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**DURHAM TOWN COUNCIL MINUTES
MONDAY, SEPTEMBER 9, 2002 – 7:00 P.M.
DURHAM TOWN HALL – COUNCIL CHAMBERS**

MEMBERS PRESENT: Malcolm Sandberg, Chair; Arthur Grant; Peter Smith;
Pete Chinburg; Katie Paine; Mike Pazdon; Annmarie
Harris; Scott Hovey

MEMBERS ABSENT: Mark Morong

OTHERS PRESENT: Todd Selig, Town Administrator; Interested Members
of the Public

I. Call to Order

Chair Sandberg called the meeting to order at 7:10 PM

II. Approval of Agenda

Arthur Grant MOVED to approve the agenda. Katie Paine SECONDED the motion and it PASSED unanimously.

III. Special Announcements

Presentation of gundalow sketches from the Malcolm Chase family

Chair Sandberg introduced Charlotte Chase, who would be presenting the gift to the Town.

Charlotte Chase spoke about her recollection of the gundalow ‘Driftwood’ and spoke about the gundalow sketches that she was presenting as a gift to the Town.

Chair Sandberg thanked Mrs. Chase and the Chase family on behalf of the Town for the gift of the sketches.

Chair Sandberg thanked all of those who helped and participated in the very successful Durham Day celebration at Wagon Hill Farm.

IV. Approval of Minutes

Minutes of August 19, 2002

Arthur Grant MOVED to approve the minutes of August 19, 2002 as presented. Pete Chinburg SECONDED the motion.

Arthur Grant stated that on page 5 paragraph 8, “compliant” should be replaced with “complaint”. He stated that on page 8 after “updating the Right to Know Law” should be added “with reference to e-mail and teleconferencing.” He stated that on page 10 “superintendent” should be changed to “school superintendent.”

Scott Hovey MOVED to adopt the suggested amendments to the August 19, 2002 minutes. Arthur Grant SECONDED the motion and it PASSED 7-0-1 (Katie Paine abstained as she was absent from the August 19, 2002 meeting)

The motion to approve the minutes as amended PASSED 7-0-1 (Katie Paine abstained as she was absent from the August 19, 2002 meeting)

V. Report of Administrator

Administrator Selig reported on the following:

- He extended thanks to Roland Marquis and Kevin Tompkin who donated and set up the tent at the Transfer Station Swap Shop.
- UNH is thinking about modifying the Drumlins Field to convert it into a wetland area. There is a model and informational materials in the foyer of the Town Hall about the proposed modifications.
- A representative from Judd Gregg’s office will be at the Town Office on September 27, 2002 at 9:00 am.
- They are preparing to send a letters out to property owners outlining the old and new assessments that are based on physical inspection. Next year a statistical analysis of sales will be conducted, and there will be another assessment adjustment after that is finished.
- The Board of Trustees of the Library have sent a request to the Council for a special meeting/work session to discuss the future of the Durham Public Library.
- The UNH and Durham Police issue discussion will not be conducted this evening, and will be discussed at a future date.
- He spoke briefly about Resolution #2002-20, which was on the Unanimous Consent Agenda. He stated that he was proposing that the fund balance should be utilized to cover the cost of the municipal road projects rather than to bond those amounts.
- The New Hampshire primary election will take place on Tuesday. The polls will be open at the Oyster River High School from 8 am to 7 pm.
- The Durham Red Cross Blood Drive will be held on September 23, 24, 25, & 26 from 12 pm to 5 pm at the Memorial Union Building. For more information on donating or volunteering, call 868-9692.
- New Hampshire Regional Biking Trail Maps are available at the Durham Planning Office.
- The Town has come to an impasse on negotiations with the Durham Firefighters Association. He stated that the next step in the negotiation process will be mediation. The Town will soon begin bargaining with both the Police Union and Department of Public Works Union.
- Postponement of the discussion of the Conditional Use Permit for the Spruce Wood Planned Unit Development was requested by the owner John Farrell.
- He stated that anyone wanting to do modifications to their home or business should check with the Code Enforcement Officer to ensure that a permit is not required. He stated that the

penalty for building without a permit when one is required, is double the initial cost of the permit.

- The Department of Public Works, working with the Conservation Commission have submitted an application to the NH Wetland Bureau as part of the Wagon Hill Farm Shoreline Restoration Project. He read the details of the permit that was granted by the Department of Environmental Services.
- Pete Chinburg has stepped down from his position as Chair of the Rental Housing Commission. The new Chair of the Commission is Mark Henderson.
- The Oyster River Cleanup will take place on Saturday, September 21, 2002. This year there will also will be a barbecue and an ecological tour.
- The Town and UNH are sponsoring a September 11 remembrance ceremony. He spoke about the various activities that are scheduled as part of the remembrance.
- The New Hampshire Department of Transportation has reached an agreement with Guilford Transportation to take ownership of bridges that span railroad tracks throughout the State. He spoke about the repairs that will be made to the Bennett Road bridge during the week of September 25, as a result of this agreement.
- He spoke about the changes to the Capital Improvement Program process for this year.
- He stated that although there has been some rain recently, they are still maintaining the drought watch indication.

VI. Reports and Comments of Councilors

Pete Chinburg commended the Department of Public Works on the Mill Road resurfacing project.

Katie Paine gave a brief report from the DCAT Committee.

Scott Hovey thanked everyone who helped make the Durham Day celebration possible.

VII. Public Comments

John Aber, 4 Sumac Lane, thanked the Council for it participation in consideration of the SAE Fraternity as a library facility. He stated that the reason for the request to meet with the Council from the Board of Library Trustees, was for the purpose of meeting in a public forum to discuss the future of the Library.

Bonnie McDermott, 80 Dover Road, spoke about a concern she had with the revised draft of the Solid Waster Ordinance, stating that she felt that permit fees should be charged per unit rather than per building.

VIII. Unanimous Consent Agenda (Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote)

- A. Shall the Town Council approve and authorize the Town Administrator to sign an Elderly and Disabled Tax Deferral application as recommended by the Assessor?

- B. Shall the Town Council approve and authorize the Town Administrator to sign a Fall 2001 water/sewer abatement in the amount of \$154.06 for the misbilling of the property located at 77 Mill Road as recommended by the Town Clerk and Superintendent of Water?
- C. Resolution #2002-20: rescinding authorized and unissued long-term debt in the amount of \$496,886.04 previously approved by Resolutions #2001-07 and #2001-15

Arthur Grant stated that the advantage to resolution #2002-20, was that, by removing the costs from bonded indebtedness, the Town would not have to pay interest on these costs.

No items were removed from the Unanimous Consent Agenda for discussion.

The Unanimous Consent agenda items PASSED unanimously.

IX. Unfinished Business (Beginning NLT 8:00)

- A. Public Hearing (Continued): Planned Unit Development and Conditional Use Permit application submitted by Jones & Beach Engineers, Inc. on behalf of J.R. Collier Corporation for a Planned Unit Development and Conditional Use Permit in the Rural District for property located on Packers Falls Road

Katie Paine recused herself from this discussion.

Pete Chinburg recused himself from this discussion.

Katie Paine left the meeting at 7:45 PM.

Pete Chinburg left meeting at 7:45 PM.

Beth Olshansky, 122 Packers Falls Road, read to the council a statement she had prepared, which she submitted to the Public Record. She spoke in favor of the Planned Unit Development because she thought it was a better option than other development possibilities for the property that Eric Chinburg has expressed interest in pursuing.

Raymond Goodman, 4 Falls Way, spoke in favor of the PUD because he felt it was a better option for development of the property if development of this parcel was to occur.

Susan Raymond, 1 Constable Road, spoke in support of the PUD because it was a compromise between the Developer and the members of the neighborhood, and because it was a better option than a development plan proposing more houses.

Henry Smith, 93 Packers Falls Road, read a letter from Eileen Fitzpatrick, 93 Packers Falls Road. Ms. Fitzpatrick's letter stated her support of the PUD because the proposed fiscal impact would be substantially less than that which would result from another development configuration for the property that the developer could pursue.

Judy Chandler, 87 Packers Falls Road, spoke about concerns she had with development impacting the Aquifer Protection District. She spoke in support of the PUD as she believed it was the better option than a development plan that did not include input from members of the neighborhood.

Virginia Stuart, 3 Falls Way, spoke in support of the PUD. She also stated that she would have preferred the land be conserved, if that had been a possibility, rather than to develop it.

Lisa McFarlane, 6 Sullivan Falls Road, spoke in support of the PUD because she felt the proposed development was a better option than other possibilities for development of the land that could be pursued.

Peter Michel, 2 Falls Way, spoke in support of the PUD.

Malcolm McNeill, representing the applicant, urged the Council to listen to the opinion expressed by the abutters. He requested the Council close the Public Hearing this evening.

Joanna Wickline, 240 Packers Falls Road, stated that she believed that the abutters were not saying that they wanted this project. She stated that she felt the abutters were expressed that they felt pressured, and they had to support this project because it was the best option the developer would offer.

In response to a question from Arthur Grant, Jim Campbell stated that Tom Johnson went to the property to do test pits, and he was shown a different plan than that which has been filed with the application.

In response to a question from Peter Smith, Neil Niman spoke about the type of data he used and the factors that he considered in his fiscal analysis.

In response to a question from Arthur Grant, Malcolm McNeill spoke about the consideration he felt the Council should have of the Master Plan, and its recommendation regarding the anticipated financial burden to the Town from houses valued at less than \$460,000.

Arthur Grant noted that none of the 3 developments summarized in the Master Plan have returned a favorable tax impact to the community.

In response to a question from Peter Smith, Mr. McNeill spoke about the weight he felt the Council should give to recommendations made in the Master Plan with regard to this application. In response to a question from Chair Sandberg, he spoke about the suspension of the 1991 plan. He spoke about other options the developer might pursue if the proposed PUD is not approved.

Chair Sandberg spoke about his concern with the viability of the threat that the applicant will build a 25 lot subdivision if the PUD is not approved.

Administrator Selig read 175-10(H) of the Zoning Ordinance, which addresses revocation action on Conditional Use Permits. He spoke about the suspension process of the approved 1991 permit.

In response to a question from Peter Smith, Eric Chinburg spoke about the options he will pursue if the PUD is not approved. He stated that he would prefer to not utilize the 1991 plan, rather he would prefer to proceed with new and economically sensible plan.

Malcolm McNeill spoke about the developer's intent to proceed with development of the land.

Arthur Grant MOVED to close the Public Hearing. Mike Pazdon SECONDED the motion.

Administrator Selig noted that once the Public Hearing is closed there is a 45 day deadline to make a decision on the application. The Council discussed the feasibility of meeting the 45 day deadline, with regard to anticipated absences of Council Members.

The motion to CLOSE the Public Hearing PASSED unanimously.

Chair Sandberg declared a 5 minute recess.

Peter Smith MOVED to postpone deliberation on IX.A. Planned Unit Development and Conditional Use Permit until the October 7, 2002 meeting. Scott Hovey SECONDED the motion and it PASSED unanimously.

- B. Public Hearing: Application to amend the Sprucewood Planned Unit Development Conditional Use Permit, Phase II, submitted by Sprucewood Realty Trust.

Chair Sandberg stated that a letter has been received from Jack Farrell requesting postponement of this item.

Peter Smith recused himself from the discussion.

Chair Sandberg noted that there was lack of a quorum and stated that the Public Hearing on the Planned Unit Development Conditional Use Permit would be postponed until the October 7, 2002 meeting.

X. New Business

- A. Public Hearing and Action: Resolution #2002-18 authorizing the issuance of refunding (refinancing) bonds to be used to pay off General Obligation bonds issued on Sep 1, 1996 and Nov 5, 1999, including any redemption premium thereon, all or part of the interest coming due on or prior to the date on which the outstanding bonds are redeemed and the costs of issuing and marketing the refunding bonds

Administrator Selig gave an overview of the proposed resolution.

Peter Smith MOVED that the Durham Town Council open the Public Hearing on Resolution #2002-18 authorizing the issuance of refunding bonds to be used to pay-off general obligation bonds issued on September 1, 1996 and November 5, 1999 including any redemption premium thereon, all or part of the interest coming due on or prior to the date on which the outstanding bonds are redeemed, and the cost of issuing and marketing the refunding bonds. Mike Pazdon SECONDED the motion and it PASSED unanimously.

There was no one present wishing to speak to this item.

Annmarie Harris MOVED that the Durham Town Council close the Public Hearing on Resolution #2002-18 authorizing the issuance of refunding bonds to be used to pay-off general obligation bonds issued on September 1, 1996 and November 5, 1999 including any redemption premium thereon, all or part of the interest coming due on or prior to the date on which the outstanding bonds are redeemed, and the cost of issuing and marketing the refunding bonds. Mike Pazdon SECONDED the motion and it PASSED unanimously.

Scott Hovey MOVED that the Durham Town Council adopt Resolution #2002-18 authorizing the issuance of refunding bonds to be used to pay-off general obligation bonds issued on September 1, 1996 and November 5, 1999 including any redemption premium thereon, all or part of the interest coming due on or prior to the date on which the outstanding bonds are redeemed, and the cost of issuing and marketing the refunding bonds. Arthur Grant SECONDED the motion and it PASSED unanimously.

- B. Public Hearing and Action: Resolution #2002-19 authorizing the issuance of long-term debt not to exceed \$350,226.00 for the purpose of bonding 2002 Capital Fund projects

Administrator Selig spoke about the proposed resolution.

Mike Pazdon MOVED that the Durham Town Council open the Public Hearing on Resolution #2002-19 authorizing the issuance of THREE HUNDRED FIFTY THOUSAND, TWO HUNDRED TWENTY-SIX DOLLARS (\$350,226.00) in long term debt. Arthur Grant SECONDED the motion and it PASSED unanimously.

There was no one present wishing to speak to this item.

Katie Paine rejoined the meeting at 9:42 PM.

Arthur Grant MOVED that the Durham Town Council close the Public Hearing on Resolution #2002-19 authorizing the issuance of THREE HUNDRED FIFTY THOUSAND, TWO HUNDRED TWENTY-SIX DOLLARS (\$350,226.00) in long term debt. Annmarie Harris SECONDED the motion and it PASSED unanimously.

Annmarie Harris MOVED that the Durham Town Council adopt Resolution #2002-19 authorizing the issuance of THREE HUNDRED FIFTY THOUSAND, TWO HUNDRED TWENTY-SIX DOLLARS (\$350,226.00) in long term debt. Scott Hovey SECONDED the motion.

Administrator Selig spoke further about the amount to be issued in long term debt as proposed by the resolution. In response to a question from Chair Sandberg, he stated that none of the projects he has spoken about utilize unexpended Fund Balance. In response to a question from Peter Smith he spoke about the Fund Balance and the Fire Department Capital Reserve Fund, and how those funds are utilized. He spoke briefly about the issue that the Town may need to save money in the Fire Department Capital Reserve Fund to build a Fire Station Facility in the future.

The motion PASSED unanimously.

- C. Ordinance #2002-10: First Reading amending various sections of Chapter 175 "Zoning" in the Durham Town Code by deleting references to the sale of alcoholic beverages in various zoning districts of the Town

Administrator Selig gave an overview of the proposed ordinance.

Peter Smith MOVED to continue the discussion until 10:30. Annmarie Harris SECONDED the motion.

Mike Pazdon stated that he would be leaving the meeting.

Scott Hovey stated that he would be leaving the meeting.

Mike Pazdon MOVED to continue the agenda to Monday, September 16th, 2002 at 7:00 PM. Scott Hovey SECONDED the motion and it PASSED unanimously.

The meeting adjourned until 7:00 PM on Monday, September 16, 2002 at 10:00 PM.