

This set of minutes was approved at the March 16, 2020 Town Council meeting

**DURHAM TOWN COUNCIL
MONDAY, FEBRUARY 17, 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

MEMBERS ABSENT: Councilor Dinny Waters

OTHERS PRESENT: Town Administrator Todd Selig; Business Manager Gail Jablonski; DPW Director Mike Lynch

I. Call to Order

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

II. Approval of Agenda

Councilor Howland MOVED to approve the Agenda as submitted. Councilor Corrow SECONDED the motion and it PASSED unanimously 8-0.

III. Special Announcements - No special announcements

IV. Public Comments(*)

Bill Hall, Smith Park Lane said the Holiday Inn water had nothing to do with the University's water supply, and he spoke in some detail about this and about the Town's water supplies, water restrictions and water quality. He provided a handout on the 401 water restriction. He spoke about the Depot Road parking lot issue, and also spoke about the one lane Main St design, and said none of these efforts should have dragged on.

Maggie Morrison, 20 Wiswall Road, said she was there to speak in support of civil discourse in the community as residents discussed important issues. She read a prepared letter, which noted that there had been some unfriendly and unproductive discourse last year, and said it had eroded trust. It said being a resilient community would depend upon having ideas, innovation, and working together.

Joanna Wicklein, Packers Falls Road said they were fortunate to live in a community where civil behavior was rampant. She read a prepared letter, and thanked Councilors for their efforts concerning civility, and considered how residents could promote these efforts. She asked if a committee might be tasked with this effort, to look at things like a possible preamble to be read at the beginning of meetings.

Chair Marple said there was a civility policy for meetings and asked if it was posted somewhere. Administrator Selig said it was on the agenda, and he read it. Chair Marple said the Council had to figure out how to go forward on this issue.

Councilor Burton said that civility policy tended to apply to the public comments. He said the best civility guidance he'd seen was the preamble on Strafford Regional Planning Commission agendas, and he noted some of the history that had led to this preamble. He said the civility issue was important and said he was glad that some residents had raised it. He said he'd provided the SRPC preamble to the Council.

Councilor Howland said he'd learned that when an issue was personalized, it was an ineffective way to implement change. He said coming forward with something thoughtful and well organized was a better approach.

V. Approval of Minutes - None

VI. Councilor and Town Administrator Roundtable

Councilor Howland said at the most recent EDC meeting, the building owners on Jenkins Court were there, and said the only owner who wasn't there was Matt Crape. He said the parking situation came up, and he noted that there was current parking data on this. He said the owners didn't have big plans for changes to their buildings, but said there was support for making Jenkins Court more welcoming. He said it was a start.

Councilor Welsh asked if there was discussion about making Jenkins Court a walking street. Councilor Howland said yes, and said there was concern about loading docks, parking. Councilor Tobias said the goal with the meeting was for the owners to bring ideas to the table, and said there was discussion about walkability. She said it was a very productive meeting.

Councilor Howland said at the most recent IWMAC meeting, there was a representative from Waste Management who handled most of Maine and NH. He said he pointed out the fact that the turnkey landfill would be at capacity in 2024, and warned that communities that weren't recycling were at great risk of having to deal with spiking landfill costs. He said the representative said everything initially went to the landfill, and anything having to do with recycling went to Billerica, MA.

He said the turnkey landfill had become a host site for glass, and said it was crushed and used for cover on the landfill, which brought the cost down.

He said Durham didn't have a facility to process mixed paper, and said computer and print paper had value but had to be segregated and kept dry. He also said a bailer was needed. He spoke about composting options being considered. He said the Committee was working on a holistic plan that would provide ideas for the transfer station, including ways for separating out recyclables being more vigilant about this, and ways to direct people to recycle various items there.

He said it was likely that the IWMAC would have something more solid to report in the spring concerning how all of the plans would roll out and how this would impact the Town. He spoke about the budget implications of this.

There was discussion about glass recycling, and Councilor Howland said there could be some cost control with it. He also said even if they did more separation of recyclable materials, these materials would go to Billerica and a process fee would be involved. He said there was no easy solution.

Chair Marple said she, Councilor Lawson and Administrator Selig met at the wastewater treatment plant with Congressman Chris Pappas today, who was currently writing legislation concerning infrastructure replacement. She said there was discussion with him about the force main replacement project at the plant. She said both the House and Senate were working on bills and the President supported this, but said there were funding issues. She said DPW staff and Wright Pierce representatives were at the meeting. She spoke in some detail about the pipes and joints for the force main project.

Councilor Rotner complemented those who'd helped out on Election Day, and said things went much smoother than he would have imagined. He said they would all get to do this over again on March 10th. He said School Board and Council elections were not contested, but noted the important changes to Town bylaws on the ballot, as well as the vote on the new Middle School.

He reported on Parks and Recreation activities. He said there were 57 families at the recent Sweetheart Dance that was put on by Parks and Rec. He spoke about summer programming planned for children and adults, as well as recreation activities planned for school vacation next week. He said there was an important meeting today on the Churchill skating rink, and said meetings would continue and a committee was being put together. He noted that Councilor Welsh would be joining the rink committee. He said the Parks and Rec survey would be coming out soon.

Councilor Rotner reported on the Land Stewardship Subcommittee. He said there would be standardization of trail maps working with SRPC, and said Celebrate Durham would be part of this effort. He said they wanted to set up an adopt a trail program. He said the trails focus this year would be on the Longmarsh property, which would include redesign of a bridge, and said the Rotary would be involved with this. He noted a fundraiser in progress for the Merrick conservation property, which needed a bridge. He spoke about the recent Trail Tromp at 4 different properties in Durham. He said they were firming up the composition of the Land Stewardship Subcommittee, and were also evaluating the time of day that they met.

Councilor Burton said the signage at Wagon Hill Farm was excellent, and thanked DPW Director Mike Lynch for this. He said the bill in the NH House that would have taxed vehicles that got good gas mileage was killed, and said the bill to tax vehicles by weight and size would be voted on this week. He said the roads in the state were unacceptable, and spoke about the lack of funding for the State Highway Fund, noting that the gas tax

hadn't been raised in 20 years. Councilor Welsh said there were a lot of reasons to raise the gas tax, and said it was bizarre that this couldn't happen. There was discussion.

Councilor Lawson said he was impressed on Tuesday with how everything was organized, and said it was one of the great things about Durham. Chair Marple noted discussion today with Congressman Pappas about the fact that Durham stayed ahead of things. Councilor Lawson spoke briefly on this. He said the Town had never had an issue with any of the bonds related to the wastewater treatment plant because residents recognized that it was important. He said the plant and how well it was run was another thing to be proud of in Durham.

There was discussion about the new MS4 permit and the cost to towns in the region of meeting it because of nonpoint pollution issues. Councilor Rotner noted that the Littlehale Pond project showed foresight in addressing stormwater and nonpoint pollution problems. He said the work on Mill Pond would also address these problems. Administrator Selig said the Town and UNH were in a very good position concerning the cost involved with meeting the MS4 permit, and said they were in the process of providing technical feedback for the EPA and DES to consider, and would work with them to come to resolution on a permit that was workable.

Councilor Lawson said it was good to learn today in discussion with Congressman Pappas that infrastructure improvement was considered to be about a lot more than highways, and said hopefully this would allow Durham and other communities to do the right things.

Councilor Welsh said he was sure that State Reps were doing their best to keep NH a wonderful place to live.

He reviewed the most recent Planning Board meeting. He said at the hearing on the draft Agriculture ordinance, there were no comments, and said there would be discussion on the draft at the next meeting. He said there was a continued hearing and discussion on the preliminary design for the Gerrish Drive subdivision, largely about the hydrology of the area. He said 3 options were presented, and he spoke briefly on this. He said the applicant could now submit a final design.

He said there was discussion on stormwater management proposed for the new Mill Plaza project, and said the engineer did a good job of showing how it would be improved. He said the applicants would come back on March 11th to discuss traffic. He said there was discussion at that meeting about the applicant having to meet Hannaford's requirements concerning providing parking, which created issues concerning being able to provide an attractive parking lot. He said there would be further discussion on this.

He said there was discussion on a 3-lot subdivision on Old Piscataqua Road, which would be able to hook into the new sewer line going in. He said there was also a 2-lot subdivision proposed on the road. He noted that the new houses on these lots, which would be located near the water, would benefit from being able to hook into the new

sewer line. He also noted the application for redevelopment of the Elizabeth Demeritt House by ATO fraternity.

There was discussion about the status of the proposed parking lot off of Main St. Councilor Welsh noted the feedback provided by some Planning Board members at a recent meeting on the conceptual proposal, that it would be difficult to get a Conditional Use permit for the project as currently planned. He said it was in the applicant's court now as to how to proceed.

Councilor Lawson noted a map he looked at from 10 years ago of the downtown, and said there was a sea of blacktop parking. He said the standards for parking had driven this. He said parking downtown should be looked at as a shared resource, and said applying the standards that were still in the ordinance to Mill Plaza, etc. wasn't good from an environmental and land use stand point. He said he was glad the Planning Board would be taking a close look at this.

Councilor Howland said he hoped the conversation on parking had moved. He said a good information package had been put together to inform decisions going forward.

Councilor Lawson spoke further about the idea of a shared parking environment, and said anything they could do to ensure that too much parking wasn't put in would mean better land use, and would have significant positive environmental impacts.

Councilor Welsh said the addition of many parking spaces to this plan was not driven by the Ordinance, and was driven by Hannaford.

Councilor Burton noted that the court case with Colonial Durham was driven by the residential density piece. He asked if the Court would weigh in if no resolution could be reached concerning the parking issue.

Councilor Lawson said the agreement spoke about providing a minimum amount of parking, so Colonial Durham was ok if it had more. Councilor Welsh rephrased Councilor Burton's question as being what happened concerning the settlement agreement if the applicant didn't get the Conditional Use permit because of the parking issue or something else.

Administrator Selig said the applicant needed to go through the Planning Board processes and if they couldn't get the necessary permits, that didn't necessarily open the Town up to a lawsuit. He noted that there was a lot of confusion because technically there was a connection between the Mill Plaza land and the use of the Toomerfs, LLC land for parking, and said this issue was between Colonial Durham and Hannaford, and not between Colonial Durham and the Town. He said a lot of residents had expressed concern about the project and were trying to connect the two applications, but said they were two separate applications.

Councilor Tobias said there were several aspects of the situation: the Planning Board review of the Mill Plaza application, the Council and Mill Plaza settlement agreement,

the relationship between Hannaford and Colonial Durham, and the relationship between Toomerfs, LLC and Mill Plaza concerning parking spaces.

Administrator Selig said if there ceased to be a relationship between the Toomerfs, LLC and Mill Plaza, Colonial Durham could meet its obligations to Hannaford by finding parking someplace else. Councilor Welsh spoke about other possible options if this happened. He said Toomerfs, LLC wanted to do the parking lot regardless of what happened with the Mill Plaza project. He noted that if there was an agreement with Colonial Durham, the parking would be for residents of the Plaza. He provided details on this, and said he thought there was still negotiating room.

Councilor Corrow said he was impressed with how Town staff and volunteers came together on Election Day, and said he'd enjoyed being part of this. He said at the recent HDC meeting, they approved the sign for the Recreation Dept. He said they also discussed the proposed Historic District amendments that were presented to the Planning Board in January. He said Planning Board Chair Paul Rasmussen was there to discuss the proposed amendments with the HDC.

Administrator Selig provided several updates.

- He said the Town was gearing up for the Census process. He said a recent Carsey School graduate student would perhaps help with this as an intern, to help bring attention to the importance of the Census particularly to college students.
- He said the 2019 Town Report was out, and was in print and was available online. He thanked Jennie Berry for her great work on this, and also thanked Bernie Casey for the photograph on the front.
- He said there was a brief conversation with Parks and Rec Director Rachel Gasowski about Frost Fest and how they wanted it to go this year. He said he shared some ideas with her, and said she would bring this to the Parks and Rec Committee for discussion. He said they would keep the Council updated on this.
- He said he'd be focusing this week on annual department head evaluations.

Councilor Burton noted the assessment that had been completed of the Wagon Hill Farm house, and said there were no suggestions in it about what to do with the property.

Councilor Rotner said there would be a presentation on this at the next meeting.

Administrator Selig said it would be helpful for people to think about possible future uses for that building and the Court House building, where to go from here, possible fundraising efforts, and who should be involved.

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

There was no report.

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

- A. Shall the Town Council, upon recommendation of the Administrator, award the 2020 Roll Off Truck bid to O'Connor Motor Company of Augusta, Maine in the amount of \$156,487.90 and authorize the Administrator to sign the associated contract?
- B. **RESOLUTION #2020-01** authorizing the acceptance and expenditure of private donations, grant funds, and unanticipated revenues totaling \$8,809.32 received by the Town of Durham Between January 1 and December 31, 2019

Chair Marple MOVED that the Durham Town Council does hereby approve Unanimous Consent Agenda items A and B. Councilor Corrow SECONDED the motion and it PASSED unanimously 8-0.

IX. Committee Appointments

- A. Shall the Town Council appoint Mark Morong, 21 Emerson Road, to fill an unexpired regular member term vacancy on the Zoning Board of Adjustment?

Mr. Morong provided his background, noting that he'd been on the ZBA a few times, was a Madbury and Stratham zoning official, and was also the assistant to the Zoning Administrator in Durham. He said he had some time now to offer his services to the ZBA.

Councilor Welsh and Chair Marple said Mr. Morong was a very good candidate for this position.

Councilor Rotner MOVED that the Durham Town Council does hereby appoint Mark Morang, 21 Emerson Road, to fill the three-year unexpired regular member term vacancy of Peter Wolfe, with a term expiration of April 30, 2022. Councilor Corrow SECONDED the motion and it PASSED unanimously 8-0.

- B. Shall the Town Council appoint Roanne Robbins, 343 Dame Road, to fill an unexpired alternate member term vacancy on the Conservation Commission?

Ms. Robbins said she was new to Durham and was interested in learning more about how Durham from a policy level preserved natural resources. She said her background was in natural history, and said she could offer some help in that area.

Councilor Lawson MOVED that the Durham Town Council does hereby appoint Roanne Robbins, 343 Dame Road, to fill an unexpired three-year alternate member term vacancy on the Conservation Commission with a term expiration of April 30, 2021. Councilor Welsh SECONDED the motion and it PASSED unanimously 8-0.

X. Presentation Items 2019 End of Year Financial Report- Gail Jablonski, Business Manager

Ms. Jablonski said revenues were on target, and a little bit up. She said expenses were a bit lower than had been estimated. She said that as of December 31st, the Town had collected 99.4% of all property taxes owed.

She said the Recreation Department collected \$93,687 in revenue, which exceeded their projection of \$80,000. There was discussion on this.

Ms. Jablonski said the auditors would be coming in soon, and said the final audit would be done by the end of March.

Councilor Lawson asked why the expenses were so far down concerning parking. Ms. Jablonski said the Depot Road and Parking fund didn't show transfers to the General Fund yet.

Councilor Lawson asked whether with slightly increased revenues and expenses below what was projected, the undesignated fund balance would increase. Ms. Jablonski said yes.

Councilor Welsh said it was interesting that people continued to use less water. There was discussion. Councilor Welsh noted the ordinance that had passed some years ago concerning using fixtures that used less water. There was brief discussion.

XI. Unfinished Business Continue discussion and finalize Administrator's 2019 annual performance evaluation

Councilor Welsh congratulated Administrator Selig. He said he'd done well over the past 10 years, and noted that this year he scored a little higher than last year despite the fact that it was a very difficult year in a lot of ways.

Administrator Selig said he'd made some notes based on the evaluation. He said being the Town Administrator in Durham was a challenge, a great opportunity, rewarding, and kept him focused and sharp all the time. He said Durham residents strived for excellence, and also were trying to address difficult societal issues. He said they often but not always succeeded at this.

He said there was more work for the Town Administrator in Durham to do than anyone really could do. He said being ethical and honest was important, and said judgment and wisdom were needed. He said the person in the position needed to be patient, and to be competent in budgeting and finance. He said the person needed a degree of reticence and adaptability. He said he tried to do/be all of these things, and said sometimes he did this better than at other times. He said when he didn't do as well on something, he tried to do better the next time.

Administrator Selig said the evaluation process allowed everyone to see how the Town Administrator was doing, and also to see how the Town Council was doing. He noted

comments in the evaluation about wishing more could be done to get things moving in the downtown core, address parking challenges, etc. He said some goals transcended his authority, and extended to the Council's authority in terms of getting things done. He spoke further on this.

He said it wasn't easy having nine people to report to, and said a benefit of the evaluation process was that he was always trying to understand what the Council as a whole wanted, and what individual Councilors felt was important. He said he tried to develop an approach that captured all of this in a way that people could be comfortable with. He noted that the hardest part for him was after elections each year, as the Council members changed. He said being able to be open to new ideas coming to the table, and to re-adjust Town efforts could be hard to do.

Administrator Selig said he and the Council had been in a cycle for the last 5 months where meetings were shorter and had pretty modest agendas. He said he thought they were being really effective at establishing broad goals, and then farming out some of the work involved to committees and working groups, so Councilors didn't have to get into the weeds on everything. He said he thought he and the Council were being more productive in terms of the work happening in the Town.

He also said the fact that there weren't contested elections, and good people were continuing to serve and were stepping up to serve could mean that residents were pretty satisfied with how things were going. He thanked the Council for giving him the opportunity to serve the Council and the community.

Councilor Welsh said he agreed that the Council should be setting the agenda but not getting into the weeds. He said when he joined the Council seven years ago, he saw that there wasn't a fiscal goal, so he brought it up. He noted that he said at the time that it wasn't a limit, but was a goal. He said Administrator Selig didn't meet the fiscal goal this time, yet he got rated 5 by some Councilors for fiscal responsibility and the budget. He said evidently Councilors agreed that while he didn't reach the goal, he did the best he could. Councilor Welsh said he was happy to see that, and said the process had worked out well.

Councilor Burton said Councilors were elected to represent citizens, and to give voice to people who didn't have one, so had that extra obligation that a board of directors didn't have. He also said Durham was the only town in the state with the charter it had, which delegated so much authority to the Town Administrator. He asked Administrator Selig if the expectations were calibrated right, or if too much was expected of the Town Administrator.

Administrator Selig said Durham and Derry were the two towns in NH that operated like small cities, and said he thought this was an incredibly efficient and effective form of governance. He said it wasn't just about him, and was also a team of great department heads and other staff who had detailed technical expertise. He said part of his task was to find great people for these positions. He noted the department head changes that would

be happening this year at the DPW and the Police Department. He said Councilors brought nine intelligent brains to the table, and said between him and them they got the job done. He said part of the reason Durham was so well positioned was because of its form of governance.

Councilor Rotner said Administrator Selig helped the Council with process, and provided support so they didn't feel that they needed to rush to judgment on issues. He said he thought this approach was very effective, and was a real strength Administrator Selig provided.

Administrator Selig noted the rink manager's proposal some months ago concerning plans for the rink, and then his recent urgent request for a review of the plan because they needed to get going on it. Administrator Selig said he spoke with him and explained that the Council tried not to act in a precipitous way. He said taking a measured approach was often the better path.

He noted that Bill Hall could often be critical of him and others, but said despite that, he tried to listen thoughtfully and evaluate whether Mr. Hall was raising a valid issue or not. He said he tried to do that with everybody.

Councilor Howland noted that he didn't follow the rules on the evaluation and said he was evaluating the Council as well as Administrator Selig. He said when he looked at the categories, he tried to put down what the challenges were going forward. He said communication by the Town Administrator and the Town Council was a strength. He also said he liked the budget process they'd followed. He said that concerning leadership, with issues like the downtown challenges, this was hard because it involved a lot of different groups and entities, and said getting them all together to work cooperatively was a real challenge. But he said foundations were being laid for this. He also said it was a challenge to push forward on uncomfortable issues, and said it took a lot of work to get there.

XII. New Business Other Business

XIII. Nonpublic Session (if required)

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

XV. Adjourn (NLT 10:30 PM)

Councilor Rotner MOVED to adjourn the meeting. Councilor Howland SECONDED the motion and it PASSED unanimously 8-0.

Adjournment at 8:32 pm

Victoria Parmele, Minutes taker