

**This set of minutes was approved at the May 15, 2006 Town Council meeting.**

**DURHAM TOWN COUNCIL  
MONDAY, APRIL 17, 2006  
DURHAM TOWN HALL – COUNCIL CHAMBERS  
7:00 PM**

**MEMBERS PRESENT:** Councilor Carroll; Councilor Peter Smith; Councilor Morong; Councilor Needell; Councilor Van Asselt; Councilor Julian Smith; Councilor Catherine Leach; Councilor Henry Smith

**MEMBERS ABSENT:** **Councilor Niman (arrived at 8:33 PM)**

**OTHERS PRESENT:** Todd Selig, Town Administrator; Mike Lynch, Public Works Director; Gail Jablonski, Business Manager

**I. Call to Order**

Chair Pro Tem Carroll brought the meeting to order at 7:02 PM and said Chair Niman would be arriving at the meeting at about 8:00 pm.

**II. Approval of Agenda**

***Councilor Julian Smith MOVED to approve the Agenda as submitted. The motion was SECONDED by Councilor Needell.***

Councilor Needell asked that Item IX – Continued review and discussion of 2006 Council goals, be moved until after Item X, since Chair Niman would not be arriving at the meeting until later on.

***Councilor Needell MOVED to place Item IX - Continued review and discussion of 2006 Council goals, after Item X on the Agenda. Councilor Peter Smith SECONDED the motion.***

Chair Pro Tem Carroll noted that the Roundtable discussion has been moved to later in the meeting, to ensure a minimum amount of waiting time for residents wanting to make public comments. She said the Council would see over time how this worked out.

***The motion PASSED unanimously 8-0.***

***The motion to approve the Agenda as amended PASSED unanimously 8-0.***

**III. Special Announcements**

Presentation of Donald Sumner memorial plaque for placement beside the granite bench at Wagon Hill Farm by the Durham-Great Bay Rotary Club

Rotary Club President Ron O’Keefe said Rotarian Bill Drapeau had done most of the work on this project, and introduced Mr. Drapeau.

Bill Drapeau, 4 Sullivan Falls Road, noted that Don Sumner was the Chair of the Council when the Town bought Wagon Hill Farm, and was a good Rotarian. He said it was fitting to honor him with the bench and plaque. He said the bench had been installed, and met all Town standards.

He noted that it was located about 100 ft. beyond the wagon, and said he had already seen people sitting on it. He said some people had expressed how special the bench was, along with the view from it. Mr. Drapeau said the dedication ceremony would be held on Saturday, April 29, 2006, at 3:30 pm.

Mr. O’Keefe also noted that the 4<sup>th</sup> of July ceremony was in the process of being organized and provided details on this. He said there would be an increase in the number of fireworks this year, also noting that there had been rave reviews concerning the display in 2005. He thanked the University and the Town for their support of this event.

Chair Pro Tem Carroll thanked Mr. Drapeau and Mr. O’Keefe for their work in preparing this memorial, stating that it was something the whole Town could enjoy.

#### **IV. Approval of Minutes**

##### March 20, 2006

Councilor Julian Smith MOVED approval of the March 20, 2006 minutes. The motion was SECONDED by Councilor Van Asselt.

Page 9, 3<sup>rd</sup> paragraph from bottom, should read “..any further toward obtaining the model, noting that...”

Concerning Page 18, 8<sup>th</sup> paragraph, last line, Councilor Peter Smith said it should read “He also said that according to the Charter, public comments could be made on just about anything.”

***Councilor Peter Smith MOVED to postpone approval of the Minutes until the above paragraph could be checked. The motion was SECONDED by Councilor Henry Smith, and PASSED unanimously 8-0.***

#### **V. Reports of Councilors**

Councilor Needell said the Planning Board had continued its review of Master Plan implementation at its most recent meeting, and would continue on with this at upcoming meetings. He said there was also discussion about how to continue on with the Zoning rewrite. He said there were 11 items that had not yet been dealt with, and said the Board would be looking at these soon.

Councilor Needell noted that the proposed site plan changes for the Irving Station were approved by the Planning Board. He also said the public hearing on school impact fees would be held at a Planning Board meeting in May.

Councilor Julian Smith said the Parks and Recreation Committee and the Conservation Commission had held a joint work session at Tom Merrick's property on Canney Road. He said they had cut some trees and brush to clear a trail on the property, noting that Councilor Morong and some of his friends had assisted with this.

Councilor Smith said there would be a benefit for the Library, to be held at Katie Paine's house, on April 27<sup>th</sup>. He said Joyce Maynard, a well-known novelist who grew up in Durham, would speak at the benefit, and said those wishing to attend should contact Mr. Madden at the library, or members of the Library Board of Trustees.

Councilor Morong said he had attended his first IWMAC meeting. He said the committee was planning a forum to be held June 21<sup>st</sup>, which perhaps would be facilitated, in order to present three different options for Spring Cleanup, and to get input from the public on them. He said the goal was to find a better, more cost effective way to do Spring Cleanup.

He said the date for the Economic Development Committee monthly meetings had been changed to the 3<sup>rd</sup> Thursday of the month, and encouraged people to attend these meetings. He said that at the most recent meeting, the Committee had focused on the proposed Spruce Woods development. He said there was discussion about different options for providing the area with water and sewer, and also about possible cost sharing concerning this.

Councilor Peter Smith said the Conservation Commission had met the previous Thursday. He said David Garvey asked the Commission for its views concerning the Craig Meadows project, a project that had been ongoing for some time, and which most recently had morphed into a somewhat different project.

Councilor Smith said the current proposal was for two lots to be developed, one with 10-11 acres, and another smaller lot, with access from Madbury Road. He noted that there previously had been issues concerning access to the larger lot. He said an agreement was close to being made, and said under the proposed agreement, there would be a conservation easement on the larger lot, subject to negotiations. He said the smaller piece would be developed.

He said Mr. Garvey had indicated that most of the people living in the area supported this proposal. Councilor Smith said the Conservation Commission expressed interest in knowing the terms of the easement, and he noted that an issue was whether access to the property would be limited to people living in the immediate area, or would be open to the general community. He said the Commission felt the latter was preferable, but he noted that this was beyond the jurisdiction of the Commission. He said there had also been discussion of who would hold the easement. Councilor Smith said this proposal would be more pleasing than the previous proposal.

Councilor Smith said work was underway concerning possible conservation easements for a number of properties, which would involve spending some of the bond money. He said one of the projects, which had been discussed with the Council, involved a 60/40 match. He also noted that a project that would have involved Federal farmland grant money had fallen through, but the government had said this grant money could be used for the other project, which meant the Town's share of the cost would be reduced from 60% to 50%.

Councilor Smith also updated the Council on the ongoing saga of the dredging of Mill Pond, explaining that it now looked like the equipment would be available, and the work would take place in 2008.

Chair Pro Tem Carroll thanked Councilor Smith for updating the Council on these things, and said she hoped Mill Pond wouldn't be a wet meadow before the dredging equipment was available.

Administrator Selig said he would like to acknowledge the wonderful, civic-minded things the Rotary Club did for the community. He noted that the funds they raised for various events all got put back into the community.

Councilor Van Asselt said he thought it was great that Mr. O'Keefe had stayed as involved in the Town, and he said people in Town appreciated this.

Councilor Carroll announced current vacancies on Town boards, noting that one could apply for these positions at the Town Hall or online:

Durham Cable Access Television – two vacancies

Integrated Waste Management Advisory Committee – three vacancies

Planning Board – one alternate member

Strafford Regional Planning Commission – two vacancies

Zoning Board of Adjustment – alternate vacancy

## **VI. Public Comments**

**Bill Drapeau, 4 Sullivan Falls Road**, said Councilor Leach's husband, Rotarians, employees of Timberland Co. and others were working on was on a rehab project the next day at the Jackson's Landing playground which involved regrading and landscaping. He welcomed other residents to help with some of the work.

**Nate Smith, UNH Student Affairs**, said he would soon be graduating, and said this would be his last Council meeting. He thanked the Council, and said he, as well as other students, really did appreciate the Town they had lived in for the past four years.

Councilor Peter Smith thanked Nate for his service, noting that he had attended Council meetings on numerous occasions, and had participated on a number of issues. He said he had done a great job, and commended him for this.

Councilor Morong said Nate had also been a great help on the Rental Housing Commission, so his service had gone well beyond the Council Chambers. He said he was an excellent representative of UNH students.

Councilor Carroll said Nate had done a lot to inform the Council about activities on the UNH campus, and thanked him for sharing this information with the Council.

**Bill Hall, 1 Smith Park Lane**, noted that Councilor Carroll had commented that all the decisions by the Council were made at the Table. He also noted that Councilor Peter Smith had recently pointed out that not long ago, the Town's Accounting Department was a mess. Mr. Hall said when the auditor described this mess to the Council, he also said quarterly reports were needed. Mr. Hall said the decision was made not to discuss this, at that time. He provided additional details on this, and said the obtuseness at the Council had sometimes cost the Town a lot of money.

Mr. Hall also spoke about an issue that had involved him, which was not put on the agenda for a Council meeting. He said the idea that decisions that ran this Town were made around the table was an absolute lie.

He also noted that water issues would soon be discussed. He discussed previous water reports, which he said were useless. He said in 1998, the problem with the meter was found, but said after the 1998 water report came out, the decision was made not to go after the University for the money it had charged the Town for, for water the University never produced.

He said the management of this Town had been awful in various Town departments from time to time, and said the idea of not putting things on the Agenda, and not discussing things when complaints were made, was inexcusable.

## **VII Committee Appointments**

- A. Shall the Town Council appoint Nicholas Isaak, 35 Oyster River Road, to fill the un-expired term of Catherine Leach as a regular member on the Historic District Commission?

***Councilor Van Asselt MOVED to appoint Nicholas Isaak, 35 Oyster River Road, to fill the unexpired term of Catherine Leach on the Historic District Commission, effective May 1, 2006, with said term to expire on April 30<sup>th</sup>, 2007. Councilor Leach SECONDED the motion.***

Councilor Van Asselt said Mr. Isaak was an architect, and had been a good member of the Committee.

Councilor Needell noted that Mr. Isaak had been the Planning Board representative to the Commission for the last several years.

***The motion PASSED unanimously 8-0.***

- B. Shall the Town Council appoint Monica Smith, 246 Packers Falls Road, to the Integrated Waste Management Advisory Committee?

***Councilor Julian Smith MOVED to appoint Monica Smith, 246 Packers Falls Road, to the Integrated Waste Management Advisory Committee, effective immediately. The motion was SECONDED by Councilor Leach.***

Ms. Smith said she had been elected to the Budget Committee years ago and explained that she said had lived out-of-state for several years. She said she now lived in Durham again, and was interested in addressing waste and recycling issues.

It was clarified that this was an open-ended term.

***The motion PASSED unanimously 8-0.***

### **VIII. Unanimous Consent Agenda**

Councilor Peter Smith asked that Item B be taken off the Unanimous Consent Agenda.

- A. Shall the Town Council approve a special event permit submitted by the Town of Durham and the Bourgoin-Reardon Unit 94 American Legion Auxiliary to conduct the annual Memorial Day Parade to be held on May 29, 2006?
- C. **RESOLUTION #2006-09** authorizing the issuance of eleven million seven hundred thousand dollars (\$11,700,000.00) in Tax Anticipation Notes (TANs)

***Councilor Van Asselt MOVED to approve Unanimous Consent Agenda Items A and C. Councilor Needell SECONDED the motion, and it PASSED unanimously 8-0.***

- B. Adopt revised schedule of additional Town Council work session meeting dates.

Councilor Peter Smith said his concern was the date selected for an additional work session – September 18<sup>th</sup>. He said based on previous information on the Council schedule, he had scheduled to be out of the country on that date. He said he would be missing the Sept 25<sup>th</sup> Councilor meeting, and would prefer not to miss two meetings.

Administrator Selig noted the following additional dates were available for the additional work session: May 8<sup>th</sup>, June 12<sup>th</sup>, July 10<sup>th</sup>, July 31<sup>st</sup> and August 14<sup>th</sup>. There was discussion about these dates. There was also discussion on whether it would be possible to use one of the meetings where discussion on the Budget had been planned.

Councilor Needell suggested not scheduling the sixth work session for the time being, and seeing later on if it could be scheduled.

Administrator Selig said there might be a Council meeting in July where a work session could be scheduled, since things sometimes slowed down in the summer. He also said the work session could perhaps be scheduled for a portion of a meeting where there was not a long Agenda.

***Councilor Needell MOVED to remove the Sept 18<sup>th</sup> meeting from the list of work sessions, and to resolve when to have a sixth workshop at a later date. Henry Smith SECONDED the motion, and it PASSED 6-2, with Councilor Leach and Councilor Julian Smith voting against it.***

## **X. New Business**

- A. **PUBLIC HEARING ON RESOLUTION #2006-10** authorizing the acceptance of a \$200,000 Brownfields Cleanup Grant from the United States Environmental Protection Agency for cleanup of the former Craig Supply site located on Depot Road.

***Councilor Morong MOVED to open the public hearing on RESOLUTION #2006-10 authorizing the acceptance and expenditure of grants from the USEPA totaling \$200,000 for the purpose of capping and building a parking lot at the former Craig Supply site. Councilor Peter Smith SECONDED the motion.***

Administrator Selig said Public Works Director Mike Lynch and Business Manager Gail Jablonski were present to answer questions. He then provided some history on the Craig Supply site and its environmental problems. He said the Town had received an initial \$200,000 grant, which the Council was now being asked to accept and expend. He also said the Town had applied for a second grant, and said it was hoped that now that the site was in the EPA pipeline, it would be viewed as being more competitive with other sites.

He said the plan was to cap the site with an impermeable, paved surfaced, which would then be used as a parking lot to generate revenue. He said the money would be put into a separate fund, and at some future time, the Town would use the collected funds to remediate the chemicals on the site. He said there was not yet sufficient money for the remediation, and also noted that a remediation technique had not yet been agreed on for the site yet. He said the Town was awaiting further guidance from Federal and state agencies on this.

Councilor Carroll asked if any members of the public wished to speak at the public hearing.

There were no members of the public who wished to speak.

***Councilor Peter Smith MOVED to close the public hearing on Resolution #2006-10 authorizing the acceptance and expenditure of grants from the USEPA totaling \$200,000 for the purpose of capping and building a parking lot at the former Craig Supply site. The motion was SECONDED by Councilor Julian Smith, and PASSED unanimously 8-0.***

***Councilor Morong MOVED to adopt Resolution #2006-10 authorizing the acceptance and expenditure of grants from the USEPA totaling \$200,000 for the purpose of capping and***

***building a parking lot at the former Craig Supply site. The motion was SECONDED by Councilor Julian Smith.***

Councilor Peter Smith asked whether in the initial agreement that led to the \$200,000 payment, as well as in the possibility of additional funds, a condition was that the Town had obligated itself to the EPA to reserve all the monies collected from the parking area, and to spend them exclusively on remediation. He noted that the Town and the Council had taken this position.

Administrator Selig said the Town's obligation was to contribute a 20% match, under the original agreement. He said since that time, the Town had developed a remediation plan, which indicated that it would put the proceeds from the parking lot into cleanup of the site. He said this had been portrayed to the EPA from the start. He said over the long term, the hope was to clean up the site, to then cap it again, and to raise revenue that would be put into the General Fund.

Councilor Peter Smith said suppose at some point, a remediation plan was presented to the Council. He asked if as long as the Town was generating revenue from the parking lot, it was obligated to spend it all on the remediation. He said perhaps there might be another project in Town where money was needed, but it would take some time before the remediation would begin, and asked whether in the mean time, any funds could be transferred.

There was discussion with Public Works Director Mike Lynch about this.

Councilor Peter Smith asked if anything had been signed that made it unlawful to use money collected from the parking lot for another project.

Mr. Lynch said there was nothing in the contract that talked about completing the remediation, and said the wording spoke about moving toward that goal.

Councilor Smith said in other words, there was no language that spoke about the Town being obligated to clean up the site, or to stay with this until the remediation was completed, or to use every dollar collected toward that purpose.

Mr. Lynch said that was correct.

Councilor Smith said he hoped the Town would be careful with anything in the future that would cut off the flexibility to use the money for any other purpose.

Councilor Needell asked if there was any legal language that required that the revenues from the parking lot only be spent for the remediation.

There was discussion about this, and on language in the Town's work plan concerning the site.

Councilor Peter Smith stated that that language in this document only involved something the Town had obligated to itself. But he said the Town could change its mind.



Councilor Needell asked if the work plan said the revenue from whatever the Town did would be used for that purpose.

Mr. Lynch said it did.

There was discussion about the liability for clean up of the site. Mr. Lynch explained that the Town did not have liability for the contamination, and it instead rested with the Craig Supply Company. But he said that because this entity had been dissolved, NHDES had stepped in, and had then gone to the EPA. He said both agencies were now in charge of the project.

Administrator Selig said the Town had an agreement with NHDES that included protections for the Town. He said Durham's obligation was to stabilize the site and to move toward cleanup over time. He noted that this could even involve a plan to sell the property, in which case another entity would move forward with the remediation plan.

Administrator Selig said he understood the question being asked by Councilor Peter Smith and Councilor Needell, but said he couldn't answer it at this time. He said from the start, he had said all the proceeds from the parking lot would be put back into the site, and said information similar to this had been conveyed to the EPA. He noted that the Craig Supply site was unique, in that there appeared to be a viable economic use for it, which allowed income to be generated.

He said this aspect of the site made it appealing to Federal and state agencies, and said they felt good about the fact that the Town was moving faster than most other communities to address the contamination. He said if the Town decided it might spend revenues from the parking lot elsewhere and leave the site as it was indefinitely, there might be more vigor from the agencies for the Town to move forward with remediation.

Councilor Van Asselt noted a Brownfields site in Dover that had stood still because there was no more Brownfields money. He said he appreciated the questions being raised about liability, but wished there were better answers. He said if the Town sold the property to UNH and something happened, the Town would have great liability issues. He commended Administrator Selig for moving ahead with the grant, but said he didn't know if there would be money in the future for the cleanup.

Chair Pro Tem Carroll said this was a good topic for the roundtable discussion.

Councilor Peter Smith said he was not suggesting a sleazy way out of this, noting that Administrator Selig had made it clear months ago what the money was designed for. He also said the whole concept of Brownfields was that the Town didn't have the obligation that a private property owner would have. He noted that when the Council first discussed this, and discussed worst case scenarios if the site was badly polluted, it was stated that the most the Town would be responsible for was the fence around the property. He said the Town would not have the legal obligation to clean up the site, stating that he had researched this enough to feel confident concerning this.

He said the reason he had posed his question was not to suggest that money should be spent elsewhere. He said he wanted the Town to be careful that in accepting the money for the grant, there would not therefore be a permanent obligation from the Town, which under the Brownfields law, the Town didn't have. He said he wanted to be sure the documentation for the grant could not subsequently be used to create an obligation beyond what the Town's obligation was in accepting the money.

Councilor Julian Smith said he was glad things were moving forward with paving of the lot, and that it would soon be generating income. He asked what would happen in 8-10 years if there was \$1 million in the parking lot fund, and the agencies couldn't agree on a remediation plan. He asked if it would be possible that the Town would then be in limbo concerning this.

He also asked what would happen to the balance of the \$1 million that was collected for the parking lot, if the agencies agreed on a remediation plan that only cost \$500,000.

Administrator Selig said the balance of the money would belong to Durham, as all the revenue money would. He said the property sat fallow for 15 years, and then when it was made a Council goal, a lot of progress had been made.

He said the site had the potential to be a long-term revenue source for the Town, also noting that over time, the parcel was slowly cleaning itself through natural processes. He stated that it might be possible to ask the EPA to allow this attenuation to continue, once the parking lot was in place, and therefore not have to remediate the site. He said monitoring of the site would still be required, but said anything in addition to the cost for the monitoring could be considered revenue for the Town.

He also said if soil had to be remediated, there were other options, including getting a bond and using revenues to pay the bond off over time. He also said the area had wonderful possibilities in terms of being an intermodal transportation hub. He said he was looking at the site as a prime revenue source, first as permitted parking, and perhaps as something else over time.

He noted the University was interested in building a tunnel through the site, and provided details on this. He also said the University would like to acquire the parcel, and said the question for the Council was whether the Town would want to sell it or trade it.

Administrator Selig said that the answer to Councilor Julian Smith's question was that the remaining \$500,000 would be put in the General Funds, and used for other things. But he said ongoing monitoring of the site would still have to be paid for by the Town.

Councilor Van Asselt asked if site was already designated as a Brownfields site.

Administrator Selig said yes. He said the contracts had been signed, and this was now simply a formality to accept the funds. He noted that Town staff has had many discussions with the Council on this issue.

Councilor Van Asselt said his concern was whether the Town had the best possible legal advice concerning this Brownfields site. But he said he would leave further discussion on this for the roundtable.

Administrator Selig said the Town staff had worked with the firm Donahue, Tucker and Ciandella, and had taken every possible legal precaution to protect Durham.

***The motion PASSED unanimously 8-0.***

Chair Pro Tem Carroll called for a five-minute recess at 8:33 PM, at which time Chair Niman came to the table.

Chair Niman called the meeting back to order at 8:39 PM and thanked Councilor Carroll for taking over for him for the previous portion of the meeting.

- B. Shall the Town Council provide its advice and consent to the Town Administrator relative to proposed amendments to the “regulations for Implementing the Provisions of Ordinance #2002-09 contained within Chapter 118 “Solid Waste” of the Durham Town Code?

Administrator Selig provided background on the development of the Solid Waste Ordinance. He said the Ordinance provided for administrative regulations, which were developed and implemented by the Town Administrator with the advice of the Council.

He said a number of concerns with the waste collection system had been identified, and said a primary issue was the problem workers had when they encountered garbage cans full of heavy materials. He noted specifically that rental properties often generated large amounts of trash.

He said the Town was trying to provide reasonable protections for workers, while also having a system that was reasonable for residents. He said the change in the regulations was that garbage bags could not exceed 50 pounds, and needed to be securely tied. He also said no more than four 32 gallon barrels or eight 32 gallon bags could be put out for pickup. He said the Town reserved the right to not collect wastes that were not separated into recyclable and non-recyclable categories. He provided additional details on the rules changes.

Administrator Selig said he was looking for an endorsement from the Council for the changes to the administrative regulations.

Councilor Henry Smith asked how garbage collectors were able to tell how much the garbage weighed.

Administrator Selig said workers had a good sense of when a bag weighed more than 50 pounds, and he provided details on this.

There was discussion about how recyclables could be determined at the curb, and what happened if they were not separated out.

Administrator Selig provided details on this, and said if a commingled bag was put at the curb, it would be left there, with a note indicating why.

Councilor Needell said he endorsed these changes wholeheartedly, but said he wanted it to be clear what the intent of the following sentence was: “The Town reserves the right to refuse to collect waste that is not separated into recyclable and non-recyclable categories.” He said recycling was mandatory, and asked what would trigger a refusal to collect wastes.

Administrator Selig provided background on the policy established concerning recyclables. He noted that a high percentage of people in Durham recycled, and said because of this degree of compliance, there had not been scrutiny of garbage bags. But he said a number of properties had been encountered that put out a lot of bags and had things like beer cans in them. He said he had asked Mr. Lynch to get at the issue of commingled items, and said now, in cases like this, the Public Works Department would leave those bags at the curb, with a sticker on them explaining why.

Mr. Lynch said the change in policy was designed to put teeth in the Ordinance concerning abusive offenders of it.

Councilor Needell suggested that if there were a challenge to the Ordinance, the teeth might not be clear enough. He said some more thought might need to be given to this, to make it really enforceable.

Councilor Peter Smith asked why only four 32 gallon barrels were permitted, while eight 32 gallon bags were permitted, and Mr. Lynch said more materials could go in a barrel than in a garbage bag.

Councilor Leach asked what the justification was for the number of barrels and bags that were permitted, and what would happen when there were excess bags.

There was discussion about this with Town Administrator Selig.

Councilor Leach said she was concerned about this policy for the whole town, when there were only a few places in Durham where there had been abuse.

Administrator Selig said the workers used discretion, including during the holidays. He said the vast majority of residences wouldn't see any change at all as a result of these changes. He said places where there were problems would see a change, and said they could then come forward to the Town concerning this.

Councilor Morong asked if household was defined, and how this affected the amount of trash that could be generated.

Administrator Selig said the amount of trash that could be generated was determined on a per unit basis.

Councilor Henry Smith asked if people from out of Town actually did dump trash in Durham, and there was discussion about this.

Councilor Peter Smith noted that he had made some editorial changes to Section 8, including changing “must” to “shall” in 6-7 places. He also said the second paragraph should say “volume per household” instead of “amount per household. In addition, he said the following sentence should be deleted: “Usually households put out much less than this because recycling significantly reduces waste.” He said this was not suitable regulatory language. He said the Suggested Action should therefore delete the wording “Contained within Chapter 118”.

Councilor Smith said the regulations, and said the Suggested Action should therefore delete the wording “contained within Chapter 118”.

***Councilor Peter Smith MOVED that the Suggested Action or Recommendations should read “Provide advice and consent to the Town Administrator relative to the proposed amendments to “Regulations for Implementing the Provisions of Ordinance #2002-09”. Councilor Needell SECONDED the motion, and it PASSED unanimously 9-0.***

## **IX. Unfinished Business**

Chair Niman said he thought the Council had come to a consensus at the last meeting that it would preserve the Purpose and Values statements, and had identified ten action goals and six workshop topics. He said additional action and program goals might come forward as result of the workshop topics.

He said Administrator Selig had asked what should be done with the other goals the Council had been carrying along. He said he wanted input as to how to proceed concerning this.

Administrator Selig explained how he had worked with the matrix developed the previous year, and had tried to integrate this year’s action goals.

Councilor Needell said he didn’t feel the Council had reached closure on how to handle this. He said he had looked at the list of goals they were concerned would be lost, but said they all either corresponded to action items, or were issues to be discussed in a workshop so hadn’t been decided on in terms of goal status, or had been done. He said a few could actually be taken off the list.

Councilor Needell also said he thought the action list was too big, and said he would like to pare it down somewhat. He said one was the dispatch issue, and provided details on this. He said a second was the idea of gathering fire department related data. He said he wasn’t questioning that the data should be obtained, but did question whether it rose to the level of being a Council goal.

He also questioned the item of separating the economic development position from the planner position. He said this was an interesting topic, but he questioned whether it should be a Council goal this year. He said he wasn’t sure if there had been consensus on this idea.

Chair Niman received clarification from Councilor Needell that he didn't want to put new goals on the list. Chair Niman asked if other Councilors were happy with the framework of ten action items, and six work sessions.

Councilor Carroll said there was a lot of valuable information on the matrix that was developed the previous year, and she received clarification that this would not be lost, and could be referred to and updated as needed.

Councilor Peter Smith said accomplishing the collection of fire data was an administrative task, which the Council could ask for. But he said the Council had discovered that there was a shortage of information to enable it to determine if there was an issue or not. He said without the information, the Council could not say its goal was to spend half of what it now spent on the Fire Department, because it appeared the University should be paying more. He said anything worthy of being a Council goal would be difficult to accomplish in a year. He said he saw it as an important goal to get this information.

Councilor Smith provided additional input on how he would approach the list of goals from last year. He said the fire data collection project should remain. He said he was happy to leave the dispatch issue with Administrator Selig. He said the economic development position was an interesting issue, but couldn't be resolved until there was a workshop.

Chair Niman asked other Councilors what they thought about the format.

Councilor Morong said he agreed the dispatch issue was up to Administrator Selig, but said he would leave the others on the list. He said he had no problem with adding other goals that came out of the workshops, and said he had no personal goal to finish all of these items this year. He said he would like to be able see a list of things the Council should be considering.

Councilor Carroll said she thought the dispatch issue was up to Administrator Selig, but should stay on the list. She said she was happy with the other items.

Councilor Van Asselt said the dispatch issue should be handled by Administrator Selig, as should the economic development/planner position. He said he was looking at the list as issues the Council would spend time on. He noted one issue that was not on the list was the library, and said he didn't want this to simply be something that might come out of a workshop.

Councilor Henry Smith agreed that the dispatch issue should be left to Administrator Selig. He said he could take or leave the Fire Services agreement item, and also said the economic development/planning position shouldn't be on the list. He said he was happy with having eight items on the list, and using the workshops to look at the others.

Councilor Leach said she was happy with the list as it was. She also noted part of the Council's role was to help Administrator Selig know what his priorities were.

Councilor Julian Smith said the dispatch item could be dispatched. He said he agreed with Councilor Van Asselt that doing something about the library should be an action goal as well as a workshop topic

Chair Niman said he would like to keep the dispatch issue on the list, and said doing so would encourage Administrator Selig to pursue the idea, which could save the Town \$200,000. He said it was his understanding this was not a dead issue, and provided details on this. He said by keeping it off the list, the Council wouldn't get the information it needed.

Councilor Niman said he agreed with Councilor Peter Smith about the fire data, and said the Council needed more information in order to make an informed decision about this issue. He said too much management of the Town was based on anecdote, and said he would like to see it based more on facts.

Chair Niman said Councilor Van Asselt was correct that the Council was not putting enough resources into planning for the community, but said whether that meant an additional position was needed was not clear. He said perhaps the wording of action item #10 could be changed. He said he had no problem with adding the library to this list.

Councilor Needell said the action list would be meaningless if it was too long, and also said it was not prioritized. He also said it was guaranteed that there would be more goals coming out of the work sessions concerning the library, water, transportation, etc. He provided additional perspective on his reasoning concerning eliminating some of the action items.

Councilor Leach said some of these action items could go to different committees, or to Administrator Selig, and said they were all areas that the Council wanted to try to get at.

Councilor Peter Smith suggested there could be different categories of action item goals. He said there were some that Administrator Selig could move forward with, but some he couldn't move forward with until he knew the Council's position. He said there were others where the Council's goal should be to make up its mind concerning it, and said work sessions would be needed for these. He provided additional details on a possible framework for sorting goals.

There was discussion on how something like the issue of impact fees would be categorized, based on this framework.

Chair Niman said there were two categories of items on the action list, policy decisions and timing decisions (which involved policy decisions that had already been made), noting they could coexist on a single list.

Councilor Peter Smith said there was a third category – for things like the idea of a merger of the Town and University police departments, which the Council had never really had a discussion on. He said such a discussion would be more useful if the Council had more information to work with, but he said there was already enough information to believe that it was a fruitful idea to pursue so that some decisions could be made concerning it.

Chair Niman laid out some possible ways to organize the items.

Councilor Needell said the key point he wanted to make was that the action list could not be prioritized or finalized until after the work sessions had been held. He said there were some very important items that were not on this list, and said they mostly had to do with things the Council had to weigh in on. He referred specifically to transportation and water resources issues, as well as to the library issue.

Councilor Leach said she understood Councilor Needell's point But she said the list would work as long as Councilors knew that it was fluid.

Councilor Needell said he was ok with the list as long as Administrator Selig didn't use it to generate his daily work schedule

Councilor Van Asselt said Administrator Selig knew exactly what the Council wanted to work on. He said things should be left on the list, and Administrator Selig would bring them to the floor when they were ready.

Councilor Julian Smith said he agreed with Councilor Van Asselt, and said it was time to move on to another Agenda Item.

Councilor Peter Smith said there were certain matters that Administrator Selig couldn't move ahead on, because he didn't know what the position of the Council was. He said if the Council had not made a policy decision on an issue, but had put it on its list to make one, it was the Council's obligation to make that decision.

In response to a comment from Councilor Van Asselt, Councilor Peter Smith said the Council had not decided what it wanted to do with the assessment question. He said if he were Administrator Selig, he wouldn't be spending his time on this without that consensus.

Chair Niman said there seemed to be general consensus to leave the list alone, so this would be done for the time being, with the understanding that the list would change as they had the work sessions. He also said he, Councilor Carroll, and Administrator Selig should categorize the items on the action list, and indicate what was required of whom.

Administrator Selig said time was money, and said he didn't feel it was necessary to break the items into categories.

## **XI. Roundtable**

Councilor Niman asked if Administrator Selig had anything he wished to share with the Council.

Administrator Selig said the first drawdown of the Wiswall Dam had gone very well, and said excellent information pertinent to the instream flow rules had been gathered.



He noted a letter regarding potential leakage of the water system, and provided some detail concerning this. He said this would be an excellent topic for a water work session.

He described a problem with calcification of the intake pipe from the Lee Well, and said this had recently been replaced. He said a lot of testing had been done, and said there were no health effects resulting from the pipe. But he said Mr. Metcalf, the Town's water consultant, was working with the Town to balance the chemicals in the system so this didn't happen in the future. He noted that it posed no challenge to the water system as a whole. He verified for Councilor Peter Smith that about 80% of the volume of the pipe had disappeared as a result of the calcification.

Administrator Selig said the Burnham Ave. sewer project was underway. He noted this was designed by the Town Engineer, which saved the Town between \$35,000-40,000 dollars.

He said the Town was moving ahead with marketing of parking permits for the Depot Road parking lot, and provided details on this. He said the permits would cost \$1,000 per year, which was actually competitive.

Councilor Carroll noted a letter about this that had gone to UNH faculty and staff.

Administrator Selig said a \$520 discount pass could be purchased by Durham residents who were daily train or bus users, and said residents wanting to take the bus or train occasionally could park for free, and would simply need to get day passes.

He said he would speak with the Council on non-unionized pay increases at the May 1<sup>st</sup> Council meeting. He provided details on this.

He said he would be working with University staff concerning the idea of jointly hiring a consultant to look at whether one police department to serve the Town would be economical for both entities. He said he was aggressively pursuing this analysis, and said he was convinced there were synergies and savings from consolidating the two departments, along with social benefits.

He said he hoped an RFP could be developed, and said although it wasn't certain what the outcome would be, he believed the University was open to looking at the topic.

Administrator Selig said he had spoken with Dick Cannon, the University's new Vice President for Finance, on University/Town agreements. He said Mr. Cannon wanted to look at the pool agreement some more, also noting there were UNH staff who had concerns about the future use of the site, and about water quality issues.

Administrator Selig said the next meeting with Mr. Cannon was planned for May. He said the next issue to be discussed was the non-core uses of the Whittemore Center. He told the Council he had engaged the services of Russ Thibeault to look at the issue of what fair payment would be, based on these non-core uses.

He said Mr. Cannon had told him the University would try to do its own analysis on the social benefits of having the University in Durham. Administrator Selig said he encouraged this, but said that the Town would continue with its analysis.

Administrator Selig said they also discussed transportation and housing issues, including the Woodside neighborhood issue. He said he suggested that instead of creating a new committee, the newer mechanisms in place now should be used.

***Councilor Needell MOVED to suspend the 10:00 pm adjournment rule. The motion was SECONDED by Councilor Julian Smith, and PASSED unanimously 9-0.***

Administrator Selig said Mr. Cannon was very open in discussing these issues. He also noted that the University Board of Trustees, based on discussions from a month ago on business practices that were not core to their mission, were looking at this issue. He said that supposedly, a new policy was being developed, and said he would forward a draft of this to the Council. He said House Bill 1769 had been approved by the State Senate, and now needed to be worked out in conference between the House and Senate. He said it looked like it would pass, noting this would not mean much for Durham dollar wise.

He said he would come to the Council in the next few months concerning using the capital reserve fund for repair of the Fire Department's #2 engine. He said this would cost approximately \$25,000.

He noted Councilor Leach had emailed that she had spoken with the Chair of the Moharimet School PTA about getting information out to schools on West Nile Virus and Eastern Equine Encephalitis. He provided details on steps he had taken to provide information to the schools. He information would probably be sent home with students in the fall, when the risk would be higher. He said the Town was working with the University to develop a consistent flow of information on these issues.

Councilor Peter Smith said the Conservation Commission was very much in favor of an educational effort on preventive measures, and he said he hoped the educational effort could be started as soon as possible.

Chair Niman noted that Cooperative Extension had information on this, and said a link to this should be put on the Town web site.

Administrator Selig said Craig Stevens was looking for a quality video on this topic to put on DCAT.

Administrator Selig said the Town's MIS person was looking to integrate Internet and server capabilities with phone service, in order to provide better capability at a cheaper cost.

Administrator Selig said it was likely that the Mick gravel pit matter would come forward to the Council in the next two months.

He said some serious drilling would be underway at the site where the Irving station was being constructed within the next few days. He said the Town had required the contractor to film the foundation of the Court House, and said if there were cracks in it, the Town would hold them responsible.

He spoke about the fact that some time back, Carl and Judith Spang had requested that the Town sell them some land that was located between their property and the Lamprey River. He said the issue came about as a result of an inaccurate boundary survey done when the Town acquired the land from the Spang family years ago. He provided additional details on this.

He said the Council had asked him to investigate this in the past, and said it was likely that in the next year, something on this would come to the Council. He said he wanted everyone to know this issue had not been forgotten.

Councilor Morong asked if there was concern about the tires at the transfer station that collected water, and might be a breeding ground for mosquitoes.

Councilor Morong again asked Councilors to consider the idea of reducing the number of Councilors from nine to seven, in order to improve the efficiency of the Council.

Councilor Leach said she would like the Council to look at this. She noted that when she ran for the Council, she got questions from people as to why the Council was so large. She said she would like to know the rationale for nine members, and what other Towns the size of Durham did.

Councilor Morong said he had gotten the sense that this Council was unusually large for the size of Durham.

Councilor Julian Smith said he had suggested reducing the size of the Council when he ran, and said he would like to reduce the Council to five members.

There was additional discussion on how to handle this issue.

Councilor Needell said the reason he was pushing so hard concerning the goals was that he was concerned that the Council needed to be clear on which issues were important to all of the Council, as compared to a few Councilors. He said if this wasn't clear, the Council's guidance to Administrator Selig would be flawed, and said the Council should take the responsibility for making this clear.

Councilor Leach asked how this could be done.

Councilor Needell said the Council needed to vote on more things, and to state things more clearly instead of having free-for-all conversations and then moving on.

Councilor Van Asselt said he agreed somewhat with Councilor Needell, and asked that the Council prioritize the issues.

There was additional detailed discussion about the Council's role in making policy decisions, using the example of the issue of mosquito control.

Administrator Selig said in this instance, he had wanted the Council to be proactive in deciding what to do, because it was too big a decision for him to make for the community. He said after some discussion with staff, the decision was to put together a comprehensive memo on the issue, and to provide the opportunity for public comments. He said it was a pretty efficient way to handle a very difficult topic.

Councilor Carroll said this was a real public policy issue facing the Town now. She noted that so far, it had been a dry season, which had impacted the mosquitoes.

Councilor Henry Smith said it was now a widespread issue, and was important to look at.

Chair Niman said the next Council agenda would reflect issues the Council was moving forward with.

There was discussion about a letter that discussed leakage of water from the Town's water system.

Chair Niman said his key questions on this issue were who was actually managing the Town's water resources, and whether or not decisions with respect to water were being made based on solid data.

Administrator Selig said decisions were being made based on good data. He provided some background on the issue discussed in the letter.

Councilor Needell said it was appropriate that Chair Niman had sent the letter around. He said he was looking forward to understanding the numbers more.

Administrator Selig said his concern was that the way this had been raised planted seeds of doubt as to whether University and Town water managers were competent. He said this was unfair, and provided details on this. He said he believed rational explanations would be found for the data. He said members of the staff did not have questions on this issue, but members of the Council did, and said he hoped the Council could get at the issue in the work session.

Councilor Morong said it was appropriate for the Council to question the data, when someone wrote a letter.

***Councilor Julian Smith MOVED to adjourn the meeting. The motion was SECONDED by Councilor Van Asselt, and PASSED unanimously 9-0.***

Adjournment at 10:33 pm

Victoria Parmele, Minutes taker