

**This set of minutes was approved at the May 6, 2013 Town Council meeting**

**DURHAM TOWN COUNCIL  
MONDAY, MARCH 18, 2013  
DURHAM TOWN HALL- COUNCIL CHAMBERS  
7:00PM  
MINUTES**

**MEMBERS PRESENT:** Council Chair Jay Gooze; Chair Pro tem Jim Lawson; Councilor Julian Smith; Councilor Robin Mower; Councilor Diana Carroll; Councilor Kitty Marple; Councilor Dave Howland; Councilor Wayne Burton; Councilor Carden Welsh

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Town Administrator Todd Selig; Public Works Director Mike Lynch; Police Chief David Kurz; Town Clerk Lorrie Pitt

**I. Call to Order**

Chair Gooze called the meeting to order at 7:03 pm.

**II. Approval of Agenda**

*Councilor Smith MOVED to approve the Agenda as submitted. Councilor Lawson SECONDED the motion, and it PASSED unanimously 9-0.*

**III. Swearing in of Council Members**

Lorrie Pitt, Town Clerk/Tax Collector, swore in new Town Councilors Wayne Burton and Carden Welsh, as well as the seven other Town Councilors.

Chair Gooze welcomed Councilor Burton and Councilor Welsh.

**IV. Selection of Council Chair and Chair Pro Tem**

Councilor Mower noted that over the past few years, agendas had been set by the Chair and Chair pro tem. She said she would like to open up discussion on the idea of inviting two additional Councilors to sit in on agenda-setting meetings, noting that this might not occur for each meeting. She said she would hope that Councilors with particular items on the agenda who wished to discuss them would be given priority. She said she would hope that Chair Gooze, who many supported remaining as Chair, would support such a process.

Councilor Lawson said his observation, having been part of agenda-setting meetings with four Councilors a year ago, was that most of the time was spent discussing things not associated with the agenda, or things on the agenda that he would have been more comfortable discussing with the whole Council. He said he didn't believe setting the agenda itself was particularly challenging. He asked for examples of items Councilors wanted on agendas that didn't get on one. He said he would like to see the process stay as

it was, stating that it was a more efficient use of Administrator Selig's time. Chair Gooze said he had done this process both ways, and said he would like to keep it with just the Chair and Chair pro tem at the agenda-setting meeting because it was more efficient that way. He said there was otherwise a tendency to get into Town business, with more Council members there. But he said this was the will of the Council.

Councilor Marple asked if any Councilor had had problems getting items on to an agenda, and Chair Gooze said no, stating that while an item might not get onto a particular agenda as planned, it eventually would get onto an agenda.

Councilor Lawson said the agenda-setting meetings were used to map out how much time there was and how long agenda items were likely to take. He said when items were shifted, it wasn't because they weren't thought to be important, but because they wanted to be sure enough time was available. He said they didn't determine whether an item was appropriate to put on the agenda.

Councilor Smith said he had started going to agenda-setting meetings in part to support another Councilor in terms of getting things on or off the agenda. He said at agenda-setting meetings, the Chair could control the discussion if needed. He said he had heard again and again that having other Councilors at the meeting wasn't an efficient use of Administrator Selig's time. But he had seen over the years that Administrator Selig would be well advised not to spend time on some issues at meetings, noting as an example of this the issue of the presidential visit last summer and the call for a special Council meeting concerning this.

Councilor Carroll asked if any Councilors would have found it helpful to be at an agenda-setting meeting in regard to a Council Communication they were bringing forward, and Councilor Smith said yes. Councilor Carroll asked if as a compromise, a Councilor with a Council Communication could ask to be at the agenda-setting meeting, and Councilor Mower noted that she had asked that question last year.

Councilor Lawson said the agenda-setting meeting didn't seem to be the forum for reviewing a Council Communication, and said perhaps the concern was being able to have access to Administrator Selig regarding a Council Communication.

Chair Gooze spoke about the fact that there were times when it was difficult to control the discussion at an agenda-setting meeting.

Councilor Carroll noted that this had been her experience, as Chair. She said she was in favor of keeping the agenda-setting meetings the way they were currently set up.

There was discussion that it made sense for a Councilor to discuss a particular Council Communication in a separate meeting, and not at the agenda-setting meeting.

Councilor Smith suggested that the new Council members should be invited to agenda-setting meetings, in order to see how the process worked. He said there were business items as well as more controversial items considered for agendas. He said it might make sense for Councilor Howland to see this as well, noting that he had come on the Town Council after the additional Council members were excluded from attending agenda-setting meetings.

Administrator Selig read the wording in the Town Charter concerning the duties of the Chair and Chair pro tem; agenda-setting meetings; and the scheduling of special meetings. He also noted that citizens could request that an item be scheduled for an agenda. He said all of these provisions touched on the issue the Council was now discussing, but not directly.

Councilor Howland said Councilor Mower had raised a reasonable suggestion, and said he didn't think she was implying that the process was broken. He said setting the agenda was a leadership task, and said Councilors (up to a total of 4) were entitled to attend if they wanted to, and there was an issue they felt strongly about. He said he would support that.

Councilor Lawson said these meetings were simply agenda-setting meetings, but said he understood that agendas were part of a leadership function. But he said he and Chair Gooze didn't try to direct the ship through the agenda, and said they tried to make sure agendas reflected everyone's participation. He said the more interesting idea was to create a regular forum, consistent with the Right to Know Law, for up to four Council members to get together at different times to have general discussions.

Chair Gooze said he believed the time for these kinds of discussions was as part of the Council Roundtable at Town Council meetings. He stated again that he didn't see any advantage to having more Councilors at the agenda-setting meeting.

Councilor Mower said in general, there had been a very good process. But she said a concern was that it would become set in stone, and said with a change in Councilors it might not always work. She said it would be better to have the flexibility to allow additional Councilors, with the understanding that the meeting would be constrained by the agenda-setting rules, and if this didn't happen, a Councilor could be asked to leave. She said there was an aspect to setting the agenda that was unique, and yet every Councilor was elected equally. She said it was better to have the meetings open to more than two Councilors.

Chair Gooze said this process could be changed every year, and was not written in stone, and Councilor Carroll said she believed the process could be changed at any Council meeting.

Chair Gooze said if he continued as Chair, he would certainly want to know if a Councilor wasn't getting an item onto the agenda.

Administrator Selig said he believed the current process was more efficient in terms of the use of his time, but said more heads could be better than one to come up with a solution. He spoke further on the pros and cons of both approaches, based on his experience with them.

There was further discussion. An informal vote was taken on keeping the current process where just the Chair and Chair pro attended the agenda-setting meeting. Councilor Carroll, Councilor Marple, Chair Gooze and Councilor Lawson voted in favor of this. Councilor Mower, Councilor Smith, and Councilor Howland voted against it, and

Councilor Burton and Councilor Welsh didn't vote. Councilors informally voted (4-3-2) to keep the current process.

***Councilor Mower NOMINATED Councilor Jay Gooze as Chair. Councilor Welsh SECONDED the motion, and it PASSED unanimously 8-0-1, with Councilor Smith abstaining because of the discussion about agenda-setting meetings.***

***Councilor Carroll NOMINATED Councilor Jim Lawson as Chair Pro Tem. Councilor Mower SECONDED the motion.***

Councilor Carroll said they were fortunate to have Councilor Lawson on the Council, and said they relied on his expertise.

Councilor Mower agreed, but noted that the vote was specifically in regard to the Chair Pro tem role.

Chair Gooze said Councilor Lawson had been an invaluable person to work with at agenda-setting meetings.

***The motion PASSED 8-0-1, with Councilor Smith abstaining because of the discussion about agenda-setting meetings.***

Chair Gooze thanked Councilors for their support, and asked people to speak up if he wasn't doing something right.

**V. Special Announcements - None**

**VI. Approval of Minutes**

February 4, 2013

Page 1, should say 2013 in the heading

Page 3, 1<sup>st</sup> paragraph should say "Councilor Mower said the Department of Revenue Administration..."

Page 4, last paragraph, should read "...She said there had recently not been a lot of people with complaints about student behavior..."

same page, 3<sup>rd</sup> paragraph from bottom, should read "...the KC46 tanker refueling program."

Page 6, first full paragraph should say "...discussed a 2010 Chronicle of Higher Education..."

Page 9, first full paragraph, should read "...said he didn't see a reason to oppose it now..."

***Councilor Smith MOVED to approve the February 4, 2013 Minutes as amended. Councilor Marple SECONDED the motion, and it PASSED 7-0-2, with Councilor Burton and Councilor Welsh abstaining because they were not on the Town Council at that time.***

Non-Public Session Meeting Minutes February 4, 2013.

***Councilor Marple MOVED to approve the February 4, 2013 Non-Public Session Minutes. Councilor Mower SECONDED the motion, and it PASSED 7-0-2, with Councilor Burton and Councilor Welsh abstaining because they were not on the Town Council at that time.***

**VII. Councilor and Town Administrator Roundtable**

Councilor Howland reviewed his work on an interview board that day that reviewed the 9 candidates for the 19<sup>th</sup> police officer position. He said there were 4 finalists, and said additional interviews would be scheduled. He said it was a pleasure to see the fair and well considered process involved with choosing a police officer for the Town.

He said the 19<sup>th</sup> annual egg hunt would take place on March 30<sup>th</sup> at the Durham Town landing. He noted that eggs would be sold at the event.

Councilor Mower said the Energy Committee was reviewing feedback it had received on the draft Energy chapter at the recent Planning Board public hearing. She noted that there was a vacant seat on the Energy Committee, and said it was hoped that someone in the community would see this as an exciting opportunity.

She said at the Conservation Commission's most recent meeting, it reviewed maps developed with the help of the Strafford Regional Planning Commission for the Natural Resources Master Plan chapter that was in the early stages of being updated. She said there were vacant seats on the Commission, either currently or anticipated, and said it was hoped that members of the community with relevant expertise would volunteer to serve. She said the meeting was not recorded for DCAT, but said in general, it was recorded.

Councilor Mower provided details on ongoing fundraising for the Sprucewood Forest, noting that there were now 98 donors, 88 of whom were from Durham, and 9 of whom had given a second time. She said the Trust for Public Land needed to receive all final gifts and written pledges by March 22. She said they were planning on closing by March 26<sup>th</sup>, and said the TPL and the campaign volunteers were actively soliciting closing gifts from a handful of donor prospects.

She said they were committed to raising the remaining funds and conserving this land for Durham residents. She said at the beginning of 2013, there was a gap of approximately \$450,000, and said the gap was now down to just under \$35,000, which was terrific. She noted that an elderly donor had left a \$10 bill in her mailbox, with a note that said what better way to use this birthday present received than to save the land. Councilor Mower said donations of any size were welcome, and were a sign of community support. She noted that the Lamprey River Advisory committee had recently committed \$20,000 to the project, which was greatly appreciated.

Councilor Mower said she and Administrative Assistant Jennie Berry had been thinking that a list should be kept of the topics and meeting dates for Non-Public Minutes that were sealed. She said this list could be reviewed once a year, and perhaps particular Minutes could be unsealed at an appropriate time.

Councilor Mower noted that the town of Cottage Grove, Oregon (population 9,686) also issued a Friday Update, and said its March 1, 2013 issue included a quote that would be appropriate for Durham, as residents sought to find an economically viable future without sacrificing what made Durham different from Anywhere, USA. “We seldom think of what we have, but always of what we lack.” — *Schopenhauer*

Councilor Carroll noted that under the Unanimous Consent Agenda, the Council would be voting on some funds for Crommet Creek. Chair Gooze said DPW Director Mike Lynch would give a brief synopsis on the project.

Mr. Lynch said the bridge had been in the CIP for over 10 years, and said what was proposed was a repair of the bridge. He noted that it was a red listed bridge, and explained that welding would be done on the under carriage of the bridge. He also said a new deck would be put on it, and a new guard rail on both approaches would be installed. He said the contract now was for the engineering design, and said the options would be limited. He said the bridge would not change in height, width, or elevation, and also said the roadway wouldn’t change.

Councilor Marple said the Integrated Waste Management Advisory Committee needed some members.

She also noted that Councilors had received an email that day from someone related to her who lived on Cedar Point Road. She said she had driven the road that day, and it was in very bad shape.

Councilor Smith updated the Council on the March 13, 2013 Planning Board meeting:

- Public Hearing on Amendment to an Approved Site Plan for a Master Sign Plan to allow for hanging signs at SolSistar at 9 Madbury Road.
- Application for Subdivision and Conditional Use Permit. 13 Longmarsh Road. Two-lot subdivision and filling a portion of a very small portion of a wetland for a driveway. Councilor Smith said the application was accepted, and said there would be a site walk on Wednesday.
- Public Hearing on Design Review for a Site Plan and Conditional Use Application. 17 & 21 Madbury Road. Complete redevelopment of multifamily site known as “The Greens” for mixed use project with multifamily housing for 460 +/- residents, office/retail, and parking for 57 to 100 cars, to be called “Madbury Commons.” Councilor Smith said quite a few members of the public had comments, and noted that the applicant said they would now proceed to a formal application.
- The discussion of a proposed amendment to the Site Plan Regulations to require submission of the Energy Considerations Checklist and Architectural Drawings for all multifamily and nonresidential projects was postponed until the March 27 Planning Board meeting.

Councilor Smith said on Wednesday, there would be a special meeting of the Planning Board dealing with a number of procedural issues. He also reviewed the agenda for the March 27<sup>th</sup> meeting. In addition, he said there would need to be some new applicants for membership on the Planning Board in the near future.

Councilor Mower noted that the Council had previously discussed the issue of projects built in some ways not reflecting what was in the architectural renderings for the project, and the possible need to change the Site Plan regulations to require that built projects reflect the renderings. Chair Gooze said the Planning Board and Town Planner were aware of this issue, and would be looking into it.

Councilor Smith noted that the preliminary Planning Board agenda for March 27<sup>th</sup> didn't include proposed amendments to the Site Plan regulations, and said he would get in touch with the Planner concerning this.

Chair Gooze noted concerning Item D on the Unanimous Consent Agenda that the Resolution would be corrected to include a "Whereas" that indicated that the Public Hearing was held.

He said the CFO of the Golden Goose property recently asked him to meet with the company concerning the Greens redevelopment, and said he told him that the more appropriate people to meet with were the Town Administrator, the Director of Planning and Community Development and the Code Officer.

Administrator Selig provided a number of updates:

- He thanked the many volunteer election officials who had staffed the polls last week. He also said time would tell how long Durham would be able to continue to do this on a volunteer basis, especially for Presidential elections.
- He said the Town had recently hosted a delegation from Brazil that came to Durham to learn about open government. He said there were a lot of excellent questions, and noted that former Councilor Peter Smith helped provide an overview of how Durham worked. He said there were residents in attendance as well, and said Fosters covered the story.
- He noted that there had been an outside developer who was interested in the Business Park parcel, but said he didn't have any details to provide on this right now.
- In answer to a question from Councilor Welsh, he said there were funds to hire a part time Economic Development Director. He explained that this was entirely contingent upon finding the right person, who would be someone with excellent knowledge and experience and a personality that would fit well with Durham. He said the plan would be to approach such a person rather than posting the job.
- He said some time had been spent on focusing on the gas tax legislation, which if passed would bring over \$1 million in revenue to Durham, and millions of revenue to the State. He said he was likely to engage in some way on this issue.
- He said there would be a vote in the House regarding increasing the closing time at establishments that sold alcohol from 1am to 2am. He noted that the bill had been amended by Rep Ginsburg to allow for a local opt-out, and said they would see how this played out. He said he had spoken with other members of Durham's Legislative delegation on this issue, and had also been in touch with the Town Manager in Hanover, who had contacted their delegation concerning supporting the amended

legislation. He said the bill had been reported out as “ought to pass”, with the local opt-out.

Councilor Burton asked Administrator Selig if he was comfortable with the bill as amended, and Administrator Selig said the preference was that the bill be killed entirely, because of concerns about additional drinking beyond 1 am, and because even if Durham opted out, kids might go to other towns to drink and get into accidents on the way there or on the way back. But he said an opt-out would be better than nothing. Councilor Burton said he agreed.

Councilor Howland asked whether if the bill passed without the opt-out, there was a plan that the Town was ready to put in place, such as putting more officers on the street.

Administrator Selig said when the bill went to the Senate, the Town would engage there aggressively. He noted Durham’s success at the Senate level a few years back in getting a local opt-out concerning billboards, and said there was therefore some precedent for the local opt-out approach. He also said if the 2am closing prevailed, it wouldn’t go into effect until January 1<sup>st</sup>, so could be factored into the 2014 Budget. He said it would cost Durham more money because of the overtime police officers who would be needed.

Councilor Mower said she had written to the Legislature as an individual opposing this bill. There was discussion about the role the Council played in this process. Administrator Selig said if the bill passed the House, he would come back to ask the Council to consider a Resolution that would be presented to the Senate.

- Administrator Selig noted that the closing for the Spruce Forest project was tentatively scheduled for March 26<sup>th</sup> at 12 pm at the Strafford County Registry of Deeds, and said the Town had been active in helping to get the required paperwork in order.
- He noted discussion at the most recent Planning Board meeting on the Golden Goose property. He and Town staff had spent several hours discussing the project with the developers, including their design team. He said staff had suggested that they scale back what was on Madbury Road, and make it more in keeping with the roadway. He said staff recommended providing something like a 15 ft setback rather than having no setback.

He said there was also discussion with the developers about the importance of having nonresidential space in the project, looking out to the long term, and staff encouraged the developers to make the first two floors facing Madbury Road nonresidential space. He said the owners were concerned about whether this was viable, and said in order to do this, there would need to be sufficient student housing to subsidize the commercial space.

He said he had encouraged them to look toward the rear of the parcel in order to provide the density, noting that the site sloped down from Madbury Road. He also said Mr. Behrendt provided some design ideas for breaking up the facade of the building along Madbury Road.



Councilor Mower asked if there was discussion with the developer about the uncertainty of UNH enrollment, and Administrator Selig said no. He noted that at the public hearing at the Planning Board meeting, a member of the Durham Landlords Association said his building was full this year. Councilor Burton said the University was trying to increase its enrollment to pay for its costs.

Councilor Burton asked Administrator Selig about the trees that had been marked on Madbury Road. Administrator Selig provided details on this, and said a selective cut was planned based on a survey that was done. He said in some cases, PSNH would be asking individual land owners for access, and also said there would be a meeting for residents to hear about and discuss the cutting that was proposed. He said only the marking was being done right now. It was noted that if PSNH contacted a landowner about tree removal and there was no response, the company could then take the tree down.

- Administrator Selig said about 100 rental housing units had been visited to date by Fire Department staff as part of the new housing standards ordinance, and said only 3 of them had passed. He provided details on some of the violations that had been found. He said as more inspections were done, it became clearer and clearer that the ordinance was necessary.

## **VI. Public Comments**

**Bill Hall, Smith Park Lane**, said he had watched with great interest the Planning Board meeting last week, where the redevelopment project for the Greens property was discussed. He referred to comments made by the developer concerning the viability of commercial space as part of the project. He also spoke about Durham's reputation concerning business development, and said he didn't want to see any money spent on an economic development person if this person didn't understand this reality, especially if the Council was going to pick the person.

Mr. Hall spoke in some detail about the trees on Madbury Road, and the fact that many of them should have been cut years ago. He said he wasn't confident that the Town would address the tree problem there or on Durham Point Road.

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

- RESOLUTION #2013-10** establishing regular Town Council meeting dates for April 2013 through March 2014
- RESOLUTION #2012-11** authorizing, on the recommendation of the Administrator, the acceptance and expenditure of a grant totaling \$1,560.50 from the New Hampshire Department of Highway Safety to purchase a data monitoring collection device (StealthStat©) for the Durham Police Department?
- Shall the Town Council, upon recommendation of the Administrator, authorize the purchase of a new 37,600 G.V.W. dump truck with snow plow attachments from White Peterbilt of Auburn, Maine in the amount of \$136,670 ?
- Shall the Town Council schedule a Public Hearing for Monday, April 1, 2013 on a

resolution authorizing the acceptance and expenditure of \$16,042.06 in unanticipated revenues from the State of New Hampshire Department of Safety following the October 2012 Hurricane Sandy weather event and authorizing the Administrator to sign associated documents?

- E. Shall the Town Council, upon recommendation of the Administrator, approve the engineering design contract for the Crommet Creek Bridge Rehabilitation Project with Hoyle, Tanner & Associates Inc. of Manchester, NH in the amount of \$40,548 and authorize the Administrator to sign associated documents?
- F. Shall the Town Council, upon recommendation of the Administrator, reduce the appraisal of property owned by Patricia G. Tift Revocable Trust located at 5 Beard's Landing from \$339,000 to \$309,000 for Tax Year 2011, grant a property tax abatement in the amount of \$30,000 of assessed valuation, and authorize the Administrator to sign a settlement agreement between Patricia G. Tift Revocable Trust and the Town of Durham relative to Docket Number 26476-11PT?

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

**VIII. Committee Appointments - None**

**IX. Presentation Items**

- A. ORCSD tuition students - Dr. James Morse, Superintendent, ORCSD

Dr. James Morse spoke before the Council, and said the tuition issue was important to the School District but also to the towns involved. He noted the capacity issue for ORHS, and said the States said 1205 students would fit there, while the School Board's class size policy indicated that number was 915 students. He said the High School currently had 685 students, 64 of which were from Barrington.

Dr. Morse said one of the recurring themes he had heard was whether the wonderful programs at ORHS could be done for less money. He said having more tuition students would allow for this. He reviewed several options that were being considered involving having more tuition, in addition to the first option, which was to do nothing.

Option #1: He explained what was likely to happen if nothing was done right now. He said doing nothing would destroy what they had in the district.

- High School course choice options become limited
- within 10 years, enrollment drops to approximately 1600 (two agencies have looked at this, and pretty much confirm that enrollment will continue to decline)
- curriculum becomes restrictive – with downsizing, choice is constricted
- class size is likely to increase
- staff likely to lose jobs
- cost per student likely to increase
- inefficient use of modern facility

Option #2: Accept up to 100 Barrington Tuition students.

- Fills 1/3 of available seats
- no need to hire additional staff
- already attending so we have a relationship
- the students who have attended have represented their town well
- no high school – fewer transition issues
- they have choice to attend other school systems
- helps maintain current program and philosophy

Dr. Morse noted that currently, 64 students from Barrington went to ORHS, which brought in about \$800,000. He said 100 students would allow the High School to stay pretty much where it was in terms of programming, and would increase revenue to about \$1million

Option #3 – Accept only Deerfield tuition students

- Fills 2/3 of available seats
- exclusive arrangement
- approximately 188 students
- no high school – fewer transition issues
- will need to hire staff, thus tuition charged would need to be higher
- helps maintain current program and philosophy, and could allow some improvements, such as expanding foreign languages to include Durham

Dr. Morse noted that Deerfield used to send tuition students at ORHS. He said they were currently sending their 188 students to Concord, which was a mile closer to Deerfield than Durham was. He noted that Concord High School currently had about 1700 students, and said Deerfield's issue was its small town students getting lost in a big high school.

Option #4 – Accept both Barrington and Deerfield tuition students

- fills most of available seats
- will need to hire staff
- rate charged would be higher
- do not have own high school - therefore less transition issues
- Barrington enrollment not guaranteed; Deerfield enrollment guaranteed
- Help maintain current program and philosophy
- allows ORHS to expand academic programming

Option #5 – Newmarket tuition students only:

- fills all available seats/approx. 290 students, exclusive agreement
- willing to enter into a long term relationship – very important, because of staff and facility arrangements that will be higher
- would require additional staff; rate per student would be higher
- Newmarket HS exists so transition issues more pronounced
- Helps maintain current program and philosophy
- allows ORHS to maintain/expand academic programming/opens up Sports field use

Dr. Morse said a key aspect of Options 4 and 5 was that they would result in a significant revenue stream, which would allow them to improve the programs at the High School and also offset the local commitment of taxes. He said both options were win-win situations, because they involved other towns investing in the Oyster River school system, and offsetting costs.

He thanked Administrator Selig for the opportunity to speak with the Council, and said he also would be meeting with the Selectmen in Lee and Madbury. He said he firmly believed that this issue was bigger than the School system. He explained that a postcard would be sent to residents of the 3 towns, to announce when upcoming meetings would be held, so the broader community could participate in this conversation, which would have a generational impact. He said the School Board wanted to get as much feedback as possible from the public.

Dr. Morse said the Board would make a decision next spring on how many students they were comfortable with accepting, and said that would inform him in terms of deciding on the options.

Chair Gooze asked if long term contracts would be signed with these towns. Dr. Morse said yes, and said the numbers for Deerfield and Newmarket were pretty stable.

Councilor Lawson asked if the other well-performing high schools in the State had size guidelines that were consistent with ORHS, and also asked whether if the guideline was increased a little bit, that would expand the curriculums that could be offered.

Dr. Morse said the class size guidelines were sometimes smaller, sometimes larger. He said he wouldn't recommend increasing the guideline for core areas like math, but said there were definitely programs at ORHS where there was plenty of room to expand without adding teachers. He said it was a balancing act in terms of the cost vs. the benefit.

Councilor Lawson asked if thought was being given to looking again at the thresholds, and Dr. Morse said not right now. But he said it could be a focus if the Board decided to look at it.

Councilor Howland said he was interested to know how much a Newmarket resident would pay to send his child to the High School as compared to what it would cost a Durham resident. He said if there was a disparity, he would like to know why. He also asked Dr. Morse about some implications of those disparities for demographics in Durham.

Dr. Morse said Newmarket's cost per student was very close to the ORSD cost, at around \$16,000. He said if the students were combined, the cost per student would start to go down because there would be some real economies of scale. He said the nice thing about this was that all of the money wouldn't be used for new costs associated with the Newmarket students coming in, and some of it would be used to lower the local effort.

He said with Barrington, the \$13,000 cost per student was based on a market model because of Coe Brown. He provided details on this, and noted that this option didn't involve having to hire staff.

Councilor Marple asked if there was any plan to allow Barrington students to finish at ORHS if one of these other options was chosen. Dr. Morse said he was pretty confident that the School District's commitment to them would be maintained, and he provided details on this.

Councilor Welsh asked if any of the other towns would have a say as to how the School was run. Dr. Morse said they would have non-voting members on the School Board, and explained that if their vote created the majority for a particular decision, the vote wouldn't count. He also said there would be joint board meetings to discuss issues of importance, so they would have a meaningful role at the table.

Councilor Smith asked if it mattered that Newmarket was in a different county, and Dr. Morse said no.

Councilor Smith noted that Newmarket abutted both Durham and Lee, and asked if there were cultural/social advantages to this. Dr. Morse said yes, and also said the Newmarket relationship opened up other opportunities for the School District in addition to tuitioning of students, such as providing services.

Councilor Carroll said this was a great opportunity for everyone. She said she was sure that in discussions with the other school systems, the culture of ORHS was discussed. She noted their high academic standards while recognizing individual student abilities. She said there was also a lot of respect between students and between students and teachers, and a lot of diversity. She said she saw this culture of the school being just as important as the economic issues, and asked about discussions taking place concerning this.

Dr. Morse said this was one of the more difficult questions surrounding this issue, and noted that he'd had a conversation on it with the High School staff a few weeks ago. He said their main issues regarding taking tuition students were culture and transition issues. He said he told them the School Board needed to make the decision on where it wanted to take the School District.

He said he also told the staff their job was to make sure that there were comprehensive transition plans, and that culture and climate issues were addressed as students arrived, which the students would be part of. He said the culture of the High School was pretty amazing, and was an incredible place for students to be. He said the engagement of staff concerning the transition issue couldn't be understated, and was critical.

Councilor Burton noted that he was on the School Budget Advisory Committee, and said Dr. Morse had done a tremendous job. He also provided background on State legislation he had sponsored in years past that had led to Newmarket having its own High School. He said his concern right now was the State of NH. He said if the Town was going to take in 400 students, why not seek a merger with their school board and create an SAU, so they could all benefit from all of the advantages of doing that.

He also noted that he had written the section of the 2013 Budget report on the impact of academic vision on budgetary planning, and said in doing this, he got a good insight into

the High School and School District. He said an education system wasn't just a high school, and asked how they made sure the elementary schools of the towns they were considering partnering with were also preparing students in a way that would allow them to function at Oyster River High School.

Dr. Morse said these were important questions. He said the current state of affairs was analogous to the other towns asking Durham out for a date. He said Councilor Burton was suggesting that they should get married, but said it was premature because they first needed to get comfortable with each other.

Councilor Burton asked if the State had said anything about the ORCSD. Dr. Morse said no, and said discussions were at the local level. He said the State hadn't stepped in at all.

Administrator Selig thanked Dr. Morse, and said he had been a great partner over the past year. He also thanked School Board member Maria Barth for being present. He said that regarding the options, his own feedback to the ORCSD, as someone who followed good governance and was also a father of two daughters who one day would be at the High School, was that it should pursue the tuition approach. He also said there were a number of reasons why it made sense to look at the Newmarket option in particular:

- proximity; roads meandering in and out of Newmarket
- the need for consistency; if Newmarket is willing to sign up for a longer term, that is very important
- potentially strengthens the relationship between the towns, noting current economic development synergies
- municipal conversations over the years about areas of collaboration: fire response, code enforcement, assessing, etc.
- joint issues regarding local resources – both are on Great Bay, and are part of the Strafford Regional Planning Commission, so discuss planning issues for the region that are consistent. He noted that Barrington also was part of SRPC.
- Newmarket receives the local DCAT station, so everyone in Newmarket already watches, and could watch school related programming, which is not the case for the other two towns.
- Newmarket is willing to pay more.
- engagement with Newmarket has the potential to enrich two terrific communities on Great Bay.

Councilor Burton discussed with Dr. Morse the fact that the sending town would pay any additional cost for special education beyond the base tuition. He also said the High School had done a great job of inclusion.

Councilor Burton asked how bringing in 400 additional students from Newmarket would impact the sports program, and Dr. Morse explained that it would deepen the bench in every sport.

Chair Gooze thanked Dr. Morse for the presentation, and said it was a great pleasure to speak with him.

The Council stood in recess from 8:55 – 9:05 pm.

**B. Update on ORCSD Sustainability Coalition-** Christina Dolcino and Shelley Mitchell  
(Durham representatives on the Coalition)

Ms. Mitchell and Ms. Dolcino provided a slide presentation, and first explained the roles of the four Sustainability subcommittees: transportation; food and gardens; facilities and procurement; and education outreach. Ms. Mitchell explained that the role of the subcommittees was to advise the School Board, and assist with implementation of action plans, in coordination with the School District and community members. She noted that as of last December, the Coalition had become an official subcommittee of the School Board.

Ms. Mitchell spoke in detail on the work of the food and gardens subcommittee and the facilities and procurement subcommittee. Ms. Dolcino provided details on the work of the transportation subcommittee and education outreach subcommittee.

Ms. Dolcino explained that the School Board had recently supported the 2013 Warrant Article #4, “Shall the District raise and appropriate the sum of \$40,000 for the purpose of supporting initiatives requested by the Oyster River Sustainability Committee. These requests include: \$15,000 for the food service to procure and process food from local farmers; \$5,000 for education and outreach; and up to \$20,000 in stipends to fund four sustainability coach team leaders, and one district coordinator to oversee school district sustainability initiatives (at \$4,000 each).

She described the “Green teams” approach that would be used, for each school in the district. She said the champion of each team would initiate and oversee the implementation of sustainable projects, and along with team members would assure the continuity and consistent implementation of sustainable, money saving practices. She said there would be one champion who would oversee all of the School District initiatives. She said this was a new concept for the School District, and said it would take some time for people to start working with it.

Ms. Dolcino provided some examples of green team initiatives:

- establish and improve school wide strategies for paper and energy use reduction
- monitor quality compliance of compost/recycling program
- meet regularly with interested staff, volunteers, and community experts to organize 3-15 hours/week – flexible scheduling

She said there would be a request for volunteers from the community to participate in these initiatives, and said it was hoped that some residents would consider doing this. She noted that the last part of the Warrant Article was \$5,000 to support the projects of the Green team.

She said more information on the work of the Oyster River Sustainability Committee could be found at [www.greenoyster.wordpress.com](http://www.greenoyster.wordpress.com). She said their next meeting would take place on April 10<sup>th</sup> at 7 pm, and said the public was always welcome.

Chair Gooze thanked Ms. Mitchell and Ms. Dolcino for their presentation.

Councilor Burton said the Advisory Budget Committee had unanimously recommended this. He said the next challenge was making sure that the next ORSD budget include money for the Committee, and that the funding didn't get buried in the Budget. He said if he was on the Committee he would try to do that. He also said what really made a difference concerning the sustainability subjects was to get them into curriculums, in a multi-disciplinary way.

Ms. Dolcino said there were classes at the High School that did teach sustainability practices, but said the common core program that would be coming out soon would dictate what was taught. She said she hoped sustainability practices could be threaded through everything.

Councilor Burton said the Sustainability Coalition had been a terrific effort, and said he hoped it continued.

Ms. Dolcino said this was due to the support from a lot of people.

**X. Unfinished Business**

**XI. New Business**

- A. Annual appointments of Council representatives to the various Town boards, commissions, and committees

*Councilor Robin Mower MOVED that the Durham Town Council hereby appoints Councilor Diana Carroll to the Conservation Commission for a term of one year, said term to expire March 2014. Councilor Lawson SECONDED the motion, and it PASSED unanimously 9-0.*

*Councilor Lawson MOVED that the Durham Town Council hereby appoints Councilor Carden Welsh to the Economic Development Committee for a one-year term, said term to expire March 2014. Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.*

*Councilor Mower MOVED that the Durham Town Council hereby appoints Councilor Dave Howland to the Parks and Recreation Committee for a one-year term, said term to expire March 2014. Councilor Smith SECONDED the motion, and it PASSED unanimously 9-0.*

*Chair Gooze MOVED that the Durham Town Council hereby appoints Councilor Kitty Marple to the Rental Housing Commission for a term of one year, said term to expire March 2014. Councilor Lawson SECONDED the motion, and it PASSED unanimously 9-0.*

*Councilor Howland MOVED that the Durham Town Council hereby appoints Councilor Kitty Marple to the Integrated Waste Management Advisory Committee for a*



***term of one year, said term to expire March 2014. Chair Gooze SECONDED the motion.***

Councilor Mower said her understanding was that this was a committee of 3 members right now, and said it was not clear that there was as strong level of activity right now. She said she wondered if the committee should be put on hiatus, function on a project basis, and not require a Council representative right now. There was discussion. Councilor Marple said the Chair of the IWMAC was very passionate about keeping it going.

***The motion PASSED unanimously 9-0.***

***Councilor Carroll MOVED that the Durham Town Council hereby appoints Councilor Robin Mower to the Water Resource Protection Subcommittee for a term of one year, said term to expire March 2014. Councilor Lawson SECONDED the motion.***

Councilor Mower said this committee, which was created in response to some zoning issues, met on an as needed basis, and said it had not met in some time. She said its major accomplishment had been bringing some progressive stormwater regulations to the Planning Board that were adopted.

She also said the subcommittee had been working on the aquifer protection ordinance, but said with the likely purchase of the Spruce Wood forest, which protected the Spruce Hole aquifer, there was less impetus for the subcommittee to meet. But she said she would still be happy to be represented on the Water Resources Subcommittee.

***The motion PASSED unanimously 9-0.***

***Councilor Marple MOVED that the Durham Town Council hereby appoints Councilor Dave Howland to the Durham Agricultural Commission for a term of one year, said term to expire March 2014. Councilor Mower SECONDED the motion.***

Administrator Selig noted that Councilor Howland had taken an alternate position on the Commission, but said he might be interested in taking a regular position if there was an opening.

Councilor Howland said there was some turnover right now on the Commission, and said it made sense for the Council representative to have a regular membership on it, which would set a good precedent.

The motion was reworded, to read:

***Councilor Marple MOVED that the Durham Town Council hereby appoints Councilor Dave Howland as a regular member to the Durham Agricultural Commission for a term of one year, said term to expire March 2014. Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.***

***Councilor Mower MOVED that the Durham Town Council hereby appoints Councilor Jay Gooze to the Historic District/Heritage Commission for a term of one year, said term to expire March 2014. Councilor Smith SECONDED the motion.***

Chair Gooze said he would be glad to do this, noting the important role the HDC would play over the next few years.

***The motion PASSED unanimously 9-0.***

***Councilor Smith MOVED that the Durham Town Council hereby appoints Councilor Robin Mower to the Durham Energy Committee for a term of one year, said term to expire March 2014. Councilor Howland SECONDED the motion, and it PASSED unanimously 9-0.***

***Councilor Marple MOVED that the Durham Town Council hereby appoints Councilor Jim Lawson as the regular Council representative and Councilor Julian Smith as the alternate Council representative to the Planning Board for one-year terms, said terms to expire March 2014. Councilor Mower SECONDED the motion.***

Councilor Smith said he was willing to take the alternate position, but would prefer to be the voting representative.

Councilor Mower said she greatly respected Councilor Smith's perspectives, and his willingness to speak to controversial issues on the Planning Board. She noted important points he had raised at the most recent meeting, and said he brought a thoughtfulness and long range perspective to the Planning Board that was needed. Other Councilors agreed. They also thanked Councilor Lawson for being willing to take the regular member position.

***The motion PASSED unanimously 9-0.***

***Councilor Marple MOVED that the Durham Town Council hereby appoints Councilor Carroll, Councilor Smith, and Councilor Lawson and to the Cemetery Committee for one-year terms, said terms to expire March 2014. Councilor Mower SECONDED the motion, and it PASSED unanimously 9-0.***

**B. Initial discussion regarding the development of Town Council goals for 2013/14**

There was discussion that the Council goals from 2012 were a very good starting point.

Chair Gooze said perhaps there were some goals that had been done.

Councilor Mower said she would like the Council to look at the data goal, stating that an issue was that there was a certain delay associated with the potential move to the new Town Office. She said that seemed closer on the horizon now.

Chair Gooze suggested that there could perhaps be prioritize of the goals, and Councilor Welsh said he had wondered why the goals were not ranked. Chair Gooze said the

Council had given Administrator Selig permission to do what needed to be done, rather than putting his efforts into one thing. Councilors agreed that this made sense. Councilor Smith said if the Council ranked the goals, they would wind up arguing about the rankings, and said this could take a lot of time.

Chair Gooze asked Councilors to send in additions/changes to the Council goals, and said they would discuss them at the next meeting.

Councilor Carroll said she agreed with the approach to updating the goals, but said the Council also needed to be open to what others might suggest. She suggested that they go back to the committees and ask them for input, and said this would broaden things out. She noted that there was no big hurry, so they could be more inclusive.

Chair Gooze noted that when Council reps went to their first meetings, they could ask the committees about this.

Councilor Mower suggested that this information should be sent out to committee members in advance.

Councilor Carroll said it was worth discussing the Council goals with residents as well. There was discussion.

Chair Gooze said he would like to see the Council push through with the project involving the University, the Town and developer Tim Elliott. He said this probably fit under goal #3, so they didn't need something specific. It was noted that goal #3 was broad enough to include this.

Councilor Howland said the year-end summary from Administrator Selig was helpful, and he suggested that it would be good to hear some highlights from this at the next meeting, so Councilors would all be on the same page.

Councilors agreed, and said they would discuss the Council goals again in a month, to allow time for feedback from the committees and other residents.

**C. DISCUSSION AND FIRST READING ON ORDINANCE #2013-04** amending certain sections of Chapter 97 "Plumbing Code and Regulations", of the Durham Town Code to codify the Town's support for water conservation and water efficient plumbing relative to public water and sewer systems- Robin Mower, Councilor

Chair Gooze noted the excellent Council Communication from Councilor Mower on this issue.

Councilor Mower said the issue was that there was an opportunity to reduce the demand on the Town's water supply as well as the burden on the Town's wastewater treatment system by requiring lower flow fixtures for toilets, sinks, shower heads in construction projects at properties that connected to Town water and sewer services. She said this included new construction as well as replacement of fixtures for projects where a building permit was required.

She said there was a lot of information in the Council packet that provided a rationale for doing this, and also noted that Councilor Lawson had calculated the potential savings involved as a result of doing this. She explained that the argument was that this would increase the resiliency of the system, particularly in low flow periods, and that it could also possibly postpone the need for infrastructure upgrades.

Councilor Mower said she had discussed this at length with Code Administrator/Enforcer Tom Johnson and Town Engineer Dave Cedarholm, and said they had considered doing something broader that reflected the international Green code. But she said they decided to go with what was proposed here. She spoke further on this.

She said the Energy Committee supported this proposal, noting there was a close relationship between the use of water and the use of energy. She said the most curious response was from the Conservation Commission, regarding whether these fixtures would work, especially the toilets. She said the 1.28 gallons per minute designed today were much different and better than the ones previously. There was discussion.

Councilor Mower noted the references in the report, and said the designs would evolve further in future years. There was discussion on the Water Sense labeling for certain models, and it was noted that equivalent models would be acceptable.

There was discussion about the energy use involved with water use.

Councilors agreed that what was proposed should go to public hearing.

Councilor Welsh asked if it was half as difficult for the wastewater treatment plant to clean water that was twice as dirty, and Councilor Mower said she could ask Mr. Cedarholm about this. There was discussion. Administrator Selig said the catchment area for effluent only had so much capacity, and said it was a great question for Mr. Cedarholm.

There was discussion about the fact that building permits were needed to replace toilets, if a resident was on Town water and sewer. Councilors spoke about not being aware of this. Councilor Mower noted that this proposal was an outreach program.

Councilor Howland said he had run some of the numbers by plumbing contractors, and they said that what was proposed in Ordinance 2013-04 was totally doable.

Councilor Mower noted that contractors would be contacting the manufacturers directly on this.

***Councilor Smith MOVED that the Durham Town Council does hereby move on First Reading as presented Ordinance #2013-04 amending Chapter 97 “Plumbing Code and Regulations,” Sections 97-1, 97-3, 97-4, 97-5, 97-10, and 97-24 of the Durham Town Code, and schedules a Public Hearing for Monday, April 1, 2013. Councilor Marple SECONDED the motion.***

Councilor Carroll said there was a lot of paper used in the proposal, and asked that it not be printed out again for the Public Hearing packet. Councilor Smith suggested that electronic copies of the report should be available for the public. Councilor Mower said there should be a link from the Friday Update to the document.

*The motion PASSED unanimously 9-0.*

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

**XIII. Extended Councilor and Town Administrator Roundtable**

Councilor Smith said he would like to see an amplification system in the meeting room at the new Town Hall, and noted that this would mean he wouldn't have to wear ear phones anymore.

Administrator Selig reviewed an issue concerning Woodside Road, noting that the end of the road was privately owned. He said the DPW and the property's owner, Robbie Watson, were interested in deeding this parcel to the Town. He said they were in the process of drafting an easement to construct a turnaround toward the end of the road.

He said the Town would first build the turnaround, and then would ask the Council to accept that portion of the road. He explained that once the Town accepted it, it was obligated to provide trash collection, so the turnaround was needed for this. He said the Town would craft the rationale for this. There was discussion.

On a separate issue, Administrator Selig encouraged Councilors to drive Cedar Point Road so they would have an understanding of the road situation there, if residents of the area came forward to speak about it. He said he would provide further details to the Council on plans for the road.

Administrator Selig noted that there had been some complaints about trash downtown. There was discussion. Chair Gooze suggested that the fraternities and sororities should be asked to help with the trash, including picking up trash in the public way.

Administrator Selig said there had been discussion with Sam Shore about selling him a Town lot adjacent to his property, and said this matter would come back to the Council.

He also noted an issue regarding the need to modify the boundary of the Spang property,

Administrator Selig told Councilors he was uncomfortable right now imposing the \$1,000 fine, as spelled out in the housing standards ordinance, if people failed to notify the Town of apartment units they were renting. He said the Town would push the imposing of the penalty out to January of 2014, and said the Fire Department would be sending out a postcard on this.

He said it was expected that the title for the new Town Office property would be cleared soon. He also spoke about the fact that in the design process for renovating the existing building there, one of the goals had been that this would be a LEED certified project. He said a decision would need to be made on this soon, and said he didn't know what the

answer was. He spoke in detail on the issues involved, and among other things said it wasn't clear whether there was the budget for this to be a LEED project. There was discussion by the Council about whether having the LEED certification was purely symbolic. Councilor Mower said LEED certification could be a marketing tool. Councilor Carroll noted that the certification wasn't obtained until after the building was up and running. But she said it kept them honed into the process, and accountable. Council Mower said it might make more sense to pinpoint some vulnerable points in the process.

Councilor Burton said they were doing LEED certification at his college, and said everyone knew what it meant. He also noted the water ordinance the Council had passed, and asked how they could expect developers to believe in this if the Town didn't take a leadership role. Chair Gooze said it was well known that LEED certification didn't necessarily result in something better, and Councilor Mower noted that LEED was a moving target. Councilor Burton said LEED was like accreditation in the academic world.

Councilor Lawson spoke about his key priorities of getting the Police and Fire Departments on a dedicated microwave system, for public safety purposes. He said his priority with the Town Hall project was to make it consistent with LEED, without actually needing to get the certification. Councilor Howland said he agreed with this.

Councilor Burton said once his school had declared that it would have a net zero energy building, they got some external funding.

Councilor Howland asked if there had been any progress concerning the Town obtaining the land that went down to Mill Pond Road. Administrator Selig said there had been conversations with Orion, which owned the property. He said they were interested in linking the sale of this land with the Town approving the redevelopment project downtown. He said he had decided it made sense to keep these issues separate. He also said there was no money to purchase the land right now. Councilor Lawson said the Council should still keep this in the back of their minds.

#### **XIV. Adjournment**

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

Adjournment at 10:23 pm.

Victoria Parmele, Minutes taker