

This set of minutes was approved at the Town Council meeting on July 2, 2007

**DURHAM TOWN COUNCIL
MONDAY, JUNE 4, 2007
DURHAM TOWN HALL - COUNCIL CHAMBERS
7:00 PM**

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

MEMBERS ABSENT: None

OTHERS PRESENT: Town Administrator Todd Selig, Town Engineer Dave Cedarholm; Public Works Director Mike Lynch; Town Assessor Rob Dix; Gail Jablonski, Business Manager; Peter O'Leary, Fire Chief; David Kurz, Police Chief; Tom Madden, Director, Durham Public Library

I. Call to Order

Chair Niman called the meeting to order at 7:00 PM.

II. Approval of Agenda

Chair Niman said he would like to take XI B under New Business and put it under X C in order to do these items together.

Councilor Van Asselt MOVED to approve the Agenda as amended. The motion was SECONDED by Councilor Henry Smith,

Regarding the property tax abatement requests to be discussed that evening, Chair Niman said they would talk about all the abatement requests, except for the nonpublic one, under Agenda item XI A.

The motion PASSED unanimously 9-0.

III. Special Announcements

Chair Niman congratulated Administrator Selig on the birth of his baby daughter, Gabrielle Rose, the previous Thursday.

B. Bequest from Margery Milne to the Durham Public Library

Chair Niman noted that Margery Milne had recently passed away, and said Ann Windsor had been invited to speak about Marjorie, and to accept the bequest Ms. Milne had made to the Town.

Ann Windsor said she was pleased to accept a bequest from the estate of Margery Milne for \$475,000, on behalf of the Durham Library Board of Trustees, noting that this might well be the largest bequest the Town has ever received. She spoke of Ms. Milne's life and work, as the writer of over 50 books and many articles. She also described how Ms. Milne and her husband had bought the property beside the Mill Pond and had become protectors of Mill Pond and the swans that inhabited it.

Town Councilors Julian Smith and Diana Carroll also spoke fondly about Ms. Milne's life and work, with Councilor Carroll saying that Ms. Milne was an extremely curious person who loved learning, especially about science and nature. She said she had left quite a legacy to the Town of Durham.

- A. Presentation of Certificate of Appreciation to Doris W. Peterson recognizing her 50 years of dedicated, tireless, and selfless service to the Durham Chapter of the American Red Cross and to the Durham community as a whole

Chair Niman spoke about the significant impact Doris Peterson had had on the Town of Durham, because of her many years of work for the local Red Cross. He said Jim Barrett was present to say a few words.

Mr. Barrett explained how Doris's husband Nobel had taken over the leadership of the local Red Cross almost a half a century ago, and how Doris had taken over this responsibility after he died. He spoke about her many years of hard work on behalf of the Red Cross.

Chair Niman read the Certificate of Appreciation, and presented it to Mrs. Peterson who then spoke about her years with the Red Cross.

IV. Approval of Minutes

No Minutes

V. Councilor and Town Administrator Roundtable

Councilor Carroll said it was the first day of the season for the local Farmers Market, and said the market would be open every Monday from 2:30-5:30 pm.

Councilor Stanhope said after Councilor Carroll had raised the issue of the use of agricultural land for farming in Durham, he had come up with 4 ideas for the Council to give some thought to. He said the first idea was that the Council should at least consider seeking an RFP for the use of Town-owned land that was usable by farmers, on a lease basis. He said that alternatively, a second idea was to consider the development of a community gardening center.

Councilor Stanhope suggested that a third idea was that any future land acquisition through the Conservation Commission should be tied to the maintenance of agricultural land for farming, wherever this was possible. He said a fourth idea was that perhaps the Depot Road parking lot could be a location for the Farmers' Market as it grew, noting that more vendors could fit there, and that there was more parking available for customers.

Councilor Stanhope said the Strafford Regional Planning Commission (SRPC) had held its annual meeting the previous week. He noted that SRPC Executive Director Cynthia Copeland was present at the Council meeting to speak on the MPO realignment issue, and said he hoped the Council would support her on this concept, noting that other towns in the region had done so.

He also spoke about the current dues structure for the SRPC, and how this was impacted by the existence of UNH in Durham. He said in 2000, there was discussion about allowing UNH to become a member of the SRPC, and therefore pay dues for University students in Durham. He noted that UNH was a beneficiary of transportation dollars that were funneled through the regional planning commission. He said the matter didn't go far at that time, which would have required a legislative change. He said if such a change were to occur, this would result in a savings in dues for the Town of about \$3,000. He said he would think the Council might want to find out whether this change could be pursued.

Councilor Needell updated the Council on applications before the Planning Board. He said the Board had begun its deliberations on the proposed conservation subdivision for 99 Madbury Road, and said this would continue at the June 13th Board meeting. He also said the continued public hearings on the Caldarola and Kimball applications would take place at the June 6th Board meeting.

Councilor Julian Smith said the Mill Plaza committee had done a site walk with American Institute of Architecture representatives on May 23rd. He said a public hearing was held following this site walk, and said a good number of comments were received from the public. He said the Committee would be meeting again on Wednesday, from 4:30-6:30 pm, and said it hoped to adopt a work plan for the coming months, leading up to a formal set of recommendations. He said it was hoped the work plan could be presented to the Council at its June 18th meeting.

He said the Conservation Commission would be holding a site walk on Tuesday, June 5th, in connection with the Caldarola conservation subdivision application. He explained that the Planning Board had continued the public hearing on this application to the June 6th meeting, and was waiting to hear the Commission's recommendations concerning this application. Councilor Smith said in recent months, the Commission had been asked at the last minute to weigh in on a number of applications and projects, and would like to get more lead time for these kinds of things.

Chair Niman asked Councilor Needell and Carroll to bring this message back to the Planning Board.

Councilor Needell said the Planning Board had had a discussion regarding this issue.

Chair Niman noted the upcoming meeting with the School Board and the towns of Lee and Madbury, and said one topic for discussion was playing fields. He said that as part of discussion at a recent Economic Development Committee meeting, the Committee was looking at land across from the Garvey subdivision on Stone Quarry Drive, which might be suitable for some playing fields. He said he had asked Administrator Selig if Mr. Garvey might be

receptive to this idea, and also noted that the idea of preserving agricultural soils could be considered as part of it. He noted that there were also some wetlands on the land.

Chair Niman said he had called Mr. Garvey about this idea, and he didn't voice any objections. He provided further details on the concept, which could possibly include several playing fields. He said the property was right next to the Public Works Department, and said the Town could conceivably own the fields and lease them to the School District. He said he wanted the Council to hear about this idea before the School Board meeting, and asked if the Council had any objection to his mentioning it at the meeting.

Councilor Leach said the lack of playing fields in Durham was an important issue, and said Chair Niman had presented some good ideas concerning this. Other Councilors agreed.

Chair Niman said he would like the Council to think about the idea of a Stone Quarry Drive TIF proposal coming to the Council as early as June 18th. He said he envisioned the Council talking about the concept and then moving it to public hearing if it was comfortable with it. He asked if there was perhaps a way to streamline the public hearing process, explaining that public input was important, but that he didn't want the Council's business to come to a halt as a result of this. He suggested that a special meeting could be called, or the comments could be received over the course of several Council meetings. He also suggested that the public could perhaps be asked to limit their comments to five minutes, and to not repeat what others had said. He said he would like the Council to discuss possible ways to approach this.

Chair Niman said one of the things he didn't want the Council to get behind on was the Budget discussion. He said the Budget discussion was expected to be on the June 18th Council agenda, but said if this agenda got too crowded, it would be moved to a special Council meeting on June 25th. He said Councilors should plan on being available for a meeting on the 25th.

Councilor Van Asselt asked if there was a plan for how to proceed concerning the funding formula issue at the School Board meeting on Tuesday.

Administrator Selig said when the Council had discussed this issue at a meeting in May, it had resolved to put a question to the School Board as to whether it would be willing to look at this issue.

Chair Niman said once it was determined whether there would be a process concerning this, the Council could then decide how to move forward regarding it.

VI. Public Comments

Rodger Speidel, 7 Nobel K. Peterson Drive, said he had recently moved to Durham and was thrilled to be there. He said that between 2005 and 2006, New Hampshire's population increased twice as much as the population of other New England states, and provided details on this. He questioned why, with this increase in population, Oyster River High School was losing students, and he suggested that young families with children were being taxed out of Town.

Mr. Speidel then asked why the cost per pupil was so high. He said given the reduction in students, the School budget should have been reduced, but was not. He said it was up to the

Councilor to look for the fat in the School budget, and he also volunteered to assist with this, noting that he had experience in this area. He recommended that the School budget should be decreased, and that the tax base should be broadened through commercial development.

Bill Hall, Durham spoke about the Northern Connector, which he said the University had side-tracked over time. He said he believed the University had never had any intention of allowing the Northern Connector, and he provided details on this. He said there had not been good leadership on the Council, in terms of dealing with the University. He said that given the ever-increasing traffic in Town, he hoped the Council would address this issue, and asked if not now, when? He said the Town simply wouldn't allow a business to have a parking lot for 2000 cars without requiring it to have its own bypass, and wouldn't allow such a business to flush these cars through the streets of Durham.

VII. Unanimous Consent Agenda

Shall the Town Council Approve a Special Event Permit Submitted by Mr. Joseph Sarno of Stoneham, MA to Conduct a 5K Charity Road Race on Saturday, June 16, 2007 beginning and ending at the Oyster River High School?

Councilor Van Asselt MOVED to approve the Unanimous Consent Agenda as submitted. Councilor Leach SECONDED the motion, and it PASSED unanimously 9-0.

VIII. Committee Appointments

A. Appoint Citizen Member to the Energy Steering Committee

Chair Niman asked those candidates who were present to say a few words on their reasons for wanting to serve on this committee.

Vasiliki Partinoudi, 1 Nobel K. Peterson Drive, said she was a civil engineer who worked at UNH and focused on water issues. She said she had recently taken some classes on climate change issues, and had decided she needed to become involved. She said as a European, she could provide an international perspective on ways to reduce energy consumption, increase energy efficiency, and develop alternate sources of energy.

Palligarnai Vasudevan, 46 Ross Road, said he was a chemical engineer who worked at UNH, and said he had lived in Durham for 19 years. He provided details on his work, and said one of his areas of research was energy, including biodiesel.

Councilor Henry Smith said the Council had enlarged the size of this committee by one person, but said the Council was now faced with two outstanding candidates. He said he knew both of these candidates, and said his strong recommendation was to expand the size of the committee to include both of them.

Councilor Stanhope said he agreed.

There was discussion as to whether there might be enough members for the subcommittees that would be established, and it was noted that some of the membership of the subcommittees

could come from the Energy Steering Committee.

Councilor Needell said given the interest expressed by these candidates, it was reasonable to expand the size of the committee.

Councilor Henry Smith MOVED to expand the number of members for the Energy Steering Committee to nine members, and to appoint Vasiliki Partinoudi and Palligarnai Vasudevan to the two open positions on this committee. Councilor Stanhope SECONDED the motion, and it PASSED 8-1, with Councilor Leach voting against it.

Councilor Carroll thanked Ms. Partinoudi and Mr. Vasudevan for joining the Energy Steering Committee and wanting to become part of the “solution“. She noted that the committee would be meeting the following day at 4 pm.

Chair Niman said these would be public meetings, and said public participation was welcome.

B. Appoint Citizen member to the Churchill Rink at Jackson’s Landing Advisory Committee

Rick Szilagyi, 40 Sandy Brook Drive, said he have lived in Durham for 10 years, and noted that over the last two winter seasons, he had become familiar with what went on at the rink.

Chair Niman thanked Mr. Szilagyi for coming forward to offer his services to the committee. He noted that Mr. Szilagyi had said he thought the rink could make some money for the Town.

Councilor Van Asselt asked whether the rink would be used for the hockey teams or public use.

Mr. Szilagyi said in the past these two uses had been balanced, although perhaps not as successfully as was desired. He spoke briefly about the fact that the committee hoped to achieve this balance.

There was discussion by the Council about the fact that the terms of the various committee positions were staggered, and that Mr. Szilagyi was the last person to apply, so would have the shortest term.

Councilor Leach MOVED to appoint Rick Szilagyi, 40 Sandy Brook Drive, to the Churchill Rink at Jackson’s Landing Advisory Committee, for a three-year term, said term to expire April 30, 2008. Councilor Needell SECONDED the motion, and it PASSED unanimously 9-0.

IX. Presentation Items

A. Presentation on “Staying Safe and Saving Money” - Gary Stenhouse, Primex Senior Consultant

Administrator Selig explained that the Town of Durham got its workers compensation and property liability insurance packages from Primex, which was a quasi-government agency. He said the Town had had an excellent relationship with the agency, and he provided a brief overview on Mr. Stenhouse’s purpose, in speaking before the Council that evening.

Mr. Stenhouse provided details on how Primex functioned, as an entity where New Hampshire towns pooled their resources to get workers compensation coverage and property liability coverage. He stressed that Primex was a cooperative, not an insurance agency, and said as compared to the idea of transferring risk, the risk in this instance was shared among the towns that were members. He said the members were risk management partners, and said as part of this, Primex did a lot of training on risk management.

He said one of the Town's main responsibilities was to report claims promptly and accurately, and he noted that Durham did well with this. He provided details on some of the financial benefits of pooling of the risk, and then provided details on the Town's performance regarding workers compensation and property liability over the past three years.

He said that overall, Durham was an excellent performer, and had been so over the 26 years it had been a member. He provided details on this, in financial terms. He spoke in detail about the connection between following safety practices and saving money.

Among other data he provided, Mr. Stenhouse also noted that there had been a couple of big flooding-related claims that had recently increased the property loss ratio.

Mr. Stenhouse spoke about the 10 best management practices for risk management that a town should take, and he recommended that these be formalized for Durham. He also recommended that the joint loss management committee should be rejuvenated to address these things. He provided details on this, and said he was happy that Administrator Selig supported this idea. He also explained that a role of the Council was to support Town staff with their risk management efforts.

Councilor Stanhope asked if Primex maintained any reserves, or reinsured against catastrophic exposures.

Mr. Stenhouse said for workers comp, they underwrote this with the pool's reserves. He said for property liability, they retained the first \$300,000 and then used a captive reinsure the pool started a few years ago. He said they also used a captive reinsurance pool for catastrophic losses. He said Primex was not regulated by the State insurance department.

Councilor Van Asselt asked how Primex was able to compete with private insurers, and Mr. Stenhouse provided details on this.

Councilor Carroll said this sounded like a program that had served Durham well, and said it indicated that there were good safety measures in place. She asked if the Town was doing anything to reward employees for taking safety issues seriously and carrying out risk management strategies, which translated to the Town not having to pay out money it would otherwise have to pay.

Administrator Selig said the Town was trying to build a culture of appreciation for safety, and he provided details on this. He said they were looking at re-instating a risk management committee, which would have representatives from the various Town departments, and he described some of the approaches this committee could take to provide safety and save the Town money.

Councilor Carroll said it was important to Durham employees that they knew this culture existed.

Administrator Selig said as part of this effort, the Town was working aggressively to identify at the soonest possible time when employees could return to work, in some capacity.

Mr. Stenhouse noted that for every day an employee was out, the chance of that employee returning to full activity reduced rapidly.

Councilor Morong noted the property liability issues in Durham due to the floods in 2006, and asked if the Town would be facing the same situation for 2007 or perhaps had learned some things in 2006 that had prevented some losses in 2007.

Administrator Selig said it was hard not to incur damage with such large volumes of water, and he provided details on some of the losses that had been incurred again in 2007.

B. Presentation on the Re-alignment and Re-designation of the Seacoast Metropolitan Planning Organization (MPO) - Cynthia Copeland, Executive Director, Strafford Regional Planning Commission

Ms. Copeland said she was present to explain, and ask for the Council's support and endorsement, concerning the re-designation of the two metropolitan transportation planning organizations that included the Strafford Regional Planning Commission and the Rockingham Planning Commission. She said the end result of this proposal would be the re-alignment of the MPO's, so that they would better coincide with the regional planning commission boundaries.

She said there would be no funding or staffing changes that would occur as a result of this realignment, and she provided details on this. She also provided details on work areas that would continue to be shared with colleagues at the Rockingham Planning Commission, including- regional air quality modeling and traffic demand modeling and regional mass transit initiatives.

Administrator Selig said as long as the Council had no objections to this proposal, it would be brought forward as a Resolution on the Unanimous Consent Agenda at the next Council meeting.

The Council was in recess from 8:44 to 8:53 PM.

X. Unfinished Business

A. Resolution #2007-19, a resolution raising and appropriating an additional \$20,331 in the FY 2007 Capital Fund Budget for engineering services to repair the Wiswall Bridge with said funds to come from an initial FEMA reimbursement

Administrator Selig provided a brief overview concerning this matter. He said that as result of the flood event in 2006, the Wiswall Bridge had been washed out, and explained that the Town had applied for and received \$525,000 in FEMA funding to be used for the replacement of the

bridge. He noted that the Bridge would also qualify as part of the State bridge aid program, where there was an 80% State/20% Town match.

He said there had been some funds budgeted to accommodate the engineering work needed as part of this project, but said the bids had come in above what had been budgeted for. He said he was therefore asking the Council to consider amending the approved 2007 Budget to cover the additional amount needed for the engineering services. He said this amount would later be covered by the FEMA funding, so there would be no tax impact. He noted that the action to amend the Budget could only be taken after a public hearing, and after a 2/3 vote of the Council.

Councilor Julian Smith MOVED to open the public hearing on Resolution #2007-19, a resolution raising and appropriating an additional \$20,331 in the FY 2007 Capital Fund Budget for engineering services to repair the Wiswall Bridge, with said funds to come from an initial reimbursement of \$262,217 from FEMA. Councilor Henry Smith SECONDED the motion, and it PASSED unanimously 9-0.

There were no members of the public who spoke.

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

Councilor Julian Smith MOVED to approve Resolution #2007-19, a resolution raising and appropriating an additional \$20,331 in the FY 2007 Capital Fund Budget for engineering services to repair the Wiswall Bridge, with said funds to come from an initial reimbursement of \$262,217 from FEMA. Councilor Leach SECONDED the motion.

Councilor Needell noted that in the estimate of costs, there was a line concerning guard rail design and detail, with a minimal amount of time allocated to this. He said he wanted to be sure that this aspect of the project would be given the due diligence it would require, and he asked if the engineering firm was aware of what would be needed concerning this.

Councilor Julian Smith said he had gone to the meetings where the engineering team was selected, and said he thought the lesson had been learned from the experience with the Packers Falls Bridge.

Councilor Needell said he just wanted to be sure that the engineering firm was provided with that lesson.

Town Engineer Dave Cedarholm said the engineering consultant was prepared to attend a number of public hearings, and to be involved in the work of the design committee. He said CLD Consulting Engineers would bring as much public input to the project as possible, and said the firm had assured the Town that the numbers it had provided were sufficient to accomplish the goals.

There was detailed discussion about the extra funding needed for the additional engineering services, and that this funding, which would be covered later by the FEMA funding, would mean there would be that much less in the way of FEMA funding for the overall project.

Administrator Selig noted that it was also possible that the firm would design an attractive yet modest bridge that would perhaps cost less than one that another firm would design.

Councilor Van Asselt said an issue the Council needed to be clear on up front was that the Town had a limited amount of money for this project. He asked whether it was appropriate to set a limit to live within the available FEMA and State funding, for the repairs to the bridge.

Chair Niman suggested that they first should see what the engineering design was, and then could decide what would be spent.

Administrator Selig said residents on that road were not looking for a wider bridge, and one with complex railings. He said there was interest in installing a pedestrian walkway on the bridge, but said they weren't looking for anything fancy, and wanted to keep the rustic look of the bridge.

There was further discussion on the funding for the bridge improvements.

Administrator Selig said he expected that there would be a menu of options concerning the design for the bridge, rather than having a committee come forward with the final design as the only option. He said it was understood that the Council was interested in the final design and cost of the project.

There was discussion on the role the Council should be playing regarding the final design and the cost of the project.

Mr. Cedarholm said it had been said from the start that the design should move forward with input from a design committee, and should not be decided on by a small group of people. He said it would help if some Council members were included on this design committee, to provide cost options and to help keep costs down. He said in this way, when the design came forward to the full Council, it would have greater knowledge of where the design and cost figures had come from.

Chair Niman said it would be good if there were substantial cost differentials between the options that were proposed.

In answer to a question from Chair Niman, Mr. Cedarholm said they wanted to have the design drawings in hand, and to be ready to go out to bid in 2008. He provided further details on the schedule, and said it would be good if they could move forward with the formation of the design committee, and could hold public hearings on the project in July.

Councilor Needell said there were major breakpoints that would drive the costs for this project, and said the Council would want to know what these breakpoints were upfront. He asked when there would be an opportunity for the Council to weigh in on this, and there was discussion.

Councilor Morong asked if FEMA and NHDOT would give the Town the latitude to say it wanted a one lane bridge.

Mr. Cedarholm said a waiver would be needed for this, but said NHDOT understood what the Town wanted.

Administrator Selig noted that the 80% State match would not be available until 2010, and explained that the Town would therefore front this money, and get reimbursed later.

Councilor Van Asset said he would like to see the design come to the Council as early in the process as possible, so it could say it was or was not interesting in spending extra money on the bridge project.

The motion PASSED unanimously 9-0.

Councilor Julian Smith MOVED to award the contract for engineering services for the Wiswall Bridge replacement to CLD Consulting Engineers of Manchester, NH, for a lump sum not to exceed \$135,331, and authorizes the Town Administrator to sign the agreement with CLD Consulting Engineers. The motion was SECONDED by Councilor Henry Smith, and PASSED unanimously 9-0.

- B. Public Hearing and Action on Ordinance #2007-07 amending Chapter 124 “Street Vending, Peddling and Soliciting Section 124-5 of the Durham Town Code.

Administrator Selig said this Ordinance would allow the current practices that were followed to continue, and said it would simply update and clarify the language pertaining to the special provisions for Downtown Sidewalk sales contained within Section 124-5 of the Town Code. He said there had simply been an oversight in writing the law concerning this which would now be corrected. He provided additional details on this.

Councilor Needell MOVED to open the public hearing on Ordinance #2007-07 amending Chapter 124 “Street Vending, Peddling and Soliciting Section 124-5 of the Durham Town Code, by clarifying language to allow Durham businesses to conduct sidewalk sales without the need to adhere to Section 175-7 “Permit Procedure,” subsections B, C, and D. Councilor Leach SECONDED the motion, and it PASSED unanimously 9-0.

There were no members of the public who spoke.

Councilor Needell MOVED to close the public hearing. Councilor Henry Smith SECONDD the motion, and it PASSED unanimously 9-0.

Councilor Van Asselt MOVED to adopt Ordinance #2007-07 as presented, amending Chapter 124 “Street Vending, Peddling and Soliciting Section 124-5 of the Durham Town Code, by clarifying language to allow Durham businesses to conduct sidewalk sales without the need to adhere to Section 175-7 “Permit Procedure,” subsections B, C, and D. Councilor Leach SECONDED the motion, and it PASSED unanimously 9-0.

- C. Public Hearing and Action on Purchase and Sale Agreement between the Town of Durham and Chinburg Builders, Inc. for the Durham Business Park

Administrator Selig said the Council had made it a priority to move forward with the marketing

of this property, and said Chinburg Builders was the sole entity to submit a proposal. He said the proposed agreement before the Council was consistent with a number of prior revisions that had been made based on discussions between the Town and Chinburg Builders.

He said what had been arrived at was a nice marriage of a private company and a municipality to try to develop the Durham Business Park in a sensitive way while broadening the tax base. He said the goal of the public hearing was to get feedback from the public concerning the provisions of the agreement.

Councilor Julian Smith MOVED to open the public hearing on a Purchase and Sale Agreement between the Town of Durham and Chinburg Builders, Inc. for the sale of the Durham Business Park. Councilor Leach SECONDED the motion, and it PASSED 7-0. (Councilor Morong and Councilor Stanhope recused themselves and left the table).

Beth Olshansky, Packers Falls Road, said she supported this proposal, and said she was very impressed with Mr. Schuster's presentation, and the kind of flexibility his company was showing in terms of wanting to work with the Town to find the best uses for the parcel. She spoke about what this area had to offer the citizens of Durham, and said she hoped that they all could think about the importance of protecting the Town's gateway in this part of Town. She provided some possible ideas concerning this. She said based on past experience with Mr. Chinburg, she was hopeful that a compromise could be reached to get the kind of development that would best serve everyone's needs.

Robin Mower, Faculty Road, said she too hoped compromises could be found that would protect the scenic corridor in this part of Town. She noted there were not just aesthetic elements to consider in this area, but also historical elements, which were easily overlooked. She provided some detail on this, and said with appropriate development there, there might be some ways to direct people to those historical elements.

Steve Nadeau, 18 Emerson Road, said there was risk with any development, and said there was no perfect plan. He said he was present to point out that there was sometimes a risk as a result of not taking action, and maintaining the status quo. He said the Town of Durham was currently in economic danger, and needed to do something to address this. He said the current tax base could not maintain the status quo, and said this plan appeared to be the first step away from the current economic danger, and toward increasing the tax base. He encouraged the Council to approve this proposal.

Councilor Van Asselt MOVED to close the public hearing. Councilor Needell SECONDED the motion, and it PASSED unanimously, 7-0

Councilor Van Asselt MOVED to approve the Purchase and Sale Agreement as presented, between the Town of Durham and Chinburg Builders, Inc. for the sale of the Durham Business Park. Councilor Julian Smith SECONDED the motion.

There was detailed discussion about the wording of Section 2.03 of the Agreement.

There was also discussion about wording that had been added to Section 3.01 to provide a realistic time frame for the Closing, based on discussion at the previous Council meeting.

Councilor Van Asselt said he just wanted to be sure Mr. Schuster was comfortable with that date, and Mr. Schuster said he was.

There was also discussion concerning the time frame for approvals for Phase I of the project . It was noted that the real concern was that the Planning Board should not be under undue pressure to decide on an application for a project at the Business Park, so some flexibility was needed concerning this time frame.

Councilor Needell said once an application was accepted by the Planning Board, there was a 65-day window. He said he wanted to make sure everyone was comfortable with this.

Mr. Schuster said there would be no harm in changing the December 31, 2007 date, and agreed it would avoid putting the Planning Board in a pressure situation. He suggested changing the date to March 15, 2008, and Councilors agreed with this.

In answer to a question from Councilor Carroll concerning a possible provision on passive recreation opportunities, Councilor Leach noted that section 4.04 included language concerning this.

The motion PASSED unanimously, 7-0.

Following the vote, Councilors Morong and Stanhope returned to the table.

XI. New Business

- A. Shall the Town Council Approve 2006 Property Tax abatements as recommended by the Town Administrator?

Administrator Selig provided details on the process involved, where the Town received requests from residents for property tax abatements. He said this was a collaborative process, where it was incumbent on property owners to be sure there were no glaring errors in the assessments. He noted it was often difficult for the Assessor to get the needed information on a property,

He said once an abatement request was made, the Town Assessor reviewed them. Administrator Selig said he also reviewed the requests, and then forwarded them to the Council, which had the final say. He said if an abatement request was denied, the property owner could file an appeal with the State.

He said there were a total of 23 abatement requests received this year.

The Council agreed to only go through the abatement requests there were questions on.

Councilor Stanhope said he would like more information on some of the abatement requests. He asked whether the recommendations to grant an abatement were arrived at as part of some kind of agreement with the property owner.

Town Assessor Rob Dix said the process was that he made the decision to grant the abatement, and said the decision was not based on an agreement reached with the property owner.

Councilor Stanhope noted that even if the abatement request was granted, in this way the Town still ran the risk that there would be an appeal.

Mr. Dix said in five years, the Town hadn't spent a dime on this kind of thing going to the Board of appeals. He said with one exception, appeals of his decisions had been addressed in-house.

There was discussion about how much time the Council should be spending going through the individual abatement requests.

Councilor Needell noted that the Council in the past few years had talked about changing the current process by which the Council was supposed to review these abatement requests. He said he hoped this could happen in the future, but said for now, he agreed with Councilor Stanhope that Councilors should have the opportunity to get information on these requests and to make judgments concerning them.

It was agreed to defer this agenda item to the next Council meeting, but to have discussion on one of the abatement requests at a nonpublic session at the end of the present meeting.

B. Discussion regarding a modification to the New Hampshire Department of Transportation Route 108 Bicycle Lane/Shoulder protection at the Bennett Road intersection

Administrator Selig said if the Council was concerned with roadway safety, visibility, etc., then his recommendation was that it adopt Option 2. He said if instead, the Council wanted to balance those issues with the fact that this was an historic, scenic roadway, the clear choice was Option 3 B. He said Option 3 B would leave the current alignment as it was, and the current intersection as it was, and he described the minor modifications that would be made to provide greater safety.

He noted that as a result of NHDOT improvements to Route 108 that would occur around 2010, there would be bike lanes on both sides of the road, and he provided details on this. He said the slight modification represented by Option 3 B would protect the integrity of the road but would modestly address some of the present safety concerns.

In answer to a question from Councilor Leach, Administrator Selig said NHDOT felt Option 3 B was an improvement over the present situation, but from a safety perspective, felt Option 2 was the better choice.

In answer to a question from Councilor Henry Smith, Public Works Director Mike Lynch said the whole corridor would be re-signed after the work was done.

Councilor Leach summarized that Administrator Selig was not in favor of Option 2 based on the input from residents of that area. Administrator Selig said that was correct.

Councilor Needell summarized the general feeling about this issue: that people were tired of talking about it, and that there were two possible options. He said he would be happy to go along with Option 3 B, but also was looking to see if the whole issue should perhaps be revisited.

Councilor Henry Smith said he liked Administrator Selig's recommendation.

Administrator Selig noted that the Council had asked him to take into consideration the use of Town staff time for various issues. He said this intersection was not regarded as a red flag for the Town, and he said many residents had said they were happy with it as it was. He said safety officials were not saying this was a burning safety issue that needed to be addressed. He said his response was therefore that there were better places to put Town resources than this. He said he was comfortable with Option B.

Councilor Leach said she agreed that Option B represented a compromise. She also said she didn't feel this issue should be made into a bigger priority and revisited.

Councilor Stanhope asked whether if something was done now to the intersection, this would all be a wash when the State did the work on Route 108 in 2010.

Administrator Selig said the State was happy to leave the intersection as it was, and said the only reason it was looking at it was that the Town had flagged it.

Councilor Henry Smith MOVED to extend the meeting beyond 10:00 pm. Councilor Julian Smith SECONDED the motion, and it PASSED 8-1 with Councilor Morong voting against it.

Councilor Van Asselt said Councilor Needell had made a good point that at some point, the Council got tired concerning an issue and decided it would simply accept a compromise on something. He said the Council had to be careful about doing that, in general, but not concerning this particular issues.

Councilor Morong said he was fine with Option B, and said it was not a matter of being tired. He said he was simply ready to vote.

Councilor Julian Smith said he had used this intersection for 42 years, and said Option 3 B was a sensible, minor alteration. He recommended that the Council endorse it.

Councilor Needell said his point had been that he was very sensitive to the issue of streamlining the public input process.

Chair Niman said he would support Option 3 B, noting that he had supported Option 2 in the past. He said he hadn't changed his mind because he was tired of this issue, but said he agreed that there were more important things to work on that would make more of a difference for the Town. He said he would continue to drive defensively at this intersection.

Councilor Morong MOVED to endorse Option 3 B. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 9-0.

Councilor Van Asselt left the meeting at 10:10 PM.

XII. Nonpublic session

Councilor Morong MOVED to go into nonpublic session, in accordance with RSA 91-A:3 II c. Councilor Needell SECONDED the motion and it PASSED on a roll call vote of 8-0 as follows: Peter Stanhope, AYE; Henry Smith, AYE; Catherine Leach, AYE; Diana Carroll, AYE; Neil Niman, AYE; Mark Morong, AYE; Gerald Needell, AYE; Julian Smith, AYE.

The Council entered Nonpublic Session at 10:11 PM.

The Council returned to public session at 10:29 PM.

Councilor Julian Smith MOVED to seal the minutes. Councilor Needell SECONDED the motion, and it PASSED 8-0.

XIII. Adjournment

Councilor Julian Smith MOVED to adjourn. Councilor Leach SECONDED the motion, and it PASSED unanimously 8-0.

Adjournment at 10:39 PM.

Victoria Parmele, Minutes taker