

D-R-A-F-T

**DURHAM TOWN COUNCIL
MONDAY, SEPTEMBER 14, 2020
DURHAM TOWN HALL - COUNCIL CHAMBERS
7:00 PM**

MEMBERS PRESENT: Council Chair Kitty Marple (remotely)
Councilor Jim Lawson (remotely)
Councilor Al Howland (remotely)
Councilor Andrew Corrow (remotely)
Councilor Dinny Waters (remotely)
Councilor Sally Tobias (remotely)
Councilor Sally Needell (remotely)
Councilor Wayne Burton (remotely)

MEMBERS ABSENT None

OTHERS PRESENT: Town Administrator Todd Selig (remotely)

I. Call to Order

Chair Marple called the meeting to order at 7:00 pm. She read Zoom call-in and public input/participation instructions for the viewing audience, as this meeting was held completely online using Zoom.

The roll call was taken:

<i>Council Marple</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>
<i>Councilor Howland</i>	<i>Yes</i>
<i>Councilor Corrow</i>	<i>Yes</i>
<i>Councilor Waters</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>
<i>Councilor Burton</i>	<i>Yes</i>
<i>Councilor Needell</i>	<i>Yes</i>

II. Approval of Agenda

Councilor Corrow MOVED to approve the Agenda as presented. Councilor Tobias SECONDED the motion and it PASSED unanimously 8-0 by a roll call vote:

<i>Council Marple</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>
<i>Councilor Howland</i>	<i>Yes</i>
<i>Councilor Corrow</i>	<i>Yes</i>
<i>Councilor Waters</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>

<i>Councilor Burton</i>	<i>Yes</i>
<i>Councilor Needell</i>	<i>Yes</i>

III. Special Announcement

Remembering the late Dr. Kenneth (Kenny) Rotner and officially declaring his vacancy on the Durham Town Council

Chair Marple announced that their dear colleague Kenny Rotner had died on August 24th. She said they were officially declaring his vacancy on the Town Council. She asked for a moment of silence in his memory.

IV. Selection of Chair Pro Tem

Chair Marple said she'd asked Councilor Corrow if he'd be interested in filling this position until March. Jim said he'd been on the Planning Board when Councilor Corrow was Chair, and said the Council would be in good hands if he needed to chair one of its meetings. He said he'd be a phenomenal spokesman for the Council and said he appreciated it that he was stepping up.

Chair Marple MOVED to have Andrew Corrow step in as Chair Pro Tem until March, Councilor Tobias SECONDED the motion and it PASSED unanimously 8-0 by a roll call vote:

<i>Council Marple</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>
<i>Councilor Howland</i>	<i>Yes</i>
<i>Councilor Corrow</i>	<i>Yes</i>
<i>Councilor Waters</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>
<i>Councilor Burton</i>	<i>Yes</i>
<i>Councilor Needell</i>	<i>Yes</i>

Councilor Corrow thanked everyone for the vote and said he'd endeavor to do as good a job as Dr. Rotner had done.

V. Filling Vacancy in the Office of Councilor

Discussion and possible action to appoint a Durham resident to replace Kenny Rotner on the Durham Town Council

Chair Marple said there were two very qualified people, Guy Johnson and Carden Welsh, who said they'd be willing to fill the position until March.

Mr. Johnson said he'd been in Durham for a bit over a year, after touring the country with his family in their RV. He said they liked the Town, and said he was interested in the position because he'd spent a career building skills and dealing with various issues that could help Durham. He said it would be a privilege and a pleasure to grapple with the issues the Town faced.

Chair Marple thanked Mr. Johnson for that.

Councilor Lawson said they were fortunate to have residents expressing interest in the position. He said they were coming into a tough budget season because of COVID-19, and said that was one of Carden Welsh's areas of expertise, from his work at Timberland Co., as well as his 6 years of experience on the Council, which could be critical at this time. He said he would support whatever the Council decided. He said he appreciated very much that Mr. Johnson had stepped forward, and said he would bring a lot to Town government.

Councilor Tobias said she'd met Mr. Johnson and was impressed that he was willing to step forward in this particular situation. She said he brought an incredible amount of value to the Town, and said she was providing him with information on other committees he could get involved with if he wasn't chosen tonight.

She said given the circumstances they were faced with, including the emotions involved with the loss of Kenny Rotner, she was very happy and comforted when Carden stepped up to the plate right away. She said there was a very big budget season ahead of them that would require sacrifices and expertise, and she spoke further about the challenges the Council faced. She said she would support whatever the Council decided. She thanked Mr. Johnson from the depth of her heart for taking this on.

Councilor Howland said there would be the opportunity for Mr. Johnson to see what the Council would go through in dealing with the fallout from COVID-19, and said he could learn the ropes and perhaps serve on another committee, including the EDC. He said Mr. Johnson could then run for the Town Council next year, with a better idea of what he'd be getting into. He said it would be very helpful to have Carden on the Council again given his background and experience, to help them get through what would be a very difficult time. He thanked him for offering to do this.

Councilor Waters said he supported Mr. Johnson for the position, both for volunteering to get involved and because the budget season would require creativity.

Councilor Burton said Carden was elected to the position by the Town and left voluntarily, so had passed the electoral test before. He also said he represented a school of thought in Town that there should be tough scrutiny of the Budget, and said he'd be really good at it this year. He asked Mr. Johnson to get a feel for things and then jump in, and he congratulated him on his excellent presentation and resume. He said right now his choice for the vacant seat was Carden.

Councilor Needell said she hadn't been through the Budget process yet either, and said they needed Carden's expertise and experience right now. She said Mr. Johnson could bring a lot to the Council in the future, and she recommended that Mr. Johnson put his name in for the March 2021 election.

Councilor Corrow said he concurred with what others had said. He thanked Mr. Johnson

for stepping forward. He said this would be a very difficult year, and said he'd learned a lot from everyone on the Council, including from Councilor Lawson's and Carden's tutelage. He said having Carden step up to fill the role was the right thing to do right now.

Chair Marple said she realized that this was disappointing for Mr. Johnson right now, but she said she encouraged him to run for the Town Council next year, and before then to perhaps serve on a committee.

Chair Marple MOVED to appoint Carden Welsh to fill the unexpired term of our dear friend Kenny Rotner for the remainder of this term, until March 2021. Councilor Corrow SECONDED the motion.

Councilor Tobias encouraged Mr. Johnson to get involved, and said she looked forward to seeing what he would give to the Town.

The motion PASSED unanimously 8-0 by a roll call vote:

<i>Council Marple</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>
<i>Councilor Howland</i>	<i>Yes</i>
<i>Councilor Corrow</i>	<i>Yes</i>
<i>Councilor Waters</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>
<i>Councilor Burton</i>	<i>Yes</i>
<i>Councilor Needell</i>	<i>Yes</i>

Chair Marple thanked Mr. Johnson, and said it had been a pleasure to meet him.

Mr. Johnson said he appreciated the comments, and said he realized that getting on the Council now had been a bit of a long shot. He said he was sure he'd be speaking with them in the future as he found other ways to help.

Councilor Tobias said she thought Mr. Johnson would be a great candidate and asset to the Town in the future.

VI. Public Comments (*)

Mark Morong, Emerson Road noted that he'd spoken about the fireworks issue a month ago under Public Comments, and had sent the Council some information on why permitting fireworks wasn't a good idea for residents. He said there were risks of fire and injury, noise issues, etc., and he noted the various authorities who didn't approve of them, especially in the more compact areas of a town. He said it was hard to control sparks, smoke, and noise, and noted that some fireworks were set off in his neighborhood last year that caused some problems. He said they especially shouldn't be allowed in the RA and RB districts.

He said at the last meeting, some Councilors said fireworks would be used anyway if they were prohibited, but he said that wasn't a valid reason to not to look at this issue. He made the analogy to speed limits. He said he'd like Administrator Selig to ask Fire Dept. and Police Dept. staff how the positives outweighed the negatives. He said he appreciated the fact that these departments had a lot on their plate right now so maybe this wasn't the best time to address this issue. But he said at some point it was an issue worthy of being addressed, with a public hearing, etc. He spoke further about possible approaches to take.

Beth Olshansky, Packers Falls Road, thanked everyone involved yesterday in Kenny Rotner's celebration of life, and said she appreciated the thought and care the Town had put into this. She said the fact that a lot of people came out for it said a lot about the community.

In regard to the mask ordinance, she said it was concerning that some young people downtown were holding their masks in their hands instead of wearing them. She said everyone had a different sense of what 6 ft looked like, and she spoke about the discretionary clause in the ordinance that left it up to individuals to decide on this. She said it was too much discretion at this time, and said she hoped this might be revisited. Administrator Selig said the Council would take up the mask ordinance at the next meeting, to evaluate how things had gone and to make adjustments as needed. He said this was helpful feedback.

Chuck Baldwin, Emerson Road, said he was supportive of Mr. Morong's comments. It was difficult to hear him, and he was asked to send his comments in an email, which would be read into the record later at the meeting.

VII. Approval of Minutes

August 3, 2020

Councilor Corrow MOVED to approve the August 3, 2020 Minutes as presented. Councilor Waters SECONDED the motion and it PASSED unanimously 8-0 by a roll call vote:

<i>Council Marple</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>
<i>Councilor Howland</i>	<i>Yes</i>
<i>Councilor Corrow</i>	<i>Yes</i>
<i>Councilor Waters</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>
<i>Councilor Burton</i>	<i>Yes</i>
<i>Councilor Needell</i>	<i>Yes</i>

VIII. Councilor and Town Administrator Roundtable

Councilor Corrow said the HDC had met twice since the last Council meeting. He reviewed the applications that were heard, and noted the presentation from VHB concerning the Oyster River dam about considering it in accordance with the National Historic Preservation Act. He said the HDC provided comments on this to VHB for their

report.

He said a section 196 review was done for the Beech Hill water tower project, and said HDC comments on this were provided to the contractor for the project.

He said the HDC was working on recommendations to the Council that were coming out of the Sturgis reports on the Wagon Hill farmhouse and the old Town Hall/Court house building, and said he'd bring the recommendations to the Council when they were ready, in October. He said the HDC was looking at possible LCHIP grants as part of raising funds for the preservation of the two buildings.

Councilor Needell first noted applications the Conservation Commission reviewed at its most recent meeting. She said Ellen Snyder also presented the 2021 budget that was proposed. She said the Committee agreed on a natural resources checklist that would be reviewed for applications that involved the Wetland Conservation Overlay district. She said Chair Bart McDonough was moving to Maine, and said they would miss his leadership.

She spoke about the Taking Action for Wildlife program workshop that Commission members had recently attended. She said there would be three more sessions, on land conservation, and said the Commission would choose at least one project to work on.

Councilor Needell said at the most recent Integrated Waste Management Advisory Committee meeting, they focused on town-wide composting. She said they also heard an update on negotiations with Waste Management, and said they were pretty tough.

She said she'd like to share some thoughts on COVID-19 this evening before the meeting next week. She asked if they could ask UNH to provide a simplified version of the information on their COVID-19 testing on a daily basis, a cumulative number and how many people were in isolation, and how many people in isolation were actually in the Durham community.

She noted that there had been over 424 warnings issued concerning masks, and asked if there was a reason to tighten things up so UNH would know who wasn't being supportive of wearing masks in the community. She also said a house in her neighborhood recently had 7 cars parked there with MA license plates, and she asked if UNH had any ability to deal with this.

Chair Marple said the house had nothing to do with UNH, and would be taken care of by the Town. There was discussion about the 3 unrelated issue in regard to this. Chair Marple suggested that Councilor Needell should contact Code Officer Audrey Cline about the 7 cars parked at the property. She also said the police had felt that taking names about people not wearing masks was a bridge too far. Councilor Needell said a question was whether this number of people not wearing masks had been anticipated when the mask ordinance was developed and passed.

Administrator Selig said Chief Kelley had said that they were not seeing repeat offenses, and that people were amenable to complying when asked.

There was discussion about UNH possibly making the COVID-19 dashboard simpler, more reliable, and useful for people to read. Administrator Selig said the best data was from the State Division of Public Health, which was doing contract tracing, and he spoke

further about the testing that was going on. There was further discussion. Councilor Needell said all of this needed to be explained to residents.

Councilor Burton said Durham had the second highest number of infections in the state. He also noted that residents couldn't travel to Vermont anymore as a result of the increase in cases because of Durham. He said it was concerning that there was an atypical number of cases in Durham, which was a small town.

Administrator Selig said the reason for this was the large number of UNH students and staff. He also said if the number of tests being done in Durham was done in any other town in the state, one would see a plume of cases. He said there wasn't the capacity to test everywhere in NH, so perhaps there was a false sense of security. He agreed that the situation was concerning.

Councilor Lawson noted that the Lamprey River had a mean flow of 30 cu ft/second, but said last week it was down to 3 cu ft/second, which was well below the protected instream flow amount. He said there was tremendous resilience in Town/UNH water system to deal with droughts, and he acknowledged those who'd understood the value of the Spruce Hole aquifer, including Administrator Selig, Town staff and UNH.

He said there were a number of people in Town who were concerned about car speeds, and said the plan had been to get data on Packers Falls Road. He said the equipment to get this data had recently been repaired, and said it would be used in key places to make decisions on speed limits and other DPW matters.

Councilor Lawson acknowledged Councilor Tobias for her work on the Planning Board this summer, including when she was on vacation. He thanked her for her diligence and work during the pandemic, including being at the Council Chambers for Board meetings.

Councilor Burton said the Agricultural Commission met recently, and made 3 suggested changes to the Zoning amendments involved with agriculture. He said the Planning Board took them up recently, and approved them. He thanked Commission Chair Theresa Walker and others for the work they did on the Commission. He also thanked Mr. Behrendt, and Planning Board Chair Paul Rasmussen for their work with the Commission on the Zoning amendments.

Councilor Burton noted the spreadsheet the Energy Committee had recently used to decide whether to buy out the Power Purchase agreement #1 for the police station, skating rink, and Library solar array. He said it was a 4 to 1 savings if they did this, and said Administrator Selig had taken the leadership on this. He said the Committee ultimately recommended that the Town include in the 2021 Budget doing the buyout, and said this would be discussed by the Council during the Budget process. Administrator Selig said information on this would be pulled together by November if possible. Councilor Burton said the Energy Committee deserved a lot of credit for doing this analysis, which would benefit the Town.

Councilor Howland noted that at the upcoming School Board meeting, they would speak about a solar panel installation for the new Middle School.

He said at the EDC meeting last month, they reviewed the proposed Zoning changes for the downtown. He said there was a good conversation concerning the issue of drive thrus, and he provided some details on this. He said there was also discussion on the

mask ordinance, and said business owners were happy with how the Police Dept. was addressing this downtown.

He said at the recent Housing subcommittee meeting, Mr. Behrendt reviewed the subdivision regulations, etc. and said there was a good discussion, including discussion on where starter housing could be put in Durham that wouldn't be taken over by students.

Councilor Howland said the IWMAC wanted to reduce waste going to landfills, and had a 40% reduction target. But he said the Waste Management contract presented some real challenges, including all or nothing recycling, which meant they couldn't take out corrugated cardboard, aluminum cans, etc. He explained that even if the recyclables were sorted by the Town, they would then be remixed and sent down to Billerica that way. He said this exposed the Town to a lot of costs.

He said composting would help the Town get at the waste management issue, and he spoke further on this. He said they were dependent on Mr. Fox right now, and said they were looking at alternatives but needed a critical mass of composting to make it economically viable. He also said the permitting process for doing commercial composting was difficult. He spoke about the composting challenge pilot program that had been developed, and said 13 people had signed up for it.

Councilor Howland said the School Board would propose 3 different options for the 2021 budget, and he provided details on this. He specifically noted the retirement cost issue that they had to address. He said Durham's share of the School District apportionment wouldn't be known until November.

Councilor Tobias provided several updates from recent Land Stewardship Committee meetings:

- She said Ann Welsh became Chair, and thanked her for doing this. Councilor Tobias said she stepped up to the Vice Chair position and said Ellen Snyder was the Secretary.
- She said Dennis Meadows provided a summary of the Oyster River bridge project, including the fundraising being done. She provided details on this, and noted Kenny Rotner's roll in driving the project forward. She said there was discussion to name the bridge after Dr. Rotner, and said over 100 donations came in for the project in his memory.
- She said poison ivy was popping up in a lot of areas, including on trails, and said there was discussion on getting some DPW staff members certified in pesticide application. She said the committee agreed to pursue this.
- She spoke about the work the Rotary had done for replacing broken bridges at Longmarsh.
- She said concerning Wagon Hill Farm, Ms. Snyder and DPW Director Rich Riene were working on grants to NHDES for the Coastal Resiliency program. She Also said Ms. Gasowski had reached out to Strafford Regional Planning Commission to get pedestrian counters to gauge usage at Wagon Hill Farm.
- She noted graffiti and unauthorized camping and fires at Doe Farm, which was a

concern. She said a meeting was being set up with the Police Dept on how to deal with this.

- She spoke about the bridge to be put up from the Merrick property, and said they were waiting for materials to complete it. She noted that there were some volunteers from Riverwoods for this project.
- She said Ms. Snyder provided a presentation on the 2021 Land Stewardship budget.

Councilor Tobias said the Planning Board had been very busy, including meeting 3 times since the Council had last met. She reviewed applications heard at these meetings, including the ongoing review of the Mill Plaza application. She also said there was review and a public hearing on the proposed Zoning amendments for the downtown, and further review of the Zoning amendments related to agriculture, which the Council would be looking at soon.

Councilor Waters agreed with what had been said about Councilor Tobias's significant involvement on committees. Councilor Tobias said Councilor Lawson's perspective on the Planning Board was much appreciated.

Administrator Selig provided brief updates. He thanked Parks and Recreation and others who had made the celebration of life for Kenny Rotner so special.

He noted that an email was received from Chuck Baldwin this evening, which said he seconded Mark Morong's suggestion that the Council look further at the fireworks issue, and have a public hearing on it at a later date. Administrator Selig read the whole email from Mr. Baldwin.

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

Katrina Wilson provided several updates. She said there was a rights and responsibilities document at UNH that required masks and would hopefully go into effect this week. She noted that UNH had different standards for violations than the Town did. She spoke about the reporting to UNH police and Town police on off campus parties and other parties. Ms. Wilson said it wasn't clear if communications from the Durham Police Dept. on these events was getting to UNH administration. She spoke about the COVID-19 testing data on the dashboard, and the testing itself. She spoke about the upcoming public hearing to the UNH administration on the recent Theta Chi situation.

Councilor Burton said Ms. Wilson was doing a great job and said he was grateful to her for taking this on.

Councilor Waters asked if UNH had invoked their powers with students, in terms of expelling them for violations. Ms. Wilson said she didn't have data on this. She said some TA's were uncomfortable with enforcing standards. She said UNH student government was asking for information on this as well.

Chair Marple said students got more than one chance to do something wrong.

Chief Kelley said they did share information with UNH every Monday about arrests. He said this information was put into the conduct system. He spoke further.

Ms. Wilson spoke in further detail about the various jurisdictions and issues involved.

Councilor Lawson asked if residents would find out what the repercussions were for people in the conduct system in terms of suspensions, expulsions, etc. Ms. Wilson spoke about this in some detail. She said she wasn't positive that they could expect a positive discussion on this for student confidentiality reasons. Councilor Lawson said that was unacceptable. He said they didn't need names and addresses, but said the community wanted to know what the consequences were. He said Administrator Selig should follow up with the University on this. He said until they got this information, community support concerning the COVID-19 would erode. There was discussion about whether the fraternity involved was suspended.

Councilor Needell said the information from Ms. Wilson and Chief Kelley had been helpful, and said Katrina had an important role to play as a liaison with the University.

Councilor Waters asked if the COVID-19 situation was a distraction to the Police Dept. Chief Kelley said it increased the workload, and he described how they proceeded concerning enforcing the mask ordinance. He said a large number of warnings had been issued, but said while there were a few occasions, especially around bar closings that were difficult, most interactions had been very positive, and said they were achieving what was wanted. Councilor Waters said that was good to hear. He agreed that residents weren't hearing information on the consequences of violations.

Councilor Lawson said his concern was about major egregious events and what the repercussions were for students who facilitated that.

- X. **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 a construction contract for the Thompson Lane Bridge Project to Hansen Bridge, LLC of Springfield, NH for the contract price of \$238,396 and authorize the Administrator to sign associated documents?
 - B. Shall the Town Council schedule a Public Hearing for Monday October 5, 2020, on a resolution to accept and expend unanticipated grant funds totaling \$80,000 to be used toward the Orchard Drive / Thompson Lane Pedestrian Bridge Over the Oyster River?
 - C. Shall the Town Council Schedule a Public Hearing for Monday, October 15, 2020 on a resolution to name the Thompson Lane Bridge after the late Dr. Kenny Rotner in accordance with Resolution #2002-13 for naming public facilities after citizens who have made lasting contributions to the community?
 - D. **RESOLUTION 2020-18** authorizing the acceptance and expenditure of CARES Act grant funds in an amount up to \$34,921.86 and authorizing the Administrator to sign and submit the SOS Election Assistance CARES Grant Agreement on behalf of the Town of Durham
 - E. Shall the Town Council grant an extension to the Planning Board on its review of a proposed Council-initiated Zoning Ordinance amendment, Ordinance #2020-10, with said extension to go until October 28, 2020?
 - F. Shall the Town Council accept the recommendation of the Town Assessor relative to the FY 2019 property tax abatement for PREFCO XXV, Ltd. Partnership, 121 Technology Drive?

Chair Marple MOVED to approve Unanimous Consent Agenda Items A-F. Councilor Corrow SECONDED the motion and it PASSED unanimously 8-0 by a roll call vote:

<i>Council Marple</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>
<i>Councilor Howland</i>	<i>Yes</i>
<i>Councilor Corrow</i>	<i>Yes</i>
<i>Councilor Waters</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>
<i>Councilor Burton</i>	<i>Yes</i>
<i>Councilor Needell</i>	<i>Yes</i>

XI. Committee Appointments

Shall the Town Council appoint James Tobias, 107 Madbury Road, as an alternate member to the Trustees of Trust Funds?

Councilor Corrow MOVED that the Durham Town Council does hereby appoint James Tobias, 107 Madbury Road, as an alternate to the Trustees of the Trust Funds for a one-year term, with a term expiration of April 30, 2021. Councilor Waters SECONDED the motion and it PASSED unanimously 8-0 by a roll call vote:

<i>Council Marple</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>
<i>Councilor Howland</i>	<i>Yes</i>
<i>Councilor Corrow</i>	<i>Yes</i>
<i>Councilor Waters</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>
<i>Councilor Burton</i>	<i>Yes</i>
<i>Councilor Needell</i>	<i>Yes</i>

XII. Presentation Items – None

XIII. Unfinished Business

- A. **PUBLIC HEARING AND ACTION ON ORDINANCE #2020-12** creating a new Chapter, Chapter 71, titled “Horses on Town Trails” within the Durham Town Code prohibiting horses from traversing trails designed for pedestrian activity within the Town of Durham

Administrator Selig said a good overview was provided on this issue at the last Council meeting. He noted the issues identified by Land Stewardship Coordinator Ellen Snyder in the Council Communication.

Councilor Corrow MOVED that the Durham Town Council does hereby OPEN the public hearing on Ordinance #2020-12 creating a New Chapter, Chapter 71, titled "Horses on Town Trails" within the Durham Town Code prohibiting horses from traversing trails designed for pedestrian activity within the Town of Durham.

Councilor Tobias SECONDED the motion and it PASSED unanimously 8-0 by a roll call vote:

<i>Council Marple</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>
<i>Councilor Howland</i>	<i>Yes</i>
<i>Councilor Corrow</i>	<i>Yes</i>
<i>Councilor Waters</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>
<i>Councilor Burton</i>	<i>Yes</i>
<i>Councilor Needell</i>	<i>Yes</i>

There were no members of the public who came forward to speak.

Councilor Lawson MOVED that the Durham Town Council does hereby CLOSE the public hearing on Ordinance #2020-12 creating a New Chapter, Chapter 71, titled "Horses on Town Trails" within the Durham Town Code prohibiting horses from traversing trails designed for pedestrian activity within the Town of Durham. Councilor Tobias SECONDED the motion and it PASSED unanimously 8-0 by a roll call vote:

<i>Council Marple</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>
<i>Councilor Howland</i>	<i>Yes</i>
<i>Councilor Corrow</i>	<i>Yes</i>
<i>Councilor Waters</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>
<i>Councilor Burton</i>	<i>Yes</i>
<i>Councilor Needell</i>	<i>Yes</i>

Councilor Corrow MOVED that the Durham Town Council does hereby ADOPT as presented Ordinance #2020-12 creating a New Chapter, Chapter 71, titled "Horses on Town Trails" within the Durham Town Code prohibiting horses from traversing trails designed for pedestrian activity within the Town of Durham. Councilor Needell SECONDED the motion and it PASSED unanimously 8-0 by a roll call vote:

<i>Council Marple</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>
<i>Councilor Howland</i>	<i>Yes</i>
<i>Councilor Corrow</i>	<i>Yes</i>
<i>Councilor Waters</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>
<i>Councilor Burton</i>	<i>Yes</i>
<i>Councilor Needell</i>	<i>Yes</i>

B. Continued discussion regarding the use of fireworks within the Town of Durham

It was noted that there had been a meeting between Todd, Chair Marple Councilor Howland, Chief Kelley and Chief Emmanuel on this issue. Administrator Selig said the Council Communication provided an overview on the discussion and the idea of maintaining the status quo on this issue. But he said Mr. Morong and Mr. Baldwin had raised some good points and said the issue was worth discussing.

Councilor Howland said there was discussion at the meeting about whether restrictions could be put on the permitting of fireworks, concerning locations, dates, etc. He said they couldn't really regulate the kinds of fireworks, so it was either an all or nothing situation of banning them or permitting them as Durham did and hoping people would follow the process and get some safety advice. He said people at the meeting thought what they had in place was the best they could come up with.

Councilor Needell said the permitting process in place was pretty basic. She asked if people had to check in on the day of the fireworks, about whether there was a fire danger if fireworks were set off. Chief Emmanuel spoke briefly on this.

Councilor Needell spoke about the issue of risk versus benefit, and said she leaned toward not using fireworks because of the risks Mr. Morong had spoken about so well. She said if they allowed them, they should be aware of the fire danger at the time they wanted to use them.

Councilor Lawson noted a fireworks display near him, which hadn't been a big deal for him. But he said it could be a big deal if there was someone, or someone's animals who were bothered by it. He said the risk to someone might be far greater than the benefit to someone with a permit, and said he wondered if fireworks being permitted was consistent with other values Durham residents had. He said perhaps they shouldn't be permitting them, but said he cautioned that if they were outlawed, there would still be problems with people using them in the downtown area. He said even though the state didn't differential the kinds of fireworks, perhaps the Town could do this.

Councilor Howland said the risk was pretty high concerning the fireworks that people could set off, as compared to the reward one was getting.

Councilor Waters said he had a question about the numbers in the Cares Act item under the Unanimous Consent Agenda. Administrator Selig said he'd look at them, and said there could be discussion on this under Other Business.

Chair Marple said she didn't see that the Council had gotten any further on this issue than when it was last discussed.

Councilor Corrow said the fireworks issue deserved further discussion in the future. He said he wasn't inclined to ban them altogether. He noted that the Rotary Club brought the

fireworks display back to Durham in recent years, and said as part of this they worked with veterinarians and safety people, and used best management practices to mitigate certain issues. He said for small fireworks displays, perhaps they could look at expanding the permit process to include dates, size of fireworks, etc., to mitigate issues. He spoke briefly on the issue of veterans and fireworks.

Administrator Selig said a resident had mentioned that for some cultures, setting off fireworks was a cultural event. There was discussion about the cultural aspects of fireworks beyond the 4th of July celebration.

Councilor Tobias said she thought people would set off fireworks anyway even if they were banned, and said a balance was needed. She asked about the permits involved, and the number of complaints there had been in recent years. Chief Kelley said there was six fireworks complaints over the past 3 years, and said they happened around the 4th of July. Councilor Tobias spoke about her own experience with fireworks displays by her family, and the sense that something unsafe could happen.

Councilor Needell said she'd heard lots of fireworks near her home at random times. She said they would have complained if they thought there was a route that made sense. She also noted that there was an impact on wildlife from fireworks.

Administrator Selig said the easiest solution was to ban fireworks except for displays approved by the Town, including cultural, religious celebrations. He noted that if this was done, even sparklers would be banned, and they didn't see a way to differentiate between different kinds of fireworks.

Councilor Howland said there was a list of communities in NH that had banned fireworks, which included some towns that it was surprising to see on the list. He said this information might be helpful.

Councilor Burton said he had mixed feelings on this issue, but said he would vote for a ban if it was proposed. He said fireworks could be done responsibly but could still do harm. He said perhaps a ban was needed except for situations Administrator Selig had noted.

Administrator Selig said an ordinance could be brought forward on this, and they could get feedback at the public hearing on it.

Chair Marple said that would be her choice. She noted the statement she'd read on this issue at the last meeting. She said especially because of the drought, and the impacts on animals, she agreed an ordinance should be drafted to ban fireworks, with some exceptions, and they could see where it went.

Councilor Corrow said he didn't have an issue with bringing forward an ordinance, and said he'd like to see the language on it. He said he wouldn't want to see a ban without enforcement. Councilor Tobias said it would be good to have a community discussion on this issue.

Councilor Lawson asked whether if the Police Dept. saw fireworks being set off at night downtown, there was something that could be done. Chief Kelley said it would be a violation of the noise ordinance if it happened after 10 pm, so a summons could be issued under that ordinance. There was some discussion about what a ban on fireworks would mean in terms of enforcement, including taking away the fireworks, which would then need to be stored outside.

Administrator Selig said a draft ordinance that would effectively ban fireworks would be crafted to bring forward to the Council for first reading. He said they would take into account certain events where there could be a fireworks display for cultural, etc. reasons.

Chair Marple thanked Councilors for the interesting discussion on this issue.

XIV. New Business

- A. Shall the Town Council appoint Council representatives to replace the late Kenny Rotner’s vacancies on the Parks & Recreation Committee and the Land Stewardship Subcommittee?

Chair Marple MOVED that the Durham Town Council does hereby appoint Al Howland as the Council representative on the Parks & Recreation Committee for a one-year term, said term to expire March 2021; Sally Tobias as the Council representative on the Land Stewardship Subcommittee for a one-year term, said term to expire March 2021; and Sally Needell as the Council Representative on the Integrated Waste Management Advisory Committee for a one-year term, said term to expire March 2021. Councilor Corrow SECONDED the motion and it PASSED unanimously 8-0 by a roll call vote:

<i>Council Marple</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>
<i>Councilor Howland</i>	<i>Yes</i>
<i>Councilor Corrow</i>	<i>Yes</i>
<i>Councilor Waters</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>
<i>Councilor Burton</i>	<i>Yes</i>
<i>Councilor Needell</i>	<i>Yes</i>

- B. Other Business

There was discussion on item D in the Unanimous Consent Agenda concerning Cares Act funding that Councilor Waters had noted. Administrator Selig said the header in the Council Communication was incorrect, but the amount approved, \$34,921.86 was correct. Chair Marple thanked Councilor Waters for pointing this out.

XV. Nonpublic Session (if required)

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

XVII. Adjourn

Councilor Howland MOVED to adjourn the meeting. Councilor Tobias SECONDED the motion and it PASSED unanimously 8-0 by a roll call vote:

<i>Council Marple</i>	<i>Yes</i>
<i>Councilor Lawson</i>	<i>Yes</i>
<i>Councilor Howland</i>	<i>Yes</i>
<i>Councilor Corrow</i>	<i>Yes</i>
<i>Councilor Waters</i>	<i>Yes</i>
<i>Councilor Tobias</i>	<i>Yes</i>
<i>Councilor Burton</i>	<i>Yes</i>
<i>Councilor Needell</i>	<i>Yes</i>

Adjournment at 9:25 pm

Victoria Parmele, Minutes taker