

**This set of minutes was approved at the TC meeting on August 6, 2007**

**DURHAM TOWN COUNCIL MINUTES  
MONDAY, JULY 2, 2007  
DURHAM TOWN HALL – COUNCIL CHAMBERS  
7:00 PM**

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

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Town Administrator Todd Selig; Town Planner Jim Campbell

**I. Call to Order**

Chair Niman called the meeting to order at 7:05 pm.

**II. Approval of Agenda**

*Councilor Leach MOVED to approve the Agenda as submitted. Councilor Van Asselt SECONDED the motion.*

There was discussion regarding whether XI A, regarding the policy for acquiring conservation land, should be removed from the Agenda.

Councilor Julian Smith suggested that there could be discussion of the matter, rather than adopting anything.

Councilor Carroll said she would prefer that the Council hold off on discussing this matter until the Land Protection Working Group had had chance to look at it, noting that it affected them most directly.

*Councilor Needell MOVED to remove Item XI A from The Agenda. Councilor Morong SECONDED the motion, and it PASSED 7-2, with Councilor Julian Smith and Councilor Van Asselt voting against it.*

*The Agenda as amended PASSED 9-0.*

**III. Special Announcements**

No special announcements

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

##### **May 21, 2007 Minutes**

**Page 9**, 6<sup>th</sup> paragraph, should read “legal fees per capita than other towns...”

**Page 11**, 3<sup>rd</sup> paragraph from the bottom, strike “given the proximity of the site to the wastewater treatment plant” and replace with “since it may not be appropriate in this part of the river.”

*Councilor Julian Smith MOVED to approve the May 21, 2007 Minutes as amended. Councilor Leach SECONDED the motion, and it PASSED unanimously 9-0.*

##### **June 4, 2007**

**Page 1**, under Others Present, correct spelling of Tom Madden. Also, indicate that Chair Niman called the meeting to order at 7:00 pm.

**Page 2**, 2nd paragraph, should read “..loved learning, especially about science and nature.”

3<sup>rd</sup> full paragraph, should begin “Chair Niman spoke about the significant impact Doris Peterson had had on the Town of Durham, because of...”

4<sup>th</sup> full paragraph should read “ and presented it to Mrs. Peterson, who then spoke about her years with the Red Cross.”

**Page 4**, last paragraph, “...who recommended that the School Budget should be decreased,...”

Also spelling in last paragraph should be “Mr. Speidel”

**Page 7**, 5<sup>th</sup> paragraph from bottom should say “..and then used a captive reinsurance pool...”

**Page 13**, 2<sup>nd</sup> paragraph, should say “...there was a 65 day window.”

*Councilor Leach MOVED to approve the June 4, 2007 Minutes as amended. Councilor Carroll SECONDED the motion, and it PASSED unanimously 9-0.*

##### **June 4, 2007 Nonpublic Minutes**

It should be noted that Councilor Van Asselt was present for the Nonpublic session.

*Councilor Needell MOVED to approve the June 4, 2007 Nonpublic Minutes. Councilor Leach SECONDED the motion, and it PASSED unanimously 9-0.*

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

Councilor Needell provided an update to the Council on the Planning Board. He said the Cuthartes application had been approved at the June 20<sup>th</sup> meeting. He also said the Board had held a quarterly planning meeting on June 27<sup>th</sup>, and among other things had deliberated on the proposed forestry-related revisions to the Zoning Ordinance.

Councilor Needell said the Board would hold a public hearing on the Council’s proposed modifications to the Zoning Ordinance regarding home occupations on July 11<sup>th</sup>, and said there would also be continued deliberations on the Strafford Avenue conditional use application/site plan application and the Caldarola conservation subdivision application.

Councilor Carroll made note of the fact that parking spaces downtown were more accessible at this time of year, which provided a great opportunity to shop downtown. She noted that some upgrading of properties had occurred downtown, including the addition of the ice cream stand to Durham Market Place, which had become a central location in Town where residents had started to gather. She said the Public Works Department had put some work into the park on Ballard Street, and also noted that there were tables and chairs available outside several businesses on Main Street.

Councilor Carroll said most of these establishments were locally owned, independent businesses, and said the money Durham residents spent at them stayed in the community longer. She urged residents to support these businesses if they wanted to see economic development in Durham, and wanted to keep their taxes down.

Councilor Julian Smith said the chair of the Conservation Commission had asked him to let the Council know that the Commission would be discussing the issue of the disposition of the change of use tax at its next regularly scheduled meeting. He noted that Chair Cynthia Belowski would be present at the next Council meeting to give the Commission's annual report.

Councilor Smith spoke about a related issue, the fact that much of the information the Commission had been receiving concerning applications before the Planning Board came in fairly late, which put the Commission in the position of having to respond to this information with very short notice. He said the Commission thought it would be better if it got the necessary documents well in advance.

Administrator Selig reminded residents that the Great Bay Rotary Club fireworks were scheduled for July 4<sup>th</sup>, and he provided details on this. He said the rain date was July 5<sup>th</sup>, and said residents should check the Town website for updates on this schedule. He also said the Town offices would close on July 4<sup>th</sup> and would reopen on Thursday, July 5<sup>th</sup>.

Administrator Selig noted that at the Council's recent Budget work session, the "pay as you throw" concept had come up. He said there was a write-up about this on his Friday Update, and explained that the Council was interested in getting feedback from residents on this issue.

Councilor Leach said she had received two emails from the Integrated Waste Management Advisory Committee expressing concerns about the idea of that committee spending a lot of time on this issue without knowing what the perspectives of others were. She noted that the general consensus at the last Council meeting was that it would be a good idea to give the Committee more direction before asking it to spend a significant amount of time on this issue. She said a question also was whether this was the group that should be spending time on the issue.

Councilor Julian Smith suggested that since the Council would not be talking about the land conservation language modifications, it might instead discuss the "pay as you throw" issue, under either New Business or Other Business.

Council members agreed with this suggestion.

## **VI. Public Comments**

**Bonnie McDermott, 80 Dover Road**, read a letter from **Bob McAllister, 78 Dover Road**, which said the Town didn't need sidewalks on Dover Road and Canney Road. He also said it didn't need water and sewer to the Madbury town line, and said Durham should let the developer take care of water and sewer to Stone Quarry Drive. He said there was enough trouble with the road since the State had put in bike paths. He said in the 1950s, people wanted water and sewer, but the Town said this was too expensive. He said now that taxes were outrageous, the Town was looking to put more money to the taxes.

Ms. McDermott then spoke about why the "pay as you throw" idea was not really going to help taxpayers, because of the cost of the bags, the administrative costs, the cost of delivering the bags, the cost of a building that would be needed, etc. She said there were 36 towns in NH that had gone to the "pay as you throw" system as of 2002, and said there was the same number of towns as of 2007, which should tell the Council something.

## **VII. Unanimous Consent Agenda**

- A. Shall the Town Council reappoint Director of Planning and Community Development Jim Campbell as its representative to the Seacoast MPO Technical Advisory Committee for the period July 1, 2007 to June 30, 2008?
- B. Shall the Town approve abatement for water and sewer for spring 2007 and authorize the Town Administrator to sign said abatement?

Councilor Stanhope asked that Item A be removed from the Unanimous Consent Agenda.

***Councilor Stanhope MOVED to approve Unanimous Consent Agenda Item B. Councilor Leach SECONDED the motion, and it PASSED unanimously 9-0.***

Regarding Item A, Councilor Stanhope noted the significant demands on the Town planner's time, and he questioned whether Mr. Campbell's participation on this committee was of significant benefit to the Town, or whether the Town could better use his services in Durham. He said perhaps someone else in Town could fill this role.

There was discussion on this, and on how information from the Committee's meetings was used by the Town of Durham.

Administrator Selig said the challenge was to find residents to participate on the Committee, noting that there were also 2 openings at present on the Strafford Regional Planning Commission that had not been filled by Durham residents. He said the position on the Seacoast MPO had by default been given to Mr. Campbell, noting that it was important that the representative be knowledgeable about planning, and be in tune with what was going on with the Planning Board. But he said a resident with the time, inclination, and background to serve on this committee could relieve Mr. Campbell of this responsibility.

Councilor Leach suggested the opening on the committee should be published again in the

Friday Update, along with more detailed information on what the position involved, so residents would have a better idea of what they were signing up for.

Councilor Needell asked Administrator Selig if in the immediate situation, the Council should stay with the motion to appoint Mr. Campbell to the Committee.

Administrator Selig said yes. He also said that ideally, one of the three appointments to SRPC should serve on the Seacoast MPO because there was a great deal of overlap between these positions. He said he recommended that the Council move forward with the appointment of Mr. Campbell to the Committee, and then bring forward another candidate when such a person appeared.

Councilor Stanhope said he would prefer that Mr. Campbell's talents be applied locally where there was a greater need for them.

***Councilor Needell MOVED to reappoint Director of Planning and Community Development Jim Campbell to the Seacoast MPO Technical Advisory Committee for the period July 1, 2007 to June 30, 2008. Councilor Carroll SECONDED the motion.***

There was further discussion on this.

Councilor Stanhope said he would be comfortable revisiting this matter after seeing if someone else was willing to step forward.

Councilor Julian Smith asked if Councilor Stanhope would be willing to try to recruit such a person, and Councilor Stanhope said that given some time, he might be able to do this.

***The motion FAILED 2-7, with Councilor Needell and Councilor Carroll voting in favor of it.***

Chair Niman said the position would be advertised again.

### **VIII. Committee Appointments**

Appoint Durham representatives to the joint ORCSD, Durham, Lee, and Madbury budget, recreation and playing fields, and school funding formula subcommittees

Chair Niman explained that it was not clear from the memo from School District Superintendent Howard Colter how many people Durham could appoint to the three joint subcommittees, and said this needed to be clarified before making the appointments. There was discussion about this, and about how to move forward with this.

Councilor Needell said he thought that appointing at least two people from each community for each subcommittee was not unreasonable. He also said that given the amount of citizen response regarding possible appointment to the apportionment formula committee, he would want to remove his name from the list of potential appointees, unless the Council felt there should be a Councilor on that subcommittee.

There was discussion regarding the fact that there were three citizens interested in serving on

the funding formula subcommittee, one of whom, Chris Mueller, had said he would also be interested in serving on the Budget committee. Councilor Van Asselt recommended that Mr. Mueller and Mr. Gottsacker be appointed to the School Board committee, and that the other two citizens interested in serving on the Funding formula committee be appointed to that committee.

It was agreed that the Council should first hear from the candidates.

**Jerry Gottsacker, 107 Madbury Road,** said he had been attending School Board meetings for many months, and had also attended the June 5<sup>th</sup> tri-town meeting with the School Board. He noted that he had watched a School Board meeting the following night, and said Board members had discussed their goals that evening, and not one of their goals was financial in nature. He said he had noted this at a subsequent Board meeting, and several Board members had said they didn't see that it was their job to be concerned with the School Board budget, and that it was the administration's job to look at this.

Mr. Gottsacker said he had dealt with very large and small budgets over the course of his career, and said he was concerned that a body that was ultimately responsible for a budget was not interested in looking at the details of it. He also said his philosophy was that students should get the best education at the best cost.

**Chris Mueller, 6 Timber Brook Lane,** noted that he had applied for the apportionment funding committee because he felt it was important that the committee come to some kind of resolution as to whether the funding formula was or was not fair, and the Town would then know how to proceed from there. But he said he would be agreeable to serving instead on the School Budget subcommittee.

Councilor Needell said he appreciated what Mr. Mueller had said in his application concerning his desire to serve on the funding formula subcommittee, and said he would like him to be able to serve on it. But he asked Mr. Mueller what issues he would focus on if he were on the School Budget subcommittee.

Mr. Mueller said he would focus on the procurement process at the school district level, for technology, etc.

It was noted that School Board committee applicant James Bubar was not present that evening.

**Malcolm McNeill, 44 Colony Cove Road,** said he had developed an interest in the apportionment formula issue when he worked on the Master Plan economic development committee. He said he hadn't realized until then the disparate treatment of students among the three towns, in terms of financial commitments to the system, and said this was especially disturbing when so much of the land in Durham was tax exempt.

He said there appeared to be an inequitable treatment of the Town of Durham relative to the funding formula, and said it needed to be evaluated what the situation was when the formula was developed, and whether the same conditions existed now to justify a continuation of that policy.

He said if it were no longer appropriate to continue that policy, appropriate measures should be taken that didn't damage the School district but did favorably affect the people of Durham.

Mr. McNeill pointed out that this was an area of tax stabilization where there was no zoning involved and no land use changes involved. He said if there were an equitable and reasonable approach to this issue, there would be some degree of tax stabilization in Durham. He noted that he specialized in inter-government relations, so could be useful on this committee.

Councilor Needell said he appreciated the fact that Mr. McNeill wanted to investigate the funding formula, but said he was concerned with what he perceived was a bias by Mr. McNeill that switching to 100% ADM was the way to go, and that this was obvious to everyone.

Mr. McNeill said he didn't feel he had made the comments in his application without having studied the matter significantly. He said it would be fair for the committee to amass the appropriate information and come to a reasonable conclusion. He said there needed to be adequate facts to justify disparate treatment of children from the three towns.

Councilor Needell said he felt this was a wholly unacceptable starting point for the discussion.

***Councilor Van Asselt MOVED to appoint Jerry Gottsacker and Chris Mueller to the School Board Budget Committee, and James Bubar and Malcolm McNeill to the School Funding Formula Committee. Councilor Stanhope SECONDED the motion.***

Councilor Henry Smith said although he was interested in serving on a committee, he would withdraw his name from consideration.

Councilor Needell said he couldn't support the motion, and stated that he would much prefer to see Mr. Mueller and Mr. Bubar serve on the funding formula committee, given their statements, openness, and approach. He said he would be willing to make a motion to this effect if any other Councilors wanted to consider this.

Councilor Henry Smith asked if Councilor Needell would be all right with having Mr. McNeill serve on the Budget Committee, and Councilor Needell said yes.

There was no further discussion on this issue.

***The motion PASSED 7-2, with Councilor Needell and Councilor Carroll voting against it.***

Councilor Needell asked if these committee meetings would be public meetings.

Administrator Selig said they would be, and said the School Board would provide public notice for them.

Councilor Van Asselt said he would move to appoint Councilor Leach to the Recreation Playing Field Committee in the absence of any citizen candidates for this position.

***Councilor Van Asselt MOVED to appoint Councilor Leach to the Recreation Playing Field Committee. Councilor Julian Smith SECONDED the motion, and it PASSED 8-0-1, with Councilor Leach abstaining.***

**Recess from 8:02- 8:11 pm**

**IX. Presentation Item**

Stone Quarry Drive Tax Increment Finance District (TIF) - Donald Jutton, Municipal Resources, Inc.

Administrator Selig introduced this Agenda Item and said Don Jutton of Municipal Resources, Inc. was present. He noted that the Town had adopted provisions to allow a TIF district earlier in the year, and said the Economic Development Committee had then done further analysis of a potential TIF district on Stone Quarry Drive, which had been under consideration for about a year.

He said the EDC's initial focus had been on extending water and sewer to the site, to enable development in that location. He noted that subdivision approval had already been received from the Planning Board several years ago.

He said the EDC had then looked at development of the area in a more global context, and he provided some detail on this. He said it had been suggested that a walking path could be developed from Jackson's Landing to the Durham Business Park to enable non-motorized transportation between those two points and the downtown area.

Administrator Selig said another idea was to extend water and sewer beyond Stone Quarry Drive to the Madbury Town line. He explained that the Evangelical Church was looking for an alternative location, and the thought was that the currently tax exempt structure could become a taxable property. He said there were a number of possibilities involved with this idea.

He said another idea was that a portion of the Stone Quarry Drive property could possibly be developed into ball fields, which the Town could then lease to the School District, perhaps making it unnecessary for the School District to move ahead with a multi-million dollar athletic complex.

Administrator Selig said Mr. Jutton was present to provide an overview of the draft plan. He said the EDC had for the most part settled on the global approach as making sense. He said the EDC would take feedback received from the Council and the public, refine the plan, and bring it back to the Council later in the summer. He provided details on the proposed schedule the EDC was looking at.

Mr. Jutton provided a slide presentation on the details of Phase I and Phase II of a possible TIF district. He said Phase I was an immediate opportunity, with a cost of \$750,000, which would involve the extension of 1100 ft of water line and 2300 ft of sewer line, along with the



construction of a sewer pump station.

He said Phase II was a potential future project that would cost just under \$1.1 million. He said it would involve the following elements:

- extension of water and sewer to the Madbury/Durham town line.
- A streetscape along Route 108
- Construction of sidewalks along Route 108 and part of Canney Road
- pedestrian improvements at Jackson's Landing

Mr. Jutton provided details on the costs and impacts of Phase I:

- \$750000 bond
- 10 yr. amortization, about \$90,000 per year (would need to generate about \$3.7 million in new valuation to offset debt service)
- 20 yr amortization, about \$55,000 per year (would need about \$2.2 million in new valuation to offset debt service)

He said Phase I would be a water and sewer project in its entirety, and said it would serve a business park with 12 lots. He said the debt service would be guaranteed, and said it would result in a development that was consistent with the Master Plan. He said Phase I should be a winner all around.

Mr. Jutton said Phase II was more complicated, and he provided details on the costs and impacts of this phase:

- \$1.2 million bond
- 10 yr. amortization, about \$144,500 20 per year (would need \$5.9 million in new valuation to offset debt service)
- 20 yr amortization, about \$88,000 per year (would need about \$3.5 million in new valuation to offset debt service)

He then provided details on key elements of Phase II:

- Streetscaping elements are not well defined and agreed on; Jackson's Landing elements are not well defined yet
- Requires longer view, and depends on the success of Phase I
- Questionable potential for debt service guarantee, although there might be some partners for a partial guarantee. He said there was a lot of public benefit improvement in Phase II that would probably not be very attractive for a private developer
- Phase II would be consistent with the Master Plan

Mr. Jutton said that Phase I was essentially guaranteed, assuming the developer came forward with this. He said it was reasonable to assume that the 12 lots, containing raw land, would be built out and would provide significant capacity. He said the Phase II piece was trickier, noting that there was not a lot of raw land out there. He said they would be able to capture increments from upgrades of the existing properties, but said it would probably be a reach to get \$5-6 million in the foreseeable future, and said it would probably take 15-20 years to realize this.

Councilor Henry Smith said if this were adopted, it would involve about 182 acres. He noted other towns in New Hampshire that had TIF districts, and asked if any of these towns had

incorporated so much acreage.

Mr. Jutton said the TIF in Raymond contained about 300 acres, and the Hooksett TIF had about 65 acres.

There was discussion that the \$502,000 figure for Phase I was 3 years old, and that the figures for Phase I and II would be refined, based on a number of factors, including changing market conditions.

Chair Niman explained that Underwood Engineers would be coming up with the best way to get the water and sewer under Route 4, and then would provide a precise cost estimate. He explained that the reason the EDC schedule was developed was that the committee was hoping it would have the preliminary report from Underwood Engineering in time for the July 19<sup>th</sup> EDC meeting.

Councilor Carroll noted that Mr. Jutton had said market conditions were changing, and she asked for details on this.

Mr. Jutton noted that the number of NHDOT projects was slowing down, so there wouldn't be as much competition.

Councilor Morong asked if there had been any study of the real potential for development at Stone Quarry Drive if it were totally developed.

Mr. Jutton said it was estimated that there could be up to \$9 million, assuming about \$125 per sf. He said these numbers would be fine tuned

Councilor Morong asked Mr. Jutton to explain how the guarantee would work.

Mr. Jutton said the guarantee was to develop a certain amount of taxable value. He said the Town would need the developer to guarantee \$3.7 to 4 million worth of development value, or pay the difference. He said the developer would have to provide some kind of surety, whether this was a performance bond, an insurance policy, etc. He said this was up to the developer to provide, and the Town need to decide that this was sufficient.

Councilor Van Asselt said early discussion by the EDC was about Phase I, and he said interest was then expressed by the EDC and some residents about some improvements to Jackson's Landing. He said the idea of the curbs and sidewalks came in later, and these were all put in Phase II. He asked if Phase I could perhaps include the original Phase I plus the Jackson's Landing project.

Mr. Jutton said yes, noting this would involve redrawing the TIF district lines. He said it would also depend on how the Town wanted to structure this, explaining that it could fund these improvements as part of the bond, or could fund only the water and sewer, and make the other improvements based on the capture over a period of time

Councilor Van Asselt said one of the leading participants in that would be the Town, and Mr. Jutton said the Town could look for sources of funding for this component.

Councilor Needell asked if there was a reason why Phase I and Phase II shouldn't instead be done as separate TIF proposals, other than the obvious reason that doing them together was simpler.

Mr. Jutton said not really. There was discussion as to whether it was better to expand a TIF district rather than doing a separate one. Mr. Jutton said if Phase I was separated out, the likelihood of capturing a significant increment and having it available was pretty remote.

Mr. Jutton provided details for Councilor Leach on how the debt service guarantee would work between the Town and the developer.

Councilor Julian Smith asked how many residential properties would be affected by the construction of the sewer line, and whether they would be required to hook up to the line.

Mr. Jutton said 12-14 properties would be impacted, and Mr. Jutton said a requirement to connect would be up to the Town.

Councilor Smith said concerning Phase II that there were quite a few properties that would be included in the TIF district that currently had leach fields. He said the Council would need to have a conversation as to whether these properties would be required to hook up to the sewer line. He noted that he had hooked up to town sewer with two properties he had previously owned, and it was an expensive and cumbersome process.

Mr. Jutton noted that in the event of a septic system failure, the State wouldn't allow replacement of the septic system if sewer was available. There was discussion about this.

Councilor Stanhope asked for details on the gateway enhancement and streetscape enhancement terms he had seen in the draft plan.

Mr. Jutton said these essentially meant the same thing, and referred to landscaping along the public corridor. He said there was no plan yet for what this would look like. He said he saw this as something that would happen in 10-15 years down the road, and said the landscaping plan could be developed at that time.

Councilor Carroll noted that Phase II didn't involve much land that wasn't currently developed. She asked how this developed property would be upgraded.

Mr. Jutton provided details on this, noting that it could be converted to professional office space, and said the increment would then be captured.

Chair Niman provided details on the playing fields issue, explaining that some direction from the Council would be needed in order to pursue this issue. He pointed out that some of Mr. Garvey's land at Stone Quarry Drive that had been considered to be too wet for development, but not too wet for playing fields. He provided details on problems that were found to be associated with this parcel, and noted that another one of Mr. Garvey's lots contained a lot of wetlands, but also contained some buildable land in the middle.

He said the problem was how to get to this land, and he provided details on this. He said the question was whether the property owner would want to sell this land, and then see if an easement could be obtained from Rockingham Properties to get to the backland. He said one wetland crossing would be involved in such an approach. He said 3-4 soccer fields would fit on this land, and said they would have to be creative about the parking area.

Councilor Needell said it was great that some upland had been found for potential playing fields. He said this present idea for possible playing fields presented some challenges, and asked if it belonged in this project. He noted that the TIF enabling document said that no TIF proceeds could be used to acquire public or private land.

Chair Niman said they would have to change that, and said they were thinking if using some of the incremental tax revenues to finance the purchase of that land, with the eventual plan to lease the fields to the School District. He said this could also be done without a TIF, and said the land could be bonded and then leased to the School District, which could then cover the bond payments.

Chair Niman said some of the challenges of Phase II were the extent of undevelopable land in the area. He said the only real boost in tax revenue would be if the Evangelical Church property became taxable space. He said the EDC's idea of moving water and sewer up Route 108 did not result from envisioning that the residential lots up there would be developed commercially, noting among other things that the lots were too small.

He provided details on the idea of running water and sewer to the Evangelical Church, and in return, asking that their building be sold to an entity that paid taxes or would allow payment in lieu of taxes if it were a nonprofit. He provided details on the impacts to the Town if the Church moved to another property in Town. He said this was an opportunity to influence where that Church was built, and what happened to the property where the Church was currently located.

Councilor Julian Smith said the Evangelical Church was on its own well and leach field, and he asked if this was a disincentive for commercial development. There was discussion on this.

Councilor Stanhope noted that Mr. Jutton had spoken of Phase II as being farther out in time, but Chair Niman spoke about it as something that might be more current.

Chair Niman said that was correct, and he provided details on this

Councilor Needell said this raised the question of whether Phase II was appropriate as part of the TIF district or not. He said this was something that needed to be worked out by the EDC and the Council.

Chair Niman agreed that the church and playing fields issues could be separated out from the TIF. He explained that his concern was that there needed to be public disclosure of the different pieces that were possible, so the public would understand what was possibly in the works. He said the Council would have to decide whether to do Phase I, and do the other things separately, or do everything as one package.

Chair Niman said members of the public would now have the chance to speak on this issue.

**Dennis Meadows, 34 Laurel Lane**, said he had been a resident of Durham resident for 19 years. He said he was enthusiastic about the idea of tax relief, and the TIF idea. He said he would focus on Phase I and the tax saving consequences.

He asked who would pay the TIF taxes, and Mr. Jutton said the TIF District would have no impact on existing properties. He said people who developed their properties would be taxed on the increased value.

Mr. Meadows noted \$11 million was planned for capital improvements in Durham for water and sewer. He said the TIF could impact on this, by forcing the Town to have additional capital, and by increasing interest rates. He asked if these costs had been estimated, and he also asked who would pay these costs.

Mr. Jutton said the engineers would look at what improvements would be driven by this. He also said the bond rating agency wouldn't be concerned about this because there would be a performance guarantee to pay the bond.

Mr. Meadows said the draft plan used the same cost figures for Phase I and II, although they would not take place at the same time. He asked if this meant there would be no inflation over this time.

Mr. Jutton said these were guesstimates at best, to show the magnitude of scale of the cost. He agreed that consumer price index factors would be applied.

Mr. Meadows said he wondered what the people of Durham thought about this TIF concept. He noted that the Master Plan spoke about various things besides economic development. He said almost 8000 people drove in that area of Town every day, and said the TIF would have an enormous impact. He said he would personally pay for a survey, to be done by the UNH Survey Center, which would determine what residents felt about the TIF proposal.

**Annmarie Harris, Oyster River Road**, said she was a 37 year resident of Durham. She echoed Mr. Meadows' question on how long it would be before Durham citizens would receive tax benefits from the TIF, and also said that the benefits in terms of tax dollars, which were relatively small, needed to be weighed against with what would be lost. She said this needed to be looked at carefully in terms of direct benefits to citizens, and when these benefits would be realized.

Mr. Jutton said \$10 million would generate \$0.25 million in taxes, which translated to about \$1.00 dollar per thousand on the tax rate. He said this would occur at full buildout, after the debt service had been paid down.

**Robin Mower, Faculty Road** said the calendar for the TIF district was a bit aggressive. She provided details on this, including the fact that the Council hadn't yet had a discussion on many of the issues raised that evening. She also asked what concessions had been requested from the developer in return for extending the infrastructure.

She noted that at an EDC meeting, it was pointed out that extending the infrastructure could result in continuous development between Dover and Durham, and a member of the Committee said that would happen anyway. She said Durham didn't have to encourage this, and she said that there were many places in the Master Plan that emphasized that residents wanted to preserve the entryways to Town. She encouraged the Council to consider very carefully whether it wanted to do Phase II, and to have extensive discussion with the public on this rather than having such an aggressive timetable.

Administrator Selig said the Town to date had only talked about a surety guarantee, and he noted that not all TIFs included other concessions. He said there had been discussion about the idea of ball fields, and he said perhaps access to the land that was developable could be put on the table. But he said there hadn't been a heart-to-heart discussion with the developer on this idea to date. He agreed that the public would be able to comment on this as the plan came forward.

He also said the Master Plan did say a variety of things, but he said it was important to look at how parcels were zoned. He discussed this further with Ms. Mower, who said she was not arguing against development, but said protections should be built into the development plan.

**Judy Churchill, 30 Old Piscataqua Road**, said she lived within the area that might be part of the TIF, and she asked what kind of businesses might be part of Phase I

**Dave Garvey, of Rockingham Properties**, said Stone Quarry Drive would be a professional office park, with doctors, lawyers, etc. He said it wasn't really zoned for much else.

Ms Churchill said if this went forward, it would be foolish not to put in sidewalks, noting that the traffic was terrible there. She also said she didn't see any reason why a TIF was needed for Jackson's Landing improvements. She said the whole proposal seemed like a great way for the developer to get water and sewer without having to pay for it.

**Jerry Gottsacker, 107 Madbury Road**, noted that the project already had Planning Board approval. He also said the bond length and the pay back period were two different things. He said it might be decided that the bond could be paid down sooner, as the revenue came in, and the Town would thus see the money hit the general fund earlier. There was discussion about this with Mr. Jutton.

Councilor Needell noted that the developer had subdivision approval, but had not received site plan approval yet.

**Bonnie McDermitt, 80 Dover Road**, said she and her husband were 100% behind Phase I, but she expressed doubt about making things more complicated by including Phase II.

**Beth Olshansky, Packers Falls Road**, said there appeared to be some conflicting information being provided concerning this issue, and said she hoped that as the vision was refined, the figures could be more accurate. She also said it was important to balance the benefits and costs to the community, and said some of the costs had not been factored in. She agreed there were some conflicting statements in the Master Plan, but said one could get a sense from it how the general public felt about these basic issues.

She said she appreciated Dr. Meadows' offer to have a survey done, because the TIF was a big decision for the Town. She said she had heard different things about when Phase II could occur, and said it was important to know what they were talking about.

There was discussion between Mr. Jutton and Ms. Olshansky that the tax relief would occur when the bond was paid off, and at that point it would be figured into the 50/50 formula.

Administrator Selig noted that the discrepancy between Ms. Harris and Mr. Jutton in terms of how much the tax rate would be reduced as a result of the TIF was that Ms. Harris was looking only at the municipal part of the budget, 12 to 13 cents per thousand. He said the benefit of the TIF was that they could capture the Town portion as well as other portions of the tax rate, which equaled a much larger number, and which was able to be used within the TIF district. He said this factored into the EDC's thinking regarding including Jackson's Landing and other aspects of the project, because the money went farther as part of this.

He said the final calculation hadn't been done on the tax rate reduction because they didn't have a lot of the information in place yet. He said it was still early on in the process. But he said some analysis had been done that given the funding formula, the new taxable value would help the Town, but could help more. He said the more that could be done to detach the funding formula from the assessed value, the more incentive there was to aggressively broaden the tax base. He said that currently, the more the Town broadened the tax base, to a degree, the more it paid into the formula.

In answer to Ms. Olshansky, Administrator Selig said at some point, they would be able to provide the information she was looking for in terms of how much tax relief would actually be provided to residents, when all factors were considered.

Ms. Olshansky said the wording "streetscape enhancement" seemed far off. She said if they did go forward with a TIF, there needed to be recognition that a large number of people in Town cared about the look of Durham. She noted that the Master Plan discussed the Town gateways, and said Durham was one of few communities in the area that didn't have a commercial strip. She noted that candidates for the Council this year had spoken about not wanting sprawl. She said the TIF didn't necessarily create sprawl, but she said the Zoning Ordinance did allow sprawl. She said this needed to be looked at seriously. She also said the idea of streetscape enhancement needed to be looked at, at some point.

She said that when the TIF enabling legislation was first approved, one of the selling points was that this was a way to have more control over what went on in the TIF district, and that there was an opportunity to negotiate with the developer. She said since Durham was a community that cared about its gateways, she thought this might be something that could be discussed as part of supporting further development.

**Phyllis Heilbronner, 51 Mill Pond Road**, said she was a 53 year resident of Durham. She noted that she used Jackson's Landing, and said making a left turn out of the area was not easy. She said she hoped whatever plan there was would take the increased traffic along Route 108 into consideration.

She also noted that concerning the idea of leasing playing fields to the School District,

Durham taxpayers would ultimately have to pay for this.

**Malcolm McNeill, 44 Colony Cove Road**, said the desirability of a TIF was to get the maximum bang for the development buck during the time when the TIF effectively shielded the funds from the broader funding formula requirement. He said the issue of why there should be economic development in the community if the funding formula then took it away was a good reason for the funding formula committee to examine that issue.

He said it was important to remember that TIF was a funding mechanism, not the Planning Board or a Master Plan committee. He said it was a means by which the community might serve to finance various projects in portions of the community. He said it was clear that the controlling voice in enactment was the Zoning Ordinance, and said TIF projects could only be located where they were permitted by the Ordinance, and where they were approved by the Planning Board.

Mr. McNeill said that regarding the gateway issues, there was no gateway zone, and there was recognition that there were various areas of Town that had been set aside for economic development. He said the Planning Board looked at buffering and shielding approaches, which would be part of any realistic plan in Durham.

**Gail Renkin, 79 Dover Road**, said her property was rezoned last year, and said she must have missed it. She said the TIF would ask her to pay for water and sewer hookups and to have to look at increased traffic in that area. She said she was for Phase I, but said these other points needed to be considered, She said there were a lot of costs that didn't get considered under the maximum bang for the development buck. She asked where the land would come for all the sidewalks that were planned, and said these kinds of things needed to be considered.

**Diana McCann, 27 Oyster River Road**, said she was a 30 year resident of Durham She asked if there was a possibility of a traffic light for the Stone Quarry development. Administrator Selig said in the State's long term plan, they had included putting a light at the Route 108/Route 4 intersection. It was noted that this was planned for 2014.

Ms. McCann said the proposed EDC schedule concerning the TIF wasn't fair, given the limited population in the summer. She said it was important to get as much as feedback from the public as possible.

**William Hall, Smith Park Lane**, said Durham had a traffic problem because the biggest destination in Town was the parking lot across from the RR station. He said the quickest way to reduce traffic was to provide direct access from that parking lot to the bypass to Route 4. He said the Town had been shortchanged regarding this.

**Beth Olshansky** noted that Mr. Jutton had said Phase II would provide a questionable return. She said she was very concerned about the TIF involved with Phase II, and said she wondered why the Council wouldn't move forward with just Phase I, given this uncertainty.

**Robin Mower** said she had heard some people say that whatever was allowed by the Zoning Ordinance was a permitted use. She said this might be a time that the Town might want to



consider some Zoning rewrites for this area.

In answer to a question from Councilor Morong, Mr. Jutton explained that once the plan was implemented, the district went away and the money went to the General Fund. He said if Phase II was adopted anything beyond the debt service could be captured, to be used for projects in Phase II.

There was discussion between Councilor Morong and Mr. Jutton about how the Jackson's Landing Project might be handled, given this.

There was further discussion of the benefits of TIF, including the capture of a portion of the school tax.

Chair Niman said the purpose of the Council's discussion at that point was to give the EDC guidance as to how the plan should come back to the Council. He described the various approaches the Council could take concerning this.

He said one approach was to say it wanted to do the simplest, thing, Phase I, and to retire the bond as soon as possible and get the tax revenues. He said another approach would be to take the opportunity to capture the incremental taxes that would ordinarily go to the School district, and use them to finance some of the amenities.

Chair Niman said another approach, moving along the path the EDC had charted, would be to extend water and sewer all the way to the Madbury town line. But he said this could also be done without the TIF, and said the Town could simply sit down and talk with the Evangelical Church. He said it was important to consider how important these amenities were, and to consider the idea of using school dollars to build infrastructure that the Town otherwise couldn't afford, and where the Town might want to do TIF district in order to get them.

Councilor Carroll said before the EDC came back with a plan she would like to see more numbers associated with the different scenarios, including information on the different amenities that had been mentioned. She also said the Council should make a decision concerning Mr. Meadows' offer to have a survey done.

Mr. Meadows said the offer stood, regardless of whether the Council made a decision on this that evening.

Councilor Leach agreed more information was needed, stating that she wasn't ready to make a decision on this without this information. She suggested that Councilors with specific questions could bring these forward to the EDC, along with questions from residents.

Councilor Van Asselt said the EDC would bring back numbers to the Council based on how the Council wanted to proceed. He said the schedule worked in terms of the EDC if the Council was prepared to give some direction. He also said another reason why Phase II made some sense was that when a development project was done, it made sense, cost-wise, to do the entire sewer and water line in the short term rather than doing portions of them at different times.

Councilor Needell said this project had grown from what had originally been envisioned, noting that this was well-intentioned. He said he liked the idea of getting Phase I right, and then perhaps seeing a Phase I a, including Jackson's Landing. He said there were more questions than answers with Phase II, and said he wasn't comfortable tying it in with Phase I right now.

He noted that by doing Phase I, the water and sewer would get to Stone Quarry Drive, making it much easier to develop the rest of that corridor, with or without a TIF or the Town's cooperation. He said by putting any TIF project out there, this was the case. He said the distinction between doing Phase I and Phase II was therefore relatively minor, in terms of the development potential.

***Councilor Julian Smith MOVED to remove the 10:00 pm deadline. Councilor Carroll SECONDED the motion..***

Mr. Jutton left the meeting

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

Administrator Selig said his preference would be to keep things simple, and to focus only on Phase I, show that this could work, and then if it worked, consider expanding the TIF district in the future.

Councilor Morong said he had been skeptical of Phase II from the beginning, especially because of the possible impacts on residents in terms of having to connect to water and sewer and the potential tax impacts. He provided details on why he had gone along with bringing Phase II to the Council, but said he now felt that Phase II was tragically flawed. He said he would like to find out more numbers on Phase I, and to move forward with it.

Councilor Stanhope said he had been troubled about the idea of Phase II since he first saw it, and said it disturbed him that evening to hear that a strip of development could run from Dover to Durham, which defeated what he had run on as a candidate for the Council. He said Phase II had more issues that were problematic, and said he would like to see Phase I move forward aggressively, and see those dollars go back into the tax base as soon as possible. He said the other issues like fields, trails, etc could be addressed individually. He also said if this was simplified, he thought they would have more support from the community,

Councilor Leach said she wasn't ready to give up on Phase II. She said if it was flawed, perhaps it could be worked on., and said she would like additional information before making a decision.

Councilor Julian Smith said he would like to forward with Phase I, but did not want to consider Phase II. He said there would be time to refine the Phase II figures when there was more certainty about what the Durham Evangelical Church wanted to do.

Councilor Henry Smith said Phase II raised many questions. He said Phase I would avoid all these questions, and said pursuing it with all deliberate speed was the way to go.

Councilor Van Asselt said the EDC could certainly take the Council's recommendation to do Phase I and bring back figures on this. But he noted that there were only six areas in Durham that could be developed. He said the goal in creating the EDC was to look at developing those six areas. He said he assumed the Council would want the EDC to look at Phase II, because the Town was zoned for the kinds of things that were talked about in it.

Councilor Needell said he appreciated the work the EDC had done, and said Councilor Van Asselt was right that the EDC's charge was to find ways to do economic development. He said the Council was saying right now that it wanted to hear more about Phase I, and said it was up to the EDC to decide what TIF district to bring forward. He said it could disagree with the Council on this, and there could be discussion on that, or it could agree that Phase I was the way to go right now.

Councilor Morong said he felt there were other areas in Durham the EDC could concentrate on more, to get more fruitful economic development.

## **X. Unfinished Business**

**FIRST READING ON ORDINANCE #2006-07** amending the following sections of the Durham Zoning Ordinance pertaining to timber harvesting/forestry:

1. Article II, Section 175-7, Definitions
2. Article XIII, Sections 175-60, 175-61, 175-65, Wetland Conservation Overlay District
3. Article XIV, Sections 175-69, 175-71, 175-72, 175-75.1(A&C), Shoreland Protection Overlay District
4. Article XX, Section 175-109(L), Performance Standards
5. Article XII, Section 175-54, Zone Requirements.

Mr. Campbell provided a brief overview of the process by which these proposed revisions to the forestry related provisions of the Zoning Ordinance were developed by the Planning Board.

***Councilor Henry Smith MOVED on first reading Ordinance #2006-07, and to schedule a public hearing for July 16, 2007. Councilor Leach SECONDED the motion.***

Councilor Needell said he had a process question. He said the Council would be deciding if it wanted to accept these proposed changes. He asked if it was clear that there was no way the Council could make a substantive change to this, and then adopt it, given that this was a Planning Board initiated change.

Administrator Selig provided details on this, noting that it was a complicated process. He said if the Council was not satisfied with these draft provisions, it should kill them, and then initiate its own amendment process. He said whether or not the Planning Board liked those amendments, the Council could then adopt them if it voted to do so.

Councilor Needell said he wanted to clarify that this was the way to go. He said as these provisions came forward to public hearing, he expected comments on changes that had or had not been made. He said he wanted there to be a way to stop these changes from going

back and forth between the Planning Board and the Council, and wanted to finish the process without the Council having to reject the proposed changes outright.

Councilor Van Asselt said Councilor Needell had made a very good point. He said the Planning Board had heard all kinds of testimony, and said there had to be a way to not have these provisions going back and forth any longer.

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

## **XI. New Business**

- A.** Review and adopt draft language modifications as proposed by the Town Administrator to the Town of Durham Policy for Acquiring Legal Interest in Conservation/Open Space Land

This discussion was postponed.

- B.** Other Business

### **Discussion on “Pay as You Throw”**

Councilor Leach said based on the emails the Council had received, she felt it was being asked to indicate where it stood on this issue. She said the reason she had gone along with investigating the idea further was that the issue came up during discussions on the Budget. She said she would be interested in seeing more information on possible cost savings to the Town. She said the recycling benefits from this approach weren't necessarily relevant in a town like Durham.

She said hopefully the basic questions could be answered without a lot of time being spent on this. She asked if perhaps Councilors had more knowledge of this issue than she did, and had specific opinions on whether this was something to move forward with.

Councilor Stanhope said what he had seen so far was that this would be just another tax, and that there wouldn't be significant savings. He said members of the IWMAC had brought this forward before, and the Council had rejected it. He noted that they were going to see if they wanted to add it to their list of goals at their next meeting.

Councilor Needell said the Council should look at whether this idea should be looked at by the IWMAC. He said he would like to see the numbers, and noted that he would oppose the idea if it did turn out to be a tax. But he said it seemed it could be presented relatively simply and overwhelmingly that it would represent a tax decrease to residents. He noted that he personally would be happy to participate in this, but would like someone to run the numbers on this.

Councilor Morong said he was initially enticed by the fairness issue, but mainly liked the budgetary possibilities. He said he would like to see the numbers, and said if this could be determined relatively simply, that would be the turning point for him.

Councilor Niman noted that he had spoken against this idea last time. He said he thought the

only way to save money would be to reduce the amount of solid waste going to the transfer station. He said determining numbers on this would be very difficult to come up with.

Administrator Selig said if the focus was on trying to reduce the amount of solid waste generated, it was a great strategy. But said he wouldn't recommend implementing it as a cost saving measure, noting that people would still have to pay for bags, unless they generated less waste. He said there was already a high percentage of people who recycled, so he wasn't sure the difference would be measurable.

Councilor Carroll said the cost of the bags paid for the pickup. She said she had brought this up under the Budget, but said this approach could accomplish a lot of things. She said it would reduce the budget, but didn't have to cost residents more money. She said it would give them the choice, and said people usually became more conscious of what they were throwing away in this situation. She provided an example of this.

She said a PAYT program did decrease trash and increased recycling. She provided details on this, and said she was told by a solid waste expert that there would be a reduction in trash, and an increase in recycling. She said it was the things that people didn't think about that didn't get recycled. She said experts she had spoken with said Durham could do even better than it already did concerning recycling.

Councilor Carroll said she had already gone through this issue on the Recycling Committee some years back. She said she had been told that this was an emotional issue, and said she had seen personally the uproar that occurred when this idea was brought forward. She said she would like this issue to move forward, but was not attached to it if others said no.

Councilor Leach said she thought people might be more willing to accept it if there were potential savings on their tax bill.

Councilor Carroll noted that there had been resistance to the idea of Durham residents having to pay taxes twice a year, but she said she thought the program was going ok, and that there hadn't been many complaints about it. She also said there had only been one community that had reversed its PAYT program, and said she had heard that most other communities that had it wouldn't want it to be taken away from them. She also noted there were 3-4 other towns that had introduced this program since 2000. She said it wasn't an easy program to put in place, but she said that once it was in place, people liked it and got used to it, and didn't vote it out.

Councilor Van Asselt said if it such a program would be cost effective, he would do it. He said he didn't understand why the numbers were hard to get, noting that Dover had data on this.

Administrator Selig said he had in mind that the Public Works Department would get this data over a period of time, and that the IWMAC wouldn't be tasked with doing this work.

Councilor Henry Smith said the bags were an extra expense for him, He said he knew the idea was rejected several years ago. He said he would be happy to have the IWMAC discuss this idea, and to see what it had to say.

Councilor Julian Smith said this was a fee that people would pay instead of a tax, in the hope that their taxes would be reduced slightly. He said he agreed with Councilor Carroll that the system would tend to reduce the amount of recyclables people threw away out of laziness. He said he would support PAYT only if the Town stopped spring clean up, and he provided details on this.

Chair Niman said he wasn't hearing strong support for going down this road. He said if the Public Works Department could get the numbers that were needed, the Council could then evaluate them.

The Council agreed that this didn't need to be a priority of the IWMAC.

**XII. Nonpublic Session**  
None

**XIII. Adjourn**

*Councilor Van Asselt MOVED to adjourn the meeting. Councilor Morong SECONDED the motion, and it PASSED unanimously 9-0 at 10:43 PM.*

Victoria Parmele, Minute Taker