

**This set of minutes was approved at the November 4, 2009 Planning Board meeting**

**Durham Planning Board  
Wednesday September 23, 2009  
Durham Town Hall - Council Chambers  
7:00P.M.  
MINUTES**

**MEMBERS PRESENT:** Chair Lorne Parnell; Vice Chair Susan Fuller; Secretary Stephen Roberts; Richard Kelley; Bill McGowan; Councilor Julian Smith (arrived at 7:05 PM)

**ALTERNATES PRESENT:** Wayne Lewis; Neil Niman

**MEMBERS ABSENT:** Richard Ozenich; Kevin Gardner

**I. Call to Order**

Chair Parnell said Mr. Lewis would serve on the Board in place of Mr. Ozenich for this meeting.

**II. Approval of Agenda**

The Board agreed to move Item VI up on the Agenda before Item IV, at the request of the applicant.

*Steve Roberts MOVED to approve the Agenda as amended. Susan Fuller SECONDED the motion, and it PASSED unanimously 6-0.*

**III. Report of the Planner**

Mr. Campbell said he had met with University Planner Doug Bencks, and had provided Board members with a memo of the meeting.

Mr. Campbell said the next EDC meeting would take place on Friday at 7:30 am. He said there would be discussion at the meeting on the internal SWOT analysis the committee had recently completed. He noted that EDC Chair Chris Mueller had given a presentation on this to the Town Council on Monday. He said the EDC would keep working on its strategic plan, which was also on the agenda. He said Tom Elliot had recently been appointed as an alternate to the EDC.

Mr. Campbell said the TE grant application for sidewalks in the Central Business District had been submitted. He said there had been a lot of requests for the grant funding, but said there was a small pool of money available.

Councilor Smith arrived at the meeting at approximately 7:05 pm.

**VI. Acceptance Consideration of an Application for Boundary Line Adjustment** submitted by McEneaney Survey Inc. Dover, New Hampshire, on behalf of Thomas & Terry Moher, Durham New Hampshire, and Lorraine Morong, Madbury, New Hampshire, to change the boundary between two lots. The properties involved are shown on Durham Tax Map 12, Lot 4-5 and Madbury Tax Map 11, Lot 9A, are located at 34 Watson Road and Jenkins Road respectively and are in the Residence C Durham Zoning District and the General Residential & Agricultural Madbury Zoning District.

Kevin McEneaney of McEneaney Survey Associates, Inc. spoke before the Board. He said the Moher property contained 4.43 acres, 4.41 acres of which was in Durham, with the remainder located in Madbury. He said the proposal was to take parcel A on the plan and add it from the Morong parcel to the Moore parcel.

He said after that, the remainder of the Morong parcel, which contained 27.51 acres, with 26.79 acres in Madbury and 0.72 acres in Durham, would be put into a conservation easement. He said the new lot area of the Moher property would be 6.93 acres, and the new lot area for the Morong property would be 25.01 acres, all of which would be in Madbury. He said they were also proposing a 25 ft right of way through the Moher property to what would be the Morong property and the conservation easement.

Mr. McEneaney said the applicants were scheduled to go before the Madbury Planning Board on October 7<sup>th</sup>, and said he didn't see that there would be any issues there. He read letters from Jerry and Dorothy Smith, abutters to the Morong property.

Mr. Kelley asked if the deeds in Board members' packets were the most recent deeds. He noted that there was no description of the parcel in the Moher deed.

Mr. McEneaney said no survey was done when that deed was completed, but said one had since been done.

Mr. Kelley determined that the Morong property was two parcels within the deed. He asked if both tracts were included in the entire tract shown on the plan, and Mr. McEneaney said yes.

There was discussion on the 25 ft right of way, and whether it would be abandoned. Mr. McEneaney said this was still under discussion. He said it was probably not necessary, but said he wasn't sure it would be given up.

Mr. Moher said the right of way being abandoned was on the Judy Sullivan property, and said she wouldn't be upset if it was abandoned. He said it wasn't very accessible anyway.

Mr. Kelley asked if additional comments or concerns were received from abutters, and was told no.

***Richard Kelley MOVED to approve the Application for Boundary Line Adjustment submitted by McEneaney Survey Inc. Dover, New Hampshire, on behalf of Thomas &***

***Terry Moher, Durham New Hampshire, and Lorraine Morong, Madbury, New Hampshire, to change the boundary between two lots. The properties involved are shown on Durham Tax Map 12, Lot 4-5 and Madbury Tax Map 11, Lot 9A, are located at 34 Watson Road and Jenkins Road respectively and are in the Residence C Durham Zoning District and the General Residential & Agricultural Madbury Zoning District. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 7-0.***

- IV. Acceptance Consideration on an Application for Site Plan Review** submitted by Daniel Sheehan, Durham, New Hampshire on behalf of Colonial Durham Associates, New York, New York, to expand the Mill Plaza Parking to create an additional 28 spaces. The property involved is shown on Tax Map 5, Lot 1-1, is located at Mill Road Plaza and is in the Central Business Zoning District.
- V. Acceptance Consideration for Conditional Use Permit** submitted by Daniel Sheehan, Durham, New Hampshire on behalf of Colonial Durham Associates, New York, New York, to expand the Mill Plaza Parking to create an additional 28 spaces. The property involved is shown on Tax Map 5, Lot 1-1, is located at Mill Road Plaza and is in the Central Business Zoning District

John Ratigan, an attorney for Donahue, Tucker and Ciandella represented the applicant. He noted that the Board had had a number of comments on the application at the previous meeting. He said it was his understanding that the application was now complete, and said he would be happy to respond to questions.

Mr. Kelley asked if the Conditional Use permit was limited to the site plan application itself in terms of the information that had been provided.

Mr. Campbell said yes, that the information was part of the Site Plan application.

Mr. Kelley asked if the information the Board would be looking at for the Conditional Use permit would be found with that information.

Mr. Campbell said the applicant had gone to the Conservation Commission concerning the shoreland issues, and would be there again in October.

Mr. Roberts said he had some concerns about the application. He noted issues of non-compliance with the original site plan, and also the question of whether renting of parking spaces was a change of use that was never presented to the Planning Board.

He noted that at the last meeting, he had asked that the Planning Board get a table laying out what the applicant's parking requirements were. He said his understanding from Mr. Campbell's notes was that this was still forthcoming. He said he was not prepared to move forward with the application until he saw this information.

Mr. Roberts noted that he was on the Board at that time the revisions to the original site plan were made, concerning buffering, etc., after major negotiations. He also said he

would need to see all the documentation in order to know whether or not the applicant was in compliance with the original site plan.

Attorney Ratigan said the total number of striped parking spaces was 337, and the proposal was to add 28 more spaces. He said one of reasons the applicant was seeking this was that there was a new restaurant going in at the Plaza, which involved bumping out of the structure and thus eliminating 9 parking spaces.

He said it had also recently been learned that the Credit Union wanted to put in a drive-through, which would take out 18 parking spaces. He said the removal of these 27 spaces would eat up all but one of the 28 new parking spaces the applicant was seeking.

Mr. Roberts asked if what was proposed included rental spaces.

There was then detailed discussion on the number of existing parking spaces, and the number of parking spaces that was proposed.

Councilor Smith said he had shopped at the Plaza since the late 1960s, and said in all of those years, he had never seen a time when he couldn't find a parking space there. He said on rare occasions, he had not parked in a row immediately outside the grocery store. He said he had heard people say they couldn't find parking spaces, but said he didn't know what they meant by that, other than that they couldn't find convenient spaces.

Attorney Ratigan said the location of available parking spaces was sometimes inconvenient for older people.

Councilor Smith said he would be more sympathetic to the application if it were one that was clearly designed to provide more convenient for Town residents who were parking at the Plaza and going to businesses elsewhere, or who would like to be able to pay to park there.

He said right now, the Plaza was renting to students on a semester basis, using spaces that were required to be provided for customers or employees of Plaza businesses. He said he thought this issue needed to be addressed. He noted that he had raised this issue in 2002, but said it was worth stating again.

Mr. Kelley asked approximately how much additional impervious area would be created as a result of the additional parking spaces, and was told by the engineer that there would be 2,600 sf more of impervious area.

Mr. Kelley asked Mr. Campbell if he thought the application was complete.

Mr. Campbell said there was sufficient information, although stating that he thought there would be a lot of debate on the application.

Mr. Kelley said Conditional Use applications came through the Planning Board often,

and said typically, the applicant provided a narrative to address specific criteria the Board was looking at. He suggested that the applicant provide this for the Board to review.

Mr. Campbell said he had made the same request to the applicant.

There was discussion that the numbers on the parking would be provided in writing, and that the previous site plan documentation would be provided.

***Richard Kelley MOVED to accept for consideration the Application for Site Plan Review and Conditional User Permit submitted by Daniel Sheehan, Durham, New Hampshire on behalf of Colonial Durham Associates, New York, New York, to expand the Mill Plaza Parking to create an additional 28 spaces. The property involved is shown on Tax Map 5, Lot 1-1, is located at Mill Road Plaza and is in the Central Business Zoning District. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.***

Resident Peter Anderson said he didn't feel the applications were complete because all the information wasn't in yet. He said he thought all of the information should be in before a public hearing was scheduled. He said this information had been requested at the last meeting, and had still not been provided.

Councilor Robin Mower asked if the Conservation Commission would have a chance to see a completed application for its next meeting, and was told yes. Councilor Mower suggested that the conclusion of the original 1979 site plan application be provided to the Conservation Commission, and also be available for the Planning Board to review prior to the public hearing.

***Councilor Julian Smith MOVED to hold the Public Hearing on October 14<sup>th</sup>, 2009. Bill SECONDED and PASSED unanimously 7-0.***

Resident Annmarie Harris asked if there would be an analysis of the need for additional parking spaces, and said this had been requested at the last meeting. She said the loss of parking spaces could be a part of the debate, but said she didn't think there could be a complete application without an explanation of the need for the parking.

Mr. Campbell said the Ordinance required a minimum amount of parking and the applicant was allowed to have 10% more than that. He said it was important to keep that in mind.

Ms. Harris said the site owner had paved over 5,600 sf illegally and was told to put it back. She said that existing paving was illegal.

Chair Parnell said these issues would be discussed during the public hearing.

Board members agreed to hold a site walk on October 3<sup>rd</sup>, at 9 am.

Mr. Roberts told Mr. Campbell he would like to see the as built drawing and the final negotiated terms.

**VII. Presentation of Capital Improvements Program (CIP) 2010-2019 by Town Administrator, Todd Selig, and Business Manager, Gail Jablonski.**

Ms. Jablonski said in response to a previous question from the Board, she had determined that there were 20 incidents in Town that required the use of the water rescue vehicle. She said two vehicles were needed for safety reasons as a backup during a particular rescue operation. She said two vehicles also allowed more than one rescue at a time if needed.

Mr. Kelley asked if feedback was obtained from Police Chief Kurz regarding the number of assaults on police officers.

There was discussion on the CIP line item regarding downtown sidewalks. Mr. Campbell said the TE grant for the sidewalks had been sent in, and said as part of the application, the State needed to see that this item was in the CIP. He said it probably wouldn't be until 2012 that the Town got the grant money.

Ms. Jablonski said another issue noted at the previous meeting was the fact that there had been major deterioration of the Smith Park Chapel. She said there would be a proposal on what it would cost to do repairs.

There was further discussion on the addition to the CIP of downtown sidewalk improvements. Mr. Campbell said what was proposed was similar to what had been submitted to the State about 7 years ago, which hadn't scored enough points at that time.

Ms. Fuller asked if other TE grant proposals were infrastructure improvements for cities and towns.

Mr. Campbell said most of them were, but said some were also for studies.

Administrator Selig explained that a perpetual trust had been established for the Smith Park Chapel, but said it was a minimal amount of money. He said there was leakage in the building as well as some problems with the stained glass windows. He said Nadine Peterson from the NH Division of Historic Resources had recently been there, and had concerns about damage to artifacts in the building.

He said the Trustees of the Trust Fund were looking at this situation with the DPW. He said something would be done about the building, but said he wasn't sure this would happen in 2010. He said it was anticipated that it would be costly to maintain the character of the building.

Administrator Selig said he would like feedback from the Planning Board on the proposed funding in the CIP for the Roads Program, stating that this program was

important for economic development. He explained that the 10 year plan that had been in place for the Roads Program had turned into a 13-14 year program, noting among other things that there had been a significant increase in the cost of asphalt.

He said his philosophy had been pay as you go for the Roads Program rather than bonding, but said some communities did use bonding to fund their roads programs. He said this was a more expensive option because of the interest involved.

Mr. Roberts noted interest in the past in Durham about the idea of having bikeways included on paved shoulders adjacent to traveled ways, for ease of maintenance. He said that where he lived on Packers Falls Road, there were areas where one couldn't walk or bike safely. He asked if there was the opportunity to have bikeways.

Administrator Selig said the DPW was very sensitive to this issue, and noted that when Madbury Road was paved this year, the width of the roadway lanes was reduced in order to create more space for bicycles on either side.

Mr. Campbell asked if the State funds would stay, and Administrator Selig said the Town expected to receive the funds, but also said this remained to be seen. He said if the State lost the lawsuit regarding the use of medical malpractice insurance funds for the Budget, it would have to generate more revenues.

Ms. Fuller asked how it played into the Roads Program if the Town did get these funds.

Administrator Selig said this would mean that the Town would get \$250,000 in revenue to offset the number in the CIP.

Mr. Kelley asked why this \$250,000 was not reflected in the CIP, and Administrator Selig said the money was taken in as general revenue.

Ms. Fuller asked if it would be used for plowing work if needed, and Administrator Selig said this work would qualify. He said in essence it was a revenue offset for the Town.

Mr. Kelley noted many of the roads under the Roads Program in the CIP exceeded the 14 year cycle. He asked whether, with that in mind, the roads proposed to be worked on in 2010 were actually the ones that needed work done on them.

Mr. Lynch said yes, and explained in some detail that within a few years, all the roads would be within the 14 year program rotation, which was the optimum time during which to do some type of treatment for a road.

There was further discussion with Mr. Kelley on this issue.

There was discussion that the \$150/ton number reflected the cost of asphalt as well as other factors.

Chair Parnell noted that amount per year in the CIP for the Roads Program went down

significantly over time, and asked what the reason was.

Mr. Lynch said as the DPW progressed down the list of roads, the treatment type needed reflected more and more the use of overlays, and not as much reclamation work. He said this was an advantage of staying on the Roads Program, and was the goal in developing it. He noted that inflation still had to be factored in.

Mr. Roberts asked whether stormwater aspects of road work was reflected in the CIP, especially with the changes coming down the road in terms of the new federal stormwater requirements.

Mr. Lynch said there were a number of stormwater programs under a separate section as one got further into the CIP that reflected the stormwater II mandates.

Mr. Lynch provided details on how the Town's roads were evaluated, using core samples density tests, the most recent treatment, vehicle traffic, etc. In answer to further comments from Mr. Kelley, Mr. Lynch said if a road got to the top of the list and didn't need to be done, it would be bumped out. But he said the key was not to bump a road out so far in time that it turned into a reclamation project. He said this was sometimes tricky to evaluate.

Mr. Roberts asked Mr. Lynch if he was equipped to give the Board feedback as to whether there were road systems in Town that were in trouble, with traffic counts that were unsupportable for example.

Mr. Lynch said the Town's road system was good, although he said there could always be a new road somewhere. He noted that the DPW had increased the signage, markings, etc. on the roads.

Mr. Roberts asked Mr. Lynch if he saw unfavorable impacts of new development on the Town's roads, based on inspections.

Mr. Lynch said that generally speaking, there was more traffic in Town.

Mr. Roberts asked if there were specific pressure points that should be on the planning grid, and Mr. Lynch said he thought the DPW had addressed this.

There was next discussion on the issue of possibly purchasing tasers for the Police Department, and the question on the number of incidents in Town where the use of force by the Police Department was required.

Chief Kurz provided data on this, and a detailed discussion ensued.

Administrator Selig asked Chief Kurz to review the issue concerning Morgan Way.

Chief Kurz said there had been several multi-vehicle accidents at the intersection of



Morgan Way and Route 4, most of them involving injuries. He said in most cases, there was a car turning left onto Morgan Way, facing east.

He noted the Route 4 corridor study done in 2004, which had suggested the idea of having a stacking lane at the intersection. He said there had recently been negotiations with the State on this problem, but noted that the State didn't have money to do the work.

He said the Traffic Safety Committee had been dealing with this problem for a number of years, and agreed that the stacking lane was needed. He also noted that the State's 10 Year Plan included the idea of having a signalized intersection on Route 108, and he spoke about the possibility of trading the two projects.

Chief Kurz said the Traffic Safety Committee believed both projects were important. He said the State had indicated that if the Town paid 100% upfront for the stacking lane, instead of the 20% it would normally pay, the State promised that it would reimburse the Town for 80% of the project.

He said about \$350,000 would be involved, and said it was beyond the purview of the Traffic Safety Committee to decide on this. He said he would ask Administrator Selig to perhaps put the project in the CIP. He noted that there were no assurances of how far back in time the State would push reimbursing the Town.

He said the neighborhood near Morgan Way had been very supportive of making this change, and said the residents were prepared to make their best pitch. He said he had made it clear to them that there was a very competitive situation in terms of the funding available, but said he felt the idea should be put on the table for discussion.

Chair Parnell asked if the Town had the option of reducing the speed limit in the vicinity of the intersection, and Chief Kurz said no. He also noted that Route 4 saw more traffic enforcement by the Police Department than any other road in Town.

Mr. Roberts asked Chief Kurz if he was satisfied with the current speed limits on Route 4, and Chief Kurz said yes. He noted that the Department had asked the State not to go abruptly from 55 mph to 35 mph along Route 4, which would be speed traps. There was next discussion on the stormwater items in the CIP. It was noted that under the Operations Division, there was an item for the development of a long range plan for storm water, which was related to the federal permit requirements. Administrator Selig said this requirement would cause staffing challenges because there wasn't currently a DPW employee whose job was strictly devoted to managing stormwater.

He noted that the Town Engineer currently handled stormwater management issues and projects, but would be overburdened as a result of the federal permit requirements. He said there would need to be discussion on how all of this work would get done, including measuring storm water outfalls on a regular basis. He said an additional staff person would most likely be needed.

There was next discussion on a line item in the CIP for sidewalk reconstruction along Pettee Brook Road, which was part of a long term plan to improve sidewalks and lighting in the downtown area. Administrator Selig said the DPW proposed to do this in two phases, with the first in 2010 and the second in 2011. He said he would like guidance on this from the Planning Board. He said his suggestion had been to put this work on hold for the time being because of possible changes to Pettee Brook Lane.

Councilor Smith said it looked like what was proposed on the north side of Pettee Brook Lane was a sidewalk running along the high stone wall there. He asked if there would be room for a sidewalk, or if the wall would have to be removed.

Mr. Lynch said there was room for the sidewalk, and said the wall would not need to be removed. He said there would be a 5 ft wide sidewalk abutting the wall, and said part of the design involved reducing the road width to 10.5 ft wide lanes, which was considered to be a traffic calming approach. He noted that there was a bit of a raceway there now.

There was discussion about where the foot traffic in that area would come from, with Administrator Selig noting that the new UNH business school would be located nearby, at the corner of Rosemary Lane and Garrison Ave.

Mr. Lynch said this design would put pedestrians in the Town right of way instead of having to walk through parking lots, driveways, etc.

Mr. Roberts said it seemed to be a good idea to wait to see what development took place nearby.

Mr. Lynch noted that if the Greens property was developed, there would be a lot more foot traffic. He said the DPW agreed that this item should therefore be pushed out in the CIP because of the unknowns, including a possible hotel in the area.

Administrator Selig explained that a new hotel in that area would have a major impact on the travel corridor. He said there continued to be interest by developers in the hotel idea.

Mr. Roberts noted the student housing complexes in the area that the Planning Board had approved, which would result in more foot traffic.

There was next discussion on the Crommet Creek line item in the CIP. Mr. Campbell asked if this was a red listed bridge, which meant it would be a priority in the State's 10 Year Plan.

Mr. Lynch said it was in fact red listed so would be eligible for the Bridge aid program. But he said because of the feedback from the neighborhoods, the unique character of the bridge, its width, the fact that there were no shoulders, etc, it wouldn't qualify for the Bridge aid program. He said the Town would therefore have to go it alone with the bridge repairs.

Administrator Selig said if the Planning Board wanted to encourage Town staff to revisit the plan for repairing the bridge, it might be possible to bring down the Town's share of the cost. But he said this would be likely to change the character of the bridge. He noted that in the past, the Planning Board and the Town Council had said to keep the bridge looking the way it did today.

There was next discussion on line items in the CIP regarding buildings and grounds. Administrator Selig noted proposed improvements to the park at Old Landing in 2012. He said this area was a gem, yet was somewhat underutilized. He said the question was whether it was a place that warranted the expenditure needed to make some enhancements there, or if people were satisfied with what was there today. He noted that the Jackson's Landing site that had been improved significantly in recent years, and said the Town could approach Old Landing in the same way.

Mr. Roberts noted how muddy this area was now compared to when he had first come to Durham, and said he didn't know if it was possible to change that. He said the question was whether the site could be made more useful for people to use, and not just prettier to look at.

There was discussion that this area of Town was where Durham had originated. Administrator Selig said it was a beautiful spot, and said it could be more than that. He noted that the old pump house building was there, and that in the past there had been discussion about turning it into something else.

Mr. Roberts said Old Landing at one time was full of boats, but now was a narrow mud hole.

Mr. Kelley said the Town had a lot of old buildings such as the pump house, the Grange, the Court House building, etc. that saw limited use. He suggested that the Town should get some revenue from them after sinking money into them.

Councilor Smith suggested that there could be an Old pump house oyster bar on the Oyster River.

There was next discussion on the DPW sanitation division. Administrator Selig reviewed the need for some new vehicles, and said between now and 2015, it would be important to look at whether the Town would be best served by doing solid waste recycling in house or instead by contracting it out. He said the last time this was looked at, it had been determined that it was more cost effective to do it in house. But he said it would be good to revisit this to see if there would be cost savings now if the work was contracted out.

There was next discussion on the DPW water division line items in the CIP. Administrator Selig noted that developer Perry Bryant would be sharing the cost of the utility extension in the area of the Bryant Park West project. He said the request for approval of the permit for this was likely to come to the Council at its next meeting.

Administrator Selig noted the line item regarding remote monitoring of the Foss Farm water tank. He also said the Spruce Hole well development line item had been pushed off an additional year.

Mr. Kelley asked what the feedback had been from the University regarding the \$1.1 million it needed to provide for the Spruce Hole well development, and Administrator Selig said the University was on board with this. Mr. Kelley asked if the Town was in a position where it needed to get this project up and running.

Administrator Selig said currently the primary concern was getting the permitting, gaining a more accurate understanding of how much water could be drawn from the well, and determining if the groundwater recharge would work. He said it was important to see how this panned out, and said he would focus on the resource itself before looking at connections.

He noted that at the same time, the Town was working diligently on the 401 certificate and the in-stream flow process, and was interested to see how that panned out as well. He told the Board that there was an initiative underway to nominate the Oyster River to the NH Rivers Management and Protection Program, which could have an impact on the Town's ability to draw drinking water from it.

Mr. Kelley asked if the bond for Spruce Hole would be paid off by the water users, and Administrator Selig said yes. Mr. Kelley recommended that there should be a cost benefit analysis, since this was a significant amount of money that was being talked about. He said it would benefit everyone to understand what the cost would be to water users and the greater town, and the benefits received in exchange for this.

Mr. Roberts said he had attended some BORWPP Associations meetings, and when the idea of nominating the Oyster River had come up he had expressed concern that the nomination might be unfavorable for the Town's use of the river for its water supply for additional supply until the current Spruce Hole aquifer well hole project was developed.

Administrator Selig said this was his concern as well. He said on the one hand, it made a lot of sense from a big picture point of view to manage the resource, including upstream, so the protected river designation could be beneficial from that standpoint. But he said right now, there was no limit on the amount of water that could be drawn from the Oyster River. He said it would be important to know the implications of the designation on this.

There was discussion on present high nutrient loading in the Oyster River and the impacts on Great Bay, with Mr. Roberts noting that more controls were needed on what was going into Great Bay from septic systems and other runoff. He also said he had heard that the city of Portsmouth would need to build a new wastewater treatment plant.

Mr. Lynch said the existing plant in Portsmouth didn't meet the federal guidelines, and would have to meet a large number of pollution criteria as part of getting an NPDES permit. He also noted that Durham would have to retrofit its own wastewater treatment

plant in order to be able to satisfy these criteria.

Mr. Roberts said the DPW in Portsmouth had said that the guidelines indicated that some cleanup was needed upstream as well. He said the DPW had said that 70% of the pollution was coming from other sources, so no matter what they did, they wouldn't be able to meet the criteria.

Mr. Lynch agreed that Durham was a piece of that pie.

Councilor Smith asked how much of the \$679,000 figure for Spruce Hole had been spent, and Ms. Jablonski said less than \$100,000 had been spent.

Councilor Smith noted that he hadn't voted for the expenditure of those funds. He said he didn't think there should be injection wells at Spruce Hole.

Administrator Selig noted that the Town had received federal funds to offset a good deal of the cost for this.

On another issue, Administrator Selig noted a line item under the Water Fund of \$600,000 for painting the Beech Hill and Foss Farm water tanks.

There was then discussion that the cost of retrofitting the wastewater treatment plant had gone from \$3,000,000 to \$11,000,000. Administrator Selig said this item had been included in the CIP although it was not certain when the Town would actually need to do the retrofit. He said some of the issues involved related to what Mr. Roberts had been talking about, and provided details on this.

There was addition discussion on wastewater issues, including the line item in the CIP for the sewer bottleneck near the railroad tracks. Administrator Selig said addressing the bottleneck would increase the sewer capacity by about 30%. He said this work was important because the Town was promoting economic development, and because the University would need additional capacity for its expansion plans.

There was discussion on the College Brook interceptor, which had reached the end of useful life, and the fact that there was a plan to install a new interceptor without requiring the digging up of the old pipe.

There was discussion on infrastructure issues as they related to the TIF district that had been developed.

Administrator Selig told Board members that the Town staff had until the end of October to finalize the CIP. He said at that time, the items that remained in the CIP for 2010 would be integrated into the proposed operating Budget for 2010.

Mr. Kelley said the proposals in the CIP for 2010 were difficult to swallow, and said the \$17 million 2011 amount was absurd, so there was certainly work to be done by Town

staff. He said over the years, he had noticed that there were many items that suddenly popped up in the CIP, and said while some of these items were relatively small, they added up. He recommended that Town departments should take more time assessing their needs so these things didn't pop up.

Administrator Selig said another issue weighing heavily on the Town was that the DPW was struggling with the number and breadth of projects on their plate. He provided details on this, and noted that there was still limited staffing, which made it harder to provide good customer service to residents.

Mr. Roberts asked what percent of the DPW budget was spent on beautification.

Mr. Lynch said this amount was small, but provided a big bang for the buck because of the value it brought to the Town. He also explained that in 2011, things got skewed because of the cost for the wastewater treatment plant upgrade. He said the DPW looked at every dollar it used, every day, and he noted that about 25% of his time was spent managing money.

Mr. Roberts asked if a large percentage of the costs Mr. Kelley was pointing out was due to requirements from the State and federal government.

Mr. Lynch said some of the cost was a result of these requirements, especially the stormwater items. He also said there always seemed to be a crisis somewhere that came up, such as the Oyster River dam issue.

Mr. Kelley noted that there were no funds for the dam in the CIP.

There was discussion on this by Mr. Lynch said Administrator Selig.

Administrator Selig explained that any bonding over \$1 million required a referendum vote. He noted that the Town Council had recently asked that the threshold for this be increased to \$2.5 million, 2.5 million, and that there also be an annual inflation adjustment. He said the \$1 million dollar number established 20 years ago wasn't realistic now.

Mr. Kelley asked if it was known what \$1 million in bonding cost an individual household in terms of the impact on the tax rate.

There was discussion.

## **VIII. Other Business**

### **A. Old Business** None

### **B. New Business**

#### **Discussion on Parking Requirements in the Courthouse District**

Councilor Van Asselt explained that Councilor van Asselt had asked him to present this to the Planning Board. He said his interest in seeing some amendment to the parking ordinance as it applied to the Courthouse district came initially from the difficulty he saw buyers having when they looked at the Cumberland Farms site.

He said although a potential buyer could go to Cumberland Farms and get permission to act as the agent in asking for a variance from some of the parking provisions, he didn't think most potential buyers would want to go that route.

Councilor Smith said he had walked this area, and also noted that this was not about spot zoning for one parcel. He said right now, the Ordinance required that there be landscape buffering from the road and abutting properties, and prohibited parking in front of the building. He said there wasn't much room for parking there, and said if landscaping was required as well, there would be very little room for parking.

He said there were a number of older parcels in that area with parking between the front of the building and the sidewalk, and said if they were to be redeveloped, this wouldn't be possible without a variance. He provided details on this.

He said he looked at that parcel as one the Town would like to see economic development on. He said he wasn't sure the best way to amend the Ordinance, stating that they could exempt the Courthouse district from some of the Zoning requirements, especially the one regarding parking in front. He said the most radical approach would be to exempt it from all the requirements. He said this would benefit some property owners, and might even benefit the Town if the Town Hall site were sold.

Mr. Campbell noted that the parking provisions being discussed were under the development standards for the Courthouse District, in Section 175-45 F of the Zoning Ordinance. He read through them.

Councilor Smith said there would be some benefits from such a change, but said there would also be some political pushback. He said all in all, he thought some sensible changes might be considered.

Mr. Roberts noted that with the Bryant development, the Board had looked at the Cambridge, MA and Hanover, NH ordinances, which allowed exemptions from parking if there was a parking plan.

Councilor Smith asked Mr. Campbell what he thought of the idea, and if there were perhaps other things that could be done.

Mr. Campbell said he thought the development standards could be adjusted. He noted that the price tag for the Cumberland Farms property was high, and someone looking to go there would be looking to reuse the building, but he said without parking in front, it wouldn't work.

Councilor Smith asked if anyone had gone to Cumberland Farms offering to be the agent to go before the ZBA.

Mr. Campbell said he didn't know, but said he didn't think any potential buyers had considered going to the ZBA.

Chair Parnell asked if there was a way to handle this through the Conditional Use process, where the Planning Board would have the authority to waive the parking requirements.

Mr. Campbell said the Board could probably write language for the development standards to that effect.

Ms. Fuller said perhaps this could be put in the development standards for adaptive reuse.

Chair Parnell asked Board members if they thought something should be done regarding the parking provisions.

Mr. Roberts suggested using Conditional Use for the front of the building. He said it could be a powerful tool, and provides flexibility to serve the Town and the property owner. He said it would prevent the area from going down hill, as properties changed hands.

Mr. Campbell said he would draft some possible language, either removing language or adding language regarding Planning Board approval, or using the Conditional Use approach.

Councilor Smith said he would be happy to sit down with Mr. Campbell and try to craft something.

Chair Parnell suggested that the Board should be given some alternatives to look at.

Administrator Selig said he had a few other items to discuss with the Board. He noted that several months ago, he had been approached by the Allen Farm Homeowners Association, which was concerned that their roadways would cost a significant amount of money to maintain over the long term. He said they would like the Town to take this on as a public roadway. He said he was not comfortable with doing that, and would be writing back to the Association. He said he would provide a copy of the letter to the Board.

There was brief discussion by the Board on this issue.

Administrator Selig said the charrette with the consulting firm the Town had hired would take place the first weekend of November, and said more information would be provided to the Board on this. He said he wanted to be sure the Planning Board was comfortable



with how this process was progressing, and said he hoped that after focusing on planning for the Central Business District, the consulting firm could help with some Master Plan updates.

Mr. Roberts asked what the plan was in terms of the consulting firm meeting with the Board on a regular basis.

Mr. Campbell said the consulting team would have an initial meeting with the Planning Board and other boards and committees to get input.

Mr. Roberts said what the team came up with should be as much a Planning Board statement as a consultant statement. He provided details on this, and noted that the Mill Plaza study report could be entered into the Master Plan and Zoning Ordinance for incorporation after the fact.”

Administrator Selig said a goal was to advise and empower the Planning Board to move forward some meaningful initiatives.

On another issue, Administrator Selig noted letters received from resident Marty Gooze about a proposed Zoning change. It was noted that the Board had received this correspondence as well.

Administrator Selig spoke about the fact that some residents were keeping chickens on their property for various reasons, and that this wasn't allowed in the Zoning Ordinance. He said the Town's position had been that unless it got a complaint, it was not actively focusing on this issue.

He said the Town had gotten a complaint, so the code officer had advised the person to go for a variance, or approach the Town to look at a possible Zoning change. He said he felt this was a minor item, but it was a violation of the Ordinance.

He asked the Board if it would want to amend the Ordinance to allow a finite number of chickens, or instead require people to go for a variance. He said an administrative approach could also be taken, where if there were fewer than a certain number of chickens, the Town wouldn't respond, because it had other things to do.

Ms. Fuller noted that guinea hens ate ticks.

Administrator Selig said that as a resident, he knew of a large number of residents who were keeping a small number of chickens on their property.

Councilor Smith said he thought this should be passed on to the code officer.

Mr. McGowan and Administrator Selig noted that this was becoming a big issue in cities around the country.

Mr. Roberts said the issue here was the impact of roosters on a neighborhood.

Administrator Selig said the Town could continue to take the approach it had previously taken, and could handle this on a complaint by complaint basis.

Mr. Roberts asked if it would be difficult to pass an ordinance allowing only female chickens.

On another issue, Mr. Roberts noted that there had recently been a significant change in State law regarding area variances. He said the Board needed help from its legal representative in order to be able to understand what this might mean in terms of planning. He said area variances were being made more difficult to obtain, whereas now they were relatively easy to obtain. He said what was intended was for planning boards to write their ordinances more carefully regarding area requirements.

Mr. Campbell said he would talk with Mr. Johnson about this.

## **IX. Approval of Minutes**

### August 26, 2009

Page 1, under Members Present, should say Vic Chair Susan Fuller and Secretary Steve Roberts. Remove “Steve” before Bill McGowan. Should say that Richard Kelley was present at the meeting.

Page 3, 4<sup>th</sup> paragraph from bottom, remove the wording “which meant that everything that was appealed should be exempt in the Central Business District.”

Page 5, 2<sup>nd</sup> paragraph from bottom, should read “Section 175-41(1)(2) Parking and Vehicular Access.

Page 6, 2<sup>nd</sup> paragraph from bottom, should read “..the applicant gave if he was not there.”

5<sup>th</sup> paragraph, should read “Councilor Niman and Mr. McGowan had said that the ...”

Page 8, bottom paragraph, should read “..regarding forestry under RSA 483B, as...”

Page 9, 2<sup>nd</sup> full paragraph, should read “..he was looking at, and that the definition was contrary to standard...”

7<sup>th</sup> full paragraph, should read “Mr. McGowan said a question was whether or not...”

***Councilor Julian Smith MOVED to approve the August 26, 2009 Minutes as amended. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.***

## **X. Adjournment**

***Richard Kelley MOVED to adjourn the meeting. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.***

Adjournment at 10:30 pm