

This set of minutes was approved at the Town Council meeting on August 24, 2009

**Durham Town Council
Monday July 20, 2009
Durham Town Hall - Council Chambers
MINUTES**

MEMBERS PRESENT: Chair Neil Niman; Councilor Karl Van Asselt; Councilor Julian Smith; Councilor Peter Stanhope; Councilor Mike Sievert (arrived at 7:04 PM); Councilor Diana Carroll; Councilor Robin Mower

MEMBERS ABSENT: Councilor Jerry Needell; Councilor Doug Clark

OTHERS PRESENT: Town Administrator Todd Selig; Public Works Director Mike Lynch; Town Engineer Dave Cedarholm; Police Chief David Kurz; Tax Assessor Robb Dix

I. Call to Order

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

II. Approval of Agenda

Councilor Van Asselt MOVED to approve the Agenda. Councilor Mower SECONDED the motion, and it PASSED unanimously 6-0.

Councilor Sievert arrived at the meeting at 7:04 pm.

III. Special Announcement

IV. Approval of Minutes

June 15, 2009

Page 5, 3rd paragraph, instead of “DeCostes”, should read “Kostis” throughout

Councilor Mower MOVED to approve the June 15, 2009 Minutes as amended. Councilor Sievert SECONDED the motion, and it PASSED unanimously 7-0.

V. Roundtable

Councilor Carroll said the Integrated Waste Management Advisory Committee hadn't met that month because they didn't have a quorum. She said the DCAT committee did meet, and went over usual business but didn't have a discussion on policy issues because several members weren't present. She said this discussion would resume at the next meeting.

Councilor Mower said the Energy Committee was pushing ahead with the Energy Master Plan chapter, and she provided some details on this. She noted that she was also the Council representative to the Sourcewater Protection Committee, a newly created Planning Board subcommittee addressing water resources issues. She said with the blessing of the Planning Board, the scope of this committee had been broadened to look at various ways to protect water resources, including the incorporation of stormwater provisions in the Town's regulations.

Councilor Mower noted the issue regarding the use of the currently vacant Courthouse building. She asked Administrator Selig how the decision was made that the best use of the building was for the Parks and Recreation department. She said there were many other ideas on how to use the building.

Administrator Selig said nothing definitive had been concluded concerning the use of the first floor of the Courthouse building, but said putting Parks and Recreation there was an idea he had, given the part-time director who had recently been hired, and the space challenges in the Town Hall building. He said there was some room at the Public Works Department, but said he would like to see a more accessible location for Parks and Recreation. He said the Parks and Recreation Committee likes the idea of using the Courthouse, and also said this might be a location where ORYA could be located as well, which would mean that people coming to register for one could be exposed to the other.

He said the downsides of using the building for this purpose was the loss of rental income, and the limitations in its current layout. He also noted the general lack of meeting space for municipal purposes, and said the Courthouse could perhaps be preserved as a meeting area. He said there might be other potential uses for the building, and encouraged Councilors and others to provide feedback on this.

Councilor Mower said in the spirit of trying to promote Durham more, perhaps there could be consideration of a "Discover Durham" approach, with the Courthouse used as a location that would get the attention of people coming to Town. She said perhaps the building could be shared with the Parks and Recreation department, if it was decided not to rent the building out or use it as an extension of the Town Hall. She said she had mentioned this idea to members of the Durham Business Association and someone from UNH, and there was interest in it. She said she would like the Council to consider this idea.

Administrator Selig agreed that the Durham Business Association needed space as well, and said perhaps the building could be used as a community oriented center where these different uses could be grouped together. He said an additional benefit of using this building was the information on Durham's history that was available on the upper floor.

Councilor Sievert said he liked the idea of having the Parks and Recreation Department and ORYA in the Courthouse building.

Councilor Mower noted that she was not implying that any renovations would be needed, and was simply thinking of using the building as it was, perhaps putting some banners out front, and

having volunteer staffing of an office that promoted Durham for a limited number of hours per day.

Administrator Selig and Councilor Sievert indicated their agreement with this approach.

On another issue, Councilor Stanhope said when there was an incident involving a Town department, which there recently had been, such matters should be brought before the Council. He said it was important that there be total transparency about Town employees. He said perhaps the Council could go into Nonpublic Session at the end of the meeting so Administrator Selig could brief them on the employee issues.

The Council agreed to go into Nonpublic Session at the end of the meeting.

Councilor Smith updated the Council on items covered at the July 8th Planning Board meeting. He said there were four public hearings: a site plan application to expand St. George's Church and renovate the parking area; a site plan application and conditional use application of the Durham Unitarian Universalist Fellowship to build an addition to the existing building; an application to amend the approved site plan for the redevelopment of the Houghton Hardware building; and a site plan application to allow optional single family units in addition to duplex units for the Perley Lane subdivision.

He said the Perley Lane application public hearing would continue at the July 22nd Planning Board meeting, and said there would also be acceptance consideration of a boundary line adjustment submitted by Geoff Sawyer and the Great Bay Animal Hospital.

Administrator Selig noted that Durham had recently hosted the Governor and Executive Council. He said it seemed to go very well, and said there was a lot of positive feedback from the Governor and Council.

Administrator Selig said an email had been received from William and Patricia White regarding their abatement request. He said the email asked that the Council reconsider the decision it had made on this at the last meeting. He said this was something for the Council to consider under Other Business at the present meeting or a future meeting.

He said Town staff had continued to move forward with review of the proposals received in response to the RFP the Town had sent out concerning the Central Business District and strategic planning. He said staff was currently in discussions with the company that had been chosen, and noted it was important to get that work going as soon as possible.

VI. Public Comments

Bill Hall, Smith Park Lane, noted that at the previous Council meeting, there was discussion that the Town might be required to pay \$50,000 for the remediation at the Depot Road site. He said this related to what the Town would have saved if it had listened to his advice the first year the parking lot was open, that the Town should charge \$400 per parking space.

Mr. Hall said that regarding Resolution #2009-20, the idea that the money was to be used to finance a recharge study was false and misleading information. He said it would pay for the well itself, and said there was nothing in State law or any study that could support spending this money instead of taking water directly from the Lamprey River.

He provided details on the yield that would be obtained from a Spruce Hole well, and said it wouldn't be able to provide enough water in the future. He also said it was a way to make water very expensive. He said the project was the product of a prior University administration that was not well-versed on these subjects, and said it had now taken on a life of its own. Mr. Hall said the amount of water the recharge area would actually hold was unknown. He said he would prefer that the Town dredge the reservoir behind the treatment plant before taking this route.

VII. Unanimous Consent Agenda

- A. **Resolution #2009-19** proclaiming July 24, 2009 as STIHL Tour des Trees Day” in the Town of Durham
- B. **Resolution #2009-20** rescinding Resolution #2009-13 dated June 15, 2009 in its entirety and approving the submission of an application to the New Hampshire Clean Water Revolving Fund Program in the amount of \$445,000 for the artificial recharge of the Spruce Hole Well project, and authorizing the Town Administrator to sign the appropriate loan documents
- C. Shall the Town Council approve a contract with the New Hampshire Department of Environmental Services relative to a bathymetric/topographic survey and preliminary investigation of the sediments in the Oyster River Mill Pond and authorize the Town Administrator to sign said agreement with associated documents?
- D. Shall the Town Council approve a contract amendment with CLD Engineers in the amount of \$238,405 for construction services to the Wiswall Bridge and authorize the Town Administrator to sign said contract on behalf of the Town?

Chair Niman said it had been requested that Items A, B and C be taken off the Unanimous Consent Agenda.

Councilor Van Asselt MOVED to approve Unanimous Consent Agenda Item D. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.

Councilor Smith said Resolution #2009-13 under Item A was full of abstractions, overstatements, and claims that didn't make sense. He said the Council was being asked to endorse a public relations effort by a chain saw manufacturer. He said he had nothing against chainsaws, but would like to vote against the Resolution.

Chair Niman asked if anyone would like to move this Resolution.

Councilor Carroll asked Administrator Selig to provide details on the Resolution.

Administrator Selig said the event was sponsored by a chainsaw company, and involved a bike ride across the country, planting trees and forest management. He said the company had written to Durham on a regular basis, and said promoting the Town was one of many stops where they

would like to do some tree planting this year. He said it had seemed to be a good cause, and said he didn't see a problem with the Town endorsing the Resolution.

Councilor Mower said having heard Councilor Smith's argument, she could see that approving this might set a precedent for other similar events. She said she was interested in hearing what other Councilors had to say on this issue.

Chair Niman said unless there were other comments from Councilors, he would drop this matter from consideration.

There was no further discussion on Item A.

Concerning Unanimous Consent Agenda B, Chair Niman asked Administrator Selig to explain what was involved in rescinding one Resolution and creating another in this instance.

Administrator Selig said the Spruce Hole project had been discussed many times in detail, so he would not speak to the merits of the project. He explained that the wrong State fund had been referenced in the previous Resolution, and said the State had suggested that the Town correct this error. He said the Resolution would be exactly the same as the one before, other than the name of the fund.

Councilor Stanhope asked if this could perhaps be divided into two motions, so the Town could first decide whether to rescind the first Resolution, and then could decide whether it wished to go forward.

Administrator Selig said technically this could be done, but he said if the Council didn't rescind the first Resolution, and didn't adopt the new Resolution, the Town wouldn't be able to move forward with the grant because the original Resolution was in error.

Councilor Van Asselt MOVED to adopt Item B, Resolution #2009-20 rescinding Resolution #2009-13 dated June 15, 2009 in its entirety and approving the submission of an application to the New Hampshire Clean Water Revolving Fund Program in the amount of \$445,000 for the artificial recharge of the Spruce Hole Well project, and authorizing the Town Administrator to sign the appropriate loan documents. Councilor Sievert SECONDED the motion.

Town Engineer Dave Cedarholm said the idea with the revised Resolution was to indicate that it was the State Drinking Water Revolving Loan fund that would provide the money, and not the Clean Water State Revolving Loan fund. He noted that the Resolution as written in the Council Communication was incorrect, but said the wording in the draft Resolution itself was correct.

Chair Niman asked Mr. Cedarholm where the money would come from to pay for the loan.

Mr. Cedarholm said the Town's portion would come from the General Fund. He explained that the loan amount had to be for the cost of the entire project, and said the funding would come from American Recovery and Reinvestment Act funds, which would be channeled through the State's Drinking Water Revolving Loan Fund. He said the Town applied for the entire project

amount, and said when the project was done, the Town would be reimbursed for 50%.

Councilor Stanhope asked if the Town had a commitment in writing from the State that it would reimburse the Town, and Mr. Cedarholm said yes. Councilor Stanhope asked if there were any conditions attached, and Mr. Cedarholm said the conditions were those that were typical in a State loan fund application and for federal stimulus projects. He provided details on this.

Councilor Carroll said she understood Councilor Stanhope's concerns, in that there were some projects and programs the State had changed its mind about. She said this situation made her uneasy as well. She asked if the State was going to take the stimulus money and put it in a bank account, and Mr. Cedarholm said this had already been done. Councilor Carroll said she felt better knowing that the money was in a bank account rather than somewhere the State could take the money from, to spend on something else.

Administrator Selig said he would prefer having the State give the Town the funds now so the project wouldn't have to be bonded, but said this wasn't the way it worked.

Councilor Stanhope noted that in bonding the project, the Town would have to pay interest on the bond in addition to 50% of the principal balance. There was discussion that the interest rate was 2-3%. Councilor Stanhope asked if there would be a penalty for prepayment of the bond.

Administrator Selig said it was a loan not a bond, and said the State would apply the stimulus money directly to the principal. He said they would in essence forgive half of each principal payment that was due, and said the Town would pay the interest over the 20 year life of the bond. There was discussion on how much would be paid in interest.

Administrator Selig noted that Durham had planned to proceed with the project regardless of the Stimulus funds, and said this money had been a windfall for the Town.

Councilor Stanhope said the Town would pay about \$100,000 in interest. Chair Niman noted that the University would pay half of this, so the Town would have to pay \$50,000.

Councilor Smith said he had pulled this off the Unanimous Consent Agenda. He noted that he was the only Councilor who had not voted for the previous Resolution on this project. He said he was all for rescinding it, but was not in favor of going forward with mining the recharge of Spruce Hole. He said he would vote against this.

Administrator Selig provided clarification that that the Town would be responsible for paying one third of the cost for the project.

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

Councilor Van Asselt MOVED to approve Item C, concerning a contract with the New Hampshire Department of Environmental Services relative to a bathymetric/ topographic survey and preliminary investigation of the sediments in the Oyster River Mill Pond and authorize the Town Administrator to sign said agreement with associated documents.

Councilor Sievert SECONDED the motion.

Councilor Smith said this project was a waste of time and money, and would not tell them anything they really needed to know. He said they had seen what Mill Pond looked like when it was de-watered, and had seen that there was a lot of sediment, some of which would have to be removed. He said there had been some testing of the sediments already. He said the Council was dragging out the decision on what to do with the dam, and didn't need this study.

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

VIII. Committee Appointments

None

IX. Presentation Item

Kristi Hartley, a Business Resource Specialist at the State Department of Resources and Economic Development (DRED), provided an overview of her agency and then spoke in detail on the Economic Revitalization Zone approach that its Business Resource Center sponsored. She explained that such a zone provided an incentive for new and existing businesses to relocate, expand, or create new jobs in NH, and would be an overlay over existing zoning districts.

She reviewed the four steps involved in creating an ERZ:

1. The municipality has to apply to DRED to create a zone, and be approved
2. The company has to be in this zone, and has to apply to DRED for approval
3. The tax credit is calculated
4. The tax credit is applied to the company's yearly tax return

Ms. Hartley said the ERZ tax credit would not cost the Town anything, and did not affect property values. She said it was actually a benefit in that it could help attract new business or retain existing businesses, and noted that the tax credit was paid for through the State's General Fund, and also explained in detail how a zone would qualify as an ERZ. She then reviewed the process of applying to DRED.

Ms. Hartley outlined the key benefits of having an ERZ:

- Incentive and recruitment tool for new business to enter the town
- Investment in revitalizing industrial or underutilized commercial land
- Expansion incentives for current occupants
- Additional job creation and reinvestment into the local economy

She provided details on other NH towns and cities that were taking advantage of this program. She said the maximum amount applied for each year was \$40,000, but said this could be rolled over for 5 years, for a maximum of \$200,000. She then reviewed how the tax credit could be applied, explaining that if it didn't go against the Business Profits Tax, it could go against the Business Enterprise Tax.

Councilor Mower said she had heard that a company interested in R&D funds couldn't also take

advantage of the ERZ program. She asked if a company located in an ERZ could choose the R&D over the ERZ.

Ms. Hartley said the company would have to pick one of them. But she said if the company was in an ERZ, the advice would be to go with the ERZ because the company would tend to get more of a tax credit this way.

Councilor Van Asselt asked if the businesses applying for the ERZ could be existing businesses or new businesses, and doing rehab or new construction, and Ms. Hartley said yes. He asked what the formula was regarding job creation.

Ms. Hartley said a business would get the most credit for creating jobs, which was the main purpose of the program, and she provided details on this.

Councilor Van Asselt asked whether, if he had a building and wanted to rehab it and create economic development, and planned on having the same six employees, he would qualify for the program.

Ms. Hartley said yes, but said he wouldn't get as much money as he would if he created new jobs, and could only apply to the program once. She provided details on this.

Councilor Van Asselt asked whether if he owned 12 buildings downtown and wanted to re-do that area, and leased the buildings to 12 businesses, there was a way he could take advantage of this program.

Ms. Hartley said no. She said the individual businesses could do so, but he could not do so because he wasn't the business, and wouldn't be hiring the employees.

Councilor Van Asselt asked if he could do a project involving the buildings and get a benefit.

Ms. Hartley said no, and said only the business owners could apply.

Chair Niman described a possible situation where he owned a building downtown and wanted to rehab it. He noted that the first floor would have had to be commercial, and that he might be nervous about who would be able rent it for commercial use. He asked whether with an ERZ, he could tell business owners considering renting the space that they could try to qualify for this program, which would make it easier for them to start a business there. He said if so, this approach would make it more attractive for the property owners downtown to revitalize their buildings.

Ms. Hartley said yes to this scenario, and noted that the owner of the Common Man only opened restaurants in Economic Revitalization Zones. She said it was a good example of this kind of approach.

Councilor Van Asselt asked whether if he was a business owner applying to the program, the State would be committed to giving him \$40,000 per year over several years.

Ms. Hartley said the State would sign a contract with him, and said the agreement would be honored, even if the program ended.

Chair Niman noted that this approach could possibly work for the expansion of Durham Marketplace, if Hannaford wanted to hire more employees.

Councilor Carroll asked if Durham Business Association members would have a chance to look at this program.

Administrator Selig said it had been discussed with the EDC, and they were very open to it. But he said he wanted to see the Resolution passed first, and then teach the business community about the approach.

Chair Niman thanked Ms. Hartley for sharing the information on the ERZ program with the Council.

Councilor Stanhope MOVED to approve Resolution #2009-21 authorizing the Town Administrator to submit an application to the New Hampshire Department of Resources and Economic Development requesting that its Central Business, Professional Office, Church Hill, and Courthouse districts be designated as an Economic Revitalization Zone, to be known as “Durham Economic Revitalization Zone #1”. Councilor Van Asselt SECONDED the motion.

Councilor Van Asselt showed a map with the existing Zoning districts where the Economic Revitalization zone overlay would be proposed, and noted that it didn’t go out to the Durham Business Park.

Administrator Selig said the thought was to do this in incremental steps, starting with the Central Business District, the Professional Office District, the Church Hill District, and the Courthouse District, which essentially represented the downtown business core.

There was discussion about sentiments expressed concerning the idea of including the Durham Business Park in the ERZ. Chair Niman explained that the thought was that if the first ERZ worked, there could later be a second ERZ proposal that included the Durham Business Park.

Councilor Van Asselt asked whether the ERZ could be amended once it was established.

Chair Niman said no, but said another ERZ could be established, and said there could be as many zones as the Town wanted.

Ms. Hartley stressed that the Town would want to target the ERZ(s) specifically where it wanted to see businesses in Durham.

The motion PASSED unanimously 7-0.

X. Unfinished Business

- A. Public Hearing and Action on Ordinance #2009-05** amending chapter 153 “Vehicles and Traffic”, Section 153-49 “Parking Prohibited Certain Hours” of the Durham Town Code by allowing only vehicles with a boat trailer attached to park in the waterfront area of Jackson’s Landing.

Councilor Smith MOVED to open the Public Hearing on Ordinance #2009-05 amending chapter 153 “Vehicles and Traffic”, Section 153-49 “Parking Prohibited Certain Hours” of the Durham Town Code by allowing only vehicles with a boat trailer attached to park in the waterfront area of Jackson’s Landing. Councilor Mower SECONDED the motion, and it PASSED unanimously 7-0.

Bill Hall, Smith Park Lane, said when the Jackson’s Landing project was conceived, he had seen the plan and didn’t think enough room was provided for trailers parking near the water. He spoke in some detail about the fact that currently, empty trailers without vehicles attached were taking up space there. He asked that the Ordinance be modified to require that there could only be vehicle and trailer combinations. He said when vehicles left the site, they should take their trailers with them.

There was discussion on whether the Ordinance as proposed was sufficient, or needed to be changed to address the issue of trailers left without vehicles at the site.

Councilor Smith MOVED to close the Public Hearing, Councilor Carroll SECONDED the motion, and it PASSED unanimously 7-0.

Councilor Van Asselt MOVED to approve Ordinance #2009-05 amending chapter 153 “Vehicles and Traffic”, Section 153-49 “Parking Prohibited Certain Hours” of the Durham Town Code by allowing only vehicles with a boat trailer attached to park in the waterfront area of Jackson’s Landing. Councilor Sievert SECONDED the motion.

There was continued discussion on whether the language that was proposed was sufficient as it was. Councilors asked Police Chief Dave Kurz for his perspective on the issue.

Chief Kurz said even if there was a boat trailer parked there for the day without a car, he wasn’t particularly concerned about this. But he noted that someone who planned to leave the trailer there overnight would need to get a permit for this.

Councilor Mower said it seemed that if a vehicle was left attached to a trailer, this implied that someone would not be using the space for a reasonable amount of time. But she said if just the boat trailer was left there and someone went off with the car, this implied that it was there for a longer period of time.

Chief Kurz said both a boat trailer with a car and just a boat trailer would get a ticket if they were parked there overnight, because this would be a violation of a this proposed ordinance.

Councilor Mower said from what she was hearing, there was a concern that there be enough

access for enough people.

Chair Niman said having a time limit would be the only way to address this, but said the question was how to do this. He said his concern was that if he had a boat and trailer, unloaded his boat and then realized he needed to pick up something at the store, he would go to the store and come back to find that he'd gotten a ticket for leaving his trailer there. He said he didn't think the Town wanted to do this.

Councilor Mower said perhaps it was simply a constraint that they didn't have as many spaces there as they would like to have.

Councilor Smith said he thought Mr. Hall had made a very good point, which was that this Ordinance addressed vehicles with a boat trailer, but didn't address boat trailers left there by themselves. He said he didn't know how they could amend this, but said he thought there was an opening here for abuse. He asked if perhaps the permit could be attached to the boat trailer, if it was issued to a vehicle.

Chief Kurz said someone wanting to park a trailer and car there overnight could get a permit, which could be placed in the car window. He said the Town was trying to make this whole thing user friendly. He said for some reason someone might want to park just the trailer there and leave with the car, and said he was more concerned about cars being parked there. He said the key idea was that the Town was trying to make this a place for trailers and the vehicles that brought them there. He questioned how everything could be legislated.

Councilor Smith said he didn't have a boat or trailer so this matter didn't affect him personally. But he said if someone launched a boat from a trailer, he didn't understand why that person wouldn't take the trailer with him when he left the site.

Chair Niman said the key thing was that if someone left the trailer in the space overnight, there would be a ticket on the trailer.

Chief Kurz said there would be a ticket on file against the licensed trailer, and said whether the owner got it or not was irrelevant. He said his department kept track of the permits, including those given to people who left trailers there for 4-5 days. He said the Town tried to accommodate that.

Administrator Selig said a concern that might be heard was that families coming to Jackson's Landing might want to park in those spaces, and would be offended that they couldn't park there, especially when there were no trailers there.

Councilor Carroll said she hoped that not too many people would park there for 3-4 days, since there were limited spaces there.

Chief Kurz said this was a very rare occurrence, and said the space for trailers was generally there if someone needed it.

Councilor Mower suggested that the Council could revisit this issue if what was proposed didn't work, and Councilor Carroll agreed.

The motion PASSED 5-1-1 with Councilor Sievert voting against it, and Councilor Smith abstaining because he didn't understand the logic of permitting a vehicle to park there only with the boat trailer attached.

Councilor Sievert said he thought the Council had just decided that someone didn't have to have a vehicle attached to the trailer.

There was discussion that the Ordinance was basically saying not to park a car there without a trailer, but that someone could leave a trailer there and take off with the car.

- B. Public Hearing and Action on Ordinance #2009-06** amending Chapter 153 "Vehicle and Traffic", Section 153-25 "loading Zones" of the Durham Town Code by establishing loading zones on a section of Jenkins Court

Councilor Mower MOVED to open the Public Hearing on Ordinance #2009-06 amending Chapter 153 "Vehicle and Traffic", Section 153-25 "loading Zones" of the Durham Town Code by establishing loading zones on a section of Jenkins Court. Councilor Van Asselt SECONDED the motion, and it PASSED unanimously 7-0.

There were no members of the public who spoke at the public hearing.

Councilor Mower MOVED to close the Public Hearing. Councilor Van Asselt SECONDED the motion, and it PASSED 7-0.

Councilor Van Asselt MOVED to approve Ordinance #2009-06 amending Chapter 153 "Vehicle and Traffic", Section 153-25 "loading Zones" of the Durham Town Code by establishing loading zones on a section of Jenkins Court. Councilor Mower SECONDED the motion.

Councilor Stanhope asked for an explanation of why this Ordinance was being proposed.

Police Chief Dave Kurz said it had come about as a result of a request by the Planning Board that the loading zones on Jenkins Court needed to be changed. He explained that currently, the area in front of Wings Your Way was a commercial loading zone, and said what was proposed was to eliminate it.

He noted that at one time there was a movie theatre there, and the marquee from the building extended toward the roadway, although it was not quite in the roadway. He explained how it was already difficult to maneuver around delivery vehicles parked there, and provided details on why the construction at 6 Jenkins Court would make this situation worse.

He explained that this Ordinance also proposed to eliminate the time restrictions on the remaining loading zone in Jenkins Court directly adjacent to the copy center.

He said the 3 spaces closer to the old Durham Copy Center would go from a 15 minute zone to an exclusively commercial loading zone space for a longer time, to offset for the loss of the Wings Your Way loading zone.

Councilor Stanhope said businesses downtown had a difficult time getting customers, and noted that a big cause of this was the lack of parking. He said perhaps having unloading on Main Street made more sense than unloading on Jenkins Court. He acknowledged that the character of Jenkins Court would be changing, but said he was worried about the loss of that parking, and didn't agree with this. He asked if there was any way to offset that loss someplace else by putting the loading zone someplace else, or reducing its size.

Councilor Mower said this issue had been discussed at the Traffic and Safety meeting, and said there was the issue of the safety of pulling through Jenkins Court when trucks were unloading at two locations there. She said there was also the issue of scheduling deliveries so that there weren't several trucks at once on Jenkins Court. She said Jenkins Court was changing, and said she saw this Ordinance as a step in the right direction.

Chief Kurz agreed that there were some dynamic changes happening on Jenkins Court. He said the Traffic Safety Committee and the Planning Board thought that that this was the best approach, and provided details on this.

Councilor Mower noted that parking issues would be looked at part of considering the redevelopment of the downtown. She said this specific proposal was in part a safety issue, and was the reason she was in favor of it.

Councilor Sievert said most of the safety concerns came about when the application to redevelop 6 Jenkins Court first came to the Planning Board, and the design included traffic coming out of the alleyway. But he said the amended site plan took that traffic away. He said there was still the issue of having two loading zones on that street, and said it was important to address this. He said he understood the concern about the loss of the parking spaces, but said they weren't really parking spaces anyway.

Chief Kurz agreed, stating that these spaces had been a loading zone for as long as he had been in Durham.

Councilor Smith asked how many loading zones there would be on Jenkins Court as a result of this Ordinance.

Chief Kurz said there would be one loading zone, with three spaces. There was discussion on how the Resolution was worded relative to this.

The motion PASSED unanimously 7-0.

- C. Public Hearing and Action on Ordinance #2009-07 amending Chapter 153 "Vehicles and Traffic", Section 153-46 "Parking Prohibited at all Time", of the Durham Town Code by establishing no parking on a section of Madbury Road

Councilor Mower MOVED to open the Public Hearing on Ordinance #2009-07 amending Chapter 153 “Vehicles and Traffic”, Section 153-46 “Parking Prohibited at all Time”, of the Durham Town Code by establishing no parking on a section of Madbury Road. Councilor Van Asselt SECONDED the motion, and it PASSED unanimously 7-0

No member of the public spoke.

Councilor Mower MOVED to close the Public Hearing on Ordinance #2009-07 amending Chapter 153 “Vehicles and Traffic”, Section 153-46 “Parking Prohibited at all Time”, of the Durham Town Code by establishing no parking on a section of Madbury Road. Councilor Sievert SECONDED the motion, and it PASSED unanimously 7-0.

Councilor Smith MOVED to approve to approve Ordinance #2009-07 amending Chapter 153 “Vehicles and Traffic”, Section 153-46 “Parking Prohibited at all Time”, of the Durham Town Code by establishing no parking on a section of Madbury Road. Councilor Stanhope SECONDED the motion, and it PASSED 6-1, with Councilor Van Asselt voting against it.

- D. Discussion concerning the recommendation made by the Town Assessor regarding the 2009 abatement request of Three Chimney’s Inn property (Tax Map 5, Lot 5-11) and grant abatement as recommended by the Assessor

Administrator Selig noted that the Council had asked for additional information on this assessment, so the Assessor had taken another look at it. He said the Three Chimneys Inn had been asked to provide additional information, and based on this, Mr. Dix had recommended that the abatement be granted.

Councilor Mower MOVED to grant the abatement request for the Three Chimney’s Inn property as recommended by the Assessor. Councilor Van Asselt SECONDED the motion, and it PASSED unanimously 7-0.

XI. New Business

Shall the Town Council schedule two Public Hearing for August 3, 2009 to secure the American Recovery and Reinvestment Act of 2009 (ARRA) Federal stimulus funds offered to the Town on March 20, 2009 by the New Hampshire Department of Environmental Services (NHDES) as follows:

1. Public Hearing on the proposed bonding of \$1,231,055 for the Dover Road Pump Station Rehabilitation Project for purposes of meeting the requirements of the Durham Town Charter 5.12(A)
2. Public Hearing for citizen input on the Special Election to be held on a bond referendum in the amount of \$1,231,055 for the Dover Road Pump Station Rehabilitation Project for the purposes of meeting the requirements of RSA 33.8a.

Administrator Selig explained that the Town had applied for ARRA funds to cover the costs of the pump station rehabilitation, but had planned on moving forward with the project anyway. He said the Town was fortunate to have been selected, and said the money received would pay for

half of the project.

Administrator Selig explained that Attorney Mitchell had said the loan would trigger a referendum but that he had disagreed, and so had checked with the Town's bond counselor, who agreed with Attorney Mitchell. He said the bond counselor had said the loan from the State was equivalent to a bond, so the Town did need to move forward to schedule the referendum. He noted that the Legislature had recently passed a law shortening the time period for notice requirements for referendums, and that the Governor was expect to sign the legislation shortly.

He said two Public Hearings were proposed, one of which was for the Town Council, and the other of which was to get citizen input on the idea of a Special Election for the bond referendum. He said they were trying to move this forward as soon as possible, and noted that it was a major undertaking to have an election day on short notice.

Administrator Selig said this matter was a good reason for the Council to reconsider the million dollar threshold for requiring a referendum, noting that this was an issue that had been discussed in the past. He provided details on this, and said this was the first time it had actually been a problem.

Councilor Van Asselt said a million dollar threshold was outdated in today's world, and said the wording in the charter on this needed to be changed. He asked what the Council needed to do if it wanted to change this.

Administrator Selig said Town staff would start to craft the protocol for this, and said it could be ready for next spring's election.

There was discussion, with Administrator Selig noting that the million dollar threshold was established in 1989, at the time of the Wagon Hill purchase.

In answer to a question from Councilor Sievert, Administrator Selig said initially, the project cost was below \$1 million. But he said the project cost had increased, and said the Town had already bonded \$200,000 for this. He said what remained to be bonded was the \$1.23 million.

Councilor Stanhope said adjusted for inflation, over twenty years, the cost would be up to \$2 million. He said if they were going to change the charter in terms of what triggered a referendum, they should put it up to \$2.5 million. He also said they should put in an inflation guard so the limit could be adjusted for inflation annually. He said Councilor Van Asselt was right, and said an extra Town meeting for this now was an extra financial burden on the Town right now.

Chair Niman asked if there was money in the Water Capital Reserve Fund, and asked whether they could find \$231,056 somewhere so they could get the project amount below \$1 million.

Public Works Director Mike Lynch said it was the Wastewater fund that was involved, and said the account was depleted.

Administrator Selig noted that the Town had to borrow in order to get the percentage of the principal waved.

Councilor Stanhope MOVED to schedule a Public Hearing for Monday, August 3, 2009 on the proposed bonding of \$1,231,055 for the Dover Road Pump Station Rehabilitation Project for the purposes of meeting the requirements of the Durham Town Charter, Section 5.12(A). Councilor Carroll SECONDED the motion, and it PASSED unanimously 7-0.

Councilor Stanhope MOVED schedule a Public Hearing for Monday, August 3, 2009 for Citizen Input on the Special Election to be held on a Bond Referendum in the amount of \$1,231,055 for the Dover Road Pump Station Rehabilitation Project for the purposes of meeting the requirements of RSA 33:8a. Councilor Van Asselt SECONDED the motion.

There was discussion on what kind of input the Council expected to get from members of the public at the Public Hearing.

The motion PASSED unanimously 7-0.

XII. Non-Public Session.

After discussion, the Council agreed to go into Non-Public Session under RSA 91-A :3 II a.

Councilor Mower MOVED to go into Non-public Session under RSA 91-A :3 II a. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0 by roll call vote:
Chair Niman yes Councilor Stanhope yes
Councilor Van Asselt yes Councilor Carroll yes
Councilor Smith yes Councilor Mower yes
Councilor Sievert yes

The Council entered into Nonpublic Session at 8:45 PM.

The Council re-entered Public Session at 9:13 PM.

Councilor Smith MOVED to seal the minutes of the nonpublic session. Councilor Mower SECONDED the motion and it PASSED unanimously, 7-0.

XIII. Extended Councilor and Town Administrator Roundtable

Councilor Van Asselt noted the loading issues concerning Jenkins Court, and the fact that there had been discussion about shutting it down as a through street. He said now that this whole area was being re-done, he wondered if it was appropriate to ask the Traffic Safety Committee to take a look at this.

Councilor Mower noted that the Energy Committee and Matt Crape, the owner of 6 Jenkins Court, were interested in this idea.

Chair Niman also noted that the Town was about to hire a firm that would be looking at these kinds of issues in the Central Business District. He suggested that this issue should be brought up, as one for the firm to look at. He noted that a finalist for the project had a traffic engineer.

Councilor Van Asselt said a second issue was whether or not there was interest in having Chair Niman and Administrator Selig put the idea of a housing authority back on the Council's agenda. He noted that the Council had discussed this issue three times, and said the most recent discussion came out of UNH interest in developing other kinds of housing at Leawood Orchard and other places in Town. He also said there might be housing downtown that wouldn't be student housing, and said one of the ways this could be financed was with a housing authority.

Councilor Van Asselt said he would be happy to put something together if there was interest in having a discussion on this. He said this wasn't about workforce housing or affordable housing, and was about having an institution as part of town government that could work with UNH and developers, especially in the downtown and other nearby zones discussed that evening.

Councilor Sievert said he thought the idea should be brought back in light of that discussion. He said one way to make the downtown really vibrant was to have a mix of apartments, not just student housing. He said he wasn't sure how Durham would get this without a housing authority.

Councilor Mower said the way to get mixed housing was to encourage small businesses to make the downtown interesting to people who were not students. She said she recalled that the concern about a housing authority was that the Council would have no authority over it. She said that was a concern of hers, and also said she recalled that affordable housing could perhaps be achieved through other approaches. She said perhaps these should be looked at more closely, and said she couldn't say that she would necessarily be in favor of bringing back the idea of a housing authority.

Chair Niman said they all were in favor of the goal of having a mix of housing; a green, livable walkable community, whether downtown or where the Business Park was. He said he had been concerned lately that while the Town had been successful in getting stimulus dollars, there was also money out there for green housing and livable communities.

He said a question was whether a housing authority or something like it that didn't have an independent status but was a thriving entity could allow the Town to start pursuing those kinds of things, and help the Town get money. He said the only way to get a mix of housing was to bring dollars from someplace else, to offset what students were willing to pay.

Councilor Stanhope spoke of the demographics and economic effects in college towns, and said he didn't know if what was being discussed concerning housing could work in a college town.

He also said he was concerned that if one or two of the major apartment owners in Town defaulted and their properties went to foreclosure, they would sell at very low prices, and the new owners would drop the rents and force other rents down. He said this could have a domino effect. But he said the silver lining of this scenario was that someone other than students might then occupy the buildings, and they could be retrofitted for adult, non-student rentals.

Councilor Stanhope said he was concerned about creating a level of government with the authority that a housing authority had. He said the only advantage was that such an authority might be able to create financing that the Council or the EDC couldn't create. He said they had to weigh whether they wanted to take the risk of having an autonomous body in the community in order to be able to help create development.

He asked Councilor Van Asselt if Exeter had a housing authority, and was told yes. He noted the project done downtown, which looked great and had helped grow the tax base.

Chair Niman said Councilor Stanhope had made an important point. He also noted that the Legislature had just passed a bill to provide tax credits for tear-downs as well as rehabs, which mean they would be available for a brand new building. He also said the appeal of the ERZ program discussed that evening was that the tax credit money in that instance would come out someone else's pocket rather than the Town's. He said the question was what the benefits would be of doing a housing authority compared to these other approaches.

Councilor Van Asselt said the autonomous nature of a housing authority wasn't really an issue. He said where he got frustrated was knowing that affordable housing wouldn't be developed unless it was subsidized. He said if the Council was serious about providing it, a housing authority was the best avenue to create it. He said he thought there would be opportunities with UNH to develop some affordable housing, and said the only way this could happen was with a housing authority.

Councilor Mower said it was important to look at the issue of homes in the Faculty neighborhood, Cowell Drive, etc., being sold and turned into student rentals instead of being bought by faculty members with families.

Councilor Carroll said people whose business it was to buy up property were aware when these kinds of properties came on the market, whereas University employees were not. She said the properties were gone before they even had a crack at them.

There was discussion on what would be considered affordable housing in Durham.

Councilor Van Asselt noted that these could be rental properties as well as purchased properties. He said people could live in the rental properties with set rents, even as their salaries increased, and over a period of a few years, could perhaps then buy a home. But he said if homes sold for \$275,000 and a single mother at UNH made \$30,000, she couldn't buy such a home. He said it was up to the Council to decide whether it wanted to provide her with the opportunity to live in Durham.

Administrator Selig noted that the Zoning Ordinance could be used to provide a density bonus for providing some affordable housing.

Councilor Mower said this was certainly something that the consultant should look at.

Councilor Carroll noted Coe Drive, where there were very affordable duplexes for single mothers who worked at UNH. But she said it had been very progressive in terms of student rentals that had come in there.

Councilor Van Asselt said it was smart growth to have housing where people worked. He said he would bring something forward on housing authorities, and would address the autonomy issue. He said he would show six to eight examples of what a housing authority could do in terms of projects and also in terms of a way for the community to focus on housing. He said the Council didn't have the time to do it, it wasn't the Council's job to do it, it wasn't Mr. Campbell's job, and it wasn't the EDC's job.

XIV. Adjournment

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

Adjournment at 9:36 pm

Victoria Parmele, Minutes taker