

**This set of minutes was approved at the July 25, 2011 Town Council meeting**

**Durham Town Council  
Monday June 20, 2011  
Durham Town Hall - Council Chambers  
7:00 P.M.  
MINUTES**

**MEMBERS PRESENT:** Council Chair Diana Carroll; Council Chair Pro Tem Jay Gooze; Councilor Julian Smith; Councilor Peter Stanhope; Councilor Robin Mower; Councilor Bill Cote; Councilor Kitty Marple; Councilor Jim Lawson

**MEMBERS ABSENT:** Councilor Neil Niman

**OTHERS PRESENT:** Town Administrator Todd Selig; DPW Director Mike Lynch

**I. Call to Order**

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

**II. Approval of Agenda**

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

**III. Special Announcements**

**IV. Approval of Minutes**

May 16, 2011 Minutes

Page 2, 1<sup>st</sup> full paragraph, should read “..continue as the Planning Board representative to the Conservation Commission,...”

Concerning Page 4, Councilor Smith recommended that in the future, the actual motions from the Council Communication should be included in the Minutes, not the Agenda wording. Other Council members agreed.

Page 9, 2<sup>nd</sup> full paragraph, should read “Councilor Lawson said his own analysis...”

Page 18, 1<sup>st</sup> paragraph, should read “expanded tax base, so granting 79-E could be giving away tax benefits...”

Page 23, 7<sup>th</sup> paragraph, should read “...applicant focused on might not be what....”

Page 25, should be a space between the 3<sup>rd</sup> and 4<sup>th</sup> paragraphs

***Councilor Smith MOVED to approve the May 16, 2011 Minutes as amended. Councilor Cote SECONDED the motion, and it PASSED unanimously 8-0.***

**V. Councilor and Town Administrator Roundtable**

Councilor Gooze said the Planning Board met on June 8<sup>th</sup>, when there was an acceptance consideration for a proposed boundary line adjustment involving Capstone and the Shea family. He said this was needed in order to get the conservation easement portion of the project in order.

Councilor Mower asked if there was any new information about a potential easement holder, and Councilor Smith said the only information was that Capstone was having trouble finding one.

Councilor Gooze said there was a conceptual consultation with Peter Murphy at the most recent Planning Board meeting, regarding the proposed redevelopment of the Grange property. He also said there was a conceptual consultation concerning the idea of subdividing the Durham Business Park into smaller lots, in order to perhaps make it easier to develop. He said there were some questions raised, including how much impervious cover there would be, and said these would need to be answered when the application came to the Planning Board.

Councilor Smith said he would like to remind the Council that the Conservation Commission had to be brought into the loop early in the process, and said what was proposed was a significant change. He said he would bring this up to the Planning Board at the quarterly planning meeting on Wednesday.

Chair Carroll noted that the Planning Board's quarterly planning meetings now included time for public comments at the beginning of the meeting. She said at regular Board meetings there wasn't this opportunity for members of the public to speak about general topics and discuss things other than specific applications before the Board.

Councilor Gooze said he'd recently attended two charettes on workforce housing, one of which involved the Goss family property in Durham. He said they were both quite interesting, and were informative in relation to the draft workforce housing provisions coming forward to the Planning Board

Chair Carroll said she had attended the session involving the Goss family property, and noted that 24 of the 240 acres were in Durham.

Councilor Gooze said Durham, Lee and Madbury were involved, and said it was interesting to think about all three planning Boards working together on such a project.

Councilor Stanhope said at the most recent DCAT meeting, there was discussion on the direction that technology was heading in, and how to make it available for the Town. He said with that in mind, the focus of DCAT regarding the ongoing contract negotiations with

Comcast would be to identify a second channel for Durham. He said another focus was on limiting the term of the contract, noting that DCAT members thought this was needed because the technology was changing so quickly.

Councilor Stanhope said the Cemetery Committee had recently met, and said the topic was Capstone's proposed fence between the cemetery and the development. He said Capstone had agreed to seek a variance to allow a larger fence, in order to be able to provide greater screening for the development. He said Capstone had also agreed to remove a series of large pine trees on the cemetery property, which the Cemetery Committee felt presented some sort of long term risk to the cemetery.

Councilor Stanhope said at the most recent Historic District Committee meeting, members spent a significant amount of time discussing a temporary sandwich board sign that was periodically placed in front of the Community Church to announce their thrift shop. He said the HDC agreed that it would not try to hold up the process of this going forward, but did instruct the Chair to communicate to the Code Officer that the matter shouldn't have been referred to the HDC, because the Zoning Ordinance was clear that the HDC approved permanent signs, not temporary signs. Councilor Stanhope said this was the second instance where he'd seen something inappropriate brought to the HDC.

Councilor Mower asked if the HDC perhaps preferred erring on the side of consultation, and would rather review certain items not clearly within their purview that were brought to their attention, so they would have the opportunity to weigh in.

Councilor Stanhope said that was not discussed.

Councilor Marple said at the most recent Integrated Waste Management Advisory committee, an item of concern to some members was the fact that 30 air conditioners had recently been removed from the swap shop, and there was the implication that they were stolen. She said one IWMAC member on more than one occasion had said there wasn't enough security there. She noted that the items were free, and also said the member of the committee had said perhaps security cameras were needed. She said this had happened when the transfer station was closed.

There was discussion about whether the air conditioners were actually at the swap shop.

DPW transfer station employee Bonnie McDermott said there were 14 air conditioners there on Thursday night, and said by early Saturday morning, they weren't there. She noted that on Fridays, the DPW picked up single stream recycling, so wasn't there that day. She said the air conditioners had been in the metal pile, which had nothing to do with the swap shop. She said DPW employee Doug Bullen had notified the police.

There was discussion that the gate was not fully closed if it was a Town collection day, and that Ms. McDermott had suggested that there could be some kind of remote control device to open and close the gate when the trucks came and went.

Administrator Selig said this was the first that he'd heard of the theft, and would find out more.

Councilor Mower said this morning, some members of the Energy Committee had met with Revolution Energy to discuss further some options for renewable energy generation on various municipal properties. She said things were definitely moving forward, and said if the decision was to go ahead, the Council would hear about it. She said it was likely that installation would take place in early fall, and said the projects would provide great opportunities for students and other residents in Town. She said the Town Engineer would be assessing the wastewater treatment facility and the DPW site.

Councilor Mower said she would defer to Administrator Selig regarding the bike pilot project that was planned for this summer.

She said the Conservation Commission had voted to recommend to the Planning Board that it approve the Conditional Use application for burying a portion of the utilities at the 9-11 Madbury Road site. She said this action would require the placement of a transformer on the property, which would create a disturbance in the shoreland protection overlay and the wetland conservation overlay, which was why this application came to the Conservation Commission.

Councilor Mower said this permit application stemmed from the Council's approval criteria regarding the applicant's RSA 79-E application. She said during Conservation Commission discussion, it became clear that when the Council lacked adequate information in making project requirements, there might be unintended consequences.

She said there was some discussion by the Commission as to whether this was the best choice, but she said as they discussed options, this worked out fine. She said she was more aware herself, noting that it was she who had suggested the underground placement of the utilities.

Councilor Mower said there would be a site walk regarding the Beaudette land conservation proposal on July 5<sup>th</sup>, which would be followed by a public hearing at the Conservation Commission meeting later that same day. She said the purpose of the meeting was to deliberate on whether to contribute \$45,000 in conservation funds toward the purchase price for the property. She noted that a separate public hearing by the Town Council was required in order to decide whether to accept a legal interest in the property.

Councilor Mower noted, in the context of discussions about the health of the Great Bay, that Rob Roseen from the UNH Stormwater Center had written to Administrator Selig and DPW Director Mike Lynch, and had copied Town Engineer Dave Cedarholm, concerning the proposed bio-retention project for the Store 24/Tedeschi parking lot. She noted an upcoming site walk at the site, and that EPA would be visiting that day to review the project progress to date. She read from Mr. Roseen's letter:

"I also wanted to thank you for partnering with the UNHSC on this project. This project is significant because it involves optimization of bioretention systems for nutrient removal.

Nutrient reduction strategies are of great interest in nutrient impaired watersheds. This particular system we anticipate will have greatly improved nutrient removal capacity with very little added expense. The outcome of this project will be a number of different types of filter medias that can be used for different applications including bioretention, tree filters, and raingardens.

We have completed the first rounds of the laboratory phase. The results of which are very promising. We are excited to partner with the Town of Durham on this important project. The UNHSC has partnered with DES, EPA, and numerous municipalities in the seacoast on the design and install of over 15 innovative systems. This project has significance in its potential role in assisting meeting watershed objectives. In addition, we are confident that it will benefit the town from its high aesthetic value and service as a traffic calming measure.

Attending this meeting from EPA is Steve Silva, the EPA Water Quality Branch Chief, and members of his team from the TMDL Program, Steve Winnett, and others, as well as members of the Stormwater project team.”

Councilor Mower said this project was a great example of cooperation among various communities with the help of resident experts, in order to solve the nutrient loading problem.

Administrator Selig said this project was a collaborative effort between the DPW and the UNH Stormwater Center. He explained that a vegetative island the length of the yellow line in the Store 24 parking lot would be created, in order to allow stormwater to collect and infiltrate on the site. He said the demonstration project was funded with UNH Stormwater Center funds and grant money, and he noted that it would help mitigate some traffic issues there as well. He said Councilors were welcome to attend the site walk, which would be held on June 23<sup>rd</sup> at noon.

Chair Carroll said this was a wonderful project. She noted that nonpoint pollution was responsible for 65% of the nitrogen problem in Great Bay, and was a hard thing to get a handle on. She said this project was a step toward doing something about it.

Councilor Smith noted that he had previously discussed the fact that there was a great amount of dead wood and sickly trees on the Town property that surrounded the Transfer Station, as well as to the south of it on both sides of Rattlesnake Branch, going over to Langmaid Farm. He said it would be a good idea to do some selective clearing of the dead and sickly trees, and to remove some wood litter.

Councilor Smith noted an article in Fosters the previous Thursday, which said the Durham Town Hall might be moving out of its cramped quarters to a new location. He said he wondered how this article had come about, noting that there had only been some discussion about buying the property immediately north of the new library site for this purpose.

Administrator Selig said the reporter had come to him to get a story, most likely as a result of watching a Council meeting online.

Councilor Mower said it might be appropriate to note that there were no plans to move forward with this, and that the options were being investigated.

Councilor Smith noted this reporter frequently got the facts wrong.

Administrator Selig said he had been clear that nothing had been determined, and that the Town was simply being very transparent about what was being discussed.

Councilor Gooze said on July 6<sup>th</sup>, he would go with Town Engineer Dave Cedarholm to visit the Audubon Society building in Concord, to observe their composting toilets. He said this related to sustainability efforts in designing the new library in Durham.

Chair Carroll noted that there was a greywater system at the Audubon Center as well.

She said she had recently attended the NH Planners Association annual conference, where the focus was on planning for public health in towns and cities. She said the first track of the conference was on Moving, and she noted that a keynote speaker of the conference was Mary Collins, the author of *American Idle, A Journey Through Our Sedentary Culture*.

She said an interesting premise of the book was that a reason people didn't engage in physical activity was the fact that there were things in their lives they felt they didn't have control over, like safe, convenient sidewalks, bike paths, parks and other natural areas, and vibrant downtowns within a short distance from where they lived or worked. She noted that municipalities could have a big impact on these things, in terms of what they chose to make available for residents.

#### Moving Track

- Safe Routes to Schools
- Commute Green New Hampshire
- Encouraging Alternative Modes of Transportation: The Antioch Commuter Transportation (ACT) Initiative
- Home, Car, and Commute: Award-Winning Projects from the Monadnock Region

Councilor Carroll said the second track of the conference was on Food, and what planners needed to know about New England's food system, which she noted was changing. She spoke about the fact that there were more and more farmers, vendors and customers this year at the Durham Farmers Market.

#### Food Track

- What Planners Need to Know about New Hampshire's Food System *and* The Real Dirt: Planning for Food Sufficiency and Farm Sustainability in New England
- Agriculture Commissions – Sprouting in Your Community *and* the Monadnock Farm and Community Connection
- Unintended Consequences: Is Rural-Ag Zoning Hurting Farmers? *and* Food Systems Decision Making
- Municipal Opportunities for Healthy Food Choices

Councilor Carroll said Ben Hewitt, the author of *The Town that Food Saved: How One Community Found Vitality in Local Food*, was also a keynote speaker at the conference. She said he had showcased the town of Hardwick, Vermont, where farmers and other related

entrepreneurs had developed business plans along with a deep philosophy about producing local food for their region, including nearby cities, as well as providing food to places like New York City. She said Hardwick Vermont was a relatively poor place with not a lot of infrastructure. But she said the businesses there, located on two lane roads in the middle of nowhere, employed people and made a good product. She said this economic model worked because people were now asking for good, local, healthy food.

Councilor Carroll also noted the third track at the conference:

Sustaining Track

- Climate Change and Public Health
- The Natural Way to Sustainability
- Guiding Change *and* the Greater Monadnock Public Health Network
- Introduction to Health Impact Assessments

Councilor Carroll said it was very interesting to be in Keene, which was doing great things. She said the goal there was to be the healthiest city in the State.

**VI. Public Comments (*NLT 7:45 PM*)**

**Dan Duvall, 338 Lee Hook Road**, said he had been a resident of Durham for 20 years, and spoke about the recent accident on the Wiswall bridge. He said he wanted to emphasize the varied recreational uses of this area, noting that he'd driven the bridge many times, and had also run, and gone fishing there. He said the area was a valuable resource for the Town.

He said the pedestrian who was struck on the bridge had not been swimming there, noting that it was a very narrow bridge, with no sidewalk. He said anyone who ran or cycled over the bridge knew this. He said they all should come up with a solution to make that area a little safer, by slowing things down with a sign, pavement, speed bumps, etc.

Mr. Duvall said he saw signs in Town reminding people to give turtles a break, and said he would like to see measures put in place to make this beautiful area a little safer for people. He said drivers needed to slow down. He also said there were relatively few days out of the year when the bridge might actually be crowded. He said they should focus on making it a safer recreation area, and not on whether to allow swimming there anymore.

Councilor Mower asked Mr. Duvall what he would like to see and what he would not like to see.

Mr. Duvall suggested that there should be additional signage pointing out that it was a recreation area, with a yellow diamond for added emphasis. He also suggested having grooved, and thus noisy pavement, which could help solve the problem of hybrid vehicles with quiet engines going over the bridge.

Chair Carroll thanked Mr. Duvall for his ideas, and said this was a problem that needed to be

looked at, and solved.

**Bill Hall, Smith Park Lane**, said he appreciated the fact that Councilor Smith had brought up the Transfer Station forestry issue. He said when there was a fire there last year, after fighting the fire a fire chief from a neighboring town said the area needed cutting, and also recommended that there should be a 12 ft wide trail to access the area. Mr. Hall said people should try to put themselves in the fire chief's shoes, and said it was important for Durham to protect people like him and themselves from having a problem.

He said if there was a serious fire, it would end up on Sandy Brook Drive. He spoke about the Conservation Commission's 2009 report, which didn't even comment on this area. He said he hoped the Council could get this area cut, and said there was also the potential to make some money from it. He said he would be back before the Council if a fire happened there.

Mr. Hall also said he would like the Wagon Hill north forty to be cut, and put back in some kind of timber or hay production. He said if a fire got going there right now, it would end up on Tom Moher's property before it could be stopped. He said no money was made with the tree cutting at Spruce Hole, but said the Trustees did make money with the tree cutting at the Doe Farm. He said money could be made by cutting at Wagon Hill and around the Transfer Station.

**Karl Van Asselt, Fairchild Drive**, said he was very concerned about possible new expenditures and their impact on the single family home owner in Durham. He said for some residents, the Town had become unaffordable, and said while other cities and Towns were cutting costs, Durham was talking about spending more money, on operating and debt costs, CIP proposals, dozens of abatements that were coming up, and projects like a new library, fire station, town hall, police station and more conservation land.

Mr. Van Asselt said with all of these potential expenses, Durham's tax base must be broadened beyond the single family home owner. He said if this wasn't done, for sale signs in the neighborhoods would only increase. He said a longtime priority of the Town had been to preserve single family home ownership, which made economic sense, and was also good for the community because it kept families rather than students in the neighborhoods.

He urged the Council to follow two fiscal policy approaches, which he said would ultimately help the single family home owner.

He said the first priority was concerning expenditures, and said the Town should approach any new expenditure as part of the bigger tax picture. He said governments at all levels tended to deal with one single expense at a time, and it was easy to say "we can afford that." But he said when all of those individual costs were added up, it was unaffordable to the home owner.

Mr. Van Asselt said the second priority was to expand the tax base. He said there should be no new expenditures (operations, capital fund, new facilities) unless there was new revenue



to pay for those expenditures from an expanded tax base beyond the single family home owner. He said this meant that if the Town wanted to spend \$3 million on a tax exempt public building, then a homeowner with a \$300,000 house would pay an additional \$150/year, or \$3,000 over 20 years. He said if this was calculated for other projects, suddenly that first expense could be seen to be part of a big tax bill that the home owner could not afford.

He said revenue for those expenses must come from an expanded tax base. He said each \$20 million in valuation would decrease the taxes on the single family home worth \$300,000 by \$50 per year. He said this meant that if there was a \$40 million student housing development paying full taxes, and the goal was to maintain the current tax rate, there was enough to do the first \$3million bond issue without impacting the single family home owner.

Mr. Van Asselt said he realized it wasn't an easy task, but he urged the Council to adopt a tax policy whereby there would be no increased expenditures unless there was a corresponding tax increase from sources other than the single family home. He said this meant that Durham had to be willing to say yes to some significant new economic development, if it wanted affordable single family home ownership, and also wanted new public facilities and the ability to meet projected future expenses without having single family home owners say they couldn't afford to live there anymore. He said things were reaching a point where a substantial number of residents, both elderly and younger, were being affected.

**Bonnie McDermott, Dover Road**, said she supported the idea of creating an Agricultural Commission. She said Durham had a history of ship building and farming, and said while people here didn't build ships anymore, everyone in Town should have the opportunity to do mini farms, which was what people did years ago. She said the idea of sustainability was not new, and said if the Council supported the creation of an Agricultural Commission, this could help bring Durham back to being a more sustainable community on its own.

**Vincent Dell'Ova, Fitts Farm Drive**, said he supported the idea of creating an Agricultural Commission. He noted what Councilor Carroll had spoken about in regard to locally produced food, and said Durham was a little behind on this compared with the nearby Town of Lee.

**Bambi Miller, Strafford County Conservation District**, spoke in favor of the creation of an Agricultural Commission. She said this would benefit residents in addition to those directly involved with the Commission. She said the Commission would be able to focus its time on gathering information on various agriculture-related issues, and could bring this information to the Council. She said these commissions had been very successful in other NH municipalities.

Ms. Miller also noted that she was working with the Lamprey River Advisory Committee as part of a grant received to provide information to homeowners about septic systems. She said it was known there were systems out there that weren't working, and that there were some changes taking place at the State level.

She said there would be the workshop, but also said people with properties on the river or its

tributaries could invite her to walk their properties with them. She said as part of this, she would make a variety of recommendations to help property owners address nonpoint source and point source issues. She said this was a pilot program to see if it could benefit landowners, and was free or charge. She asked the Council to help her get the word out to residents on this.

Chair Carroll asked for more information on the workshop.

Ms. Miller said it would be held at the Lee Town Hall, and she suggested that information on the workshop could be put on the Durham website so landowners would know about it. She noted the press release that had been created, and also said letters would be sent out to all property owners who abutted the river.

Chair Carroll suggested that the press release information should be put on the Friday Update that would be going out on Friday.

Councilor Mower asked about the changes at the State level that Ms. Miller had referred to.

Ms. Miller said a landowner wouldn't be allowed to just do an in-kind replacement of a septic system if it wasn't up to par. She said instead, a test pit would have to be dug, and if it didn't meet the rules, a septic system would have to be upgraded. She said this could be scary for landowners, and said the workshop was intended to help landowners make sure their septic systems lasted a lot longer. She said this could make a big difference financially.

Councilor Gooze noted the Council's recent discussions about nutrients in Great Bay, and said it would be important to show DES and EPA that Durham was addressing nonpoint sources problems. He said these kinds of programs were extremely important, and should be part of what Durham was doing.

Ms. Miller stressed that this was a non-regulatory approach, for the education of landowners, and said there was no reporting to the State of septic systems with problems.

Chair Carroll said it would be important for DES and EPA to know that Durham residents were stepping forward to get this knowledge and advice, and to take action if needed.

**Bill Hall** said there was \$1 million in tax abatements on the Unanimous Consent Agenda, and said cutting trees at the transfer station would pay the 2010 taxes for that.

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

Councilor Stanhope said he would recuse himself from voting on Item VII E.

Chair Carroll said there would be two votes, one on Item VII E, and the other on Items VII A-D and F-Q.

**Councilor Smith MOVED that:**

- A. The Durham Town Council does hereby, upon recommendation of the Administrator, deny the 2010 property tax abatement application for property owned by Ronald M. and Diane L. Pach for property located at 9 Marden Way and authorize the Administrator to sign said abatement application.***
- B. The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned by Robert S.S. and Catherine B. Blake for property located at 580 Bay Road from \$580,797 to \$508,597 and grant property tax abatement for 2010 in the amount of \$72,200 of assessed valuation to Robert S.S. and Catherine B. Blake.***
- C. The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned by Angelo V. Boy for property located at 40 Coe Drive from \$344,700 to \$339,900 and grants a property tax abatement for 2010 in the amount of \$4,800 assessed Valuation to Angelo V. Boy.***
- D. The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned by Carson Family Revocable Trust for property located at 163 Durham Point Road from \$430,900 to \$407,800 and grants a property tax abatement for 2010 in the amount of \$23,100 of assessed valuation to Carson Family Revocable Trust.***
- F The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned by Jesse P. and June A. Gangwer located at 21 Madbury Road from \$927,800 to \$793,200 for tax years 2008,2009, and 2010; grants a property tax abatement in the amount of \$134,600 of assessed valuation to Jesse P. and June A. Gangwer; and authorizes the Administrator to sign a Settlement Agreement between Jesse P. and June A. Gangwer and the Town of Durham relative to Docket Number 24662-08PT.***
- G. The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned by Jesse P. and June A. Gangwer located at 35 Madbury Road from \$915,800 to \$779,400 for Tax Years 2008,2009, and 2010; grants a property tax abatement in the amount of \$136,400 of assessed valuation to Jesse P. and June A. Gangwer; and authorizes the Administrator to sign a Settlement Agreement between Jesse P. and June A. Gangwer and the Town of Durham relative to Docket Number 24663-08PT.***
- H. The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned by Geld Realty Trust for property located at 24 Newmarket Road from \$423,900 to \$326,700 and grants a property tax abatement for 2010 in the amount of \$97,200 assessed valuation to Geld Realty Trust.***

- I. The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned by William T. Goldstein for property located at 73 Piscataqua Road from \$1,075,255 to \$828,618 and grants a property tax abatement for 2010 in the amount of \$235,036 assessed valuation to William T. Goldstein.*
- J. The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned by William L. and Pauline M. Hedberg for property located at 2 Meserve Road from \$287,500 to \$273,000 and grants a property tax abatement for 2010 in the amount of \$14,500 assessed valuation to William L. and Pauline M. Hedberg.*
- K. The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned by Edward D. and Bruce L. Kaunor for property located at 6 Roysann Way from \$268,900 to \$264,400 and grants a property tax abatement for 2010 in the amount of \$4,500 assessed valuation to Edward D. and Bruce L. Kaynor.*
- L. The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned Mary G. McCarthy for property located at 120 Madbury Road from \$404,900 to \$310,400 and grants a property tax abatement for 2010 in the amount of \$94,500 Assessed Valuation to Mary G. McCarthy.*
- M. The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned by Frank W. Poland, III for property located at 29 Cedar Point Road from \$259,300 to \$206,900 and grants a Property tax abatement for 2010 in the amount of \$52,400 assessed valuation to Frank W. Poland, III.*
- N. The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned by Christopher J. and Erica L. Skoglund for property located at 283 Packers Falls Road from \$305,300 to \$284,700 and grants a property tax abatement for 2010 in the amount of \$20,600 of assessed valuation to Christopher J. and Erica L. Skoglund.*
- O. The Durham Town Council does hereby, upon recommendation of the Administrator, reduce the appraisal of property owned by Margaret S. Sumner Revocable Trust for property located at 44 Durham Point Road from \$306,700 to \$305,200 and grants a property tax abatement or 2010 in the amount of \$1,500 assessed valuation to Margaret S. Sumner Revocable Trust.*
- P. The Durham Town Council does hereby, upon recommendation by the Town Administrator, award the engineering construction/administration contract for the reconstruction of the Route 4/Morgan Way intersection to CMA Engineers of Portsmouth, NH for the sum of \$79,935 and authorizes the Town Administrator to sign said contract with the monies coming from Account # 07-1014-801-36-000.*

***Q. The Town Council does hereby APPROVE the abatements for 30 Piscataqua Road and 30U Piscataqua Road in the amount of \$200.96 water and \$313.86 sewer, and authorizes the Town Administrator to sign said abatement.***

***R. The Town Council does hereby APPROVE the abatement for 84 Bucks Hill Road in the amount of \$192.65 water and \$301.09 sewer, and authorizes the Town Administrator to sign said abatement.***

***Councilor Mower SECONDED the motion, and it PASSED unanimously 8-0.***

***E. Councilor Smith MOVED to approve, upon recommendation of the Administrator, a reduction in the appraisal of property owned by Chute Joint Revocable Trust for property located at 4 Gerrish Drive from \$340,800 to \$320,100 and grants a property tax abatement for 2010 in the amount of \$20,700 assessed valuation to Chute Joint Revocable Trust.***

***Councilor Mower SECONED the motion, and it PASSED unanimously 7-0. (Councilor Stanhope recused himself).***

The Council stood in recess from 8:26 to 8:41 pm.

#### **VIII. Committee Appointments**

None

#### **IX. Presentation Item - Agricultural Commissions – Theresa Walker, Durham resident.**

Councilor Gooze said he had brought this idea up during the Council's Goal setting discussions, as well as at another time. He said in previous discussion by the Council, there was some question about whether an agriculture organization for the Town should be more regulatory or no regulatory, and also whether there would be enough people to maintain it if it moved forward.

He said Theresa Walker was a Durham resident who was a sheep rancher, and said she would explain why an Agricultural Commission would be advantageous to Durham, and would assure the Council that there would be enough people in Durham to maintain this commission.

Ms. Walker said she lived on Bennett Road with her family, and was grateful for the opportunity to discuss the idea of creating an agricultural commission, which she and some other Durham residents had considered over the past year. She said she appreciated the fact that it was one of the Council's goals, and said all of these goals in some way lent themselves to sustainability.

She said there were two dozen agricultural commissions in NH, which reflected interest and energy in eating locally produced food, shopping locally and thinking more sustainably. She said this was the result of a State task force established by Governor Lynch and the Dept of

Agriculture that had focused on increasing the vitality of agriculture in NH. She said it was a great example of State thinking that ended up at the local level. She noted the State enabling legislation that had been created.

Ms. Walker said the purposed of Durham's agricultural commission would be to promote the production of locally grown farm and forest products. She said while people didn't think of Durham as large farming community, the Town was very fortunate to have a lot of agricultural activity. She noted there was local honey production, bison, beef, lamb, eggs, compost, hay, world class aquaculture, etc. She noted that UNH was a national leader in agriculture and aquaculture. She also said there were horses and stables spread throughout Town.

She noted that her own family had a small flock of sheep, and she and her family traveled the State going to 4 H exhibitions. She said her son sold yarn at the farmers market in the fall, and said this was a great example of local economic development that started at an early age. She said there were a lot of things like this happening in Town that could be promoted and encouraged. She said an agricultural commission fitted in with the goal of sustainability as well as economic development.

Ms. Walker said this would be a purely advisory commission, and said about three dozen people had attended an early meeting that considered the creation of a commission. She said among other things, they had talked about the importance of community gardening, including benefits to neighborhoods. She said there were knowledgeable farmers in Town who had a lot to add to the discussion of sustainability, access to local food, and the protection of water quality, and said an agricultural commission would be able to take advantage of this knowledge.

Ms. Walker told Councilors that she'd been a land use planner for the Rockingham Planning Commission for 25 years, and said she'd spent the last three years working closely with local towns in the Seacoast on creating agricultural commissions. She said as she had done this, she'd wished that she could do this for Durham.

She noted that in her Masters thesis 30 years ago, she'd done an analysis of state and local farmland protection programs, and said here she now was, promoting local farmland. She said she had benefited enormously from working in recent years with Eric Sawtelle of the Lee Agricultural Commission, and noted that he and other commission members had been very helpful to other NH towns that were starting agricultural commissions.

Ms. Walker said the State statute said there could be up to seven people on the commission, and said there were about 12 people in Durham who right now were interested in serving. She said their knowledge and enthusiasm would be a great resource for the Town Council. She asked the Council to explore the idea of having an agricultural commission.

She said that among other things, a commission could complete an inventory of agricultural activity in Town. She said people would be surprised how much agricultural activity was already taking place in Durham, and she also noted that Lee had identified 83 farms of one kind or another when their agricultural commission was established. She said the definition of agriculture could be very inclusive.

Councilor Gooze thanked Ms. Walker for coming. He noted that he had grown up in Rochester, NY, where there was one farm, and his wife had grown up in White Plains, NY. He said he now could spend time at the Tuckaway Farm in Lee, where his daughter worked, and said this farm was as sustainable as a farm could be. He said he realized that not every house in Durham would have the same thing, but said it was a wonderful way to live.

He said there was more to Durham than the downtown core, and said there were ways to use sustainability in terms of economic development. He noted what Councilor Carroll had said about Hardwick, VT, and said there could be ventures in Durham that could provide this kind of economic development opportunity.

Ms. Walker noted that businesses like Durham Marketplace and Young's used locally grown products, and said an agricultural commission could promote this kind of thing. There was discussion on how many members there should be on a commission, and Ms. Walker recommended having seven members in order to be able to take advantage of as much expertise as possible, on a variety of things like composting, bee hives, etc.

Councilor Gooze noted that some people worried that an agricultural commission would be in conflict with other aspects of commercial development, especially concerning land use.

Ms. Walker said the commission would be purely advisory, and also said the land use issue hadn't been the concern of other agricultural commissions she'd worked with. She said most towns were interested in having a farmers market, and residents were interested in getting a publication on what produce was available at the market.

She said if there was an agriculture related water quality issue, an agricultural commission would want to be involved, but said she didn't see a commission coming forward with that kind of agenda. She also noted that an agricultural commission was a way to engage landowners on water quality issues, and could provide an opportunity to talk about possible solutions.

Councilor Marple said she didn't see why there was any controversy about starting an agricultural commission, and said she thought the Council should move forward and establish one.

Councilor Gooze said this would be on a future agenda.

Councilor Cote asked about other possible successes the Town could see as a result of having an agricultural commission in place, besides having an inventory of agricultural activity in Durham.

Ms. Walker said she had seen that the Town was planning to update the Master Plan, and knew that this would be a great way to get a discussion going about local agriculture and how to really embed it in the Town. She noted the establishment of a community garden and the Farmers Market in Durham, and said there were other agriculture related opportunities, such as getting local food into the school system providing it to food pantries. She said she thought the commission would be open to all kinds of suggestions.

Councilor Cote said he had fond memories of the Hood dairy farm in Derry where he used to get milk, and said the land was now half residential and half golf course. He said it was too bad that it wasn't still in business.

Councilor Stanhope said at a time when food was escalating in cost faster than most other commodities, much of the increase had to do with transportation and middle men. He said over the last 2-3 generations, there had been fewer family farms, and a lot of skills had been lost. He said it was important for people to bring back these skills to one of the least utilized but most productive assets this country had. He said in many cases, people didn't know where to start.

He said there inevitably would be zoning issues, but said he was convinced that this issue was timely because of the cost of food. He said there was also the idea that a local producer could bring a product to market, in a way that was economically viable.

Ms. Walker stressed that this kind of local production kept money in Town. She noted that the town of North Hampton's agricultural commission used its conservation land to teach residents about farming, and said this was a less risky way for people to learn how to feed themselves and others. She said there were a lot of exciting things happening around agriculture, and said she wanted Durham to be able to take advantage of these opportunities.

She noted that there was not yet a model for an Agriculture Master Plan chapter, and said she had applied to the NH Charitable Foundation for funds to draft such a chapter. She said she would be writing this over the summer, and in doing the research would learn a lot about what other towns were doing.

Councilor Stanhope said farming as a family activity had been lost, and he noted the often dysfunctional family structure these days. He said he had grown up in Weare, and said he believed there was still a Future Farmers of America (FFA) chapter there. He said he thought an agricultural commission would be the catalyst to bring a lot of that back on to the land, and said he hoped the Council would look favorably upon the idea of having one.

Councilor Mower and Ms. Walker discussed the fact that State funding to Strafford County for 4-H, the Conservation District, and Cooperative Extension had been cut. Ms. Walker said 4-H in Strafford County had been lost, and said as a 4-H family, it was difficult.

Councilor Mower said an agricultural commission would therefore be very important in educating people who otherwise might have gone to those agencies for information.

Ms. Walker said an agriculture commission could also build awareness about why those organizations needed to come back. She said they provided a valuable resource.

Councilor Mower noted that the Council had been focusing on the economic development of the downtown, which was needed. But she said it was easy to forget how rural Durham still was, with rural lands just a short distance from the center of Town. She said to not see some of that land in agricultural production would be a misfortune for this as well as the next generation.



Ms. Walker spoke about farming taking place along Bennett Road at the LaRoche farm and the logging at Doe Farm, the Horrigan land, and near the Highland House. She said having an agricultural commission would help the Town understand and promote the fact that there was a lot of agriculture already happening in Durham.

Councilor Mower asked where an agricultural commission might need the Council's help.

Ms. Walker said another question was how an agricultural commission could help the Council. She said the Council could help by informing residents about the existence of the agricultural commission, and could help engage them in getting involved with workshops, an inventory, Master Plan materials that the agricultural commission could perhaps produce. She said the existing Master Plan, which she had been involved with, mentioned agriculture in every chapter, but it was just a word. She said they needed to have it stand alone as a description of what they were doing in town, where they would like this to go, and how it benefited Durham.

Councilor Mower said that was similar to how the Energy Committee had approached the topic of energy in the Master Plan. She noted that agriculture and energy issues could inform the other chapters of the Master Plan.

Ms. Walker said she hoped an agricultural commission could help other boards and commissions. She noted that there was a lot of interest in Town in community gardens, and there were a lot of people in Town with knowledge who could help with this. She said an agricultural commission could help with this.

Councilor Gooze said he could picture lectures in the community room of the new Library.

Chair Mower said it could help build community.

Ms. Walker agreed, and said there was a great deal of community building that happened every Monday at the Farmers Market. She said she knew that they could fill the Pettee Brook parking lot with products from Durham.

Chair Carroll said the Council would take some time to think about this, and this would then come up on the next agenda for a vote. She said anyone who wanted to speak on this issue under public comments at the next meeting would be able to do so.

Ms. Walker encouraged people to contact her if they were interested in joining, or had any questions.

On a separate issue, she thanked DPW Director Mike Lynch for having the DPW fill a bad pot hole on Packers Falls Road, in her neighborhood soon after she'd reported it.

Chair Carroll thanked Ms. Walker for her presentation, and said it had been very helpful.

Councilor Smith thanked Ms. Walker and especially Councilor Gooze for taking the ball of creating an agricultural commission and running with it. He noted that he had made a run at it three years ago and dropped the ball, and said he was glad to see it back.

Councilor Gooze said Councilor Smith didn't have a kid living on a farm. He thanked Councilor Smith for his words.

**X. Unfinished Business - None**

**XI. New Business**

Other business - None

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

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

Administrator Selig explained that he had been contacted by the City of Laconia about 4 months ago about whether he was interested in applying for the City Manager position there. He said he had not been, but Municipal Resources Inc. (MRI) had then asked him to be part of a panel to review applications for the position. He noted that he was from Laconia, and also said there was \$350 in compensation for being on the panel. He said he didn't want there to be a conception that there was a conflict of interest, so had decided to donate the \$350 to the Durham Public Library. He presented the check to Councilor Carroll.

Chair Carroll thanked Administrator Selig for doing this and for being transparent, and said the money would be put to good use. She suggested that perhaps other residents would want to follow suit and make a donation to a very worthy community cause.

Administrator Selig said MRI had put together an example of what a tax incremental financing district (TIF) document could look like, focusing on the downtown core. He said data from various Durham sources had been received, and said a plan would be developed. He said if the EDC liked it, it would be sent on to the Council.

Concerning the redevelopment of the Grange, Administrator Selig said he'd spoken with Peter Murphy, who was in process of speaking with his bank on financing. He said Mr. Murphy had a series of questions that his bank had asked, and said he had provided Mr. Murphy with feedback on them.

He said one of the questions was whether, if the affordable housing didn't work, there could be a mechanism so that this part of the arrangement could be extinguished, in return for additional compensation to the Town, or possibly with the Town's mutual agreement at some future date. He said he'd put Mr. Murphy in touch with consultant Jack Mettee on how other towns had structured this kind of thing.

Administrator Selig said there had also been back and forth on whether Mr. Murphy would pay the \$240,000 for the Grange over five years at 7 % interest, or upfront. He said if it was paid over time, the Town might require a bond, or a letter of credit. He said that when the Purchase and Sale Agreement was ready, it would be brought forward.

Administrator Selig said the Traffic Safety Committee had talked at length about the idea of two way traffic patterns at its recent meeting, and said his understanding was that at the Planning Board meeting this week, they would get a report from the company doing the traffic modeling.

Councilor Gooze said there were a number of different possible plans being looked at.

Administrator Selig said they were continuing to evaluate traffic enhancements from Main Street to Garrison Avenue, with a lot of focus between Main Street and Pettee Brook Lane. He said the idea was to make this area safer for bicyclists and pedestrians, and to calm traffic at the merger of Main Street and Madbury Road.

Councilor Gooze said the traffic modeling was also looking at different ways to handle that whole section, whether with bike lanes, stop lights, rotaries, etc.

Administrator Selig said when there was actually a firm plan, it would be brought forward to the Council. He said the intent was to implement something later this summer, using paint, as was done with Pettee Brook Lane last summer.

Administrator Selig said that regarding the Wiswall bridge, a petition was received. He noted Mr. Duvall's comments, and said his ideas on making the bridge area safer were compelling. He encouraged people to think about them.

Councilor Mower said it was important to remember that there was varied use of the bridge in terms of people passing over it, whether on foot, on bikes or in cars, and safety measures put in place would have impacts on these various users.

Councilor Gooze asked if the Traffic Safety Committee had discussed the idea of having speed tables located before the bridge.

Administrator Selig said feedback received by the Traffic Safety Committee on speed tables had been somewhat negative.

Councilor Gooze said he had biked out there, and said there wasn't a lot of room when a car came through.

Councilor Mower said it might be worth noting that suggestions to reduce the speed limit made common sense, but State law said the minimum enforceable speed limit, except in a school zone, was 25 mph.

Administrator Selig said it was a challenging scenario, and said they had honed the signage over several years. He said they would continue to evaluate this situation.

Chair Carroll said she had talked with a resident of Lee who used the bridge occasionally with his truck, and found that he had to go very slowly because of the outside mirrors on the truck. She said he had said that there were sometimes people on both sides, and they didn't always see the mirrors.

Administrator Selig said another aspect of the bridge issue was that if 25-50 people were there, it became very challenging. He also said there was the hybrid vehicle issue, where when such a car slowed down and went electric, it was very quiet. He said putting something there that caused noise to occur was an intriguing thought.

Administrator Selig noted that the Farmers Market had relocated to the Pettee Brook parking lot. He said it was being evaluated whether it might be possible to put it on Jenkins Court in order to encourage people to be downtown and walk around. He said the challenge there was that there were plans to repave the road and install new lighting, and said he would like to complete this first and also do some outreach with the businesses there.

Councilor Gooze said there had been discussion about whether it might be difficult to get products into and out of Jenkins Court, but said people thought it could be done.

Councilor Mower urged people to consider how much daylight there would be on Jenkins Court now that there was a tall building there. She said part of the pleasure of going to the market was being outdoors on a sunny day.

Administrator Selig said the vendors at the market needed to consider the location, and said that was the first priority.

He updated the Council on the legal challenge to the Planning Board's decision on the Capstone applications. He said it was being argued by Capstone that the challenge should be dismissed out of hand, and that there was no standing. He said in the meantime, an argument on the merits had been scheduled for June 30<sup>th</sup>. He said it was likely the judge would issue a decision on both issues simultaneously. He spoke further on this, and said things were moving very fast.

Administrator Selig noted that there was a regulation regarding street signs names, and said the Town was already in compliance.

He updated the Council on the Master Plan survey, noting that 470 responses were received, and 70 of these were not completely filled out. He said UNH Cooperative Extension staff were tabulating the data in ways that would be easy to understand, and said Mr. Campbell would hopefully have information for the Friday Update either this week or next week.

Councilor Mower said the raw data from the survey was available earlier than that, but said the Planning Board would want to look at it before sending it out.

Administrator Selig said a personal check from the contractor regarding the Smith Chapel roof project had bounced, but two days later, a cashiers' check that included the bank fee came in. He said it looked like it would clear, but said this wasn't known yet.

He said there were two interesting updates concerning the 401 Certificate. He said that as part of the Instream Flow process, the State had created a scenario in the rules whereby there would be pulses released from Patuckaway Lake upstream to help recharge the Lamprey River. He said unfortunately, the State did not contact the landowners along the lake, and there was tremendous concern being expressed by them. He said DES was in the process of dealing with this.

Administrator Selig said he had also received a call from DES that the 401 Certificate would remain in place, but would refer to the instream flow regulations. He noted that Paul Currier, who had been the key DES administrator the Town had dealt with on this issue had recently retired. He said Ted Diers was filling in on at least an interim basis. He said perhaps there was a different way of looking at things now, but said this wasn't known. But he said this was a new development, and Town staff was concerned about it.

He said he and Mr. Cedarholm had spent hours on the Great Bay nutrient issue over the past few weeks. He said he had made it clear to the other towns in the coalition that at this point, Durham wasn't signing on. He said they would likely proceed without Durham right now, and said he had told them that the Town could change its mind and choose to sign on. He said this wouldn't preclude the Town from contributing toward the science, if this made sense. He said he and Dave Cedarholm had met with Jeff Edelstein that day.

Administrator Selig said there could be more discussion on this issue when he got back from vacation. He noted that he was heading to England the following day for two weeks, and would return on July 5<sup>th</sup>. He said Ms. Jablonski would act in his place while he was gone.

He said there had been a series of court cases on various land use decisions, and said one had to do with the stub of land off Fairchild Drive. He explained that it was part of the original development when the neighborhoods there were laid out, and said there was a controversy over whether the stub was ever accepted as a public road. He said the Town had argued that it wasn't because it was never built out, and authorized selling it to the homeowners association there.

He said the question the court had to rule on was whether the stub was part of the right of way or not. He said the Town's position was that it was, but the court ruled that it was not. He said this meant that although the Town had sold the land to the association, the stub remained a Class VI road and there was still a public right of way across it, which would make the land behind it accessible for development.

He said the Town could do nothing, or could appeal the decision. He said the Town could also discontinue the road, but if it did so, it would be liable for damages because access for the property owner behind it would be cut off.

There was discussion about the implications, and Administrator Selig said it was plausible that a development could occur there if the court decision held.

Administrator Selig noted that UNH had been open to further analysis concerning locating a fire station along Mill Road. He said they all wanted to see how many parking spaces would be lost at C Lot if a station was located there, and said it was approximately 40 spaces. He said UNH was open to considering that, and would talk with others on campus. He said if this worked, a layout of what that site would look like would be developed, and there could then be further conversation.

He said in the short-term, he would like UNH to agree on a site, and a financial transaction that was acceptable to both parties. He said perhaps there could be a 100 year lease. He said the benefit of putting the fire station on Mill Road was that it didn't carve out a Town controlled piece of land surrounded by University land and would be on a town road.

He updated the Council on the Dover Road pump station project. He said the company was now 78 days beyond the deadline, and noted that the contract with the company, there was a provision for \$1,000 per day damages for going over the deadline. He also said because the project had gone over, the engineering costs had gone up, so essentially the money for damages would be applied against the additional engineering costs.

Councilor Mower asked how things were so far off from what the original engineering plans were, and asked whether there was something unique to the site that was driving this.

Administrator Selig said the company started about 4 months late, and when they finally placed the orders for the turbine, there was a lag time. He also said there was some contamination in the ground once they started digging. He said from the Town's perspective, it was the company's fault, because of the delay.

Councilor Stanhope asked for details on the contamination, and if it was caused by the facility. Administrator Selig said he didn't remember the details at the moment.

Councilor Gooze spoke about the need for building contingencies into contracts.

There was discussion about how the damages would be collected from the company. Administrator Selig also said it was hoped the company wouldn't challenge this.

He said the paving contractor the Town was using for the summer road program had said the price had gone up because the price of asphalt had gone up, after laying down the first coat of asphalt. He noted that the Town had a fixed price for the contract. He said the contractor threatened to walk off the job, and the Town then said it would call in the performance bond.

He said the contractor ultimately agreed to finish the job at the agreed-to price, and said a Town staff member had been assigned to be on site with the contractor in order to monitor the application.

Councilor Carroll asked if the contractor had worked with the Town before, and Administrator Selig said he didn't know. He said the same issue had come up a few years ago, and said the contract was very clear about the terms.

Councilor Cote said some shoulder work was needed from Madbury Road onto Emerson. There was discussion.

Administrator Selig said he would make a note of this.

Councilor Gooze asked about the welcome to the neighborhood signs and when they were going up.

Administrator Selig provided details on the determination of where to put them, considering a variety of factors. He said this could be fine-tuned if needed.

Councilor Gooze noted the trash issue, and said he, Councilor Stanhope and Administrator Selig would be getting together with Attorney Laura Spector.

Councilor Marple noted that the Rental Housing Committee would meet on Wednesday, and said there would be discussion on licensing and on health and safety inspections.

Administrator Selig said Mr. Cedarholm would update the Council on the concrete testing of the Oyster River dam at an upcoming meeting. He said he would also provide an update on the fish ladder installation and the dam repairs at the Wiswall dam, and he noted that there were some cost overruns there.

Councilor Cote said the contractor at the Wiswall dam seemed to be doing a very good job on hazard prevention.

He also noted a bike trailer he had seen in Town, that was able to carry a heavy load of wood chips. There was discussion.

Councilor Smith noted that he had spoken to Mr. Lynch, and he had learned that after the road paving was finished, the Town would be hauling and delivering free wood chips to residents who asked for them.

#### **XIV. Adjourn (NLT 10:30 PM)**

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

Adjournment at 9:52 pm

Victoria Parmele Minutes taker