

# D-R-A-F-T

DURHAM TOWN COUNCIL  
MONDAY, MAY 1, 2006  
DURHAM TOWN HALL – COUNCIL CHAMBERS  
7:00 PM

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

**MEMBERS ABSENT:** Councilor Julian Smith

**OTHERS PRESENT:** Town Administrator Todd Selig; Town Planner Jim Campbell; Public Works Director Mike Lynch

## I. Call to Order

Chair Niman called the meeting to order at \_\_\_\_\_ PM.

## II. Approval of Agenda

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

*Councilor Needell MOVED to amend the Agenda to include approval of the March 20, 2006 Minutes under Item IV. Councilor Morong SECONDED the motion, and it PASSED unanimously 8-0.*

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

## III. Special Announcements

No special announcements

## IV. Minutes

March 20, 2006 Minutes

*Councilor Carroll MOVED to approve the March 20, 2006 Minutes, to include the corrections made. Councilor Henry Smith SECONDED the motion, and it PASSED unanimously 8-0.*

April 3, 2006

Page 6, bottom paragraph, should read "...regarding the Craig Supply site, had met with Public Works Director Mike Lynch at the site, and had his questions answered as a result of this meeting."

***Councilor Carroll MOVED to accept the April 3, 2006 Minutes as amended. Councilor Needell SECONDED the motion, and it PASSED unanimously 8-0.***

April 3 Nonpublic Minutes

***Councilor Morong MOVED to approve the April 3, 2006 Minutes, with the correction of \$235,000 instead of \$ 200,000 on page 1. Councilor Peter Smith SECONDED the motion, and it PASSED unanimously 8-0.***

**V. Reports of Councilors**

Councilor Henry Smith said he had attended the DCAT meeting the previous week. He noted that there hadn't been a quorum at the meeting, so new officers couldn't be elected. He said the committee discussed the video from NHDES on West Nile Virus and Eastern Equine Encephalitis, which was of such a poor quality that it couldn't be used. He said Craig Stevens was making further inquiries on other possible videos on this topic.

Mr. Smith noted he was also a member of the Cemetery Committee, and said he had recently observed a resident caring for the cemetery on Griffith Road, and had thanked that person for doing this.

Chair Niman appealed to residents to come forward to fill the current vacancies on DCAT.

Councilor Carroll said the Planning Board had met the previous Wednesday, and said about half of the meeting was spent on a presentation concerning Highland House, a 78 acre property owned by UNH. She said the University was seeking to subdivide the property, so that an additional lot with about 3.5 acres would be created. She said this lot, which would contain the main house and some out buildings, would be sold, and the University would keep the remainder of the acreage.

She said the consensus of the Board and members of the audience were that this was an historic structure, and that they would like to see the exterior architecture remain as it was. She said the University felt the same way, and said the Board would draft a letter to the University about its concerns. She said it was clear the Board had no jurisdiction concerning the property, but did take the matter seriously.

Councilor Carroll said the remainder of the meeting was spent looking at Chapter 3 of the Master Plan and deciding which recommendations had been accomplished and which remained to be done. She said the "to do" list would be prioritized.

Councilor Carroll also said she had recently attended a UNH Transportation policy meeting, and had learned that the University was doing a lot in the way of transportation, including working diligently to see that fewer cars came to and left the UNH campus.

She said the University had taken several measures that had met with good results, including designating Lot C across from Mill Plaza for students who car-pooled. She said another measure was offering bus service to Dover, Newmarket, and Portsmouth, noting that in the past during peak hours, there was one bus, but this year, there were two buses. She said there was now almost a need

for a third bus, and said the University had also talked about potential bus routes involving Rochester and Somersworth.

Councilor Carroll said the University was working with NHDOT to identify park and ride spots, such as at the Lee Traffic Circle and locations in Newmarket. She noted that the UNH Student Senate had been pushing for these as well. She said UNH had some resources to make alternative transportation options possible, including a CMAC grant to pay some of the capital and operational costs of expanding Wildcat Transit. She noted that additional money and more drivers would be needed for expansion of the service

She said there seemed to be more and more interest in bus service, and said that for a dollar, Durham residents could take Wildcat Transit to Dover, Newmarket and Portsmouth. She also said shuttle service within the Town was free to residents.

Councilor Henry Smith asked what the shuttle service was comprised of on weekends, and Councilor Carroll said she didn't know.

Councilor Peter Smith said the major new story from UNH was that President Hart was resigning and moving on to serve as President of Temple University. He said he would like to congratulate her, and also said it was important to note that the relationship between the Town and the University was now materially better than it had been in previous years. He said a lot of the credit for this went to Administrator Selig, but said it should also go to President Hart.

Chair Niman said members of the Parks and Recreation Committee, along with Public Works Director Mike Lynch, took a road trip to look at possible locations for new playing fields. He noted his interest in expanding Woodridge. He said a subcommittee had been formed to look at whether it would be feasible to do this, and also said Blaine Cox of the School District would be contacted to see if they were interested in this.

Chair Niman announced that the Council's first work session, on May 22<sup>nd</sup>, would deal with Housing issues. He asked that Councilors provide their suggestions on topics they wanted to cover to Jen Berry in the next couple of days, and said she would integrate them into the work plan for the session.

## **VI. Public Comments**

No Comments

## **VII. Committee Appointment**

Shall the Town Council appoint Peter Stanhope, 37 Dover Road, to the Strafford Regional Planning Commission for a four-year term?

Mr. Stanhope addressed the Council, and said he had lived near Beard's Creek in Durham for about 5 years. He noted he had participated in various appointed and elected positions over many years, and said he liked the idea of term limits. He said he ran a real estate appraisal/consulting firm, noting that most of his work involved litigation, tax abatement, eminent domain and other issues.

He noted that he saw a wide variation in planning as one looked at richer and poorer communities, and said he saw long term, regional planning as a critical component in considering where Durham would be in the future..

Councilor Peter Smith said that since his term on SPRC had expired 4 years ago, Durham had not had full representation on the Commission. He said he appreciated the fact that Mr. Stanhope was taking this on.

***Councilor Peter Smith MOVED to appoint Peters Stanhope, 37 Dover Road, to the Strafford Regional Planning Commission for a four-year term, effective immediately, said term to expire in April of 2010. Councilor Needell SECONDED the motion, and it PASSED unanimously 8-0.***

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

Shall the Town Council approve the water and sewer warrant for spring 2006 and authorize the Town Administrator to sign said warrant?

***Councilor Leach MOVED to approve the spring 2006 water and sewer warrant totaling \$408,763.88 and commit the bills for charges to the Tax Collector for collection, and to further authorize the Town Administrator to sign said warrant on its behalf. The motion was SECONDED by Councilor Henry Smith, and PASSED unanimously 8-0.***

#### **IX. Unfinished Business**

Shall the Town Council accept the report of the Economic Development Committee on the original four tasks assigned by the Town Council, endorse the 2006 action plan developed by the committee, and endorse the revised Design Guidelines for the Durham Business Park as recommended by the Committee?

Town Planner Jim Campbell spoke before the Council, and noted the work of some Council members on the Economic Development Committee.

He then did a Powerpoint presentation concerning the work of the Economic Development Committee. The presentation included the following key points:

##### **Assigned Tasks**

- Develop a marketing plan for the Durham Business Park intended to aggressively seek a buyer for the property for presentation to and approval by the Town Council for implementation
- Review the 1994 Design Guidelines for the Durham Business Park to ensure they accurately reflect present aesthetic considerations for the property and present any changes needed to the Town Council for final incorporation into the document
- Establish development guidelines for the area around Technology Drive for presentation to and approval by the Town Council and determine the cost of extending water and sewer to the properties abutting Beech Hill Road along with transforming the roadway to a Class V road

- Review the commercial/retail potential for the Town Hall site on the corner of Route 108

Develop a marketing plan for the Durham Business Park intended to aggressively seek a buyer for the property for presentation to and approval by the Town Council for implementation

- Create Master Plan to serve as guide for development
- Once Master Plan is complete we will be more aggressive in seeking a buyer
- Keep public access with easement or deed restriction
- Work with local architect and engineer to develop plan

Review the 1994 Design Guidelines for the Durham Business Park to ensure they accurately reflect present aesthetic considerations for the property and present any changes needed to the Town Council for final incorporation into the document

- The guidelines have been reviewed and revised by the Committee

Establish development guidelines for the area around Technology Drive for presentation to and approval by the Town Council and determine the cost of extending water and sewer to the properties abutting Beech Hill Road along with transforming the roadway to a Class V road

- *Draft guidelines have been developed for the ORLI District that encompasses the area around Technology Drive*

Mr. Campbell said he had tried to mesh the Business Park guidelines into these new guidelines, as well as incorporating some of the development standards in the Zoning Ordinance. He said the remaining parts of the guidelines were simply that, noting the Town couldn't force developers to abide by them unless they were made part of the Ordinance.

- *We have also prepared estimates on the cost of extending water and sewer to this area as well as extending the road. This project has been programmed into the CIP*

Review the commercial/retail potential for the Town Hall site on the corner of Route 108

- Selling the property as is would generate approximately \$700,000 - \$725,000 (an estimate provided to us by the assessor).
- Once sold, and developed, the assessed value could range between \$1 million - \$4 million depending on what use is built on the site (again an estimate from the assessor).
- We looked at uses such as a retail building (pharmacy) or a mixed use with retail and apartments.
- The town would need to hire an appraiser if we want more concrete figures.

### **Economic Development Committee Action Plan List 2006**

#### **High Priority**

- Investigate town-owned properties that are available for economic development and create a list and map

- Seriously investigate the student housing market as an economic development opportunity for the Town of Durham (include public/private partnerships).
- Review the balance between land conservation and economic development
- Review water/wastewater issues, including the expansion of the system in the areas of Route 108 and Route 155A (includes speaking with property owners)

**Medium Priority**

- Establish a business visitation program, working with the Durham Business Association, to visit all businesses in town
- Investigate TIF Districts to educate EDC, Town Council, and public
- Expand website to include economic development issues

**Low Priority**

- Create a welcome packet on the Town of Durham to give to interested businesses
- Investigate the many business and financial assistance programs that exist
- Consult on possible sites for new Library (possibly Town Hall)

Councilor Needell asked where on the list of priorities development of the master plan for the Business Park was, noting he didn't see it on the list.

Mr. Campbell said it was carried over, noting the Committee would be finishing the things it had not completed. He said it could probably be included in the list.

Councilor Henry Smith said development of the Town Hall site would mean the Town would have to sell it and then have to find a new location for the Town Hall. He said this would cost money and would cut down on the benefits of selling the Town Hall property. He asked if looking at the potential for the Town Hall site would include looking at it as a possible location for a combination library/Town Hall.

Mr. Campbell said absolutely, and noted this was listed under "low priority" because this listing reflected the role of the Economic Development Committee in looking at that possible option.

Councilor Peter Smith asked if the Economic Development Committee was interested in providing input as to where a new library would be located, or how the money for this would be raised.

Mr. Campbell said the Committee had talked about possible locations for a library, but had not talked about fundraising.

Councilor Peter Smith asked if the Committee had discussed the need to coordinate a search of Town owned properties for possible commercial development with the Conservation Commission and the Parks and Recreation subcommittee, which had been doing an analysis of possible uses for Town owned properties.

Mr. Campbell said the Committee had not discussed this, but would certainly be talking with these entities.

Councilor Smith said it would be helpful if the subcommittee was aware of the Economic Development Committee's interest in those properties.

Councilor Morong said the Economic Development Committee had discussed library sites, especially in terms of the idea of selling the Town Hall site for commercial purposes, and moving the Town Hall and library to another site, perhaps somewhere downtown. He said they discussed how this might have a positive impact on downtown businesses.

Councilor Smith noted that there were certain provisions of the design guidelines that currently were part of Town ordinances, and some that were not. There was discussion about this with Mr. Campbell.

Mr. Campbell said the Durham Business Park was created by the Town Council and was a town owned property, so the Town had a lot of enforcement authority, which could be applied to anyone who bought the property. He said fewer controls were available for properties in the ORLI District, although noting there were some development standards.

In response to a question from Councilor Leach, there was discussion on what the range in taxes was that could be obtained per year from the Town Hall site if it were sold.

Councilor Leach also asked if there was a rough time line for when the Committee would theoretically move forward with the action plan items.

Mr. Campbell said it was important to get Council input before getting into this.

Councilor Leach asked what the next step would be if the Council supported the action plan.

Mr. Campbell said the next steps would include developing timelines, and assigning duties. He noted that the Committee was looking to work with other boards and committees, because it couldn't possibly do all the work itself.

Councilor Needell asked if there was some kind of time line for the development of the master plan for the Business Park.

Mr. Campbell provided details on data for the master plan that was already available, and funding available for it.

Chair Niman suggested that a motion be made to accept the report of the Economic Development Committee and endorse the action plan for 2006, and then the Council could talk specifically about the Business Park.

Councilor Peter Smith asked what was meant by the word "accept" in the suggested motion in the Council Communication. He said the nature of the discussion would differ, depending on what this meant.

Administrator Selig said the term meant the Council was thanking the Committee for its work. He said the word that was more significant was "endorse" in regard to the action plan for 2006, noting that this would be a new charge for the Committee.

He explained that the Committee was formed with a specific charge three years ago, to develop consensus on possible economic development projects regarding the Town Hall site, including possible integration with the waterfront. He explained that the Council became uncomfortable when the Committee went beyond this initial charge. He said rather than functioning as a standing committee, the Committee thought it would be good to review what its focus should now be.

It was decided to split the motion into two motions.

***Councilor Peter Smith MOVED to accept the report of the Economic Development Committee. Councilor Needell SECONDED the motion.***

Councilor Peter Smith said he wanted to take that step separately because he did want to thank the Economic Development Committee for its work. He said the Council could then take on a more complicated subject, which should have extended debate.

***The motion PASSED unanimously 7-1, with Councilor Van Asselt voting against it.***

***Councilor Leach MOVED to endorse the Economic Development Committee's Action Plan 2006. Councilor Needell SECONDED the motion.***

Councilor Carroll said she was confused about the report, stating that she realized the Council had talked about deciding what to do, as a Council, with the Business Park last year during its goal setting sessions. She said she wasn't sure that the Council had made a decision on this yet, but now was being asked if it endorsed the guidelines.

Chair Niman said he would like the Council to talk about the Business Park, but said with the motion, the Council was simply deciding if it would give the Economic Development Committee a charge with the action plan for 2006.

Councilor Morong said as far as he knew, the Council hadn't yet decided what to do with the Business Park. He also noted another option for the Business Park was to put the library and new Town Hall at the Business Park.

Councilor Needell noted that this was why he had noted that the Action Plan didn't actually discuss the Business Park. He asked where the Council would address this.

Chair Niman said if the Council was happy with the action plan, it should approve this. He said the Council could then talk about the design guidelines for the Business Park, noting that if it didn't want these, it was essentially saying it didn't want the Business Park to be developed.

Councilor Needell said by endorsing the action plan, the Business Park was not part of this. But he said if the Council decided to move forward with the Business Park, he assumed this would be a high priority for the Committee. He asked if this was correct.

There was discussion on this, and whether the Business Park should be discussed separately from the action plan



Councilor Morong said he didn't see a problem with going over the design guidelines, noting there were different options that could be explored and weighed before a decision was made.

Councilor Peter Smith spoke in detail about the fact that he thought that it was backwards for the Council to not, up front, make a decision on the future of the Business Park. He said this underlying decision needed to be made, and said he personally didn't need any more information on the BP to make his decision, although noting that other Councilors might need more.

Chair Niman said the Committee to him didn't exist until it got a new charge, and said he was hoping to accomplish this that evening. He also noted that the focus of the Committee was not just the Business Park, and said it made sense to recharge them so that regardless of whether there was agreement on all items, they could move forward.

He said the specifics of the report the Council asked them for could then be discussed, including the design guidelines for the Business Park. He said the Council could tell the Committee it didn't want to develop the Business Park, so didn't even need the guidelines, or could say it approved the guidelines, and wanted the Committee to develop a master plan for the Business Park. He noted that even then, there would still have to be a decision on who to sell the property to.

Councilor Peter Smith said his logic was that the design guidelines from the beginning were based on the assumption that the property would be developed for almost certainly commercial purposes that implicated a certain kind of design.

Councilor Needell asked why the Council couldn't endorse the action plan, and then have the full discussion on Councilor Smith's issue.

Councilor Smith said he would have no difficulty postponing the discussion. But he said that the Economic Development Committee was created to see if it could find ways that were consistent with the underlying principles of Durham to bring in business to Town and lessen the tax burden. He said the Business Park was in a different category than other Town properties, in terms of the possibilities for use, and said he found it strange to not include the Business Park on the action list.

Councilor Leach suggested that the Council could endorse the action plan, and include in it the design guidelines concerning the Business Park.

Chair Niman said Councilor Leach's idea made sense, and he suggested making a motion to that effect.

***Councilor Needell MOVED to amend the motion - to add to the high priority category an additional item, to develop a Master Plan for the Durham Business Park.***

Councilor Leach received clarification that the Councilor would be merely look at the design guidelines and not the master plan right now.

Chair Niman said that was correct.

***Councilor Henry Smith SECONDED the motion.***

Councilor Needell said his goal in making the motion was to force the hand of the Council. He said the Council needed to act in order for the Economic Development Committee to move ahead. He said he thought the Council had consistently said it wanted to develop the Business Park, and said he hoped it could provide some guidance concerning this. He said if someone wanted to put the breaks on concerning the Business Park, this was the time to do this.

Councilor Needell said he didn't want the Council to get away without endorsing the design guidelines, noting that the master plan for the Business Park couldn't be developed without this. He said the Committee needed clear guidance from the Council on what the parameters for the master plan could be.

Chair Niman asked if the Council wanted to discuss the specifics of the design guidelines, and Councilor Needell said not as part of this motion.

Councilor Peter Smith said he viewed the motion to amend as a means for putting the issue of the Business Park before the Council for consideration, and said he would therefore vote in favor of it. He agreed that this was not the first time this matter was before the Council, but said his sense was that since nothing had happened concerning the Business Park over a period of time, it was not the same, vigorous proposal that it was a few years ago. He said this Council had to look at the issue again.

There was then detailed discussion about the intent of the motion.

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

Councilor Peter Smith said the issue of the Business Park was now squarely on the table. He said he believed that if the amended motion passed, it would be very, very difficult for persons watching the discussion not to conclude that the Council had endorsed the use of the Business Park for a business park.

He said could not vote in favor of this motion, and did not think doing so would be a wise decision. He said he believed that this property, which came into the Town's hands, never should have been designated as a Business Park. He said he couldn't say what the motivations had been concerning this, but said the land was unique in a way that called for it to remain in its natural state, or to be used in a way that was consistent with this. He said that given the great need for recreation in Durham, and what had already been developed close to that area in terms of recreation activities, he thought it was particularly appropriate that the property be preserved for that sort of purpose.

Councilor Morong asked if Councilor Smith also believed that the Town, following this reasoning, should take \$500,000 plus out of the General Fund, and pay it back to the water and sewer users and the University, who bought the property.

Councilor Peter Smith said the University would have to pay two thirds of this.

Councilor Needell said his concern was that the Council was going to hold hostage an important Economic Development Committee charge to a particular piece of it. He agreed the two issues were separable, and said he would move to reconsidering the vote on the amendment to the motion, in order to move things along.

***Councilor Needell MOVED to reconsider the vote on the amendment.***

There was detailed discussion on this approach, and Councilor Needell then withdrew the motion.

There was then detailed discussion on the purpose of the amended motion the Council would be voting on.

Chair Niman called for a five-minute recess at 8:45.

The meeting was reconvened at 9:00 pm.

Chair Niman said Councilors were interpreting the amended motion differently. He suggested that the Council see if it could make progress on the motion.

Councilor Morong said he thought it did make sense to take away Councilor Needell's amendment, stating he would like to see the Council leave the meeting that evening having recharged the work of the Committee.

***Councilor Morong MOVED to reconsider Councilor Needell's motion to amend. Councilor Peter Smith SECONDED the motion.***

Councilor Morong said he wanted to isolate the charge before the Council regarding the Economic Development Committee, and said at a later date, he assumed the Council could give the Committee the additional charge to develop the Business Park.

Chair Niman said he hoped Councilors would vote in favor of this because they wanted the Council to move forward with the charge of the Economic Development Committee. He said he hoped they would not be voting in favor of the motion in order to continue the process of not moving forward on the issue of the Business Park.

***The motion PASSED 7-1.***

Councilor Needell said the Council would now be voting again on the motion to amend.

***The motion FAILED 2-6, with Councilors Leach and Henry Smith voting in favor of the motion.***

***The original motion, to endorse the action plan for 2006 PASSED 6-2, with Councilor Peter Smith and Councilor Leach voting against it.***

Chair Niman said the Council had now endorsed the Economic Development Committee's action plan. He said he would like a Councilor to make a motion concerning the Business Park.

***Councilor Needell MOVED to charge the Economic Development Committee to develop a Master Plan for commercial development of the Business Park.***

***Councilor Morong MOVED to postpone action on the motion to a future date. Councilor Peter Smith SECONDED the motion.***

Councilor Van Asselt said he didn't see why the Council couldn't move forward with Councilor Needell's motion that evening, stating he didn't think a lengthy discussion or debate was needed on this.

There was detailed discussion on whether the discussion should take place that evening.

***The motion FAILED 3-5, with Councilor Peter Smith, Councilor Morong and Councilor Carroll voting in favor of it.***

Councilor Needell said if the Council approved his motion to charge the Economic Development Committee to develop a Master Plan for commercial development of the Business Park, he didn't want the Council to send the committee on a wild goose chase.

He said in his mind, it had been the policy of the Council for many years that this was the charge for the Economic Development Committee, so this was no great change. But he said if there was going to be a massive change in direction, the opportunity was now here. He said he would like to open the door, if the Council needed to have a full blown re-visitation of the concept of this being a Business Park.

Chair Niman said if a Councilor didn't want to see the land developed by anybody for any commercial purpose, he/she should vote against the motion. But he said if a Councilor was open to looking at the concept of commercial development of the property and development of a master plan, he/she should vote in favor of the motion.

Councilor Carroll pointed out that this land had been available for 9 years, and had not been developed.

Administrator Selig said although the land had been available, the Town hadn't actively marketed it. He noted that there had been a large "for sale" sign on the property at one time, but said it had not been there for 4 years.

Chair Niman said there were at least three developers interested in the property, noting that some developers had been waiting for the Zoning Ordinance to pass. He provided details on this, and said they were waiting for the Council to tell them what the rules of the game were concerning the design guidelines, etc.

Councilor Peter Smith said he anticipated that Councilor Needell's motion would pass, but asked what message would be given to the Committee with respect to the proposed design guidelines. He said if the motion passed, he would want to speak about the fundamentally wrong approach to the guidelines. He provided details on this and other issues concerning the property, and said the Council had never really discussed these things. He said they needed to be resolved.

Chair Niman said he believed the Committee understood these issues, and agreed they would have to be resolved. He said he hoped this would occur as part of the master plan process. But he said that meanwhile, he would like the Council to vote on whether it would charge the Committee to do this.

Councilor Needell said the Council should in the near future finish the discussion regarding the design guidelines, and whether to adopt them.

Councilor Van Asselt said he was willing to defer voting on the design guidelines for the Business Park that evening. He also said that when he voted on the motion, he didn't think this precluded discussion on the issues Councilor Peter Smith had raised, including the idea of the Town developing the Business Park as a commercial entity.

Chair Niman said he would bring the design guidelines back to the Council for discussion at the next meeting,

Councilor Carroll said she would vote against this motion. She said she had walked the property, and said the coastline there was one of the most beautiful stretches in Town. She said protecting it was important, and said she was happy to see the land remain as it was.

Councilor Carroll also said that in the discussion on economic development in Durham, she wished the Town could get beyond the issues of parking lots and structures, and could be thinking about things like solar panels, and windmills. She said it would be a good thing for the community if this discussion took place.

Councilor Morong noted that if a better idea came along in the mean time for something like a park at the Business Park site, voting yes on this motion did not mean that he wouldn't consider this.

Councilor Henry Smith said he couldn't support this motion, and said he wanted the Economic Development Committee to figure out what to do with the Business Park.

Councilor Peter Smith said if the Economic Development Committee was put in charge of this, the only appropriate message was for it to develop an economic scheme for the property.

***The motion PASSED 5-3, with Councilor Peter Smith, Councilor Carroll and Councilor Henry Smith voting against it.***

## **X. New Business**

- A. PUBLIC HEARING AND ACTION ON RESOLUTION #2006-11** authorizing the acceptance and expenditure of grant funds in the amount of \$1,295,514 from the New Hampshire Department of Environmental Services for the collection system and wastewater facility baseline improvements at the Durham Wastewater Treatment Facility.

***Councilor Carroll MOVED to open the public hearing. The motion was SECONDED by Councilor Morong, and PASSED unanimously 8-0.***

***Councilor Peter Smith MOVED to close the public hearing. Councilor Morong SECONDED the motion, and it PASSED unanimously 8-0.***

Administrator Selig said Public Works Director Mike Lynch would give a brief overview on this matter.

Mr. Lynch explained that since 2000, his department had been working on Phase I and II of a three phase Capital Improvement Plan to upgrade the Wastewater Collection System and Wastewater Treatment Plan. He said these projects were paid for through a revolving loan received from

NHDES, and said the Town then became eligible to apply to NHDES for a State Aid Grant. He said the Town was awarded \$1,395,514, which was a 30% grant based on the total eligible costs from the Town's wastewater projects - \$3,268,541.27 He said this grant money would be a great benefit to the Town, and represented a great effort on the part of the Business Office in going after the grant money.

Councilor Peter Smith asked if it was correct that these reimbursements had nothing to do with Part III of the Capital Improvement Plan, and Mr. Lynch said yes.

Councilor Carroll said she realized the funds came from NHDES, but asked if the funds originated with the federal government.

There was discussion about this, and Mr. Lynch said he would have to check on this.

Councilor Peter Smith asked whether the acceptance of the money for Phase I and Phase II had no implications concerning Phase III. He noted that he was not saying the Town wouldn't have to do Phase III.

Mr. Lynch said yes, it had no implications in regard to Phase III.

Councilor Henry Smith asked if the Town had already received the money for the grant the previous year.

There was discussion about this.

***Councilor Morong MOVED to adopt Resolution #2006-11 as presented, authorizing the acceptance and expenditure of grant funds from NHDES totaling \$1,395,514 for the purpose of Wastewater System Improvements. The motion was SECONDED by Councilor Van Asselt, and PASSED unanimously 8-0.***

Councilor Carroll noted that water users would be paying 2.7 cents per 100 cubic feet of water, and said this came to less than one cent for a gallon of water.

## **XI. Roundtable**

Councilor Morong said he would like to discuss the Right to Know law, and whether the Legislature was considering passing a bill that would make it mandatory that if he ran into another Councilor at Young's Restaurant, this would be considered a meeting.

Councilor Peter Smith said the law now did not cover chance encounters, although it did say that persons having chance encounters should not violate the spirit of the law. He noted that the bulk of towns in the State were governed by 3 selectpersons, so two people was a majority, and said the problem was when two selectpersons discussed a Town matter in advance of a meeting.

He said the proposed addition to the law was a provision that said if two town officials ran into each other at the post office, and discussed town business, they didn't have to ignore each other or leave, but if they did discuss town business, they couldn't come to a decision, and also would have to

disclose at the next public meeting that they had discussed the issue. He said this only applied if the majority of the town body covered by the law was having the discussion.

Councilor Van Asselt asked if the Middle School parking issue would be coming forward soon, and Administrator Selig said the plan was to have it on the agenda for the next Council meeting.

Councilor Van Asselt asked if the timber harvesting issue had gone to the Planning Board, and it was determined that the Board would be dealing with it soon.

Councilor Henry Smith read the proposed new provisions of the Right to Know Law.

Councilor Carroll asked if the Town would be appointing another swan keeper.

Administrator Selig suggested that this matter could be put on an upcoming Council agenda.

Councilor Carroll said that the sidewalks on Main Street needed to be cleaned. She asked if this had been considered, and noted that this would be part of improvement of the downtown area.

Administrator Selig said the Public Works Department had had a program of washing the sidewalks, but said it became difficult over time to wash off the stains. He said it had been resolved that over time the sidewalks would therefore be more worn looking.

Administrator Selig said it was important that the Town educate local boards on the changes to the Right to Know law. He noted that the Local Government Center was willing to do this, and he suggested that all Town committee and board members be invited to a presentation on this.

He said the Point of Distribution (POD) issue had taken quite a bit of the Town's time, noting there was some funding at stake. He said he wanted the Council to know that Town staff was devoting time to this.

Administrator Selig said he and Councilor Carroll would be looking at ways the Town could develop alternative sources of energy – solar power, wind power, etc. to generate electricity for the Town over the long term in order to lower costs.

Administrator Selig provided details on the fact that the Memorial Park monument didn't have room for additional names of service people. He said the Trustees of the Trust Fund felt this issue should be looked at, noting that money was available for this, and said a proposal would be brought forward that included the idea of having three plaques that would be placed in the ground near the monument. He said the plan was also to make the area handicap accessible.

Councilor Peter Smith noted that because the cost of metals was going up, bronze and brass plaques around the country were disappearing. He asked if the Town had good photos of the existing plaques in town, and said if there were none, it was important to get them as soon as possible in order to precisely record everything on them. He said it would be a tragedy if the plaques disappeared, and this information had not been recorded.

Administrator Selig said he would look into doing this.

Administrator Selig noted that the issue of the potential cell tower partnership with Newmarket had stalled, and had been put aside for now.

He also said he would be bringing forward to the Council some information on the Route 108 bicycle and safety improvements, noting that NHDOT had asked the Town if it would like sidewalks at the Newmarket end of Route 108 in Durham.

Administrator Selig said a Town banner over Pettee Brook Lane was attached to a poll that was staked on private property. He said the Town might have to remove it, but said they were trying to work something out with the property owner.

Administrator Selig suggested that it would be helpful if department heads could come to a Council meeting to answer questions prior to the Budget work session, so Councilors would have the data needed for the work session.

There was discussion that perhaps department heads should speak with and answer questions from the Council after the Budget work session, and Councilors agreed this made sense.

Administrator Selig Todd said he had recently gone to a seminar on board governance and he provided materials on this to Councilors.

Administrator Selig said he was looking at the broad issue of policing of Durham. He said the University was interested in looking at this issue objectively. He noted that he had gone to a meeting thinking they were all on the same page regarding cost saving ideas, and left the meeting with the sense that the University would place a lot of value on having an independent person come in to look at whether there should be one or two police departments. He provided details on some of the issues involved, and how his perspective on this had changed over time, after considerable analysis.

He said he now saw that there were many inherent problems with the two-department model, and would like to see what a one department model would be like, and would like an independent person apprise the town as to whether there would be savings from this.. He said he therefore did not personally see the value of an overall analysis of the two possible approaches, and wanted to see fiscal data on the consolidated model. He said he left the meeting with the charge to draft an RFP that would get at the broader issues of policing. He provided additional detail on this, noting the cost for the analysis would not be inexpensive.

But he said before he did anything more concerning this issue, he wanted to hear from Councilors on it.

***Councilor Peter Smith MOVED to suspend the 10:00 pm adjournment time. The motion was SECONDED by Councilor Henry Smith, and PASSED unanimously 8-0.***

Councilor Peter Smith urged Administrator Selig to follow the plan he had suggested. He said he wanted to know if a one-department operation would make sense from a fiscal perspective, noting that he was convinced it would make sense from a policy standpoint. He said he realized there would be complications because President Hart was leaving the University, but would like to see this move as rapidly as possible. But he said he wanted to see the data first.



In answer to a question from Councilor Leach, Administrator Selig said the consultant's report would include other things beyond fiscal information. He said there would be two phases to the analysis, and provided details on this. He said if the conclusion was that a two-department model was best, the Town wouldn't make any changes, but said the University was interested in possibly making changes based on the conclusions. He said if the conclusion on the other hand were that the one-department model was best, the Town and the University would again partner concerning an analysis of the fiscal savings that would be involved. He provided details on what this analysis would involve.

Councilor Leach received clarification that Administrator Selig was now asking if the Council wanted phase I of the analysis to take place.

Administrator Selig said the difference now as compared to in the past was that the University was interested in examining the issue of consolidating. He noted this was part of the improvement in relations with the University, which was due to President Hart. He said the University was pulling back from some long held beliefs.

Councilor Niman asked Councilors if they were in favor of moving ahead with phase I. After some further discussion on this matter, Administrator Selig concluded that the Council appeared to be open to going with phase I. He said that was the path he would therefore take.

Councilor Peter Smith said he didn't accept the premise that nothing would move ahead if the Town's central emphasis was on looking at the prospects of a merged police department. He provided details on this.

Administrator Selig said he would continue to flesh this out with the University, and would keep the Council apprised of this. He said the departure of President Hart would cause complications, but said the issue was bigger than that. He said he felt that over time, the natural conclusion would be that the one-department model was best.

In answer to Councilor Henry Smith, Chair Niman said the Council would see what the Planning Board came up with concerning the timber harvesting issue. He said the Council would discuss the issue as well.

Councilor Needell said the timber harvesting issue would be on the Planning Board's agenda as early as June, and said he would let the Council know when that date was set. He said there were several paths that could be taken concerning addressing this issue, and said the process should logically start with the Planning Board.

## **XII. Nonpublic session**

***Councilor Van Asselt MOVED to go into Nonpublic Session for the purpose of discussing personnel matters in accordance with RSA 91-A:3 II (a) The dismissal, promotion or compensation of any public employee. The motion was SECONDED by Councilor Peter Smith, and PASSED 9-0 by roll call vote.***

<b><i>Julian Smith</i></b>	<b><i>yes</i></b>	<b><i>Neil Niman</i></b>	<b><i>yes</i></b>
<b><i>Catherine Leach</i></b>	<b><i>yes</i></b>	<b><i>Gerald Needell</i></b>	<b><i>yes</i></b>
<b><i>Henry Smith</i></b>	<b><i>yes</i></b>	<b><i>Mark Morong</i></b>	<b><i>yes</i></b>
<b><i>Karl Van Asselt</i></b>	<b><i>yes</i></b>	<b><i>Peters Smith</i></b>	<b><i>yes</i></b>
<b><i>Diana Carroll</i></b>	<b><i>yes</i></b>		

The Council entered Nonpublic Session at \_\_\_\_\_ PM.

The Town Council returned to public session at \_\_\_\_\_ PM.

***Councilor Needell MOVED to seal the nonpublic minutes. The motion was SECONDED by Councilor Leach, and PASSED unanimously 8-0.***

***Councilor Henry Smith MOVED to adjourn the meeting. The motion was SECONDED by Councilor Councilor Morong, and PASSED unanimously 8-0.***

The meeting ADJOURNED at 11:00 pm

Victoria Parmele, Minutes taker