

This set of minutes was approved at the October 3, 2022 Town Council meeting

**DURHAM TOWN COUNCIL
MONDAY, SEPTEMBER 12, 2022
DURHAM TOWN HALL - COUNCIL CHAMBERS
7:00 pm**

MEMBERS PRESENT: Councilor Joe Friedman, Councilor Carden Welsh, Councilor Chuck Hotchkiss, Chair Pro Tem Sally Needell, Chair Kitty Marple; Councilor Eric Lund, Councilor Lawson, Councilor Sally Tobias (*participated via Zoom*)

MEMBERS ABSENT: Councilor Eleanor Lonske

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

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 and Councilors granted permission for Councilor Tobias to participate via Zoom due to members of her family having COVID: ***Councilor Friedman--Yes; Councilor Welsh--Yes; Councilor Hotchkiss--Yes; Chair Pro Tem Needell--Yes; Chair Marple--Yes; Councilor Lund--Yes; Councilor Lawson--Yes***

NOTE: Although Councilor Tobias attended the meeting via Zoom, there was an issue with the Zoom audio, and she was unable to be heard. However, she did vote on agenda items, indicating her approval by raising her hand when called upon.

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 Pro Tem Needell and PASSED on a roll call vote of 8-0: Councilor Friedman--Yes; Councilor Welsh--Yes; Councilor Hotchkiss--Yes; Chair Pro Tem Needell--Yes; Chair Marple--Yes; Councilor Lund--Yes; Councilor Lawson--Yes; Councilor Tobias--Yes

V. Special Announcements – None

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

Marjorie Smith, 100 Piscataqua Road, reminded everyone that tomorrow (September 13th) was the State Primary Election. She said that the Secretary of State had just indicated his projection for the number of voters who will turn out for the election, and if he is correct, New Hampshire will not reach 30%. She said there are very few competitive races in this year's Primary but there are some major ones on the Republican side that for those persons who are either Republican or undeclared choosing to take a Republican ballot should be part of. On the Democratic side, Representative Smith said there are fewer contests but one of them is the NH House of Representatives. She said decisions are made in Concord that affect the quality of everyone's lives in New Hampshire and that it was incredibly important that people get out to vote. She said she will be running once again as a Durham candidate for the State House of Representatives, in which Durham has 5 candidates running for 4 seats; and she asked for support from Durham residents on her re-election so that she can continue to try and do the best she can for the Town of Durham, the County, and the State.

William Hall, Smith Park Lane, noted he had a letter from a few years ago that Administrator Selig sent to NHDES Administrator Paul Currier with regard to the Durham/UNH withdrawal from the Lamprey River 401 Water Quality Certification. Mr. Hall said that Mr. Selig says he [Mr. Hall] just disagrees with his position, when in fact, Mr. Hall said he actually states Mr. Selig's position, which is the position Mr. Selig used to have when he asked in his letter to NHDES what the restriction for water was based on and could not get an answer. Mr. Hall said the reason the Town could not get an answer from NHDES was because there was no basis for the restriction; it was made up, and now the Town has a restriction that is five times worse than before.

Mr. Hall then shifted his comments with respect to former Public Works Director Mike Lynch and some projects he felt were not adequately executed and completed while Mr. Lynch served as the director.

Councilor Lawson pointed out that the letter Mr. Hall referred to was from 17 years ago. He said his second point was that there is politics involved with water supply, which is a characteristic across the country. The system the Town has put in place is resilient to politics and a really changing environment, which was seen this past summer with a severe drought and very low flows on the Lamprey River. Councilor Lawson said that although many of the towns around Durham were implementing water restrictions, Durham did not implement any restrictions because of the system it has in place.

As to Mr. Hall's comments regarding Mike Lynch, Councilor Lawson said he valued all of the time that Mr. Lynch was in Durham. He said that he enjoyed working with Mr. Lynch, that Mr. Lynch was a great asset to the community, and his commitment was second to none.

Lastly, Councilor Lawson said he and Councilor Friedman had an opportunity to sit in on a presentation by ISO New England in which it was noted how much solar energy had reduced the traditional daytime peak, and since ISO did not have to meet that daytime

peak often, it reduced the amount of energy that was required for things like natural gas and coal during the summertime. In fact, it was so significant, it actually shifted the peak that ISO New England has for delivering power and fossil fuels. Councilor Lawson concluded by saying that solar in New England, residential, and all utility solar in Massachusetts and other states is really having a big impact.

Joshua Meyrowitz, 7 Chesley Drive, said he was delighted with the Planning Board's vote of 7-0 to dismiss the Church Hill Woods parking lot proposal. He then gave a brief presentation on "Narrowly Avoiding Durham Planning Disasters, High Costs, and Remaining Risks", and spoke to the risks that remain regarding the Colonial Durham Associates appeal to the Housing Appeals Board on the Mill Plaza. Although he thought Town Attorney Laura Spector-Morgan did a good job at the August 30, 2022, Housing Appeals Board hearing on the Mill Plaza, Mr. Meyrowitz said he did have concerns with the larger issue of the relative quality of Attorney Spector-Morgan's work and the larger story regarding her engagement with the Plaza application and appeal, as well as what might happen going forward should the Housing Appeals Board vote against the Town.

Gail Kelley, 11 Gerrish Drive, read a lengthy letter responding to the reactions of the Council to comments made by several Town residents, including herself, at the July 11, 2022, Council meeting regarding the actions of the Planning Board. In part, Ms. Kelley said her Superior Court appeal against the Planning Board in granting Michael and Marti Mulhern a permit to dredge and fill the Gerrish Drive active stream bed wetland so they could build a road through it to their proposed subdivision was successful because it was based on the Planning Board's violation of the Zoning Ordinance. It was not successful because of any politicking that she did or because the Judge showed more interest in her own personal interest in this case than the Town's interest in it. She also contended that this was just part of the suppression and obstruction of information to the Planning Board and Conservation Commission by the Town Planner as he aided and abetted the Mulherns in their scheme to force the Town to let them build a shorter road to their subdivision rather than a longer, presumably more costly road on their own property.

Jeff Berlin, 3 Cowell Drive, spoke to item #11B on the Council's agenda regarding updates to the Sprinkler Ordinance within Chapter 68 "Fire Prevention" of the Durham Town Code. He noted that a few years ago, it was discovered that the Fire Department was not enforcing sprinklers in existing properties as required by Section 68-24.1 of the Durham Town Code. At that time there was a meeting of the Durham Landlords Association and former Deputy Chief of Fire Prevention John Powers which resulted in the understanding that Mr. Powers would be bringing forward an amendment to remove the word "existing" from the ordinance. Since that time, Mr. Powers has left the town's employment, and nothing has been brought forward to make that amendment. Mr. Berlin said the Fire Department is now enforcing the ordinance to require sprinklers in existing properties, which he felt could cause major issues to occur as a result of selective enforcement and lack of enforcement over the years.

Administrator Selig noted the reason for this item being on the Council's agenda was because it is a very complicated topic which the Town tried to address in 2017, and it continues to have some challenges. He just wanted to be transparent to the Council and

the community that the Fire Department and the Building Office are going to start a process to evaluate the ordinance further and come up with some solutions. There is no proposal to come before the Council this evening to fast-track changes to the ordinance, only to let everyone know that the Town is trying to work through this issue.

VII. Approval of Minutes

June 6, 2022

Chair Marple and other Council members noted that they had submitted minor amendments to Administrative Assistant Jennie Berry earlier to be included in the respective minutes.

Chair Marple MOVED to approve the Town Council minutes for June 6, 2022, with minor amendments. The motion was SECONDED by Councilor Lund and PASSED on a roll call vote of 8-0: Councilor Friedman--Yes; Councilor Welsh--Yes; Councilor Hotchkiss--Yes; Council Chair Pro Tem Needell--Yes; Chair Marple--Yes; Councilor Lund--Yes; Councilor Lawson--Yes; Councilor Tobias--Yes

June 20, 2022

Chair Marple MOVED to approve the Town Council minutes for June 20, 2022, with minor amendments. The motion was SECONDED by Councilor Hotchkiss and PASSED on a roll call vote of 8-0: Councilor Friedman--Yes; Councilor Welsh--Yes; Councilor Hotchkiss--Yes; Council Chair Pro Tem Needell--Yes; Chair Marple--Yes; Councilor Lund--Yes; Councilor Lawson--Yes; Councilor Tobias--Yes

August 15, 2022

Chair Marple MOVED to approve the Town Council minutes for August 15, 2022, with minor amendments. The motion was SECONDED by Councilor Hotchkiss and PASSED on a roll call vote of 7-0-1: Councilor Friedman--Yes; Councilor Welsh--Yes; Councilor Hotchkiss--Yes; Council Chair Pro Tem Needell--Yes; Chair Marple--Yes; Councilor Lund--Yes; Councilor Lawson--Abstained as he was not present for the meeting; Councilor Tobias--Yes

VIII. Councilor and Town Administrator Roundtable

Council Chair Marple – Human Rights Commission

- The Commission met with the company that will be conducting Diversity, Equity, Inclusion, and Justice (DEIJ) training for Town employees and volunteers who will be able to participate in one of four sessions that will be offered in October. Dates will be forthcoming.

Councilor Lawson

- Cemetery Chair Craig Seymour and his wife will be moving out of Durham in a few months, so a meeting will need to occur between Cemetery Committee members and

- Administrator Selig to determine how to move forward with maintaining the records and other business regarding the Town's cemeteries.
- The City of Lebanon was the first community to submit its Energy Aggregation Plan to the Public Utilities Commission, which the PUC has approved. CPCNH has updated all the planseach community and Durham now has a plan it is confident will be approved by the PUC. Members of the Durham Energy Committee will be attending the October 3, 2022, Town Council meeting to ask for approval of Durham's Energy Aggregation Plan for submission to the PUC. The plan just creates part of the regulatory framework to move forward and is not a commitment to move forward with community power. Councilor Lawson acknowledged Mandy Merrill, Nat Balch, Steve Holmgren, and Administrator Selig for their work throughout this process.
 - Current focuses of the Durham Energy Committee are: 1) Durham Community Power and getting the Durham Energy Aggregation Plan approved; 2) Reducing the use of energy in Durham's built environment that is clearly a large source of greenhouse gas that was identified with the Greenhouse Gas Inventory; and 3) Councilor Lawson will be bringing the Solar Ordinance back to a special meeting of the Planning Board on September 14th.
 - At the direction of DPW Director Rich Reine and the Police Department, Councilor Lawson is actively working to collect car vehicle speed data, process the information through software he has, then create reports so that they have a number of different areas that these departments are targeting, often to address residents' concerns.

Councilor Lund--Historic District/Heritage Commission

- The HDC/HC met on September 8th and had three major items on its agenda: 1) A request for some minor amendments to the plan from Tideline Public House at 15 Newmarket. The HDC/HC subsequently approved the plan with the amendments. The plan will now go to the Planning Board; 2) UNH Architect Ken Weston briefed the commission on the UNH Huddleston Hall addition; and 3) Held final discussions on a Community Workshop which is scheduled for September 22, 2022, at Three Chimneys Inn. Invitations will be sent to property and business owners in the Historic District, as well as owners of other historic buildings. The Council and Planning Board members will also be invited.

Councilor Needell—Integrated Waste Management Advisory Committee & Land Stewardship Subcommittee

- IWMAC members attended Farm Day, and Ray LaRoche, Jr. brought a bucket of compost he has generated over 24 years from yard clippings collected from the Town's Transfer Station. Ray also shared wonderful stories and activities about the LaRoche Farm. The Town is lucky to have Ray's generosity, ingenuity, expertise, and the many contributions he has provided the Town of Durham.
- Councilor Needell thanked the DPW staff for keeping the Town's sidewalks clean.
- The Land Stewardship Subcommittee met on September 8th and held discussion only as there was not a quorum of members present. Items discussed were:
 - Accessibility at Wagon Hill Farm in terms of parking and making sure there is a good platform for parking, especially with the future renovations that will be taking place on the Wagon Hill farmhouse.

- Safety concerns on use at the Doe Farm property.
- Land Stewardship Coordinator Tom Brightman provided updates on Town properties.
- Description by DPW Director Rich Reine of options for the access to the Portsmouth watermain easement at Wagon Hill Farm.
- “Managing Our Lands” working group will be conducting in-person questionnaires at Wagon Hill during the months of September and October to gain a better understanding of how the property is being used.
- The Swap Shop has been incredibly busy, which has caused the need for an overflow table. Councilor Needell also noted that luckily, a lot of items leave the Swap Shop as well.

Councilor Hotchkiss – Planning Board August 24, 2022, Meeting

- Held a site walk at 74 Mill Road on a conditional use for garage and accessory dwelling unit for single-family house to be located within the Shoreland Protection Overlay District (SPOD). Permit was approved by the Board that evening.
- Held a site walk at 14 Schoolhouse Lane and discussed where the sewer would connect and runoff down the sloped rear wooded section of the site. The Board held a Public Hearing that evening on the proposed 2-lot subdivision of 1.3-acre lot with single-family house. The hearing was continued to September 14, 2022.
- A new application came before the Board for 20 Adams Point Road on 2-lot subdivision of 34-acre parcel at the southeast corner of Adams Point Road and Bay Road. Accepted as complete. The public hearing will be held on September 28. The site walk will be held at 5:00 pm on September 28.
- Held a Public Hearing on an addition to UNH’s Huddleston Hall located on Main Street (next to Quad Way). This is a 3,500 square foot addition on the westerly side of the building to create a new home for the University’s Honors College.
- Voted 7-0 to deny the conditional use application at 19-21 Main Street for a parking lot as principal use on four lots and reconfiguration of the entrance. A final vote on site the plan and notice of decision will be held at the Board’s next meeting.

Items scheduled for the Board’s meeting on September 14th:

- Continuation of Public Hearing on 14 Schoolhouse Lane for a proposed 2-lot subdivision of 1.3-acre lot with single-family house.
- Review proposed Capital Improvements Program (CIP) with Todd Selig, Town Administrator, and Gail Jablonski, Business Manager.
- Final vote on site plan and notice of decision for 19-21 Main Street parking lot.

Councilor Welsh – Conservation Commission

- Commended IWMAC member Susan Richman for her work to secure a of \$1,500.00 grant to support the Durham Integrated Waste Management Committee with its mission to improve local sustainability and waste management efforts.
- Due to Rosh Hashanah on September 26th, the Conservation Commission’s regular meeting that evening has been rescheduled to Monday, September 19th.

Councilor Friedman

- Participated in the Seacoast Economic Development meetings on August 23rd and September 6th where towns in the seacoast talk about economic development and how they are pursuing joint opportunities to grow their businesses around the seacoast.
- Plans to attend the Strafford Regional Planning Commission session on September 29th on retail uses downtown. He said he is thinking about 66 Main Street and how to strengthen retail here in downtown Durham.
- Attended a meeting of the Congressional Delegation that was looking at a \$170,000,000 nursing home and renovation at the County complex. It's a very ambitious number and ambitious project. It was not voted on to go forward but he believes it will be coming back again at some point. If something were to be approved in the future, it would benefit Durham residents as members of Strafford County.

Administrator Selig

- The Fire Department held a remembrance ceremony yesterday (Sunday) observing the 21st anniversary of the September 11 attacks.
- The State Primary is tomorrow, Tuesday, September 13th, at the Oyster River High School gymnasium, Coe Drive. Polls are open from 7AM – 7PM.
- Administrator Selig and Business Manager Gail Jablonski have been meeting with Department Heads on their budget and CIP requests. Mr. Selig and Ms. Jablonski will be attending the September 14th Planning Board meeting to discuss the CIP items with board members.
- The new Bike Share has launched on the UNH campus. Durham has been part of that effort and Oyster River Cycle and Sport is providing and maintaining the bikes. There will be an App available in the near future for bike share users to download.
- There was a grand opening ribbon cutting ceremony for the new Bagdad Woods addition held two weeks ago. Mr. Selig said he just wanted to observe that it is a great project. He said it is beautiful, it fits in with the area/neighborhood, and the scale/size of the addition is appropriate.
- The Town's contractor Municipal Resources, Inc., is undertaking a full measure list of properties this year as part of a two-year revaluation process. There are two phases to this project: 1) In 2022 they are going through each property and looking at the exterior to accurately describe the parcel; and 2) In 2023, they will evaluate sales of similar properties and do a statistical update. Then all of the data about the properties and the statistical information update will be brought live in 2023 as part of the revaluation.
- As a result, in part because of the various abatements that have been granted over the past year, a series of Class Action suits regarding utilities state-wide, and new standardization that the State has put in place regarding methodology to assess valuations, Durham has seen a loss of value in its utilities by approximately \$9,000,000.00. Another item being tracked is that the Town had been projecting approximately a 0.75% in its total valuation when setting the budget last year at this time when in fact instead of being an increase of \$16,000,000.00 it is at a slight decrease. Therefore, the Town is approximately \$16,000,000.00 off its valuation estimate, which will need to be thought through in terms of setting the tax rate. The choices are: 1) Implement emergency spending freezes; 2) Utilize the Undesignated

Fund balance; or, 3) Pass on all or a portion of the increase to the tax rate above and beyond what is being projected.

Councilor Welsh asked Mr. Selig if there were any large projects that were projected to come online for the coming year. Mr. Selig said there were no projects that would affect an increase in valuation significantly. He said the valuation for 2023 would reflect anything that was built as of April 1st, 2023, so something would need to be in the ground by April 1st of that year.

Councilor Lawson asked if there were any pending new hires that the Town would be adding between now and the end of the year. Mr. Selig replied there were two positions remaining to be filled. One is the Deputy Fire Marshal. The Town has been unable to find someone to fill that position and will not be looking to hire anyone until the beginning of next year. The second position is the assistant IT person. IT Manager Luke Vincent has indicated he has two candidates that he is moving forward with.

- The NH Housing Appeals Board heard the matter of Colonial Durham Associates v. Town of Durham on August 30, 2022, and a decision should be forthcoming within the next 30 to 120 days.
- UNH Sustainability Fellow Rafidah Rahman is finishing up the Climate Action Plan which will be brought to the Council for an overview at the Council's October 4th meeting and then potential adoption at the Council's October 17th meeting. This would then allow the Town to submit the plan to the Global Covenant of Mayors for Climate and Energy by October 31st for their review and feedback to consider for improvements.

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

- A. **RESOLUTION #2022-15** authorizing the acceptance and expenditure of \$1,500.00 in unanticipated revenue from the Toxics Action Center, Inc. (d.b.a. Community Action Works, CAW) to support the Durham Integrated Waste Management Committee with its mission to improve local sustainability and waste management efforts and authorize the Administrator to sign the grant agreement
- B. **RESOLUTION #2022-16** condemning hate speech and discriminatory actions of all kinds and reaffirming the Durham community's commitment to safeguarding people's rights to life, liberty, the pursuit of happiness, and condemning those who would choose to divide its citizens
- C. Discussion and possible action to authorize the Administrator, on behalf of the Town of Durham, to sign and submit to the NH Department of Justice a Settlement Participation Form relative to the State's negotiated settlement of all the State's claims against Janssen Pharmaceuticals/Johnson & Johnson relative to prescription opiate litigation

Chair Marple ***MOVED approval of Unanimous Consent Agenda items A. through C. above.***

The motion was SECONDED by Chair Pro Tem Sally Needell and PASSED on a roll call vote of 8-0: Councilor Tobias--Yes; Councilor Lawson--Yes; Councilor Lund—

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

X. Committee Appointments

There were no committee appointments.

XI. Presentation Item

- A. Receive activities report on the Parks & Recreation Committee – Cathy Leach, Chair Parks & Recreation Committee

Chair Cathy Leach began by naming the other members of the Parks & Recreation Committee and indicated there was one regular member vacancy and three alternate member vacancies currently on the committee. She invited anyone interested in being appointed to one of these vacancies to contact either herself or Parks & Recreation Director Rachel Gasowski.

Chair Leach highlighted the committee's accomplishments, collaborations, meetings, and continuing work in a report she submitted to the Council, which is on file with this set of minutes.

Chair Leach said the Committee is looking for guidance and support from the Council for future funding requests on 1) Strategic planning process/community input; 2) Churchill rink updates and renovation; and 3) Fields/parks maintenance, updates, and renovations.

Chair Leach concluded by thanking Parks & Recreation Director Rachel Gasowski and her staff for their wonderful work and added that the Parks & Recreation department was a great asset to the Durham community.

Council Chair Marple thanked Chair Leach and said her written overview was excellent.

Regarding the Council's input/guidance with respect to the Parks & Recreation's future funding requests, Councilor Welsh noted that the Town's valuation is going to be relatively flat so this coming year's budget will be very difficult and cautioned the committee to not anticipate anything special for 2023.

Councilor Welsh asked Ms. Leach if Parks & Recreation was offering Pickleball. Ms. Leach replied that it was being offered. Councilor Welsh noted that Pickleball was popular with older individuals and was a good way to gain extra revenue.

Chair Marple asked where Pickleball was held. Parks & Recreation Director Rachel Gasowski responded that it varies from season to season depending on availability of space. Last year it was held at Mohariment Elementary School. This year it is being held at the new Middle School gymnasium, as well as the OR High School in the multipurpose room. Ms. Gasowski said she will be looking into using the Woodridge Field in the future but over the past several years there has been a challenge with availability.

Councilor Lawson thanked Ms. Gasowski for being available and a resource for things that are not Parks & Recreation related, citing her assistance with Earth Day this year as an example.

Councilor Lawson said he was pleased to read about the Churchill Rink's performance, although he was not surprised as he knows Rink Manager Bill Paige is vested in making that a success. He also expressed that the sheer size and impact of the summer programs Parks & Recreation offered was very important to a lot of Durham families.

- B. Update on proposed changes to the sprinkler section within the Fire Prevention chapter (Chapter 68) of the Durham Town Code – Brendan O'Sullivan, Fire Marshall and Audrey Cline, Zoning & Code Enforcement Officer

Fire Marshal Brendan O'Sullivan clarified comments made by Jeff Berlin earlier in the meeting. He said when Mr. Berlin reached out to him after they had the meetings Mr. Berlin referred to, Mr. Berlin was adamant that Mr. O'Sullivan was in agreement that the existing properties reference in the sprinkler code should be eliminated. Mr. O'Sullivan said that was not the case at all because first, it is not his decision to make; and second, if they were eliminated, there was no reason to have the ordinance. The code addresses new and significantly rehabilitated buildings. Mr. O'Sullivan said that Mr. Berlin was referring to that ordinance which was put in place June 5, 2017. The previous ordinance Mr. Berlin referred to was the ordinance adopted in 1991. There was a significant gap between amendments, but Mr. O'Sullivan said that the buildings required to be sprinkled in 1991 did get sprinkled. Once the Town increased the number of buildings that needed to be sprinkled, Mr. O'Sullivan said that Mr. Berlin was 100% correct; for four years no buildings were sprinkled. Mr. O'Sullivan said he did not want to lose the ordinance, so he began knocking on doors. He said fate worked in his favor because six buildings went up for sale, so he reached out to the listing agents and put them on notice in writing, and those buildings have either already been sprinkled or are in the process of being sprinkled. Mr. O'Sullivan noted other downtown buildings that have recently been sold that have been sprinkled or are in the process of being sprinkled.

Chair Marple asked if someone had a 3-bedroom house that they were renting to 3 students would a sprinkler system be required. Mr. O'Sullivan replied that it would not. There would have to be 5 renters. He said that is why he has been working with the Zoning Officer because a situation could exist where someone has a house that is classified as a lodging/rooming house and they have up to 5 renters, the owner installs a sprinkler system, submits a permit to zoning, and are informed they are not allowed to have a rooming house or 5 renters. He said the definitions referred to in the Sprinkler Ordinance are the Zoning Ordinance definitions and they have competing interests with the definitions that arguably should be used, which are the fire definitions. Specifically, there are accessory apartments that the Town's zoning links to the individual apartment, whereas the fire code considers them as two separate units.

Mr. O'Sullivan said that Jeff Berlin's apartment is a three-unit building and on either side of Mr. Berlin's building are two buildings, each with four units. They are duplexes with two accessory dwelling units. One has an existing fire wall and therefore is classified as a

single-family, so the duplex was excluded and treated as two single-family units. Mr. O’Sullivan said all of that is confusing to him, let alone the individual when Mr. O’Sullivan comes to them and says their building needs to have a sprinkler system because of what it says in the fire code, and the individual pulls out a document or two which contradicts those requirements.

Mr. O’Sullivan said that what he and Zoning Officer Audrey Cline would be proposing is eliminating the Zoning definition reference from the Sprinkler Ordinance and create references to an existing building code definition and/or fire code definition. But if they conflict (which at times they do) the Fire Department will only reference one of the two.

Chair Marple asked Mr. O’Sullivan if it was his intent to come back to the Council with an amendment to the sprinkler ordinance.

Mr. O’Sullivan replied that he would prefer if the landlords came to the Council, and that he has mentioned that to them several times. He said that he and Audrey Cline would be glad to work with them, but he would much rather it be their idea. If it is not something the landlords want to bring forward, Mr. O’Sullivan said he would gladly do it. He said the proposed amendments would only apply to the smaller units of four or less because they are classified as accessory dwelling units, whether it is one or two of them. He said many of the duplexes, or the two units as the Fire Code would refer to them as, are classified as two separate single-family units.

Councilor Lawson said that Mr. O’Sullivan and the Fire Department has the expertise regarding the matter of life safety, and he preferred that the Fire Department bring forward its proposed amendments after having received input from the landlords.

Mr. Selig said his expectation is that the Fire Department and Building Office would work together and receive feedback from landlords on any concerns they have, but he wants to hear directly from the Fire Department and Code Officer on what they believe makes sense, is workable, and is acceptable.

Mr. O’Sullivan said he would work with Code & Zoning Officer Cline, members of the Durham Landlords Association, as well as other landlords he is aware of, and return to the Council at a future meeting with a draft ordinance. He reiterated that the thought of removing the word “existing” within the ordinance would not be recommended as it made no sense to do so.

Councilor Lawson said the Council would not want to have that happen either. He said there were some buildings with a lot of students in them that were not sprinkled and that was the intent for having the sprinkler ordinance.

Zoning and Code Enforcement Officer Cline said that the differing language in the fire code and the Zoning Ordinance results in the unintended consequence of being ambiguous and confusing. In addition to sprinklering, the fire code allows other fire prevention measures such as separation in small buildings. The Zoning Ordinance language does not allow those alternatives to sprinklering.

XII. Unfinished Business - None

XIII. New Business

- A. Shall the Town Council approve the establishment of a Town Council Task Force to review and amend articles within Chapter 175 “Zoning” of the Durham Town Code to support the process of their updating?

Chair Pro Tem Needell said that creation of a Council Task Force to review the Zoning Ordinance for amendments is not intended to take away anything from a particular board or committee that is also looking at amending articles of the Zoning Ordinance. For instance, she knows that the Conservation Commission is interested in reviewing the Wetland Conservation Overlay District (WCOD) standards. She said if the Council Task Force could help the Conservation Commission with its review that would be fine. If not, that was fine too. She said the intent was to look at places within the code that are currently problematic concerning conditional use.

Chair Pro Tem Needell said her recommendations would be to have the Task Force consist of no more than 5 members that would be appointed by the Council with no term limits. Task Force members would include at least one member of the Town Council, Planning Board, and the committee/commission/board linked to the article, or part of the article, under review. In addition, other interested parties, including Durham residents, may contribute to discussions.

Councilor Welsh asked what kind of expertise the Task Force would bring as there is already a Planning Board and Conservation Commission in place. Chair Pro Tem Needell replied that the goal of the Task Force would be to just keep moving the process ahead. If the Conservation Commission and Planning Board are addressing many other items on their monthly agendas, the Task Force could assist with moving the review of the Zoning Ordinance along for them.

Councilor Welsh felt that the problem with creating another group would be having 5 people with 5 different perspectives on what those amendments should be within the Zoning Ordinance, which may only complicate matters. He added that when he worked with others on addressing the issue of Air B&Bs within the Zoning Ordinance, he would not have wanted a Task Force to be involved. He then asked Councilor Lawson if he would have found such a group helpful while working on the Solar Ordinance portion of the Zoning Ordinance.

Councilor Lawson responded that he would not find it helpful. He believed if the Council put this group in place, no matter what it would become a De facto gatekeeper. He said being a small group, it is likely to be dominated by people who have strong opinions about what changes should be moved forward. Lastly, he believed it was a Planning Board function to periodically review the Zoning Ordinance and bring amendments forward for approval.

Administrator Selig said in listening to the discussion he thought that perhaps Chair Pro Tem Needell could individually listen to discussions among the board/commissions,

come up with ideas, and bring those forward to the Council, similar to what Councilor Welsh did with the Air B&B item and Councilor Lawson is doing with the Solar Ordinance.

Councilor Welsh agreed with Mr. Selig's suggestion that Chair Pro Tem Needell lead the way on those areas where she identifies problems and work with the appropriate commission/board to move those forward for the Council's consideration.

Councilor Hotchkiss felt that a lot of confusion arises not with the Zoning Ordinance directly but with items such as conditional use permits, which are relied heavily on. He said if Chair Pro Tem Needell were acting individually, she would have the flexibility to recognize that and move forward accordingly. Second, Councilor Hotchkiss said that the Planning Board does put in a lot of time and effort, stating there is a proposal before the board now to meet every 5th Wednesday of the month when they occur, which might free up some time for the board to work on possible zoning amendments. He agreed with Mr. Selig that having Chair Pro Tem Needell work on this individually may be a better strategy than forming a new group.

At Councilor Friedman's request, Councilor Pro Tem Needell clarified what she was referring to around support of conditional use. For example, she said there is confusion about the wording and what conditional use is supposed to mean, what the original intent was for conditional use, and is the Town now using it as it was originally intended.

B. Other Business

Discussion regarding possible cancellation of the September 19, 2022, Town Council meeting

Councilor Lund stated his concern about receiving a report from the Housing Task Force after its the October 1st sunseting deadline that was set by the Council last September. Administrator Selig said there was not urgency around receiving the report on September 19th and that the Task Force could provide its report to Council at one of the Council meetings in October.

Hearing no other objections from Council members, ***Chair Marple MOVED to officially cancel the Town Council meeting originally scheduled for September 19, 2022.***

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

Administrator Selig noted that the problem with the Zoom audio during the meeting was because the computer needed to be re-booted, but that could not be done while the meeting was in progress.

XIV. Nonpublic Session (if required)

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

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

Councilor Lund MOVED to Adjourn.

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

The meeting **ADJOURNED** at 9:04 PM.

Jennie Berry, Administrative Assistant