

D-R-A-F-T

Durham Town Council Minutes Monday October 17, 2011 Durham Town Hall - Council Chambers 7:00P.M.

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

MEMBERS ABSENT: Councilor Bill Cote

OTHERS PRESENT: Town Administrator Todd Selig

I. Call to Order

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

II. Approval of Agenda

Councilor Mower MOVED to approve the Agenda. Councilor Marple SECONDED the motion.

There was discussion that the adjournment time would be 10:00 pm.

The motion PASSED unanimously 8-0.

III. Special Announcements

IV. Approval of Minutes

September 12, 2011 Minutes

Page 12, last paragraph, third line, should read "...hadn't been seeing that extra parking on properties lately."

Page 20, second paragraph, last sentence, should read "...but he said he thought..."

Councilor Smith MOVED to approve the September 12, 2011 Minutes as amended. Councilor Marple SECONDED the motion, and it PASSED 7-0-1, with Councilor Mower abstaining because of her absence from the meeting.

V. Councilor and Town Administrator Roundtable

Councilor Smith spoke about a recent inspection trip he took to the Capstone site with Code Administrator Tom Johnson. He said he was very impressed by the amount of attention Mr.

Johnson gave to a great number of items concerning the construction. He said Mr. Johnson sometimes went out there 2-3 times per day, and noted that he had to inspect each stage of each job. He said Mr. Johnson had told him he was the first Councilor to go on an inspection with him. Councilor Smith said he hoped others would do this as well.

Chair Carroll thanked Councilor Smith for going to the inspection and for suggesting that other Councilors do this as well.

Councilor Mower said she would be going out to the Capstone site the next day, to see some improvements that were happening based on Mr. Johnson's suggestions. She noted a recent comment by Richard Kelley at a Planning Board meeting that while some people complained about Mr. Johnson's strictness, contractors welcomed his suggestions on things that needed to be paid attention to.

Councilor Smith noted that especially with the Capstone development, where there were contractors from the south and certain things needed to be done here in terms of insulation, etc., this was a real learning experience all the way around. But he said things had progressed quite a bit out there.

Councilor Mower said these details were important in terms of the energy performance of buildings.

Councilor Gooze updated the Council on applications and issues before the Planning Board at recent meetings.

October 5th Planning Board meeting:

- Great Bay Kennel application was postponed because of questions regarding the plans that came through originally
- Acceptance consideration of an amendment to a previously approved site plan application and conditional use permit application for Ionian Properties' project at 10 Pettee Brook Road, to allow a fifth story. Councilor Mower noted that even with the fifth story, the building wouldn't be taller than the original design.
- Acceptance consideration of a subdivision application for the Bakman property
- Acceptance consideration for site plan review and conditional use permit applications for an elder care facility on Mill Road. Councilor Gooze said the application was accepted by the Planning Board although Chair Parnell voted against it because of questions regarding the issue of a shared driveway.
- Councilor Smith was designated to be the Planning Board's representative to a committee involved with the University Master Plan update.

Councilor Mower noted that an area of Town that was of interest to the Conservation Commission was the headwaters to the Oyster River. She said the Commission would welcome a joint meeting with the Planning Board to discuss areas of Town that might be appropriate for protection and managed development.

Councilor Gooze said he and his wife had come with a proposed Zoning amendment to rezone the property next to him from Professional Office to Residence A. He said he would recuse himself when this came before the Planning Board on October 26th.

Councilor Gooze summarized items that came before the Planning Board at the October 12th Planning Board meeting:

- The Public hearing for the site plan review and conditional use permit applications for an elder care facility on Mill was postponed and would be rescheduled at the request of the applicant. Councilor Gooze said there were some problems with what was put forward to the Planning Board, and said it wasn't clear what would happen.

Councilor Smith said the reason the elder care facility was withdrawn was that the applicants hadn't read the ordinance very carefully, and incorrectly came forth with a request to be allowed to have 16 elder residents. He said they didn't realize that each dwelling unit required 20,000 sf, and said the Planner and the Planning Board didn't catch this.

Councilor Gooze said he didn't think it was the job of Planning Board members to catch this.

- The subdivision application for the Bakman property was approved.
- There was a public hearing on the proposed amendment to a previously approved site plan application and conditional use permit for Ionian Properties' project at 10 Pettee Brook Road, to allow a fifth story. Councilor Gooze said no open spoke, and the applications were approved.
- Discussion on the Zoning rewrite process. Councilor Gooze said a number of Board members thought the onerous draft design standards/guidelines should be pulled out of the Zoning Ordinance and put in a separate document. He also said there was discussion by the Board about what it really wanted to get from this process. He said Board members were supposed to send Mr. Campbell their top priorities. He noted that planning consultant Beth Della Valle was coming to the EDC meeting on October 24th.

Chair Carroll thanked Councilor Gooze and Councilor Smith for serving on the Planning Board.

Councilor Stanhope said the most recent Historic District Committee meeting was preceded by a site walk of the area where the new kennel structure was proposed. He said Great Bay Kennel presented a revised plan that seemed to address the concerns and suggestions offered at the previous meeting. He said within its authority, the HDC, approved the design as being consistent with HDC guidelines. He said the committee also prepared a series of requests to the Planning Board for conditions of approval, concerning screening, fencing, an easement for a vegetative barrier on Newmarket Road, etc. He said he hoped the Planning Board would give full consideration to those proposed conditions.

Councilor Mower asked what the rationale was behind the placement of the building so close to Route 108.

Councilor Stanhope said it was moved down lower as a way to mitigate sound. He said the applicant also hired a sound engineer to further buffer all of the abutting properties from

noise coming from the property, which historically had been the concern of the neighborhood.

Councilor Mower said she could hear the dogs in the Faculty neighborhood.

Councilor Stanhope said with the vegetative buffer, the likelihood was that this would be considerably lessened.

Councilor Gooze noted emails received concerning the UNH Flow physics facility wind tunnel, which he said was about 1.5 miles from his house. He said he had been able to hear it significantly one evening, and said he could understand how people within $\frac{3}{4}$ of mile were bothered by it. He said Administrator Selig was working with UNH to see what could be done about this issue. He noted that the Planning Board had been told by UNH that the sound wouldn't be too bad.

Councilor Smith quoted from May 2009 Planning Board Minutes, when University planner Doug Bencks came before the Board on this proposed project. Councilor Smith said he didn't remember that the application pointed out that this would be the largest facility of its kind in the world, with 400 horsepower fans.

Councilor Gooze said on Saturday, the Green Bus, which ran on solar energy and biodiesel was parked at Mill Plaza. He noted that the head of the school's sustainability committee was there. He said as part of this event, the Middle School Jazz band played, and said they were really good.

Chair Carroll said she saw the Green Bus at Emery Farm. She noted that a student who had traveled the country on the bus said when they pulled into towns they looked for the places that served unhealthy food, and got Frialator oil to fill their tank.

Councilor Gooze said he had made some biodiesel on his son-in-law's farm.

Councilor Mower said the Energy Committee would finally be meeting with the Planning Board on October 26th to discuss the energy checklist the committee had developed. She said she hoped to get a note in the Friday Update on this. She provided details on the checklist, and said the committee saw it as an educational opportunity in working with developers.

She said there were two new members of the Water Resources Protection subcommittee, and said it would be meeting to review the proposed aquifer protection overlay revisions within the next few weeks.

Councilor Mower said the Conservation Commission met the previous Thursday, and looked at GIS maps showing high priority parcels for permanent land protection, specifically related to areas with aquifers. She said the maps confirmed the Commission's own set of priorities.

She noted that the Town had received a contract from the Strafford Rivers Conservancy concerning monitoring/stewardship for the conservation easement for Capstone. She said Administrator Selig would review it with the Town attorney.

Councilor Mower said she'd met with Mr. Campbell that morning about a few issues of interest to the Conservation Commission and perhaps others as well. She said there was a sense that things weren't as clear as they could be in terms of a road map for the Master Plan update. She said she suggested that a memo on the time frame, expedited deliverables, participants, etc. would be useful.

She said the Environmental and Cultural chapter would be divided, to give greater visibility to historical elements. She said members of the community were welcome to participate with the Conservation Commission in updating the Environmental chapter, and said these were things that had needed clarification.

Councilor Mower said she also spoke with Mr. Campbell about Planning Board procedure regarding conservation subdivisions. She noted that with the application for the proposed conservation subdivision application for the old Garland property on Mill Road, the project first came to the Planning Board for design review but something fell between the cracks in terms of it going to the Conservation Commission. She explained that there was a 4 step process outlined in the regulations concerning the primary and secondary conservation areas, and said the Commission was supposed to play an advisory role concerning this.

Councilor Mower asked Administrator Selig if he had spoken with DPW Director Mike Lynch about the significant erosion occurring at the Jackson's Landing boat ramp. She also asked about the status of the application to DES for a maintenance permit.

Chair Carroll said on Saturday, the annual hazardous waste pickup took place. She said data for this year and the last few years indicated that more people were taking advantage of this program every year, and were not taking shortcuts in terms of disposing of hazardous waste.

Councilor Mower noted that it was worth it for residents who were going to be out of town on that day to check with neighbors about bringing the hazardous waste in for collection. She also asked for clarification on where residents were supposed to throw out leftover lawn fertilizer, noting the importance of not putting this into the waste stream.

Chair Carroll said she'd recently attended the annual meeting of the NH Preservation Alliance, which among other things was responsible for the Seven to Save program. She said a new program this year was for young preservationists who were hard at work in NH.

Administrator Selig said the DPW was working with Nancy Sandberg, Dudley Dudley, Phyllis Bennett, and Ed Valena on a project to dedicate a granite bench to commemorate the 1974 stoppage of the Onassis oil refinery. He said Mr. Valena had produced a play about eight years ago on this, and said proceeds from that would be used to pay for the bench.

Administrator Selig noted that ZBA member Jerry Gottsacker would be in Florida for the winter, and wanted to be sure it was acceptable for him to be gone for that period of time and still perhaps be a member of the ZBA. Administrator Selig said he didn't see an issue with this, but said Councilors should let him know if they had any concerns about this.

Administrator Selig noted that the Town had recently closed on the Grange property. He said this was a great public/private partnership, and spoke about the fact that the building was

being moved up close to the sidewalk, would be restored at private expense, and would include some workforce housing in the Grange building. He also noted that a barnlike structure would be constructed at the rear of the property for student housing.

In addition, he said the pathway linking Main Street to Mill Plaza would be tremendously enhanced. He noted that this path would be closed for a period of time, but was expected to re-open in December. He said there would be a special list-serv announcement when the building was to be moved.

Administrator Selig spoke about the fact that the ATO fraternity had recently been suspended by the University for 5 years because of bad behavior. He noted that the fraternity was located in a prominent building on Main Street, and said it was now considered to be a rogue fraternity. In answer to a question from Councilor Mower, he said the ATO alumni association had paid the back taxes.

Administrator Selig noted that George Maglaras, the Chair of the Strafford County Board of Commissioners was before the Council a few months ago talking about the idea of consolidation of prosecution services. Administrator Selig said there would be a meeting later in the week to talk about this concept, and said he hoped it would make sense for Durham.

He said Town staff was continuing to talk with Revolution Energy about possible projects for some Town facilities.

He noted that Oyster River School District parents and preschoolers recently toured the DPW garage.

Administrator Selig spoke in detail about the innovation of using a plastic ring for fire hydrants in Town, which came about as a result of using the Kaizen process. He also said that tomorrow, the Town's Kaizen leadership team would travel to the Lonza Biologics facility at the Pease Trade port to see what they did to improve efficiency. He also said Lonza hoped to come to Durham to facilitate a lean exercise.

Administrator Selig told Councilors that Durham had requested a meeting with EPA in regard to the permitting for the wastewater treatment plant. He noted that Durham had voluntarily upgraded its plant, and was discharging below an interim level EPA was talking about. He said Durham was in the lower part of the second tier of communities, in terms of the amount of discharge from the plant.

He said EPA was surprised that the Town had reached out to them, and he said the meeting went well. He said there was discussion on the Kaizen process the Town was using, and said they were interested in working with Durham in a collaborative way. He said an issue raised was the possibility of linking conversations on the wastewater treatment plant with the NPDES stormwater permit. He said EPA staff were also interested in hearing about the demonstration stormwater project at the Tedeschi lot, and characterized this effort as being dramatically different than what the agency had experienced in other towns.

Administrator Selig spoke about the current uncertainty about the date of the NH Primary. He said having it in early December was problematic, but said they would make it happen if necessary.

He said he and Ms. Jablonski were currently putting a great deal of time into the 2010 Budget development process. He said department heads had done a tremendous job in pulling information together, and said there were a lot of great proposals. He said he had narrowed budget requests down to just under a 4% increase, and said he hoped to bring this down further. He said the deadline to get final numbers in was Friday.

Administrator Selig said the DPW was researching an issue concerning the sewer connections for properties around Mathes Terrace. He said this had to do with shared sewer connections, and said a survey of that area would be done to see exactly who owned them.

He said the Town was continuing to talk with developer Scott Mitchell, who was interested in acquiring the Town offices lot, and was very willing to think outside of the box. He said Mr. Mitchell was interested in attracting CVS to the site, and said in his ideal world, he would want to move the Court house to another part of the site so the new pharmacy was highly visible for those people traveling down Church Hill.

He said he had significant concerns about relocating it, but said they were continuing to talk. He said there was also discussion that day about looking at the current layout of Schoolhouse Lane and possibly shifting it farther toward the Three Chimneys Inn in order to fit a possible pharmacy and the Town offices where the Town Offices building currently sat.

Councilor Gooze noted that the goal was to find a way to redo the Town Hall for the least amount of money, in order to save the taxpayers money.

Administrator Selig said another goal was to generate additional tax base.

Administrator Selig said a second development project currently under discussion was with Sora Holdings, whose name was currently evolving into something else. He said the company was interested in doing a redevelopment project in the downtown core. He said he, Mr. Campbell, EDC Chair Tom Elliot and Councilor Niman had been in discussion with Sora, and said if something came together, he looked forward to bringing it forward. He said things were very conceptual at this time, but said he hoped a possible project would include structured parking of some kind.

Administrator Selig noted that the Oyster River School District had provided copies of its budget to Councilors.

Administrator Selig said at the Big Green Bus event, he had learned that some young families were going to take advantage of the COAST day to take the bus to Jackson's Lab facility, a waves facility at UNH as well as the UNH observatory. He noted that while there were some friction points with UNH, there were also some very positive benefits from having UNH in Durham, and it was nice to have so many choices on a given day.

He said the Town had received an inquiry from a Durham resident who was interested in the Miss NH pageant, and wanted to be dubbed Miss Durham. He said he would advise that the Town not get involved in this, but said Councilors who wanted to talk about this further could do so.

Administrator Selig said he'd received a call from the Northern NH Passenger Rail Authority, and said the Council was likely to get a visit from their Executive Director at the next meeting, soliciting the Town's support for the continuation of the Downeaster. He said that line was under Congressional scrutiny right now for possible cutbacks.

Councilor Mower said members of the public should get a heads up on this, so their voices could be heard.

Administrator Selig said that concerning the UNH flow physics facility, he thanked residents who had expressed concerns about the sound issue. He said he had put out something in the Friday Update about the issue, and asked people to email the Town if they could hear the sound coming from the facility. He said a mailer would be sent out to residents living in the vicinity to get additional feedback, so the Town would have good data on the geographic areas affected. He said there would then be discussion with UNH staff about the issue. He said his understanding was that the issue had also been turned over to the Dean of the Engineering department.

Councilor Gooze spoke briefly about the Library Board of Trustees current efforts to raise \$900,000 in private money for the new library, and said \$675,000 – 680,000 had been raised so far. He asked residents to give generously.

Administrator Selig said he no information or perspective to provide concerning the erosion issue at Jackson's Landing, the permit issue, or the fertilizer disposal issue Councilor Mower had brought up.

Chair Carroll said there was a lot going on in Durham, and a lot of hardworking Councilors.

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

Beth Olshansky, Packers Falls Road, thanked the Council for their due diligence, and the time they spent on issues that affected the community greatly. She noted the proposal from Councilor Smith to further scrutinize and amend the workforce housing ordinance, and also spoke about the vote to approve this ordinance at the last Council meeting, when there was discussion on it at a late hour, and the vote was extremely close. She said when Councilor Stanhope called the question, further discussion was cut short.

She said that at this meeting, Councilor Gooze had said that what was proposed was expedient in order to get something on the books concerning workforce housing, and that there were other ideas that could be considered later, such as a workforce housing overlay. She said while it was important to get something on the books in case developers came forward, she believed that this was an important issue that needed to be thought through thoroughly.

Ms. Olshansky noted that when she spoke at the public hearing, she raised the issue of repurposing some existing housing stock, and said she was pleased to hear that Councilor Lawson had looked into how much of this housing there was in Durham. She said he had said there were about 500 properties that could become workforce housing, and said she hoped some of the Council's efforts could be put toward that, which would get some of the students out of the neighborhoods, and get some workforce housing families in.

She said she had spoken with Ben Frost, who had helped draft RSA 79-E. She said the intention and purpose of the bill was to allow each town to decide on its own how it defined the downtown, and she said the Faculty neighborhood and Cowell Drive could be included in it according to RSA 79-E.

Ms. Olshansky said it was important to consider providing incentives to repurpose properties in these areas. She noted that Mr. Frost had discussed with colleagues at the State the idea of creating bonding mechanisms for repurposing of properties. She said there could be a great opportunity for Durham to benefit from all of this down the line.

Regarding the workforce housing proposal that had passed, she said it provided some modest incentives. She said what was before the Council now expanded on that in terms of the zones covered. She also noted language asking the Planning Board to revisit the Table of Dimensional Standards and add more density. She said she was particularly opposed to adding more density to the Rural and RC zones. She said she would like to see the Council step back at this point, look at the bigger picture, and have a longer discussion on workforce housing for Durham.

Ellen Karelitz, 113 Madbury Road, said she was concerned about opening up the Rural and RC zones to workforce housing. She noted that she was a member of the Agricultural Commission, and said they were starting to inventory lands in Town, and were using a different lens to look at land use. She said it was a good idea to wait before bringing amendments that could have an impact on land use. She said there was increased interest in developing options for local food production, and said it was important to give consideration to that.

Ms. Karelitz said after the last meeting, she had contacted State legislators who were at the meeting. She said Senator Merrill had responded, and a dialogue had been started on how to use incentives to use the existing housing stock for workforce housing. She urged the Council not to move forward to make amendments to the workforce housing ordinance until there was more opportunity to gather information on what the options were.

Iago Hale, 74 Mill Road, said he had just moved to Durham, and said the noise from the Flow physics facility was an issue of great concern to his family and the residents of the neighborhood. He said he was the closest house to the facility, and said it created noise for 12 hours straight. He said as he drove around, sound was blasting everywhere, and said at his house the noise was audible in every room. He said this was a completely unacceptable sound level, at any time.

He said as designed, the facility should not have been built. He said a question was how to work with the University to mitigate the problem and retrofit the facility. He said the

engineers at UNH should have expertise in mitigating this and not externalizing their cost saving measures at the expense of the residents.

He said he appreciated the fact that the Town was doing a direct mailing on this issue, and said he'd offered to help with this. He said this facility was in its initial stages, and said the use would increase. He said the Foss Farm neighbors were annoyed, and no one knew what was causing the noise. He said the mailing would help, and said he was glad to hear that the University was coming to the table and wanted to do the right thing.

Administrator Selig said to date, this facility demanded a lot of power to run, so it had been operated during off peak hours, which was evenings and weekends. He said there would need to be discussion about this among other things.

Councilor Gooze said he didn't care if it took a 20 ft wall to mitigate the noise problem.

Mr. Hale said if he had known about this issue, he would not have bought the house. He said there were potential real estate implications concerning this issue.

Chair Carroll said she was sorry that he didn't have a better introduction to Durham, but said she appreciated it that he had come forward to speak.

Councilor Smith said when he asked people if they had heard the sound coming from the wind tunnel, he found that a lot of people had heard the sound, but didn't know where it came from. He suggested that Administrator Selig get the University to say when it would be running the wind tunnel in order to get information on how extensive the noise problem was.

Chair Carroll said there would be continued discussion on this issue.

Paul Schlie, Foss Farm Road, thanked the Council for discussing the wind tunnel issue. He said a wise person recognized when mistakes had been made, and said he was reminded of how the Town looked a year ago as compared to now, in terms of buildings and parking spaces. He said he thought the Council should evaluate decisions that were made, and reconsider whether they were wise to begin with.

Mr. Schlie also said the Town had hired too many people. He said there were far too many Town employees who were looking for things to do, and said a 4% increase in the Budget was absurd. He said any Councilor who approved this should have their head examined, and said there should be a reduction in the tax rate, since property values were going down. He also said the Town didn't need to build a new Town Hall

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, approve the special event permit application submitted by the UNH Campus Recreation Department to close a portion of Main Street for the annual UNH Homecoming 5K road race on Saturday, October 29, 2011?

Councilor Smith MOVED that the Durham Town Council does hereby approve the special event permit application submitted by the UNH Campus Recreation Department requesting that a portion of Main Street near the UNH Field House be closed between 9:00 and 10:00AM on Saturday, October 29, 2011 for the annual UNH Homecoming 5k Road Race. Councilor Mower SECONDED the motion, and it PASSED unanimously 8-0.

- B. Shall the Town Council approve the Water and Sewer Warrant for fall 2011 totaling \$448,151.75 and authorize the Town Administrator to sign said warrant?

Councilor Smith MOVED that the Durham Town Council does hereby approve the Fall 2011 water and sewer warrant totaling \$448,151.75 and commits the bills for charges to the Tax Collector for collection. The Durham Town Council further authorizes the Administrator to sign said warrant on its behalf. Councilor Mower SECONDED the motion, and it PASSED unanimously 8-0.

VIII. Committee Appointments

- A. Shall the Town Council appoint David Sietz, 37 Mill Road, to the Durham Energy Committee?

David Sietz spoke briefly before the Council. He said he had moved to Durham in 2005, and spoke briefly about why he wanted to be on the Energy Committee.

Councilor Mower MOVED to appoint David Sietz, 37 Mill Road, to the Durham Energy Committee. Councilor Smith SECONDED the motion.

Councilor Mower said Mr. Sietz had attended the last Energy Committee meeting and was an active participant. She said the Committee looked forward to working with him.

The motion PASSED unanimously 8-0.

Chair Carroll thanked Mr. Sietz for stepping forward, noting that the Energy Committee was an active group that was doing wonderful things.

- B. Shall the Town Council nominate residents Richard Horan and Jim Hornbeck, Town Engineer David Cedarholm, and UNH Water Utilities Operator Julianne Boucher for appointment by the NHDES Commissioner to the newly formed Oyster River Local Advisory Committee?

Administrator Selig said this was a new committee, and was the result of State legislation that had passed this year.

Councilor Gooze MOVED that the Durham Town Council does hereby nominate for appointment by the Commissioner, New Hampshire Department of Environmental Services, the following individuals (with indicated representation of interests) to the newly formed Oyster River Local Advisory Committee:

Richard Horan, 14 Riverview Road: conservation, recreation, and riparian landowner
Jim Hornbeck, 19 Woodridge Road: conservation and riparian landowner
Town Engineer David Cedarholm: local government, recreation, and business
UNH Water Utilities Operator Julianne Boucher: local government and riparian landowner.

Councilor Mower SECONDED the motion.

Councilor Stanhope asked Administrator Selig whether the Council needed to allocate additional monies to the DPW, noting that they frequently heard that Mr. Cedarholm was taxed for time because of all of his responsibilities. He asked what the time commitment was for the two DPW employees on this committee.

Administrator Selig noted that the Town had expressed support for enrollment into the program, although he noted concerns about the amount of time Mr. Cedarholm had to spend on Lamprey River issues. He said Mr. Cedarholm was the best representative the Town could put forward to represent its interests. He said Mr. Cedarholm most likely wouldn't attend every meeting, but would be there when the Town's interests would most likely need to be represented. He said this was a challenge but said in order to be able to represent the interests of the Town as a whole, there needed to be staff or volunteers with an interest in water resources issues.

Councilor Stanhope noted that a 4% increase in the Budget was proposed, and that people were saying that Mr. Cedarholm was stretched too thin already. He said perhaps this nomination should be tabled until someone in the community with the ability to represent the Town could be found.

Administrator Selig first noted that he was not moving forward with a 4% Budget increase for 2012, and said this number reflected what had been requested of him to date. He said the Town was significantly understaffed in terms of being able to represent the Town on these kinds of committees. He said a valid point had been raised, and said an option was to hold off on making this appointment.

Councilor Mower asked if there was discussion about the idea of having someone from UNH represent the Town, noting that this was a joint water system and that the Town was short staffed. She said her understanding was that Ms. Boucher was a new employee, and asked if that would be adequate representation for UNH. She also asked if it would be appropriate to ask Jim Dombroski to take on this role instead, and she provided her reasoning for asking this.

Administrator Selig said he had discussed this with Paul Chamberlin, and said UNH had recommended that Ms. Boucher be the representative. He said it would be appropriate to have her as the sole representative, but said there was a strategic benefit to having two benefits on that committee, which was why a second representative was brought forward.

Councilor Mower said by having a voice on the committee, the Town was in a position to speak to any issue that upstream communities might have concerning use of the Oyster River.

Administrator Selig said this was exactly the type of activity that Mr. Cedarholm should be involved with, and said there would only be more of them in the future as additional regulations came into play.

Councilor Mower said UNH professor Tom Lee, who was a member of the Oyster River Watershed Association, had recommended that Jim Hornbeck would be an excellent member of the committee, noting his background in water resources.

Chair Carroll said it would be wonderful if there was a Durham resident affiliated with UNH because of a background in water resources to serve on this committee, but said such a person might be very hard to find.

Councilor Smith asked if the Council had to appoint a local official to the Board.

After further discussion, the following motion was made.

Councilor Smith MOVED to amend the original motion and to appoint Peter Stanhope in place of David Cedarholm, as the local government and business representative to the Oyster River Local Advisory Committee. Councilor Mower SECONDED the motion, and it PASSED unanimously 8-0.

The original motion as amended PASSED unanimously 8-0.

IX. Presentation Items

A. Annual report of the Durham Energy Committee – Kevin Gardner, Chair

Mr. Gardner spoke before the Board, stating that the Committee had been very active and was now full. He said a lot had been accomplished this past year.

- Conservation of energy contract saved the Town about \$40,000.
- The Committee worked hard to get PACE legislation approved by the Town. Action on implementing it was then tabled because of things going on at the State and federal level. He said things were in a holding pattern for now.
- A more recent energy inventory of the Town. Got good data on town operations, by facility and by department, to closely track energy use, and determine the benefits of various improvements
- Revolution Energy initiative. Committee assisted Administrator Selig in working to make that happen. Idea would be clean energy system, mostly solar, to save money on day one, and the Town would own the equipment after 10 years
- Educational outreach displays at Durham Day and the library
- Worked on improving situation for bicyclists, with more bike lanes. A lot of outreach, communication to DOT on regional bike paths
- Worked with Library committee to advocate energy efficiency and bike racks to get people out of their cars.
- Communication with ORSC sustainability committee.
- a number of Durham homes are on MyEnergyplan.net tour

- Town has adopted 2012 IECC – Tom Johnson did most of the legwork
- Energy Checklist for Planning Board, which the Board hopes to use to educate applicants
- Worked hard on Master Plan chapter for a few years, which is in good draft form now. Strafford Regional Planning Commission is providing 160 hours of assistance to help with that. The final draft is expected to be completed by the end of the year

There was discussion about the fact that implementation of the PACE legislation had stalled at the federal and State level. Administrator Selig explained that Fannie Mae and Freddie Mac, as well as banks in the State had expressed concerns about the program because a town's lien would take priority over others. He said ultimately the NH Legislature agreed to modify the PACE RSA so that if a loan for a house was issued, the Town's lien wouldn't take priority. He said this would be of concern to him, in terms of the Town's ability to recoup the funding. He said there were also now some other restrictions as part of the PACE program, and said all of this had caused towns to back away from the program.

It was agreed that it would be helpful to provide an update on this in the Friday Update.

Chair Carroll thanked Mr. Gardner, and said the Energy Committee was doing a lot of great work.

B. Annual report of the Parks & Recreation Committee – Diane Moore, Chair

Diane Moore, first reviewed accomplishments in 2011:

- Assisted Parks & Recreation Director in the coordination of, advertising and staffing events hosted by DPR
- Winter Festival/Chili Cook-Off at Mill Pond
- Annual Easter Egg Hunt at Old Town Landing
- Memorial Day Parade
- Summer Series - Music By the Bay - July and August
- Durham Day
- Supported Eagle Scouts by funding trail enhancements at Wagon Hill
- Provided playground mulch for Jackson Landing and Woodridge Playgrounds through DPW Anticipated for the end of 2011
- Host Annual Thanksgiving Day Turkey Trot at Wagon Hill
- Continue focus on Wagon Hill improvements and Stolworthy Trail clean up

Ms. Moore noted that the Parks and Recreation Committee had requested a 10 hour per week increase for the Parks and Recreation Director, rather than asking that it be a full time position in recognition of all that was going on with economy. She said Director Sandy Devins was doing a great job, but said there was more that could be done. She said it was felt that the Master Plan survey indicated an increased interest in recreation opportunities, but said it was hard to provide this with a part time position.

Administrator Selig said the Parks and Recreation Committee was doing a terrific job. He noted that Ms. Moore had spoken with him last week, and that the 4% Budget increase

include an additional 10 hours for the Parks and Recreation Director position. He said it remained to be seen where this would go.

Councilor Niman said if the Council was looking for other things to cut, he was more than happy to help so the hours for the Parks and Recreation Director could be increased.

Chair Carroll said residents had benefited so much from recreation opportunities that appealed to almost every resident in Town. She thanked Ms. Moore for helping to make this happen.

C. Quarterly Financial Report through September 30, 2011 and follow up discussion regarding use of Fund Balance as part of the tax setting process – Gail Jablonski, Business Manager

Ms. Jablonski provided details on revenues and expense through September 30th. She noted that the tax bills hadn't been sent out yet, and that the tax rate hadn't been set. She said they were waiting on the State concerning this. She said it was estimated that revenues would be about \$75,000 under what had been projected mainly due to a decrease in money for motor vehicle permit fees, interest earned and court fines. She said the Town had received \$62,000 in building permit fees from Capstone, and was expecting more. She said some of that money would be deferred to next year to cover DPW and Building Department costs.

Ms. Jablonski said that regarding expenses, the Town was still trying to save money where it could, and to make up for decreases in revenue and retirement costs. She said welfare costs were currently almost double what they were before because a lot of residents were coming in because of hardship situations. She also said the legal line was increasing because of work related to the Police Department. She said Town staff were doing their best to hold the line and keep within the Budget.

She said there needed to be discussion by the Council about the setting of the tax rate, and how to cover the \$300,000 in tax abatements. She said \$125,000 had been estimated in the 2011 Budget for this, and said there needed to be discussion on whether to use fund balance to cover the \$175,000 difference or to increase taxes.

Councilor Gooze asked if permit fees from Capstone were included in the revenue projections, and Ms. Jablonski said yes.

Ms. Jablonski explained that the Town had a policy of trying to have 5-8% of appropriations for fund balance, but that it was currently about 4%. She said the Department of Revenue Administration recommended having 5-10%, and said surprisingly, most other communities she had contacted for a comparison were on the high end. She said their feeling was that with the bad economy, it was better to have the money sitting there in case taxes didn't get paid or something else came up.

She also said another situation that came up if there wasn't fund balance was running out of money earlier, and possibly having to get a tax anticipation note. She said it had been tight every six months, but said she'd worked with the School District and so far had gotten them to delay their payment.

Mr. Jablonski said the municipalities she contacted were Salem, Gorham, Dover, Conway Lebanon, Bedford, Keene, Portsmouth, Concord and Rochester.

In answer to a question from Councilor Mower as to which of these communities had a town council form of government, which meant they had the power to raise taxes, Administrator Selig said it was Dover, Keene, Portsmouth, Concord and Rochester.

Ms. Jablonski said except for Salem, which was under its target, the other municipalities had fund balances of between 6 and 13%. She said the larger cities were mostly above 10%.

Administrator Selig said last year when the tax rate was set, the Council had adopted a fund balance policy. He said they were very clear that they wouldn't use fund balance last year. He said he hadn't planned to use it this year, but said Councilor Niman had brought up this idea during a quarterly update discussion.

He said leaving that meeting, he thought the Council was supportive of that position, so that was how they would proceed. But he said at the agenda setting meeting, the four Councilors there didn't share that perspective. He said he therefore wanted to check back with the Council to determine how they wanted to proceed. He also said the plan had been that the \$300,000 would be a one-time occurrence for 2011, but said the Assessor had said that number would be there for 2012 as well.

Councilor Niman said he found it disconcerting that policy was being established at agenda setting meetings. He said Administrator Selig had said that when there was an open discussion at the Council meeting, he had the impression that things would proceed in a certain way, but that when he was at a private meeting, the four Councilors there said they were not sure of the position, and so he was back before the Council today.

Councilor Niman said earlier at tonight's meeting, Administrator Selig had said that currently the Budget was going up 4%, and that he hoped to reduce that. He asked if the tax impact of this had been calculated.

Administrator Selig said the projections done last year were that the Town's portion of the tax rate was projected to increase by 1.62% for 2011, 8.23% for 2012, and 8.8% for 2012. He said with the most recent data, and if they stuck with Budget established and dipped into fund balance to cover the abatements, they could stay with the 1.62% increase number as planned. He said if they didn't use fund balance, the 2011 increase would be approximately 6.63%.

He said with the proposals to date for 2012, which would be cut further, there was a 3.9% increase in spending. He said that translated to adding the \$300,000 in so there would be an 11.7% increase, which assumed that they stuck with a 1.6% increase for 2011 as planned. He summarized that they could spread out the increase over two years, or could have an even larger increase in 2012. He said at the same time, the fund balance would be \$200,000 less.

Councilor Niman said what they were really talking about doing was smoothing over a tax increase.

Administrator Selig said that was not what he was suggesting. He said when he had looked ahead a year ago and estimated a certain tax base, the worst case exposure in terms of abatements was thought to be \$125,000. He said in actuality, taxpayers filing abatement requests demonstrated that their properties were assessed too high, and the abatements were warranted. He said these funds were refunded, which had caused a shift in the tax base.

He said what was being talked about now was in essence a redistribution and shifting of the tax burden. He said it was correct that if the Council chose to simply dip into the fund balance now, there could be a 1.5% increase in the Town portion of the tax rate and they could feel good this year. But he said the fund balance would continue to drop to an unsatisfactory level, and next year there would be a crisis mode, where they would be facing an 11-12% increase.

Administrator Selig said this would be a good thing for those wanting to talk about making dramatic decreases in spending overall. But he said his guess was that there wouldn't be the desire to make wholesale decreases in spending because the Town had demonstrated over time that it was spending the taxpayers' money carefully. He said his preference was to spread this out over two years so there wasn't the crisis in 2012. He said this was why he had recommended a few months ago that they stay with the fund balance policy and shift the increase onto the property tax because in essence it was a distribution of sorts.

Councilor Niman said if they spent \$130,000 from the fund balance, they wouldn't be that much worse off than they were because there was currently no plan concerning the fund balance. He said for people who were horrified and thought the fund balance issue was crucial to the health and welfare of the Town, he would like to see a plan on how the Town was going to build it up.

He said that wasn't what they were doing here, and said what they were doing was smoothing the tax increase for next year. He said he wanted them all to admit that this was what they were doing, and said if they wanted to spend beyond their means, that was fine. But he said this shouldn't be disguised by worrying that the fund balance would be too low. He said even if the fund balance was maintained as it was now, it would still be too low.

Administrator Selig said in terms of building fund balance, revenues were estimated conservatively, with the hope that the Town would do better than the estimates. He said unfortunately this didn't happen this year. He noted that in terms of expenditures, the projected and actual numbers were close.

He said a way they'd tried to have a built in increase in the fund balance was with the \$100,000 contingency line, which it had been hoped they wouldn't need to spend. But he said unfortunately, they'd run into a lot of factors this year that tied it up. He noted that \$70,000 was being held to cover overruns on the fish ladder project at the Wiswall Dam. He said otherwise, they would be building up fund balance slowly through the contingency fund.

Administrator Selig said he didn't view this situation as the Town spending beyond its means. He said what was happening was that the \$300,000 was being refunded to taxpayers who had met their burden of proof.

Chair Carroll asked Administrator Selig to explain the contingency fund and the unreserved fund balance for members of the public.

Administrator Selig did so, and noted that one of the purposes of the fund balance was to smooth out the tax rate, which he noted had been done at times over the past 10 years. He said another benefit of having a healthy fund balance was that rating agencies saw it and were more likely to give the Town an advantageous bond rating.

Councilor Stanhope said he worried that there was already a burdensome tax rate, which was one of the highest in the State. He said as this continued to rise by the amounts projected, it would have a depressing effect on property values, so there would be continued requests for appeals, and there would then be a spiraling down. He said if they were going to continue to deplete the fund balance, they would either have to make serious cuts in the budget or would have to basically have a very burdensome tax rate to continue the current level of services. He said this Council or a future Council would have to face this, and said he didn't think they could continue to run the community the way they had without facing financial ruin.

Councilor Gooze said he didn't remember any real discussion on the fund balance at the agenda setting meeting, and said Councilors didn't bring it up.

Administrator Selig said there was no response from anyone after Councilor Niman brought his idea up at the Council meeting. He said at the Agenda setting meeting, some Councilors said the fact that the idea was brought up and there was no response didn't necessarily mean that this was the will of the Council. He said he had then realized that the issue needed more discussion.

Councilor Gooze agreed that Durham had one of the higher tax rates in the State, and said student rentals had been the business in Town. But he said the Council was trying to expand the tax base, and noted that there were a number of projects coming on board, including Capstone, which would have an effect on the tax rate.

Administrator Selig noted that even with the abatements, the tax base had increased by \$4.5 million. He said this didn't include the Capstone project or others that were happening in Town.

Administrator Selig asked the Council if it wanted to follow the policy established for the fund balance. He said it would be helpful to get more guidance on this.

In answer to a question from Councilor Mower, Councilor Niman said he didn't think the economy was going to get better any time soon. He said Durham had always spent more than it had taken in, and finagled things in order to manage the tax rate. He said a question was whether they were going to continue to do that, and whether they could afford to do that.

He said the last time the Council discussed this subject, he had advocated dipping into the fund balance in order to put pressure on Administrator Selig to cut spending, to keep the future tax rate increase down. He said the point Administrator Selig was making now was that if he was allowed to raise the tax rate now, it would make it easier the following year as well because there would be the extra money. He said the abatements were a one-time thing,

and said raising taxes to cover that gave Administrator Selig that money to spend on other things without having to raise the tax rate.

Councilor Mower said in other words, this would establish a new floor for the tax rate.

Councilor Niman said he agreed with Administrator Selig that if the Council had no interest in reducing spending, the smart thing to do was to try to smooth out the increase in the tax rate. But he said if they all were serious about getting spending on line, and were concerned the economy might get worse and that a future Council would have to do something about it, they would have to do something more proactive. He said that meant putting as much pressure on Administrator Selig and the Council as possible to hold next year's tax increase as low as possible. He said taking money from the fund balance now would do this.

Councilor Marple said it was important to remember that the Town portion of the total tax bill was a small percentage of it. She said when she heard that taxes would go up by 11%, that was a scare tactic.

Administrator Selig said ultimately the Budget that was adopted would be the Council's Budget. He said he believed that they all had done a very good job in managing the resources of the Town, and had been very adept at taking out things the Town had allowed to go by the wayside, and bolstering up in those areas where the community wanted to be more proactive and involved.

He said they had looked at a lot of real ways to reduce spending, but these had significant consequences for residents, and the Council had been uncomfortable moving forward with those initiatives. He noted the LUCT proposal as an example, as well as curb side collection. He said he thought smoothing out the impact was most appropriate, while charting a fiscally responsible course. But he said it was the Council's choice.

Councilor Gooze asked at what point they would say that no more money could be taken from the fund balance. He said he agreed there was no plan for the fund balance, and that it would be difficult to build it up over the next few years.

There was discussion about what would have to happen to the fund balance next year if it was used to smooth out the tax base this year. Administrator Selig said if they chose to lower the fund balance to offset the \$175,000 difference because of the abatements, the fund balance would drop to \$700,000. He said for 2012, they likely would again need to take from fund balance because of tax abatements if they didn't want to pass this through to the tax rate. He said there would be a reduction of about \$200,000, which would mean the fund balance at that point would be \$500,000. He said at that point, they were getting into a problematic situation. He said that was when they started to descend into the spiral.

Councilor Stanhope said the Town was looking at two major bond issues, one for a library and one for a fire house. He said letting the fund balance drop to the levels suggested would mean the interest rate for the bonded debt might be higher, which would impact the tax rate as well. He said the Town would be spiraling into being a debtor.

There was discussion about what had appeared to be a surplus in the School District budget. Ms. Jablonski said their tax rate was projected to go up \$0.76, taking into account what had been a surplus. There was discussion.

Chair Carroll said since 2004, every Council had diminished the fund balance except for last year, when it went up a little bit. She said she didn't think they could decrease it anymore, and said it was something they needed to be able to turn to in an emergency.

Administrator Selig said the fund balance was used consciously over that time period to create a more stable increase in the tax rate. He said this year when there was the last quarterly Budget update, the Council's focus was going to be spending, given the uncertainties concerning what was happening with the tax base. He said that was what he was focusing on, and said they had done a good job of keeping spending increases to a minimum.

Chair Carroll asked what Administrator Selig and Ms. Jablonski wanted in terms of policy.

Administrator Selig said they were below the 5-8% threshold outlined in the fund balance policy, so unless the Council directed him to do otherwise, they wouldn't use fund balance to offset the abatement numbers.

Chair Carroll said if a Councilor believed the Council should tap into the fund balance, he/she should make a motion on this.

Councilor Mower asked what type of situation other than a hurricane would qualify as an emergency necessitating that fund balance be used, and could not depend on raising revenue immediately by issuing a call for taxes, which was a prerogative of a council form of government.

Administrator Selig said a benefit of the council form of government was that the Council could raise taxes to offset additional expenses in the case of an emergency. He said that was why the Council had been comfortable targeting the lower end of the range for fund balance. He said if the economy continued to falter and spiraled into a depression, that would be a time to talk further about additional reductions in spending and possibly some type of additional smoothing factor by drawing down further on the fund balance to give taxpayers a break.

Chair Carroll said hearing no motion, the Council would continue with the policy as stated, and would not tap into the fund balance.

Councilor Gooze noted that the Council was in the Budget season, and had choices.

Chair Carroll said this was an important discussion to have now before really getting into the Budget discussion.

Ms. Jablonski explained that the reason for the increase in the School portion of the Budget was that Durham's apportionment had gone up.

X. Unfinished Business

PUBLIC HEARING AND ACTION ON ORDINANCE #2011-07 amending Chapter 153 “Vehicles and Traffic”, Section 153-49 “Schedule XVII: parking prohibited certain hours and Section 153-46 “Schedule XIV: Parking prohibited at all times” of the Durham Town Code by prohibiting parking at anytime on a section of Woodman Road

Chief Kurz explained that when the bike lane was installed at this location, it turned out that it was in conflict with the parking there, and forced bikes to go out of the bike lane. He said this was seen to be a real problem, and he noted that there weren’t a lot of cars parking there anyway.

He recommended an amendment to the proposed ordinance that would allow parking there on Sundays from 8 am to 2 pm, which would mean it was available for Sunday church services. He said the department could deal with special events as well, with a phone call.

Councilor Smith MOVED to open the Public Hearing on Ordinance #2011-07 amending Chapter 153 “Vehicles and Traffic”, Section 153-49 “Schedule XVII: parking prohibited certain hours and Section 153-46 “Schedule XIV: Parking prohibited at all times” of the Durham Town Code by prohibiting parking at any time on a section of Woodman Road. Councilor Mower SECONDED the motion, and it PASSED unanimously 8-0.

Bob Pavlick, 4 Pinecrest Lane, represented the Unitarian Universalist Fellowship on Madbury Road. He said they had some concerns earlier that year with the elimination of parking spaces on their side of Madbury Road. He said this was coupled with concerns about the construction of the very large building on the other side of Madbury Road, which looked like it would have an impact on parking in the area. He noted that the Fellowship had recently constructed a facility on its property that it was hoped would attract various events.

He said they would appreciate the opportunity to continue to be able to park on Woodman Road on Sundays, and would also like to be able to ask the Town for special parking rights when there was a wedding, concert, etc. He said he didn’t think this would block bike traffic that much. He said they would give the Town a few days’ notice, and could put their own signs up. He also said they were looking to see how the new building coming in would affect parking in the area.

Dr. Malcolm Smith said he was faculty member at UNH, lived at 45 Woodman Road and was also Vice President of the Fellowship. He explained that they had started a concert series at their facility which was a positive thing for young families. He said the Fellowship was really feeling pressure from the building that was going up, which had no parking. He said he wondered where the students who would live there would park. He said he thought there should be some flexibility for the Fellowship, which had been in its location for a long time.

He said he biked and walked that route, and agreed there was a problem for bikes during the day when people parked there. But he said there were no bikes traveling there at night. He said he would like to see the ordinance amended to allow parking between 6 and 10 pm, noting that the Fellowship had many groups meeting there at night. He said they wanted to encourage people to come there, but said it was a problem if they had to park three blocks

away. He also noted the giant structure that would be nearby, and said it wasn't true that students wouldn't bring their cars there. He said the church would like to have some space there too.

Dr. Smith noted that the 6-10 pm suggestion was his own and not that of the Fellowship. He said an alternative could be to let the police chief know there was going to be an event. He said if there was nowhere to park, people wouldn't come there. He said the Fellowship had built the new space to support the Town and to support the work of the Fellowship. He said it included a new parking area, but said it didn't accommodate all the people who came there.

Administrator Selig asked if allowing parking there from 6-10 pm would cover the events at the facility.

Dr. Smith said it would. He said the concern was that without supervision, students would occupy the spaces.

Councilor Niman MOVED to extend the meeting to 10:30 pm. Councilor Stanhope SECONDED the motion and it PASSED unanimously 8-0.

Chief Kurz said he had no problem allowing the parking there from 6-10 pm, but he noted that the parking would be available to everyone. He said if there was a special event, the department would deal with it, but said if it was going to be routine, maybe they would need to revisit this. He agreed that generally speaking, bikes wouldn't be an issue after dark.

Administrator Selig said his sense was that allowing the parking Sunday, from 8-2 pm would work, and said beyond that if there was a special event, the Fellowship could email the Police department.

Dr. Smith said the Town couldn't continue to build these large student structures without considering parking. He said the Woodman neighborhood was being choked.

Chair Carroll suggested that Dr. Smith should bring this issue to the attention of the Planning Board.

Dr. Smith said he would, but asked the Council to please consider young families.

Councilor Smith MOVED to close the Public Hearing. Councilor Mower SECONDED the motion, and it PASSED unanimously 8-0.

Councilor Stanhope said he suspected that most of the evening events during the week lasted a few hours, so they could allow parking for 2-3 hours. He said students tended to leave cars in a space longer. He also said he biked up Madbury Road. He said it was nice to have the bike lane there, but said he didn't think there had been a serious safety issue there.

He said he hoped the Traffic Safety Committee would revisit the necessity of removing the spaces on the east side, stating that if they were limited to two hour parking as well, this would allow the Fellowship to support their activities. He said this was a valuable asset in the

center of the community, and said their ability to use their building had been effectively limited by limiting the parking.

Chair Carroll noted that she attended an excellent concert there on Saturday. She said she parked by the Middle School and walked there, and said it took less than 5 minutes. She said she realized some people might not be able to do that.

There was discussion about weather considerations and the fact that some people might be coming there from out of Town.

Chair Carroll said she liked the idea of the Fellowship being able to call the Police Department before events because she thought the students otherwise would park there. She said they couldn't send police officers around every night to check on parking, noting that the department was down a police officer.

Councilor Lawson said around Madbury Road in the evenings, there was plenty of parking so he didn't know why students would park on Woodman Road. He also said the Tedeschi lot was never filled in the evening. He said if they opened up the parking on Woodman after 6 pm to accommodate the groups that wanted to use the facility, he didn't think it would necessarily be overrun by students. He said they could also make the parking available on Sunday, and said if it turned out it didn't work, they could revisit it.

Councilor Gooze said he agreed with Councilor Lawson.

It was agreed that parking would be allowed from 6-10 pm every night, and Sundays from 8 am to 2 pm.

Chair Carroll said the Council would rely on the church to let them know if this worked. She noted that they were giving the Police department an additional duty, and they would let the Council know how this went.

Councilor Gooze MOVED to adopt Ordinance #2011-07 amending Chapter 153 "Vehicles and Traffic", Section 153-49 "Schedule XVII: parking prohibited certain hours and Section 153-46 "Schedule XIV: Parking prohibited at all times" of the Durham Town Code by prohibiting parking at any time on a section of Woodman Road, except for Sundays from 8 am -2 pm, and evenings 6-10 pm daily.

There was discussion that events on Saturday could be handled as a special event.

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

Councilor Stanhope asked if the Traffic Safety Committee could consider allowing this same kind of evening parking ability on Madbury Road.

Councilor Mowers said she would be concerned that they were introducing many more student residences to the downtown with no parking affiliated with these residences, and that this would add to the burden of enforcement.

Chair Carroll suggested that this be brought up at a future meeting.

Administrator Selig said the spaces eliminated on Madbury Road were hardly ever used. He said they were very comfortable eliminating them for now, in the interests of bikeability. But he said he realized that with the new development along Madbury Road, if additional demand for parking was created, the issue would be revisited. He said this was an interim step.

Councilor Stanhope said he was thinking strictly in terms of allowing parking from 6 pm to 9 pm in order to support the community center on the corner.

Councilor Mowers said that idea was worth submitting to the Traffic Safety Committee.

XI. New Business

- A. **RESOLUTION #2011-19** requesting that Durham's legislative delegation support and introduce legislation that would allow municipalities to adopt, by ordinance, licensing and inspection requirements for non-owner occupied rental dwelling units

Councilor Gooze said many other states allow this, but NH did not. He noted that in Michigan, almost every community with a university had it. He explained that when he had come to the Rental Housing Commission with this proposal, the attorney who had looked at it was uncomfortable with it because there was no State enabling legislation.

He said he'd talked to Cordell Johnston of the Local Government Center last year as to what would be appropriate in order to give towns the opportunity to do this, and said the draft ordinance came out of that. He said he had discussed it with Senator Merrill, and said she wouldn't be 100% comfortable with it until she talked more with legislators and administrators of other communities. He said she didn't want to bring something forward that didn't have a chance of passing.

Councilor Gooze said the idea in discussing it with the Council was to have a resolution that encouraged the Legislature to do this. He said it would have to be submitted by Friday in order to be considered for the upcoming legislative session. He said if Senator Merrill wasn't comfortable with it, she wouldn't do it. He noted that one question was whether to do it specifically for a college town or for all towns in the State.

Councilor Stanhope pointed out that towns peripheral to college towns had the same exposure.

Councilor Gooze said it might take a year to work through this.

Councilor Stanhope said the Legislature right now was constituted to take down regulation. He noted that Senator Merrill was a Democratic and with this proposal would be bringing forward additional regulations.

Councilor Gooze said if there were other college towns and legislators on board, it might still be worth the effort. He said he would like the Council to pass a Resolution requesting that

Durham's legislative delegation support and introduce legislation concerning this. But he said it was not this specific ordinance that was provided in the Resolution.

Councilor Gooze MOVED that the Durham Town Council does hereby ADOPT Resolution #2011-19 requesting that Durham's legislative delegation support and introduce legislation that would allow municipalities to adopt, by ordinance, annual licensing and inspection requirements for all non-owner occupied rental dwelling units as well as requiring the annual renewal of such licenses to ensure compliance with local laws, ordinances, codes, and regulation.

Administrator Selig suggested that everything after “The proposed language is as follows” on page 2 of the Resolution itself should be removed. He noted that this was the ordinance language itself, and said removing it would make it a generic request.

Councilor Gooze said that was what he was requesting that the Council support.

Councilor Mower asked for a distinction in the Resolution between the language “introduce” and “support” in the introduction to the Resolution. She asked if there was a legal difference between these two words.

There was discussion, and it was agreed that the wording instead should say “...introduce and support”.

Councilor Mower also asked for a distinction between the third and fourth Whereases in the Resolution: “Whereas, chronic unlawful or nuisance activity of various kinds often occurs in and around areas where there are non-Owner occupied rental dwelling units; and Whereas, disorderly activity diminishes the quality of life in neighborhoods where this activity occurs.”

Councilor Smith said he thought the fourth Whereas was a continuation of the third. Councilor Gooze agreed.

Councilor Mower noted the sixth Whereas: “Whereas, the non-owner occupied rental housing units in Durham are typically occupied by young college students who have limited life experience and are not aware of basic life, safety, and health requirements.” She asked if there should be some reference to the actual living unit, and Administrator Selig suggested that the wording should say “...life, safety and health codes...”

There was discussion about the eighth Whereas, and it was agreed that this should say “...introduce legislation...”.

Councilor Gooze said he would keep everyone up to date on where Senator Merrill stood on this.

Administrator Selig checked with Councilor Niman on the fifth Whereas: “Whereas, the preponderance of Durham's non-owner occupied rental housing stock is 50-75 years old and is not subject to regular health and safety inspections”.

Councilor Niman said that was correct.

Councilor Smith said that regarding the fourth Whereas, the wording “...such disorderly activity...” should be used. He also said “Non-owner-occupied” was the correct hyphenation.

Councilor Mower said this was a very good job, and thanked Councilor Gooze for initiating it.

Councilor Mower SECONDED the motion.

Chair Carroll said there were a number of good points in the Resolution, and they would see where it went.

Councilor Mower noted that the final paragraph of the Resolution should also say “...introduce and support...”

The motion PASSED 7-1, with Councilor Stanhope voting against the motion.

- B. Discussion of (a) possible Council-initiated amendments to the recently-adopted “Workforce Housing Option” and (b) possible amendments to the Durham Zoning Ordinance Table of Uses and the Table of Dimensional Requirements that would encourage the creation of workforce housing on existing properties in all zoning districts.

Councilor Smith asked that this item be scheduled under Unfinished Business for the next meeting, so it would come before New Business.

XII. Nonpublic Session (if required)

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

XIV. Adjourn

Councilor Mower MOVED to adjourn. Councilor Gooze SECONDED the motion and it PASSED unanimously 8-0.

Adjournment at 10:28 pm

Victoria Parmele, Minutes taker