

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

**Durham Town Council Monday September 21, 2009
Durham Town Hall - Council Chambers
7:00 P.M.
MINUTES**

MEMBERS PRESENT: Chair Neil Niman; Councilor Jerry Needell; Councilor Julian Smith;
Councilor Mike Sievert; Councilor Doug Clark; Councilor Peter Stanhope;
Councilor Diana Carroll; Councilor Robin Mower

MEMBERS ABSENT: Councilor Karl Van Asselt

OTHERS PRESENT: Town Administrator Todd Selig

I. Call to Order

Chair Niman noted that a “non-meeting” meeting would be held after the regular Town Council meeting.

II. Approval of Agenda

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

III. Special Announcements

EMPLOYEE SERVICE RECOGNITION (20 YEARS)

Ed Levesque, Police Detective

Chair Niman presented a plaque of appreciation to Mr. Levesque.

IV. Approval of Minutes

August 24, 2009

Page 3, bottom paragraph, should read “..who sometimes meets with students living in neighborhoods where there have been complaints.”

Page 14, 6th paragraph, should read “Councilor Mower said it came down to what one wanted on the street...”

Councilor Julian Smith MOVED to approve the August 24, 2009 Minutes as amended. Councilor Mower SECONDED the motion, and it PASSED unanimously 8-0.

V. Councilor and Town Administrator Roundtable

Chair Niman thanked Nicole Moore for all of the work she had done in organizing another successful Durham Day.

Councilor Mower said it was also appropriate to thank Ms. Moore for her work over the past few years, noting that this was her last year organizing the event.

There was discussion that if any resident(s) were to volunteer to do this organizing work next year, the Parks and Recreation Department would be able to work with them on this.

Councilor Julian Smith noted that at the previous Council meeting, resident Bill Hall had made some statements about some documents from the new commissioner of NHDES, as well as an ad published by the Town in Fosters. He also noted that after Mr. Hall spoke, he (Councilor Smith) had explained to the Council the issue Mr. Hall was raising.

He noted that he had also suggested that the Council discuss this issue under the Extended Roundtable, and he thanked the Council for having that discussion. But he said in response to this suggestion, Chair Niman had said water would be a topic at the next Council meeting, and all the relevant information would be provided to the Council for that meeting.

Councilor Smith noted that Chair Niman had questioned what kind of intelligent discussion on this issue the Council could have at that point during the Extended Roundtable because no one had seen any of the materials yet. Councilor Smith said he was sympathetic to the Council on this matter, and noted that he had been referring to a great deal of documentation on the instream flow rules, etc. He said there was a huge amount of information to have to read, and said much of it was contradictory.

He said the Council had not been supplied with all the materials it needed in order to have an intelligent discussion on these issues at the present meeting, and he noted that there would be a presentation on them by an attorney. He said there was a great deal of scientific data in the report, and said he didn't expect the Council to read it, although he noted that he had read through it. He said he agreed with Chair Niman that he didn't know what kind of intelligent discussion there could be on these issues that evening.

Administrator Selig told Councilors that the Seacoast Repertory Theatre had purchased the Mill Pond Center property on September 15th for \$570,000 .

He agreed that Nicole Moore had done an outstanding job organizing Durham Day, and he also thanked Council members and volunteers from the Town's boards and committees for their participation in Durham Day. He noted that there were some great pictures of the event.

Administrator Selig said the Parks and Recreation Department was up and running, and was in the midst of moving into the Courthouse building, along with the ORYA (Oyster

River Youth Association). He said Mr. Mengers and the Parks and Recreation Committee had put together some good programming to provide enrichment opportunities for residents, and explained that this programming would be described in the Friday Updates. He said residents were welcome to provide their own ideas on possible programming.

Councilor Sievert said that at the most recent Parks and Recreation Committee meeting, Mr. Mengers had talked with them about the fact that he had separated his own tasks from Committee tasks. He said they had talked about how the event planning would be done by the Parks and Recreation Committee, and the new sports and other programs would be done by Mr. Mengers. He said that obviously, there would be some overlap in these efforts.

Councilor Sievert spoke about the parking that had recently been taken away from Madbury Road, and the rain garden drainage system that had been placed there. He noted that he hadn't agreed with the idea of taking the parking away, and asked what had happened there, and whether people would still park there now that it was all grass.

Administrator Selig said the idea had been to create a rain garden in what had been a poorly drained, mud pit area. He said some property owners had approached the DPW about removing the parking area, and said the rain garden was put in as part of the resurfacing of Madbury Road.

He said the thought had been that people wouldn't want to park there because of the rocks that were placed there, but he said a number of young people had removed the rocks, and some of the smaller ones were thrown into residents' yards. He said the DPW had been responsive to the situation, had removed many of the rocks and had planted some vegetation there, and said the area would still be able to accommodate drainage. He said this kind of situation was a challenge with a university community.

Councilor Needell said a member of the public had approached him regarding the application to expand the parking at Mill Plaza. He said there were rumors that the Town had an interest in this parking, and said concern had been expressed that the Town was somehow involved with these parking plans.

Administrator Selig said the Town had had a perpetual desire to have increased parking for residents downtown, and noted that there were constant complaints by residents who wanted to have the opportunity to park at the Plaza and shop downtown, which the Plaza didn't currently allow.

He said a second issue related to parking needs was ongoing conversations with Pro Con about the possible development of a new hotel downtown. He said a question for the Plaza had been whether, if it was not moving ahead with a parking structure, it would be possible to use some of the excess parking at the Plaza to accommodate parking at for a new hotel facility, or perhaps to shift parking from some place like the Pettee Brook lot to the Plaza.

Administrator Selig said the Town had approached the owner of the Plaza to determine if there was excess parking available there, and if so, if he would be willing to lease some of it to the Town. He said the owner had said he would perhaps be willing to talk with the Town, but said that at the present time, the owner felt there wasn't adequate parking at the Plaza at high demand periods during the day because of the businesses there, including some new businesses.

Administrator Selig said the owner was considering the possibility of expanding the parking, and the thought was that if he did this, the Town might be interested in leasing some of the new spaces. Administrator Selig said it had become apparent to him that the rate for this parking would be more than the Town was willing to pay, unless the hotel project moved forward. He said he had therefore started to look at other parking solutions. But he said if the Plaza did make some space available at a reasonable rate, it would be good to look at this.

Councilor Needell noted the pending application before the Planning Board regarding the expansion of parking at Mill Plaza, and asked if the Town was supporting or partnering with this project in any way.

Administrator Selig said the Town was not taking a position in support of or against the project. He provided details on this, and said the Town was not driving the discussion.

Councilor Mower said very frequently there was excess parking available at the Plaza, and said the issue might be that people wanted parking that was closer to where they were going rather than walking a distance. She also said it might be that the owner chose not to lease parking spaces to the Town at the price they would like.

Administrator Selig noted parking spaces in Mill Plaza near the Grange, and said the thought had been that the Town could rent some of them, improve the walkway up to Main Street and have a really welcoming location for people to park. He said the parking enforcement officer could manage that area.

But he said that would only work if it worked for the Plaza. He said the Town was not leveraging the Planning Board to look differently at this application than it would at any other application.

Councilor Smith said the Planning Board would be considering the acceptance of the Mill Plaza parking application on Wednesday. He also noted that Councilor Van Asselt had asked whether it might be appropriate to amend the Zoning Ordinance regarding parking in the Courthouse District. Councilor Smith said he had put this on the Agenda for the Planning Board meeting, and said there would therefore be two significant parking issues before the Planning Board on Wednesday.

Councilor Stanhope said if they expected the Central Business district to experience an economic recovery, the key component was the availability of parking. He said it was often heard that people weren't supposed to park at the Plaza if they weren't going to

park there. He said he realized there were environmental concerns, but said it was important to recognize that if the businesses there were going to survive and if new businesses were going to be attracted downtown, patrons had to have a place to put their vehicles.

Councilor Mower noted that some of the parking spaces at Mill Plaza were rented. She said this was a complicated issue that the Planning Board would be dealing with.

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

Bill Hall, Smith Park Lane, noted that the Council had discussed parking at Jackson's Landing at the last meeting. He said Councilor Sievert had said there were 4 parking spaces for trailers, but he said there were 3 spaces there. He also said that on Robbi Woodburn's plan, there was a 50 ft radius for turning trailers around, but he said this wasn't marked, so it was a point of debate. He suggested painting the radius so that when trailers showed up, people would know how far to stay back.

Mr. Hall noted that the Town had recently approved an apartment building downtown that would house 60 beds, and said this would attract cars, and would be a crisis for the Town. He said the current parking situation downtown was so bad that deliveries couldn't be made to the Red Tower during the day. He said it had been very difficult to get more parking downtown, and now, the Town was going in the opposite direction.

Mr. Hall spoke about a meeting he and Richard Kelley had had with NHDES Commissioner Tom Burack. He said at the meeting, he had suggested that Durham needed dam management, and that to come after the Town was crazy. He said Commissioner Burack's letter had indicated this as well. He said some of the comments made by the Council on this issue didn't make sense to him, and said he didn't think they had been briefed well on it.

Dick Lord, Bennett Road, thanked the Council and others for the wonderful job done on Durham Day. He then said he was present to speak regarding the Wiswall Historic Interpretation Committee, and said the Committee had met informally the previous Wednesday, primarily to hear an address from the NH Division of Historic Resources regarding the FEMA mitigation requirements.

He said there were fourteen people at the meeting, and said it was decided to establish officers for the committee, although it was not a committee that was officially established. He provided details on this.

He said there was discussion at the meeting that the fish ladder would involve an historic mitigation aspect since it was a federally funded program. He noted that the Lamprey River Advisory Committee had planned a park for that location but knew the fish ladder was planned. He said it was therefore felt that the scope of the new committee should extend beyond the proposed March 2010 termination date for this and other reasons.

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Councilor Smith noted that he had taken the language regarding the cutoff date from the Memorandum of Understanding with the consultant, and said this had nothing to do with the mitigation work itself.

Mr. Lord suggested that the Council would want the committee to be in place the following year to see that the mitigation was put in properly.

Councilor Smith asked Council members if they would be willing to either extend the termination date or leave it open-ended.

Chair Niman suggested that the Council should move on to the next Agenda item if they wanted to share thoughts about the idea of possibly expanding the scope of work of the committee.

Mr. Lord said he hoped the Council would recognize that there was more work to do than just mitigation, and said the new committee would be pleased to work on those other problems out there.

VII. Unanimous Consent Agenda *(Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote)*
None

VIII. Committee Appointments

Shall the Durham Town Council establish a Wiswall Historic Interpretation Committee as outlined in the Memorandum of Agreement between the Town of Durham, FEMA, the NH Division of Historic Resources, NH Homeland Security and Emergency Management, NHDOT, and the National Wild and Scenic Rivers Program in regard to a historic mitigation in connection with the replacement of the bridge on Wiswall Road, said committee to serve no later than March 17, 2010?

Town Engineer Dave Cedarholm said the committee had a very specific task initially, which was to hire a consultant and develop an interpretative display. He said the committee would then need to work with the consultant to submit an application to the State for expanding the historic district to include the homes, bridge, dam and park.

He said that was pretty much how far the Memorandum of Agreement went, and said once that work was done, it would make sense for the committee to transition to work related to the fish ladder. He provided details on this.

There was discussion about whether there should be a termination date for the committee, and if the name of the committee could remain the same while it dealt with a variety of issues. Mr. Cedarholm said he thought the proposed name could stay the same.

Chair Niman suggested that the motion should simply read that the Town Council established a Wiswall Historic Interpretation Committee, and included the names of the committee members.

Councilor Needell said he thought there was a FEMA requirement that the committee would exist at least until March 17, 2010. He said perhaps the motion that was made could say that, which would be appropriate for MOA purposes. But he said he didn't think there needed to be a sunset date.

There was discussion.

Mr. Cedarholm said instead of including a date, he thought it made sense to say the committee would exist at least until the MOA was satisfied.

Councilor Smith MOVED to establish a Wiswall Historic Interpretation Committee to serve until such time as the conditions of the MOA with FEMA shall have been satisfied.

Mr. Lord said he thought the motion was still too narrow because it was too specific to the MOA.

Chair Niman suggested a motion: The Durham Town Council establishes a Wiswall Historic Interpretation Committee as of Sept 21, 2009, and the committee will continue to exist at least until....

Councilor Needell asked if a charge of the committee should be to address the MOA first.

Councilor Stanhope said it had come up at the recent HDC that further work in the Wiswall area after the MOA was satisfied should be the responsibility of the HDC. He noted that he had argued to the Council before that there were too many committees in Durham, and that merging some of them would be prudent, given the lack of a quorum at some meetings.

Mr. Cedarholm said that question had come up among the entities involved with the Wiswall Bridge project, and Nadine Peterson of the State Division of Historic Resources had clarified the difference between a local historic district and a nationally historic district. He said the Historic District Ordinance that covered the downtown didn't cover the Wiswall area, so was outside the jurisdiction of the HDC. But he noted that Andrea Bodo was on both committees, so could provide a good link between them.

He said the Wiswall committee had a specific task, with a deadline. He said he didn't want to expand the purpose of the committee too much initially, and said the MOA should be satisfied first.

There was discussion on whether members of the Wiswall committee would be interested in just the work involved with satisfying the MOU or would also be interested in the work beyond this. There was also clarification that members had to be residents, but did not need to live in proximity to the Wiswall bridge.

Chair Niman suggested the following motion:

The Durham Town Council hereby establishes a Wiswall Historic Interpretation Committee with the following members: Andrea Bodo, Howard Burrows, Frank Carter, Joan Carter, David Cedarholm, Richard Lord, Henry Smith, Julian Smith, and Robbi Woodburn.

The first charge of the Committee would be to carry out the tasks outlined in the Memorandum of Agreement between the Town of Durham, FEMA, the NH Division of Historic Resources, NH Homeland Security and Emergency Management, NHDOT, and the National Park Service Wild and Scenic Rivers Program in regard to historic mitigation in connection with the replacement of the bridge on Wiswall Road.

Chair Niman said the Council could charge the committee with additional tasks on another evening.

Councilor Mower said she liked the motion, but wondered if it would open the Council up to having to come up with further charges for the committee.

Chair Niman said the committee would simply need to come back to the Council with the further charges it wanted to undertake. He said the Council wouldn't micromanage this.

Administrator Selig said that over time, they could revisit what the committee was doing.

Chair Niman repeated the wording for the motion.

Councilor Smith MOVED that the Durham Town Council hereby establishes a Wiswall Historic Interpretation Committee with the following members: Andrea Bodo, Howard Burrows, Frank Carter, Joan Carter, David Cedarholm, Richard Lord, Henry Smith, Julian Smith, and Robbi Woodburn.

The first charge of the Committee would be to carry out the tasks outlined in the Memorandum of Agreement between the Town of Durham, FEMA, the NH Division of Historic Resources, NH Homeland Security and Emergency Management, NHDOT, and the National Park Service Wild and Scenic Rivers Program in regard to historic mitigation in connection with the replacement of the bridge on Wiswall Road. Councilor Mower SECONDED the motion, and it PASSED unanimously 8-0.

Chair Niman thanked Mr. Lord for agreeing to serve on the committee.

IX. Presentation Item

Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis – Chris Mueller, EDC Chair

Mr. Mueller said the EDC had been working on the SWOT analysis, as a tool to assess the Town's current environment and future opportunities. He noted that Administrator Selig had had a meeting with the Chairs and Vice Chairs of all the Town's committees, and said they had all walked away with a better understanding of their own roles as

boards and committees in support of the Town Council.

He said after that meeting, the EDC had looked at the Council's goals in the context of what the EDC was doing. He said two goals stood out for them, one which was to revisit a long term vision for Durham and the second which was the adoption of a strategic plan.

He said the EDC's own strategic plan could help to provide a foundation for the Town and the Council. He said it was meant to complement, not replace the Master Plan and said perhaps it could be integrated into the Council's thinking in the future.

Mr. Mueller said the SWOT analysis provided the EDC with a framework for how to think about strategic planning and economic development in the Town, provided a standardized, objective way to look at its strengths, weaknesses, opportunities and threats, so there could be a common baseline for discussions in developing the strategic plan. He said the SWOT analysis would be a part of the strategic plan and would be a part of the recommendations made in it.

He explained that the SWOT analysis was one way to identify the Town's competitive advantage. He said they probably should start thinking about what Durham's competitive advantage was. He noted that Councilor Carroll had suggested to the EDC that municipal wealth could be part of Durham's branding.

He said the EDC had been working on engaging the University, and said an example of this was that some UNH marketing classes were doing a marketing plan for the Town. He said this information as well would be integrated into the strategic plan.

Mr. Mueller next reviewed the strengths, weaknesses, opportunities and threats that had been identified for Durham as a result of the SWOT analysis. He said the chart that had been created represented a lot of discussion by the EDC, and said they had tried to be as objective as possible. He noted that this was an internal analysis of Durham and for the most part didn't take into account factors external to Durham.

Strengths:

Labor markets - skilled workforce available; UNH a stable, major employer

Education - University proximity.

Quality of life - no personal state income tax, outdoor recreation opportunities

Mr. Mueller said the EDC felt Durham's location near the Seacoast and the presence of the University were strengths. He also noted that there was no sales tax and no income tax, and said while property taxes in Town were higher relative to other towns in NH, overall the cost of living was pretty good.

Weaknesses:

Financial capital - available but untapped; potential for new market tax credits; SEDC capital finance program. Mr. Mueller said the EDC wasn't sure the Town was leveraging capital to the fullest extent possible, and might consider looking at this more deeply.

Sites and Facilities - lack of current commercial stock or available lease space;

inadequate parking/transportation; aging, insufficient water and sewer infrastructure; lack of community support to invest in infrastructure for economic development; lack of incentive of current property owners to reinvest.

Mr. Mueller said these were correctable weaknesses. He said right now, there was a limited amount of land available, but said that could change depending on how the Town zoned and used land in the future.

Business climate - restrictive zoning, regulatory obstacles; poor track record - loss of local businesses; anti-growth reputation, obstruction; students have limited discretionary money; competing with services on campus; residents must shop outside community for many needs; high property taxes; no professional economic development position

Opportunities:

Knowledge resources - improved town/gown relations; emerging renewable energy production awareness/including hydropower; emerging emphasis on sustainability; global market/telecomm allow business anywhere location. Mr. Mueller said there was opportunity for research and development facilities in town, noting there wasn't a lot of it currently.

Other - emerging community support for downtown revitalization; emerging high energy/transportation costs.

Threats:

National/regional/global economic decline

Limited availability of credit

Proximity to revitalized/growing communities investing in infrastructure (Dover, Newington, Epping, Newmarket, Lee); continued depreciation/deterioration of existing buildings and infrastructure; declining affordability of college; status quo is acceptable to some

Mr. Mueller spoke in some detail on correctable weaknesses the Town had. Among other things, he said the business climate in Town was fairly cooperative. He noted the existence of the Durham Business Association, and also said some local businesses belonged to local and State business associations. He said culture and recreation was also considered to be a correctable weakness. He noted that Durham was not a very diverse community in and of itself, and had to rely on the University for cultural opportunities.

Mr. Mueller said the EDC would like feedback from the Council on the results of the SWOT analysis, along with the direction the Council would like to take with it.

Councilor Needell said he appreciate seeing the SWOT analysis results, and said it was a useful way to identify these things. He noted that one threat stood out "Status quo is acceptable to some". There was discussion on whether there might be a better way to characterize that item.

Councilor Clark thanked Mr. Mueller and Mr. Lencke for the significant amount of work they had done on the SWOT analysis, and said the summary chart was eye opening. He

said it was known that there was a faction in Town that had liked things the way they were, and that this had led to obstructionism and a resulting tendency to do nothing. He said he believed that that culture was possibly the single biggest threat that had to be confronted in order to make meaningful progress.

Councilor Needell said stating that there was obstruction to change was more clear than saying the status quo was acceptable to some.

Councilor Clark said the SWOT analysis was an attempt to present everyone's point of view. He agreed that "status quo" water things down a bit.

Councilor Mower said it was too easy to say people didn't like change, and said it was also true that some change was not perceived as positive to some people. She said while it was recognized by many in Town that there needed to be some economic growth, it was important to keep that in mind.

Mr. Mueller spoke in some detail about the difficulty of getting at the quality of life elements with the SWOT analysis.

Councilor Mower said she had been not present at as many EDC meetings as she would have liked. She said she wondered whether the EDC might consider that some of the elements listed in the SWOT analysis could be seen from several different perspectives. As an example, she said the University could be considered a big constraint, but also could be considered an opportunity.

Councilor Carroll said she had enjoyed the EDC meetings she'd attended, and had learned a lot while there. She noted that items in the various SWOT boxes were moveable, and as an example, said that under Weaknesses was the items residents had to shop outside of the community for many of their needs. She said this item would also fit well under Opportunities, and suggested that the EDC, DBA and Planning Department could flip this over and make it into a goal.

Councilor Carroll said she was a big quality of life person, and noted that there were only two notations under that item from the SWOT analysis. She said she thought people in Durham paid higher taxes because of the quality of life there.

She said she had listed several more quality of life items, including the academic environment, culturally diverse programs and sporting events at UNH. She noted that the people who lived in Durham helped pay for these things. She said other quality of life items included the lack of sprawl; access to natural areas, both land and water; and access to locally grown food, something that was becoming more and more important.

Concerning the issue of barriers to economic development, Councilor Carroll suggested that exit surveys of local businesses should be done to see what resources these businesses saw were available to them, as well as what barriers they had faced.

She said the Hickory Pond Inn was going up for auction, and also that Taste of New England was closing. She noted that it had taken the owner of Tastes of New England two years to get a sandwich board up on Jenkins Court, and said it was important to find ways to be more helpful to local businesses.

Councilor Sievert thanked Mr. Mueller for the great work the EDC had done on the SWOT analysis. He asked him if the EDC would be moving forward with the SWOT analysis work, and Mr. Mueller said the EDC could fill that role. Councilor Sievert said hopefully this tool would be helpful to the consultants who would soon be working with the Town and could be integrated into the work they were doing in regard to the downtown.

Mr. Mueller said the EDC looked forward to participating in that process.

Councilor Stanhope said the EDC had created a great action plan, and said he was struck by the fact that there were a number of correctible weaknesses., and that the EDC would be coming forward with recommendations in each area. He said it appeared that if a number of these things were corrected, this would address some of the reasons there hadn't previously been a change in the economic climate of Durham.

Councilor Clark said the SWOT analysis was a tiny part of the EDC's efforts to develop a strategic plan. He said after it was completed, the EDC had felt it was compelling enough to share with the Council. He said it would be good to get everyone thinking about some of the eye opening items in it now.

He said the key to economic development in Durham was having a diversity of businesses, and also said the key to the Town's survival was having businesses that depended on global markets and not just local customers. He said there shouldn't simply be a debate about students and residents as customers.

Mr. Mueller agreed, and said if they expected businesses in Durham to rely on the local economy, they would continue to see what they were seeing in terms of economic development in Town. He noted that this was not to say there shouldn't be locally focused businesses, but said it was important to figure out what global businesses could be attracted to Durham.

Councilor Mower said she would like to see the EDC figure out how to work with UNH to create synergies with incubator businesses. She also said it was important not to think small with this kind of approach, and said it only worked when there was a mass of energy and creativity put into developing more than just a couple of technology startup companies.

Mr. Mueller agreed, and said the EDC had been reaching out to UNH and other entities concerning this.

Councilor Mower suggested that there probably plenty of problems and grad students at

UNH who were not necessarily part of an organization yet.

Mr. Mueller thanked the Council for its feedback. He said the EDC would continue to retool the SWOT analysis and share it with the Council.

Chair Niman explained that the regular meeting would be adjourned, and the Council would then go into a non-meeting meeting.

X. Unfinished Business

None

XI. New Business

None

XII. Nonpublic Session (if required)

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

XIV. Adjourn (NLT 10:30 PM)

Councilor Julian Smith MOVED to adjourn the meeting. Councilor Sievert SECONDED the motion, and it PASSED unanimously 8-0.

Adjournment at 8:38 pm

Victoria Parmele, Minutes taker