

**This set of minutes was approved at the February 4, 2013 Town Council meeting**

**Durham Town Council MINUTES  
Monday, December 10, 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 Robin Mower; Councilor Bill Cote; Councilor Kitty Marple; Councilor Dave Howland

**MEMBERS ABSENT:** Councilor Peter Stanhope

**OTHERS PRESENT:** Town Administrator Todd Selig; Business Manager Gail Jablonski; DPW Director Mike Lynch; Fire Chief Corey Landry; DCAT Coordinator Craig Stevens; Parks and Recreation Director Stefanie Frazee

**I. Call to Order**

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

**II. Approval of Agenda**

*Councilor Mower MOVED to approve the Agenda. Councilor Marple SECONDED the motion, and it PASSED unanimously 6-0.*

Councilor Cote and Councilor Smith joined the meeting right after the motion passed.

**III. Special Announcements - None**

**IV. Approval of Minutes - None**

**V. Councilor and town Administrator Roundtable**

Chair Gooze noted the article in Fosters Daily Democrat on Durham firefighter Dave Blatchford, who was awarded a prestigious award from the NH Grange Association as the firefighter of the year. He noted among other things the work Mr. Blatchford had put into the fire safety education program at the Oyster River Middle School. He said Mr. Blanchford had credited his fellow firefighters for running such a wonderful program.

Councilor Marple said the Rental Housing Commission met on Wednesday, and said the topic of discussion was the Council's request that the RHC vote on whether to move the proposed inspection ordinance forward to the Council. She said there wasn't a quorum at

the meeting, but said a vote was taken, and all 4 members present voted to move the ordinance forward. She said two landlord reps and two student reps were not there.

Councilor Smith asked Administrator Selig to have a survey done of Town employees in order to see how many of them lived in Durham, why many of them didn't live in Durham, and how many would like to be able to live in Durham. He said that information would be helpful for future discussion on encouraging this.

Councilor Mower said she used to think that many Town employees would like to live in Durham, and said at some point she learned from a Durham police officer that many employees preferred to have some distance from the place they worked.

Councilor Smith said it would be useful to get information like this on a more detailed scale.

Councilor Lawson said realizing that Town resources were limited, if the Council felt it was necessary to do this survey, he would work with Administrator Selig on developing an online survey.

Councilor Cote said at the Planning Board's next meeting, it would need to address the proposed citizen petition on the three story height limit on Main St. He also noted that Orion would be coming before the HDC again with a new proposal.

Councilor Smith said there might be discussion on Jack Farrell's conservation subdivision application at the next Planning Board meeting.

Chair Gooze said there would also be a public hearing at the Planning Board meeting on a proposed amendment to a previously approved site plan application for Xemed. He noted that the Council had recently approved Xemed's RSA 79-E application. He asked whether it was perhaps appropriate for Administrator Selig to send a note from the Council to the Planning Board, and Administrator Selig said he would do this.

Councilor Mower said she had sent a query to Town Planner Mike Behrendt asking if it would be appropriate to ask Xemed's owner if he would consider including covered, secure bike storage. She noted that students worked there. She said she believed there was some discussion on this at the recent Technical Review Committee meeting.

Councilor Carroll said the public hearing on building height, which was the first item on Wednesday's agenda, was the last opportunity for residents to speak at the meeting, or send an email if they wanted to address this issue.

Chair Gooze said a number of people had said that the Kostis building was looking bigger and bigger. He said it would hide the Peter Paul building.

Councilor Howland said he wished to recognize the work that DPW Director Mike Lynch, Parks and Recreation Director Stefanie Frazee and others had put into the annual "Light Up Durham" ceremony downtown.

Councilor Howland noted that on January 28<sup>th</sup>, the Council would have a discussion on the Town's water supply system. He thanked Administrator Selig for putting information on this in Friday Updates.

Councilor Mower asked Chair Gooze if the Library Building Committee was still active. She noted that in reviewing Minutes of the October 15<sup>th</sup> Council meeting, 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.

She said the Energy Committee had been eager to get specs on the solar panels, and also said she was hearing from residents who wanted to donate funds for them. She said it would be great if something could be brought back concerning this.

Chair Gooze said he would provide something to Administrator Selig on this, and there was discussion that this information would be available in time for the Energy Committee's meeting on Thursday.

Councilor Mower spoke about the recent State of the Estuaries conference she had attended, which was put on by the Piscataqua River Estuaries Partnership (PREP). She noted that she had given a presentation at the conference, along with Gregg Caporossi of the Trust for Public Lands, of a case study of the Sprucewood and Amber Acres Oyster River Initiative, which would protect the Oyster River.

She noted that PREP was part of the EPA's National Estuaries Program established under the Clean Water Act. She said as they talked about nitrogen issues, it was important to recognize that PREP was an extremely valuable resource for the Town. She thanked PREP's Executive Director Rachel Rouillard, as well as Derek Sowers, who was the Conservation Program Manager for the organization.

She said Town Engineer Dave Cedarholm was at the conference. She also said that as a result of her participation, some selectmen from other towns in the region had expressed interest in collaborating with Durham on the nonpoint source work being done with the EPA.

Councilor Mower said the Oyster River Initiative was still in need of private donations, in order to close by the end of the year. She provided details on this.

Councilor Carroll said there were several people in the audience at the PREP conference that thanked Councilor Mower and Mr. Caporossi for their presentation, and were very impressed with the things they had to say and how useful these things were to them at the municipal level. She said the audio of the presentations would be available on the PREP website.

Administrator Selig next provided updates on several items. He first acknowledged the Great Bay Rotary Club for their recent work in completed repairs to the Longmarsh Preserve Trail network.

He said he had recently learned that the Town had prevailed in the case in Superior Court against Pine Ledge Holdings.

Administrator Selig noted that because of the Local Government Center's determination that Durham and 13 other NH towns who were no longer members of the LGC would not get refunds in regard to illegal surplus funds LGC had taken in from these and other municipalities, Durham and the 13 other towns would file a formal complaint. He provided details on this.

Chair Gooze asked if this would involve legal proceedings, and Administrator Selig said possibly. He said Durham and Peterborough had engaged legal counsel.

There was discussion. Councilor Howland asked how much money was at issue, and Administrator Selig said it was a challenge to know for certain, but said it was somewhere between \$30,000 – 60,000. It was noted that the amount to be paid for attorney fees needed to be balanced with this.

Administrator Selig thanked Mr. Lynch and Parks and Recreation Director Stefanie Frazee for the great job they had done on Light up Durham.

Administrator Selig said that concerning the Capstone easement, the Town had received a check for \$28,000 for perpetual monitoring of the easement. He said a trust fund would need to be established to hold those funds. He said he and Conservation Commission Chair John Parry would sign the documentation.

Chair Gooze noted that as part of the original plans for Capstone, a transportation survey was supposed to be done once a year. He asked if this was in the works.

Administrator Selig said Mr. Behrendt had spoken with Capstone about this, and also noted that Capstone had had group meetings with tenants on this issue.

Councilor Mower said it might be appropriate to do the survey now, with the Peak project in the works.

Administrator Selig said the transportation issues at Capstone had to do with late night transportation to town and back on Thursday, Friday and Saturday. He said this had been discontinued because of some students' poor behavior, and said while tenants would like to see late night party buses resumed, UNH didn't want to provide this because of the bad behavior.

He said Capstone had gotten feedback from some parents that there should be bus service from 6 - 9 pm for students who wanted to go to the library, etc. But he said Capstone had said there hadn't been a lot of requests concerning this. He said UNH was very concerned about the dark road corridor heading out to Capstone, and the potential for accidents there. He said conversations on this were continuing, and said Mr. Behrendt had been contacted about this.

Councilor Carroll noted that she was at a Planning Board meeting the night that the Capstone transportation issue came up. She said it was noted there that Capstone wouldn't be able to rent units if it didn't provide adequate transportation, but said renters had signed leases so had signed up for the year and were therefore a captive audience there. She said she was very surprised that there was no bus service to and from Capstone during the day on Saturday and Sunday, and noted that the UNH Library and the downtown were two miles away.

Chair Gooze said market forces would come to bear, and noted that while the majority of residents living at Capstone had worked things out, some residents had said they wouldn't live there next year.

Administrator Selig said the Capstone property was being sold right now, and said the new company might have a different philosophy concerning this issue.

Councilor Carroll said those students who said they wouldn't live there anymore because the transportation wasn't good might end up moving back into the neighborhoods.

On another issue, Administrator Selig said Town staff was waiting for ReVision Energy to provide a revised power purchase agreement. He said realistically, the solar project at the Police Station would take place in January.

He said there had been a constant stream of feedback from the Great Bay Coalition, which was opposed to EPA and DES efforts regarding Great Bay. He said while he appreciated the municipalities' concerns, Great Bay was in peril. He said he was giving some thought to how Durham could have a more positive voice in this conversation. He said he had reached out to the town of Newington, which also was concerned about the negativity coming from Great Bay Coalition communities.

Councilor Mower said there might be some fear-mongering going on right now among the Great Bay Coalition communities, and said in light of this it was important to shed light on what the reality was.

Councilor Cote noted that Newmarket had recently reached an agreement with the EPA, which was a good sign.

On another issue, Administrator Selig said an email from Mr. Behrendt indicated that he was setting up a meeting for the Great Bay Kennel owners and their neighbors to discuss the doggy day care issues. He said he was hopeful that they could reach some common ground, and the conditional use permit application could then work its way through the Planning Board process.

Administrator Selig noted that a School District Budget forum would be held at Oyster River High School on December 12<sup>th</sup>.

He said that regarding the issue of where Durham fell compared to other communities, if an equalized tax rate was considered, Durham came in 48<sup>th</sup>, for the municipal portion of the Budget. He also said Councilor Lawson did an analysis, looking at the per capita tax

burden for Durham compared to other communities, and looking at just the municipal portion of the Budget. He said using a population of 7,000 for the Town, Durham came in 6<sup>th</sup> place.

## **VI. Public Comments**

**Bill Hall, Smith Park Lane**, spoke about the idea of Town employees living in Durham, and said he hoped the Council wouldn't go any further down that road.

He spoke in some detail about bonding the Town had done of road repairs in the past, and again in recent years.

He noted some financial gains possible from raising the price of parking spaces at the Depot Road lot. He also spoke about revenues the Town could get from harvesting trees in the North 40 at Wagon Hill farm and in forest lands around the Transfer Station. He said the Town was going to lose the forestry crop at the Transfer Station to fire if the harvesting wasn't done.

Mr. Hall said that regarding the 401 water quality certificate issue, in ten years not one scientific or legal fact had been dug up to support this certificate. He said the best way to mitigate nitrogen going into Great Bay was through management of the University's agricultural fields. He said the whole nitrogen issue was a crock.

**Richard Kelley, Stagecoach Road**, asked if the Council was still considering the new pavement work to be done on Garrison Ave., and noted the email he had sent concerning this, which stated strongly that the work should not be done. He noted his comments in the email on the current agreement with UNH and that it didn't include paying the Town for doing these roadway improvements or for hiring additional police protection.

Councilor Mower noted that Councilor Stanhope had determined from Chief Kurz that Durham would probably need 15 police officers if not for the University, and that the cost for the additional 4 officers came to about \$600,000.

Mr. Kelley said as a taxpayer, he couldn't support the work to be done on Garrison Avenue, noting that he had seen how the Council had struggled at the previous meeting concerning whether or not to bond the Road Program. He said these were difficult issues that the Council was faced with, but said it was evident that the \$200,000 annual agreement with UNH for additional police protection and roads wasn't enough.

Administrator Selig noted that the Town would be installing parking meters in front of the Business School so would get revenues from this.

Mr. Kelley suggested that the Town should put that revenue into a separate account, and when the amount reached \$17,000, it could give the money to the University for the work on Garrison Ave. He also said he hoped that when the Budget was done, the Town could get an additional agreement with UNH, or could increase the amount of the current agreement.

He noted that Mr. Lynch had said there was an understanding between the Town and the University concerning Main Street, but said these kinds of understandings had been the precursor to misunderstandings, where the University thought one thing and the Town thought something else. He said there should be agreements concerning these things.

Mr. Kelley said he got very little for free from the University, yet as a taxpayer he subsidized the roads used by UNH students, faculty, deliveries, etc. He said he hoped the Council could do something about this, and said he appreciated the work they did.

**Bambi Miller, Strafford County Conservation District**, provided details on a series of workshops she had put on in the area for homeowners entitled “How to Make Your Septic System Last Forever”. She said perhaps this kind of work with homeowners could tie in with the integrated watershed planning Durham was working on. She said she would be happy to work with the Town on this.

Councilors expressed interest in following up with Ms. Miller on this.

**VII. Unanimous Consent Agenda - No items**

**VIII. Committee Appointments - None**

**IX. Presentation Item – No items**

**X. Unfinished Business**

**A. FIRST READING ON ORDINANCE #2012-12, a Housing Standards Ordinance**  
and related fee schedule for health and safety inspections for residential rental properties

Administrator Selig noted that there had been two serious fires this year that had been close calls. He said there were inoperable smoke detectors and other problems found at these properties, and said based on concerns about properties like this, the Fire Department had worked with consultant Roger Hawke to develop this ordinance. He said several iterations of the ordinance were brought to the Rental Housing Commission, and also said the Council had discussed it on two occasions.

There was discussion on why the document didn't say “residential rental properties....” Administrator Selig said in order to avoid the allegation that the Town was singling out rental properties, it was appropriate to say “residential properties”, and he noted that RSA 48A used that wording. But he said the proposed ordinance was specifically focused on rental properties.

He reviewed the minimum standards proposed in the ordinance, and said Fire Chief Corey Landry would discuss the proposed approach to enforcing them.

Chief Landry said they would be targeting rental units in converted single family homes that they didn't know about, or that hadn't been looked at in a long time. He said they were setting up a system so different departments and agencies would work together to find these rental units. He said they would also inspect rental units in multi-family

buildings, and he provided details on how this would be balanced with inspecting the rental units in single family home properties.

He said it was hoped that the majority of units didn't have problems, and said the plan was to get to them all within two years. He said the busiest time would be in the summer, but said it would be a year round process. He said some properties that were inspected would need some work, which would require follow up time by the department.

Chair Gooze suggested revised wording on when the fines would be instituted, and Chief Landry explained that the Fire Department had fallen back to its existing fee schedule concerning inspections and re-inspections. He said there would be one inspection and one re-inspection, and both would be free. He said if the department had to go back a third time, there would then be a fee.

There was discussion that the language in the ordinance concerning this process was still somewhat confusing. Councilor Marple said after the inspection and re-inspection, if the department had to go back a third time, a \$200 fee would be charged. She said if the problem wasn't corrected, a \$250/day fee would be imposed. There was further discussion.

Councilor Mower asked if there had been discussion about establishment of an abatement fund, noting that she had seen something about this in a draft of a another town's inspection ordinance. She read from that ordinance, and said the issue involved with it was whether, if there was a bad health and safety issue, the town was liable for the health and safety of the occupant, and should therefore take on the burden of making the property safe and then should be reimbursed for doing this.

There was discussion, and Chair Gooze said perhaps this could be looked at in the future.

Chief Landry said the ordinance would allow the Town to fix the problem, and also said if the Department came across a situation where the apartment was inoperable, it would close it.

Councilor Carroll noted that Mr. Johnson had recently said he wished this program would be based in his department. She asked why it belonged in the Fire Department.

Administrator Selig said it had been his decision to put the program in the Fire Department, given the realities and challenges for Durham. He said the challenge with the Code Enforcement office was that while Mr. Johnson was well qualified, he had to wear many hats.

He said this ordinance was health and safety related, not zoning related, and said if someone's job was administering the criteria for both of these areas, the challenge would be to only pay attention to the health and safety issues. He said the Fire Department wouldn't be burdened with this situation, and he spoke further on this.

Councilor Carroll noted the many skills this inspection person would need to have, and Chief Landry said Fire Department staff would be trained in order to do the inspections.

Chair Gooze noted that the inspection process was an educational opportunity.

Councilor Mower said the document didn't include a Purpose statement, and said a statement such as what was found in the Zoning Ordinance would help a reader understand the purpose of the ordinance. She also asked about the "whereas" language, and whether it was actually a part of the ordinance. She said it looked like the ordinance started with Section 1.

Councilor Lawson said he was comfortable with not having a Purpose statement, because the ordinance was a specific, enforcement type of program.

Councilor Mower suggested that section H on page 5 was too long, and would be more legible if it was broken up. She spoke about her concerns that the document needed to be understandable.

Chair Gooze said there would be no problem in doing that. Chief Landry suggested instead that a cheat sheet could be created for this kind of language, and Councilor Mower said she was fine with this approach.

Councilor Carroll asked for examples of how the fee schedule would be imposed for an owner occupied house where two bedrooms were rented out. She was told that the fee for the property would be \$130, and \$25 would also be charged for each of the bedrooms, which were considered rental units. There was detailed discussion on this.

Councilor Mower recommended that some examples of how the fees would be imposed should be included in the Council packet, for the upcoming public hearing. She said the definitions of dwelling unit in the Zoning Ordinance should also be included.

Councilor Carroll suggested that this information should be provided in a Friday Update, so people would have that information before the public hearing. It was agreed that a link to the Council packet would be provided online.

***Councilor Marple MOVED that the Durham Town Council does hereby move on First Reading, as presented, Ordinance #2012-12 establishing a Housing Standards Ordinance with accompanying fee schedule to conduct health and safety inspections of residential rental properties in Durham and schedules a Public Hearing for Monday, January 7, 2013. Councilor Howland SECONDED the motion.***

Councilor Cote noted that the motion included the wording "residential rental properties", and Administrator Selig explained that he believed the motion was ok this way.

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

Councilor Mower said she would like to have an Extended roundtable discussion later.

The Council stood in recess from 8:38 to 8:50 PM.

**B. Continued discussion on the Administrator's proposed FY 2013 Operating, Capital, and Special Fund Budgets and the 2013-2022 Capital Improvement Plan and ACTION ON RESOLUTION #2012-24 adopting the FY 2013 Operating, Capital, and Special Fund Budgets and the 2013-2022 Capital Improvement Plan**

Councilor Howland was out of the room until 8:51 pm.

Administrator Selig noted that at the last meeting, the Council had a number of detailed conversations on budgetary proposals and ideas. He said great concern was expressed about the bonding of \$470,000 for the Road Program, and noted that the Council voted not to bond the program, and also wanted to see a revised proposal for the program that was smaller and involved paying cash.

Business Manager Gail Jablonski walked the Council through the changes to the Budget based on the recent Council discussion. She said DCAT had been changed to a full time position in the 2013 Budget, starting in July, which was contingent on the cable franchise fee being in place.

She said 16 hours was added to the Budget for a building inspection position. She also said the ambulance services budget was increased by \$4,850 based on their recent request, and said funding to the American Red Cross, Lamprey Health Care and Goodwin Community Health had been reduced.

Concerning the Capital Projects transfer, she said the Coe Drive sidewalk project, which they had planned to pay cash for, was removed. She also said the Road Program budget had been revamped, and said \$309,733 in cash was allotted for it. She said the program would include work to be done on Garrison Ave, Pine Crest Ave, Wiswall Road, Young Drive, Bagdad Road and Beech Hill Road.

Chair Gooze said he believed that the building inspection position was very important and necessary for the community.

Councilor Mower asked Administrator Selig if he had heard from Mr. Johnson concerning what a 16 hr/week position would enable that department to accomplish.

Administrator Selig said the staff person would assist Mr. Johnson, and would also allow the Town to be proactive on Zoning related issues for residential properties.

Councilor Mower said she believed Mr. Johnson had said that if he could find someone with expertise, this would free him to do paperwork he currently didn't have time to do.

Administrator Selig first said that the Town currently had a plumbing and electrical inspector. He also noted that Mr. Johnson was approaching retirement age, and said it was therefore important to have a transition plan to move to the next code officer. He said it would be great if the Town could bring on the right person, provide the training, and then have that person take on the job.

Chair Gooze referred to the note from resident Karl Van Asselt, and said it had some merit to it. He said one point made in the note was that Dover was trying to determine the benefits from different budget choices. He said a question for Durham was how to prove what a 19<sup>th</sup> police officer, or a part time inspection person did for the Town.

He said Councilors had heard anecdotally that there wasn't as fast a response these days from the Police department when residents were faced with quality of life issues, and had also heard that there were more parking issues than there had been when there was a part time inspection person.

Councilor Lawson said that concerning the 19<sup>th</sup> police officer, he was confident that staffing at the Police Department was thin and that the department's resources were being overtaxed. He said there were costs to this, including services to the community and impacts on Town employees.

Councilor Cote said Durham had an accredited Police Department, and said if the burden on department staff continued, these employees were likely to go elsewhere.

Chair Gooze said with the Budget that included the proposed changes Ms. Jablonski had outlined, there would be a 13-14% increase for 2013, and a 13-14% increase for 2014. He said it would go down rapidly after that. He said right now was a unique time for Durham, when there were a number of large projects.

There was discussion on the project for the new Fire Station. Councilor Smith said he would like to make a motion concerning this.

***Councilor Smith MOVED that we abandon the proposed new fire station, and that the funds put into the expendable trust of approximately \$230,000 be put toward some improvements in the current fire station.***

Councilor Smith said the current fire station wasn't as comfortable as some might wish, but said he didn't think the Town could afford the new one. He noted that the price for the project had escalated over the past few years, and would probably escalate more if it was built.

***Councilor Mower SECONDED the motion.***

Councilor Mower noted that she had seconded the motion for discussion purposes.

Councilor Lawson urged the Council not to go in this direction. He said the Town was faced with projects that had to be done now because they had previously been pushed down the road. He also asked why the Town would want to invest in the current fire station when there wasn't enough room on that site to make improvements, and when the current fire station wasn't even in the University's Master Plan.

He said he had great concern about the idea of an \$8 million fire station, but said he didn't think they could kick the can down the road any further. He said with what was currently proposed, the project could move forward in a reasonable way, which would be

especially important if they got notice from UNH that it planned to use the site of the current fire station for another purpose. He spoke further on this.

Chair Gooze said the question right now was if the Council was committed to spend the \$230,000 toward an \$8 million fire station.

Administrator Selig said ignoring the fact that a new fire station was needed was problematic. He said the current initiative was intended to allow them to decide what was needed. He said they knew that a new fire station would cost \$6-8 million, and said if B lot was locked in as the location for it, the terms for the transfer of the property from the University would need to be determined. He said if the University was open to a 99 year lease for a dollar, they had something to talk about.

Councilor Mower asked why the land would be transferred to the Town when they shared the responsibility for having the fire station.

Administrator Selig said the Town paid an outrageous lease amount right now, and said he would to avoid that with the new fire station. He said if the Town could lock in control of the land, they would move forward with spending approximately \$35,000 for a preliminary design for the site. He said for this amount, which the Council would need to approve, they would engage in a deliberative process of how much fire station they needed. He said once a consensus on this was reached, there would be a more refined design program, which also would need to be approved by the Council.

Chair Gooze said his problem was that an architectural firm had been picked, and had said the cost would be about \$8 million. He asked if it could be done for \$5 million and still meet the needs of the community.

Administrator Selig said they needed to have that conversation with the architect, and he spoke further on this. He said from previous discussion with the architect, he had a high degree of confidence that what she said the Town needed was what was needed. He said there needed to be discussion on how many bays were needed, how long they each needed to be, whether there needed to be a maintenance bay, etc. He said the Council hadn't gotten to that point yet.

Chair Gooze determined that the costs for the current Fire Station were split close to 50-50 between the Town and the University.

Councilor Howland said the biggest items in the Budget were long term bonded projects, and said the Fire Station was one of these items. He said he had no doubt that a fire station would be approved, but said he was worried about approving these things before the Council had the conversation on them.

Administrator Selig said he was very respectful of these concerns. He said he and Chief Landry had been very active in looking at cost issues, and said his strong sense, based on extensive conversations with the architect and Chief Landry, was that \$7-8 million really would be the cost to meet the needs of Durham and the University.

He said the current proposal was the result of years of getting to this point. He said his natural inclination would have been to bring the Council a \$35,000 proposal before going on to the next step. But he said his strong perspective was that the only way the fire station would be built was if the Town could attract federal and State dollars to subsidize the cost.

Administrator Selig said it was possible to achieve that, given Durham's advanced planning and active preparation. He noted the Town's great success in getting ARRA funding, because they had been thinking ahead. He said the reason he had brought forward the full design for fire station project was that it allowed the Town to get to the point where it would be competitive for grants to help pay for this project.

He noted that the Town had previously missed out an opportunity to get some ARRA funding for the project. He also said that if UNH got a major grant of some kind, it might want to use the current fire station site.

Councilor Howland asked if there was specific timing in mind for the project, or if it could wait.

Administrator Selig said he was trying to get to the point where they would be ready when the train came around. He said spending \$35,000 would get them no further than they were now, and said they would lose time.

Councilor Howland said the notion of whether there would be a discussion on \$5 million or \$8 million had been taken off the table, and said it sounded like the pricing was a fait accompli.

Administrator Selig said the conversation should be about what the needs of the Fire Department were, and what the cost was to achieve this. He said that conversation had occurred several times, so they weren't coming at this cold now.

Councilor Lawson said the CIP program allowed one to look many years out. But he said when he looked at next year, it said the Council was giving direction on where it wanted to focus its efforts to enter into a process. He said he was confident about the diligence of this process.

Chair Gooze noted that this all pointed to the need for some good economic development in order to generate revenues.

Administrator Selig said if the concern was to not incur additional debt for the project, a possibility would be to ratchet the cost down to \$460,000 from \$557,400. He noted that \$230,000 had been set aside in a capital reserve fund, and suggested that the Town could bond the other \$230,000 and UNH could then pay the Town back for this.

Councilor Howland said there were some potential savings for the larger projects like the new fire station, Councilors saw what was needed and what they could do without. He spoke further on this.

Councilor Lawson said he didn't want to be driven by the process, and said as they went forward, he expected to drive the cost down to the lowest possible price that gave the Town what it wanted. He said the Council's responsibility was to come in below these numbers, as they went through the process.

Councilor Carroll said \$557,400 was the best estimate of the design for the project, and asked whether this meant the Town would therefore pay all of that.

Administrator Selig said if the Council was comfortable with the \$557,400 number, the bonding wouldn't happen until there was a design program. He said he didn't have a problem with approving this amount because it was likely that they wouldn't spend it all. Asked how the University fit in with this, Administrator Selig said they were obligated to pay half of the cost, and said this had been included in the projections. He said the University was including this project in its long range fiscal projections, and was ready to move forward with this design phase.

Councilor Mower said she would like to know what UNH had to say about the current plans, and said a careful analysis on this from the campus planning department would be helpful. She also asked what the optimistic reading of grant funds might be that lead Administrator Selig to be concerned about being ready.

Administrator Selig said opportunities sometimes arose, and said when they did, one wanted to be able to take advantage of them. He said the way to do this was to do good long range planning. He noted that the actual construction wasn't anticipated until 2016, which was timed with the expiration of the agreement with UNH.

Councilor Mower thanked Councilors for raising this issue, which she had wanted to discuss before approving the CIP.

Councilor Smith said he expected that the Council would vote down his motion, but said he had wanted it to have this discussion. He said nearly \$9 million was budgeted for the fire station project, and said if it turned out that it cost \$10-12 million in a few years, some Councilors wouldn't be at the table when that happened.

He said someone looking back would see that there was discussion about being able to do this project more economically. He said he didn't think that would happen, and also said he wasn't interested in the University Master Plan.

Councilor Mower said it was important to keep in mind that they weren't talking about an \$8 million expense, and were talking about \$12 million, including interest. She said the Council would scrutinize the plans. She also said it wasn't tenable to remain in the current situation.

Administrator Selig said the Town had been told that it could utilize a 25,000 sf facility, and said there was currently a 9,000 sf facility.

Councilor Smith said the architect has a vested interest in saying that Durham needed a huge space. There was discussion. Chair Gooze said there were different iterations for the fire station, just as with the Town Hall building.

Councilor Mower noted that the first iteration for the bank building from the architect reflected the fact that he hadn't listened. She said she shared some of the concerns as to whether there was adequate listening.

Administrator Selig said the architect had provided what in an ideal sense the Town needed for the long term with the fire station. He said that concept then entered the reality of funding and what was possible. He said right now there was a very good estimate of what in an ideal sense the Fire Department could use, but said there had not yet been a discussion of what was doable. He said the Fire Department would have to go through the very difficult process of determining this. He said there hadn't been the opportunity to do this yet.

***The motion FAILED 1-7, with Councilor Smith voting in favor of it.***

Councilor Howland said he would like to offer a motion that would follow Administrator Selig's suggestion to reduce the \$557,400 figure for the Fire Station to \$460,000.

Councilor Lawson said he was hesitant to decrease the number until they got into the process, and he spoke about this.

Chair Gooze said he felt that Administrator Selig had explained the \$557,400 number enough.

Administrator Selig said this was the number architect Lynn Reda had provided. He said if they used \$460,000 instead, it might or might not get them to where they wanted to be.

Chair Gooze asked what happened if the Council went with \$460,000 and then found that it needed \$520,000, and Administrator Selig said he would come back to the Council.

Councilor Howland said he still was uneasy about picking the \$557,400 figure, and Councilor Mower said it was a best guess of what the cost would be.

Chair Gooze said he trusted Administrator Selig to get it down to the lowest number possible. There was further discussion.

Councilor Lawson spoke about other grants awarded for projects like this. He said he would like to have the design on the shelf so the Town would be able to move forward with the project and get grant money for it.

Councilor Mower said there was a lot of pressure to make the Budget as tight as possible. She said previous Councils had maintained flat increases because they took money from the fund balance or deferred investments. She said some on the Council had thought there was merit in reflecting tough times, but she said a real concern had been that there would be a spike down the road.

Administrator Selig said they had been anticipating this blip for years, while deferring maintenance projects and doing staffing cuts. He spoke in some detail on this, and said the blip was now upon them.

Councilor Lawson noted the “tax gap” the Town had been trying to address, and said they had made substantive progress in terms of economic development that had narrowed that gap. He said it had been reduced by about half in the past few years.

Councilor Mower thanked the DPW for the proposed pet waste stations at Wagon Hill Farm and Old Landing, noting that she had asked that they be located predominantly near water bodies.

Councilor Howland said he had concerns about the \$520,000 budget item proposed for stormwater improvements. He said he had no doubt of their utility, but said it would be worthwhile to consider cutting back on some of what was proposed. He said he understood that there was a need to demonstrate a good faith effort to EPA, but said he thought they could do that without spending the full \$520,000.

Councilor Mower said she had spoken with Councilor Howland about this, after speaking with Town Engineer Dave Cedarholm. She said she disagreed with Councilor Howland, and said while stormwater improvements were costly, wastewater treatment upgrades were also expensive. She said she didn’t think it was a good idea to postpone the stormwater improvements.

Councilor Cote said these improvements were an unfunded mandate by EPA, and said residents needed to know that in 7 years, the entire stormwater project was expected to cost \$2.083 million. He said there were better ways to do this, and said if the EPA was intent upon it, it would fund it.

Councilor Mower said this was happening across the country, and asked where the funding would come from. There was discussion.

Councilor Howland said he wasn’t opposed to the goal, and also said Councilor Cote was right about the cost over time. He noted the rubber tire excavator needed for this work, which was a proposed expenditure in the DPW budget. He said perhaps the backhoe could be used for this for the time being, although it wasn’t as efficient.

He noted that the Town was looking at UNH becoming a partner, and developing a cost sharing formula as part of this. He said that was a good reason for the Town to be more conservative at first in terms of expenditures. He also said in regard to the EPA, if the Town was at least moving in the right direction, that sent an important message.

Councilor Lawson said he thought the Town had provided direction on its approach to looking at the nitrogen issue, and looking at things more broadly than wastewater treatment. He said he saw this budget items in light of that, and in light of the MS4 permit process. He said he was uncomfortable making cursory judgments to cut here and there, and asked what could be cut that they knew wouldn’t put the MS4 permit at risk.

Councilor Howland noted that his words were a part of the Budget discussion, and didn't mean that Councilors disrespected Town staff.

Councilor Lawson asked again how the Council could make cuts without putting these things at risk.

DPW Director Mike Lynch said the Department had looked at how to get the biggest bang for the buck, and said with what was proposed, they would swap spending on the wastewater treatment plant for spending on the stormwater improvements. He said the Faculty neighborhood was a prime candidate for doing nonpoint source pollution management, explaining that currently, stormwater coming from that area went directly into the Oyster River with no screening or treatment. He said a substantial amount of nitrogen could be removed from this stormwater by doing treatments in three areas there.

There was detailed discussion about the specific stormwater improvements proposed and the cost for each of them. Councilor Howland said all or just some of them could be done now.

Councilor Mower said this was second guessing the engineer, and Chair Gooze said no Councilors were experts on this issue. He said he had enough faith in Town staff to feel that what was proposed was what the Town should be doing. Councilor Mower said it was a reasonable choice to make.

Councilor Carroll asked if the Conservation Commission had weighed in on these improvements yet, and Mr. Lynch said there was no design yet for them to look at.

Councilor Carroll said there had been some sticker shock in seeing the \$500,000 that was budgeted for one year of work. She asked if staff would report back to the Council next year on the work done and what the results were, so the Council could have some reassurance that they were allocating money in the right way. There was discussion that monitoring would be a big part of the process.

Councilor Cote said Town staff was more knowledgeable about this work than Councilors were. But he also said that frequently, someone who became an expert in a field became more involved and then wanted to put his/her mark on a project, which then became self-driven. He said it was important to be very careful about this.

He said he believed that fertilizers for landscaping should be banned outright in Town. He said there was a cost avoidance in taking the nonpoint source approach, which was what Durham needed. He said if DPW was confident that this would occur, he was therefore inclined to let this Budget item go.

Councilor Mower agreed.

Councilor Lawson said the Council's job concerning this issue was not done, and would continue as Town staff brought forward what how they wanted to use the money put into this plan. He spoke further on this.

Councilor Mower noted a recent article entitled *12 Ways to Stop the Next Sandy*. She said Durham had underspent on its stormwater management infrastructure over the decades, and said things were now coming home to roost.

Councilor Howland said Councilor Lawson's point, that there would be time to haggle over details, was well taken. But he said he didn't recall when before now the \$520,000 figure had been discussed.

***Councilor Howland MOVED to put \$450,000 in the Budget for stormwater management.***

There was no second to the motion.

Administrator Selig said for many years, the DPW had sounded the alarm about stormwater management being a larger part of the Budget in the future. He said the time for this had now come, and said what was proposed included a cost avoidance strategy.

He said the stormwater management capital improvement program hadn't been developed yet. He said it would inform the outnumber, and said he wanted to be in a strong position to address that. He said the \$520,000 would not go to waste, and explained that if it was found that the proposed projects were not the best use of the funds, this would be readjusted. He said this was a very fluid process. But he said it was very appropriate for Councilor Howland to raise these issues.

Councilor Mower said there was nothing in the wastewater agreement with UNH that covered this type of program. She said there might be as much as 50% in assistance from UNH at some point.

Administrator Selig said the reason was that UNH had its own MS4 permit. He said there had been conversation that the biggest bang for the collective buck was to address stormwater runoff from A lot, and to jointly solve the problem. He spoke further, and there was discussion.

Councilor Mower said the consultants who were hired to advise the Town were highly respected, and said she didn't think they would steer the Town toward spending money on something that wouldn't have an impact.

Chair Gooze noted that there were philosophical differences about how the CIP worked, and said ample examples had been given that showed money put in the CIP would not necessarily be spent.

Councilor Howland said there were two other Budget items that he would like to put to a vote of the Council: the rubber tire excavator, and bonding for the Spruce Hole project.

***Councilor Howland MOVED not to bond the purchase of the rubber tire excavator.  
Councilor Smith SECONDED the motion.***

Councilor Lawson encouraged the Council to make this purchase, and to bond it, noting the increased efficiency of work that could be done using this equipment. Councilor Mower said if the equipment would be used a lot, it should be kept in the Budget.

Mr. Lynch said it would not just be used for the stormwater work, and said it would be used 100-120 days per year. He said the excavator might become so versatile that when it came time to purchase a new backhoe, DPW might say it wasn't needed, which would save \$140,000. He also noted possible State revolving loan funds available for the purchase.

Councilor Mower also noted that UNH could rent the excavator.

Administrator Selig said these were all reasons he was in support of this purchase. He said DPW staff had demonstrated the efficiencies and funding strategy, and had also gotten support from environmental groups that thought it was a great project.

Councilor Cote thanked Mr. Lynch, noting the potential cost avoidance in buying this equipment and therefore not having to purchase other equipment. He also said there were a lot of advantages in having an excavator.

***The motion FAILED 2-6, with Councilor Howland and Councilor Smith voting in favor of it.***

***Councilor Howland MOVED to remove from the 2013 Budget the bonding of the engineering work for the Spruce Hole aquifer and well.***

Councilor Howland noted that the Council had opted not to have a discussion on water supply issues facing the Town until after the Budget was deliberated on.

***Councilor Smith SECONDED the motion.***

Councilor Lawson said he appreciated the work Councilor Howland had done on these issues, but said there were different opinions on this subject. He also said that at a future meeting, the Council would look at all of this. He said he would feel better making a decision on Spruce Hole at that point, when it would be a more informed decision.

Chair Gooze said Administrator Selig would not expend the money until the Council had that discussion, and authorized the expenditure.

***The motion FAILED 2-6, with Councilor Howland and Councilor Smith voting in favor of it.***

Councilor Carroll noted that the Council hadn't spent time yet vetting issues in regard to the project for the new Town Offices, and she asked for information on this.

Ms. Jablonski provided an overview of the modification to the proposed 2013 Budget that included the Option E design for the Town Offices. She handed out a revised sheet for the CIP that reflected this. She said Option E would cost \$1.33 million, and said

\$875,000 of this would be bonded, with the remaining amount to come from the sale of the current Town Hall property. She said Option E was a minimalistic design, and would involve making the fewest changes possible to the building to get Town staff in there.

Councilor Lawson said the project would end up being cost neutral when selling the current Town Hall was factored in. He said even with the scenario of selling the Town Hall property for less money than what had been discussed, there was still a very compelling case, and he provided details on this.

He said he didn't think there would be a tremendous increase in Town staff over the next several years, and said the costs for options A, B and C had concerned him. He said Administrator Selig had provided good guidance in focusing on the less expensive option that met short term and long term needs.

***Councilor Smith MOVED to extend the meeting beyond 10:30 pm. Councilor Mower SECONDED the motion, and it PASSED 7-1, with Councilor Cote voting against it.***

Councilor Carroll said it was too bad that they couldn't renovate the building in a way that provided what was needed.

Administrator Selig said they would continue to evaluate whether the space under entryways and the Council chambers could be finished in order to provide additional storage space. He also said there were ample ways the building could be added onto in the future if needed. He said for the near term of 10-15 years, the Town would be well served with what was proposed in Option E.

Councilor Carroll asked if staff would be comfortable there, and Administrator Selig said he believed that the staff would embrace being in a structure that didn't have mold issues, had a good heating system, was universally accessible, and had office and conference areas.

Councilor Carroll said she was sorry that the break room would be located in the basement. She also said it would be nice to have DCAT located next to the Council chambers.

***Councilor Mower MOVED that the Durham Town Council does hereby adopt, as amended, RESOLUTION #2012-24 , approving and adopting the FY 2013 Operating, Capital, and Special Fund Budgets and the 2013-2022 Capital Improvement Plan. Councilor Marple SECONDED the motion, and it PASSED 6-2, with Councilor Smith and Councilor Howland voting against it.***

**XI. New Business**

Other Business - None

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

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

Councilor Mower said she was particularly glad to hear Bambi Miller speak during Public Comments about the septic system program she was involved with. She noted that she had spoken with Town Engineer Dave Cedarholm about this program, and about the idea of having Ms. Miller work with the Town as part of the integrated watershed management planning that was being developed.

She said she would like to get input from the Council on this idea. She said she believed the Town needed to do outreach on this issue, but hadn't had the professional or volunteer manpower to do this.

DPW Director Mike Lynch said he loved this idea, and noted that his department had been in touch with Ms. Miller before. He said DPW would bring her into the conversation on how to reach out to residents on this issue.

Councilor Mower said that regarding the suggestion made that Moore Fields was contributing animal manure to local water bodies, she was under the impression that UNH no longer put manure on these fields. She asked that Town staff follow up on this issue, and find out what their current agricultural practices were concerning spreading of manure.

Councilor Lawson thanked Administrator Selig, Ms. Jablonski, and other Town staff for the information, accessibility and transparency they had provided regarding the 2013 Budget. He also said this Budget had not been rubber stamped by the Council.

Chair Gooze said he highly recommended going to department meetings where items proposed for the Budget were discussed. Councilor Mower agreed that these meetings provided a great opportunity for Councilors.

Councilor Cote agreed that the backup material provided by Town staff for their budget requests was very well done. He noted that last year he had asked Chief Landry to provide more backup information in the future, and said the Chief had done that for the 2013 Budget.

#### **XIV. Adjourn**

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

Adjournment at 10:45 pm

Victoria Parmele, Minutes taker