

This set of minutes was approved at the Town Council meeting on December 21, 2009

**Durham Town Council
Monday November 2, 2009
Durham Town Hall - Council Chambers
7:00P.M.
MINUTES**

MEMBERS PRESENT: Chair Neil Niman; Councilor Jerry Needell; Councilor Julian Smith; Councilor Doug Clark (arrived at 7:04 PM); Councilor Peter Stanhope; Councilor Diana Carroll; Councilor Robin Mower

MEMBERS ABSENT: Councilor Karl Van Asselt; Councilor Mike Sievert

OTHERS PRESENT: Town Administrator Todd Selig; Business Manager Gail Jablonski; Public Works Director Mike Lynch; Police Chief Dave Kurz; Fire Chief Corey Landry

I. Call to Order

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

II. Approval of Agenda

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

Councilor Clark arrived at 7:04 PM.

III. Special Announcements
None

IV. Approval of Minutes

October 5, 2009

Page 27, 2nd paragraph from bottom, should read "Councilor Mower said this might be an instance where they needed to do a good job of evaluating what they would get for what they had to give up."

Page 32, 2nd paragraph from bottom, should read "Councilor Mower said she didn't think it was a question of stirring people up, it was a question of people waking up,"

Councilor Mower MOVED to adopt the October 5, 2009 Minutes as amended. Councilor Smith SECONDED the motion, and it PASSED unanimously 7-0.

V. Councilor and Town Administrator Roundtable

Administrator Selig said at the previous Council meeting, there had been a discussion on the issue of whether members of Town committees and boards were required to be residents. He said he and Administrative Assistant Jenny Berry had subsequently determined that of all the non-statutory committees, it was only the Rental Housing Commission that didn't specify that residency was required. He said unless the Council officially modified the official charge of the other non-statutory committees, the Rental Housing Commission would be the only one that allowed non-residents.

There was discussion, and it was determined that this issue would be brought back to the Council at the beginning of 2010. Administrator Selig said in the meantime, it should be determined which committees would like to allow non-residents to serve on them.

Councilor Mower suggested that it might be appropriate for committee chairs to bring this up with their members within the next month or so.

Administrator Selig said the list of non-statutory committees would be distributed, with a request for feedback.

Administrator Selig noted his recommendation to award the contract for appraisal services, under the Unanimous Consent Agenda. He said while in the past several years the Town had employed a full time assessor, it had now been determined that it made more sense to contract the work out. He said the firm chosen was one of two that had been evaluated.

Administrator Selig spoke briefly about the charrette that was planned for November 5th through 9th. He noted that it was scheduled to end at about the same time as the Council's Budget meeting on November 9th, and asked Councilors if they should therefore modify the start time of the Council meeting.

Councilors agreed that the Council's Budget meeting on November 9th would start at 8:30 pm.

Councilor Clark said he had heard from some residents that the postcard on the charrette wasn't as clear as it could be, concerning when people should come to the various sessions.

Administrator Selig provided details on the schedule, and said it had been put on the Friday Update. He also noted that residents of those districts that would be analyzed as part of the charrette had received special invitations.

He explained that during the charrette process, there would be two pinups of the team's illustrations of their best sense of what people would like to see, and said they would allow people to provide feedback. He said the final touches would be put on the illustrations on Sunday, and they would then be shown on Monday.

Councilor Mower said that at a meeting with one of the members of the design team that day, a member of the audience had asked if there would be an economic component to the team, which would consider where the money would come from to make this all happen. She said it should be made clear that there was not an economic component to this project, and that the money for this would have to come from somewhere else.

Administrator Selig explained that the primary focus of the charrette would be planning and visioning the future of the area, but noted that because the design team had done this in many other communities, it would have some sense of what was economically viable. He also said while an economic analysis hadn't been built into the final product, it could be included in the strategic planning process that would be following next.

He noted that design team member Rick Chellman would be making a presentation at the present Council meeting, and would provide some illustrations in order to give the public a sense of what this was all about.

Administrator Selig noted that there would be a dedication of the Spruce Hole Bog monument on Nov 17th at 1:30 pm. He said a representative from the National Park Service would be present, and said a bronze plaque would be installed at the site.

Councilor Carroll said DCAT had met the previous week, and said it continued to have an interest in local programming. She said the committee had reviewed two videos created by Andrea Bodo, one of them on the history of the Oyster River Dam, and the other on the recent history walk of various buildings in the Durham community when almost 200 residents had turned out.

She said volunteers with technical skills in audio and video were needed by DCAT right now to put the finishing touches on the programming. She said a contribution of a few hours would really help.

Councilor Carroll noted the new mural in Durham, on the wall of the Outback. She said friends of hers who had come to Town were impressed and touched by the prose on global warming included there. She noted that several UNH students had undertaken this project, in cooperation with Outback owner Roger Hayden, who she said had been very helpful and even provided tools and paint when needed.

She said the students had appreciated this help, and she also said they were very responsible about getting the mural up in a timely way and cleaning up after their work was done. She thanked everyone involved, and noted that two of the students were graduates of Oyster River High School. She said the Town should be very proud of them.

Councilor Carroll noted that at the previous Council meeting, she had reported on the dedication of the rock on the site next to Mill Pond, in memory of Loren and Margery Milne. She said she had neglected to thank the Department of Public Works, which had worked very hard to see that this area was cleaned up and in good shape for the dedication. She also said members of the garden clubs in Durham, Lee and Madbury had

done a lot of work on the site. She noted that Margery Milne had left \$25,000 in her trust to be used to maintain the property.

Councilor Smith said the Planning Board had met the previous week, and had opened and then continued the public hearing on the site plan application to develop a Mexican restaurant at the Plaza. He provided details on what was proposed, and said the Planning Board had responded fairly well to the proposal. He said the public hearing was continued to November 4th.

He said the Board continued to November 4th the public hearing on an application to expand parking at the Plaza, after hearing from several members of the public. He noted that the hearing was extremely well attended, and said a number of negative, cautionary remarks were received regarding the application. He said this was similar to what had occurred before the Planning Board seven years ago, after which the application to expand parking at Mill Plaza had been denied.

Councilor Smith said no members of the public spoke at the public hearing on the proposed changes to the Zoning Ordinance regarding parking in the Courthouse District. He said the Board then closed the public hearing, and said these proposed changes, which were quite modest, should be coming to the Council by the November 16th meeting.

Councilor Mower expressed some concern about fallout from the discussion on the possibility of taking property by eminent domain, and said she thought it would be helpful if Administrator Selig explained the threshold and criteria for doing this. She said it should also be made clear that it was not necessarily the case that the Council would take this step.

She said when there was discussion about possible development in the downtown being predicated on the availability of what was currently private property, she thought the Council should exercise some caution in talking about it. But said she was just as excited as the next person about the possibility of having some municipal land in the center of Town.

Administrator Selig said he was not prepared to give an exhaustive presentation on eminent domain. He said federal, state and local governments had the authority to take a piece of property by eminent domain, as long as it was in the public interest, and served valid public purposes.

He said what qualified as such a property would have to be researched more, if this was a direction the Council wanted to move in. He said that generally, a property would have to meet the long term objectives of the community. He said an example of this would be laying out the right of way for a roadway to connect neighborhoods, or to alleviate traffic congestion. He said another example would be locating a municipal use like a town center, athletic field, or a site for a fire station or police station on a property, if it was determined to be an ideal location.

Administrator Selig said the two Madbury Road parcels together were one of two sites identified in the Master Plan as a location for a potential Town center. He noted that the other site identified in the Master Plan, the current Town Hall property, was now off the table because it didn't contain sufficient space. But he said the Greens did have the space needed. He said some questions were whether it would in fact meet the Town's long term needs, and what the acquisition price would be.

He said with eminent domain, a town was encouraged to first enter into good faith negotiations with a private landowner regarding a piece of property. He said the Town would endeavor to do that in this case, and noted that he had already done so. He said if the owner was unwilling to sell the property, and the municipality determined that there was an overarching need to acquire it, it could act.

Administrator Selig said as part of this process, there would need to be at least two appraisals, and potentially three, and said this would then go to the State Board of Tax and Land Appeals for review, where the fair market value would be determined. He said the owner would be compensated at that price, and the municipality could then take the parcel and utilize it for a public purpose.

He noted that prior to a Supreme Court ruling on a case in Connecticut, some municipalities would acquire a blighted property and then sell it to a third party that would then develop it privately for commercial purposes. He said since that case, the State of New Hampshire had amended its constitution to eliminate a municipality's ability to take a property and turn it over to a private entity.

Administrator Selig said the Town could still acquire a parcel by eminent domain. But he recommended that this be done only after the community had determined that it was the property that would meet its long term goals, and after other avenues were exhausted and the Town was unable to reach an equitable solution with the property owner.

He said that subsequent to the last Council meeting, he had met with the owners of the Madbury Road parcels, and had let them know the Town would be proceeding with the appraisal. He said an RFP had been put out to five appraisal companies, and said the deadline for a response was Friday. He said he had told the owners he would sit down and talk with them after the proposals were received, when they could jointly select an appraiser everyone was comfortable with. He suggested that a way to make sure a fair value was determined was to have two appraisals done.

He noted that at the last Council meeting, Councilor Sievert had shared some sketches of some development ideas for the Madbury Road parcels that he had developed along with architect Nick Isaak. Administrator Selig said these sketches as well as sketches done by architect Walter Rous of his vision for the Jacques parcel were included in the Friday Update.

Administrator Selig noted that the previous Saturday night, there was a Halloween program put on at Jackson's Landing, which was developed by the new Parks and

Recreation Department Director. He thanked everyone for the effort put into this great event.

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

Bill Hall, Smith Park Lane, displayed to the Council a pile of beer cans he had recently picked up from his front yard and the road beside his property, and said this was what he to deal with.

Mr. Hall also spoke in some detail about the fact that the Northern Connector had been taken out of the University's transportation plans over time, and that it had also evaporated from the State's 10 year plan. He then noted that the upcoming charrette would not include the first step that was needed, which was a feasibility study.

Mr. Hall said Administrator Selig's version of eminent domain wasn't likely to get very far. He also said the idea of giving the Council authority to bond \$2.5 million dollars was absurd.

Andrea Bodo, Newmarket Road, member of the Historic District Commission and the Heritage Commission, said it was an interesting year for learning about Durham's history and deciding what to do about it. She noted that there was a strategic plan to identify, maintain and promote historic properties., and said she believed the HDC was addressing this plan this year.

She said many people in Town were awaiting the Council's decision on the fate of the Oyster River Dam. She said it was a Town landmark that had been recognized by the NH Division of Historic Resources, and was eligible for the State Register of Historic Places. She noted some possible energy grants that were available, and said they had to be creative on how to look for funding.

Ms. Bodo said that on Sept 13th, there had been an historic walk in Durham that was attended by almost 200 people. She said one of the properties visited was the Smith family chapel, which was a Town treasure. She noted that she had talked with Reverend Michael Bradley, from St. George's Episcopal Church, who would be getting the Friends of Sacred Places involved with possible fundraising and restoration efforts concerning the chapel.

Ms. Bodo spoke about the Wiswall Dam interpretative park that would be developed in large part through the work of a committee created to bring alive the history of that area. She said she hoped residents would participate in this project.

She said on November 14th, Dick Lord and Susan Peterson would lead a celebration of the 100th anniversary of Doe Farm.

Ms. Bodo said on November 16th, the 81 year old great grandson of Hamilton Smith, the Reverend Congreve Hamilton Quimby, would be visiting Durham. She said his

grandmother had given the Oyster River Dam to the Town. She said Reverend Quimby had been interested to know of the involvement in the preservation of the Dam, and said his visit was a great opportunity for residents to get involved with Durham's history.

She said Reverend Bradley had told her that Hamilton Smith was an Episcopalian, but there was no Episcopalian church at that time he lived in Durham, so he had attended the Congregational Church. She described the many events planned during Reverend Quimby's visit, and encouraged residents to participate in these events.

Councilor Carroll said this was a wonderful time to live in Durham. She said its history was coming alive, and said this was wonderful. She said the turnout had been great for the historic walk in September, and she thanked Ms. Bodo and other volunteers who were making these events happen, which were enriching the whole community.

Emily Spencer, said she was a UNH senior who was selected as the marketing executive of her class, Advanced Food and Beverage, within the Hospitality Department. She said she was present at the Council meeting to extend an invitation to their nonprofit event, "Simply Southern", on November 21st, which would be managed entirely by the twenty students in her class. She said well known Moosewood Cookbook author Mollie Katzen, who was also a member of UNH's eco-gastronomy program, would be featured at the event.

Councilor Carroll said it was great to hear about events like this, which were simple things that enriched peoples' lives, and were another reason people lived in Durham.

Sam Flanders, Glassford Lane, noted that at the previous Council meeting, he had been appointed as the neighborhood representative to the Rental Housing Commission. He spoke about an editorial he had recently published in Fosters Daily Democrat, and said one response was from a former Durham resident who now lived in South Carolina, and who said many citizens in the interior of Town were getting frustrated and were close to giving up. Mr. Flanders noted that when long term residents decided to move out of Town, there were investors waiting to turn their properties into student rentals.

He said the Rental Housing Commission had undertaken an initiative to address problems with parties, and to educate potential investors as to what constraints there were concerning operating rental businesses in Town. But he said that effort alone wouldn't be enough to prevent the conversions of properties to student rentals. He said the much bigger issue was how the increasing residential rental housing density was affecting Durham's long term residents.

Mr. Flanders said pride of ownership in owner occupied homes in the center of Town was being undermined by the lack of current Town policies regarding residential rental properties. He said the owners of these properties needed to be held accountable and responsible, just as commercial landlords were being held accountable.

He said while the visible problems with properties were well known and impacted the

quality of life, the more serious issue was what the long-term prognosis was for the center of Town. He noted that there were great plans underway to rejuvenate the Town's commercial center, but said as homes in the center were being converted to transient rentals, the end result would be tenant slums, much like Young Drive.

Mr. Flanders said that at the previous Council meeting, he had heard discussion about the Town center. But he said if homes in the center of Town were turned into transient rentals, there wouldn't be upscale businesses, because there wouldn't be a need for them.

He said the Town needed to raise the bar for non-occupied transient rental properties. He said it was time to create new policies that didn't let negligent investors systematically destroy the interior of the Town, and said this needed to be done soon. He said at upcoming Council meetings, the Council would hear more from him as well as from other residents concerning various aspects of this problem.

Henry Brackett, resident of Lee, noted that he was a member of the School Board who represented Durham, Lee, and Madbury. He said it was nice to hear about the participation of students with the Town on projects, and also to hear about the three towns working together on the gardening for the Milne site.

He encouraged all residents, including Councilors as individuals, to speak to the School Board about the different issues that were before it. He noted that it was budget season, and that 73% of peoples' taxes went to the School District. He encouraged all stakeholders to express what was important to them, and said he believed this would make the schools and the communities better. He said the Board needed to hear from the stakeholders.

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

- A. Shall the Town Council authorize the Town Administrator to sign the second-half 2009 Property Tax Warrant?
- B. Shall the Town Council approve the proposed language and timeline for the proposed Town Charter amendments to Section 5.12 "Borrowing" of the Durham Town Charter to be placed on the March 9, 2010 Town Election ballot that would raise the amount of bonding which requires a Town referendum vote from \$1,000,000 to \$2,500,000 and schedule a Public Hearing on said amendments for Monday, November 16, 2009?
- C. Shall the Town Council, upon recommendation of the Town Administrator, approve the contract for appraisal services with Cross Country Appraisal Group, LLC, Concord, NH?

Chair Niman said there had been requests to take Items B and C off the Unanimous Consent Agenda.

Councilor Needell MOVED to approve Unanimous Consent Agenda A. Councilor Mower SECONDED the motion, and it PASSED unanimously 7-0.

Regarding Item B, Councilor Smith said he had been silent during the discussion on the

idea of raising the bonding limit at the last meeting, and said he had voted to bring it forward to this point, because he was interested in what the public would have to say about this. He said he wondered whether when the election came if enough members of the public would show trust in future Councils to act wisely with this increase. He then said he would vote against bringing this forward because he thought it was a mistake.

Councilor Carroll asked Councilor Smith if he wanted to keep the bonding limit as it currently was.

Councilor Smith said yes, and also said the Council needed more input from the voters on some of the large capital improvement projects that would be coming forward in the near future.

Councilor Needell noted that the public hearing on this issue would be on the November 16th Council Agenda. He asked if the decision on whether to put it on the ballot had been made yet.

Chair Niman said the decision had been made to bring the amendment forward, and hear from the public, and said the Council would then vote on it. He said the consensus of the Council was to raise the bonding limit to \$2.5 million.

Administrator Selig said this started the process, but noted that the Council could decide to abandon that process. There was further discussion on this.

Councilor Niman said after the public hearing, the Council would have to vote on the exact amount of the bonding limit, and whether it would actually be put on the ballot.

Councilor Needell said there was already a specified amount in the language of the proposal, and Chair Niman thanked him for this clarification.

Administrator Selig explained that the vote of the Council this evening was concerning whether to put this on the ballot. But he said after the public hearing, if there was overwhelming sentiment not to move the proposal forward, this process could be abandoned. He noted that they were trying to meet the timeline involved with getting this on the ballot.

Councilor Needell said he wanted it to be clear that there was an opportunity for the Council to change its mind. He also noted that there was the ultimate public hearing on whether to approve this if it was put on the ballot.

Councilor Clark MOVED to approve the language and timeline for the proposed Town Charter amendments to Section 5.12 “Borrowing” of the Durham Town Charter to be placed on the March 9, 2010 Town Election ballot that would raise the amount of bonding which requires a Town referendum vote from \$1,000,000 to \$2,500,000, and schedule a Public Hearing on said amendments for Monday, November 16, 2009.. Councilor Stanhope SECONDED the motion.

Councilor Needell said the purpose of the public hearing was confusing, stating that part of the purpose was for people to be able ask what the Council was doing. But he said this was also the only opportunity residents would have to convince each other in a public discussion whether this was a good or bad idea, and whether or not to vote on it.

Councilor Carroll noted that this had come about now because the Town was forced to have an election in September because it had to bond \$1.5 million, which was over the \$1 million limit. She said the Town had to spend \$3,000 on this election, and asked if there had been other special elections like this in past years.

Administrator Selig said there had been referendums, but not special elections because the Town had been able to coordinate this with the annual election.

Councilor Carroll said she was somewhat in sympathy with what Councilor Smith had said, in that this was a big increase in the bonding amount. She suggested raising it to \$2 million, not \$2.5 million, and said this might be workable and also might work politically.

Councilor Stanhope said the \$ 2.5 million was effectively \$1 million adjusted for inflation over 20 years, which was how they had come up with this number. He noted that houses were worth more now than they were 20 years ago. He said \$2.5 million wasn't changing the economic component of the Charter. Regarding the issue of the public being able to participate in the process, he asked Councilor Smith why he was not willing to listen to the public speak to the issue of changing the bond amount.

Councilor Smith said he didn't say he didn't want the public to speak to this issue and that he knew there would be a Public Hearing.

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

Next was discussion on Item C, regarding the contract for appraisal services. Councilor Carroll said it was wonderful that Councilor Stanhope was on the committee that had brought this forward. She asked how many hours a week the assessor would be working and would actually be in the building.

Administrator Selig said on average, the assessor would be there 2 days per week, which included 1 day during slower parts of the year, and more than 2 days per week at busier times of the year, such as when the tax abatement reviews were taking place, and when abatement decisions were being defended.

Councilor Carroll noted that she thought the estimate of 4 hours for handling tax exemptions seemed minimal. After discussion on whether the estimated amount was in fact 4 hours, it was determined that it was.

Councilor Stanhope justified this amount of time in explaining that once a vet or disabled person qualified for the exemption, he/she didn't need to re-qualify each year. He said

there weren't many new applications each year. He then said both vendors considered were outstanding, and said the one chosen seemed to be able to address a broader level of concerns as well as being more competitive price-wise.

Councilor Carroll said she could see the cost savings in this, and said she trusted Councilor Stanhope's judgment on this. But she said she thought it would take more time than expected to handle tax exemptions, based on the number of applicants as well talking with assessors in other towns on their handling of exemptions.

Administrator Selig said if the assessing firm needed more time for this than was indicated in the estimate, it would charge \$40/hr, which was a much more competitive rate than other firms. He provide details on this.

Councilor Mower noted that the Council had asked for more substantive background information for abatement requests this year, and she asked how this would be addressed.

Administrator Selig said this was discussed with the company, and said they were comfortable that they could meet the Council's needs. He also said his sense was that there would be some trial and error on this.

Councilor Mower MOVED, upon the recommendation of the Town Administrator, to approve a two-year contract with Cross Country Appraisal Group, Concord, NH, in the estimated amount of \$32,560 annually to provide the Town of Durham with assessing services and authorize the Town Administrator to sign said contract. Councilor Stanhope SECONDED the motion, and it PASSED 6-1, with Councilor Smith voting against it.

VIII. Committee Appointment

None

IX. Presentation Items

A. Pre-Charrette briefing – B. Dennis Town Design

Administrator Selig said Rick Chellman, a transportation engineer who was a member of the B. Dennis design team, would walk the Council through what was involved with the upcoming charrette. He noted among other things that Mr. Chellman had attended UNH.

Mr. Chellman said he had lived in New Hampshire for a long time. He also noted that he had been a member of a planning board, board of selectmen, and board of adjustment, so was familiar with both sides of the table.

He then provided a slide presentation to the Council.

Objectives

- Review of Zoning in the Central Business District, and recommendations for amendments to the Zoning Ordinance

- Assist with Strategic Planning in the Central Business District and downtown commercial core
- On-call specialized planning services as needed including potential Master Plan update process

Issues

1. Housing. Mr. Chellman said the design team would try to present concepts visually, and as an example, he showed a massing diagram that could help people think about density, streets, etc.
2. Mixed use buildings for tax base. Mr. Chellman said the concept of form-based codes would be introduced, which instead of focusing on uses inside buildings and on land, addressed the physical form of a property being developed, and how it was experienced by pedestrians, drivers, etc.
3. Parking. Mr. Chellman noted that parking was an issue in Durham, and suggested that the downtown should be a “park once” place like Portsmouth was, so people didn’t have to drive from use to use. He said a town became a more functional, vibrant place if people could walk between uses.
4. Conservation and growth. Mr. Chellman noted that these were big issues in Durham
5. Sustainability and Transportation

Mr. Chellman said a key question for Durham in terms of planning was how to increase density while still preserving the Town’s identity. He said this needed to be analyzed through design, and said visuals would be used involve the public in the design process. He said form-based codes could then be used to address the design ideas that were developed.

He said Durham’s great history should help inform its growth into the future. He also noted that presently the downtown was primarily designed to move vehicles through it, so it was not so much a place as a through place.

He said the University was a big part of Durham, and said there was a lot of potential for involvement and interaction. He said it was a good thing that the University would be involved in the charrette process.

Mr. Chellman briefly discussed the origins of the charrette approach. He described a charrette as a short, intense design process that was a mix between a town meeting and a barn raising. He said some of the possible focuses for design approaches included a reconsideration of the current on-street parking scheme in Town, and consideration of what Mill Plaza should have on it.

He said a member of the design team would start to sketch what she was hearing on these kinds of things, and said after public review of what she had come up with, there would be further refinement. He noted that although the charrette would be somewhat shorter than a typical downtown charrette, the entire iterative process of listening, drawing, listening again, drawing again, listening once more, and drawing once more would be included.. He said the goal of this process was to provide real alternative designs for the

Town.

Mr. Chellman described projects he had recently been involved with in Dennisport, MA, Overland Park, KS, and Damarascotta, ME. He then reviewed the schedule for the charrette, and spoke briefly about the members of the design team. He explained that what motivated New Urbanists was to try to create better places, which people cared about and which were more beautiful.

He said use-based development generally required car travel to get from one place to the other, but said form-based code development was much more walkable. He noted that he lived in Portsmouth, and said he had done a traffic analysis that had indicated that downtown Portsmouth generated half the traffic of the same land uses in a suburban area, and a third of the peak hour traffic. He said whether one liked mixed-use development or not, it generated a lot fewer car trips. He said sustainability was something to think about.

He said with form-based codes, a town could state what it wanted in terms of development rather than stating what it didn't want, and said the concept had been very well received throughout the country.

Chair Niman thanked Mr. Chellman for providing the overview on the upcoming charrette.

B. Low-head hydropower - Gregory Nau, Principle, Southeast Power Engineering

Administrator Selig noted that residents Andrea Bodo and Steve Burns were hosting Mr. Nau, who would provide the Council with information on a potential hydropower application for the Oyster River Dam.

Mr. Nau said he was with Southeast Power Engineering, which was a hydropower developer based in England. He noted that he did most of his work in the U.K. He said based on photos of the site and other data, it was determined that a hydropower system could be put within the footprint of the old mill foundation, and said it could also be turned into an educational site. He noted that this was his first visit to Durham, so the system design might have some inaccuracies.

He explained that the Archimedes' screw type hydropower system had come into vogue in Europe over the past 5 to 8 years, and said it was extremely efficient over a wide head variation. He said another advantage of it was that it was very fish friendly, and said there was a lot of data on this. He noted that this particular type of turbine was the English environmental agencies' preferred system for a river.

Mr. Nau next described the operation of the low head hydropower system. He showed a related system in Cornwall England that was commissioned in 2006, which had 2 cubic meters of water per second running through it, and produced 65 kw of power. He noted that his company specialized in small hydropower, including developing solutions for difficult sites.

Mr. Nau said the company had dealt with a lot of small communities in England, and was an agent of one of the 3 primary manufacturers of screw generation systems. He reviewed some of the projects the company was involved with in England, including one on the Thames River in Windsor, which would make close to 300 kw and would provide power to Windsor Castle and the royal household.

He said there was an opportunity as part of the repair of the dam to restore hydropower at the same site where the mill used to be. He said it could be an educational asset, because it was a neat technology that was fascinating for people to watch. He noted that the work the company had done so far regarding the Oyster River site was gratis, because the company would like to do this kind of work in the US. He said New England was full of small hydropower sites.

He said such a system on the Oyster River could potentially create about 15 kw of peak power, which was 64,000 kw hours per year. He said this would save about 66,000 lbs of CO₂ generation per year. He also said Archimedes' screws were highly efficient and long-lasting, requiring little maintenance. He noted that while screening was required, most things ran right though. He said the technology was also easy to understand from an educational perspective.

Mr. Nau reviewed in some detail the steps for determining hydropower potential, and then provided additional details on the system and how it would work. Among other things, he said it would be automatically controlled, and also said it could be linked to the Town website so there could be real time graphical displays of power production. He noted that this kind of thing was being proposed to a couple of museums in England.

Councilor Mower asked what 64,000 kw hours per year could power, and Mr. Nau said it could power about nine average New Hampshire homes, and could also power a municipal building.

Councilor Needell determined that fish would be able to go downstream but not upstream with this system. He then asked how it would handle flooding.

Mr. Nau said he had seen photos of the 2006 flood, and said it looked like this system could be built so perhaps the generator, but nothing else, would be at risk. He said if the second gate was automated, the system could be set up so that as water started coming up, the first gate would be opened up until the water was running through at full blast, and if the water kept going up, the second gate could be opened. He said this could help keep the pond level down more than could presently be done. But he noted that if there was a 100 year flood, everything would be underwater.

Councilor Clark asked what a system like this would cost, and what the economics were.

Mr. Nau said this system was smaller than others his company installed right now. But he said based on a cost estimating curve, the hydro-kit would cost between \$90,000-

100,000.

He said he wasn't sure what the installation would cost, but said it would be a pretty easy installation. He noted that the pond could be drained if needed as part of the installation. He said another expense was running the cable.

In answer to a question from Councilor Mower, Mr. Nau said that during flooding periods, low head dams did not generate more power than normal despite the fact that more was water available. He said peak power actually occurred at periods of lower flow. In answer to a question from Councilor Mower, he said power from the system could not be stored.

Councilor Carroll asked Mr. Nau how he saw educational opportunities being a part of this site, and also asked him if he had talked with anyone at the University.

Mr. Nau said he hadn't spoken with anyone at the University yet, but said he thought there might be engineering professors and others at UNH who be interested in working with this system. He noted that Durham had had hydropower at the site dating back to 1670.

Councilor Needell asked how much noise the system would make, and Mr. Nau said there was a hum from the generator, which was why it was put in a sound enclosure. He also said that at the tail end, there was a thumping sound, but said it was not loud.

Rob Cinq-Mars of Freeflow Energy, Lee, NH, said 7 kw was next to nothing. He said the problem was always that the economics didn't even come close to working. He asked who owned the dam, and asked if towns could get into the power business.

Administrator Selig said Durham owned the dam, and said if the Town moved in this direction, it would have to work with the local power company to integrate it into the grid. He said PSNH had told him it was open to working with towns collaboratively on these types of projects, because they would like to find ways to decrease demand during peak times, especially in the summer. But he said the economics were a big factor.

Mr. Nau said there would be the ability to do net metering if the Town Hall building was connected, so some costs could be defrayed.

Chair Niman thanked Mr. Nau for the presentation, and said it was very educational.

C. Future of the New England Center – David May

Administrator Selig noted that at a recent Councilor meeting, members of the Council had asked about the future of the New England Center, and he had said Mr. May could provide a response concerning this.

Mr. May read from a written response. He said the New England Center had historical

value and was well loved, but due to financial constraints, the University had been unable to make major investments in it over the past 40 years. He said there was also increased competition in the Seacoast area from several major hotels over the last 10 years.

He said the Center had essentially been on life support, and said the recession had forced a difficult decision to close the Center on June 30 2010, and explore alternative uses for the facility, which would be carefully reviewed. He provided details on financial issues that had led to this decision, including the fact that there had been a significant decrease in projected revenues, and capital costs of \$17-20 million. He said the facility had lost \$1.34 million as of June 30 2009.

Councilor Stanhope said the economics were obvious, and asked what the options were at this point.

Mr. May said the University wanted to preserve the facility for the future, and would be taking the steps necessary to insure that it would remain safe and secure. He said it was possible that one of the towers would be used as office space, and that the other would be used for graduate or undergraduate housing.

Councilor Mower said this was clearly a situation that had developed over quite some time, and asked why things had gotten to the point where the University was so behind with equipment and facility maintenance.

Mr. May said the New England Center had never been able to create enough revenue from the facility to allow it to put some toward reinvestment in the facility. He said while some work had been done on it over time, it wasn't enough to keep the facility competitive.

Councilor Mower said a member of the public had said there was a change in management at some point, and that before that time, the facility had been revenue positive.

Mr. May said in 40 years, he didn't believe there were more than 3 years when the University had revenues for the NE Center that were greater than expenses.

Councilor Carroll thanked Mr. May for coming. She said this was an emotional issue for residents, noting that they had a bond with this building and that it hurt them to see what had happened to it. She provided details on this, and spoke about how well the facility had been run in the 1970s. She said because the University had a business school and a hospitality department, which were assets to use in service of the NE Center, it was especially hard to see what had happened to it.

There was discussion on the \$17-21 million estimate to rehabilitate the building. Mr. May said the building was not energy efficient, and also said the mechanical systems were old and tired. He said the employees had done remarkably well keeping it going as long as they had.

Councilor Carroll said people were wondering if the buildings would be torn down.

Mr. May said he did not believe the facility would be torn down. He noted that he was not the decision maker, but said he couldn't imagine the University doing this.

Councilor Needell asked if the building would be used immediately in a different capacity after June 30 2010.

Mr. May said the decision hadn't been made yet, but said he could foresee using the hotel for offices and student housing. He said the conference center was another story. He noted that the foundation had offices there, so could stay open. He said the University would make sure to preserve the property so it wouldn't deteriorate and have to be torn down.

There was discussion between Councilor Stanhope and Mr. May about the number of years that the NE Center had actually been profitable. Councilor Stanhope then asked if any consideration had been given to selling or partnering and putting a management company in place, while maintaining the architectural integrity of the building. He suggested that perhaps the restaurant and a portion of the conference center could stay in place, and could be run by someone who knew how to do this.

Mr. May noted that he was a graduate of UNH's hospitality program. But he said the building was not on a main thoroughfare, and said he didn't know if a restaurant would work there, going forward.

Councilor Stanhope said he wasn't in Durham when the NE Center was built, but did drive 50 miles in order to go to the restaurant after waiting 6 weeks to get a table, so something was going on that made it a successful restaurant. He also said there no doubt that it was a poorly designed convention center.

Mr. May said the University had engaged a consultant to consider possible uses of the NE Center, but he said the \$18-20 million investment that would be needed didn't make the numbers work. He said it was determined that there wasn't a management company that was interested in taking over the property, so there wasn't a way to sell the property off and have someone else run it.

Councilor Stanhope said the University would have to spend \$15-20 million to preserve the property for whatever use it was put to, and asked if there would be any possibility of partnering at that point. There was discussion.

Councilor Carroll noted that there was talk about building a new hotel on Main Street. She said people in Town were wondering how money could be put into building a new hotel, when a few blocks away there was a beautiful building that needed work. She said it didn't seem to be a good use of money.

Mr. May said one would have to talk with the developer about that.

Councilor Carroll said the NE Center had been a training ground for hospitality students, and asked where they would go to get this training when it closed.

Mr. May said the students would continue to work with his whole program, and he provided details on this. He said this would provide a good opportunity for students.

Councilor Carroll asked if the new business school would have restaurant/café, and Mr. May said there would be some kind of food service there.

Councilor Mower noted that there had been discussion about some historical aspects of Durham that evening. She said it would seem that these buildings were a part of Durham's history, so even if the NE Center did close, she hoped the University would consider a way to encourage modern architecture enthusiasts to visit and learn about the prime years of the Center and its architecture.

She suggested that in this way it could continue to be a draw to Durham in some way. She said she strongly agreed with Councilor Stanhope and Councilor Carroll that if something was good, people would go out of their way to see it. She spoke in some detail on this.

The Council stood in recess from 9:27 to 9:39 pm

X. Unfinished Business

None

XI. New Business

Overview and initial discussion on the Administrator's proposed FY 2010 Operating Budgets, Capital Budget, and 2010-2019 Capital Improvement Plan

Administrator Selig said he would provide a general overview of these documents, and would also provide highlights from them.

He said personnel was the single largest cost in the Budget. He said a 10 year overview of staffing patterns indicates that between 2001 and 2010, there had been a reduction overall from full time equivalents, from 85.6 to 83.3. He said overall, the Town had been very successful in keeping the employee numbers flat and actually less than was the case nine years ago

Administrator Selig noted that the fiscal forecast was a long term view of finances for the Town, which combined the operational budget, annual revenue projections, and also considered the implications of capital projects in order to provide a sense of what the tax rate would likely do if the status quo continued. He noted that the 5 year running average on expenditures was a 4.4% increase in costs each year.

He said the average increase in revenue projections was about 3% per year, but noted that

in 2009, this dropped down to an increase of about 2.5% because of the loss of shared revenues from the State as well as a loss of other State revenues. He also noted that vehicle registrations had declined because people were keeping their older vehicles, and that there was also a decline in recycling revenues.

He said the Town Administrator proposed budget projected a zero change in the existing tax rate, \$6.52 per thousand, and noted that this was the second year that there would be no change.

Administrator Selig said an area where there was cause for alarm was the overall valuation of the Town, which was 0.75% for 2009, and showed a 1.0% increase projected for 2010. He noted that several years ago there had been a 3-5% increase per year.

He said the unreserved fund balance for fiscal year 2010 would be \$742,000, and said this was about half of what it ideally should be, which was within the range of \$1-2 million and ideally closer to \$2 million. He said part of this drop reflected having to make up over \$200,000 in lost revenue when the tax rate was set for 2009, in order to keep the municipal part of the tax rate stable. He said in other words, fund balance was utilized in order to meet the fiscal projection set last year.

Administrator Selig next spoke about the fact that there were various projects to be bonded from 2011 forward.

He said both the Police Department and the Fire Department were working with a UNH graduate accounting class to establish benchmarking in order to compare spending patterns for their departments with departments in some other NH towns. He said the departments had asked that a template be developed so this kind of comparison could be done each year.

Administrator Selig noted that the Public Works Department had done this comparison on spending already with Exeter, Somersworth, Hampton, Hanover, Portsmouth, Amherst and Lebanon, and that Durham had ranked the second lowest in terms of spending. He provided details on the matrix information.

He said the DPW thought Exeter was the closest to Durham in terms of some of the variables considered, such as road miles, number of vehicles, population, etc., so it did a more in-depth comparison with Exeter. He said it was determined that while Exeter had 43 DPW employees, Durham had 22, which demonstrated that the Durham DPW was trying to be efficient.

He noted that since 2001, Durham's DPW had gone from 25 employees down to 22, while the number of DPW employees in Exeter hadn't changed. He also said if one averaged the water and sewer rates for each of the towns, the average annual bill in Exeter was \$659 while the bill in Durham was \$541, which indicated that Durham had a more affordable rate structure.

Administrator Selig said only one new Town employee was proposed this year, a DPW

junior engineer-in-training position, which would allow the DPW to better manage its projects, many of which were due to new regulations. He noted that by looking at its external engineering projects, the DPW was able to find offsetting revenue to cover most of the cost of this new position. He said the savings would be seen in capital projects rather than in the operating budget.

Administrator Selig said the Recreation budget had gone from being nonexistent to a budget of significant size. He explained that a lot of the money for part time wages would be reimbursed through user fees, and he provided details on this.

He said that revenues exceeded expenses for the Depot Road parking lot, noting that these net funds were intended for the long-term cleanup of the site. But he said for 2010, he was recommending that this money be put in the General Fund in order to bolster declining revenues. He noted that the cost of the environmental mitigation hadn't been determined yet, and also said the hope was that the Town wouldn't need to expend money for cleaning up the site, if the natural attenuation occurring there cleaned it sufficiently over time.

Administrator Selig said there was a proposal in the Budget to increase the Library fund to cover an additional 20 hours a week in part time wages. He said it was noted in the Library budget that the Director was underpaid relative to directors in other towns, so a market adjustment for this was also included in the Budget, to correct what he viewed as an inequity.

Administrator Selig next spoke about the Capital Improvement Program. He said the Oyster River Dam was not included in the CIP, because it wasn't yet known what the Town was going to do with it and he didn't have confidence in the numbers. He noted that there were monies set aside from past years that perhaps could cover the costs if they were minimal, but he said they would have to see how this panned out.

He next reviewed some of the items in the CIP. He noted that the Town proposed to pay \$28,000 in cash for a new police cruiser, and also proposed a new parking enforcement vehicle, which would also be paid for with \$24,000 cash, through the parking capital reserve fund, which was supported by the parking fund. He said this would have no impact on the tax rate

He noted that a generator replacement and fire prevention car were proposed for the Fire Department, and would be paid for through its capital reserve fund. He said the DPW Edgewood Road sidewalk repairs would be paid for in part through grant money. He also reviewed the funding for the Wiswall Dam fish ladder, which would be paid for in large part through state and federal grant money.

He noted CIP items for shared projects that would be paid for in part by Town bonding and in part through the University's 2/3 contribution.

Councilor Carroll said bonding projects like the Wiswall Dam fish ladder would result in

having to pay interest. She said she had no desire to raise the tax rate, and also said it would be hard to cut anything more from the Budget. But she said the interest issue had to be addressed. She asked for a comparison of paying for some of these projects now as compared to paying for them through bonding.

Administrator Selig said he would have an example of this. He then noted that he and Ms. Jablonski had met with the Planning Board twice, and he said the CIP was reflective of these discussions. He noted that he had sent DVDs of these meetings to Council members.

Administrator Selig said they were entering this budget season with the understanding that they were in a recessionary environment. He noted that last year had been a tough year as well, and said at the time it was clear that the tide was turning regarding the economy. He said a very conservative approach was therefore taken to the Budget, which resulted in a 0% increase in the tax rate. He said since that time, things had gotten worse, and said his sense was that they should be very respectful of this and the fiscal challenges residents were still facing.

He explained that there were two approaches he could have embraced with the Budget document. He said when saw the proposed budgets of departments, it was clear that there were several projects that should be addressed, in another year, but for this coming year, he thought the Council should talk about whether it wanted to do them or not.

He said one approach would have been to come in with a 3-5% increase in the tax rate, list these projects as add-ons, and the Council could then deliberate on what it wanted to keep in the Budget and what it wanted to drop.

He said the second approach was what he had ultimately brought forward, which was a Budget reflecting a 0% increase in the tax rate along with an a la carte list of things that were not included it. He said with this approach, the Council could decide whether or not to include any of these projects in the Budget. He said he wanted the Council as policy makers to have the option to know what they might want to add in, and what the implications of this would be.

Administrator Selig said if the Council wanted to go through the proposed Budget line by line, he would welcome this, and said he hoped they would find things he and Ms. Jablonski had missed. But he said he didn't think they would find these things, and didn't think this would be time well spent. He said he hoped the Council would focus on the big things.

He noted that the Budget did not include any wage increases for non-unionized staff. He noted that survey data from other communities indicated that no one else was getting wage increases, so there was not justification for wage increases in Durham. He said staff had taken the high road, realizing they were fortunate to have their jobs, good working conditions, and fair compensation.

Administrator Selig spoke about various business practices being implemented over time,

including regionalization of some services. He also noted that the Town was working very hard on economic development activities, and was starting to see some payoff on this. He noted new buildings planned for Rosemary Lane and Jenkins Court, and said there were a number of other projects in the works.

He spoke about the \$200,000 in additional revenue that would be coming to the Town as a result of the new omnibus agreement with the University. He said beyond the issue of getting this direct payment, the University for the first time was sitting down and discussing with the Town how they could work together for the benefit of both of them. He said he hoped this would translate to a better quality of life in Durham and a broadening of the tax base.

Regarding the issue of controlling health care costs, Administrator Selig noted that the Town had been de-linked from the School District last year. He said for 2009, there had been a 12% decrease in costs. But he said beginning in July of 2010, there would be an increase of 27%. He said this was less than would be the case if the Town was still linked with the School District, but said the increase was not welcome news.

He said the Town had been told that the primary reason for this increase was that public employees were fearful of losing benefits, so were choosing to have elective procedures they might not have otherwise chosen to have. He noted that the previous year, the Town had looked at changing health care providers, but had then stayed with the Local Government Center. He said staff would get some more data so they could shop around again.

Administrator Selig said the Town was working on making its buildings more energy efficient in order to bring down long term costs. He said the savings would be seen over 5 years, as the upgrades were paid for.

He said the Town continued to re-think the organizational structure of its departments, working with the Kaizen process. He said they were slowly making some headway and were seeing some positive benefits.

He said the Town was working hard to maintain a strong balance sheet. He noted that in 2009, it had not been projected that any fund balance would need to be used. But he said they hadn't counted on a loss of \$200,000 in revenues from the State.

Administrator Selig said the proposed 2010 Budget projected keeping the municipal portion of the tax rate constant, at \$6.50 per thousand. He said this reflected a decrease in spending by about \$82,000, and explained that because the Town had lost some revenue, this needed to be offset.

He said there would be a zero increase in users fees for the Sewer fund, and a 5% increase in user fees for the Water fund.

Administrator Selig explained that the Town was currently negotiating with 3 bargaining

units, DPW, the Fire Department, and middle managers. He noted that as part of those union negotiations, there was a proposal to cut all of the funding for wage increases for those departments for 2010.

He said if ultimately, bargaining contracts were arrived at that required an increase in pay, the Council would need to vote to approve the contracts, and might also need to vote to amend the Budget if it wanted to spend more to cover those contracts. He said there would be \$50,000 in the General Fund contingency, which could be used for this, but he said that scenario was not ideal.

Administrator Selig said support for social service agencies would be sustained in the 2010 Budget.

He noted that the Police Department had requested that it get a 19th officer back. He said this was justified, but said he didn't feel the Town could afford this right now. He said residents were starting to see a minor loss in service, including officers not responding as efficiently as they previously had. He said this was not their fault, and said the Department was doing the best with what it had. He noted that one cruiser was proposed for 2010 instead of two.

He said the Town was starting to see an increase in service with dispatching, which was a positive development.

Administrator Selig noted that the Fire Department currently had a capital reserve account with a limited amount of funding in it. He said this could cover capital items for this year and next year, but said the funds would then run out, and the Town would then typically start to bond items.

He said as part of the agreement with the University, which covered the cost of the Fire Department, there was discussion on the best way to move forward. He said it was decided that it would make sense to avoid debt service altogether. He said the Fire Department developed a 25 year CIP, and determined what dollar amount was needed each year, building in inflation.

He said it was determined that \$295,640 would be needed each year, over 25 years, to meet the Department's fiscal needs, not including fire station replacement. He said spending this money each year would allow the Town to avoid an \$80,000 debt service cost per year over that time period.

He said if the Council was looking for a single move that would save some real money in terms of debt service, it would include the \$295,630 amount in the Budget. He noted that 50% of this would be paid for by the University, and explained that a consensus had been developed with the University to support that amount after some effort.

Administrator Selig said he had hesitated to include this in the Budget, and in fact did not add it in. But he said of all the items on the list, this would have the largest payoff in the

long run. He noted that this was a result of Kaizen effort to think differently about how to approach things

He said the DPW was also being innovative in recommending the junior engineer position. He noted that this item was included in the proposed Budget. He noted that the proposed improvements to the Morgan Way intersection were also in the Budget. He said there had been a large number of accidents at higher speeds at this intersection, and the Town was very concerned about it.

He said this was on a State road, and the State had no plans to address the intersection. He said the State had told the Town that if the Town paid the upfront costs, it would pay for 2/3 of this when the money available, over the next 2 to 4 years. He said there was no guarantee that the Town would be reimbursed, and the Council would need to be able to accept that possibility. .

Administrator Selig noted that asphalt increases had impacted the Town's Roads program. He said the proposal for 2010 was to spend only \$129,000 on the Roads Program, primarily on three roads: Wednesday Hill Road, Strafford Ave. and Jenkins Court.

He said DPW had scaled back somewhat efforts to comply with the new federal stormwater requirements.

Administrator Selig noted that funds had not been included in the Budget for Smith Chapel. He said the facility would be secured, but said the Town didn't have money for any other work there right now.

He said he was recommending a transfer of \$50,000 from the Depot Road fund to the General Fund, and also transferring \$40,000 from the Municipal Transportation Improvement Fund. He noted that this second fund was funded from an extra \$5.00 people paid when they registered their motor vehicles. He said this money could be used for roadway improvements, bike lanes, sidewalks, etc.

Administrator Selig said given historical spending patterns, in order to maintain the Town's fiscal health and retain the kinds of things the Town was doing right now, they would need to see a 3-5% increase in the tax rate every year, going forward. He said unless something changed, they were likely to see a spike in the tax rate, unless ways were found to mitigate costs or increase revenues. He said they could only keep the tax rate increase at 0% for so many years before there was a jump, and said this was a concern.

Councilor Mower MOVED to extend the meeting beyond 10:30 pm. Councilor Needell SECONDED the motion, and it PASSED unanimously 7-0.

Councilor Mower asked if it would be possible to get an idea what the impact on the tax rate would be for every \$100, 000 in costs was added to the Budget. She also said she

would like the Council to address Administrator Selig's concerns about the adequacy of the fund balance and contingency fund, and how this applied to the Town's bond rating.

Administrator Selig said for every \$25,000 reduction or increase in spending, there was a \$0.03 adjustment in the tax rate.

There was discussion on the fund balance. Councilor Carroll said the fund balance proposed was \$742,000, and said the question was whether this was acceptable, or if it should be increased.

Administrator Selig explained that the fund balance was money that accrued over time, when the Town either under-expended the Budget or brought in more revenue than was projected. He said money not spent washed into the fund balance, and the fund therefore increased or decreased on its own.

He said the Council could increase it if said it wanted to add \$200,000 to the contingency line that it would then not spend, which would result in a surplus at the end of the year that would end up in the fund balance. But he noted that doing this would impact the tax rate.

Councilor Carroll complemented the Fire Department for looking ahead, and said this reflected a consideration of economic sustainability. She said it would be good if other Town departments could be set up so there was a capital reserve fund available to meet demands.

Councilor Mower asked about possible funds to cover the cost of providing tax abatements if needed. She noted that professional landlords in Town were concerned about the rise in their assessments.

Administrator Selig said typically the amount designated for this was \$75,000, and said this had been doubled for 2010.

XII. Nonpublic Session (if required)

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

XIV. Adjourn (NLT 10:30 PM)

Councilor Mower to adjourn. Councilor Clark SECONDED the motion and it PASSED unanimously, 7-0.

The Council ADJOURNED at 10:37 PM.