

This set of minutes was approved at the May 3, 2010 Town Council meeting

MINUTES
Durham Town Council
Monday April 5, 2010
Durham Town Hall - Council Chambers
7:00P.M

MEMBERS PRESENT: Chair Diana Carroll; Councilor Neil Niman; Councilor Julian Smith; Councilor Doug Clark; Councilor Peter Stanhope; Councilor Mike Sievert; Councilor Robin Mower; Councilor Jay Gooze; Councilor Bill Cote

MEMBERS ABSENT: None

OTHERS PRESENT: Town Administrator Todd Selig; Public Works Director Mike Lynch; Town Engineer David Cedarholm; Fire Chief Corey Landry

I. Call to Order

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

II. Approval of Agenda

Councilor Smith MOVED to approve the Agenda. Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.

III. Special Announcements - None

IV. Approval of Minutes

February 15, 2010

Councilor Mower MOVED to approve the February 15, 2010 Minutes. Councilor Smith SECONDED the motion.

Page 21, 4th paragraph from bottom, should read “Greg Caparossi from the Trust for Public Lands said that was not the case...”

Page 22, 5th paragraph from the bottom, should read “Phil Auger from the Trust for Public Lands said the TPL would like to...”

Page 12, bottom paragraph, should read “Chair Niman suggested the idea of inviting Jocelyn O’Quinn...”

The motion PASSED 7-0-2 with Councilor Gooze and Councilor Cote abstaining

because they were not yet members of the Town Council at the time of the February 15, 2010 meeting.

V. Councilor and Town Administrator Roundtable

Councilor Clark said the EDC had recently had a great meeting, and noted that the committee was meeting once a month. He said several subcommittees would be created, covering the following: development of a strategic plan; business retention; marketing and branding; and marketing analysis.

Councilor Smith said at the Planning Board's meet on March 24th, the public hearing on the Seacoast Repertory Theatre applications continued and was subsequently closed. He said the Board would deliberate on the applications at its next meeting.

Councilor Smith noted the fact that there had recently been two separate 100 year floods, which had washed out parts of Bennett Road, Longmarsh Road, and closed Route 108. He said during this time, he had watched the traffic flow on Packers Falls Road and Mill Road, which became a major north/south route on the western side of Great Bay.

He asked if the Town was seeking funds for the damage to these roads as a result of the additional car and truck traffic. He also suggested that the Town perhaps should offer Packers Falls Road to the State and call it alternate Route 108, so the Town didn't have to maintain it.

Administrator Selig said the Town had certainly been hit hard recently with two and perhaps three 100 year storms in the last four weeks. He said DPW staff would be documenting damages and would seek reimbursement. He also pointed out that Durham Point Road was another Town road that had been used as an alternate route as a result of the storm events.

He noted that the Town had gone after federal monies in the past for the additional wear and tear occurring on roads in Durham that were used as an alternate route. He said it was hard to demonstrate the impacts to FEMA from re-routing the traffic, but said the Town would try again.

Councilor Mower asked if the Town could perhaps arrange with Strafford Regional Planning Commission to get an ad hoc traffic count.

Administrator Selig said there was definitely frustration about the impacts of the traffic disruptions, and said Town staff was in discussions with Newmarket, the Strafford Regional Planning Commission and the State Department of Emergency Management about grading Route 108 beyond what was already planned, in order to address the drainage problems, the grade of the roadway, etc. He said DPW Director Mike Lynch had organized a meeting on this with key State people.

Councilor Smith asked if DOT was talking about or had been asked about raising the

surface of Route 108 between Bennett Road and just past the rowing club, where the road was particularly low. He said DOT had done a good job with the Hamel Brook area in terms of letting the water flow over the road without washing it away. But he said a bigger culvert would be needed if the storm systems continued.

Administrator Selig said they would be looking at all possible solutions, including raising the grade of the road.

Councilor Sievert said the Recreation Committee had recently met, and discussed its goals. He said there was discussion on separating tasks the committee would do and those that Recreation Director Mike Mengers would do. He said the committee would be focusing on the Wagon Hill and Jackson's Landing recreation sites, and noted that on Earth Day on April 22nd, Timberland employees would be coming to Wagon Hill to build a tool shed as well as fencing around the public gardens there.

There was discussion that raised beds would be built, and that water would be available near the garden.

Councilor Sievert noted the lack of adequate parking at Wagon Hill.

Chair Carroll said there was an upcoming information and planning meeting for residents who wanted garden plots, and said people could learn more about this in the "Friday Updates".

Councilor Gooze said the Rental Housing Committee was making progress on some possible ordinances to help control single family home student rental properties. He noted that RHC Chair Paul Berton would be providing an update to the Council that evening.

Councilor Mower, the Council representative to the Energy Committee, said the Town had recently received an Energy Efficiency and Conservation Block Grant for \$167,310 for street lighting upgrades. She also noted that several members of the Energy Committee were concerned that the Police Department had purchased a 2010 pickup truck that was a dinosaur in terms of gas usage, and said they hoped more efficient Town vehicles would be purchased in the future.

Administrator Selig said the Town had looked at this issue and explained that in addition to addressing parking violations, the vehicle would be used to haul traffic cones, yield signs, etc., and would also have a pen in the back for stray animals because it was used as an animal enforcement vehicle. He said it would also be used as an off-road vehicle when needed.

Councilor Mower asked that the Town consider the possible future use of alternative vehicles, such as zip cars, for short trips made by Town staff.

Administrator Selig provided an update to the Council.

- He thanked Sarah Badger Wilson and others from the Parks and Recreation

Committee for the great Easter egg hunt that was recently held.

- He said on April 20th, there would be a recognition night held for outgoing Council, board and committee members. He also noted that there would be an orientation meeting in June for new officers of Town boards and committees. He said information from the Local Government Center would also be provided at this meeting, and said board and committee members from Lee and Madbury would be invited.
- He noted that residents had been inquiring about the Oyster River dam study. He said most of the information was in, including data from the Bathymetric survey, core samples, etc. He said there would be a presentation on all the findings in late April or some time in May.
- He told Councilors that the Town had received a request from the owner's representative of Mill Plaza about the lack of success in being able to expand the parking area. He said this request also asked the Town to start maintaining the landscaping on the property, and he explained that there was a requirement that Durham do this landscaping as per the original site plan approval. He said the Town didn't believe it would have this obligation after all of these years, and he noted that the Plaza had made some changes to the landscaping.

Asked by Councilor Mower if the snow removal plan was also touched upon, noting that it was responsible for some of the impacts to the landscaping. Administrator Selig said only the landscaping was referred to in the letter. He said he would follow up with them.

- He spoke about the fact that the Town had been evaluating the idea of purchasing the DiMambro property, as the location for the new Library. He said the 2.9 acre parcel had been assessed at approximately \$509,000, and said he would provide the Council with an update on the price in nonpublic session under RSA 91-A:3 II d, consideration of the acquisition or sale of real property.
- Administrator Selig said he was very concerned that three times this spring, the Town had lost vehicular contact with large sections of the community along Route 108, Bennett Road, and Cold Spring Road. He said they would be evaluating how to address this. He said it was challenging because the area where Packers Falls Road and Bennett Road intersected was quite sensitive environmentally, and there was a significant drop in grade of the roadway.

He said it would be quite expensive, between \$750,000 and 1,000,000 to do repairs there, and said considerable environmental impact analysis would be needed before anything was done. He said they would prefer to look at the LaRoche Brook location of Bennett Road, but said that wouldn't help unless the blockages on Route 108 near Laurel Lane, or at Laurel Lane could be addressed. He said they would be looking at all of this and would develop a plan. He said Town staff had decided to move forward with this in a timely way, but said what that meant remained to be seen.

- He said the financial auditors were in Town this week, and would provide a presentation to the Town in the future when their work was completed.
- He noted that the Economic Development Committee had recently had a discussion on the transfer of development rights approach. He said they had previously been favorably inclined toward it, but were now feeling that the reason the approach hadn't been used very often in NH and this part of the country was that there was limited developable land where it would be applicable.
- He said the EDC thought the Town would be better served by spending the money set aside to study this approach in some other ways. He said they were interested in doing a market analysis of the downtown core, so were starting to put together a scope of work to see what the pricing for this be. He noted that they were trying to spend as little as possible on this.
- He said that on March 17th, he attended a meeting of the School Board which included a lengthy discussion on Town Council Resolution #2010-02, which requested that the School Board direct the ORCSD Administration to provide adequate documentation regarding the expenditure of surplus funds from the 2009 Fiscal Year. He said he was awaiting a response concerning it.
- He spoke about the Census challenge being conducted with neighboring towns, and said Durham was currently trailing. He encouraged residents to fill out the forms, and noted efforts had been ramped up on the UNH campus to get students to fill out their forms.
- He provided details on the Annual spring cleanup, and noted that windstorm debris pickup would occur around April 12th. He explained that it was preferred that residents bring their debris to the Packers Falls Road gravel pit, but said if they could not do so, they could put it at the curb.
- Administrator Selig noted that he had been asked by the Durham Republican Committee to attend a meeting in order to provide a non partisan update on what was happening in Town, and that he had done so. He said he had offered to do the same thing for the Durham Democratic Committee.

Councilor Gooze said having Administrator Selig go to these meetings seemed like a waste of his time, especially if he did this with every group that asked him. He suggested that the committees could instead come to Council meetings in order to get information on what was going on.

- Administrator Selig announced that the Durham Farmers Market was relocating to Mill Plaza, and would be setting up near Durham Marketplace. He said this would provide good exposure for the Farmers Market as well as for Durham Marketplace.

Councilor Mower said the Town had Durham Marketplace owner Chuck Cressy to thank for

this, noting that he had worked hard on this.

- Administrator Selig spoke in some detail about the recent Kaizen lean training course he and Town department heads had attended in Augusta Maine.

Chair Carroll said she hoped to hear more about this.

Chair Carroll said she had recently been delighted to have the opportunity on behalf of the Town to introduce Congresswoman Carol Shea Porter at UNH, when she was being given an award from Environment NH based on her voting record in Washington. Chair Carroll said she was able to make the link between some of her votes in Washington and some of the benefits received in Durham.

She said one of these votes was for the stimulus package, noting that the Town now had seven projects being funded by it, and said she had identified these for Congresswoman Shea Porter. Chair Carroll said another vote was for the Passenger Rail Investment and Improvement Act, which helped the DownEaster, and said before too long, Durham residents would be able to travel to Freeport and Brunswick, Maine.

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

Bill Hall, 3 Smith Park Lane, spoke about the truck recently purchased for the Police Department. He also spoke about the need for more fire lanes, and said another location needing one, which he hadn't included in the list he'd recently provided, was on the west side of Red Tower. He spoke in some detail on the need for this fire lane. Mr. Hall also spoke about the need for pre-planning for buildings that had more than 50 people in them.

Administrator Selig noted that Fire Chief Landry would provide an overview on fire lanes at the meeting.

Sarah Badger Wilson, Coldspring Road, agreed that the Easter egg hunt had been an amazing success, and noted that there were over 4,000 eggs. She thanked everyone who had helped with this wonderful event, as well as everyone who had attended.

Ms. Badger Wilson thanked Administrator Selig and DPW Director Mike Lynch for trying to do something about the impacts from the recent flooding events. She noted that she lived on Cold Spring Road, and spoke about the flooding that had been occurring there. She said she and other residents out there had tried to adjust when necessary, but said her kids had missed 4 days of school, and also said this was a health and safety issue in terms of response times.

She noted that one of the only ways to get out of her area was to walk along the train tracks and go over the train trestle with the raging river below. She said the Town needed to do something about these problems, and she offered her services in helping to solve them.

Chair Carroll thanked Ms. Badger Wilson for her comments, and for her work on the Parks and Recreation Committee.

Albert LaRoche, 9 Wiswall Road, told Councilors that there was now 15 inches less in width on the new Wiswall Bridge, which meant that his mowing equipment might not be able to get through there. He said it wouldn't be his fault if he hit the railing.

Town Engineer Dave Cedarholm explained that the width between the curbs was about the same as it had been with the old bridge, so the road width was still the same. He explained that the railings on the old bridge, which had been falling off, had been attached to the outer side of the curbing.

He said this had not been a safe arrangement, and said the new guard rails had therefore been mounted on top of the curb, which resulted in a distance between the railings of 14 ft, when this had previously been 15 ft. He said this was an oversight on the part of the DPW. He noted that there had been 4 public hearings where Mr. LaRoche could have voiced his concerns, and also said Mr. LaRoche had purchased his mower since the hearing were held.

Mr. LaRoche said he thought the width would be the same as it had previously been.

Councilor Smith asked if Town plows would be able to get over the bridge.

Mr. Cedarholm said this would be tested, and said he didn't believe it would be a concern.

Chair Carroll summarized that the DPW would test the snow plow on the bridge. She said they would also look into Mr. LaRoche's concerns, and work with him on this.

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

- A. **RESOLUTION #2010-06** rescinding Resolution #92-13 dated July 6, 1992 in its entirety and reestablishing the guidelines for the existing Water System Capital Improvements Capital Reserve Fund
- B. **RESOLUTION #2010-07** rescinding Resolution #93-08 dated August 9, 1993 in its entirety and reestablishing the guidelines for the existing Sewer System Capital Improvements Capital Reserve Fund
- C. **RESOLUTION #2010-08** amending the membership of the Churchill Rink at Jackson's Landing Advisory Committee to lift the residency requirement and allow non-residents to be members
- D. **RESOLUTION #2010-09** amending the membership of the Durham Cable Access Television (DCAT) Governance Committee to lift the residency requirement and allow non-residents to be members
- E. **RESOLUTION #2010-10** amending the membership of the Durham Energy Committee (DEC) to lift the residency requirement and allow non-residents to be

members

- F. **RESOLUTION #2010-11** amending the membership of the Integrated Waste Management Advisory Committee (IWMAC) to lift the residency requirement and allow non-residents to be members
- G. **FIRST READING ON ORDINANCE #2010-04** amending Chapter 4 “Administrative Code”, Article IV, Section 4-18 of the Durham Town Code to lift the residency requirement for membership on the Economic Development Committee (EDC) and allow non-residents to be members
- H. Shall the Town Council, upon recommendation of the Town Administrator, schedule a public hearing for Monday, April 19, 2010 on **RESOLUTION #2010-12** authorizing the acceptance and expenditure of an Energy Efficiency and Conservation Block Grant in the amount of \$167,310 for street lighting upgrades?
- I. Shall the Town Council, upon recommendation of the Town Administrator, award a construction contract for the Mast Road utility extension project to American Excavating Corporation of Derry, NH for an estimated sum of \$345,849 and authorize the Town Administrator to sign said contract?

Councilor Smith MOVED to approve Unanimous Consent Agenda items, A through I. Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.

X. Committee Appointments

Begin the process for making annual appointments to vacancies on various Town boards, commissions, and committees

Administrator Selig noted that up until two years ago, the Council had asked nominees to introduce themselves to the Council and answer questions Council members might have. He said two years ago the Council had eliminated this requirement in order to streamline the process, for all positions other than those on the Planning Board, ZBA, and Economic Development Committee. He said the new process had worked well, but said the Council could now consider whether it wanted to continue with it or do something else.

Councilor Gooze noted that the paperwork said 4 people were applying for 3 alternate ZBA positions. He said he believed that one of these people, Chris Mulligan, would actually be applying for a regular position.

Councilor Mower suggested that applicants who were not residents could introduce themselves to the Council, especially if there was an excess of applicants. She said this might help in evaluating the strength of an application.

Councilor Clark and other Councilors agreed that this was a good idea. Councilor Clark agreed that ZBA and Planning Board nominees should come before the Council but said he didn't remember why the EDC had been singled out for this as well.

Administrator Selig said the EDC had been included because of concern among some about the implications of development in Durham, and the need to therefore be cautious about who was allowed to be on this committee.

Councilor Smith explained why he thought the Conservation Commission was in the same category as the ZBA and the Planning Board, and said it was for these three boards that applicants should speak with the Council.

There was further discussion.

Councilor Niman asked if Tom Elliot had any time left on his alternate EDC position, so that if he moved up to be a regular member, this would free up an alternate position.

Administrator Selig said he'd have to check on this.

Councilor Clark spoke in some detail about the fact that he thought board and committee chairs should be the ones who were considering the applications right now.

There was discussion on this, and discussion also continued on whether it was useful to have nominees come before the Council.

Councilor Gooze said he thought it was useful to have the opportunity to ask nominees some questions. He suggested that the Council could invite the applicants for the Planning Board, ZBA, Conservation Commission and EDC positions.

Chair Carroll asked if there were any applicants present that evening, and if so, if they would like to have the opportunity to speak before the Council.

Peter Ejarque 30 Long Pond Road, said he was an applicant for the Energy Committee. He noted that he was building a renewable energy house in Durham, which had received the necessary approvals from Code Officer Tom Johnson. He noted that his house had been part of the home energy tour last year.

He also spoke about the fact that he liked to make things rather than buy them, and said he was putting in solar water heating, a hydroelectric system, a wind generator, etc. He noted that he had taught a class on how to build a solar water heater for under \$100. He also said he was working on an all electric pickup truck, and expected to get on the road soon.

Mr. Ejarque said he was a member of the Rochester Energy and Sustainability Committee, which had started a monthly "Green Drinks" event in Rochester where a variety of people discussed environmental sustainability issues.

Councilor Gooze said Mr. Ejarque would be a perfect person to talk to about possible businesses coming to Durham.

Councilor Mower noted that EDC Chair Tom Elliot had attended Energy Committee and Conservation Commission meeting in order to better integrate the work of these different groups.

Councilor Clark agreed, and spoke about the importance of having diverse members on the various committees, as well as working a lot harder to integrate the work of these committees.

Chair Carroll said Councilor Clark always made the Council aware of the big picture, which was excellent. She also said she expected that Mr. Ejarque would be invited to speak at the EDC and other places where he could share his expertise.

Jim Lawson, 24 Deer Meadow Road, said he had applied to be a member of the EDC because he was looking for an opportunity to contribute to the Town, and thought this committee was important for Durham. He said before coming here, he had worked at large and small technology firms, and had co-founded a technology company. He said he had experience in finding places for businesses to locate, so could offer this as a member of the EDC. He also said if he wasn't chosen for the EDC, he would be willing to serve on an EDC subcommittee.

Kitty Marple, 82 Madbury Road, said she had applied for the resident member position on the Rental Housing Committee. She said she had become interested in the Commission's work over the last several months, as it addressed the single family home student rental issue. She said she wanted to be involved instead of complaining about this issue.

Councilor Mower noted that Ms. Marple had been at almost all of the Rental Housing Commission meetings since September of 2009.

Bill Hall said he was willing to serve again on the Lamprey River Advisory Committee, and noted his interest in protecting the Town's right to draw water from the river.

Councilor Mower said she had spoken with another member of the LRAC, who said Mr. Hall had participated in ways that had contributed positively to the work of the committee.

There was further discussion by the Council on how to proceed concerning the nominations. It was noted that they would have to figure out who got 3 year terms, 2 year terms, and 1 year terms.

Councilor Stanhope said he was troubled about the idea of inviting some nominees and not others.

Chair Carroll said Councilor Stanhope's point was well taken, and said this Council could make a decision on what process to use. She noted that past Councils had invited all nominees to attend, and said the most recent change had been made in order to make Council meetings more efficient. She said she thought the Council should make a decision to invite all nominees, or those that were already designated.

There was further discussion, and it was noted that in the past, incumbents had not been

invited. Administrator Selig pointed out that a reason for the change a few years back was to make things less stressful for applicants, so they wouldn't be deterred from volunteering. It was noted that nominees had in the past been invited but not required to attend.

After further detailed discussion, Chair Carroll said it sounded like the consensus was that all of the new applicants would be invited to attend the next Council meeting in order to be able to introduce themselves.

Councilor Mower asked how applications that were received after the deadline would be handled.

Administrator Selig said that wasn't an issue, noting that this was actually a rolling process in terms of filling positions.

Councilor Smith pointed out that the Council hadn't settled the issue of who would be the Council representative to the Integrated Waste Management Advisory Committee. He said he hoped Chair Carroll would do this, but said he would be willing to take the position if necessary.

Councilor Mower MOVED that Councilor Julian Smith be appointed as the Council representative to the IWMAC for a one year term, said term to expire March 2011. Councilor Cote SECONDED the motion.

Chair Carroll noted that Councilor Smith had been on the IWMAC before, so would be able to pick up where he left off.

The motion PASSED unanimously 9-0.

The Council stood in recess from 8:31 to 8:41 PM.

XI. Presentation Items

A. Update on Rental Housing Commission efforts – Paul Berton, Chair, RHC

Chair Carroll said Mr. Berton would provide the Council with an update on RHC efforts, noting that the Committee had been meeting much more often than usual, and had put in a lot of time over the fall and winter.

Paul Berton noted that he was a non-resident, and said he had been appointed as Chair because no one else wanted the job. He then read through the report that he had provided to the Council.

He said it had been a very busy year for the RHC, and that the epidemic of single family houses in residential neighborhoods being converted to student rentals had dominated their efforts. He said meetings at times were held every other week in an effort to address the issue, and said public input and exchange dominated the meetings. He noted that the

makeup of the Commission had changed to better reflect the Durham community and those affected by the issues.

Mr. Berton said there had been a big push by the general public to reinstitute the rental registry, or revisit the licensing of rental property. He said these approaches had been opposed by the landlords in the community because previous registries and documented occupancies by Town officials were not recognized by today's Town officials and boards. He said the DLA thought that further registries, licensing and inspection would only add fees, devalue properties, and would not solve the problem of student rentals of single family homes in residential neighborhoods.

He said common ground between the RHC and the public was focused on the enforcement of existing ordinances on problematic rentals in residential areas. He noted that Code Enforcement Officer Tom Johnson was able to hire someone to provide assistance in identifying and documenting properties in violation.

Mr. Berton said a very aggressive effort in enforcement had brought positive results on many fronts. He said some owners of properties in violation were complying, some owners were selling their properties, and some owners were going before the ZBA in an effort to comply. He also said student renters in those properties were recognizing that their occupancy was in violation, and were moving back into properties that were in compliance and professionally managed.

He said Mr. Johnson and his assistant should be recognized for these positive results, and also said Ann Lawing, UNH Assistant Dean of Students should be recognized for her efforts in communicating the issues at hand to the student body. In addition, he said the Durham Landlords Association should be recognized for communicating with and pressuring non-compliant landlords into taking action. He said Administrator Selig should be recognized for his guidance and for bringing forward the Town attorney to help the RHC address the problems.

Mr. Berton said another big issue the Commission had attempted to address was the large groups of students that roamed around the community in search of social gatherings. He said these groups tended to be dorm-based underclassmen looking for "leadership" and "interaction" with upperclassmen. He said their movement through the community was disturbing to residents, and said it was thought that addressing the single family student rental issue would go a long way toward solving this social migration issue. He said another solution being researched was a social occupancy ordinance to address large gatherings.

He said the Durham community, despite its frustration at times with the RHC, should recognize how fortunate it was to have it in place. He said its original design, to bring all the players to the table in addressing the challenges of hosting UNH, was intact and making progress. He noted that there were other college/university communities facing similar challenges without such a mechanism in place. He said that perhaps the biggest weakness of the RHC was its leadership or lack of leadership. He said perhaps it was

time for someone new at the helm of this ship.

Mr. Berton noted that a number of Councilors had been very active in regard to the RHC. He said the Commission had been in existence since 1994, and he spoke about the fact that the rental of single family homes to students had reached epidemic levels.

Councilor Gooze thanked Mr. Berton for heading the RHC during these difficult times. He said he wasn't sure the situation was quite as rosy as Mr. Berton had pictured, stating that while there had been some improvement, as spring approached time would tell. He said he had spoken with the Code Officer about the fact that when a property wasn't in compliance, there was tremendous difficulty showing this. He wasn't sure that this issue had been addressed.

He spoke about ongoing efforts through the Police Department concerning enforcement of the noise ordinance. He also spoke about a possible large assembly ordinance as well as a possible disorderly house ordinance, but said none of these things got to the root of the problem of single family houses that were not upholding the 3 unrelated provision.

He spoke about the history of the 3 unrelated provision, and said the feeling of the neighborhood associations now was that the way to get enforcement of it was to push for some kind of registration, so the Town would know which houses were owner-occupied and which were not. He said it was non-owner-occupied single family homes that caused the problems 99% of the time, although noting that there were some non-owner-occupied properties that were ok. He said the Durham Landlords Association was pushing against the idea of an ordinance, while the neighborhoods were pushing for it. He said he wasn't sure where the RHC stood on this.

Mr. Berton said the problems were by no means solved. But he said he was impressed by how dialed in students now were to the 3 unrelated issue, and said they were asking the right questions and steering themselves in the right direction. He said he had seen a slight improvement, and said he thought there would be more.

Councilor Gooze said he hoped the Town did see improvements.

Councilor Stanhope said he hoped the RHC would look closely at the social occupancy ordinance/permit idea, stating that there was a life safety issue in terms of large groups of people in these non-owner-occupied properties. He said the registration idea was good, but said it didn't solve this problem of large groups of students. He said a social occupancy ordinance would specify the maximum load allowed in a building, and a way to respond to noise and other nuisance problems. He said while these problems couldn't be completely eliminated, he thought this ordinance would help, and said he hoped it would be considered.

Mr. Berton noted that such an ordinance would apply Town-wide.

Councilor Mower said the RHC was looking at many approaches. She said a hope of

residents was that the ultimate goal of preventing conversion of single family houses would be enhanced by the steps the RHC took. She said registration would help in many ways to address this.

Councilor Stanhope asked that with any proposals that were brought forward, the cost/benefit to Durham would also be provided.

Councilor Mower suggested that Councilor Stanhope could help determine this.

Councilor Sievert asked if there was another way to approach the situation where people were converting single family homes to student rentals.

Mr. Berton said it would be great if they could be approached at the purchase and sale level, when the rules and regulations could be presented and they could run the numbers based on the proper occupancy.

There was discussion about this, and about the fact that when a single family home was made into a rental property, it didn't make sense from a financial perspective to operate it with only three unrelated people.

Councilor Gooze said that number reflected quality of life and health and safety issues, and said it had been upheld around the country. He also noted that they had been in the midst of an economic storm, where people had needed to sell their properties. He said he thought things were getting better because of a lot of hard work, but said they weren't there yet.

Councilor Cote said an additional issue was that students sometimes sub-let their apartments without the landlord's knowledge. He said he had been looking at ordinances around the country, and spoke about the idea of a social occupancy ordinance. He said while he was not a big regulator, he thought they could get a better handle on this.

Mr. Berton noted that another part of the problem with the single family houses was that the professional landlords in Town had monitoring systems, etc., in place, which had driven some kids to go find a house to live in. He also said things were very restrictive in the dorms.

Councilor Cote said part of a social occupancy permit was the immediate right to revoke, which would shut down a party.

Councilor Mower said a lot of approaches used by others towns had been looked at and said a handful would continue to be pursued.

Mr. Berton said the next RHC meeting would be held on May 5th at 4 pm. He noted that Ms. Marple, who had applied to be resident member of the Committee, had been very helpful in recent months.

B. Designation and Enforcement of Town Fire Lanes – Corey Landry, Fire Chief

Chief Landry said he had driven around Town and done a full evaluation of each of the fire lanes listed in the Ordinance. Concerning markings for fire lanes, he said he had found that some locations that were marked said no parking, but not no parking/fire lane. He noted that this was the case at Wagon Hill, and said he felt this kind of signage was sufficient.

He said he had forwarded to DPW a list of Town-owned fire lanes that weren't marked properly. He said he didn't think all of them need to be marked, and gave dry hydrants as an example of a situation where it might be overkill. He also said he wanted to make it clear that the Ordinance required a sign or painting of the fire lane, but not both, and said he thought that was good.

Concerning specific fire lanes, he said the fire lane for Oyster River High School was in the travel portion in front of the building. He said no one parked there, other than temporarily, and said he thought painting a fire lane there would be a waste of money.

He said there were definitely some fire lanes that needed to be marked properly, such as the area next to the Church Hill apartments. He said he had received Mr. Hall's list. He then reviewed in detail the changes he thought were needed.

He said if they were going to look at putting in new fire lanes, a legal question was if the Town could go to an existing building that was not before the Planning Board and wasn't looking to change anything, and say it had this new restriction. He said if they were going to do that, they needed to follow the Ordinance, including the fact that there had to be a fully sprinkled building.

Councilor Mower asked Chief Landry if he believed the code should be changed.

Chief Landry said it followed the national standards, and Councilor Mower asked if it was specific for Durham. She asked if there could be something for college towns.

Chief Landry said he hadn't looked at it that way, but said for a place like Campus Convenience, he would rather see a sprinkler system there rather than a fire lane. He noted that there had been a fire there in recent years, which the sprinkler system took care of.

There was discussion about the need for fire lane signs every 100 ft along Madbury Court.

Chief Landry said he was not in favor of eliminating any fire lanes, but would like to see more leeway as to what needed to be marked. He said he thought his examples on this were pretty clear.

Administrator Selig noted the concerns that had been raised about enforcement of fire

lanes, and about pre-planning.

Chief Landry said if there was a Town adopted fire lane, or a no parking area, the Police Department could enforce this whether the violation was on Town property or not. He said if the fire lane wasn't marked properly, the Fire Department needed to say it should be marked.

Councilor Mower summarized that addressing a violation of a fire lane was the job of the Police Department, and improper marking of a fire lane was the purview of the Fire Department.

Chair Carroll noted that there were two different Police Departments in Durham and asked how this related to enforcement of fire lanes at UNH.

Chief Landry said there was also Parking Enforcement at the University, and said they were pretty good at writing tickets for fire lane violations. He said the Field House issues and Whittemore Center issues were being addressed, and he provided details on this.

Councilor Gooze said he wanted to know what the next step was concerning the fire lanes designation.

Chief Landry said for fire lanes on Town property, the DPW would do this, and also said he was sending letters to private property owners regarding signage needed on their properties.

Chair Carroll noted that DPW Director Mike Lynch was present.

Mr. Lynch said it was on his list to do this.

Councilor Cote said Chief Landry seemed to be ambivalent about strict marking of fire lanes.

Chief Landry said he looked at the occupancy, and said he handled this on a case by case basis. He said in some places it absolutely made sense, but said he wasn't sure regarding dry hydrants in some locations. He said there were fire lanes in the Ordinance that didn't meet the criteria, but said he wasn't saying they should be taken out, stating they had been put in the Ordinance for a reason.

Councilor Cote said he thought dry hydrants should be marked, and provided details on this. He said it would be one more kind of leverage to take enforcement action if needed.

Councilor Stanhope asked when it was expected that the additional signage would be complete, and Mr. Lynch said it would be done before the first of May.

There was further discussion about possible marking for dry hydrants.

Administrator Selig noted that signage was a stronger deterrent to parking in fire lanes because the painting of the lanes was covered up in the winter.

Chief Landry spoke about the issue of pre-planning. He said in theory it was a great idea to do a pre-plan, where every step was mapped out. But he said the fire that was planned for wouldn't be the one that happened. He said there couldn't be a playbook for every fire, stating that he had tried this and it didn't work. He said the firefighters knew the details of buildings in Durham, some of them high hazard buildings, and explained that this level of knowledge was expected because they had a small force. He said they were always collecting information on properties, but noted that if they had to do every building at UNH they would need some administrative assistance to do this.

Bill Hall said no traffic regulation without a sign would hold up in court, and said the signs for the fire lanes were needed. He said the signs at Wagon Hill and Jackson's Landing should say no parking/fire lanes, not no parking/fire lane. He also noted that tickets for parking in fire lanes were more expensive than tickets for parking in no-parking areas.

Mr. Hall said he had seen a bus parked in the fire lane during a recent event at the Field House.

Asked what the Police Department's policy was concerning parking in fire lanes, Administrator Selig said the Department asked people to move along. He said it was not a ticketable offense to be in the car, but said an unattended car would be ticketed. He noted that when the Police Department did this, people complained, and said there was sometimes an opportunity to educate people so they wouldn't do this in the future. He said on University property, enforcement was delegated to the University Police Department, and said according to Chief Landry, they enforced pretty aggressively.

XII. Unfinished Business

Continued discussion relative to the establishment of Town Council goals for 2010/11

Chair Carroll said the Council would need to consolidate, simplify, and prioritize the information in the draft goals. She also said they needed to be turned into action items, as a roadmap to move forward.

Administrator Selig said he had taken the 2009-2010 approved goals and added the new comments from Councilors, unedited, into the sections that made sense. He said the Council should try to come to consensus on major topical areas, and priorities for the coming year, and said the draft would then be reworked into a more streamlined version. He said it was also important to realize this document was more than a goals statement, explaining that there were strategies in it. He said once the large goal topics had been identified, the tactics to achieve the goals could be filled in.

He said there was tremendous consistency in the comments received, and said there seemed to be a lot of consensus that the broad topic areas already in the document were

still relevant, although some reprioritization needed to be done. He noted that the student housing in the neighborhoods issue needed to be a higher priority.

He said another high priority goal according to Councilors was to move forward with the recommendations from the B. Dennis process, and to allow it to drive a lot of the Council's efforts. He said this was an all-encompassing goal, involving looking at traffic patterns, the Zoning Ordinance, etc.

He said another major theme was sustainability, which he noted meant different things to different people. He said a lot of comments focused on building out the central core of the downtown to work against sprawl. He also said there were comments on keeping a close eye on the Budget so living in Durham wouldn't be unaffordable. He said there was a lot of common ground around redefining what sustainability meant for Durham.

Administrator Selig said it was important to think about whom their customers were, and who they were trying to serve. He said the previous year, there had been a lot of focus on broadening the tax base, and streamlining the process that developers had to deal with when they came to Durham. He noted other customers were residents that were less concerned about the tax base, more concerned about the quality of life, and didn't necessarily want a streamlined regulatory process.

Councilor Gooze said since he had become a Councilor, he had been asking people what they wanted, and had heard a lot of opinions on this. He said he would love to see a streamlined permitting process, and said he thought it could be done, as part of deciding where projects could go, in order to protect the neighborhoods. He said people got upset when a new development came right up to them, and he spoke about how the current Zoning allowed this. He said this didn't make sense to him, and said there was a tremendous amount of community uproar about this. He said there needed to be something that protected the neighborhoods.

Councilor Clark said last year, the Council had talked about a sequence that would allow them to accomplish their objectives. He said the planning came first, and then came the zoning. He said it was clear that some rezoning would be needed in order to have a true commercial core, and buffer zones between it and the neighborhoods. He said if they could start with a clean piece of paper it would be easier. But he said they now had a chance, with the vision that had been developed, to do things the right way. He said the Council needed to make sure the plan was adopted, should develop the sequence for implementing it, and then should work on the zoning.

Councilor Mower said the Council should remember that the finalized list of goals would become a to-do list for Administrator Selig.

Administrator Selig agreed, and said it was also a list for Town staff and committees, and helped to inform the activities of Council members.

Councilor Mower said it made sense to come up with a reasonable number of goals, and

said they perhaps would achieve more if there was a small number.

Administrator Selig said Councils varied on this. He said last year's list, although long, was manageable, and helped provide boards and committees with direction. He noted that during the orientation process with board and committee officers, he had talked about the Council's goals, and asked them to focus on the things on the list.

He said a good number of the goals had been accomplished. He said a tremendous amount of effort was put into the hotel project, as well as the Mill Plaza study, but unfortunately these projects hadn't moved forward. He also said while it was important to narrow the list down, it was good to have an all encompassing view. He said this allowed the Council to make decisions on the fly and be more proactive, when they had already taken a stance on a particular issue as shown in the goals.

Councilor Gooze suggested that there could be a couple of key paragraphs about rental housing, and the importance of preserving the integrity of the neighborhoods.

There was discussion about categorizing and then prioritizing the goals.

Chair Carroll asked what the highest priorities were, and the following list was developed:

- Rental housing
- B Dennis follow through; focus on the Central Business district.
- Support all initiatives to protect water, stormwater, drinking water; stay ahead of curve on this
- Community vibrancy, quality of life, making Durham a sustainable town from all perspectives

Councilor Clark said sustainability could be an overarching theme, and said most things on the list were then either quality of life or economic sustainability goals. He said focusing on the tax base wasn't enough, and said while new development should be a goal, there should also be things like attracting young families.

Councilor Gooze noted the School District issue, and said the Town had a huge stake in this.

There was discussion about how tax stabilization fit with the two goal categories of quality of life and economic sustainability.

Councilor Clark said looking at these as two buckets and what should be put in them, they could start to prioritize things. He said he thought implementing the B Dennis plan was the big goal, and said the neighborhoods was also a high priority item, while things like the schools would be a secondary goal.

Councilor Stanhope noted that there were three major projects for the future, including a new Fire Station, a new Library, and a new Town Hall. He said he would like to see some degree of closure on them.

Councilor Mower said it was important to consider concerns about moving forward on these projects. She said if they were going to recognize some synergies of Town functions, they would need to plan for a site that would be large enough, down the road.

Administrator Selig said the issue was really what the definitive sites would be for these facilities.

Chair Carroll said firming up these sites could be a goal. She then suggested that Councilors give Administrator Selig some instructions on how to move forward concerning the goals document.

Councilor Cote asked if Administrator Selig could condense it for the next meeting, and Administrator Selig said he would develop a streamlined version of it and send it to Councilors.

Councilor Stanhope said he thought Administrator Selig should administer this and decide what Town staff could handle this year, and then circulate the goals list back to the Council.

Councilor Niman said he didn't have any problem with this, but said there still seemed to be a big hole in all of this. He said that concerning the idea of moving forward with the B. Dennis recommendations, he didn't know what this meant, and said different people were taking different things from them. He said while some of the other goals could be left to Administrator Selig, he wasn't sure the Council had given B Dennis enough guidance for the additional work the firm would be doing. He suggested that they spend some time consolidating the goals related to the B Dennis plan.

Councilor Mower said when she thought about what moving forward with the B Dennis Plan meant, she was thinking concretely, as some others did, about looking at traffic, and the layout of the downtown, which would require discussion with UNH, funding, etc., before looking at a form-based code.

Councilor Niman said he liked the idea of two way traffic on Main Street and Pettee Brook Road, and would like to hear the Council say it would like to know if this, and the idea of smaller streets in the area would be feasible. He said he would like to know when the Council would do that.

Councilor Clark said he believed that there were three important things needed in order to get the B Dennis recommendations to the next stage. He said the first was to look at the final report and build consensus around what it said, and adopt it as a framework for how they would approach the revitalization of the Central Business core.

He said the second thing needed, once the plan was adopted, was to do a market study. He said the third thing was to divide the work they wanted to do into phases, and come to agreement on what should be done in year one so they could start making progress.

Councilor Mower asked if it would be possible to decide that evening that the Council was in agreement that they would like to see a two way traffic pattern. She said changing this would require some lead time, in order to integrate it with other elements.

Administrator Selig said there was definitely interest in exploring that, and said a traffic study would be needed among other things.

Councilor Gooze said he agreed with what was on the bottom of page 2 and the top of page 3, and said they needed to find out what was feasible, and what could be done this year. He also said there seemed to be agreement that a marketing study was needed.

Councilor Niman said there were limited resources, so they had to figure out how to phase things, and how to pay for things. He said they needed to consider the idea of doing a marketing study, but he also said realigning the streets would be very expensive. He said they needed to consider how to finance this, and noted the possibility of creating a TIF district downtown. He said someone would have to be hired to write that.

He noted that there had been discussion on the fact that the current Zoning might not be getting them what they wanted, and that they might have to make some short term changes. He said in the long term they might decide to do something entirely different, and said that would cost money.

He also said running the traffic model would cost money. He said he hoped to have a conversation on these things that were needed, which would cost money. He said there also needed to be a broader discussion on properties to put future Town facilities. He said everything was integrated, and said they shouldn't compartmentalize things. As an example, he said the choices they made concerning the downtown might affect some of the choices for the Fire Station.

He said there also needed to be discussion about whether there would be a parking structure, noting that this would influence the kinds of things they could have downtown. He also noted University discussion on a possible performing arts center, which he said would drive business development downtown. He said another question was whether there was a place for a parking structure that would work for the Mill Plaza and dramatically reduce the amount of parking needed there. He said the Council needed to have that conversation, either at a special meeting or during a Council meeting.

Councilor Sievert said he was confused about how many goals would be a priority. He said they hadn't given B Dennis the green light, and said they really needed to sit down and look at the plan and say what they wanted from it. He said all those streets on the plan wouldn't work, and said to make that plan go forward, the Town, the University and B. Dennis needed to be at the table. He said after that, the goals would fall into place. He said something like the new fire department building would then either fall in or out, as they looked at the traffic issues.

Councilor Mower said they also needed to remember that there were developmental changes occurring in Town right now. She said they should consider whether there was anything they could or should do to guide those changes, so that between now and when they settled on the plan, most of those changes would fit in. She suggested that one thing they could do was to look at developing design standards.

Councilor Gooze asked what the Council could do to encourage the kind of retail they wanted as these new developments were going up.

Councilor Sievert said while they couldn't eliminate pizza places, at some point there would be saturation. He also said they needed to take a hard look at parking, stating that they wouldn't get larger businesses and better businesses without centralized parking. He noted projects being done where the parking was eliminated, and said in some ways this was good, and some ways it wasn't. He said not everyone would ride a bike into Town.

There was discussion about the fact that the University would also benefit from structured parking downtown, and that the University had expressed interest in this.

Councilor Clark said adopting this plan was the answer, in terms of design standards and all of the things that scared them. He also said the most important part of a marketing plan would be the capacity part, and said the plan would answer a lot of their questions concerning parking, etc. He said he also believed that if they built it, developers would come. He said he ran into people all the time who wanted to establish a business in Durham, but didn't because there was no place.

Chair Carroll said she wasn't against doing a marketing study, but noted that they had a real life situation with the new development built by Mathew Crape, which had commercial space on the first floor. She said they should talk to him about what he was dealing with, trying to attract businesses.

Councilor Niman said he agreed with Councilor Sievert, and said the solution was to get grownups in the downtown. He said this was why so much work was being done concerning the new business school, a possible hotel and a possible performing arts center. He said the biggest problem was making the numbers work for grownups to come to Durham. He said at some point, the Council needed to have a discussion about whether they were willing to put up tax dollars to promote grownup activities, so they would have a tool to stop pizza joints, etc.

Councilor Sievert said it seemed like everything fit into the two buckets, of quality of life and economic sustainability.

Administrator Selig said he would make every effort to reformulate the goals based on the discussion.

XIII. New Business

- A. Review the role of Town Council members, the Council Chair, and the Chair Pro Tem
Councilor Smith said Administrator Selig had provided good information on this, and said unless new members of the Council had questions on it, he didn't think the Council needed to discuss it.

Councilor Stanhope said he thought the Council would be better served moving into nonpublic session.

It was agreed that the discussion on the different roles could be postponed to another time.

Councilor Mower MOVED to postpone XIII A, and move directly into nonpublic session. Councilor Smith SECONDED the motion, and it PASSED unanimously 9-0.

Councilor Smith MOVED to extend the meeting beyond 10:30 pm. Councilor Sievert SECONDED the motion, and it PASSED unanimously 9-0.

- B. Other business - None

XIV. Nonpublic Session

Councilor Smith MOVED to go into nonpublic session according to RSA 91-A:3 II d, consideration of the acquisition or sale of real property, regarding a potential library site, the DiMambro property at 49 Madbury Road. Councilor Gooze SECONDED the motion, and it PASSED unanimously by roll call vote:

<i>Chair Carroll yes</i>	<i>Councilor Sievert yes</i>	<i>Councilor Niman yes</i>
<i>Councilor Mower yes</i>	<i>Councilor Smith yes</i>	<i>Councilor Gooze yes</i>
<i>Councilor Clark yes</i>	<i>Councilor Cote yes</i>	<i>Councilor Stanhope yes</i>

The Council entered Nonpublic Session at 10:32 PM.

The Council returned to public session at 11:07 PM.

Councilor Stanhope MOVED to seal the nonpublic Minutes. Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.

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

XVI. Adjourn (NLT 10:30 PM)

Councilor Stanhope MOVED to adjourn the meeting. Councilor Sievert SECONDED the motion, and it PASSED unanimously 9-0.

Adjournment at 11:09 pm

Victoria Parmele, Minutes taker