

This set of minutes was approved at the March 5, 2007 Town Council meeting.

**DURHAM TOWN COUNCIL
MONDAY, FEBRUARY 5, 2007
DURHAM TOWN HALL – COUNCIL CHAMBERS
7:00 PM**

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

MEMBERS ABSENT: Councilor Peter Smith

OTHERS PRESENT: Town Administrator Todd Selig, Police Chief Dave Kurz; Jim Campbell, Planner; Fire Chief Peter O’Leary

I. Call to Order

II. Approval of Agenda

Councilor Henry Smith MOVED to approve the Agenda as submitted. Councilor Julian Smith SECONDED the motion, and it PASSED 8-0.

III. Special Announcements
None

IV. Approval of Minutes
January 8, 2007

Councilor Needell MOVED to approve the January 8, 2007 Minutes as submitted. Councilor Leach SECONDED the motion, and it PASSED 7-0-1, with Councilor Carroll abstaining because of her absence from the January 8, 2007 meeting.

V. Councilor and Town Administrator Roundtable

Councilor Needell reminded viewers that the School District deliberative session would be held the following evening, and would provide residents with the opportunity to review and approve the School warrant to be voted on in March.

Councilor Carroll noted that there had been a water line break on Woodman Road, and asked if this was a sign that the water lines in that area were not in good condition. She noted previous discussion about where water line improvements were needed.

Administrator Selig said the Woodman Road water line was an older line. He said it was not scheduled for upgrade during the current season, but said improvements would be made to it in

the not too distant future. He said these breaks did happen from time to time, and said the Public Works Department endeavored to deal with them as soon as possible.

Councilor Carroll said she had talked to Public Works Director Mike Lynch regarding the difference between sludge and bio-solids. She said bio-solids were treated sludge, so were safe to put on the land, and she said that sludge was not safe because it could contain heavy metals and other toxic materials. She also said she had found out that the sludge from the Durham wastewater treatment plant was tested extensively, on a quarterly basis, and that it was quite clean. She said that because of this, it cost Durham less money to dispose of it, so the Town got a better deal when it went out to bid.

Councilor Julian Smith left the table temporarily to try to adjust the sound system.

Councilor Henry Smith said that at the recent DCAT meeting, the committee discussed the issue of Council members participating in the meeting when they were not present, regarding the technical aspects of this concerning microphones. He said a second issue the committee had discussed was how far to go regarding showing political things on DCAT. He said the committee was exploring what other towns did concerning this, and said the issue would be taken up again at the next committee meeting.

Chair Niman asked if progress had been made concerning the scheduling of the Candidates Forum.

Administrator Selig provided details on this, noting that the Durham Business Association was interested in hosting the forum, and he also said DCAT was interested in taping, but not organizing the event.

Chair Niman said the date of the forum would be available soon, and candidates would be contacted concerning this.

There was discussion about the idea of having candidates provide a 250-word biography, with Councilor Morong suggesting these could be posted on the Town web site.

Councilor Julian Smith noted that there were 3 openings for the Library Board of Trustees and 3 candidates, so this was not necessary for these positions, unless there was a write-in candidate.

It was agreed that candidates had the option of providing a short bio and a photo, if they wished.

Councilor Morong asked if candidates could perhaps fill out a form similar to the one used by residents who wished to be on Town committees, and Administrator Selig said he could give the candidates a copy of that form.

Councilors agreed that having candidate bios was helpful, but that the Candidates Forum was also a crucial part of the election process.

Councilor Leach spoke about a letter from the Parks and Recreation Committee that included a survey to help them assess recreational needs for the Town. She encouraged as many people as possible to respond to the survey, noting that it went out to every household in Durham.

Administrator Selig provided the following updates to the Council:

- Churchill Rink – He said the Oyster River Youth Association (ORYA) was not planning to continue to operate the rink on its own after the end of the skating season, and said he would be drafting a termination notice. He said the disposition of the rink was up to the Town, and said the intention was to reach out to current users to see if they wanted to continue to contract with the Town to use ice time. He said an operational plan would be put together for the rink, and said the hope was to be able to break even next season.
- He explained that the Durham Business Association and the Durham Its' Where U Live organization were interested in donating a copy of John Hatch's mural of Old Landing and mounting it on the pedestrian side of the bridge over the Oyster River. He said this seemed to be a great plan, and said he wanted to be sure the Council had no concerns about it. He said a presentation on the project by Durham Its' Where U Live would be scheduled.
- Administrator Selig said the Jackson's Landing Committee was hard at work, explaining that when they didn't receive the grant from the State, they had broken up the work into smaller parts, and were going for smaller grants. He said one of these grants, for \$20,000, would be for the development of a pedestrian walkway that would lead to an overlook over the Oyster River. He noted that NHDES had walked the land with committee members, and had been concerned about the walkway crossing the marsh, so the path would instead go inland a bit before going out to the overlook.

He said another grant, for \$50,000 would be for moving the existing parking across from the rink in order to eliminate a lot of stormwater runoff that currently went into the Oyster River. He said the committee was working to create a plan that would be acceptable to NHDES. He also noted that the Conservation Commission was contributing \$75,000 toward the project in order to help mediate some of the runoff.

There was discussion about how and why the present parking configuration would be changed.

- Administrator Selig updated the Council on developments concerning a possible transfer of dispatch services to the County. He noted that the County's new dispatch center was up and running, and said it appeared that making this transition would be possible. He said the County was willing to take on Durham for \$35,000 per year. He said he had directed the Police and Fire departments to gear up for a January 2008 transition, and said he would be providing the Council with more information on this.
- He said he had been devoting a lot of his time recently to the firefighter, middle manager, and public works employee contract negotiations, which were at various stages of completion.

- Administrator Selig said the Town and the State Department of Administrative Services had reached agreement concerning a two-year extension of the lease agreement for the Courthouse, which would rent for \$31,173 per year. He said unless there were objections from the Council, he would sign the agreement.
- He said that Growing Places, which rented space in the Town's Grange building, would be vacating the building by the end of the month. He said the Town had talked with the Durham Business Association and ORYA about possibly using the space. He also noted that a private party had expressed interest in purchasing the property.
- Administrator Selig said the Mill Plaza Study Committee would be meeting on February 14th, and noted that this would be a public meeting. He also said the Town would be applying for a Plan NH grant, which if received, would provide funds for planning assistance to the group. He said a letter had been sent out to local architects to see if they would be interested in providing professional services on a time and materials basis.
- He said he and Town Planner Jim Campbell had recently met with Chinburg Builders regarding the Durham Business Park.
- Administrator Selig said the Housing Taskforce would be presenting a proposal to the Council at a future meeting, regarding the idea of increasing the allowable density in downtown multi-unit structures. He said the thinking was that if more density was allowed, developers would have incentives to make more investment in the downtown, which was an area of Town where an increase in housing was desirable.
- He provided details on a project being done by Catherine Lilly as part of going for her MBA, which was to develop a Durham taxpayer sticker program. He explained that one of the purposes of doing this was to create additional benefits of being a Durham resident, and another was to address some longstanding access issues, including free access to the Transfer Station. He provided additional details on this concept.
- Administrator Selig said his feeling was that the Town should not take any position on the UNH police officers retirement plan issue, and said he was therefore not planning to bring forward any proposal concerning this.
- Administrator Selig said discussions had been initiated with the University regarding establishing a timeline for accreditation of University police officers. He said they appeared to be on target, and said the Town was being supportive as the University moved toward this goal.
- Administrator Selig said he had had an initial meeting with economist Russ Thibeault, regarding the idea of looking at the additional costs the Town incurred for policing services by hosting UNH. He said these discussions would continue.

- He said the Durham Historical Association had recently sent him a communication that this year was the 275th anniversary of Durham, and asked that the Council and residents think about some activities the Town might want to engage in to celebrate this.
- Administrator Selig noted that residents would be receiving a letter regarding the move to semi-annual tax billing.

Councilor Needell asked whether, regarding the sticker issue, any changes regarding access would come before the Council before being implemented.

Administrator Selig said absolutely. He said this issue had been discussed many times in the past, and he said with Ms. Lilly's help, they would flesh out how such a program might work, what ordinance changes might be needed, what the costs would be, etc.

Councilor Morong asked if Administrator Selig knew how far the Durham Business Association and Durham It's Where U Live had gotten with the mural project, also asking how this would work, and whether there would be student involvement in the project.

Administrator Selig provided details on how the mural would be created, and said it would be presented to the Town by the Durham It's Where U Live organization.

Councilor Morong asked if County staff would be making a presentation to the Council on the transfer of the dispatch center, stating that the Council might have some issues to discuss with them.

Administrator Selig noted that the threshold in the past concerning a possible transfer was that there could be no lessening of service as a result of doing this. He said what had now changed was that the County now had a fully professional facility, and he said this had done a lot to dispel some of the concerns the Town had expressed in the past. He noted that the County was interested in this transfer as well.

He said he planned to keep the Council informed on the process, and the money that would be needed. He said if Councilors wanted to meet with County staff, he could ask them to come and talk with the Council.

Councilor Morong asked what others thought about this.

Councilor Needell said he was mostly interested in hearing from Town staff about the program, and said he would like to get a clear picture of it at some point. He said he was comfortable with the Town departments and Administrator Selig working out what was the best thing to do.

Councilor Julian Smith said that regarding a taxpayer sticker identification program, he would like to know whether it would include people who rented apartments.

Administrator Selig said they would have to work through the criteria and logistics for this concept before making any decisions concerning this.

Councilor Julian Smith said that regarding access to Wagon Hill, he would like to know how non- residents could be prevented from accessing that property.

Administrator Selig said this kind of thing would be considered as part of looking at this approach, and he provided some detail on this.

Administrator Selig noted the recent death of Durham Firefighter Glen Miller's son, who was one of two fishermen who were lost at sea a few days earlier. He said there had been a celebration of his life that day, and said those who wanted to express their sympathies to the family could do so through the Durham Fire Department.

VI. Public Comments

Mike St Lauren, Newmarket NH, said there would be a large road race going through part of Durham on April 1st. He described the route of the race, and said there were about 1000 registered runners, with an expected cap of 1500. He said the course would be monitored for safety, also noting that approvals were in place from all departments, and that they had insured the Town of Durham. He said the race would support some important causes, and he provided details on this. He also said there would be a health expo in Newmarket the day before the race, which was free and open to the public.

Bill Hall, Durham, said that regarding the water pipes on Woodman Road, these issues had been around for 30 years, and said it was inexcusable that this hadn't been dealt with. He said the Town had paid more than its share to the University for water projects, noting the transmission line from Wiswall to the treatment plant, and said this money should have gone into the Town's infrastructure. He provided details on how the Woodman Road water pipes could have been repaired, stating that there wasn't that much to it, and that it could have been done in house.

Mr. Hall also said concerning funding that since the Town paid for the tank at Beech Hill, it shouldn't pay for the Foss Farm water tank. He provided details on this, and said it had put the Town's water users at a disadvantage.

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

A. RESOLUTION #2007-02 amending Resolution #98-04, the Minimum Application Fee Schedule, for the Planning Board of the Town of Durham and adding those fees to the Town-wide Master Fee Schedule

B. RESOLUTION #2007-03 authorizing the Town of Durham to enter into an agreement with Grappone Ford of Concord, NH for the purchase of a 2007 Ford F-350 Supercab pick up truck with plow and heavy-duty tow package in the amount of \$36,978.00 and requesting that the Trustees of the Trust Funds transfer said funds from the Fire Equipment Capital Reserve Fund to Capital Fund account number 07-0725-701-00-000 for the replacement of the Fire Department's Utility 1 vehicle

Councilor Leach MOVED to approve Unanimous Consent Agenda Items A and B. Councilor Van Asselt SECONDED the motion, and it PASSED unanimously 8-0.

VIII. Committee Appointment

Shall the Town Council appoint Kimberly Nadeau, 18 Emerson Road, to the Integrated Waste Management Advisory Committee?

Ms. Nadeau spoke before the Council, stating that she liked to compost and to find ways to save energy, and had been told this was a good committee to volunteer for.

Councilor Morong noted that he was on the Integrated Waste Management Advisory Committee and that Ms. Nadeau was his neighbor. He said she wanted to become involved in the Town, and he thought this would be a good fit, so had encouraged her to apply. He said he thought she would be a great addition to the committee.

Councilor Carroll MOVED to appoint Kimberly Nadeau, 18 Emerson Road, to the Integrated Waste Management Advisory Committee. Councilor Leach SECONDED the motion, and it PASSED unanimously 8-0.

IX. Presentation Item

Results of the 2005 Durham Police Community Survey – Mr. Andrew Smith, Director, UNH Survey Center

Police Chief Kurz introduced Mr. Smith, and explained that the Durham Police Department did a survey every 3 years.

Mr. Smith said as a Durham resident, he felt it was important to work with the University whenever possible. He noted that the cost to the Town for the survey was for printing and postage. .

Chief Kurz said this recent survey had a better format than previous surveys, and allowed them to get some information that people wouldn't necessarily mention to the police department.

Mr. Smith said it was important that town agencies inquire about the service they delivered to residents. He then provided details on the survey results. He said the response rate was 37%, which was pretty good. He said that predominantly older people had responded, and said it was pretty even between males and females. He noted that 37% of respondents said they had children at home.

Mr. Smith said the answers to questions asked in previous surveys were essentially the same as the answers from this most recent survey, and indicated overall a very good rating for the Police Department. He also said some new questions had been asked, and said respondents by a large majority said that in interactions with the department, they were treated with dignity and respect. He said there was also a very high rating for quickness of response.

He said 72% of respondents felt the response to the riots by the Police department was strong enough, and he noted that this response mirrored the response seen in statewide surveys and surveys of people on the UNH campus.

Mr. Smith said Durham residents perceived the Town to be a quite safe community, and he provided details on the data from the survey concerning this.

Councilor Julian Smith asked to what extent this idea of “feeling safe” was actually thought to be a function of the Police Department. He said trying to measure something as abstract or personal as feelings of safety might not be relevant to the information the Town wanted to gather about the services provided by the Police Department.

Mr. Smith said these questions were developed by the Department of Justice, which had found there was a correlation between police activity in a town and the degree to which residents felt safe.

He said issues of concern to residents during the day included: children and drugs, safety, home burglaries, driving in Durham, parking near public schools, etc. He said issues of concern in the evening were about the same, but noted that driving issues were a bit more of a concern at night. He noted that these issues were pretty typical, regardless of what town one lived in. He said traffic issues continued to be a main concern, mostly around the downtown area.

Chief Kurz said the results of the survey were one of the reasons there had been a marginal reorganization of the Department, in order to focus on some of the findings, such as monitoring of speeding, etc. He explained that he was taking a detective position away, in order to focus on some of these issues, also noting that this was a flexible situation, and the person could switch back to the detective work if necessary.

Mr. Smith said the answers to the final series of questions indicated support for various police programs, - the foot patrol, DARE, the bicycle patrol, elder services, etc, was similar to support reflected in the previous survey.

He summarized that the Durham community strongly supported the Police Department, felt officers responded in a professional and appropriate way, and felt safe during the day and night. He said the concerns were about the same as those that were expressed in previous surveys, - the safety of children, burglary, speeding, and possibly drug use. He said there was general support for a foot patrol, etc.

Mr. Smith said he had worked with Chief Kurz for several years, and said he was happy as a citizen to see the results of the survey being used.

Councilor Henry Smith said although he walked downtown a lot, he had not come upon the foot patrol.

Chief Kurz said this was because the patrol operated from 10 pm to 3 am.

Councilor Leach said it was good to hear how the results of the survey would be used. She also asked if there were any plans in place concerning children's issues.

Chief Kurz said the Police Department didn't do the DARE program anymore, noting that some studies had shown it was not as beneficial as some other programs. He said the department had a school resource officer who dealt with the schools, and talked with kids about making decisions and choices regarding drugs, alcohol, speeding, etc.

Councilor Henry Smith said he was surprised to see that the problem of speeding cars was not as highly rated. He said this was an increasing problem, and he provided details on his personal experience concerning this.

Chief Kurz said the Department would try to focus some energy on this, and would provide quarterly reports on its efforts.

Councilor Carroll said the results of this survey spoke very well of the Police Department, and she congratulated Chief Kurz and his officers for doing such a good job. She also said she was glad Mr. Smith was here now, noting that in upcoming months he would be very involved in doing political surveys.

Councilor Julian Smith said the reason he thought the respondents were not as concerned about speeding cars was that they were the "customers" of the Police Department, and were more likely to be speeding through Town and not wanting to be stopped by the Police Department. He also said when they were speeding through Town, they tended to object to jaywalkers, pedestrians, and bicyclists riding against the traffic.

Councilor Smith also said he was puzzled how most people would have specific knowledge of what the Police Department did to control the riots. There was discussion as to why there was no option in the survey to indicate one didn't know the answer to the question.

Chair Niman thanked Mr. Smith for his work on the survey, and thanked Chief Kurz for doing a great job.

X. Unfinished Business

A. PUBLIC HEARING AND ACTION ON ORDINANCE #2007-01 amending the Zoning District map to incorporate Tax Map 5, Lot 1-8, into the Central Business District.

Mr. Campbell provided a brief overview of this proposed change to the Zoning district map. He said the Planning Board had received the request from Mr. Davis in May of 2006. He said the Zoning rewrite committee had been in favor of it, by a unanimous vote, had then sent it to the Planning Board, which held a public hearing where there were no comments from the public. He said the Planning Board had then voted to approve the change, and had sent it to the Town Council.

Councilor Morong MOVED to open the public hearing on Ordinance #2007-01 amending the Zoning District map to incorporate Tax Map 5, Lot 1-8, into the Central Business District. Councilor Julian Smith SECONDED the motion.

There was discussion about where exactly the properties were located in the downtown area, and this was demonstrated on a map.

The motion PASSED unanimously 8-0.

Planning Board Richard Kelley said there was a lot of support by the Planning Board and the Zoning Rewrite committee for this proposed Zoning district change, and said it was seen as a neater dividing line between the two districts. He also said a problem that was seen to have come out of the Zoning rewrite process was that it didn't do as much for the downtown area as it could have. He noted that this expansion was in accordance with the Master Plan.

There were no comments from members of the public.

Councilor Morong MOVED to close the public hearing. The motion was SECONDED by Councilor Julian Smith and PASSED unanimously 8-0.

Councilor Leach MOVED to adopt ORDINANCE #2007-01 amending the Zoning District map to incorporate Tax Map 5, Lot 1-8, into the Central Business District. Councilor Henry Smith SECONDED the motion.

Councilor Needell said he had voted, as a member of the Planning Board, to bring this matter forward to the Council. He said he supported it here as well, but noted that there had been no comments from the public, either for or against the change, at either of the public hearings. He said when there were future discussions about this decision to change the Zoning District map, he wanted to be sure that people remembered that there had been ample opportunity to comment on this.

Councilor Carroll noted she was an alternate on the Planning Board, and said there were several good reasons for this zoning district change. She said it would add to the downtown area, and would create a cleaner line dividing the two districts. She also said that if Mr. Davis decided to go forward with student housing, the density allowed would be greater, and said his development could result in some new buildings and revitalization of the downtown area, which was needed. She said Mr. Davis had presented himself well before the Board, and as a landlord in Durham, and said she felt he would continue to do well by Durham, and the community.

Councilor Leach said her only comment was concerning how long this process had taken, when it seemed like a very simple thing. She said that perhaps for future items like this, the process could move more quickly.

Councilor Needell said he thought this process had actually moved quite quickly.

Mr. Campbell noted that the Board had been dealing with a number of other issues on recent agendas, but said when this matter did get onto the agendas, the process had moved fairly quickly.

The motion PASSED unanimously 8-0.

Chair Niman congratulated Mr. Davis on recently becoming a father for the second time.

B. PUBLIC HEARING AND ACTION ON ORDINANCE #2007-02 amending Chapter 153 “Vehicle and Traffic” of the Town of Durham Code by reducing the current speed limit on Stagecoach Road from 35 MPH to 25 MPH.

Administrator Selig said the Town had received a petition from residents of this area who had proposed this change. He said the Traffic Safety Committee had reviewed it, and recommended the change that was requested, so it was now being brought forward to the Council.

Councilor Leach MOVED to open the public hearing on Ordinance #2007-02 amending Chapter 153 “Vehicle and Traffic” of the Town of Durham Code by reducing the current speed limit on Stagecoach Road from 35 MPH to 25 MPH. Councilor Carroll SECONDED the motion, and it PASSED unanimously 8-0.

Jackie Filion, 9 Stagecoach Road, said when her house was built in 1986, the speed limit on Stagecoach Road was a non-issue, but she said many houses had been built on this road since that time. She said people now used it for fast access to Route 108, and said the situation had become dangerous. She noted she herself had had several close calls, walking on the road or coming out of her driveway, and also said the road was not up to standards.

Ms. Filion said not a single person in the neighborhood had disagreed with the petition. She noted that Stagecoach Farms had a speed limit of 25 mph, and said making this proposed change on Stagecoach Road would therefore fit with that. She asked whether, if the speed limit were changed, there would be signs posted to indicate this.

Arthur Caswell, Dame Road, said there was no issue with the traffic before Stagecoach Farms was built, but he said people now flew down the road. He said he and his dog had both been hit, and said he thought the speed limit should be changed.

Cynthia Edmunds, 14 Stagecoach Road, said all the residents on Stagecoach Road wanted this change, and also said they appreciated why Jackie and her son had done this. She said she didn’t think people were aware that there was a speed limit when they came off of Route 108, onto what was a busy, growing neighborhood on Stagecoach Road. She noted that all of the traffic into Stagecoach Farms traveled on Stagecoach Road first.

Ms. Edmunds said if someone was going faster than 25 mph, they didn’t have time to stop, and she provided details on how she had tested this. She said there were a lot of pedestrians who shared the road, and also said that her cat had been killed on this road. She said a slower speed

limit would be consistent with some other roads in Town, and said she would appreciate it if the Council would agree with this proposed change.

Councilor Needell MOVED to close the public hearing. Councilor Leach SECONDED the motion, and it PASSED unanimously 8-0.

Councilor Julian Smith MOVED to approve ORDINANCE #2007-02 amending Chapter 153 “Vehicle and Traffic” of the Town of Durham Code by reducing the current speed limit on Stagecoach Road to 25 MPH. Councilor Leach SECONDED the motion.

Councilor Needell asked if there would be a new 25 mph speed limit sign for the road, and Chief Kurz said yes, new signs would be put in.

The motion PASSED unanimously 8-0.

XI. New Business

A. FIRST READING ON ORDINANCE #2007-03 amending Chapter 153 “Vehicle & Traffic”, Article IV “Metered Parking” Section 153-30 “Business permit Parking Areas” of the Durham Town Code by adding the 582-foot section of Strafford Avenue from the intersection of Garrison Avenue for 90 feet.

Chief Kurz said this request had come from the company located in this area that had developed a cutting-edge medical supply business. He said the spaces would essentially be secured for business purposes, through purchase of permits, noting that student housing was located in this area. He said those people buying a permit would be allowed to park there.

Councilor Needell MOVED on First Reading Ordinance #2007-03, amending Chapter 153 “Vehicle & Traffic”, Article IV “Metered Parking” Section 153-30 “Business permit Parking Areas” of the Durham Town Code by adding a 90 foot section of Strafford Avenue, 582 feet from the intersection of Garrison Avenue. Councilor Julian Smith SECONDED the motion.

Councilor Needell asked whether if this were approved, these permits would go to anyone who was able to purchase them.

Chief Kurz said yes, noting that the permits were available on January 1st, and people able to purchase them got the right to hunt for these spaces. He said the concept didn’t guarantee there would be a space, but did guarantee the ability to hunt for a space.

Councilor Needell said there was something that bothered him about this idea. He said he remembered when an application for this medical supply business had come before the Planning Board, and one of the issues was parking. He said he realized the applicant wanted to reuse the property, but he said there were other properties that struggled with the parking issue as well. He said someone wanting to re-use a site needed to be able to provide parking, and he asked why it should be the Town’s problem that the business didn’t have room for parking on the site.

Mr. Campbell said it wasn't the Town's problem, but he said the business was having a problem with parking. He said they had adequate on-site parking according to the Ordinance, but didn't have enough parking for their employees. He said when they came back to the Planning Board with an application for a new building, they would be putting parking on the site, when there would be a lot more room for this.

Councilor Leach asked if this would then be a temporary situation, and Mr. Campbell said that would be up to the language in the proposed Ordinance.

Administrator Selig explained that the Traffic Safety Committee had also asked why this was the Town's problem. He said he had asked them to be creative in supporting this kind of economic development in the downtown area and that this was a creative solution to provide parking.

Councilor Julian Smith said the proposed language in the Ordinance was fine. But he suggested different wording for the motion, and it was included.

Councilor Needell said he was still on the fence concerning this. He noted that an abutting property had come before the Board with an elaborate proposal, and a big issue with the application had been parking. He said a comment made by the applicant at the hearing was that the Town was throwing obstacles in the way of his project, while bending over backward for the medical supply business. He said the Town did want to encourage these kinds of businesses, but the ordinances and regulations were there to protect surrounding properties.

There was further discussion.

Councilor Needell said what bothered him was that this was targeted for this specific application.

Councilor Leach said she had had many of the same concerns as Councilor Needell. But she said she felt better that there were only 4 spaces involved, and that the permit simply gave the permit holders the right to hunt for them.

Councilor Henry Smith asked if parking signs would be put up if this passed, and Chief Kurz said yes.

The motion PASSED 7-1, with Councilor Needell voting against it.

The Council went into recess from 8:48 to 8:57 PM.

- B. Discuss the concept of Tax Increment Finance (TIF) districts and schedule a public hearing for Monday, February 19, 2007 on adopting the provisions of RSA 162-k

Administrator Selig noted that Don Jutton of Municipal Resources, Inc. had recently made a presentation on this topic before the Council. He said the recommendation before the Council was to schedule a public hearing on it, and he noted that after the hearing, the provisions could not be adopted for at least 15 days, so more input could be received from residents. He said the Council could then have further discussion as to whether it wanted to adopt the provisions.

Councilor Julian Smith MOVED to schedule a public hearing for February 19th 2007 on adopting the provisions of RSA 162-K. Councilor Morong SECONDED the motion.

Councilor Needell noted that the vote on whether to adopt this couldn't occur until after the second meeting in March. There was discussion on the timing of this, and the fact that one or more new Council members would be seated in the coming weeks. Councilor Needell asked if they should perhaps postpone the hearing until after the new Council was seated, for continuity purposes.

Councilor Carroll said she remembered being a new Councilor, and said there were some things new Councilors came in the middle of. But she said the Council was just starting with the TIF concept, and said it didn't seem there would be a problem to delay the hearing for a few weeks.

Councilor Leach said she understood this, but said the question was how to decide what items to wait on and not wait on, given that there would be some new Council members. She suggested that new Council members could always abstain from voting and then do their homework on the issue.

Councilor Morong said if the hearing was put off for those reasons, a new Councilor might still not be up to speed on the issue, so he/she would have to do some homework either way.

Councilor Henry Smith said he thought this was a big issue. He said if the hearing was held after the new Council was seated, the Council could wait more than 15 days if needed before making its decision, to give new members a chance to get up to speed.

Administrator Selig said there was no reason why new Council members couldn't observe the TIF presentation by Mr. Jutton, or read the Minutes on it. He said voting on this shouldn't take place at the first meeting of the new Council, but he said he thought it was reasonable to proceed. He also noted that the Council was a body of nine individuals, and there were always six members to assure continuity from one year to the next.

Councilor Julian Smith said he agreed with Administrator Selig. He noted that there were many issues the Council saw as important, yet when hearings were held, no one came. He said new members could get up to speed on the issue or simply abstain. He also said if there was no opposition to the TIF concept, he suspected the Council would want to pass it.

Administrator Selig said disagreement about the TIF concept in general wasn't expected, but he said when there was a specific TIF proposal, there would likely be more of a response.

Chair Niman noted that the Mill Plaza Study Committee would soon be convening, and said he would like to be able to tell the committee that a TIF district was a tool for them to consider. He said if the Council had a public hearing, and residents came and said they hated the concept, and the Council also said this, he wanted to be able to tell the committee this.

Chair Niman noted another potential project in the works. He said he, Administrator Selig and Mr. Campbell had met at Pease with the former director of DRED, regarding the idea of

developing a business incubator. He said there was no point in doing this in Durham if there was no place to do it, and said there was going to be some discussion with Goss about providing some land. He provided additional details, and said such a project could be a win-win for the Town and the University.

He said this was another reason it would be good to have a sense of whether the Town would have TIF districts as a tool in its arsenal. He said when these specific projects came to fruition, the Council would vote on them. But he said right now, the Council was looking at whether there was interest in using this tool.

Councilor Needell said the reason he had brought this up was that he wanted to say this couldn't happen on March 5th. But he said the comments had put his mind at ease. He also noted that the TIF presentation had focused on Stone Quarry Drive, but this present discussion was on the enabling aspect of the TIF approach. He said the same rules would apply to reviewing a proposal, in terms of timing. He also said people should realize that if TIF districts were enabled, there would be a proposal coming forward for a TIF district.

Chair Niman said TIF districts were just a financing mechanism, and said the Council could decide if it wanted to apply it or not. He noted that in this way, it was very much like an impact fee ordinance.

Councilor Needell said this was a complex topic, and there were a lot of questions on it. He said some people he had talked to recently had been asking questions on some of the details, and his answer was that they all had to be worked out. He noted that what was currently before the Council was abstract, enabling language that had little to do with decisions that had to be made to utilize it, which would be complicated.

Councilor Carroll said she thought that a TIF district was more than a financing strategy, and said it would allow things to happen in Durham that might not otherwise happen, because the developer couldn't do it on his own. She said this was opening Durham up to some big changes. She said she was not saying that this was all bad, but said the Town had to go into this, fully aware of what it was going to be, and they would know this when they went into particular projects.

Chair Niman agreed. He said for example for Mill Plaza, they didn't know what the numbers would look like, and it might be true that the only way to redevelop it was to create a TIF district. He said alternatively, the developer might decide to do it anyway. He said the Stone Quarry Drive project was approved by the Planning Board, and if there was a way to finance the water and sewer without the Town, the developer could develop that site tomorrow.

He said a TIF district could work for some development projects where the numbers didn't quite work out right. But he said the Council could decide whether it wanted to use a TIF district or not, for such projects.

The motion PASSED 7-1 with Councilor Henry Smith voting against it.

- C. **RESOLUTION #2007-04** establishing a policy for allowing Council members who are unable to attend Council meetings in person, due to unforeseen circumstances, the ability to participate in discussions at Town Council meetings through the use of telephone conference calls.

Administrator Selig said this discussion was a follow-up from the previous Council meeting, where it was suggested that a policy be established for this. He said the proposal would allow members unable to attend a Council meeting in person to participate in the discussions, but not to vote.

Chair Niman said part of the proposal was that the public would be able to hear the discussion.

Administrator Selig said it also included the fact that if three Council members called into the meeting, the system couldn't handle this.

Councilor Leach asked if the motion should state that the person not at the meeting would not be allowed to vote. It was clarified that the resolution itself said this.

Councilor Van Asselt said he didn't understand why this resolution was even being proposed.

Councilor Morong said he agreed, and said he felt that Council members needed to be at the meeting in order to participate. He said he would rather encourage people to come and participate than to discourage attendance with this approach.

Councilor Needell said he agreed with Councilor Van Asselt, but noted that he had found out that there were towns that did this, so it was not an unprecedented idea, and was not illegal. But he said he didn't feel the approach had worked well at the last Council meeting, stating that most Council members seemed to have forgotten Councilor Carroll was there. He also said if this resolution did go forward, he couldn't support it unless the person could vote as well.

He also said he wanted to make sure the Council was comfortable that if a Councilor who was not present said he/she wanted to vote, and the Council said no and the vote failed, that this vote might be challenged. He asked whether perhaps the Council was putting itself in legal jeopardy by not permitting this.

There was discussion about this.

Chair Niman asked if anyone was interested in making a motion.

Councilor Needell said the Council didn't have a policy on this issue. He asked whether, even if the Council didn't want a motion to allow Council members who were not present at a meeting to participate, it still wanted to set a clear policy that this would not happen again.

There was discussion that the Council would deal with this kind of situation on a case-by-case basis.

Administrator Selig said if this kind of situation came up again, his response would be that the Council didn't look favorably upon doing this.

The Council agreed not to go forward with Resolution #2007-04.

D. Other Business

XII. Nonpublic Session

Councilor Henry Smith MOVED to go into nonpublic session in accordance with Personnel matters in accordance with RSA 91-A:3 II (a) and (c) relative to entering into a new employment contract with the Town Administrator and establishing the compensation for non-union bargaining employees for FY 200, and Land Matters in accordance with RSA 91-A:3 II (d). Councilor Leach SECONDED the motion, and it PASSED unanimously by roll call vote.

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

The Council went into Nonpublic Session at 9:26 PM.

The Council came out of Nonpublic Session at 10:59 PM.

Councilor Van Asselt MOVED to seal the nonpublic minutes indefinitely. Councilor Julian Smith SECONDED the motion, and it PASSED 7-0.

XIII. Adjourn (NLT 10:00 PM)

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

11:01 pm Adjournment

Victoria Parmele, Minutes taker