

This set of minutes was approved at the April 4, 2011 Town Council meeting

**DURHAM TOWN COUNCIL
MONDAY, FEBRUARY 21, 2011
DURHAM TOWN HALL – COUNCIL CHAMBERS
7:00 PM
MINUTES**

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

MEMBERS ABSENT: Councilor Bill Cote

OTHERS PRESENT: Town Administrator Todd Selig; Director of Public Works Mike Lynch

I. Call to Order

Chair Carroll called the meeting to order at 7:04 pm.

II. Approval of Agenda

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

III. Special Announcements

IV. Approval of Minutes

January 10, 2011

Page 2, 1st full paragraph, should read "...go over with the committee what consultant..."
2nd full paragraph, should read "...the School District's Advisory Budget Committee..."

Councilor Sievert MOVED to approve the January 10, 2011 Minutes as amended. Councilor Niman SECONDED the motion, and it PASSED 7-0-1, with Chair Carroll abstaining because of her absence from the meeting.

V. Councilor and Town Administrator Roundtable

Councilor Gooze said the Library building committee had been meeting regularly, and noted a draft design for the new Library on the wall. He said this design was about 30% larger than what the committee had wanted, and explained that the designers had showed the committee what was possible on the site. He said they were trying to work within the Zoning Ordinance, and as part of this, had kept the footprint out of the wetland buffers. He noted that the Friday

Update provides links so people could view the draft plans.

Councilor Niman asked what the approximate price tag was, and Councilor Gooze said that was the next step.

Councilor Gooze said the Inclusionary Zoning Implementation Program committee (IZIP) had completed its work, and said the next step was to provide their recommendations to the Planning Board. He noted State legislation relating to workforce housing that could impact the committee's work.

Regarding the housing authority approach to providing workforce/affordable housing, which he noted would be discussed at the present meeting, Councilor Gooze said it had been realized that what the IZIP committee had sent to the Planning Board didn't include that approach. He said he would speak further on this as part of Karl Van Asselt's presentation.

Councilor Gooze said the Rental Housing Committee had a tentative date to meet on March 2nd, and said there would be a discussion on the recent letter from the Durham Landlords Association regarding the disorderly house ordinance.

Councilor Sievert asked what would happen with the existing tennis court on the Library site.

Councilor Gooze noted that area was very low, so there wasn't much that could be done with it unless fill was brought in. He said it was possible that a rain garden could be located there.

Councilor Smith suggested it could perhaps be a picnic area, and Councilor Mower said it perhaps could be used as an educational area. They said there were a lot of possibilities.

Councilor Sievert noted that his firm was involved in initial planning for the site. He said the tennis court area was already a disturbed area, and he questioned the idea of staying out of it now. There was further discussion.

Councilor Smith said the public hearing on the Capstone application had been continued at the most recent Planning Board meeting. He handed out a chronology of the informal and formal review of the project starting in 2010, and said it had been a very extensive process, which meant that the project had been extremely well vetted.

He noted that one step in the process was that Capstone had requested that the aquifer overlay boundary on its property be adjusted, based on an analysis that had been done. He said this was a housekeeping matter, and said the Planning Board had recommended that the change should be made. He said this item was on the Unanimous Consent Agenda, and said there was no need to discuss it unless someone took it off of the Agenda.

Councilor Smith said several members of the Integrated Waste Management Advisory Committee would be traveling to Charleston, MA with Doug Bullen from the DPW to observe the high tech recycling plant there, which handled hundreds of tons of single stream material per day. He said other residents were welcome to join them on this trip.

Councilor Sievert asked for further explanation of the handout Councilor Smith had provided on the Capstone project.

Councilor Smith said it was a reminder of how long and complicated the process had been, and said he was not suggesting that this process should be streamlined.

Councilor Sievert said he didn't think it was that long a process, and noted how long the Hotel NH project had taken.

There was discussion.

Councilor Mower said the Energy Committee had received one response to the RFQ to increase the energy efficiency of Town facilities, from Revolution Energy. She said the committee was looking forward to working with the company.

There was discussion on whether the Google group that had been set up was a useful way to get further input from residents on the Master Plan update, with Councilor Mower noting there had been no postings on it yet. She asked if there was perhaps another, more effective way to communicate with residents, and there was further discussion. Councilor Mower suggested linking the Google group to the Town website so more people would be likely to find it.

Councilor Niman noted that the Governor had just released the State Budget for the next biennium, and in it suggested that the State no longer contribute to retirement for public employees. He noted that two years ago, the contribution had been decreased to 35%, and later was decreased to 20%. He said there was also the question of what other costs were going to be downshifted to the Town and the School District.

He asked whether at some point, there would be a discussion by the Council on this, and if this would be incorporated into the bargaining process with Town employees. He said if the Town was going to have to provide another 25% to their retirement, this would need to be considered in terms of the compensation package that was provided.

Councilor Niman noted that last year, the Council approved a Budget and thought it would have a very low increase in the tax rate. He said the Legislature then took some money away from the Town, which resulted in a fairly substantial increase in the tax rate. He asked if the Council could take some time later in the year, or now, to re-visit the Town Budget, stating that at the rate things were going, who knew how much revenue the Town would lose, and how this would impact the tax rate. He said he would like the Council to consider whether it should continue business as usual, or should instead consider modifying expenditures because of the revenue losses.

Administrator Selig said he would discuss this as part of his updates at the meeting.

Councilor Stanhope said published reports had indicated that State aid to municipalities and school districts would be reduced by about 21%, in addition to the State not making the retirement contribution. He said he wasn't sure how much of this was school related, but said it all would have a dramatic impact on the tax rate. He said he agreed that the Town would need to begin to think now about how it would manage that revenue shortfall, and make the appropriate changes sooner rather than later.

Councilor Clark said that at the intersection of Pettee Brook Lane and Madbury Road, people coming to Pettee Brook Lane from Main Street were not yielding as they were supposed to. He said this situation needed to be monitored, noting that he saw a lot of close calls when he drove through that area.

Councilor Smith said the Traffic and Safety Committee had discussed this issue a number of times, and said the situation was being monitored. He said someone had recently suggested to the committee that a stop sign should be placed on Main Street, in front of the Post Office, as a way to address the problem. He noted that a contributing factor to the problem was people who were driving west from Main Street and changing lanes.

Councilor Mower said the Energy Committee had brought a proposal to the Traffic Safety Committee for a pilot bike route change, and said it would be considered by the DPW over the next month or so, in conjunction with UNH graduate students. She said the problem on Pettee Brook Lane might be incorporated into this.

Councilor Clark said the results of the Economic Development Committee's business visitation surveys had been compiled, and had been sent around for comment. He said the Council would be seeing these results soon.

Administrator Selig said the EDC had gotten back the draft report from DCI on the economic analysis the firm had done on the downtown core. He said a subcommittee of the EDC had provided feedback on it to DCI, and said the company was re-working parts of the report to make it clearer and also to address some data inconsistencies. He said it was hoped the report would be ready within the next 2 months.

Councilor Gooze said it would be wonderful to have that information available for the Council's goal setting process for 2011.

Administrator Selig said they would get the report back as soon as possible, and noted that this information would also be incredibly helpful for the Master Plan update process.

He said the Town's Annual Report had just come out, and was available online and at the Town Office. He said it was expected that the report would be mostly available online in the future. He noted that there was a picture of UNH on the back, which helped to make the link between the Town and the University.

Councilor Sievert said he had heard comments that this was one of the best Town reports that had been put out in years, including the fact that UNH was on the cover.

Administrator Selig thanked everyone involved in making the recent Chili carnival a great success.

He encouraged residents to go to the Friday Update to consider the various board and committee vacancies. He also noted that the Town was now outsourcing the distribution of the Friday Update, and he explained the various advantages of doing this. He said there were now about 1800 subscribers.

Administrator Selig spoke about Revolution Energy, noting that it was an innovative company headed by Clay Mitchell and was located on Jenkins Court. He said the company had been one of the winners of the Green Launching Pad competition, and said the plan was to send Revolution Energy personnel to all Town facilities in order to come up with cutting edge solutions. He said the hope was to be able to leverage grant monies in order to apply these solutions.

Administrator Selig said the Durham Business Association would host the Candidate Forum, which would be held on February 22nd.

He provided details on the option available in Durham to apply for an elderly tax exemption, and asked residents who might know of elderly residents who qualified for this exemption to pass this information on to them.

Administrator Selig noted that at a recent Council meeting, there was an Agenda item concerning the replacement of the street lights on Pettee Brook Lane. He said all of these new lights would be movable, if in the future, Pettee Brook Lane was redesigned. He said right now, the Town was down several lights on that road, which created a safety issue, so it was important to get the new lighting put in there.

Councilor Mower thanked the DPW for the lovely LED lights that had been put in on Main Street, which she said provided good illumination. She noted that a grant had been obtained to replace the existing bulbs.

Administrator Selig referred to what Councilor Niman had said about the State Budget. He said the State had previously decreased the assistance in paying retirement costs for firefighters, police officers and teachers, from 35%, to 30%, to 25%, and said this reduction was supposed to sunset in 2012, which began for the State in July of 2011.

He said that in his Budget, Governor Lynch had recommended eliminating this assistance altogether, which would mean that for Durham, there would be \$160,000 of additional cost for fiscal year 2011, and moving forward for a full year the cost would be \$320,000.

Administrator Selig said if this came to pass, it would be a game changer for the Town, and said the Council would have to think carefully about how to respond to the proposal, and about what it might reduce in the Budget, including proposing to re-open bargaining contracts in order to avoid layoffs, etc.

He said on a statewide basis, a reduction of about \$174,000,000 to local governments was proposed over 2 years.

Administrator Selig also said that for the Oyster River School District, the number would be much higher than the \$160,000 the Town was looking at, because it had far more employees than the Town did. He said the Council would need to talk with the School Board about how it was planning to respond.

He said that concerning \$50 million in revenue sharing with the State that had previously been eliminated, there had been the hope that this would be restored, but the Town hadn't

counted on getting this money with the 2011 Budget. He said it didn't look like this would be restored, with the Governor's Budget proposal

Administrator Selig said there would be a \$5 million increase in the rooms and meals tax distribution to towns, which would result in a small plus for Durham. He said there would be a \$7 million increase in highway block grants for local communities.

He said the Governor's Budget reduced catastrophic aid by \$63 million. He said this was aid paid out by school districts typically for special education students that exceeded the average cost of educating a person with disabilities by ten times.

Administrator Selig said he didn't want the Council to move into alarm mode at this point, but said these things would need to be tracked very closely.

Councilor Niman noted school building aid from the State had been frozen, and said a question was whether the State would back out of existing aid for building projects. He noted that the State was contributing to an Oyster River School District renovation project that had been done.

Administrator Selig said the School District had bonded some of those costs last year, and said it wasn't clear how what Councilor Niman had spoken about would play out. He said there had been some conversation about this. He also noted that the Budget had frozen future projects for improvements to wastewater treatment plants, water systems, etc.

He spoke about the fact that the Legislative response to the Budget proposal had been very mixed, and noted that the Legislature had said that they didn't want to downshift costs to the local level. He said it remained to be seen how this conversation would play out.

Chair Carroll said this wasn't a time to panic, but certainly was a time to think about these things, and have some idea of what the Town would do if this played out in the worst possible scenario.

Administrator Selig spoke about current ideas the Legislature was discussing regarding reforming the retirement system, including increasing the retirement age for police officers and firefighters from 45 to 50, and increasing the length of service requirement from 20 to 25 years.

He said there was also discussion on increasing from 3 to 5 years the calculation of the average top pay for an employee, in order to make it more difficult to spike the last 3 years. He provided further details on how the calculation of payout at retirement was being looked at.

Administrator Selig said legislators were also looking to add more equity to the composition of the State retirement system board. He said right now, it was heavily weighted to public employees and not to employers, which affected how things were done within the system.

He said there was also discussion about moving from a defined benefit program to a defined contribution program, for new enrollees. He said none of the reforms proposed would create

relief for the Town in the short term, but said they would provide some stability for the retirement system over the longer term.

Chair Carroll noted an email received from Energy Committee Chair Kevin Gardner, concerning plans, including a pilot project, for possible bike paths in Town. She said this would be the basis for a good discussion by the Council.

She told Councilors that she had requested the opportunity to speak with John Acken of Capstone Development, and would be meeting with him for the first time on Wednesday.

Councilor Carroll noted that she had been absent from the January 10th Council meeting, and had later watched the meeting on DCAT. She said she had found it very interesting to watch a group of people that was going about the work of the Town, collecting and listening to information and ideas that were offered, doing problem solving, and taking action on issues. She said she had seen an atmosphere of teamwork and camaraderie at work, which was something she had noticed all year on the Council. She said it was nice to see it from this more distant vantage point.

She said she wouldn't be at the next Council meeting, noting that it would be the last meeting for this Council, and that Councilor Sievert and Councilor Clark would be stepping off. She thanked both of them for the major contributions they had made to the Council, which had affected the Town in a very positive way. She said she had appreciated the environment of give and take they had been a part of, and the work the Council had done to implement the goals it had established.

VI. Public Comments (NLT 7:45 PM)

None

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, upon recommendation of the Town Administrator, reduce the appraisal of property owned by John S. Rowntree, 6 Deer Meadow Road, from \$605,100 to \$517,200 for tax year 2009 and from \$613,100 to \$517,200 for tax year 2010; grant a property tax abatement in the amount of \$87,900 for 2009 and \$95,900 for 2010 of assessed valuation to John S. Rowntree; and authorize the Town Administrator to sign a Settlement Agreement between John S. Rowntree and the Town of Durham relative to Docket No. 25259-09PT?
- B. Shall the Town Council, upon recommendation of the Town Administrator, reduce the appraisal of property owned by Sharad & Manisha Aggarwal, 14 Sandy Brook Drive, from \$339,600 to \$310,400 for tax years 2008, 2009, and 2010; grant a property tax abatement in the amount of \$29,200 of assessed valuation to Sharad & Manisha Aggarwal; and authorize the Town Administrator to sign a settlement agreement between Sharad & Manisha Aggarwal and the Town of Durham relative to Docket No. 24204-08PT?
- C. Shall the Town Council approve the Special Event Permit application submitted by the Oyster River High School Friends of Oyster River Track to close certain sections of Town roads for its annual "Todd's Trot" 5K road race on Saturday, April 2, 2011?
- D. **RESOLUTION #2011-04** endorsing the listing of Smith Chapel on the National Park Service National Register of Historic Places

- E. Shall the Town Council, upon recommendation by the Planning Board, adjust the boundary area designation of the Aquifer Protection Overlay District, as shown on the "Town of Durham Aquifer Map" dated 16 October 2007, by removing the identification of a stratified-drift aquifer on part of property shown on Tax Map 9, Lot 10-3 and located on the west side of Technology Drive?
- F. Shall the Town Council, in accordance with Section 7 of the Town of Durham Purchasing Policy and upon recommendation of the Town Administrator, waive the standardized purchasing process and award the purchase of new decorative street lighting for the Pettee Brook Lane renovation project to Northeast Electrical Distributors of Dover, NH in the amount of \$43,196.90?

Councilor Mower asked if Item E on the Unanimous Consent Agenda concerning the aquifer boundary adjustment could at least be introduced, stating that it involved more than a housekeeping item.

It was agreed that there should be some explanation for the public on what had been recommended by the Planning Board concerning the aquifer boundary adjustment, and why this was now coming to the Council.

Councilor Sievert recused himself from the discussion on this Item.

Councilor Smith explained that the stratified drift aquifer overlay map had been based on USGS interpretation of ground features, using aerial photographs. He said during the preliminary engineering for the Capstone project, about 2 dozen test wells were put in, and consolidated glacial till and not stratified drift material had been discovered.

He said the Planning Board had heard a presentation from the engineering firm on this matter, and then voted unanimously to recommend to the Council that the aquifer map be changed to remove the section of aquifer on the west side of Technology Drive. He noted that the map indicated a smaller portion of aquifer overlay on the east side of that road, which was also probably not stratified drift aquifer. He said no testing had been done there to confirm this.

Councilor Mower said the process for requesting an adjustment to the aquifer boundary was explicitly laid out in the Zoning Ordinance. She said the analysis was conducted by R.W. Gillespie, and said the Town Engineer had confirmed that the process had been conducted appropriately.

Councilors agreed that they had enough information to vote on Item E.

Councilor Stanhope noted that regarding Item A that the appraisal documents for it were prepared by his firm. He said he would therefore recuse himself if the Council thought this was necessary.

Administrator Selig noted that these documents were one of three appraisals that had been done, and said he didn't see a problem.

Councilors agree that it wasn't necessary for Councilor Stanhope to recuse himself.

Councilor Smith MOVED to approve Unanimous Consent Agenda Items A-F. Councilor Gooze SECONDED the motion, and it PASSED unanimously 8-0 for items A-D and F, and unanimously 7-0 for item E, on which Councilor Sievert recused himself.

VIII. Committee Appointment

Discuss and appoint a Council representative to the Durham Business Park Design Guidelines Review Panel

Administrator Selig explained that when the Town had entered into a Purchase and Sale agreement with Chinburg Builders, a requirement was that the project would be implemented in accordance with the Durham Business Park design guidelines. He said these guidelines among other things indicated that there would be a review panel of 4 people, including a representative from the Town Council, a representative from the Planning Board, the Town Administrator and the Town Planner, who would ensure that the development proposal was consistent with the design guidelines. He noted that these guidelines were not hard and fast requirements, and outlined general things like the slope of the roof and the look and feel of the site.

He noted that Councilor Smith was the Planning Board's representative to this panel. He said Chinburg Builders had a potential developer for the site, and said this might be coming forward to the Planning Board by the summer.

Councilor Sievert said he had worked with Chinburg Builders on the purchase of the Durham Business Park, and recently had worked with them on configuring a potential subdivision for the site. He also said he would perhaps be involved with the company in the future.

Administrator Selig recommended that Councilor Sievert err on the side of caution and recuse himself because there was no need to create any cloud over the issue.

Councilor Smith noted that the Chair and Chair pro tem were on the Council when the design guidelines were adopted. He suggested that one of them could bring some institutional memory to the panel, or a Councilor with some fresh ideas could be selected to serve on it.

Chair Carroll asked if there were Councilors who were interested in serving on the panel.

Councilor Mower said she had expressed some interest in serving on it, but would be happy to have Councilor Stanhope do so, noting that he had worked with the HDC on design guidelines. She said she planned to attend some of the meetings.

She noted that these were guidelines and not standards, but said regardless of that, the Zoning Ordinance language on this was curious: "In addition to the dimensional standards, development in the Durham Business Park District shall conform to the following additional requirements: Design Standards - Any structure must conform to the design guidelines for the district established by the Town Council."

There was brief discussion on this.

Councilor Gooze MOVED to appoint Councilor Stanhope as the Council representative to the Durham Business Park Design Guidelines Review Panel. Councilor Smith SECONDED the motion.

Councilor Stanhope said the Business Park sat at the gateway to community, so that whatever building was placed there would set a standard for how people saw Durham. He said the appearance of structures there was critically important, and said he would serve on the panel with that in mind.

Councilor Smith said he had volunteered to be the Planning Board representative to the panel because he had been on that board in 2002/03 when another corporation had an option to buy the Business Park. He said the possible development of the Business Park had been a tricky issue for a decade, and said he hoped things would go smoothly this time around. He said his hope was that Councilor Stanhope could assist with this.

Chair Carroll said she appreciated the importance of being sensitive to how a development there would look, as one came into Durham. She noted that it might be possible to have a building that looked industrial on the inside, yet look very good on the outside. She asked Councilor Stanhope what his thoughts were about how the building should look from the vantage point of someone who was on the river.

Councilor Stanhope said it should be something that was pleasing to look at, from all views.

Chair Carroll noted that the meetings of the panel would be open to the public, and Administrator Selig noted as well that the panel would only meet if there was an application.

The motion PASSED unanimously 7-0.

IX. Presentation Item

Discussion regarding Housing Authorities with former Councilor Karl Van Asselt

Councilor Gooze first noted the email Councilor Mower had sent to other Council members, which contained Minutes of various Council meetings over the past several years where this issue had been addressed. He then explained that the reason he had brought this issue forward to the Council now was based on discussions by the Rental Housing Commission and the Inclusionary Zoning Implementation Program (IZIP) committee.

He said they were looking at possible ways to get housing for University staff, professors, etc., in Durham, which he said was essential over time for the life of the Durham community, or else they would end up with a lot of older people and students, and nothing else.

Councilor Gooze noted that there previously had been discussion on a possible housing authority, housing commission, etc., and said a question he had was whether an entity like this could get grant money to use to actually purchase properties to then perhaps make into workforce housing projects.

Mr. Van Asselt said there was no simple yes or no answer. He noted that he wasn't present to advocate for a housing authority, and would like to make some comments about a question

the Council needed to make a decision on, which was whether it was interested in making affordable housing available in Durham for all levels of workers. He said he preferred to talk about affordable housing rather than workforce housing, because as far as he knew, the term workforce housing applied to workers at all income levels.

He said the question wasn't whether to create housing for a certain class of income, but was whether they wanted a community that had housing in it that all levels of income could afford. He said there was nothing wrong with saying no to that. But he said there were those people who would argue that making it possible for people who worked in a community to live there made some sense.

Mr. Van Asselt said historically, Durham's housing stock had been more expensive than those who worked there could afford. He said he didn't know about the salary structure at UNH, but noted that he had met with some University people a few years ago who were interested in this topic.

He said he suspected that they were still interested in opportunities between the University and the Town to create affordable housing for people at all income levels who worked at UNH. He said he thought that made for a good community of citizens. He also said there many other reasons for wanting to do this, including energy savings if people didn't have to commute to work.

He summarized some key points about Housing Authorities

1. Traditionally created to build and manage low income public housing for low and very low income families, elderly and younger disabled.
2. Federal government supports HAs, but the federal government hasn't made money available for rehab or new construction in about 20 years.
3. Has administered Section 8 Housing voucher program, which provides vouchers to families and elderly to live in private apartments with their rent subsidized by the federal government. The federal government has not issued new Section 8 vouchers for almost 15 years.
4. A few NH HAs have become involved in creating affordable housing.

Mr. Van Asselt said there were two questions for the Council to consider. He said one was whether the Council was interested in creating a public housing project in Durham for persons with low and very low incomes. He said if the answer was yes, a housing authority made sense because it was the only way they would get it.

He said a second question was whether in the absence of federal and State funds, the Council was interested in creating a public housing project in Durham with its own money.

Mr. Van Asselt next spoke in some detail about affordable housing. He said there were two kinds of affordable housing:

- A. Single family homes - basically a private development with all or a percentage of the homes in the development with all or a percentage of the homes in the development with a lower sales price than the market. For example, for a 100-home development, the

developer might include 25% of the houses as “affordable” for targeted incomes.

He said to make this type of development work, the Town most likely would have to consider changes and support to the developer, with such things as Zoning changes, land use requirements, town development fees and costs, density requirement considerations, density requirements, town assistance with infrastructure costs, and building considerations

- B. Apartments - An apartment complex where the rents are under market rents for qualified applicants. The reduced rents could be 10-25% under the market rents.

Mr. Van Asselt said virtually all of the affordable housing projects currently being constructed were under the Federal Tax Credit Program. He said such projects required a sponsor, which was often a non-profit group, a developer (who could be the non-profit), and the creation of a Limited Partnership with a private investor who provided the equity that was used to finance a project.

He said the limited partner (investor) made his money from the Federal Tax Credit. He said the sponsor's costs were repaying only the remaining traditional construction loan, and said there was therefore a much smaller note to pay. He said that in return for this arrangement, the sponsor agreed to provide rents for a reduced amount for a minimum of 15 years, and at the end of this time, the investor would have collected his tax credits, and the bank would have been repaid.

Mr. Van Asselt said a key question for the Council was whether it was interested in working with a private developer on a major new home construction project, and making the necessary allowances needed by the developer in order to make it profitable for him in exchange for creating affordable housing. He said the other key question was whether the Council was interested in creating affordable rental units with an apartment complex that would likely require town concessions and changes, in order to help facilitate the building of such a complex.

Mr. Van Asselt said it was easier to encourage the rental approach than the single family home approach. He said the latter took more work and time, but in the long run, was more desirable.

Mr. Van Asselt said a housing authority could be helpful in making affordable housing viable, as a non-profit sponsor. He explained that there needed to be such a sponsor in order to get the federal tax credits, and noted that a housing authority could also be the developer and manager of a project. He said he had been involved in three projects like this. He said the program was essentially a private investment program.

He said there was no guarantee that it would be successful, but also said there would be no harm in having that tool available. He said the Town would be in a much stronger position to work with UNH as a sponsor of a significant affordable housing project if there was a housing authority.

Mr. Van Asselt said in order for a project to work, the Town would need to be willing to make some concessions, such as zoning changes, density increase allowances, waiving of certain permits and fees, consideration on water and sewer costs, and considerations with local taxes. He said the developer needed to be able to make some money, and the sponsor needed to be able to pay the mortgage.

He noted that people had various fears about housing authorities doing things like parking garage projects, issuing revenue bonds, or taking land by eminent domain. But he said he had never seen this happen.

Councilor Stanhope noted the NH Housing Finance Authority and projects it had done with single family detached housing, where the purchasers got attractive financing, and as a condition, there were caps when the house was sold so that the property remained affordable for future buyers. He said the organization seemed to be reasonably well funded to assist in the financing of these projects. He asked about the relationship between housing authorities and NH Housing Finance Authority.

Mr. Van Asselt said it was a superb agency, and explained that most of its money came from the federal government and that it administered the federal tax program. He said the NHHFA had a single family housing program that had worked, and he spoke about housing projects they had done in the towns of Exeter and Hampton, neither of which had a housing authority.

He said a housing authority could become the agency in Durham to help make that kind of project happen, stating that he didn't think the Council or the Planning department would be able to do this. He said if a housing authority was created without ongoing federal income, he wasn't sure how it would operate, and said it would have to be decided if it was worth putting Town money into the operation of a housing authority.

Mr. Van Asselt said the NH Housing Finance Authority could do the kind of thing Councilor Stanhope had described, and said a housing authority could help with that.

Councilor Stanhope asked whether if there was no budget created for a housing authority, the alternative was within the regulatory structure, to allow increased density, variance in meeting codes, variance in taxes, etc, so that an incentive was created for a developer to create affordable housing.

Mr. Van Asselt agreed that this was how to get a private developer to come in and do affordable housing. He noted that these concessions wouldn't have to be given if there was a housing authority, and said that was the real difference between them. He spoke further on this.

Councilor Gooze said the IZIP committee had been considering the various possible concessions that could be made in working with developers. He asked Councilor Van Asselt if what he had been describing referred to new projects, or could also perhaps apply for rehab projects, for example, buying a group of homes that weren't being used. He said the RHC had looked at this idea, and the idea of possible incentives for doing affordable housing.

Mr. Van Asselt agreed that this was a possible approach. He noted a rehab project idea he had been working on regarding a multi-site, tax credit affordable housing project, which got extra points in the scoring because of the multi-site aspect. He said part of the reason for this was that scattered sites with affordable housing were much more desirable in a community than one site. He provided details on this.

Councilor Sievert asked if a housing authority could build a parking structure.

Mr. Van Asselt said the State statute on housing authorities said they had that authority, and he noted that Dover had looked at this idea over the years. He said he wasn't advocating that a housing authority do this.

Councilor Sievert asked for details on how something like that would work, and Mr. Van Asselt said a housing authority could issue bonds, and would be the operator of the facility.

Councilor Clark asked Administrator Selig if the Master Plan would need to address the concept of how and where to put in affordable housing. He said he hated the State requirement regarding workforce housing, and noted how the previous affordable housing mandates in Durham had played out.

He said the downtown appeared to be the place in Town to put the density and the diversity they wanted, and said he had a hard time picturing this in other developed areas in Durham. He said it seemed they should focus on the places where this made sense.

Administrator Selig agreed that the downtown was the logical place to focus affordable housing. He said there would be the opportunity to leverage interest in developing downtown with density bonuses and said perhaps a housing authority could help facilitate some of this.

Mr. Van Asselt said Portsmouth and Dover had been successful in developing housing opportunities downtown, and noted that Rochester was also working on this. He said tax credit projects worked not only in regard to affordable housing, but also for other things they might want.

He said if half of Mill Plaza was made a 5 story development, with the first floor commercial/retail, the second floor professional offices, the third and fourth floors affordable housing, and the fifth floor condominiums, this could be something interesting. He said this was an illustration of what tax credit affordable housing could make happen. He said with this approach, the developer made money, and wasn't afraid to work with other developers, or could do a mixed use development himself.

Mr. Van Asselt said if the Town was interested in having affordable housing in the Central Business District, it had to be mixed use. He said this was doable, and was something they saw happening all of the time in the region. He restated that they had to be willing to make some arrangements concerning density, height, etc, or the developer wouldn't do it.

Councilor Stanhope asked if it would be possible to use these programs to do condos.

Mr. Van Asselt said yes, as long as it was affordable, and he provided details on a condo project he had worked on.

Councilor Stanhope noted the underlying fear in Durham concerning doing apartments because of students. He said condos would be owned, and therefore would be less likely to be acquired as student housing units.

Mr. Van Asselt noted that students would be ineligible to live in a tax credit project. He said this would be illegal according to the federal government, including the IRS.

Councilor Gooze noted that the IZIP committee had gotten clarification from its consultant on the student housing issue, and had also learned that things like deed restrictions that could be used.

Councilor Stanhope noted that the restrictions expired after a period of time.

Mr. Van Asselt said there was a 15 year window because of the payback time. He said nonprofit agencies involved with sponsoring projects where that 15 years had passed were going back to get new monies to keep these affordable projects going. He said if that day ever came in Durham and the project had been sponsored by a public housing authority, it would remain in the same state, which was an advantage of having a housing authority sponsor an affordable housing project.

Councilor Gooze said the advantage of a housing authority was also that there was the question of who else would otherwise do an affordable housing project.

Mr. Van Asselt said another way for the Town to get into affordable housing was to do an elderly tax credit housing project, which was much more sellable to the general public. He said such a project could certainly work in Durham. He said there were two distinct markets for affordable housing there, and noted again that having UNH as a partner in creating affordable housing for people who worked in Durham made perfect sense.

Administrator Selig said that was absolutely right, and said UNH was very interested in exploring this.

Chair Carroll said the discussion had been helpful. She said Councilors would be pursuing this, and might call upon Mr. Van Asselt again in the future. She said Councilors should consider whether they wanted to make this into a Council goal.

The Council stood in recess from 9:00 –9:10 PM.

X. Unfinished Business

RESOLUTION #2011-05 approving the employment agreement dated 2/21/11 between the Town of Durham and Todd I. Selig for a period of three years extending from 1/1/11 through 12/31/13, establishing the base annual salary for Administrator Selig during the term of the agreement of \$110,000.00, and authorizing the Council Chair to sign said agreement on behalf of the Council?

Chair Carroll asked Councilor Niman, who had been her negotiation partner in discussions with Administrator Selig on the employment agreement, to speak to the Council on what they had arrived at.

Councilor Niman noted that at the previous Council meeting, they had spoken with Administrator Selig about his compensation and he had stated that if the Council wanted him to stay as Town Administrator, they should try to keep him. Councilor Niman said the Council had then gone into nonpublic session, and discussed various ways to structure Administrator Selig's compensation so that it would be worthwhile for him to stay, and also guarantee that he would stay for three years.

Councilor Niman said these were potentially scary times, in terms of the uncertain revenue situation for the Town, and said the Council didn't feel it could afford to lose Administrator Selig and have to shop around for a new town administrator. He said Administrator Selig had done a good job keeping the ship going at a steady pace, and managing various impediments in the river, and said the Council would like to make sure he was there keeping the Town afloat for the next three years.

He said Councilor Stanhope had suggested a compensation strategy that Administrator Selig had agreed to after some discussion, which was to raise his salary from \$101,000 to \$110,000, over the term of a 3 year contract. He said there would be no cost of living adjustments as part of this, and explained that it was felt that by putting some extra dollars up front, this would show the Council's commitment to him. He noted that if a 3% raise was offered every year as part of a 3 year contract, the final number would be higher than \$110,000.

Councilor Niman said another condition of the compensation agreement was that the time Administrator Selig had to give notice had been extended to 5 months. He provided details on this. He said the only part of the compensation package that the Council had not talked about was in regard to professional development opportunities. He said he and Chair Carroll had decided that based on the authority given to them to negotiate, they could offer Administrator Selig the opportunity to take another course at Harvard, at a cost to the Town of up to \$5,000.

Councilor Stanhope MOVED to accept the employment agreement, and noted that this change comes after a period of time when there was no increase in salary. Councilor Mower SECONDED the motion.

Councilor Stanhope said this agreement reflected a bit of catch up in terms of the salary, and also represented some forward thinking. He said he was comfortable that it was a fair and equitable agreement.

Councilor Mower said she wanted to make that clear as well, stating that the salary increase would bring Administrator Selig to a reasonable point relative to town administrators in towns that the Council generally compare staff salaries to.

Councilor Gooze said the Council had gone over the evaluation carefully, and said the fact that it was an excellent evaluation weighed heavily in the thinking that they would like.

Administrator Selig to remain for 3 years or more.

Administrator Selig suggested using the motion in the Council Communication.

Councilor Stanhope MOVED to approve Resolution #2011-05 approving the employment agreement dated 2/21/11 between the Town of Durham and Town Administrator Todd Selig for a period of three years extending from 1/1/11 to 12/31/13, establishing a base annual salary for Administrator Selig of \$110,000.00, and authorizing the Council Chair to sign said agreement on behalf of the Town Council. Councilor Mower SECONDED the motion.

Councilor Gooze asked about the wording in #16 of the Employment Agreement.

Administrator Selig said this language had been used previously. He provided details on it, and said the thinking behind it was that the timeline created pressure to reach resolution before the March date, or to start making other plans.

There was further discussion.

Councilor Smith said he would vote no on the motion. He said he liked Administrator Selig and the work he did, and wanted him to stay on, but said this was the wrong climate for this raise.

The motion PASSED 7-1, with Councilor Smith voting against it.

XI. New Business - None

XII. Nonpublic Session (if required) - None

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

Councilor Gooze said he thought some workforce/affordable housing should be put in the Central Business District, but noted that when the IZIP committee was doing its work, they were under the mandate from the State that over 50% of the area in a town had to be usable for workforce housing. He said this meant that Durham's rural zones would need to be used for some of this, because it was the only way to get to 50%.

Councilor Clark asked if Durham had a voice at the State level regarding this.

Councilor Mower said Durham might not be able to participate in the optional aspect of this, because of its Town Council form of government. She said she had had an email exchange with Ben Frost of the NH Housing Finance Authority about this.

Councilor Clark asked if the Council could ask its State representatives to come in to discuss this.

Councilor Mower said the bill before the NH House made the workforce housing law a voluntary legal obligation, requiring a super majority vote to implement, which wouldn't help towns like Durham. She said this was something to check into.

There was brief discussion about this, and about bills before the Legislature. Councilor Niman asked if there was any idea what regulations the Republican majority was planning to get rid of, and whether the workforce housing statute was one of them.

Administrator Selig and Councilor Mower said this statute was on their list of regulations to get rid of.

There was brief discussion that the idea of mandatory workforce housing might therefore go away.

Councilor Mower said the Council might want to look into the idea of a housing commission, noting that Hanover had one of these, and had done a lot of work on workforce housing.

Councilor Smith noted that the ORLI and MUDOR districts allowed smaller lot sizes. He said it might be appropriate to bring up the idea of a workforce/affordable housing component as a condition of use, as part of the Capstone proposal. He said the development would be built next to one of the larger employers in Town, and said he had raised this issue with Capstone as part of the conceptual consultation on the project design. He said he could raise it again, and also said perhaps someone else could do so.

XIV. Adjourn (NLT 10:30 PM)

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

Adjournment at 9:32 pm

Victoria Parmele, Minutes taker