

This set of minutes was approved at the October 30, 2006 Town Council meeting.

**DURHAM TOWN COUNCIL
MONDAY, SEPTEMBER 25, 2006
DURHAM TOWN HALL – COUNCIL CHAMBERS
7:00 PM**

MEMBERS PRESENT: Chair Neil Niman; Councilor Gerald Needell; Councilor Karl Van Asselt; Councilor Carroll; Councilor Julian Smith; Councilor Catherine Leach; Councilor Henry Smith; Councilor Mark Morong

MEMBERS ABSENT: Councilor Peter Smith

OTHERS PRESENT: Town Administrator Todd Selig, Fire Chief Peter O’Leary; Dwight Baldwin, Chair, Conservation Commission; John Parry, Chair, Parks and Recreation Committee; Robbi Woodburn, Woodburn & Company Architects; Dan Miner, Mill Pond Center; Duane Hyde, Land Protection Working Group

I. Call to Order

Chairman Niman called the meeting to order at 7:04 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.

III. Special Announcements

Comments on National Fire Prevention Week – Fire Chief Peter O’Leary

Chief O’Leary said Fire Prevention Week would take place from October 8-14, and explained that it was derived from the Chicago Fire, which took place in 1871. He said this week long period was special to him because it drove home the need for people to take time out of their busy lives to talk about this issue. He said the Department and others around the town put special efforts in educating people on this, and he said fire safety should be ongoing, not just once a year.

He said it was alarming to know that in the US, every 79 seconds there was a fire, and that every 135 minutes, someone would die in a fire. He noted that children and the elderly were especially vulnerable. He said he spoke to kids in the schools about fire safety, including the importance of fire drills, in hopes that they would pass this information on to their parents.

Chief O’Leary said the Fire Department would host an open house on October 14th from 10:00 AM – 2:00 PM, and he urged members of the community to attend, in order to learn more about

how the Fire Department could assist with fire safety efforts. He said the Department was more than happy to help residents develop a personal plan for fire safety in their home.

Administrator Selig updated the Council on various matters.

- He extended his thanks to resident Nicole Moore for hosting and coordinating the Durham Days Picnic for the second year, and he also thanked volunteers for their efforts, including the Fire Department, which he noted had hosted a great program for children.
- Administrator Selig said the Memorial Park renovations were under way, and said the feedback so far had been positive. He provided some details on plans to include additional names to the monument over time.
- He noted a study done by Fosters Daily Democrat on the number of town employees who actually lived in the communities they worked in. He said only 10 of the approximately 80 full-time employees of the Town of Durham actually lived in Durham.
- Administrator Selig updated the Council and residents on testing of mosquitoes for Eastern Equine Encephalitis, noting there had been some public service announcements on this issue. He said there had been some recent positive tests for the disease in Madbury and Newmarket, and said UNH experts had been contacted to determine how to proceed.

He said that based on the precise kinds of mosquitoes that had been found, increased breeding recently, and weather conditions, the recommendation was to do strategic perimeter spraying on either Tuesday or Wednesday evening of that week, as had been done the previous year. He provided details on what would take place, and where (Wagon Hill, Woodridge Road park, Jackson's Landing, the Middle School and the Oyster River High School). He said he was also talking with UNH about possibly doing some perimeter spraying on campus.

Administrator Selig explained that this approach was not a sure thing, providing details on this, and he said it was still important to maintain personal vigilance.

Councilor Leach asked whether elementary school areas would be sprayed, and Administrator Selig said Madbury was planning to do perimeter spraying at the school.

- Administrator Selig spoke about a recent fire at a house located at 12 Morgan Way, and said there was an issue of possible well contamination that perhaps was related to the fire. He provided some details on this, and said the matter would be investigated. He also said letters had been sent to residents of the subdivision suggesting they might want to have their wells tested.
- Administrator Selig said he was planning to meet with the Planning Board concerning the draft CIP on Wednesday, and he described the Budget and CIP process that would be followed through the end of the year. He said the ORYA and Mill Pond Center requests for additional funding would be included, and also noted that this year the Town was operating under the default Budget.
- Administrator Selig said he was currently in the midst of negotiating 4 union contracts.

- He said Halloween would be celebrated in Durham on Oct 30th, from 5:00 -7:30 pm.
- He told Councilors that Interim UNH President Bonnie Newman had recently ridden with the Durham Fire Department on a busy weekend night to get a sense of what it was like at night. He noted that the behavior of UNH freshman had been quite good so far, even though there had been a number of large crowds downtown.
- Administrator Selig said the Fall leaf and brush cleanup would begin on November 13th, and said residents with questions on this should contact the Public Works Department.
- Administrator Selig noted discussion at the recent Library work session on the letter from John Pinto, owner of Mill Plaza. He said a response to this letter was currently being considered.
- Administrator Selig said the Housing task force would be meeting in the Council chambers the following day, at 3 pm.
- Administrator Selig said that after more than a year of negotiations, the Jackson's Landing/outdoor pool agreement had been executed with UNH.
- Administrator Selig said various Town entities had recently been named in a lawsuit filed by an individual, regarding an eviction ordered by Durham District Court. He said he and Police Chief Kurz had met with the Town's insurance attorney on this matter the previous week.

IV. Approval of Minutes

August 21, 2006

Councilor Julian Smith MOVED to approve the August 21, 2006 Minutes as submitted. Councilor Leach SECONDED the motion, and it PASSED unanimously 8-0.

August 21, 2006 (Nonpublic Session)

Councilor Julian Smith MOVED to approve the August 21, 2006 Nonpublic session Minutes. Councilor Henry Smith SECONDED the motion, and it PASSED 6-0-2, with Councilor Van Asselt and Councilor Morong abstaining because of their absence.

August 28, 2006

Councilor Julian Smith MOVED to approve the August 28, 2006 Minutes. Councilor Leach SECONDED the motion.

Page 5, bottom paragraph, remove question marks after NOAA.

Page 11, 5th paragraph from the bottom, should read "by the Town, this provided a strong indication that Townspeople were interested in having land conserved in that part of Town."

The minutes as amended PASSED 8-0.

V. Reports of Councilors

Councilor Needell said that the September 26, 2006 Planning Board meeting would include discussion of the CIP, a presentation by Nick Isaaks on a 3 D rendering of a possible plan for Mill Plaza, and continued discussion on the Zoning “hit list”.

Councilor Julian Smith handed out copies of a map of Durham as it existed when he first moved to Town in 1965. He also provided details on the way town government operated at that time, including the existence of Town meeting. He noted among other things that the Conservation Commission was appointed that year.

He said the Conservation Commission at that time reported it strongly believed “that protection of some of our natural areas can be accomplished at very low cost to the taxpayers compared with the resulting enhancement of values in areas left free for development.” He noted this report was signed by the first Chair of the Commission, Tom Merritt’s father Lathrop Merrick.

Councilor Smith also noted that that same year, artist John Hatch gave the Town the huge topographic model found in the lobby of Town Hall. He said this map related to some things he would have to say later at the meeting regarding the Fogg property. He also noted a handout of a map he had passed around, which indicated how intensely developed that part of Town had become.

VI. Public Comments

Tom Merrick, 7 Canney Road, said he wanted to congratulate those people who had worked on the conservation easements, and said the people of Durham who had voted for the first conservation bond issue were probably very pleased with this work. Mr. Merrick said he believed that those people who had voted to pass this bond would encourage passage of another bond if needed, and said he would strongly approve passage of another conservation bond when needed.

Wendy Fogg, Wednesday Hill Road, said she wished to speak in support of appropriating funds for the Fogg conservation easement. She noted that three centuries ago the Fogg family had taken up residence on the Fogg property, and she provided details on this. She said six generations of Fogs had raised their families there, and had been proud to call Durham their home. She said when this land was passed to the sons, it was hoped that they would have the same reverence for the property, and would want to save it. She said they now had the responsibility of determining the future of this land, and had made the right choice, as their forefathers had, in making this choice to protect the land for all the children of Durham. She said this was now the Council’s chance to save farmland, the aquifer, the forests and more.

Bob Russell, 8 Croghan Lane, noted that he had sent a letter to Administrator Selig and the Town Council concerning his views. He thanked The Council for approving the three conservation properties recently, and urged that they approve the Fogg conservation easement as

well. He noted that some Councilors had expressed concern about the tax impacts of protecting land, and he provided figures that he said indicated that a \$300,000 house built on the Fogg property would ultimately generate about \$9,000 too little in the way of taxes, when the demand for services was taken into account. He said even houses with a higher assessed value than this would not generate enough in taxes to offset costs, and said it was obvious that unless even more expensive houses were built, the burden houses put on the school system was greater than the tax revenues.

Mr. Russell said it was the Town Council that controlled development, and said a vote to approve the Fogg conservation easement provided the opportunity to stabilize the tax rate. He said the fear expressed by some that if the property wasn't developed, the tax rate would go up was unfounded, and noted that there was a long-term cost to development.

Judith Rister, Spruce Wood/Lincolndale Lane, said she was in favor of preserving as much land as possible in Durham, and said her only concern was whether there was anything planned in Town to counterbalance the tax rate. She noted that the latest development trend in Town was to put up elderly housing, on private roads. She said she lived in a \$300,000 house/condominium where there was no Town water or sewer, and no trash pickup or recycling, and said she paid almost \$10,000 per year in taxes. She said she was not saying she didn't want the Town to conserve land, but said she would like the Town to give more consideration to bringing in some other way of increasing the tax base.

Steve Nadeau, 18 Emerson Road, noted that he lived in the Fitts Farm development. He thanked the Conservation Commission for its hard work, and said his comments were not meant to take anything away from this. He said he had followed the recent Town Council meetings, and had read the referendum passed by the voters concerning land preservation. He said that clearly, the goal of stabilizing taxes was a major component of this referendum, but he said the only mention of how the conservation easements would stabilize taxes was a study that was referenced.

He said he doubted the relevance of that study given the changed economic conditions since that time, and he also noted that the Zoning Ordinance had changed, and the Town had enacted impact fees. He said he questioned whether paying \$675,000 for the Fogg conservation easement would stabilize taxes, and said he didn't see how this was bondable under the referendum. He provided figures that he said demonstrated that the argument that preserving land would help stabilize the tax base was not correct.

Mr. Nadeau asked the Council and the community, from what or from whom open space was being protected, and also asked how rural character was defined. He also asked whether the Council and community considered Durham to be a welcoming or instead an exclusionary community, and questioned how they knew what the best use of the land would be.

Walter Rous, Adams Point Road, spoke in support of the Town of Durham considering acquiring the Mill Pond Center. He provided details on the valuable cultural programs that the Center offered to the Durham community.

Chair Niman noted that others would have the opportunity to speak on the Fogg property at the public hearing that evening.

Councilor Julian Smith asked for a show of hands of people in support of the Fogg conservation easement, and counted approximately 30 people in the audience.

Mary Reynolds, 13 Griffith Drive, said that from a cost benefit perspective, the single most important thing a Town could do was to preserve its natural resources. She asked that the Council consider this carefully.

Bob Russell provided figures that he said refuted Mr. Nadeau's point regarding tax stabilization.

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

- A. Shall the Town Council approve the special event permit application submitted by the UNH Campus Activities Board to close a portion of Main Street and Mill Road for the annual UNH Homecoming Parade on Friday, October 13, 2006?
- B. Shall the Town Council approve the special event permit application submitted by the UNH Campus Recreation Department requesting that a portion of Main Street be closed to conduct the annual UNH Homecoming 5K Road Race on Saturday, October 14, 2006?
- C. Shall the Town Council approve the special event permit application submitted by the UNH Marching Band requesting that a portion of Main Street be closed in order for the marching band to perform at the unveiling/dedication of the new Wildcat statue in front of the Whittemore Center on Saturday, October 14, 2006?
- D. Shall the Town Council award a bid to replace the sludge processing building roof at the Wastewater Treatment Plant to Skyline Roofing, Inc. in the amount of \$166,950 as recommended by the Department of Public Works?

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

VIII. Presentation Items

- A. Receive report by the Jackson's Landing Committee relative to proposed recommendations for improvements to the Jackson's Landing Park – Dwight Baldwin, Chair, Conservation Commission; John Parry, Chair, Parks and Recreation Committee; and Robbi Woodburn, Woodburn & Company Architects

Conservation Commission Chair Dwight Baldwin spoke before the Council, and explained that the Jackson's Landing Committee had been put together about a year ago to address erosion and sedimentation issues, as well as to look at the recreational potential of Jackson's Landing. He said 18 people had volunteered to be part of this effort, and said the Committee had done a

tremendous amount of work, including 14 meetings, and 2 public hearings. He read through the names of those citizens who had contributed to the process.

Parks and Recreation Committee Chair John Parry next showed a Powerpoint presentation on the Committee's efforts.

ISSUES

Mr. Parry showed current erosion and sedimentation currently taking place at the Landing, which ended up going into the river at the boat ramp. He also showed how the boat dock had been impacted by flooding this year, and showed other impacts of stormwater flows and erosion and sedimentation at the Landing.

He indicated a finger of land at the Landing that was currently underutilized. He also spoke about current parking at the site, noting it was often limited at certain times of day and times of the year, resulting in conflicts among users.

He explained that the parking area was compacted from years of use, so that stormwater ran off the land there into the water.

He also noted invasive wetland species that needed to be addressed at the site.

Mr. Parry showed photos of the existing old boathouse at the Landing, noting it had some structural problems, and was also too small. He said more space was needed there for various programs, which would add to the use of the site.

He said the playground area on the site had been a great asset, but said there was area on the other side of the ravine that could also be utilized for recreation.

Mr. Parry said there was limited parking for the existing ice rink on the site, and said the restrooms there were outmoded. He noted other aspects of this area that could be improved to provide better access to the public.

Committee member Robbie Woodburn spoke next. She explained that during the process the Committee had gone through, they had realized there was a lot of land on the Jackson's Landing property that was currently not being utilized. She went on to describe Phase I of the Jackson's Landing Master Plan that the Committee had developed.

She said parking on the south side of the boathouse would be eliminated, and said a new parking area would be built on the north side. She said this would involve filling a small wetland, but would protect a larger water area on the site, and would involve restoring the area into a more natural wetland.

She said to improve drainage, the driveway, which would be repaved with asphalt, which would be surrounded on either side with drains that would collect run-off that currently came roaring down the driveway. She said the turnaround would be crushed stone or some kind of pervious

pavement, and said drainage from the road and the turnaround area would go into a treatment facility under the lawn, which would filter the drainage before it got into the Oyster River.

Ms. Woodburn said the existing boat ramp would be renovated, and she provided details on the materials that would be used. She also said the pier, owned by the Town, would be renovated, and also said the docking system would be renovated. She said a second dock area was being proposed that would be handicap accessible, and provided details on this.

She said boat trailer parking would still exist during Phase I, and said hopefully there would not be conflicts.

She said a boardwalk was planned as part of Phase I in order to be able to get kids out to see the wetlands on the site. She said there might also be interpretive signage, as an educational component of the project.

She noted that improved signage would be included as part of Phase I.

Ms. Woodburn next briefly went through Phase II of the Master Plan.

- She said the ice rink would be renovated
- She said a skateboard park was proposed next to the parking area.
- She said a new boathouse was proposed, that would include bays for the UNH crew, community rowing, etc. She said there could also be a second floor, which would include a function room for the Town, etc.

Ms. Woodburn noted that there were currently about 70 parking spaces on the site. She said that as a result of Phase I there would be 95 spaces, and as result of Phase II, there would be 102 spaces.

She said three goals would be achieved as a result of the project: the current environmental impacts would be addressed; a user-friendly park would be created; and a recreational hub would come into existence. She said each of these things would benefit the Town, and also noted that redevelopment of Jackson's Landing could be part of a broader economic development vision for that area of Town. She said the Committee was very excited about the project, and hoped the Council was as well.

Councilor Henry Smith received clarification regarding current usage of the skating rink, as well as current usage of the landing by motorboats. Ms. Woodburn explained that the landing was one of the safest places on the river for motorboats to go in and out of, when the tide allowed.

Councilor Needell asked if Phase II of the Master Plan was dependent on dredging of the Oyster River, noting that he assumed Phase I was not.

Ms. Woodburn said if the Town decided not to dredge the River, a better place for the boathouse would be down by the Durham Business Park. But she said Jackson's Landing would still be a wonderful recreational resource, whether or not the dredging occurred.

Councilor Needell asked about the costs involved with the project.

Mr. Baldwin said a pre-proposal for a watershed improvement grant had been submitted to NHDES, noting that this did not commit the Town to providing funding. He said if the Town approved going for the grant, and if NHDES liked the concept, the agency would then give the go ahead to do the full grant proposal. He said the grant proposal would then have to be completed by early December, and he said the Town would hear back on it in January. He said the grant money would address erosion problems at the site, and said it was a crime the Town hadn't done something about this sooner. He provided details on the fact that it was a major source of nonpoint pollution of the Oyster River. He said the Committee estimated that it would cost about \$177,000 to do the work, and said 40% of the cost would have to be met by the Town, either in cash or in in-kind services (about 70% could be in-kind services). He said if the Committee were fortunate enough to get the grant, it would come up with the \$71,000 in matching funds. He said getting the erosion piece done would address about 56% of Phase I, and said this would be a worthwhile investment.

Councilor Needell noted the total cost of Phase I was \$317,686. He said \$144,000 was not in the CIP yet, and asked if it was anticipated that this would be raised by Town funding, etc.

Mr. Baldwin said he hoped the Committee would continue to function, and would be looking for additional funding opportunities, to pay for all of Phase I and hopefully to start paying for Phase II projects.

Councilor Carroll asked if there had been any thought given to having a pervious driveway and parking lot.

Ms. Woodburn said the Committee had looked at this, but she said pervious surfaces were expensive to maintain. She said the decision had been made to use asphalt and to treat runoff that came off the driveway, and provided details on this.

There was discussion about current work UNH was doing regarding pervious pavement.

Ms. Woodburn said perhaps the Town could get a grant to pay for a pervious surface.

Councilor Van Asselt asked if there was any value to doing Phase I, even if Phase II didn't happen. He also asked why the Committee wasn't coming to the Council asking for \$1.7 million for the whole thing.

Ms. Woodburn said there was value to doing Phase I alone. She said the plan had started with the idea of getting the grant to address the erosion issue, and said the bigger plan had been developed later.

Mr. Baldwin said the Committee had seen that Phase I was doable, with existing funding sources. He said the Committee didn't yet see where funding for the Phase II projects could be generated. He said these were larger ideas, and said the Committee needed to think more about

them. He said perhaps there could be a community-wide funding event to raise money for these projects.

Councilor Leach asked if Phase I would completely take care of the erosion and sedimentation issues, and was told it would.

Chair Niman said the Council needed to decide if it liked the plan for Phase I, and if so, if it was willing to recommend that the grant proposal be submitted to NHDES.

Councilor Needell said he thought Phase I was the right thing to do, and said he was in favor of moving it forward for possible funding by NHDES.

Councilor Morong asked where the Committee saw additional funding coming from.

Administrator Selig said once it was determined how much NHDES was willing to contribute, they would have a better idea on this. He noted there were in-kind services that could be provided by the Town. He also said some tax dollars could be put toward the project, and noted that some of the work could be bonded, since a long-term improvement to the site was involved. He said another option would be to work with the Conservation Commission to use some of the conservation fund moneys in order to make improvements to the site. He noted he didn't think it was appropriate to use these funds for recreational aspects of the project, but did think it was appropriate to use them to address pollution issues.

There was discussion about the possibility of using possible community development block grant funds for aspects of the project that could be connected to economic development. Administrator Selig also provided details on the idea of possibly using a tax increment finance district (TIF) as part of this project.

Administrator Selig said that \$77,000 had been put in the CIP regarding the drainage issue. He noted he would get some feedback on the project from the Planning Board, at his meeting with them on Wednesday.

Councilor Morong said the Town was long overdue for better use of the Jackson's Landing area, and said erosion control was an important aspect of the plan. He said he would like to find ways to extend the TIF district, and to use other funds than tax dollars, including Conservation Commission funds, to pay for improvements to the site.

Chair Niman said he agreed, and said he thought these things could be accomplished. He said he was excited about the plans for the site.

Councilor Carroll said she felt they should move ahead with Phase I, in order to address the erosion issue, and to make the area more accessible and usable. She said she was especially excited about the boardwalk, and tying in the interpretative/educational component.

Councilor Van Asselt said the plan was all right, but he said he was frustrated in that he would prefer it if this was a really significant development being proposed. He said he felt the

Committee should think big, noting he wasn't saying no to Phase I, but wished the Committee would come back with a funding program for the entire plan.

Ms. Woodburn said the reason why the plan had been presented this way was because of the reality of the funding issue: that the dredging piece needed to be done.

Councilor Morong said it looked like Phase II could be added later, without having to change anything.

Councilor Henry Smith said this was a very attractive project, and would result in a real improvement to Jackson's Landing, even if Phase I stood by itself. He also said he thought it was appropriate to use Conservation Commission funds as part of this.

Councilor Leach said she was very excited about the plan.

Councilor Julian Smith noted that in 1966, the Durham Conservation Commission spent its first budget, \$10,000, to buy Jackson's Landing. He said he not opposed to the current plans for the site.

The Council took a break from 8:48 – 8:59 PM.

B. Receive presentation by the Board of Directors for the Mill Pond Center for the Arts and the Parks and Recreation Committee

Board of Directors President Dan Miner spoke before the Council, as the representative of the Mill Pond Center Board of Directors. He said it had been an active summer at the Center, with over 1,200 kids enjoying programs on the site.

He said the Center had been presented with the opportunity for self-examination in July, which had resulted in an increase in fundraising efforts. He noted the Board of Directors had had the idea of asking the Town for support, and said the idea of some kind of partnership had come out of this. He said the Board of Directors' thoughts on this had recently been formalized into the current proposal.

He said that in the meantime, resident Tom Haas had offered the challenge that he would match every dollar pledged as part of the membership drive. Mr. Miner noted that there had recently been a surge of new members. He also described various events that had taken place at the Mill Pond Center this year, and that were planned for the remainder of the year.

Chair Niman noted that he had brought up the idea of a potential partnership with the Mill Pond Center at a recent Council meeting, and said the Council was now getting this proposal from the Center. He said this was an opportunity for Councilors to raise issues of interest or concern about the concept, and to give Administrator Selig some direction on it, one way or the other.

Councilor Needell said he was puzzled by the partnership aspect of the concept, and asked what the relationship would be if the proposal moved forward.

Mr. Miner provided details on this, and said the relationship with the Town would allow the Center to focus and consolidate, and to not have to be spend as much time on facilities management. He said the Center would like to focus efforts on the barn, which had the potential to be a fabulous building. He said the Town would have the opportunity to use the garage and the house, while also having access to the open space on the site. He noted that the Mill Pond Center site was close to the center of town, and bordered Mill Pond.

Councilor Needell asked if this meant that Mill Pond Center would not be partnering with the Town regarding programming.

Mr. Miner said although the idea of partnering with the Town had been considered, the Board of Directors had instead been thinking that it could survive on its own, if it could relieve some of the burdens it had, such as snow and grass removal, the mortgage, and taxes. He said with the proposal, the Town would own the property, and would lease the space back to the Mill Pond Center so it could stay on the site.

Councilor Carroll spoke of her involvement with the Mill Pond Center in the past. She noted that the proposed partnership would potentially involve ORYA, and some nonprofits, and said this would be some kind of new entity. She said a purpose statement was needed for what that entity would be. She said if it turned out to be a campus that housed other organizations, there would need to be some kind of mission statement. She said they would also need to talk about some kind of governing board in order to develop policy for this entity.

Chair Niman said the Parks and Recreation Committee had talked about this, and had a vision for the property.

Mr. Parry said the Committee had liked the concept the Board of Directors had offered, although noting there were details to be worked out. He said the Committee felt that a strong Parks and Recreation program was an important, quality of life issue for Durham, and was pursuing goals to achieve that.

He provided details on this, said the Committee saw the Mill Pond Center as a piece of the puzzle in achieving those goals. He noted that the Mill Pond Center and the ORYA were having similar financial struggles, especially regarding facilities management, and said this seemed like a good opportunity to get things out on the table and look at the big picture.

Mr. Parry summarized the Parks and Recreation Committee's recommendations regarding the Mill Pond Center.

- The Committee recommended purchase of the Mill Pond Center property, as a center for arts and recreation, where different groups with similar missions could come together, cooperate on activities, share resources, etc.
- The Committee recommended that space be allocated in the Center for a wide variety of groups. He noted that the Center was already doing much of this, and said the Committee would try to expand this, including leasing space to groups.

- The Committee recommended that the Town hire a staff person(s) to help coordinate efforts, allocate space, and work with partners.
- The Committee recommended addressing similar issues with ORYA, including whether the Town should take over the Churchill skating rink.
- The Committee recommended that a funding formula be developed to address support for ORYA, which would be performance based.
- The Committee recommended that a staff person be hired to deal with ORYA matters, coordinate with UNH, manage recreation related town events, etc.

Mr. Parry noted that the Parks and Recreation Committee had discussed the specifics of the Mill Pond Center's proposal. He said the Committee thought the price being asked for the property seemed to be a bargain price, and was not unreasonable. He said perhaps in exchange for this, the length of the lease, etc., could be looked at. He said the proposed improvements seemed reasonable for the Town, as the landlord leasing the site, to make, but said the Committee would want to look at this further.

Mr. Parry said the Mill Pond Center's planned use of the property for their work seemed reasonable. He said the Committee would want to make sure space allocation was such that it would make the Committee's vision for other entities on the site possible.

He said he hoped the Council and the public would keep an open mind concerning the proposal, and said this was the first step in the process. He said the ORYA would provide details on its plans at a future meeting, and he said given this, as well as input from the Council and the public, as well as the proposal from the Mill Pond Center, the Parks and Recreation Committee would then come back with a proposal of its own. He said the Committee saw this as a great opportunity to take some big steps forward.

Parks and Recreation Committee member Jane Crooks said she hoped people would be very positive about these ideas.

Councilor Leach said the Parks and Recreation Committee saw this as a facility the Town currently didn't have, and as an opportunity to build recreational offerings in Town. She said the Committee didn't see any other place like this that could be used by such a wide range of people, and at that price.

Councilor Van Asselt said this was about more than a real estate deal. He said it was one thing to buy a building and a piece of land. But he said there was a significant, long range cost to the Town from entering into this kind of transaction. He said that didn't make this proposal a bad idea, but said they all needed to be realistic about what they were doing.

Councilor Needell said the part about this concept that troubled him, and the component he felt needed to happen first, was a commitment of the Council and the Town, in money and programming, to a Parks and Recreation program Durham currently did not have. He noted that this idea had been dismissed in recent Town Budgets, and also said he had not heard a lot of support around the Council table yet to maintain a building and also to commit to a program and the personnel for it.

He said if the Council and the Town felt they wanted to make this kind of commitment, he thought this location was an ideal place to do so. But he said if they were not going to make this commitment, that made this proposed partnership a difficult thing to do. He said he didn't think he could answer the questions on this that evening, noting he didn't intend to simply defer the issue. He asked whether there was an urgency to decide right now.

Councilor Leach said the Parks and Recreation Committee would have a proposal that would force this issue. She said the Committee had decided to hold off until it heard the presentations, to see if it would need to shift some things in terms of the overall recreation plan. She said the Committee was trying to look at what was best for the Town, separate from what was in the best interest of the Mill Pond Center. She asked if it was possible for this to wait until after the Committee presented its proposal.

Councilor Needell said he didn't see this as simple discussion. He noted that if the entire proposal were embraced, they would all be looking at a several million dollar commitment, including major infrastructure improvements. He provided details on this, and asked how this would relate to the CIP, and what the expectations of others were concerning this.

Mr. Miner said this was a preliminary proposal, and said various issues would come into play when it was finalized. He said that regarding the time line, the Board of Directors thought that practically speaking, within the next budget cycle, it would be making a decision with some entity to help it develop part of the property in order to maintain functionality, or to sell the entire parcel.

Councilor Morong said one thing that troubled him had to do with staffing, noting that during the Budget season, the Council had little control over staffing costs. He also said he was thinking about the need for Town staffing in order to promote economic development in Durham, which would generate projects like this. He said one of the walls he thought they would hit was the taxpayers and whether there would be support for this, as well as whether other funding would be needed, through economic development, taxes, etc.

Mr. Miner said the Mill Pond Center would take care of its own staffing requirements, and would not be looking to create a Town staff person.

Councilor Julian Smith said the thing that bothered him the most was not the cost of purchasing the property, the loss of tax money, or the insurance costs, but the increase in Town staffing requirements, and the drain on the attention of the Town Administrator. He said Town government was getting almost overwhelmed by the things they needed to pay attention to.

Councilor Leach asked what difference it might make in terms of lowering the overall cost if renovation of the barn wasn't part of the proposal.

Mr. Miner said that would be possible, but noted that the Center would absolutely need to do those renovations. He said the money for this could come from a capital campaign.

Chair Niman said if the Council agreed to give \$140,000 to the ORYA, this was essentially providing funding for staff. He said the purchase of the Center would allow the Town to create a recreation program in a cost-effective manner. He said he would hope to be able to show the Town would actually save tax dollars, but he said they were not there yet.

He said a general plan was needed, and said the Town would need to decide to what extent it would support recreation in Durham. He said he didn't think there was the luxury of having a philosophical debate without a resolution. He said he would like to keep things open, to hear from the ORYA on October 16th, to hear the recreation plan from the Parks and Recreation Committee after that, and then to have the Council discussion. But he said if the majority of the Council didn't want to pursue this, they should move on.

Councilor Julian Smith said the Council was damned if it did, and damned if it didn't on this issue. He said if they decided to go ahead, there would need to be strong performance standards for the Center, and a shorter lease. He said he thought the Council should continue to allow the process to unfold.

Councilor Needell said until the other discussions took place, he didn't see that the Council could do anything. He said if the Town moved ahead with the recreation program, this concept was pretty appealing. But he said if it didn't move ahead with the program, The Council would have to look hard at what it was going to do.

Councilor Van Asselt said regardless of what ORYA said, he wanted to pursue this idea. He said the advantage for the Town was to own 8-9 acres of prime land on Mill Pond, with a couple of buildings on it. He said this was a good opportunity for the Town, and said figuring out what it would cost to fix up the property could come later.

Councilor Henry Smith said he was a big supporter of the Mill Pond Center, noting there were excellent performances there. But he said the Council was being presented with a concept that would be very significant from a financial perspective, also noting that the Council had recently approved 3 conservation easements and perhaps would be approving a 4th. He said there was also the Jackson's Landing plan, and a new library to consider. He said a question he had was what the partnership would be, and who would be the governing body. He said he was not against this idea, but had serious reservations about it at present.

Councilor Needell said the offer being presented was not for the Town to buy the land, and to then see what happened.

Councilor Van Asselt said he understood this, and was simply saying the Town should see what the options were.

Councilor Carroll said she was looking forward to continue conversation on this idea, and said there were a lot of things to talk about. She said she would like to see the arts supported in Durham, and would be happy to see the Town support the Mill Pond Center. She said more discussion was needed on the recreation program aspect of the concept, in terms of what the Center would actually be used for.

Councilors Morong and Leach, and Chair Niman said more information on this would come from further negotiations.

Councilor Needell MOVED to dispense with the 10:00 pm adjournment time. Councilor Julian Smith SECONDED the motion, and it PASSED 8-0.

IX. Unfinished Business

PUBLIC HEARING (CONTINUED): Proposal by the Land Protection Working Group (LPWG) and Durham Conservation Commission to:

1. Execute a purchase and sale agreement under which the Town of Durham would provide funds in the amount of up to \$695,000 toward the purchase of an approximately 86-acre conservation easement on the Fogg property (Tax Map 14, Lot 7-2) located on the corner of Packers Falls Road and Mill Road and that the Town hold the conservation easement on the property;
2. Authorize the Town Administrator to sign the Conservation Easement on behalf of the Town of Durham; and
3. Authorize the Town Administrator to execute a grant agreement with the New Hampshire Department of Environmental Services for a grant in the amount of \$235,000 for the project

It was noted that the public hearing was being continued from the previous Council meeting.

Chair Niman explained that after the public hearing closed, and the Council deliberated on this matter, the Council would vote on the proposal.

Maggie Bogle, 3 Croghan Lane, noted a letter from Dave Howland, 5 Chesley Drive, which spoke in favor of the conservation easement. Mrs. Bogle said that concerning the question of whether purchasing this easement would be a wise use of Town funds, Durham was fortunate to have this and other farms. She said it had been worth it to purchase Wagon Hill, and said that many years from now, people would say the same thing about Fogg Farm.

She said Mr. Nadeau had made some good points, but said she disagreed with his perspective that the Town would have one less option if it put the Fogg property under a conservation easement. Mrs. Bogle said she felt preserving this property would allow more options for the future.

Don Brautigam, Packers Falls Road, read letters from his neighbors in favor of purchasing the conservation easement, for various reasons including the protection of the Spruce Hole aquifer. He also said that as a resident of this part of town, he enjoyed knowing that by protecting the property, there would be no development there.

Diane Woods, 21 Garden Lane, read a letter from a resident in favor of the conservation easement, using the approved conservation bond. The letter said the bond was an indication of voters' continued support for land conservation, and said the Fogg property would provide necessary habitat for wildlife to travel on and find food. The letter said conservation was about

more than simply preserving open space, it was about protecting species, and said this was an obligation humans must honor.

The letter said purchasing the conservation easement also sent the signal that Durham was not going to rely on housing as the sole money-maker in Town. It encouraged the Council to continue to push to locate industry in the community, at places like the Durham Business Park. The letter also noted an article in Fosters' regarding growing local food, and said the Fogg property was a prime location to have community gardens. The letter noted that the recent spinach scare had highlighted the importance of local produce.

State Representative Judith Spang, 55 Wiswall Road, noted she was the legislative designee to the board of the Land and Community Heritage Investment Program and was also on the legislative committee that oversaw the grants program involved with this project. She said about 84 towns in NH had approved \$135 million in funding for land conservation, and said there was no question in their minds that this was a good way to save tax dollars, among other benefits. She said in every town in NH, the less taxable property there was, the lower the tax rate was.

She said LCHIP looked at hundreds of pieces of land, and said the Fogg Farm would rate very high in comparison to many other properties worthy of protection. She spoke about the important wildlife habitat on the property, the farmland, the connection to other open lands, and most important the Spruce Hole aquifer, which was critical in terms of maintaining future water supplies for the Town. She said the property was important within the context of the entire state, and said she hoped this significance was realized.

Beth Olshansky, Packers Falls Road, noted that the Council had received many letters in support of the proposal, including letters of support from the proposal from former Council Chair Malcolm Sandberg and former Planning Board members Amanda Merrill and Rachel Rouillard. She quoted from some of these letters.

Ms. Olshansky noted that this property was earmarked in the Master Plan for protection, a plan that was worked on by the citizens of Durham. She said she hoped Councilors would pause before voting, stating that their vote would impact the Town forever. She said the water issue was not to be taken lightly.

Jay Gooze, 9 Meadow Road, said he lived in the middle of Town, and had a limited number of places to walk to, but noted that he did a lot of walking in areas contiguous to the Fogg property. He said he hadn't been enamored about preserving Wagon Hill, but now was glad the property had been protected. He said he thought the Town would get the same kinds of benefits from the Fogg property.

Ruth McQuade, Carriage Way, said the Fogg property was a remarkable property, and was her backyard. She said members of her neighborhood would appreciate it if the Fogg property were protected.

Steve Nadeau said he was not against open space, but said the vote on the conservation bond had in large part been a vote on tax stabilization. He said he was not convinced that this proposal got

the Town to that end. He said if the Town wanted to conserve land, there might be better value doing something other than conservation easements. He provided details on this.

Heidi Ely, 177 Durham Point Road, said she was a newcomer to Durham, and noted that she had previously lived on a small piece of land in Alaska. She said land spoke to one's soul, and she also noted the increasing importance of growing local food, and possible opportunities to grow food on this property. She said developers would act if the Council did not.

Councilor Henry Smith MOVED To close the public hearing. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 8-0.

Councilor Needell MOVED that with the respect to the request by the Land Protection Working Group and the Durham Conservation Commission on the Fogg property, the Durham Town Council hereby approves the following actions to:

- 1. Execute a purchase and sale agreement under which the Town of Durham would provide funds in the amount of up to \$695,000 toward the purchase of an approximately 86-acre conservation easement on the Fogg property (Tax Map 14, Lot 7-2) located on the corner of Packers Falls Road and Mill Road and that the Town hold the conservation easement on the property;***
- 2. Authorize the Town Administrator to sign the Conservation Easement on behalf of the Town of Durham; and***
- 3. Authorize the Town Administrator to execute a grant agreement with the New Hampshire Department of Environmental Services for a grant in the amount of \$235,000 for the project***

Councilor Carroll SECONDED the motion.

Councilor Needell said he fully supported the proposal, stating that it was well presented and justified by the Land Protection Working Group. He said he had nothing to add to that, and said he thought the Council should accept the proposal.

Chair Niman said he liked open space, but wanted to be sure that taxpayers were getting what they thought they were getting. He noted that Councilor Needell was on the Planning Board so he knew the Town's ordinances. He asked Councilor Needell if the current Zoning Ordinance precluded construction on the meadow, and whether the aquifer would be protected whether the Town spent this money or not.

Councilor Needell said his understanding was that the Zoning Ordinance had an aquifer protection overlay, and that a portion of the meadow area was within the Spruce Hole aquifer area. He said the Ordinance would prohibit development there, but he said a caveat was that the Ordinance was subject to being changed by the Town Council, and was also subject to being challenged at the ZBA level, and in the courts. He said someone could challenge the entire aquifer protection district, and the Town would then have to see where that went. He said protection of the aquifer in this way was minimal at best, and said one of the reasons for the conservation easement was to take protection of the aquifer out of the hands of the Zoning Ordinance.

Councilor Henry Smith said the Zoning Ordinance provided limited protection for the aquifer.

Councilor Morong noted that conservation subdivision and buffers would apply to Fogg Farm. There was discussion on this.

Councilor Needell said buffers would protect wetland areas, etc.. But he said the way the conservation subdivision approach was applied would be very specific to the property, so the way a development would actually look would be highly dependent on the particular site involved.

Councilor Julian Smith said the Carriage Trails development was a good example of an early attempt at conservation subdivision, and he provided details on this. He noted efforts to have large lot zoning in Durham, and said the Fogg agreement would exclude 3 large lots. He said it might actually be better to have smaller lots, and more houses.

Councilor Carroll said 13 house lots would be possible if the property were developed, but she noted that elderly housing was also allowed on this property, which would allow 39 units.

Councilor Van Asselt asked how much of the Fogg property was wetland. There was discussion on this, and Mr. Hyde said it appeared that there were about 15 acres of wetland.

Councilor Van Asselt said 43% of Durham was either conservation land that had been purchased or was in conservation easement. But he said the Town had to continue to think about the bigger picture. He said the Durham Business Park wouldn't take care of the Town's tax problems, and he said somewhere it had to be asked what happened when people couldn't afford to live in Durham anymore. He said the list of possible projects totaled about \$ 14 million, also noting the difficulty of cutting the Budget given the need for Town services.

He asked at what point the Town would accept the fact that some kind of balance was needed between conservation easement, publicly owned land, and economic development in order to achieve a broader tax base. He said there hadn't been new housing built in Durham for people under age 55 in 5 years. He also asked when the Town would address the issue of developing the corner of Route 4 and Route 108 commercially, and noted other areas of Town for possible commercial development that people would probably be against.

Councilor Van Asselt said this didn't make the Fogg proposal or the others that had been approved bad conservation easements, and said what he was saying was no reflection on the Land Protection Working Group. But he said at some point, they all would have to deal with the question of how much more land conservation the Town could afford.

He said he respected the views of others regarding the easements, but said each proposal was different, and said it had to be weighed how a particular property fit into the larger picture.

Councilor Needell said Councilor Van Asselt had made some important points, and said they were all struggling with the fundamental fact that the tax system was broken. But he said he didn't think it would be fair for the Council to hang that on this particular proposal. He agreed

that each project had to be weighed on its merits, but he said what should also be weighed was what one was saying when he/she voted yes or no on a proposal.

He said this was not the first time the Council had discussed this project, and he asked what message the Council was giving the LPWG and the whole process by not supporting it. He said there had been some reservations about the project, but no attempts to stop it, or it wouldn't be here. He said to reject this project at this stage was making a very clear statement, that it was fundamentally flawed, and was the wrong project. He said if this was the case, the Council should have said this a long time ago.

He also asked what rejecting the project would say to landowners, and to the voters. Concerning the voters, he said he felt this project fit well within the guidance given by the community concerning land preservation.

Councilor Morong said if there were a right and a wrong in terms of how to vote on this proposal, he wouldn't have had so much trouble considering it. He said it wasn't as simple as that, and said he didn't think there was a wrong vote. He said no matter how he decided to vote, he had put a lot of time into considering this matter, and he noted that he could not have made his decision two weeks ago.

Chair Niman agreed there was no simple answer.

Councilor Carroll said the conversation the Council had two weeks ago on the Fogg property was different than what it was having now. She said the Council had voted not to vote on the proposal at that time, because Councilor Leach had said she needed more time. Councilor Carroll said all of a sudden the Council was in a different place than it had been at the previous meeting, and she said this left her feeling uneasy.

Councilor Julian Smith said two weeks ago, given the people at the table, he had been confident that the proposal would pass. He noted that the proposal would not have gotten his vote then, and said if it had failed then, there would have been time to come back with a new conservation easement document that was more attractive to the majority.

He said he would vote against this proposal now, and said if there were a split vote, he would hope the Council could come back to this issue at a future time. He noted he was not saying that this was not a good piece of property. He also pointed out that he had voted against the bond issue, not because he didn't want tax dollars spent to protect land, but because he didn't see that the language of the bond issue was clear enough in what it was trying to accomplish, regarding tax stabilization and protection of the rural character of the town.

Councilor Smith said he had seen the open fields of Durham change to woodland and houses over the years he had lived in Durham. He said he understood the pressures that had made conservation easements so attractive, and he spoke about this in some detail. But he said he didn't think the easement language was strong enough or generous enough, and said there was not as much public access provided in the agreement as there should be. He said understood why

the grantors did not wish to provide mere public access and knew what aggravation could come from providing access to the public.

He also said the language in the agreement was not strong enough to make it likely that the hayfield would continue to be hayed. He said although he would love to vote in favor of this proposal, he could not.

Councilor Henry Smith said he couldn't disagree more strongly with Councilor Julian Smith's words. He said the balance in Durham and in the State had been strongly in favor of development. He also said that the \$14 million for possible projects was largely theoretical. He said he was not on the Council in January, but noted that when the Fogg property came before the Council at the time, there was no public access at all. He said through negotiations, there were now 22 acres of land where public access would be allowed, and a guarantee that open lands would remain open. He said this was good faith effort.

He said he had been in favor of the proposal two weeks ago, and was even more in favor of it now. He said even though it was not a perfect project, he had no problem saying yes to it in very strong terms, and said it would be a positive thing for generations to come.

Councilor Carroll said she supported the proposal. She noted that when the Jackson's Landing plan and the Mill Pond Center proposal had come forward that evening, people were told to go out and get money for them. She said the LPWG had secured \$230,000 for this project, through grant money, and she said if the Council voted against the proposal, this money would be gone, and would go someplace else. She noted that this was the most money the Town could possibly have been granted.

Councilor Carroll said that regarding whether this was a perfect conservation easement, it was a good easement. She noted a saying that the perfect was the enemy of the good, and that in seeking perfection, one might let something good go by, and then it was gone forever. She said this proposal was something that almost everyone had said was good. She asked Councilors to remember this, and to support the proposal.

Chair Niman said he would vote for this proposal, having changed his mind several times recently. He said he agreed with Councilor Van Asselt's words, but said he was not sure this was the place for that issue or fight. He also said he was tired of the tax stabilization issue, although noting he did not agree, as a professional economist, that conserving land stabilized taxes. But he said this was not a reason to vote for or against this proposal. He said the vote should be based on the conservation values of the property, not on hokey economics.

Chair Niman said the Town would have no choice but to develop the Spruce Hole aquifer in the future, noting that the bedrock aquifer study done by UNH had determined that it would not be drilling bedrock wells. He said he was not satisfied with the statement that the Zoning Ordinance could always change, but he said he did think the Ordinance could be challenged, and said he would hate to see that there was a loophole that had not been anticipated, which could result in destroying the water supply.

Councilor Carroll spoke about the likelihood that multi-unit elderly housing would be built on this property if it were developed, and said that would be the end of wildlife habitat on this land. She also noted that there were 50 fewer students in the school district than there had been a few years ago. She said she was not an anti-housing person, and said the Town needed to develop affordable housing for families. She said she just couldn't see destroying this land for elderly housing.

In response to Councilor Van Asselt, Councilor Niman said this was about more than money, it was about the heart and soul of the Town. He said conservation land was very important to Durham, and said if it cost \$700,000 to express these values, this was money that was well spent. She also said it was important to find more aggressive ways to generate revenues, and that when people in Town complained about this, they should be more understanding about what the goal was.

Councilor Morong said a reason he had had some difficulty deciding on this proposal was that there had been new information presented. He said he found Mr. Nadeau's comments interesting, and said he didn't buy the tax stabilization argument. He said although he had voted for the conservation bond, he would not vote for another one on that basis, and provided details on his own views concerning tax stabilization.

He said at some point, the Foggs could say there would be no access, and he noted that UNH access had been taken away on some of its properties. He said he didn't trust this, and said that was to him the most imperfect part of this proposal. He noted that the water issue related to the tax stabilization issue, and also said the case for conservation was good.

Councilor Julian Smith said regarding the water issue, there was no statement anywhere regarding whether a water system would be a Durham system, and he asked if anyone cared about the possibility that a water treatment plant could be built on the easement land and sold to another town. He referenced the agreement concerning this.

Mr. Hyde said the Town could say no to this.

Councilor Julian Smith said page 3 of the revised easement did not state who maintained the scenic vista, and he also noted that page 12 said the grantee shall be under no obligation to maintain the property or pay any taxes or assessments thereon. He said he realized the Foggs intended to keep the area open, but said they might not own the property in the future. Mr. Hyde noted use limitations on page 9, and said this was a use limitation on anyone who owned the land.

Councilor Julian Smith said it was not actually a requirement for a landowner to do these things.

Councilor Morong asked if the landowner didn't want to do it, whether the Town could come in and mow the field.

Mr. Hyde said the Town could say the landowner was in violation of the terms of the easement, and if the landowner failed to abide by the maintenance agreement, the Town could take civil

action. He said this was clearly a provision, with a clear intent that the landowner was required to keep the fields open in order to maintain scenic views.

Councilor Henry Smith noted that the wording was “shall be maintained”.

Chair Niman asked Administrator Selig if the Town attorney had interpreted the language this way, and Administrator Selig said yes.

Councilor Van Asselt noted that the intent of the bond issue had been debated as part of this process. But he said something that was more important to debate was the criteria that had been used for considering these various properties. He said the Council might want to look at changing these criteria, and the process of evaluating the properties.

Chair Niman agreed, and said he hoped something on this could be put together for the Council.

The motion PASSED 5-3, with Councilor Julian Smith, Councilor Van Asselt, and Councilor Leach voting against it.

X. New Business

- A. PUBLIC HEARING AND ACTION ON RESOLUTION #2006-19** authorizing the acceptance of \$62,672.77 in funds from the State of New Hampshire Department of Safety following the May 2006 flood event

Councilor Morong MOVED to open the public hearing on Resolution #2006-19 authorizing the acceptance and expenditure of \$62,672.77 in unanticipated funds from the State of New Hampshire for a FEMA Disaster declared for the events of May 12-23, 2006. Councilor Henry Smith SECONDED the motion, and it PASSED 8-0.

Councilor Julian Smith MOVED to close the public hearing on Resolution #2006-19 authorizing the acceptance and expenditure of \$62,672.77 in unanticipated funds from the State of New Hampshire for a FEMA Disaster declared for the events of May 12-23, 2006. Councilor Van Asselt SECONDED the motion, and it PASSED unanimously 8-0.

Councilor Morong MOVED to adopt as presented Resolution #2006-19 authorizing the acceptance and expenditure of \$62,672.77 in unanticipated funds from the State of New Hampshire for a FEMA Disaster declared for the events of May 12-23, 2006. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 8-0.

B. Other business

XI. Council and Administrator Roundtable

Chair Niman said he, Administrator Selig and Town Planner Jim Campbell had recently spoken with Jess Gangwer about the property abutting Canney Farm. He provided details on the

discussion, and said Mr. Gangwer wanted to know if there was interest in potentially offering an easement over the property, as part of an affordable housing project.

Chair Niman asked if Councilors were okay with the idea of his having further discussions regarding this potential project. He noted that the property was in the RB district, and said perhaps this project could involve a public/private partnership, and could be used as a model for future developments.

Councilor Morong left the meeting at 11:42 PM.

There was discussion about this, and it was generally agreed there could be further discussions. Councilor Carroll cautioned that further discussions would not necessarily mean the Council thought this was a good idea. Councilor Henry Smith suggested that Chair Niman pursue this as a Council member, not as the Chair of the Council.

Chair Niman agreed with this.

Chair Niman also said that Ed Dupont, Vice Chair of the University's Board of Trustees, wanted to have lunch with him, and said he would report back to the Council on this.

XII. Nonpublic Session (*if required*)

XII. Adjourn

Councilor Van Asselt MOVED to adjourn the meeting. Councilor Leach SECONDED the motion, and it PASSED unanimously 7-0.

Adjournment at 11:45 pm