

**This set of minutes was approved at the September 12, 2022 Town Council meeting**

**DURHAM TOWN COUNCIL  
MONDAY, JUNE 6, 2022  
DURHAM TOWN HALL - COUNCIL CHAMBERS  
7:00 pm**

**MEMBERS PRESENT:** Council Chair Kitty Marple; Councilor Joe Friedman; Councilor Chuck Hotchkiss; Sally Tobias; Councilor James Lawson; Councilor Eleanor Lonske; Councilor Eric Lund; Council Pro Tem Sally Needell; Councilor Carden Welsh.

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Administrator Todd Selig

**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 – Not applicable**

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

Roll call was taken: *Councilor Friedman--Yes; Councilor Welsh--Yes; Councilor Lawson--Yes; Councilor Hotchkiss--Yes; Councilor Needell--Yes; Councilor Marple--Yes; Councilor Lund--Yes; Councilor Lonske--Yes; Councilor Tobias--Yes*

**IV. Approval of Agenda**

No amendments to the agenda were motioned for.

*Councilor Marple MOVED to APPROVE the agenda as presented, which was SECONDED by Councilor Needell and PASSED 9-0.*

**V. Special Announcements**

Chair Marple sadly announced the death of Victoria Parmele in April, who was the former minute taker for Town Council and Planning Board meetings. Marple noted her quiet, calming presence during deliberations and her participation in Northwood's town affairs as a member of their Planning Board. She also represented Northwood at the Strafford Regional Planning Commission.

Victoria felt strongly about participation in Town government. Marple noted her admiration for Victoria's stamina to be on multiple levels of regional planning, and that Marple will miss having her to chat with.

A moment of silence was held.

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

**Joshua Meyrowitz, 7 Chesley Drive**, spoke on the Superior Court case brought against the Planning Board on June 1st of this year. The case ruled in favor of the plaintiff, reversing the Board's acceptance of an application and returned to the Board for further proceedings. He then continued his presentation on the protection of Church Hill Woods.

**William Hall, Smith Park Lane**, spoke on some traffic observations he had noticed. He suggested putting in a right turn lane after the last driveway in Madbury Road in order to mitigate the problem.

**Carol Birch, 17 Garden Lane**, asked for reflective paint to be added to a curb in Faculty neighborhood. Birch often walks at night and often finds it difficult to see the curb during her walks.

**Beth Olshansky, Packers Falls Road**, noted that she had attended the opening of this year's Farmer's Market and was impressed by the new location at the 66 Main Street parking lot, thanking everyone's thoughtful work in designing a multi-functional space.

**VII. Approval of Minutes – April 4, 2022**

Minor edits were submitted to Administrative Assistant Jennie Berry by several Councilors before the meeting.

Councilor Lund noted that an item from his Councilor Roundtable report was omitted, which he submitted to be added.

***Councilor Marple MOVED to APPROVE the minutes as amended, which was SECONDED by Councilor Lund and PASSED 9-0.***

**VIII. Councilor and Town Administrator Roundtable**

Councilor Tobias

- A Durham church that previously sponsored and relocated an Afghan family has now been approved to sponsor a family from Ukraine. The couple, along with their dog, will be housed in Durham.

Councilor Lonske

Councilor Lonske had nothing to report.

Councilor Lund--Historic District/heritage Commission

- The Commission last met on June 2nd. A site walk was held prior to the meeting for the proposed house on 15 Newmarket Road, which Councilor Lund noted was separate from the upcoming Planning Board site walk. Most of the meeting was spent discussing the 15 Newmarket Road project. The applicants were seeking guidance to make sure all details were in order for the Commission to make a decision at their next meeting. A variance will be needed for the property's signage.
- Discussion was held about hosting a workshop for property and business owners in the business district, which will likely happen at the end of September.
- Three of Durham's historic buildings were discussed, including the old brick courthouse, Smith Chapel, and the sewer pump station at the old landing.
- The Courthouse has recently been converted from oil to natural gas, and the changes made in that transition were presented to the Commission.
- Smith Chapel is in need of mortar repair, in addition to the already existing moisture issues.
- The sewer pump station is eligible for listing on the state register of historic places.
- Election of officers was held at the meeting. Both the current Chair and Vice Chair were re-appointed.

Councilor Needell--Land Stewardship Committee

- The Committee will meet this coming week. Some of the agenda items include project updates from Tom Brightman and the Woodridge property offered to the Town.

Councilor Hotchkiss--Planning Board

- The Board held a workshop to review and analyze past projects to find strengths and weaknesses in their process.
- The Board met on May 25th. In that meeting members discussed the Mill Plaza project, where the site plan was ultimately denied, and the conditional use was finalized. The Board also discussed the proposed mixed-use building on 74 Main Street. Improvements to parking access, and stormwater management were all made to the proposal. The Public Hearing on the project will continue on June 22nd.
- The Newmarket Road project discussed by Councilor Lund was the third agenda item, with the proposal being accepted as complete. The Public Hearing will take place on June 8<sup>th</sup>.
- Items on the agenda of the next upcoming meeting include a proposed addition to the Great Bay Animal Hospital and continued discussion on the 19/21 Main Street parking lot proposal.

Councilor Lawson--Energy Committee

- Councilor Lawson noted that many residents recently received a postcard with two information sessions on Community Power Aggregation. One session will be on June 15th, and the other will be on July 6th, both at 7 pm at the Town Hall. The focus of the presentation will be on what residents should expect, how community power will be rolled out, and the option of opting out. Councilor Lawson also noted that the earliest this program could move forward would be the spring/summer.

- Lawson also noted that it is likely that the Energy Committee will be requesting to add alternate members to their committee. This would allow for a more sustainable division of work, and also allow for the Committee to more easily make the quorum of in-person members needed to hold an official meeting.

#### Councilor Welsh--IWMAC

- IWMAC has met twice since the last Council meeting. Durham Day Planning continued, as well as reviewing the upcoming Did You Know articles for the Friday updates and Kathy Fletcher's Climate Plan presentation.

#### Councilor Welsh--Conservation Commission

- The Commission met on the 23rd of May. They heard Kathy Fletcher's Climate Plan presentation.
- For Durham Day, the Commission showed a DES model to showcase watershed pollution. Councilor Welsh noted that the model was a particular hit among kids, which is a target demographic of the Commission.
- The Commission also discussed language changes to the four criteria required for WCOD/SPOD. The goal is to make the language easier to comprehend.

#### Councilor Friedman--Parks and Rec

- Parks and Rec also mentioned Durham Day a few times at its last meeting, mostly reflective. Overall, the event was well attended and successful. Memorial Day was also similarly successful.
- Councilor Friedman mentioned that the Committee still has an open seat.

#### Administrator Selig

- COVID-19 is still affecting Town Department operations, mainly when a staff member is out for a period due to complications, but its impact is minimal.
- Concern has been raised about the encroachments of the 15 Newmarket Road property on Old Schoolhouse Road. Selig noted that all of these encroachments were built by the town, and that there will likely be a licensing agreement allowing these encroachments to stay. This agreement would also give the Town the ability to intervene in the future if needed.
- Section 106 Historical Mitigation process is starting for the Mill Pond Dam. This process is normally spearheaded by a federal agency, with the goal of mitigating as many effects to the historical value of the area as possible. The town has asked the Division of Historic Resources, who will likely be in charge of the process, to come to give an overview of the process. The goal is to make public participation as accessible as possible. The tentative date for this is July 14th.
- DPW and VHB engineers are seeking out as many grant opportunities as possible. Durham recently received a \$284,000 grant that would cover the bulk of engineering costs of the project.
- Strafford Superior Courts recently overturned the Planning Board's decision on the Gerrish Drive subdivision. The project will then return to the Planning Board, and Mr. Selig plans to meet with the Town's lawyer to review the case and see if there is any need for the Judge to review their decision again.

- The Mill Plaza applicant has been in touch with the Town's lawyers to inquire how to submit an appeal, so Mr. Selig expects that an appeal will be filed.
- Durham has given permission to a group of UNH graduate students to research the effects of climate change in the Spruce Hole Bog. Their research has turned up a historical artifact, which seems to be gun powder flask that potentially dates back to the civil war.
- Students at ORMS and ORHS have been incredibly active in Durham issues. Articles on the Mill Pond Dam and the Mill Plaza have appeared in the high school's newspaper, along with discussion of their equity, diversity, and justice efforts. Two inquiries have also been made from ORMS, one from a teacher about current Durham issues he can incorporate into next year's curriculum, and feedback on pollution of Town properties by a pair of fifth graders.
- Police Chief Rene Kelly will be out for a period of time on medical leave. Assistant Chief David Holmstock will assume the position of Acting Chief, and Captain Jack Dalton will take the position of Acting Assistant Chief.
- Kyle Pimental, a Strafford County Planner, will be coming in to give a presentation of a report done on the effects of rising sea levels on Durham's critical infrastructure, as well as private wells and septic systems. The goal is to use that information to help update the Hazard Mitigation Plan.

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

There was no designee present to give a report.

**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 schedule a Public Hearing for Monday, June 20, 2022, on a resolution to authorize the acceptance and expenditure of an American Rescue Plan Act (ARPA) grant from the New Hampshire Department of Environmental Services in the amount of up to \$100,000 for the West End Sewer Planning Study Project and authorizing the Administrator to sign and submit grant documents on behalf of the Town of Durham?
- B. Shall the Town Council schedule a Public Hearing for Monday, June 20, 2022, on a resolution to authorize the acceptance and expenditure of an American Rescue Plan Act (ARPA) grant from the New Hampshire Environmental Services for partial funding up to \$284,226 for restoration of the Oyster River through removal of the Mill Pond Dam and authorize the Administrator to sign a grant agreement and associated documents?
- C. Shall the Town Council, upon recommendation of the DPW and Administrator, authorize the Administrator to:
  - 1. Sign a contract in the amount of \$698,660 with Pichette Bros. Construction of Manchester, NH for Emerson Road watermain and roadway construction improvements, subject to available funding; and
  - 2. Sign a contract in the amount of \$96,300 with Underwood Engineers of Portsmouth, NH for Emerson Road Construction Phase Engineering Services, subject to available funding?

- D. Shall the Town Council, Upon Recommendation of the DPW and Administrator:
1. Authorize the Administrator to Transfer Funds from 2021 Capital Equipment Purchase Revenue and Expenditure Accounts listed Under Financial Details to the 2022 Dump Truck Replacement Purchase Account 07-2203-800;
  2. Authorize the Purchase of a New 2023 HV 507 SFA 6-Wheel International Dump Truck with Cummins L9 Diesel Engine from Allegiance Truck s of Manchester, NH in the Amount of \$99,795 From Account 07-2203-800; and
  3. Authorize the Purchase of a New 2022 Model SL2418 Swap Loader Dump Truck Body with Stainless Steel Dump Body, Skidded Sander, Front and Wing Plows and Cirus Dual Spread Sander Control from Viking Cives of Lewiston, Maine in the Amount of \$134,430 From Account 07-2203-800?

***Councilor Marple MOVED to APPROVE the Unanimous Consent Agenda Items as presented, which was SECONDED by Councilor Lund and PASSED 9-0.***

## **XII. Presentation Items**

- A. Receive report on Conservation Commission activities and projects – Jacob Kritzer, Chair, Conservation Commission.

Jacob Kritzer greeted the Council and overviewed the points he was going to cover.

Mr. Kritzer noted that he felt the Conservation Commission had three general purposes. The first is to review applications, second is land management, and third is public education.

The most significant application the Commission has reviewed recently is the driveway for the new residence planned at 101 Durham Point Road. This was one of the applications that took up the longest discussion and received the most public comments, of recent applications. This discussion, along with similar ones about Mill Plaza and Gerrish Drive, have some ambiguity in the WCOD/SPOD criteria and process the Commission uses as a guide. As a result, the Commission is now looking into ways to improve those guidelines.

In terms of land management, the Commission continues to support Tom Brightman and the Land Stewardship Subcommittee as much as possible. Brightman updates the Commission at every meeting, which are often accompanied by budget requests for trail improvements, signage, and other related items.

The most significant land acquisition recently has been the Pike Property. Additionally, two meetings ago, the Commission met with Steve Eisenhower, UNH Land use Coordinator. They discussed UNH Land Management properties and opportunities for collaboration, including connection of UNH and Town owned trails. The Commission is also in the process of setting up a similar meeting with Newmarket Conservation Commission, which includes several previous members of the Durham Conservation Commission.

Lastly, in terms of land management, the Commission has made it a standard practice to read the Land Use Acknowledgement statement, written by the Human Rights Commission, at the beginning of every meeting. In order to abide by that statement, the Commission has recently gotten into contact with state Indigenous leaders. Their ideas included formalizing indigenous gatherings and foraging rights on Town lands.

In terms of public education, the Conservation Commission has done several educational programs recently. Last spring, the Commission organized a public seminar by Doug Tallamy, which was well attended and received. Late last summer and early fall, a number of people had noted a drop in the insect population, leading the Commission to discuss whether and how it should increase public education on herbicides and pesticides. The Commission sought advice from the UNH Cooperative Extension, and went with one of their suggestions, publishing two articles about herbicides and pesticides in the Friday Updates.

Councilor Needell noted that it might be helpful for the Commission to look back at what that WCOD wording was before its current version, to see if the older wording was clearer.

Councilor Welsh highlighted Jake Kritzer's leadership, and the quality of the Commission at large.

B. Receive report on Historic District/Heritage Commission activities and projects – The Rev. Larry Brickner-Wood, Chair, HDC/HC.

The Rev. Larry Brickner-Wood greeted the Council members and thanked them for their service. He also thanked the Town staff for their help across various projects.

The Rev. Bricker-Wood explained that the Commission's title contains two names which serve different purposes. The Heritage Commission aims to preserve the history of Durham as a whole. The Rev. Brickner-Wood noted that most of the Commission's time is spent on its role in the Historic District, in which it reviews applications on various properties. The Tideline Public House is one of the projects currently under review. The property owners have already met with the Commission once, and a site walk has taken place. The Rev. Brickner-Wood expects a decision to be made on the application at the next meeting.

The Bickford-Chesley House at Wagon Hill Farm is another big project for the Commission. This has included securing grants and monitoring the study of the building. The Rev. Brickner-Wood believes the report to be done, which will be reviewed by the Commission and used to apply for further construction grants for the property.

Planning for a community workshop on the value of historical preservation sometime in September, which will be held at the Three Chimneys Inn, is underway. Ideally, the plan is to do this annually.

The Public History Committee, a subcommittee of the Commission, also does a variety of work. The goal of this Committee is to look at how history is portrayed in the Town of Durham and ensure that narratives are inclusive of groups like Indigenous and Enslaved peoples. The Committee is also looking into improving mapping of the Historical District.

The Commission also looks at Town buildings. It had a meeting with Public Works a few months back on Smith Chapel, outlining some of the improvements that could be made to the site. The Rev. Brickner-Wood noted that the Commission is now beginning to follow up, as many of those outlines have not gotten off the ground yet. The Commission hopes that this work now will make applications for construction grants next spring easier.

Another Town building of interest to the Commission lately is the Old Town Hall. Similar to the Smith Chapel, the Commission has met with Rich Reine and Public Works at large to outline improvements that can be made to the preservation of the building.

Lastly, The Rev. Brickner-Wood noted that the Commission has begun to discuss how to incorporate preservation of the overall landscape as a historical value, not just buildings.

### **XIII. Unfinished Business**

- A. **PUBLIC HEARING AND ACTION ON RESOLUTION #2022-08** authorizing the acceptance and expenditure of \$13,500 in unanticipated revenue from the NH Land and Community Heritage Investment Program (LCHIP) for a planning study being conducted on the historic character and preservation values of the 1804 Bickford-Chesley House at Wagon Hill Farm.

Chair Marple thanked Caroline Singer for her time in writing this grant, as well as other Boards and Committee members who have done the same.

***Councilor Lund MOVED to OPEN the Public Hearing, which was SECONDED by Councilor Lawson and PASSED 9-0.***

No members of the public were present to comment.

***Councilor Marple MOVED to CLOSE the Public Hearing, which was SECONDED by Councilor Lawson and PASSED 9-0.***

***Councilor Lund MOVED to APPROVE Resolution #2022-08 as presented, which was SECONDED by Councilor Needell and PASSED 9-0.***

- B. **PUBLIC HEARING AND ACTION ON RESOLUTION #2022-09 to:**
1. Authorize the Raising, Appropriating, and Expenditure of an Additional Eight Hundred Twenty-Two Thousand, Five Hundred (\$822,500) Within the Approved FY 2022 Capital Fund Budget (With Funds to Come from a Clean Water State Revolving Fund Loan, of Which \$57,575 Loan Principal Forgiveness to be Forgiven, and \$246,750 to



- come from an ARPA Grant) for the Completion of the Littlehale Creek at Madbury Road Culvert Project;
2. Authorize the Borrowing, Issuance, and Incurrence of Debt of Not More Than \$575,750 in Long-term Bonds or Notes in Accordance with the Provision of the Municipal Finance Act (RSA Chapter 33) for Completion of the Littlehale Creek at Madbury Road Culvert Project;
  3. Authorize the Administrator to Submit a Clean Water State Revolving Fund Loan Application to the NHDES and Execute all Necessary Documents in Accordance With New Hampshire Code of Administrative Rules Chapter Env-Wq for the Completion of the Littlehale Creek at Madbury Road Culvert Project; and
  4. Authorize the Administrator to Sign a Grant Agreement and Associated Documents to Accept an American Rescue Plan Act (ARPA) Grant in the Amount of \$246,750 From the New Hampshire Department of Environmental Services for the Littlehale Creek at Madbury Road Culvert Project?

***Councilor Marple MOVED to OPEN the Public Hearing, which was SECONDED by Councilor Lund and PASSED 9-0.***

**William Hall, Smith Park Lane**, spoke against the resolution, raising concern over Town debt and shared costs with UNH.

***Councilor Marple MOVED to CLOSE the Public Hearing, which was SECONDED by Councilor Hotchkiss and PASSED 9-0.***

***Councilor Marple MOVED, by two-thirds majority vote, to APPROVE Resolution #2022-09 as presented, which was SECONDED by Councilor Lawson and PASSED by a two-thirds (2/3) majority vote of 9-0.***

**C. PUBLIC HEARING AND ACTION ON RESOLUTION #2022-10 to:**

1. Authorize the Raising, Appropriating, and Expenditure of an Additional Eight Hundred Twenty-Two Thousand, Five Hundred (\$822,500) Within the Approved FY 2022 Capital Fund Budget (With Funds to Come from a Clean Water State Revolving Fund Loan, of Which \$57,575 Loan Principal Forgiveness to be Forgiven, and \$246,750 to come from an ARPA Grant) for the Completion of the Littlehale Creek at Edgewood Road Culvert Project;
2. Authorize the Borrowing, Issuance, and Incurrence of Debt of Not More Than \$575,750 in Long-term Bonds or Notes in Accordance with the Provision of the Municipal Finance Act (RSA Chapter 33) for Completion of the Littlehale Creek at Edgewood Road Culvert Project;
3. Authorize the Administrator to Submit a Clean Water State Revolving Fund Loan Application to the NHDES and Execute all Necessary Documents in Accordance With New Hampshire Code of Administrative Rules Chapter Env-Wq for the Completion of the Littlehale Creek at Edgewood Road Culvert Project; and
4. Authorize the Administrator to Sign a Grant Agreement and Associated Documents to Accept an American Rescue Plan Act (ARPA) Grant in the Amount of \$246,750 From the New Hampshire Department of Environmental Services for the Littlehale Creek at Edgewood Road Culvert Project?

***Councilor Needell MOVED to OPEN the Public Hearing, which was SECONDED by Councilor Lund and PASSED 9-0.***

**William Hall, Smith Park Lane**, spoke in favor of the resolution, noting he was pleased with the comprehensive assessment of issues.

***Councilor Marple MOVED to CLOSE the Public Hearing, which was SECONDED by Councilor Tobias and PASSED 9-0.***

Councilor Lawson thanked Public Works for all of the effort that went into preparing this resolution, including the sourcing of grant money.

***Councilor Needell MOVED, by two-thirds majority vote, to APPROVE Resolution #2022-10, which was SECONDED by Councilor Tobias and PASSED by a two-thirds (2/3) majority vote of 9-0.***

**XIV. New Business**  
Other Business

Administrator Selig noted that additions were made to the Council Chamber table, which were installed to give bigger Committees and Board, mainly the Planning Board, proper space to conduct business.

Councilor Lawson noted his sadness in hearing of the death of Victoria Parmele thanking her for her service to the Council.

**XV. Nonpublic Session (if required)**

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

**XVII. Adjourn (NLT 10:30 PM)**

***Councilor Lawson MOVED to ADJOURN the meeting, which was SECONDED by Councilor Lund and PASSED 9-0.***

The meeting was ADJOURNED at 8:36 p.m.

Evie Wiechert, Minute Taker