

**This set of minutes was approved at the March 2, 2020 Town Council meeting**

**DURHAM TOWN COUNCIL  
MONDAY, FEBRUARY 3, 2020  
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; Town Engineer April Talon; Police Chief Dave Kurz; Code Administrator Audrey Cline

**I. Call to Order**

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

**II. Approval of Agenda**

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

**III. Special Announcements - None**

**IV. Public Comments - None**

**V. Approval of Minutes**

January 13, 2020

*Councilor Lawson **MOVED** that the Durham Town Council does hereby approve the January 13, 2019 Minutes as presented. Councilor Corrow **SECONDED** the motion and it **PASSED** 6-0-3, with Councilor Rotner, Councilor Waters and Councilor Tobias abstaining because of their absence from the meeting.*

January 27, 2020

*Councilor Rotner **MOVED** that the Durham Town Council does hereby approve the January 27, 2020 Minutes as presented. Councilor Tobias **SECONDED** the motion and it **PASSED** unanimously 9-0.*

**VI. Councilor and Town Administrator Roundtable**

Councilor Tobias said Celebrate Durham was looking at some great opportunities for events this year. She said they'd gotten a lot of input on this from downtown businesses,

including Brian Keegan of Oyster River Cycle & Sport. She noted as an example the Winter Trail Tromp that was coming up

Councilor Howland said at the last EDC meeting, it was decided that Economic Development Director Christine Souter would meet with the building owners on Jenkins Court, to hear what they had to say about possible street design changes there. He also said he talked to DCAT Coordinator Craig Stevens about the idea of providing EDC and IWMAC information on the Town website.

Councilor Rotner reported on the Parks and Recreation Committee. He said things were going well at the Jackson's Landing rink. He noted the upcoming Sweetheart dance, and also spoke about other recreation programming.

He reported on the Land Stewardship Subcommittee, and provided details on the Winter Trail Tromp event, which would take place on four Town owned properties. He said Brian Keegan had done a lot of work on this event, and also noted that he'd helped with the bike trail near the skating rink. He said there were plans to have an activity each month on a Town owned property, and said these activities were being coordinated by the Land Stewardship Committee, Parks and Rec, and Celebrate Durham. He noted as an example the upcoming trip to explore vernal pool habitats in Durham.

He said a next step for the Subcommittee was to standardize the trails on Town owned properties so they would be as user friendly as possible. He said this standardization would include providing trail maps. He noted that two historical panels were being put together for Doe Farm. He said they were looking at having a more formalized network of people on the LSC, to ensure that the momentum continued. He said a focus this year would be on a new property in the Longmarsh area. He also said they needed to work on the trail network at Wagon Hill Farm.

There was discussion on the School Board deliberative session this week.

Councilor Burton said the Energy Committee would be meeting this week with the people who'd designed the new Middle School. He noted that it would be one of the first Net Zero buildings in the state, and he urged people to come to the meeting. He said Committee member Nate Balch and School Board members deserved a lot of credit for the work on this.

Councilor Burton said he'd recently spent a few days in Concord watching some legislation, including one he was opposed to (HB1649) that would establish a road usage fee that penalized vehicles that got better gas mileage. He said the other bill (HB1650) proposed to adjust vehicle registration fees to take into account vehicle weight and miles traveled, relating to wear and tear on the road. He said everyone had a stake in the quality of the roads in New Hampshire. Councilor Welsh asked why not simply raise the gas tax, and there was discussion. Councilor Burton said charging people for being energy efficient made no sense from an environmental perspective. He also said basing a charge on the weight of a vehicle and the distance it traveled was extremely complicated.

Councilor Burton also noted that there were 12 bills this session that dealt with solid waste, 9 of which were in the House, and 3 of which were in the Senate. He said one included some money in support of solid waste. He said it was realized that solid waste management was a state responsibility, and also noted that it was on the list of issues that Strafford Regional Planning Commission wanted to address.

Councilor Lawson said at the most recent Conservation Commission meeting, they reviewed an application for the proposed culvert on Bennett Road at Beaudette Brook. He said in the past it required a minor wetland permit, but said the permit documentation had now become far more detailed and cumbersome.

He said there was a preliminary review of the Garrish Road subdivision application, and said many residents of the neighborhood came to the meeting. He said the comments provided by Conservation Commission members on the application were diverse, but there were no specific recommendations made to the Planning Board at this point. He said the meeting highlighted a quandary, which was whether, when there was a wide range of views on an application, Council members should represent a consensus view of the Council, or should do what they thought was best. He said he'd like the Council to have a discussion on this in the spring.

Councilor Lawson said he met with the Chair of the Planning Board last week to discuss the schedule for the proposed Solar ordinance. He said Chair Rasmussen preferred to deal with it after addressing the Agriculture ordinance proposal. Councilor Lawson said he'd be speaking with Administrator Selig about the best way for the Working Group to proceed concerning the Solar ordinance, in terms of initiating changes from the Council to the Planning Board. He said as the Working Group brought something forward to the Council, it might be worthwhile for the Council to have a public hearing to get input before the proposal went back to the Planning Board.

Councilor Welsh said at the most recent Planning Board meeting, there was a presentation on the application to redevelop Mill Plaza, as well as a public hearing and discussion on the proposal. He noted that residents of the nearby neighborhood had hired a lawyer, who was at the meeting and brought up the question of whether the current proposal should be viewed as a continuation of the prior proposal. He said there would be continued presentations and public hearings on the project on a monthly basis.

He spoke about the recent site walk for the Piscataqua Road subdivision application. He also noted proposed changes to the Historic District ordinance that were presented at the recent Planning Board meeting.

There was discussion about the fact that Councilor Welsh wasn't running again for the Town Council, which meant that he would also be stepping down from the Planning Board and didn't plan to seek reappointment to that board.

Councilor Burton asked what the status was of the court case between Mill Plaza and the Town. Administrator Selig said the court was waiting for the Town to resolve its

differences with the developer, and had been notified that time was needed for the parties to work things through, which was happening with the Planning Board review process. In response to a question from Councilor Burton, he said the court would not have to ultimately approve the agreement made with the developer. He explained that if one side or the other felt that elements of the agreement weren't fulfilled, it could reactivate the case. But he said for the time being, the court was happy to let the review process before the Planning Board take place.

Councilor Rotner said the stewardship of wetlands was incredibly important and was often discussed by the Land Stewardship Subcommittee. He noted that the LSC had discussed the idea of planting trees, and also having areas without trees to help absorb carbon. He said a conversation by the Council on the wetlands issue would be valuable.

Councilor Rotner said they would be sorry to see Councilor Welsh go. But he said Kitty Marple and Sally Tobias would still be here, and he also thanked Sally Needell for putting her name in to serve on the Town Council.

Administrator Selig provided several updates.

- The NH Primary is next Tuesday
- The filing period for local offices closed on Friday. There are no contested positions. Kitty Marple, Sally Tobias and Sally Needell are on the ballot for the 3 Town Council positions.
- Police Chief Dave Kurz will be retiring on July 4<sup>th</sup>, but in the meantime is not a lame duck. There is a detailed transition plan for the position, involving Renee Kelley's promotion to Chief, and promotion of David Homestock to Deputy Chief. There will also be a promotional process that will allow other officers to compete for the Captain position.
- DPW Director Mike Lynch will be retiring in mid-June. There will be a search process to replace him, which will be overseen by Municipal Resources Inc., and will include having retired DPW professionals help vet the applications.
- Last week, he and Economic Development Director Christine Souter went to Maryland to meet with Elliot Sidewalk Communities and UNH officials concerning a concept to create a mixed-use project on the 66 Main St. property that would include graduate student housing. He said there was a wide-ranging discussion on various interests, and said more details on the meeting would be provided in the Friday Update. It was noted that at this time, the hotel project is not going forward.
- Harry Tobias, who works for Siemens, has donated a new electric charger for the Library. He noted that Energy Committee members had coordinated this effort.
- Administrator Selig he would provide some remarks at the ceremony at the Community Church of Durham on Sunday to welcome the new pastor.
- There was an interesting meeting on January 21<sup>st</sup> with representatives of the Town, the University, the School District and a consultant, concerning the development of an updated emergency operations plan and a new continuity of operations plan. He

said this was the first of six 3-hour sessions. He noted that the Town got a grant for the project from the Office of Emergency Management, and said Durham's match would be addressed with in-kind hours.

- There are two collective bargaining efforts going on, one for DPW employees, where there was almost a tentative agreement, and one with the Durham Professional Municipal Management Association for middle management employees.
- Information on the year-end gross earnings of Town staff available on the Town website.
- Wagon Hill Farm has made it to the State Registry of Historic Places. He noted the work of some Durham residents to make this happen.
- The structural evaluation of the old Courthouse building and the Wagon Hill farmhouse was recently completed.

Councilor Burton spoke about the construction going on in the woods parallel to Route 4, and it was noted that this was related to the sewer line work the Town was doing.

Councilor Burton said UNH was in the throes of a major layoff, and said the plan for this was significant and was available on the UNH website. He noted that this could possibly reverberate in the Town.

Councilor Waters asked Councilor Lawson what was driving the complexity of the wetlands permit application he had passed around. Councilor Lawson said until recently, when someone applied for a permit for a project with minor wetland impacts, there was a straightforward, short permit application. He said the application from NHDES now required input from several disciplines, and said it would be costly for municipalities.

Councilor Rotner said it was the recognition of how important wetlands were that had driven these changes, and noted that this was a reason the Land Stewardship Subcommittee was focusing on vernal pools. Councilor Lawson said as a knowledgeable lay person, he thought it was a little excessive, but said it was the requirement. He said it would be interesting to see if the culvert application was approved.

Councilor Waters said the suggestion on a consensus approach versus individual comments was a good one.

Chair Marple asked what they would do if the corona virus came to Durham. Administrator Selig said there was a regional plan to address a mass outbreak of a virus. He said if this happened at UNH or in the Town, the Whittemore Center would probably be used to house/contain/vaccinate people. He also explained that there would be a regional approach, and said the Office of Emergency Management and the NH Dept of Public Health would play a role in this. He said pandemic planning was in place, and said it was developed several years ago after the avian flu appeared.

Councilor Rotner spoke about contingency planning, and said it included dealing with pandemics. He noted the role that local hospitals played in this planning.

Administrator Selig said this was a great example of an issue that the Town's emergency operations planning would address. Councilor Burton noted that there were a number of students from China attending UNH. He spoke in some detail about the flu situation in China, and there was discussion. Councilor Rotner noted that the "regular" flu was going around, which people did die from, and said it wasn't too late to get a flu shot. He also noted that a large number of people died from gun violence. Councilor Lawson said 8,000 people in the US had died from the regular flu as of January, and said a total of 20,000 people would die from it by the end of the flu season.

**VII. Report from the UNH Student Senate External Affairs Chair or Designee - None**

**VIII. Unanimous Consent Agenda**

Shall the Town Council, upon recommendation of the Administrator, approve a Special Event Permit/Road Closure application submitted by Maura M. Slavin to close certain sections of town roads for the annual Marina's Miles 5k race to be held on Saturday, April 18, 2020?

*Chair Marple MOVED that the Durham Town Council, upon recommendation of the Administrator, approves a Special Event Permit/Road Closure application submitted by Maura M. Slavin to close certain sections of town roads for the annual Marina's Miles 5k race to be held on Saturday, April 18, 2020. Councilor Howland SECONDED the motion and it PASSED unanimously 9-0.*

**IX. Committee Appointments - None**

**X. Presentation Item**

Lessons learned from the Littlehale culvert replacement project - April Talon, Town Engineer

Ms. Talon first noted a sign that would be installed at the site to educate people about the best management practice (BMP) structures that had been installed there, and the importance of stormwater management. She said one was a bioswale, and another was tree planters, which captured a significant amount of stormwater from the roadway. She provided details on how tree planters functioned, explaining that they fed the trees while also cleaning up the stormwater, recharging ground water into the ground and providing additional flow in the stream.

She provided data on the two BMPS, concerning the quantity of groundwater they treated and the amount of nitrogen removal they provided. She said they were cost-effective when included as part of a roadway project. She noted that the \$75,000 grant received from NHDES for the culvert replacement project, which required that these BMPs be installed to remove stormwater going directly into the Little Hale culvert. She spoke further about the project, and said the DPW was very happy with it.

There was discussion about the nitrogen that was removed by the two different BMPS. Councilor Lawson confirmed that vegetation in the bioswale consumed the nitrogen, and

the trees consumed it in the tree planters. Councilor Welsh asked how this helped with the MS4 permit. Ms. Talon said Little Hale Pond was on the list of impaired waterways, and said with this project the impairment was removed. She said they were also able to use this as part of the MS4 permitting reports, and potentially with the general nitrogen permit. Councilor Welsh asked if there was a way to quantify in the permit how much nitrogen needed to be removed, and if this project counted against that. Ms. Talon said yes, and said this as well as other structural and nonstructural BMPS got counted.

There was discussion about the large rip rap size, and further work to be done. Councilor Rotner also asked if there should be something constructed at the site to protect kids from a water area that was like a small swimming pool. Ms. Talon said she had talked to Rob Roseen about how to modify it. She explained that it was cost effective to use a standard concrete tank size for that location, and said if they had gone to a smaller size for the tank, the cost would have gone up a lot. She said it wasn't designed to pond water for an extended period of time. She said during a rain event, there was a lot of water there all at once. She spoke about ways to reduce the capacity of the tree holder, and also said there had been discussion about including a sign there. She said there would also be vegetation around the tank to shield it.

Councilor Rotner noted that the Land Stewardship Subcommittee had said that with the dam and pond gone, there was some attractive vegetation going in. He asked if it made sense to approach the landowners about working with the Town to make sure that it could be a landscape everybody would want. Ms. Talon said there hadn't been discussion about this, but said she'd be happy to have that discussion. She said they were keeping an eye on possible invasives. Councilor Rotner said it was a good idea to get ahead of things rather than having to play catchup later.

Administrator Selig noted the water and sewer lines that were rebuilt as part of the culvert project, and asked if there were lessons learned for the Town with this project. Ms. Talon said these projects were complicated, involving many steps. She spoke in some detail on the need to maintain the function of the lines while the work was going on. She also said it was a wetland permit application and a dam removal application, involving some overlap. She said in the future, the permitting process would happen earlier.

## **XI. Unfinished Business**

- A. Shall the Town Council, upon recommendation of the Administrator, approve Change Order #2 for the Dover Road Force Main Project in accordance with Section 11 of the Town Purchasing Policy, to Sargent Corporation of Stillwater, Maine in the amount of \$344,100 and authorize the Administrator to sign associated documents?

Chair Marple noted that this was originally on the Unanimous Consent Agenda, but Councilor Rotner thought there might need to be more discussion about it.

Councilor Lawson said this change order and project was completed utilizing available and allocated funds. Councilor Welsh asked what the left-over balance would be used for. Ms. Talon provided details on how the remaining money in the fund would be used.

***Councilor Rotner MOVED that the Durham Town Council does hereby, upon recommendation of the Administrator, approve Change Order #2 for the Dover Road Force Main Project in accordance with Section 11 of the Town Purchasing Policy, to Sargent Corporation of Stillwater, Maine in the amount of \$344,100 and authorizes the Administrator to sign said change order with the monies to come from Account #07-2021-221-36-000. Councilor Corrow SECONDED the motion and it PASSED unanimously 9-0.***

- B. **PUBLIC HEARING AND ACTION ON ORDINANCE #2020-01** amending Chapter 153 "Vehicles and Traffic", Section 153-34 "Schedule II: Speed Limits" of the Durham Town Code by reducing the speed limits on a number of roads in the Woodridge neighborhood from 30 mph to 25 mph

***Councilor Rotner MOVED that the Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2020-01 amending Chapter 153 "Vehicles & Traffic", Section 153-34 of the Durham Town Code by reducing the speed limits on a number of roads in the Woodridge neighborhood from 30 MPH TO 25 MPH; to open the public hearing Councilor Lawson SECONDED the motion and it PASSED unanimously 9-0.***

**Linda Saxton, Mill Road** said she supported this ordinance, and also said the safety of the neighborhood as a whole would be enhanced if a portion of Mill Road that was part of the neighborhood was included in the ordinance. She said it shared the same traffic issues, and had 4 intersections and 20 driveways in 0.7 of a mile. She said residents from all of Durham used the road for walking and bicycling, and also said it had higher traffic counts and speeds because of drivers of service trucks and others who failed to observe the speed limit and share the road. She noted that there were some sharp, blind curves on the road. She said this ordinance would set the tone for the entire neighborhood. She said the road wasn't designed to include nonvehicular traffic, and said there should be more accommodation for safety. She provided details on this.

Ms. Saxton said she didn't want to delay progress of the passage of this ordinance, so she and others were prepared to pursue the speed limit for Mill Road on their own.

Chair Marple said that could occur as part of a separate ordinance from the currently proposed ordinance.

Councilor Lawson said Ms. Saxton had made a very good point, and said Administrator Selig should bring it up at the Traffic Safety Committee. He said data collected indicated that there were a large number of cars that went fast, and he spoke about the concept that roads were for more than just vehicles. Councilor Corrow said he frequented the road as a runner, and said it was treacherous, as was the case on Durham Point Road.



Councilor Welsh noted a request in a letter from a resident to extend the sidewalk. He asked what would be involved with that. Administrator Selig said they would have to evaluate the extent of right of way, and said if there was room to add a sidewalk, they could calculate the cost for installing it. He said Town staff could check that out.

**Sonny Scott, Mill Road**, said he had a 4 and a 6 year old and lived on a blind corner on Mill Road. He noted other families that lived along that stretch, and said he'd love the Town to think beyond speed limits in the future, and look at putting in a sidewalk, a mirror on blind turns, and perhaps a speed table. He said there were sharrows there but they didn't seem to be that effective, and said cyclists were pushed to the side or had to stop when cars went by. He said with the amount of traffic in the area, he hoped pedestrians were at the forefront of everyone's thinking.

***Councilor Rotner MOVED that the Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2020-01 amending Chapter 153 "Vehicles & Traffic", Section 153-34 of the Durham Town Code by reducing the speed limits on a number of roads in the Woodridge neighborhood from 30 MPH TO 25 MPH; to open the public hearing Councilor Corrow SECONDED the motion and it PASSED unanimously 9-0.***

***Councilor Rotner MOVED that the Durham Town Council does hereby ADOPT as presented Ordinance #2020-01 amending Chapter 153 "Vehicles & Traffic", Section 153-34 of the Durham Town Code by reducing the speed limits on a number of roads in the Woodridge neighborhood from 30 MPH TO 25 MPH. Councilor Tobias SECONDED the motion and it PASSED unanimously 9-0.***

- C. **PUBLIC HEARING AND ACTION ON ORDINANCE #2020-02** amending Chapter 153 "Vehicles & Traffic of the Durham Town Code by creating a new section, Section 153-20.1, "Patron Parking" governing patron parking at the Durham Public Library parking lot

Councilor Rotner said as discussed at the Traffic Safety Committee, there was a suggested amendment to the proposed ordinance that it shall not apply at hours when the library was closed, with the understanding that there was a ban on overnight parking. He said in this way, people could park there for functions in the evening for a few hours. He said the Library was on board with this. Councilors were ok with this amendment.

***Councilor Rotner MOVED that the Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2020-02 amending Chapter 153 "Vehicles & Traffic": of the Durham Town Code by creating a new Section 153-20.1 "Patron Parking" at the Durham Town Library parking lot. to open the Public Hearing. Councilor Corrow SECONDED the motion and it PASSED unanimously 9-0.***

**Robin Mower, Britton Lane**, thanked Councilor Rotner for the suggested amendment. She also asked if the Council could urge the Library Trustees to develop a system for having permission cards that people could put in their windshields if they needed to park

there, in situations where they would like to use the Library and also go someplace else in the neighborhood.

***Councilor Rotner MOVED that The Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2020-02 amending Chapter 153 "Vehicles & Traffic": of the Durham Town Code by creating a new Section 153-20.1 "Patron Parking" at the Durham Town Library parking lot. Councilor Corrow SECONDED the motion and it PASSED unanimously 9-0.***

***Councilor Rotner MOVED that the Durham Town Council does hereby ADOPT as amended Ordinance #2020-02 amending Chapter 153 "Vehicles & Traffic": of the Durham Town Code by creating a new Section 153-20.1 "Patron Parking" at the Durham Town Library parking lot.***

Councilor Welsh asked if what Ms. Mower had said needed to be included in the ordinance. Councilor Rotner said the Traffic Safety Committee thought the Library personnel could address this. There was further discussion. Chief Kurz said the ordinance was driven by the Library Trustees, and said he thought something could be worked out.

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

**D. PUBLIC HEARING AND ACTION ON ORDINANCE #2020-03**, a Council-initiated ordinance amending certain sections of Chapter 175 "Zoning" of the Durham Town Code to address concerns related to short-term rental establishments

Councilor Welsh provided a brief presentation on the ordinance. He noted that former Councilor Jay Gooze had developed something on short-term rentals a few years ago, which provided the framework for the current document. He said at that time, the Council decided to wait. He said the goal now was to find a balance between private gain and the public good concerning short term rentals. He read a prepared statement on this, which among other things identified the key points as to why the ordinance was needed.

He described the process of developing the ordinance, including the work that the Planning Board had done on it. He said they took this work seriously, and took a lot of public comment at several meetings. He said the final document was a good compromise, noting that some people wanted a stricter ordinance that prohibited the use. But he said the final document was balanced, keeping short term rentals out of close neighborhoods where they would be problematic, but allowing them where they wouldn't bother the neighbors.

Councilor Welsh reviewed the key provisions of the ordinance. He also noted that some people were intrigued with the idea of handling this use through a licensing program, and said he spoke with a NHMA lawyer about this approach, who said it was uncharted legal waters. He said the Town Attorney also recommended against doing this because there was no enabling legislation to allow the Town to do the licensing, and because if the Town was challenged, they would be unlikely to prevail in court. He said the protections

really needed to be in the Zoning Ordinance. He said the licensing approach could perhaps be considered in the future.

Councilor Rotner spoke about the fact that the properties would be subject to periodic safety inspections as part of the Ordinance. There was discussion on this.

***Councilor Welsh MOVED that the Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2020-03, a Council-initiated ordinance amending certain sections of Chapter 175 "Zoning" of the Durham Town Code for regulation of short-term rental establishments and, in accordance with Section 175-14. A of the Durham Zoning Ordinance. Councilor Tobias SECONDED the motion and it PASSED unanimously 9-0.***

**Jay Gooze, Meadow Road**, spoke in favor of the ordinance. He said when he proposed regulating short-term rentals a few years ago, people weren't sure how much of a problem they would be. He said requiring the owner or owner's representative to be present when a property was rented was an important provision of the currently proposed ordinance. He spoke about the community oriented policing program in Durham, where if there was a problem because of student renters impacting nearby properties, the officer would talk to the students. He said this program had worked wonderfully, but said with short term rentals, there was no ability to do something like this.

Councilor Burton thanked Mr. Gooze for the work he'd done on this issue.

**Dennis Meadows, Laurel Lane** said Councilor Welsh had done a reasoned job on this ordinance, and also said there was passionate discussion about it at Planning Board meetings. He said it would affect him personally, in restricting his ability to do a short-term rental and make some extra income. But he said he strongly supported the ordinance. He noted that when he moved here, he thought carefully about where he wanted to live.

He said the ordinance was meant to address people who would acquire properties in order to make them into short-term rental properties, and he noted that Dover currently listed over 300 properties on Airbnb. He said the ordinance wasn't perfect, and would cause some hardships, but said he trusted that the Special Exception provisions would suffice.

Mr. Meadows said those who were against something were often more vocal and present than those who were in favor of it. He spoke about two possible reasons for blocking the ordinance, one which was that it wasn't perfect, and the other that it wasn't fair to property owners. He said he thought both justifications were wrong. He said they should implement the proposal now, and said if there were mistakes, something could be done about them. He said without the ordinance, Airbnb's would explode, and there would be no going back. He spoke further on this.

**Robin Mower, Britton Lane**, thanked Councilor Welsh, Mr. Behrendt, Code Officer Audrey Cline and the members of the Planning Board for the work they'd done on the ordinance. She said some people were probably wondering if Durham really had a

problem with short-term rentals. She said at a Spring 2019 planning conference, it was noted that people sought short term rentals if they were located near the ocean, a college, a hiking destination, etc.

She noted that when she lived in the Faculty neighborhood and was on the Town Council, her neighbors asked her about what they could do about an Airbnb on Valentine Hill Road. She said it was understood that home occupations could impact neighbors, and said in some ways this ordinance was an extension of regulating home occupations. She said she supported the ordinance.

**Beth Olshansky, Packers Falls Road** said she supported the proposed ordinance, and said she'd watched it go through the various Planning Board discussions. She said the current version was very thoughtful, and considerate of many points of view. She said as a college Town, Durham had to go above and beyond what other communities had to deal with. She spoke about the importance of being protective of the neighborhoods in various ways, and said this ordinance was part of that.

***Councilor Welsh MOVED that the Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #202003, a Council-initiated ordinance amending certain sections of Chapter 175 "Zoning" of the Durham Town Code for regulation of short-term rental establishments and, in accordance with Section 175-14. A of the Durham Zoning Ordinance. Councilor Corrow SECONDED the motion and it PASSED unanimously 9-0.***

Councilor Burton asked if the language on following the codes noted in the ordinance was adequate. Code Administrator Audrey Cline said there were the same Building and Life Safety Codes to be followed as was the case for a typical single-family home. She said the property was looked at as a single-family dwelling, rather than as a boarding house, and noted that this was why there was a 3-room limit.

Councilor Lawson said he first ran for the Town Council 9 years ago, and said at that time there was a focus on the integrity of the neighborhoods, which were the heart and soul of the community. He said since then, modest progress had been made on maintaining this integrity. He said without this ordinance, he believed that the progress that had been made would be in total jeopardy. He said he appreciated Councilor Welsh's work on this ordinance, along with the work done by the Planning Board and Town staff. He said he thought that in retrospect, they would all realize how important the ordinance was. Chair Marple said she agreed.

***Councilor Welsh MOVED that the Durham Town Council does hereby ADOPT as presented Ordinance #2020-03, a Council-initiated ordinance amending certain sections of Chapter 175 "Zoning" of the Durham Town Code for regulation of short-term rental establishments and, in accordance with Section 175-14. A of the Durham Zoning Ordinance. Councilor Tobias SECONDED the motion and it PASSED unanimously 9-0.***

Administrator Selig said there was legislation in Concord that would attempt to strip local communities of the ability to regulate short-term rentals, and said the Town would follow this and perhaps weigh in on it.

Councilor Welsh thanked the other Councilors for passing the ordinance.

- E. **PUBLIC HEARING AND ACTION ON ORDINANCE #2020-04** creating a new chapter in the Durham Town Code, Chapter 55, "Electronic Motorized Devices/ Electric Scooters" governing the use of such motorized devices within the Town of Durham

***Councilor Rotner MOVED that the Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2020-04 creating a. new chapter, Chapter 55 "Electronic Motorized Devices/Scooters", in the Durham Town Code governing the use of such motorized devices within the Town of Durham. Councilor Welsh SECONDED the motion and it PASSED unanimously 9-0.***

Chief Kurz said this was an attempt to be thoughtful and proactive concerning rumors that the UNH student body was developing a relationship with an electric scooter company. He said he had visions of how this might play out in Durham if there were no laws that would allow the Town to govern this. He noted that there was no State statute concerning the issue. He said the proposed ordinance had been vetted, legally as well as practically in terms of enforcement. He said he realized they were on the right track with the proposed ordinance when he read articles Councilors had sent him about other locations where electric scooter companies had arrived.

Councilor Burton asked how the Town could do this without any state enabling legislation in place. Chief Kurz said it was silent specifically on the scooter issue, so the Town could do this. He said the ordinance would allow regulation of scooters that were not following the rules of the road, by going the wrong way, riding on sidewalks, etc. He noted that the University would encourage people on scooters to ride on the sidewalks. He said the Town needed to get ahead of this, and not have to be reactive to what would happen.

**Robin Mower, Britton Lane**, asked if the ordinance still included allowing electric scooters in the bike lanes, and said she wasn't wild about that. She said she was in favor of regulating the use of electric scooters, noting that there were a lot of older drivers in Durham who were already concerned about what they encountered downtown. She thanked the Council for emphasizing the issue of University vs Town sidewalk usage, and said that issue needed to be addressed.

***Councilor Rotner MOVED that the Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2020-04 creating a. new chapter, Chapter 55 "Electronic Motorized Devices/Scooters", in the Durham Town Code governing the use of such motorized devices within the Town of Durham. Councilor Lawson SECONDED the motion and it PASSED unanimously 9-0.***

Councilor Welsh asked how the sidewalk issue would be worked out. Councilor Tobias said it might have to be by trial and error. Chief Kurz said he'd attempted to engage the student body after they'd made an effort to be part of the discussion, but said they didn't participate any further in this process. He also said he'd worked with the University administration as part of this. Councilor Tobias said she thought this was a mode of transportation that they would be seeing a lot more of in the future and said it was important to regulate electric scooters as a new form of transportation on the roads. She said signage might need to be used.

Councilor Lawson said he had confidence that the police would educate the students. He also said before a large company was permitted to have this business presence on campus, he was sure the University would require that there be an education process.

Councilor Howland said he thought the University would revisit the idea of allowing the scooters on sidewalks on campus, given the reality that there would be people walking on these same sidewalks.

Chief Kurz said they all worried about risk management, and said he asked the University's corporate council if they would be liable if there were accidents from things like scooters going the wrong way on a road. He also noted that private entities, such as a large student housing complex, could enter into an arrangement with an electric scooter company.

Councilor Burton said Chapter 55 spoke about areas specifically designated for parking the devices, and asked if the intent was that these areas would be marked. Chief Kurz said his intention was that the parking spaces would be sold to the corporations that would be renting the scooters. He said the scooters would be corralled in these parking spaces, and said if they weren't left there when people were done with them, they'd be picked up by the Town.

***Councilor Rotner MOVED that the Durham Town Council does hereby ADOPT as presented Ordinance #2020-04 creating a new chapter, Chapter 55 "Electronic Motorized Devices/Scooters", in the Durham Town Code governing the use of such motorized devices within the Town of Durham. Councilor Welsh SECONDED the motion and it PASSED unanimously 9-0.***

Councilor Rotner said it was great to be proactive, with this ordinance.

**F. PUBLIC HEARING AND ACTION ON ORDINANCE #2020-05** amending Chapter 153 "Vehicles and Traffic", Section 153-34 "Schedule II: Speed Limits" of the Durham Town Code by reducing the speed limit on the section of Packers Falls Road between Sullivan Falls Road and the Newmarket Town line from 35 mph to 30 mph

***Councilor Rotner MOVED that the Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2020-05 amending Chapter 153 "Vehicles & Traffic", Section 153-34 of the Durham Town Code by reducing the speed limit on a section of Packers Falls Road between Sullivan Falls Road and the Newmarket Town line from***

***35MPH TO 30MPH. Councilor Tobias SECONDED the motion and it PASSED unanimously 9-0.***

**Nancy Smith, Packers Falls Road**, said she brought this proposal to the Traffic Safety Committee, and noted that there had been a fatal accident at the end of her driveway. She said her house was right on that sharp corner. She said the accident wasn't completely because of the speed limit, but said the issue had been on her mind for some time. She said the speed limit sign going into Durham said 30 mph, while the sign going into Newmarket said 35 mph. She said she hoped the ordinance would be adopted, and thanked Councilor Lawson for the traffic study done there, and also thanked Mr. Lynch and Chief Kurz for the help they'd provided.

**Nate Grove, Packers Falls Road**, said it was a beautiful old, windy road, He said with the construction on Route 108, more cars had started driving on Packers Falls Road, and they were now more in the habit of driving there, at the speeds they'd driven on Route 108. He said he'd lived there for 25 years and had seen several accidents. He said there were a lot of bicyclists and joggers there and said he wanted everyone to be safe. He said he and his wife were in favor of lowering the speed limit to 30 mph.

**Susan Raymond, Constable Road**, said she walked, ran and biked regularly on Packers Falls Road, and had seen the changes that had occurred there in recent years. She said the speeds seemed to be increasing on this beautiful, rural winding road and said this was making her neighborhood less safe. She thanked the DPW for putting in sand and gravel edgings along the road, so she could step off the road when cars passed.

She also thanked Chief Kurz for having more patrols on the road. She said she would like the Council to keep in mind that any changes on Route 108 directly affected Packers Falls Road. She said she hoped there would be more speed checks on the road, on a regular basis, She also said they would like the motorists to show them more respect, and noted that the speeding on Packers Falls Road had made her more mindful about not speeding on other roads in Town.

**Don Brautigam, Packers Falls Road**, read a letter from **Megan Carney**, who he noted had also signed a letter of support for reducing the speed limit over the entire road, and putting in speed tables. The letter noted in some detail the accidents and near misses that had occurred, and that although the road was marked for bikes, Ms. Carney didn't ride a bike on it.

Mr. Brautigam said he'd lived on Packers Falls Road for 35 years, and said things had changed dramatically since then. He said when he ran on that road and cars passed by, he sometime had no place to go. He said he'd appreciate the effort to reduce the speed, and put in speed tables.

**Dave Mortensen ?? Packers Falls Road**, said he'd lived there for 2 years, and was an active bicyclist. He said it was a beautiful road to ride on, but said there was nowhere to go when cars were coming. He said he worried when he saw people jogging there,

including a mom with a stroller, and said the Town really must reduce the speed limit. He spoke further on this. He thanked the Council for the work they did.

**Ernst Linder, Packers Falls Road**, said he'd lived there for 30 years, and had noticed the changes over the years. He said he was an avid runner and biker and was always ready to jump into a ditch. He said it was mostly the commuter traffic that was the problem, and he spoke further on this. He said he hoped the speed limit could be lowered, and said it would be best to have a 25 mph speed limit for the entire corridor. He said perhaps Lee would also go along with this, and said this would discourage people from using Packers Falls Road as a shortcut.

**Joann Wicklein, Packers Falls Road**, said she and 32 other people had signed a letter, and she read it into the public record. The letter asked that the ordinance be adopted, and also that the speed limit be extended to the full length of Packers Falls Road in Durham and that speed tables be considered. It noted that the increase in traffic on the road had persisted after the Route 108 project was completed. Ms. Wicklein spoke about the need for the speed limit beyond the Sullivan Falls Road/Newmarket town line stretch. She also said speed tables preserved the integrity of a neighborhood. She said she'd loved to have Councilors walk or ride a bike with her on Packers Falls Road during commuter hours.

Administrator Selig said it was likely that the proposed ordinance would be adopted. He said rather than considering an amendment to it now to include more of Packers Falls Road, that question would go back to the Traffic Safety Committee. He said more speed data would be collected, possible solutions would be looked at, and the Committee would then develop a proposal that would come to the Council.

He noted that speed tables had been implemented in some other areas of Durham. He said the Town had been hesitant to expand their installation further because they reduced response times by the Fire Dept. He also said there was a cost to them, and complaints about the sound they created when cars went over them.

He said the Council and staff were listening to comments received about Packers Falls Road, and about Mill Road. He noted the idea of a possible solar sign that would display speeds as people went by.

**Chris Skoglund, Packers Falls Road**, said he lived near the stop sign that no one stopped at, and said it was only a matter of time before he would see an accident there. He said a reduction in the speed limit would be welcome, and he encouraged the Traffic Safety Committee to also look at reconfiguring that intersection, and including a full curb that would force people to stop. He also spoke about how slowing traffic on one road with certain measures would impact other roads, and said they needed to think about the entire road system and possible effects. He noted that a concern about speed tables was that they could impact bicyclists driving in packs in the area beyond the speed table at the side of the road.



**Cheryle St. Onge**, said she supported what had been said. She said the stop sign was often ignored, and said people drove through it at 45 mph. She said she'd love to see some sort of enforcement concerning this.

Chair Marple asked if anyone didn't support the proposed ordinance, and no members of the public raised their hands.

Councilor Lawson noted an email from **Lisa Taylor** that didn't support the change, and recommended focusing on enforcement, signage and more education.

***Councilor Rotner MOVED that the Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2020-05 amending Chapter 153 "Vehicles & Traffic", Section 153-34 of the Durham Town Code by reducing the speed limit on a section of Packers Falls Road between Sullivan Falls Road and the Newmarket Town line from 35MPH TO 30MPH. Councilor Welsh SECONDED the motion and it PASSED unanimously 9-0.***

Councilor Lawson said he thought the ordinance was a good change, but said it was really only the first step and was far from being the solution. He said the methods used for setting speed limits in the past had proven not to be the best, and said communities these days were setting speeds for what was optimum for all the uses in the roadway. He also said more thought was needed on traffic calming. He noted that as he and others were out there getting speed data, they did capture people who were driving way over the speed limit. He said in order to really address this, there needed to be enforcement as well as some new ideas beyond speed tables for traffic calming.

Councilor Waters said he felt the pain of those who lived on Packers Falls Road, and noted that he lived on Mill Road. He said he didn't know that decreasing speed limits would solve the problem on either road, and said the best speed bump was a cruiser. He said if speed bumps were put on Packers Falls Road, he would personally do a petition to get them on Mill Road as well, which he said was worse than Packers Falls Road.

***Councilor Lawson MOVED that the Durham Town Council does hereby ADOPT as presented Ordinance #2020-05 amending Chapter 153 "Vehicles & Traffic", Section 153-34 of the Durham Town Code by reducing the speed limit on a section of Packers Falls Road between Sullivan Falls Road and the Newmarket Town line from 35MPH TO 30MPH. Councilor Welsh SECONDED the motion.***

Councilor Rotner said the comments received were important. He considered whether there were certain sections of the road that could be looked at where safety could be enhanced, through some widening, etc.

Administrator Selig said a useful piece of new information was that because of the Route 108 project, there had been new commuters on Packers Falls Road, and not all of them had now returned to using Route 108.

***The motion PASSED unanimously 8-1, with Councilor Waters voting against it.***

- G. **PUBLIC HEARING AND ACTION ON ORDINANCE #2020-06** creating a new chapter in the Durham Town Code, Chapter 88, "Off Highway Recreational Vehicles (OHRV)", prohibiting the use of these types of vehicles from traversing trails on town property designed for pedestrian activity H. Discussion regarding solid waste and recycling trends and possible implications for Durham

*Councilor Rotner MOVED that the Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2020-06 creating a New Chapter, Chapter 88 "Off Highway Recreational Vehicles" in the Durham Town Code prohibiting Off Highway Recreational Vehicles (OHRV) from traversing trails on Town property designed for pedestrian. Councilor Howland SECONDED the motion and it PASSED unanimously 9-0.*

**Robin Mower, Britton Lane**, read into the public record a note she'd previously sent in, which supported the ordinance. She also added that with nuisance issues, the determining factor was whether a particular behavior spilled over to harm someone who wasn't indulging in that behavior. She said in this case, it was impossible for two users to enjoy the property if one was noisy, and said the spillover behavior needed to be reined in.

*Councilor Rotner MOVED that the Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2020-06 creating a New Chapter, Chapter 88 "Off Highway Recreational Vehicles" in the Durham Town Code prohibiting Off Highway Recreational Vehicles (OHRV) from traversing trails on Town property designed for pedestrians. Councilor Howland SECONDED the motion and it PASSED unanimously 9-0*

*Councilor Lawson MOVED that the Durham Town Council does hereby ADOPT as presented Ordinance #2020-06 creating a New Chapter, Chapter 88 "Off Highway Recreational Vehicles" in the Durham Town Code prohibiting Off Highway Recreational Vehicles (OHRV) from traversing trails on Town property designed for pedestrians. Councilor Corrow SECONDED the motion and it PASSED unanimously 9-0.*

## **XII. New Business**

### **Other Business**

Discussion concerning solid waste and recycling trends, and possible implications for Durham

Councilor Howland thanked those who had provided him with information on this issue. He summarized that the idea had been to reduce the amount of solid waste from Durham that was going into the landfill. He noted that China had been besieged with bad trash from landfills, and in recent years had cut off taking in bad paper, glass, etc., which created a problem for Durham. He said the desire was to reduce the amount of solid waste being thrown away but said with more recycling, the costs were going up. He said the question was how to solve that riddle.

He said Lee had created its own materials recovery center and he provided details on it. He said they looked at reducing costs and generating revenue, and said it was a model they made money. He said they were prepared for changes in the recycling market. He said towns like Durham that had dual waste streams without the kind of setup Lee had had to work with large materials recovery facilities elsewhere, none of which were in NH. He said this put the Town at extreme risk of cost increases. He explained that these big processing facilities made their money on the tipping fees and the commodity values per ton, and said as the commodity values had gone down, they had to make up the money by increasing tipping fees.

Councilor Howland said glass wasn't worth anything, and said the best thing that could be done with it was to crush it and make fiberglass with it. He said there could also be a requirement that it be used on NH roads, and he noted that there was legislation concerning this. He said Lee segregated it at a cost of \$35 per ton. He said if thrown into mixed trash it was \$80 per ton, and if comingled, it was over \$100 per ton. He said convenience came at a great cost.

He said some mixed paper had value, and noted that sorted office paper was \$80/ton, and newsprint was \$45/ton. He said Lee segregated these things out, as well as anything else that had value, and the rest was thrown away. He said they stored the paper inside because it was important to keep fiber/paper from getting wet. He said Lee also sorted out 1-7 plastics and sold them each individually. He noted that #2 plastic was worth \$1000/ton. He said residents did this sorting at the transfer station, and said the waste streams were extremely clean.

He said Durham needed to figure out how to maximize the value of recycled commodities, and said there also needed to be education on clean streams. He said the more they could sort and collect recyclables, the better off the Town would be financially.

He said the market for composting didn't change, and noted that food items were 15% of the waste stream. He said Mr. Fox collected compost that Lee residents brought to the transfer station. He said it was important that Durham address the composting issue.

He said Durham couldn't do PAYT until it solved the recycling problem. He said it was not an end in itself, and was a tool to drive waste out of landfills and into the recycling stream. He said if the recycling stream was addressed, the Town could reduce waste over the long term. He noted that there was a finite amount of landfill space. He spoke about the importance of educating residents about all of this. He noted the signage Lee used at the transfer station.

Councilor Lawson asked if thought was being given to allowing residents to create a clean stream. Councilor Howland said yes. Councilor Lawson said it was frustrating because right now there wasn't that opportunity in Durham. He said once people understood how to do this, and there was signage, it wasn't a burden for those who would like to do it.

Councilor Howland spoke about information sharing between the School District towns, and also noted that Madbury was thinking of hooking up with Lee. He said there was a lot of work to be done, and said a comprehensive plan was needed.

Councilor Lawson said it was important to have engaged employees at the transfer station to help people do the sorting.

Councilor Rotner said the work Councilor Howland and others had done on the solid waste issue was tremendous, and said a lot had been learned about this subject. He noted that when he was recently in the hospital for 18 days, he got a lot of plastic straws and cups, and said he'd filled his closet with them. He said PAYT had legitimacy as a way to reduce waste, but said there was the recyclables problem. He suggested that perhaps the focus should be on collecting waste that currently had the most value, as opposed to using the DPW truck to pick up recyclables that couldn't be recycled right now. He said perhaps the truck could collect compostable material instead, and suggested that there might be a regional market for it.

Councilor Waters said he agree about focusing on composting, and noted another company, Garbage to Garden that collected compostable materials.

Councilor Howland noted that NH had difficult rules concerning composting of meat and dairy waste.

Councilor Lawson said at some point there was an ethical responsibility to do as much as possible to keep things out of the landfill. He spoke in some detail on this.

Councilor Howland stated again that there needed to be a comprehensive plan. He said the bad fees wouldn't hit the Town until November 2020 and into 2021, so there was time to think things through.

Councilor Waters said he thought businesses would figure out how to do something with the waste materials, but said he realized the Town couldn't just sit back and rely on that.

Administrator Selig asked if there was a model for collecting composting and putting it into a wastewater stream, which could then be handled by a wastewater treatment plant. There was discussion, and Councilor Lawson noted that many municipal wastewater treatment plants now didn't allow garbage disposals.

Doug Bullen Assistant Director for Operations at the Transfer Station said it was easier to control things at the transfer station, and said the challenge was the curbside waste pickup. Councilor Welsh noted that the carbon impact of people driving to the transfer station needed to be considered. Councilor Howland said some of the newer housing developments were using private haulers. Chair Marple asked what happened to the wood, and Mr. Bullen said some got recycled and some got landfilled.

Councilor Burton spoke about how things were handled at the transfer station in Chatham, MA. He said staff were positioned to see what people were doing. He said there was no discipline at the transfer station in Durham. There was further discussion.

Councilor Waters asked about the pay for employees at the Lee transfer station.  
Councilor Howland said the building Lee had was a game changer. He spoke further on how it operated.

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

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

**XV. Adjourn**

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

Adjournment at 10:30 pm.

Victoria Parmele, Minutes taker