

This set of minutes was approved at the March 25, 2009 Planning Board meeting

**Durham Planning Board
Wednesday February 25, 2009
Durham Town Hall - Council Chambers
MINUTES**

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

ALTERNATES PRESENT: Councilor Jerry Needell

MEMBERS ABSENT: Kevin Gardner; Wayne Lewis

I. Call to Order

The meeting came to order at 7:05 pm.

II. Approval of Agenda

Richard Kelley MOVED to approve the Agenda as submitted. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 7-0.

III. Report of the Planner

- Mr. Campbell noted the following paperwork received: Minutes of the site walk held on Saturday; an email from Board member Kevin Gardner; a request from Jesse Gangwer for Technical review to change a portion of the Town and Campus retail space to office space; and a request from Steve and Lori Lamb to extend the conditions of approval for the Highland House site plan application.
- Mr. Campbell noted the announcement for the Spring OEP Planning Conference, and said Board members could sign up for the conference online this year.
- Mr. Campbell said that on February 16th, the Town Council had approved unanimously the changes to the Septic Regulations. He said there were no comments from the public.
- Mr. Campbell said the EDC would be meeting on Friday, February 27, 2009 and would have a discussion with Kyle Wilson, Fred Kell, and Barrett Bilotta on the possible redevelopment of their property, located at 26 Strafford Avenue (Corner of Strafford Avenue and Edgewood Road). He said right now there was a student rental there, and said they would like to build a mixed-use structure there.

He said the property was presently zoned RA, and would require a zoning change. He

said the developers would be coming before the Planning Board with a conceptual consultation at the March 25th meeting, and among other things wanted to discuss the Zoning change idea with the Board.

Mr. Campbell said the EDC would also be continuing its discussion on the list of projects that may be eligible for federal stimulus money.

- Mr. Campbell said a resident had expressed interest in one of the two alternate positions available on the EDC, and said he was hopeful that another person would step forward in the near future.
- Mr. Campbell said that evening the Board would be discussing possible topics for the March 12th Quarterly Planning meeting. He said one item for the agenda was to have Michelle Gagne from Cooperative Extension come to the meeting to discuss the Master Plan update. He noted that he would not be able to attend that meeting.

IV. Public Hearing on a Subdivision Application submitted by Atlantic Survey Co. LLC, Durham, New Hampshire, on behalf of Thomas Moriarty, Heirs of Bertha Moriarty, Durham, New Hampshire, for the subdividing of one lot into two lots for conservation purposes. The property involved is shown on Tax Map 15, Lot 7-1, is located at 4 Bennett Road and is in the Rural Zoning District.

Adam Fogg, spoke for the applicant. He noted that State subdivision approval had been added to the notes on the subdivision plan, and said everything else was the same as it had been at the previous meeting.

Mr. Kelley noted that an outstanding item last time had been the easement language for the septic system and the well, and he asked where things stood with this.

Mr. Hyde said the documentation was being drafted and was not yet ready. He said this could be made a condition of approval.

Steve Roberts MOVED to open the Public Hearing on a Subdivision Application submitted by Atlantic Survey Co. LLC, Durham, New Hampshire, on behalf of Thomas Moriarty, Heirs of Bertha Moriarty, Durham, New Hampshire, for the subdividing of one lot into two lots for conservation purposes, at the property located at 4 Bennett Road in the Rural Zoning District. Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.

Bill Hall, Smith Park Lane, said he supported the subdivision application. He also said he no idea what it would take to accommodate the Southern Connector in the conservation plans, but that if it was built, it had to end up exactly across the road from Longmarsh Road. He said the Southern Connector was the only solution to traffic issues in the southern part of Town, and said the Planning Board needed to ask some questions concerning this.

Russ Smith said he was an abutter, was very much in favor of the application, and said it was a great idea. He also said he didn't think the Southern Connector was needed, and that he did not

want to see it put in.

Richard Kelley MOVED to close the Public Hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

Councilor Needell noted that there had been discussion on the Southern Connector at the site walk. He asked if the ownership of the conservation property by NH Fish and Game would necessarily impact the decision-making on this, and would make it harder for the road to go through.

Mr. Hyde said it would be much like dealing with any private landowner. He said in this case, a federal agency was providing the funds, and would have to approve the use of the land for the Southern Connector. He also said there would need to be a taking process in order to acquire a right of way across the property in the future. He provided some details on how this would work.

There was discussion on the route the Southern Connector would take relative to the properties in the area.

Councilor Smith asked what federal agency was supplying the money for the conservation project, and Mr. Hyde said it was NOAA.

Mr. Parnell asked whether property taxes would be paid on this property.

Mr. Hyde said the Nature Conservancy did pay taxes, and noted that it was a current use property. But he said the property would be transferred to NH Fish and Game, which did not pay taxes.

Mr. Kelley asked if it was appropriate for the Board to inquire about future plans for parking in the area, and the lack of access for the public to get into the property. He suggested that perhaps the Board could include some wording in the approval that it encouraged the development of parking.

Mr. Hyde said perhaps this could be encouraged, but not required. He said the long range intent was to connect with other conservation properties in the area, and said that right now one could get to the property from Foss Farm, although this was difficult in the winter.

Chair McGowan recommended that the Findings of Fact include the testimony received at the Public Hearing.

Mr. Kelley said the granting of the waivers at the previous meeting should be included in the Findings of Fact. He asked whether the front setback met the standards for the Rural Zone.

There was discussion that the setback probably did not meet the requirements, but that there was an existing nonconforming use on the property. Ms. Fuller said this was mentioned in the Minutes for the site walk.

There was discussion about whether the access issue should be mentioned in the conditions of

approval. Mr. Kelley said the property was being taken off the tax rolls, so something should be said regarding access to the public.

It was noted that this property would be on the Town's map of conservation properties. Mr. Hyde also said that once the transfer to NH Fish and Game was complete, the agency would put up signs for the public. He also said there was a website that listed the properties that were protected by the Great Bay Resource Protection Partnership, including this one. He said this website would note those properties available to the public for fishing, hunting, etc.

Mr. Kelley said one of the conditions of approval was that copies of the easements for the septic system, well and pump house would be provided to the Planning Department. He asked if these easements would be referenced in the subdivision plan.

Mr. Hyde said the plan showed the well and the pump house, and said the easement deeds would reference these approximate locations shown on the plan. He agreed with Mr. Kelley that it would be good to be able to cross reference the deeds and the plan.

Mr. Kelley asked if the Board should make note of the fact that it was aware that the long range transportation plan showed the intersection of the Southern Connector with the property.

Mr. Campbell suggested that this could be noted in the Findings of Fact.

Findings of Fact

1. The applicant submitted an Application for Subdivision of Land with supporting documents on January 20, 2009.
2. The applicant submitted a Subdivision Plan entitled "Plan of Moriarty Land Prepared For The Nature Conservancy Located At Route 108 & Bennett Road, Durham, N.H." prepared by Atlantic Survey Co., LLC, Durham, NH, dated January 2009.
3. The applicant submitted a letter of intent on January 20, 2009.
4. The applicant submitted copies of the Deeds for the property on January 20, 2009.
5. The applicant submitted a letter of authorization to represent the owner of the property on February 6, 2009.
6. The applicant submitted a Waiver Request on February 9, 2009.
7. James B. Campbell, Director of Planning and Community Development, granted exemption of this application from Conservation Subdivision Regulations on February 9, 2009.
8. A Site Walk of the property was held on February 21, 2009.
9. A Public Hearing was held on February 25, 2009 and testimony from the public was received.
10. The Planning Board encourages public access and parking to the new lot.
11. The long range plan for a "Southern Connector" shows the beginning of the Connector on said property across from Longmarsh Road.

Waivers

The applicant has requested waivers from the Subdivision Regulations:

- 7.01 Phase I Conceptual
- 7.02 Phase II Design Review
- 7.03(F) Final Common Open Space Ownership and Stewardship Plan
- 7.05 Construction Plan
- 7.06 Verification of Soils
- 9.06 Storm Water Drainage
- 9.08 Subdivision Layout and Design and
- 9.09 Ownership and Stewardship of Common Open Space.

The Planning Board has considered this request and hereby granted the waivers at their February 11, 2009 meeting.

Conditions of Approval - to be met prior to Signature of Approval on Subdivision Plan

1. The applicant shall supply two mylar plats and one paper copy for signature by the Planning Board Chair.
2. A certificate of monumentation shall be provided to the Planning and Community Development Department.
3. An updated subdivision plan will need to be submitted showing approximate location of the existing septic system.
4. Copies of the easements for the septic system, well and pump house shall be provided to the Department of Planning and Community Development.

Conditions to be Met Subsequent to the Signature of Approval on the Subdivision Plan:

1. The referenced Subdivision Plan and these Findings of Fact and Conditions of Approval shall be recorded with the Strafford County Registry of Deeds, at the applicant's expense, within seven (7) days of the Chair's signature on the Plan.
2. There will be no potential for further subdivision of the parcel or any of the lots created by the subdivision. Nor shall there be any potential for the construction of more than one dwelling unit per lot.

Steve Roberts MOVED to approve the Findings of Fact and Conditions of Approval as amended for the Subdivision Application submitted by Atlantic Survey Co. LLC, Durham, New Hampshire, on behalf of Thomas Moriarty, Heirs of Bertha Moriarty, Durham, New Hampshire, for the subdividing of one lot into two lots for conservation purposes, at the property located at 4 Bennett Road in the Rural Zoning District. Lorne Parnell SECONDED the motion, and it PASSED unanimously 7-0.

- V. Discussion of Support Letter for Durham Conservation Commission Application for Piscataqua Region Estuaries Partnership (PREP) Grant.** The Conservation Commission is preparing a grant application to PREP for the Community Technical Assistance Program (TAP) to write stewardship plans for several town-owned properties.

Beryl Harper, a member of the Conservation Commission, said the Commission was applying for a small grant from the Community Technical Assistance Program (TAP) to write stewardship plans for several Town owned properties. She said the Commission had arrived at the top priority sites to receive these plans: Wagon Hill Farm; the Doe Farm; Longmarsh Preserve; and the Weeks Lot.

She said it was unlikely that this small grant would cover all of the work that needed to be done. She said this work included a forest inventory and a timber cruise if needed; a Natural Heritage inventory; a wildlife inventory; and consideration of improvements needed for dams, parking, trails and roads.

Mr. Kelley asked if the Weeks Lot abutted the Longmarsh Preserve and was told that it did not.

Ms. Harper noted that the Weeks Lot did abut the Lamprey River, and said the Commission was putting a high priority on properties with water access that needed protection.

Mr. Kelley said both the Weeks Lot and the Doe Farm property were isolated. He also said that Wagon Hill abutted a conservation easement property as did the Longmarsh Preserve. He asked whether the stewardship plans would be focused just on Town owned property, or if there was the potential to expand the plans to other easement parcels nearby.

Ms. Harper said the stewardship plans would focus only on the Town-owned property itself, but she said the uses on adjacent properties would be taken into account.

Mr. Hyde noted that the Longmarsh Preserve fell under the work being done on a landscape plan for the Crommet Creek area. He said he hoped that whoever did the stewardship plan would look at the management on abutting properties, in order to inform this landscape plan. He explained that the Nature Conservancy was developing this landscape scale plan, and said a number of organizations were doing management plans in concert with this. He said the idea was for Town owned land to be part of this process.

Ms. Harper said the Longmarsh Preserve was part of a great collection of conservation properties in that area.

Chair McGowan received clarification from Ms. Harper that there would be four separate stewardship plans, and that the money would pretty much be spent in the order in which the properties were listed.

Mr. Parnell asked if the expectation was that these funds would be used to actually do the stewardship plans, or if the Conservation Commission would be looking for other funds as well.

Ms. Harper said the Conservation Commission would be looking for other funds, and would also be looking for volunteers to help with the work. She said the grant would be used to get the paperwork in order.

Mr. Parnell asked what it would cost for all four stewardship plans.

Mr. Hyde said the plans would cost \$12,000 at a minimum, and said it was more likely that they would each cost about \$4,000. He said more would be known on this once they were into the technical assistance process.

Ms. Harper said the Doe Farm already had a forestry plan that was assumed to be excellent, and said this would be useful in developing the stewardship plan. She said the Conservation Commission was not looking to repeat the work that had already been done.

Mr. Hyde said this was really a technical assistance program, and not really a grant program. He said TAP would administer the funds, and said these funds would not pass through the Town of Durham.

Ms. Harper noted that TAP was a regional entity.

Mr. Roberts said three of the properties on the list were focused on conservation. But he said Wagon Hill Farm was a complex, multi-use property, and said a question was how to approach a property as complex as that in a stewardship plan. He noted the various entities in Town that had vested interests there.

Ms. Harper said that was a good question. She said she had met with the Parks and Recreation Committee, and members had asked a lot of questions. She said Wagon Hill had two pieces, the first being the back 40 acres, and the second being the larger piece toward the river where recreation took place. She said the Conservation Commission would like to address the back 40 acres.

She also said it was important to look at the broader picture and not just the recreational aspect of the larger piece toward the river, and said another goal was therefore to be sure that the various uses on this piece were compatible.

Mr. Roberts noted possible conflicts between the different uses there, and said a question was how to weigh them.

Ms. Harper said this was why the Commission wanted to take a good look at this. She also said they would look at issues like invasive species, something that was important in terms of the long-term use of the property.

Chair McGowan asked what the Conservation Commission needed from the Planning Board, and Ms. Harper said the application form had a spot to be filled out by the Planning Board if it supported the project. She said doing so would make the application a stronger document, and also said a copy of the Planning Board Minutes could be used to indicate the Board's support.

Councilor Smith MOVED to support the grant application. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.

VI. Discussion on the Summary Report: Review of Transportation Planning Documents, Town of Durham and University of New Hampshire, submitted by Norway Plains Associates, Inc.

Mr. Campbell provided background information on the report developed in 2007 by Don Rhodes of Norway Plains, and said Mr. Kelley had asked that the report be brought back to the Planning Board for discussion. Mr. Campbell said he had met with Mr. Rhodes the previous week, and noted that some minor changes would be made to the report.

Mr. Kelley asked why the report had been submitted in November of 2007 but it was only now that the Planning Board was looking at it.

Mr. Campbell provided details on the fact that the Planning Board had proposed that a transportation linkage study be done but it was taken out of the CIP by the Town Council in 2007. He also spoke about the fact that grant funds for this kind of study had been denied previously, and that there was some indication that the reason for this was that UNH didn't support the Northern Connector concept, and the State therefore didn't support it.

But he noted that the traffic model recommended in the Norway Plains report had been completed, and said the Town and the University would be moving forward with it. He said a test run would be done for the Mill Plaza area, which was part of the original proposal from RSG, the firm that had developed the local traffic model as well as the regional traffic model.

Mr. Campbell noted that one of Norway Plains' recommendations was traffic counts. He said SRPC had been doing these, and said more would be done in April. He noted that the Town hadn't purchased the pneumatic tube traffic counters Mr. Rhodes had recommended, which cost about \$15,000.

He said another recommendation in the report was to conduct an origin of destination survey, but said nothing had been done on this recently.

Chair McGowan received clarification that if Mr. Campbell didn't have the most recent traffic counts, SRPC did have this information.

Mr. Kelley asked if Norway Plains had exhausted the money provided to it for the work on the 2007 report.

Mr. Campbell said yes, and said Mr. Rhodes wasn't charging for any changes being made to the report now. He said one of the big questions Mr. Rhodes recently had was whether there should be an update in the report to cover from January 2008 to the current time period. Mr. Campbell noted that among other things, the south railroad underpass was now complete. But he said the funding wasn't there for this kind of update.

Mr. Kelley suggested that it would be useful if, for each of the transportation planning documents reviewed in the report, the author and date of these documents could be provided, and the information could be bolded.

Mr. Roberts also said it was difficult in reading the report to determine which were Mr. Rhodes recommendations compared to those of others, and he noted page 14 of the report as an example of this. He said this needed to be cleaned up.

Mr. Roberts said he was also troubled by some of the assumptions in the report, and he spoke in some detail on this. He said if student housing and faculty housing was going to be put in, this had to be considered as part of the analysis in a traffic plan. He also noted that he wasn't necessarily wedded to the Northern Connector concept.

Mr. Kelley said a reason he had supported the 2007 Norway Plains summary report was that there had previously been several other studies done, which would take the Planning Board months to go through. He said the report was at least a primer on the issues and their status, and the recommendation of previous reports.

Mr. Roberts noted that Recommendation C. on page 8 spoke about "strong report", but did not indicate who and where this support came from. He also said he hadn't seen any analysis on an engineering basis concerning the data.

Councilor Smith asked what was needed from the Planning Board at this point concerning transportation studies.

Mr. Roberts noted that the previous item in the CIP for a professional transportation study that was more complex had been removed by the Town Council.

Mr. Campbell said this had been put back in the CIP for 2011-2012.

Chair McGowan asked what information was needed concerning the Northern Connector in order to get some closure on this issue.

Councilor Smith said he didn't think there could be this kind of closure.

Mr. Roberts said the Town needed a sophisticated destination analysis in order to determine the impacts of bringing in more students, faculty housing, etc. He said there were a lot of issues that needed to be considered in order to come up with a proposal to improve transportation in Durham.

Mr. Parnell said the Norway Plains report seemed to be telling the Planning Board that continuous road counts, a traffic model, a destination study, etc., needed to be done before deciding on something like the Northern Connector. He said the model was presumably being worked on, and they were getting the traffic count data, but said there wasn't money for the rest of it.

There was discussion about the cost of doing traffic counts on a consistent basis over time.

Mr. Campbell also noted that the existing traffic model would need to be updated every 5 years, and would cost about \$4,000-5,000, which would be split with the University. He said actual

traffic runs would cost another \$4,000-5,000, but noted that applicants for projects could be required to pay for these.

Mr. Kelley said he hoped the Planning Board would utilize the traffic model for applications, where this made sense. He said this would be a tool to help the Board visualize traffic impacts of a proposed development.

Mr. Campbell also said some traffic modeling could be done if there was money for this in the Planning Board's budget.

Mr. Roberts said he didn't see that getting traffic count data was a problem, noting the excellent data provided by traffic consultant Steve Pernaw. But he said what was needed for the modeling was destination data and analysis.

Councilor Needell noted the letter from Kevin Gardner on the importance of considering transportation impacts on the community; what they thought the future would look like in terms of transportation options in Town besides roads and cars; and whether it was desirable and possible to reduce the traffic downtown.

Mr. Kelley said he agreed with these comments, and said for the first time, the Town had a tool to look at these things, and make some decisions as to what was in the Town's best interests. He said for developments of a certain level, the Planning Board could require that the traffic model be used, and noted also that the Board could use it concerning a proposed project and could charge the developer. He stressed the importance of keeping the data for the model up to date over time.

Mr. Ozenich said the traffic numbers didn't provide the details of what really happened with traffic in Durham, and said the issue of how to get through this maze was what really counted.

Chair McGowan said an issue was how to quantify what was a legitimate wait time at an intersection, and said this was a relative thing.

Mr. Ozenich noted some sticky traffic situations in Town, given visibility issues, students, etc, and said it was important to address these traffic issues.

Councilor Smith said he didn't think any amount of planning could address these kinds of traffic issues.

Mr. Kelley said he thought if they were going to get anywhere with big picture transportation issues, the model they had could assist with this. He said this might involve assisting and convincing the University that it was in its best interest to help create something big, or instead might involve the Town convincing possible fundraisers that this had merit despite what the University said.

But he said a problem with the model was that it included peak am data but not peak pm data, noting that am data had been chosen so the local model would work with the regional model. He

said the model therefore didn't address pm traffic issues, and said getting this capability would cost about \$50,000. He also said a specific type of model run would be required for events like those at the Whittemore Center.

Mr. Roberts noted that there was no an agreement in place with the University about not using Madbury Road and Edgewood after an event at the Whittemore Center.

There was discussion that the traffic model had been calibrated and was found to be very accurate, but that there had not yet been a model run. Mr. Campbell said He had received the final report and disc a few weeks ago.

There was discussion that the Planning Board and staff didn't have the technical expertise to use it, and that the consultant who developed it owed the Town the model run. There was also discussion about the importance of updating the data for the model over time.

Chair McGowan asked what the next step for the Planning Board should be, and Mr. Roberts said the planning item should be re-entered in the CIP.

Councilor Needell said the Master Plan was currently getting more attention, and said a question was whether transportation planning should be a focus of this work.

Mr. Campbell spoke briefly on what was being planned for updating the Master Plan, and said there were some areas that could be done by the Planning Board.

Mr. Roberts asked if the work involved would include surveys, etc. to show that the public will be represented.

Mr. Campbell said yes, and said there would be discussion on this.

Mr. Kelley said he had a few more specific comments about the Norway Plains report. He said that on page 10, the Findings said "Among other things, the data show very significant use of Madbury road by UNH traffic and by special event traffic." He said he would like to know what these "other things" were.

Mr. Kelley also said the status of the Findings and Recommendations throughout the report should be included where this information was not now included, and he provided details on this.

Mr. Roberts said it should be made clear on page 11, under Traffic Circulation, whether the recommendations were from the University.

Mr. Kelley stated again that for each transportation document reviewed in the report, the date and who did the report should be made clear.

Mr. Ozenich said there were several crosswalks in Town that needed better lighting at night. He provided details on this, and said this was an important issue that had not been addressed.

Mr. Kelley said the he thought the *Summary Report/Review of Transportation Planning*

Documents should come back to the Planning Board for its Quarterly Planning Session. He noted that consultant Don Rhodes was out of money, and said Board members needed to be more familiar with the information in the report and start kicking ideas around.

Mr. Ozenich said there was a lot of information for the Planning Board to digest.

Bill Hall said the VHB report did what Mr. Kelley had suggested. He also said the problem was that the solution to the congestion problem didn't lie downtown. He spoke in detail about the Northern Connector as an appealing alternative to these problems.

Mr. Campbell said there were two copies of the VHB report available in his office.

VII. Other Business

A. Old Business

B. New Business:

1. Topics for discussion at the Quarterly Planning Meeting

Mr. Campbell said he had sent out an email to Town Committees to see if they had anything they would like to address at the meeting, but said nothing had come back from them. He noted that Town Engineer Dave Cedarholm wanted to speak with the Board about the idea of a possible park and ride at the west side of Town near Technology Drive, but wasn't available on March 12th.

Mr. Parnell said he thought it might be useful to have a discussion on the proposed methodology for revising/updating the Master Plan.

There was discussion, and Mr. Campbell explained that the Planning Board wouldn't have to do as much of the grunt work this time. He also said an RFP was being sent out for some of the work.

There was discussion about the fact that Mr. Campbell wouldn't be able to attend the Quarterly Planning meeting on March 11th. It was agreed that this meeting would therefore be held on April 15th instead so Mr. Campbell could be there.

There was discussion on how the consultant's work on the Master Plan would be paid for, and Mr. Campbell said the money would come from the Town's Contingency Fund.

Mr. Roberts said if the Town Council was going to drive how the Master Plan would be done, the Board needed to see an outline on this.

Mr. Campbell said this was something that was being developed with Michelle Tremblay of Cooperative Extension. He noted that the Energy Committee was doing its own Energy Chapter, and that the Parks and Recreation Committee was updating the Recreation Chapter.

Mr. Roberts said the Board really did need to see a plan for this, so it could make some comments. He also said it seemed that this process should start with a survey.

Mr. Campbell said the Planning Board would get the plan that Mr. Roberts was looking for.

2. Recommendation by the Planning Board of Wayne M. Burton for Commissioner Position for
Strafford Regional Planning Commission

Richard Kelley MOVED to recommend that the Town Council nominate Wayne Burton to serve on the Strafford Regional Planning Commission. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.

3. Request for Extension of Conditions of Approval for the Highland House Site Plan Application

Richard Kelley MOVED to extend for six months, at the request of the applicants Steve and Lori Lamb, the Conditions of Approval for the Site Plan Application for the change of use of a single family residence to a 10-room inn, at the property located at 90 Bennett Road in the Rural Zoning District. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.

4. Mr. Campbell said Jesse Gangwer, the owner of Town and Campus, had requested that the Planning Board allow a proposed site plan application of his to go to the Technical Review Committee. He said the project involved slicing off 90 sf of the interior retail space of the building and turning it into office space.

Ms. Fuller said it was a disturbing trend in Town that retail space was being converted into office space.

Mr. Campbell said he saw no reason why this application couldn't go to Technical Review, and Board members agreed.

Councilor Smith MOVED to send this application to the Technical Review Committee. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.

4. March 4th Public Information Meeting on the Oyster River Dam.

Councilor Smith said this meeting was being coordinated by Town Engineer Dave Cedarholm, and was the Town's response, which was long overview, to letters of deficiency sent from NHDES's Dam Bureau regarding the Oyster River Dam.

He said NHDES has begun the process, and said if the Town didn't do anything, there would be an administrative order to either repair the dam or remove it expeditiously. He encouraged members of the Planning Board and members of the public to attend the March 4th meeting, explaining that there would be a number of presentations, and that people could then come forward with ideas, etc.

He said this was a matter of some interest to the Planning Board, because if the dam was removed and the Oyster River flowed freely again, this would be one of the biggest changes that

had ever been seen in the appearance of this part of town. He said he had attended the first two meetings on the issue, and said it was worth paying attention to.

Councilor Smith provided details on the estimated costs for repairing or removing the dam, and noted that NHDES had offered to pay for the removal of the dam and the associated costs of restoring the channel.

He said the dam would be 100 yrs old in 2013, and represented a very innovative design, including a series of chambers. He said there had been some interest from the State Division of Historic Resources in protecting it, and said there also might be some federal interest.

He said the Planning Board could perhaps help later with recommending that this project move up the “shovel ready” ladder of projects that the federal government stimulus package might fund, but said something would have to be done soon.

There was discussion about possible LCHIP money. Councilor Smith also noted that State Senator Amanda Merrill was aware of the choices the Town was facing.

Mr. Kelley said he thought that in 2007, there was a proposal to provide NH towns with assistance for reconstruction of town owned dams. There was discussion on this.

Councilor Smith said this issue would be on the Council’s agenda for the March 2nd meeting. He said he was trying to get other members of the Council interested in attending these informational meetings. He said he had gone to the preparation meeting for the March 4th public information meeting, and said most of the people there were from NHDES. He said the agency had a great interest in removing the dam, so that fish could swim about a mile up the Oyster River.

Councilor Smith said if this dam was removed, a question was whether the Wiswall Dam would be far behind.

Mr. Campbell said that regarding Old Business, Mr. Cedarholm was preparing a response to the Instream Flow report, and said an attorney was working with him on this.

Mr. Kelley said he had had some discussions with Mr. Cedarholm on this. He also said at the Lamprey River Advisory Committee meeting the previous evening, there had been a review of Durham’s response letter. He said he would also be writing a response letter on his own. He noted that the report was on the web, and was very informative.

Mr. Roberts said he had tried to reflect Mr. Kelley’s points on the report at the Conservation Commission meeting, but said this wasn’t necessarily warmly received.

Mr. Kelley said it was important to understand that this was a public water supply, and that the public had every right to be involved in this issue.

Chair McGowan noted that the drainage report for the Christie site plan application had been approved.

Councilor Needell asked if there was anything happening with the Cumberland Farms property, and Mr. Campbell said no.

Mr. Kelley asked if Jack Farrell had formally pulled his site plan application off the table.

There was discussion. Mr. Campbell noted that JLB Partners had previously only gotten as far as the conceptual consultation phase, and said he didn't expect the project proposal to move forward.

Mr. Kelley asked if there had been any indication about why JLB was backing out, and Mr. Campbell said the company felt the process had been taking too long, and they were therefore moving on.

C. Next meeting of the Board: March 25, 2009

VIII. Approval of Minutes – January 28, 2009

Page 1, 4th line from bottom, should read "Mr. Campbell said he had met with Dan Camera.."

Same Page, 3rd paragraph from bottom, should read "'..with Library Board of Trustees Chair Doug Bencks.....as a possible site for a new library."

Page 2, 1st and 2nd full paragraphs, should begin with "Mr. Campbell..."

Page 3, 2nd paragraph from bottom, should include details of the Voluntary Lot Merger

VI. Approval of a Voluntary Lot Merger per RSA 674:39(a) submitted by Julianne Hafner Farrell, Trustee, Trustee, Hopestill Family Trust, Durham, New Hampshire for the properties involved shown on Map 17, Lots 38-1 and 39-22, located on Packers Falls Road in the Rural Zoning District.

Also, second paragraph from bottom, should read "...in order to be able to get to the ..."

Page 4, 2nd paragraph from bottom, should read "...and Mr. Campbell if there was.."

Page 5, 1st full paragraph, should read "..very few families with school age children, there would be...."

Same page, 3rd full paragraph, should read "..with Councilor Smith providing details.."

Same page, 5th paragraph from bottom, should read "He said there were all kinds of possibilities."

Page 6, 2nd paragraph, should read "..because of the wastewater treatment plant.."

Also, 3rd paragraph should read "..had been improvements to the plant.."

Page 9, bottom paragraph, should read "..Councilor Smith's suggestion regarding extendingIt was noted that NHDOT currently wouldn't....."

Page 11, 8th paragraph from bottom, should read "..it was important to look again at stormwater containment rather than.....from some of the conservation subdivision requirements."

Page 12, motion at top of the page should read "Richard Kelley MOVED that Mr. Campbell draft a letter..."

Same page, 2nd paragraph from bottom, remove extra period.

Page 13, 6th paragraph from top, should read "Mr. Kelley said it was Bill Hall's belief.."

Also make a space between the 6th and 7th paragraphs.

2nd paragraph from bottom, should read "...John Carroll's letter, and said the addition of the second railroad track would be a good thing."

Richard Kelley MOVED to approve the January 28, 2009 Minutes as amended. Councilor Smith SECONDED the motion, and it PASSED 5-0-2, with Richard Ozenich and Susan Fuller abstaining because of their absence from the meeting.

IX. Adjournment

Richard Ozenich MOVED to adjourn the meeting. Steve Roberts SECONDED the motion, and it PASSED unanimously 7-0.

9:15 adjournment

Victoria Parmele, Minutes taker