

This set of minutes was approved at the Town Council meeting on December 15, 2008

**DURHAM TOWN COUNCIL AGENDA
MONDAY NOVEMBER 3, 2008
DURHAM TOWN HALL - COUNCIL CHAMBERS
MINUTES**

MEMBERS PRESENT: Chair Neil Niman; Councilor Karl Van Asselt; Councilor Jerry Needell; Councilor Julian Smith; Councilor Henry Smith; Councilor Cathy Leach;; Councilor Peter Stanhope; Councilor Mike Sievert; Councilor Doug Clark

MEMBERS ABSENT: None

OTHERS PRESENT: Town Administrator Todd Selig; Police Chief David Kurz; Public Works Director Mike Lynch; Town Engineer David Cedarholm

I. Call to Order

Chair Niman called the meeting to order at 7:01 PM.

II. Approval of Agenda

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

III. Special Announcements
None

IV. Approval of Minutes

September 22, 2008

Page 2, 3rd paragraph, should say "Three Council and one representative of the Newmarket School Board....."

Councilor Van Asselt MOVED to approve the September 22, 2008 Minutes, as amended. Councilor Leach SECONDED the motion, and it PASSED unanimously 8-0-1, with Councilor Sievert abstaining because of his absence from the meeting.

October 6, 2008

Councilor Van Asselt MOVED to approve the October 6, 2008 Minutes. Councilor Sievert SECONDED the motion, and it PASSED unanimously 9-0.

V. Councilor and Town Administrator Roundtable

Councilor Needell said he had participated in the recent tour of the Roselawn Farm conservation easement area. He said about 30 people attended, and said it was a lovely site. He encouraged residents to enjoy the property, and said he appreciated it that the Gangwers had made this possible.

Councilor Stanhope spoke concerning the appraisal done on the Evangelical Church. He said the report provided the value of the property as if it was a fully occupied 23,000 sf office building, and said it didn't address some critical issues, including whether there was a need for that amount of office space square footage in Durham right now, the cost to convert to office space, and the period of time needed to obtain stabilized occupancy. He spoke in some detail on this, and said his concern was that the conclusion was somewhat inflated. He said he wanted to make sure that the dialogue on the Church was not confused by this conclusion.

Councilor Clark said the School Board would have on its agenda a discussion of the invitation from the Education subcommittee to participate in a broader discussion of the idea of having a bigger regional high school. He said at least 3 residents had brought forward some concerns about the process of considering this idea, but said this was just the beginning of a conversation on whether or not there were advantages to this approach.

He noted that there had been a similar discussion 50 years ago, before the School District was established, and said the conversation now would be in terms of what was going on in 2009. He said the committee was looking to see who would be interested in having that conversation, and said it only applied to the High School. He said so far, 4 towns were interested, and he said the committee was also trying to get the school boards to participate.

Councilor Sievert said he and Councilor Clark had met regarding revisions to the stormwater regulations, as well as the changes needed to the ORLI district. He noted that he had talked with Town Engineer Dave Cedarholm about what the input from the Public Works Department might be concerning this.

He also told Councilors that he had brought to the Council meeting a map for the Durham Business Park, for discussion on possible uses of the property. It was agreed that this would be discussed under Other Business, and that as part of this the Council would receive an update on the meeting with Chinburg Builders that day.

Councilor Needell asked whether the Zoning changes Councilor Sievert had referred to would be brought to the Council or the Planning Board.

Councilor Clark said they would be brought to the Council where it would be decided which path was best.

Administrator Selig noted that the next day was Election day, and said a potential concern was that the State had provided a certain number of official ballots, including absentee ballots, which might be exceeded. He said if this happened, photocopies would be made of the ballot and Town Clerk Laurie Pitt would initial them. He said these ballots would then have to be hand counted after the polls closed.

Councilor Julian Smith noted that as a member of the Council, he had recently been served with legal papers.

Administrator Selig explained that this pertained to the Bates' most recent appeal of a ZBA decision. He said it was likely that it would be folded in with other appeals they had filed.

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

Bill Hall, 1 Smith Park Lane, noted that he had spoken at the previous meeting about using a waste oil burner in Town. He insisted that synthetic oil could be used for this, and also said storage of the oil was not a problem. In addition, he said a building permit wouldn't be needed to house such a burner, which would stand alone. He said 88 other towns in NH used waste oil burners.

He also spoke in detail about the Mill Pond Road water project, and said the Town could save \$100,000 by doing it in house. He said Durham had a Public Works Director and a Town Engineer, and said it didn't make sense to hire out this work now.

Councilor Sievert noted that he had also been hired to do projects when Skip Grady worked for the Town.

Diane McCann, Oyster River Road, said she thought the idea of developing housing for faculty and staff at Leawood Orchards was a good idea, and said it would probably be more respectful of the Town's water supply than the 700 bed development proposed in the ORLI district. She spoke in some detail on this. She also said she continued to be alarmed that the majority of the Council had recently voted to approve the ORLI Zoning change, before changes were made to the Town's regulations to ensure the protection of the Town's water supply.

She noted that the existing Spruce Wood development was on a septic system, and said the aquifer needed greater protection. She said she didn't know where the recommendations for the regulatory changes were at, and if they would be presented just to the Council, or if there would be some written recommendations for others to review.

Councilor Sievert said the recommendations would be presented to the Council, and also said there would be a public hearing. He said the recommendations would also be provided to the Conservation Commission. He said what he had seen was that there were already a lot of protections in place, but said what was not yet in place was drainage requirements that dictated how things were to be put together at the site plan level. He said they would make sure that those things were addressed.

There was discussion about how this process of reviewing these proposed changes would work, and how water experts and members of the public would be able to be involved in the process.

Administrator Selig noted that with the Leawood Orchards concept, the focus there was not undergraduate housing, and instead was affordable housing for graduate students, faculty, and staff.

He also noted that it was entirely appropriate for a Councilor to bring forward an issue for the Council to consider, and that this Councilor could also discuss the issue with whomever he/she wanted to, in developing something to present to the Council. He said the Council could then decide whether or not it wanted to take the issue forward any further.

Administrator Selig said that Mr. Hall, who was a long time resident of Durham, was entitled to his perspective on many Town issues, but he apologized to Mr. Lynch for statements that had been made. He said Mr. Lynch did an excellent job for the Town, and said he appreciated his work.

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

- A. Receive written quarterly Financial Report through September 30, 2008 prepared by Business Manager Gail Jablonski**
- B. Shall the Town Council approve the fall 2008 water and sewer warrant totaling \$421,709.75, commit the bills for charges to the Tax Collector for collection, and authorize the Town Administrator to sign said warrant?**

Councilor Van Asselt MOVED to approve Unanimous Consent Agenda Items A and B. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 9-0.

VIII. Committee Appointments

None

IX. Presentation Items

A. Receive presentation of the 2007 Audit - Plodzik & Sanderson

Greg Colby of Plodzik & Sanderson reviewed the audit documents that had been developed and provided to the Council. He said that similar to the previous 2-3 years, the statement in the audit on government-wide net assets did not include any of the Town's capital assets that had been acquired in years prior to 2004, or the accumulated depreciation of those assets or the depreciation expense related to those assets. He said the Independent Auditor's Report therefore reflected this one exception to the overall conformity of the Town's financial statements with accounting principles generally accepted in the US.

Mr. Colby then went through the Audit Report in some detail. As part of this he noted issues that had been brought to the Town's attention regarding deficiencies in terms of internal controls, including the Town's credit card policies, disaster recovery plans, and the Churchill Rink.

Councilor Needell asked Mr. Colby to speak about this, and why it was being included in the audit report for the first time this year. He asked if perhaps the standards had changed.

Mr. Colby said the standards had in fact changed, and he provided details on this. Councilor Needell asked if the statement regarding deficiencies in terms of internal controls was general in nature, or applied to specific items, and Mr. Colby said it applied to the areas listed in the report, and said the Council should consider additional policies concerning these three areas.

Councilor Stanhope asked who was involved in the auditing process, and Mr. Colby said he had done the audit, along with 4 to 5 members of his staff. Councilor Stanhope said he was troubled by the fact that Mr. Colby, as a representative of the firm, had not signed the letter in the audit report.

Councilor Julian Smith pointed out that he had raised the same point the year before and thanked Councilor Stanhope for raising it this year.

Councilor Leach received confirmation from Administrator Selig that he and Ms. Jablonski would be working on the three areas where deficiencies concerning internal controls had been noted.

At the request of Administrator Selig, Mr. Colby provided details on the fact that capital assets purchased since 2004 were inventoried, but not capital assets acquired prior to that date.

Chair Niman thanked Mr. Colby for his work, and Mr. Colby thanked Ms. Jablonski and her staff for their assistance with the audit.

B. Receive update regarding the Wiswall Bridge replacement project and authorize the Town Administrator to sign a Method of Action (MOA) for the historical mitigation of the existing bridge – David Cedarholm, Town Engineer

Mr. Cedarholm first noted that this was one of about 30 projects he was working on. He said he would love to be able to do in-house design on all of them, but simply didn't have enough time to do so. He then spoke about the fact that he had spent the last year trying to iron out the historic issues regarding the bridge. He explained that if the State Historic Preservation Office (SHPO) identified a potential historical site, there had to be an investigation to see if it was eligible as an historic area.

He explained that the bridge abutments and the center pier for the bridge had been thought to be potential elements of an historic district, and an investigation had determined that they were in fact eligible. He said the State Historic Preservation Office couldn't say the bridge had to be left in place, but had said the Town needed to do something to mitigate the loss of the structure. He said that at first, SHPO had said it wanted a lot of mitigation, and he said the cost for this would have added about \$300,000 to the project.

But he said FEMA, one of the agencies involved with the bridge replacement project, had facilitated discussion with SHPO and the various other federal and state entities involved. He said a compromise was reached that the two abutment faces that would be the most visible would be covered with a stone façade, but the abutments didn't have to be covered, and there didn't have to be tinted railings.

He said FEMA would pay for 75% of the façade, and the Town would only have to pay for 12% of it. He noted that the Lamprey River Advisory Committee had said it would be interested in helping to pay for covering an additional face of the bridge with the stone façade if NHDOT would also pay for some of it. But he said NHDOT had said no, so this concept had gone away.

Councilor Julian Smith noted the term "stone façade", and asked whether this was in fact a stone retaining wall.

Mr. Cedarholm said there would be a shelf, with stones from the existing abutments and/or the center pier piled up and attached to the concrete. He said it wouldn't carry the load, but would look like a real stone abutment.

Mr. Cedarholm noted that there were a few stipulations to the agreement that had been reached. He said the various parties involved would like the Council to sign the Method of Action (MOA), which outlined some additional items. He said the Town was being asked to expand the limits of the historic area to include the bridge, the dam and a couple of houses originally associated with the dam, and said this would essentially create an historic district, under the federal list of historic places.

He said the Town was also being asked to form a committee in order to design an historic exhibit that would in some way describe what the original bridge looked like. He said this exhibit would most likely be located at the park beside the dam and would be decided on by the committee. He said FEMA had estimated that this project would cost \$30,000, and he noted that FEMA would pay for some of it. He said the Town would be responsible for paying \$7,000, which was its share of the cost for the historic exhibit as well as adding the stone façade to the new bridge.

Chair Niman suggested that the Council discuss the MOA first

Councilor Leach said the MOA talked about hiring professional services to design and create the exhibit, and she asked if this was all included in the cost. Mr. Cedarholm said that it was. Councilor Leach then asked where the idea for the interpretive display had originated.

Mr. Cedarholm said this was a situation where an historic element was being obliterated, and he said the display was a way to address this. He said it had been suggested by the NH Division of Historic Resources, as well as by the Lamprey River Watershed Advisory Committee.

Councilor Leach asked if the Council was required to do this, and Mr. Cedarholm said if the Town didn't move forward with this, it would mean going back to the drawing board on the whole bridge project. He said there would be a serious question regarding getting funding if that happened, explaining that if the Town used federal money, it had to satisfy the section 106 requirements.

Councilor Leach asked for more information on the issue of the stone abutments, and said what had been decided on seemed somewhat arbitrary.

Mr. Cedarholm agreed that it was somewhat arbitrary, but said the idea that came about during a meeting at the bridge site was that someone looking at the bridge from a park that was created should be able to see something historic. He said two faces of the new bridge would be seen, and said using some stones from the old bridge would preserve a piece of the bridge. He noted that the new bridge would look very different from the old bridge.

Councilor Leach asked if any thought had been given to preserving the stones in another way that wasn't so costly.

Mr. Cedarholm said SHPO had been adamant about putting the stone on the abutments. He also noted that there would be some leftover stone from the old bridge, which would perhaps be used for a fish ladder.

Councilor Clark asked what the limitations of the historic district would be, if the Council agreed to this.

Mr. Cedarholm said the properties within the district wouldn't be affected unless the owners wanted federal funding to do work on their properties. He also said if the Town decided to do something with the bridge or the dam and wanted federal funding for this, it would have to go through an effort similar to the present effort. He noted that since the bridge was located close to what was already an historic site, it would have to do that anyway. He said expanding the district would therefore not really be changing anything, other than acknowledging the historic nature of the old bridge. He also noted that when the Mill site had been designated on the historic registry, some of the other historic aspects of the area had been overlooked.

Councilor Clark said if the dam was damaged, his concern was that the Town would be told it had to be fixed and that there had to be historic mitigation. He said the dam had been put there to create power, but said it wasn't used for that now and quipped that he wasn't sure why it was there other than to give the fish a hard time.

Mr. Cedarholm said the dam was considered to be historic because it was more than 50 years old. He said whether the dam was removed, or some simple repairs were made to it, the historic impacts would need to be mitigated, unless federal funds were not used. He said if the federal funds weren't used, it was a pretty straightforward task.

Councilor Julian Smith said he had been present at the early stages of meeting with the historic preservation people, when there had been talk of cutting the veneer out of the old stones, to be attached to the concrete base on the new bridge. He said this would have been a bit of fakery, and said he thought the compromise that had been reached addressed the objections of the historic preservation people.

He said this approach would mean that there was a place where people could look stand and look up the river, and see the rough old stones that formed the pier of the old bridge, which would mitigate the fact that the pier would be removed. He said this was the simpler, more cost-effective solution.

Councilor Stanhope asked if Durham had to use federal funds as part of the MOA, and whether this would encumber anything the Town did to the dam in the future, so that it had to comply with federal regulations. There was discussion on this.

Mr. Cedarholm spoke briefly about the fish ladder project, and noted that the Natural Resources Conservation Service had agreed to do the historic work that was part of that project.

Councilor Needell asked if the owners of the residential properties that would be located in the proposed historic district knew about this. He said he was surprised that the Council was being asked to approve this MOA without getting feedback from the people who would be affected by it.

Mr. Cedarholm noted that he didn't expect the Council to sign the MOA that evening. He said the Town did need to speak with the residents of the area, and said he was eager to hear what they had to say.

Councilor Needell asked whether, if these homeowners declined to be in the district and were removed from it, that would be appropriate, and Mr. Cedarholm said it would be.

Administrator Selig explained that the MOA didn't automatically give Durham the historic district, and said it only allowed the Town to apply for it. He said as part of this, the residents who would be impacted would be contacted.

Councilor Needell said he was uncomfortable discussing this without getting feedback from the residents involved.

Chair Niman outlined the timeline, moving forward, and said the issue would be brought back on a future Unanimous Consent Agenda.

Councilor Leach asked for details on what the mitigation money would be used for, and was provided with this information. She then said she felt the DPW, Mr. Cedarholm, and CLD Engineers had done a really good job of working through these issues, and had come up with some good compromises. But she said on the other hand, she felt the Town was being forced to spend money on some things that it was hard for her to accept at this point.

She said residents had been contacting her about this project. She said they were disappointed that the mitigation work was adding to the cost of the bridge, and were asking if the Town had to do this. She said if it did, that was unfortunate, and said she felt their hands were tied.

Mr. Cedarholm said he felt much the same way, and he spoke in some detail concerning this. He said Peter Thomas of FEMA had tried to facilitate the situation, and had helped SHPO understand that there were financial limitations involved. He said the meetings after that point had been very encouraging.

Councilor Van Asselt said from day one, he had said not to replace the bridge, and said he still felt that way. He asked at what point the Town would stop doing these kinds of projects, and said he didn't understand how things had gone from the Council saying it wanted to a simple bridge, and this. He said he had argued with historic preservation people before, and said at some point, one had to say no to them. But he said the bigger issue was the bridge, and he asked why the Town hadn't addressed the issue of the bridge in the first place.

Mr. Cedarholm said Durham didn't have to use FEMA or NHDOT money, and could build the bridge itself, but he said that would cost much more. There was further discussion on this with Councilor Van Asselt.

Councilor Henry Smith said he didn't agree with the idea of not replacing the bridge.

Chair Niman said when one took someone else's money, there were always conditions attached. He said the Council had made the decision to replace the bridge, and had gotten the money for this. He said if the historical things had to be done in order to get the money, the Town should take the money and move on.

Councilor Stanhope said there was an understanding that the bridge would be rebuilt, but also that information would be provided to the Council on how that would happen. He said that at some point, one had to say there would be a greater burden on the taxpayers than was necessary. He said they didn't have to rebuild the bridge, and said based on the economics of the community right now, it might be a greater burden than had been anticipated.

Chair Niman asked if the Council wanted to take another vote on this.

Councilor Julian Smith asked how much it would cost to simply remove the bridge and not rebuild it, and if mitigation would still have to be done.

Mr. Cedarholm said the Town would have to give back all the FEMA money, and said he wasn't sure whether the mitigation would have to be done. He said if they left the abutments, it would probably cost \$100,000 to do the demolition.

Councilor Julian Smith said the Town would end up spending money, and wouldn't have a bridge, plus it would have to eat the engineering costs for planning the new bridge.

Mr. Cedarholm said it would cost about \$250,000 to cover all of the engineering work and the bridge removal, and said with another \$100,000, the Town would get a new bridge.

Councilor Van Asselt said the Council had previously voted 8-1 to build the new bridge. But he said the Council had talked at length about doing this as cheaply as possible. He said perhaps Mr. Cedarholm had done this, but said he was frustrated that the cost was higher now than it had been before.

The Council stood in recess from 8:40 to 8:49 PM.

X. Unfinished Business

Update regarding Town/UNH collaborative economic development/affordable housing projects – Leewood Orchards

Administrator Selig said UNH would like to expand its capacity to provide graduate housing as well as affordable faculty and staff housing. He noted that the housing formerly provided at Forest Park had not been replaced. He said discussion had begun on ways to create additional privately developed housing on UNH land that was affordable and taxable. He said the Leewood Orchards property had been identified as a potential site in the UNH Master Plan.

He said that presently, there wasn't the funding capacity for construction, but said UNH had created a request for information to see if building contractors were interested in doing some taxable housing. He said Councilor Van Asselt, who worked for the Rochester Housing Authority, had sat in

on these discussions, and said they were pleased that the University was moving forward to solicit some ideas. He said it was hoped that a more formal request for proposals could be formulated.

Administrator Selig said that historically, UNH had developed affordable residential housing for its faculty. He said when UNH faculty lived in Durham, they were more attuned to the impacts of UNH on the Town, which could aid in making the relationship between the Town and UNH more harmonious. He said he hoped this present effort would lead to something positive. He then explained that this present effort had evolved out of the ongoing policing discussions regarding UNH's impacts on Durham. He said it was clear that there were ways the Town and the University could work together to bring additional taxable value to Durham.

Councilor Needell noted the possibility that the University might decide to sell some land to make it available for some affordable housing. He also asked whether there was any question as to whether, if this were a public/private partnership, that this would trigger the taxability of the development..

Administrator Selig said two years ago, Durham had worked hard to get State legislation passed that enabled University property to be taxable under certain circumstances. He provided details on this, and said the intent here was to trigger that Statute to allow a development to be taxable, although noting that the final decision hadn't been made on this. But he said that was the spirit in which the discussions had been undertaken.

Chair Niman noted wording that pertained to this, which said the University had tentatively agreed that any buildings not held by the University on the site would pay property taxes to the Town.

Councilor Leach said she believed that the University was saying that even their housing units for graduate students and faculty would not be owned by them, so would have to pay property taxes as well.

Administrator Selig said either a private developer would own the property and pay taxes, or the houses would be sold to private individuals who would own the houses but not the land they were on. He said these details would be worked out as things developed.

Councilor Needell said there also might be a commercial use to make the whole thing viable, and there was discussion.

Councilor Leach asked how the Town would be involved, in terms of moving this forward.

Administrator Selig said the Town had brought the idea to the University. He said the University was trying to find creative ways to compensate the Town in a way that met their own needs as well as the Town's needs.

Councilor Leach asked whether looking at this issue would involve a significant amount of time and/or cost for Town staff.

Administrator Selig said if this process moved ahead, Town staff would have to grapple with some wastewater and water issues. He said it was also possible that the Town would need to create a TIF

district to fund some of the infrastructure, and to work with the University to go for affordable housing grant money. He said the Town might also look at possible Zoning changes. He said on the one hand, this was a small step for the University and the Town to take, but he said even two years ago, this wouldn't have happened.. He said he hoped it was the first of many such efforts.

Councilor Needell said this was an exciting proposal, and said the fact that such a discussion was occurring was a milestone.

Chair Niman said there were a number of possible projects that were being worked on, and said he was very pleased, and hoped that some exciting things would be coming forward.

XI. New Business

A. Discuss proposal presented by Councilor Karl Van Asselt for the possible creation of a Durham Housing Authority

Councilor Van Asselt said the reason this proposal was being brought forward was that he and other Council members had previously considered the idea of affordable housing in Durham for junior faculty and administrative staff, and Councilor Needell had asked him to find some place to start the conversation. He said it seemed that one of the things to have in place if a developer came forward with an affordable housing idea for the Town was to have a housing authority.

He spoke about some of the things that housing authorities could do, and noted that it was highly unlikely some of these things could happen in Durham. He said the authority for the housing authority was totally subject to the rules of the community, and there were no costs involved. He said he couldn't see a downside to a housing authority, and said while someone might say this was a big step, he wasn't sure it was anything more than creating another committee to play a role in an area that interest had been expressed in.

Councilor Needell said he appreciated the fact that this was being brought forward, and said he thought this was the right way to address whether there was interest in the idea. He asked whether it was appropriate to create a housing authority without demonstrating a need and having a particular goal in mind, and asked whether this might create a conflict with the State statute regarding the creation of a housing authority.

Councilor Van Asselt said he thought the need that would be identified was that the Council wanted to have a mechanism in place to create affordable housing on behalf of the community. He said if the Town wanted to be aggressive in working on affordable housing, there needed to be a place to start working on it.

Councilor Needell noted that the language in the Statute was from the 1940's. He asked whether, once the housing authority was created, it would have some autonomy, and Councilor Van Asselt said it would. Councilor Needell said this could involve some possibly scary things, such as the use of eminent domain. He asked whether the Town would be exempt from zoning for an affordable housing project if it didn't partner with a private entity, and Councilor Van Asselt said no.

There was discussion that an affordable housing project could involve private funding. Councilor Van Asselt said a developer could get Section 8 vouchers and the Council would have nothing to say about this. He also said HUD could put out an RFP and put up some money for public housing. He noted that there could not be any student housing as part of public housing.

Councilor Clark said his sense was that the scary part of affordable housing was thinking about a possible proliferation of duplexes in neighborhoods. But he said he thought the Town would welcome a new faculty development, and asked whether there was the opportunity to ask UNH, in the spirit of the Leawood Orchards idea, to serve the needs of its faculty.

Councilor Van Asselt said assuming that there was every reason to think that UNH was serious about the Leewood Orchards site and other sites, he wasn't sure there was presently the structure in place to work with the University on an ongoing basis. He said perhaps this task could be given to the EDC or another committee. He said he would find it interesting to have a 5 member housing authority that as part of its mandate had the task of working with UNH.

Councilor Leach said perhaps the Council should work toward identifying ideas and tasks for how a housing authority could work with UNH. She noted that Councilor Van Asselt had said there should be a written agreement to outline the responsibilities of a housing authority, and said as part of this, perhaps the Council could look at the kind of authority that would be appropriate for Durham.

Councilor Van Asselt said he was convinced that there were developers in Town who were interested in doing affordable housing, and said he thought they would welcome having a housing authority to help them secure capital.

There was discussion about this, with Chair Niman noting a possible project across the street from the Rivers Edge development. He said if the developer was made aware of tax credits that were available, this could perhaps be a good first affordable housing project.

Councilor Van Asselt said developers would respond to this kind of opportunity and he provided details on this. He said it was private money involved, and got a tax break concerning this. He said the rents were kept low as a result of this, and said this process worked. He said developers liked working with local housing authorities, in part because this meant the development they proposed was acceptable to the community. He also said this helped them get points toward getting federal grants..

Councilor Henry Smith said that was a good reason for have a housing authority in Durham, He then asked if a development at the Leawood Orchards site would be available to graduate students.

Councilor Van Asselt explained that if one member of the household was working and the other was in school, they would be eligible. He also noted that some arrangements had been made for two of the best people in the State to meet with UNH on what the options were at the Leawood Orchards.

There was discussion that under the RSA, Administrator Selig could appoint the members of a housing authority, since he was the executive officer of the Town.

Councilor Julian Smith asked what affordable meant here, and if it was defined in the Statute.

There was discussion on the income limits of affordable housing, with Councilor Van Asselt explaining that a single person could make up to \$23,000, and a couple could make up to \$55,000. He said the rent might be about \$800, including heat and hot water, based on the tax credits that were available.

Chair Niman asked Councilors if they wanted Councilor Van Asselt to take the next step in regard to the creation of a housing authority, and Councilors said they did.

Councilor Van Asselt said he would bring an outline on this to an upcoming meeting to provide more specifics on how a housing authority was formed, the kind of agreement there should be between the Council and the entity, and the kinds of things the authority could work on.

Councilor Needell recommended that the rest of the State statute should be provided as well, and Councilor Van Asselt said he would provide this.

B. Overview and initial discussion on the Administrator's proposed FY 2009 Operating Budgets, Capital Budget, and 2009-2018 Capital Improvement Plan

Administrator Selig said he wanted to provide a brief introduction on the Budget and CIP documents, and the proposals contained in them. He first spoke about comments previously provided by the Council on the draft documents, and said he took away from these comments the sense that the Council wanted an austere budget. He said since this conversation with the Council, and while talking further with the Town departments, the economy had gotten worse and worse. He said it was clear that the Town was in a recession, and said he felt it was important to be responsive concerning this. He said it was this reality that had driven the Budget and CIP proposals. He then went through the Budget document.

Councilor Needell asked if the revaluation would be included in the discussion on the Budget, and Administrator Selig said no. He also provided details on why the tax rate would probably be lower the following year.

Councilor Julian Smith noted that the organization chart on page 18 didn't include Library employees or the Library Board of Trustees.

Administrator Selig explained that Library staff were employees, but were supervised by the Trustees. He said the Council approved the Budget, but the Trustees had full discretion in spending its money, so this was handled separately in the Budget.

Administrator Selig noted that page 21, the Fiscal Forecast, tied in with the CIP. He also spoke about the fact that when he had recently talked with Moody's about Durham's bond rating, he was told that the Fiscal Forecast had helped the Town get an AA bond rating.

Concerning the fund balance, he noted that in the past, it had been used to mitigate increases in the tax rate. But he said he didn't feel comfortable about doing this now. He said when he had spoken

with Moody's, it had been made clear that the Town needed to increase its fund balance over time. He said that as the total Budget size had grown over the years, the fund balance to Budget ratio had shrunk, and he said Moody's recommended that it be 15-20%.

Administrator Selig said this Budget represented an effort to not use fund balance money, and not use contingency money, and he said putting additional money into overlay accounts could address tax abatements if necessary. He also said that if taxes came in slowly, the fund balance could be used as a buffer, and would make it less likely that the Town would have to issue a tax anticipation note.

He said he was hearing from other NH communities that as they were going out for bonding, the bonds couldn't be issued, or investors couldn't be found. He said this was an additional argument for a good fund balance, so the Town would be in a good financial position to whether the economic storms.

Administrator Selig next spoke about revenues, as outlined on page 23 of the Budget. He said the Town didn't have a lot of flexibility concerning this, and he noted that the major source of revenues was motor vehicle registrations. He said it was anticipated that revenues from registrations would decrease because people were using older vehicles instead of buying new cars, so they didn't pay as much for their registrations.

He said revenues from this had dropped by about \$ 200,000, and said the Town had made up for this through \$190,000 proposed from UNH to address policing costs. He noted that there had been no final agreement on that number, but said it was anticipated that something in that range would be provided. He provided details on this.

Administrator Selig noted that in the Budget, staffing had now been broken out for the major departments, and showed employee responsibilities.

He then spoke about the Fiscal Forecast on page 165 for the Water Fund and the Wastewater Fund. He spoke in detail about the fact that debt service was driving significant increases in the Water Fund budget over the next few years, based on the development of the Spruce Hole aquifer. He said the Wastewater Fund Fiscal Forecast reflected an upgrade to the Wastewater treatment plant.

Chair Niman noted that the projected Water Fund increase didn't take into account the fact that there could be an increase in the number of water users, if the well was developed.

Administrator Selig next went through the CIP. He noted that the figures there were gross figures, and were not necessarily what the Town would pay for these projects. He also noted that the CIP broke out the various funding sources for a particular project. He spoke about the Bond schedule on page 17.

Administrator Selig said the Council was scheduled to have a Work Session on the Budget and CIP the following week, and said the public hearing on them would be held the week after that. He said copies of the documents were available at the Town Hall and the Library, and would be downloaded onto the Town website. He thanked Business Manager Gail Jablonski for doing an outstanding job on the Budget and CIP, and also thanked department heads for their efforts.

He then outlined the Budget process the Council would generally follow, and said he hoped the Council could come to agreement on it and the CIP. He said he had taken an aggressive approach and had focused on core financials, holding down spending, and monitoring the impacts of this approach.

C. Other business

Administrator Selig said he had met that day with Steve Schuster of Chinburg Builders and Town Planner Jim Campbell regarding the Durham Business Park. He noted that the Purchase and Sale agreement ran through March of 2009, but said so far, Chinburg had been unable to find an entity to locate there. He said that in prior discussions with them, the company had indicated that if it got to the point where it couldn't move forward with developing the property, it would talk with the Town about possible other ideas. He noted that Chinburg was the Town's partner right now.

He said the discussion with Chinburg had indicated that the company had done all it could to market the property, but had not been successful. He said it was currently interested in changing the focus to innovative residential development, similar to a green development in Peterborough that involved smaller housing units that were more affordable. He said the development didn't have individual parking garages for the houses, and instead had a common parking area as well as a common heating plant. He said Chinburg thought there might be the potential for such a development in Durham. He said the Town would need to take another look at the Zoning out there, if it was interested in something like this.

Administrator Selig spoke about some of the challenges Chinburg had run into concerning the site, including the fact that some potential developers were concerned about the fact that the wastewater treatment plant was next door. He noted that this had rarely been problematic. He said a second issue was the viability of having a business park at that location, and explained that Portsmouth and Dover could offer more affordable rents than Durham, in part because Durham had higher taxes.

He said another issue was that the elderly housing market had become saturated, and he also said Chinburg hadn't been able to find an entity that would be interested in doing an assisted living development there. He said an additional issue was that there were limits on how large the structures out there could be, because of DOT's concerns about the traffic that would be generated.

Administrator Selig said Chinburg thought that residential development would be marketable at that location. He also said the idea of putting the Town offices out there as well had been suggested at the meeting, and the company was excited about this, and about the fact that perhaps there could even be a TIF district to help pay the debt service for new Town offices. He noted that as part of such an approach, that perhaps the Town could sell the present Town Hall for a marketable rate, so this money could be available for the project.

He said another problem Chinburg had faced with the site was wetland buffer issues, and he explained that the buildable area continued to shrink because of some drainage problems over the last few years that had resulted in an increase in wetland vegetation on a portion of the site.

Councilor Sievert demonstrated this on the site map he had brought. He then spoke about possibly fitting a combined Town Hall/Library on the site as well as an area for residential development.

Administrator Selig said other ideas for the site included creating a walking/bike path that would connect to Jackson's Landing as part of the development of the site, as well as providing access on Old Piscataqua Road. Councilor Sievert said there was a good 200 ft of right away that was available. Administrator Selig also spoke about the idea of possibly having a community boathouse on the site that could be used by the development itself, but could also provide space for the community on the first floor.

Councilor Leach said she thought it had been said that the site wasn't a good location for a boathouse.

Councilor Sievert said the water depth in the area was troublesome, but not any more so than was the case at Jackson's Landing.

Councilor Stanhope said if the Town was going to change the land use restrictions for the property, it seemed only fair to open things up to a variety of possible proposals. He said he thought there were other developers out there who would be interested. He said Chinburg had made the Town an offer, and the Town had gone into the contract assuming the existing Zoning would be maintained. He said if this was not the case, he thought the Town should look at who else was out there. He said that assuming the Zoning change was possible, the property might have been undervalued.

Councilor Leach asked Administrator Selig what he wanted the Council to do concerning this idea.

Administrator Selig said he and Mr. Campbell had asked Chinburg speak to the EDC right now, but he said it had also seemed to be a good time for the Council to discuss the idea.

Councilor Van Asselt asked if UNH had expressed any interest in this land, and he suggested that there might be something creative that it wanted to do, including possible swapping some of its land in Town that the Town would be interested in obtaining.

Administrator Selig noted that the Town had received this property as a result of a lawsuit, and by tapping the Wastewater Fund. He said if the Town went down the road Councilor Van Asselt had suggested, UNH might say that it was partly their land. He said proceeds of the sale would be to replenish the Wastewater fund that would be used for projects the Town and the University shared.

Councilor Van Asselt spoke further about the idea of a possible swap of land, under whatever type of arrangement, where the Town could pick up land closer to downtown, and UNH could get a property that could be used as open space, for research purposes, etc.

Councilor Needell said another reason this property had come into the hands of the Town was the wastewater treatment plant, and said he was therefore amused by the idea that Chinburg was considering putting residential housing there.

Administrator Selig noted that the Town had previously been doing active composting on the wastewater treatment plant site, and he said it was no longer doing this.

Councilor Needell said it still seemed that there were marketing problems because of the proximity to the plant.

Councilor Stanhope said there was a substantial contingent of people in Town who would not like to see this site developed. He suggested that perhaps the land could be sold to the Nature Conservancy or the Trust for Public Lands.

Councilor Sievert said he wasn't sure this was the avenue to go down, asking why either of these entities would want to purchase the land if no one could develop it anyway.

Chair Niman said he knew of a private individual who would buy the property tomorrow if it was available, and would leave it as a field.

Councilor Leach asked if the site had been considered for playing fields, and there was discussion.

Councilor Sievert noted that this use would present some big traffic problems, and Councilor Leach said this use would allow the property to stay in an open state. Councilor Sievert said he was not against the idea, and there was discussion that for this use as well as some others, Old Piscataqua Road would have to be extended.

The Council agreed that it was a good idea for Mr. Schuster to speak with the EDC.

Councilor Stanhope added that the Town should act in good faith, and also said that if nothing was arrived at by the end of the contract and under the current Zoning, that it would be appropriate for the Council to entertain the questions he had asked.

Councilor Sievert asked if the idea of putting a municipal facility on the site would be looked at further, and Chair Niman said the consensus of the Council appeared to be that this should be looked at.

Councilor Leach noted that Chinburg appeared to be interested in this idea as well.

Councilor Clark received clarification that a municipal development out there would be exempt from the Town's land use regulations.

XII. Nonpublic Session None

XIII. Extended Councilor and Town Administrator Roundtable (if required) None

XIV. Adjourn

Councilor Leach MOVED to adjourn the meeting. Councilor Stanhope SECONDED the motion, and it PASSED unanimously 9-0.

Adjournment at 10:13 pm.

Victoria Parmele, Minutes taker