

**This set of minutes was approved at the December 6, 2010 Town Council meeting**

**Durham Town Council Agenda  
Monday October 18, 2010  
Durham Town Hall - Council Chambers  
7:00 P.M.**

**MEMBERS PRESENT:** Chair Diana Carroll; Councilor Neil Niman; Councilor Julian Smith;  
Councilor Peter Stanhope; Councilor Mike Sievert; Councilor Jay Gooze

**MEMBERS ABSENT:** Councilor Doug Clark; Councilor Robin Mower; Councilor Bill Cote

**OTHERS PRESENT:** Business Manager Gail Jablonksi; Police Chief Dave Kurz

**I. Call to Order**

Chair Carroll called the meeting to order at 7:06 pm.

**II. Approval of Agenda**

***Councilor Smith MOVED to approve the Agenda. Councilor Sievert SECONDED the motion.***

Councilor Stanhope said that under the Unanimous Consent Agenda, it would be helpful to see not just the amount of the reduction in the property tax assessments, but also the dollar amount being returned in taxes, since this was beginning to have a significant impact on the Town Budget, going forward. He said it wasn't totally transparent to the public when they didn't see the error rate and exposure that came about because of the incompetence of a former employee.

Chair Carroll said this was a very good observation, and said those figures were important for the Council and the public to have. She asked Ms. Jablonski to provide this information. She also noted that under Unanimous Consent Agenda Item B, the numbers in the Agenda should be \$861,600 and \$67,300.

***The motion PASSED unanimously 6-0.***

**III. Special Announcements - None**

**IV. Approval of Minutes - None**

**V. Councilor and Town Administrator Roundtable**

Chair Carroll noted that Administrator Selig was away at a conference, and that Ms. Jablonski was filling in for him.

Councilor Gooze said the Rental Housing Commission had met recently, and got some good input from University students and administration, the Durham Landlord Association, and residents who had concerns about the neighborhoods. He said the student representatives had come up with the idea of putting up signs people would see as they entered the core neighborhoods, which said “Quiet appreciated, family neighborhood”.

He said this idea was discussed at the meeting, and it was agreed that the students would work with on it with UNH Dean of Students Ann Lawing. He said he had volunteered to consider where the signs could be placed.

Councilor Gooze said the RHC also discussed the Coe Drive problems. He noted that one of the properties involved housed UNH football players, and said some emails were being sent to the football coach regarding this issue. He said there was discussion at the meeting about the idea of sitting down with Coe Drive rental housing property owners.

He said Durham Landlord Association representatives Mark Henderson and Paul Berton said they wanted to get the disorderly house ordinance going. He noted that it was supposed to be a deterrent.

Councilor Gooze also said the Commission discussed the recent tailgating episode on Young Drive involving about 1500 people. He said it was so crowded that there was no access for emergency vehicles.

He said The RHC had decided that because things were rolling along relatively well, and especially with the winter weather approaching, the next meeting would be postponed.

Councilor Stanhope spoke again about the issue of bikes being able to safely navigate the new roundabout on Main Street heading out to Route 4. He said bicyclists heading westerly in the bike path that had been designed were instructed by the Town solution provided in the Friday Update to cross both the west bound and east bound car traffic path, and then enter onto a sidewalk. He noted the safety issues involved with this, and also said it violated the Town ordinance, which prohibited riding a bike on the sidewalk.

He said bicyclists making it that far and wanting to proceed westerly would have to cross the east bound and west bound traffic again to get to a designated bike lane on the north side, heading west. He said there was no provision in the plan that was published for a bike rider to reach there, or for a pedestrian to cross on a marked walkway in order to reach there. He also said there was no provision for a bicyclist entering the roundabout from the north and proceeding in either direction, other than to ride around the roundabout.

Councilor Stanhope said this was symptomatic of a bigger problem in that there had been a complicated design phase that was lacking in the common sense that the design would be creating a significant safety risk to bicyclers, at a time when bicycling was being encouraged as an alternative form of transportation. He said the plan was badly flawed.

In answer to a question from Councilor Smith, Councilor Stanhope said the majority of bicyclists were simply following car traffic around the roundabout, rather than following the route that had been designed for them. But he said there wasn't enough room for both cars

and bicycles in the roundabout. He said it was a safety issue, and also noted that foliage planted in the middle of the roundabout would block views.

Councilor Smith said he would keep an eye on this issue, noting that he was on the Traffic Safety Committee.

Councilor Sievert asked how a bike having to maneuver the roundabout was really any different than having to maneuver at intersections in Town. There was discussion about this, and also about how the Zoning Ordinance defined a sidewalk.

Councilor Gooze pointed out that the designed path for bikes was called a pedestrian bike lane.

Chair Carroll spoke in some detail on the multi-use path that had been designed, which she said was meant for walkers, bicyclists and joggers. She said it allowed someone to walk from the West Edge parking lot to downtown Durham. She said she had just attended a ribbon cutting ceremony for the path, and had thanked those who had worked on the project. She noted that there were several environmentally sensitive criteria built into the project, including the fact that the path itself was permeable.

She also said the lights were faced entirely down, so they wouldn't light up the entire area. She said they weren't LED lights right now, but would be. She also said because the path wasn't right next to the road, it made walking and bicycling a lot safer. She noted that most of the money for the project came from the federal Stimulus fund, and the rest of the cost was shared by the University and the Town.

Councilor Gooze read the definition of sidewalk, which didn't include use by bicyclists, but said he didn't think anyone was going to get arrested for riding a bike on a sidewalk.

Councilor Stanhope said his greater concern was whether the Town had taken on extra liability with this situation.

Chief Kurz spoke in some detail about the fact that there were safety issues with riding bikes on the street as well as riding them on the sidewalk. He also noted that the Police Department didn't really have enough time to focus on enforcement concerning this issue.

There was discussion on the legal issues involved if someone walking on the path got hit by a bicyclist. Chair Carroll said perhaps a legal opinion was needed on this.

There was further discussion on the importance of keeping legal costs down. On another issue, Councilor Stanhope asked how close to \$6,000 was spent to prosecute what seemed to be a fairly simple case, involving Town enforcement actions concerning a student rental property.

Chief Kurz said the case Councilor Stanhope referred to was a civil violation, which was not his Department's specialty.

Councilor Stanhope asked if this cost sounded reasonable.

Chief Kurz said it was the cost of government, and said they could let a lot of things go if they wanted to. He noted that he liked to spend money on an attorney in order to avoid problems whenever possible, and not after the fact.

Councilor Gooze said this was the first time the Town had gone after this kind of situation, and said he expected the process to go smoother in the future so that they might not need an attorney to be involved. He said the Town wanted to be sure that this first case was done the right way.

Ms. Jablonski noted that the court hadn't seen a case like this before, and she provided details on this.

Councilor Gooze said the Town might have to go to Superior Court with this first case.

Councilor Stanhope said statutorily, it would be good if the Town could put a lien on a property in that kind of situation.

Chair Carroll said it came down to what it cost to protect the neighborhoods, and noted that a lot of time had been spent on this issue. She said this case was important, but said it was also important to find ways that were less costly and to fine tune the Town's ordinances and make them as efficient as possible.

Councilor Stanhope noted the legal fees incurred by the Rental Housing Commission, and said Town committees and the Council needed to be careful about why and how often they used these services.

Councilor Smith said the Planning Board had met the previous week.

- He said the Board approved amendments to a previously approved subdivision application submitted by Joe Caldarola, after a public hearing and deliberation on the application.
- He said there was a public hearing on a site plan application submitted by MetroPCS on behalf of the University for a personal wireless facility on Christenson Hall. He said the application was approved.
- He said the Board accepted an application for an amendment to a previously approved site plan and conditional use permit application for a new building planned for the corner of Pettee Brook Road and Madbury Road. He said the applicant planned to add a fourth floor for commercial use, and said the public hearing on this was scheduled for October 27<sup>th</sup>.
- He said the Board scheduled a public hearing on the Council-initiated proposal to amend the conservation subdivision regulations to apply them to the ORLI and MUDOR districts.

Councilor Smith noted that Councilor Mower wasn't present, and had asked him to read her summaries of the recent Conservation Commission meeting she had attended.

In her written statement Councilor Mower said the Conservation Commission had approved an allocation of \$36,056.82 from the Conservation Fund to cover the outstanding expenses from the Jackson's Landing improvements. She said the approval followed a discussion noting the Commission's commitment at the outset of the project to cover the gap from other funding

sources, such grant monies. She said this new allocation brought to a total of \$163,057 the funds approved by the Commission for this project, which was initiated largely to address issues of erosion, sedimentation and the invasive phragmites grass.

She said the Commission had respectfully declined to allocate Conservation funds for an extension of the boat ramp at Jackson's Landing, noting that to add to the disturbance of the sediment would go counter to the goals of the Commission. But she said the Commission had noted that there might be alternate sources of funding, such as Coastal Zone program grants targeted at providing access to waterways.

Councilor Mower said the Commission had also respectfully suggested that the expertise of the Commission would be more appropriately directed to the actual review and amendment of the Environmental and Cultural chapter of the Master Plan than to the preliminary organizational planning that was the charge of the Advisory Committee. She said the Commission questioned whether representation by any Town board or committees was necessary at this stage.

Councilor Sievert noted that when Parks and Recreation Committee Chair Sarah Badger Wilson had provided her annual report to the Council at the previous meeting, she had forgotten to give thanks to the DPW for all the work they did to help the Committee and the Parks and Recreation Department. He said the projects simply couldn't be done without DPW's assistance, and he thanked them for all that they did for the Town.

Chair Carroll said she was reporting on behalf of Councilor Cote, who was not present at the meeting. She said Councilor Cote had said that on Saturday night of Homecoming weekend he had gone out on patrol with Chief Kurz from 10-2 am, and had been surprised to see that things were almost under control.

She said Councilor Cote believed this could be attributed to the fact that both police departments had a great presence both on and off campus. She said he had said that the officers had interacted with the young people very well and in a professional manner, and that he hadn't seen some of the activities he'd seen in the past, so felt that some progress was being made. She said Councilor Cote noted that there had been a stabbing that weekend, and that the campus alert system had then gone into effect, and someone consequently came forward to report what he had seen.

Chair Carroll thanked the Durham Police Department and the UNH Police Department for handling these situations so well.

Ms. Jablonski said the School Board was looking for Town representatives for their new Budget Advisory committee. She also told Councilors that the proposed Town's Budget for 2011 would be presented at the November 1<sup>st</sup> Council meeting, and said they were doing their best to keep the Budget to as low an increase as possible.

## **VI. Public Comments**

**Jenna Roberts, 15 Cowell Drive**, said she was a candidate for the NH House of Representatives, and said she was committed to having good communication with the voters

of Durham, Lee and Madbury, as well as with the various government entities. She noted that much of what happened in Concord impacted local governments.

Chair Carroll introduced **Denise Hart**, the northeast Director for the organization Food and Water Watch.

Ms. Hart said the organization had recently opened an office in Durham so was a new member of the Durham business community. She said she had worked for this organization for two years, and also noted that she had started Save Our Groundwater. She said protecting water for the public interest had become a personal passion, and she provided details on the kinds of issues that Food and Water Watch was involved with.

<http://FoodandWaterwatch.org>,

She said their Renew America's Water campaign was a program to get a Congressional bill passed that would set up a municipal trust fund for water and wastewater. She noted that federal grants that used to be available for these systems had been cut dramatically in the last several years. She said her organization believed these public systems should be held and operated by the public. She noted that there were water systems in NH that were privatized, and gave as an example of this North Hampton's water system which she said was owned by a bank in Australia.

Ms. Hart introduced **Taylor Millemum**, a 10<sup>th</sup> grader who had done a "Power of One" project that focused on bottled water. He said as part of this project, he had shown a movie at the High School, and also helped provide tap water for the St. Thomas Moore yard sale. He said volunteers and visitors at the yard sale used about 5 cases less of bottled water than had been used the year before.

**Stephanie Bosits**, the "Take Back the Tap" student coordinator at UNH, also discussed the work she had done to spread awareness on campus about water. She said there was a new water filtration system at the Student Union that was a big hit with the students, and said she was researching ways to get more of them on campus, and was also looking at other ways to educate students on water issues.

Ms. Hart spoke about some ways that Durham could get involved. She said they were looking for communities to sign onto the principles of Renew America's Water, which could help in obtaining grant money for municipal water systems. She said she could provide a sign on letter for this.

She noted that sustainability was a priority of the Town Council, and said her organization could assist Town organizations with doing events without bottled water. She said not spending money on bottled water for the Town could perhaps be a great cost savings, and money saved could be put toward the Town's water infrastructure. She said they should celebrate Durham's local tap water, which was a wonderful resource, and said her organization could help Durham's water system be the best that it could possibly be.

Councilor Gooze asked Ms. Bosits how the approach being taken at UNH worked.

Ms. Bosits said there was a hands-free filtration system set up at the Student Union, and said they were looking to do this same thing at the Library and the gymnasium.

Councilor Sievert suggested that Ms. Bosits should talk with the Parks and Recreation Department about using this program to reduce bottled water use at their events. He noted that he had also suggested that there should be burgers made of locally grown beef at Durham Day, and said hopefully this idea would catch on next year.

Ms. Hart said she could put Mr. Sievert in touch with Seacoast Eat Local about the idea of using locally grown beef. She also said there were some interesting ways to do bottle-free events, and provided some examples of this.

Councilor Sievert said Parks and Recreation would be excited about this approach.

Chair Carroll said she had been a volunteer at the St. Thomas Moore yard sale that Tyler had been involved with, and said it was wonderful that the water that was provided there was not in a plastic bottle. She noted that this idea took awhile to catch on, since people had become used to using bottled water. She also noted that UNH was using real glass for its drinking glasses now.

Ms. Hart said a variety of materials could be downloaded at the Food and Water website.

Chair Carroll thanked Ms. Hart, Taylor and Stephanie for the presentation, and asked them to let the Council know if there were other ways the Council could get involved.

**Bill Hall, Smith Park Lane**, spoke in great detail on his disagreement with several aspects of the presentation and discussion on the 401 certificate at the previous Council meeting. He said the whole 401 certification process had been abusive, and asked that there be someone other than Mr. Cedarholm and Administrator Selig involved in this process now. He said he had been told that things were likely to be more restrictive in the future.

Chair Carroll acknowledged that Mr. Hall had brought some information forward, but she questioned the statements he had made about Town employees.

She then noted that there were some public hearings scheduled for that evening, but said people were welcome to speak now on the issues being addressed at those hearing, if they needed to leave early.

**Steven Weglars, Cedar Point Road**, spoke concerning the proposed stop sign on Cedar Point Road. He said there had been a stop sign there at one point, and said he wasn't sure how much safety would be gained by putting it back. He said a better way to improve the safety of the neighborhood would be to decrease the speed limit below 30 mph, a limit which seemed ridiculous for that road, which was barely wide enough for two vehicles. He noted that he and his wife had four children, and were concerned for their safety.

Chair Carroll asked Mr. Weglars if he was ok with the stop sign that was proposed, and he said it might make more sense to put it so that it was facing the boat ramp.

**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 sign the warrant for the General Election to be held on Tuesday, November 2, 2010?
- B. Shall the Town Council, upon recommendation of the Town Administrator, reduce the assessment for property owned by William H.M. Beckett Trust located at 18 Deer Meadow Road for tax year 2007 from \$861,660 to \$794,300, grant a property tax abatement in the amount of \$67,360 of assessed valuation to William H.M. Beckett Trust, and authorize the Town Administrator to sign the Settlement Agreement between William H.M. Beckett Trust and the Town of Durham relative to Docket No. 23847-07PT?
- C. Shall the Town Council, upon recommendation of the Town Administrator, reduce the assessment for property owned by William H.M. Beckett Trust located at 18 Deer Meadow Road for tax years 2008 & 2009 from \$887,100 to \$834,400, grant a property tax abatement in the amount of \$52,700 of assessed valuation to William H.M. Beckett Trust, and authorize the Town Administrator to sign the Settlement Agreement between William H.M. Beckett Trust and the Town of Durham relative to Docket No. 24055-08PT?
- D. Shall the Town Council, upon recommendation of the Town Administrator, reduce the assessment for property owned by Michael E. McClurken & Jacqueline M. Eastwood located at 26 Deer Meadow Road for tax year 2007 from \$2,156,500 to \$1,823,000, grant a property tax abatement in the amount of \$333,500 of assessed valuation to Michael E. McClurken & Jacqueline M. Eastwood, and authorize the Town Administrator to sign the Settlement Agreement between Michael E. McClurken & Jacqueline M. Eastwood and the Town of Durham relative to Docket No. 23851-07PT?
- E. Shall the Town Council, upon recommendation of the Town Administrator, reduce the assessment for property owned by Michael E. McClurken & Jacqueline M. Eastwood located at 26 Deer Meadow Road for tax years 2008 & 2009 from \$2,155,100 to \$1,933,000, grant a property tax abatement in the amount of \$222,100 of assessed valuation to Michael E. McClurken & Jacqueline M. Eastwood, and authorize the Town Administrator to sign the Settlement Agreement between Michael E. McClurken & Jacqueline M. Eastwood and the Town of Durham relative to Docket No. 24056-08PT?

***Councilor Smith MOVED to approve the Unanimous Consent Agenda. Councilor Gooze SECONDED the motion, and it PASSED unanimously 6-0.***

**VIII. Committee Appointment**

Shall the Town Council move alternate member Peter Wolfe on the Planning Board to fill the unexpired regular member term of Stephen Roberts?

***Councilor Smith MOVED to move alternate Planning Board member Peter Wolfe to fill the unexpired regular member term of Stephen Roberts. Councilor Sievert SECONDED the motion.***

Councilor Smith said that as the Council representative to the Planning Board, he had served with Mr. Wolfe on that Board, which at its last meeting, had elected Mr. Wolfe as Vice Chair.

He said Mr. Wolfe had done very well on the Board, and would be replacing Vice Chair Susan Fuller, who would assume the Secretary position following the resignation of Steve Roberts from the Planning Board.

***The motion PASSED unanimously 6-0.***

Chair Carroll thanked Mr. Wolfe for accepting the responsibility of serving on the Planning Board.

## **IX. Presentation Items**

### **A. Receive annual report of the Zoning Board of Adjustment – Robbi Woodburn, Chair**

Ms. Woodburn first noted that the ZBA was currently short one regular member. She said alternate members of the Board were considering the position, but said other residents were welcome to apply for it.

She explained the role of the ZBA, stating among other things that it was the constitutional safety valve that provided the necessary flexibility to ensure that the Zoning Ordinance was applied equitably to all property.

Ms. Woodburn said the ZBA had met 16 times, and had reviewed 49 applications:

- 38 requests for variance; 28 were approved, 6 were denied, 2 were partially granted and partially denied, and 2 were withdrawn
- 3 requests for rehearing; all were denied
- No requests for equitable waiver
- 6 appeals of administrative decisions; all were denied
- 1 request for special exception, which was approved

She discussed the specific types of relief that were sought by applicants with these appeals in 2010, which were primarily related to placing a structure within the setbacks, and replacement of septic systems or leach fields. She said the other requests were in regard to the 3 unrelated occupancy rule, parking on a property, accessory animal husbandry, and built elements located within the setbacks, where the definition of a structure was key.

Councilor Gooze said the effort put in by the ZBA was very much appreciated, and said they gave the applications that came before them a lot of thought. He then said that when he was on the ZBA, the issue came up that the Town had not defined exactly what a “structure” was. He noted a recent variance application where the “structure” issue had come up again, and asked if the ZBA planned to ask the Planning Board to define this better.

Ms. Woodburn said the Town was moving toward a better definition, but said it could be further defined.

Councilor Sievert asked if the ZBA had discussed the idea of allowing the Code Officer to have more control over septic system applications. He noted that these kinds of applications frequently came before the ZBA.

Ms. Woodburn said the Ordinance did allow the Code Officer to make decisions on replacement systems that were straightforward, and said she believed that Mr. Johnson was developing specific criteria that he could rely upon if he went that route. She said the Board was all for this. She said she didn't believe the Board had denied any recent applications involving septic systems and setback issues, and said residents generally didn't come before the Board for this unless they couldn't put a septic field any place other than a location that violated the setback(s).

Councilor Gooze noted that state of the art septic systems, on lots where there was no other place to put them than where the applicant proposed, were generally approved by the ZBA.

Ms. Woodburn also said the Board felt that if a better septic system could be put in, even if it was in a noncompliant location, this was better than not doing anything.

Councilor Sievert said his thought was that this could happen at the Code Enforcement level.

Councilor Stanhope asked if the ZBA ever referred other kinds of Zoning issues back to Mr. Johnson.

Ms. Woodburn said she didn't think Mr. Johnson had the authority to rule on anything else. Councilor Gooze noted that there were some things Mr. Johnson had discretion on, and some that were clearly defined by the Ordinance.

Ms. Woodburn said it was usually pretty clear why an applicant was before the ZBA.

Chair Carroll thanked Ms. Woodburn and the other members of the ZBA for the work they did on behalf of the Town.

B. Receive annual report of the Conservation Commission – Jamie Houle, Chair

Mr. Houle reviewed the Conservation Commission's work in 2009 and 2010, which included the following:

- Working with the Planning Board and others on a variety of groundwater and stormwater issues, including updating the stormwater regulations, and the Spruce Hole aquifer and aquifer/source water protection
- Land conservation, including endorsement of the purchase of a conservation easement for the Thompson property along the Lamprey River
- Working with the Town Planner and the Planning Board on several development proposals involving wetlands or conservation subdivisions.
- Stewardship plans for Wagon Hill, Longmarsh Preserve, Doe Farm and the Weeks property
- Involvement and advocacy of additional engineering and scientific studies for the Mill Pond Dam and impoundment

Mr. Houle spoke about the Trust for Public Lands CELC project, and said it had ranked 12 out of 72 grant proposals, which wasn't bad. He said the Commission was still waiting to hear the final outcome. He also spoke in some detail about the stewardship plans that the

Commission had developed for Town-owned conservation properties, and said they were always looking for members with land management expertise who could assist with the management of those properties.

Councilor Sievert noted Councilor Mower's recent comment that had indicated the Conservation Commission was not going to have a representative on the Master Plan Advisory Committee, and asked for more details on this.

Mr. Houle explained that the Conservation Commission felt that the best use of its limited time was to be a part of the evaluation of the Master Plan document. He said the assumption had been that they didn't necessarily have to be a part of the planning of the meetings, and that there was paid Town staff and Cooperative Extension personnel to do that kind of planning.

He asked for clarification on what role Commission members could actually play in such a process, and said they would be willing to participate if they understood this better. There was discussion on this, and Mr. Houle then said he apologized if the Commission's intent had been misunderstood. He said they were 120% behind the Master Plan effort itself.

Councilor Sievert asked why the Commission had recently decided not to provide money for the extension of the boat ramp at Jackson's Landing.

Mr. Houle said he hadn't been at the meeting where this was discussed, but said the Minutes of the meeting indicated that the findings were that the Commission had already given \$163,000 for that project, and was looking at what role conservation played in the extension of the boat ramp, and what the true conservation value of the project would be.

Councilor Smith said he had been at this meeting. He said there was no opposition to the extension of the boat ramp, and also said Councilor Mower had been supportive of the extension. He said it was simply that the ramp served primarily a recreation function rather than a conservation function.

He said members of the Commission agreed that if the ramp was extended, this would decrease the amount of sediment being stirred up, but that it would not result in the kind of conservation benefit that had come with the expenditure of funds on other aspects of the Jackson's Landing project. He summarized that the Conservation Commission didn't think it was a good use of funds to pay for the extension of the boat ramp.

Councilor Sievert said he couldn't agree more, and recommended staying away from that project.

Councilor Stanhope noted the Mill Pond Dam issue, and asked Mr. Houle what was meant by "additional engineering and scientific studies" in his summary, and whether this was in reference to the dam structure itself, or to the issue of removing or not removing the dam.

Mr. Houle said this was in reference to the structural assessment of the dam. He provided details on the scientific surveying being done.

Councilor Stanhope asked if the Conservation Commission had considered the implications of removal of the dam beyond the Mill Pond itself, in terms of environmental impacts, and also asked if the Commission had taken a position on this.

Mr. Houle said no, other than that all potential findings should be obtained. He noted that the Commission had advocated a more extensive survey, but the Town had decided to go with a much shorter scope of work that just looked at the sediments and the structural integrity of the dam.

Councilor Stanhope asked if the Conservation Commission had considered that some of the Town's smaller bodies of water would eventually turn into marshes, and if they had any opinion on this.

Mr. Houle said that with its recommendations on amendments to the Town's stormwater regulations, the Commission had taken a stance on continued siltation and fouling of Durham's streams and water bodies. But he said the question of remediation of existing impaired water bodies went far beyond the scope of the Conservation Commission.

He said if the Town was going to consider spending money on dredging, the discussion would need to include some specific objectives. He said this should not just be considered a housekeeping item, and said a long term strategy would need to be developed. He also said many of the questions that needed to be asked went beyond the scope of the Conservation Commission, and got into Town planning issues.

Councilor Gooze noted that with Conditional Use applications that came before the Planning Board, that Board had a certain amount of discretion concerning approving an application. He asked Mr. Houle, and also asked Councilor Smith, how much credence the Planning Board gave to recommendations from the Conservation Commission concerning a particular CU application. He also noted that the Commission only met once a month.

Mr. Houle said some times things happened at a faster pace than the Commission could address, noting that they met once a month and there was turnover at times. He also said that communication wasn't always the best between the boards, but said the Commission was working with the Town Administrator and the Town Planner to improve that.

Councilor Smith said when Steve Roberts was the Planning Board representative to the Conservation Commission, he did a very good job of letting the Commission know what the Planning Board was discussing. He said he had tried to emulate this, but said sometimes he didn't think a particular issue was as important to the Commission as other issues were.

He also said there were times when information from the Planning Board didn't get to the Commission in good time, but said this was getting better. He noted that part of the problem was the different schedules of the two boards. He also said there was sometimes disagreement as to whether the Conservation Commission needed to weigh in on a particular issue.

Mr. Houle said he was trying to work more closely with Mr. Campbell. He also noted that the Commission reviewed things that the Planning Board did not, such as wetland permits. Chair Carroll asked if the Conservation Commission was involved directly regarding the issue of the health of Great Bay.

Mr. Houle said the Commission had struggled, as a volunteer body with limited resources, as to where these resources should be invested. He noted that there were many organizations addressing the health of Great Bay, and he spoke in some detail on this.

He said the Commission hasn't really discussed this issue as a group, but had recommended that the Town authorize participation in the Bellamy and Oyster River Restoration Partnership, and also stay closely in tune with the actions of the Seacoast Watershed Alliance, which he noted had legislative authority. He provided details on this.

Chair Carroll noted that she had recently learned a lot more specifics concerning the declining health of Great Bay, and said she had then been somewhat shocked that people weren't coming to the Council saying that it needed to do something about this problem. She said there were things that all Durham's residents could do individually to improve things, and said these improvements would add up.

She said she appreciated the fact that the Conservation Commission had a very large mission and a handful of volunteers, yet had been able to do a lot of good things for the Town. She asked Mr. Houle to let the Council know if there was more it could do.

The Council stood in recess from 8:52 to 9:01 pm.

C. Proposal for full-time Parks & Recreation Director – Sara Badger Wilson, Chair, Parks & Recreation Committee

Chair Carroll introduced Ms. Badger Wilson, and noted that there was currently a part time Parks and Recreation Director position.

Ms. Badger Wilson first said that without the Department of Public Works, nothing that Parks and Recreation wanted to do would be possible. She provided details on the behind the scenes support they provided, and thanked them for all of their efforts.

She provided details on the significant amount of work that the part time Director of the Parks and Recreation Director had been able to accomplish, in 20 hours a week, along with volunteers and some partnerships. She then spoke about the fact that other groups in Town were giving Parks and Recreation more and more to do, and said this wouldn't be possible with a Director who worked 20 hours per week.

She asked Councilors to imagine some of the things that could be accomplished with a 40 hours per week position.

- Hiring of an intern to assist with program implementation who would be supervised by the Recreation Director.
- Further development of a revenue stream to cover the costs of the Department.
- Development and implementation of a master recreational plan, which could include being a part of many upcoming discussions/initiatives, including stewardship plans for Town owned lands and trails, playing fields, Wagon Hill, a community center, etc.
- Lessening of the parks and recreation burdens on the DPW.

Ms. Badger Wilson said the Parks and Recreation Committee realized that there were many things the Council needed to consider in regard to the 2011 Budget, and had developed its proposal with that in mind. She suggested there could perhaps be two 20 hr per week positions that would involve job sharing, and said this would save on the cost of benefits while also still qualifying to get a UNH intern. She noted that the Director position wasn't a typical 9-5 job. She said that ultimately, any increase in hours would be great, and noted that the increase in revenue generated by the Department would be immediate if the hours were increased.

Ms. Badger Wilson thanked Councilor Sievert and others for their support of the part time Director position. She then said they were interviewing candidates now with the assumption that there would be a 20 hour per week position, and were confident that they would find another Director who was as great as Mike Mengers had been. She said it would be wonderful if the person hired could have more hours.

Councilor Gooze determined that 35 hrs per week was the minimum amount that would qualify as a full time position.

Ms. Badger Wilson provided details on the factors involved in hiring someone now, who would be part time. She noted that they had received 33 resumes and were in the final stages of choosing the new Director.

There was discussion between Ms. Badger Wilson and Councilor Sievert on the \$7,000 in profit that had been made, and on the percentage that this profit was of the investment that had been made in the Parks and Recreation Director position.

Chair Carroll asked if the salary structure would be changed for this position, and Ms. Badger Wilson said the range was \$19-23/hr, based on qualifications.

Councilor Sievert explained that the Committee couldn't have held off on hiring the replacement for Mr. Mengers until after the Council made its decision on whether to hire a full time Director.

Ms. Badger Wilson said Mr. Mengers had stayed on in part to be able to help with the interviews. She said he had created this position and wanted to hand it off to a person who was well prepared to do the work involved.

Jenna Roberts, a member of the Parks and Recreation Committee, said the Parks and Recreation programming meanwhile continued. She noted the recent nature walk at Councilor Smith's property, which was a great opportunity to be outside and enjoy the natural resources there.

Chair Carroll said it sounded like a wonderful opportunity to be able to get a UNH intern to help with programming, and Councilor Gooze said it would be a good idea to determine the cost for the intern.

There was discussion about who defined what full time meant, and Chair Carroll said it would be good to know the specifics on this. There was also discussion on what "supervision of intern" by the Director meant.

**X. Unfinished Business**

- A. PUBLIC HEARING AND ACTION ON ORDINANCE #2010-11** amending Chapter 153 “Vehicles and Traffic”, Section 153-43 “Stop Intersections” by creating a stop intersection at Cedar Point Road

***Councilor Smith MOVED to open the Public Hearing. Councilor Stanhope SECONDED the motion, and it PASSED unanimously 6-0.***

**Susan Pollan, 29 Cedar Point Road**, first said she was speaking on behalf of Brenda Nelson, a resident of Cedar Point Road, who believed that there was a better use of resources than the proposed stop sign. She also noted that the owner of 34 Cedar Point Road had written to the Town about this issue.

Ms. Pollan then said she agreed with Mr. Weglar’s concerns, noting among other things that she had been a police officer at UNH. She said it was inappropriate to use a stop sign to address the erosion problems on Cedar Point Road, and said an intermediate step was needed, which was to mark where the pavement changed.

She said she wasn’t aware of any accidents that had occurred there, and said although the road was narrow and unpaved, people didn’t drive fast there in good or bad weather. She said any speeding problems were generally caused by people who didn’t live on the road. She said the proposed stop sign was a waste of money.

***Councilor Smith MOVED to close the Public Hearing. Councilor Stanhope SECONDED the motion, and it PASSED unanimously 6-0.***

***Councilor Gooze MOVED to Adopt ORDINANCE #2010-11 amending Chapter 153 “Vehicles and Traffic”, Section 153-43 “Stop Intersections” of the Durham Town Code by installing a stop sign on Cedar Point Road in the vicinity of where the gravel roadway meets the paved section. Councilor Sievert SECONDED the motion.***

Councilor Niman asked Chief Kurz where the idea for the stop sign had come from, and if he was to conclude that it was merely designed to preserve the integrity of the road.

Chief Kurz said the issue was not safety. He said the idea had come out of the Traffic Safety Committee, and said he had written it on behalf of the DPW in regard to the erosion issue. He noted that there had been a stop sign there several years ago, but the ordinance for this couldn’t be found. He said with that in mind, he had put this proposal forward as requested by the TSC, and initiated by the DPW.

Councilor Niman asked if there had been discussion with any residents who wanted the stop sign.

Chief Kurz said the residents on Cedar Point Road had been notified, but said he had not heard anything from them before this evening.

Councilor Gooze noted that the ZBA dealt with the Cedar Point Road area a lot, and said he was confused by the purpose of the stop sign.

Chief Kurz said the purpose was to memorialize a sign that had been there and was removed, and to address an historical issue of the raising of the road by DPW. He said the idea was that it would be helpful for a car to stop before making the turn, when heading west from the residential section of the road, on gravel, with the boat launch to the left.

Councilor Smith said he was at the Traffic Safety Committee meeting where this issue had been discussed. He said he thought there could actually be more erosion if people had to stop and then start again. He suggested tabling this Ordinance for now and asking the TSC to take a closer look at the situation. He said he personally would go and take a closer look at what the problem. He also said Mr. Lynch could come tell the Council what the problem was.

***Councilor Smith MOVED to table this issue. Councilor Stanhope SECONDED the motion.***

Councilor Niman questioned tabling the issue, and said he wanted to kill the proposed Ordinance. He said it seemed ridiculous and unnecessary, and said he would vote against tabling it.

Councilor Smith withdrew his motion, and Councilor Stanhope withdrew his second of the motion.

Councilor Sievert said he had planned to say the same thing as Councilor Niman, but said it would be good to know what the Department of Public Works was trying to get at with this proposal. He noted that DPW could always bring this back, if it was tabled now.

Councilor Gooze agreed, and said if DPW wanted to provide an explanation to the Council, it could bring this back.

Chair Carroll said the people who lived in that area knew that road, and were slowing down at the corner in question.

***The motion FAILED unanimously 0-6.***

- B. PUBLIC HEARING AND ACTION ON ORDINANCE #2010-12** amending Chapter 153 “Vehicles and Traffic”, Article VI “Schedules”, Section 153-43 “Schedule XI: Stop Intersections” by creating a stop intersection at Quad Way

***Councilor Smith MOVED to open the Public Hearing on Ordinance #2010-12 amending Chapter 153 “Vehicles and Traffic”, Article VI “Schedules”, Section 153-43 “Schedule XI: Stop Intersections” by creating a stop intersection at Quad Way. Councilor Sievert SECONDED the motion, and it PASSED unanimously 6-0.***

There were no members of the public who came forward to speak.

***Councilor Smith MOVED to close the Public Hearing. Councilor Sievert SECONDED the motion, and it PASSED unanimously 6-0.***

In answer to a question from Councilor Smith, Chief Kurz said there would be a sign below the stop sign that said right turn only. He said it was his understanding that the way it was written would suffice.

There was also discussion between Councilor Smith and Chief Kurz about the direction of travel that was described in the ordinance. Councilor Smith said he thought it was more north than east, and also said that in every other instance in the list of stop intersections in the ordinance, the term “direction of travel” referred to the direction of the road a car was traveling on when it stopped at the stop sign. There was further discussion.

Chief Kurz said he believed the current wording was correct, because they wanted people to take a right and go east on Main Street.

***Councilor Niman MOVED to Adopt as presented Ordinance #2010-12 amending Chapter 153 “Vehicles and Traffic”, Article VI “Schedules”, Section 153-43 “Schedule XI: Stop Intersections” by creating a stop intersection at Quad Way and Main Street. Councilor Sievert SECONDED the motion, and it PASSED unanimously 6-0.***

- C. **PUBLIC HEARING AND ACTION ON ORDINANCE #2010-13** amending Chapter 153 “Vehicles and Traffic”, Article VI “Schedules”, Section 153-44 “Schedule XII: Yield Intersections” by creating a yield intersection on Madbury Road at Pettee Brook Lane

***Councilor Sievert MOVED to open the Public Hearing on Ordinance #2010-13 amending Chapter 153 “Vehicles and Traffic”, Article VI “Schedules”, Section 153-44 “Schedule XII: Yield Intersections” by creating a yield intersection on Madbury Road at Pettee Brook Lane. Councilor Niman SECONDED the motion, and it PASSED unanimously 6-0.***

There were no members of the public who came forward to speak.

***Councilor Smith MOVED to close the Public Hearing. Councilor Sievert SECONDED the motion, and it PASSED unanimously 6-0.***

***Councilor Smith MOVED to adopt as present Ordinance #2010-13 amending Chapter 153 “Vehicles and Traffic”, Article VI “Schedules”, Section 153-44 “Schedule XII: Yield Intersections” of the Durham Town Code by creating a yield intersection on Madbury Road at the intersection of Pettee Brook Lane for vehicles entering the intersection from the south. Councilor Sievert SECONDED the motion.***

Councilor Sievert recommended that the Department of Public Works should trim the tall weeds in the median, so one could see traffic coming from the north heading in an easterly direction and turning onto Pettee Brook Lane.

Chair Carroll asked Ms. Jablonski to pass this suggestion on to the DPW.

Councilor Gooze noted that the yield sign was located somewhat into the intersection rather than before it, which made things somewhat confusing.

Councilor Sievert agreed, but explained that if it was located further out of the intersection, this would block traffic heading north.

Councilor Gooze said the changes were great, but said he wished people would actually yield more.

Chief Kurz said this was the biggest area of concern, as part of the traffic design changes on Pettee Brook Lane, and said it was part of an experiment they were all working on in order to achieve several goals in that area. He said there had been a measure of success with all of the goals, but said it was a unique street, and he agreed that the yield sign was somewhat problematic.

He said there was a learning curve in using it, but explained that it was placed directly in the line of the travel so people could see it. He said the flashing light put on it was working, and noted that it had turned out to be more problematic for residents than for students. He said there hadn't been any accidents there.

***The motion PASSED unanimously 6-0.***

D. Discussion regarding the concept of developing a property maintenance code

Chair Carroll noted that the Council had a short discussion on this at its previous meeting, and also said there were some members of the public who had addressed the Council at that time concerning it. She said if there were going to be any suggestions from the Council on this issue, now was the time to do this.

Councilor Gooze said he had brought this forward because a few residents had spoken with him, and he also said some members of the Rental Housing Commission had discussed the fact that there were some properties that had been let go. He said the idea was for the Council to discuss whether there was something that could be done about egregious properties. He noted that Councilor Niman had made the valid point that this wouldn't be fair to someone who couldn't pay his bills, but he said it also had to be considered that such properties could lessen the value of other properties around them.

He said a code was simply a possible way that the Town could get at properties that were in terrible shape but were not so bad that they had to be condemned. He suggested that perhaps there could be a small committee to look at this issue, if the Council thought it was worth doing this.

Councilor Stanhope said the International Property Maintenance Code provided to Councilors was a fairly complex document.

Councilor Gooze explained that the idea would be to take from this code the parts that would be applicable to what the Council was talking about, but not to use the whole thing.

Councilor Stanhope questioned whether there was a compelling need for this now, and asked if the existing Zoning already allowed the Town to address these kinds of properties. He said he agreed with Councilor Niman about not pursuing aggressively property owners who because of age or economic circumstances weren't maintaining their properties. He said he wasn't aware of any of these kinds of properties that weren't student occupied.

He said he thought moving forward with something like this was premature, especially when Mr. Johnson was already doing more enforcement in order to address neighborhood issues. He said it was likely that if some kind of property maintenance code was adopted, more code

enforcement would be expected, and said he didn't think the Town had the resources to undertake this.

Councilor Gooze noted again that he had brought this issue forward because some residents had approached him and asked what could be done with these types of properties.

Councilor Sievert said unfortunately, it couldn't be just these properties that were focused on with a code, because that would be discriminatory.

Councilor Gooze stated again that the thought of those who had spoken about the idea of a property code was just to take sections that would address areas of concern.

Chair Carroll said there was the issue of what was on the books already to address this issue. But she said she was concerned about properties like the one on Deer Meadow Road that was abandoned, that was deteriorating and became a haven for people who wanted to party. She also noted the property at 99 Madbury Road, where a car was found completely bashed in. She said this brought up the question of leaking oil and other health and safety issues.

Councilor Gooze said there were things in the Town's codes that could address that kind of problem.

Councilor Smith said that after discussion at the last Council meeting on this issue, he had gone to look at the property on Deer Meadow Road. He said other than the fact that there were some limbs down and the grass wasn't cut, the property was neat, and the doors were locked. He said there were no signs of people camping out, and said he didn't think the property would fall under any kind of property maintenance code.

He said if there was any kind of maintenance code, this would be an invitation for neighbors to inundate the Council and Code Enforcement with complaints about properties. He noted that Mr. Johnson could condemn a property if there was a life safety issue, and he spoke about a recent situation where this had been done.

Councilor Gooze said he was not comfortable with the property maintenance code approach because there were already things on the books. But he said enforcement needed to be done in some situations, and said the Council needed to stand behind the Code Enforcement Officer when he did this.

Chair Carroll said if any Councilor(s) or members of the public wished to bring this issue forward in the future, they were welcome to do so. But she said that otherwise, the Council was finished with it for now.

## **XI. New Business**

Other business

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

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

**XIV. Adjournment**

*Councilor Smith MOVED to adjourn the meeting. Councilor Sievert SECONDED the motion, and it PASSED unanimously 6-0.*

9:56 pm Adjournment

Victoria Parmele, Minutes taker