

**This set of minutes was approved at the Town Council meeting on February 16, 2009**

**DURHAM TOWN COUNCIL AGENDA  
MONDAY JANUARY 26, 2009  
DURHAM TOWN HALL - COUNCIL CHAMBERS  
MINUTES**

**MEMBERS PRESENT:** Chair Neil Niman; ; Councilor Jerry Needell; Councilor Julian Smith; Councilor Henry Smith; Councilor Cathy Leach; Councilor Mike Sievert; Councilor Peter Stanhope (present until 9:03 PM); Councilor Doug Clark

**MEMBERS ABSENT:** Councilor Karl Van Asselt

**OTHERS PRESENT:** Town Administrator Todd Selig; Business Manager Gail Jablonski; Town Engineer David Cedarholm, Town Clerk Lorrie Pitt, Fire Chief Corey Landry

**I. Call to Order**

Council Chair Niman called the meeting to order at 7:03 PM.

**II. Approval of Agenda**

*Councilor Leach MOVED to approve the Agenda. Councilor Sievert SECONDED the motion, and it PASSED unanimously 8-0.*

**III. Special Announcements**

Swearing in of new Fire Chief, Corey Landry

Administrator Selig said former Durham Fire Chief Peter O'Leary had assumed his new position as Fire Chief in the City of Fond du Lac, Wisconsin. He then spoke about the fact that based on the strength of the management team already in place at the Durham Fire Department, the decision had recently been made to move ahead with an internal posting for the Durham Fire Chief position on December 9, 2008. He said the sole applicant for the position had been Division Chief for Operations Corey J. Landry.

He noted that Mr. Landry had served as second in command at the Fire Department since 2007, and in this role had been involved in planning and managing all aspects of operations, assuring an immediate response to emergencies and fostering teamwork among firefighters and the staff at the department. He provided additional details on the duties Mr. Landry had performed in this role.

He said that prior to serving as Division Chief starting in 2007, Mr. Landry had worked as Deputy Fire Chief for the Town of North Hampton (2000-2007), as Fire Captain for the Town of Hooksett (1998-2000), as firefighter for the City of Rochester (1990-1995), and as a firefighter for the Town of Durham (1988-1990).

Administrator Selig said Mr. Landry had also worked for a period of time as a police officer,

and had held an Associate of Criminal Justice degree from McIntosh College, a Bachelor of Public Safety Management degree from UNH-Granite State College, and had completed the prestigious Executive Fire Officer program through the National Fire Academy. He said that on December 10, 2008, Mr. Landry was also designated as a “Chief Fire Officer” by the Commission on Professional Credentialing.

Town Clerk Lori Pitt performed the swearing in ceremony, and Chief Landry then spoke briefly.

#### Swearing in of new Firefighter, Warren Kadden

Chief Landry introduced new Durham firefighter Warren Kadden to the Council and members of the public, noting among other things that Mr. Kadden had been hired from within the Department.

Ms. Pitt performed the swearing in ceremony for Mr. Kadden.

#### **IV. Approval of Minutes** December 15, 2008

Page 3, last paragraph, should read “...when 18 individuals had stayed there.”

Page 8, 4<sup>th</sup> paragraph from bottom, should read “Councilor Julian Smith...”

***Councilor Leach MOVED to approve the December 15, 2008 Minutes as amended. Councilor Needell SECONDED the motion, and it PASSED 7-0-1, with Councilor Clark abstaining because of his absence from the meeting.***

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

Councilor Leach spoke about the issue that had come up recently concerning how Councilors should respond when they got a question by email from a resident. She said it could happen that four Councilors would provide four different answers to a question, and she suggested that instead there should be some kind of protocol for responding. She said she felt Councilors should send these emails on to Administrator Selig or to the Council Chair if that was more appropriate.

Councilor Needell said Councilor Leach had made a good point. He also noted that the only reason only four Councilors had gotten the recent email from a resident was that these Councilors were the only ones that were on the Council’s website. He suggested that perhaps a Council email address could be created for the whole Council, or some other approach could be considered.

He said when he got emails like this from a resident, he thought it was reasonable to respond as he saw fit, and he also copied the email to Administrator Selig, who then sent it to the entire Council. He said he didn’t think it was a problem for individual Councilors to respond as long as this was done. He said a problem would be when there was then follow-up among Councilors, especially if this resulted in policy discussion.

Councilor Julian Smith said in the instance that had been referred to, it did not devolve into a policy discussion. He said the email had contained erroneous comments and he had responded to them.

Councilor Leach said that at least when Councilors responded to an email, they should make it clear that this was an individual answer, and that it was not a response from other Councilors on the email stream.

Councilor Needell said in this instance, there was not a policy discussion, and things ended where they probably should have.

There was further discussion.

Councilor Stanhope said he had been troubled for a long time by the use of emails, and Councilors communicating among themselves electronically. He said when someone asked him a question as a Councilor, he made it very clear that his response was only an opinion, and that only the Council as a whole could act as a body. He said if they disagreed with Councilor Julian Smith's point of view, they could take that up at the Council table. But he said he thought it was inappropriate for the Council to debate an issue outside the eyes of the public, and said it was unhealthy for democracy and for the functioning of the Council.

Councilor Henry Smith said he didn't see that this kind of thing happened very much, but said when it did happen, it needed to cease and desist.

Councilor Leach agreed that this didn't happen very often, and said her question for the Council that evening had been more of a general one. She said she didn't think it made sense for four Councilors to answer someone with four potentially different answers, and said she was looking for a more streamlined way to get a response to someone.

Councilor Clark agreed that it was rare that this kind of thing happened. But he noted that one-on-one conversations happen between residents and individual Councilors, and said he thought this should be encouraged. He said the problem was when there were multiple Councilors and the public involved. He also said he wasn't sure how to deal with phone conversations.

Councilor Julian Smith said that concerning the case Councilor Leach had in mind, there had been a faulty assertion from a resident about what the Council had established as a policy. He said what Councilor Leach was alluding to was disagreeing with the way he had responded to this faulty assertion. He provided details on this. He said he didn't think this issue even needed to be talked about, and said there was a well-established policy for not discussing policy by email. He said he had simply pointed out that what had been asserted by a resident was not a Council policy.

On another issue, Chair Niman noted that Councilor Stanhope had said at a previous meeting that someone from the Business School at UNH had said a move to a new building on Main Street would never happen. Chair Niman said he had since learned that they were in fact proceeding with, and were operating as if they would be going forward with such a plan.

Councilor Stanhope asked if this decision had been communicated to the Town in a formal fashion, and Chair Niman and Administrator Selig said it had not.

Administrator Selig said there had been numerous discussions on this matter with key University representatives, and said the University was expending time and resources on planning concerning

the site. He said he and Chair Niman had not asked for an official statement concerning this planning.

Councilor Stanhope asked if this was the University's primary site for such a development, and if this had been communicated formally to the Town.

Chair Niman said the University had hired an architectural firm and was proceeding as if the Business School building would be built on Main Street. He said his understanding was that this was how they were proceeding.

Administrator Selig said his sense was that such a development would be contingent upon the town moving forward with encouraging the private hotel conference center to locate in proximity to the Business School, so the School could take advantage of such a facility. He provided details on this, and said it was within this context that the discussions had taken place.

Councilor Stanhope said that was healthy. He said if the University was saying it was committed to the site conditionally, the Council needed to know specifically what they needed to see the Town needed to accomplish. He said the vagueness had bothered him.

Administrator Selig said a critical component regarding the hotel/ conference center locating there was whether the Town would be willing to build a parking garage in the Pettee Brook parking lot, and also whether that site was even large enough for a garage.

He said there were several moving parts to this issue, and Councilor Stanhope said the Council needed to know what they were and when they would be finalized.

There was discussion about exactly what property on Main Street was being referred to for the Business School development, and it was noted that the plans included land near the President's house, but did not include demolishing the UNH President's house.

Councilor Henry Smith asked if any progress had been made in negotiations with the owners of the fraternity property, the site proposed for a new hotel/conference center.

Administrator Selig said there was clearly a ways to go with this.

Councilor Needell asked whether the future plans for the New England Center fit with all of this.

Chair Niman said he had been told that there was a plan concerning this, but said he wasn't sure what it was.

Councilor Stanhope noted that on the most recent Friday Update, a resident had brought forward a proposal for developing a community garden. He said this would require some effort, and said he hoped the Town would work with these people. He said this was a good use of the Town's natural resources, especially at a time like this, when families were looking for every opportunity to subsidize their food budgets.

Administrator Selig said resident Dennis Meadows would like to talk with residents with experience with community gardens, and with anyone who'd like to participate in a

community garden project. He said Mr. Meadows could be contacted at [latailled@aol.com](mailto:latailled@aol.com).

Administrator Selig noted that the filing period for local elected offices would end on Friday, January 30, 2009 at 5:00 pm. He said there were three 3-year positions on the Town Council, two 3-year positions on the Library Board of Trustees, and one 3-year Trustee of Trust Funds position.

He said the Oyster River Cooperative School District would hold its budget deliberative session on Tuesday, February 3, 2009 at 7:00 PM in the Oyster River high school auditorium. He said the School Budget had been finalized, but amendments could still be made to it at the deliberative session. He said it was therefore important that residents who were interested in the School Budget attend this session.

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

**Roger Speidell, 7 Nobel K. Peterson Drive**, said everyone realized that there was an economic downturn in the country, and he said this was affecting education as well as business. But he said between 2002 and 2008, the ORSC School budget had increased nearly 3 times the rate of inflation. He said that between 1999 and 2006, the cost per student per year had increased nearly 600% more than the state average had increased.

He said despite this amount of spending, test scores were not improving, and he said the number of seniors going on to 4-year colleges was flat. Mr. Speidell showed Councilors an MS 26 form that indicated that there would be an anticipated 8.6% increase in the School budget. He said the January 23<sup>rd</sup> issue of Fosters Daily Democrat indicated that there was going to be a 2.72% increase in the Budget. He asked how this could be possible, and then asked the Council to form a School board liaison committee to look at these kinds of things.

Mr. Speidell also noted that the school bus drivers had negotiated a contract with no pay increase, and he congratulated them.

**Bill Hall, Smith Park Lane**, said he had gotten a troubling call from the electrical inspector concerning some wiring done at the Bianchi house. He said he had done some of the wiring there, but not the wiring the inspector had referred to. Mr. Hall said Code Enforcement Officer Tom Johnson thought it was a good idea to encourage the contractor to hire another electrician to accommodate the code change. He said he didn't think this was good for the Town, and he provided details on this.

Councilor Stanhope asked Mr. Hall if he was saying that Mr. Johnson had filed a complaint with the State electrical inspector that was unfounded.

Mr. Hall said he didn't know if it was more than a phone call, but said the complaint was absolutely unfounded. He provided details on the work done at the house, including the work he had done.

Councilor Stanhope asked Administrator Selig to determine how this situation had come about. He said he wasn't asking him to defend Mr. Johnson, but would like to know what his motivation had been, and whether he had made an erroneous complaint to the State electrical inspector.

Councilor Henry Smith said nothing was clear about this situation, and said there was no public record.

Councilor Stanhope agreed, and said he would simply like to know if the complaint was made and if so, what the rationale behind it was.

**Diana Carroll, 543 Canney Road**, noted that the Council would be discussing whether there was interest in investigating further the use by the Town of the Mill Pond Center for the Arts property. She said this was an important property, and thanked the Council for putting this issue on its agenda. She said it deserved careful consideration.

She encouraged the Council to begin the discussion on the MPCA property's positive qualities as well as its problems, and to continue this discussion to another meeting. She said she thought public participation in this discussion would be needed, and said this kind of process would allow an informed decision to be made.

**Robin Mower, Faculty Road**, said she had been very interested in the recent Council discussion on Chair Niman's very interesting ideas on possible redevelopment of the downtown area. She said she liked the fact that four Councilors had recommended that some broader planning approaches needed to be undertaken, which could involve the Planning Board and the EDC as well as the Master Plan.

Ms. Mower said she was convinced that many of the residents who were believed to be anti-development would be happy to see changes downtown, if they could see a coherent plan. She noted that the Mill Plaza Study Committee experience had been very positive, had demonstrated that there were common interests in revitalizing the downtown, and had also shown that there were ways to accomplish this revitalization that allowed for development along with a relaxed pedestrian approach.

She noted that the vision statement in the transportation chapter of the Master Plan placed a very strong emphasis on managing traffic, working with UNH, and providing greater pedestrian opportunities. She said she hoped the Council would consider picking up ball, and said if the Master Plan approach had been used two years ago, things would be further along by now.

Chair Niman said he would be bringing back something on this issue at the Council's next meeting.

**Susan McDonald, 34 Laurel Lane**, said she had worked at the Mill Pond Center for the Arts land as a volunteer over the last several years. She said acquiring the property would allow the Council to solve two major problems: rising energy costs and low levels of social capital. She said she saw a municipal center there, and she described what it could achieve for the Town.

She said the property provided a diversity of opportunities for a Town Hall, Library, and Recreation center, and was walkable from the downtown center. She said it could give the Town a sense of place while also linking it to the future. She said the small house, garage, and barn on the property could be used as rental offices for nonprofits and for town committees as well as for educational purposes. She said the open pasture could be used for community gardens, and said an old well could provide the water.

Ms. McDonald said there were walking trails on the conservation easement that could be used by

residents and visitors to observe the Oyster River. She said there could be a walking/ bicycle bridge linking the center property from Mill Pond through the Town-owned Milne property. She said there also could be a bike path on the Mill Pond Center land, to make travel safer for bikers so they didn't have to use Route 108. Ms. McDonald suggested some possible funding approaches for the purchase of the property.

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

Shall the Town Council accept for referral a non-industrial wastewater discharge permit application submitted by Perry Bryant for a proposed student housing "green" project located on Mast Road known as Bryant Park West and refer said application to the Water, Wastewater, and Solid Waste Committee for its recommendations?

Chair Niman said there had been a request to take this off the Unanimous Consent Agenda.

Councilor Needell said he had asked that this be taken off the Agenda because he felt the issue deserved more of a public introduction. He noted that the situation regarding the permitting was far more complex than was usually the case. He asked Administrator Selig to provide a summary of what was involved.

Administrator Selig said the Bryant project, which contained various green elements, had been approved by the Planning Board. He said the development would need to connect into the Town's wastewater system, and said the options available included having a sewer line with an 8-inch diameter that would only service the new development.

He said what the Town was more interested in was an option where there would be a much larger, 12-inch diameter line that would service the development as well as future upstream development. He said Mr. Bryant had said he was open to the idea of installing the larger sewer line, but felt that the company shouldn't be required to pay for the additional sizing.

Administrator Selig said the question was therefore how this larger sewer line should be paid for. He said some ways to address the funding gap included tax incremental funding (TIF), which would come from the incremental value of the site once the development was completed. He said another possible approach was the creation of a betterment district, where Mr. Bryant would pay the initial cost for the sewer line, but would be reimbursed by users later.

He said a third idea was for the Town to pay the difference in cost, and to share this expense with the University. He said a fourth approach was to ask the University if it might want to provide some parking spaces for the Bryant project in the West End lot, which would mean that he could then create some additional housing and therefore additional income, which would allow him to pay for the cost of the additional line.

Administrator Selig said no particular option was proposed at this time, and said this Agenda item was simply to refer this issue to the Water, Wastewater, and Solid Waste Committee so it could flesh out some of the different options. He said the Council Communication pointed out that there would be a need to address a funding gap, if the large sewer line sizing was

used.

He noted that the Leawood Orchard property was located next to the Bryant property, so it wouldn't seem to make sense to have Mr. Bryant install a smaller sewer line, which would then have to be taken out in order to put in a larger one a year later if the Leawood Orchard property was developed.

Councilor Leach asked if it was typically the role of the Committee to come up with recommendations for funding.

Administrator Selig said it was not, but said in this situation, there was overlap between the interests of the developer, the University and the Town in terms of development in this area of Town. He said the Committee seemed to be the appropriate place to have the conversation because of the representation on it.

***Councilor Julian Smith MOVED to accept for referral a non-industrial wastewater discharge permit application submitted by Perry Bryant for a proposed student housing "green" project located on Mast Road known as Bryant Park West and refer said application to the Water, Wastewater, and Solid Waste Committee for its recommendations. Councilor Henry Smith SECONDED the motion, and it PASSED 7-0-1, with Councilor Sievert abstaining because of a potential conflict of interest.***

#### **VIII. Committee Appointment**

None

#### **IX. Presentation Item**

Financial Report through 12/31/08 – Gail Jablonski, Business Manager

Ms. Jablonski said that as of December 31, 2008, total expenditures had been \$10,505,823 and said to date, 99.9% of the total approved budget for 2008 had been spent. She noted that there had been concern about the impacts of increases in gas costs in 2008, but said Town departments had done a very good job of cutting back.

She said actual revenues were \$270,000 under projected revenues mainly because of a reduction in interest received from money the Town had in the bank; a reduction in permit fees for motor vehicles; and a reduction in court fines. But she said overall, it had been a good year, and was right on target. She said the water fund, the Depot Road fund and the Churchill Rink fund had also come in under Budget. She said the sewer fund was about 2% over budget because of increases in gas costs and chemical costs.

Councilor Needell said he had noticed that there had been significant over-spending on curbside collection in 2008, and Ms. Jablonski said this was a result of increases in fuel costs and vehicle maintenance and repair costs.

Councilor Needell congratulated the Churchill Rink for having greater revenues in 2008 than had been projected.

#### **X. Unfinished Business**



A. Continued discussion on process for the Town Administrator's annual performance evaluation

Councilor Leach said this form incorporated the ideas provided by Councilors. She said there had appeared to be some obvious categories as a result of the input received, and said she had therefore created them. She said she thought the goal that evening was to come to agreement on using this document, and said additional items Councilors wanted to see included could perhaps be included as part of the written evaluation at the bottom of the document.

She said she hadn't made it clear that this was an annual evaluation. She said if it was meant to be an annual evaluation, the item under the Leadership category "Competency in human resource area with new hires during his administration" probably didn't fit.

Councilor Leach said the "no opinion" choice had been taken out, but said Councilors who didn't want to give an opinion on an item could simply not answer it.

She said the subcommittee did hear from some people who didn't want to use this form and do the evaluation in this way. She noted that she hadn't necessarily wanted to use this form to do the evaluation either. But she said it might be very difficult for Chair Niman after the fact to come up with something useful in terms of an evaluation if all Councilors had not used the same instrument.

There was discussion that it made sense for Administrator Selig to have a copy of this document, before the Council had completed it, in doing his self-evaluation.

Councilor Clark noted a recent visionary article Administrator Selig had written, which had made him think that it made sense for the Council to make clear what its expectations were of Administrator Selig at the beginning of the year, with something that talked about strategy and planning. He said this approach could be useful in developing a more visionary, strategic plan for the Town, which Administrator Selig could work to carry out. He said the Council could set some kind of formal expectation concerning this.

Chair Niman asked for more details on such an approach.

Councilor Clark said as the CEO, Administrator Selig needed to have a strategic vision and plan in place that could then be informed by his own skill set. He said he didn't think this was something that Councilors could do, and said he thought this kind of approach would go a long way to address concerns, including his own, regarding the need for a more cohesive strategic vision for the Town.

Administrator Selig said historically, the Council's goals had been his goals, and he provided details on this. He said he was very comfortable with coming up with goals for himself, but said it was important to think through how the two goals documents would fit together.

Councilor Clark said the Council goals tended to be tactical, and might or might not be connected to a longer term strategy. He said it would be helpful before developing tactical goals to see what Administrator Selig's long term view of the Town could be. He said there was a world of opportunity that the Council never got to because this was never articulated. He said Administrator Selig was the right person to do this. He said his article had made him think of this, because he had never heard Administrator Selig articulate this before.

Chair Niman asked if Councilors were happy with the document.

Councilor Julian Smith noted some smaller problems with the document and said he also had a problem with the Leadership category. He quoted from the evaluation document: “Provides clear leadership and guidance to the Council on all issues”. He said he thought the Council expected and required guidance from Administrator Selig. He asked if he was supposed to have a leadership function beyond that.

Councilor Henry Smith said he thought there were times when Administrator Selig should provide leadership and come to the Council with ideas, vision and proposals. But he said there were also times when the Council should give him guidance and suggestions. He said Administrator Selig also showed leadership in following the Council’s suggestions.

There was further discussion, including whether the word “guidance” could replace “leadership”.

The Council agreed that some minor changes would be made to the document, and it would then be distributed. It was agreed that the evaluation document would be discussed at the February 16<sup>th</sup> Council meeting.

Administrator Selig said he had done a self-evaluation that he was now providing to Councilors. He said as part of this, he had read through the list of questions in the Council evaluation document, and had tried to provide information that would help Council answer these questions. He said he also had fleshed out some of the vision he had for the Town, and had also provided a concise overview of his accomplishments over the past year. He noted that to go along with this, he had attached the recent update on Council goals.

B. Continued discussion on and endorsement of report submitted by subcommittee relative to Town Council Goal #7, “Review Management and Administrative Structures”

Councilor Leach noted that this was a continuation of a discussion at the previous Council meeting. She said the subcommittee had come up with more definitive plans for what to ask each of the Town’s committees to consider, and she provided a handout regarding this.

Regarding the concept of increasing efforts in the public relations/appreciation areas, Councilor Leach noted that she had followed up with the Durham-Great Bay Rotary Club, and also said she was working on the idea of an annual appreciation night to recognize all outgoing Board members. She said something more specific on this would be brought back to the Council.

She said that regarding the idea of increasing communication among committees, the subcommittee was recommending that the Town Administrator and the Town Council Chair hold an annual meeting with all of the Town committee chairs, to allow the committees to provide each other with quick updates on the things they were involved with, and to allow a discussion on shared issues of concern. She said that as part of this, the committees could find out if there were other committees that might be able to help them with a specific goal.

Councilor Leach also suggested the idea of having an orientation session for committee chairs,

especially those who were new to this position.

She said another recommendation was that every committee chair could get copies of all committee minutes and agendas. She said it would then be the responsibility of the chair to disseminate pertinent information to all committee members. She noted that this would put more pressure on committees to get agenda and minutes done in a timely manner. But she said the goal was to use the minutes and the agendas to keep the committees in Town well informed as to what other committees were doing.

She noted another recommendation regarding the appropriate role of Council representatives on the various committees.

Councilor Needell said he had struggled with this issue. He said Council representatives on the Planning Board, were full members of that board, and said there wasn't that much choice in terms of how to serve on that committee. But he said on some other Town committees, a question was whether it was appropriate to play an active role, or instead to serve primarily as a liaison to the Council.

It was agreed this was more of a discussion item than the other recommendations that the subcommittee had provided, and that the Council would come back to this.

Councilor Clark said the list that had been developed by the subcommittee was a step in the right direction. He suggested that it might be beneficial for a Town employee such as the Town planner to highlight minutes rather than having the committee chairs do this. He said it would be helpful to have a paid professional help filter this information, so the good ideas generated by committees didn't get lost.

Councilor Leach said this was a good point. She said there had been a suggestion to hire someone to be a committee liaison, in order to disseminate this kind of information. She said this was something to think about a bit more.

Councilor Sievert said the Agenda would be helpful in determining which minutes actually needed to be read. He said Mr. Campbell was probably the right person to streamline this.

Councilor Leach noted regarding the recommendation to "Consider ways for committee members to feel more utilized" that she had been on some committees where some of the members didn't feel that they had an important role to play. She said this might pertain especially to committees that sometimes had to come up with their own agenda. She said if people didn't feel they were accomplishing anything, they might not be willing to serve on a committee again. She suggested that perhaps a part-time staff person or a regular staff person could provide some assistance in addressing this issue.

She said the recommendation to "Consider town processes that influence committee work" related to the Kaizen work being done with Town staff. She said the idea was to see if streamlining of processes could be done so that committees didn't feel bogged with unnecessary detail and process, and therefore didn't get discouraged and disinterested.

Councilor Leach said a third recommendation was to provide increased communication between

committees when agenda items or goals were passed on to another committee. She said the goal here was to increase the understanding of the reasoning behind a specific item, and specific issues relating to it. She said for example that if the Council moved something on to another committee, the Council Chair or the Council representative to that committee should provide clear direction on why this had been passed on, and what the potential expectations were of the committee it was being passed to.

Councilors agreed that they should follow that last recommendation.

Regarding the issue of giving some guidance and direction to committees, Councilor Clark said this could influence the discussion on the goals of Council representatives. He said the committees he sat on struggled with figuring out what they wanted to do, and then how they could accomplish this. He said members weren't able to do a lot of homework between meetings, and it was frustrating trying to get something down on paper. He said again that if there was a vision that included how the different functions in Town were connected, he believed that more progress made on the things the committees were trying to accomplish.

Chair Niman asked Councilor Clark if what he had in mind was a strategic vision that was developed or updated at the beginning of year; the development of Council goals in relation to this; and then as part of this process, an articulation of how the different committees fit into this.

Councilor Clark said that was what he had in mind. He said if there could be agreement on big picture goals, there were aspects of this that would relate to multiple committees. He said these multiple committees could work in parallel on common objectives.

Chair Niman asked Councilor Clark if he intended that the Council establish the vision and then establish the direction for the individual committees.

Councilor Clark said he thought the Council should participate and sign off on the vision. But he said he thought there should be a process where a group of people developed a strategic plan for things like infrastructure changes, or something like the redevelopment of the downtown as a whole and not just Mill Plaza. He said such strategic plans would have a shorter time frame than the Master Plan, and could involve much smaller plans.

Chair Niman asked what group of people Councilor Clark had in mind to do this.

Councilor Clark said he had thought it should be committee chairs that did this, supported by paid professionals, and said he thought the Town planner(s) should be involved in this kind of longer term planning work. He said as part of this, it would be important to come to agreement on projects that more than one committee could work on, and said this was the way the Town would get some things done.

Councilor Leach said she didn't disagree with any of what Councilor Clark had said, but she said she did think this kind of process might take longer than he thought. She said she hoped to get something out of these recommendations that would happen sooner. She also said she wasn't sure the Town planner was the appropriate person to work with some of the committees. She said perhaps this would come back to the role of Council representatives, and she provided details on this.

Councilor Clark said he wasn't suggesting that they wait to use these recommendations that they

were discussing. He also said he was happy the committees he was on, the EDC and the Energy Committee, were starting to make some progress, and he spoke about the fact that the Energy Committee was creating an energy chapter for the Master Plan. He said a focus on energy could really transform Durham, noting that this was a subject that dealt with transportation, energy, architecture and building development. He said these various aspects of the Energy chapter could create identify for the Town, and he said this could all be positive.

Councilor Henry Smith said he liked the ideas Councilor Clark was speaking about. But he said it would be a challenge to get the committee chairs together more than once a year.

Councilor Needell said the convening of committee chairs was a really good idea, and said this would encourage collaborative thinking. He also said suggested that perhaps when the Council did goal setting, it could note that certain goals involved particular committees. He said some of the committees were self- motivated, but said he said he thought most committees would welcome a charge from the Council.

Chair Niman noted to Councilor Clark that in order to move this approach forward, something needed to be put down on paper. He said this could start the conversation and then the Council could keep it going. He said he thought if this process could begin, something concrete could come out of it.

Chair Niman said that concerning the issue of the role of Council representatives on committees, the Council representative to the Planning Board seemed to be simply a member of the Planning Board. He said for the other committees, the question was whether the expectation was that the person would represent what were thought to be the views of the Council; his/her own views; or would serve as an information conduit. He asked Councilor Needell for his thoughts on this.

Councilor Needell said he felt a Council representative should be a liaison for the Council. He said the rep couldn't speak for the Council, and could only basically serve as a conduit. He said he did think Council reps should bring things to the Council roundtable regarding the committees they served on when appropriate. But he said a question was how active a Council rep should be on a committee.

Councilor Leach said if she was on a committee as a Council rep, she thought about what information the committee should provide to the Council on a particular issue, and as part of this, she thought about what the Council would want to see regarding this issue. She said she also thought it was important to think about what the other 8 Councilors might want to see concerning a particular issue even if she didn't agree with them on that issue.

She said she also looked at it the other way around, in terms of what kind of information the committee would want to see from the Council on an issue.

She said it was important for committees to understand, and for Council reps to be clear that they were not on the committee to represent the Council's views. She also said Councilors needed to communicate among themselves about parallel issues their committees might be working on.

Councilor Sievert said the committees he served on as Council rep asked him what the Council thought about particular issues. He said people thought about the importance of getting past the

Council regarding these issues. He said the idea of having a strategic vision, developing goals and involving the committees with this might change this kind of mindset. He said with this approach, committees might already know where the Council stood on a particular issue.

Chair Niman said if Councilor Clark initiated, and the Council came to a consensus on a strategic process where major issues were identified, committees would have guidance up front as to what the Council was interested in. He said he liked that approach, and said the Council often had seen the opposite problem, where committees went off and worked on something, and then came back and found that the Council was not interested in what the committee had been working on. He said what Councilor Clark and Councilor Sievert had said would help the Council to avoid this kind of situation.

Councilor Needell said he thought it was natural that committees would think about how an issue would play at the Council level. He said it was important that Council reps not filter things out and say the Council would never go for a particular idea, but he said they also didn't want to be overly encouraging either. He said it was important for a Council rep not to prejudge what the Council would think, and also said a Council rep could offer advice on possible pitfalls with an idea.

Councilor Leach suggested that this was the kind of information that could be included in the orientation for committee chairs.

Councilor Henry Smith said there were different roles a Council rep could play and said he thought Council reps were the equals of other members of a committee. But he said this person was primarily a liaison between the Council and the committee.

Chair Niman said Councilors had provided some good ideas, and it was agreed that Councilor Leach would come back with something more concrete regarding the recommendations.

Recess from 8:58 - 9:08 pm

Councilor Stanhope left the meeting at 9:03 pm.

## **XI. New Business**

### **A. FIRST READING ON ORDINANCE #2009-01** amending Chapter 175 “Zoning”, Article XXIV “Septic Systems”, Sections 175-139 and 175-140 of the Durham Town Code

Planning Board Chair Bill McGowan said most of the changes relaxed Article XXIV somewhat, and said the Board had looked at State guidance in considering the changes. He said the Board had decided that it made sense to allow the newer septic system designs, and said there would be oversight by the Code Officer. He said the amended provisions reflected the fact that there were properties in Durham with land that made it hard to get new septic systems in.

Councilor Leach asked if the wording in 175-39 b regarding “innovative systems” and “inspection every two years” was typical language in septic system ordinances.

Mr. McGowan said consensus had been reached on the Planning Board that inspection should be done every two years, and he said the language in the Article was typical. He said the wording on

NHDES approval for innovative systems was official language from the State.

Councilor Sievert said typically with innovative septic systems, the developer was required to have a maintenance agreement.

Mr. McGowan noted that there was an approved list of certified septic system evaluators.

Councilor Sievert said the maintenance agreements he had referred to were usually for three years. He noted that for most of the innovative septic systems out there, the maintenance needed was similar to the maintenance for regular septic systems.

Councilor Henry Smith asked whether this amendment to Article XXIV was a result of concern expressed by members of the community.

Mr. McGowan explained that it was part of a long list of zoning items for the Planning Board to look at. He also noted that Town Planner Jim Campbell had heard from some residents about the existing septic system ordinance.

Councilor Needell said the ZBA had been hearing a lot of variance requests regarding this issue, and he said the amendments recognized that a change to the Ordinance was in order.

Councilor Sievert said he personally had complained about the existing provisions concerning septic system, including the time period during which he had served on the ZBA. He said almost every month, there were variance requests regarding proposed designs for septic systems.

Councilor Henry Smith agreed that this had been an issue for the ZBA. He said these were probably good changes being recommended, especially because of the requirements included regarding inspection, and the need to hire an independent soil scientist. He said they were probably a positive step, and said he didn't see a problem with them.

***Councilor Sievert MOVED on First Reading, as presented, Ordinance #2009-01 amending Chapter 175 "Zoning", Article XXIV "Septic Systems", Sections 175-139 and 175-140 of the Durham Town Code, and schedules a Public Hearing for Monday, February 16, 2009. Councilor Leach SECONDED the motion.***

Councilor Sievert said this amendment to the Zoning Ordinance and the Town Code was a move in the right direction, although noting that he thought the changes should go a little further. But he said this would be a big help, and among other things might lessen the burden on the ZBA.

***The motion PASSED unanimously 7-0.***

- B. **FIRST READING ON ORDINANCE #2009-02** amending Chapter 4 "Administrative Code", Article IV, Section 4-18 (9) (a) of the Durham Town Code by reducing the number of Council representatives on the Economic Development Committee from two to one

***Councilor Leach MOVED on First Reading ORDINANCE #2009-02 amending Chapter 4 "Administrative Code", Article IV, Section 4-18 (9) (a) of the Durham Town Code by reducing the***

***number of Council representatives on the Economic Development Committee from two to one. Councilor Clark SECONDED the motion.***

Administrator Selig noted that the Council had discussed this proposed Ordinance at the previous meeting, and had thought that it made sense to cut back to one Council representative on the EDC.

Councilor Needell said he thought what had been determined by this discussion was that it was reasonable to reduce the number of Council representatives to one. But he said he didn't like the language in the third WHEREAS in Ordinance #2009-02: "WHEREAS, some members of the Durham Town Council feel overburdened by the number of commitments required by the Durham Town Charter for Councilors to serve on various Town boards, commissions, and committees"

***Councilor Needell MOVED to remove the third "WHEREAS from Ordinance #2009-01. Councilor Julian Smith SECONDED the motion.***

Councilor Julian Smith said he would like to remind the Council that the discussion referred to had been part of discussing the idea of the need to add more citizen representatives to the EDC because the EDC was having trouble getting a quorum for its meetings. He said that issue had gone by the wayside, and now suddenly there was this new idea of having only one Council member on the EDC. He said if Council representatives felt overburdened, they should ask to be relieved of the Council representative role, and someone else should be appointed. He noted that he had volunteered to serve on the EDC to replace a Council rep who felt overburdened.

Councilor Leach said the Council was still proposing to add the two citizen alternate positions on the EDC.

Administrator Selig said a rationale for reducing the number of Council representatives to one was to make it easier for the EDC to get a quorum. He said presently, 2 of the 6 EDC members were Councilors, and if both were absent from a meeting the maximum number of EDC members there were possible at a meeting was 4, so if one more member was not there couldn't be a quorum.

***The motion to amend PASSED unanimously 7-0.***

***The amended motion PASSED 6-1, with Councilor Julian Smith voting against it.***

- C. Discussion on whether there is an interest on the part of the Town Council to investigate further the Mill Pond Center for the Arts property for possible acquisition

Administrator Selig said he had been contacted by a real estate broker who had asked whether the Town had an interest in acquiring the Mill Pond Center property. He noted that the property had recently been foreclosed upon, and the deed was held by Federal Savings Bank in Dover. Administrator Selig said the asking price was \$650,000, but he said the Town might be able to acquire the property for something less than this. He said he had tried to talk to the bank directly, but had not heard back from them yet, and said he had no clear sense of what the bank was looking for. He said the question for the Council right now was whether there was interest in pursuing this further.

Councilor Henry Smith said he thought it would be stupendous to acquire the property. He said the



issue was the price tag, and said he didn't know where the Town would find the money.

Councilor Clark said a key question was what the Town would do with the property. He said it was an intriguing property to consider for a municipal center, and was more attractive for this kind of development than the Durham Business Park. He said he thought there would be municipal support for this, and said resident Susan MacDonald had articulated this well. He said if the Council thought the property would be a good home for a municipal center that would include at least a Town Hall and a Library, he would like to see more discussion by the Council.

Councilor Julian Smith said if there was going to be further discussion, he would like to know if it might be possible to negotiate with the Rockingham Land Trust, which held the conservation easement on the land on the northern side of the medical practice, where there might be better access to the Mill Pond Center property. He said there was also a question of whether it would be possible to gain access from the property immediately north of the Mill Pond property.

He said the Mill Pond property was currently hard to get at from Newmarket Road, and that the walk there was a long one. He said the Town now owned the Milne property, and he spoke about the idea Ms. McDonald had brought up regarding the possibility of a pedestrian and bike bridge across the Oyster River, where it entered into Mill Pond from the Milne property.

He said if the Town was to buy the Mill Pond property and perhaps have a Town center there, the question was whether the property owners immediately to the north would be willing to discuss providing access across from the road and across their land from the Milne property.

Councilor Needell said a key issue as Councilor Clark had noted was what the Town could do with the property. He noted that the Library Trustees knew of this site, and for whatever reason, it hadn't been a focus of their efforts. He said he didn't want the Council to be in the position of telling the Trustees where to put the library. But he said there had been discussion about a Town center.

He said a question was whether the Council was in the market for a new property to locate some municipal services. He said if it was, this was a site that was well worth considering. But he said if it wasn't, the Town didn't need this land.

Chair Niman said there were a lot of potential land mines along the way. He said the people supporting the library didn't want it there, and there were people who loved the current site of the Town Hall. He also said he didn't want residents to think the Council would usurp the authority of the Library Board of Trustees. He said his way of thinking of this was that if the Town bought the property and turned the house into a community center, he would be happy.

He said if it the Town bought the property and a Town Hall was later built there, he would be very happy. He said if both facilities were there and a Library was also put there, he would be very happy, especially if the access for vehicles was changed, and there could also be a pedestrian bridge across the Oyster River. He stated again that he would be happy to purchase the property so there could be a community center there, and he said walking trails and other ways to enjoy nature on the property were added bonuses.

He said if after the town acquired the property, and the Library Trustees later decided they wanted to locate the Library there, that would be great. But he said his concern was that if the Council went

into this with a grand plan, it would be picked apart by people who didn't want to move the Town Hall and didn't want the Library there.

He said if the Council were to put the numbers together, they would be very appealing. He said there would be a site in the middle of Town that would solve a lot of pressing problems, and said it would be a very affordable solution. He said they could potentially put some numbers together so people could see this.

Councilor Sievert said he thought they should go for it and pursue the numbers. He said once these were obtained, that might tell the Council whether to bring in everyone to talk.

Chair Niman said the Council would collect numbers, then hold a public hearing, and then make a decision.

Councilor Leach said perhaps this was a good example of what Councilor Clark had discussed, regarding a strategic plan that the Town planner or someone else could develop. She said her own view was that moving the Town Hall there would be a boring use of that property, and said she was looking at it from more of a recreational point of view, as a place for a community center, if the definition of that was broadened out somewhat. She said the numbers as well as the vision for something like this could be developed, and then the public could be brought into the process.

Councilor Henry Smith said the suggestions were wonderful, and said he thought it would be a fine idea to investigate the ideas further. He said it was a wonderful location.

Councilor Clark said if the property was only going to be used for a community center, this was probably something for the Conservation Commission to be thinking about. But he said if the property was going to be used for things the Council had on its agenda, the Council needed to be having the conversation.

Councilor Needell said the conservation had already been done on the property, and the rest of the land was available to be developed. He asked what numbers Chair Niman was referring to.

Chair Niman said the numbers assumed that the Town would like to move the Town Hall there, and could sell the existing Town Hall property for \$2 million. He said the numbers also assumed that the Town could buy the Mill Pond property for \$500,000, and it then cost \$500,000 to renovate the house and put in a new driveway.

He said if a new 8000 sf Town Hall was built at \$200/sf, this would cost \$1.6 million, and it might cost \$400,000 to furnish it. He said the total cost for developing the site would be \$3 million, leaving the Town \$1 million short. But he said if the existing Town Hall property was developed to its highest and best use, the additional taxes from this would almost cover servicing a \$1 million bond. He said with this scenario, the Town could have a nice community center in an historical house and a brand new Town Hall, as well as the acreage for nature trails with virtually no impact on the tax rate.

Councilor Needell said he understood those numbers.

Chair Niman said the leverage came from doing more things with the property, But he wanted to make the point that the more things that were piled on this property, the more people would say to forget it. He said if they could get a good price for the property, he would be willing to work very hard to get the money to make a community center there work. He said that would require a different exercise to find the money.

Councilor Julian Smith said the Chamberlain house on the Mill Pond property had been a tavern, and asked if it could be a tavern again.

Chair Niman asked Administrator Selig to speak with the bank to see what could be done. He also said more information should be gathered on access issues Councilor Julian Smith had raised., to see what alternatives there were.

Administrator Selig said an alternative approach was to revisit the Zoning for the property, noting that it restricted how marketable the property was. He provided details on the conservation easement on the property, and said the only way to break the easement and use some of the land for access would be to take it by eminent domain. He said the Town could certainly do this, but said the Rockingham Land Trust was concerned about the precedent this would set. He said he had no idea whether the other landowner who abutted the property would have an interest in working with the Town.

Chair Niman said they would move forward with collecting more information.

Administrator Selig agree that the more detailed they got in terms of what the site could hold, the more challenging it got in terms of awakening interest groups that didn't want to see that use occur. He said it might make sense to look at acquiring the parcel at a very low price in this economic climate, realizing that it would be worth more in several years. He said the Town could then sell it or keep it and see how the property evolved.

D. Other business (None)

## **XII. Nonpublic Session (if required)**

## **XIII. Extended Councilor and Town Administrator Roundtable (if required)**

Administrator Selig noted that Durham resident Dennis Meadows had recently been awarded a prestigious international prize. He said a Resolution acknowledging this was warranted in this instance and said if Councilors were in agreement, something would be put together.

The Council agreed that the Resolution should be drafted.

Administrator Selig said the Town was going forward with a more energy-efficient lighting retrofit at Jackson's Landing. He said this would result in some immediate savings for the Churchill Rink.

He noted that two lease agreements with the University had expired at the end of 2008, one of which was for parking on Strafford Avenue, which the University leased from the Town, and the other was for parking spaces at Store 24, which the Town leased from the University. He said the Town and

the University were moving ahead with a 6 month lease extension, and said they were doing short term renewals until they figured out what would be done with the parking spaces. He said unless the Council opposed the lease agreements, they would be renewed.

Administrator Selig said the pricing had come in high for the bids for the road program work, most likely because they reflected oil prices that had been higher earlier in 2008. He said the Town had rejected the bids, and would be going back out to bid in a few months to see if there was pricing that was more competitive.

Councilor Leach asked if the paving would be put off, and Administrator Selig said no. He said the bids would be awarded prior to the paving season.

He said the Parks and Recreation Committee would be having a hot chocolate event at Wagon Hill Farm on Sunday, February 8<sup>th</sup>, from 1:00- 3:00 pm.

Administrator Selig said the idea had been suggested to locate a wind turbine somewhere on Town land. He said this was an innovative idea, but noted that the Town had been very restrictive in terms of locating cell towers. He said if the Council was interested, this idea could be pursued further. He said the turbine could potentially be placed at the Town landfill, or at the Business Park where it could be used to help power the wastewater treatment plant. He noted that it would be visible for miles.

Councilor Clark and Councilor Sievert said they were in favor of this idea. Councilor Julian Smith said he would like to see a wind turbine at the landfill as well as on Route 4, where it would be good advertising for Durham.

Chair Niman noted there was already an ugly view in the Beech Hill area because of the hydroelectric lines, and said it perhaps could go there.

Councilor Leach noted that with wind turbines, there was also noise. She said other things to consider were the matter of cost/payback; where the wind turbine would go; possible abutter reactions; and possible ways to mitigate impacts.

Councilor Needell said local studies had found that there were opportunities for using wind power in the Seacoast area. He said the first question was whether there were locations in Durham where the technology was feasible.

Councilor Clark said the Energy Committee had done some work on this. He said the amount of wind energy available was marginal, but said it could be part of a mixed energy solution. He said this idea was worthy of consideration, and he also said it had to be part of a bigger plan to create energy independence.

There was discussion that the hydropower on the Wiswall Dam was another alternative energy opportunity, but Administrator Selig noted that part of the reason the Lamprey River was enrolled in the State's protected rivers program was to prevent the use of the river for hydropower. Chair Niman said that was before the issues of sustainability and global warming were understood. He said perhaps these issues would make a strong case for revisiting that energy source.

**XIV. Adjourn**

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

Adjournment at 9:55 pm.

Victoria Parmele, Minutes taker