

*These minutes were approved at the November 10, 2010 meeting.*

**DURHAM PLANNING BOARD  
WEDNESDAY, SEPTEMBER 15, 2010  
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL  
7:00 P.M.  
MINUTES**

**MEMBERS PRESENT:** Chair Lorne Parnell; Vice Chair Susan Fuller; Secretary Stephen Roberts; Bill McGowan; Richard Kelley (arrived late) Richard Ozenich (arrived at 7:05); Town Council representative Julian Smith (arrived at 7:12); alternate Wayne Lewis

**MEMBERS ABSENT:** alternate Peter Wolfe; Town Council representative Bill Cote

**I. Call to Order**

Chair Parnell called the meeting to order at 7:04 pm. He said Mr. Lewis would sit in for Mr. Kelley.

**II. Approval of Agenda**

Chair Parnell noted that legal counsel was present. It was agreed that part of Agenda Item VIII would be moved to be III on the Agenda.

*Susan Fuller MOVED to move Agenda Item VIII up to be Agenda Item III. Steve Roberts SECONDED the motion, and it PASSED unanimously 5-0.*

*Steve Roberts MOVED to approve the Agenda as amended. Susan Fuller SECONDED the motion, and it PASSED unanimously 5-0.*

Mr. Ozenich arrived at 7:05 pm.

**III. Report of the Planner**

Mr. Campbell said he'd met with University planner Doug Bencks on September 13<sup>th</sup>, and they discussed the following:

- the shared Town/UNH Traffic model
- the Capstone proposal
- the new Library
- the Inclusionary Zoning Implementation Program (IZIP)
- the possible Fire Station/Parking Garage

Mr. Campbell said the Economic Development Committee met on August 23<sup>rd</sup>, and spoke with Mr. John Hall, Executive Vice President for commercial lending at Profile Bank. He said Mr. Hall was asked to help the EDC in regard to the issue of commercial lending, and

also said the EDC discussed with him the upcoming market analysis as well as the Strategic Plan.

Mr. Campbell said the Traffic Safety Committee met on August 25<sup>th</sup> and discussed some of the ideas that had come out of the charrette and Strategic Plan. He said the TSC also discussed a proposed turning lane from Canney Road onto Route 108 since there were NHDOT officials present at the meeting, but said he didn't think that project would be happening any time soon.

He said the Inclusionary Zoning Implementation Program (IZIP) committee met on August 27<sup>th</sup> and discussed the program as well as the draft workforce housing document that assessed the current housing situation in Durham. He said the committee also discussed the audit being done of the Zoning Ordinance regarding workforce housing. He said the committee would hold a public forum on September 28<sup>th</sup> to discuss the information that had been developed so far.

Ms. Fuller said it would be great if some Planning Board members could be at this forum, because the work being done could impact the Master Plan and hopefully the Zoning Ordinance. She suggested that copies of the draft documents be provided to Planning Board members in advance of that meeting.

**VIII. Deliberation** on an Amendment to Article XIX, Conservation Subdivision, Section 175-107(B), Applicability, of the Zoning Ordinance to add Office, Research & Light Industry and Multi-Unit Dwelling/Office Research Zoning Districts to the list of Zones permitted to be developed as Conservation Subdivisions. Discussion with Town Attorney, Laura Spector.

*At 7:08 PM, the Planning Board recessed briefly for a consultation with legal counsel in accordance with RSA 91-A:2 (I) (c).*

*The Planning Board resumed its public meeting at 7:57 PM*

Ms. Fuller said requiring conservation subdivision as it was currently written was much too onerous. She also said she didn't think the Town would get this use in these two zones, because it wasn't consistent with the uses set forth for the zones. She summarized that she was not in favor of putting conservation subdivision to the list of Zones required to be developed.

Mr. Kelley received clarification that if the Zoning change was approved, the conservation subdivision provisions would only apply to residential uses.

Ms. Fuller said allowing residential use in these zones would have to be by conditional use, and a developer would have to meet the conditional use criteria. She said the use was not consistent with these zones, and said she thought they were overly concerned that this use would happen.

Councilor Smith said he didn't think they were being overly concerned. He said the Planning Board had been asked to do this by the Council, as a consequence of the other ORLI/MUDOR Zoning change the Planning Board had approved 6-1, and that the Council had subsequently approved. He said what had persuaded some members of the Council to make that Zoning change was the suggestion that conservation subdivision requirement could be applied to residential subdivisions in ORLI and MUDOR.

He said if the Planning Board didn't recommend this Zoning change now, the Council might initiate this on its own. He said one of the Board's attorneys had recommended that he say in public session that by applying this "onerous" requirement in these two zones, it would make it much less likely and nearly impossible for someone to develop a single family residential subdivision with more than 3 lots, which would have the effect of protecting the large pieces of land they wanted for light industry, student housing, etc.

Ms. Fuller said she didn't agree that putting students in the school system was a bad thing. She said this would encourage development of the downtown, and would be good for the economy, the taxpayers and the Town.

Councilor Smith said he wasn't saying this wouldn't be a good thing. But he said if they wanted to protect the land in these zones for commercial development, the Board should recommend this Zoning change.

Mr. Kelley said the perception had always been that residential development cost residents in terms of tax dollars, but he said there was information to the contrary concerning this. But he said Councilor Smith had raised a good point.

Ms. Fuller said they were looking at student housing as commercial venture, but said housing was housing.

Mr. Roberts said when this first came up, conservation subdivision was being encouraged everywhere, but he said that now, smart growth proponents were more critical of it. He provided details on this.

Chair Parnell said if this Zoning change was made, it would make these zones like others that were residential. He said doing this for a commercial zone didn't make logical sense, but said he agreed that doing so would be a constraint on residential development.

Mr. Roberts said the way to have a good industrial zone was to have buffers, and transects. He said voting in something that would never be used seemed contradictory.

Ms. Fuller asked about the idea of rewriting the conservation subdivision regulations to reflect more current housing trends and needs, including the fact that people wanted smaller lots and houses.

Councilor Smith said if they wanted to have affordable housing, this could be done in

ORLI and MUDOR, with small buildings that were individually owned and land that was owned by one entity. He said he didn't see any harm in sending back to the Council what it had asked the Planning Board to deal with.

***Councilor Smith moved to recommend to the Town Council the Amendment to Article XIX, Conservation Subdivision, Section 175-107(B), Applicability, of the Zoning Ordinance to add Office, Research & Light Industry and Multi-Unit Dwelling/Office Research Zoning Districts to the list of Zones required to be developed as Conservation Subdivisions. Richard Ozenich SECONDED the motion, and it FAILED 2-5, with Councilor Smith and Chair Parnell voting in favor of it.***

Chair Parnell noted that Mr. Kelley was a voting member for this motion.

There was discussion that Councilor Smith had outlined what would probably happen at this point, which was that this proposed Zoning change would most likely go back to the Town Council.

Councilor Smith said the Planning Board could have done this a long time ago.

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

Dave Crane noted that he was an arborist for PSNH, and said what was proposed was part of their routine 4-5 year maintenance cycle. He said the project would span the end of this year into next year. He note that the time since various proposed areas has been trimmed ranged from 3-6 years. He said the specifications hadn't changed since last time, and said they liked to remove any trees, brush or limbs 4 inches in diameter or less, within 8 ft to the side of their lines, 10 ft below their lines, and 15 ft over the lines.

He said these parameters anticipated the growth cycle, as well as bending of trees that had occurred during snow storms over the past 4-5 years. He provided details on this, and also noted that they did take down larger trees on a case by case basis, if they were dead, diseased or structurally deficient.

Mr. Crane said he had submitted a list of trees it was felt were dangerous, and said they had been marked in the field. He said since the list was submitted, he'd received some calls about other trees. He said he had looked at some, and said he thought some but not all were threats. He said as in the past, the contractor would contact each landowner affected before work was done to listen to their concerns and work out a mutually agreed to process for performing the work at those properties.

He noted that there was a current trend of the customer base toward doing more trimming, and said there would therefore probably be more trees added to the list as PSNH started talking more to customers. He said PSNH would like to have the flexibility to be able to

remove more trees as these came up. He said it wasn't uncommon for customers to point out potentially hazardous trees that PSNH had missed. He also noted that the roads proposed for trimming were heavily brushed, which posed some difficulty in finding decay.

Mr. Crane noted that there were significant electrical service reliability problems in Town. He said statistically, the average Durham resident in the four roads in Town planned for trimming was seeing a tree-related outage about three times more frequently than the average PSNH customer. He said the scenic roads to be trimmed saw five times more outages than the average customer.

Mr. Roberts noted that he lived on Packers Falls Road, and had to run his generator every year now. He asked if the Newmarket end of this road would be trimmed.

Mr. Crane said yes, and provided details on this, and said that end of Packers Falls Road was scheduled for this year. He noted that even with the tree trimming, this wouldn't be a panacea for all storms. He said the specifications weren't designed to prevent all tree related outages, especially with storms of the magnitude seen in February of 2010. He said typically, there was about a 48% reduction in tree related outages following tree trimming.

***Richard Kelley MOVED to open the Public Hearing. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.***

**Lawrence O'Connell, 5 Sullivan Falls Road**, said he had lived in the Packers Falls Road areas for 35 years, and had seen an increasing number of trees growing out into the road. He said he fully supported the program, and said though he realized there were no panaceas, the situation could be improved by cutting the trees. He said he hoped more significant trimming could be done. He said while the scenic roads were beautiful, they were heavily brushed and forested, and in some cases were becoming unsafe for drivers, bikers and runners. He encouraged PSNH to be aggressive in the broader sense of serving the public interest.

**Bill Hall, 3 Smith Park Lane**, said he was very interested to hear Mr. Crane's statements about the outages on these roads. He noted that he was an electrician, and got a lot of calls from people needing generators because of outages. He said this was a pretty serious problem for people. He said PSNH should be encouraged to cut for the specifications, which could result in a 48% decrease in outages, so that residents weren't badly inconvenienced for 1-2 weeks.

**Ted McNitt, Durham Point Road**, said the cutting was very important concerning safety and the avoidance of blackouts. He said there had been 11 days of blackouts at his section of Durham Point Road over the past two years. He said he was better prepared for this than most, but said it was no fun under any conditions.

He noted that there had been 3-4 power outages over the course of a few years in the early 1980's, and said at the end of that time because of a hurricane, there was a very serious outage. He said he had talked to PSNH at that time, and they agreed to do some cutting in

the right of way on his side of Durham Point Road, and to use the same standards to do tree cutting in his driveway on occasion. He said since that time, he had not had any blackouts due to trees or branches on that right of way or in the driveway. Mr. McNitt submitted his letter for inclusion into the public record

**Robin Mower, Faculty Road**, said she agreed public safety was very important. She said she would like to know what PSNH planned, so the Town didn't run into another situation where there was an emergency stop order of tree cutting along the scenic roads. She noted that she was not aware of the details of situation that had previously occurred. She also asked if there were situations where taking down a tree would be preferable aesthetically to doing a C cut around the wires.

Mr. Crane said he wasn't personally aware of a cease and desist order that had occurred. He said there was some controversy regarding work done in the early 1990's, and he provided details on this.

Mr. Campbell provided some details on what had happened previously.

Mr. Crane said the specifications for cutting did include doing C cuts at times. He said any question regarding aesthetics was subjective, and said this was a reason they tried to talk to customers prior to cutting in order to see their preferences. He said he agreed concerning the aesthetics issue, and said typically if they had to remove more than a third of the crown to get the specifications they needed, they tried to remove the tree. He said there was the aesthetics issue and also the shock to the tree in that so much cutting impacted its survival.

He said PSNH's philosophy was that it looked at the trees every 4-5 years, but the landowner looked at them every day. He said if there was a conflict between what he thought looked best and what the landowner thought, as long as the specifications were met, he would side with the landowner's perspective.

Chair Parnell asked if private property was included in this cutting.

Mr. Crane said these specifications covered the primary lines with higher voltage running along the streets. He noted that there were also some primary lines running along driveways if they were longer. He said secondary lines would be addressed as needed, and noted that the same amount of clearance wasn't needed for these lines. He said typically, PSNH would trim anything making hard contact that over time would wear off the coating on the wire. He said a lot of the time, the problems were caught when customers asked them to check the line. He said it would be a waste of time to get 8 ft of clearing along a house service.

Mr. Roberts said he had a lot that PSNH often trimmed and said he had just finished clearing limbs from brush that was previously trimmed. He asked if PSNH planned to chip any of the trimmed limbs and brush that it cut.

Mr. Crane said unless this was done during a storm, anything cut that was by the road should be removed. He said if was not, he apologized and wanted to know about it. He said

the intent was to leave a property as good as or better than when they got there. He noted that with lines that ran through the woods, there was the option to leave brush there, because dragging it out to the road wasn't practical.

Chair Parnell noted a letter from resident Beth Olshansky, which discussed a cease and desist order several years back because of tree cutting along Durham Point Road where several very large oak trees were cut. She said while it was important to protect the wires, it was important not to desecrate the Town's designated scenic roads. She recommended that the Planning Board direct the DPW to keep an eye on the tree trimming along the scenic roads.

Councilor Smith noted that several Board members lived on or near the roads where the tree and brush trimming was planned.

Councilor/Ms. Mower asked whether when there was a large old tree in the Town right of way, this was a situation where there would be some consultation between PSNH and the DPW, or if this was a judgment call by PSNH.

Mr. Crane said under State statute, PSNH technically didn't need permission from the landowner, as long as there was a poll license agreement with the Town. But he said typically, they contacted each landowner. He said they had never removed a large tree intentionally, which had not already fallen on a line, without doing this.

He said the only tree that was healthy but decayed and had recently been brought to his attention was a very large pine tree that leaned over the road. He said he had agreed to take down the tree pending approval by the Planning Board that evening, stating that it represented a threat. He provided details on the equipment that was threatened, and noted that if the tree fell and did this damage, it would also result in the spillage of oil into a nearby wetland.

Chair Parnell asked if PSNH planned to mark any additional trees that it was decided would be taken down.

Mr. Crane said PSNH would do this if the Board required this. He said the pine tree he had spoken about was in front of Mr. McNitt's property, and said it had been flagged that day.

Mr. Hall said he was very familiar with the trees that were the subject of the cease and desist order. He said this was an area where there were some large trees that had regularly been losing limbs, and said they had to come down. He noted that today, the area looked like the work had been very well done, and also noted that the area past this had limbs on the ground, as well as some problem trees. He said he hoped that the Board realized what it was sentencing people to if some trees weren't taken down. He said they simply couldn't wait to let the tops of trees like this fall down, and take the wires down with them.

***Councilor Smith MOVED to close the Public Hearing. Steve Roberts SECONDED the motion, and it PASSED unanimously 7-0.***

Mr. Ozenich said the last time the tree cutting was planned, the Planning Board did a site walk so it could observe the trees that had been flagged for removal before giving its approval. He asked if the Board planned to do this time around.

Mr. Campbell said he would say no, but noted that it was the Board that had to approve this work. He said the trees planned for removal had been flagged, and said Board members could go out and take a look at them. He noted that any additional trees that landowners proposed would be flagged as well.

There was discussion.

Mr. Kelley received clarification from Mr. Crane that PSNH's policy was to contact the landowner if it planned to trim or remove a tree, even if it was within the public right of way.

***Richard Kelley MOVED to accept the petition submitted by Public Service of New Hampshire to trim and remove trees along Durham Point Road, Bay Road, Bennett Road, and Packers Falls Road and to direct the Planning Board Chair to write a letter stating this approval of the petition. Steve Roberts SECONDED the motion, and it PASSED unanimously 7-0.***

Break from 8:48 to 9:00 pm

- V. Public Hearing on an Application to Amend a Previously Approved Site Plan** submitted by 6 Jenkins Court LLC, Durham, New Hampshire to allow the unfinished attic to be finished and used for any permitted commercial use within the Central Business Zoning District. The property involved is shown on Tax Map 4, Lot 8-0, is located at 6 Jenkins Court, and is in the Central Business Zoning District.

Mike Sievert of MJS Engineering reviewed what the application proposed, and passed around an architectural floor plan for the space. He said there was no change to the approved site plan with this application. He said the architectural plan showed the interior wall layout, and said what was proposed right now was a layout of the portion of the building that faced toward Main Street, which included a small laundry space and two office spaces. He said there was no layout for the back portion of the building, toward Pettee Brook Road, but said there would hopefully be one soon. He said his understanding was that there would be a combined use space there.

There was discussion on the parking regulations for the Central Business District, and how they related to what was proposed.

Mr. Campbell said as was the case with the previous application, there could be an exemption from the parking requirements as long as the applicant paid into the system.

Mr. Kelley asked if the applicant was willing to make this payment. He also asked how it



could be determined what the parking requirement was concerning this 4<sup>th</sup> floor space when the use wasn't known.

Mr. Campbell noted that the updated Findings of Fact addressed this, stating that the applicant would need to pay an additional \$750 per space as build-out occurred. He also said the Conditions of Approval to be met subsequent stated that at the time the certificate of occupancy for the build-out of the attic occurred, the applicant would be required to pay an additional \$750 per parking space not provided. He said this would vary depending on what the use actually was.

Mr. Sievert noted that the laundry area was a tenant space and not a public space in the building. He said it would be just for the tenants in the building.

***Councilor Smith MOVED to open the Public Hearing. Richard Ozenich SECONDED the motion, and it PASSED unanimously 7-0.***

Chair Parnell asked if there were any members of the public who wished to speak for or against the application. There was no response.

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

Mr. Kelley asked whether there might be a restaurant/bar located in the attic space, as a permitted commercial use, and was told yes. He then asked if such a use might inhibit the quality of life for the residents below.

Mr. Sievert said no. He said it wasn't anticipated that there would be a restaurant, but said this use wouldn't be turned down. He noted that the ground floor was set up somewhat for a restaurant. He also said there was an elevator, and that all the means of egress were in the place.

The Board reviewed the Findings of Fact and Conditions of Approval.

There was discussion that the as-built mylar plat of the site plan would be signed by the Chair. Mr. Campbell noted that the unfinished attic wording on it needed to be updated.

Conditions of Approval to be met prior to the Signature of Approval on the Site Plan.

1. The applicant shall supply one mylar plat and one paper copy for signature by the Planning Board Chair.
2. All plans must be stamped by the appropriate professionals.
3. All Previous Conditions of Approval from the July 8, 2009 recorded Findings of Fact and Conditions of Approval document are hereby incorporated into these Conditions by reference.

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

1. 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. All Subsequent Conditions of Approval from the July 8, 2009 recorded Findings of Fact and Conditions of Approval document are hereby incorporated into these Conditions by reference.

***Richard Kelley MOVED to approve, as amended this evening, an Application to Amend a Previously Approved Site Plan submitted by 6 Jenkins Court LLC, Durham, New Hampshire to allow the unfinished attic to be finished and used for any permitted commercial use within the Central Business Zoning District. The property involved is shown on Tax Map 4, Lot 8-0, is located at 6 Jenkins Court, and is in the Central Business Zoning District. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.***

**VI. Acceptance Consideration for an Application to Amend a Previously Approved Subdivision Plan** submitted by Sophie Lane LLC, Portsmouth, New Hampshire to relocate the easement for forced mains, to revise the street lighting, to revise the Home Owner's Declaration, Article III, Section 3.1 regarding maintenance of the lawn area in the open space adjoining Lot 2, to revise the drainage plans for 4 Ambler Way, to substitute effluent pumps for grinder pumps, and to revise the Sophie Lane drainage for the roof drains from Lot 2, sidewalk detail and recycle areas. The properties are shown on Tax Map 10, Lots 7-0 through 7-9, are located on Sophie Lane and are within the Residence B Zoning District.

Mr. Ozenich recused himself for this application.

Mr. Caldarola reviewed the amendments to the subdivision plan that were proposed. He said every one of them was a change that was sensible to make, and was in everyone's mutual interest, including the Town, the abutters and himself. He said he could discuss each proposed change if the Board wanted him to do this.

Mr. Kelley said had looked through the application, and he suggested that the engineers look at the force main details on the plan that showed a connection to the 8 inch gravity connection. He said he couldn't make sense of them, and didn't see how the end cleanout would work.

Mr. Kelley also asked Mr. Caldarola if the Bradlees, who were abutters, had been contacted. He noted that the Board had wanted to make sure that the owners of this property had a chance to engage with the applicant's engineer to hook up their sewer line with the new sewer line being put in as part of the subdivision. He asked if this opportunity had come and gone, or if it was still a possibility.

Mr. Caldarola said there had been two new owners of the abutting property since the

Bradlees had owned it, and said he would be sure to have a discussion with the new owners.

Mr. Kelley asked if the subdivision plan would be changing.

There was discussion that the plan would need to be updated to reflect the force main change.

Mr. Kelley said the plans would also need to be updated to reflect that the correct abutter names were on it, and Mr. Campbell noted that the abutters list included the correct names.

Mr. Kelley asked what was changing regarding the condominium documents.

Mr. Caldarola explained that the original house on the property had a lawn. He said he hadn't realized that about 30 ft of it wound up as part of the open space, and part of it wound up on lot 2. He said it would be the only lawn on the open space for the entire subdivision, and said it was illogical that the homeowners association would have to maintain it.

He said the proposed change was to allow the owner of lot 2 to use that area and have the responsibility of maintaining it, even though the association would own it. He said there would be the same restrictions in terms of the use of chemical fertilizers, etc. that applied to the rest of the open space.

Mr. Kelley said at the public hearing, Mr. Caldarola should be prepared to address the fact that the plan had been to leave the open space alone.

Chair Parnell noted the letter from abutter Denise Day regarding a large puddle at the corner of Bagdad Road and Canney Road after a recent storm, which extended from the new storm drain to the corner. He asked Mr. Caldarola if he had any comments concerning this.

Mr. Caldarola said the contractor hadn't listened to what he had told him to do. But he said the finished grade of the pavement would solve the ponding problem, and he provided details on this.

Mr. Kelley said if the grades in an area were very flat, and paving was done to the finish rim elevation, this simply pushed the ponding a little further away from where the base elevation was. He said it was something for the contractor to be aware of. He said what was often done in such a situation was to adjust the grate to address this.

Mr. Caldarola said he would take a look at this.

Chair Parnell asked if this problem would last through the winter, and Mr. Caldarola said it would be corrected before then.

Mr. Kelley determined from Mr. Campbell that the application was complete.

***Richard Kelley MOVED to accept the Application submitted by Sophie Lane LLC, Portsmouth, New Hampshire to Amend a Previously Approved Subdivision Plan to***

*relocate the easement for forced mains, to revise the street lighting, to revise the Home Owner's Declaration, Article III, Section 3.1 regarding maintenance of the lawn area in the open space adjoining Lot 2, to revise the drainage plans for 4 Ambler Way, to substitute effluent pumps for grinder pumps, and to revise the Sophie Lane drainage for the roof drains from Lot 2, sidewalk detail and recycle areas, and to schedule the Public Hearing for October 13, 2010. The properties are shown on Tax Map 10, Lots 7-0 through 7-9, are located on Sophie Lane and are within the Residence B Zoning District. Councilor Smith SECONDED the motion, and it PASSED unanimously 6-0.*

(No one was appointed to vote in place of Mr. Ozenich)

Mr. Roberts spoke in detail about the fact that this subdivision would have Town water and sewer, and was located conveniently within the community, as compared to many other conservation subdivisions that had been done around the country.

The Board agreed to do a site walk on Saturday, October 9<sup>th</sup> at 9 am.

- VII. Acceptance Consideration for a Site Plan Application** submitted by MetroPCS, LLC, Chelmsford, Massachusetts, on behalf of the University of New Hampshire, Durham, New Hampshire. The application is for a Personal Wireless Service Facility located on Christensen Hall, 14 Evergreen Drive, on the University of New Hampshire campus. The property is shown on Tax Map 13, Lot 7-2UNH, is located on 14 Evergreen Drive and is within the Rural and Multi-Unit Dwelling Office Research Zoning Districts.

Mr. Ozenich returned to the table

Bill McQuade from NE Wireless Solutions, the agent representatives for MetroPCS, explained what was proposed. He said the facility would be located on top of Christenson Hall. He said the facility would be completely contained by the roof curbs, and said the antennae would be visible. He noted the photo analysis in the plans that had been provided.

He said Christenson Hall was over 100 ft tall, and said there would be no other utilities needed other than those already on the building. He said the site would be visited about once a month, and was an extremely passive use. He said there would be no other demands on public safety, utilities or anything else. He said there were other antennas on the building at the present time, including some UNH antennas and an ATT mobility antenna.

Mr. Kelley said nothing had been received on the application from the Fire Department, and said he would like to see something from them. He noted that it was a site that the Fire Department used to triangulate fire locations. He also said his understanding was that the electromagnetic radiation up there impeded this. He asked that the applicant or the University be prepared to discuss this at the public hearing.

Mr. McQuade said there was a report from Dr. Hays that discussed the radiofrequency

emissions. He said he didn't believe there were any electromagnetic emissions.

Mr. Kelley said he had misspoken, but asked if the radiofrequency waves were such that people couldn't be in the vicinity when it was operating.

Mr. McQuade said no.

Mr. Kelley said the knowledge he was given was that the University didn't like having the Fire Department up there. There was discussion with Mr. McQuade about this, and also about the fact that the University needed advance notice in order to allow people up there to view the site.

Mr. Kelley said the application looked complete.

Mr. Campbell explained that the applicant was requesting several waivers:

- 7.02 (D)(3) Locus plan - Mr. Campbell said the applicant had shown a vicinity map which covered things, so he had no problem with the waiver request
- 7.02 (D)(4) regarding the site plan information. Mr. Campbell explained why he didn't think this information needed to be provided.
- 7.02 (E) regarding copies of the deed, easements, etc. Mr. Campbell said he had no problems with these waiver requests. He said they could get a copy of the deed, but knew that UNH owned the property.
- 7.03(A) (1) and (2) General Filing Requirements for Personal Wireless Service Facilities. Mr. Campbell said he had no problem with the waiver request from 7.03 (A)(1), but said concerning (A)(2) that he had requested that the applicant discuss with the Board why it objected to providing "A written and signed statement from the landowner and applicant that he/she agrees that the Town may enter the subject property to obtain RFR measurements, to ensure conformance with the FCC Guidelines, and to obtain noise measurements, all at the expense of the applicant, but not necessarily accompanied by, the applicant and/or landowner.

He noted that the University had provided a letter allowing the Town to enter the property to measure RF or noise, which might be enough.

- 7.03 (B)(1-3) Personal Wireless Location Plan Filing Requirements - Mr. Campbell said the applicant should explain why these waivers were being requested from having to provide information on other existing personal wireless facilities in the Town and outside of the Town within one mile of its corporate limits, and having to provide a town-wide map that showed all existing and reasonably foreseen or contemplated facilities operated by the applicant in the Town.

Mr. McQuade said other facilities in the town could be mapped, but said this

provision was aimed more to a site where a tower was proposed. He said Christenson Hall was one of two possible locations, noting that the water tower behind the NE Center was the other.

There was discussion, and Mr. Roberts said he didn't think it would cause a lot of trouble for the applicant to provide this information

Mr. McQuade said in the RF statement, there were propagation maps. He said other sites in Durham had been WUNH and this site, and said they were looking at a ground mounted site toward Newmarket. He said the RF engineer would be at the public hearing to testify as to the need for the site on Christenson. He also noted that this requirement was waived for the Singular personal wireless application.

- 9.10 Design Submittal Standards for Personal Wireless facilities - Mr. Campbell said a partial waiver was requested, and said he had no problems with this.
- 9.11 Noise Standards for Personal Wireless facilities - Mr. Campbell said the applicant had requested a waiver, but had provided an acoustic properties affidavit.

Mr. McQuade said the decibel level was 35, which was below the Town's limit.

Mr. Roberts asked what happened if the applicant wanted to install a large generator in a few years, and Mr. McQuade said in that case they would be back before the Board for site plan review. There was discussion.

Mr. McQuade said the applicant could make it a condition of approval that they had no intent to install a generator there. He said battery backup would be used.

- 9.13 Environmental Filings for Personal Wireless facilities - Mr. Campbell said he had no problem with the waiver request because the proposed location of the facility was not a category listed in 9.13.

Mr. McQuade said they wouldn't be breaking any ground, but said a NEPA plan was provided for all their sites, and could be provided to the Board.

- 9.14 and 9.15 Structural Report for ground mounted personal wireless facilities. Mr. Campbell noted that the proposed facility would not be mounted on the ground.
- 11.03 Maintenance Bond of 2% of the construction cost - Mr. Campbell said he didn't see the need for this.
- 175-104 (M) Performance and Design Standards - "No antenna shall cause localized interference with the reception or transmission of any other communications signals including, but not limited to, public safety signals and television and radio broadcast signals. Certification by a qualified, licensed professional engineer that there will be no interference must be submitted." Mr. Campbell noted that the Board could not waive this Zoning requirement.

Mr. McQuade said Mr. Hays was not a professional engineer, but was a certified health physicist. He said his affidavit said the RF emissions would be well below the federal standard. He said he would provide a letter for the Board on this.

Mr. Campbell said the application was complete. It was determined that Board members had no problems with the waivers that had been requested.

***Richard Kelley MOVED to accept the Site Plan Application submitted by MetroPCS, LLC, Chelmsford, Massachusetts, on behalf of the University of New Hampshire, Durham, New Hampshire, for a Personal Wireless Service Facility located on Christensen Hall, 14 Evergreen Drive, on the University of New Hampshire campus, and schedules a Public Hearing for October 13<sup>th</sup>, 2010. The property is shown on Tax Map 13, Lot 7-2UNH, is located on 14 Evergreen Drive and is within the Rural and Multi-Unit Dwelling Office Research Zoning Districts. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.***

The site walk was scheduled for October 8<sup>th</sup> at 12 pm.

Councilor Smith asked that the Board deal with a New Business item, the Johnson dock, before discussing the CIP.

Mr. Campbell said this was something that had come to the attention of the Conservation Commission Chair, as a result of a letter from NHDES. He explained that before the Zoning Administrator could issue a permit, the applicants needed to go before the Conservation Commission and the Planning Board to show how erosion control would be addressed.

Councilor Smith said the applicants were before the Conservation Commission the previous week.

Mr. Campbell noted the email from the Conservation Commission Chair, which recommended that the Planning Board accept the application for to be done within the Shoreland Protection Overlay, with the additional sediment controls of a silt fence and straw bales established at the toe of the slope of the shoreland just above the high tide line, and a turbidity boom installed around the perimeter of the construction site. He said the Conservation Commission said the Board should also give consideration to the structure being built at a height that took into consideration potential a sea level rise due to climate change. Mr. Campbell said he wasn't going to tackle the last recommendation, but said he believed the other two could be taken care of.

Zachary Taylor represented the Johnsons. He said they had a very old boathouse on the property, and said over the years, it had taken a beating. He said high water events had eroded out the stone and mortar foundation, and he provided details on this. He said the pilings for the boathouse were also in need of replacement.

He said a wetland permit was filed with DES to replace the foundation of the structure with a new concrete foundation, and said DES had approved moving forward with this. He provided details on the erosion control measures that were proposed, and said it wasn't expected that there would be much siltation of the water resources as a result of using these measures.

***Richard Kelley MOVED to instruct the Director of Planning to notify Code Administrator Tom Johnson that the Planning Board concurs with the recommendation of the Conservation Commission, and requests that Mr. Johnson issue the permit. Susan Fuller SECONDED the motion, and it PASSED unanimously 7-0.***

**IX. Discussion Of CIP, Budget and Master Plan with Todd Selig, Town Administrator and Gail Jablonski, Town Finance Manager.**

***Susan Fuller MOVED to continue the meeting past 10:00 pm.***

Administrator Selig said the Planning Board would be provided with an overview on the CIP that evening, and more in depth discussion on it would take place at the next meeting.

***Richard Kelley SECONDED the motion, and it PASSED unanimously 7-0.***

In answer to a question from Mr. Roberts, Mr. Campbell and Administrator Selig said that at the quarterly planning meeting, there would be discussion on the funding for the Master Plan update.

Business Manager Gail Jablonski walked the Planning Board through the draft CIP. She noted that Durham's CIP was a 10 year program rather than a 6 year program as required by State statute. She said this was a draft document right now, and said what came to the Town Council would be similar to the current CIP, but that there would be some changes to it. She said she and Administrator Selig were still meeting with the department heads on their proposals.

Mr. Kelley said 2012 looked like a tough year in terms of the bonding that would be needed.

Ms. Jablonski noted that there were things for 2012 that could be pushed further out, depending on what the priorities were.

There was discussion on how bonding affected the assessment rate. Ms. Jablonski explained that any bonded project over \$1 million would need to go on the warrant for residents to vote on. She noted that water and wastewater projects went on the warrant even though it was only the water and sewer users that had to pay for these projects.

Mr. Kelley said in 2012, these numbers indicated a bonding amount of \$8.5 million,



which came to \$10.20 per thousand. He said he thought something would have to change there.

Ms. Jablonski said some of this money was for the upgrade of the wastewater treatment plant, and was a calculation of what DPW thought would be needed. She noted that UNH would pay 2/3 of the cost of the upgrades.

Mr. Kelley said the \$8.5 million bond amount took into account just the Town bond amount for the wastewater treatment plant.

DPW Director Mike Lynch said the money for the wastewater treatment plant was still a placeholder, and said they were still waiting for their new permit from the EPA. He said the Phase III improvements would be for nutrient removal, as well other chemicals. He said it would involve a complete look at the treatment process, and said DPW would engineer its current infrastructure to meet the required limits of treatment that EPA established. He said the wastewater treatment plant was in pretty good shape, but said the need to do the upgrades would eventually catch up with the Town.

Mr. Kelley said he had heard that a little over \$300 million would need to be expended by the 17 communities that discharged into Great Bay in order to meet the new EPA requirements. He noted that a goal was to drop nitrogen levels from 10 ppm to 3 ppm. He said he was not convinced they were getting the best bang for their buck by passing this on to the wastewater treatment plants, when the real problem was land use related, from runoff and private septic systems. But he said the easiest thing for EPA to regulate was what came out of the outfall pipe at the wastewater treatment plants.

Mr. Lynch said that was a very accurate statement. He said a reason the Town had flown under the radar was that Durham was sometimes in the 5 ppm of nitrogen category, which was much better than most of the other wastewater treatment plants. But he said EPA couldn't allow the Town to run on an expired permit indefinitely.

Mr. Roberts asked if there were any alternative solutions.

Mr. Lynch spoke about the large regional outfall pipe approach that was considered at one point. He said it was determined to be infeasible and was now off the table. He said the Town was arguing that it was not the sole contributing factor that was killing the oyster beds and eel grass. He provided details on this.

Mr. Roberts said DES was telling planning people that it didn't want subdivisions with individual septic systems, and instead wanted community septic and tie-ins to municipal sewer systems, or no development.

Mr. Kelley asked if any of the DPW projects could be done by Town forces.

Mr. Lynch said yes, and said that was reflected in the costs in the CIP. As an example, he said they expected to do 80% of the speed table work in house. He said most of the

projects involved some level of Town staffing.

Mr. Roberts said his industrial experience encouraged outsourcing, and asked Mr. Lynch if this had been looked at.

Mr. Lynch said yes, but said history had shown that DPW not only could provide a superior product, but did so at a lower cost than the private sector. He used the snow removal program as an example of this, and said all of this work was done in house because DPW could still do it cheaper than if some of it was contracted out. He said Durham provided a unique level of service, and said once this was contracted out, some of the quality control was lost.

But he said there were some programs that were bid out, such as the Roads program. He said sometimes, it was prohibitive to do a project, and he gave as an example of this the cleaning out of catch basins, where a very expensive piece of equipment was needed in order to do this work.

Councilor Smith asked if the 12,500 sf proposed for the library in the CIP description was for the addition to the existing building.

Administrator Selig said he believed this was the total square footage for the entire facility, including the existing building.

Councilor Smith asked if the Trustees had explained why they would need 2 additional full time equivalent positions to staff this new library.

Administrator Selig said there hadn't been discussion with the Library Director on this yet, but said he would expect that there would be additional programming, which would require additional staff.

Mr. Campbell asked for details on the culvert projects on Bennett Road and Longmarsh Road.

Mr. Lynch said there was the opportunity for 75% funding of these projects through FEMA grants, and he provided details on them. He said it would help the Town's case that the State was also involved in the flood mitigation.

Mr. Campbell noted that the proposed widening of the shoulders on Route 108 wouldn't be done until this other work was done.

Mr. Lynch said DPW was really excited about the Street Lighting Upgrades proposed for the Main Street corridor. He explained that a \$167,000 Energy Efficiency and Conservation grant was received for this project.

Mr. Lynch also spoke about the Morgan Way intersection project, which he said the Town would pay for up front and get reimbursement from the State for over the next few

years. He noted that the original engineering from the State was about \$390,000, but the cost was now over \$500,000. He said the Town would still expect to get reimbursement from the State.

Mr. Lynch spoke next about the Roads program. He said Wiswall Road had been pulled out as a stand alone project, because it involved a total reclamation. He said if left within the Roads Program, it would eliminate another 7 roads from consideration. But he said they were looking at possibly doing alternative treatments, including turning it back into a gravel road. He said this would cut the price of a reclamation project, but would add to the operational cost because of the need for periodic re-grading of the gravel.

He said DPW was looking at replacing some of its vehicles with hybrids. He also said the Town had applied for a Safe Roads to Schools grant. He noted that DPW proposed to purchase a new dump truck, and provided details on the 12 year replacement schedule for these vehicles.

Mr. Ozenich asked Mr. Lynch how he determined the prioritization of roads in the Roads program, and Mr. Lynch provided details on this. He noted that the program had been cut over the past few years, and also that the Town paid cash for road work as opposed to doing bonding. He said it was DPW's number one program, but unfortunately sometimes had to take a hit because of the economy.

Concerning the speed table project in the CIP, Mr. Campbell said he thought the Town had decided to go with speed humps.

Mr. Lynch said they were leaning toward using speed tables because they were more practical. He said they were similar to speed humps but had a flat spot on the top. He said an advantage of this would be that it would be very effective to put a speed table where a crosswalk was. He said in addition to slowing traffic down, this would provide better protection for pedestrians. He noted that there was a big speed table and a small speed table on Quad Way. He also said a new speed table had just put in Dover.

Mr. Roberts asked how traffic planning for the downtown would be factored into the CIP if agreement was reached on the approaches that would be used.

Administrator Selig said they should begin to think about creating a TIF district for the downtown core. He said as new taxable value came on line, this would allow the deposit of funds into an account to make infrastructure improvements like this downtown at the appropriate time. He said this would be a great way to capture municipal, school and county tax dollars to fund these improvements. He said they would also want to look at grant opportunities, and to talk to UNH, because these traffic control approaches might be something they would want as well.

He said if the Planning Board thought some of these projects should be included in the CIP now, there should be discussion on this. He said some of the process for considering these planning options for intersections had already begun. He noted that traffic modeling

would be done to see how viable some of these ideas really were.

Administrator Selig said the traffic runs would be budgeted for the Planning Department in the Operating Budget for 2011. He said as they were fleshed out and had a sense of what they wanted to move forward with, the projects would appear in the CIP.

He stressed that this CIP wasn't final, and said the Board's input was very important. He noted that there had been a lot of focus on bicycle friendly improvements, and said this meant that when DPW was considering road improvements, it was asked to consider what could be done that was also pedestrian friendly and bicycle friendly. He said DPW was working on some revisions to the potential roads program that reflected this.

Administrator Selig spoke about the fact that the Town was looking at attaining greater energy efficiency for its Police and Fire Department vehicles, and he provided details on this.

Administrator Selig noted that some DPW employees were on a 4 day work week in the summer, and said it was recommended that they be moved to a standard 5 day work week.

He noted the proposed funding for downtown sidewalks, and said most of it would hopefully be grant money. He also noted that the Technology Drive infrastructure improvements listed in the CIP was a placeholder to show developers, but said there was no plan right now for the Town to fund 100% of it.

Administrator Selig encouraged feedback from the Board on the proposed project to construct a new athletic field at the Town owned gravel pit in Lee. He said he continued to have reservations about this project, and provided details on this.

He noted the electronic messaging board proposed for the Police Department, which he said would be very useful if set up downtown during emergencies to provide information for residents.

Administrator Selig spoke about the idea brought forth by the Fire Department last year to budget for projects on a dollar cost averaging basis, in order to avoid having to bond, and thus cut down on debt service. He said the DPW was also looking at this approach, but said there were so many items it dealt with that it became cost prohibitive to do this.

He said it would be good talk to the Planning Board about a possible alternative approach to resurfacing Wiswall Road and some other roads in Town that only serviced a handful of Durham residents.

He spoke briefly about plans to make repairs to the Crommet's Creek Bridge. He also spoke about plans to fill in the streetscape in the Pettee Brook Lane corridor. He said a fair question was whether money should be spent on this now, when because of the various changes occurring in that area, the Town might then have to go back and pull some of those improvements out.

Administrator Selig noted that a speed table pilot project was being done on Edgewood Road, and said they would like to get feedback from the Planning Board on this.

He said it was expected that storm water management costs would increase over time, and said a separate fund would perhaps need to be set up for this kind of work. He said this work would, as Mr. Kelley had indicated, give the Town the greatest bang for the buck in terms of nitrogen load mitigation on Great Bay.

He noted that to move to single stream recycling, DPW would have to get another vehicle to compress waste materials. He said the thought was to extend the contract with Waste Management for another five years, but to add alternatives such as single stream recycling.

Mr. Roberts and Mr. Lynch discussed whether there was a technology for small lot septic systems that could remove nitrogen. Mr. Lynch said community based systems, using recent septic technologies, was a way to go, and said failing septic systems was a leading cause of the nitrogen problems.

Administrator Selig said 70-80% of the nitrogen was from nonpoint sources. He said it was politically untenable for decision makers to tell people not to fertilize their lawns, which was why DES was focusing on the wastewater treatment plants.

He noted that the Spruce Hole well project was in the CIP for 2011. He said the description there was only one possible solution, and said the broader question was whether this was the right time to connect the well to the system. He said he wasn't feeling any imperative to do this, and said this was something to talk about.

Mr. Roberts asked if Mr. Campbell had been provided with guidelines on large applications and how many beds could be supported by the water system.

Administrator Selig said this was being done as part of the Town's water management plan. He said it appeared that the water system could handle it right now. He spoke briefly about the upcoming shift to the instream flow regulations, which would supersede the 401 certificate.

Mr. Kelley spoke about the Lamprey River management plan to maintain those flows. He said Durham was well represented on the committee working on this, and said he recommended determining the water requirements for Durham and then going to the committee and saying to get this into the management plan. He said that would be a lot cheaper than the \$1.7 million for the Spruce Hole well. He said he was all for the well in the future, but said he didn't think it was needed now.

Administrator Selig noted that DPW was looking at alternatives to hook the well into the water system in a way that would cost less. He also said the CIP project on the Spruce Hole well should be considered a placeholder.

**X. Other Business**

A. Old Business:

Mr. Campbell said Planning Board representation was needed on the Master Plan Advisory Committee. He noted that a Visioning subcommittee and Survey subcommittee would be set up as well.

Mr. Roberts volunteered to serve on the Advisory Committee.

**XI. Approval of Minutes**

July 28, 2010 - postponed

**XII. Adjournment**

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

Adjournment at 11:03 pm

Victoria Parmele, Minutes taker

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Susan Fuller, Secretary