

This set of minutes was approved at the Town Council meeting on November 3, 2008

**DURHAM TOWN COUNCIL  
MONDAY, SEPTEMBER 22, 2008  
DURHAM TOWN HALL –COUNCIL CHAMBERS  
7:00 PM**

**MEMBERS PRESENT:** Chair Neil Niman; Councilor Gerald Needell; Councilor Karl Van Asselt; Councilor Julian Smith; Councilor Peter Stanhope; Councilor Henry Smith; Councilor Cathy Leach; Councilor Douglas Clark

**MEMBERS ABSENT:** Councilor Michael Sievert

**OTHERS PRESENT;** Business Manager Gail Jablonski; Police Chief David Kurz; Town Engineer David Cedarholm

**I. Call to Order**

Chair Niman called the meeting to order at 7:01 PM and welcomed Business Manager Gail Jablonski, who was sitting in at the table in place of Administrator Selig, who was attending a conference.

**II. Approval of Agenda**

*Councilor Van Asselt MOVED to approve the Agenda as submitted. Councilor Leach SECONDED the motion, and it PASSED unanimously 8-0.*

**III. Special Announcements**

**IV. Approval of Minutes**

August 18, 2008

*Councilor Van Asselt MOVED to approve the August 18, 2008 minutes as presented. Councilor Leach SECONDED the motion, and it PASSED 7-0-1, with Councilor Stanhope abstaining because of his absence from the meeting.*

**V. Councilor and Town Administrator Roundtable**

Councilor Clark said the Energy Committee continued to meet, and was taking its first steps in the creation of an Energy Chapter for the Master Plan. He said there would be a public hearing to get public input the following evening, and said the Committee hoped that a lot of people would attend.

Councilor Leach said she was no longer interested in being the Council representative to the Conservation Commission, and noted that she was already on four other committees, and was the Chair of one of them. She said she had checked the Town Charter, and it didn't say that there

had to be a Council representative on the Commission. She said another Councilor could take her place, or the Council could decide to not have a representative on the Commission until the new Council was in place in 2009.

Councilors agreed that they would think about this matter, and would address it at the next Council meeting.

Councilor Clark updated the Council on the work of the Tri-town Education Committee. He said there had been informal discussions with Councilors from Newmarket, and said at the last meeting, they were joined by Selectmen from Madbury and Lee and a representative from Newmarket. He said the purpose of the discussions was to consider the concept of a regional high school, following the Exeter and Sanborn models, and to look at the idea of possibly inviting other towns into the regional high school.

He said the towns were interested in pursuing that conversation, and said they planned to meet again on October 14<sup>th</sup> to keep it going. He said they had sent a letter to the ORSB superintendent and three Councilors and one representative of the School Board, inviting them to participate in this discussion.

Councilor Julian Smith said the Planning Board would hold its quarterly planning meeting on Wednesday, and would see a demonstration of a transportation/land use model that had been developed, as part of a partnership between the Town and UNH.

He also said that the previous Saturday, he had attended a site walk with officials of Newmarket concerning a 116 acre parcel of land the Nature Conservancy was acquiring. He said Newmarket would hold the conservation easement, also explaining that 107 acres of the parcel were in Durham and that it abutted a piece of conservation land in the Town. But he said access was through Newmarket. He said it was a spectacular acquisition.

Councilor Needell said he would be interested in filling the Conservation Commission slot; but would look for someone to take over his position as an alternative Council representative to the Planning Board, in order to do this.

## **VI. Public Comments (*NLT 7:30 PM*)**

**Roger Speidel, Nobel K. Peterson Drive**, said he was present to update the Council on recent School Board meetings so it would know what was going on. He spoke about a September 13<sup>th</sup> meeting at 3 Chimneys Restaurant where comments were made that members of the public weren't supposed to criticize the School Board publicly, and were supposed to use a proper tone when speaking to them.

He said that as far as the School Board's dealings were concerned, everything needed to be made clear to the public and taxpayers, who were an integral part of the team. He said there seemed to be some mistrust between the School Board and the public. He said he had spoken to the School Board 18 times, and although he had been candid, when he was wrong in his statements, he had made corrections to them.

Councilor Julian Smith said he appreciated Mr. Speidel's words, and his tone of voice.

**Bill Hall, Smith Park Lane**, thanked Mr. Speidel for speaking on behalf of other residents. He then said Planning Board member Steve Roberts had asked some good questions at a recent Planning Board meeting, regarding the dredging of the Oyster River reservoir. He said that if it was dredged, this would extend the water supply during drought periods by as much as 30 days. He said he believed that Paul Chamberlin of UNH thought the water would stop in less than a week, but he said that was not the case.

He said the settling that had occurred was because the reservoir had never been cleaned out, so there was 75 years of leaves that had accumulated. He said it was important that the reservoir be cleaned, out, as a drinking water reservoir, and said not doing so created problems with treating the water. He said it was important to maximize the use of Oyster River water, and provided details on this. He said consultant Mike Metcalf had said the reservoir needed dredging, and also noted that Mr. Metcalf had said the 401 certificate for the Lamprey River wasn't based on anything.

**Doug Bencks, 7 York Drive**, said he was present on behalf of the Library Board of Trustees, which was feeling a great sense of urgency regarding the concept of a new Library. He said something driving this was the fact that the Trustees had been approached by an individual who had offered to provide a gift of up to \$250,000 for a new library. He said this was above and beyond what the Trustees had been able to raise so far. He said a stipulation of this extraordinary gift was that there needed to be real progress toward building the new library over the next six months. He said the donor had said that if a site could be established, this would open opportunities to proceed with additional fund raising.

Mr. Bencks noted that the new Library was on the Council's list of goals, which it would be discussing that evening. He said the Trustees felt this gift would help spur their efforts as partners with the Town to establish a particular site.

Chair Niman said his understanding was that the problem with the Trustees preferred site, Mill Plaza, was that the owner of the Plaza wasn't sure what he wanted to do. He said that concerning the #2 choice, a property on Mill Pond Road, the owner wanted the Grange property, and the Town couldn't figure out what to do with this property unless it figured out what to do with the Plaza. He asked if the Trustees had looked at other properties.

Mr. Bencks said the Trustees recognized the potential time frame of Mill Plaza, and said they had discussed other potential sites. He said they saw all of them as being more complicated than the Mill Pond road site, and said that site was thought to be the most realistic, and was driving its present efforts to see what it would take to acquire it. He said they would like to explore a set of possibilities of coming to terms with the property owner.

Chair Niman asked what the time frame was, and Mr. Bencks said they would like to develop what they thought would be an appropriate deal by December.

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

- A. Receive annual report of the Churchill Rink Advisory Committee – Councilor Leach, Council Representative
- B. Shall the Town Council approve a 2008 first-half property tax abatement request as recommended by the Town Administrator?
- C. Shall the Town Council review and consider for placement on the March 10, 2009 Town election ballot a proposed Charter amendment relative to Article 7 “Conduct of Officials”, Section 7.1 (C) as recommended by the Town Administrator and schedule a Public Hearing for Monday, October 6, 2008?
- D. Shall the Town Council review and consider for placement on the March 10, 2009 Town election ballot a proposed Charter amendment relative to Article 9 “Town Report”, Section 9.1 as recommended by the Town Administrator and schedule a Public Hearing for Monday, October 6, 2008?

Item A was taken off the Unanimous Consent Agenda because it was not ready. There was discussion as to why the report had not been put under Presentation Items in the Agenda; on how committee reports were handled now; and on how they might be handled in the future.

*Councilor Van Asselt MOVED to approve Unanimous Consent Agenda items B, C and D. Councilor Leach SECONDED the motion, and it PASSED unanimously 8-0.*

**VIII. Committee Appointments**

None

**IX. Presentation Items**

- A. Receive annual report of the Integrated Waste Management Advisory Committee – Chuck Baldwin.

Mr. Baldwin said the IWMAC had been invigorated with several new members. He said the Committee had gained a liaison to the Oyster River school system with Nell Neal, who together with Town Councilor Julian Smith and recent volunteers Heather Harvey and Matthew Cortland brought their inspired visions for a more sustainable community.

Mr. Baldwin said the IWMAC supported recycling, but considered reducing and reusing to be the first line of defense against waste generation. He said the Committee recognized that waste reflected an inefficient use of resources, and that it was important to make good choices before and after consumption. He said it was the Committee’s objective to encourage Durham residents to:

- Reduce waste by composting while gaining a resource for gardening
- Utilize more reusable products like water bottles and travel mugs which could work for most refreshments
- Use cloth napkins and sponges instead of paper napkins and paper towels whenever possible

- Avoid unnecessary packaging or bagging

Mr. Baldwin said trying to incorporate some of these sustainable practices would save money and reduce the Town's waste disposal expenses. He next outlined the IWMAC's accomplishments in 2008, noting that everyone contributed to the Committee's accomplishments, but that individuals took the lead on various projects:

- Kim Nadeau was the coordinating editor of the *Down to Earth* newsletter and was key to its continued publication. Mr. Baldwin said this informative periodical, produced with the Department of Public Works, provided Durham citizens with what they needed to know in order to effectively manage their waste.
- Jenna Jambek and Scott Cloutier continue to work on advancing the Committee's "Clean Sweep" campaign to address the litter problem in the Durham community. Alliances with local businesses and UNH, as well as adopt-a-spot strategies, will be explored.
- Doug Bullen coordinated the creation of new moveable signs for the various disposal bins at Durham's Transfer Station in order to address IWMAC's desire to provide better direction.
- Nell Neal, as the Committee's Oyster River school liaison, was promoting improvements in waste management and encouraging sustainable practices where possible.
- Chuck Baldwin and Neal Ferris attended the Northeast Resource Recovery Association's annual conference to learn some of the latest approaches to waste management, and to identify areas of interest for possible pursuit.
- The Committee expanded on its educational outreach with a "Power of One" display that promoted the use of reusable products over disposable items and thereby encouraging sustainable living practices.
- A building permit was approved for a small addition to the Swap Shop to house used construction materials. Contributions to this project are welcomed.

Mr. Baldwin outlined the Committee's Goals for 2009:

- Continue with the "Down to Earth" newsletter
- Advance the "Clean Sweep" campaign
- Explore a policy of Zero waste
- Complete Swap Shop addition and improve marketing
- Quantify the amount of waste generated per capita and track trends

Councilor Needell asked for some details on the Zero waste initiative the Committee was considering.

Mr. Baldwin said this would be a written plan on how to eliminate waste in the community. He said the initiative would involve working in partnership with local schools and Town organizations, and would pursue numerous opportunities. He said these would include composting, reuse of products, recycling of more kinds of plastics, composting toilets (an idea

suggested by Councilor Julian Smith), reconstitution of Styrofoam into packing materials, better management of construction and demolition materials.

He said the idea was to look at waste as a resource, and to keep existing materials in service and out of landfills. He said educational efforts would be a part of the Zero waste initiative.

Councilor Stanhope asked why it had taken so long to get a building permit for the addition to the Swap Shop, and there was discussion on this with Mr. Baldwin.

Councilor Henry Smith asked about #7 plastic, which was not presently recyclable, and asked what the Committee's solution for this was.

Mr. Baldwin said there was a market for this plastic, but it was not a strong one, and agreed that it was a problem area.

B. Receive presentation relative to water/wastewater development fees – Peter Atherton, Wright-Pierce Engineers

Town Engineer Dave Cedarholm said the purpose of the presentation was to assign equitable value to providing service for the Town's water and wastewater systems, in a way that matched what existing users had paid in, and what future users would pay in. He said the idea for working on this had developed out of reviewing water and sewer applications, and looking at how fair and up to date the existing connection charge was. He provided details on this.

He said he'd met with Bruce Mayberry, who was an expert on municipal fees, and had also met with Wright Pierce consultants. He said Mr. Mayberry had presented a number of models to evaluate the actual value of the water and wastewater system, and to develop the value per gallon based on the present capacity of the system. He spoke in some detail concerning this.

Councilor Leach received clarification from Vic Cray of Wright Pierce that the procedure for existing users wouldn't change. Mr. Cray said that existing users would hopefully see less in the way of rate increases because new users would be picking up some of the costs for new infrastructure through this fee.

Councilor Leach received clarification that if it turned out there wasn't a lot of new development, they would just go on as they had been doing, with Mr. Cray noting that there would also be less burden on the infrastructure.

Councilor Needell asked how this would be implemented, and Mr. Cray said it would not be done as part of administering impact fees, which was always tied to growth related capital needs. He said Durham's needs were not being driven by growth.

Councilor Needell asked if what was proposed was something the Town had the authority to do.

Mr. Cray said there were very few restrictions concerning this type of fee. He said they had checked on the reasonableness of what was proposed, and said if it was challenged, all the Town

would need to show was that the fee was reasonable. He said he thought this could be demonstrated.

Councilor Van Asselt said if the Town presently didn't have a policy that required new single family homes to hook up to water and sewer if it was available, he wanted to know why the Council didn't change this policy, especially since Durham was a Town that expressed concern about the environment. There was discussion on this.

Councilor Van Asselt asked if there were assurances that if this applied to Durham water and sewer users it would apply equally to UNH, and Mr. Cedarholm said the calculations were intended for both Durham and the University.

There was discussion on this. There was also discussion on the idea of possible phasing in of the fee, and on discounting for multi-unit connections, in order to jump start developments where the Town would benefit.

Chair Niman asked if the Council should anticipate that this would be a dynamic fee, which for example would change if the Town invested money in upgrading the wastewater treatment plant.

Mr. Cedarholm said the Town would want to update the fee periodically, based on various factors.

Chair Niman said he had noticed that the wastewater charge was in line with the charge for other communities, but the water charge was not, and was more than twice what it was in other communities. He asked what the reason was for this.

Mr. Cedarholm said a lot of this was based on the value of the water system and its estimated capacity. He noted that he had expected that the wastewater system would have a greater value because the Town owned the wastewater treatment plant. But he said while the sewer system was more contained to the Town core, the water system reached way out beyond the core, and he also noted that the Town had two water storage tanks.

Councilor Stanhope asked what methodology had been used to determine the value of these systems. He said in order to adopt this, Councilors needed to have confidence about what the system was actually worth.

Peter Atherton of Wright Pierce said they had looked at the structures for both systems, utilizing GIS mapping, and had developed a reasonable cost to replace the existing infrastructure. He provided details on how this had been done, and said he was comfortable with the numbers that had been arrived at.

Councilor Stanhope and Mr. Atherton discussed the idea of possibly giving credit to a developer for portions of the infrastructure that the developer provided.

Councilor Clark said he assumed there would be some inequity for people who had been on the system for many years, as compared to new users. He asked if there had been discussion on ways to create more equity.

Mr. Atherton said they had looked at options to discount the rate for certain users, or phase it in order to make it more equitable.

Councilor Van Asselt said there was no fair time to do this, in terms of development. He asked if there was a way to build into this some kinds of protection for people who had already made development plans.

Mr. Cedarholm said this was why there was the phasing idea, for example, for someone who had already received an approval from the Planning Board.

Chair Niman said he assumed that the rest of the fee schedule would be fleshed out, and that there would then be more discussion on phasing, etc.

Mr. Cedarholm said he envisioned developing something like the fee schedule in the Meredith water ordinance.

Councilor Needell said an alternative to doing this was to just increase rates, and he said if what was being recommended wasn't done, the rates would go up at a faster rate.

There was further discussion on this with Mr. Cedarholm.

The Council stood in recess from 8:15 to 8:25 PM.

## **X. Unfinished Business**

- A. Update from Councilors on progress of implementing the 2008/09 list of Town Council goals adopted on June 2, 2008

Councilor Leach reviewed which goals were to be addressed that evening, and she then suggested that there be discussion on how to move each of the goals forward, rather than having a full blown discussion on them.

**Town Council Goal #1** - Create a vision for the town, that includes an action plan to achieve economic development to help make Durham more affordable and to maintain Durham's character; and an action plan for the downtown area to become more vibrant, varied, accessible, and attractive to potential new businesses and the community

Councilor Leach said there had been discussion about forming a larger group to address this, but she said a question was whether this was the most efficient way to move forward. She said she had talked with Administrator Selig about this, and he suggested that everyone should think about rewriting the Master Plan in incremental steps, and giving certain chapters to appropriate committees.



She said he had also suggested putting money in the Budget for a consultant to work on downtown and overall economic development, which fit with the Council's goals. She said other committees and members of the public could also be involved, and said in this way, the Council wouldn't get bogged down with this. She said she thought this might be the best way to go.

Councilor Clark said the vision he thought the Council had been talking about was one step higher than the Master Plan. He said this vision provided the opportunity to integrate the various functions of Town, and to look at what every one had in common. He said such a vision could be informative later on for a Master Plan update and some strategic planning. He said the Master Plan addressed ideas in a more segregated way, and he noted that some of the ideas actually contradicted each other.

Councilor Leach said Administrator Selig had convinced her that this approach wouldn't get them too far. She also noted that the people asking the Council to be more visionary had also asked that they start with the Master Plan process.

Chair Niman said perhaps the Council could pick a night to talk about the downtown, as part of starting the Master Plan process.

Councilor Clark said he thought they needed to get everything on the table at once. He also said there was a sense on the Energy Committee that there was a real opportunity to rally the various factions in Town to look at how to make Durham a sustainable community, with implications for economic development, the environment, and Durham's quality of life. He said his hope was that conversations on a vision would everyone around this.

Councilor Leach said that was where she had started from in her thinking, but she said while it sounded good, it was probably impossible to accomplish.

Councilor Needell said he sympathized with Councilor Clark's frustration, and said he wondered if there was a way to tackle this. He said he didn't think starting with working on the Master Plan chapters ruled out looking at the big picture, and said the big picture might steer the vision of the individual Master Plan chapters. He said choices could be made, based on a wider Town vision.

Councilor Leach said perhaps this could be set up so the visionary discussion would happen as much as possible, by choosing particular chapters to update.

Councilor Needell said they would have to consider what chapters to look at, and why.

Councilor Van Asselt said he didn't understand how they would be able to get a handle on the different things people in Town wanted. He said there were some people who wanted economic development, and others who wanted to be able to look at undeveloped land; some people who wanted students in Durham and some who didn't; some who wanted affordable housing, and some who didn't.

He said he didn't understand why one would want to go through the Master Plan process when there was a community with such philosophical differences. He said they needed to address the bigger issue of what kind of town residents wanted Durham to be, and said otherwise, initiatives wouldn't get anywhere.

Councilor Leach said having more discussions on the big picture might cause people to look for alternatives and realize that some compromises needed to be made.

Councilor Needell noted that the Master Plan was required in order to do Zoning, and said what had created the pressure to do something about the Master Plan was the Zoning changes that had been proposed. He said that conversation always came back to the Master Plan, and whether the changes were supported or not.

He said revisiting the vision for Durham was fine, but said he thought changes to the Zoning Ordinance were driving the discussion on updating the Master Plan. He said they needed to ask themselves what they were trying to do. He said the Master Plan and the Zoning Ordinance were very concrete. He said if they were constantly changing the Zoning Ordinance, either this was an attempt to implement strategies of the existing Master Plan, or people were saying the Master Plan was outdated, and they wanted to make changes to it.

Chair Niman said there needed to be some fact finding missions that perhaps would become worthwhile discussions. He noted the student housing issue as an example, and said some information on how many student apartments could be added to the Central Business district if it was redeveloped would be useful information to have, and could help shape the discussion. He said particular committees could gather this kind of information.

Councilor Leach said she thought this process would be unwieldy, and Chair Niman said the Council would give some more thought to how to proceed.

**Town Council Goal #5** - Continue to support the efforts of the Library Board of Trustees in the development of a new library - submitted by Councilor Julian Smith and Councilor Henry Smith

Councilor Henry Smith said he and Councilor Julian Smith had met several times with the Chair of the Library Board of Trustees, and said there had been several revisions to the information he and Councilor Smith had developed for the Council. He noted the new information provided at the current meeting by Trustee Chair Doug Bencks.

Councilor Julian Smith said the Trustees would need some help in determining whether using a site at or adjacent to Mill Plaza was something that could happen in the near future. He said the Council could ask Administrator Selig to communicate with Plaza owner John Pinto that there really needed to be some resolution on this, and to determine if he was willing to help the Trustees find a home for a new library at the Plaza or provide access to another property. He said the recent economic problems had made things difficult for Mr. Pinto, but said the Trustees needed to make a decision soon.

Councilor Leach asked what happened if Administrator Selig made the call to Mr. Pinto but nothing definitive came out of this.

Councilor Julian Smith said at that point, the Trustees would be more interested in the piece of property on Mill Pond Road, behind the bank. He said this might tie into whether the Town would sell the Town Hall property and build a new Town Hall someplace else. He said the Trustees would have to decide where to go, and whether it was worth pursuing a combined Town Hall and Library. He said it would be easier for the Trustees to move forward on their own. He said perhaps the Council should sit down with them as part of an upcoming Council meeting, before the Budget season began.

Councilor Henry Smith suggested that a few Councilors could go to the upcoming Library Board of Trustees meeting, serving in an advisory capacity, and could follow their lead.

Chair Niman said Administrator Selig would call Mr. Pinto and get a sense of his time horizon, and said he could also find out if Varsity Durham was interested in selling its property without the Town selling the Grange as a consideration. He said once these questions were answered, there would be a better sense of how to move forward.

Councilor Julian Smith said it would be useful for Mr. Pinto to understand that there was another group interested in purchasing the Grange. He said he thought this would help get some clarification from him.

Councilor Needell said he liked the way the three statements written by Councilor Henry Smith and Councilor Julian Smith had been written. He said it was the Library Board of Trustees that had to make this call, and said when the Trustees decided where they wanted the new library to be, they then should come to the Council. He said he didn't think the Council needed to be discussing this right now.

Chair Niman said he agreed.

Councilor Leach said she didn't agree, and said she thought it was difficult for the Trustees to move things forward because there were some things at the Council table that were up in the air. She said she didn't want to micromanage the Trustees, but said she thought it was a good idea to sit down with them to discuss their needs. She said perhaps the Trustees could identify the issues for the Council.

Councilor Julian Smith explained that the Trustees were empowered to select a site. He said they could release money to pay for the property, but only the Town could actually own it. He said this was why the Trustees needed the Council to work with them.

Chair Niman said he had heard Trustee Doug Bencks say that the Trustees wanted the new library to be at Mill Plaza, and if not, at the Mill Pond Road site. He said the Council should see what it could to make this happen, and he provided details on this.

Councilor Julian Smith said that was a pretty simple statement of what needed to be done.

**Town Council Goal #VI - the Future of Town Hall, submitted by Councilor Van Asselt and Chair Neil Niman**

Councilor Van Asselt said it first needed to be assessed whether the conditions with the existing Town Hall were good enough. He said if they were not, the building would either need to be renovated or torn down. He said the Town would then have two choices, to either rebuild the Town Hall at the present location, or to move to another location. He said if the decision were made to move to another location, there would need to be discussion on the possible places to move to.

He said that for the most part, this was a business decision that needed to be made. He said costs were an issue, and he described the various aspects of this, for the possible locations for the Town Hall, including the present site. He said the issue of the present site for the Town Hall, as a property, raised a number of questions, but was really a separate issue. He said they had gotten off track in getting into discussions of what could happen with the present Town Hall property. He said if it was decided that the Town Hall needed to be moved, this too was a business decision.

He said assessment information and information on the cost of renovations should be gathered, and said this should be available for a productive meeting on this issue in October. He said the next step would be to get real figures on what the present Town Hall site could sell for. He said that if it was decided that because of where they wanted the Town Hall to move to, a certain amount of money was needed for this, the Council could then make some choices about possible locations. He said each of these locations could be talked about in October.

Councilor Needell asked whether, if the first decision was that they could make the present Town Hall work, if that stopped the process, or if there were other things that would still need to be considered.

Councilor Clark said the report seemed to say that this facility didn't meet the Town's needs. He said that for the most part, he agreed with what Councilor Van Asselt had said. But he said he disagreed that the future of the property that the Town Hall was presently on was purely a business decision. He said the fact that there was an offer on this property was interesting, but was not a reason to go for it. He also said that if it came down to the fact that the Town Hall needed to be relocated, he thought they could make this work.

Chair Niman said each Councilor would have his/her own view on this, and would vote accordingly.

Councilor Julian Smith said if someone offered him twice the amount for his house than it was worth, if he liked the house and the neighborhood, that no matter how much money was offered, he would keep it.

Councilor Van Asselt said the analogy he had made included the idea of a homeowner owning a house with two bedrooms, but having four kids, and Councilor Julian Smith said that person could build more bedrooms. Councilor Van Asselt said he was not driven by the dollar, concerning the Town Hall site, and also said he wasn't driven by the fact that what happened to the Town Hall site

was driven by the dollar. He said he did perceive this as primarily a business decision, but did not leave the public out of the process. He said he was interested in listening to the reasons people might have for wanting to keep the Town Hall site where it presently was.

Chair Niman said Business Manager Gail Jablonski, Administrator Selig, he would continue to work on this issue, using the general framework that had been developed.

**Town Council Goal # VII.** Review management and organizational structures - information submitted by: Councilor Leach & Councilor Stanhope

Councilor Leach said they tried to keep this pretty true to the overall goal and the bullets within and had developed possible items to consider: committee organization; committee purpose; encourage community involvement; increase communication between committees, Town staff, and the Council; and how to move forward. She said she realized there were other ideas that could be added to this. She said they were suggesting that a way to move forward was to have an informal group comprised of one or two Councilors, the Town Administrator or a staff member, and a current or former committee member.

Councilor Clark said this goal seemed to be primarily focused on Town committees, and said he thought focusing on Town departments was important, especially given the recent discussions on the Budget.

Councilor Leach said this concept was in the main heading, although it wasn't in any of the bulleted items. She noted that the Council was included as a committee, for purposes of this goal. Chair Niman said he thought this was a worthwhile goal to pursue, but said it perhaps needed to be broader in scope, and include looking at the organization of the Town departments.

There was discussion on how this could be addressed, including using resident Jerry Gottsacker's Kaizen approach to look for greater efficiencies.

**Town Council Goal #VIII.** Expand recreational opportunities, submitted by Councilor Leach and Councilor Sievert

Councilor Leach said it had been realized that a smaller group was needed, in order to move forward with expanding recreational opportunities in Town.

Councilor Van Asselt said he remained convinced that the Town would not get into the recreation business unless it had the staff to do this. He said he thought there should be discussion about providing funding for this. He said with a \$11 million budget, and a community that was interested in this, the Town should try this for a year.

Chair Niman noted the issue of the possible relocation of the Mill Pond Center to Wagon Hill, and said he imagined that this would force much of the discussion on recreation. He said he wondered if the focus should be on that issue.

Councilor Leach said she didn't think that one issue would force the Council to get at the larger issue of expanding recreational opportunities, and said she felt they still needed to do what had been recommended for this goal.

It was agreed that the Council would come back to the goal and work on it further.

There was further discussion on whether Councilors were comfortable with where things were headed with the Council goals.

Councilor Needell asked what the take away was for Goal VII, and Councilor Leach said she had heard that the goal should be broadened out more, to also look at the management and organizational structure of Town departments.

Councilor Needell said he wasn't sure that management and organization structure of committees was a part of this goal, and also said he wasn't sure that there was really a problem with this. He said his original goal had been to encourage community involvement, and said the goal eventually adopted was not his.

Chair Niman said he didn't know if the committees were a problem or not. But he said there were a lot of good things on the list that had been provided, and would like to see the Council pursue whether there was a problem or not. He said he would therefore feel very comfortable with pursuing this. He also said that in terms of the internal management of the departments, he would like to see Councilor Leach and Councilor Stanhope bring something back to the Council so it could evaluate it.

Councilor Needell said the goal that had been adopted was not his goal, but acknowledged that it was in fact a Council goal now. He said he felt it was focused too much on the committees, and not enough on the management structure of Town government.

Chair Niman said they would get back to that, and also noted that he liked the idea of a citizen of the year award.

Councilor Leach said she didn't necessarily have opinions on any of this, but was asked to make some suggestions on what it might make sense to review.

Councilor Van Asselt said in order to get somewhere, he thought the focus should be on functional things that had come up over and over again, like where students should be living, rather than picking Master Plan chapters to update. He said another issue that could be addressed this way was affordable housing. He said he thought they would get further with these issues by taking this approach.

Chair Niman agreed, and said that was what he had in mind. He said that as someone who had been on the Council for five years, he had a sense of what the issues were, and said they would move in that direction.

- B. PUBLIC HEARING AND ACTION ON ORDINANCE #2008-18** amending Chapter 153 “Vehicles and Traffic”, Section 153-34 “Schedule II: Speed Limits” of the Durham Town Code to reduce the speed limit from 30 MPH to 25 MPH on Faculty Road, Oyster River Road, Hoitt Drive, Garden Lane, Croghan Lane, McGrath Road, Valentine Hill Road, Burnham Avenue, Chesley Drive, and Mill Pond Road

*Councilor Julian Smith MOVED to open the public hearing on ORDINANCE #2008-18 amending Chapter 153 “Vehicles and Traffic”, Section 153-34 “Schedule II: Speed Limits” of the Durham Town Code to reduce the speed limit from 30 MPH to 25 MPH on Faculty Road, Oyster River Road, Hoitt Drive, Garden Lane, Croghan Lane, McGrath Road, Valentine Hill Road, Burnham Avenue, Chesley Drive, and Mill Pond Road. Councilor Henry Smith SECONDED the motion, and it PASSED unanimously 7-0 (Councilor Van Asselt had left the table).*

**Eric Lund, 31 Faculty Road**, said he was in favor of passing this ordinance. He said he worked at UNH, and walked along Faculty Road, and said there was definitely a problem with cars driving too fast in that area. He said the stop sign was not sufficient, and some people ignored it. He also said the sidewalks were sometimes blocked, and said this was a residential neighborhood with small children, so there was the potential for a dangerous situation. He said 25 mph was a reasonable speed on Faculty Road, and also on Mill Pond Road.

**John Lonergan, 2 Woodside Drive**, said he had been a resident of this area since 1954, and said there had been accidents there on occasion. He said there were a number of older people living in the area, and said there was only one sidewalk, which at times was slippery. He said the speed limit should at least be low enough so the odds were on pedestrians’ side. He said if there was too much criticism regarding this ordinance, the issue could be put up to a vote of the public.

**Brent Bell, 52 Mill Pond Road**, said he agreed that the speed limit should be reduced. He said he had brought with him emails from 45 people in the neighborhood who supported this Ordinance. He said it was difficult to drive in this neighborhood without feeling unethical, noting that there was a 3:1 ratio of pedestrian and bicycle use to car use. He said there was an occasional vehicle there that drove too fast, and said it was nice to be able to have some recourse.

**Martha Burton, 9 Burnham Avenue**, said the places in Durham where the speed limit was 30 mph were stretches of road coming into Town, not residential areas. She elaborated on this, and said she was in favor of this Ordinance.

**Karen Hazelwood, Garden Lane**, said it was difficult to get out of several of the driveways in this area, and also said the number of children in the area had increased. She said there were also senior citizens there, and said she was definitely in favor of the Ordinance. She also noted that there were sometimes intoxicated drivers going through the area.

**Janice Aviza, Garden Lane**, said that 25 mph was a very appropriate speed for a compact, pedestrian-friendly neighborhood. She said she would appreciate it if the Council would approve this Ordinance.

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

***Councilor Clark MOVED to adopt ORDINANCE #2008-18 amending Chapter 153 “Vehicles and Traffic”, Section 153-34 “Schedule II: Speed Limits” of the Durham Town Code to reduce the speed limit from 30 MPH to 25 MPH on Faculty Road, Oyster River Road, Hoitt Drive, Garden Lane, Croghan Lane, McGrath Road, Valentine Hill Road, Burnham Avenue, Chesley Drive, and Mill Pond Road. Councilor Julian Smith SECONDED the motion.***

Councilor Peter Stanhope said he walked through this neighborhood, and could see what residents had spoken about. But he said the fact was that there was a lot of traffic that was not driving the posted limit, and said he suspected that changing the speed limit sign wouldn't change things much. He suggested the idea of putting stop signs at every block, which didn't allow cars to pick up speed, and said he had seen this approach work in other areas. He said he would support the passage of this Ordinance, but said he didn't want residents to be under the illusion that it would make the neighborhood safer.

***The motion PASSED unanimously 8-0.***

- C. PUBLIC HEARING AND ACTION ON ORDINANCE #2008-16** amending Chapter 175 “Zoning”, Section 175-53(A) “Table of Uses” to allow stables as a Conditional Use in the Multi-Unit Dwelling/Office Research (MUDOR) district

***Councilor Julian Smith MOVED to open the public hearing on ORDINANCE #2008-16 amending Chapter 175 “Zoning”, Section 175-53(A) “Table of Uses” to allow stables as a Conditional Use in the Multi-Unit Dwelling/Office Research (MUDOR) district. Councilor Henry Smith SECONDED the motion, and it PASSED unanimously 8-0.***

**Bill Hall, Smith Park Lane**, spoke in favor of the Ordinance.

**David Potter** explained that he was the owner of the property for which the Zoning change was proposed. He provided background information on his plans to breed horses there, and the fact that he had found that stables was not a permitted use in the MUDOR district, although raising livestock was a permitted use. He said having to apply for a variance seemed illogical, and said he supported the proposed Zoning Ordinance change.

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

***Councilor Needell MOVED to adopt ORDINANCE #2008-16 amending Chapter 175 “Zoning”, Section 175-53(A) “Table of Uses” to allow stables as a Conditional Use in the Multi-Unit Dwelling/Office Research (MUDOR) district. Councilor Peter Stanhope SECONDED the motion.***

Councilor Van Asselt said it was a fair question to ask why there was this Zoning change proposal, rather than asking the property owner to go for a variance.



Chair Niman said he had been very unhappy with the creation of the MUDOR district, stating that the University owned almost all of the property there. He said he had been told at the time that there was a 20-acre parcel in the district not owned by the University where multi-unit could be built, and noted that he had asked what happened if the owner didn't want to do that kind of development.

He said he didn't know whether stables had been inadvertently left out as a use in the MUDOR district. But he said he had been looking to get as much out of that district as possible at that time, and to bring in more highly valued uses. He said if the property owner was asked to go for a variance right now, the ZBA might have trouble saying that granting the variance was in the public interest, when the MUDOR district was one of the few areas in Town where multi-unit apartments were allowed by right.

Councilor Needell said the Planning Board discussion on this had been very simple, and said no history was offered as to why stables had been treated the way they had been in the Table of Uses. He said he understood Chair Niman's concern, but said that when the Zoning change proposal came before the Planning Board, the discussion had been that stables had been an historic use of the property and nearby UNH property.

He also said that the Zoning change that created the MUDOR district had not been done with the say of this property owner. He said to take the use he wanted for the property away seemed to be unnecessary, and also said it seemed punitive to take away the historical use of the property.

Councilor Leach asked whether the historical use of a property and adjacent uses were typically things the Planning Board considered, as a reason to rezone.

Councilor Stanhope said there was a balance between public and private property rights. But he said when there was a use that was consistent with other uses in a neighborhood, it wasn't right to deny private property a use like this. He said he considered the absence of stables as an allowed use in the MUDOR district to be an oversight. He said the Council was attempting to accomplish a goal, but said he didn't think this should be at the expense of private property rights.

Chair Niman said the public had an interest as well, which was why Zoning was created in the first place, and said he didn't look at this as taking away private property rights. He theorized that if a \$20 million development could be done on that property, this would be asking Durham citizens to give up \$600,000 of tax revenue in order to honor the historical use of the property.

He said for weeks now, there had been comments made that indicated that no one wanted to live near students. He said while it was correct that there were horse facilities next to the property in question, the reason why the property was so important was that no one wanted student housing to be put any place else in Town. He said developing this property in this way would represent smart growth, and said he would contend that this was in the back of the minds of the people who revised the Zoning Ordinance a few years back. He said he therefore felt it would be contrary to the public interest to make stables a conditional use in the MUDOR district.

Councilor Needell said he didn't see this action as precluding someone from making an offer to this landowner that would lead to this site becoming a place for student housing. But he said he didn't think the landowner should be pushed out and denied the use of the property.

Councilor Henry Smith said the use of this property over time was unknown. He said he didn't see this Zoning change as being against the public interest.

Councilor Van Asselt said he was opposed to the idea of this Zoning change, and said he thought the issue should be addressed by applying for a variance. He said if this was the right use of the land, the argument should be made to the ZBA, and said this was consistent with previous positions that he had taken.

*The motion PASSED 6-2, with Councilor Van Asselt and Chair Niman voting against it.*

- D. PUBLIC HEARING** relative to an Inclusionary Zoning Implementation Program grant in the amount of \$9,000 from New Hampshire Housing and approval of **RESOLUTION #2008-18** authorizing the acceptance and expenditure of said grant funds for the purpose of obtaining technical assistance to develop an Inclusionary Zoning Ordinance

*Councilor Van Asselt MOVED to open the public hearing on RESOLUTION #2008-18 authorizing the acceptance and expenditure of said grant funds for the purpose of obtaining technical assistance to develop an Inclusionary Zoning Ordinance. Councilor Leach SECONDED the motion, and it PASSED unanimously 8-0.*

**Bill Hall** said the Town had had a bad experience with consultant Mike Everngam, and said there should be some serious accountability regarding technical assistance that was provided to the Town. He noted the restrictive aspects of the revised Zoning Ordinance regarding forestry, as an example of this.

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

*Councilor Leach MOVED to adopt RESOLUTION #2008-18 authorizing the acceptance and expenditure of said grant funds for the purpose of obtaining technical assistance to develop an Inclusionary Zoning Ordinance. Councilor Henry Smith SECONDED the motion.*

Councilor Van Asselt said he realized that communities had to go through this process. But he cautioned people who thought that doing this would actually address Durham's issues concerning affordable housing. He said people in Durham who were not interested in affordable housing could easily hide behind the fact that there was a lot of student housing in Town. But he said this didn't address the issue of affordability of single family homes. He spoke in detail about this, and said he wished the Council would consider the intent of this legislation, if it was really serious about addressing the issue of affordable housing in Durham.

Councilor Leach asked what the end result of this process was supposed to be, and there was discussion.

Chair Niman asked if perhaps the Council could wait to vote on this, and have Town Planner Jim Campbell speak with them about it.

Councilor Needell said at the presentation Ben Frost had given on this issue, he didn't say that Durham could ignore this State legislation, and said some effort would be required in order to determine if that was really true. He said some effort was required to find out if Durham was in compliance with the Statute, and he said a second issue was what Durham was trying to do accomplish concerning this issue.

Ms. Jablonski said she believed that Mr. Campbell had said that it was a requirement that Durham have this in the Zoning Ordinance.

Councilor Van Asselt said he thought the Town should take the grant money and go through the exercise, and said it might result in an amendment to the Zoning Ordinance. He said while they were at it, they should try to get more out of this process.

Chair Niman recommended that the Council vote to take the grant money, and could then have Mr. Campbell come to a meeting to discuss this issue with the Council.

Councilor Henry Smith said the Council could also wait to vote, and speak with Mr. Campbell first.

Councilor Van Asselt said if the Council wanted to get more out of the grant money, it should ask for it.

*The motion PASSED 7-1, with Councilor Peter Stanhope voting against it.*

- E. PUBLIC HEARING ON RESOLUTION #2008-19** authorizing long-term debt not to exceed three million, one hundred and twenty-seven thousand, six hundred and thirty-eight dollars (\$3,127,638.00) for the purpose of bonding 2005-2008 Capital projects and equipment

*Councilor Van Asselt MOVED to open the public hearing on RESOLUTION #2008-19 authorizing long-term debt not to exceed three million, one hundred and twenty-seven thousand, six hundred and thirty-eight dollars (\$3,127,638.00) for the purpose of bonding 2005-2008 Capital projects and equipment. Councilor Leach SECONDED the motion, and it PASSED unanimously 8-0.*

**Bill Hall, Smith Park Lane**, said Durham had been hiring outside people to bring in a jet vac truck to clean out the catch basins and sewer lines. He asked why the Town therefore needed its own jet vac truck, and said that instead, it should hire out all of the work. He said having the truck was a frivolous expenditure.

Mr. Hall also said it didn't make sense to spend nearly \$400,000 on the water line on Mill Pond Road, when there were other lines in Town that need to be replaced. He noted that the line on Woodman Road was 20 years older, and was badly in need of replacement. He said this line should be repaired first, and said he would like the Council to discuss this.

***Councilor Julian Smith MOVED to close the public hearing. Councilor Clark SECONDED the motion, and it PASSED unanimously 8-0.***

***Councilor Needell MOVED to approve RESOLUTION #2008-19 authorizing long-term debt not to exceed three million, one hundred and twenty-seven thousand, six hundred and thirty-eight dollars (\$3,127,638.00) for the purpose of bonding 2005-2008 Capital projects and equipment. Councilor Leach SECONDED the motion.***

Councilor Stanhope asked what the cost was for hiring out the cleaning of the Town's catch basins.

Town Engineer Dave Cedarholm said the company that did this specialized in this procedure, and he said the cost was \$35 per catch basin. He said about 100 catch basins were cleaned out each year, and said hiring this out saved the Town a lot of time. He said the Town's old jet vac truck had been used to do catch basins, but said this had beat up the truck, and had decreased its life span. He said that in the long run, it was cost effective to hire out this work.

Councilor Stanhope asked about the cost to contract out a jet vac truck to clean out Town sewers.

Mr. Cedarholm said this was a different situation, explaining that part of the issue with sewers was knowing where in Town the manholes were, where the sections between them were, and how to get the trucks to these locations. He said the wastewater treatment plant operator ran the jet vac truck, and knew all about this. He said he didn't know how much it would cost to hire this out, but said the cost would have to include a Town employee, who would be needed to show the person where to go.

Business Manager Gail Jablonski noted that the Town had already purchased the new jet vac truck, and that Public Works Director Mike Lynch had explained the need for it when the matter had previously come before the Council. She said at this point, the issue was the bonding to pay for the truck.

Councilor Leach asked what recourse the Council had at this point concerning the bonding, and Ms. Jablonski said the Council could say it didn't want to do bonding, and instead wanted to pay for the truck out of the fund balance. Councilor Leach noted that she hadn't approved the purchase of the truck previously, but she said it was here now.

Chair Niman said if someone wanted to do an assessment of whether it would be cheaper to contract out the jet vac work and sell the Town's truck, that was fine. But he said right now, the Town had the truck, and needed to pay for it. He said the same thing was true for the Mill Pond water line, in that the issue today was concerning the bonding of this project.

Councilor Needell agreed that the issue was how the Town would pay for the jet vac truck, not whether it would pay for it.

Councilor Leach received clarification that Councilors could say that the bonding money for Mill Pond Road could instead go toward the water line on Woodman Road.

On a separate issue, Councilor Van Asselt noted the bonding of the Dispatch Center, and said he thought it was supposed to save the Town money.

Ms. Jablonski noted that there was a five year period involved with the Dispatch Center, in terms of saving money over time.

Councilor Van Asselt asked if the Town was at a point where the \$1 million limit, regarding having to have a public hearing for expenditures, was too low.

Ms. Jablonski said she and Administrator Selig had discussed this, and didn't feel the limit needed to be adjusted at this time. She said there was enough room for most projects with this limit.

There was further discussion on this issue.

Councilor Stanhope said he thought the bond on the jet vac truck was a perfect example of the need to take a look at an expenditure the Town made, which might show that going outside to a private vendor might be more cost effective.

It was noted that a 2/3 vote of the Council was needed in favor of this motion in order for it to pass.

***The motion PASSED 8-0.***

***Councilor Needell MOVED to extend the meeting. Councilor Julian Smith SECONDED the motion, and it PASSED 6-2, with Councilor Stanhope and Councilor Clark voting against it.***

- E.** Chair Niman said he had emailed Councilors some information on the ORLI Zoning change issue, thinking that it might be helpful for this discussion. He said a question was how the Council would like to proceed concerning this issue. He said he had sat down with Administrator Selig and Councilor Sievert to try to identify some of the outstanding issues with respect to the change in zoning, and how it might impact the Town's water supply.

He said after that meeting, he and Administrator Selig sat down with developers Jack Farrell and Dave Garvey to discuss the proposed zoning change. He said the net result of that conversation was the crafting of a conservation easement that the Spruce Wood Retirement Trust was willing to give to the Town.

He said that as part of this process, he and Administrator Selig had also met with Town Engineer Dave Cedarholm to discuss whether a change in zoning would put Durham's water supply at

risk, and whether they were likely to learn anything new from the pump test scheduled sometime in the next few months. He said he had then developed a document that attempted to respond to the concerns expressed by the Conservation Commission in the letter the Council received from Beryl Harper, and the email received from Beth Olshansky. He noted that he also respond to the comments provided by Brian Goetz in his report.

He outlined and spoke in some detail on the details of the easement:

- The undeveloped portion of the Spruce Wood development consists of 124 acres. The proposed easement would place 63 of those acres under permanent conservation.
- The entire aquifer protection district identified on the Spruce Wood property will be part of the easement area.
- The Town will have the right to create playing fields in the easement area (provided no fertilizers are used)
- A 250 foot buffer will be created along the Oyster River.
- Gasoline sales along with the storage, sale and/or processing of other hazardous materials will be banned from the entire Spruce Wood property and this ban will run with the property regardless of zoning.
- If at some later date it is determined that the easement area does not sufficiently protect the Town's water supply, then the Town will have the right to purchase additional acres at their appraised value.
- Requirements for stormwater discharge and groundwater recharge are clearly stated as part of the easement document, and will run with the property regardless of zoning.
- The easement is a contingent easement because it will only vest with the town and be recorded at the Strafford County Registry of Deeds when building permits are issued for a Planning Board approved development on the property.

Chair Niman said he would like Councilors to indicate whether they liked this approach, after they asked their questions and discussed it.

Councilor Needell said the easement was approximately half the area of the entire parcel. He noted that 50% of the buildable area could be impervious surface if it were developed, and said he would like to be assured that the Town's stormwater requirements would put significant constraints on how the development and the site plan would be approved. He asked if that was a fair statement.

Mr. Cedarholm said he would take quite a bit of comfort in the fact that there would be such requirements. He said establishing a goal of 100% recharge of stormwater was an ambitious goal, but he noted that developer Joe Caldarola had recently achieved this on a difficult site. He said achieving 100% recharge would probably be easier on the site under discussion.

Councilor Van Asselt said that regarding the enforcement of those requirements, the burden for this fell on the Town.

Chair Niman said he and Administrator Selig had discussed with Mr. Cedarholm what made sense. He said Mr. Caldarola's Sophie Lane conservation subdivision application had just been approved by the Planning Board, and said it included 100% recharge of groundwater using

pervious pavement and also included a maintenance plan. He said he and Mr. Cedarholm said those things would have to be in the easement document, and Mr. Farrell was fine with this. He said the language would be similar to what was in the new stormwater ordinance.

Councilor Leach asked why some people felt the pump test necessary, and some people didn't.

Mr. Cedarholm provided details on this, and said he therefore wasn't too concerned about the issue of development on the aquifer. He said he was more concerned about possible impacts from development on one of the Town's existing surface water supplies, the Oyster River, and he said this was where the stormwater management requirements came in .

Councilor Van Asselt said if all of this made sense, for purposes of continuing this discussion with the developer and others, he would like to know what was left to be answered, from an engineering perspective.

Mr. Cedarholm said there was not a whole lot missing. He said they didn't yet know exactly where the limits of the aquifer were, and said it could possibly extend underneath the site. But he said the surface hydrology gave him a pretty high degree of confidence that it did not. He said he couldn't say for sure though that it didn't. He said if polluted stormwater wasn't being discharged, this wasn't really a concern. And he said the language in the easement was strong enough.

Chair Niman noted the provision in the easement that if it was later determined that there was land that was vital to the protection of the aquifer, the Town would have the ability to purchase that land.

Councilor Needell said three years seemed to be a short length of time in which to get the approvals needed make this whole thing work, and Chair Niman said this was a contingent easement, and only got executed if the building permit was executed.

Councilor Needell said this easement showed a commitment by the developer to a sensible use of the land. He noted that he had previously raised concerns about re-zoning the property when there was always the possibility that Mr. Farrell would not be the developer. He said this easement did a lot to alleviate his concerns, and said he appreciated this.

He said he had questions about whether there would be a comprehensive plan for the development, who would approve it, and under what authority. And he said again that he saw it as a fundamental problem in the easement and its achievement to have a three year limitation, for this large a project, and he asked if this would work. He said he was afraid that three years from now, the deal would break down.

Chair Niman said this was not the final draft, and said input concerning what Councilor Needell had said was welcome. He said that what was driving the idea of a contingent easement was that Mr. Farrell was very concerned that he wouldn't get the required permits and therefore wouldn't be able to do the development, so the language was to protect him. He said it was not that Mr. Farrell didn't want to do the right thing and pay his fair share.

He gave as an example that after all the engineering plans for the project were done, someone might say there wasn't sufficient water or sewer capacity for the development. He said they were therefore trying to craft a document that provided Mr. Farrell with a legitimate shot at developing the property, but also protected the Town and its resources.

Chair Niman said they were trying to create a win-win situation for everyone. He said this was an opportunity to protect the water supply, save a lot of money, perhaps get some athletic fields, etc. He said as long as they were comfortable that the natural resources were protected, there was the potential for some commercial development that would solve a lot of the Town's problems.

Councilor Leach said this was a really exciting proposal, and provided a lesson that it was possible to negotiate with developers and get outcomes that the community would want. She said it did represent a good faith effort to create a win-win situation, and said she was very much in favor of moving ahead with it. She said this did not mean that there weren't questions that still needed to be asked, and said the developer was open to this.

Councilor Stanhope said his concerns were similar to those of Councilor Needell, but he said they were minor, and was confident that they could be worked on with Mr. Farrell. He said that doing the math on this, the easement was worth \$750,000, and if the land for the athletic fields was acquired, that would be another \$250,000. He said this would represent a \$1 million windfall that also addressed the aquifer issues. He said it was difficult to see why this would not go forward. He said he hoped any remaining issues could be addressed.

Councilor Julian Smith noted that the Town would be acquiring an easement, and that the property wouldn't be owned by the Town unless it bought it. He said Chair Niman had put a lot of work into the memo and the easement itself, and said he appreciated this. He then pointed out that the conservation easement deed applied only to the 124 acres that Mr. Farrell controlled, and that to the west of Spruce Wood, there were five other parcels, two owned by the Town, and three private parcels, which totaled about 70 acres. He provided details on some of these properties, and asked why the Town was proposing to change the zoning of these parcels to ORLI.

Chair Niman said he would like to see the Council enact a Transfer of Development Rights (TDR) ordinance, and said as part of this, it could sell the development rights to some Town parcels, while not selling the land itself. He said if a TDR ordinance was enacted, the development rights on the Town property(s) could be transferred to another commercial property, and he provided details on this. He said the goal was to put the economic conditions in place to protect the land, without having to spend the money.

Regarding the parcels Councilor Smith had mentioned that had frontage, he said he would like to see them to go in as a conservation easement, but said he didn't want the Town to have to spend money on this unless it had to.

Councilor Needell said the conservation easement was an exciting proposal, and represented a great opportunity. But he said it was a chicken and egg situation. He said if the rezoning



occurred and then the easement did not come to fruition, the question was where they would be, and said a question for him was how to get past that. He considered whether the rezoning could be contingent on the easement taking effect, but said he suspected that this couldn't be done.

There was discussion as to how this could be addressed. Councilor Needell noted that the conservation subdivision approach could be used, and it was then noted that such an approach would have to be for the entire ORLI district. Councilor Van Asselt said this would create problems.

The Council agreed that Chair Niman and others should move forward and talk further about the approach he had outlined for the Council.

Councilor Henry Smith said what Chair Niman had presented was a very positive piece of work, and said they would do well to go forward with the discussion.

Chair Niman asked Councilors to email him any concerns they had about the draft easement language, and said he, Administrator Selig, Mr. Farrell, and Mr. Cedarholm would review those comments.

Councilor Leach said she didn't share the concerns expressed by Councilor Needell.

Chair Niman said these concerns were not necessarily a deal breaker for the majority of the Council. He said he would bring the document back to the Council at a future meeting, and said there would also be a public hearing to get comments from the public. He said the Council would then decide what it wanted to do. He said the sooner the document could be completed, the sooner this process could move forward.

Councilor Leach asked whether Councilors could request information beyond what was outlined in the easement, and Chair Niman said yes.

Councilor Van Asselt said he was comfortable with spending some money on legal advice on the easement, if it was needed.

## **XI. Adjourn**

***Councilor Van Asselt MOVED to adjourn the meeting. Councilor Leach SECONDED the motion, and it PASSED unanimously 8-0.***

Adjournment at 11:08 pm.

Victoria Parmele, Minutes taker