamprey River as groundwater recharge of the aquifer. He said the cost differential between the different alternatives was about \$1 million, and said the conversion approach was therefore quite attractive.

He said if the aquifer turned out to be a good underground reservoir, the Town probably wouldn't have to pump from the Lamprey River during dry periods, something that was problematic right now because of the 401 certificate.

Administrator Selig said he wanted to be supportive of future taxable development, but said he wasn't certain how likely it was that the Town would see significant development over the next year. He said the question therefore was whether it made sense to do the pump test and install the well, but not connect the well to the system as a whole, and leave that until there actually was some development out in that area of Town. He noted that the expectation was that UNH would contribute 2/3 of the cost.

Mr. Kelley said he shared the concerns about the price tag for this project, and said it was a tremendous amount of money. He said perhaps this was the Town's long term solution for its water supply, but said it was hard for him to support it right now. He asked Mr. Cedarholm and Mr. Lynch how they felt about the 401 certificate draft.

Mr. Cedarholm said he thought the draft changes basically shut that water system down at 45 cfs, and said the existing certificate was a much better document.

Mr. Kelley asked why not go back to the State, and say the Town didn't like item D 4 in the draft.

Mr. Cedarholm said they were preparing to do that. He said the details of the certificate draft had been discussed with Mike Metcalf, and he noted that Portsmouth had a similar draft, which Mr. Metcalf had reviewed in detail. He said the Town was therefore well positioned concerning this.

There was discussion about the fact that the draft certificate required that the Town monitor wetland impacts from using the water supply. Mr. Cedarholm provided details on what would be involved in the Town having to do this.

Mr. Kelley said he felt that the State needed to do this wetland monitoring.

Mr. Cedarholm said he intended to tell the State that the Town didn't plan to have a consultant prepare a report that had no means or ends.

Mr. Kelley said it wasn't that long ago that the Town had spent a lot of money to get the pump station and the hard pipe directly to the water treatment plant. He said he would hate to just give up on that now. He said the Lamprey River was a relatively cheap source of water for Durham, and said during most times of the year, it was abundant. He said if there were provisions of the 401 certificate the Town didn't feel were right, he suggested that the Town should tell the State it couldn't live with these findings.

Mr. Cedarholm said another side of this was that the in-stream flow study was coming to a close, and there would be a river management plan for the river within 2 years. He said at that point, the 401 certificate would be essentially out the window, and certain conditions would be in place as part of the management plan. He said hopefully, Durham's input over the next few years would have some effect on this plan.

Mr. Lynch agreed that the Lamprey River was the cheapest and best water supply the Town had, and said no one was giving up on it. He then explained why Spruce Hole had gotten put further up in the CIP, because of significant additional development being considered in the western part of Town. He said that otherwise, development of the aquifer would have been pushed further down the road.

Chair McGowan asked if those proposed developments still existed.

Administrator Selig said it was hard to know. He spoke about the possible timing of a number of new developments.

There was discussion that the permitting process was a 3-year process, and that right now, the Town was one year into it, with the pump test the next step.

In response to question from Mr. Roberts, Mr. Cedarholm said he recommended moving forward and expecting that the 401 certificate would remain in place. He said the Town would see something similar to it when the river management plan was in place, and also said he didn't expect that the State would allow the Town to go back to where it was in 1988.

He said there were limitations imposed by all the State regulations that applied to the river, under the in-stream flow rules, and said these would continue in the future. Mr. Cedarholm, said that for planning purposes, it would be wise to plan on fact that there were limitations on the Lamprey River, and that these wouldn't be lessened to any great degree.

Administrator Selig noted the initiative underway to consider whether the Oyster River should be put into the State Rivers Protection program. He then asked what the cost to the Town would be if after the well was installed and the pump test was done, the project was shelved for a period of time, until the Town was ready to move ahead with it.

Mr. Cedarholm said it would cost \$500,000 to do the pump test.

Mr. Kelley said he was not against doing a feasibility assessment of the resource. He said that was a lot of money right now, but said he personally could support that aspect of the project.

Councilor Needell asked how much it would cost to get the permit, and Mr. Cedarholm said it would cost between \$500,000 and \$1,000,000. He said he expected to see the permit approval in 2010. Councilor Needell asked how long the permit would be valid and was told it would be 10 years before the Town would need to re-permit the well. Councilor Needell said he was uncomfortable with \$500,000 in the budget for this, although noting he had been a major supporter of the project. But he said there was a lot of unfunded liability, in terms of who was paying for it and when it would be needed.

Mr. Lynch said it seemed to get harder every year to go through the permit process, and said he thought this would only get worse over time. But he said he totally understand the issue of the economic impact.

Administrator Selig said if they didn't spend the \$500,000 in 2009, he wanted to know to what extent things would have to be done over, in terms of the regulations, etc.

Mr. Cedarholm said there might be additional land developed around the perimeter of the aquifer boundary, which would impact the monitoring plan. He also said the Town would lose a year in the permitting process, things would get more expensive, and the regulations would get more

complicated.

There was discussion on concerns that water withdrawal from the aquifer wouldn't shut off the springs that fed such places as Chesley Brook.

Mr. Kelley asked if the Town was looking at conditions that might have to be placed on the water withdrawal from the Spruce Hole well that would make the Lamprey River restrictions look like a walk in the park.

Mr. Cedarholm said probably not. He noted that there was a monitoring program around the Lee Well now, and said a similar thing would need to be done for Spruce Hole.

There was discussion on this.

Administrator Selig said although on its face, this was a water project, it was also an economic development project. He said a question was whether the General Fund should be charged for this work, since it was part of an effort to broaden the tax base.

Mr. Kelley said that was a good question.

There was discussion about whether impact fees could be used to help pay for this, and Administrator Selig and Mr. Cedarholm said the Town was looking to revise the tie in fee, as opposed to using an impact fee for this.

Mr. Roberts asked Administrator Selig if he favored going ahead with the project.

Administrator Selig said he was undecided, and said there were a lot of other items in the Budget he was trying to address. He said it made sense not to burden the water users, noting that asking them to pay for this would result in a 50% increase in water rates.

Mr. Kelley agreed that this cost should be born by the General Fund. He said he supported the study so they would know what they had out there.

Mr. Ozenich agreed.

Councilor Smith said it might take years for the various projects to come into existence, and he questioned taking a big step in a \$2.8 million investment, when it wasn't known if the Town would need the extra water. He said if the Town didn't do this, and took Lamprey River water and put it in the Oyster River if it needed it, he wondered what the likelihood was that they would encounter difficulties with the 401 certificate.

Administrator Selig said if new development created additional demand in the water system and then there was a dry year when the students came back to school in September, the Town would take the water from the Lamprey River and tell the State what it would do in the future to avoid this. But he said the Town was trying to be responsive to various entities right now.

Councilor Smith asked if DES had shown interest in removing the Wiswall dam.

Mr. Cedarholm said there had been discussion, and he also noted that the Town had just received a grant to establish a fish passage at the dam. He said they were heading in the direction of having a fish ladder, but he said since federal money would pay for this, the Town needed to look at alternatives, including removal of the dam.

There was discussion on the irony that there would be severe wetland impacts if the dam were removed.

Mr. Parnell noted the economic difficulties right now, and said he didn't feel there was a lot of urgency concerning the aquifer given the fact that an emergency situation could be accommodated. He said he thought this project could be pushed out in time.

Councilor Needell said he wished to see minimum expenditures at this point, and said he was on the fence concerning the permitting. He said he should recuse himself because he was a water user.

Councilor Smith said he would prefer to remove this from the CIP until the Town knew that it really needed to do this.

Mr. Roberts said he thought the Town should go ahead with it.

Chair McGowan said given the fact that it wouldn't delay economic development, he would push this down the road a bit.

Wastewater

Administrator Selig said because the Town hadn't gotten the draft permit yet concerning the wastewater treatment plant, he recommended pushing this item out in time.

There was discussion on the conclusions of the regional wastewater study.

Councilor Needell asked whether if there was no regional solution, the Town would inevitably have to do tertiary treatment.

Mr. Cedarholm said the Town would at least have to do more nitrogen removal, and said a lot of reworking of the plant would be needed.

Mr. Cedarholm said they were looking at upgrading the West end sewer capacity in stages, and he provided details on this. It was noted that this area was very close to capacity right now.

Administrator Selig said this would increase capacity by about 36%, which would open things up for Perry Bryant and several other possible developments out in that area. He said these upgrades would not support a full build-out of the area

Mr. Kelley said a study done on the sewer line had identified problems near the horse barns and the field house area. Mr. Cedarholm said the field house stormwater management issues had been addressed by UNH, and said they were still looking at the horse barn issues.

Mr. Lynch provided details on how the wastewater system was gradually being upgraded, and said it was a balancing act that recognized that economic development was expected in that area of Town over time.

Mr. Cedarholm noted that Planning Board had approved a project that included a holding tank, and said sewage would then be pumped into the system at off peak hours. He asked if this was a possible approach for some other developments as well, and there was discussion

Mr. Kelley said the type of improvements being suggested could be provided within a relatively short time span, if a development came along.

Mr. Lynch spoke about collection system upgrades, explaining that there were a dozen or so areas of the wastewater system that needed some sort of maintenance or repair. He said the funds in the COP would address the 4 or 5 of the worst areas.

Mr. Cedarholm said there were a couple of areas, like Strafford Ave and Meadow Road near the wetland where there was a lot of groundwater infiltration into the cracked clay sewer pipes.

Mr. Lynch said much of the money spent on the wastewater system over many years had been at the treatment plant, and not on the collection system. He said some of the collection system repairs could be done by Town employees, and also said the Town could perhaps partner with developers in making some of them.

Asked whether he was close to getting to the goal of a zero increase in spending, Administrator Selig said they were getting there, and he gave examples of how this was being done.. He also noted that he would like to protect the fund balance, and he spoke in detail about this.

There was discussion on economic development plans coming down the pike, and the respective roles of the Planning Board and the Town Council concerning the infrastructure needed for these developments..

Mr. Kelley said he supported pushing some things out, and he suggested not only focusing on 2009, and looking at 2010, given the slowing economy.

Administrator Selig said in this kind of economy, non unionized town employees were fortunate to have good jobs and benefits, and said the Town was therefore holding tight with current wages and benefits. He also said it was expected that there would be a drop in what the Town would have to pay to attract good employees.

X. Minutes

July 23, 2008

Richard Kelley MOVED to approve the July 23, 2008 Minutes. Richard Ozenich SECONDED the motion, and it PASSED unanimously 4-0-2, with Chair McGowan and Lorne Parnell abstaining because of their absence from the meeting.

August 13, 2008

Richard Kelley MOVED to approve the August 13, 2008 Minutes. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 5-0-1, with Steve Roberts abstaining because of his absence from the meeting.

August 27, 2008

Change Header to 2008
Correct names in the heading on page 1

Richard Ozenich MOVED to approve the August 27, 2008 Minutes as amended. Richard Kelley SECONDED the motion, and it PASSED unanimously 6-0.

September 10, 2008

Heading on first page, should say “Vice Chair Lorne Parnell”

Councilor Julian Smith MOVED to approve the September 10, 2008 Minutes as amended. Steve Roberts SECONDED the motion, and it PASSED 4-0-2, with Richard Kelley and Richard Ozenich abstaining because of their absence from this meeting.

XI. Adjournment

Richard Ozenich MOVED to adjourn the meeting, Richard Kelley SECONDED the motion, and it PASSED unanimously 6-0.

Adjournment at 11:10 pm

Victoria Parmele, Minutes taker