

This set of minutes was approved at the Town Council meeting on January 26, 2009

**DURHAM TOWN COUNCIL AGENDA
MONDAY DECEMBER 15, 2008
DURHAM TOWN HALL - COUNCIL CHAMBERS
MINUTES**

MEMBERS PRESENT: Chair Neil Niman; Councilor Jerry Needell; Councilor Julian Smith; Councilor Cathy Leach; Councilor Henry Smith; Councilor Mike Sievert; Councilor Peter Stanhope (arrived at 7:03 PM)

MEMBERS ABSENT: Councilor Doug Clark; Councilor Karl Van Asselt

OTHERS PRESENT: Town Administrator Todd Selig; Town Engineer David Cedarholm

I. Call to Order

Chair Niman called the meeting to order at 7:02 pm.

II. Approval of Agenda

Councilor Henry Smith MOVED to approve the Agenda. Councilor Leach SECONDED the motion.

It was noted that Item X C, "Continued discussion on a proposal presented by Councilor Van Asselt regarding the possible creation of a Durham Housing Authority", would be taken off the Agenda.

The motion PASSED unanimously 6-0.

Councilor Stanhope arrived immediately after the motion was voted on.

III. Special Announcements

None

IV. Approval of Minutes

November 3, 2008

Councilor Needell MOVED to approve the November 3, 2008 Minutes. Councilor Julian Smith SECONDED the motion, and it PASSED unanimously 7-0.

November 10, 2008 (Budget Work Session)

Page 13, next to last paragraph, should read "unwanted vegetation" in two places, not "unwanted regulation".

Councilor Needell MOVED to approve the November 10, 2008 Minutes as amended. Councilor Henry Smith SECONDED the motion, and it PASSED 6-0-1, with Councilor Stanhope abstaining because of his absence from that meeting.

V. Councilor and Town Administrator Roundtable

Councilor Henry Smith said the HDC had met on December 4th, and there was a quorum. He said there was a report from Mr. Campbell regarding RSA 71-E, the Community Revitalization Tax Relief Incentive, and he noted that this concept was listed in the Council's Goals. He provided details on it, and said one of the categories of structures it was intended for was historic buildings. He said the HDC had taken the concept under advisement, and said they were thinking about whether this approach could be considered for some of the structures in the downtown area.

Councilor Needell said the Conservation Commission met on the December 11th. He said there was discussion of the fact that the permit for the Mill Pond dredging would be expiring and could not be renewed. He said the work would have to be done in October 2009 because of turtle nesting issues, and if not done by that date, a new permit would need to be obtained.

Chair Niman asked Councilor Needell if the forestry issue had been discussed at the Conservation Commission meeting.

Councilor Needell said he had forgotten to bring this topic up, and would do so at the next meeting.

Councilor Julian Smith said the Planning Board had met the previous week, and approved the Bryant application for student housing on Mast Road. He said it was a very good plan, with various "green" components. He said the proposed development had been well vetted and was a sign of economic development in Durham.

Councilor Needell said the Planning Board also approved an amendment to an existing site plan to allow single-family dwellings instead of duplexes on the already approved building envelopes for the Spruce Wood development, pending approval by the Spruce Wood Homeowners' Association.

Councilor Needell said the Planning Board had also approved changes to the Septic System provisions of the Zoning Ordinance, and said this would be coming to the Council for approval.

Administrator Selig said tax bills were due on January 5th, and noted that in order to be able to claim these taxes on federal income tax bills, they had to be paid before January 1st.

He said there was a tragic accident involving a Town employee and that Mrs. Bianchi had subsequently passed away. He expressed the Town's sincere regrets to the family. He said the Town employee was very upset about the accident, and he also noted that the family's attorney would be meeting with the Town's liability counsel.

Administrator Selig said he had spoken to one of Mrs. Bianchi's sons prior to her death to express the Town's sympathy, and to let him know if there was anything the Town could do for the family. He said the family had been in touch with the Police Department regarding the ongoing investigation

into the accident. He said this had not yet been resolved, and said the Strafford County accident reconstruction team would be working on this. He also said the Police Department would be working with the County Attorney's office to review the entire file before any determination was made as to whether charges should be brought or not.

He said the Public Works vehicle had been impounded at the Police Department. He said the Town employee was back at work in a limited capacity, pending the outcome of the investigation, and would not be operating any vehicles or equipment. He said there was no evidence that alcohol or drug use was involved in the accident. He said he would keep the Council informed on this matter.

Administrator Selig said there was a crew from Canada at work restoring power in Durham, and he updated the Council on locations in Town where power had been restored. He said about 12 roads were still blocked. He said the Public Works Department had done a very good job of clearing debris, and said it was now only the power lines themselves that needed to be cleared. He said the Police Department and Fire Department had been very busy responding to calls, and among other things had brought people to shelters.

He said the Oyster River High School would be used as a shelter as long as needed, even if school went back into session. He said school had been cancelled for Tuesday, given uncertainties that remained concerning power. He said Public Service of NH had estimated that 95% of power would be restored by Wednesday night.

He said a lot of residents had tree limbs and brush in their yards, and said the Packers Falls Road gravel pit in Lee would be opened Tuesday-Friday to accommodate this, noting that the transfer station was currently full of brush. He said the Red Cross and School District had done an excellent job of staffing the shelter, and also said a number of Durham residents had volunteered there. He said 18 families had stayed at the shelter one night, and 14 had stayed there the previous night. He said residents were also stopping by to get information, and in some cases to get water.

Administrator Selig said the website had gone down as a result of the storm, but was operating again two days later. He said the latest updates were available at the website. He also said informational flyers had been sent out, in a different color each day. He said UNH had done a great job of opening up the campus to the community, including serving meals to residents of all ages at Holloway Commons. He said the place had been mobbed. He also said the University had opened its theatre for families to watch movies, and said this had been very helpful. He said the Hamel Recreation facility was also available for residents to take showers, and it was noted that there were cots there as well. He said there were also showers available at the High School.

He said all downtown businesses were now open, and said they had been very busy. He asked that as people plan to restock their refrigerators, they consider doing so locally. He asked residents to be careful about setting up generators.

Councilor Needell said he had had the privilege of working at the shelter on Saturday night, when 18 families had stayed there. He said residents from Durham and surrounding towns were represented there. He noted that as one resident was leaving the shelter, she said she was very proud of her

community for making the shelter available, and for the way it was maintained. He said it was great to be able to offer this kind of service to the community.

Councilor Sievert asked if the gravel pit might be kept open longer to allow for brush removal.

Administrator Selig said there had been discussion about this, and said it was a definite possibility. In answer to a question from Councilor Julian Smith, he said that if people came to the Transfer Station with brush, it would be accepted if there was room. He noted that there might be some brush burning at the Transfer Station if the weather cooperated.

On another issue, Administrator Selig said he would like feedback from the Council on the issue of the Oyster River dam repairs. He said an estimate had determined that the cost would be from \$1.2-1.6 million, and would provide a 20-year fix. He said it made sense to have a community discussion on whether to retain or remove the dam. He said removal would cost less money, and also said there could be grant funds for this.

He said a second issue was the Main Street West project. He said additional funds had been received for the project, and said it was time to invite various entities to provide further input on the project. He suggested that the Council could get feedback on both this project and the Oyster River dam issue on the same night.

Councilor Leach suggested a timeline, so people could plan when to be at the meeting to provide their comments on a particular project.

Councilor Henry Smith agreed that both projects should be addressed in one evening, and agreed that a timeline should be used.

There was discussion that these projects could be addressed at a regular Council meeting or at a separate meeting, and that this would take place some time in January.

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

Robin Mower, Faculty Road, spoke briefly about a problem involving the DCAT coverage of a recent Conservation Commission meeting.

Bill Hall, Smith Park Lane, spoke in detail about the new launching ramp at Jackson's Landing, and why he thought that because of the way it was constructed, it would be extremely problematic. He said some people would continue to get stuck there because they didn't realize that the ramp could only be used part of the time.

Mr. Hall also spoke in detail about the sewer line issue, and whether it could have been put in at the same time the gas line was put in. He said he did not believe the Town was well represented by Mr. Lynch and Administrator Selig on this issue, stating that this issue, costing about \$100,000, should have been brought to the Council. He invited the Council to look at the DVD of the Council meeting where he had spoken on this issue, and to compare it to the Planning Board meeting he had referred to where this issue was discussed.

Renee Vannata, 5 Wood Road, said she was one of the residents who had been without power for 5 days. She expressed her gratitude to Administrator Selig and UNH for all of their assistance to her family during this time.

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

First Reading on Ordinance #2008-20 amending Article IV, Section 4-18 of the Town of Durham Administrative Code to allow for alternates on the Economic Development Committee

Administrator Selig explained that the EDC had been working for several months to promote economic development and tax stabilization, but sometimes had to cancel a meeting because of a lack of a quorum. He said the Committee had therefore decided to ask the Council to amend the Administrative Code to allow two alternates to serve on the EDC.

Councilor Julian Smith noted that he had asked that this item be taken off of the Unanimous Consent Agenda. He said the Agenda description and the actual Ordinance contained conflicting language, noting that the term “citizen alternates” was used in the Ordinance.

Councilor Needell asked if the intent was that the alternates would only replace the three non-appointed alternates, or any of the members. He said this wasn’t clear.

There was discussion that this would have to be decided. Administrator Selig said his understanding was that the two alternates would be able to replace any of the members who were absent. He also said that typically only residents/citizens were appointed to Durham boards, and he spoke in detail about this. He said he wasn’t troubled by the use of the word “citizen”.

There was further discussion that on a number of occasions, the EDC had had difficulty getting a quorum, and that having alternates would help with this, as well as with doing the work of the committee.

Councilor Needell said he was not comfortable with the idea of appointed members being replaced by alternates, and said he would like members of the EDC to come speak with the Council about what they were really trying to accomplish with this change. He also asked whether there was perhaps an underlying problem as to why there were not quorums, and said he would see such a problem as greater than the fact that there wasn’t a quorum.

He said he didn’t have a problem with having alternates, especially given the workload of the committee, but said it was important to talk to the EDC about what the alternates’ roles were. He said he was hesitant to allow the alternates to replace appointed members, and said he therefore wasn’t comfortable bringing this Ordinance forward in its current form.

Councilor Leach said there were other committees that had difficulty getting a quorum, so they should be asked these questions as well. She also said that instead of having EDC members come speak on this, Mr. Campbell could speak with the Council. She said she was comfortable passing this Ordinance on first reading, and said there could then be a discussion at the next meeting.

Councilor Julian Smith asked whether, if the draft Ordinance language was left as it was, the word “citizen” could mean residents who were also on other Town committees or boards.

Chair Niman said he would think so, noting it would be up to the Council as to whether it wanted to appoint a person.

Councilor Needell said a difference with the EDC was that half of its members were appointed, and half were not (two Council members and the Town planner). He said if the intent was that an alternate could support any member of the EDC, he was not inclined to want to support this. He said he would like this to be clarified before the Ordinance went forward, and said he would therefore oppose approving this Ordinance on first reading.

Chair Niman said he would like to see whether this could be moved forward.

Councilor Julian Smith MOVED to pass on first reading Ordinance #2008-20, amending Article IV, Section 4-18 of the Town of Durham Administrative Code by allowing for two (2) alternates on the Economic Development Committee, and to schedule a Public Hearing for Monday, January 12, 2009. Councilor Stanhope SECONDED the motion.

Councilor Henry Smith said to him, the use of the word “citizen” in the Ordinance meant that the alternates could replace only the three citizen members of the EDC. He said he therefore wasn’t sure whether this Ordinance should be moved forward or not until that was clarified.

The motion PASSED 5-2, with Councilor Henry Smith and Councilor Needell voting against it.

VIII. Committee Appointment

Shall the Town Council appoint Dianne Thompson, 11 Marden Way, to the Durham Cable Access Television (DCAT) Governance Committee?

Ms. Thompson was not present to speak.

Councilor Stanhope MOVED to appoint Dianna Thompson, 11 Marden Way, to the Durham Cable Access Television (DCAT) Governance Committee, with a term expiration date of April 30, 2009. Councilor Henry Smith SECONDED the motion.

Councilor Julian Smith said Ms. Thompson appeared to be an excellent candidate.

The motion PASSED unanimously 5-2.

IX. Presentation Item

None

X. Unfinished Business

A. Receive update on the fish passage project at the Wiswall Dam and associated renovations to the Wiswall Historic Mill Park – David Cedarholm

Town Engineer Dave Cedarholm explained that the Town was finally moving forward with the project, and said they were currently preparing for a public informational meeting concerning it, scheduled for Friday, Jan 23rd. He said there would be some presentations on the history of the site and the dam, and said it should be an interesting event.

He said they were also soliciting “interested consulting parties” to help develop a design that would limit, or mitigate impacts from the project on the historic Wiswall Mill site, and explained that this was a requirement because federal money was being used to build the fish passage. He said people could participate on an official or unofficial basis.

Mr. Cedarholm explained that while the focus of the project was now the fish ladder, there would also be an exploration for one last time of whether the concept of dam removal could be compatible with the UNH/Durham water supply withdrawal from the Lamprey River. He said this analysis was needed to satisfy an alternative analysis condition of the grant, given the fact that removal of the dam could also allow for fish passage. He noted that dam removal was considered fish passage, so would be covered under the grant.

In answer to a question from Councilor Needell, he said the idea of having a nature-like fishway was no longer one of the options. He explained that this would have required the purchase of private land, something the property owner wasn’t interested in. He also said it would have been a complicated project, and said he was not sorry to see it go.

He said the NRCS grant was for 75% of the project, and the Town would have to put up 25% through cash or in-kind services. He said the needed repairs to the dam were on the abutment that was close to the historic site, and said the grant for the fish passage could be used for a portion of these dam repairs, explaining that the fish ladder would be incorporated into the abutment, which would need to be reconstructed. He said the Town’s match would be in the form of construction costs associated with the repair of the dam abutment.

Councilor Julian Smith asked Mr. Cedarholm if there was any doubt in his mind that the dam should remain.

Mr. Cedarholm said he had huge reservations about keeping the dam, or removing it. He said maintaining the dam was a headache but it also provided water storage, and said whether this storage was used on a regular basis or as emergency storage, it was very valuable. He said they might not need a 13 ft high dam, but said they would be hard pressed to say they didn’t need it at all.

He noted a study done by engineer Mike Metcalf when he worked for Dufresne Henry in 2003 that looked at the idea of removing the dam and getting water from the Lamprey without it. He said the study revealed that there was bedrock upstream where the pump station was, which would impound water so there would still be 4-5 ft of water above the intake to the pump station. He said this would allow storage of something less than 10 million gallons.

Mr. Cedarholm said if the idea of dam removal were looked at, the biggest part of this would be considering what this would mean in terms of the Lamprey River as a water source. He said the 6 inches of draw down over a smaller area would mean a lot less water than was currently available at the impoundment.

Councilor Julian Smith asked whether if the dam was removed, it would be more imperative to have the injection of water from the Lamprey River into the Spruce Hole aquifer.

Mr. Cedarholm said it would have about the same value. He said the best scenario would be to have one pipe for a new well at Spruce Hole, a separate pipe for the Lamprey, and to keep the two water sources as separate as possible.

Councilor Leach summarized that the water supply issue was one factor in considering the idea of removal of the dam.

Mr. Cedarholm agreed, and said to him this was the biggest factor. He said other factors were that there would be a lot of people upstream in Lee who would no longer have a pond in front of their houses; jumping off of the Wiswall Bridge wouldn't be an option; etc. He said the whole area would change significantly, but it still would be a river, which in itself was a beautiful thing.

He said the grant could be used for dam removal, because this was considered fish passage. He said the fish passage would impact the historic site, explaining that the plan would be to incorporate it into the abutment wall. But he said there were some great opportunities to create a fish ladder that blended well with the site.

B. Receive status report from the Administrator on the list of 2008/09 Town Council goals adopted on June 2, 2008

Administrator Selig explained that this update was a quarterly status report on the progress the Council was making in implementing its goals. He said significant progress had been made on some but not all of the goals. He noted that there was a multi-year focus to the goals, and that they were not adopted until June of 2008.

Councilor Julia Smith noted that on page 3, there was a bullet under Goal VI – Determine the Future of the Town Hall, that said “Reach a community consensus regarding a combined Town Hall/library facility”. He said there was no description on how this consensus would be reached, and asked if this was a goal the Council was not addressing.

Administrator Selig said it was an item that hadn't been fully fleshed out yet, and said he was anticipating there would be discussion on it that evening, when the Council spoke with Doug Bencks, the Chair of the Library Board of Trustees.

C. Continued discussion on proposal presented by Councilor Karl Van Asselt regarding the possible creation of a Durham Housing Authority

This item was postponed because Council Van Asselt was absent.

XI. New Business

- A. Receive update from the Town Administrator and Council Chair relative to public/private partnership opportunities with the University of New Hampshire

Administrator Selig said there had been active discussion with the University over the past year on policing costs, and said there was now philosophical agreement on an approach to develop concrete cost impacts. He said beyond this, the discussion had broadened to look at ways in which the University could be of more benefit to the larger Durham community.

He said one area being looked at was the idea of a public/private partnership at Leawood Orchards to provide affordable housing for junior faculty and graduate students at the University that would be taxable in some way. He said a request for information had been put out by the University, and 10 responses had been received.

He said another area looked at was unmet needs of both the Town and the University, and how they might come together to address these needs. He said the University had just received a grant to develop a new business school, and said the University Master Plan had focused on putting this at the West end of the campus.

Administrator Selig said a related issue was that the New England Center facility was old and in need of maintenance work costing approximately \$18 million. He said the University was thinking about what to do with the facility. He said an additional related issue was that the Town had been trying to find ways to invigorate the downtown area, including bringing more of the campus population downtown to spend money and broaden the tax base there.

He said a further related issue was that the ATO fraternity in Main Street next to Ocean Bank was in financial distress, and in the summer the Town would be in a position to tax deed the property.

Administrator Selig said all of these threads related to the fact that there were a number of developers who were interested in developing in town, and he provided details on this. He said it was thought that there were some synergies in that a business school could perhaps be located downtown. He said this could be a much larger facility, with expanded programs that would bring adults to the community as well. He said these people could shop downtown, and since they would also need a place to stay, there could perhaps be a hotel conference center located downtown as well. He said Pro Con construction and the Kane Companies, University representatives, Chair Niman, Town Planner Jim Campbell, and he had been having discussions about how this kind of development could possibly be structured. He said they had looked at putting the development projects in the general vicinity of Pettee Brook Lane, Main Street, and Rosemary Lane. He said the Pro Con and Kane Companies had looked at the ATO fraternity property as a possible hotel site.

He noted that the Town owned the Pettee Brook parking lot, and also the permitted parking spaces on the other side of the road, which were located on a triangular property that came up to the back of the ATO lot. He said this triangular property could perhaps come into play as part of a project, and said there could also be a parking structure built in the Pettee Brook parking lot to service downtown businesses as well as a hotel/conference facility.

Administrator Selig said the idea would be to create a TIF District, capture the tax dollars generated from the hotel/conference facility at the ATO site or a similar site, and then use the funds to pay for a new parking garage. He said the University could move ahead with a business school in the Pettee Brook area as well. He said these discussions were in their early stages, and said one question was where the ATO fraternity could move to. He said they were trying to identify potential locations.

Chair Niman said these discussions had been going on since August, and those involved were now ready to talk about them publicly. He said they would be putting some numbers together in January to see how this might work.

Councilor Stanhope asked if a timeline could be projected for what Administrator Selig had described. He said it sounded great, but said that from a business standpoint, he would like to know when it would happen, if it would happen, and what the goal was to accomplish this.

Chair Niman said the development partners had the money to do the project, and had access to credit. He said the issue right now was finding a new home for ATO, and treating them honorably. He said there was a possible site for this, and said this would be worked out in January. He said the property being considered would have to be renovated, and said the plan would be to then demolish the ATO property. He said it was anticipated that a project could begin in the summer.

Administrator Selig said ProCon anticipated that the permitting would take a full year.

Councilor Needell asked if there was a timeline for the University's development of the business school, and if this project and the hotel/conference center project were connected.

Chair Niman said the UNH Business School had committed to an architectural firm, and said there had been numerous meetings at the University to discuss the business school concept. He said three possible locations for the school had been identified, and said there was a great deal of enthusiasm for the downtown site. He said he believed that what had been represented was that it made a lot of sense to put the business school downtown if there was going to be a hotel/conference center.

Administrator Selig said the University had planned to locate the business school at the West end of the campus, but had now invested some significant resources in looking at the Pettee Brook road location. He said they would like to link this to a hotel/conference facility, and said this had generated a lot of interest.

He said one issue was the idea of a new site for ATO, and if the ATO organization would agree to this. He said another issue was how many parking spaces would be needed, how many could fit there, and if enough incremental value could be obtained to pay for the parking garage. He said there wasn't enough information yet to determine these things.

He said there would also need to be a formal agreement about what the various entities were committed to doing. He said everyone so far had come together, and said the University had brought in significant expertise from consultants to help move the process along.

Chair Niman said it was hoped that in January, they would have a better handle on the numbers. He said hopefully things could then come forward to the Council so it could evaluate the numbers.

Councilor Stanhope asked if the Council could be given benchmarks on the various pieces of this.

Administrator Selig and Chair Niman said they would talk with the partners about committing to some kind of timeline, and would come back to the Council with this.

Councilor Julian Smith asked who was meant by “our partners”, and Chair Niman said he viewed this as a partnership between the Town and the University, with a private developer also involved to work in partnership with them. He said the University’s assistance during the current power crisis represented the role they were playing as a good neighbor, and said he hoped the partnering relationship with the Town would continue to strengthen.

Councilor Smith said he wondered when this process would include the community and the Council.

Chair Niman said this involvement was happening that evening. He explained that there had been reluctance to bring this forward until all of those involved in the discussions had agreed that they wanted to make this happen. He said once that happened, it meant everyone could start talking about it.

Councilor Smith asked why finding a new location for the fraternity was a necessary component.

Chair Niman said they were trying to expand the tax base, and trying to generate business for the downtown. He said new hotels brought a lot of money to town. But he said they were also trying to do this honorably, in a way that didn’t steal something from the fraternity. He said they wanted to pay the ATO what its building was worth, but also wanted to provide an alternate living situation that better met the fraternity’s needs. He said the goal was to find a house that was the right size, would help clear their debt, and would allow the fraternity to be successful.

Administrator Selig said the developers had approached the owners of several other properties downtown about selling, and the ATO site was the only one where there was interest in doing so. He said he and Chair Niman had facilitated discussion between the developers and the fraternity, as well as discussion with the University.

He said the Town would have a role in the development process if there were a TIF for the parking garage, and also if the triangle property was involved in some way in the developments.

Councilor Stanhope said he appreciated the work of Chair Niman and Administrator Selig on this, and noted that ATO could continue to be a taxpayer if it was provided with some assistance. He said everyone would win, and said his insistence on a timeline was only because in the past, the public had been led to believe things would happen that did not in fact happen.

Chair Niman agreed, and said hopefully some outstanding issues would be resolved in the next month.

Councilor Sievert said he agreed with what Councilor Stanhope had said. He said it was excellent that the University had come forward to be a partner downtown, and said this would hopefully get more people to go there. He said there were other developments gearing up there, and said there could be a huge benefit from all of this.

Chair Niman said he had been very impressed with the commitment of the current University administration to see redevelopment and make Durham's downtown viable.

Councilor Henry Smith said he didn't think the University could be a recipient of TIF money. He also asked if the University had considered making Holloway Commons into a business school.

Councilor Stanhope spoke about the advantages of having higher density downtown, as an example of smart growth. He said parking garages sometimes provided opportunity to develop above them, and said he wouldn't be opposed to encouraging a developer to do this.

Councilor Needell said the public part of this was both the University and the Town, and said the Town was acting as a facilitator and a landowner. He asked what the commitment was to the private entities, and if it was correct that this was essentially a private project. He also said it was his understanding that the Town had no desire to acquire the ATO property and market it as part of this process. He said that at first, it had sounded like the Town wanted to clear the property and make something happen there.

Chair Niman provided details on how the discussions with the University, Pro Con, and Kane had evolved. He said it was correct that there was no interest in the Town acquiring property or doing hotel development. But he said he had thought for some time that a hotel would be a good thing for the downtown.

He said the impetus for this whole thing had been the fact that the University had started looking at the different businesses it was in, and thinking about how it could help better support the downtown. He said there was a sincere commitment on the University's part, and said this was very much appreciated. He said there would be another update for the Council in February.

B Discussion with Library Board of Trustee Chair Doug Bencks relative to acquisition of property at 2 Mill Pond Road as a possible library site

Chair Niman asked Mr. Bencks to speak a bit about where the Trustees were at concerning this.

Mr. Bencks said the Trustees were there because there was a sense of urgency, and a need for partnership with the Town. He said they had some specific thoughts on a site and on fundraising, two aspects of the development process that had to happen before the Trustees tackled anything else. He said he hoped they could come to a common understanding on a site for the library.

He said their expectation was that the Council would follow through on its current goal to help establish a site for the library. He said this had to be a partnership, and said the Trustees' responsibility in this was to determine an appropriate site for the library. He also said they took seriously that as much private fundraising money as possible should go toward this.

He said they wanted to work collaboratively with the Council and the Town on a financial strategy. He said the Trustees wanted to ensure that the library was built with sustainability in mind, and he noted that among other things, this would reduce operating costs, and would make the development a better long-term investment. He said it was important to show fundraisers and citizens that this would be done in a way that wasn't extravagant, was practical, and could service the Town for several generations. He said they were committed to making sure that this happened.

Mr. Bencks said the Trustees continued to feel a sense of urgency to establish a site so they could then start to answer other questions. He provided a chronology since 2000 of discussions on the siting of a new library, including the work of the Mill Plaza Study Committee. He spoke about the workshop with the Council in 2006 that had ascertained that the site issue needed to be clarified. He said after going through the Mill Plaza study process, the Trustees' backup site was now 2 Mill Pond Road. He noted that this property had been at the top of the Trustees' list back in 2001.

He reviewed how this site met the Trustees' criteria. He said it was located in the Town center; it provided good access for cars and pedestrians; it was a visible location; it provided opportunities for sustainable design, including good solar access; and it had enough room for possible expansion in the future.

He said generations of Trustees had looked at a number of sites, and he reviewed the private and Town properties that had looked at. He said with the 2 Mill Pond Road property, the Trustees had finally found a property owner who wanted to work with them, and said this was key. He noted that there had been recent discussions by the Council of going beyond the Town Center for a library site. He said there might be cost advantages to this, but said for sustainability reasons, having a site in Town made sense.

He noted the proximity of the site to Mill Pond and the Milne property, and noted that Margery Milne had been a large benefactor to the library. He said there was therefore something symbolic as well as practical about siting the library in that area. He said the Trustees were hoping they and the Council could agree to pursue this property more seriously. He said it was important that they were all on board with this before talking with the owner.

Chair Niman asked Mr. Bencks if the Trustees would feel comfortable negotiating a purchase and sale agreement with the owner but not obtaining title to the property, and approach where they then could work out the details.

Mr. Bencks said a sense of urgency was that in addition to the \$1 million the Trustee had in a building fund, there was a donor who had committed to giving them \$250,000 if the Trustees showed real commitment to move forward. He said this commitment also needed to be demonstrated to encourage other fundraising efforts. He said the Trustees were open to whatever deal needed to be structured to make this work.

Councilor Leach said she was struggling with how to represent what the townspeople wanted, and said she had spoken to people on both sides concerning the idea of a new library. She said the warrant article seemed to be the only way to really get at what the majority of the Town wanted. She said she wouldn't argue with the Trustees about the site they wanted, but said if the Council said

the Trustees could go forward with the 2 Mill Road site, she wanted to be clear on what the Council's decision would mean, down the road.

Mr. Bencks said the only way to make this work collaboratively was to do this step by step. He said it was important to make the decision on the site in order to get to the specifics, including how the library would benefit the Town. He said the Trustees had gotten extraordinary financial support so far for a new library, and said they were expecting more. He said this financial support wouldn't pay for the whole project, but provide a great value for the taxpayers. He said this was what the Trustees wanted to be able to show residents.

Councilor Leach asked for a timeline on this, if the Council agreed about 2 Mill Pond Road.

Mr. Bencks said the Trustees hoped to come to terms with the owner by the end of February, and to then have discussions with the Council on the size of the library so the design process could begin. He said this would help excite fundraisers, as well as residents. He said fundraising would then begin and said this should take months, not years.

He said the Trustees could then come back with what the picture was in terms of fundraising, and decisions could then be made as to whether there was enough money received, and if the Trustees needed to wait until the economy improved to ask for more money. He said the decision could also be made then to see whether the taxpayers would be willing to fund some of the library. He said he hoped that over the next year, these things could be determined.

Councilor Leach asked if financial information on the property was available.

Mr. Bencks said the appraisal information was available. In answer to another question from Councilor Leach, he said the Trustees would use their building fund money to purchase the property if necessary. He said given the sense of urgency, they were prepared to do this, but also said that if the Trustees could come to some other arrangement, that was also possible. He noted that the owner of the 2 Mill Road property had been willing to explore a range of options.

Councilor Stanhope said he liked the idea of putting the new library downtown, although he was troubled with the idea of taking a high value property off of the tax rolls. He said he would like to know what the Trustees saw as the ratio of public and private funding for this project, and said this almost anticipated having to explain the size of the library the Trustees wanted to build.

He said he would also need to see the tax rate impact of a bond for the public portion of the funding, and would also need to know what the impact would be on the tax rate going forward, because of the operating costs. He said at least some general numbers were needed on what the total package was.

Mr. Bencks agreed that answers to these questions were needed. He said the CIP contained the forecasts the Trustees had made, based on general assumptions. He provided details on expected differences in operating costs for the old and new building. He said there could be more specific discussion on the issues Councilor Stanhope had raised, once the site had been agreed on.

Councilor Needell said he had heard from the discussion that the earliest a referendum on the library could occur was March of 2010. He said a commitment was needed now from the Council to secure the availability of the property, and said he had also heard that if the Council embraced this site, there were several ways to proceed. He said he also thought he had heard that the Trustees were willing to pay for the property, if that was what it took.

Mr. Bencks said the Trustees were absolutely willing to make the investment up front. He said there was a risk to this that the project would then fall through, but said as long as the buildings were maintained, this could be seen as a real estate investment.. He said this was a worst-case scenario, and said the Trustees were open to looking at other ways to move forward so the money didn't have to be used in this way. He said it would be great if the Town wanted to meet the Trustees half way.

Councilor Needell said the Trustees' willingness to take the pressure off of how this had to be done would enable a better decision on how to do it. He said he was excited that the Trustees were making a recommendation on a site, and said having them behind the goal was the important thing, for him to be able to support whatever it was they wanted to do.

Councilor Sievert asked whether if the Trustees bought the 2 Mill Road property, it would be taken off the tax rolls over the next couple of years while they were waiting to develop it.

Mr. Bencks said if there were a way to lease it so it could be rented, that would be preferable. There was discussion that there was no definitive answer on this right now.

Councilor Sievert asked if the site was large enough for a combined Town Hall/Library facility. Mr. Bencks said the site was about the same size as the Town Hall parcel.

Councilor Henry Smith said a combined facility would therefore fit on the 2 Mill Road property. He said if an exchange was done with the owner of the Grange, there could possibly be a non-taxpaying library property at the 2 Mill Road property, and a taxpaying property at the Grange.

Mr. Bencks said the Trustees were not presuming a combined facility. He said the preference was whatever would move this forward.

Councilor Henry Smith said he really liked that site for a number of reasons. He said his own sense was that it would probably be better to have just a library there, and not a combined facility.

Mr. Bencks said the Trustees would need to have an understanding on whether there would be a stand alone library or a combined facility, in order to go forward with the design and fundraising.

Councilor Stanhope asked if the Trustees were opposed to optioning the site until after the bond was obtained and the fundraising was complete. He said with this approach, the property would stay on the tax rolls.

Mr. Bencks said the question was what the terms of this approach would be, and whether this would be enough of a commitment to allow the Trustees to satisfy potential donors. He said he personally

was open to this approach as long as it allowed the other steps to occur. He said the key was to meet the overall objectives.

Councilor Leach asked if it was enough for the Council to say the Trustees should move forward and investigate this, or if they should be saying to go ahead and buy the property. There was discussion on this with Mr. Bencks.

Chair Niman said he was very nervous about the idea of the Town or the Trustees going into the landlord business, and said perhaps there could be some kind of professional property management approach instead.

Mr. Bencks agreed.

Councilor Julian Smith said it was important to remember that only the Town Council could purchase or take an option on this property. He said while the Trustees might be coming up with the money for this, the decision was one that involved the Council's willingness to make the purchase.

Councilor Leach and Mr. Bencks agreed that a decision that evening was not a commitment to spend taxpayer money to buy the property.

Councilor Julian Smith spoke in some detail on why it made sense to proceed with the option approach.

Chair Niman said this wasn't his top site for a new library, but said it was the Trustees who were doing all the work involved, so it was his feeling that they therefore got to pick the site. He said if this was what they wanted, and it seemed reasonable, he wouldn't stand in the way. But he said he would expect to see the effort to make this happen.

Councilor Needell said he would like the Council to say to go for it. He said someone had to purchase it, put an option on it, or whatever, and said it wasn't clear who was going to do this. He said he thought there should be a referendum on the library, especially given the fact that there would be ongoing costs. He asked if it was likely that there would be a referendum, or if it was possible to avoid this.

Mr. Bencks said if there was a way to avoid this, the Trustees were open to this.

Councilor Needell said he would like to see a referendum occur.

Administrator Selig said a question was whether a 2/3 vote referendum would be used, or if instead there would be a more general referendum. He also said the dollars the Trustees had were not tax dollars, although it was public money. He said only the Trustees could determine how it was used, as long as it was used for library purposes. But he said the Council had to approve the purchase.

Chair Niman summarized that the Council would take a vote on whether to support Administrator Selig and Mr. Bencks in putting together a deal for the 2 Mill Road property and then coming back to the Council.

Administrator Selig said possible approaches included the following:

- The purchase of the property by the Trustees;
- The sale of the Grange site to Varsity Durham or a trade with them concerning the 2 Mill Pond Road site;
- The subdivision of the 2 Mill Pond Road property, with Varsity Durham keeping the apartment building there and the Town acquiring the front portion of the property for a lesser amount;
- Some type of collaborative approach with Varsity Durham, resulting in a building where there would be a library on the first floor and apartments above. The property would be owned by Varsity Durham and the value obtained from the apartments would pay for the library.
- An approach where Varsity Durham would build the library and the Town would enter into a lease purchase arrangement, where over time it would pay for the property and take control of it. This approach would avoid the bond issue.

Chair Niman asked if there was anything Administrator Selig had described that Councilors felt should not be pursued.

Councilor Henry Smith said he didn't like the idea of having a library on the first floor of a new building, and apartments on the second floor. He said he thought the plan had been to have a two story library.

Councilor Needell said he assumed that whatever was brought back from the Trustees would have their support, and said he would therefore leave this to them and Administrator Selig to work out.

Councilor Stanhope said he didn't want to take anything out of the hands of the Trustees, and said they were entitled to a fair hearing on whatever they proposed.

Chair Niman said he just wanted to be sure that if the Grange was a part of the deal, no one would be against the idea of trading it.

Councilor Sievert MOVED to have Administrator Selig and Board of Trustees Chair Doug Bencks move forward with negotiations with the owner of 2 Mill Pond Road, and bring the results back to the Town Council. Councilor Stanhope SECONDED the motion, and it PASSED unanimously 7-0.

C. Other business

Administrator Selig said the Town had received a letter of resignation from Fire Chief O'Leary, and said his last day would be January 15th. He said an internal posting of the position had been done, and said there was a strong likelihood that there were very positive prospects within the department. He said he and Ms. Jablonski would interview those who were interested, and said it would be a very straightforward process.

He said if they were satisfied that there was someone in the department who could serve as Chief, they would bring this forward for the Council's advice and consent at the first meeting in January. He said if they were not satisfied, they would look externally, and probably regionally. He noted that one internal application had been received so far.

Administrator Selig also said Ms. Jablonski had received second degree burns the previous evening, as a result of a scalding incident related to the power outage. Chair Niman asked Administrator Selig to send Ms. Jablonski the Council's best wishes.

XII. Nonpublic Session (*if required*)
None

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

XIV. Adjourn (*NLT 10:30 PM*)

Councilor Peter Stanhope MOVED to adjourn the meeting. Councilor Henry Smith SECONDED the motion, and it PASSED unanimously 7-0.

Adjournment at 9:30 pm

Victoria Parmele, Minutes taker