

D-R-A-F-T

DURHAM TOWN COUNCIL
MONDAY, JUNE 19, 2006
DURHAM TOWN HALL – COUNCIL CHAMBERS
7:00 PM

MEMBERS PRESENT: Chair Niman; Councilor Morong; Councilor Peter Smith; Councilor Needell; Councilor Van Asselt; Councilor Carroll; Councilor Julian Smith

MEMBERS ABSENT: Councilor Catherine Leach; Councilor Henry Smith

OTHERS PRESENT: Town Administrator Todd Selig; Town Planner Jim Campbell; Town Engineer David Cedarholm; Public Works Director Mike Lynch; Assessor Rob Dix

I. Call to Order

Chair Niman called the meeting to order at 7:03 PM.

II. Approval of Agenda

Councilor Needell MOVED to approve the Agenda as submitted. The motion was SECONDED by Councilor Morong.

Councilor Carroll MOVED to amend the Agenda by moving Item IX A to become VI B. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 7-0.

The motion as amended PASSED unanimously 7-0.

III. Special Announcements

28th Annual Tree City USA Award – Mary Reynolds

Mary Reynolds, an Urban Forester for the NH Department of Resources and Economic Development, Division of Forests and Lands, spoke to the Council and members of the public. She said this award was a reminder that Durham's trees were not to be taken for granted, and in fact had not been. She said the Town had received this award for the 28th consecutive year, noting that the program itself was only 30 years old, and said signs commemorating the achievement would be placed at various locations in Town.

She said that from a cost benefit perspective, there was no better thing a town could do for its environment, and provided details on this. She said she hoped the Town would continue to celebrate this for many years to come.

Councilor Carroll noted that the materials in Councilors' packets concerning this award were excellent. She then asked Public Works Director Mike Lynch to discuss how this program impacted

decisions made in Town, so residents could appreciate the work done on the ground. She noted that a tree management plan was required in order to be a “Tree City”.

Mr. Lynch said Durham had a tree ordinance, and provided details on the various ways it came into play, including protection of trees during construction activities, landscaping of new developments, water conserving irrigation systems, etc.

IV. Approval of Minutes

May 15, 2006

Page 20, 6th paragraph: Change “Board of Trustees” to “Board of Assessors”.

Councilor Julian Smith MOVED to approve the May 15, 2006 minutes, as amended. The motion was SECONDED by Councilor Needell, and PASSED 6-0-1, with Councilor Morong abstaining because of his absence from this meeting.

May 22, 2006 (Worksession)

Councilor Carroll MOVED to approve the May 22, 2005 Minutes as submitted. The motion was SECONDED by Councilor Julian Smith, and PASSED unanimously 7-0.

V. Reports of Councilors

Councilor Carroll said the Integrated Waste Management Advisory Committee had come up with some different possible options for doing Spring Cleanup, and was inviting public comment on these ideas at an upcoming public forum to be held on June 21st.

Councilor Morong, Council representative to the Committee, invited Council members to attend the forum.

Councilor Needell updated the Council on key issues addressed by the Planning Board at its most recent meeting.

- He said there were three Zoning-related issues discussed, and said the first was a citizen petition that had been received to change the Zoning Ordinance so that mixed uses in the Professional Office District would be a conditional use, not a permitted use.

He said a second Zoning issue, which the Board discussed with a property owner, was the reason for the placement of the Zoning district boundary line between the Central Business District and the Church Hill district, as this affected the property owner’s lots.

Councilor Needell said the third Zoning issue concerned a property at the corner of Beech Hill Road that was now designated as Rural, but had previously been placed in the new ORLI District.

- Councilor Needell said there had been a conceptual consultation with a UNH Physics professor who wanted to develop a spin-off company and house it on Strafford Road.
- He said the Planning Board’s June 28th quarterly planning session would be devoted in large part to the timber harvesting/shoreland and wetland buffer issue.

Councilor Needell said he and Councilor Julian Smith had met the previous Saturday with Esther May Forrest, who had been involved from the beginning with the keeping of the swans in Durham. He said she had shared photo albums, and told wonderful stories about this activity, and said this was much appreciated. He also noted that she had also shared her opinions as to whether there should continue to be a keeper of the swans.

He said there was more information still to be gathered on this issue, and said he and Councilor Julian Smith would continue to work on it, and would then present their findings at a future Council Roundtable.

Councilor Carroll said she had recently attended an excellent workshop on preserving farmland, noting that this was one of the Council's goals. She said one of the key speakers at the session, NH Commissioner of Agriculture Steve Taylor, had discussed current trends in farming. She said she would like to share this information with the Council at some point, because these trends had a lot of ramifications for Durham.

Councilor Carroll also noted that Steve Huntley of the Federal Ranchland and Farmland Program had spoken about how this program had contributed to 83 conservation easements in the State. She said it was made clear that there would be less funding coming into federal farmland programs starting next year, and said this was a reminder that the Town should now be taking advantage of this funding, while it was still available.

She said there was a lot of discussion at the workshop on the importance of protecting farmland with prime agricultural soils. She said that throughout the session, the question was raised as to how farms, farmers, and viable sustainable agriculture could be better supported in NH.

Administrator Selig provided details on the upcoming July 4th celebration. He also spoke about Durham Day, to be held on September 10th, noting that Nicole Moore was again coordinating this event. He said those residents wishing to work with Nicole on this could reach her at 868-6675.

Councilor Morong said the Economic Development Committee had met that week, and had focused primarily on areas of Durham targeted in the Master Plan for potential business development. He said the Committee was looking at the idea of creating TIF districts for these areas and getting grants to bring sewer and water to them.

He said Committee members were educating themselves on what other towns were doing concerning these approaches, and said the Committee was thinking of inviting representatives from some of the towns. He said the Committee would update the Council on its findings.

VI.

A. Public Comments

Paula Diamond-Bier, 211 Wednesday Hill Road, presented a petition signed by 76 residents regarding a safety issue at the corner of Wednesday Hill Road and Packers Falls Road. She described the auto safety problems that occurred there, noting she had personally had several near misses. She said excessive speeds were part of the problem, and said things were made even worse in the winter when there was snow on the road. She asked the Council to put this issue on its next agenda, and to come to some kind of resolution for the problem.

Chair Niman asked Ms. Diamond-Bier if she had specific ideas on how the problems could be solved, and there was discussion about this.

Ian Bier, 211 Wednesday Hill Road, said there was no signage whatsoever at the location in question. He said whether the solution was taking out the median, putting up signage, or something else, something needed to be done so people would know not to drive at full speed in this area.

Administrator Selig said the Town had received letters of concern about this issue, and said the Town's Traffic Safety Committee was planning to meet on Thursday at 1:30 pm at the Police Department to discuss it. He said although it wasn't officially a public meeting, members of the public were welcome to attend, and said the Committee would welcome their input. He said Chair Niman and Vice Chair Carroll would make this a priority, and would discuss how the issue would fit on a future Agenda.

There was discussion on when the Town had become aware of this issue. Administrator Selig said that in the winter, the Public Works Department had made every effort to remove snow in this area as quickly as possible, but said the resources simply were not available to remove it immediately after a storm.

Mary Reynolds said she had seen an increase in the amount of traffic in this area over time, noting she had lived in that area for many years. She noted that there once had been a yield sign there. She also said snow removal took place relatively quickly, and said excessive speed was a problem.

Dick Lord, 85 Bennett Road, thanked the Public Works Department and the Council for the progress being made on the Packers Falls Bridge. He said the Bridge Committee had been out there the previous week, and said Mr. Lynch was keeping them abreast of the work being done.

Dave Langley, 234 Longmarsh Road, said he would like the Council to reconsider the recommendation of the Town Assessor to deny his application for a tax abatement for his property. He provided details on why this should be reconsidered.

Chair Niman said this matter would be taken off the Unanimous Consent Agenda, and discussed separately by the Council.

- B. Public Hearing** on proposed plan for enhancements to the Memorial Park monument followed by a discussion on **Resolution #2006-14** endorsing said plan, authorizing the expenditures of funds for the enhancements, and requesting that the Trustees of the Trust Funds transfer the remaining funds from the Memorial Park Expendable Trust Fund to the Town of Durham to be used for enhancements to the monument.

Councilor Van Asselt MOVED to open the public hearing. The motion was SECONDED by Councilor Julian Smith, and PASSED unanimously 7-0.

Lou Henry, a resident of Lee, noted that he had grown up in Durham. He said it was a fantastic project, and had really touched him personally. He noted that he hadn't been sure it would ever really get done.

Gerald Smith, One Backriver Road, spoke in favor of the project, and encouraged the Council to get it done.

Barbara Langley, Langley Road, said she strongly supported the Memorial Park project, and also said her friend, Alma Tirrell, who like herself was in the American Legion Auxiliary, strongly supported it.

Janet MacLean, Piscataqua Road, said she supported the project. She pointed out that the current memorial didn't cover the War of 1812, and provided information on the fact that there were some people from the Durham area who had fought in that war.

Administrator Selig said the Town would make note of this.

Dave Langley, 234 Longmarsh Road, said he appreciated the fact that the Town was finally going to be working on this project, to honor those veterans who had not yet been included in the Memorial.

Bruce Bragdon, a Trustee of the Trust Funds and Cemeteries, noted that Lou Henry, who had been delivering mail in Durham for 33 years, was a Vietnam veteran, and was a prime example of why the Town needed to move forward with the work on the Memorial.

Councilor Julian Smith MOVED to close the public hearing. The motion was SECONDED by Councilor Van Asselt, and PASSED unanimously 7-0.

Councilor Van Asselt MOVED to adopt Resolution #2006-14 endorsing the proposed plan to make enhancements to the Memorial Park monument, authorizing the expenditure of funds for said enhancements, and requesting that the Trustees of Trust Funds transfer the remaining funds from the Memorial Park Expendable Trust Fund to the Town to be used for enhancements to the monument. The motion was SECONDED by Councilor Needell.

Councilor Needell said this was a great plan for the Memorial Park. But he said in looking at the area in question, he noted it might have potential for skateboard activity.

Mr. Lynch agreed, but said addressing this would be challenging.

There was discussion about this, and Councilor Peter Smith suggested that if necessary, an ordinance could be passed prohibiting this activity. He also asked if there was a sufficient research arm for this project.

Administrator Selig provided details on this, stating that this was the time to make the research work as complete as possible. He said the appropriate criteria for being on the memorial needed to be determined, and said one piece of research would be looking for the names of people who had been excluded from past plaques.

There was discussion on the subject of what constituted an actual war.

The motion PASSED unanimously 7-0.

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

Items C, D and E were taken off the Unanimous Consent Agenda.

- A. Shall the Town Council approve a water and sewer abatement for property located at 30 Garden Lane as recommended by the Business Office?

- B. Shall the Town Council Appoint Catherine Leach as the Council representative to the Parks and Recreation Committee and Julian Smith as the Council representative to the Historic District Commission?

Councilor Peter Smith asked if this process included the resignation of those people being replaced, and Chair Niman said that was implied.

Councilor Carroll MOVED to approve Unanimous Consent Agenda Items A and B. The motion was SECONDED by Councilor Needell, and PASSED unanimously 7-0.

- C. Shall the Town Council approve a request by Gary and Nancy Lonsinger for authorization for a building permit to construct a residence with access from a Class VI road (Old Corner Road) for the property shown on Tax Map 15, Lot 18-5?

Councilor Peter Smith said he understood the role of the Council in terms of granting a waiver on this issue. But he said he didn't understand the wording of the Resolution regarding authorizing a building permit, and asked why this was included in the Resolution.

There was discussion about this, and about the State RSA 674:41 that authorized issuance of building permits on a Class VI road.

Councilor Peter Smith said he therefore assumed that the wording in the statute covered this situation. He also noted that Council Communication on this agenda item said there were certain conditions involved. He asked if they were agreed to by the appropriate Town entities, and if so, if the conditions should be included in the motion.

Administrator Selig said the packet of information on this matter would be provided to Code Enforcement Officer Tom Johnson, and said the expectation was that he would hold the applicant responsible for meeting the requirements. He also noted the concerns of the Parks and Recreation Committee regarding the protection of trees, and said on this site, there was a very finite amount of terrain that would be affected, noting the driveway cut was only about 5 ft. beyond the Class V section of the road. He said the location for the driveway entrance had already been cut, so there would be minimal impact, and also said the Public Works Department would monitor the situation.

There was additional discussion about this. Administrator Selig suggested that the motion could be amended to include as a contingent of authorization that the applicant carry out the recommendations of the Parks and Recreation Committee.

Councilor Peter Smith MOVED to authorize the issuance of a building permit for the construction of a single family residence on the property identified as Map 15, Lot 18-5, which is located adjacent to the Class VI portion of Old Corner Road. This authorization is subject to the "Waiver of Municipal Liability for Class VI Highway Building Permit Pursuant to RSA 674:41" between the Town and Mr. and Mrs. Lonsinger, which shall be recorded at the Strafford County Registry of Deeds, at the Lonsingers' expense. The authorization is contingent upon the appropriate signatures of the Waiver of Municipal Liability and the filing of the document at the Strafford County Registry of Deeds as well as meeting the standard building permit application requirements of the Town of Durham. The motion was SECONDED by Councilor Julian Smith.

Councilor Peter Smith MOVED to amend the motion to include as a condition of the authorization that the applicant carry out the recommendations of the Parks and Recreation Committee. Councilor Needell SECONDED the motion.

Councilor Needell said this amendment would be a new requirement since the time Mr. Lonsinger's application had been before the Planning Board. He invited Mr. Lonsinger to comment on this.

Mr. Lonsinger said he had no problem with the amendment to the motion. He noted that the trees involved were ones he had planted, and said only one tree would have to be removed. He said the rest of the trees would be protected for the beautification of the road. In response to Councilor Needell, Mr. Lonsinger also said he had no problems with the recommendations of the Parks and Recreation Committee.

The motion to amend PASSED 5-2, with Councilor Julian Smith and Chair Niman voting against it.

The original motion PASSED unanimously 7-0.

- D. Shall the Town Council approve the school impact fee methodologies and fee schedule as recommended by the Planning Board in accordance with the provisions of Chapter 75 "Impact Fees" of the Durham Town Code?

Councilor Peter Smith asked if the methodologies and fee schedule had been reviewed by Town counsel, and if there were any issues regarding the selections made by consultant Bruce Mayberry that could be of legal import.

Mr. Campbell said the Town attorney had not raised any issues concerning this.

Councilor Smith asked Administrator Selig if he had any further comments or recommendations.

Administrator Selig provided some history on the process that had led to this point with the school impact fees. He said a lot of consideration had been given to this matter, and said the present methodologies and fee schedule were a good first step. He said he was comfortable moving forward with them now.

Councilor Smith stated for purposes of clarification that in terms of actual implementation of impact fees, this would only be in regard to school impact fees.

Councilor Julian Smith MOVED to approve the School Impact Fee Methodologies and Fee Schedule as adopted by the Planning Board in accordance with the provisions of Chapter, 75 Impact Fees of the Durham Town Code. The motion was SECONDED by Councilor Carroll, and PASSED unanimously 7-0.

- E. Shall the Town Council approve the 2005 property tax abatements and veterans' credits, deferrals, and current use requests as recommended by the Town Administrator?

Councilor Peter Smith said his past concerns about the Council's role in this matter remained the same, and said that based on this, he would abstain from voting. He said he looked forward to seeing a proposal, as previously discussed by the Council, to resolve this matter.

Chair Niman asked Town Assessor Robb Dix to respond to Mr. Langley's concerns.

Mr. Dix said he was well aware of the location of the house and property in question. He also said he knew that numerous test pits had been dug there, and said this issue was irrelevant, because the property wasn't assessed in terms of a potential subdivision on it.

He said the primary logic behind his response was that there was a recent court case in which a property had current use land and also had waterfront property. He said the court said it was appropriate to use the waterfront influence on the non-current use land. He said in this instance, the one acre out of current use was not on Durham Point Road, but a good deal of the lot was, so that influence applied to the house as well.

He said if this went to court, the Town would be saying to the court that this was a brand new house, on a house lot with influence on Durham Point road that was being assessed for about \$305,000. He said the case could be made that this would easily sell for that price.

Chair Niman said he understood Mr. Dix was saying that if the property were subdivided, with 22 acres for one lot, and the one acre as a separate lot, it would be a different ball game.

There followed detailed discussion about the logic behind the denial of the tax abatement request.

Councilor Morong said he was beginning to see the wisdom of Councilor Peter Smith's comments, and said he didn't see that he personally could make a fair assessment on this issue.

Councilor Needell asked Mr. Dix if Mr. Langley had said anything that evening that had made him reconsider his opinion, and Mr. Dix said he had not.

Councilor Peter Smith said that under the current circumstances, his view was that it was impossible for the Town Council to make reasonable decisions on these kinds of matters based on the information it had. He said this in part was because the Council was not trained in this area. He provided details on this.

Mr. Langley said that because of the Town's current regulations, subdividing as a way to remedy his situation was an impossibility. He said that in essence, he had a 20 acre house site. He said the Town couldn't have it both ways, taking away his ability to subdivide, but taxing him as if he could.

Chair Niman said he knew of the legal case Mr. Dix referenced, and had read the opinion. He said he believed Mr. Dix was following the right process.

There was discussion on the ability to subdivide the property in question.

Councilor Needell said he was concerned about where the Council was going with the discussion, and whether it pertained to the abatement process. He said what was involved here was the Town Assessor's judgment, and the fact that this was a subjective process. He noted that he had studied the various abatement requests, and had spoken with Mr. Dix about them.

Chair Niman agreed, but said Mr. Langley was making a point about fundamental fairness. He said he had wondered if this could be resolved that evening.

Councilor Van Asselt MOVED to approve the recommended 2005 property tax abatement, veteran's credits, deferral, and current use applications as referred to in the "decision" column of the attached 2005 Property Tax Abatement Recommendations spreadsheet. Further, the Durham

Town Council authorizes the Town Administrator to sign the respective applications on its behalf. Councilor Needell SECONDED the motion.

Councilor Carroll said there were several different abatements, some of which were more understandable than others. She said she felt torn about the Langley request, and also felt torn because the motion included all of the abatement requests.

Councilor Morong said he also was having problem with this. He said the Langley abatement request, and why the property was worth more because it included land in current use on Durham Point Road, was troubling him.

Councilor Julian Smith asked what the difference in taxes would be if Mr. Langley position that the house was on Longmarsh Road was accepted.

Mr. Dix said there would be at least a \$30,000 difference in the valuation of the property, which would mean approximately a \$770 difference in the tax bill.

There was discussion that if the Council did nothing concerning the abatements, they would by default be denied.

Councilor Van Asset said this was the third year the Council had gone through this. He said he hoped the Council would agree that by next year that there would be a Board to review these abatement requests. He noted that Mr. Langley could appeal the decision concerning his abatement request.

There was discussion that the proposed motion should be divided into two parts.

Councilor Needell MOVED to divide the vote on the tax abatements from the veteran's credits, deferral, and current use applications so they could be dealt with separately. Councilor Morong SECONDED the motion, and it PASSED 5-2, with Chair Niman and Councilor Julian Smith voting against it.

The original motion, as divided, to approve the recommended 2005 veteran's credits, deferral, and current use applications as referred to in the "Decision" column of the attached 2005 Property Tax Abatement Recommendations spreadsheet. Further, the Durham Town Council authorizes the Town Administrator to sign the respective applications on its behalf, PASSED unanimously 7-0.

The original motion, as divided, to approve the recommended 20005 property tax abatement as referred to in the "Decision" column of the attached 2005 Property Tax Abatement Recommendations spreadsheet. Further, the Durham Town Council authorizes the Town Administrator to sign the respective applications on its behalf, PASSED 5-0-2, with Councilor Peter Smith and Councilor Morong abstaining.

Councilor Carroll said she had reluctantly voted for this motion, noting it might have been denied if she had abstained. She said she hoped there would be a better system for handling property tax abatement requests in the future.

Administrator Selig said the idea of a Board of Assessors that would be trained to review the abatement requests was being looked at.

Break from 8:40-8:47 pm.

VIII. Presentation Items

A. Report by Historic District Commission – Nick Isaak, Chair

Mr. Isaak outlined the following work the HDC had done in the past year: reviewed various certificates of approval; received a grant from the State Division of Historic Resources to do a brochure on the work of the HDC, which hopefully would be mailed out to residents of the Historic District as well as other interested parties.

He said the Commission had investigated the idea of surveying historic properties in Town to better map these properties. He said doing this would help considerably when there were future developments.

Mr. Isaak noted that the Commission had worked with Mr. Campbell and Tom Johnson on the Historic District overlay ordinance. He also noted that as part of this, a Heritage Commission was being created. He provided details on this, and on the powers of a Heritage Commission, noting it was a non-regulatory entity, which would at least allow the HDC to voice an opinion on historic structures located outside the Historic District. He also said the Commission would be able to give advice to owners of historic properties.

He said upcoming plans for the HDC were to pursue additional grants, and to create a possible website on the Historic District and on the Heritage Commission.

Councilor Carroll said the historic courthouse was one of the most beautiful buildings in Town, but she said it looked like it needed some upkeep. She asked if the Commission had discussed this, and if there were any plans to do some work on the courthouse.

Mr. Isaak said a grant from the Division of Historic Resources could address this, but he said the Commission would need more direction from the Council concerning this. There was discussion about this.

Councilor Carroll also noted that Irving provided some grant money, some of it for historic purposes. She said given the fact that the new Irving station would be located close to the courthouse, she wondered if perhaps Irving could provide some money for upkeep of the courthouse.

B. Quarterly Financial Report – Gail Jablonski, Business Manager

Gail Jablonski updated the Council on revenues and expenses, stating that the Town's finances looked good, with steady revenues. She noted among other things that police and fire overtime had been low, and said hopefully this would continue. She said the parking fund was looking good, and said in terms of the capital fund, Town projects were running on schedule, and hopefully somewhat under budget.

Councilor Van Asselt noted the auditors were in Durham again. There was discussion on the fact that this was the third year the firm had worked in Durham, and that the work would go out to bid again after 5 years. There was discussion as to how satisfied the Town was with the firm's work.

Administrator Selig noted that he had asked the auditors to look closely at the usage of water/wastewater, in terms of revenues. He provided details on this.

Councilor Carroll noted that with increasing water conservation, there might be less revenue. She also asked why the server for the MIS Department needed to be replaced.

Administrator Selig explained the various difficulties experienced with the present system, some of which had been fairly catastrophic, and noted there was no reliable backup. He described the upgrades underway in terms of the website, listserv, and GIS capabilities, all of which required a much more sophisticated and stable system.

Councilor Carroll noted water and sewer bills were sent out twice a year, but property tax bills were sent out once a year.

There was discussion about this. Administrator Selig said that this affected the Town's cash flow, but noted that when he had brought up this issue in the past, the Council had decided it was better for residents to be able to keep money in their own accounts in order to get the interest, than for the Town to get this interest. He said he had dropped this issue, but said Councilors wanting to bring it up again were free to do so.

C. Receive presentation on Durham wastewater system – David Cedarholm, Town Engineer

Administrator Selig noted that Paul Chamberlain from the University of NH was present.

Mr. Cedarholm described the Durham wastewater system:

- 25 miles of sewer, with 3 pump stations; UNH also has 4 pump stations
- 2.5 million gpd average daily flow at the wastewater treatment plant; designed for 7.1 million gpd at peak flow.
- Plant built in 1961, upgraded in 1977, 1991, 1996, and 1997; currently in final stages of baseline improvements, including upgrades to secondary and primary clarifiers.
- Discharges to Oyster River, operating under an NPDES permit, which expired in January of 2005; is on list of permits EPA is working on renewing; recent reconstruction of 2nd clarifier; - once this is on line, along with other upgrades Wright Pierce is helping the Town with, the plant should be able to meet the existing NPDES permit comfortably
- Currently working with UNH on a project investigating and inspecting manholes along Pettee Brook interceptor.
- Original sewer system constructed in 1948, so much of the collection system is old. Public Works Department is working on portions of it. Older portions are to the west and east of Madbury Road, and a lot of the sewers in this area are quite problematic
- A lot of sewers in Durham move through easements behind homes, run down drainages; a lot of manholes are inaccessible, making maintenance very difficult. It will be problematic to upgrade some of the manholes in this part of the system.
- Many of UNH's sewers also are older; the Town is working with UNH to identify problem areas. The final stage of baseline improvements will be to take a careful look at the collection system.

- Dover Road pump station, original capacity is 7.1 million gpd; was recently tested during the floods. The flood created infiltration, which added wastewater to the system in excess of 6 million gpd, which was discharged untreated. This pump station has reached the end of its life expectancy, and is scheduled for upgrade in 2007, with \$500,000 allocated for this in the CIP.
- Old Concord Road pump station is close to reaching the end of its life expectancy. Will need to take a close look at this as future development takes place.
- Oyster River pump station, built in 1993, is in great shape, pumps wastewater from portions of the Faculty Road neighborhood up to the College Brook interceptor.
- Details on manhole problems: there is a big problem with the older service areas. Clay pipe was used in the older sections, and there are loose fitted joints; when they are below the water table, water can leak in, and when the water table is low, sewage tends to leak out, causing contamination issues.
- Inflow enters from catch basins and roof drain; the stormwater and sewer systems are separated, but roof drains are still tied into the sewer system.
- The new permit for the wastewater treatment plant might pose some challenges. The original components of the plant have exceeded their 20 year life span, the expected need to replace them within the next 20 years will cost about \$3 million.
- The Town is working closely with the University to establish a scope of work to address issues, come up with a good list of recommendations, and identify priority areas of the sewer system that need to be focused on.
- Staff of six at the wastewater treatment plant. The permits are getting more and more complicated and process controls are also getting more complicated. There is actually less staff at the plant than there was ten years ago. More staff time is needed for non-scheduled maintenance because of the increasing age of the system.
- The Sewer Ordinance is being updated; the upgraded ordinance will limit the discharge of potential contaminants into the system, and will address grease from restaurants.

Councilor Van Asselt asked if residents living along the sewer line were required to hook up to it if a new house was built.

Mr. Cedarholm said he didn't believe so, if the lot had enough space for a septic system. But he said it was usually to the owner's advantage to hook up to the system.

Mr. Lynch said he didn't recall that anyone who lived within 300 ft. of a sewer main had ever refused to hook up the system. But he said this was not required by the Ordinance. He noted there would be a change concerning this.

There was discussion about the NPDES permit to discharge treated effluent into the Oyster River. Mr. Cedarholm said EPA was moving to eliminate discharges, and said it was increasingly a challenge to meet the stricter and stricter requirements. He said he expected that the draft NPDES permit would be reviewed in the fall, and said it could be granted as early as January 2007.

Mr. Cedarholm said it could include more stringent limits, and said if the Town were unable to meet them, this would result in an initial reduction in the capacity of the plant. He provided details on this.

He said the regional wastewater feasibility study had been going on for 2 years, and provided details on this. He said that currently, the study has narrowed nine alternatives down to four, and said Metcalf and Eddy were working to produce final results by next spring. He briefly discussed how this could benefit Durham.

Chair Niman asked how many miles of collection pipe were in bad shape, and Mr. Cedarholm said at least half of the system. He said the upgrades would occur one neighborhood at a time.

Chair Niman thanked Mr. Cedarholm for the presentation.

Councilor Julian Smith MOVED to extend the 9:30 pm time for the Roundtable. Councilor Needell SECONDED the motion, and it PASSED unanimously 7-0.

IX. Unfinished Business

- B. FIRST READING** on Planning Board amendments to **ORDINANCE #2005-06 (F)** adopting the proposed revisions to Ordinance #2005-06 relative to the Historic Overlay District of Chapter 175 “Zoning” of the Durham Town Code

Councilor Needell MOVED to approve on first reading ORDINANCE #2005-06 (F) adopting the proposed revisions to Ordinance #2005-06 relative to the Historic Overlay District of Chapter 175 “Zoning” of the Durham Town Code. The motion was SECONDED by Councilor Morong.

Mr. Campbell provided some history on the development of revisions to this Ordinance.

The motion PASSED unanimously 7-0.

Councilor Van Asselt said Councilor Leach should be noted as taking part in making these revisions.

X. New Business

- D. FIRST READING ON ORDINANCE #2006-02 amending Chapter 175 “Zoning”, Article XIV “Shoreland Protection Overlay District”, Section 175-72 (A)(4) of the Durham Town Code**

Mr. Campbell noted that the shoreland protection overlay had been revised in February of 2006. He said sometime after this, a variance application for a porch in the shoreland zone came before the ZBA, and Zoning Administrator Tom Johnson had referred it to the Planning Board for review, based on the provision in question.

Mr. Campbell said the proposed amendment was to replace the word “principal” with the words “non-residential or multi-unit”. He said the reason for the change was to have only those projects that were under the review of the Planning Board, such as nonresidential and multi-unit projects, come to the Planning Board for review. He said this change would take the Ordinance back to where it previously had been concerning approvals for single family residences and accessory structures.

He said as currently worded, the Ordinance would require that any building or structure, including single family homes and accessory structures, would have to come before the Board. He said that

historically, these structures were issued permits by Mr. Johnson, with structures within 125 ft. of the high water mark having to go before the ZBA for a variance, whatever the use.

Councilor Julian Smith MOVED on First Reading Ordinance #2006-02, as presented, an ordinance amending Chapter 175 “Zoning”, Article XIV “Shoreland Protection Overlay District”, Section 175-72 (A)(4) of the Durham Town Code, and schedules a public hearing for July 3, 2006.

Councilor Needell said he would abstain from voting on the motion for lack of information. He said he had also voted against this at the Planning Board level, noting that there was substantial discussion about this matter at a recent Board meeting. He said his reasoning concerning this hadn't changed. He said his concerns didn't have to do with the substance of the change, but rather had to do with the process.

Councilor Needell said he was able to narrow down when this change to the Ordinance had occurred, but said when he had asked why it occurred, the answer was not produced. He said he felt it was inappropriate to make another change without doing due diligence concerning this. He noted he didn't necessarily disagree that it was reasonable to make this change, but said he simply didn't feel it was sufficiently considered. He asked that before the public hearing, every attempt be made to find out why it had occurred

Councilor Peter Smith said he was at the recent Planning Board meeting Councilor Needell was referring to, and asked if since that meeting, the reason why the change to the Ordinance had occurred was discovered.

Mr. Campbell said the answer had not been found, but said it happened in November of 2004.

There was discussion that Mr. Campbell should speak with planning consultant Mark Eyerman about this matter before the public hearing.

Councilor Van Asselt asked how significant this matter could be.

Councilor Needell said as the wording now stood, any expansion of a residential use would have to come to the Planning Board for a conditional use permit.

Councilor Peter Smith said the more important issue was why the change that had been made could not be tracked, and there was discussion about this.

Councilor Needell said that after some additional thought, he had decided not to abstain from voting on the motion. He said he had no problem with having the public hearing itself, and said that was where the problem should be discussed in detail.

Administrator Selig said Mr. Campbell might not be able to make the hearing, and said if he could not attend, someone from the Planning Board, or Mr. Eyerman, would be present.

The motion PASSED unanimously 7-0.

E. Discussion regarding June 26, 2006 Town Council Work Session relative to “Water/Wastewater System”

Councilor Needell said he was not sure that allowing 15 minutes for “Next Steps” at the work session would be sufficient.

Administrator Selig said there was a lot to tackle at the work session, and there was discussion about this.

Councilor Needell said he thought the Council should anticipate that the meeting would probably go to 11:00 pm.

Councilor Peter Smith said the Council should also anticipate that by the end of this meeting, it would not have made any profound recommendations on these issues.

Councilor Van Asset said he hoped there would at least be some specific recommendations on some of the most important things.

Councilor Carroll said she had some ideas concerning water quality issues that the work session should look at: - the quality of each of the Town’s water sources; land uses occurring upstream of the water sources that the Town should be aware of; and collaboration between towns in the region concerning shared watersheds/water resources.

Chair Niman said the Agenda for the work session would be modified to reflect this.

XI. Council and Administrator Roundtable

Administrator Selig provided the following updates to the Council

- He said a resignation letter had been received from Mike Blake, effective December 29, 2006, and said he would be putting together a process to fill the position.
- He provided details on new affiliations for some of the town employee unions.
- He said a Rental housing committee had been established, as discussed at the recent Housing work session. He provided details on members of the committee.
- He said he had discussion with the owner of the Irving station on the issue of parking around the District Court, and said he had been told there were six spaces around the Courthouse that were surplus to the company’s needs. He said Mr. Mitchell was interested in discussing the idea of possibly leasing the spaces, and in a way that could affect his tax valuation. Administrator Selig said if agreement could not be reached on this, Mr. Mitchell would like to rent the parking spaces to students. He said it was important to secure parking around the Courthouse, noting among other things the convenience for elderly people to be able to park there.
- He said the work on the Packers Falls Bridge was underway, and noted the involvement of the Bridge committee during this process.
- Administrator Selig said it was important for the Council to discuss the issues concerning the Wiswall Bridge that evening.

Councilor Morong MOVED to extend the Adjournment time to 10:30 pm. Councilor Needell SECONDED the motion, and it PASSED 6-1, with Councilor Van Asselt voting against it.

Councilor Van Asselt noted that a number of people in Town were upset that the Hotel New Hampshire sign had been taken away and had been replaced by the Holiday Inn Express sign. He asked Administrator Selig if anything could be done about this.

There was discussion about this, and Chair Niman said the Town would look into this.

Councilor Carroll said a key issue discussed at the Housing Workshop was that there might be many applications for elderly housing in Durham in the near future. She said the Town had no position on this, and said the issue of whether the Town wanted to leave this wide open, or instead be proactive, hadn't been discussed by the Council or the Planning Board. She said she thought there should be a balance of residential uses in Durham, and asked if the Council or Planning Board did want to be proactive on this issue.

Chair Niman said at present, elderly housing could be built anywhere in Town. He asked if there was interest on the part of other Councilors to look at ways to close the door on elderly housing in some districts in Town, and in a sense, to control the increased supply of elderly housing the Town would otherwise get.

Councilor Needell noted the letter from Jack Farrell on elderly housing. He said the first question that should be asked was if there was a problem, and said the letter had indicated that the Town should keep an eye on this. He said he thought Councilor Carroll had asked a legitimate question, but said he wasn't sure there was a problem.

There was detailed discussion on this issue.

Administrator Selig asked Mr. Lynch and Mr. Cedarholm to update the Council on the Wiswall Bridge situation.

Mr. Cedarholm said NH Department of Transportation engineers had said their report would reflect Hoyle Tanner's report: that the southwest deck of the bridge was in danger of imminent failure, and was in an unsafe condition. Mr. Cedarholm provided additional details on the condition of the Bridge, and said in looking at previous reports on the Bridge, he was surprised it had gotten the rating it had.

He provided details on the results of an underwater inspection of the Bridge, and said that the situation had deteriorated since 2004, especially as a result of the recent flooding.

There was detailed discussion on the funding available to make repairs on the Bridge.

Chair Niman said Administrator Selig and other Town staff needed to look at the money issue, but said the Town Council needed to ask what the options were concerning the bridge.

Councilor Peter Smith said he felt that what happened with the Bridge had to be looked at in large part in terms of the money situation.

Councilor Needell said the Council should discuss whether the bridge could be repaired or should instead be replaced. He also said the Council needed to think about how to serve the residents of Durham living on the far side of the Bridge, and whether the Town was willing to spend a certain

amount of money to put in a temporary structure for a minimum of 2 years. He provided details on this.

Administrator Selig said the first question was whether the Bridge should be replaced. He said he thought the answer to this question was yes, but said feedback from the Council was needed. He said the second question was whether the span of the bridge on the lee side of the river was a safety hazard. He provided details on this.

Councilor Julian Smith asked if FEMA would pay for some of the cost of a Bailey bridge.

Mr. Lynch provided details on this, and said the bridge could be installed within 4-5 weeks, at no cost to the Town other than in-kind services provided.

There was additional detailed discussion about the work that would be done on the bridge, and what would be covered by FEMA. There was also detailed discussion on the issue of whether the Bridge should be repaired or instead should be replaced.

Administrator Selig noted that the Bailey bridge, while not very attractive, would give the Town time to move toward a redesign of the bridge.

Councilor Julian Smith said a Bailey bridge wouldn't be uglier than what was there now. He asked if the endorsement of the Council was needed in order to get the Bailey bridge. He noted that it was not just the residents of Durham who used that bridge, and said the Council had the responsibility to Durham and neighboring towns to deal with this situation. He said he was in favor of installing the Bailey bridge as a temporary solution. He also noted the potential impact on the impoundment if repairs were made to the Bridge in the future.

Administrator Selig said if the Town moved forward with the Bailey bridge, Public Works Department labor would be used. He also noted that the contingency fund would be used, and provided details on the cost of renting the Bailey bridge.

Councilor Van Asselt said he was in favor of installing the Bailey bridge for the short term, but said he was interested in going after FEMA funds for future work on the Bridge. He provided details on this.

Mr. Lynch provided details on the funding available for work on the Bridge, also noting that there were historic preservation issues that would have to be considered.

Councilor Carroll said she liked the idea of the Bailey bridge, but said she would like some data, at some point, on the number of people who used the bridge.

Councilor Morong said he supported the installation of the Bailey bridge.

Councilor Needell said he supported the Bailey bridge, but asked for clarification concerning the span issue.

Administrator Selig said the Town was planning to remove the northwest span of the bridge, and would move ahead concerning this unless there was opposition from the Council.

Councilor Peter Smith asked if there was the possibility of repairing the Bridge, using realistic financial concepts.

Mr. Cedarholm provided details on the complicated nature of doing this. He said considering the problems involved, repairing the bridge could possibly be more expensive than building a new bridge. But he said this couldn't be said for certain at the moment.

Councilor Peter Smith said he didn't think the Town could wait 2-3 years to make the bridge passable, given the inconvenience and safety issues. But he said he didn't think the Council knew the answer as to whether the Bridge eventually should be repaired or replaced with a new bridge. He said the answer to this would relate to what the costs were. He also noted that if there were some historical issues concerning the bridge, these would need to be explored.

Councilor Julian Smith provided additional details on the impacts of this situation on the residents of the area, and the need for the Bailey bridge. He said there were all kinds of reasons why people used Wiswall Road, and also noted that sometimes a one lane bridge was safer than a two lane bridge, having a traffic calming influence.

Administrator Selig provided additional details on the short term plans for the bridge, and on how the future process for considering the long term future of the bridge might be structured. He asked Dick Lord if the Lamprey River Management Advisory Committee (LRMAC) would have any concerns about the short-term actions that were proposed concerning the bridge.

Mr. Lord said if the center pier was to be removed, the LRMAC would like to see some archeological work done as part of that, to find out more about the history of this area. He suggested that there might be some funds available for this work.

There was discussion that there were no plans to remove the central pier of the bridge.

Adjournment

Councilor Morong MOVED to adjourn the meeting. The motion was SECONDED by Councilor Van Asselt, and PASSED unanimously 7-0.

10:56 pm

Victoria Parmele, Minutes taker