

This set of minutes was approved at the March 7, 2022 Town Council meeting

**DURHAM TOWN COUNCIL
MONDAY, FEBRUARY 7, 2022
DURHAM TOWN HALL - COUNCIL CHAMBERS
7:00 pm**

MEMBERS PRESENT: Council Chair Kitty Marple; Councilor Andrew Corrow; Councilor Chuck Hotchkiss; Councilor Sally Needell; Councilor Sally Tobias; Councilor Al Howland; Councilor James Lawson; Councilor Dinny Waters (remotely, tardy); Councilor Carden Welsh.

MEMBERS ABSENT: None

OTHERS PRESENT: Administrator Todd Selig; Michael Behrendt, Town Planner; Rachel Gasowski, Parks & Recreation Director

I. Call to Order

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

II. Town Council grants permission for fewer than a majority of Councilors to participate remotely

Councilor Marple MOVED to grant permission for fewer than a majority of councilors to participate remotely, which PASSED 8-0: Councilor Corrow--Yes; Councilor Tobias--Yes; Councilor Howland--Yes; Councilor Hotchkiss--Yes; Councilor Lawson--Yes; Councilor Needell--Yes; Councilor Welsh--Yes.

III. Roll Call of Members. Those members participating remotely state why it is not reasonably practical for them to attend the meeting in person

The roll call was taken: *Councilor Corrow--Yes; Councilor Tobias--Yes; Councilor Howland--Yes; Councilor Hotchkiss--Yes; Councilor Marple--Yes; Councilor Lawson--Yes; Councilor Needell--Yes; Councilor Welsh--Yes; Councilor Waters--Yes.*

IV. Approval of Agenda

No amendments to the agenda were motioned for.

Councilor Corrow MOVED to APPROVE the agenda as presented, which was SECONDED by Councilor Hotchkiss and PASSED 9-0.

V. Special Announcements – None

VI. Public Comments (*) – Please state your name and address before speaking

William Hall, Smith Park Lane, spoke on a previous issue of a fine that was presented to an acquaintance that he felt was not handled properly. He also spoke about the UNH Moore fields.

Nicholas Germain, 18 Ffrost Drive, introduced himself as a candidate running for Town Council. He reminded the public that candidate information for both him and his fellow candidates will be out in the next Friday Updates.

Eleanor (Ellie) Lonske, 14 Stone Quarry Drive, introduced herself as a candidate running for Town Council and spoke on her previous qualifications, both on the Durham Planning Board and Energy Committee, as well as the Councils of other towns.

Song Palmese, 85 Newmarket Road, introduced herself as a candidate running for Town Council and spoke on her past experience running both local and international organizations, both in-person and online. She noted a particular priority in that work was balancing the need of voices to be heard with the need to get things done, a skill she hopes to bring to the Council.

Joe Friedman, 25 Woodman Road, introduced himself as a candidate running for Town Council, in which he hopes to give back to the town. He earned his undergraduate at UNH in Political Science and has lived in Durham for a total of 12 years; his children having gone through the Oyster River school system. He has served on multiple boards in the past and directed the public to reading his biography in the Friday Updates that further details his credentials.

Eric Lund, 31 Faculty Road, introduced himself as a candidate running for Town Council and gave an overview of the issues he was most concerned about; particularly the lack of viable housing options for young families to live in Durham.

Larry Harris, 56 Oyster River Road, introduced himself as a candidate running for Town Council. He said that he is a long-term resident of Durham, having worked as a Marine Biology professor at UNH for 51 years and, along with his wife, raising his two daughters in the Oyster River school system. He also currently has two grandsons in ORCSD. During his time at UNH, he served as the chair of the Biology department, which covered Equine studies to neurobiology. He has also served on the Conservation Commission. He said that he hopes to be a constructive advocate for Durham and work to promote Durham's values.

James Houle, 95 Mill Road, spoke to the public on the Mill Pond Dam issue to argue for dam removal. His focus was on the environmental factors, noting that ponds don't tend to operate as retention bodies and quickly deteriorate without maintenance.

Sean Moriarty, 8 Durham Point Road, also spoke on the Mill Pond Dam issue, and also advocated for dam removal, directing members of the public to the website <https://www.freetheoysterriver.com/> for more information.

Diane Freedman, 28 Laurel Lane, also spoke on the Mill Pond Dam issue, advocating for dam repair; mostly focusing on the changes removal would bring.

VII. Approval of Minutes--November 29th, December 6th & 20th, 2021 and January 10th, 2022

Minor changes were previously submitted by Councilors Needell, Marple, and Hotchkiss.

*Councilor Marple **MOVED to APPROVE the minutes as amended, which was SECONDED by Councilor Needell and PASSED 9-0: Councilor Corrow--Yes; Councilor Tobias--Yes; Councilor Howland--Yes; Councilor Hotchkiss--Yes; Councilor Marple--Yes; Councilor Lawson--Yes; Councilor Needell--Yes; Councilor Welsh--Yes; Councilor Waters--Yes.***

VIII. Councilor and Administrator Roundtable

Councilor Corrow--Historic District Commission

- The Commission met last Thursday, where they heard a preliminary application for a food truck court at 15 Newmarket Road. The development would be behind the existing building and make strategic reuse of the salt shed behind the old ORYA building. The presentation given to the Commission is available online, and the presenter will be giving it again to the planning Board this coming Wednesday.
- A proposal was heard for the installation of a plaque recognizing General Lafayette's visit to Durham during his 1825 farewell tour
- The HDC also proposed a location on town property for the plaque to be placed and is helping to craft the wording on the plaque.
- The HDC will have a special meeting on February 10th to formulate the statement of the Mill Pond Dam.

Councilor Welsh--Conservation Commission

- The Commission last met at the end of January, which had a rather long agenda.
- A presentation was given on the Pike Property. The Commission had already done a site walk of the property, and the Commission committed \$35,000 to fund the project, contingent on the town acquiring ownership of the property. A representative from SELT, the organization handling the project, will be present at tonight's meeting as well.
- The February 28th presentation by Doug Tallamy on invasive species was finalized, which will also include a question and answer section at the end. There are 17 seats available in person, and 90 virtual spots.
- The Doe Farm survey is now out. This survey will collect data on how the property is used by the public, which will in turn affect what the town can do to facilitate certain uses.

- There was a lengthy discussion on the recommendation the Commission sent to the Planning Board regarding the Mill Plaza proposal a year ago. The need to re-discuss the recommendation was brought by both the significant changes to the proposal over the last year, and a presentation done by Dennis Meadows proposing a park along the buffer zone. At the end of the discussion, the Commission decided to affirm its original proposal to keep construction out of the 75-foot buffer.
- The Commission discussed releasing another statement about the Mill Pond Dam. This will continue to be discussed at a special meeting on the 14th of February.

Councilor Lawson

- Councilor Lawson informed the Council that he gave a briefing to the Planning Board on the solar ordinance he had been drafting. He considered comments from that briefing and the public to further revise the ordinance and would like to schedule a public hearing for it at the Town Council's second March meeting.
- Councilor Lawson noted some feedback for the Fire Department from a recent incident of a chimney fire at his home. He noted that the Fire Department did a wonderful job. The ladder truck, a piece of equipment often is associated with the high rises of student housing, was the safest piece of equipment for use with the chimney fire. He also noted they had trouble communicating with Strafford Fire from inside the house, which he hopes will improve with the radio system the Council approved in December.

Councilor Lawson--Energy Committee

- Discussion continued on community power aggregation. The Public Utilities Commission did not accept Lebanon's proposal on the subject. As Durham closely parallels Lebanon's plan, the Committee will observe the suggestions made to Lebanon's plan and see what can be implemented into Durham's.
- Small work groups have been an effective strategy for the Committee. There's an item on the unanimous consent agenda to expand the Energy Committee to 11 members, which will allow the Committee to expand the use of the working group model and accommodate increased interest in the Committee.

Councilor Lawson--Agriculture Committee

- Members of the Committee helped facilitate and participated in the first Oyster River Food Shed meeting.

Councilor Hotchkiss

Councilor Hotchkiss had nothing to report.

Councilor Needell--IWMAC

- The Committee has been working with Sam Hewitt at DPW for a transfer station story map.

Councilor Needell--Land Stewardship Subcommittee

- The Subcommittee has a working group involved with surveys for town properties, both in-person and online.

Councilor Howland--Parks and Rec

- Parks and Rec has met multiple times recently with focus on the hiring of the new P&R Assistant position. The first round of interviews has been conducted.
- P&R Director Rachel Gasowski also gave an update of the year's programming. February Break camps are already filled, and after-school programs have continued to be busy.
- Oyster River Ski Club, a program that accommodated about 200 kids to go skinning in King Pine that had been paused due to COVID, was picked up by the Parks and Rec department and now takes place at gunstock.
- Discussion on Town Council goals was continued, with some recommendations that the Committee wants to bring forward and formulation of a strategic plan.
- Durham Day discussion was continued. The Committee decided that fall was not an ideal time of year to have the celebration, tentatively discussing an early June date.

Councilor Welsh asked why the Committee decided to move Durham Day from Wagon Hill Farm to Downtown Main Street. Councilor Howland responded that the change was implemented to draw residents to the new features of the downtown, including the park the Committee had recently invested in.

Councilor Howland

- Councilor Howland noted that tomorrow night is the Deliberative Session for ORCSD, which he said is the best forum for residents to make changes to the school budget and have their voices heard. Masks are required.

Councilor Tobias--Planning Board

- The Planning Board met twice in January.
- An extension was granted to 190 Piscataqua Road, which stemmed from logistical issues with the installation of a driveway.
- A public hearing was held for the 21/31 Newmarket lot line adjustment, which was then approved by the Board.
- The Mill Plaza development discussion was continued, and the applicant will return on February 9th
- The 19/21 and 74 Main Street presentations were postponed.
- Councilor Lawson came in to present the solar ordinance currently being drafted.
- The agenda continues to be packed for the Board in February, including:
 - A preliminary application presentation and feedback for a food truck court at 15 Newmarket Road.
 - A proposal for a multi-unit expansion, from 2 four-bedroom apartments to 8 two-bedroom units, at 4 Old Landing Road.
 - Pike Property lot line adjustment.
 - Continuing discussion on the Mill Plaza development.

Councilor Waters

Councilor Waters had nothing to report.

Administrator Selig

- Administrator Selig reminded the public that there will be a candidate forum for all local election candidates on February 24th, hosted by the Durham Business Association.
- Town and School annual elections are scheduled for March 8th at the Oyster River High School. Polls open at 7 am and close at 7 pm.
- The new Middle School project is on schedule for the last push to open at the end of February break.
- Reminder from the Town Clerk's Tax Collector's office to register your dog before April 30th, after which you will be able to submit your dog to be Durham's top dog of the year.
- Delivery of the annual Town Reports is expected for tomorrow. The reports will also be digitized.
- The current chair of the Energy Committee is also Durham's main representative to the Community Power Coalition and has found both roles to be too time consuming. He is currently speaking to a well-qualified member of the community to take over the role as primary representative to the Power Coalition.
- NH Municipal Association hosted a conference call with Congressman Chris Pappas, overviewing current issues in Congress and answering constituent's questions.
- Hiring process for the Parks and Rec Assistant Director has continued. Rachel Gasowski brought in the current top candidate to see the town and meet with town officials. The next step is reference-checking for the top candidate.

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

Derek Cotter introduced himself as the new External Affairs Chair, stating that he looked forward to working with the Council.

Administrator Selig asked if he was the new chair due to a new election cycle. Mr. Cotter replied that the previous chair had resigned and that he [Cotter] was appointed as the replacement after applying and being interviewed for the position.

Mr. Cotter also provided his email for the Councilors.

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

- A. **RESOLUTION #2022-01** amending Resolution #2007-14 dated April 23, 2007 Creating an Energy Steering Committee (later renamed "Durham Energy Committee") by adding two additional citizen members, thereby increasing the membership from nine (9) to eleven (11) members
- B. **FIRST READING ON ORDINANCE #2022-01** amending Chapter 153 "Vehicles and Traffic", Section 153-30 "Business Permit Parking Areas" of the Durham Town Code to add the 66 Main Street Parking Lot and to also update information where needed within the section

Councilor Marple MOVED to APPROVE the Unanimous Consent Agenda items as presented, which was SECONDED by Councilor Hotchkiss and PASSED 9-0: Councilor Corrow--Yes; Councilor Tobias--Yes; Councilor Howland--Yes; Councilor Hotchkiss--Yes; Councilor Marple--Yes; Councilor Lawson--Yes; Councilor Needell--Yes; Councilor Welsh--Yes; Councilor Waters--Yes.

X. Committee Appointments - None

XI. Presentation Items

- A. Proposal to convey 36.6-acre Pike property to the town as conservation land – Duane Hyde, Land Conservation Director, Southeast Land Trust (SELT) – **(Council schedules Public Hearing on this matter for Monday, February 21, 2022)**

Duane Hyde introduced himself to the Council, both as a Land Conservation Director and Durham resident, and gave some background on the Southeast Land Trust (SELT). SELT is a private non-profit conservation organization currently based in Exeter, NH, with plans to move to a farm property it owns right at the Lee border in Epping, NH.

Mr. Hyde then gave the Council background on the Pike property. The proposal before the Council is whether to accept ownership of an approximately 36.16-acre portion of the Pike property, which is currently held by SELT. The property covers 54 acres of the town-owned Thompson Forest. It is also across the Lamprey River from another SELT-owned property, the Dunham conservation easement. Finally, the Pike property abuts another SELT-owned property, the 28-acre Burrows Easement.

The Pike Property itself is a total 39.6-acre property, 36.2 of which is conservation land: 26.5-acre forest, 4.7-acre pasture, and 4.9-acre wetlands. 1,221 feet of the property is along the Lamprey River, as well as a 50-foot frontage on Packers Falls Road. The Conservation Committee did a site walk of the property on December 14th of last year and gave \$35,000 of the Conservation Contingency Fund on January 24th of this year. The Planning Board and ZBA also plan to subdivide the existing house and 3.15-acres to separate it from the conservation land.

Mr. Hyde noted that SELT's main draw towards this property is the protection of drinking water resources. The Pike Property abuts the intake pump for the Lamprey River. That makes the property within the Hydrologic Area of Concern, meaning land development in that area could affect water quality at the intake pump.

Other features of the project include wildlife and water resources. 13 acres of the Pike property are classified by DES as Pollutant Attenuation Tier 1, meaning they act as natural treatment corridors cleansing pollution before it can reach the Bay. The 1221 feet frontage on the Lamprey River is that of a federally designated Wild & Scenic River. There are also 8 vernal pools on the property, and sections of the river have documented occurrences of three rare reptile species.

Bonnie Pike is the current owner of the land, and as a recent widow is no longer interested in being responsible for a large land area. The property is now under contract to SELT, which is managing the acquisition and conservation project.

While SELT concluded that town ownership of the land was most beneficial due to the abutment of town-owned Thompson Forest, SELT is still required to hold the Conservation Easement. The deed of that Conservation Easement is still being drafted, as different funding sources require different terms. The Aquatic Resource Mitigation Program (ARM) requires certain buffers that are standard for good forestry. Drinking Water and Groundwater Trust Fund (DGWTF) require allotments for drinking water improvements and state enforcement rights, while Regional Conservation Protection Partnership (RCPP) requires limited agriculture, definition of building envelopes, and federal enforcement.

Administrator Selig asked if the town would be able to do forest management to maintain forest health, Mr. Hyde confirmed that would be the case as long as it tied to Wildlife health, as forest health often does.

The due diligence of SELT is a three-part process. The first is title requirement. SELT has acquired a clean title that Mr. Hyde can provide to the town. Title insurance is currently in the works. The next step is a phase one Environmental Hazard survey, which SELT will hire a firm to prepare for SELT to give to the town. The last step was a boundary survey that SELT completed for the Planning Board where the boundaries were clearly marked.

The total cost for the project is \$598,496. Most of that budget will go towards purchasing the property, with \$505,500 for property purchase and \$42,146 for transaction costs. \$20,000 will go towards property management, with \$7,500 for professional services and \$15,100 for SELT Stewardship Fund and Legal Defense. The remaining \$3,000 will be evenly split between capital costs and archeological services.

So far, the project has been awarded \$35,000 by Durham's Conservation Commission, \$220,000 from NHDES ARM, \$87,606 from DGWTF, and \$22,075 from GBRPP. The Pike Property has been selected for a \$202,500 grant from NRCS RCPP and plans to request \$28,564 from the LRAC.

Councilor Lawson noted that this project would also protect trees that will absorb 150 tons of CO₂, dramatically reducing the town's Greenhouse Gas emissions.

Councilor Welsh noted that everyone on the Conservation Commission was very supportive of this project. He also suggested a minor adjustment to the motion, which was implemented.

Councilor Waters asked if there would be any additional cost to the town. Councilor Welsh responded that he had spoken with Land Stewardship Coordinator Tom

Brightman, who estimated that there would be a yearly \$1,000 maintenance cost in addition to any special projects, like adding a trail.

Councilor Welsh MOVED to schedule a public hearing on February 21st, 2022 on the Pike Property Proposal, which was SECONDED by Councilor Hotchkiss and PASSED 9-0: Councilor Corrow--Yes; Councilor Tobias--Yes; Councilor Howland--Yes; Councilor Hotchkiss--Yes; Councilor Marple--Yes; Councilor Lawson--Yes; Councilor Needell--Yes; Councilor Welsh--Yes; Councilor Waters--Yes.

- B. Discussion and action on installation of a plaque recognizing the visit by General Gilbert du Motier, Marquis de Lafayette to Durham during his 1825 farewell tour

Michael Behrendt, Town Planner, provided the Council with background information regarding this process. Mr. Behrendt received an email from the president and founder of the Lafayette Trail Inc., which is involved in providing plaques for every stop the General made on his 1824-25 farewell tour. Lafayette was a peer of George Washington and a noteworthy general in both the American and French revolutionary wars.

The organization pays for the plaques and have so far installed 60 of them. In order for the town to receive one, a letter must be sent to the foundation stating the town's interest in a plaque and the location they would like the plaque to be placed. Mr. Behrendt also noted that the Heritage Commission was working on the wording for that plaque.

Currently, the Council must give the okay to receive the plaque. Once the Administrator finalizes the location and the Heritage Commission finalizes the wording, the Commission will submit a recommendation for the Council to approve. If the timeline goes according to plan, the Lafayette Trail president should be able to join the town for the dedication of the plaque in late May of this year.

Councilor Corrow MOVED to SUPPORT creation and installation of a plaque somewhere in the vicinity of Main Street and Dover and Newmarket Road, recognizing the visit of General Gilbert du Motier. This motion was SECONDED by Councilor Welsh and PASSED 9-0: Councilor Corrow--Yes; Councilor Tobias--Yes; Councilor Howland--Yes; Councilor Hotchkiss--Yes; Councilor Marple--Yes; Councilor Lawson--Yes; Councilor Needell--Yes; Councilor Welsh--Yes; Councilor Waters--Yes.

XIV. New Business

- A. Continue discussion and finalize the Administrator's Annual Performance Evaluation for 2021 in accordance with the Employment Agreement between the Administrator and the Town of Durham

Chair Marple noted that she received responses from all Councilors, and that their comments and suggestions moving forward were very thoughtful. A recurring suggestion is that Administrator Selig needs more assistance in his jobs, due to his very busy schedule.

Councilor Lawson noted his gratitude for having such a flexible Administrator that can adapt to any situation.

Chair Marple noted that Councilor Howland's infrastructure comments were particularly constructive. Councilor Howland thanked her and noted that he's done many of these evaluations for both Administrator Selig and Superintendent Morse while serving on the School Board. Echoing Councilor Lawson's comments, he noted that this past year was even less predictable than usual. He also added that he hopes his suggestions might help the town live up to the "Welcoming Community" signs he sees around town.

Councilor Tobias noted that she was one of the Councilors that suggested an assistant, both to help Administrator Selig and to have a solid candidate for the next Administrator.

Councilor Welsh also noted his gratitude for Administrator Selig, and it was his hope to continue working with him for a number of years.

Administrator Selig thanked the Council members for all of their feedback. He also noted how well the Council system works for the town, as well as the town's larger relationships with each other. Although there have been many divisive issues in the past, when those issues are resolved the town is able to come back together as a cohesive unit.

He finally noted that he holds following up with citizens as a high priority and will continue to meet with citizens whenever he is available.

B. Other Business - There was no other business to come before the Council.

XV. Nonpublic Session (if required)

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

XVII. Adjourn (NLT 10:30 PM)

Councilor Howland MOVED to ADJOURN the meeting, which was SECONDED by Councilor Tobias and PASSED 9-0: Councilor Corrow--Yes; Councilor Tobias--Yes; Councilor Howland--Yes; Councilor Hotchkiss--Yes; Councilor Marple--Yes; Councilor Lawson--Yes; Councilor Needell--Yes; Councilor Welsh--Yes; Councilor Waters--Yes.

The meeting was ADJOURNED at 9:05 p.m.

Evie Wiechert, Minutes Taker