

**D-R-A-F-T**

**DURHAM TOWN COUNCIL  
MONDAY, NOVEMBER 4, 2019  
DURHAM TOWN HALL - COUNCIL CHAMBERS  
7:00PM**

**MEMBERS PRESENT:** Council Chair Kitty Marple; Council Chair Pro tem Ken Rotner; Councilor Jim Lawson; Councilor Sally Tobias; Councilor Carden Welsh; Councilor Andrew Corrow; Councilor Al Howland; Councilor Wayne Burton; Councilor Dinny Waters

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Town Administrator Todd Selig; Business Manager Gail Jablonski

**I. Call to Order**

Chair Marple called the meeting to order at 7:00 pm.

**II. Approval of Agenda**

Councilor Tobias asked that Item A concerning Small Business Saturday be removed from the Unanimous Consent Agenda. Councilor Lawson asked that Item XI C, the discussion regarding how Durham could continue to remain environmentally and economically strong and vibrant, be removed from the Agenda.

*Chair Marple MOVED to approve the Agenda as amended. Councilor Corrow SECONDED the motion and it PASSED unanimously 9-0.*

**III. Special Announcements**

**IV. Public Comments (\*)**

**Paul Schlie, Foss Farm Road**, said he thought the Town Council had gone astray concerning what the priorities should be for peoples day to day lives, noting that Pay as You Throw and e-cigarettes were on the agenda for this evening. He said this represented an irresponsible Council, and said he'd be providing an opportunity for townspeople to sign a petition requesting a vote of no confidence, and that the Council be restructured. He said he would post this on FB, and said if there was sufficient interest this would be pursued.

**Bill Hall, Smith Park Lane** said the Council was at the same place as the School Board was at one point. He criticized the work being done by the DPW on Bagdad Road, and also said the culvert on Bennett Road hadn't been fixed. He said he hadn't seen the summary of the Town's water system that Councilor Lawson had requested. He said the

rezoning of the industrial park to conservation land was crazy. He also spoke briefly about the Northern Connector, noting that it was approved but then any reference to it evaporated.

**Sarah Grandy**, owner of Main St. Makery, said she was there to support the proclamation for Small Business Saturday, and asked the Council and Durham residents to think about supporting local businesses year-round. She noted the term “place making”, which she said was what interesting, innovative communities did. She said Durham had some momentum to build upon what was already here. She thanked Councilor Tobias and Councilor Howland, for their support of local businesses through Celebrate Durham.

**Brian Keegan, Madbury Road** said he was a partner in a downtown business, and said Durham’s downtown should be servicing the entire community. He said as a businessperson and a resident of Durham, he could see the Town changing in a positive way. He said if they could all get behind this, they could make some great strides.

**Cliff Zetterstrom, Dover Road**, asked if there was a conflict of interest to have two Councilors who were also serving on the School Board. He also said he was dead set against PAYT and refused to get another tax in Town.

## **V. Approval of Minutes**

October 21, 2019

Page 13, near bottom of page, should read: The motion FAILED 2-7, with Councilor Welsh and Councilor Waters voting against it.

Page 13, 4<sup>th</sup> paragraph, should read “Councilor Rotner said as written the letter implied that the Council didn’t want shellfish aquaculture, but he said he did want it if it was done in the way reflected in Councilor Lawson’s proposed wording.”

Page 17, last paragraph before motion at the end, should read: “Councilor Welsh said he recommend approving this, and said \$25,000 wasn’t a big deal. Chair Marple said it worked for her. Councilor Lawson noted that this set a precedent to use fund balance at the end of the year, after doing a so-so budget. There was further discussion on this.”

## **VI. Councilor and Town Administrator Roundtable**

Councilor Tobias said as part of the Main St Academy she was attending, she recently visited Wolfeboro, and learned about how the trails and natural resources in the area were driving downtown economic development. She noted that there were a lot of trails in Durham too. She said it was encouraging to see how things were changing in downtowns in NH.

Councilor Howland said a proposal written by Sarah Wrightsman for an Affordable Housing Committee would be discussed at the next Economic Development Committee meeting.

Councilor Rotner said at the recent Parks and Recreation Committee meeting, they heard an update from Director Rachel Gasowski on various recreational activities. He said the survey they'd been working on was discussed, and said they decided that it would be provided to residents online, and would be marketed around Town in various ways.

He said the Committee discussed the ORYA budget request, and said they were unanimous in appreciating the services the association provided. He said they also expressed the sentiment that if the Town was going to contribute to ORYA, there should be a Town appointed person on the ORYA board. He said there was consensus that ORYA needed more time to make organizational changes, so this was not the best time to cut funding.

Councilor Rotner said there was great participation at the Monster Bash held downtown last weekend. He gave kudos to Ms. Gasowski and her assistant for pulling it all off, and also noted the help provided by UNH students at the event.

Councilor Rotner made reference to the comment from a member of the public concerning serving on the Town Council and the School Board at the same time. He said he'd served on the School Board first, and said when he considered running for the Town Council, he discussed with Administrator Selig and Superintendent Morse whether it was legal to serve on both boards, and learned that it was.

He said he'd been elected to the Town Council twice, and had been elected to the School Board three times. He said people could decide not to vote for him, but said there was a dearth of people willing to put time and energy into this town. He noted that he sometimes ran unopposed. He said the people serving on these boards took a lot of heat, and said if people wanted to step up they should go do so, and he'd be happy to pass the torch along.

Councilor Burton said at the upcoming Energy Committee meeting, there would be many updates, including the solar ordinance, educational outreach to the Middle School, electric vehicle charging stations, the microgrids proposal, and community power aggregation. He noted that York, Maine was looking at the resiliency issue, and as part of this did an assessment, which Durham was thinking it should do. He said the person he knew in York who was working on this issue was willing to come speak with the Energy Committee.

He spoke about the letter/report SRPC had sent to NHDOT concerning the 10 Year Plan that was being developed, and he said the letter focused among other things on studying transportation corridors. He noted that the state put no money into public transit, which needed to be looked at in regard to the congestion everyone was facing.

Councilor Lawson said at the recent Conservation Commission meeting, there was discussion about the fact that the easements for water being piped to the Portsmouth water treatment plant went across Emery Farm and Wagon Hill Farm. He said the pipe was deteriorating, but not along those easements.

Councilor Welsh said at the Planning Board's recent workshop, there was discussion on the draft bed and breakfast/short term lodging ordinance. He said the public hearing on it would probably take place at the November 11<sup>th</sup> Planning Board meeting. He said at the October 30<sup>th</sup> meeting, the Board asked for legal guidance as to whether the Mill Plaza project coming to it was a new application, especially in combination with the proposed offsite parking lot.

Councilor Welsh noted the question of whether the Council had somehow gone astray because it was considering Pay as You Throw, and was also considering restricting the sale of vaping/tobacco products. He said many towns already had PAYT programs, and many towns restricted tobacco sales. He said these were precisely the things the Council should discuss, and said the public could weigh in on them.

Councilor Corrow said Reverend Bradley was stepping down from his role as chair of the HDC because he was moving, and said his departure would be a loss to the Durham community.

**VII. Report from the UNH Student Senate External Affairs Chair or Designee**

Hannah Falcone, from the UNH Student Senate, said the External Affairs Chair position was currently vacant, and said when the position was filled, there would be more frequent reporting about UNH at Town Council meetings.

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

- A. Proclaiming Saturday, November 30, 2019, as "Small Business Saturday" in Durham, NH
- B. Shall the Durham Town Council authorize the Administrator to sign the Town of Durham's second half 2019 Property Tax Warrant and direct the Tax Collector to collect payment of property taxes assessed on April 1, 2019 in the amount of \$16,752,328.33?
- C. RESOLUTION #2019-27 amending Resolution #2019-04 "Creating an Orchard Drive Woods Acquisition Trust" to correct the legal citation referred to within Resolution #2019-04 D. Receive progress report (as of October 31, 2019) from the Administrator on the list of approved 2019/20 Town Council goals adopted on June 3, 2019

***Chair Marple MOVED that the Durham Town Council does hereby approve Unanimous Consent Agenda items B and C. Councilor Tobias SECONDED the motion and it PASSED unanimously 9-0.***

Councilor Tobias said she'd asked that item A be pulled off of the Unanimous Consent Agenda so she could make note of Small Business Saturday, which was important for the Durham community to know about. She said there was a lot of vibrancy downtown now because of some great businesses, and said when Durham residents supported their downtown, they were supporting themselves.

***Councilor Tobias MOVED that the Durham Town Council does hereby adopt Resolution #2019-26 proclaiming Saturday, November 30, 2019 as "Small Business Saturday" in Durham, NH and urges Durham residents to support small businesses and merchants in Durham on this day and throughout the year. Councilor Howland SECONDED the motion and it PASSED unanimously 9-0.***

**IX. Committee Appointments**

**X. Presentation Items**

- A. Receive annual report from the Cemetery Committee in accordance with Section 11.1(1) of the Town Charter - Craig Seymour, Chair (10 mins)

Mr. Seymour noted the report he'd provided, and spoke briefly about funds expended this year to expand the cremains only section of the cemetery. He also spoke about some tree work done at the cemetery this year, and said more work was still needed. He said based upon discussion with the Cemetery Committee at its last meeting concerning veterans' flags, the flags would be removed as of December 1<sup>st</sup> so they didn't get thrown out. He said they'd see how this program worked out. He said he was working to organize electronically the cemetery records, going back many years.

Councilor Lawson thanked Mr. Seymour, and said Durham was very fortunate to have him as Chair of the committee, given the amount of time and the diligence he put into this work.

- B. Receive annual report from the Trustees of the Trust Funds in accordance with Section 11.1(1) of the Town Charter - Michael Everngam, Chair (10 mins.)

Mr. Everngam noted the written report he'd provided. He spoke about the investment changes made in recent years to try to increase the return on investment from trust funds, and said he was pleased to report that income from deposits was \$76,910 at the end of 2018. He said he expected that the income at the end of 2019 would be even better.

He said the market values of the securities held in trust shrank last year, but the Trustees didn't have to sell them. He said this year they were able to recover all that had been lost and more because the market value increased by about \$128,000. He'd said they'd lightened equity exposure because they had to be judicious, and spoke further on this. He asked Councilors and others to read the investment policy that was developed, and said it explained what they were trying to do and why.

Mr. Seymour noted that the Trustee got quarterly reports on all of the funds they received, and said with them came analyses of market trends.

Mr. Everngam said the Trustees of the Trust Fund continued to work with the Land Stewardship Committee concerning plans for tree cutting at the Doe Farm. He said work continued on trying to knock back invasives, in order to make sure that when the trees were cut, there wouldn't be an explosion of new invasives growth.

Mr. Seymour said Ellen Snyder's efforts at Doe Farm had been very successful, and said they were confident concerning future tree cutting there. He noted potential problems with the Red Pine borer, and said if they found it they'd have to cut the infected tree(s) down. He said the red pines hadn't turned out to be a good crop at Doe Farm, and noted that it was only good for telephone poles.

Mr. Everngam said the Trustees were expanding cooperation with other Town departments, and had suggested to Administrator Selig that some alternates be added to the Trustees board, so they could start cultivating those who would like to step into regular positions in the future. He said they would need to get up to speed in order to assume those positions.

Councilor Lawson said it was important to know that the Trustees' investment policy was guided by state law. He said the policy was very conservative, and provided a bit of latitude to meet objectives, but was always responsible and was accountable to the Attorney General.

Mr. Seymour spoke about the importance of getting more residents to serve on local boards, and said he was an advocate concerning this. He suggested the idea of putting up a table at local events to provide information on the positions that were available.

C. Pay as You Throw program - Stephen Lisauskas, VP of Government Affairs and Regional VP of Sales, WasteZero ·

Nell Neal, Chair of the Integrated Waste Management Advisory Committee, read a prepared statement, which explained among other things that the single stream recycling that was adopted over the past few years hadn't produced the results that had been hoped for. She said PAYT emerged as a way to meet the committee's goals as well as Town Council goals. She said the committee believed it would reduce landfill trash, increase recycling, and also allow for curbside collection of compostable materials.

Ms. Neal said Waste Zero was a for profit entity, and said the committee believed Mr. Lisauskas would provide helpful information for the Council and other Durham residents. She said there was no money or promises involved, and said if PAYT went forward, the DPW would use the standard bidding process.

Mr. Lisauskas said he'd been with Waste Zero for about 10 years, and said the company focused on waste because of the significant and growing costs of landfills and incineration, both of which prevented any economic value from being created by

recycling waste materials. He said the questions people had about PAYT had been answered by, 10,000 towns and cities that had implemented and maintained these programs, and said these programs continued to be in place.

He said in many places, solid waste was essentially still being managed the way it was managed hundreds of years ago. He spoke about how metering had been introduced over time for electricity and water, and said this resulted in a massive reduction in usage. He said providing people with information about the costs they created helped them to better manage the utilities they were using. He said while meter technology couldn't exist with solid waste, trash could be metered by the bag, which resulted in a reduction in waste, and more of it being recycled.

Mr. Lisauskas said when residents paid by the bag, more cardboard, plastic bottles, textiles, etc. were recycled. He said there was the potential to generate revenue from PAYT, and said it also sent a pricing signal on the price of trash. He noted that when Eliot Maine went to PAYT, there was a 56% reduction in solid waste. He also spoke about how Sanford Maine implemented PAYT, then voted it out after a recall petition, but it was later put back in place. He said Newmarket, Dover, Barrington, Rochester, and other towns in the region had PAYT programs.

Councilor Lawson said Durham had two flows of material, trash and recycling, and asked whether if Durham followed the model Mr. Lisauskas had described, it would be expected that there would be about a 40% reduction in trash, an increase in recycling, and the total of the waste streams should be reduced by about 20% because of changes in buying decisions, and organics being taken out.

Mr. Lisauskas noted that today, there was non-municipal recycling like Goodwill, but said the amount of materials recycled there couldn't be measured. He said PAYT incentivized more recycling, of books, clothes, etc., and said he considered this to be a third waste stream. He said with PAYT programs, people also did more composting of food wastes, and said all of this resulted in a reduction of the overall amount of waste.

Councilor Lawson summarized that with PAYT there was both an increase in recycling, and an overall reduction in waste. He noted that the Northeast Resource Recovery Association's summary of towns' experiences with PAYT programs, and asked if this was good information that they provided. Mr. Lisauskas said it was good information.

Councilor Lawson noted that a concern in some of the emails the Council had received was that PAYT would result in a dramatic increase in illegal dumping. But he said this didn't seem to be an issue with the towns the NHRRA had listed.

Mr. Lisauskas said this issue had been studied extensively by a variety of state environment agencies, as well as the EPA. He said there wasn't an increase in illegal dumping because while there was a new cost, it wasn't onerous, and he also said people understood right from wrong. He said in 1% of communities that did PAYT, there was a temporary increase in illegal dumping. He said if a town had recycling and also handled

bulky waste well to take care of those two streams, there wouldn't be a problem. He noted that for commercial waste, there was a vast amount of illegal dumping pre and post PAYT.

Councilor Tobias noted the difficulty of disposing of some materials, like Styrofoam, and said it was important to make sure that this was addressed through bulky waste collection, etc. She also said her biggest concern was about making sure there was good information about PAYT for students in rental units.

Mr. Lisauskas said Worcester, MA, which had a PAYT program and nine colleges, had reported that there hadn't been a problem. He said the key was outreach and education of landlords, who would then decide to either buy the bags and give them to students, or say the students had to buy them.

Councilor Lawson noted a recent letter in Fosters on PAYT that said the proposed program for Durham was a money grab on the part of the Town. He asked Administrator Selig whether if the Town went forward with it, it could be shown that PAYT revenue had an explicit revenue offset on the expense side, so that when residents bought a bag, they knew this money was specifically going into the sanitation budget to reduce the expense.

Chair Marple noted the composting idea being considered.

Administrator Selig said they could and would do that. He noted the comments on this program being a tax grab, but said this entire initiative came out of the IWMAC, but also focused on Council goals, as Ms. Neal had noted. He asked Mr. Lisauskas what cost(s) towns were trying to offset with the bags, - tipping fees, staffing costs, equipment costs, etc. He noted that the Town had demonstrated that it could do waste pick up more cost effectively than the private sector, which was why it did this. He spoke further. Mr. Lisauskas said there were a variety of ways that towns could offset costs, and set fees, and he spoke in some detail on different approaches that were taken.

Councilor Waters considered how many questions people might have, and suggested there should be a public hearing first and then questions could be answered. He noted the list Bonnie McDermott handed out at the last meeting, and said this was the only time he'd heard specific information on PAYT, and tonight was the second time.

He asked how Styrofoam would be handled. Mr. Lisauskas said some towns said residents had to pay to dispose of it, in bags, while some treated it as a bulky waste, and some towns said it was plastic and wanted to recycle it and not treat it as trash. Councilor Waters asked what residents were supposed to do with things like lacrosse sticks, and the 30 or so items Bonnie McDermott had listed. He also asked what the schedule was for deciding about PAYT, and Chair Marple said that was for the Council to decide.

Councilor Howland said there were three public information sessions, one of which was videotaped. He also said information on frequently asked questions about PAYT was



provided on the Celebrate Durham website, and said this had been a very transparent process.

Administrator Selig said the proposed budget for 2020 was business as usual concerning waste management, so as part of the process of considering PAYT, the Council would need to work through the implementation costs for a program.

Councilor Waters noted that Councilor Howland had spoken about possible seed money for composting at one of the presentations on PAYT. Councilor Howland said if the Town really wanted to reduce waste it couldn't ignore organics, which were heavy, and he noted that tipping fees were based on weight. He said composting of organic wastes was part of moving in a more sustainable direction, both environmentally and economically, and said throwing organics in a lined landfill didn't make any sense. He said given that tipping fees were likely to increase, and that recycling was a volatile market, PAYT, recycling, and dealing with organics provided the best way to control costs in the long run.

Councilor Lawson said the theme in some of the emails from residents was that PAYT couldn't be implemented in a college town. He said the majority of students in Durham lived in managed housing, and asked if those property owners didn't get trash services from Durham so would not be affected by PAYT.

Doug Bullen, DPW Director of Operations, said small to mid-size rental property owners like Peter Murphy used Durham services at the transfer station, but didn't have curbside recycling, so would be impacted by PAYT. Administrator Selig said some of the landlords had recycling programs but some didn't, and said under PAYT those that didn't wouldn't be able to bring their waste to the transfer station.

Councilor Burton said there was the question of why people should pay more taxes than they already did in a high tax town, and asked how to respond to that. Mr. Lisauskas said this presumed that the Town kept the revenue from a PAYT program. He said some communities gave back the revenue from bags back to residents, while other communities said they needed the revenue in order to provide other services. He said his company's recommendation was to give the money back.

Councilor Lawson said over the next 5 years because of increases in tipping fees, the Town would spend \$3.8 million for trash services, including over \$1 million in capital expenditures. He said this was a service to the Town that was not free. He noted that very few towns of Durham's size, with 1800 households, had trash pickup.

Administrator Selig said his preference if the Council moved forward with PAYT would be to calibrate things so revenues did more than offset actual costs. He noted that recycling financials had worked for the Town previously, but this had now changed. He asked whether if the amount of recycling increased because of PAYT, this would increase overall costs for waste management. Mr. Lisauskas said this was complicated, but said the Town would see an increase in the cost of recycling, which would be smaller than the

savings on the trash side. He said this was because the majority of the waste reduction would come from the third waste stream he'd spoken about.

Councilor Waters asked what they could anticipate the cost for a bag would be, and also asked how big the bags were. Mr. Lissauskas suggested that the regular size bag would cost \$1.00-1.10, and a bag twice that size would cost about \$1.50.

Administrator Selig said the Council needed to talk through the costs they might want to offset, such as staff costs, equipment costs, etc. He said they would also need to discuss the organics issue, which would involve creating a new program, and whether the cost of that too should be offset with the cost of the bags.

Councilor Lawson said the Town's data tended to be weight based, while PAYT data was volume based, and said it would be helpful to see independent research that equated them. Mr. Lissauskas said there was an average 44% reduction in weight with PAYT, and a 66% reduction in volume. Councilor Lawson asked what the weight of the bag would be, and Mr. Lissauskas said a typical large bag would weigh 17 lbs.

## **XI. Unfinished Business**

### **A. PUBLIC HEARING on Pay As You Throw Program**

***Councilor Rotner MOVED that the Durham Town Council does hereby OPEN the Public Hearing relative to the possible implementation of a Pay As You Throw program in the Town of Durham. Councilor Corrow SECONDED the motion and it PASSED unanimously 9-0.***

**John Kraus, Cutts Road**, said the Council should let the citizens of Durham decide about PAYT with a vote on the March ballot. He read a prepared statement on this, and said those favoring the program should present their case in order to convince the voters.

**Paul Schlie, Foss Farm Road**, said the metering of water and electricity wasn't strictly analogous to using bags to meter waste. He said trash had historically not been charged for because the Town shouldn't impede the flow of trash. He spoke about how this was a health issue, noting that there would be an accumulation of trash if people needed to use bags. He said that was the reality. He also said he'd done the numbers concerning making money with PAYT, and said it didn't work. He spoke in some detail on these numbers.

**Bonnie McDermott, Dover Road**, said that disposal of clothes if there was a PAYT program, there were already Salvation Army containers at the landfill. She also said if the IWMAC had provided more handouts and had a newsletter like the committee used to do, people would gladly bring their kitchen waste to the transfer station, and more clothes, etc. to the transfer station including the Swap Shop. She said if there was a PAYT program in Durham, there would be no way to keep the Swap Shop, and said no one had provided an answer to her on this issue. She said the Council and the IWMAC should think long and hard about what they were trying to do.

**Bill Hall, Smith Park Lane**, spoke about the dumpster at the transfer station, and said the Town should get rid of it. He said the recent publication didn't say anything about past meetings, and this meeting tonight on PAYT, and said it gave him the idea that someone was trying to go under the radar on this issue. He said he liked the idea of everyone voting on PAYT, because this program would impact everyone in Durham. He said the Town had done a wonderful job of tweaking the existing solid waste management system, and said he hoped it should stay that way for some of the reasons Mr. Schlie had stated.

Councilor Marple said the Council had made absolutely no decision on PAYT.

Mr. Hall said it looked that way because there was no mention of it on the recent flyer that went out.

Administrator Selig said that concerning comments about a lack of transparency, that the Town had provided public notice on the PAYT proposal, and said the Council discussion on it had just started two weeks ago. He said there had been nothing unseemly about this process, and noted that there had been three forums on it this summer. Mr. Hall said there was no mention of it in the flyer that went out to every house in Durham.

**Tracy Schroeder, Bagdad Road**, said she'd been at a recent presentation on PAYT, and said she thought it was the way to go, and made sense from an environmental and economic perspective. She thanked the IWMAC for doing the research on it.

**John Lester, Bay Road** said he liked the transfer station, including the recycling system there. He said it was expensive to live in Durham, and said PAYT seemed to be a solution to a problem that didn't exist. He said perhaps 10% of waste was compostable, and said if he did composting on his property, there would be bears. He said it concerned him that people thought composting would be a beneficial outcome of this program. He also said the cost for the bags was an additional tax, and said there should be some kind of balance.

**Daniel Day** said he was generally in favor of the idea of PAYT, but wanted to make sure it could be implemented in a way that didn't increase costs for residents with average or below average trash production. He said there shouldn't be an added expense, and said PAYT shouldn't price people even further out of living in Durham. He asked about the issue of people sneaking things into recycling bins, as well as the issue of contaminated recycling materials, which could impact the recycling program.

Mr. Lisauskas said with PAYT, there was typically a doubling of recycling, and a 1% change in the amount of contamination.

**Janet Chamberlin, Cold Spring Road**, said she was there to read a letter from resident Sally Needell. She said she supported PAYT, and said she hadn't heard anything that said it shouldn't at least be explored. She noted the increases in tipping fees in recent years, and said there was no "away". She thanked the Council for exploring solutions, and also said she was grateful that they were willing to serve and help residents out.

Ms. Chamberlin read a letter from **Sally Needell, Bagdad Road**, which also spoke in favor of PAYT.

**Julie Kelley, Garden Lane**, noted that she was on the IWMAC. She said as Councilor Tobias had noted, their families were their future, and said she joined the committee for her kids and the other kids of Durham. She said as a member of the committee, she'd learned that the State was running out of landfill space, and that Massachusetts had already run out of space. She said there were very significant challenges because of this, and said they all had the responsibility as citizens of Durham and the state to watch out for their kids and future generations.

**Jerry Olsen, Mill Pond Road**, said he agreed with John Kraus, and said PAYT should be put out for the public to vote on. He said people needed to have confidence about what would be done with the revenues created. He said he tended to support the view that this was a solution looking for a problem, for a town of this size. He noted that he and most other people recycled.

**Joanne Wicklein, Packers Falls Road**, said she supported PAYT, and said especially because recycling materials weren't always getting recycled, this was a way for people to look at how to reduce the amount of waste produced, and to choose products that would be recycled. She said this program would help her do that, and said she wanted to take responsibility for her own waste and how much she paid for this. She said if this program was adopted, she urged that the Council have a discussion with the IWMAC about the Swap Shop remaining a viable option for recycling. She said it could go hand in hand with PAYT, and said input was needed from those residents who worked there.

There was discussion about whether there might be a negative impact on the Swap Shop from a PAYT program. Chair Marple said this was a big issue, but said the Council would not want to be an impediment to the success of the Swap Shop. Mr. Lissauskas said he'd seen terrific participation of swap shops with PAYT programs, and said there was so much good material that came through them, which resulted in effective waste reduction.

**Christina Dolcina, Fogg Drive**, said she supported what Ms. Wicklein had said. She said she was a volunteer at the Swap Shop, and said what Mr. Lissauskas had said about swap shops was perfect. She said she supported PAYT.

**John Caulfield, Woodside Drive**, read a letter into the record from his wife Mary, which spoke in support of PAYT. It said the costs of waste management were going up, and noted specifically the fluctuations in the recycling market. It said PAYT was an economically sensible, environmentally conscious program.

**Julia Belshaw, Cutts Road**, said she was a convert to PAYT after seeing a presentation on it, and learning that there could be a drop of 40% in the amount of trash. She said this was about a behavior change, for something that really wasn't a financial burden.

**Robin Mower, Britton Lane**, read a letter she'd written into the public record. She said in 2010, a visionary member of the IWMAC asked the committee, which was developing a survey for revising the Master Plan to include questions about adopting a community goal of zero waste. She said even though some in Town saw zero waste as a valid long-term municipal goal, that question did not make it to the playoffs, let alone the finals.

She said more was known now about the negative impacts of the throw-away society, much of it based on plastics. She also noted that climate change and human-caused damage to the earth were accelerating, as was population growth. She said uncertainty about future landfill capacity and the economics of waste disposal argued that mitigating steps needed to be taken today.

Ms. Mower said Pay As You Throw programs hit three key points: municipal: rising costs for disposal of solid waste and shrinking landfill capacity; social: fairness of disposal costs; and environmental: reduction in the amount of waste, with potential for reduction in consumption. She said she wanted to focus on social fairness right now.

She said some argued that a user fee with PAYT would cost more for households generating more waste, and she said that was how it should be. She said when possible, trash disposal should be priced as a utility. She said smaller families, including single-family households, had been subsidizing children in the schools through property taxes. She said some residents no longer had, or had never had a child in the Oyster River School district, but every year they paid magnitudes more in school taxes than the small amount that a Pay As You Throw program would cost.

Ms. Mower said they subsidized larger generators of trash regardless of household size, and noted that the cost for trash disposal, for the school district and the municipality was rising, so these portions of taxes would increase. She said the educational system benefited all of society, but said someone else's trash didn't benefit her one iota, so the question was why she should pay for it.

She quoted from a 2016 op-ed in the Bangor Daily News that refuted allegations that Pay As You Throw programs weren't effective or fair: "In Portland, the average household spends just \$0.88 more on trash bags each week than does the average household in a non-pay-as-you-throw city. Pay-as-you-throw offers low-income residents an opportunity they do not have with traditional solid waste payment systems—to control their spending on trash by taking steps such as recycling, composting and donating textiles."

Ms. Mower said PAYT offered everyone the option of controlling both their individual waste and individual costs, and was good for the environment, good for society, and good for households. She said the details of the program would be worked out, as they learned from other municipalities that had adopted PAYT programs, and said they would not be reinventing the wheel.

She noted the article published by *Resources, Conservation and Recycling* in April: "Which US municipalities adopt Pay-As-You-Throw and curbside recycling?" She said it

indicated that among the nearly 2,000 municipalities in the study, “Higher educated and poorer communities were more likely to implement PAYT programs.” She said as was confirmed during the Master Plan update, Durham was a highly educated community, and said she’d hate to think all that knowledge didn’t translate to proactive measures to address the nexus of issues in waste management. She said the real question was whether Durham residents were willing to take small steps that could collectively make an impact, reflecting the environmental and social values they claimed to have.

**Steve Nadeau, Emerson Road** asked if there was data on private disposal increasing as a result of a PAYT program. He also asked if towns generated less trash as a result of PAYT. Concerning composting, he said he couldn’t do it in the winter, but said if the Town did it, this might generate enough heat to keep things going. He said residents didn’t do a good job of separating recyclables in Durham. He asked how enforcement of the fairness of a PAYT program would be paid for. He also asked if residents would be able to drop of questionable materials at Goodwill.

Mr. Lisauskas said only a small percentage of people decided to go with private hauling instead. He also spoke about locking dumpsters. He said the data indicated that there was a person to person reduction in trash as a result of PAYT. He said Waste Zero recommended getting bags that looked like Town bags, in a bright color, so people would be dissuaded from sneaking another bag in. He said it wasn’t necessary to fine people, and said it was enough to make notice of a problem, with a letter. He also said Goodwill reported a significant increase of good high-quality material from PAYT programs, and hadn’t reported an increase in trash.

Mr. Nadeau thanked Mr. Lisauskas for these details. He asked how the truck DPW employees used to do pickup would work with PAYT. He also asked if the Town cared about how much trash it produced, or who paid for it. He said the numbers hadn’t indicated to him that PAYT reduced trash production.

**Don Brautigam, Packers Falls Road** said he’d learned a lot about PAYT and was convinced that it was an opportunity to make people more aware of what they were throwing away, and that it would reduce the amount of trash thrown away.

**Carina Dolcino, Emerson Road**, said she was on the IWMAC, and was also with the Swap Shop, which she said she didn’t want to go away. She spoke in some detail on possible changes to the Swap Shop as a result of PAYT. She said she was in favor of the proposed program, and said it was a fantastic opportunity to think about the trash issue. She said she thought it would have an amazing ripple effect, and help residents make sustainable choices.

**Steve Wolkein, Packers Falls Road**, said he was in favor of PAYT. He said a lot of communities nearby had done this, and said research should be done on how the issues that had been brought up were addressed in those towns.

**Beth Olshansky, Packers Falls Road**, said this was one of the most thoughtful, diligent Town Councils that Durham had had. She said PAYT was an exciting opportunity to change habits, mindsets, and the way they lived their lives. She said it was an opportunity to come together, and said there was good data that showed the program would reduce their trash. She spoke about the idea of pre-cycling, and said she'd already started doing this. She said the environmental stewardship issues involved were huge, and also said there could be cost savings. She said she didn't see that having to pay for the bags was a tax, and said this program would reduce the amount of money needed to pay the landfill for accepting Durham's trash. She said she strongly supported PAYT.

**Nell Neal, Riverview Road**, said as a resident she supported PAYT. She said something much bigger to discuss was the issue of sustainability, and said if PAYT cost her \$104/year, she would gladly pay it because it would give her and her grandchildren a more sustainable life.

**Jennifer Day** said she was on the fence about the proposal, and wanted to know the tax impact, and if the numbers all worked.

Councilor Lawson said he and others were also looking to see documentation on the numbers.

Paul Schlie said the reality was that the problem of plastics in the ocean wasn't caused by landfills. He said he liked the idea of pay as you use being applied to other services in Town, and said there were about 90% of services provided in Durham that he didn't use. He also said he hadn't seen data and analysis presented, or documentation on tonnage, projections, etc. on waste streams, and how PAYT would impact this.

Bill Hall said Durham was once part of a regional waste compact, but said this was discontinued. He said the Town was better off tweaking the system it had now. He said the PAYT proposal should put it on the ballot.

***Councilor Lawson MOVED that the Durham Town Council does hereby CLOSE the Public Hearing. Councilor Howland SECONDED the motion and it PASSED unanimously 9-0.***

Councilor Howland thanked everyone, and said the comments and letters had been very helpful. Chair Marple said a lot of good information and questions had been provided, and said this wasn't an easy issue. Councilor Lawson said most Councilors read every email that came in.

Councilor Burton said if the issue was paying for bags, a question was why the Town would charge for this. Mr. Lisauskas said the bags, which should be readily available, provided a pricing incentive. He said the cost associated with a Town bag provided a signal to recycle. He noted that there were some towns in the Midwest that provided free bags, and said doing this didn't result in waste reduction.

Chair Marple thanked Mr. Lissauskas for being here, and said the presentation and discussion with him were very informative.

- A. PUBLIC HEARING AND ACTION ON ORDINANCE #2019-02 creating a new chapter within the Durham Town Code, Chapter 145 "Tobacco Products", to increase the age for the purchase, use, and possession of tobacco products, e-cigarettes, vaping products or liquid nicotine from 18 to 21 in the Town of Durham

Chair Marple said the Town couldn't dictate and enforce the use of the products, and noted that the Ordinance only limited the purchase of these products.

Councilor Welsh said to him this ordinance wasn't just about e-cigarettes, and was about all tobacco products. He said there was a good rationale for restricting tobacco sales to people under 21, and suggested that the Whereas clauses should reflect that. He said he wanted to note this before the public hearing.

Councilor Rotner said that was a very good point, and also said he had another Whereas to add that perhaps addressed that: "Whereas the impact of nicotine on people in this particular age group is likely to result in addiction, and also has been shown to affect brain development".

Chair Marple agreed that the Whereas' should reflect all tobacco products.

***Chair Marple MOVED that the Durham Town Council does hereby OPEN the public hearing on Ordinance #2019-02 creating a new chapter within the Durham Town Code, Chapter 145 "Tobacco Products" which establishes the age of 21 to be the minimum required age of any individual in the Town of Durham to purchase, use or possess tobacco products, e-cigarettes, vaping products or liquid nicotine and requires Durham merchants to ensure this act by verifying legitimate identification at the time of purchase. and Councilor Tobias SECONDED the motion and it PASSED unanimously 9-0.***

**Hannah Falcone**, a UNH student said she was representing the office of the UNH Student body President and Vice President. She read a statement that asked the Council to table the proposed ordinance until their organization had a chance to discuss its implications at a later date.

**Emma Priorus**, a UNH student, said she was 19, and said this ordinance would affect her. She said she currently didn't use vaping products but a lot of her friends did. She said vaping products that were illegally sold could be filled with things other than tobacco products, which could lead to illnesses. She also said students who were already addicted to tobacco products could go to upper classmen to get these products. She said people would fill them up with fluids that weren't FDA regulated. She said the cannabis vaping products were more likely to cause illness because they weren't sold in stores and



were illegal. She said this whole issue should be thought out more instead of just banning these products. She spoke further.

**Daniel Day** said he was a UNH alumnus, and was opposed to the proposed ordinance. He said he thought public awareness was the best way to go. He said the majority of people who smoked started when they were under 18, so there were people who were already smokers when they came to UNH. He said with this ordinance, they wouldn't stop cold turkey and would experience extra stress. He also said the ordinance would add more inconvenience for adults who were doing an activity that was legal. He said if people were old enough to be in the military, they were old enough to be allowed to smoke. He also spoke about fossil fuel being burned when people drove to other communities to get these products. He noted that there was a story on WMUR today that said vaping wasn't a gateway to smoking.

Councilor Rotner said every study he'd read said vaping lead to nicotine addiction, and he spoke about the significantly higher doses of nicotine in vaping products compared to the dose in cigarettes.

Mr. Day said he didn't disagree, but said there should be education on this problem instead of the proposed ordinance.

Councilor Welsh said age 18-21 was a critical period in terms of getting addicted to nicotine, and he provided some data on this.

**Robin Mower, Britton Lane**, said it was fortunate that a Councilor who had medical experience had brought this forward. She asked if generally speaking, the judgment portion of a brain wasn't fully formed until age 25. Councilor Rotner said yes. Ms. Mower noted examples of age limits for health and safety purposes, and noted that the age for going into the military was a separate issue. She said she knew two people who died of lung cancer, and said she supported raising the age at which addictive nicotine was available.

**Beth Olshansky, Packers Falls Road** said she supported this ordinance because this was a health issue, and said it didn't preclude providing more education about it. She noted that her mother had died of smoking related lung disease.

Ms. Falcone said she didn't vape or smoke, but said a lot of students around her did. She said it wasn't fair to pass this ordinance without first having a conversation with UNH students. She said she'd love to continue this discussion, and could facilitate this.

***Councilor Lawson MOVED that the Durham Town Council does hereby CLOSE the public hearing on Ordinance #2019-02 creating a new chapter within the Durham Town Code, Chapter 145 "Tobacco Products" which establishes the age of 21 to be the***

***minimum required age of any individual in the Town of Durham to purchase, use or possess tobacco products, e-cigarettes, vaping products or liquid nicotine and requires Durham merchants to ensure this act by verifying legitimate identification at the time of purchase. Councilor Tobias SECONDED the motion and it PASSED unanimously 9-0.***

Administrator Selig asked if it might make sense to bring the Resolution back, with non-substantive revisions, and get input from Student Senate. He suggested that a resolution could be provided by the Student Senate.

Chair Marple said the points made by Ms. Falcone and Ms. Priorus were valid, but she said one of the missions of the Town Council was to protect the health and welfare of Durham citizens. She noted that Dover had recently raised the age to 21.

Councilor Rotner noted that education on the perils of smoking had had a marginal effect. He said they were up against multi-million companies who flooded markets. He said while the incidence of smoking had been going down, then along came Jewel. He said to try to turn that tide, the Council needed to make a statement, and said they wanted their community to be safe and healthy. He spoke about healthcare costs, and lost productivity because of addiction to nicotine products. He said there was currently a crisis at the High School with vaping, and said they needed to get on top of this. He said like the trash problem, this was an incredibly important issue in regard to health and future well-being.

Councilor Welsh noted the comment made that students coming to Durham were already addicted, so this ordinance would make things difficult for them. But he said there were people coming to Durham who weren't yet addicted. He said this ordinance could save peoples' lives. He said young people were at a critical age, and these companies knew it and targeted them because they needed replacement smokers as their revenue source. He said it would be difficult for him to vote against this ordinance because he cared about the lives of the students.

Councilor Howland said the Council wanted Student Senate representatives at Council meetings, for reasons like this. He said he applauded the reps here this evening for coming forward, and said having a dialogue would increase the probability of doing something meaningful. Councilor Tobias said she thought the Council needed to connect with the students on this, and said buy-in from them would be needed. She said she was concerned about how people would get these products if they weren't available locally.

Administrator Selig suggested bringing this back at the Council meeting on December 2<sup>nd</sup>, which would give the students some time to provide something. Ms. Falcone said that would work.

Councilor Lawson said this had been in the works for over a month, and said while he appreciate the idea of getting input from students, he thought it was incumbent on the Senate to work at the Council's pace, rather than slow things down. Councilor Howland said the most important thing was to have an effective ordinance. Councilor Lawson said normally, the Council would have passed this tonight.

***Councilor Tobias MOVED to extend the meeting beyond the 10:30 adjournment time. Councilor Corrow SECONDED the motion and it PASSED unanimously 9-0***

Chair Marple asked if it would be possible for the UNH Student Senate to provide a Resolution for the Council's next meeting, and Ms. Falcone said yes.

Councilor Lawson said the Council needed to figure out a way to educate student UNH representatives on the Council's processes.

- C. Discussion regarding how Durham can continue to remain environmentally and economically strong and vibrant

Postponed

## **XII. New Business**

- A. Review and discuss proposed Town Charter amendments wording recommended by the Administrator to be placed on the March 10, 2020 Town Election ballot and schedule a Public Hearing on said proposed amendments for Monday, December 2, 2019

Administrator Selig said he and Jen Berry had been keeping a list of items, mostly minor modifications, for amendments to the Town Charter. He said the most significant item was the threshold for bonding, which was currently \$1 million for a single issue, and required a 2/3 vote by the Town Council and the Town. He suggested that this threshold should be modified to reflect the rate of inflation, which would be \$2.3 million. He said discussion on this was needed.

Councilor Lawson asked whether the number could be adjusted after the public hearing, hearing. Administrator Selig said it was possible that if the number changed, a subsequent hearing would be needed, but said he wasn't sure about this. Councilor Lawson said he understood how this number was arrived at, and also asked if they needed to go with that number based on their experience with this issue.

Administrator Selig said he/d found that routine items were triggering the need to bond them, and provided an example of this. Councilor Lawson said he'd seen items that crossed the \$1 million threshold, so the number did need to go up, and said he guessed that a \$2.3 million threshold was fine. Administrator Selig noted the cost of the recent hard pipe project, and the upgrade of the Police Dept. facility in regard to the \$2.3 million number.

Chair Marple asked if Councilors had questions about the other items on the list.

Councilor Corrow said he didn't know why 5 alternate members would be needed for the HDC. There was discussion. Town Planner Michael Behrendt said the statute allowed a maximum of 5 alternates, and noted that the HDC didn't weigh in formally on this. Councilor Corrow said he thought there should be a maximum of 3 alternates. Administrator Selig said he agreed.

Councilor Burton spoke about moving to use gender neutral language, and there was discussion. Administrator Selig noted that there was language on page 7 in Article X that addressed this: "No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any town position or appointed town administrative office because of age, race, sex, sexual orientation, gender identity, political or religious opinions or affiliations."

***Chair Marple MOVED that the Durham Town Council does hereby schedule a Public Hearing, in accordance with RSA 49-B:5, for Monday, December 2, 2019. to schedule hearing Councilor Welsh SECONDED the motion and it PASSED unanimously 9-0.***

- B. **FIRST READING ON ORDINANCE #2019-03**, a Planning Board-initiated amendment to Chapter 175 "Zoning" of the Durham Town Code to rewrite Article :XXI- Off Street Parking, and to modify other language in the Zoning Ordinance pertaining to parking

Mr. Behrendt said several years ago, most of the provisions were removed from the Parking section of Zoning Ordinance because most of them dealt with commercial and multifamily uses so belonged in the Site Plan regulations. He said it was subsequently realized that some of the things taken out should also apply to regulating single family uses. He said some revisions were worked on, which also came to include cleaning up some of the language in the provisions, and putting all parking related Zoning provisions in one place in the Ordinance.

He said the proposed Off Street Parking ordinance was worded so that everything in it applies only to single family houses and duplexes, except where it specifically said otherwise. He said the Planning Board tried to deal with how to handle driveways, setbacks, which residential zones should be affected, the maximum number of cars on a lot, renting out of a lot, etc.

Mr. Behrendt said as part of working on all of this, the Planning Board spent time wrestling with how to best protect neighborhoods without infringing on homeowners' rights. He noted the proposed provision under A.2 on page 6: Number of vehicles – There shall be no more than 3 vehicles parked on a regular basis on a residential lot in the Residence A and Residence B Districts. However, more than 3 vehicles may be parked on the lot if the property owner demonstrates that they are for use by lawful occupants of the dwelling unit, as demonstrated by records acceptable to the Zoning Administrator."

He said some Planning Board members didn't like the 3-vehicle maximum, so the proposed language included wording that said property owners could get approval for

more cars if they could show they were for lawful occupants, and said this shouldn't be burdensome.

There was discussion about why just the RA and RB districts were included in this provision

Councilor Welsh noted that the provision limited the number of vehicles to 3 as well as what could be put in a garage.

Councilor Corrow noted his own situation, having 4 cars, and asked about enforcement. Councilor Waters said he had more than 3 vehicles, and asked what he would have to do. There was discussion about having to register extra vehicles, and that if someone didn't do this, he didn't need to worry unless there was a complaint.

Councilor Lawson said limiting the number of vehicles to 3 could have a profound, positive effect on neighborhoods, and said having to register any more than 3 would only take a few minutes. Councilor Waters asked what the profound change would be. Chair Marple said this provision would make it easier to enforce parking at student rental properties. Councilor Lawson said there were single family homes in Durham where landlords totally disregarded Town ordinances, and crammed students into them. He said it was very difficult to enforce the 3 unrelated rule, and minimize impacts on a neighborhood, and said this provision was an important way to do that. Chair Marple said cars parked at a house was one way to tell that there were more than 3 unrelated people living there.

Councilor Howland suggested that residents could register their additional cars when they registered their cars. Councilor Tobias spoke further on the process.

Chair Marple noted that some driveways didn't have appropriate dimensions for providing parking, and asked if they would need to be ripped up with this Ordinance. Mr. Behrendt said those driveways were grandfathered.

Councilor Rotner said it was not only the visual impacts from vehicles in neighborhoods that was a problem, and said there the noise issues, and he noted noise from trucks in particular. He said he supported this provision, and said staff could figure out how best to enforce it.

***Chair Marple MOVED that the Durham Town Council does hereby move on First Reading as presented Ordinance #2019-03 a Planning Board-initiated amendment to Chapter 175 "Zoning" of the Durham Town Code to rewrite Article XXI - Off Street Parking, and to modify other language in the Zoning Ordinance pertaining to parking and schedules a Public Hearing for Monday, November 18, 2019. Councilor Rotner SECONDED the motion, and it PASSED 8-1 with Councilor Waters voting against it.***

- B. Initial presentation of the Administrator's proposed FY 2020 Operating, Capital, and Special Fund Budgets and the 2020-2029 Capital Improvement Plan D. Other Business

Administrator Selig provided an overview of the proposed Budget documents and CIP, and explained how everything was presented in these documents. Among other things, he noted the key findings spelled out in his summary letter in the Budget document. He said this year's budget cycle has resulted in a proposed 2020 General Fund budget totaling \$16,635,510, which represented a spending increase of \$514,200, or a 3.2% increase compared to FY2019.

He said these increases were due to required wages and benefits as a result of collective bargaining contracts, a 2% COLA for non-union personnel, insurance increases, debt service costs, and other miscellaneous requests that would be discussed as part of the upcoming Budget and CIP review process. He said non-property tax revenues were expected to decrease in FY 2020 by approximately, \$66,000 or .09% to \$7,159,875.

He said the Budget proposal was projected to increase the 2020 local municipal portion of the tax rate by 4.19% from \$ 7.60 to \$7.92, which was an increase of 32 cents. He noted that the tax rate had remained at \$7.37 (formerly \$8.48 but adjusted due to 2018 statistical revaluation update) for 2015, 2016, 2017, and 2018. He said the proposed increase would cost the average Durham property taxpayer with a home valued at \$350,000 an additional \$112.00 in taxes for 2020.

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

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

**XV. Adjourn**

*Councilor Tobias MOVED to adjourn the meeting. Councilor Waters SECONDED the motion and it PASSED unanimously 9-0.*

Adjournment at 11:18 pm

Victoria Parmele, Minutes taker