

This set of minutes was approved at the April 4, 2022 Town Council meeting

**DURHAM TOWN COUNCIL
MONDAY, FEBRUARY 21, 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; Councilor Carden Welsh (remotely).

MEMBERS ABSENT: None

OTHERS PRESENT: Gail Jablonski, Acting Administrator

I. Call to Order

Chair Marple called the meeting to order at 7PM.

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 Waters--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.

Councilor Welsh said he was unable to attend in-person due to his wife having COVID-19.

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 the Agenda

Chair Marple noted that a fourth item regarding two tax abatements was added to the Unanimous Consent Agenda.

Councilor Marple MOVED to APPROVE the agenda 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.

V. Special Announcements - None

VI. Public Comments

William Hall, Smith Park Lane, spoke about concerns he had with Town spending.

Beth Olshansky, Packers Falls Road, spoke in support of the Mill Pond dam restoration.

David Strong, 9 Tall Pines Road, said he was President of the Durham Historic Association and read a statement on behalf of the Association in support of the Mill Pond dam restoration.

Jeff Hiller, 6 Laurel Lane, finished reading the Durham Historic Association statement.

Janet Perkins-Howland, Ffrost Drive, spoke in support of dam removal, and noted her hope that the Town will be able to come together as a unit after the vote.

Stephen Burns, 20 Newmarket Road, spoke in favor of taking no action on the Mill Pond Dam issue.

Lucy Gardner, 61 Durham Point Road, spoke in support of dam restoration.

Joshua Meyrowitz, 7 Chesley Drive, continued a previous presentation on Durham zoning laws.

Katie Paine, Durham Point Road, noted her former role as a Town Councilor in thanking the Council for all of the research and work that went into its decision before voicing her support for dam removal.

Roanne Roberts, 343 Dame Road, noted her position on the Durham Conservation Commission and read a statement on behalf of the Commission in support of dam removal.

Diane Freedman, 28 Laurel Lane, spoke in support of dam restoration.

VII. Approval of Minutes - None

VIX. Councilor and Administrator Roundtable

Councilor Lawson

- Councilor Lawson had a few comments in response to some of the public comments.

- He clarified that the September contract with VHB was to start the final design for the Mill Pond project, not a contract for dam removal.
- Riprap was a common talking point, and while it was mentioned and overviewed in the 2014 VHB report, Councilor Lawson noted that he couldn't find anything that suggested that the current plan was to restore the river with riprap.
- Councilor Lawson asked a question he and Councilor Welsh had about whether dam stabilization would make it ineligible for the National Register of Historical Places.
- Councilor Lawson noted that he had heard that the abutting landowner was unlikely to provide a waiver needed which would force the dam to be a low-hazard dam rather than a non-menace dam that it is currently.

Councilor Corrow

- Councilor Corrow had nothing to report.

Councilor Welsh--Conservation Commission

- Most of the last meeting was spent finalizing the statement that was read tonight at the public hearing. He followed up on that statement, noting again the consensus among experts is in favor of dam removal.
- The rest of the meeting was spent finalizing the program for next Monday, Dr. Doug Tallamy's talk on how individuals can help counter the rapid decline of insects and bees.

Councilor Hotchkiss

- Councilor Hotchkiss had nothing to report.

Councilor Needell--IWMAC/Land Stewardship Subcommittee

- IWMAC:
 - Work is continuing on the Transfer Station story map.
- Land Stewardship Subcommittee:
 - The working group Stewarding Our Lands have gathered the Doe Farm survey data. Plans have been started for surveys of the next three sites, the next of which will be Steven's Property.

Councilor Howland--Housing Committee/Parks and Rec

- Housing Committee:
 - Review of the zoning ordinance continued at the last meeting, which will continue into March.
- Parks and Recreation Committee:
 - The department has hired Kelly DeSimone for the Assistant Director position. She's an experienced candidate who previously worked in Exeter for a decade, which Councilor Howland hopes will make an easier transition than planned.
 - Cathy Leach is encouraging the Committee to put together a formal strategic plan. The first part of this process will likely include a community survey, which

money is put aside for, and will likely begin in the fall. Smaller groups are also planning to reach out to Durham businesses, as well as Lee and Madbury.

Councilor Waters

- Councilor Water had nothing to report.

Councilor Tobias--Planning Board

- Planning Board met on the February 9, 2022, in which an expansion of the multi-use unit resident at 41 Old Landing Road application was accepted as complete. A site walk of the property will occur on February 23, 2022.
- Duane Hyde, Land Conservation Director for the Southeast Land Trust (SELT), presented the Lot Line adjustment of the Pike Property to the Planning Board, which was accepted, and a site walk of the property was held.
- The Board had a conceptual discussion of a food truck court at the site of the old Town Hall building (15 Newmarket Road) with Scott and Karen Letourneau who are considering purchasing the property.
- Mill Plaza development public hearing was continued and closed. The Board will review all of the documentation on March 9th.

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

Derek Cotter, UNH External Affairs Chair, greeted the Council. Student Senate participation is currently low, so the focus of the senate has been on recruitment lately.

Councilor Welsh asked why participation was so low, and Mr. Cotter answered that many members of student government do not enjoy their roles and the senate at large is looking to reform to restore it to its former status.

Councilor Welsh asked if the senate feels like it lacks power. Mr. Cotter replied that it can feel difficult to get things done, both due to low attendance and difficulty to pass bills, despite the influence the senate has on campus.

Councilor Tobias added words of encouragement to Mr. Cotter, underlining the importance of local government.

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 ratify the Collective Bargaining Unit Agreement between the Town of Durham and the Durham Police Officers Association (DPOA) for the period January 1, 2022 to December 31, 2024 and authorize the Administrator to sign said contract?
- B. **RESOLUTION #2022-02 AMENDING RESOLUTION #2020-17** Creating a Durham Historic Buildings Restoration and Preservation Trust to change the name of the trust to the Durham Historical and Cultural Resource Trust (DHCRT), and to change the purpose of the trust by adding language making the purpose more explicit

- C. Shall the Town Council, upon recommendation of the Assessor and the Administrator, approve a FY 2021 property tax abatement for Geoffrey D. Lombard & Jane Miller, 48 Edgewood Road, in the amount of \$101.00?
- D. Shall the Town Council, upon recommendation of the Assessor and the Administrator, approve a FY 2021 property tax abatements at the local level or for outstanding appeals before the Board of Tax and Land Appeals (BTLA) or NH Superior Court totaling \$119,932.29?

Item A was removed at the request of Councilor Lawson.

Councilor Marple MOVED to APPROVE the Unanimous Consent Agenda items B through D, as amended, which was SECONDED by Councilor Needell and PASSED unanimously 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.

Councilor Lawson noted how the Council, and Town at large, valued the standards, performance, and professionalism of the DPOA, much more than can be summarized in a Collective Bargaining Agreement. He also encouraged residents, perhaps post-COVID, to set up a time to visit the department.

Councilor Lawson MOVED to APPROVE Unanimous Consent Agenda item A, 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.

XI. Committee Appointments

- A. Shall the Town Council appoint Emily Friedrichs, 18 Garden Lane, to fill an unexpired alternate member term on the Durham Planning Board?

Ms. Friedrichs introduced herself to the Council, noting her recent move to Durham and excitement to get involved in the community.

Councilor Hotchkiss MOVED to APPOINT Emily Friedrichs, 18 Garden Lane, to fill an unexpired alternate member term on the Durham Planning Board. This motion 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.

- B. Shall the Town Council, upon recommendation of the Administrator, appoint Al Howland as an additional citizen at-Large member to the Housing Task Force and appoint Councilor Sally Tobias to replace him as the Council representative?

Councilor Howland explained why he wanted to stay on the Housing Task Force, citing the Zoning project the Task Force is currently in the trenches of and hoped to bring to the Council by summer.

Councilor Marple MOVED to APPOINT Al Howland as an additional citizen at-Large member to the Housing Task Force and appoint Councilor Sally Tobias to replace him as the Council representative. This motion was SECONDED by Councilor Corrow 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.

XII. Presentation Items

- A. End of Year Financial Report through December 31, 2021 – Gail Jablonski, Business Manager

Ms. Jablonski began by noting that the Town ended the year on a good note, coming under budget. Total amount spent for the year was at the same percentage, 96.9%, as the year 2020. The current numbers are unaudited, but it appears that the Town will have \$500,000 in unspent funds from the year that will roll into the fund balance. There also appears to be \$500,000 additional revenue generated predicted for the year that will also go towards the fund balance. Ms. Jablonski also noted that the Town increased the amount to pay out for abatements in 2021, which will come from the fund balance.

Ms. Jablonski answered questions submitted to her by Councilor Welsh. State and Federal revenues were higher than predicted due to an increase in the percent of Food Sales tax revenue the Town received from the state, which went from 20 to 30 percent. Permit fee revenue increased from 2020, with especially more revenue in the last quarter than what was expected. Insurance reimbursement is the amount the insurance companies return after their audits, which this year was approximately \$120,000. Parking revenue was also estimated to only bring in \$67,000, but actually brought in \$186,000.

The total expenditure was under budget, but a few areas did go over budget. Attorney fees were over budget due to the multiple abatement cases. Updated microphones and video systems caused DCAT to go over budget. There was also unexpected overtime cost for employees in the Sanitation Division due to an employee being out on Worker's Compensation for an extended period of time.

Councilor Waters asked how much was budgeted this year for abatements, to which Ms. Jablonski responded \$900,000.

Councilor Welsh asked if there were any positive or negative early indicators for this year. Ms. Jablonski replied that there did not appear to be any, and the budget so far is going along as planned. Councilor Welsh also thanked the departments that were able to cut back on expenditures in the past year.

B. UNH Moore Fields – Dr. Anton Bekkerman, UNH Associate Dean COLSA Director NHAES and Theresa Walker, Chair, Agricultural Commission

Dr. Anton Bekkerman thanked the Council members for their time. He then began by describing the Agricultural Research Station at UNH, which has been a cornerstone in NH food and agriculture research for 130 years. The Station tackles high stakes issues like climate change and aims to define and possibly answer questions that will become increasingly relevant in the coming decades.

Many UNH facilities, staff, and programs are affiliated with the Research Station. Facilities include the Woodman-Horticulture Research Farm, Kingman Research Farm, Fairchild Teaching and Research Dairy Center, Organic Dairy Research Farm, Macfarlane Research Greenhouses, and the Equine Complex. Staff include Dr. Bekkerman and other administrative staff, farm support, researchers, undergraduate, and graduate students. There are typically 50 or more locally inspired research projects that cover topics from Dairy Science to Sustainable Aquaculture Water Management.

Dr. Bekkerman transitioned to the main topic, field management practices: why the current practices are in place and how they have recently updated.

In addition to the farm affiliated with the Research Station, a number of fields are also managed by the program that produce hay and corn to feed the over 300 cows and approximately 30 horses used at the research center. These fields are fertilized with manure, which Dr. Bekkerman explained provides primary nutrients like nitrogen and phosphorus that plants need to grow, along with plenty of micro-nutrients. Dr. Bekkerman also noted the economic and environmental sustainability of reusing manure in the production of food rather than dumping it at a secondary location.

Strategic management, considering both economic and environmental factors, is important for the Station's procedures. This is achieved through an Independently Developed Nutrient Management Plan, in which an independent consultant, certified by U.S Department of Agriculture Conservation Service, analyzes data to determine what nutrients went out the previous season so that it can be replenished and have a balanced nutrient level going into the next season. The fields are not fertilized during dry spells or before a predicted storm to reduce risk of runoff from a heavy rain. Dr. Bekkerman also noted that NH Law prohibits fertilization on soil after December 15th and before April 1st, meaning that the Station does not fertilize frozen ground.

Dr. Bekkerman then spoke on the highlights of the changes made to the most recent Nutrient Management Plan. Instead of leaving a barren field after hay or corn harvest, some of the plant will be left behind on the field to help begin replenishing the nutrient used during the growing season, as well as improving soil structure.

Another change is a shift to no-till management on corn fields to minimize soil disturbance, as well as water runoff and to preserve nutrient levels of the soil.

Dr. Bekkerman spoke about the Moore Fields and the Oyster River. The Moore Fields were given to the University in the 1940s and converted from forest land to farmland, and currently make up about two-thirds of the corn produced that feeds the Research Station animals. Additionally, the Fields are an important bird and wildlife habitat and are publicly accessible. The Fields are also bisected by the Oyster River Watershed.

Dr. Bekkerman noted the difference between taking a soil sample and water quality. There is no cause and effect relationship between taking a sample from a field and comparing it to the nutrient contents of a water body. Many of the implementations made in the most recent Nutrient Management Plan, no-tilling and cover cropping, filter out nutrients before they reach the Oyster River.

A more accurate method is analyzing nutrient levels in the water before and after the field in question. Dr. Bekkerman collected historical data from several Oyster River Watershed points. That data formed the conclusion Dr. Bekkerman reached that the nitrogen levels around the Moore fields were well within NHDES limits and are actually lower than those measured at the next testing site upstream. Phosphorus levels are also identical both upstream and downstream, which indicates no additional contribution from agricultural activities.

Councilor Welsh noted the increase of nitrogen and nitrate levels near the Moore Fields and asked if the Moore Fields negatively impacted the Oyster River. Dr. Bekkerman replied that numerically there seems to be a slight impact, but because those numbers are well within NHDES standards there is no substantive impact.

Similarly, to the Oyster River, Dr. Bekkerman notes that there is no substantial environmental relationship between the Moore Fields and the water quality of the Mill Pond. There are three miles of waterway between the two sites that are filled with other sites and residential areas where pollutants have the opportunity to enter the water system, making it incredibly hard to establish a relationship between the two sites.

Dr. Bekkerman concluded by outlining how the University works with the Town of Durham to ensure collaborative and transparent efforts and operations. He noted that all the information presented today is available on the COLSA website, along with more information about the organization and its projects.

Councilor Lawson noted his faith in UNH and challenges the narrative that manure is spread on the Moore Fields as a convenient dumping ground. He thanked Dr. Bekkerman for his detailed explanation of best management practices. He then noted that the data presented as averages and asked whether sometime in the future data will be made available that could chart levels over time to see for sure if there is a time of year where nutrient levels peak. Dr. Bekkerman noted that there was a chart similar to the one Councilor Lawson was describing in the presentation packet. He also noted past trends in data he had observed where there were peaks, but the current trajectory is downward with fewer and fewer spikes.

XIII. Unfinished Business

- A. **PUBLIC HEARING AND ACTION 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 updating information where needed within the section

Councilor Marple MOVED to OPEN the Public Hearing, which was SECONDED by Councilor Corrow 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.

There were no members of the public present to speak.

Councilor Marple MOVED to CLOSE the Public Hearing, which was SECONDED by Councilor Corrow 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.

Councilor Marple MOVED to ADOPT Ordinance #2022-01 as presented, which was SECONDED by Councilor Corrow 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. **PUBLIC HEARING AND ACTION** for Town of Durham to accept, upon recommendation of the Durham Conservation Commission and Administrator, ownership of the approximately 36.16-acre Pike conservation property (Map 14, Lot 10-2) subject to a conservation easement held by SELT, and authorize the Administrator to execute a Purchase and Sale Agreement and take steps necessary to bring the transaction to closure.

SELT Land Conservation Director Duane Hyde overviewed the new developments in the project since the last Council meeting. The ZBA did grant the side-yard setback needed, and the Planning Board did accept the subdivision application and held a site walk of the property. The Board will hold a Public Hearing and possible action on the subject at its next meeting. Lastly, Mr. Hyde presented the project to the Lamprey River Advisory Committee and secured additional funding from them.

Councilor Marple MOVED to OPEN the Public Hearing, 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.

Beth Olshansky, Packers Falls Road, noted her support for the project, specifically for its conservation efforts. She thanked Mr. Hyde for all of the work he put into the project, and the Council for hopefully approving it.

Councilor Waters asked for a small budgetary clarification, which Hyde provided.

Councilor Marple MOVED to CLOSE the Public Hearing, 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.

Councilor Marple MOVED to APPROVE the proposed acquisition of ownership of the approximately 36.16-acre Pike conservation property (Map 14, Lot 10-2), and authorize the Administrator to execute a Purchase and Sale Agreement and take steps necessary to bring the transaction to closure. This motion 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.

XIV. New Business
Other Business

XV. Nonpublic Session (if required)

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

XVII. Adjourn

Councilor Waters MOVED to ADJOURN the meeting, which was SECONDED by Councilor Corrow 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 9:42 p.m.

Evie Wiechert, Minute Taker