

D-R-A-F-T

**DURHAM TOWN COUNCIL
MONDAY, SEPTEMBER 21, 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)
Councilor Carden Welsh (remotely)

MEMBERS ABSENT None

OTHERS PRESENT: Administrator Todd Selig (remotely); Police Chief Rene Kelley (remotely); Town Engineer April Talon (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>
<i>Councilor Welsh</i>	<i>Yes</i>

II. Approval of Agenda

Councilor Lawson MOVED to approve the Agenda as submitted. Councilor Welsh SECONDED the motion and it PASSED unanimously 9-0 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>
<i>Councilor Welsh</i>	<i>Yes</i>

III. Special Announcements - None

IV. Public Comments (*) - None

V. Approval of Minutes - None

VI. Councilor and Town Administrator Roundtable

Councilor Howland said the recent School Board meeting ran long, and noted that 8 candidates were vying for Kenny's seat. He said they were narrowed down to 2, and said they would try to make a decision next week.

Councilor Corrow noted that his former brother in law had passed away on September 7th, and said The Police Dept had been very professional concerning this matter.

Councilor Lawson said he'd reviewed the downtown CBD zoning changes since 2008, and found it interesting that all of the redevelopment downtown was based on 2008 zoning, including grandfathered projects, with the exception of Mill Plaza. He said all the changes since 2008 had resulted in no redevelopment.

Councilor Welsh thanked Councilors for their support last week. He said no one could replace Kenny, but said he'd do the best he could.

Administrator Selig said at 6 pm, the Council met with legal counsel to get briefed on the tentative collective bargaining agreement that had been reached with the middle managers union. He said this was a non-meeting, and said the agreement would come to the Council for ratification at the first meeting in October.

He said Town Clerk Lorrie Pitt had issued the oath of office to Carden Welsh for the Council position.

He said he and Business Manager Gail Jablonski had been meeting with Town departments and boards to discuss the Budget requests for 2021. He said Councilor Welsh and Councilor Lawson had sat in on many of these meetings, and said other Councilors who had an interest in doing this were welcome to sit in as well.

He said he and Ms. Jablonksi were scheduled to meet with the Planning Board on Wednesday to discuss the draft CIP and get their feedback, which would be factored into the recommendations to the Town Council on the CIP.

He said Town departments had been emersed in pandemic related issues, including the statistics on positive cases, mask violations including at the recent State Legislative session in Durham, enforcement by UNH concerning mask violations, keeping first responders safe in dealing with the public, the State primary election, and looking ahead to the November election.

He said the Oyster River Cooperative School District was moving ahead with construction of the Middle School, and he encouraged people to look at the new structure that was being built.

He said the Energy Committee met recently to discuss Power Purchase agreement #1- for the Library, skating rink, and Police station, and possibly buying out the three arrays from Revision Energy. He said there were some details still to be worked out but said it was hoped there would be a formal recommendation to do this as part of the Budget process.

Councilor Howland noted the power purchase agreement being developed for 1450 solar panels for the Middle School.

Administrator Selig noted that since the Town currently didn't own the arrays, it didn't technically get the credit for the green benefit. He said buying the arrays out would allow the Town to do that and would further the Town's sustainability goals. He said sustainability fellow Emily Mellow would be with the Town in the fall and into the new year.

Councilor Welsh asked where the panels would be located. Councilor Howland said 45% would go on the roof of the building. He also said a bus port to store buses would be built, and said the other 55% would go on it. He said if all went well, the school would be 98% powered by the solar arrays. Councilor Welsh said that was impressive.

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

VIII. Unanimous Consent Agenda (Requires unanimous approval.)

Shall the Town Council, upon recommendation of the Administrator, authorize the purchase of a Channel "Muffin Monster" Grinder from JWC Environmental, Inc. of Santa Ana, CA in the amount of \$71,267 and authorize the Administrator to sign all associated documents?

Chair Marple MOVED that the Durham Town Council does hereby, upon recommendation of the Administrator, awards the bid and authorizes the purchase of a channel "Muffin Monster" grinder from JWC Environmental, Inc. for \$71,267 to be paid from capital fund account # 07-1939-360-36-000 and authorize the Administrator to sign all associated documents. Councilor Corrow SECONDED the motion.

Councilor Waters asked if this was for a new Muffin Monster and if there wasn't another one in Town. Town Engineer April Talon said this would be the first one in Town, and said it would significantly extend the life of the pumps. She said they expected the Muffin Monster to last for a good 15 years. Administrator Selig said only one was needed because all of the flow went through the Dover Road pump station. He said it would also reduce staff time needed to maintain the flow at the pump station. Ms. Talon provided details on the system. She said UNH would pay for part of the equipment.

The motion PASSED unanimously 9-0 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>
<i>Councilor Welsh</i>	<i>Yes</i>

IX. Committee Appointments – None

X. Presentation Items – None

XI. Unfinished Business

Shall the Town Council extend Emergency Ordinance #2020-11 requiring the wearing of face coverings under certain conditions within the Town of Durham for another 61 days due to the continuing threat of the COVID-19 Pandemic?

Administrator Selig said this was the evening to reenact the ordinance if the Council wished to do so. He said it had been successful, with high compliance (upper 90's%) and said a new norm had been established. He said the Police Dept. had been active when the ordinance was established in handing out masks, and issuing warnings. He noted that the goal wasn't to fine people unless someone overtly refused to comply.

He said some members of the community wished that people would be required to wear masks at all times within the public ways, as compared to what the ordinance said, which was that a mask wasn't required if there was a 6 ft distance maintained outdoors. He said there were good grounds for crafting the ordinance the way the did, and said the tighter they made the ordinance, the more likely it was that there would be an appeal.

Administrator Selig said people who asked that masks be required all the time downtown had spoken about concerning incidences, but said he and Chief Kelley felt the existing measure was appropriate. He said he suggested some language to update the ordinance rather than change it materially.

Chair Marple asked if asking people to comply had slowed down.

Chief Kelley said yes and said only a handful of warnings were issued last weekend. He said 484 warnings had been issued since the ordinance passed, and said they handed out 87 masks. He said there was good compliance except late at night, and near the bars. He said during the day it was hard to find people without masks. He said in terms of enforcement, once they spoke with someone about putting on the mask, the person had generally done so, and there wasn't a need for enforcement.

Administrator Selig noted that a concern in crafting the ordinance was possibly putting officers in a position where they would need to be more assertive/aggressive. He said the present approach seemed to staff to be a good balance, but said they wanted to hear from Councilors on this.

Councilor Corrow said by and large he'd seen very good compliance. He said he spent a lot of time downtown, and noted that runners generally ran with masks in case they came close to people downtown. He said he didn't think they needed to change the ordinance, and recommended extending it for another sixty days.

Councilor Lawson said he hoped the ordinance was left as it was. He said it was workable despite a few instances that were frustrating, and said his family said compliance downtown was very good. He said it had been a success because police officers were diligent in engaging people, and said the ordinance was crafted so this would be a positive situation. He recommended keeping the ordinance as is and reevaluating it again in 60 days.

Councilor Tobias agreed, and said she'd seen very good mask wearing at the University, downtown, and even beyond those areas. She said it was becoming more and more part of what students did, and said she thought the ordinance should continue as it was because it was working.

Chair Marple noted that Councilor Needell had said she preferred that people wear masks all the time downtown and asked if that was still the case. Councilor Needell said no, and said things were at a point now where there was good compliance, even on Madbury Road and in the Bagdad Road area. She said if something drastically changed, they could change the ordinance. She said she was fine with leaving it as it was right now.

Councilor Burton said he got concerned about a few things. He said he was trying to reconcile Durham having some of the highest infection rates in the state and doing a good job with masking. He noted Administrator Selig had said that if all towns tested as Durham did, they would look as bad as Durham did. He said that was shocking information.

He also said at the last Council meeting, Ms. Wilson said there were differences between UNH policy and the Town ordinance that were causing confusion. He asked if Administrator Selig or Chief Kelley knew what the differences were.

Chair Marple asked if part of the problem was that mask wearing wasn't required in some parts of Durham.

Councilor Lawson said UNH required people to wear masks all the time, even if they weren't within 6 ft of people. He said he suspected that some students came downtown and assumed the same rule applied, which he said he didn't think was detrimental to the Town.

He said the UNH testing, which was mandatory and covered thousands of people, identified asymptomatic people, and the clusters of cases. He said the program was working. He said if this was done in any town in southern NH, they too would see increases in the rates, because they would be identifying people who were asymptomatic.

Councilor Burton said he wished the rest of the towns were doing the same things. He said perhaps 3 times as many people might well be infected as was indicated by the current testing in NH.

Councilor Lawson said there was a real issue with asymptomatic carriers of the virus, who were often younger but were just as likely to infect someone else. He said if people wore masks, they were acknowledging that they might be an asymptomatic carrier. He spoke about how impressive UNH been in identifying clusters of the virus, where several people in them were asymptomatic.

Councilor Burton noted that there was no one wearing a mask in a store in Northwood he stopped at. He said compliance wasn't great in NH, and he noted that over 40 legislators didn't comply with the mask ordinance at the recent Legislative session at the Whittemore Center. He asked how other college towns in NH were doing.

Chair Marple said Durham had more cases.

Administrator Selig provided numbers for other college towns in NH.

He said he thought quite a few positive cases in the region were being picked up as part of UNH testing. He also said the percentage of positives for all the tests done by UNH was 0.15%, and said students who tested positive were quickly quarantined. He said people in close proximity to each other, including at schools increased the ability of the virus to spread. But he said they were trying to resume some sense of normalcy while protecting public health.

Councilor Burton said Strafford County, Rockingham County, and Hillsborough County were the only counties in the state with over 400 cases per million, and said the more cases reported, the worse a town looked and the more restrictions there were. He said there should be incentives to towns to test as much as possible, without the disincentive, but said it was what it was.

Administrator Selig noted the county totals, and said Strafford County had 16% of the total cases, and Rockingham County had 20%.

Councilor Burton said York County in Maine was categorized as red, with over 1200 cases, and also said the county(s) in MA below NH were red.

Administrator Selig showed the most recent UNH dashboard and said the data indicated that faculty and staff outnumbered students in terms of positive cases. He said many of those people probably didn't live in Durham, and said if they hadn't gone through the testing they might have been circulating downtown.

He said they all would need to get concerned if positive counts increased exponentially.

Councilor Corrow MOVED that the Durham Town Council does hereby GRANT a 61-day extension to Emergency Ordinance #2020-11, as amended, requiring the wearing of face coverings under certain conditions within the Town of Durham, which will automatically stand repealed as of the 61st day. Councilor Tobias SECONDED the motion and it PASSED unanimously 9-0 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>
<i>Councilor Welsh</i>	<i>Yes</i>

XII. New Business

Other Business

Councilor Corrow noted that Pauly's Pockets was open again after 8 months. He also said Clarks American Bistro would be opening soon, and said based on their configuration, they would be able to have about 60% occupancy. He noted that Ciao Italia had 35% occupancy.

XIII. Nonpublic Session (if required)

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

XV. Adjourn (NLT 10:30 PM)

Councilor Howland MOVED to adjourn the meeting. Councilor Tobias SECONDED the motion and it PASSED unanimously 9-0 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>
<i>Councilor Welsh</i>	<i>Yes</i>

Adjournment at 7:53 pm

Victoria Parmele, Minutes taker