

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

**DURHAM TOWN COUNCIL
MONDAY, AUGUST 15, 2022
DURHAM TOWN HALL - COUNCIL CHAMBERS
7:00 pm**

MEMBERS PRESENT: Council Chair Kitty Marple; Councilor Joe Friedman; Councilor Chuck Hotchkiss; Councilor Sally Tobias; Councilor Eric Lund; Council Chair Pro Tem Sally Needell; Councilor Carden Welsh (*participated via Zoom*); Councilor Eleanor Lonske (*Joined meeting via Zoom at 7:42 PM*)

MEMBERS ABSENT: Councilor James Lawson

OTHERS PRESENT: Acting Administrator & Business Manager Gail Jablonski

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

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 Sally Tobias--Yes; Councilor Eric Lund--Yes; Chair Kitty Marple—Yes; Council Chair Pro Tem Sally Needell—Yes; Councilor Chuck Hotchkiss—Yes; Joe Friedman—Yes; Carden Welsh—Yes (Granted permission to participate via Zoom as he was in Medford MA because he had an early flight to Florida the next morning)*

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 Tobias and PASSED on a roll call vote of 7-0: Councilor Tobias--Yes; Councilor Lund--Yes; Chair Marple—Yes; Chair Pro Tem Needell—Yes; Councilor Hotchkiss—Yes; Councilor Friedman—Yes; Welsh—Yes

V. Special Announcements – None

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

Stephen Holmes, Riverwoods, Apt. 137, 14 Stone Quarry Drive, presented the Council with a petition drafted and signed by concerned members of the Riverwoods community urging the Council to resolve in writing an affirmation of the Town of

Durham's support for an inclusive and welcoming community and condemning those who seek to divide the community based on hate, race, ethnicity, sex or gender identity, age, religion, abilities or socio-economic status.

Chair Marple thanked Mr. Holmes and the other Riverwoods residents for the petition and said she would like to speak with Administrator Selig when he returns about the request before taking any action on the petition at this time.

William Hall, Smith Park Lane, said that Councilor Lawson said some things at the last Council meeting that he thought were very good and that he wanted to underline. First, Councilor Lawson commented on solar panels. Mr. Hall said that solar panels are a fool's errand. He said the only two alternative power sources that make sense for New England on a large scale is either nuclear or hydroelectric. He noted that Mr. Lawson's comment regarding housing was correct in that the only thing the Town can do is build housing, fill it up with students, and get the students out from the other towns around it because any other housing in Durham will be snapped up by students. Lastly, he said that Councilor Lawson had mentioned that the original 401 water restriction on the Lamprey River was political, something that he (Mr. Hall) had been saying for years. Mr. Hall said now the Town has a water restriction that is five times more restrictive than the original 401 and it is based on nothing.

Joshua Meyorwitz, 7 Chesley Drive, spoke on the Toomerfs parking lot site plan and conditional use application for a commercial parking lot at the 19-21 Main Street property relative to the retaining wall.

VII. Approval of Minutes – May 9, May 16, 2022

Chair Marple MOVED to approve the Town Council minutes for May 9 and May 16, 2022, as presented with a few minor amendments that were given to Administrative Assistant Jennie Berry for inclusion.

The motion was SECONDED by Councilor Lund and PASSED on a roll call vote of 6-0-1: Councilor Welsh—Yes; Councilor Tobias--Yes; Councilor Lund--Yes; Chair Marple—Yes; Chair Pro Tem Needell—(abstained from voting on May 9 minutes due to her absence at that meeting); Councilor Hotchkiss—Yes; Councilor Friedman

The minutes of May 16 were APPROVED on a roll call vote of 7-0: Councilor Welsh—Yes; Councilor Tobias--Yes; Councilor Lund--Yes; Chair Marple—Yes; Chair Pro Tem Needell—Yes; Councilor Hotchkiss—Yes; Councilor Friedman—Yes

VIII. Councilor and Town Administrator Roundtable

Councilor Friedman—Parks & Recreation Committee

- The next Parks & Recreation Committee will be held on August 30th.
- He noted that the Seacoast Economic Development Stakeholders met on July 26th and discussed daycare in the region, and on August 9th the group gave a presentation on housing opportunity planning grants. Councilor Friedman thanked Public Works Director Rich Reine and his crew on obtaining funding for the culvert replacements on Bennett Road, as well as Town Engineer April Talon and Administrator Selig on

the funding received for the Mill Pond; both projects of which are in excess of \$2 million dollars.

Councilor Hotchkiss

- Councilor Hotchkiss had nothing to report.

Councilor Needell—Integrated Waste Management Advisory Committee

- The IWMAC and the Land Stewardship Subcommittee have not met since their last meetings.
- IWMAC will be participating at Farm Day on August 20th from 10AM to 4PM to promote household composting.
- There is a Managing Our Lands working group of the Land Stewardship whose mission is to assess current use of the lands and future needs. This is the group that has been doing surveys of Town properties which have been featured in Friday Updates. They also do in-person surveys at the site. In the case of Wagon Hill Farm, they have tried to assess usage by non-Durham residents as well.
- Councilor Needell offered to establish a Town working group to update by amendments changes to the Town's Zoning Ordinance to support the work of boards, commissions, and committees by focusing on any articles or parts of articles of concern that they identify. The group would review wording, clarify definitions, and work to match the intentions of the Master Plan.
- Councilor Needell shared some thoughts/suggestions she had on ways to help reduce public comments at meetings.

Council Chair Kitty Marple—Durham Human Rights Commission

- Shawna Coppola, Racial Unity Team (RUT) Leadership Team Member, attended the last meeting and asked if the Town of Durham would be interested in having a Racial Unity Day event similar to the Town of Exeter. Administrator Selig cautioned the commission about the impacts holding a large event of this nature would have with regard to planning and resources regarding food, supplies, blocking and/or closing streets, and additional personnel costs, etc.
- The commission discussed the amendment suggestions made by the Town Council to the policy the HRC recommended for scheduling public meetings on holidays for Town boards, commissions, and committees to consider when planning public meetings each year, which is to be voted on at tonight's meeting.
- Dr. Janet Perkins-Howland manned a table for the Durham HRC at Durham Day.
- Dr. Janet Perkins-Howland submitted a grant application to the NH Charitable Trust and received \$10,000 to be used for Diversity, Equity, Inclusion, and Justice training for all Town employees and board, commission, and committee members, which is also to be voted on at tonight's meeting.
- Dr. Janet Perkins-Howland suggested that Durham create its own DEI committee. Administrator Selig was reticent to create another committee and noted that the Durham HRC had already been doing a lot over the past year. Chair Marple noted that Dr. Perkins-Howland is very concerned about social justice and wants to ensure that people do feel as though they are being heard and feel welcomed.

Councilor Lund--Historic District/Heritage Commission

- The Commission met on August 4, 2022, and reviewed the Historic Building Conditions Assessment dated April 2022 on the Bickford-Chesley House at Wagon

Hill Farm provided by Steven C. Mallory, Architectural Conservator.

- Two top priorities on that list are replacement of the roof and the siding. The total cost for these two projects would be \$70,000. Grants will be pursued to defray the cost for these repairs.
- Discussed holding a Community Workshop for the benefit of property owners, businesses, and residents located in the Historic District. The workshop will be held on Thursday, September 22, 2022, at 7PM at the Three Chimneys Inn.
- Held a brief discussion on the upcoming 2023 HDC budget and voted to request the same amount as the current budget, which is \$12,100.
- The next HDC meeting is scheduled for September 8, 2022.

Councilor Tobias--Planning Board

- Following up on the Seacoast Economic Development Stakeholders meeting mentioned by Councilor Friedman in his report, Councilor Tobias said she found the discussion on childcare very interesting and eye opening. It was noted how difficult it was for childcare workers themselves to find adequate childcare for their own children and the issue of affordability. Sometimes facilities can be substandard and sometimes ordinances can be challenging because these facilities are considered “commercial”, so they need to be up to date on sprinkler systems. In addition, the seacoast region has lost a number of daycare facilities.
- The Solar Ordinance was on the Planning Board’s last meeting agenda, but it has been pushed off to the board’s meeting scheduled for September 14, 2022.
- The board discussed and went over some of the issues surrounding the 74 Main Street project. It will once again be on the board’s agenda for September 28th.
- The Tideline Public House at 15 Newmarket Road was approved on July 27, 2022.
- The parking lot proposal for 19-21 Main Street continues to be discussed. The Public Hearing on this proposal was closed on August 10th. Deliberations will be continued at the August 24th meeting.
- Held discussion on August 10th regarding a 2-lot subdivision of 1.3-acre lot with single-family house at 14 Schoolhouse Lane.
- August 10th received an application for a Conditional use for garage (which is detached) and accessory dwelling unit for single-family house at 74 Mill Road within the Shoreland Protection Overlay District.

Councilor Welsh – Conservation Commission

- At the July 25, 2022, DCC meeting, the commission discussed two dock extension permits into Little Bay: one at 26 Cedar Point Road and the other at 32 Cedar Point Road.
- Approved the 74 Mill Road conditional use application for garage and accessory dwelling unit located within the Shoreland Protection Overlay District as commission members felt the improvements will be better for stormwater.
- At a special meeting on August 8, 2022, the commission discussed the 19-21 Main Street parking lot proposal that has been quite controversial. Commission members noted that there are a lot of negative environmental issues associated with a parking lot being built at that location and expressed if the application is ultimately approved, the DCC would ask/recommend that the applicant be very careful with the materials and engineer so that it doesn’t adversely impact the environment (or at least as little as possible).

- Reviewed the draft Solar Ordinance and agreed with Councilor Lawson that the ability to build free standing arrays in the Wetland Conservation Overlay District (WCOD) and the Professional Development District (POD) should be changed from conditional use to not allowable.

Councilor Eleanor Lonske joined the meeting via Zoom at this time (7:42 PM).

- IX. Unanimous Consent Agenda** *(Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote)*
- A. **RESOLUTION #2022-07** Establishing a policy for scheduling public meetings on holidays for Town boards, commissions, and committees to consider when planning public meetings each year, as recommended by the Human Rights Commission
 - B. Request for an extension to October 31, 2022, for the Planning Board to provide its recommendations on the proposed Solar Energy Systems Ordinance initiated by the Durham Town Council on May 9, 2022

Chair Marple *MOVED* approval of Unanimous Consent Agenda items A. and B. above.

The motion was SECONDED by Councilor Tobias and PASSED on a roll call vote of 8-0: Councilor Welsh—Yes; Councilor Tobias--Yes; Councilor Lund--Yes; Chair Marple—Yes; Chair Pro Tem Needell—Yes; Councilor Hotchkiss—Yes; Councilor Friedman—Yes; Councilor Lonske--Yes

- X. Committee Appointments**
- A. Shall the Town Council move alternate member Leslie Schwartz to fill the unexpired regular member term of Alex Talcott on the Zoning Board of Adjustment with a term expiration of April 30, 2024?

Councilor Eric Lund MOTIONED to move alternate member Leslie Schwartz to fill the unexpired regular member term of Alex Talcott on the Zoning Board of Adjustment with a term expiration of April 30, 2024.

The motion was SECONDED by Councilor Hotchkiss and PASSED on a roll call vote of 8-0: Councilor Welsh—Yes; Councilor Lonske—Yes; Councilor Tobias--Yes; Councilor Lund--Yes; Chair Marple—Yes; Chair Pro Tem Needell—Yes; Councilor Hotchkiss—Yes; Councilor Friedman—Yes

- B. Shall the Town Council appoint Townsend Zwart, 5 Edgerly Garrison Road, to fill a vacancy on the Durham Energy Committee?

Councilor Eric Lund MOVED to appoint Townsend Zwart, 5 Edgerly Garrison Road, to fill a vacancy on the Durham Energy Committee with no term expiration.

The motion was SECONDED by Councilor Hotchkiss and PASSED on a roll call vote of 8-0: Councilor Welsh—Yes; Councilor Lonske—Yes; Councilor Tobias--Yes; Councilor Lund--Yes; Chair Marple—Yes; Chair Pro Tem Needell—Yes; Councilor Hotchkiss—Yes; Councilor Friedman—Yes

XI. Presentation Item

Receive activities report on the Agricultural Commission – Theresa Walker, Chair

Agricultural Commission Chair Theresa Walker reported on some major projects the commission has worked on over the past year or so.

1. The commission attempted to rezone some of the land north of Route 4 from Residential Coastal to Rural. The catalyst for the change was that there are active farms, and also some of the town's most prime producing farmland is located in that area. The commission had support from residents within that zone for the change, however, there were concerns expressed from residents who would about the zone. The Planning Board ultimately did not support the zone change and it was not brought forward to the Council for action.
2. In January 2022, the commission pulled together what it calls the Oyster River Food Shed comprised of three farms in Durham, Lee, and Madbury. The group meets monthly. There was a kick-off meeting held in January at the UNH Browne Center and on Zoom. There was a very large turnout of farmers and other individuals interested in raising awareness about the food that is produced hyper-locally and sharing that information with the public. A map has been created of what is food/items are available, when they are available, and where they are available. Durham Farm Day is now called "Farm Day" as activities have now been extended to include Lee and Madbury.
3. Commission members have a strong interest in figuring out as a community how to promote community scale cooperative agriculture (i.e., who can produce what and how to share the knowledge, tools, information, and infrastructure). Ms. Walker said that after Farm Day, the commission will get back to thinking about ways to increase local food production and the ability of how to do so.

Chair Marple asked Ms. Walker if there was currently a full complement of members on the Ag Commission. Ms. Walker replied that yes, the commission has a full and very engaged group of members who take their work seriously in making a more resilient community going forward.

XII. Unfinished Business

PUBLIC HEARING AND ACTION ON RESOLUTION #2022-14 authorizing the acceptance and expenditure of \$10,000 in unanticipated revenue from the NH Charitable Foundation to provide Diversity, Equity, and Inclusion (DEI) training for Durham municipal employees and volunteers

Councilor Lund MOVED to OPEN the Public Hearing on Resolution #2022-14 authorizing the acceptance and expenditure of \$10,000 in Unanticipated Revenue from the NH Charitable Foundation to provide Diversity, Equity, and Inclusion (DEI) training to Durham municipal employees and volunteers.

The motion was SECONDED by Councilor Tobias and PASSED on a roll call vote of 8-0: Councilor Welsh—Yes; Councilor Lonske—Yes; Councilor Tobias--Yes;

Councilor Lund--Yes; Chair Marple—Yes; Chair Pro Tem Needell—Yes; Councilor Hotchkiss—Yes; Councilor Friedman—Yes

There were no members of the public to speak to on this resolution.

Chair Marple MOVED to CLOSE the Public Hearing on Resolution #2022-14 authorizing the acceptance and expenditure of \$10,000 in Unanticipated Revenue from the NH Charitable Foundation to provide Diversity, Equity, and Inclusion (DEI) training to Durham municipal employees and volunteers.

The motion was SECONDED by Councilor Welsh and PASSED on a roll call vote of 8-0: Councilor Welsh—Yes; Councilor Lonske—Yes; Councilor Tobias--Yes; Councilor Lund--Yes; Chair Marple—Yes; Chair Pro Tem Needell—Yes; Councilor Hotchkiss—Yes; Councilor Friedman—Yes

Councilor Lund MOVED to ADOPT Resolution #2022-14, as presented, authorizing the acceptance and expenditure of \$10,000 in Unanticipated Revenue from the NH Charitable Foundation to provide Diversity, Equity, and Inclusion (DEI) training to Durham municipal employees and volunteers.

The motion was SECONDED by Councilor Tobias and PASSED on a roll call vote of 8-0: Councilor Welsh—Yes; Councilor Lonske—Yes; Councilor Tobias--Yes; Councilor Lund--Yes; Chair Marple—Yes; Chair Pro Tem Needell—Yes; Councilor Hotchkiss—Yes; Councilor Friedman—Yes

XIII. New Business

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

XIV. Nonpublic Session (if required)

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

XVI. Adjourn (NLT 10:30 PM)

Councilor Tobias MOVED to ADJOURN the meeting. The motion was SECONDED by Councilor Hotchkiss and PASSED on a roll call vote of 8-0: Councilor Welsh—Yes; Councilor Lonske—Yes; Councilor Tobias--Yes; Councilor Lund--Yes; Chair Marple—Yes; Chair Pro Tem Needell—Yes; Councilor Hotchkiss—Yes; Councilor Friedman—Yes

The meeting **ADJOURNED** at 7:58 PM.

Jennie Berry, Administrative Assistant