

**This set of minutes was approved at the December 3, 2012 Town Council meeting**

**Durham Town Council MINUTES  
Monday, October 15, 2012  
Durham Town Hall, Council Chambers  
7:00 PM**

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

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Town Administrator Todd Selig; Business Manager Gail Jablonski; Public Works Director Mike Lynch; Planner Michael Behrendt

**I. Call to Order**

Chair Gooze called the meeting to order at 7:01 pm.

**II. Approval of Agenda**

*Councilor Smith MOVED to approve the Agenda as presented. Councilor Carroll SECONDED the motion.*

*Councilor Mower MOVED that Item X D be moved to the top of Unfinished Business because attendance by a representative from SRPC was anticipated and there might be a relatively short discussion. Councilor Smith SECONDED the motion.*

There was discussion that is deadline for grant, and is before next TC meeting.

Councilor Mower withdrew her motion and Councilor Smith withdrew his second.

*The motion PASSED unanimously 9-0.*

**III. Special Announcements**

Erika Mantz, UNH Director of Media Relations, described work she'd been involved with to make Durham residents feel more welcome at the University. She also noted the weekly email that was sent out concerning events at UNH, and encouraged people to sign up for it. It was suggested that this weekly email should be noted in the Friday Update.

Ms. Mantz said she was frequently asked about being able to park on campus. She said there was another visitor parking lot now in addition to C lot, and said it was located next to the swimming pool. She also said parking was available at all parking areas on campus after 6 pm and on weekends.

She noted that the Dimond Library was open to Durham residents, and she spoke about the museum in the basement as well as the various collections in the building, including a large DVD collection. She also described a variety of dining and entertainment opportunities in the Memorial Union building, Holloway Commons, and the Paul Creative Arts Center.

Councilor Smith asked what the latest thinking was at UNH regarding the future of the outdoor pool.

Ms. Mantz noted recent discussion on this at UNH. She said a recreation center was still in the UNH Master Plan, and said a committee was being formed to discuss what to do with the pool in terms of its current condition. She said no decision had been made yet to close the pool.

Councilor Mower suggested that there should be a signup area at the UNH home page for the weekly email, in order to encourage residents to sign up for it.

Councilor Carroll said some people moved to Durham because it was a town where so much was going on, but said they often weren't sure how to find out about things that were going on at UNH. She thanked Ms. Mantz for the information she had provided, and also said she hoped people would take advantage of the website and weekly email. She said the University was very good about including Durham residents.

#### **IV. Approval of Minutes**

September 12, 2012

Page 17, 2<sup>nd</sup> paragraph from bottom, should read ...the resulting un-needed right of way...”

***Councilor Mower MOVED to approve the September 12, 2012 Minutes as amended. Councilor Cote SECONDED the motion, and it PASSE8-0-1, with Councilor Lawson abstaining because of his absence from the meeting.***

#### **V. Council and Town Administrator Roundtable**

Councilor Mower noted that there were several documents about the Sprucewood project in Councilors' packets because she had wanted to make sure people had access to this information prior to the public hearing, if it was scheduled that evening. She said this information was also available on the Town website.

She noted that at a recent Planning Board meeting, the Energy Committee had made some comments concerning the Peak student housing project that drew some attention. She said after that meeting, there was some constructive conversation between a member of the Energy Committee and Peak, and said they looked forward to working through some positive change to the project.

Councilor Mower said the Energy chapter of the Master Plan would be discussed by the Master Plan Advisory Committee at its meeting on Thursday morning.

Councilor Cote reviewed the various items addressed by the Planning Board at its meeting the previous Wednesday. He said it was quite an agenda.

- Planning Board approved a request that the Technical Review Committee review Phillip Allbright's site plan application for a business that sold Christmas trees.
- Public hearing on Jack Farrell's conservation subdivision application was postponed until October 24<sup>th</sup>
- Length testimony and discussion on traffic safety, energy, fiscal impacts, etc., as part of the public hearings on the Peak applications. He said the hearings were continued to the October 24<sup>th</sup> meeting.
- Continued public hearing on the draft architectural design standards document, and said this item was also continued to the October 24<sup>th</sup> meeting.
- Acceptance of the Great Bay Kennel conditional use permit application, and scheduling of a site walk and the public hearing for October 24<sup>th</sup>
- Presentation by Agricultural Commission Chair Theresa Walker on a proposed Zoning change to allow chickens as an accessory residential use in all districts. The public hearing was scheduled for Oct 24<sup>th</sup>. Councilor Cote said that after the public hearing, the Planning Board would decide after that whether to initiate this Zoning change.
- The Planning Board granted a request for extension of conditions of approval for a two lot subdivision.

Councilor Marple asked about allowing chickens in the downtown area, and Councilor Howland said some interesting conversation was expected on where chickens as well as roosters and other fowl should be allowed in Durham.

Councilor Smith noted the memo received that day from Chief Landry on EMS calls and transports of students who had been drinking too much, taking drugs, fighting with resulting injuries etc., to Wentworth-Douglass Hospital. He said an issue this memo addressed was the relatively limited hours that the University health services building were open. He said this issue deserved some discussion.

He said the University had some obligation to those non-student visitors who partied too much because it had created an attractive nuisance. He said the University needed to reconsider its substance abuse education programs, including its "Choices Matter" DVD, which soft peddled the issue.

Councilor Stanhope said in the tailgating area at the UNH football game on Saturday, there were ambulances circulating to pick up people who had to be hospitalized at 1 pm in the afternoon. He said the expense for this was substantial, and asked if it would be more cost effective to have an onsite field hospital.

Councilor Cote said this was an important issue to discuss, noting that two weekends ago, the ambulance and the Fire Department made 14 calls between 11:30 pm and 2:00-3:00 am. He also said he had spent a recent Saturday with MacGregor and the Fire

Department, and said this was a bigger issue than what one might think. He said no one wanted to accept responsibility. He said the Police Department didn't have a holding facility so people were sent to the hospital, which then questioned why they were being brought there. He said Strafford County didn't want them.

Councilor Cote said he would prepare a memo on this to the University. He said his concern was that there would be a fatality involving alcohol and/or an incident where an ambulance was needed some place else in Town but it was out of service because it was taking people to the hospital.

He also said there were some people who really did require transport to the hospital, and said everyone needed to think about how poisoned these people were making themselves.

Councilor Lawson said he applauded this conversation. He said he was concerned that people might have the impression that the majority of these situations were not medical emergencies. He said they were in fact emergencies, and said many of those transported were handled under the rules of implied consent. He said in his brief tenure with MacGregor, some of the scariest moments were simple drunks becoming far more serious situations.

He said he liked the idea of looking at the health services provided by UNH, but said they were not able to provide the services that were necessary for these emergencies. He spoke further on this, and said it was a complex issue. He said the majority of the transports did fall into the category of students and visitors who did need to go to the hospital for medical attention.

Chair Gooze said he had ridden with the Police Department on the weekend Councilor Cote had discussed, and he described in some detail what he had seen. He noted how drunk some of the people had been, and said some were in danger of aspirating vomit.

On another issue, Chair Gooze said he had driven through the Capstone development recently. He said he spoke with some students out there, and said everyone said it was a fantastic place to live, but half of them had a problem with transportation and said they wouldn't be living there next year because they wanted to be closer to campus.

He said the students were concerned about going to a bar downtown and then being stuck walking home. He said he had discussed this issue with Administrator Selig, and said it was time to have a conversation with Capstone management about it. He said he didn't want to see anyone get hurt on the road.

There was discussion that residents had recently heard some loud noises coming from the UNH wind tunnel, from as far away as Fairchild Drive, and some had called the police about this. Councilor Mower said she had spoken with Chief Kurz about this, and noted that there was no log of these calls.

Administrator Selig said he was surprised to learn about this.

He noted that he had sent out an email that day on arrest data for the academic year to date and for the calendar year. He said arrests were down about 23% compared to the average, at 264 as compared to 344, and said this was the lowest number in seven years. He noted that there were fewer Town as well as UNH officers on the street as compared to previous years, so this was a possible reason for fewer arrests. He said it might also be that people were behaving better, but he said there was no clear indicator of this.

Administrator Selig said there was a fire late last night at Durham Market Place, and he provided details on this. He said the business was required to dispose of almost its entire inventory because of possible toxic fumes from the fire. He said the owners were covered by insurance, and hoped to be open again by Sunday.

Councilor Cote thanked the Fire Department for getting there early, and said Chief Landry and others did a fine job. He noted that once it was determined that a single sprinkler had knocked down the fire, the sprinkler system was shut down in order to minimize damage. He said it could have been a significant fire, but because of the sprinklers, it wasn't.

Administrator Selig said the AFSCME unit didn't ratify their contract, for the second time in the last two weeks, so they remained without one. He noted that there had been 5 tentative agreements so far, and said everyone would head back to the bargaining table. He said he would provide the Council with an update on this in a non-meeting in November.

He also noted that the Fire Department agreement would expire at the end of 2012. He said there would be a non-meeting to apprise the Council of those negotiations in the next month or so.

Administrator Selig said Scott Mitchell had offered the Town \$1.2 million for the Town Hall site. He said in order to ensure that this was a fair number, the Town had engaged an appraiser in order to have some objective information as the offer was considered.

Administrator Selig said some great news was the various new businesses in Durham, and he named them all. He also noted the good news that the ATO Alumni Association had taken a vote that was positive toward the redevelopment of that site.

He noted that when he'd been in Arizona at a conference recently, he spoke with the city managers of Oxford, Ohio and College Park, Maryland, who wanted to hear more about Durham's disorderly house ordinance. He noted that both city managers said their cities had health and safety ordinances, and couldn't imagine not having such an ordinance.

He said he had recently spoken with Portsmouth City manager John Bohenko regarding presidential campaign visits. He said they agreed that after the election season was over, it would be a good idea to meet with the State's Congressional delegation to see how this issue could be addressed at the national level.

Administrator Selig provided additional details on his visit to Phoenix. He said one of the highlights of the conference was a speech by Jim Collins, who among other things had written *Built to Last* and *Good to Great*. He said the takeaway from the speech was that greatness wasn't a function of circumstance, but was a matter of conscious choice and discipline. He noted the long line of successes happening in Durham now, and said this was no accident.

Administrator Selig said the Town had been served by Fairpoint Communications, which was appealing the assessments for all of its infrastructure in New Hampshire. He said the Mitchell Group law firm was defending Durham and other towns, and said the Town would pay 1/27 of the total cost.

Administrator Selig provided a brief review of Budget numbers being put together for 2013. He said revenues were up in the projections by about 10.5% or \$489,000. He said the bad news was that expenses were up by 15.95%, or \$1.8 million. He said some adjustments had brought this down to 11.94%, or \$1.3 million. He said the new library and the other bonded projects accounted for \$460,000 of the new spending proposed. He briefly went through the other proposed expenditures in the draft 2013 Budget, and said the 2013 Budget he recommended would be provided to the Town Council at its first meeting in November.

Administrator Selig noted that he occasionally used message texting to communicate with individual Councilors.

He said he had recently spent some time on the power purchase agreement with Revision Energy, and said it was possible that before the end of the year, a 5 kilowatt solar panel would be installed on the Police Department building. He also said a panel might be installed at the skating rink early in 2013, and said the details on this were still being worked out.

Administrator Selig noted that 50 parking spaces at the Depot Road parking lot hadn't been sold this year, and said it was believed this was because of the Capstone development. He said this was potentially a good thing, because the Town had wanted to make this parking area more accessible for residents. He said the Town was looking at installing a pay and display system there.

Councilor Mower asked that the Town consider how people could be allowed to park longer than 4 hours there. Administrator Selig agreed with this idea, and also noted that the price would have to be high enough so students wouldn't park there.

Administrator Selig said a horse in Durham had recently come down with Triple E. He encouraged people to be cautious, but said the Town was not planning to go forward with any spraying. He said the UNH Campus Master Plan forum would be held on Thursday in the Huddleston Hall ballroom.

Administrator Selig noted that he had made an administrative determination not to pursue enforcement against the families the Town had cited for raising chickens. He said

because a proposed zoning amendment concerning chickens was working its way through the Planning Board, it seemed appropriate to hold off on the enforcement for now.

## **VI. Public Comments**

**Bill Hall, Smith Park Lane**, said it had been quite a presentation on water resources at the last Council meeting, and said he was not in dispute with Councilor Howland's presentation. He said he was pleased that Councilor Howland's report stated that the 401 certificate was not in keeping with the letter and intent of the law. But he said the Council hadn't come together on solutions to this problem. He said there was no science behind the 401 certificate, and also said it was against the law.

He noted an email from Judith Spang that said taking water from the Lamprey River was like taking water from a well, and he said this was wrong. He also questioned in some detail a number of other statements made at the meeting.

**Chris Regan, Town Moderator**, provided details on what people needed to know about absentee ballots, same day registration, and providing voter ID for the upcoming elections. He said it was expected that this election would draw heavily on Durham's tradition of having volunteers at the polls.

Councilor Mower noted that someone registering to vote would need to provide proof of identity, citizenship, and domicile. She said people could get this information at the Town Clerks office. She also noted that people would be able to sign an affidavit to establish these things. She suggested that this information should be put in the Friday Update.

**Diane Woods, Garden Lane**, said she was there to support Janice Aviza for the volunteer position of neighborhood representative to the Rental Housing Commission. Ms. Woods noted that she was a former member of the RHC, and said it was extremely important to have someone from the Faculty neighborhood represented on the RHC. She said Ms. Aviza had attended several RHC meetings, and had the ability to look at the complexity of issues.

**Liza Hewitt, 4 Fairchild Drive**, said the recent installation of a new water meter at her house had caused water surges and other problems. She also said that after the installation, it came to her attention that the water system in the house didn't meet code, which voided the warranties on the water tank and other machines. She also said she now needed to install an expansion tank. She said her husband had called the DPW and was told that the Town was not responsible, even though the water meter that had been replaced wasn't broken.

Ms. Hewitt said the rewriting of some of the Town's water code occurred right before the letters about the water meters went out to residents. She also said the backflow meter issue was never mentioned.

Councilor Smith asked how many water meters the DPW had replaced.

Mr. Lynch said about 400 were replaced, and said the DPW got calls from 3 property owners about problems.

Councilor Smith asked what had changed regarding this household and the other two that had caused the installation of the backflow preventer to result in increased pressure.

Mr. Lynch said a hot water heater created pressure. He said State law required that with a meter installation, there needed to be a check valve in order to prevent water from a house from coming back into the municipal system.

Administrator Selig said the check valve prevented a possible contaminant in an individual home from going out into the public system. There was discussion that old meters didn't have check valves. Administrator Selig said this was an active topic that had just recently come to the attention of Town staff.

He said an inquiry had been put in to the State plumbing inspector, and said the Town was waiting to see how to proceed. He said the Town's position was that the homeowners' system had a deficiency to begin with.

Councilor Mower suggested that people needed to have a chance to see if their system was deficient before the meter installation occurred. Councilor Howland said that regarding the rest of the meter installation program going forward, this resident was doing the Town a favor in coming forward. He suggested putting the program on hold for the time being, and finding some way to keep the problem from happening.

There was further discussion among Councilors on this issue. Councilor Mower suggested discussing the issue further during the Extended Roundtable.

Administrator Selig said the other side of the issue was whether, if there were deficient systems in homes that could potentially contaminate the public water system, it was appropriate to allow that to happen. He said the DPW to date was saying that it was proceeding in accordance with State statute, that homeowners needed to upgrade their systems to comply as well, and that the Town wasn't responsible for these upgrades. He said this was precisely the policy decision involved when the recent ordinance change had been made.

He noted that these problems had come up over the past week and were not widespread. He said Town staff was actively evaluating the situation.

Councilor Stanhope asked if the Town advised residents of potential risks when the appointment was made.

Administrator Selig said the DPW simply made the change, and said a challenge was that there were a number of things that could go wrong.



It was noted that there was a third party installer of the new meters. Councilor Mower said her experience was that the appointment was made and no advice at all was provided.

Ms. Hewitt said the Town had an ethical obligation to let people know that there could be a problem. She said some further research should be done on DES laws on backflow preventers, and whether these were mandated by the State or recommended. She said \$200 was a lot of money to fix something that wasn't broken in the first place.

**Janice Aviza, 2 Garden Lane**, said she would like to be considered for the position as the neighborhood representative on the Rental Housing Commission. She said she had attended almost all of their meetings over 3 years, so knew the issues they dealt with. She said she lived in the Faculty Neighborhood, which was the largest neighborhood in Durham, and the most vulnerable. She said she loved the neighborhood, and said if the behavior of student renters there became an issue, she would do what she could to address it.

**Nancy Starks Cheney, 12 Britton Lane**, said she supported what Councilor Lawson had said regarding UNH Health Services. She said she worked at the clinic and said it wasn't licensed to be more than a clinic, wasn't considered to be an urgent care facility, and didn't have higher level emergency services. She noted that they sometimes needed to call an ambulance.

She said insurance didn't pay for services provided to non-students. She also said the University didn't give the facility much money, and said it would therefore be hard to expand the hours there. She said the clinic did provide health education for students, and also said there was an active mental health and substance abuse education program available online.

## **VII. Unanimous Consent Agenda**

- A. Shall the Town Council sign the warrant for the General Election to be held on Tuesday, November 6, 2012?
- B. Shall the Town Council, upon recommendation of the Administrator, approve the engineering construction phase contract with Wright Pierce of Portland, Maine for the Old Concord Road Pump Station upgrade project in the amount of \$102,187 and authorize the Administrator to sign said associated documents?
- C. Shall the Town Council, upon recommendation of the Administrator, schedule a Public Hearing for Monday, November 5, 2012 on a request by the Durham Conservation Commission for the Town of Durham to accept fee title in a 176-acre property located along Mill and Packers Falls Roads known as Sprucewood Forest (Tax Map 13, Lots 14-2 and 6-3), subject to an easement owned by the USDA Natural Resource Conservation Service, and to authorize the Administrator to sign a purchase and sale agreement and other related documents with The Trust for Public Land on behalf of the Town?

***Councilor Smith MOVED to approve Unanimous Consent Agenda Items A, B and C. Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.***

Councilor Mower noted that representatives from the Trust for Public Land and the Natural Resources Conservation Service were present to speak on Item VII C if needed, and said they would also be at the public hearing at the next Council meeting.

### **VIII. Committee Appointments**

- A. Shall the Town Council appoint Mary Downes, 43A Bagdad Road, to the Durham Energy Committee?

Ms. Downes said she had just moved to Durham from Goffstown, where she had been on the Energy Committee. She said she was the administrator of Unitil's energy efficiency programs for NH and MA, and noted that she used to work for the NH Office of Energy and Planning. She said she was excited about being involved with Durham's Energy Committee.

Councilor Mower said Ms. Downes had hit the ground running at a recent Energy Committee meeting, and said it was great to get her input at the meeting.

***Councilor Mower MOVED to appoint Mary Downes, 43A Bagdad Road, to the Durham Energy Committee. Councilor Smith SECONDED the motion, and it PASSED unanimously 9-0.***

- B. Whom shall the Town Council appoint as a neighborhood representative to the Rental Housing Commission?

**Harry Mueller, 52 Edgewood Drive**, said he was interested in the position, and said he believed that people had a responsibility to give back. He noted that he had joined MacGregor Ambulance Services seven years ago, and said this had given him perspective on a wide cross section of the community. He said he had seen some of the worst and best rental properties, and renters, and said he wanted to be part of providing a balanced perspective.

Councilor Carroll asked Mr. Mueller if he would be able to attend RHC meetings, and he said yes. She noted that if he was appointed, there would be two representatives from the same neighborhood.

Mr. Mueller said his understanding was that he was supposed to see the viewpoints of all of the neighborhoods and represent this on the RHC.

Councilor Lawson said Mr. Mueller had contacted him asking for a reference. He said he was an excellent candidate, who lived in a downtown neighborhood but saw housing of all kinds throughout Durham because of his work. He said he had seen Mr. Mueller in many situations, and admired his approach to dealing with problems with students and visitors. He also said that in his work as a paramedic, Mr. Mueller worked with student volunteers, which gave him a unique perspective that would help him as a member of the RHC.

Councilor Lawson said he was confident that Ms. Aviza was very sincere in her focus on her neighborhood, but he said this was a position on the committee to represent all of the neighborhoods. He said he was also concerned about a member of the Durham Landlords Association being a neighborhood rep, and said it was important that this rep not have a perceived or real conflict at to his/her role on the committee.

Councilor Stanhope said that last issue was one that had concerned him. He said he didn't believe there was a conflict, but said he had hoped that Ms. Aviza would elaborate on this.

Chair Gooze said Ms. Aviza had been an outstanding landlord, but said he too had a problem with her being the neighborhood rep, especially if there was another candidate. He noted that he had been involved with the RHC since it began, and said it was intended that different perspectives would be represented on the committee. He also said the less conflict there was on that commission, the better, and said he believed that Mr. Mueller was the better candidate.

Councilor Marple said Ms. Aviza had provided good advice to the RHC, and said she would love to have her to apply to serve on the RHC as a landlord when there was an opening.

Councilor Mower noted that there had been a similar situation in March, and the determination was made that the person applying should seek a different way to serve the Town.

Councilor Carroll said she had known the Avizas for many years, had been in their rental property, and had also seen the student apartment in their house, which was well taken care of. She noted that the Avizas were invited to the graduation parties of the students who lived in their rentals.

She also said Ms. Aviza had been a wonderful neighbor to Margery Milne, who had been able to stay in her home because friends like Ms. Aviza had taken care of her. Councilor Carroll spoke in some detail on this, and said she hoped Ms. Aviza would have the opportunity to sit on the RHC as a landlord.

Councilor Smith said the Avizas were landlords, but were not absentee landlords. He said he didn't see a conflict, and didn't see why someone who had a small rental property should be disqualified. He said the landlord representatives on the RHC had larger holdings, and didn't live next to all of their holdings. He said Mr. Mueller was very well qualified, and said he expected he would be appointed. But he said he would have to vote against appointing him.

Councilor Howland said he agreed with what Councilor Carroll had said, including her sentiment about Ms. Aviza's place in the community and the fact that her talents would serve the RHC well as a landlord. He said the Council wasn't turning its back on her, or the Faculty neighborhood.

Councilor Stanhope said his only concern was that the RHC was a complex committee, and that as a neighborhood rep, if Ms. Aviza had to vote on something that affected her as a landlord, she might have to recuse herself. He said the public perception would be a cloud of suspicion. He said it was regrettable that there wasn't an opening for a landlord right now.

***Councilor Lawson MOVED to appoint Harry Mueller, 52 Edgewood Drive, as a neighborhood representative to the Rental Housing Commission. Councilor Mower SECONDED the motion, and PASSED 8-1, with Councilor Smith voting against it for the reasons he had explained.***

Councilor Smith said he thought Mr. Mueller would be a fine representative on the Rental Housing Commission.

The Council stood in recess from 8:47 to 8:56 pm.

## **IX. Presentation Items**

### **A. Update on Durham Public Library Construction Project - Doug Bencks, Chair, Library Board of Trustees**

Mr. Bencks said the work on the new library was going well and was on schedule. He said Walter Rous and Bill Schoonmaker were representing the Town superbly on the site, working with the contractors. He said the overall structure would start to take shape over the next few weeks. He said the expected move in date was June of 2013, assuming that everything continued to go smoothly.

He said they were staying on budget, and were doing well in terms of the contingency money in the budget for the project, and said none of it had been spent yet. He also said the contractor still had some contingency in place, and said there hadn't been any big scares.

He said they were also up to \$1,078,000 on the fundraising side, and said the Library Board of Trustees had decided to close the formal fundraising campaign. But he said additional funds would still be accepted. He said the Trustees would begin their annual fundraising appeal, and noted that this hadn't been done in 2012.

There was discussion on the height of the elevator shaft, with Mr. Bencks stating that the peak of the roof would be almost level with the top of the elevator tower. There was also discussion on the status of specs for having solar panels on the building. Mr. Bencks said Revision Energy had done a preliminary analysis concerning the panels, and would do a more detailed analysis when the sheathing was put on the roof around the end of the year.

Mr. Bencks said they were also talking with Bauen about having his subcontractor provide some ideas concerning solar panels, and what the cost would be. He noted that the Revision approach would use a financing structure similar to what was being done as part of the other Town projects involving solar energy.

Councilor Mower asked if there had been discussion about having a formal mechanism to do fundraising for solar panels if this was feasible. She said the Energy Committee had anticipated that there might be a way to fold this into the capital campaign.

Mr. Bencks said the closing of the capital campaign would not preclude this. There was further discussion.

Chair Gooze noted that it had been determined that the Fire Department did not need the rear way out of the site to Strafford Avenue.

**B. Receive annual report of the Rental Housing Commission - Kitty Marple, Chair**

Councilor Marple first provided some history on the Rental Housing Commission. She said it was formed in 1995, and was the result of a court decision to address the needs of Durham citizens who were troubled by student tenants, particularly in rented single family homes.

She said over the past five years, single-family home student rentals had proliferated in Durham. She said landlords of these rentals were not requesting variances to the three unrelated rule, and often overcrowded these homes. She said when neighbors noticed over-occupancy of rentals in their neighborhood, it was incumbent upon them to report this to the Town Code Enforcement Officer.

Councilor Marple said due to the increase in these rentals and to a recent uptick in new construction, the Code Enforcement officer was unable to deal with every probable over-occupancy rental, unless there was a specific complaint. She also said laws in New Hampshire favored tenants to a degree that made inspecting their lodgings to check for overcrowding difficult at best.

She said the increase in students living in and disrupting neighborhoods had resulted in new and revised Town ordinances to modify student behavior. She said in 2010, the Town Council had adopted a Disorderly House Ordinance, which focused on landlord responsibility to maintain order in the rental household. She said if a student house was found to be problematic, the landlord was asked to meet with town officials, with plans to remedy the problem. She said if troubles with that property continued, the landlord might be fined.

Councilor Marple also noted that the existing Noise Ordinance had been modified by adding one hour of quiet in town (new schedule is 10PM to 7 AM). She said the Town had also installed signs in downtown neighborhoods, asking that people moving through those areas would be respectful of those who lived there.

She said there was some anecdotal evidence that these measures had made some difference in Town. She also said UNH provided valuable assistance in dealing with student renters, and said the Dean of Students often met with these students to help sort out the problems. She said that thanks to the efforts of both the Town and UNH, most rental housing issues were resolved early on in each school year.

But she said there were rental houses that turned over year after year. She said some neighbors had quietly given up trying to complain, but she said living with even small amounts of disruption could be very stressful. But she also said there were several rental houses that were well managed and caused very little, if any, annoyance.

Councilor Marple said the Town Council was currently pursuing, at the request of the Fire Department, an ordinance that would require fire and safety inspections of all rental properties. She said the RHC had conducted a few working meetings to examine and refine the proposed ordinance. She said members of the Durham Landlords Association and other landlords had been involved in this process, and had provided valuable contributions to the draft of the document. She said the proposed ordinance would come before the Council shortly for first reading and public hearing.

**C. Update on preliminary design and next steps for the Durham Fire Department building - Lynn Reda, Architect**

Fire Chief Corey Landry introduced Ms. Reda, who then provided a slide presentation. She noted that C lot had previously been discussed as the location for the new fire station, and said they were now looking at whether the building design that was previously proposed for C lot could be done on B lot instead.

She reviewed the details of the building footprint that had previously been designed, and said it would remain largely the same for a building constructed on B lot. She said the site circulation would have to be redesigned, as part of placing the building on B lot. She also explained that over the past few months, they had looked at the idea of reducing the size of the building.

She said a reason it was so large was because of the different types of apparatus the Fire Department, and she noted that the current situation was sub-standard. She provided details on this, and said what was proposed was that the width of bays would remain the same, but the depth of the bays would be 70 ft. She noted that this was a reduction from the previous 90 ft depth proposed for the new building. She also said there would be a separate maintenance bay, noting that the Department didn't have such a bay right now.

Chief Landry said with a 70 ft bay, there could be stacking of smaller vehicles but not larger vehicles. He said the current bays were 35-40 ft long, and Ms. Reda explained that there wasn't enough room to maneuver behind the vehicles. She also said storage space was packed into these bays.

Councilor Mower asked what the Department would be giving up, if there wasn't a maintenance/storage bay in the new building.

There was discussion. Chief Landry spoke in detail about the flexibility that having this bay would provide for the Department.

Ms. Reda said the current plan contained approximately 12,500 sf, with the additional bay, and said this was considerably lower than the 14,000 sf design developed last year.

She noted that the design tried to separate uses as much as possible, and she provided details on the various uses and the square footage involved.

She then explained the next steps to be taken, now that it had been decided that B lot was to be the site for the project. She said they would need to verify that the current building plan would work on B lot, and identify the space needed for vehicles to circulate safely around the building and not interfere with other traffic.

Ms. Reda said once this work was complete and an agreement was reached with UNH, the schematic design would be developed, using the various members of the team including the engineering consultants. She said once this was done, it could be determined if perhaps the building could be tightened up a bit.

She said once the schematic design was approved, they would move forward with design development, and would create the construction documents. She said she and Chief Landry had discussed getting the project to the point where it was shovel ready and permit ready. She said if they got the buildings to the point where they were at the permit ready stage, they could then be made shovel ready within a few weeks' time.

Ms. Reda provided further details on these phases of creating the project, and the fees involved. She noted that before beginning a new phase, they would check in with the Council to get approval. She said the construction cost of the building per square foot was \$225/sf, and said the cost for the building was \$5,625,000. She said the cost for site construction was \$1,125,000, so the total estimated construction cost was \$6,750,000.

Councilor Mower asked about the difference in terms of the square footage of the entire project once it was tightened up, and Ms. Reda said 25,000 sf was reasonable. She said things could be laid out more efficiently.

Councilor Carroll determined that Durham would be responsible for paying half of the cost of the project.

Councilor Mower asked how much had been spent to date, and what role UNH had played in facilitating the process and reviewing plans.

Administrator Selig said the Town had worked closely with UNH in evaluating sites, including C lot. He said the Town had also contributed to UNH's master plan update process, which included B lot as the site for a fire station. He noted that the precise location for the project on B lot still needed to be tied down, and also said the displacement of parking at UNH as a result of the project still needed to be worked through.

He said the specific building design still needed to be ironed out, and also said the specific financial arrangements would need to be worked out concerning B lot, assuming it was the site to be used. He provided details on some possible approaches. He said about \$30,000 was spent 3 years ago looking at three different sites, and said a year ago,

\$15,000 was spent looking more specifically at C lot. He said UNH had participated 50/50 with those costs.

Chair Gooze thanked Ms. Reda and Chief Landry for the update.

Councilor Mower said the Council might want to have another conversation before the project went to the next step.

Administrator Selig said the next step would be budgeting monies for the phases outlined, and said the Council would discuss this.

## **X. Unfinished Business**

- A. PUBLIC HEARING ON RESOLUTION #2012-17 amending Resolution #2012-11**  
to: 1) Change the \$745,000 funding designation within the 2012 Capital Fund Budget to come from short-term borrowing rather than the Undesignated (Unassigned) Fund Balance; and 2) Authorizing the short-term borrowing of said \$745,000 for up to one year to purchase the People's United Bank building located at 8 Newmarket Road for use as the future Town Hall?

Administrator Selig said this was a technical change proposed to the funding plan for the project. He noted that the Council had already authorized the purchase of the site, and using fund balance for this. He explained that Moody's was concerned about the Town depleting the fund balance in this way, and said it would have the effect of lowering the Town's bond rating. He said the plan was therefore to issue short term debt, and to pay off the loan when the Town Hall site was sold. He noted that architect Art Guadano was in the process of designing the Town Hall project.

Chair Gooze said there was still the issue of not having a clear title for the bank property.

Administrator Selig said the Town had paid \$15,000 to date, which was nonrefundable, unless the bank was not able to clear the title. He said he anticipated that the process of clearing the title would take about six months.

There was discussion about the fact that the Council was being asked to authorize short term debt, and that the funds would be borrowed just prior to closing on the bank property. Administrator Selig said the Town would have to repay the loan within a year, and said the Town would have to sell the Town Hall property in order to do this. He noted the \$1.2 offer for the property that had recently been received from Scott Mitchell, which was contingent on getting approvals.

**Cathy Leach, Fairchild Drive**, noted that she had sent an email concerning what was proposed. She said the issue of whether Durham would allow the Town Hall to be developed to its highest and best use couldn't be left up to chance. She said one possible decision could be that the Town Council and staff would tell Mr. Mitchell that he would be allowed to get the permits needed to do the project. She said otherwise, this would put the ZBA and the Planning Board in a very difficult position.



She also said there would be a lot of people saying that they didn't want a pharmacy on the Town Hall site. She urged the Council not to move forward with committing funding for the bank property until these things were ironed out, and before they knew they would get the money needed to purchase the property and do the renovations that were needed.

Chair Gooze said if the Council authorized the proposed change in the funding designation, the project still would not go forward unless everything came together.

Administrator Selig said the Town could still walk away from purchasing the bank site, but would lose \$15,000 unless the title could not be cleared. He spoke about the fact that the Town had started spending some money on the design for a site that it didn't own, but also noted that the determination of space and layout needs could be portable from one site to another.

He said the design would go beyond that as the plans got more detailed and costs became attached to the bank site. He said significant dollars could be spent on this, but said without going forward with this design process, they wouldn't know what the costs would be.

**Karl Van Asselt, Fairchild Drive**, said he had talked with Cathy Leach about the letter she had sent, and said he agreed with what she had said. He said the Town needed to sell the Town Hall property first so there would be enough money to purchase the building and the land, and enough money to do the renovations that were needed. He said it wasn't a good idea to buy the bank property until they had the money in hand.

He said if they were short, they could raise taxes or do bonding, and noted that if they bonded the project, they would have to make the first payment this year, as well as make the bond payment for the new library. He said he was not opposed to buying the bank site, but said this had to be a cash deal, and could be. He said a lot of projects were walk away projects, and said walking away wasn't always a bad thing. He said the Council should not use not wanting to walk away as a reason to keep going forward.

Administrator Selig said a question was what design/layout for the bank property the community would be satisfied with, and said Durham's natural inclination for quality would have an impact on the price.

***Councilor Smith MOVED to close the public hearing. Councilor Cote SECONDED the motion, and it PASSED unanimously 9-0.***

Chair Gooze noted again that if the Council authorize this funding change, Administrator Selig would not have to do anything with it.

Administrator Selig noted that the Council had fully authorized him to execute the deal with cash, but he had not done this because of the title issues. He said the Town needed to work through these issues, and gather additional data on the cost of what they thought they wanted for the new Town Hall. He said at a certain point, an assessment would need

to be made of whether it would be better to walk away from the project, but he said they weren't at that point yet.

Chair Gooze said the money involved so far if they walked away was low enough to allow him to authorize what was proposed right now.

Councilor Stanhope said what the Council was doing now was revisiting the funding for the project. He said he was comfortable that Administrator Selig wouldn't suddenly announce that the Town had bought the building. He also said he was sure that there would be transparency on this, and that there would be an opportunity to make a final decision before borrowing this money.

***Chair Gooze MOVED that the Durham Town Council adopts as presented, RESOLUTION #2012-17 amending Resolution #2012-11 to: 1) Change the \$745,000 funding designation within the 2012 Capital Fund Budget to come from short-term borrowing rather than the Undesignated (Unassigned) Fund Balance; and 2) Authorizing the short-term borrowing of said \$745,000 for up to one year to purchase the People's United Bank building located at 8 Newmarket Road for use as the future Town Hall. Councilor Mower SECONDED the motion, and it PASSED 8-1 with Councilor Smith voting against it.***

- B. PUBLIC HEARING AND ACTION ON RESOLUTION #2012-18**, in accordance with Revised Statutes Annotated (RSA) 31:95-b III (a), authorizing the acceptance and expenditure of \$5,000 in unanticipated revenue in the form of a donation from Liberty Mutual Insurance Company in celebration of its 100<sup>th</sup> anniversary.

***Councilor Smith MOVED to open the Public Hearing on Resolution #2012-18, in accordance with Revised Statutes Annotated (RSA) 31:95-b III (a), authorizing the acceptance and expenditure of \$5,000 in unanticipated revenue in the form of a donation from Liberty Mutual Insurance Company in celebration of its 100<sup>th</sup> anniversary. Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.***

No members of the public came forward to speak.

***Councilor Smith MOVED to close the Public Hearing on Resolution #2012-18, in accordance with Revised Statutes Annotated (RSA) 31:95-b III (a), authorizing the acceptance and expenditure of \$5,000 in unanticipated revenue in the form of a donation from Liberty Mutual Insurance Company in celebration of its 100<sup>th</sup> anniversary. Councilor Marple SECONDED the motion, and it PASSED unanimously 9-0.***

Councilor Marple asked if the money was for the services provided by the volunteers.

DPW Director Mike Lynch said 192 people had picked Durham as the Town where they wanted to do community service. He said about \$5,000 would also be spent for tools, paint, etc.

Councilor Carroll confirmed from Mr. Lynch that a letter of thanks had been sent to Liberty Mutual.

Mr. Lynch said it was a great project, and said 25 of the people involved had thanked him for allowing them to come to such a great community to do service.

Councilor Lawson suggested that Liberty Mutual should open an office in Durham.

***Councilor Smith MOVED that the Town Council adopts Resolution #2012-18, in accordance with Revised Statutes Annotated (RSA) 31:95-b III (a), authorizing the acceptance and expenditure of \$5,000 in unanticipated revenue in the form of a donation from Liberty Mutual Insurance Company in celebration of its 100<sup>th</sup> anniversary.***

***Councilor Cote SECONDED the motion, and it PASSED unanimously 9-0.***

**C. PUBLIC HEARING AND POSSIBLE ACTION** on an application for the Community Revitalization Tax Relief Incentive (RSA 79-E) submitted by Xemed Holdings, LLC, c/o Xmed

Town Planner Michael Behrendt said after the public hearing, everything was in order for the Council to vote on this application that evening. He said he recommended approval of this application for the full five years. He said he believed it met all the requirements of the RSA as well as the Town's additional objectives. He said Mr. Hersman's document answered the question of why the 79-E treatment was necessary and why this was appropriate for the full five years.

Councilor Carroll asked about the proposed tax benefit to Mr. Hersman.

Mr. Behrendt said with new construction proposed, when the new building was complete, the taxes would be frozen at the current assessed value.

Councilor Lawson said the current assessed value was about \$300,000, and the taxes were about \$8,500. He said the likely assessed value of the property after construction was slightly over \$1 million, which would result in taxes of \$29,610. He said the benefit to the applicant on a yearly basis would be about \$21,000. There was discussion that at least \$29,610 taxes would be collected by the Town in the sixth year.

Todd said the theory was that but for the incentive, Mr. Hersman would not go forward with the project, and the Town would therefore never collect that kind of amount of taxes.

Councilor Mower asked that Mr. Behrendt comment on the public benefits from this application.

Mr. Behrendt said under the RSA, there were four possible benefits, and said the proposal met two of them. He said it would enhance the economic vitality of the downtown, and would also promote development of the municipal center. He said it would also be

consistent with much of RSA 9-B, the State's smart growth statute, and he provided details on this.

He also said there were a number of items that the Town had added for weighing applications under RSA 79E. He reviewed these objectives, and said of the eight listed, he believed that six were met.

Chair Gooze asked if an appraiser would look at the three story building that would be built, and say if it didn't work out for Xemed, it would be pretty easy to convert it to a mixed use building.

Administrator Selig noted that a challenge Mr. Hersman had had was that the appraisal for his proposed use was less than what it would be for the highest and best use of the property, as student housing. He said this had caused some problems in terms of borrowing. He said a benefit with this application was that the public benefit would have to be continued for the period of the tax incentive, including up to two times that length. He said making the building into student housing would disqualify Mr. Hersman from getting the tax reduction because the public benefit would no longer be maintained.

There was discussion.

Councilor Mower suggested that there should be a covenant that it could not be used for student housing, rather than simply saying that if it the building was used as student housing, the covenant would be lost.

Chair Gooze noted that the commercial core Zoning rewrite would impact uses allowed in transition areas of the core, including Mr. Hersman's property.

Councilor Mower noted that this hadn't been passed yet so was not something to rely on.

Councilor Stanhope asked if the covenant was a subordinate lien to the first lien holder. He said his concern was that there should be some leverage if the property changed hands, to ensure that the Town would be in a position to collect as much as possible in taxes that had not been paid.

Councilor Mower said this was something to find out before they voted, and others agreed.

Councilor Lawson asked if the covenant would be recorded in the deed. Administrator Selig said it was recorded at the registry, but not in the deed. He said it was State statute that allowed the Town to collect the taxes if the covenant was broken.

Councilor Carroll said there was a schematic of the building in the packet, and noted that it was very attractive. She said she had spoken about the parking with Mr. Hersman, with 12 spaces in the front and 12 in the back.

Mr. Behrendt spoke about the desirability of having all of the parking in the back, but noted that the building would be set in the middle of the lot. He asked Mr. Hersman if it would be possible to change this.

Mr. Hersman said one of the reasons for the proposed location for the new building was that he needed to operate the existing business while the new structure was being built. He also said there were sometimes large delivery trucks on the site, and said he wanted to get them off of Strafford Ave.

Councilor Carroll said she hoped there would be some landscaping to hide some of the parking, and it was noted that this was in the plans. She also noted that property was located next to the new Town library, and said it was really important that the view of the back of Mr. Hersman's property from the library property be as positive as possible.

***Councilor Stanhope MOVED to open the Public Hearing. Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.***

**Karl Van Asselt, Fairchild Drive**, first said there were some bigger questions that needed to be asked, and said they were concerning the use of this statute. He then asked where the public interest was concerning this project, and questioned whether it was in regard to downtown development. He said with this proposal, the taxpayers would be helping finance a business, and he questioned whether the project was in Durham taxpayers' interest. He asked what UNH's role had been with this proposal, and if it had been explored whether UNH was possibly interested in helping with the financing.

Mr. Van Asselt also said a five year window was way too long for the project. But he said the biggest issue was the precedent issue. He noted that the Town had already done two projects under RSA 79-E, and he questioned where things were headed with using this tax credit.

He also said there hadn't been enough discussion on the State and local criteria as they applied to the proposed project. He spoke briefly on whether what was proposed was what the Town wanted to see at this location on Strafford Ave.

Mr. Van Asselt said the Council Communication was written by the developer and blessed by the Town Planner, but said there was another side regarding this project that should be looked at. He said there were a number of questions that needed to be answered and discussed publicly so there would be a record, so that the next time a developer went to use this statute, the Town would understand what it was doing. He said no decision should be made until this was done.

**Cathy Leach, Fairchild Drive**, said she had read the Council Communication and the additional materials, and said she was uncomfortable that due diligence hadn't been done. She also said the necessary justification for granting relief had not been provided. She said it sounded like the project could fit two or three of the criteria, and said she had no issue with the applicant or his business.

She said revitalizing the existing building would be a good thing, but said that wasn't a reason to use the RSA. She said there didn't seem to be any indication of why the new building would create vitality downtown, and said she didn't even think it was in the downtown core. She asked for data that would prove this was the case, and how much money it would mean for downtown businesses. She said if this was hard to quantify, it shouldn't be used as justification for the proposal. She also asked for data to support the claim that the project would contribute to more high tech companies being formed in the future by people who had worked at Xemed.

Ms. Leach said there weren't plausible explanations in the Council Communication of how this project fit into the categories for employing the RSA. She also said as a taxpayer, it wasn't her responsibility to assist the applicant in getting a project he couldn't afford.

She said the most basic question to ask was what the direct benefit was to the Town and residents from giving the applicant the five year tax break. She said she was concerned about setting a precedent with this application, and said it could still be argued what the direct benefits were from the two previous RSA 79E applications. She spoke further on this. She asked the Council not to put another case on the books of a project that couldn't be justified in terms of the public benefit.

Ms. Leach also spoke about a possible perceived or real double standard regarding issues of Strafford Ave. She noted that six months ago, the Town had denied the applicant next door the ability to rehabilitate an existing home into a convenience store. She spoke in detail on this, and said the fact that Mr. Hersman's business was one that some people liked wasn't justification for approving the use of RSA 79E for it. She urged the Council to hold off on voting until more justification and data could be provided that showed that there was a public benefit to Durham taxpayers.

**Bill Hersman**, the owner of Xemed, said he would like to respond to the comments that had been made. He said Durham had a strategic plan, which said that moving forward in a way that leveraged University spinoffs would be a good course of action for the Town. He said his property was within walking distance to the University and the downtown. He said his business was based on a technology he had developed, and noted that the University had patented it.

He said it was successful and was growing rapidly, but was not showing a profit yet. He noted that he received federal grant money, including several very competitive grants from the National Institute of Health, which would not have been received unless there was a perceived federal benefit. He said this was why the business was expanding, and said the peer reviewers believed that the product would be marketable some day and would achieve commercial profits. He said because of the regulatory process with FDA, this could take 5-10 years.

Mr. Hersman said there were already trucks on Strafford Ave delivering food to the fraternities. He said there were eleven employees now, and said the projected revenues for 2013 were double than what they were now, so more employees could possibly be

added. He said a new building couldn't be built with grant funding, and also said banks wouldn't lend the money for this, which had caused him to walk away from the idea of doing the building. He said it was only with the tax rebate suggestion that he was able to reconsider doing it.

***Councilor Mower MOVED to continue the meeting past 10:30 pm. Councilor Lawson SECONDED the motion and it PASSED 7-2, with Councilor Cote and Councilor Stanhope voting against it.***

Chair Gooze suggested closing the public hearing, and having the discussion on the application at the next meeting, when Councilors would have information concerning the questions raised by Councilor Stanhope and others.

***Councilor Mower MOVED to close the Public Hearing. Councilor Marple SECONDED the motion, and it PASSED unanimously 9-0.***

Chair Gooze said he believe the application met the criteria, but agreed that a little more information was needed.

Councilor Mower said she was concerned that members of the public had argued that there was an entire missing side to the Council Communication, yet there weren't enough specific suggestions given on what additional information Administrator Selig should provide.

Councilor Carroll agreed, and said she thought the information provided was quite clear. She asked the members of the community who felt that certain questions needed be asked to be specific about this.

Councilor Mower noted that the Council had received a large packet two weeks ago on this topic, where some of these questions were answered.

Administrator Selig said he would follow up on questions by Councilor Stanhope and others. He said they could include the additional criteria the Council had put in place to address questions that had come up as a result of the first two 79-E applications.

Councilors thanked Mr. Hersman for being there, and said there would be an answer concerning the application at the next meeting.

- D. Shall the Town Council endorse a letter of support for the Strafford Regional Planning Commission to apply for local source water protection grants through the NHDES Drinking Water Source Protection Program and for the preparation and submittal of associated application materials to develop a River Management Plan for the Oyster River?

Administrator Selig explained that this was a request received from the Strafford Regional Planning Commission, and said SRPC planner Kyle Pimental was present to answer questions. He said the Commission was in the process of applying for the grant,

in order to be able to prepare an application to develop a river management plan for the Oyster River, which was recently included in the State's Rivers Management Protection program. He noted that the Lamprey River was already a part of this program. He said a draft letter of endorsement had been put together.

Councilor Lawson noted that he had pulled this item off of the Unanimous Consent Agenda. He said the question he thought the Council needed to discuss was that one of the outcomes of this was a river management plan not unlike the Lamprey River management plan, with protected instream flows that had caused great problems and angst.

He asked why the Council would be supportive of an effort that could put restrictions on the Oyster River that could be very difficult to manage. He said the Town was not happy with a lot of the science behind the instream flow process, and he noted issues that had been raised by Town staff that had been dismissed. He said he was therefore not supportive of this.

Chair Gooze asked what the consequences were of not doing this. He said he believed the process would still go forward.

Councilor Lawson agreed that it was likely that it would go ahead, but asked how the Town would be able to raise issues and objections if it had initially supported this process.

There was discussion. Councilor Stanhope said Councilor Howland had provided a great presentation at the last meeting, and a conclusion was that the Town needed to keep a record. He said this request seemed to be going against the very interests of the residents in one of their water supplies. He said they were way ahead of where they should be, in going forward with this. He asked what the risks were in doing this.

SRPC planner Kyle Pimental said he understood concerns about the instream flow rules. But he said the river corridor plan would be done at the local level, with the Oyster River Advisory Committee and other municipal stakeholders. He said it didn't have anything to do with the instream flow rules. He said the Advisory committee was required to do the corridor plan, which would look at how to make the water quality in the Oyster River better, in terms of land use policies and educational and cleanup strategies towns could work with.

He explained that it would be harder and harder to do these kinds of water resource planning projects in the future, noting that in years past, river corridor plans were funded through federal 604b money, and that this funding would no longer be available. He said right now, DES wanted to see tangible restoration and other projects that had direct results. He said there was a unique opportunity for Durham with the source water protection grant because the Oyster River was a drinking water source for the Town.

Mr. Pimental also noted the watershed plan being put together by Durham, which meant that that there was a good opportunity for SRPC and Durham to work together. He said



he had spoken with Town Engineer Dave Cedarholm about this, and said being able to share resources in developing a watershed plan and a corridor plan would strengthen the grant application.

Chair Gooze asked if it would be less likely that SRPC would get the funding if Durham didn't support this.

Mr. Pimental said yes, and noted that Barrington and Lee supported the project, and it was assumed that Madbury would support it as well. He said in order to get the grant, it was important that there be support from all the towns, and that there was a high likelihood that the recommendations from the plan would actually be considered.

Chair Gooze asked whether without this grant, Durham would be more likely to have to pay money for the corridor plan to be done.

Administrator Selig said potentially yes, if the Town went forward with a corridor plan without the grant money. He said the benefit with the grant was that SRPC would develop the plan with input from Durham and the other towns. It was noted that the corridor plan was required as part of the Rivers Management Protection program. Administrator Selig said the time to balk would have been when the initial designation of the Oyster River, which the Council had been supportive of, occurred about a year ago.

He said he believed the instream flow component was a certainty, and said after the pilot program on the Lamprey and Souhegan Rivers, it would move forward for other NH rivers.

Mr. Pimental said it could be a while before this happened, and he provided details on this.

Administrator Selig said it would be the characteristics of the Oyster River that had already been documented, and not be the corridor plan, that would dictate the instream flow rules for the river. He said the corridor plan would drive things such as uses, setbacks, and development along the river, and said he thought it made sense to participate in the process of developing the plan.

There was discussion that it would send a message if Durham didn't support this, with Administrator Selig and Councilor Mower indicating that they didn't think this was the message that Durham wanted to send.

The consensus was 6-3 to endorse the letter of support for the Strafford Regional Planning Commission to apply for local source water protection grants through the NHDES Drinking Water Source Protection Program and for the preparation and submittal of associated application materials to develop a River Management Plan for the Oyster River.

Councilor Stanhope, Councilor Smith, and Councilor Howland indicated that they were not in favor of doing this.

**XI. New Business**  
Other Business

**XII. Nonpublic Session - None**

**XIII. Extended roundtable discussion**

Administrator Selig spoke further regarding the water meter issue. He said he was not opposed to making things right for the homeowners, but said he didn't have enough information right now to make a determination. He noted that this was breaking news that the Council was getting.

Chair Gooze asked if there was a way to know that a system would fail when the meter was put in.

Mr. Lynch said meter replacement had been taking place for years, and said they had never experienced these problems before. But he said he realized there was concern right now about moving forward with the replacements.

Councilor Smith suggested that the DPW should provide a statement to residents with appointments indicating they should be aware that some other residents had had a problem concerning water pressure as a result of the meter replacement.

Mr. Lynch said the weak link in interior plumbing was the relief valve. There was discussion. He said the main concern was that the relief valve could get stuck, but he noted that this could happen with or without the new water meter installation.

Councilor Mower suggested that the homeowners with appointments could be contacted about the possible problem.

Administrator Selig said it might be appropriate to have a policy to address this, and he spoke further.

There was further discussion.

Councilor Lawson said he didn't want the Council to be setting policy on this, and said he thought Administrator Selig and Mr. Lynch could address this issue.

**XIV. Adjournment**

***Councilor Marple MOVED to adjourn the meeting. Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.***

Adjournment at 10:53 pm.

Victoria Parmele, Minutes taker