

# D-R-A-F-T

**DURHAM TOWN COUNCIL  
MONDAY, OCTOBER 17, 2005  
DURHAM TOWN HALL – COUNCIL CHAMBERS  
6:30 PM**

**MEMBERS PRESENT:** Chair Malcolm Sandberg; Peter Smith; John Kraus (arrived later); Neil Niman; Mark Morong (arrived later); Gerald Needell; Karl Van Asselt (arrived later); Diana Carroll ; Julian Smith

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Town Administrator Todd Selig; Town Planner Jim Campbell; Planning Consultant Mark Eyerman

## **I. Call to Order**

Chair Sandberg called the meeting to order at 6:30 PM.

Chair Sandberg announced that the Council would hold a brief nonpublic meeting, authorized under RSA 91-A:3 II (d) and (e).

***Julian Smith MOVED to enter into Nonpublic Session in accordance with RSA 9-A:3 II (d) consideration of the acquisition, sale or lease of real or personal property and (e) consideration or negotiation of pending claims or litigation. The motion was SECONDED by Peter Smith and PASSED on a roll call vote of 6-0 as follows:***

<b><i>Julian Smith</i></b>	<b><i>AYE</i></b>	<b><i>Neil Niman</i></b>	<b><i>AYE</i></b>
<b><i>John Kraus</i></b>	<b><i>ABSENT</i></b>	<b><i>Malcolm Sandberg</i></b>	<b><i>AYE</i></b>
<b><i>Diana Carroll</i></b>	<b><i>AYE</i></b>	<b><i>Mark Morong</i></b>	<b><i>ABSENT</i></b>
<b><i>Karl Van Asselt</i></b>	<b><i>ABSENT</i></b>	<b><i>Jerry Needell</i></b>	<b><i>AYE</i></b>
		<b><i>Peter Smith</i></b>	<b><i>AYE</i></b>

The Council entered into Nonpublic Session at 6:32 PM.

The Council came out of Nonpublic Session at 7:23 PM.

Councilors, Kraus, Morong, and Van Asselt arrived after the Council had entered into Nonpublic Session.

***Councilor Needell MOVED to seal the minutes of the nonpublic meeting. Councilor Peter Smith SECONDED the motion, and it PASSED unanimously 9-0.***

## **I. Approval of Agenda 7:25 PM**

***Councilor Julian Smith MOVED to approve the Agenda as submitted. The motion was SECONDED by Councilor Kraus, and PASSED unanimously 9-0.***

## **II. Special Announcements**

Chair Sandberg noted that the Council had met in nonpublic session prior to the present public session to discuss land and legal matters. He thanked members of the public for their patience.

He said that Doug Wheeler, the Chair of the Library Board of Trustees, was present to introduce the new library director.

Mr. Wheeler introduced Tom Madden as the Town's new Library Director. He provided details of his previous experience, and said the Board of Trustees was delighted to have him in Durham.

Mr. Madden said he was honored to have been chosen for this position. He said he wanted to build on what had been done with the Library so far, and to move it forward.

Chair Sandberg welcomed Mr. Madden to Durham.

## **IV. Approval of Minutes**

### September 12, 2005

Page 2, 1st paragraph under August 1, 2005 Minutes, should read "...approve the August 1, 2005 Minutes as submitted"

Page 9, 4<sup>th</sup> paragraph from bottom, should read "...had oystered off of Riverview Road..."

Page 24, under IX Adjournment, should read "The meeting was continued at 10:45 pm".

***Councilor Julian Smith MOVED to approve the amendments to the September 12, 2005 Minutes. The motion was SECONDED by Councilor Kraus, and PASSED unanimously 9-0.***

***The September 12, 2005 Minutes, as amended, were APPROVED unanimously 9-0.***

### September 19, 2005

Page 4, spelling should be "CMAQ" in the 1<sup>st</sup> and 3<sup>rd</sup> paragraph.

***Councilor Julian Smith MOVED to approve the September 19, 2005 Minutes as submitted. The motion was SECONDED by Councilor Carroll, and PASSED 8-0-1, with Councilor Van Asselt abstaining because of his absence from the September 19, 2005 meeting.***

## **V. Report of Administrator**

- Administrator Selig said trick-or-treating would take place in Durham on Sunday evening, October 30, 2005, between the hours of 5:00 and 7:30 PM.
- Administrator Selig said the search process to select the Fire Chief was down to two finalists, and said there would be a series of interviews with the candidates on October 27<sup>th</sup>.

- Administrator Selig said he and Business Manager Paul Beaudoin were putting together the proposed Capital Budget for 2006, and the CIP for the years 2006-2015. He said the Planning Board had provided useful advice, and asked Councilor representatives to the Planning Board to please convey this to the Board. He said meetings were being held with department heads on their budget requests and that it would be a challenging year, noting that fuel costs were putting pressure on the Budget. He also said some staffing changes were being looked at, and that details on this would be provided to the Council.
- Administrator Selig said perimeter spraying for West Nile Virus occurred, and he provided some details on this.
- Administrator Selig said the Public Works, Fire, and Police Departments were active in ensuring that flooding was avoided in Durham during the recent rainstorms. He provided details on the clearing of catch basins, and on operations at the Wastewater Treatment Plant. He also noted that the State Office of Emergency Management had called him at home during this time to see if things were going well in Durham.

## **VI. Reports and Comments of Councilors**

Councilor Needell said the Planning Board meeting on October 12<sup>th</sup> had continued its discussion on transportation issues. He said Bill Hall had provided a very informative perspective on the history of the northern connector. Councilor Needell said there was discussion at the meeting about impacting event traffic in the short-term, and said a committee was set up concerning this issue.

Councilor Needell provide details on the Board's discussion of Zoning Ordinance amendments that the Council had remanded back to the Board. He said the Planning Board's response was to try to find something that would satisfy everyone and to take up the more substantive issues later.

Councilor Needell said there was discussion on the recent ZBA rehearing concerning 10 Madbury Road, and as a result of this, the Planning Board had proposed a zoning amendment redefining fraternity/sorority house that would move forward to public hearing on October 26, 2005. He said this amendment would then move forward to the Town Council.

Councilor Needell also provided details on an application the Board had sent on to the Technical Review Committee for review.

Councilor Julian Smith noted the communication from Town staff as to the possibility of taxing the University for uses of property not connected to its primary educational mission. He then called the Council's attention to an article on the University attracting students to live on tax-exempt University land, and said he would like the Council to think ahead to when the University would find this an attractive option.

Councilor Peter Smith said the Conservation Commission had recently held a special meeting, and noted it would be discussed later at the Council meeting.

Administrator Selig noted there was an item in the CIP for \$100,000 for the northern connector. He said the Planning Board had said it would be more helpful, concerning transportation

planning, to contract with a consultant to develop an RFP to look at transportation issues in general in 2006, and to help the Board craft something tangible to work on in 2007.

Administrator Selig said the Council had discussed the legal issues regarding the recent ZBA decision on 10 Madbury Court in nonpublic session. He said they would be looking closely at this issue, and whether it made sense to appeal the decision on a series of different bases.

## **VII. Public Comments**

**Bill Hall, Smith Park Lane**, noted that 16 parking spaces at Jackson's landing had now been lost because of storage of boat trailers. He provided details on this, and said it was important to make sure dead storage of trailers happened somewhere else.

He said the water/sewer agreement with the University said nothing about lowering the restriction on the Wiswall Dam, and nothing about dredging of the Oyster River. He discussed these issues in some detail, and said he couldn't emphasize enough the importance of getting out from under this agreement.

**Nate Smith, 40 Gables Way**, said he was there to speak on behalf of Jill Dvorak, the proposed tenant representative to the Rental Housing Commission. He informed the Council that Ms. Dvorak could not be present this evening.

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

The Council agreed to remove Item A from the Unanimous Consent Agenda.

- A. Shall the Town Council move on **First Reading Ordinance #2005-06** proposing amendments to Chapter 175 "Zoning" of the Durham Town Code, **Section #2005-06 (F)** - Relative to the Historic Overlay District and **Section #2005-06 (G)** - Relative to the Personal Wireless Service Facilities Overlay District and schedule a public hearing to be held on Monday, October 24, 2005?

***Councilor Needell MOVED to move on First Reading Ordinance #2005-06 proposing amendments to Chapter 175 "Zoning" of the Durham Town Code, Section #2005-06 (F) - Relative to the Historic Overlay District and to schedule a public hearing to be held on Monday, October 24, 2005. Councilor Julian Smith SECONDED the motion.***

Councilor Kraus said he found it difficult to compare the information on the Historic District map dated July 1995 with the more recent delineation of the Historic District, and suggested this could be clarified.

Chair Sandberg said if the Council scheduled the public hearing on Section F, he would ask that the Planning Board provide clarification on this for the Council prior to the hearing.

Councilor Julian Smith said he had gone through the overlay district amendments and had found many typos and word choice problems. He said the document was not yet ready for prime time,

and asked if there could be a pre-review to make sure it was ready. He said he had no objection to the substance of the Ordinance.

Chair Sandberg said if Councilor Smith was arguing that the Ordinance was not ready to go to public hearing, he could ask that this be postponed to a later date.

Councilor Smith said he could make a list of the items that needed to be addressed.

There was discussion by the Council as to whether it was an urgent matter to move this forward that evening.

Administrator Selig said it would be some time before the Council would have the opportunity to deliberate on this section. He noted that the document had come from the Planning Board, which had already had a public hearing on it. He suggested moving the Ordinance on to public hearing, and said if the changes that were needed were non-substantive, the Town Council could make them. He said Councilor Julian Smith could indicate where these changes were needed.

Councilor Julian Smith said he would send an email on these changes to other Council members.

***The motion PASSED unanimously 9-0.***

***Councilor Needell MOVED to move on First Reading Ordinance #2005-06 proposing amendments to Chapter 175 “Zoning” of the Durham Town Code Section #2005-06 (G) - Relative to the Personal Wireless Service Facilities Overlay District and to schedule a public hearing to be held on Monday, October 24, 2005. The motion was SECONDED by Councilor and Kraus and PASSED unanimously 9-0.***

- B. Shall the Town Council approve the water and sewer warrant for fall 2005 and authorize the Town Administrator to sign said warrant?

***Councilor Julian Smith MOVED to approve Unanimous Consent Agenda Item B. The motion was SECONDED by Councilor Van Asselt, and PASSED unanimously 9-0.***

## **IX. Committee Appointment**

Shall the Town Council appoint Jill Dvorak, 22 Garrison Avenue, as the tenant representative to the Rental Housing Commission?

Administrator Selig provide background on this position. He noted Ms. Dvorak had attended some previous rental housing meetings as a member of the public, and had asked some good questions. He said the Town was pleased she wanted to take this position. He noted she was Vice President of the Student Body, and said he thought she would make a good addition to the committee.

***Councilor Peter Smith MOVED to appoint Jill Dvorak, 22 Garrison Avenue, as the tenant representative to the Rental Housing Commission. Councilor Needell SECONDED the motion, and it PASSED unanimously 9-0.***

## **X. Presentation Item**

Report from the Conservation Commission relative to erosion control and recreational opportunities at Jackson's Landing – Dwight Baldwin

Mr. Baldwin said the Conservation Commission had met on September 29, 2005, to discuss whether it felt comfortable submitting a pre-proposal on this issue. He said the unanimous vote was that it was an inappropriate time to proceed with this item. He said he thought this was primarily because not everyone in Town government was comfortable with proceeding so rapidly.

He said there was a lengthy discussion regarding the two issues that were involved - erosion control and recreation potential - at this underutilized site. He provided details on problems at the site from stormwater runoff despite Town efforts to improve this. He noted that the recent heavy rains had had an impact.

He said the erosion problem needed to be addressed in a more comprehensive way.

Mr. Baldwin also spoke about the fact that there were exciting opportunities at the site for recreational development. He said a steering committee needed to be formed to brainstorm on the best way to develop a waterfront park at the site. He said the committee should also develop a written plan, and investigate funding for the park, and report to the Council on this by July of 2006.

He said this effort had already begun and that the Conservation Commission and the Parks and Recreation Committee both wanted to thank Durham citizens for the work they had done on this project already.

John Parry, Chair of the Parks and Recreation Committee, said a key goal of the Committee was to increase public access to water resources and to increase recreational opportunities in Town for adults. He said the idea of the waterfront park at Jackson's Landing seemed like a good way to explore those goals.

He said when the Committee became aware of concerns in Town about the process moving too quickly, it was supportive of backing off and waiting year to get more public input and professional advice. He described some of the brainstorming ideas the Committee had already come up with and also spoke about how this use of the site could be coordinated with various other efforts the Town was involved with.

Mr. Parry spoke about the Committee's effort to look at all Town-owned properties in terms of their recreational potential. He also spoke about plans to do a survey to see what the public saw in terms of recreational needs in Durham, and said the results of this survey would help guide the work at Jackson's Landing. He said he hoped the Council would support the Jackson's Landing project in the coming year.

Mr. Baldwin summarized the initiative for Jackson's Landing that the Conservation Commission and Parks and Recreation Committee were working on. He said it could be a great site, and asked the Council for its strong support for the effort.

Chair Sandberg congratulated both commissions for looking at issues at Jackson's Landing from this perspective. He said having suggestions from the prioritized list made the Council's job much easier as it worked on the CIP and had to prioritize the use of funds.

Councilor Kraus noted the Oyster River dredging issue, and asked if this was related to the erosion problem at Jackson's Landing that Mr. Baldwin had spoken about.

Mr. Baldwin said sedimentation was contributing to the filling in of the channel, but said the Jackson's Landing project itself was not tied in with the dredging issue.

There was discussion about future possible grant funding for soil erosion.

Councilor Van Asselt asked if UNH was part of the recreation planning being considered for Jackson's Landing.

Mr. Baldwin said the coaches of the UNH rowing team thought the University would be supportive. He said he thought it would be a win-win situation for the Town and the University to work together on a project like this.

Councilor Van Asselt said this made a lot of sense to him.

Councilor Peter Smith said the Conservation Commission and the Parks and Recreation Committee would like to have a sense that evening as to whether the Council supported having them proceed in an orderly way to explore options, and to come back with a proposal that would then be prioritized in the CIP, and perhaps funded in another way. He said he admired their organized approach, and said to those people who were excited about proceeding with this, that he respected this and hoped others would join in if the Council was in favor of this project.

There was discussion as to how to proceed concerning this issue.

Councilor Needell said he agreed with Councilor Peter Smith's comments and said that having a good plan strengthened the project significantly, and created a greater chance that it would succeed.

Councilor Julian Smith asked if there was data available on how many people presently used Jackson's Landing.

Mr. Parry said it was hoped the survey would help determine this.

Councilor Morong said this sounded like a positive initiative. He said he hoped the Parks and Recreation Committee would look at the entire scope of recreational opportunities involving the University, especially the issue of access to the pool on the UNH campus.

Mr. Parry said the Committee was developing a list of recreational opportunities in Durham, including on University property, and said it planned to publish this and post it on the Town web site.

Councilor Morong said the pool was very important to the citizens of Durham.

Councilor Carroll said this was a very positive project, and offered residents something to look forward to. She said it was wonderful to see these groups joining together to make this a reality.

Councilor Van Asselt asked if the Committees had asked for funding in order to get the preliminary work on the project done by July of 2006.

Mr. Baldwin said it was hoped that most of the work would be done pro bono.

Councilor Van Asselt said this was a legitimate funding request.

Administrator Selig said this came up after items had been submitted for the 2006 Budget and the CIP. He said there had been no specific funding request concerning it, and said it would have to be considered among the other potential projects.

## **XI. Unfinished Business (*NLT 8:00 PM*)**

- A. Shall the Town approve the Fire Agreement, as amended, between the Town of Durham and the University of New Hampshire?

Chair Sandberg noted that at a previous Council meeting, the motion was made by Councilor Julian Smith to reconsider an earlier vote on the Fire Agreement, in which the Council had voted down the agreement.

Councilor Julian Smith said he wanted to reconsider this because Administrator Selig had told the Council that all three agreements had to come back to the University substantially as they were. He said he had made the motion primarily because he wanted the Council to discuss a range of things concerning the fire agreement. He said a key issue to him was the 2-year notice to vacate the fire department building. He said there was a strong possibility that the University wanted to make other use of the land the building sat on, and said he didn't see how an alternative fire station site could be developed within 2 years. He said he realized the terms of the fire agreement could be renegotiated, but said he would like to spend more time discussing this issue.

Councilor Kraus said he was not clear why the Fire Agreement was being revisited.

Councilor Peter Smith said he had not moved to reconsider the agreement, given his original vote, in favor of the agreement, but said he thought the agreement should be reconsidered by the Council. He noted he had made the motion to deliberate on the three agreements separately, but he said that now, two of them had been passed, and the University's position remained all or nothing. He said the Council needed to factor in not just the merit or lack of merit of the fire



agreement, but also the significance of not approving it, which went substantially beyond not approving it.

Councilor Peter Smith said he was not thrilled with the agreements, but said on balance it represented some improvement, and approving it was the responsible thing to do. But he said approving this did not mean the University would not hear from the Town on these agreements for 10 years.

He noted he had recently introduced language for the agreement in the motion that was not approved, which clarified the basis for a much earlier review of the agreement. He also said when there was a new Town Fire Chief, the Town's situation would be reviewed.

Councilor Morong said he had originally voted against the fire agreement, partly because he didn't feel prepared at the time to vote on it, and had thought he would have a chance to revisit the issues involved. He said Councilor Niman had raised some interesting points. But he said after talking to Town staff, he felt that as long as citizens wanted the level of service they currently had, he felt the Town was getting a fair deal with the fire agreement. He said although he was not thrilled with the agreements individually or as a package, he felt they were the best the Town could do at present.

Councilor Niman said he couldn't bring himself to vote for the fire agreement, and he thanked Councilor Morong for changing his vote. Councilor Niman said this allowed him to be consistent in voting against all the agreements.

Councilor Carroll agreed these were not perfect agreements, and there was great room for improvement. But she said she had faith in Town staff to continue to work on them.

Councilor Julian Smith said concerning item #11 in the agreement, he would hope the following wording would be added "... after consultation with Town Counsel." There was discussion about this.

Chair Sandberg said that procedurally, the Council should make a new motion to adopt the Fire agreement.

***Councilor Peter Smith MOVED to approve the Fire Agreement, as amended. Councilor Carroll SECONDED the motion, and it PASSED 5-3-1, with Councilors Julian Smith, Niman, and Van Asselt voting against it, and Councilor Kraus abstaining.***

Chair Sandberg said the Council would need an explanation as to why Councilor Kraus had abstained, and why he didn't participate as a voting Councilor.

Councilor Kraus said he took exception to the comment about why he didn't participate as a Councilor, and said he found the editorializing to be offensive. He said he had abstained the previous time, and was being consistent. He said he continued to believe the process was flawed, and said he was uncomfortable with bringing the agreement back for the Council to poke at and re-vote on.

Councilor Morong said he was very pleased the way the voting had gone. He said he wished he could have split his own vote, but said he thought that as a group, the Council accomplished this.

Chair Sandberg noted the significant amount of work put into the agreements by Town staff, and said the Town was better off as a result of this. He said he hoped the public appreciated the work that had been done.

- B. Continued Deliberation on Ordinance #2005-06** proposing amendments to Chapter 175 “Zoning” of the Durham Town Code, **Section 2005-06 (A)** - To address questions with prior amendments, **Section 2005-06 (B)** - To implement the Master Plan recommendations dealing with the Non-Residential Zones. The proposed revisions in 2005-06 (B) pertain to the zoning map, non-residential zoning district provisions, definitions, tables of uses, and table of dimensional requirements, **Section #2005-06 (C)** - Relative to the Shoreland Protection Overlay District, **Section #2005-06 (D)** - Relative to the Wetland Conservation Overlay District, and **Section #2005-06 (E)** – Relative to the Aquifer Protection Overlay District

Chair Sandberg noted that the Council had deliberated on 13 Items in Section A, with 6 Councilors present. He said it was determined that a number should be remanded back to the Planning Board, and also said the Council had decided not to take action on #6 concerning the Table of Dimensional Requirements, until after deliberating on Section B.

He said the Council had not yet taken a specific vote to remand anything, and had simply been using a consensus approach. He said the Council wouldn’t take action on Section A until it finished Section B for the reason already stated.

Administrator Selig said this posed a potential problem. He said the Planning Board thought Section A had been remanded, and had posted its subsequent changes to it and scheduled a public hearing. He said if the Council hadn’t formally remanded it, perhaps this hearing needed to be delayed.

Councilor Peter Smith said it would be efficient if the Council could hear from Town Planner Jim Campbell and Planning Consultant Mark Eyerman as to any difficulties the Board had with any of the matters concerning the Section A the Council had discussed and reached consensus on. He said this would maximize the chance of agreement between the Planning Board and the Council. He said if the Council voted to remand Section A that evening, the discussion would provide further information for the upcoming public hearing.

Chair Sandberg said the Council had already developed a list of what it was remanding, and said the Council should move on to Section B, and could then decide on Item #6 from Section A. There was detailed discussion on how to proceed.

Chair Sandberg said the Council had agreed it would look at Item #6 in Section A after looking at part B. But he said that since the Council could make minor substantive changes, and there were some agreed to changes to Item #6, a motion to approve Section B could be entertained.

***Councilor Needell MOVED to approve Ordinance #2005-06 proposing amendments to Chapter 175 “Zoning” of the Durham Town Code, Section 2005-06 (B) to implement the***

***Master Plan recommendations dealing with the Non-Residential Zones. The proposed revisions in 2005-06 (B) pertain to the zoning map, non-residential zoning district provisions, definitions, tables of uses, and table of dimensional requirements. The motion was SECONDED by Councilor Julian Smith.***

Councilor Niman said he had checked the Master Plan, and said there were lots of recommendations in it that he could not find in the Zoning Ordinance. He said he would like to have a discussion on how the Zoning Ordinance was implementing the Master Plan.

Councilor Needell said the Zoning Ordinance had to be supported by the Master Plan, but said the fact that there were things in the Master Plan that weren't in the Ordinance was a separate issue.

Councilor Niman said he wondered why certain things from the Master Plan had been adopted into the Ordinance, while other recommendations appeared to have been dispensed with.

Councilor Peter Smith said this was a valid point, and said if Councilor Niman saw that specific provisions hadn't been addressed, these should be raised. But he said one needed to be careful about characterizing the Master Plan. He provided additional details on this.

Chair Sandberg said the Master Plan was a document that looked out over a 30-50 year period, and said there might be incremental changes to the Ordinance over time which would be consistent with the vision of the Master Plan. He noted this vision also would evolve over time, and said the two documents should evolve together. He said the Zoning Ordinance should be consistent with, and be supportive of, the Master Plan.

Councilor Needell said the proposed Zoning Ordinance changes were the work of the Zoning Rewrite committee to implement some of the Master Plan, and were not an attempt to implement the whole thing. He said he would like to discuss what was in the Ordinance, whether there were some things proposed that were not in the spirit of the Master Plan, or if there was something fundamental in the Master Plan that should have been implemented immediately, which made something in this Ordinance not appropriate.

Councilor Niman said he couldn't see where in the Zoning Ordinance affordable housing was addressed, and provided some background information on the legal aspects of this, quoting from a case involving the town of Ossipee, NH.

Mr. Campbell said there was a lot of multi-unit housing in Durham that fell under the category of affordable housing, and provided details on this. He said whether it was actually affordable was another thing.

There was discussion about the MUDOR district, and how much developable land it actually contained that wasn't owned by the University.

Councilor Peter Smith noted that a NH Supreme Court decision had said that each town had to provide its fair share for affordable housing, and said the data for Durham indicated the Town appeared to be doing really well on this. He said this was utterly distorted data because of the

University, and also said affordable housing was a strange concept for the Town because although new housing could be built fairly inexpensively, there were few people who could afford them because of property taxes. He said it would therefore be difficult to make a lot of progress on the affordable housing issue through zoning.

Councilor Niman spoke about the MUDOR district. He said he was concerned about the University's ability to hire professors given that housing in Town was so expensive. He said the University would find a way to solve its housing problems, but this wouldn't result in increased taxes paid to the Town. He said Durham needed to make a meaningful effort to find places to provide apartment buildings. He said he believed prices would come down if the supply of housing were increased, so that there would be affordable housing in Durham that was not just for students.

Chair Sandberg suggested that Councilor Niman could make specific recommendations concerning this issue in regard to the Table of Uses.

Councilor Morong said the people in Durham now living in affordable housing were not paying enough for Town services, and therefore said he didn't see how bringing in more affordable housing was a good idea.

Mr. Campbell said it was argued during the Zoning Rewrite process that the Town needed to make affordable housing available. He said the Master Plan called for private multi-unit development, and said this was discussed for a very long time. He said the conversation on this issue was not over. He said it was a great idea to create affordable housing, but said the question was who was going to use it, faculty or students. He said it was controversial as to whether this housing could actually be filled with faculty.

Chair Sandberg noted that during the University's master planning process, he had emphasized that it needed to provide adequate housing on campus for students, and if it did this, it would free up existing multi-unit housing, and would encourage families to live in the downtown area. He said page 35 listed elderly housing as permitted use in some districts, which indicated the Town was providing the opportunity for housing that covered a wide range.

Councilor Van Asselt said that permitting housing in a district wasn't sufficient, when there wasn't enough land there to provide it, or the standards were such that the building would not be built. He said the question was whether there would be housing in any of the zones that would allow a working person to live there, and said the Council knew this answer was no.

He said Councilor Niman was correct that practically speaking, if the Ordinance passed, few developers would come in and say there were ready to build affordable housing because the Town was making it so restrictive to have this kind of development. He said this might not be illegal, but said the Town needed to be more creative about this, through techniques like requiring affordable units in housing developments.

Chair Sandberg said ideas like this needed to be developed at the Planning Board level. He said the Council's job now was to look at the proposal before them, and to accept it as written, reject it entirely, or pull out areas that were not acceptable and remand them.

Councilor Needell said he agreed with Councilor Van Asselt, but said a fundamental question that needed to be asked was whether the Town would be better off in terms of affordable housing with or without the proposed Ordinance. He said the Council should either accept it or decide it was going in the wrong direction, but said it wasn't the Council's charge to come up with something else now.

Chair Sandberg asked if there were no developers coming in to the Planning Office because of this draft of the Zoning Ordinance.

Mr. Campbell said they were waiting to see how things shook out. He said there were some things in the pipeline, and noted of them involved elderly housing. There was discussion about this.

Councilor Carroll noted that the Council had taken on housing as one of its key issues. She said Councilors Niman and Van Asselt had brought up some good ideas, and she said some time should be set aside to look specifically at housing issues and to get outside expertise on this issue. She said at present, the Council needed to look at the Zoning Ordinance as it was, and said she didn't think the Council could take an issue as large as housing and make changes to the Ordinance concerning the issue right now.

Councilor Peter Smith said the University's involvement in this issue was key.

Councilor Niman said his reading of the Master Plan was that a goal was to develop well managed multi-unit housing on the periphery of Town, to reduce the cost of public services, provide positive living environments, minimize undesirable behavior, convert the core of Town to get adults back there, and to take the pressure off neighborhoods. He said his perspective was simply that he didn't think the Ordinance accomplished this. He said this was his only opportunity to say he didn't think the Planning Board got this right.

Councilor Niman said he would like elderly housing not to be the only multi-unit housing in the commercial districts. He said he would like to redraw some of the districts, and to allow the private sector to envision some of the ideas in the Master Plan.

Councilor Needell said these suggestions were fine, but he asked Councilor Niman if he thought the proposed Ordinance precluded things that were in the Master Plan that he thought should be done in the future. He said the question was whether the Ordinance was fundamentally flawed.

Chair Sandberg said the Council had a framework before it, and the big change now was the matrix of uses. He said the question was whether it was a useful, workable model. He said the Council would get into specifics under the individual uses.

Councilor Needell said he was hoping to have discussion on whether creating these additional zones was appropriate, or instead was a fundamentally flawed idea. He said the Council hadn't weighed in on this yet. He said his reading of the Master Plan was that it was appropriate, but said he would really like to hear it if other Councilors disagreed.

Councilor Van Asselt said he had no problem with the matrix itself, but said the question to him was whether a permitted use was actually possible in a district, when there was limited buildable land.

Councilor Needell said his question was still valid, given what Councilor Van Asselt had just said.

The Council next started going through Section B, page by page.

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Councilor Julian Smith suggested some grammatical changes.

Councilor Needell noted that the definition of Household needed to be included here, and provided details on this. He noted that an inconsistency in the Ordinance concerning this term was discussed at the September 26<sup>th</sup> meeting. There was discussion about this.

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Councilor Carroll said that in the definition of convenience store, the wording “retail store” was too general. She suggested that “retail grocery store” or something like it should be used instead. There was discussion about this.

Mr. Campbell said that historically, this convenience store were approved under two different uses, one as retail, the other as service station, and said he wasn’t clear if this should be defined further.

Councilor Peter Smith said the amount of square footage eliminated some uses without going into details about specific types of products.

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Motor Vehicle Sales and Service – grammatical change

Repair services - grammatical change

Manufacturing - It was suggested that “Manufacturing Facility” should be used instead. There was discussion about this, and Chair asked that the Board work on this.

*Councilor Morong left the meeting at this time.*

There was discussion about the dates the meeting could be continued to, to continue to discuss Section B.

*Councilor Kraus left the meeting at this time.*

***Councilor Needell MOVED to suspend the requirement to adjourn the meeting at 10:00 pm. Councilor Julian Smith SECONDED the motion, and it PASSED 6-1, with Councilor Van Asselt voting against it.***

There was discussion on where things stood with Section A. Chair Sandberg said it had not yet been remanded to the Planning Board.

Councilor Needell said if the Council did this that evening or on Thursday, it would be possible for the Planning Board to go ahead with the public hearing.

There was detailed discussion as to whether the inconsistency between Section A and B could be addressed at the present meeting, so Section A could be remanded back to the Planning Board. It was decided that this could be done.

Chair Sandberg reviewed the Items in Section A to be remanded back to the Planning Board.

Councilor Needell said the Planning Board didn't understand the Council's request regarding Item #10 which dealt with Section 175-107. C. Exempt Subdivisions.

There was also discussion about Item #6 concerning the Table of Dimensional Requirements, which had been cleared of inconsistencies.

Mr. Eyerman noted that the order in which the Council voted on Sections A and B would determine the language that needed to be constructed, and provided details on this.

There was discussion about this, and about whether perhaps the process was moving too quickly.

***Councilor Peter Smith MOVED to remand Section A in its entirety to the Planning Board. Councilor Needell SECONDED the motion, and it PASSED unanimously 7-0.***

***Councilor Van Asselt MOVED to continue the meeting to Thursday, October 20<sup>th</sup> at 7:00 pm. The motion was SECONDED by Councilor Niman.***

Administrator Selig said Mr. Campbell might not be able to make that meeting, and said he personally might have a conflict for part of the meeting.

Councilor Van Asselt suggested that the more substantive questions be asked of Mr. Eyerman on Thursday.

***The motion PASSED unanimously 7-0.***

The meeting ended at 10:10 pm.

Victoria Parmele, Minutes taker