

## **Months of Durham, NH, Planning Department Deviation from Long-Held (Written) Policy Regarding Forwarding Hard-Copy Citizen Input Along with Applicant Materials**

To: Durham Planning Board / From: Joshua Meyrowitz, 7 Chesley Dr / Feb 8, 2022

**Please include the following information and the unedited email exchanges reproduced further below in the legal record for the Mill Plaza CUP site-plan review.**

*Please note that this submission is not meant as a critique of the amazing Karen Edwards, the overworked Administrative Assistant at the Durham Planning Department. She routinely does the work of 2-3 people and deserves more support and assistance to carry out department policies. Also, Contract Planner Rick Taintor may not even have been aware of the deviation from policy described here, as he does not have an office at the Planning Department in Durham.*

\* \* \*

I write about a change in policy that lasted for about four months that was not even publicly announced with respect to citizen input on Planning Board review of site-plan applications. Contrary to written policy, citizen letters were no longer routinely forwarded along with applicant material for Planning Board members' weekend packets. I believe that the information and email exchanges provided here illustrate underlying procedural bias in favor of applicants and against Durham residents. Given the volume and substance of the citizen input that was discriminated against, the deviation from policy significantly damaged the integrity of the review of site-plan applications before the Board in several critical months in late 2020 and early 2021, including the Mill Plaza application.

That the change in policy was not even announced to the public (and therefore could not even be factored into citizens' strategies for length, form, and timing of their input) is further indication of disrespect for public input in Conditional Use reviews. That disrespect is striking given that the [Conditional Use Zoning Article](#) highlights the role of public input in the PB's determination that an application "will have a positive economic, fiscal, public safety, environmental, aesthetic, and social impact on the town." Those determinations, per the Article, are to be decided with "findings of fact, based on the evidence presented by the applicant, Town staff, **and the public....**" Certainly, determinations of "public safety, environmental, aesthetic, and social impact **on the town**" should not be left up to the applicants, particularly when they do not even live in Durham. (Emphasis added.)

### **Jan 2021—Residents learn that Board's "packets" no longer routinely contain citizen input**

Email from Karen Edwards to Joshua Meyrowitz on Jan 8, 2021 (fuller exchange reproduced

below): “Due to the large amount of letters we are receiving, I am not copying them for the packets. They will be emailed to the Board and posted on the website.”

Residents learned that this violation of the written policy on every agenda had been going on since at least December 2020. This violation of written policy lasted for about four months. It was reversed in mid-April 2021, shortly after the ZBA ruled against the PB on the Toomerfs’ plan for concrete retaining walls (up to 20-ft tall) on Church Hill for a parking structure likely to accommodate many Mill Plaza tenants.

This change in resident-input policy led to a heated email exchange between me and Michael Behrendt, included below, with Behrendt claiming that he had Town Administrator Todd Selig’s backing on the new policy.

On Jan 21, 2021 Michael Behrendt claimed: “There never was an official policy about this. Rather, it is just a process that I started doing years ago.” Yet every PB agenda continued to say:

“Correspondence that pertains to current Planning Board matters, except where the public hearing has been closed, will be: a) emailed to the Planning Board; **b) mailed to the board members if received by the Thursday prior to the meeting**; and c) posted on the Town’s website.” (Emphasis added.)

Citizens letters were still posted on the website and emailed to PB members, but it’s difficult to imagine how *anyone* below genius intelligence/memory skills could possibly absorb, organize, or remember so many letters with diverse perspectives on diverse topics without being given the hard copies to highlight, annotate, and organize. (Yes some PB say they printed out our letters during this period, an extra step not required for applicant material, and a step possibly not taken with all resident input among all members, some of whom have reported not having printers.) Moreover, despite PB members’ denials, they have often displayed what residents perceive to be lack of familiarity with what the public has written, and we have witnessed them struggling in deliberations on issues that are well-articulated and documented in the citizen submissions.

The bias against residents is also reflected in this Jan 21, 2021 comment from Planner Behrendt: “There is a fundamental difference between application materials submitted by an applicant and emails/letters from residents. The board must have the optimal opportunity to review materials related to an application, most of which are plans, detailed studies with tables, and application forms. We must provide these in a form that board members find easy to read. The same is not true for emails and letters from residents. Appropriate care must be given but it is simply not essential that those be provided in hard copies to board members.”

I vehemently disagreed with this claim in email exchanges with Michael Behrendt. Also, I was

uncomfortable with the overall framing that a great deal of resident input was a “problem” to be managed, rather than a sign of positive engagement (and/or problems with the quality of the applications), while massive, and often *duplicative* applicant documents were accepted as normal.

**Below, I include the unedited correspondence I have received and written on this topic from and to Planning Department Administrative Assistant Karen Edwards and from and to Town Planner Michael Behrendt.** (I’ve put the emails in chronological order, and taken out most of the various “signatures” to reduce the length.) There is a lot of redundancy, so it can be easily skimmed, paying attention to the justifications of the Planning Department. (Also note that Michael Behrendt and I have known each other for years, have deep mutual respect for each other, and that allowed us to be blunt and direct in these exchanges.)

**➔ JULY 2020 CONFIRMATION OF TO-THEN ROUTINE PROCEDURE ⬅**

**From:** Joshua Meyrowitz [mailto:[prof.joshua.meyrowitz@gmail.com](mailto:prof.joshua.meyrowitz@gmail.com)]  
**Sent:** Wednesday, July 01, 2020 3:17 PM  
**To:** Karen Edwards  
**Subject:** Clarity from Taintor / Confirming Understanding

Hi Karen,

Thank you for clarifying [over phone] how you choose what to send in hard copy to the PB for their weekend packages.... [other topic omitted]

**To summarize my understanding of what you generally do:** You quickly post and email to PB what people send in, BUT you do NOT send PB members hard copies for their weekend packets unless/until the topics about which you receive materials are on the upcoming Planning Board agenda. And when the topic appears on the agenda, you then send hard copies of whatever you have received to that time that was not yet sent to Board members in hard copy. **Do I have that right??**

Best, Joshua  
7 Chesley Drive  
H--868-5090

----- Forwarded message -----

From: Karen Edwards <[kedwards@ci.durham.nh.us](mailto:kedwards@ci.durham.nh.us)>  
Date: Wed, Jul 1, 2020 at 3:47 PM  
Subject: RE: Clarity from Taintor / Confirming Understanding

To: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>

Yes, that is correct.

Karen

Karen Edwards  
Administrative Assistant  
Town of Durham  
+++

**➔How I discovered the change in policy in early January 2021 (but I later learned that it started at least as far back as mid-December 2020, perhaps earlier ⬅**

**From:** Joshua Meyrowitz [mailto:[prof.joshua.meyrowitz@gmail.com](mailto:prof.joshua.meyrowitz@gmail.com)]  
**Sent:** Friday, January 08, 2021 4:06 AM  
**To:** Karen Edwards  
**Cc:** Michael Behrendt  
**Subject:** Letter for PB's Jan 13 Conditional Use Discussion of 19-21 Main St

Dear Karen,

You've told me in the past that if you receive letters by early Friday morning that you are usually able to copy and include them in the Planning Board's weekend packets, in addition to the usual posting/forwarding.

Please see the attached letter to the Planning Board with respect to their agenda item for Jan 13 to discuss Conditional Use criteria as they relate to the 19-21 Main Street proposal.

Thank you.

Best, Joshua  
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----- Forwarded message -----

From: **Karen Edwards** <kedwards@ci.durham.nh.us>  
Date: Fri, Jan 8, 2021 at 8:09 AM  
Subject: RE: Letter for PB's Jan 13 Conditional Use Discussion of 19-21 Main St  
To: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>  
Cc: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Due to the large amount of letters we are receiving, I am not copying them for the packets. They will be emailed to the Board and posted on the website.

Karen

Karen Edwards  
Administrative Assistant

----- Forwarded message -----

From: **Joshua Meyrowitz** <prof.joshua.meyrowitz@gmail.com>  
Date: Fri, Jan 8, 2021 at 1:53 PM  
Subject: Post & Email-Only (for all?)  
To: Karen Edwards <kedwards@ci.durham.nh.us>  
Cc: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Thank you very much for the response, Karen,

Can you clarify: Is the "post & email-only" policy with respect to Citizen Letters in general, or just for the ones that you see when you come in on Friday morning? If the former (all Citizen Letters regardless of submission date), that is a VERY BIG and significant change in policy. And I wonder when that began.

Best, Joshua

----- Forwarded message -----

From: **Michael Behrendt** <mbehrendt@ci.durham.nh.us>  
Date: Fri, Jan 8, 2021 at 2:00 PM  
Subject: Post & Email-Only (for all?)  
To: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>, Karen Edwards <kedwards@ci.durham.nh.us>

Hi Josh. Karen will weigh in if she thinks otherwise. Our policy for all letters is to:

- post them to the website asap
- email them to board members asap
- include them in packets if received by first thing Friday morning. However, as Karen noted, if we have an unusually large amount of letters we reserve the right to not copy them all for the packets (due to costs of time, paper, and postage). In such cases they will still be posted and emailed.

For letters received after the deadline for the packets we used to copy them and place them on the table for members but we are not doing that any more since most members participate in the meeting via zoom.

I hope that helps.

**Michael Behrendt**

Durham Town Planner

----- Forwarded message -----

From: **Joshua Meyrowitz** <[prof.joshua.meyrowitz@gmail.com](mailto:prof.joshua.meyrowitz@gmail.com)>

Date: Fri, Jan 8, 2021 at 3:16 PM

Subject: What gets lost on the screen

To: Michael Behrendt <[mbehrendt@ci.durham.nh.us](mailto:mbehrendt@ci.durham.nh.us)>

Cc: Karen Edwards <[kedwards@ci.durham.nh.us](mailto:kedwards@ci.durham.nh.us)>, RobinM <[malpeque@gmail.com](mailto:malpeque@gmail.com)>, Beth Olshansky 659-6018 <[Beth.Olshansky@comcast.net](mailto:Beth.Olshansky@comcast.net)>

*Warning: Long and deep tirade coming! Sorry not to drop it off in hard copy to you.*

Hi Michael,

Thank you for reassuring me (further below [here, above]) that all is the same about Board members receiving hard copies of Citizen Comments review material -- but you add an **"except when it's not."** And that's a major concern to me and, I'm sure, others. (I'm copying some "engaged citizens.")

I understand the instinct to pull back when overwhelmed with input. But I would argue that that is a terrible and damaging decision. Yes, I am sure that Karen, *personally*, has an overwhelming number of demands on her time and resources, but if she needs help, that is an *institutional* problem that needs to be addressed with added resources to insure the integrity of Planning Dept activities.

In my experience with academic review processes, **the longer the material you have to read, the more essential it is to have it in hardcopy.** If someone sends me a short item to review, I can read it onscreen and respond. (But I often print it out anyway to give it more careful review and response.) But when one is dealing with hundreds of pages in chapters of a dissertation or tenure review file, one needs to be able to highlight, circle, annotate with queries and counter arguments, etc. If I'm reading something on p. 212, or reading the tenth manuscript someone sends me, I often need to flip back to earlier chapters/pages or an earlier document to see if I

missed a setup of the argument or if I see contradictions.

The same must be true for Planning Board members dealing with such a long and large history of applicant materials and citizen input. A hard copy record is essential for full and fair analysis and review.

One is not going to sit at a screen for 50 hours. And even if one could sit at a screen for that long with a pot of coffee, there's no way to mentally integrate the material. For complicated review processes, one needs to be able to read material whenever and wherever: while in bed, while eating, while sitting in a reading chair, while waiting for someone in the car.

It's true, of course, that online posting and email have their own unique advantages (searching on terms, following links), forwarding to others directly or with a link to online postings. It's great to have the advantages of digital records. As you know, I take full advantage of that by sending searchable PDF input with many links. (I just did that with what I worked on for 3 days before sending it in last night.)

But printed hard copies still have, after many centuries, enduring function and crucial role. When I print out things I've written and seemingly carefully edited on screen, I almost always spot new typos, logical gaps, and organization/formatting goofs that I missed on the screen.

Hard copies are essential to have the option to **group similar types of material together and put them in a folder with your own notes**. While I'm happy to see that my last-night submission is posted online with all the links, I organized it also to be held in hand and annotated. I never imagined that the Planning Dept having to send my 3 double-sheets of paper in hard copy would be a burden so high as to stop its receipt by the Board members.

If it's true that Board members are no longer receiving Citizen Comments in hard copy, I now have more insight into why the board members often seem overwhelmed, disorganized and confused in their thinking, and frighteningly forgetful of citizens' written input. Indeed, the Board faced a probing inquiry about this from a citizen during a meeting on September 23, when she said (adapted from video & minutes):

*Also, what is the role of Durham residents' input? Some truly impressive letters: Dennis Meadows, Robin Mower, Joshua Meyrowitz, and on and on, made some really salient points. Do you make notes and review them at a later date? Although we are happy to be heard, we don't want it to be like a law that's passed and then it's not enforced. If we are so concerned about the Town that we take all this time to make these comments, I really hope that they are not forgotten over time.*

Although I appreciate concern about limited time and resources, the solution is to add the personnel and resources to do the job that must be done. An increase in Citizen Comments should be seen as a gold mine to be cherished, not something to partially bury. You say you "reserve the right" not to send in hardcopy. Summarizing from above, I would characterize that as "reserving the wrong."

Respectfully, Joshua

P.S. If expanded citizen input leads to it no longer always being sent in hard copy to the Planning Board, is it also true that Board members no longer receive **applicants'** longer submissions in hard copy? For example, when CDA submits a new and very long Traffic Impact Study, do the Board members have to read that on their screens as well, or do they always receive that sort of applicant material in hard copy?

+++

**→Five Days later!**

----- Forwarded message -----

From: **Michael Behrendt** <mbehrendt@ci.durham.nh.us>

Date: Wed, Jan 13, 2021 at 5:55 PM

Subject: RE: What gets lost on the screen

To: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>

Cc: Karen Edwards <kedwards@ci.durham.nh.us>, RobinM <malpeque@gmail.com>, Beth Olshansky 659-6018 <Beth.Olshansky@comcast.net>

Hi Josh,

Thank you, indeed, for taking the time to send this email. We do receive many impressive letters from residents and appreciate that they care enough to prepare this correspondence.

Unfortunately, I think Planning Board members do get overwhelmed with information, details, and complexity but it is our job to assist them and try to make the job as clear and pleasant as possible. I will talk with Karen and get back to you shortly. Thanks again.

**Michael Behrendt**

Durham Town Planner

----- Forwarded message -----

From: **Joshua Meyrowitz** <prof.joshua.meyrowitz@gmail.com>

Date: Fri, Jan 15, 2021 at 4:30 PM

Subject: Re: What gets lost on the screen (functionally forever)

To: Michael Behrendt <mbehrendt@ci.durham.nh.us>



Cc: RobinM <malpeque@gmail.com>, HONORARY Beth Olshansky 659-6018  
<Beth.Olshansky@comcast.net>

Thank you, Michael. I do look forward to your timely response on this very potent issue, as I'm sure all the other letters writers do as well, including those copied here again.

In particular, could you please report:

- 1) **On what date was the policy changed** from the "always send in-time Citizen Comments in hard copy with weekend packets *if* the topic of the Comments is on the coming Wednesday's agenda (or hold to send in hard copy when the topic is coming up)" to not always doing that?
- 2) Also, was it the case that hard copies were, after that date, ***sometimes sent in hard copy, or was it a "we don't do that anymore"?*** If the former do you have more details on when, what, etc.?
- 3) Given that I've often spent days working on some of my submissions (including significant edits to change material from "oral-presentation" form to "best read & reviewed in hard copy" form (yes, blended with on-screen digital benefits, such as hot links), can you let me know **which of my submissions, in particular, was the last one to be mailed in hard copy, and also which was the first one NOT to be sent in hard copy?**
- 4) Finally, as I asked in my previous email, it is also the case that **the same change (on same date?) was made for high-quantity/length applicant material** (where applicant files were also only posted and forwarded digitally) -- or has applicant material continued always to be mailed or otherwise delivered (such as Town Hall pickup) to Planning Board members?

**No "undoing" a flowing process.** There are, as you know, major pending proposals that could transform the shape of Durham forever. Thus, for those of us trying to engage in the process that cannot be rewound or ultimately undone, these changes in how our input is treated is not a minor "procedural shift" that can be reversed simply with a subsequent apology and a change back.

As I wrote before, some input seems to have missed the sustained attention of the Board, with months of timely discussion and informed decisions lost, and I don't know how that can be fixed. It's a permanent damage to thoughtful deliberation.

I thought of general irreversible policy change implications (though in out-of-scale, but still analogous issue), reading today's NYT about the Flint, Michigan, citizens still lining up for bottled water (many of their children mentally damaged forever) after a really bad policy change regarding the water source. Indictments, apologies, etc. won't undo the permanent damage.

## Nine Michigan Leaders Face Charges in Water Crisis That Roiled Flint

<https://www.nytimes.com/2021/01/14/us/rick-snyder-flint-water-charges.html>

I hope we can purify the flow of public comments to Planning Board members immediately, before it's too late for the health of Durham decision making.

Best, Joshua

----- Forwarded message -----

From: **Michael Behrendt** <mbehrendt@ci.durham.nh.us>

Date: Tue, Jan 19, 2021 at 4:43 PM

Subject: RE: What gets lost on the screen (functionally forever)

To: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>, Beth Olshansky <Beth.Olshansky@comcast.net>

Hi Josh,

I will check with the Planning Board what they would like. We have three options:

- 1) Just email and post to the website. Todd actually thought this was reasonable to do and I would push for this rather than the third option.
- 2) Email and post to the website. Also include hard copies in the packets except where there are a large number of emails/letters. Leave it to Karen's discretion. If she doesn't send at any time she will let the board know. This is my preference. Count on the first two. We will do the third most of the time as a courtesy but the first two are the ones you can count on.
- 3) Email, post to the website, and mail hard copies all the time. I think this is not the right approach. Karen serves as sole staff to three departments and has a huge workload. We are not getting more administrative staff to assist. Managing the large amount of correspondence is a lot: they are copied to separate parts of the packet, she has to track whether they have been mailed, if they come in later they go in the next packet, people email her and ask if it is going into the packet or if they can have more time, etc.

**Michael Behrendt**

Durham Town Planner

----- Forwarded message -----

From: **Michael Behrendt** <mbehrendt@ci.durham.nh.us>

Date: Tue, Jan 19, 2021 at 4:55 PM

Subject: Policy for copying emails and letters

To:

To the Planning Board,

It has been our policy to do three things with emails and letters that we receive from the public. We email them to board members right away, we post them to the website, and we include hard copies in the packets ( if we receive them after the packet is compiled they go into the next packets). As you might imagine this is a lot of work for Karen to do. She is the sole administrative staff for three departments (Planning, Building, and Assessing). I will raise this under Other Business for an upcoming meeting.

A few times recently when there were a great number of emails/letters she did not copy them for the packets and let the board know about that. One member of the public questioned our doing that saying the policy should be carried out consistently.

Here are three possible approaches for the Planning Board to consider. I recommend the second option. If that is not acceptable for some reason then I recommend the first option.

- 1) Just email and post to the website. Do not include hard copies any longer. Todd actually thought this was reasonable to do. Forwarding the emails right away and posting all of them on the website covers it pretty well.
- 2) Email and post to the website. Also include hard copies in the packets except where there are a large number of emails/letters. Leave it to Karen's discretion. If she doesn't send at any time she will let the board know. This is my preference. Forwarding and posting gives emails and letters much care. We will do the third most of the time as a courtesy but not necessarily all of the time.
- 3) Email, post to the website, and mail hard copies all the time. I think this is not the right approach. Managing the large amount of correspondence is a lot of work: they are copied to separate parts of the packet, Karen has to track whether they have been mailed, if they come in later they go in the next packet, people email her and ask if it is going into the packet or if they can have more time, etc. Most of the time we can do this but I do not think it is reasonable given our capacity to expect it all of the time (plus this affects Karen's ability to serve two other departments).

**Michael Behrendt**

Durham Town Planner

----- Forwarded message -----

From: **Joshua Meyrowitz** <prof.joshua.meyrowitz@gmail.com>

Date: Tue, Jan 19, 2021 at 6:41 PM

Subject: The right path? Re: What gets lost on the screen (functionally forever)

To: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Cc: Beth Olshansky <Beth.Olshansky@comcast.net>

Dear Michael,

Thank you for your reply to my probing inquiries. Since engagement in some of the many pending proposals before the Planning Board has taken over most of my “retirement” life, and I’m working on further, incredibly time-consuming input today, I have to respond strongly right away (so that I don’t get even more distracted from other important tasks by this exchange), which I’m sure you, as a caring soul, will understand (at least eventually!).

**Unspecified:** In what you wrote to me today, you do not specify whether you are referring to a “mailed hard-copy policy” that applies only to Citizen Input or also to Applicant info (CDA, Toomerfs, etc.). Distressingly, **it seems to be only about the Citizens of Durham input**, but I hope I’m wrong. Thus, I request clarification. Also, you have not addressed a few of my key questions in my earlier email, which I will repeat further below.

**Equity?** If the same policy is true for Citizens’ input and Applicants material then that’s one thing (fair and balanced – though still difficult for PB members to reasonably fulfill their important review responsibilities when they have limited materials in hard copy). **Are you speaking only about when Citizen input is “large” or also when Applicant input is “large”?**

Regarding the latter, I believe that the largest individual files have been from applicants – as in CDA Traffic Reports that exceed 240 pages: [Updated \[Mill Plaza Traffic Study 8-20-20\]](#) or 68-page: [Letter from White Appraisal 6-17-20](#)) or 19-21 Main St, 57-page: [Updated Traffic Report 11-23-20](#). And these are repeated and corrected versions, and just samples of massive files submitted by applicants. **Are these large applicant files also NOT mailed or delivered in hard-copy?**

**Biased toward Applicants and Against Public?** If, however, the Planning Department procedures are biased in favor of the applicants and against the public, then that is quite another thing. Imagine, if the reverse were true: That Citizen Comments were always sent in hard copy to the Planning Board for their careful reading, annotating, filing in separate piles, folders, etc. and the Applicant materials – especially when of high quantity and large! – were only posted and emailed. That would no doubt lead some applicants to sue for bias. And they would be justified in doing so. Please clarify: **Is the policy the same or different for the Applicant Materials and Citizen Comments in these important Public Hearings?**

**What does Contract Planner Rick Taintor see in hard copy?** Also, could clarify what materials

from the Applicant and what materials from Citizen input Rick Taintor receives in hard copy, if any, and what he only has access to digitally (postings and emails)? Rick has been working hard at a task he thought would be completed long ago, but I am also frequently surprised when he seems unfamiliar (in his Planner's Reviews) with some of the written input. I understand that he does not receive the regular "weekend packets" that PB members receive (which would include topics beyond his purview). But **does he receive anything from the Planning Dept or the applicant directly in hard copy?** And, if so, what and when?

**The *handling process* speaks loudly to what is valued and what is seen only as burdensome.** Again, robust Citizen input should be cherished and assured of careful attention by the PB; that is simply not possible without being able to highlight, annotate, append to notes, organize and file (as we've seen from many glaring and shocking mis-statements from the PB in many meetings). **The larger the public input, the more important it is for it to be in the members' hands, not just onscreen in front of their eyes for fleeting moments.**

I and others have spent countless hours researching, composing, refining materials for the Planning Board's consideration. And it is heartbreaking to see the PB's eyes glaze over when we try to refer to the written record that seems to have evaporated (if it was ever there) in the members' minds and understanding. Some PB get incensed when a citizen merely asks for some "sign" that our written input has been read and digested. We wonder (as one citizen voiced in the quote in chain of emails below) whether PB members have notes on our input that help to guide and justify their judgments. The existence and thoroughness of such notes would seem to be important evidence of how seriously such overwhelmingly important deliberations are being taken by the Town.

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### **Repeating some unanswered questions:**

In particular, could you please report:

- 1) On **what date** was the policy changed from the "always send in-time Citizen Comments in hard copy with weekend packets *if* the topic of the Comments is on the coming Wednesday's agenda (or hold to send in hard copy when the topic is coming up)" to not always doing that?
- 2) Also, was it the case that hard copies were, after that date, ***sometimes sent in hard copy, or was it a "we don't do that anymore"?*** ***If the former do you have more details on when, what, etc.?***
- 3) Given that I've often spent days working on some of my submissions (including significant edits to change material from "oral-presentation" form to "best read & reviewed in hard copy" form (yes,

blended with on-screen digital benefits, such as hot links), can you let me know **which of my submissions, in particular, was the last one to be mailed in hard copy, and also which was the first one NOT to be sent in hard copy?**

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**Meaning Well vs. Doing Right:** I know that you and Karen and Todd mean well, but meaning well is the same as actually doing the right thing and following fair procedures that speak to the significance and rules for "Public Hearings." Planning Board members have recently displayed glaring and frightening ignorance of well-documented trails of public input, such as the basic requirements for a legitimate site walk. They have shown confusion over the facts and confusion over the differences between distinct documents that have been submitted to them from all sources (including an FIA & an appraisal), etc. They need better backup from the Planning Department. And hard copies of everything at least gives them a fighting chance. Selectively dropping half of the input, tilts the whole process.

**For 10% of Rick Taintor's \$125/hr, the Planning Department would be able to hire a competent assistant to run the copy machine and collate and mail hard-copy packets (or to-be-picked-up packets).** As I wrote initially, there is a distinction between a **personal burden** and an **institutional responsibility**: *Although I appreciate concern about limited time and resources, the solution is to add the personnel and resources to do the job that must be done. An increase in Citizen Comments should be seen as a gold mine to be cherished, not something to partially bury.*

**A majority vote by PB members is not the way to choose the right approach:** Finally, although you no doubt think that polling Planning Board members is a next step on this question (as in your 4:55pm email today to them), I would add that this is not an issue for a Planning Board vote on policy, when one or more of the options is biased against the public. (Similarly, police department members should be asked to vote on whether it's okay to beat up and arrest people of one race more than another, a bias we know is rampant in the ranks; the correct policy must come from above and beyond them.) The handling of materials related to Public Hearings is policy that should be based on what is right, not what is popular among Planning Board members who are no doubt feeling overwhelmed by all they are asked to read and process. Although I'd have some hope that PB members would do the right thing and welcome hard copies of their fellow Citizens' input (as I would hope police officers would respond in favor of racial equality of treatment in a survey), it's not proper to give them the right to vote when one choice is biased against citizens and violates the basics of fair treatment of materials for review.

Those are my preliminary responses.

Respectfully, Joshua Meyrowitz  
7 Chesley Drive, Durham

----- Forwarded message -----

From: **Michael Behrendt** <mbehrendt@ci.durham.nh.us>

Date: Thu, Jan 21, 2021 at 1:28 PM

Subject: RE: The right path? Re: What gets lost on the screen (functionally forever)

To: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>

Cc: Beth Olshansky <Beth.Olshansky@comcast.net>

Hi Josh,

I appreciate you taking the time to respond in detail. There never was an official policy about this. Rather, it is just a process that I started doing years ago. It always did seem a little much, emailing, posting, and sending hard copies but I wanted to put in the extra effort about this. We have done it consistently over the years but I am very sensitive to our limited Town resources and Karen's huge workload. She serves three separate departments on her own. She has done a great job with this and it was only recently when she was getting an overwhelming number of letters that she did not have time to include them in the packets.

Unless the board advises otherwise, we will continue to do what we have done. The significant majority of the time we will send hard copies. But I want to reserve the right to not do so when there is a huge amount of letters. Karen would advise the board by email when that occurs. I believe that forwarding by email and posting every email and letter on the website is treating the correspondence with much care. Everything is on the website so board members and others can easily look at it all in one place.

There is a fundamental difference between application materials submitted by an applicant and emails/letters from residents. The board must have the optimal opportunity to review materials related to an application, most of which are plans, detailed studies with tables, and application forms. We must provide these in a form that board members find easy to read. The same is not true for emails and letters from residents. Appropriate care must be given but it is simply not essential that those be provided in hard copies to board members. This is consistent with how the Town Council proceeds and probably the vast majority of bodies like the Planning Board. Materials submitted by the pertinent party are sent to the board or council. The public then can respond with emails or by speaking at a hearing. The Town Council does not post emails and letters to my knowledge, though this is being done with the Mill Pond Dam.

This is a policy for Planning Board information so it is up to the board how to proceed. Whether they give us direction by a vote or just consensus remains to be seen. I have to defend our department's limited resources so I would push back against a policy that required ALL correspondence be mailed. I think the second proposal is a very reasonable one. I bet there are extremely few other towns in the state that embrace option 3) as a firm policy, and probably quite

few that post everything as we do.

**Michael Behrendt**

Durham Town Planner

----- Forwarded message -----

From: **Joshua Meyrowitz** <prof.joshua.meyrowitz@gmail.com>

Date: Thu, Jan 21, 2021 at 3:50 PM

Subject: What track is the train on right now? Re: The right path? Re: What gets lost on the screen (functionally forever)

To: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Cc: Beth Olshansky <Beth.Olshansky@comcast.net>

Thank you, Michael for your reply.

I am about to reply at greater length on the issues in our exchanges on this topic, **while also trying to write some relatively brief input for the PB on pending applications. And for the latter, I need further clarity.**

**Based on what you write/know now, will public input received by Karen by the time she arrives tomorrow morning be mailed in hard copy or just posted/emailed?**

The answer makes a big difference to public thinking. If what I submit will be hard-copied to PB, then I will try to finish it today. If it will only be posted/emailed, then I worry (based on the overwhelmed PB members) that it will be forgotten by Wed, and therefore I would wait until Mon or Tues to submit to enhance the chance that PB members process it..

And, again, I urge you to hire what office help you need to protect the integrity of the process, which would entail a fraction of what Rick Taintor is paid per hour.

The more the public engages, OUGHT to be the BETTER.

Best,  
j

----- Forwarded message -----

From: **Michael Behrendt** <mbehrendt@ci.durham.nh.us>

Date: Thu, Jan 21, 2021 at 4:17 PM

Subject: RE: What track is the train on right now? Re: The right path? Re: What gets lost on the screen (functionally forever)



To: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>

Hi Josh,

We are including hard copies in the packet for all letters tomorrow. Karen would need to receive any letters by 10am tomorrow.

No doubt, Durham is very fortunate to have such an engaged and concerned community. It's a metziah or a mechiah or something like that.

**Michael Behrendt**

Durham Town Planner

----- Forwarded message -----

From: **Joshua Meyrowitz** <prof.joshua.meyrowitz@gmail.com>

Date: Thu, Jan 21, 2021 at 4:19 PM

Subject: Changing Tracks on a Moving Train Re: What gets lost on the screen (functionally forever)

To: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Cc: Beth Olshansky <Beth.Olshansky@comcast.net>

Dear Michael,

Thank you for taking the time from your busy schedule to reply. I take it, however, that my fears about different treatment of applicant material and public input are now confirmed.

I had hoped to be refining some PB input right now, rather than responding to your message, but, as I describe below, I need to know the ground rules for my in-progress input and more. Others are no doubt still operating on old assumptions. And what you describe leaves us all in **ambiguity** as to what best to do and when.

In my haste and multi-tasking, I write again with passion, which I hope you will understand.

I am not an attorney, and thus I do not know whether there are legal implications to the change in the long-observed practice (which was previously confirmed to me in writing) that occurred without advance public notice. And I am not familiar with the practices in other municipalities. Thus, I speak only from personal experience in our beloved community.

I am among those citizens who devote considerable time to trying to inform important decisions. And I try to write with precision and with documentation of sources. From that perspective, I regret to say, what you describe feels like further discrimination against the public in "PUBLIC hearing"

processes. With regard to *applicant* material, you write: “We must provide these in a form that board members find easy to read. The same is not true for emails and letters from residents.” I perceive that as an insult to the public, even if that type of discrimination is legal. It feels like a form of censorship of our participation is what are claimed to be *Public Hearings*.

Our input also deserves care, and, again, the more public input there is, the MORE important it is for Board members to be able to highlight, annotate, separate it and organize it in piles or folders. I won't repeat here my full, longer earlier comment from my own professional experience of how essential it is to have hard copies for thorough and fairer processing. I'll just add that the input being “all in one place online” as you say, is the exact *opposite* of what one needs to *organize* the material physically and in one's mind. Jumping among so many different topics online would be bewildering even to genius Planning Board members.

Citizens have already experienced the complications that emerge from Covid, and from an overload of major, potentially permanently Town-transforming proposals. We can longer “fill the room” when there is wide concern, and where even silent presence sent a message to the Board in the past. **We have lost the commonly employed option of reading a statement and then handing it in hard copy to Board members around the table so that they have it to review.** We have lost the feel of the body heat and concern of fellow citizens' response in the room (nods, frowns, head-shaking, murmurs, etc.). We know that some of the most engaged citizens at live meetings of the past are uncomfortable with, or unable to use Zoom. Many others are overwhelmed and distracted with health and financial and schooling concerns for themselves or family members. Most of the public cannot engage. Regardless of claims to the contrary, we no longer have fully public hearings. And the change in policy you describe only makes the minimization process worse.

Moreover, we have experienced multiple Planning Board meetings where a representative of an applicant is allowed to present without time constraints (sometimes for hours) and often with little to no critical questions from Board members (including questions that have often been laid out in public input), only then to be told that there is no remaining time for the public to speak after all, at a supposedly “public” hearing.

In “better” examples, we are given [more] time, but, with the tired and overwhelmed Board, greeted with impatience, sighs, crossed arms, sometimes mockery from a few Board members. We have experienced explicit spoken attempts to censor the content of what we say. I have received emails from neighbors who have witnessed this response and indicated that they simply don't have the fortitude to subject themselves to that treatment, so they have stayed silent. We only rarely see the Board members take notes on our oral input. And even after appeals to “show us a sign that we've been heard” so that we don't have to repeat our input, we see only rare indications (in Board members' comments) that, as a full group, they have absorbed even the most carefully crafted

written input that members of the public have given. (They may have, and not indicate it, but we don't know.)

Paradoxically, we are now told that the harder we work to help Board members with their tasks and inform the process and call attention to what is being omitted, the more likely our input will be omitted from the Board members' weekend packets. The more we feel we are pushed aside, the more likely, apparently, we are to be pushed aside.

In any case, it's important to me and others to understand the ground rules *at this moment*. We are on a quickly moving train, and we need to know what track we are on and at what station.

Indeed, for the last week, I have been working on organizing and condensing relatively brief public input for the Planning Board. It makes a difference for me and others to know whether what Karen finds in her inbox by the time she arrives tomorrow will be mailed in hard copy to the PB, as in the past, or not. If yes, then the goal is to get it in now for maximum potential attention by the Board. If not, then it would make sense to submit it on Monday or Tuesday, since material only reviewed on a screen today would more likely have faded from prime memory by Wednesday's meeting. **A consistent policy is essential to demonstrate respect to the public and for us to know how to act.**

And, again, I urge you to hire what help you need to protect the integrity of the process, and respect for citizen input, which would entail a small fraction of the \$125/hr "Contract Planner" Rick Taintor is paid per hour.

Back to my real tasks.

Best, Joshua  
7 Chesley Drive

----- Forwarded message -----

From: **Michael Behrendt** <mbehrendt@ci.durham.nh.us>

Date: Thu, Jan 21, 2021 at 4:41 PM

Subject: RE: Changing Tracks on a Moving Train Re: What gets lost on the screen (functionally forever)

To: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>

Cc: Beth Olshansky <Beth.Olshansky@comcast.net>

Hi Josh,

You are certainly eloquent *and* entertaining. So I am suspect the board listens carefully when you present. I appreciate your comments. Maybe the shift wasn't communicated to the public well. I

do believe there is a difference between materials related to an application and the emails and letters provided by the public in response. One is technical and generally presented in a difficult-to-decipher set of detailed plans and sometimes studies. For letters one doesn't generally need assistance in responding to the format. We must get the application materials to the Planning Board to assist them in digesting the materials. For correspondence from the public we must treat the emails and letters with care to enhance the board's review. I don't believe these are parallel situations but this question has frankly never arisen before. At any rate, you offer good comments but I have to assist the public in this regard while not overwhelming our one staff person who is already doing an amazing amount of work. I need to respect this situation and we are not unfortunately getting any additional assistance. If Karen ever left I fear we would need to pull back further because she is extremely productive and efficient.

Shall I send your email to the Planning Board?

**Michael Behrendt**

Durham Town Planner

----- Forwarded message -----

From: **Joshua Meyrowitz** <prof.joshua.meyrowitz@gmail.com>

Date: Thu, Jan 21, 2021 at 4:48 PM

Subject: Re: Changing Tracks on a Moving Train Re: What gets lost on the screen (functionally forever)

To: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Thank you. I think I would write it a bit differently if it were addressed directly to the Planning Board. So, no, do not forward to them. I will decide whether/how to address the issue with them directly, IF I can get through other tasks!

As I just wrote: Maybe you could trade a parking space in your driveway for a part-time office helper UNH student???

j

----- Forwarded message -----

From: **Joshua Meyrowitz** <prof.joshua.meyrowitz@gmail.com>

Date: Thu, Jan 21, 2021 at 4:43 PM

Subject: This week Re: What track is the train on right now? Re: The right path? Re: What gets lost on the screen (functionally forever)

To: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Thanks again,

I hope that (hard-copy mailing tomorrow) also applies to the "catch-up" letters that I and others wrote **that were excluded from the most recent hard-copy packets**, such as those on 19-21 Main (aka parking mound fortress), including

[Joshua Meyrowitz 1-8-21](#),

[Robin Mower 1-8-21](#), and others, such as:



[Dennis Meadows 12-20-20](#) (25 KB)



[Robert Russell 12-14-20](#) (721 KB)



[John Parry 12-11-20](#) (124 KB)



[Diane Chen 12-11-20](#) (30 KB)

[Richard Hallett 12-9-20](#)

as has been done in the past (holding materials until they are on the upcoming agenda).

Maybe you could trade a parking space in your driveway for a part-time office helper UNH student???

j

----- Forwarded message -----

From: **Joshua Meyrowitz** <prof.joshua.meyrowitz@gmail.com>

Date: Fri, Jan 22, 2021 at 3:07 AM

Subject: Inside-Out, Experts

To: Michael Behrendt <mbehrendt@ci.durham.nh.us>

Cc: HONORARY Beth Olshansky 659-6018 <Beth.Olshansky@comcast.net>

Hi Michael,

If we lived someplace other than Durham, NH, I'd expect that residents would hire out-of-town urban forest experts to offer written testimony on the value of the Church Hill woods. And those letters, I believe, would, as with Attorney and other professional letters, be posted on the main application site (in case of CDA) and not just with "Citizen Comments" -- and, if you know where I'm going, **they would get the protected status of always being hard-copy mailed to the Planning Board**, even under the (disputed) changes recently made.

But, since we live in Durham, NH, where we happen to have two internationally famous urban forest experts right here in Town, their letters were treated as resident comments. Given the unusual status of these individuals and the unusual status of their letters (and how much their

earlier input on Jan 8 2020 on the preliminary design review influenced the *then* Board -- different composition now), **I urge you to see that their letters are indeed sent (if not already sent) in this weekend packet to Board members in advance of the incredibly important "preliminary" discussion of Conditional Use regarding the proposed parking citadel on the hill.** The quotes under the links are excerpts from their letters.

[Richard Hallett 12-9-20](#)

"I am a forest ecologist and have spent my entire adult life living in, working in, and studying forests. While I started studying rural forest ecology, during the last decade I have shifted my focus to understanding the ecology of urban forests. I have written papers on the ecology and health of forests in Boston, New York City, Philadelphia, and Baltimore."

[John Parry 12-11-20](#)

"I have a BS and MS in Forestry, and since 1988 I have worked for State and Federal government agencies in the specialty area of Urban and Community Forestry. This involves assisting communities in planting, maintaining and protecting trees, woodlands and associated resources in developing areas, for the many benefits they provide. Since the early 1990's all 50 U.S. State Forestry Agencies and the U.S. Forest Service have recognized the value of urban forests and have established Urban Forestry Programs with the intent of better conserving and managing this resource. As our communities grow (80% of the U.S. population now lives in urban areas) managing this resource has become a priority. "

Respectfully, Joshua

----- Forwarded message -----

From: **Michael Behrendt** <mbehrendt@ci.durham.nh.us>

Date: Thu, Jan 21, 2021 at 5:08 PM

Subject: RE: This week Re: What track is the train on right now? Re: The right path? Re: What gets lost on the screen (functionally forever)

To: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>

Josh,

No, the ones that weren't included in two earlier packets on December 16 and January 13 won't be included now. Those were two crazy full agendas. I understand your concern about changing the policy without any warning. That's a point well taken. So we want to make it clear now. I talked with Karen to see if there is another way to include emails, such as not sorting them, that would be more efficient and there really isn't; she's already figured out the most efficient way. For the vast majority of meetings she can do it but when we have crazy agendas like those two meetings then it is too much. She alerted the Planning Board but not the people who sent the emails. We really have two options in my view:

- 1) We send emails and post on the website and the majority of the time, as an extra courtesy, we include hard copies in the packets. But you can't count on the latter. If we have a very busy agenda then Karen at her option does not include them.
- 2) If that isn't acceptable, or seems a problem for lack of consistency then I think we just need to stop including letters in the packets.

I don't mean to be difficult but I have to be sensitive to our resources and the workload of a great worker who still has some limits about what she can reasonably handle.

**Michael Behrendt**

Durham Town Planner

----- Forwarded message -----

From: **Joshua Meyrowitz** <[prof.joshua.meyrowitz@gmail.com](mailto:prof.joshua.meyrowitz@gmail.com)>

Date: Thu, Jan 21, 2021 at 5:18 PM

Subject: Re-defining the "Problem"

To: Michael Behrendt <[mbehrendt@ci.durham.nh.us](mailto:mbehrendt@ci.durham.nh.us)>

The problem is NOT the amount of public input, it's the over-loaded agendas, with many zoning-violating plans.

One neighbor just wrote: "The PB cannot abruptly choose to change policy in the middle of a quasi-judicial process because they are overwhelmed by criticism of bad plans. The problem here is the PB not asserting itself with the applicants to get better plans. Better plans, less work for Karen."

-- j

----- Forwarded message -----

From: **Michael Behrendt** <[mbehrendt@ci.durham.nh.us](mailto:mbehrendt@ci.durham.nh.us)>

Date: Fri, Jan 22, 2021 at 5:19 PM

Subject: RE: Inside-Out, Experts

To: Joshua Meyrowitz <[prof.joshua.meyrowitz@gmail.com](mailto:prof.joshua.meyrowitz@gmail.com)>

Cc: HONORARY Beth Olshansky 659-6018 <[Beth.Olshansky@comcast.net](mailto:Beth.Olshansky@comcast.net)>

Hi Josh,

This situation is complicated. Yes, I agree that we want to be sure that the board gives special notice to two professional foresters, though I'm not crazy about calling out two particular letters and not others. Nonetheless, I concur that we want to be sure the board has seen these two in

particular and with your request I will send an email to the board now with those two links and encourage board members to be sure to read them. Have a fine weekend.

**Michael Behrendt**

Durham Town Planner

----- Forwarded message -----

From: **Michael Behrendt** <mbehrendt@ci.durham.nh.us>

Date: Mon, Jan 25, 2021 at 5:49 PM

Subject: RE: Inside-Out Experts & Lost in the Forest

To: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>

Hi Josh,

I imagine it must be frustrating sometimes for residents to perceive that board members may not always pay full attention or may have forgotten the particulars of a given issue. Nonetheless, most of them pay close attention as best they can, as volunteers of course. It is a huge amount of information to absorb with much of it being technical. I suppose that is one advantage and justification of occasionally repeating your message. Sometimes it takes a couple times for the message to resonate.

**Michael Behrendt**

Durham Town Planner

----- Forwarded message -----

**From:** Joshua Meyrowitz [mailto:[prof.joshua.meyrowitz@gmail.com](mailto:prof.joshua.meyrowitz@gmail.com)]

**Sent:** Tuesday, April 20, 2021 3:26 PM

**To:** Michael Behrendt

**Cc:** Karen Edwards

**Subject:** PB Weekend Packet?

Michael,

Given the relatively thin agenda for April 28, can the residents of Durham assume that Citizen Comments submitted by Thursday (or Friday 10am) will indeed be forwarded in hard copy to the PB members?

For the record, I ask once again that the long-practiced policy regarding Citizen Comments be restored, so that all citizens know the situation, without individuals having to inquire each time, and so that the widely held perception of extreme pro-applicant and anti-resident bias is at least somewhat reduced.



Best, Joshua

----- Forwarded message -----

From: **Karen Edwards** <kedwards@ci.durham.nh.us>

Date: Tue, Apr 20, 2021 at 4:48 PM

Subject: RE: PB Weekend Packet?

To: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>, Michael Behrendt <mbehrendt@ci.durham.nh.us>

I will be sending hard copies in packets from now on.

Karen

Karen Edwards  
Administrative Assistant  
Town of Durham  
8 Newmarket Road  
Durham, NH 03824  
(603) 868-8064

➔ Six months later, October 2021, confirmation query ➔

----- Forwarded message -----

**From:** Joshua Meyrowitz [mailto:[prof.joshua.meyrowitz@gmail.com](mailto:prof.joshua.meyrowitz@gmail.com)]

**Sent:** Monday, October 18, 2021 3:06 PM

**To:** Michael Behrendt

**Subject:** Query from Sept 22 Public Comment

Hi Michael,

Added query:

On Sept 22, I made a somewhat intense public comment at the PB about process (and then handed out at the end 4 documents that I wasn't sure the Board members had all seen in hard copy and which they certainly seemed to have all forgotten on August 25). As you might guess, I was speaking on behalf of MANY frustrated residents, some of whom feel so intimidated and ignored that they no longer want to engage publicly.

One thing I said was (as an implicit question to you):

“And a few months after that, I discovered by accident that the Planning Department was no longer routinely mailing the public’s letters in hard copy with the weekend packets, packets which therefore often included only the *applicants’* materials. And that *quiet* deviation from the policy *written on every agenda* lasted at least 4 or 5 months. **(I don’t know what the status is now. I heard it was finally restored, but I don’t know, because it was quietly changed before.)”**

As you know we had a long, heated email exchange about this issue. And I do think that the lack of forwarded muted public input in an terrible manner at key points in application reviews.

But then in April 2021, I was relieved to hear from Karen that public input was again being copied and sent out with the weekend packets.

Is that (hard-copy forwarding) still true? **Please confirm what has been happening since mid-April.** Moreover, if it's again not being done, or intermittent, please explain why!

Thank you.  
Best, Joshua

----- Forwarded message -----

From: **Michael Behrendt** <mbehrendt@ci.durham.nh.us>  
Date: Mon, Oct 18, 2021 at 4:10 PM  
Subject: RE: Query from Sept 22 Public Comment  
To: Joshua Meyrowitz <prof.joshua.meyrowitz@gmail.com>

Hi Josh,  
We are following the original policy and including hard copies of items in the packets if we receive them on time. Karen wanted to make that adjustment for a short period of time because she was overwhelmed with documents for Mill Plaza.

**Michael Behrendt**  
Durham Town Planner  
Town of Durham  
8 Newmarket Road  
Durham, NH 03824  
(603) 868-8064  
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