

This set of minutes was approved at the August 21, 2006 Town Council meeting.

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

MEMBERS PRESENT: Chair Niman; Councilor Carroll. Councilor Peter Smith; Councilor Needell; Councilor Van Asselt; Councilor Julian Smith; Councilor Leach; Councilor Henry Smith; Councilor Morong (arrived at 7:04 PM)

MEMBERS ABSENT: None

OTHERS PRESENT: Town Administrator Todd Selig, Business Manager Gail Jablonski, Planner Jim Campbell, Fire Marshal Mark Tetreault

I. Call to Order

Chair Niman called the meeting to order at 7:01 PM.

II. Approval of Agenda

Councilor Julian Smith MOVED to approve the Agenda as submitted. The motion was SECONDED by Councilor Carroll, and PASSED unanimously 8-0 (Councilor Morong had not yet arrived).

III. Special Announcements

Town Administrator Selig announced there would be a forum on the Right-to-Know law the following evening.

IV. Approval of Minutes

June 19, 2006

Councilor Needell MOVED to approve the June 19, 2006 Minutes as presented. The motion was SECONDED by Councilor Van Asselt,, and PASSED 6-0-2 with Councilors Leach and Henry Smith abstaining because they were absent on June 19th (Councilor Morong had not yet arrived).

V. Reports of Councilors

Councilor Needell reported on a public hearing at the Planning Board the week before on a citizen petition request for a change in the Table of Use in the POD. Following the hearing the Planning Board voted to recommend the change to the Council. Councilor Needell also described other issues coming before the Planning Board and the Zoning Re-write Committee.

Councilor Carroll said there was lots of parking available downtown. She also reminded the public about the weekly Farmer's Market in the Pettee Brook parking lot.

Councilor Peter Smith reported on the monthly meeting of the Conservation Commission and said much of the discussion was about three significant proposals for land preservation and that he thought these proposals would soon come to the Council.

Councilor Julian Smith reported on the monthly meeting of the Historic District Commission and said that Councilor Peter Smith gave generously of his time explaining the action the Council took on July 3rd relative to the proposed amendments to the Historic Overlay District ordinance.

VI. Public Comments

No members of the public spoke.

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

There were no Unanimous Consent Agenda items.

VIII. Presentation Item

There were no Presentation Items.

IX. Unfinished Business

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

Councilor Van Asselt MOVED to approve Ordinance #2006-02, amending Chapter 175 "Zoning", Article XIV "Shoreland Protection Overlay District", Section 175-72 (A)(4) of the Durham Town Code. The motion was SECONDED by Councilor Leach.

Jim Campbell briefly explained the proposed ordinance. Councilor Peter Smith asked that Mr. Campbell's memo of July 14, 2006 become part of the record and called attention to potential confusion about one point in the memo.

Councilor Needell endorsed Councilor Peter Smith's request that the memo become part of the record.

The motion PASSED unanimously, 9-0.

- B. **RESOLUTION #2006-15** requesting that the Trustees of the Trust Funds transfer \$650.17 from the Fire Department Injury Prevention Trust Fund to Revenue Account #01-3700-7010-070-00

Councilor Van Asselt MOVED to approve Resolution #2006-15 requesting that the Trustees of the Trust Funds transfer \$650.17 from the Fire Department Injury Prevention Trust Fund to Revenue Account #01-3700-7010-070-00. The motion was SECONDED by Councilor Leach.

Fire Marshal Mark Tetreault explained how the trust funds were established.

The motion PASSED unanimously, 9-0.

X. New Business

- A. PUBLIC HEARING ON RESOLUTION #2006-16** accepting a grant in the amount of \$7,940.00 from the New Hampshire Department of Resources and Economic Development (DRED) Trails Bureau for trail improvements to the Class VI portion of Longmarsh Road between Route 108 and Durham Point Road and authorizing the Town Administrator to enter into a contract with DRED

Councilor Julian Smith MOVED to OPEN the Public Hearing on RESOLUTION #2006-16 accepting a grant in the amount of \$7,940.00 from the New Hampshire Department of Resources and Economic Development (DRED) Trails Bureau for trail improvements to the Class VI portion of Longmarsh Road between Route 108 and Durham Point Road and authorizing the Town Administrator to enter into a contract with DRED. The motion was SECONDED by Councilor Carroll.

Jane Crooks, a member of the Parks and Recreation Committee, spoke about the background to the grant proposal and the work ahead.

Councilor Henry Smith MOVED to CLOSE the Public Hearing on Resolution #2006-16 accepting a grant in the amount of \$7,940.00 from the New Hampshire Department of Resources and Economic Development (DRED) Trails Bureau for trail improvements to the Class VI portion of Longmarsh Road between Route 108 and Durham Point Road and authorizing the Town Administrator to enter into a contract with DRED. The motion was SECONDED by Councilor Julian Smith and PASSED unanimously.

Councilor Van Asselt MOVED to ADOPT Resolution #2006-16 accepting a grant in the amount of \$7,940.00 from the New Hampshire Department of Resources and Economic Development (DRED) Trails Bureau for trail improvements to the Class VI portion of Longmarsh Road between Route 108 and Durham Point Road and authorizing the Town Administrator to enter into a contract with DRED. The motion was SECONDED by Councilor Needell.

Councilor Peter Smith MOVED to amend the motion, by replacing the entire draft with his revised draft. The motion was SECONDED by Councilor Needell.

Councilor Peter Smith passed out his revised draft of the resolution. He explained that he had reviewed the Resolution over the weekend and had discovered some drafting problems, and said he had submitted corrections to Administrator Selig that morning. He said the corrections were all technical in nature, and did not represent substantive changes.

Councilor Julian Smith said he was ready to vote.

Councilor Needell asked who had drafted the original resolution, and Administrator Selig said it had come from his office. He said he had no concerns regarding the proposed changes, stating they were all non-substantive, and simply provided clarification, in terms of the precise name of the State agency awarding the grant, and the process of grant approval.

The motion to amend PASSED unanimously 9-0.

Administrator Selig noted that the Council had seen a presentation on this grant in January of 2006, had discussed it at that time, and was very supportive of it. He said the Resolution was simply a formality, and also stated that when the Town received the grant money, there would be a request for the Council to approve the expenditure of the funds received.

Councilor Needell asked when the footbridge would be built, and there was discussion that the plan was to do this in the fall.

Councilor Peter Smith said the Conservation Commission was anxious to get going with the work as soon as possible. He described where things were in terms of the grant process and the various approvals that were needed. He said this motion would authorize Administrator Selig to sign the contract, and said in the meantime, it had been circulated to various other entities that were involved.

Administrator Selig also said that because of some environmental aspects of the project, it had also been sent to NH Fish and Game for approval, and said he had been told the agency would give its approval within the next two weeks. He noted that the money from the grant was not provided in advance, and explained that it was a reimbursement program.

Chair Niman said there were a lot of people in Town who were excited about this project, and who would be pitching in to help complete it.

The amended motion PASSED unanimously 9-0.

B. Discussion regarding July 24, 2006 Town Council work session on the FY 2007 Budget process

Chair Niman explained that he had done a draft of the Agenda, and provided details on this. He asked Councilors to add additional items they wanted to see on it.

Councilor Carroll said she would like to add an Item on Payment of Property Taxes – “Should the Town changed the collection of property taxes to twice a year, rather than the current once per year?” She said she would like the Council to discuss the pros and cons of this issue.

Councilor Peter Smith said he would like to see the materials discussed several years ago regarding this issue distributed to Councilors as part of such a discussion.

Councilor Needell asked what was meant by “zero based budget” in Agenda item II G.

Chair Niman said this essentially meant building the budget for each of the Town departments from zero. He said he was not suggesting that the Town necessarily do this.

There was discussion about this approach, what the current approach was, and whether this was worth discussing at the work session.

Councilor Van Asselt said he would be interested in seeing what percentage of the budget involved essentially fixed costs, and what would be left after these costs were accounted for. He said he would be shocked if more than a dime on a dollar would be left, and explained that he was mentioning this because unless someone was really interested in making a significant change, the Town was pretty much locked into what had to be spent. He said he had seen over the last two years that it was difficult to change things without a lot more thought.

There was discussion as to whether other Councilors agreed with Councilor Van Asselt's premise.

Councilor Peter Smith noted that the Council had gone through a similar exercise in 2005 when it had asked that a significant amount be cut from the Budget. He said that after a lengthy discussion, only one item was removed from the Budget, and said that suggested that without discussing changes in basic services, he suspected they would be talking about considerably less than what Councilor Van Asselt had said would be left, after fixed costs were accounted for.

Councilor Van Asselt said he would like clarification concerning the operating costs of the Library, noting that they had gone up to \$180,000, from \$50-60,000 a few years before. He also said he would clarification as to what the Town's responsibility was concerning funding for the Library.

Councilor Van Asselt said an area where the Council got to make some choices in terms of priorities was with the CIP, and said that should be kept in mind in terms of discussion at the work session.

Chair Niman said the items noted by Councilor Van Asselt would be added to the agenda.

Councilor Needell asked if the intent of the work session was that the Council provide Administrator Selig with guidance concerning the development of next year's Budget. He also said some fundamental questions for discussion were whether there was actually something wrong with the budget, and whether the Council was willing to make some structural changes to it.

Chair Niman agreed that these were important questions to ask.

Administrator Selig said the issue of the fund balance was an important topic to discuss.

There was discussion about the meaning and purpose of agenda item III b, concerning getting money from UNH.

Councilor Peter Smith said there was one way, in connection with UNH, that he believed substantial monies could be saved through the merging of the two police departments. He said he hoped the Council would not lose sight of this approach.

Chair Niman said the Council would discuss this at the work session.

Discussion regarding Mill Pond Center public/private partnership

Chair Niman provide background on the difficulties the Mill Pond Center was experiencing, explaining that there was a short term cash flow problem as well as a longer term funding problem. He said he had been invited to meet with members of the Mill Pond Board of Trustees a few weeks back, and said what had emerged was the possibility of moving forward with some kind of public/private partnership between the Center and the Town, to provide short term as well as longer term solutions. He said he believed the property was an important one for the Town, stating that he personally supported their activities, and felt the Town needed to do more to support it.

He said ideas were discussed of creating a model that would allow the Center to be successful in the long term, and said part of the discussion was on whether the Center really needed to own the land, or if it perhaps might be beneficial if the Town owned it. He said the Town in this way would ensure the property wasn't sold off to a private developer, and would remain an arts center. He said this seemed to potentially be a win-win situation for everyone. He noted that Town maintenance of the property would result in a cost savings that would better allow the Center to stand on its own legs and be successful.

Chair Niman said when he was on the Parks and Recreation Committee, a member of the Dover Parks and Recreation department was invited to speak to the committee, and noted that it was very expensive to run a Recreation department and to offer cultural programming to citizens.

He said discussions with the Mill Pond Center included how to ensure a steady stream of quality programming that didn't require the Town to come up with the money for this, as well as how to keep the employees at the Center sufficiently motivated to do the private fundraising that was needed. He said the idea was that a partnership could be structured so the Town would own the facility, which would ensure it remained in the care of Town. He said this would relieve the Center of some of the operating expenses, but said the Center would actually operate the enterprise, and would continue to do fundraising to finance its programs.

He said a basic difficulty the Center had experienced was a succession of Directors, and the fact that people had been reluctant to donate money because they were not sure it would pay off in terms of programming, and were not sure the Center would even still be around. He said if the Town made a commitment to the Center, this would send a very good signal to potential donors that the center was a viable entity, and their donations would then help the Center flourish.

Chair Niman said what was in Councilors' packets was a general understanding of how such a public/private partnership might work, and he said that the Center's Board of Trustees had voted to move forward with this. He said he thought it was important to put this on the table now for the Council to consider, stating that there was nothing that had to be officially approved, He said he was looking for a sense of whether the Council was interested in possibly moving forward with this, and if so, he would start to get into more detail on the possible partnership.

Councilor Needell asked what "moving forward" would mean in the immediate future.

Chair Niman said it would mean signing a purchase and sales agreement that would be effective in the beginning of 2007, and would go into the Budget and CIP for 2007.

Councilor Needell asked what Chair Niman wanted to come out of this meeting concerning this.

Chair Niman said he wanted to hear if Councilors were interested in this idea, and wanted to hear more about it.

Councilor Peter Smith asked what it was that the Mill Pond Center's Board of Trustees had actually approved.

Chair Niman said it had voted to move forward in exploring the idea of a partnership. He said it was receptive to the idea of selling the property to the Town, and of entering into a lease agreement with the Town.

Councilor Peter Smith asked if the Board of Trustees, having had some discussion among its members, was proposing to the Town that the Town enter into a partnership with them, and that they intended to come to the Council to propose this.

Chair Niman said he believed that was what the Board had done.

Councilor Needell asked what the private part of a possible public/private partnership was, and Chair Niman explained that the Mill Pond Center was a 501 C3 nonprofit organization. He said employees of the Center would not become employees of the Town under such a partnership. There was some discussion on the issue of employees.

Chair Niman noted that the Mill Pond Center was not the only nonprofit program experiencing financial difficulties, and spoke briefly about the financial problems that ORYA was having. He said the problems these kinds of organizations were having was more universal, and said the Council would have to decide how to move forward regarding this.

Councilor Needell asked what happened if in spite of the Town's best efforts, the Center still failed. He also asked if the Council needed to give the Chair a sense of what it thought about the idea of Town employees being part of a public/private partnership.

Chair Niman said he didn't think the Council needed to resolve the latter issue in order to move forward. He said whether to help the Center out in the short term, and whether to purchase the property needed to be decided. He also said the Council would need to think about how to respond concerning competing demands from the different community groups.

Councilor Peter Smith spoke in detail about how important the arts were, and said he wondered whether the Center's Board of Trustees had spent any time recently examining what the role of government should be in support of the Arts, particularly the role of local government. He noted that New Hampshire ranked 50th in terms of charitable giving, yet was the 5th wealthiest state. He said the State did not have a tradition of contributing to the arts.

He said he thought an Agenda item needed for the Budget work session was discussion on what would be a major new Town department. He said a huge underlying question was what the role of local government should be in taking on functions of this sort, even if the motivating factor was not a sudden financial emergency. He said examining the role of local government was a very lengthy and difficult process to undertake, and said it wouldn't be accomplished in the short term.

Councilor Smith said another conversation that needed to be engaged in was the role of local government in regard to nonprofits that did good work, but hadn't been successful. He said he was not saying that the concept of a major insertion of local government into the arts, as a major part of the operation of that government, was something that shouldn't be considered. But he said he was questioning the notion that between now and the end of the calendar year, the Council would decide to purchase the property and pay off a \$550,000 mortgage, having no idea of the ability of the Board of Trustees to raise money now and in future--and would also draft agreements.

Councilor Smith said another matter that made this more complicated was who had been standing in line concerning Town money. He noted that the Library Board of Trustees had wanted the Town to build a new Library for 10 years. He said the notion that Council could go anywhere near what the suggested action indicated was not possible.

Chair Niman said he had recently spoken extensively with the Library Trustees about potential sites for a Library, and about possible ways to fund it. He said he had shared with them the idea that the Town might enter into a partnership with Mill Pond Center, and said it had been suggested that it might even be a potential site for a Library. He said it was not his intention to pit one group against another for limited town funds, and said he was looking for potential sites and potential revenues sources, and the possibility of linking them together.

In response to a sheet of information distributed by Chair Niman, Councilor Peter Smith said he found it appalling that the information was being distributed in that way.

Chair Niman said he was handing it out in response to Councilor Smith's comment. He said he didn't think the kind of lengthy discussion Councilor Smith had spoken about was necessary concerning this matter. He said the information he had passed out indicated that only 2.65% of Durham's budget was spent on culture and recreation. He said he didn't think the Town was doing enough concerning this, and said these numbers were embarrassing. He said by what the Town had appropriated for these things in the past, it had said it was not interested in changing this. He said he was interested in changing things, and said he hoped this idea could be pursued at the work session.

Councilor Peter Smith said what the Council was now discussing was something that was completely different than the budget category Chair Niman had addressed. He said it was talking about giving money to nonprofits, which was a completely different proposition. He said he respectfully disagreed that this did not require extensive discussion.

Councilor Leach said she was supportive of what was being suggested by Chair Niman, because the Town needed to find more creative ways to provide culture and recreation in Durham. She said she understood that there were a lot of questions to be asked as part of this, but said she didn't think that the Council needed the answers to all of them that evening. She also said the fact that it was a public/private partnership that was being considered made the situation different than what Councilor Peter Smith had spoken about.

Councilor Carroll said looking at things from a larger view, this was quite an opportunity that had been presented to the Town, one that had a lot of positive ramifications for Durham. She said she had lived in Durham since 1974, and had never seen so many good things that were possible for Durham: a new li-

brary, conservation easements to preserve land, the Mill Pond Center, etc. She said the question was how to handle them, and not let the opportunities pass the Town by. She said the Town Council sometimes led, and sometimes followed, and said in this instance, she thought the Council needed to take the lead, and also needed to follow, in terms of inviting residents to say what they wanted. She said if the ideas being discussed were not important to residents, the process could be short circuited fast.

Councilor Carroll said there were a lot of details to work out, and said Councilor Peter Smith had brought up one item that concerned her the most: the idea of giving money to a nonprofit that was having financial difficulties, on the basis that the Town wanted to help them out. She said this would set a precedent, and had to be looked at very carefully.

Councilor Morong said given what was known of the Durham community, he couldn't imagine not exploring this idea further. He said Peter Councilor Smith had brought up some very good points, and said he would like to see them explored in depth, But he said he didn't think as much time needed to be spent on this as Councilor Smith had said. He said that working positively together, they could answer the questions, and see if they wanted to pursue this idea further.

Councilor Needell said he agreed with Councilor Morong, and said this was an opportunity to preserve a valuable property. He noted that if the Town took no action, it was unclear what would happen to the property.

He said he believed Councilor Peter Smith's key point was how to structure a possible partnership with the Mill Pond Center, and said the Council hadn't even begun to discuss this yet. He said it could be difficult to move on this quickly, and said perhaps it was not necessary to consider in the short term how deeply the Town would be involved. He said the opportunity to preserve this site was something the Town should not miss, and said beyond that, there would need to be more discussion because there were a lot of unknowns.

Councilor Julian Smith said he would like to continue to discuss the matter, and not to close the door on it. In response to the information sheet handed out by Chair Niman, he said one issue that should be discussed was why Durham was at the very bottom in terms of the percentage of Town funds given to recreation, compared to Dover, Exeter, and Portsmouth, and other towns in the area. He suggested possible reasons: recreational opportunities available because of the University; the large amount of open land in Town; etc. He also asked what would happen to the property if the Mill Pond Center failed and the Town didn't do anything.

Councilor Henry Smith said he would like to pursue the possibility of working with the Mill Pond Center. He noted that 9 of the 17 acres on the property were in conservation easement. He said he didn't look at this as giving money to a nonprofit organization, stating that if the Town purchased the property, the Center would continue to do the programming, and the Town wouldn't necessarily own the program itself. He said it would be a mistake to close the door on this, because of the value of the property, and the value of culture and arts to Durham. He also said it seemed that this would have to happen fairly rapidly according to Chair Niman's timetable, since it was already half way through 2006.

Councilor Van Asselt said he didn't think what Councilor Peter Smith was saying was that he was worried about the details of agreements, but was questioning what the role of the Town was in the area of arts and cultural programs, and where the Town really wanted to put its resources. He said he agreed with the gen-

eral consensus of the Council that the Town should move ahead with discussions with the Mill Pond Center. But he cautioned that going down that path, the Town would need to make some tough choices about basic services.

Councilor Morong said a few years ago, there was \$750,000 in the CIP for the Smitty's property, and said \$550,000 for this property seemed a lot more exciting.

Councilor Peter Smith said some of the Councilors had been interested in buying Smitty's in order to create a large piece of land so a library could be put on the site, noting this was a municipal function of a town, by law. He said what this suggestion said was to seek to ascertain whether the Council was interested in pursuing a partnership, and what it did not say was that the Council was interested in having facts presented to it, with respect to the issue of a public/private partnership. Councilor Smith also said it was strange that the Center's Board of Trustees was not present to talk with the Council.

He said he was concerned about sending the wrong message to the Center, and said Chair Niman had negotiated substantially with the Center without any indication that such a thing was to happen. He said he was hearing that there was an immediate emergency, but he said if the action that needed to be taken to avoid this emergency shortchanged the order in which the Council look at this matter, he didn't think it was wise for the Council to respond.

Councilor Morong said when the Council had supported the Main Street Program, it had supported a certain level of programming. He said in this instance, in order to keep the Center from foreclosure, the Council could decide that it could spend money just to keep the program alive, before entering into any agreements, and he said there would be no strings attached.

Councilor Peter Smith said he was not suggesting that were not circumstances because of an emergency that meant the Town had to move fast. But he said if it was going to take such action, some questions needed to be asked, and some judgments needed to be made. He said he was prepared to see the Council make them, but said the Council ought to make them with as much factual information on the situation as possible.

Chair Niman noted that Councilor Peter Smith had insinuated that he was going around negotiating something, and said he was not doing that. He said he was having a series of conversations as to whether there could be a meeting of the minds on these ideas. He said the only thing he was trying to accomplish that night was to find out whether the Council would want him to collect some facts, and to get some details on how a partnership might work. He said he wanted to bring this into the public forum.

He said if they lived in a perfect world, this whole thing would be done differently, after a philosophical discussion. He noted that when he served on the Parks and Recreation Committee, the members had dedicated themselves to coming up with broader goals for providing recreational opportunities in Durham. But he said this new opportunity had fallen out of the sky, and said the concern was that if the Town didn't deal with this now, it would lose the property. He said he was trying to capitalize on an opportunity he didn't expect, and hadn't made happen.

Councilor Peter Smith said the transmittal to the Council called for it to inform Chair Niman that night as to whether or not it was interested in pursuing a public/private partnership along the lines presented, so agreements would be drafted for formal approval. He said this didn't sound like what Chair Niman had

just described. He said those facts had not been brought back to the Council, and were needed in order to make an intelligent decision as to whether such a partnership should be pursued.

Councilor Julian Smith said he didn't see that the wording in the packet (regarding suggested action) precluded those interested in from gathering more facts and discussing the issues further, and said the wording didn't say the agreements were a fait accompli. He said there would have to be further discussion and negotiation, as well as a public hearing, and suggested the Council wrap up its discussion on the matter and take a break.

Councilor Carroll said she agreed, but said she hoped the Council would discuss this issue more. She asked Councilor Peter Smith what he would feel comfortable with in terms of language.

Councilor Leach said she didn't think the wording in the packet was causing other Councilors besides Councilor Peter Smith any particular trouble. She said she had never expected that Chair Niman would come back without the information the Council needed, and said all the Councilors except Councilor Peter Smith were in favor of this. She said she didn't think they needed to continue the discussion further, and could have Chair Niman and Administrator Selig move forward.

Councilor Henry Smith said he assumed that as they moved forward, the facts would come out, and that no action would be taken without knowing them.

There was discussion about possible wording changes in the recommended action: "...would be drafted for possible formal approval..", "..exploring the partnership..", "..drafted for consideration at a later date based on information brought forward..."

Chair Niman said these kinds of wording changes would be fine with him.

Councilor Needell said the existing wording that did concern him was "...along the lines presented...". He said this was the part all the details were not in, and said he was uncomfortable with saying this, noting those lines were pretty blurred in his own mind at present. He said to go from where they currently were to negotiated agreements was a huge step. He said he thought they should pursue discussion with the Board of Trustees, and see what could possibly be worked out. But he said in order to do that, the Town needed to pursue what lines it was willing to entertain and what role the Town wanted to play. He said he didn't want to send the wrong message to the Center.

Chair Niman said he and Administrator Selig would schedule a meeting with the Mill Pond Center for the Arts Board of Directors in order to bring more definiteness to the lines, to collect more facts, and to develop a more substantive understanding of how a public/private partnership would be structured. He said they would then bring this back to the Council for discussion.

Councilor Needell asked for details on what was needed in order for things to move forward at present.

Administrator Selig said in discussions he had been involved in with the MPCA Board of Directors, he had no sense that a line had been drawn in the sand. He said the Center wanted to work with the Town, and said the partnership approach had come out of these discussions. He said the Board was open to the idea of such a partnership, but was open to other possible ideas as well. He said the discussion was very fluid at present.

He said he and Chair Niman had tried to come up with a way to create a situation where the Town stepped in to help out the Center without the organization slowly becoming completely dependent on the Town, and 5 years from now, still having financial difficulties. He said he and Chair Niman had discussed ways to have the group stay vested in the property, including having the Town make management of the property contingent upon the organization staying self-sufficient, and having the Town state that failure to be self-sufficient would mean Durham would end up with a great piece of property at bargain basement prices.

There was agreement that Councilors could send additional questions to Chair Niman and Administrator Selig by email.

Councilor Peter Smith said he was not interested in delaying a vote the Council wished to take, but said he just wanted to make it clear that there was a huge difference between saying the Town wished to pursue a public/private partnership and wanted to see additional facts concerning this, and saying perhaps the Town wanted to pursue a partnership, and perhaps it didn't, and wanted to see the facts so it could make a decision on this. He said he didn't not believe the yes or the no could be answered before first having the information. He said he didn't want the Center to think he had made up his mind on this, and said he thought it would be wise to clarify what the Council was really saying tonight.

Chair Niman said he hadn't made up his mind yet as to whether the Council should ultimately vote for this. He said at present, it looked like a good opportunity, but he also wanted to see more facts.

Councilor Needell said he was willing to move forward on this, and said as he saw it, the public/private partnership was an attempt to preserve a property and a group faced with financial crisis, in a way that would be beneficial to the Town. But he said he couldn't comment on the larger issues yet.

Recess for 8 minutes from 9:10 to 9:18 PM.

C. Other Business

XI. Council and Administrator Roundtable (NLT 9:30 PM)

- Administrator Selig provided information to the Council concerning recent difficulties in setting up a meeting with the Gangwers concerning development of the Greens property. He explained that they might have some interest in putting a library on the site, but he said more details were needed on this.
- Administrator Selig said two members of the Durham Evangelical Church had recently approached him about the fact that the church was looking for a larger space, and had asked if the Town was interested in acquiring the property. He said he wanted to raise this idea to see if the Council had any interest in it, noting that the general feedback he had received from others in Town was that that this was not where people envisioned the library. He noted that the site was not located in the central core of Town, and was not walkable, especially for kids. He also said his sense was that the opportunity to purchase the property was drawing to an end.

Chair Niman said he had been told that day that the Church had acquired a property in Madbury, so would be moving forward with this, and would be selling the existing property.

There was discussion about the fact that there had been no talk about what the price for the site would be. There was also discussion about the fact that this would make a good site for a recreation center because of the large size of the building. Chair Niman said it would be good to be able to help the church find a buyer who would pay taxes.

- Administrator Selig said Growing Places had been looking for another property to move into, and said he would not be surprised if this happened soon. He provided details on the upgrades that needed to be done in order for Growing Places to stay in the Grange building.
- Administrator Selig said would like guidance from the Council concerning the issue of downtown parking. He said there had been more and more complaints, especially from elderly residents, regarding parking tickets they received when they parked for longer than an hour downtown. He suggested that perhaps the time limit could be extended to 1 ½ or 2 hours, and explained that the challenge in the past was that students tended to park there to go to classes, when the time limit was longer.

Councilor Needell said he would support a change to 1 ½ or 2 hours. He noted he had seen that 1 hour was too short a time period when there were restaurants in the area. He asked for some history on the current time limit.

Councilor Morong suggested that resident stickers could be used to address the issue, so that a resident would be allowed to park more than an hour.

Councilor Carroll said these parking spaces should be for people who were using the downtown area, but said she wasn't sure how exactly to achieve this goal.

Councilor Peter Smith said allowing residential parking could be difficult, from a legal perspective.

Administrator Selig said his sense was that the Council was open to looking at this, and said he would explore the issue further with the police department and downtown merchants.

- Administrator Selig said there had been a meeting on the Wednesday Hill Road/ Packers Fall Road issue, and said the sense of the group was that it was currently favoring the idea of improving the signage there. He said he would provide the Council with more details on this when he got them, and noted that if this were to involve stop signs, the stop sign ordinance would have to be revised.
- Administrator Selig said the Merrick conservation easement would most likely be executed in the next few weeks, and provided details on this.
- He said the parts for the Bailey bridge for the Wiswall Bridge had arrived, and said NHDOT would be starting to install the bridge soon.
- Administrator Selig noted there had been some complains concerning the designated traffic flow, coming down Church Hill, and said better signage would be provided so it would be more clear what lane

cars should be in if they were turning, or instead were traveling through the intersection going toward Dover.

- Administrator Selig updated the Council on a meeting with UNH Interim President Bonnie Newman and Vice President Mark Rubinstein regarding the UNH police accreditation matter he had recently discussed with the Council. He said they had expressed their embarrassment over the matter, had apologized for not providing a rationale for not meeting the deadline, and said they wanted to work with the Town to resolve the matter. He also said they had renewed their commitment that the University police department would obtain the accreditation.

He provided additional details about the meeting, noting that the University had said it was planning to get full CALEA accreditation by the fall. But he said it was very unlikely that would happen., and said the earliest he could see this happening was by March 2007. He said that in the interim, there was an outside evaluator familiar with the accreditation process who would be providing a report to the Town and the University. He said he and the University had also discussed the possibility of having an outside University accreditation firm come in to get a sense of whether day to day operations were being conducted in a way that met the Town's satisfaction.

Councilor Peter Smith asked if inquiries had shed light as to how this state of affairs had come about.

Administrator Selig said he didn't have a sense that it would be disclosed publicly why the deadline was missed. He noted he was not trying to affix blame as to why the police department didn't make the deadline, but did want to find out where they were in the process of moving forward aggressively with full accreditation, and to take steps to assure him and the Council that the policing the department did was done in a professional manner, and in a manner the Town was comfortable with. He provided details that there was negligible oversight of the University police department by the Durham police department, and the importance of the Town receiving assurances that the University police department was operating under nationally approved standards.

Councilor Julian Smith asked if the meeting with University staff meant that the Administrator would stop suggesting that at some point in the future, the Town would withdraw the police authority of the University police department. He noted some recent newspaper articles on this.

Administrator Selig said he didn't write the articles, but said it was correct that this was possible for the Town at this juncture, because the University hadn't lived up to the agreement. He said he was comfortable allowing the present policing arrangement to continue, and said if he was not, and had any sense that the standards were not met, he would not hesitate recommending to the Council that the University police department policing authority be revoked, or to take action on his own authority to move in that direction.

He said it was important for the University police department to fully understand that accreditation was a serious matter, and he said if the police department faltered in showing due diligence on a timetable that was acceptable to Durham, revocation was a real possibility. But he said this was not on the table at present.

Councilor Needell noted there had been some discussion by the Council that the way the agreement was written, the authority was revoked. He asked if Administrator Selig and the Council were comfortable that this was not in fact the case, and said it was important that this be established.

Administrator Selig said if one wanted to interpret the agreement in a certain way, one could say the University police department had failed to meet the accreditation requirement, so the contract was null and void. But he said there were other ways to interpret this, and provided details on this.

Councilor Needell said his concern was someone else's possible interpretation of the contract, and any possible legal jeopardy under the current contract.

Administrator Selig said if someone were arrested by the University police department, he would be free to press this issue. But he said he would argue that the Town was fully indemnified by the University, as outlined in the agreement. He said he would interpret the arrangement as requiring an overt act on the part of the Town to rescind the agreement, and to rescind the policing authority of University police officers.

- Councilor Van Asselt said the concerns stated by the landlords at the recent Housing workshop were starting to be addressed with the new committee that had been established. But he said the issues of affordable housing and elderly housing were two important housing issues that were still just sitting there. He asked if Chair Niman, Councilor Carroll and Administrator Selig could give these issues to someone to start thinking about.
- Councilor Van Asselt said he had been hearing about water restrictions on the Lamprey River for 2 ½ years, and said he wanted to hear the facts on this restriction. He said he couldn't determine who was right and who was wrong, based on what he had heard so far, and said the issue kept getting grayer and grayer. He said he would like it if a brief memo could be developed on this for Councilors.
- Councilor Van Asselt said the Council should come up with some kind of structure to determine which matters could be handled by the Town Administrator so did not have to be on the Council agenda. He suggested a committee could be formed to look at this.

There was some discussion about this.

- Councilor Needell asked if an agenda item was needed on the swans issue for the August 7th Council meeting. He said he and Councilor Julian Smith would be recommending that, at this point, the swans could take care of themselves, so a keeper wasn't needed.

Chair Niman said the Council had been waiting for them to finish their research and make a recommendation. He said perhaps this could be done during the roundtable discussion at the next meeting. Councilor Needell said if formal action were needed, there would have to be more than a recommendation during the roundtable discussion. He said the swans might or might not stay where they were, and said it needed to be clarified who had responsibility for or to the swans. He noted that the Town had an animal control officer, but said he would like some clarification on how this position worked.

- Councilor Peter Smith provided details on the fact that he had recently discovered that a bridge over Johnson's Creek had fallen into the Creek. He said this bridge was part of a great walking trail, and said it would be a shame to lose it. He noted that the bridge was actually located in the Town of Madbury, and said it would be appropriate to call this matter to the attention of the Madbury Town Administrator.
- Councilor Morong asked what the status was of the Bennett Road/Route 108 situation.

Administrator Selig said Publics Work Director Mike Lynch sent a letter to NH DOT asking for information, and was waiting for a response. He said when this was received, it would be provided to the Council. He provided details on what the outcome of this might be.

XII. Nonpublic Session (if required)

XIII. Adjourn (NLT 10:00 PM)

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

The meeting ADJOURNED at 10:06 PM.

Victoria Parmele, Minutes taker