

**This set of minutes was approved at the March 21, 2011 Town Council meeting**

**Durham Town Council  
Monday February 7, 2011  
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 Doug Clark; Councilor Robin Mower; Councilor Bill Cote

**MEMBERS ABSENT:** Councilor Jay Gooze

**OTHERS PRESENT:** Town Administrator Todd Selig; Gail Jablonski, Business Manager

**I. Call to Order**

Chair Carroll called the meeting to order at 7:03 pm.

**II. Approval of Agenda**

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

Councilor Cote said that under Item VII G, the address was incorrectly listed, and should be 11-13 Durham Point Road. Councilor Smith said the address under VII F should be 4 Smith Park Lane.

*The motion PASSED unanimously 8-0.*

**III. Special Announcements**

Drawing of candidate names running for elected offices to establish order of listing on the March 8, 2011 Town Election ballot - Christopher Regan, Town Moderator, Lorrie Pitt, Town Clerk-Tax Collector

Administrator Selig explained Durham's traditional process of drawing the names of candidates from a hat. He noted that at one time, names were put on the ballot in alphabetical order, but said some candidates across the State had contended that this gave people whose names were closer to the beginning of the alphabet an advantage.

Town Moderator Christopher Regan drew the names, and the order was as follows:

Town Council  
Julian Smith

James Lawson  
Catherine (Kitty) Marple

Library Board of Trustees

Richard Belshaw  
Arthur Young  
Meredith Davidson

**Swearing In of Firefighters**

Assistant Fire Chief Jason Cleary introduced new firefighters Katherine Everett and David Blanchford to the Council and residents of Durham.

Town Clerk Lorrie Pitt performed the swearing in ceremony.

Chair Carroll thanked Ms. Everett and Mr. Blanchford for their willingness to serve the Town of Durham.

**IV. Approval of Minutes**  
None

**V. Councilor Roundtable**

Councilor Smith said the Planning Board would continue with the Capstone public hearing on Wednesday, and said the Board might or might not begin deliberations.

He noted that the logging had begun at Doe Farm, and said he had watched it the past weekend. He said he hoped that soon the Town would begin to log the old pine trees between the Transfer station and Langmaid Farm, noting the fallen trees there that represented a fire hazard, and also some good wood for logging.

Councilor Sievert said the Parks and Recreation Department was putting on a Chili Fest from 11:30-2:00 pm, and said Mill Pond Road would be closed for this.

He thanked DPW Director Mike Lynch and his staff for the great plowing at Wagon Hill Farm, and said it was working well. He spoke about a sign there that said “Official Vehicles Only”, and said because of the sign, some people were leery of going down that road.

Chair Carroll said the Chili Fest had been a wonderful event the year before, and said she was sure it would be an excellent event this year as well. She noted that it was becoming an annual event.

Councilor Clark said the EDC met last Monday. He said there was a presentation from Mr. Campbell on Tax Incremental Financing districts (TIFs), and then a discussion on turning all or sections of the Central Business District into a TIF district. He said the EDC would form a subcommittee to look into this more, and would work with Mr. Campbell and Administrator Selig on this. He said he expected that at some point there would be a recommendation for finding a way to pay for the things they wanted.

Councilor Mower asked if the subcommittee meetings would be open to the public, and was told they would be.

Councilor Stanhope said the Historic District Commission had met the previous Thursday, and said there was a presentation from the prospective developer of the Grange property.

He said another issue had come up at the meeting, which was that the HDC was concerned that they were not given a level of participation in the planning and restoration of Smith Chapel. He said there was discussion about where the authority was ultimately placed, and said Administrator Selig had said that he ultimately was responsible for Town property.

Councilor Stanhope said concern was expressed by the HDC that the Trustees of the Trust Fund hadn't necessarily been as aggressive in stewarding the property as they could have been, and as a consequence, the HDC had not been drawn into the process. He said they had asked to be a part of any future decisions on the restoration.

He noted that the HDC would like to place Smith Chapel on the state and federal registries of historic buildings. He said there was apparently an incorrect belief by some people that being on a registry could limit what could be done with the building. He said a building on a registry could still be torn down, and there was no barrier to doing so. He said what being on the registry did do was to qualify a building for funding of various projects. He said he didn't know whether, if the Chapel got on the registry, it would qualify for funding to pay for projects that had already been done to restore it.

Councilor Stanhope asked if the Council was comfortable with proceeding with an application to put Smith Chapel on the State and federal registries of historic buildings.

Councilors unanimously agreed that the HDC should proceed with the application.

Administrator Selig said as part of the application process, it would be helpful to have a statement from the Town Council. He said there would be a formal agenda item on this at an upcoming meeting. He noted that HDC member Andrea Bodo was currently working with the State Division of Historic Resources on an application for grant funds, which could then pay for a preservationist who would complete the complicated registry application.

Councilor Stanhope noted that on the Friday Update, there was a listing of Town of Durham wages. He said he would like to see two columns added to this that showed the costs for healthcare and retirement. He noted that he had recently raised this issue in the context of negotiating with the various labor groups in Durham. He said this information was important because both of these costs were significant.

Administrator Selig said Town staff was working toward providing the additional information Councilor Stanhope had requested, but in the mean time hadn't wanted to hold up the publication of the wage listing.

Councilor Stanhope noted that as the Unanimous Consent Agenda indicated, there continued to be a number of abatement requests, some of which were fairly significant. He said at some point the Council needed to be made aware of how many requests were still pending, and

what the probable risk factor was as a result of this. He said his understanding was that the reserve fund for this had already been exceeded, and asked if this was an economic time bomb to the Town that hadn't been budgeted for.

Chair Carroll said there would be a report that addressed this issue that evening.

There was discussion that pending abatement request applications needed to be considered as well.

Councilor Stanhope said information on this would provide some sense of how valid the current ad valorem assessments were.

Administrator Selig said \$125,000 was budgeted for 2010 to cover abatements. He said the total amount paid out was \$386,745, of which \$263,548 was for the Goss abatement. He said right now, there was an abatement request for the Holiday Inn Express, and also three new requests for 2010, but said there were no others for 2010. He said the deadline was the end of March.

He said \$125,000 was also budgeted for 2011, and said if the Council approved the abatements requested this evening, it would have paid out \$30,131 of the 125,000 for 2011. He said this didn't include a number of abatement appeals from past years, for several multi-unit properties downtown. He said these would come before the Board of Tax and Land Appeals, and said the contract Assessor was still working to see whether there were any legal grounds, or if these should go on to the Board of Tax and Land Appeal.

Councilor Stanhope repeated his request to get a list of pending appeals in order to determine the Town's exposure, assuming that the taxpayers prevailed.

Administrator Selig provided a number of updates for the Council and the community: He said the School District deliberation meeting would be held on February 8<sup>th</sup>. He noted that the School warrant accounted for about 70% of the taxes paid in Durham, and he encouraged residents to follow this closely.

He reminded downtown business owners that the downtown parking permit program had been reformatted. He said owners or potential business owners should contact the Police Department to obtain a permit when they needed one.

He said there had been some vehicle break-ins throughout town, most recently along Newmarket Road, and recommended that people lock their cars.

He said the Durham Business Association had scheduled a Candidate Forum for February 22<sup>nd</sup> at the Council Chambers.

He updated the Council on the winter snow removal budget, noting that Durham was on a calendar year, and said to date, the Town had spent \$58,435, or 29% of the snow removal budget. He said this was somewhat more than was typical.

He noted a recent question about transfer station hours, and said the morning hours were not proposed to change, but the afternoon closure hour was proposed to change from 3:15 to 3:00 pm, in anticipation of the DPW 5-day work week. He said it wasn't clear whether this change would be made. He said the Swap Shop hours had been changed at the request of the volunteers who worked there, and said they would probably change back to 3:30 if the number of days DPW staff worked wasn't changed. He said they would see how things played out with the negotiation process.

He spoke about the fact that a resident had indicated at the previous Council meeting that a notice was received from the Town Assessor, and she wasn't sure what this was about. He said the property she owned was a residential property located within the ORLI district, and said with this notice, the resident had been asked to certify that it was being used as a residence and not a business, which would affect the way in which the assessment was made by the Assessing Office. He acknowledged that the form the resident had been sent could be clearer, and said this would be worked on for the following year.

Councilor Smith asked if a stamped return address envelope was provided to property owners for this, and Administrator Selig said he didn't know

Councilor Stanhope asked what happened if a resident didn't fill out the form, and Administrator Selig said the Assessor might conclude that the property was a business, which might affect the assessment. He said the Town would have to look at this, but said there were only a handful of properties this had happened to.

Councilor Mower suggested that there could be an actual visit by the Assessor to a property in this category.

Councilor Stanhope said his understanding of the statute involved was that whatever a property was used for, it was to be assessed at its highest and best use.

Administrator Selig read from RSA 75:11 regarding getting a special appraisal of a property that was currently used as a residence in a commercial/industrial zone. He said this RSA indicated that if it was not the primary use, the property would be appraised at its highest use in a commercial/industrial zone.

Councilor Stanhope asked if the responsibility lay with the property owner to file that, and Administrator Selig said yes, according to the Statute. Councilor Stanhope said perhaps the Town should make residents aware of the Statute, with the form to fill out, and explain that the Town was assisting them in ensuring that their property would be so assessed.

On another issue, Administrator Selig noted that Councilor Gooze had asked for an update on bus service along Madbury Road. He read a letter that UNH transportation planner Steve Pesci had written about the inclusion of the Madbury Road corridor in the Woodside connector. Mr. Pesci's letter said the route performance was growing, with 3.2-3.2 riders on average per run. He said the ridership would be monitored over time.

Administrator Selig said the Doe Farm logging was underway and would take about 3 weeks. He also said the Town would be looking at the property around the transfer station as

potentially the next location for logging activity. He said the following day, members of the Conservation Commission would meet with DPW Director Mike Lynch and the Trustees of the Trust Funds about doing selective cutting, as part of the stewardship of Town conservation properties.

Chair Carroll noted that the meeting would be held at the Bagelry, and said members of the public were welcome to join them.

Administrator Selig noted that the boat ramp at Jackson's Landing had been extended last month, but said there was still some concern from residents about the angle of the ramp. He said Mr. Lynch and Councilor Sievert would provide an overview to the Council on what was done, and also said there would be a public hearing where people who still had concerns could talk about them.

He said he hoped to get a definitive answer from the Council as to whether or not it wanted Town staff to spend more time on this issue. He said he wanted Councilors to work together as a group on this issue instead of following the process where residents spoke with individual Councilors, who then came to talk to him.

Councilor Clark noted in regard to the School Board meeting that this had been the first year where an Advisory Budget Committee had been put in place. He said the Committee had spent a lot of time on the Budget, and ultimately had voted not to approve the School Budget. He encouraged residents to go to the deliberative session. He said this was the first year when some objective data had been looked at, which residents should pay attention to.

Councilor Mower noted that the new School District Business Administrator had been in office for only a few months, and came into the budget session quite late, so it wasn't known how she would have handled the budget if she had been involved from the beginning.

Councilor Stanhope said it was his understanding that the Advisory Budget Committee had done an excellent job of putting forth well thought out recommendations. He asked if it was true that the School Board hadn't accepted any of them.

Councilor Clark said for the most part, the School Board listened to, considered but then rejected most of the recommendations. He said that was one of the reasons the Advisory Budget Committee had recommended not approving the School Budget this year.

Chair Carroll noted that she had listened that morning to a piece on National Public Radio on town and city planning, where it was said that shopping plazas were now a thing of the past, and that planners were opting for the village/town model. She said this was being well received and was driven by residents of communities. She said Durham was being driven by this village model, and she noted that there were no shopping centers in Durham other than the one located in the center of Town.

She said creating a healthy downtown core was a focus of the Council and the business community, and said Durham was therefore well set up for a future that was more sustainable. She said they now had to do the hard work of working this all out.

Councilor Mower asked Councilor Niman if there had been discussion about encouraging locally produced films on DCAT.

Councilor Niman that DCAT hadn't met since October. He said they planned to meet on Feb 23<sup>rd</sup>, and said he would ask them the question Councilor Mower had posed.

Councilor Mower asked if there was any sense of local talent or a budget that was available to do filming or editing. She said she was keenly aware of the richness of accomplishment and interest in the community, which might be a source for new programming.

Administrator Selig spoke about the fact that the Town/DCAT had aspired for several years to provide meetings on the Internet. He said until recently, there had been impediments to this, but said they were in the process of increasing bandwidth to Town buildings, and also said MIS administrator Luke Vincent and DCAT coordinator Craig Stevens had been researching being able to make meetings available on the web. He noted that some funds had been budgeted to update some GIS imagery for the Town but the State had provided this free of charge. He said this might free up some funds to enhance DCAT services.

## **VI. Public Comments**

**Katherine (Kitty) Marple, 82 Madbury Road**, said she was running for the Town Council, and said she was looking forward to serving the community.

**Jim Lawson, 24 Deer Meadow Road**, noted that he had served on the EDC over the past year, and said it had been a great experience. He said the group had done a lot over the past year, and said it had been an opportunity to work with members of the Council, Town staff and the community. He said he was running for the Council, and said he welcomed input from residents and appreciated the opportunity to be a candidate.

## **VII. Unanimous Consent Agenda**

- A. **Resolution #2011-01** authorizing the acceptance of private donations and unanticipated revenues totaling \$300.00 and authorizing the acceptance of grant funds totaling \$3,023.12 received by the Town of Durham between January 1, 2010 and December 31, 2010
- B. **Resolution #2011-02** establishing a Town-wide policy allowing alternate members of all Town land use boards to participate in meetings as nonvoting members pursuant to RSA 676:1
- C. **Resolution #2011-03** waiving the standardized purchasing process in accordance with Section 7 of the Town of Durham Purchasing Policy and upon recommendation of the Town Administrator; authorizing the designation of Philips MRX ALS monitors, AEDs, and related equipment as standard purchase items; authorizing the designation of Philips Healthcare of Andover, MA as the sole source vendor for the purchase of these items; and rescinding Resolution #2001-09 authorizing the designation of Medtronic Physio-Control Lifepak defibrillators as a Town standard purchase item
- D. Shall the Town Council Award the 2011 Road Resurfacing Program bid of \$371,938.70 to GMI Asphalt LLC of Belmont, NH and the Utilities Structures bid of \$35,000 to Martinez Road Construction of Fitchburg, MA?
- E. Shall the Town Council, upon recommendation of the Town Administrator, reduce the

appraisal of property owned by Olympia Equity Investors XVIII, LLC at 2 Main Street from \$4,163,400 to \$3,775,000, grant a property tax abatement for 2009 and 2010 in the amount of \$388,400 of assessed valuation to Olympia Equity Investors XVIII, LLC, and authorize the Town Administrator to sign a Settlement Agreement between Olympia Equity Investors XVIII, LLC and the Town of Durham relative to Docket No. 24886-09PT?

- F. Shall the Town Council, upon recommendation of the Town Administrator, reduce the appraisal of property owned by Arthur R.S. Klaeson located at 4 Smith Park Lane from \$228,700 to \$188,900 and grant a property tax abatement for 2010 in the amount of \$39,800 of assessed valuation to Arthur R.S. Klaeson?
- G. Shall the Town Council, upon recommendation of the Town Administrator, reduce the appraisal of property owned by the Elizabeth H. Klaeson Revocable Trust located at 11-13 Durham Point Road, from \$606,700 to \$357,200 and grant a property tax abatement for 2010 in the amount of \$249,500 of assessed valuation to Elizabeth H. Klaeson Revocable Trust?
- H. Shall the Town Council, upon recommendation of the Town Administrator, approve a road closure request submitted by the Durham Fire Department requesting that one lane of Main Street from Ocean Bank to Jenkins Court, as well as Jenkins Court, be closed on Monday, March 14, 2011 between the hours of 9:00 to 11:00 AM for the department's 100-year celebration?

Chair Carroll said she had asked that Item A be taken off the Agenda. She also noted that Item C needed a 2/3 vote in order to pass.

***Councilor Smith MOVED to approve Unanimous Consent Agenda Items B-H. Councilor Sievert SECONDED the motion, and it PASSED unanimously 8-0.***

Regarding Item A, Chair Carroll said she wanted to read where these private donations and grants had come from:

Donations:

\$200 from Active Retirement Association for the Police Community Room rental

\$100 from William Gilvary, Jr, as police dept donation

Grants:

\$325 from US Dept of Justice for reimbursement for bulletproof vests

\$118 from US Dept of Justice for reimbursement for bulletproof vests

\$3,023 from Primex for Town's safety improvement program

***Councilor Smith MOVED to approve Unanimous Consent Agenda Item A. Councilor Cote SECONDED the motion, and it PASSED unanimously 8-0.***

## **VIII. Committee Appointments**

Shall the Town Council move alternate member Jerry Gottsacker on the Zoning Board of Adjustment to fill the unexpired regular member term of Christopher Mulligan ?

***Councilor Smith MOVED to move alternate member Jerry Gottsacker on the Zoning Board of Adjustment to fill the unexpired regular member term of Christopher Mulligan, said term to expire in April 30, 2012. Councilor Stanhope SECONDED the motion.***

Administrator Selig noted that Councilor Gooze had sent an email in support of this



appointment.

Councilor Smith said he had attended several recent meetings of the ZBA, and said Mr. Gottsacker was a valuable member of that board. He said he spoke convincingly and firmly on matters before the ZBA.

***The motion PASSED unanimously 8-0.***

Chair Carroll thanked Mr. Gottsacker for stepping forward again to serve the Town in this capacity.

## **IX. Presentation Item**

Year End Financial Report through 12/31/10 - Gail Jablonski, Business Manager

Ms. Jablonski noted that the Financial Report was unaudited and unofficial, and said there were a few more 2010 expenses that would come in. She said right now it looked like things had come in on target, and said 99.8% of the total approved Budget for 2010 had been spent. She described some of the overages for the year:

- Overage for the legal line mainly because of cable franchise contract negotiations and the prosecution of a property owner for Zoning violations, and also because of numerous ZBA appeals.
- Overage because the Code Enforcement Office had hired two part time employees to assist the Code Enforcement Officer with inspections and plan reviews of several construction sites in Town, and to provide limited assistance regarding rental housing issues.
- Overage of drainage and vegetation account because of the February 2011 storm. She noted that reimbursement of \$90,012 was received from FEMA.

Ms. Jablonski updated the Council on the Town's transfer to the Strafford Regional Dispatch Center/Communications Center, which had occurred in 2008, in order to see some savings. She said the Town had been paying approximately \$250,000 for dispatch services before that time, and said since the transfer, the cost for the services had been about \$25,000 per year.

She said there was some debt service because bonding was done in order make the transfer, and said the total cost to the Town now was about 80,000 per year. She said this was a savings of over \$120,000 per year, and also said Town departments were pretty satisfied with the transfer, and had been able to work through any issues they had had.

Ms. Jablonski said revenues had come in well, noting that 96% of taxes had come in by the end of the year, which was very good given the economy. She said revenues currently were at about \$10,422,000, which was about \$22,000 more than expenses. She said if the surplus continued, it would go toward increasing the fund balance.

She said with the exception of the Water Fund, the Town's other funds had performed as expected. She noted that the Water Fund had a shortfall in revenue that would require using some fund balance to offset expenditures.

Councilor Mower noted that the Financial Report indicated that electricity costs for

downtown lighting had been higher than anticipated, and asked why.

Ms. Jablonski said this was because of the electricity rates.

Councilor Mower noted that the Town wanted to encourage water conservation, and asked what this meant for the Water Fund, going forward.

Ms. Jablonski said it would mean the Town would receive less revenue while expenditures would stay the same, which would mean that water rates would most likely increase.

Councilor Mower said there appeared to be no way to offset this given that it was based on usage, and Ms. Jablonski agreed.

Councilor Stanhope asked Ms. Jablonski what year the bond for the communication center would be retired, and she said 2018.

Chair Carroll acknowledged that Administrator Selig had brought forward the regional communication center idea for Durham as a cost saving measure, and said it seemed to be doing well. She thanked him for this. She noted that she had made use of the dispatch center twice and it had worked out well.

Chair Carroll noted that the Financial Report indicated that many of the committees hadn't spent all of their budgeted money, so it was returned to the Budget. She said this spoke well for the Town. She said in some other towns and organizations, committee members were afraid not to spend all the money in their budgets because they were afraid they wouldn't be budgeted to that extent again. She said in Durham, they weren't punished in any way for returning money.

## **X. Unfinished Business**

### **A. Discussion and Action on the Administrator's agreement and setting of the Administrator's Salary**

Chair Carroll provided background on the performance evaluation process the Council had recently gone through, and she reviewed the rating of Administrator Selig on several categories. She said his average rating was 4.17 out of 5.0, which was between very good and excellent, and noted that this was an improvement from 3.83 for the previous year. She reviewed some written comments about Administrator Selig's performance, among them the comment that he did his job well but could set higher expectations and standards for staff, and be willing to act firmly if these standards were not met; and that he could be more forceful in taking positions on the Council. She noted that this evaluation had been done in a public session so the public would have access to the process.

Councilor Carroll said there had been consensus on the Council that she would meet with the Town Administrator to go over the Employment Agreement, including the 2011 salary. She provided detailed background on salaries for Town staff during the Great Recession over the past few years, noting among other things that during the past two years, department heads did not receive pay increases.

She said the average salary of 20 Town/City Administrator/Manager positions Durham used for comparison purposes was \$104,096, which created a range from \$95,000 to \$113,749 for the Town Administrator of Durham. She said Administrator Selig's current salary was \$101,630, and said he was willing to accept a 3% increase, which would bring the salary up to \$104,678. She suggested that the Council could discuss this as well as other aspects of the agreement, and that they could then take action.

There was discussion about whether they were talking about the total compensation or the base salary for the other 20 towns and for Durham.

Administrator Selig said there was no absolute science to establishing what the market was for a position. He said in Durham, they tried to shoot for the middle in terms of co-pays, etc. He said regarding what other town and city managers made, the elements of his employment contract were fairly consistent in terms of what other towns had. He said again that it wasn't an exact science, and said that was why an average of what 20 other towns did was used. He said a 10% spread was then made for the base pay, around the average.

In answer to a question from Councilor Stanhope, there was discussion on exactly how the \$104,096 average town administrator/city manager salary figure for the 20 towns was arrived at.

Councilor Stanhope asked Administrator Selig whether, if he was in the position of making a recommendation to the Council, he would strongly support the Town compensating the Town Administrator at \$104,700 dollars.

Administrator Selig said if they were hiring a new Town Administrator, they would want to hire someone within the \$95,000 to \$113,749 range. He said over time, he had developed a positive reputation in the field, and said he was being approached consistently by other communities that were larger and were paying more than Durham. He said his desire was to stay in New Hampshire, and noted that the next tier of communities paid in the \$120,000 range.

He said Durham couldn't afford to pay that, but said if there was a good Administrator who was performing at a high level, and they wanted to keep that person, they should work as hard as they could to pay at the top of that range. He said if they didn't, the \$20,000 spread was significant. He spoke further, and said if they were really pleased with the work he did, he recommended locking him in close to the \$113,749 rate for three years and increasing the period for giving notice.

Councilor Stanhope said the Council's responsibility was to protect the Town. He said if the Town agreed to the salary increase, it would be making a significant jump. He asked Administrator Selig if he would recommend a 4-month period for giving notice.

Administrator Selig said yes.

Councilor Stanhope said Administrator Selig's answer reflected in many ways a kind of prudence, which he had shown in some other situations, and which did not benefit him personally.

Chair Carroll noted that Administrator Selig had worked in Durham for 10 years.

Councilor Cote asked which 20 communities were used as comparables.

Administrator Selig noted that this information was provided to the Council each year in the updated wage matrix.

Councilor Cote said this related to his question, which was how the 20 communities were chosen. He said if this was population based, they were doing Administrator Selig a disservice. He said he got around to hundreds of communities in the State each year, and said there were towns of comparable population that didn't wrestle with a tenth of what Durham and Administrator Selig had to wrestle with.

Administrator Selig said the communities were selected by him, and he noted that the list was sometimes adjusted. He said some communities were larger, some were smaller, some were blue collar-oriented; some were not, some were college communities and some were not. He provided the names of the 20 towns.

Councilor Cote said some of these communities of comparable population didn't have to wrestle with the complexities of a university, and said he thought this had to be weighed, in terms of the compensation package. He also noted the 10 years of service by Administrator Selig, and said all of this had to be taken into account in terms of the compensation package.

Councilor Niman said he was very uncomfortable with the way the conversation was proceeding, and said he would prefer to have the Town Administrator leave the room and that the Council go into Nonpublic Session. He said if there was going to be a salary increase of this order of magnitude, there should be a frank and candid session, and said he didn't think it was appropriate to do this with Administrator Selig present.

***Councilor Niman MOVED to ask the Town Administrator to leave the table, and that the Town Council go into nonpublic session under RSA 91-A:3 II (a). Julian SECONDED the motion.***

Councilor Mower received clarification that Administrator Selig had asked for the \$113,749 salary number. She said it was appropriate to continue this discussion in nonpublic session.

***The motion PASSED unanimously 8-0.***

The Council entered into Nonpublic Session at 8:30 PM.

The Council returned to Public Session at 9:28 PM.

***Councilor Mower MOVED to seal the Nonpublic Session minutes. Councilor Smith SECONDED the motion, and it PASSED unanimously 8-0.***

Chair Carroll said Councilor Niman, who was the Council Chair pro tem, would make a statement about the Agenda item.

Councilor Niman said there had been an interesting discussion on compensation for

Administrator Selig, and said they had generally agreed on an approach. He said he and the Chair would sit down with Administrator Selig before the next Council meeting to see if they could come to a meeting of the minds. He said if so, there would be a contract to approve by March 1<sup>st</sup>.

- B. Receive update by the Town Administrator on the Request for Proposal for the redevelopment of the Grange (H.A. Davis building) located at 37 Main Street.

Administrator Selig noted that he had attended the recent EDC meeting and HDC meeting, to discuss the request for proposal for the redevelopment of the Grange property. He said the perspective between the two committees was rather different, and said he wanted to bring the Council up to date on their points of view, and then ask the Council how it wanted to proceed.

He noted that the Grange, which was an historic property, had been envisioned as an access route to Mill Plaza in the 2000 Master Plan. He said the building had been empty for the last 3-4 years. He said developer Peter Murphy had originally proposed to keep the Grange as is and transform it into student housing, and to have a 15 year lease option or purchase it.

He said there had also been a proposal that if the Town was willing to move the Grange up to the road, Mr. Murphy would be willing to pay an additional sum to the Town. He said he had responded to Mr. Murphy that if there was student housing on the upper floor, and some other uses on the lower floor, that would be something to talk about.

Administrator Selig said the EDC was inclined to keep the options open regarding the property. He said they preferred the lease arrangement so that if something came on line with the Plaza or rental properties on either side of the Grange, with a certain amount of notice the lease could be terminated. He said there were some EDC members who were interested in retaining the first floor space as community space, and others who were more inclined that it be commercial/retail space. He said there was not consensus on the use of the lower floor.

He said the HDC had a very different perspective. He said they felt that where the Grange was now, set back from the road, hid the property, and thought it would be beneficial to move it up to the road. He said they had voted to enter into some arrangement where this would happen, which would allow Mr. Murphy to build to the rear and would therefore allow a larger structure. He said the HDC also discussed the idea of selling the building to Mr. Murphy, and keeping a covenant on the exterior appearance and also perhaps on what the uses would be inside.

Administrator Selig said there had been a productive meeting that morning with Mr. Murphy, EDC Chair Tom Elliot and HDC member Jim Lawson and said they had discussed the idea of possibly selling the property to Mr. Murphy.

He said he wanted to take an underutilized structure and enhance it so it became a productive building once again. He said if they were looking at the building's highest and best use, it would make sense to sell it, and it then would become a taxable building as well as give the Town money it could use to replenish the fund balance. He also said that through a covenant approach, they could control what happened inside.

Administrator Selig said that regarding the issue of access to the Plaza, a challenge was that as much as they would like to see something occur there, it wasn't happening. He said about 3 months ago, he had spoken with a representative of the Edwards Communities, which had been having a dialogue with the owner of the Plaza, and had been optimistic that something could move forward. But he said Mr. Campbell had told him that the negotiations had broken off, and that the Edwards group was perhaps interested in doing something else in Durham.

He said he didn't anticipate that anything would happen soon with the Plaza, and also said that geographically speaking, he wasn't convinced that the Grange was the best outlet onto Main Street. He said the topography was quite steep, and said the better option was to get access from the properties to the left of it. He noted that there had been discussion about the likelihood that the properties to either side of the Grange would be re-developed.

Administrator Selig also noted that the properties from the Grange heading up Church Hill were all in the Historic District, and said the Town would have concerns about those buildings. He said a renovation or development of any of these properties might not involve a total tear-down, and would rather involve retaining elements and historic portions of those buildings, infilling around them, or refurbishing what was there.

He said it wasn't known what would occur, and said his goal in pushing the lease had been to retain maximum flexibility, so that hopefully an arrangement could be brokered so a project could move forward now. But he said he wanted to bring forward to the Council the most recent idea of possibly selling the property and the use of covenants to protect uses.

Administrator Selig briefly described some possible uses for the building, including a universal access apartment for a disabled person, and some affordable housing now rather than several years from now. He noted that if it became a private property, the Town could bring to bear RSA 79-E, which he said would be ideal for this property. He said with some affordable housing, perhaps they could make the economics work. He said he would like to see if the Council could reach some consensus on how to proceed.

Councilor Sievert said he needed to recuse himself, and left the table at 9:39 pm.

At the request of Councilor Mower, who had left the room briefly, Administrator Selig explained further that the benefits of selling the property would be the money from selling it, and ongoing taxable income. He also noted that if the building was moved closer to the road and there was an addition to the back of it, this would maximize that site downtown.

Councilor Mower said she recalled from the site walk that there was some question of whether moving the building would be advisable, given the condition of the foundation.

Mr. Sievert, who was sitting in the audience, was asked for his professional opinion on this.

He noted that his company was MJS Engineering, and said he had helped Mr. Murphy put the RFP together. He said they had come up with the idea of moving the building because of the condition of the foundation, which could use some improvement. He said doing this would allow them to retain the historic building but on a new foundation, and said this was a feasible solution.

Councilor Smith said in other words, it would be a better use of the site to take out the old foundation, dig down a bit and have a usable floor with southern exposure.

Mr. Sievert said that was exactly right.

Councilor Clark asked if the approach Administrator Selig had described meant there could be workforce housing without having student housing immediately.

Administrator Selig explained that Mr. Murphy was thinking that the student housing could be put in the addition to the rear. He said the idea was that the existing Grange building could be used for the other purposes, including affordable housing on the second floor, and affordable housing/a universal access apartment, as well as commercial or community space on the first floor. He said Mr. Murphy thought something like this would be viable. He said there could be a 100-year covenant that included some standards.

Councilor Clark said he understood that student housing was the highest use of the Grange, but said it wasn't the best use of it. He said student housing had destroyed the buildings up and down Church Hill, and said his opinion had always been that the Town shouldn't be helping to create more student housing in the Central Business District, given that it was one of the worst things they could do to their historic buildings and the downtown.

He said he agreed that it was unlikely that the property would be used as useful access to the Plaza, and said they would need to find another property for this soon. He also said the B. Dennis report also had said it was important for buildings to be close to the street in order to create a contiguous downtown appearance.

Councilor Clark said he could support the idea of selling the property, and letting Mr. Murphy move the building up to the street and build in the back. But he said he would want the covenants that were developed for the Grange to serve as a model for creating the robust, vibrant downtown they wanted, so the building wouldn't become just another slum.

Chair Carroll said they had to start somewhere with workforce housing downtown. She said she agreed with Councilor Clark that they needed to move forward with it, and said this was a great opportunity. She said she wasn't completely sold on moving the building to the street front, noting the picket fence and lawn there, and suggested that if this area was turned into a pocket garden/green space, it could be very attractive. She said she would like to look at the property again.

Councilor Stanhope said some of the change in thinking regarding moving the building to the street had come about once the project was presented to the HDC. He said the Committee was committed to maintaining the cityscape that was encumbered by the District on the left side of Main Street as the gateway to the downtown. He said they had taken a formal position on selling the building, moving it to the street, and receiving a plan for the footprint. He noted that he had talked with architect Nick Isaak, a former Chair of the HDC, who said something could be done with the Grange that would preserve the architectural integrity of the structure.

He said the HDC had said that if the Town chose to sell the Grange, the deed should include an encumbrance that preserved its architectural integrity. He also said there was discussion by the HDC that some buildings near it would be torn down for redevelopment. He said the authority to do this lay with the HDC, and said they were strongly committed to prohibiting this from happening. He said they would like to see incentives created for restoration of these properties.

In response to what Councilor Clark had said, Councilor Stanhope said not all student housing in Town was a burden, or neglected. He said there were properties downtown occupied by students that were aggressively managed and were not run down. He said ownership was the problem, and he noted that what the Town had done regarding the neighborhoods applied to all properties in Town.

Councilor Stanhope said he didn't think the Council should be voting based on prohibiting something that was legally permitted. He said if it created the highest and best use for the building that created tax revenue for the Town. He also noted that if the building was owned by the developer, he would be able to seek tax credits for restoration of an historic property.

He said there were a lot of reasons to pursue this. But he said before the Town sold the Grange, the developer had to come back with a plan. He said the HDC was very committed as part of that plan to have workforce housing, and as an alternative, handicap housing. He said there might be a mix of housing. He noted that Mr. Murphy had a very aggressive management plan for his new student housing property on Rosemary Lane.

Councilor Clark said even well managed student housing was hard on the condition of any property, especially an old building. But he said his bigger concern was when they had talked about what they wanted their downtown to look like and consist of, it was that student housing could play a role, but a diminished role. He said they had plenty of it already, and said to have another building that put more in would only make it harder to accomplish their overall objective, which was to see a downtown that had a much more balanced mix of commercial/office uses, workforce housing and student housing.

He said looking at the long term, 15 years of leasing seemed like an eternity, and said he had been more hopeful that progress toward the vision could be made over the next decade.

Councilor Niman said he didn't necessarily think that what was proposed now would preclude what Councilor Clark would like to see in 10-15 years. He said if they were going to move the building forward and develop the back, it made sense to sell the property. He said he was in favor of doing this, and also said his only condition would be that the housing built in the back might initially be rented to students, since that would be the only way for it to economically make sense, but it would be built in a way that would permit someone other than students to live there. He said he would hate to see anyone in Town build a new building that was only suitable for students and that couldn't be converted or utilized by somebody else.

Councilor Niman said he was very much in favor of affordable housing in the renovated Grange. He said the assisted living space idea was fine, and also said he would like to see the vacant space at the front of the Grange reserved for community use. He said there were very



few places for members of the community to congregate, and said this could be the only affordable option for this. He said in order to have a vibrant downtown, there needed to be a place like this, and said residents who gathered there might then frequent businesses downtown.

Councilor Stanhope said he had given the issue of community space a lot of thought. He noted that the proposal for the new Fire Station had a community room in it, and also said most libraries had community space. He asked how many dollars they were going to commit to this kind of space in Town. He said there were other places to meet, noting that the University had space at the MUB for nonprofits. He also said he wondered if the community space idea would be taking value away from the Grange, which would mean the Town would realize less of a windfall from selling it, and would also be getting less tax revenue.

Councilor Niman said Councilor Stanhope was correct that if there was a community room in the new Fire Station and new Library, there might be a surplus of community space. But he said his sense was that the price tag to build that kind of space in those new structures would be significantly more expensive than a renovated Grange on Main Street, in the heart of downtown. He suggested that they could put something in the covenant that if there was other community space in town, the portion of the Grange on the first floor being used for community space could be converted to commercial space.

He noted that he wasn't inclined to put community space in a fire station anyway. He said he was concerned about the price tag associated with the new library, and that the voters wouldn't vote to bond a lot of community space there. He said if they weren't successful with that, this might be the best deal going. He said it might pay the Town big dividends, and said that value might offset lost tax revenues.

Councilor Mower said she had discussed with Mr. Murphy the idea of reconfiguration of apartments for the future. She said there would probably be a question in the Master Plan survey related to this, because other members of the community were thinking this way as well.

Administrator Selig said his sense was that the Council was comfortable with selling the property. He said he would work through some terms with Mr. Murphy, and bring something back for the Council. He recommended having a public hearing, but suggested that they wait until there was a plan worked out.

Councilor Clark asked whether, if they were going to sell the Grange, this accelerated the search for where else Mill Plaza would access Main Street or Mill Pond Road.

Administrator Selig said one location was across the tri-colored Varsity properties next door to the Grange, noting that the topography was much better there. He said another possibility was going across the Kyreages property, noting that there was some vacant land back there that could be linked up with Smith Park Lane. He said a third approach was Chesley Drive.

Councilor Clark said those were clearly the three options, and said if they sold the Grange, it would be prudent to think about reserving some of that money for the acquisition of whatever it took for one of those ideas to become real.

Chair Carroll said that point was well taken, and should be discussed.

**XI. New Business**

**XII. Nonpublic session (if required)**

**XIII. Extended Councilor and Town Administrator Roundtable**

Chair Carroll noted that Councilor Sievert had returned to the table at 10:00 pm.

Councilor Mower said she would not be available to help close the polls for the upcoming elections, and Councilor Smith also noted that because he was on the ballot, he couldn't do this either. Chair Carroll said she would be out of Town on that day, and other Councilors agreed to check their schedules.

Administrator Selig updated the Council on HB 44, regarding designated segments of the Oyster River as a State protected river. He said there was an upcoming Resource, Recreation and Development subcommittee meeting, and said Durham would be sending someone to represent the Town.

He also said he had been working with Mr. Cedarholm to see if they could come to a solution to bridge the current impasse, in that they were very much in favor of the designation as long as it didn't have a detrimental impact on the Town's water supply. He said an idea they had had was to perhaps modify the underlying language to exempt the water system from the implications of the instream flow requirements. He said this idea would be raised tomorrow if there was the opportunity.

Councilor Smith suggested that those speaking for the Town should be very careful about identifying the Town's need for water. He noted several passages in the memo from Administrator Selig to the Resource, Recreation, and Development Committee and the Senate. He said the first paragraph referenced taking water for drinking water purposes, but he said those who wished to manage the river more stringently might say the Town would only use 2-3% of the water it would take for actual drinking water.

He also said the wording "protecting a way of life for future generations of water users" was politically dangerous, in that those trying to protect the river might question what way of life was being referred to - washing cars, watering lawns, taking long showers, etc. He said he recognized that the memo talked about protecting the flora and fauna of the river. He said they needed to be very careful about the official rhetoric on this matter.

Councilor Mower asked who was likely to be the spokesperson for Durham.

Administrator Selig said it would probably be Attorney Dana Bisbee, who had represented the Town in the past on these issues.

Councilor Mower said she personally was concerned about the possible strategy being considered of exempting the water system from the implications of the instream flow rules,

to the extent that water users were already considered in these rules. She said this would set Durham in a particularly unique position.

Administrator Selig said the Pennichuck water system had been particularly noted concerning an exemption, so there was a precedent.

#### **XIV. Adjourn**

*Councilor Stanhope MOVED to adjourn the meeting. Councilor Niman SECONDED the motion, and it PASSED unanimously 8-0.*

Adjournment at 10:07 pm

Victoria Parmele, Minutes taker