

*These minutes were approved at the November 20, 2006 meeting.*

**DURHAM TOWN COUNCIL  
MONDAY, OCTOBER 16, 2006  
DURHAM TOWN HALL – COUNCIL CHAMBERS  
7:00 PM**

**MEMBERS PRESENT:** Chair Neil Niman; Councilor Diana Carroll; Councilor Peter Smith; Councilor Mark Morong (arrived at 7:07 PM); Councilor Karl Van Asselt Councilor Gerald Needell; Councilor Julian Smith; Councilor Catherine Leach; Councilor Henry Smith

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Town Administrator Todd Selig

**I. Call to Order**

Chair Niman called the meeting to order at 7:02 PM.

**II. Approval of Agenda**

It was noted that the signing of the warrant for the General Election needed to be added to the Agenda under XI.G, Other Business - "Signing of the Election Warrant Article".

*Councilor Henry Smith MOVED to approve the Agenda as amended. Councilor Van Asselt SECONDED the motion.*

Councilor Peter Smith advised Chair Niman that during Agenda Item XII, Nonpublic Session, he intended to set forth the reasons why it was improper to have a nonpublic session regarding acceptance of the item in XII. He said he didn't want to change the Agenda, but wanted to amend "Nonpublic" to read Public", and would do so at that time.

*The motion PASSED unanimously 8-0.*

**III. Special Announcements**

Swearing in of new Firefighter, Derek Doucette

Fire Chief O'Leary introduced Mr. Doucette to the Council and to Durham residents. He noted that Mr. Doucette was no stranger to the Durham Fire Department, having worked for the Lee Fire Department for 17 years.

Town Clerk Laurie Pitt swore in Mr. Doucette.

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

September 11, 2006

Page 12, 6<sup>th</sup> paragraph, should read “....had been concerned about the number and placement of houses when she had....”

Page 20, 2<sup>nd</sup> paragraph from bottom, should read “..issues mentioned by Councilor Van Asselt loomed over the whole discussion...”

***Councilor Van Asselt MOVED to approve the September 11, 2006 Minutes as amended. Councilor Leach SECONDED the motion, and it PASSED unanimously 8-0-1, with Councilor Morong abstaining because of his absence from the September 11, 2006 meeting.***

#### **V. Councilor and Town Administrator Roundtable**

Chair Niman said there had been comments from Councilors on the fact that Council meetings had been running late, and also that this meant there was not enough time for the Roundtable discussion. He said it had now been placed earlier on the Agenda, and said as part of this, Administrator Selig would only list those items that were especially important. He also said that later on that evening, the Council would discuss possible ways to streamline meetings.

Administrator Selig said the public hearing to get feedback on the proposed Main Street enhancements from Pettee Brook Road to the railroad tracks would take place at 7 pm on Wednesday. He said there would be a thorough presentation on the project at that time, and he encouraged Councilors to tune into the hearing.

Councilor Leach asked whether it would be possible to receive Council packets on Wednesdays instead of Fridays, for a meeting the following Monday. She said it was difficult to go through all the information when the packet was delivered on Friday.

Administrator Selig explained that he tried to be accommodating to Town committees, in terms of getting information to him for meetings, which was why Friday worked best. He noted that for each of the conservation projects, the packet information wouldn't have gotten to the Council in time to act on them, if Wednesday had been the day packets were sent out.

Councilor Leach said in most cases, people worked to the deadline, whatever it was.

There was further discussion about this issue.

Councilor Peter Smith agreed it would be good if Councilors could get the packet sooner, but said he didn't think this was practical. He provided details on this.

Councilor Van Asselt said although he would like to get the Council packet a few days earlier, he would leave it to Administrator Selig to see how early he could get it out.

Councilor Needell said he would love to see the packet earlier as well, but said getting it on Friday was ok.

Councilor Henry Smith agreed with Councilor Leach that it would be wonderful to get the packet on Wednesday, but he said the scheduling was often dictated by necessity.

Councilor Carroll said she would be really happy if the packet could be received on Thursday. She also suggested the idea of getting portions of the packet in installments, and said perhaps the Minutes could be sent by email, so Councilors would have more time to read them before the meeting.

Administrator Selig said the packets took a large amount of time to put together, and he provided details on this. He noted that the extra meetings this year had put additional demands on his office, and also said there was an extra step for the Minutes, since Councilor Julian Smith reviewed them.

Chair Niman said the policy of when packets were sent out would be reviewed, and they would then see what could be done with it.

Councilor Needell said the Planning Board meeting that Wednesday would involve a design review of an elderly housing development on Madbury Road. He also said the Board was in the midst of a site plan review of another elderly housing project off Bagdad Road. He explained that a legal question had come up as to whether not just site plan review, but also subdivision review was required for multi-unit developments involving condominiums. He said the Planning Board was currently in the process of getting a formal legal opinion on this from the Town Attorney.

Councilor Needell asked Councilors to go to the website [carboncoalition.org](http://carboncoalition.org), and said he would like to bring up a proposal at a future Council meeting to see if the Council wanted to take the lead role in creating a warrant article to encourage responsible government action to reduce greenhouse gases.

Chair Niman asked if the Planning Board would be addressing the issue of private roads.

Councilor Needell said there was a long list of issues the Planning Board wanted to address, and said it was hard to determine whether this issue was a priority. He said he didn't recall any clear direction the Board wanted to take on the issue, or discussion as to where that direction should come from. He said perhaps it should come from the Council, in that the private road issue was as much a policy issue as a planning issue.

Chair Niman said in other words, there should be a draft memo from the Council on this issue.

Councilor Julian Smith noted the memo from the Land Protection Working Group on how to proceed with future conservation easement projects before the Council, and said he hoped there would be some kind of response to it.

He also said there were problems with the document on the Depot Road parking lot regulations (Agenda Item XI A), in terms of clarity, substance, etc. He said he hoped this document could be revised and brought back to the Council.

Chair Niman explained that some Councilors had expressed concerns about the conservation land guidelines. He suggested that perhaps those who would like to see changes to this process email him

with specifics on what they didn't like, and what kind of changes they would like to see. He said he could then organize that information, craft a communication, and bring it back to the Council.

Councilor Peter Smith asked whether, if the Council decided to proceed this way with reviewing the current process, this communication would be sent to the Conservation Commission before it is sent to the Council.

Councilor Carroll spoke about the publication "College Woods" put together by the College Woods Coalition, and noted that 64 acres of College Woods had been placed under a conservation easement.

She explained that the Coalition was an organization of stakeholders that was working with the UNH administration to permanently protect and manage College Woods and other UNH lands so that they could remain an integral part of the educational and recreational experience of UNH and the Durham community. She said another property the group was talking about protecting was East Foss Farm, which the Fogg property abutted.

Councilor Peter Smith asked when the College Woods easement had come into existence, and Councilor Carroll said very recently.

Councilor Peter Smith noted that the University Trustees had taken the position over many years that under no circumstance would they do a conservation easement, unless there was a substantial amount of money involved.

Councilor Carroll said this had come about as mitigation for other UNH lands in the State that had been disrupted, for example, wetlands in Plymouth.

Councilor Morong read out loud a statement he had recently written. The statement read as follows:

"I may be about to commit political and social suicide, but then just being in the position of Town Councilor makes that not just an ever-present possibility, but a likely probability. In the past month or so, I have been feeling overwhelmed by the requests for funding that have come before the Council. We are spending the \$2.5 million Conservation Bond that the voters approved in 2003, and many of the townspeople that I talk to don't realize that we have not yet felt the impact of that decision on our tax bill.

"The Council has been approached by the Mill Pond Center, the Library Trustees, the ORYA and the Jackson's Landing Study Group with proposals. Everything that has been brought forward has been the result of a lot of work by dedicated groups in Town, and they are all proposals that, I think, would add to the fabric of this Town and make it a better place to live. I've been very excited about each of them.

"But then I am faced with the dilemma of how to choose which one to fund, because like it or not, I am in a position where I am responsible for the fiscal health of this community, and perhaps my 5 years on the Council gives me a little more vision as to what the fiduciary needs of this Town are going to be in five or ten years.

“I see budgets and CIP’s that, without any new spending, are going to produce budgets that, especially combined with the school budget, are going to produce unexpected expenditures such as the Clarifier, or the Wiswall Bridge that came up this year. When I get beyond my initial excitement about these wonderful new proposals. I have to wonder, as a Councilor, how we are going to be able afford any of them.

“We are not a poor community, and many of us can afford these proposals, but I also know that there are many who cannot. Many are people who grew up here, some had families here, some are now retired here. Others came here with their families, have added to our community, but may be finding that a tax rate that outpaces pay increases is a huge burden.

“So there is the problem I see. As a Councilor, I see the only solution is for me not to vote for any projects brought forward that are not necessary at this time. We need to change the tax base, and I will be voting for things that maintain the infrastructure that is in place, and for things that I believe will bring tax dollars to Durham.

“I am interested in proposals such as creating TIF districts to bring water and sewer to Quarry Drive, or to revitalize the downtown with new businesses. I really believe that we need to put as much effort into projects that create positive cash flow as we have put into ones that cost money. Only after we generate some capital can we think about spending it.

“I’m sorry if many don’t agree with me, this may not even make good business sense, but part of what the voters elect is the person with certain values that are molded by their experiences. I have worked hard to not have mortgages or car loans, and without debt, I have found it much easier to live well on modest means. I think that until we can start paying for what we want, with money that we generate, we are mortgaging the future of Durham at a level that I am very uncomfortable with. I have to wonder if this is a case of the emperor who has no clothes. I feel very alone in proclaiming that Durham has no extra tax dollars.”

## **VI. Public Comments (NTL 7:30)**

**Bill Hall, Durham**, spoke concerning the idea of dropping the fee for the landfill. He noted that when the fee went to \$25, he had opposed this, but said he did believe that a fee of at least \$10 dollars was needed.

Mr. Hall also said a fee of \$1,000 for parking at Depot Road was ludicrous, which was why not one of 100 inquiries had resulted in the purchase of a permit. He also said that changing the price now to \$400 would be of no consequence if this price were not advertised.

Mr. Hall also spoke about the 401 water restriction on the Lamprey River, stating again that there were no specific findings to back up this restriction. He said he believed Administrator Selig was trying to protect a bad decision on this matter by his staff, and said he hoped the Council would take the matter seriously. He said that because of the restriction, the Town had to do expensive monitoring. He also provided details on the poor quality of the water in the Oyster River reservoir, and said residents were not getting the best water that was available.

Councilor Needell noted that the Town had received a letter from the Attorney on this, and asked if this was privileged information. Administrator Selig said it was.

Councilor Peter Smith said this privilege should be removed.

Chair Niman suggested that this issue should be raised under New Business.

**Steve Nadeau, 18 Emerson Road**, said he saw that there was a path for Durham groups to come to the Town for funding, when they identified something they wanted from the Town. He said he also saw the vilification of residents who felt they couldn't support these initiatives. Mr. Nadeau described a Durham resident he knew who had lived in Town for 50 years, and who paid \$100/week for taxes, said this person was fighting to be able to stay in Town. He said that from the number of "For Sale" signs, it was apparent that less affluent residents were becoming an endangered species in Durham.

Mr. Nadeau said increasing taxes was tearing apart the fabric of Durham. He said it was easy to spend neighbors' money, but said the answer to most of the wants and needs wouldn't be found at the Council table. He said the answers were in homes, schools, fields, downtown; they were found where Durham residents gathered to discuss issues, and volunteer their own time, resources and talent.

**Sean OConnell, Shearwater Ave**, said he had grown up in Durham, and said he was present to speak in favor of ORYA funding. He said his parents were taxpayers, but they supported kids' activities, noting that his own two kids were in ORYA and that he was a volunteer for that organization. He said providing an opportunity to engage in recreation was important, and was a fair responsibility for a community with a significant number of young people. He said the financial support being requested for ORYA was reasonable and not excessive.

**Rob Thompson, 270 Newmarket Road**, said he supported increased funding for ORYA. He said no one wanted to pay a lot of taxes, but said he had chosen Durham as a place to live for his kids. He said residents paid more taxes in Durham, and it was not reasonable to fund ORYA proportionately.

**Denny Byrne, Foss Farm**, said that as a resident, he viewed recreation as a core service in a Town. He said from the perspective of a recreational professional that although the model that existed in the northeast might not be the most effective in this day and time, he supported the ORYA. He said the type of programs needed in this Town were from preschool right on through to seniors, and said he would support the ORYA and what it meant to the community, in lieu of a full recreational program.

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

**VIII. Committee Appointment**

Shall the Town Council appoint Chuck Baldwin, 22 Emerson Road, as a member to the Integrated Waste Management Advisory Committee?

Mr. Baldwin spoke before the Council, and described his interest in being on the Committee.

Councilor Morong said he highly recommended Mr. Baldwin for this position, noting that he knew a lot about salvaging of materials.

***Councilor Peter Smith MOVED to appoint Chuck Baldwin as a member to the Integrated Waste Management Advisory Committee. Julian Smith SECONDED the motion, and it PASSED unanimously 9-0.***

Councilor Morong said the most recent “Down to Earth” newsletter, published by the IWMAC, had some great articles, and was a publication that was getting better and better. He said he hoped people would read it, and would recycle it when they were done with it.

## **IX. Presentation Items**

Proposal for additional Town funding to support the Oyster River Youth Association – Rick Szilagyi, David Proulx, and Cammie Rowntree, ORYA and John Parry, Chair, Durham Parks and Recreation Committee

Chair Niman provided clarification that this issue would not be debated that evening, but said Councilors could ask some questions on it at the meeting, or could ask their questions after the meeting to Administrator Selig.

**Cammie Rowntree, ORYA**, explained that the organization had provided recreational services for Durham, Lee and Madbury for 26 years. She said it was predominantly a volunteer run organization, and had added some paid staff over time. She said the previous year, there had been 2700 participants, and said 3000 were expected within the next few years.

Ms. Rowntree explained that the Board of Directors recognized that the growth that was occurring required changes in the structure of the operation of ORYA, and said the organization had tried to implement plans to meet the required staffing needs. But she said the last few years had not been the best for ORYA. She provided some details on this, and said it was now felt that a better model was needed for the organization. She noted the Board of Directors had no set idea on what that model needed to be.

She said the organization was in a financially difficult situation, and said Treasurer Dave Proulx would explain the model they thought would get them back on track. She said they were engaged with the Parks and Recreation Program, and Lee and Madbury in looking at this, and also said she was encouraged that this Town Council recognized that recreation needed attention in Durham.

**David Proulx** said he had originally volunteered with ORYA because he was concerned about fees going up, and had wound up looking at the entire structure of ORYA, with its 100’s of volunteers, and over 100 recreational programs. He noted that it coordinated all sports offerings for the three towns, and he listed some of the accomplishments of the organization. He also described the various benefits of youth sports.

Mr. Proulx said that ORYA could not continue to meet the demands for good service and many programs, from a financial perspective. He said the organization had relied on participant fees, but said this had put them in a place where they were at the maximum they could charge without participants going to other towns where they felt the fees were cheaper. He said although there was

some talk about splintering off some of the recreational programs, they felt having a single point to connect to was preferable.

Mr. Proulx said there were currently some staffing problems because of the low pay, and lack of benefits, and he also noted that the ORYA office was not a great work environment, in that there was no place for meetings, no storage and no bathroom. He said they tried to recruit staff, but when applicants saw the office, they walked away.

He said that in the short term, the Board of Directors wanted to stabilize funding, but said in the longer term, it wanted to work with the three towns to come up with a recreational program that made sense. He said the goals would be to reduce fees, staff the organization appropriately, move to suitable office space with adequate storage space, and mitigate financial issues at the skating rink.

Mr. Proulx said the Board of Directors had made it a priority to educate the community on ORYA, and also said the organization could do better with fundraising. He said there were many more opportunities to enhance and diversify the revenue stream, including getting some corporate sponsors, which had not been done in the past. He said they were also looking at having adult leagues.

He said a long-term strategic plan had been developed, and said the funding request had two components. He said the first component was to get help in defraying the financial cost of running over 100 programs, and to be able to provide programs at a price people could afford. He said the second component was to get help in order to stabilize the financial issues at the skating rink. He provided details on these issues.

**John Parry, Chair of the Parks and Recreation Committee**, said the Committee was developing a recreation program for Durham that was broader than ORYA, but said whatever came out of it, the Committee saw ORYA being a big part of it. He noted the impressive volunteer efforts of the organization, and said the Committee placed a lot of value on that. He said the volunteer base was too important to lose.

He said there were some immediate, urgent things to address, and said the Committee would provide recommendations on some of these things in its final proposal. He said the consensus of the Committee at this point was that it was reasonable to expect that ORYA's budget would increase. He said the Committee also felt some effort should be put into developing a different funding formula, but he noted that this would take some time.

Mr. Parry said that in the short term, the Committee felt ORYA should receive about \$90,000, rather than the \$139,000 it was asking for. He explained that the Committee saw some areas where things could be trimmed back, or put off for a year, in order to make the increase more reasonable. He said the Committee saw this funding request as a one-time thing, and said if a formula were then developed, it would kick in next year, and said the amount could go up or down depending on what the Town provided for support.

He said the consensus of the Committee was that it seemed reasonable for the Town to take over the management of the Church Hill skating rink, since it was better equipped to do so, it was a Town property, and there were liability issues involved.



Mr. Parry said the Committee saw the idea of the Town purchasing the Mill Pond Center as being tied in with ORYA, in that the ORYA and other community organizations could operate there under one roof, and reduce costs. He said the Committee also saw the need/opportunity as part of this to hire its own recreation staff, especially if facilities were added, such as administration of the skating rink and the Mill Pond Center. He said such staff could help partner with other towns and UNH, and could also help with adult recreation programs. He said there would be some savings for ORYA as part of this.

He said the Committee felt that some time should be spent looking at the big picture for recreation in Durham, and at what a Town parks and recreation program should look like. He suggested that perhaps the expertise of UNH could be utilized, to help the Town look at this.

Mr. Parry said that if the skating rink closed, or if recreation organizations had to cut back on programming, there would be public concern, and the Town would be asked to pick up the pieces. He said it would be more effective to work with and support existing programs, rather than waiting for them to fall apart.

Councilor Peter Smith asked that the Council postpone discussion on the ORYA until a future Agenda, when there could be a fairly detailed discussion. He said one thing that was obvious was that what was being placed before the Council was the creation of a major new department of town government, and said this would need to be discussed in detail.

Councilor Henry Smith said he agreed.

Break for 10 minutes

## **X. Unfinished Business**

Shall the Town Council endorse the recommendations of the Integrated Waste Management Advisory Committee concerning free access to the Transfer Station and Recycling Center for Durham residents and the elimination of an annual curbside spring cleanup?

Administrator Selig said that over the last year and a half, the IWMAC had looked at solid waste issues, and especially at the issue of whether to continue with the annual spring cleanup or not. He said the Committee had held a public hearing this summer, and had received excellent feedback, including a lot of concern about the \$25 charge at the transfer station, which included coupons. He said the Committee had also gotten feedback from individuals who lived on private ways and didn't have curbside recycling, and who said it didn't seem fair to pay the fee when they didn't have this.

Chair Niman asked how the Council wanted to proceed with this Agenda item.

Councilor Van Asselt said he would prefer it if the Council would address one recommendation at a time.

Councilor Peter Smith said he would like to see an explanation of the difference between what the Committee had recommended and what Administrator Selig had recommended; why there were different perspectives; and which seemed to be the better way to go.

Administrator Selig said the Committee's goal was to find ways to encourage recycling, and to require individuals, if they generated bulky waste items, to bring them to the transfer station themselves, instead of relying on curbside pickup. He explained that the Committee had looked at the cost of spring cleanup, and had found that this cost offset the revenues from the permits.

He said he had discussed this issue with the Public Works Department and others, and said it was clear to him that spring cleanup was something that was valued greatly by residents. He said although it was true that resources were expended for spring cleanup, he and the Public Works Department felt there wasn't a pure cost for this, but instead there was an allocation of existing staff and equipment that would be doing something else if they were not doing the curbside pickup. He also said the debris collected through the curbside pickup would arrive at the transfer station at some point anyway. He said the Public Works Department had estimated that more than 90% of Durham households participated in spring cleanup.

Councilor Peter Smith asked if Administrator Staff and the Committee agreed on factual issues – such as that if there were no spring cleanup, the likely result was that materials that would otherwise be collected would not be brought in by residents in trucks, but would instead become debris that was distributed around Town. He also asked if it was true that if the Town got rid of spring cleanup, that there would be no financial savings at all.

Administrator Selig said the Public Works Department didn't agree that these financial savings would occur. He provided details on this, and also noted that if there were no spring cleanup, the Public Works Department would be getting more calls for special pickups, from people who weren't able to bring the materials to the transfer station for one reason or another.

Councilor Carroll said she thought the Council's option that evening was to have a public hearing, not to determine whether or not to get rid of spring cleanup.

There was discussion as to how to proceed.

Councilor Needell said if there was a sense that the Council wanted to take Administrator Selig's advice, and didn't want to bring this matter forward,, it could do anything it wanted in terms of the public hearing. But he said he personally would not want to vote on this issue without having a public hearing. He also said that if the Council was willing to bring the matter forward, he would be happy to make a motion, so the Council could discuss it.

Chair Niman asked Councilors to give their perspectives on how the Council should proceed concerning this issue.

Councilor Peter Smith said he would like some additional questions answered, including getting the Committee's response to the questions he had posed, and what its recommendation would be if the Town got rid of spring cleanup generally. He also said he would like to know if there would be special consideration given to certain members of the community who would have difficulty getting their bulky items to the transfer station.

**Shelley Mitchell, Chair of the IWMAC**, said the Committee realized that the elimination of spring cleanup would not be popular. But she said the Committee was charged with reducing bulky wastes,

and looked at this as something the residents should take some responsibility for. She noted that the Committee had surveyed 10 Seacoast towns, and had found that Durham was either one of few, or was the only town that had this tradition in the manner in which it was currently implemented.

She said the 90% participation figure seemed high, and also questioned what percentage of the residents truly valued this practice. She also noted that during the public forum, the accessibility of the transfer station was raised as an important issue.

Ms. Mitchell said in terms of the cost of spring cleanup versus the revenues, it made more sense to look at this as resource reallocation. She said there would be an outcry if spring cleanup was eliminated, but said people in other towns had adjusted. She said part of the Committee's idea was to eliminate the \$25 fee. She said to assist residents who could not get to the transfer station, the answer was to hire someone privately to do this, or to have the Town pick up the items either for a charge or for free. She said this was a determination Public Works would have to make.

Ms. Mitchell said she had faith that Durham residents would not throw their stuff away elsewhere if there were no spring cleanup. She also noted that the Committee had experimented with allowing Durham landlords to bring bulky wastes to the transfer station around graduation time, and said this had worked out well. She explained that the landlords had previously said that the timing of spring cleanup had not worked out for them.

Councilor Needell said he felt this was a decision for the Council to make, and was not an administrative decision. He said this was not a financial decision, and was about making a social/environmental change. He said he agreed it was the right thing to do, and also agreed it would be unpopular, and said it came down to choosing one's battles, given what the Council had heard so far.

He said he didn't feel there would be a groundswell of support for the Committee's recommendations, and said what was making him lean toward not going ahead was that he had to be really convinced that the benefits outweighed the negative aspects.

Councilor Julian Smith said the Committee had come forward with some very thoughtful, responsible suggestions, and said he agreed with Ms. Mitchell regarding the ability to trust the good sense of the public, regarding solid waste disposal. He said he thought there were all kinds of ways for residents to learn more about the transfer station, and said he thought more people would go there if it was open more, and would take more responsibility for what they brought into their homes. Councilor Smith also said that getting rid of spring cleanup would cause people to rely more on their neighbors. He said he was very much in favor of adopting the recommendations that had been brought forward.

He asked Administrator Selig what percentage of households did not have curbside recycling pickup because they were on private ways, or were student households whose semester was over after spring cleanup was over. He also said he didn't think the 90% figure for participation in spring cleanup was accurate.

Councilor Henry Smith noted the letters from residents in Councilors' packets, and said the overwhelming majority of them were in favor of retaining spring cleanup. He acknowledged the

huge amount of work the Committee had done on this subject, but said it seemed that the present system worked well, and he therefore had serious reservations about eliminating it.

Councilor Morong said he had been a member of the Committee since March, and said he had been the only member who wanted to keep spring cleanup. He said he thought a lot of things got recycled because of spring cleanup, noting that he personally picked up a lot of things off of the street. He said he did support finding ways to use the transfer station more, including serving people who lived on private ways. He said the Committee might consider giving one bulky waste coupon, as a way to save money but still encourage people to come to the transfer station.

Councilor Van Asselt said he didn't support the recommendations.

Councilor Carroll said the Committee had done a number of programs to reduce waste in the community, and said a big question was how to make residents more conscientious, including encouraging them to make purchases that would result in less wastes being thrown away. She also noted the success of the Swap Shop. She said the Committee had put a lot of creativity into this effort concerning spring cleanup, and said her vote would be for the recommendations to go on to public hearing.

Councilor Leach said spring cleanup was something people in Durham said they got for their taxes. She also said getting rid of the revenue of permit income from spring cleanup would mean a loss of about \$15,000, and said she wasn't sure this was a good year for this loss. She also said she felt that since there could be a grant of relief from the fee for people who couldn't afford to pay it, that the \$25 fee was ok as it was. She said if the fee was lowered, perhaps the number of coupons given out could be reduced to one.

Chair Niman asked if an analysis could be done to get at the potential revenue implications of changing the fee.

There was discussion about the sliding scale idea.

Ms. Mitchell said there were other alternatives and financial scenarios to look at, and she provided some details on this.

Chair Niman said he was not sure Durham was ready to get rid of spring cleanup, but asked whether there were some other things the Town could do, to accomplish some of the goals the IWMAC was committed to.

Ms. Mitchell said she thought there were. She noted that the Swap Shop had changed the dynamics of reuse and recycling in Town, and said people shouldn't have to pay a fee to have access to it.

Chair Niman asked if the Council should ask the Committee to look at a revenue neutral fee structure to get the Town closer to the goals of recycling and reuse.

Councilor Needell said he was a proponent of reducing the fee, but said he would like the Committee to come back with a good recommendation, regardless of that aspect of the issue. He also noted that

even if the fee were reduced, people still had to pay taxes that were in part to cover costs for running the transfer station. He provided details on this.

Councilor Julian Smith said he didn't think there should be a charge for using the transfer station. He said the Town could charge for bulky wastes, but said that was a separate issue. He said every citizen who lived in Durham and paid taxes should have the right to use this important public facility.

Councilor Smith also said that if free spring cleanup was such an important tradition in Durham, the Town needed to find some other traditions.

Ms. Mitchell said she would take the Council's comments back to the Committee, and see how it felt in terms of moving forward with other initiatives. She said she would get back to Administrator Selig on this. She also noted the great issue of "Down to Earth" that had just come out.

Councilor Peter Smith said he hoped Ms. Mitchell would tell the Committee that they had done some terrific work, and that they should not be discouraged. He also said he thought some quick action needed to be taken in regard to the fact that some residents couldn't get into the transfer station because of the \$25 fee.

## **XI. New Business**

- A. PUBLIC HEARING AND ACTION ON RESOLUTION #2006-20** establishing a special revenue fund to collect and expend revenues from the Depot Road parking lot.

*Councilor Needell MOVED to open the public hearing on RESOLUTION #2006-20, establishing a special revenue fund to collect and expend revenues from the Depot Road parking lot. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 9-0.*

No member of the public came forward.

*Councilor Peter Smith MOVED to close the public hearing on RESOLUTION #2006-20, establishing a special revenue fund to collect and expend revenues from the Depot Road parking lot. Councilor Morong SECONDED the motion, and it PASSED unanimously 9-0.*

*Councilor Needell MOVED to approve RESOLUTION #2006-20, establishing a special revenue fund to collect and expend revenues from the Depot Road parking lot. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 9-0.*

- B. PUBLIC HEARING AND ACTION ON RESOLUTION #2006-21** authorizing the raising and appropriation of seven hundred and twenty-five thousand dollars (\$725,000.00) to apply toward the purchase of conservation easements on the land of Langley and Emery Farms, which easements are held by the Nature Conservancy, with the Town holding an executory right to enforce the easement and which sum is to be raised by bonding

Administrator Selig said this action constituted a modification to the approved 2006 Budget, so required a 2/3 majority vote.

*Councilor Henry Smith MOVED to open the public hearing on RESOLUTION #2006-21 authorizing the raising and appropriation of seven hundred and twenty-five thousand dollars*

***(\$725,000.00) to apply toward the purchase of conservation easements on the land of Langley and Emery Farms, which easements are held by the Nature Conservancy, with the Town holding an executory right to enforce the easement and which sum is to be raised by bonding. Councilor Needell SECONDED the motion, and it PASSED unanimously 9-0.***

**Margaret Christiansen, Emerson Road**, said she was flabbergasted at the total amount for these conservation easements. She provided details on this, and said she didn't feel this cost should be pushed onto descendants.

**Bill Hall, Durham**, said the Town was not taking adequate advantage of ways to pay off some of the cost for these easements, such as by logging some Town lands. Mr. Hall also noted restrictions in the Zoning Ordinance concerning cutting trees on private property, and said the Town was being run by ecological fanatics. He also said there should be funding of revenue sources that would be appropriate for conservation, and said it was insane that these things had been voted down by Councilors.

***Councilor Morong MOVED to close the public hearing. Councilor Needell SECONDED the motion, and it PASSED unanimously 9-0.***

Councilor Needell noted that the Council had voted to spend the money a few weeks ago, and said this discussion was simply about how to pay for it.

Councilor Morong noted to Mrs. Christiansen that the conservation bond had been passed by 2/3 of the voters. He also said it wasn't the Council that was spending the money, and said the Council's role was to see that the conservation bond money was spent in the best possible way.

Councilor Peter Smith received clarification from Administrator Selig that it was better financially for the Town to raise this money by bonding rather than using the land change account because of the current favorable position of the bond market.

Councilor Leach received clarification from Administrator Selig that he was not recommending using the land use change tax money to help pay for the conservation easements, and would prefer to use this money for smaller projects.

Councilor Peter Smith noted that the bonding the Council was now approving was not, technically speaking, the original bond approved by the voters in 2003. But he said the amount of that 2003 bond was being taken into account in this document.

Administrator Selig agreed, but he noted that the matter currently before the Council was appropriating the funds, while the bonding was the next Item.

Chair Niman noted that the bond market was favorable, but said that some economists were saying it would be more favorable in the future. He also asked whether, if the argument that there was a favorable bond market didn't hold true, Administrator Selig would still recommend that all of the appropriation should be bonded.

Administrator Selig said this would depend on whether there was a critical mass of projects moving forward, noting that the Town could take advantage of this to get a more favorable rate. He also said he preferred the strategy of using the conservation funds for acquisitions of \$100,000 or less. He noted that the voters had spoken clearly that they were comfortable with moving ahead with the bond for \$2.5 million.

Councilor Henry Smith said he thought it would be a good idea to dip into the conservation fund to finance the Emery Farm purchase, but realized Administrator Selig didn't agree. He said he would vote to approve this appropriation.

Councilor Carroll said she was ready to vote. She said that how the Town paid for things was an important topic for discussion when there was a lighter Agenda. She said a question was whether the Town should have some money in reserve to pay for some things, rather than having to put them in a very full budget.

***The motion PASSED unanimously 9-0.***

- C. PUBLIC HEARING AND ACTION ON RESOLUTION #2006-22** authorizing the issuance of long-term debt not to exceed four million one hundred and fifteen thousand five hundred and eighteen dollars (\$4,115,518.00) of which two million four hundred and ninety-five thousand five hundred and eighteen dollars (\$2,495,518.00) will be applied for the purpose of bonding 2003-2006 capital fund projects and equipment purchases and one million six hundred and twenty thousand dollars (\$1,620,000.00) will be applied towards the purchase of conservation easements on the Langley and Emery Farms, and Beaudette and Fogg properties located within the Town of Durham

***Councilor Needell MOVED to open the public hearing on RESOLUTION #2006-22 authorizing the issuance of long-term debt not to exceed four million one hundred and fifteen thousand five hundred and eighteen dollars (\$4,115,518.00) of which two million four hundred and ninety-five thousand five hundred and eighteen dollars (\$2,495,518.00) will be applied for the purpose of bonding 2003-2006 capital fund projects and equipment purchases and one million six hundred and twenty thousand dollars (\$1,620,000.00) will be applied towards the purchase of conservation easements on the Langley and Emery Farms, and Beaudette and Fogg properties located within the Town of Durham. Councilor Morong SECONDED the motion, and it PASSED unanimously 9-0.***

Steve Nadeau read the warrant article from 2003, and said he was still not convinced that these conservation easements would help to stabilize taxes. He provided details on this.

***Councilor Peter Smith MOVED to close the public hearing. Councilor Leach SECONDED the motion, and it. PASSED unanimously 9-0.***

***Councilor Needell MOVED to approve RESOLUTION #2006-22 authorizing the issuance of long-term debt not to exceed four million one hundred and fifteen thousand five hundred and eighteen dollars (\$4,115,518.00) of which two million four hundred and ninety-five thousand five hundred and eighteen dollars (\$2,495,518.00) will be applied for the purpose of bonding 2003-2006 capital fund projects and equipment purchases and one million six hundred and twenty thousand dollars (\$1,620,000.00) will be applied towards the purchase of conservation easements***

***on the Langley and Emery Farms, and Beaudette and Fogg properties located within the Town of Durham. Councilor Carroll SECONDED the motion.***

Councilor Van Asselt asked if it was correct that the Town was not bonding anything beyond the life of the purchase of the easement, and Administrator Selig said it was.

Councilor Van Asselt asked what role Citizens' Bank played in the bond issue, and Administrator Selig said the bank helped prepare the paperwork, and marketed the bond.

Councilor Van Asselt noted that the water rates for water users would be going up \$0.37/per \$1,000, and asked why this was happening now.

Administrator Selig said the Town had charged the debt costs to water and sewer users.

Councilor Van Asselt said the water users were now actually seeing what they had heard last year would be coming, in terms of water rates.

Administrator Selig noted that some of this increase would be mitigated by the use of fund balance for the water funds.

Councilor Peter Smith asked why the dredging of Mill Pond was on the list of projects to be bonded.

Administrator Selig said this item had been carried over from past years, and said the Army Corps of Engineers had said it would try to put the project on its list for 2008. He said in the meantime, the funds would sit in the bank and accumulate interest.

***The motion PASSED unanimously 9-0.***

**D. Discuss the concept of moving property tax billing from an annual to a semi-annual system**

Councilor Carroll provided background on this issue, noting among other things that former Durham Business Manager Paul Beaudoin, present Business Manager Gail Jablonski, Administrator Selig, and people outside of Durham were in favor of having two tax bills each year. She stated that the Town paid \$313,544 in interest for borrowing money so it could use it all year and not pay for it until December.

Councilor Henry Smith asked about other Towns that had changed from annual to semi-annual tax collection.

Councilor Carroll said she had talked to the Town administrator of Stratham, one of the most recent towns to do this, in part because of concerns about rising interest rates, and difference in interest rates, and said he had found this was a much better way to deal with the budget. She said the Selectmen in Stratham had passed this in December, and said she had been told that few people objected to the change. She also said she had been told by Ms. Jablonski that there was very little work involved in changing over the system.



***Councilor Julian Smith MOVED to extend the length of the meeting beyond 10:00 pm. The motion was SECONDED by Councilor Needell.***

***Councilor Leach MOVED to amend the motion to say 10:30 pm. Councilor Van Asselt SECONDED the motion, and it PASSED 6-3, with Councilor Needell, Councilor Peter Smith and Councilor Julian Smith voting against it.***

***The motion, as amended PASSED unanimously, 9-0.***

Councilor Morong said he thought this was a good idea.

Councilor Peter Smith said he felt this was a fundamentally flawed idea. He said a change to be made concerning taxes should be done in a way so that taxpayers would end up paying less in taxes, and he said this idea didn't lead to that result.

***Henry Smith MOVED to move the concept of moving property tax billing from an annual to a semi-annual system to public hearing. Councilor Leach SECONDED the motion.***

Chair Niman said he had run the numbers on this, and said that personally as a taxpayer, on balance annual tax billing benefited the Town relative to him. He said he would look further into the numbers with Ms. Jablonski.

Councilor Needell said it looked like there might be a slight benefit to the taxpayers from semi-annual billing. He said he would like to hear some reasoned arguments about this.

***The motion PASSED 7-2, with Councilor Peter Smith and Councilor Julian Smith voting against it.***

- E. Discuss and finalize tentative agenda for the Town Council work session scheduled on October 23, 2006, regarding the topics of a vibrant downtown and transportation

Administrator Selig said the Planning Board, the Durham Landlord Association and the Durham Business Association had been invited to the work session.

Councilor Carroll suggested that if there were Town merchants in the audience, the Council would want to listen carefully to what they had to say.

Councilor Van Asselt said he didn't care for the agenda, and said unless the Town was in a position to really do something with the Downtown area, this would be simply be an enjoyable exercise. He also said he didn't think Durham was ready to do a TIF at this point

Chair Niman said there was much underlying this agenda that wasn't immediately apparent. He noted that there had been a meeting of the ad hoc group that had been getting together to try to reach consensus on how the Town should proceed regarding possible redevelopment of Mill Plaza. He said a proposal on this would come forward at the work session.

He said concerning parking, an issue was whether the Town required too much, and also, how a parking garage could facilitate economic development in that businesses could more intensively develop their properties. He also said there had been discussion about getting property owners to tear down and rebuild on their properties.

Councilor Van Asselt said if these things were discussed at the work session, it would be a good evening.

There was discussion about the preferred format for the meeting.

Councilor Leach said she saw this work session as an opportunity to find ways to work together.

Chair Niman suggested they follow the proposed agenda.

**F. Discuss ways in which to better streamline Town Council meetings**

Councilor Morong said some possible solutions were to provide time between 6:30 and 7:00 pm for informal trading of information, and to start the regular meeting at 7:00 pm. He also said Administrator Selig's announcements were on the web, so did not have to be provided at the meeting.

Councilor Needell said he was willing to consider starting the meeting at 6:30 pm, but said he didn't think the Roundtable should be held during this time. He suggested a time limit for the Roundtable might work, such as 7:30 pm.

Councilor Leach said it was not so much the time the meeting ended that was the issue for her, and said the issue was the efficiency of meetings, and how they moved through the issues.

Councilor Henry Smith said if there was a 6:30 pm start time, he was in favor of enforcing the 10:00 pm adjournment time.

Councilor Needell said he would do a 6:30 pm start time, but said it would be hard to remember since other Town meetings generally started at 7:00 pm.

Councilor Peter Smith and Councilor Julian Smith said they preferred having meetings start at 7:00 pm.

Chair Niman summarized that the sentiment of Councilors was that they stay with a 7:00 pm start time.

Councilor Van Asselt said it was important to limit the time spent on presentations at Council meetings.

Councilor Peter Smith said he agreed this was a waste of time for Councilors, given that they had the materials in writing, but he said to the extent they were dealing with difficult issues, that was what they were there for.

Councilor Leach said limiting the time spent on presentations allowed more time for discussion on the issues involved.

Councilor Needell said presenters should be told not to read to the Council from the written presentation, and should be encouraged to be brief. But he said he didn't think there needed to be a time limit imposed.

Councilor Van Asselt suggested that if Councilors gave Administrator Selig the questions they would need answers to at the meeting, this would speed up the discussion.

***Councilor Julian Smith MOVED to have an 11:00 time adjournment time. Councilor Van Asselt SECONDED the motion, and it PASSED 8-1 with Councilor Leach voting against it.***

Councilor Needell said he didn't want to interfere with allowing items to be taken off the Unanimous Consent Agenda. He provided details on his feelings concerning this.

There was discussion on this issue.

Councilor Henry Smith said didn't want to eliminate the time period for Administrator Selig's comments. It was agreed that the comments could just be tightened up.

#### **G. Other business**

Signing of Election Warrant Article

***Councilor Van Asselt MOVED to approve the signing of the Election Warrant Article.. Councilor Morong SECONDED the motion, and it PASSED unanimously 9-0.***

Councilor Peter Smith said he didn't see the need for Attorney Mitchell's document concerning the 401 restriction to be privileged information.

Administrator Selig said he had simply wanted to ensure that members of the Planning Board and Town Council had had a chance to see it first, and said he thought it could now be made public.

Break 10:36 – 10:41 pm

## **XII. Nonpublic Session**

The Council discussed going into Nonpublic Session to discuss land matters in accordance with RSA 91-A:3 II (d)

Councilor Peter Smith said there were two items that were proposed to be discussed. He said he felt it was not suitable to discuss either in nonpublic session, based on what was in front of him. He said at a certain level of specificity, such discussion would be appropriate. He said the first item's purpose was to brief the Council on a discussion that had taken place, and he said this was a public policy matter, so there was no legitimate basis for doing so in nonpublic session.

Chair Niman asked if the issue was that the document needed to say something different, or more specific, about purchasing a property, or one simply had to have confidence about an idea of purchasing property in the document.

Councilor Peter Smith said this was the grist of the very thing the public should be present at when the Council discussed things. He said what was proposed here was outside what was intended by the statute.

Councilor Carroll asked if the people involved in this matter were expecting the Council to discuss it in nonpublic session.

Administrator Selig said they were. He said he disagreed with Councilor Smith, and said he felt the discussion should start in nonpublic session. He said that especially regarding the first item, if it had been known it would be discussed in this manner, it would not have been brought forward in this manner.

Councilor Needell asked if there was something that could be reworded to provide greater justification for going into nonpublic session.

Administrator Selig said the issue involved the interest of the Town in purchasing a property.

Councilor Peter Smith said the line could be drawn information there were financial details to be discussed.

There was further detailed discussion on this matter.

Administrator Selig said the entity involved had met with him in confidence, had briefed him on some plans and had asked what the Town would be interested in doing in regard to these plans. He said he had not indicated to the entity that these would be discussed with the Council.

There was further discussion about this.

Councilor Peter Smith said he would not object to going into nonpublic session, but if the discussion got near something relating to the public interest, he would not continue with the discussion. He also said he didn't see any conceivable basis for discussing item #2 in nonpublic session.

Chair Niman said he would speak with these entities to get greater specificity or more fleshed out options, which would represent more of a negotiation for a land transaction, and would then write a new communication and bring it forward to the Council

Administrator Selig said he was not confident they would have this ready for the Oct 30<sup>th</sup> meeting. He said it might make sense to approach the entities involved with item #1 to see if they were comfortable with an open discussion, and if so, the Council would do that.

Councilor Needell said he wanted it to be clear that the Council had not voted on whether to go into Nonpublic session, and said perhaps it should do this. He said there was only one person speaking on it, Councilor Peter Smith.

Councilor Van Asselt said he agreed. He said he trusted Administrator Selig that this should be done in nonpublic session.

Chair Niman said he agreed with Councilors Van Asselt and Needell, but said the Board had agreed to adjourn at 11:00 pm, so these items would be brought back in one form or another.

### **XIII. Adjourn**

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

11:00 Adjournment

Victoria Parmele, Minute taker