

D-R-A-F-T

**DURHAM TOWN COUNCIL
MONDAY, DECEMBER 5, 2022
DURHAM TOWN HALL - COUNCIL CHAMBERS
7:00 PM**

MEMBERS PRESENT: Councilor Joe Friedman, Councilor Carden Welsh, Councilor Eleanor (Ellie) Lonske, Councilor Charles (Chuck) Hotchkiss, Chair Pro Tem Sally Needell, Council Chair Katherine (Kitty) Marple, Councilor Eric Lund, Councilor James (Jim) Lawson, Councilor Sally Tobias

MEMBERS ABSENT: None

OTHERS PRESENT: Administrator Todd Selig

I. Call to Order

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

II. Town Council grants permission for fewer than a majority of Councilors to participate remotely – Not applicable

III. Roll Call of Members. Councilor Joe Friedman—Yes; Councilor Carden Welsh—Yes; Councilor Eleanor (Ellie) Lonske—Yes; Councilor Charles (Chuck) Hotchkiss—Yes; Chair Pro Tem Sally Needell—Yes; Council Chair Katherine (Kitty) Marple—Yes; Councilor Eric Lund—Yes; Councilor James (Jim) Lawson—Yes; Councilor Sally 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 Hotchkiss and PASSED unanimously, 9-0.

V. Special Announcements

There were no special announcements.

VI. Public Comments

There were no members from the public that spoke.

VII. Approval of Minutes—October 17, 2022

Minor edits were submitted to Administrative Assistant Jennie Berry for inclusion prior to the meeting.

Councilor Marple MOVED to APPROVE the October 17, 2022, Town Council minutes as amended, which was SECONDED by Councilor Lund and PASSED unanimously, 9-0.

VIII. Councilor and Town Administrator Roundtable

Councilor Tobias – Planning Board

- Planning Board met on Wednesday, November 30, 2022. Most of the meeting focused on the housing amendment public hearing.
- The Housing Task Force will be meeting on Monday, December 12th in the 2nd floor conference room. The Task Force will be discussing applying for a Municipal Technical Assistance Grant.
- The Planning Board is reviewing the definitions section of the Zoning Ordinance.

Councilor Hotchkiss added that if Councilors have not had an opportunity to watch any of the public comments and discussion around the report prepared by the Housing Task Force, he encouraged members to do so. He said it was in-depth and interesting and felt it was worth the Councilors' attention.

Councilor Lonske thanked the Planning Board, in particular Councilor Hotchkiss, for its/his active listening, which she said makes a huge difference in how someone is perceived.

Councilor Hotchkiss said he served as scribe for the Planning Board meeting on November 30th taking notes from the public then and then giving immediate feedback to the public to confirm accurately that the board members had heard what the public wanted them to hear.

Councilor Lawson--Energy Committee

- Councilor Lawson had nothing to report.

Councilor Lund--Historic District/Heritage Commission

- The Commission met on December 1, 2022.
- There were questions about the easement that the City of Portsmouth has requested at Wagon Hill Farm for its water supply line. He said he was not aware of anything that will be coming before the Council regarding this matter, but perhaps Administrator Selig could update the HDC/HC at some point.
- Received and approved an application for the replacement of five windows at 53 Newmarket Road.
- Regarding the public comments the Council has received about Dame Road, there are plans underway by residents to submit a petition to the Town Council to have Dame Road designated as a Scenic Road under state statute and the HDC/HC is prepared to support that petition request.

Chair Marple--Human Rights Commission

- The Commission met recently and discussed the outcome of the Implicit Bias Training that was provided for Town staff and the various Town boards, commissions, and committees, which for the most part received favorable results.
- Discussed the challenges of trying to make the various boards and committees more diverse.

Councilor Needell--Land Stewardship Subcommittee

- The subcommittee met and reviewed the results from the questionnaire regarding Wagon Hill Farm and is working on future questionnaires for other Town-owned properties.
- The subcommittee will meet again this coming Thursday, December 8th at 8:30 AM.
- The Swap Shop will be open for two more days, Tuesday and Saturday. The Swap Shop will take items on the last day, but nothing large. Councilor Needell said that items have a chance of finding a new home the earlier they come in during the day.

Councilor Hotchkiss--Planning Board

- Councilor Hotchkiss had nothing to report.

Councilor Lonske

- Councilor Lonske had nothing to report.

Councilor Welsh--Conservation Commission

- The Commission met on November 28, 2022 and discussed potential word changes in the Conditional Use criteria of the Zoning Ordinance for the WCOD and SPOD zones because the Commission felt that the wording the last time hindered the Commission's ability to review a project. He said at some point later on, there will be discussion held around the broader role of the Conservation Commission.

Councilor Welsh--IWMAC

- The Committee met last week and continued discussions to prepare for the Sustainable Durham campaign. The Committee also kicked off a competition for a Sustainable Durham logo.

Councilor Friedman—Parks & Recreation Meeting

- The Committee met last week, and thanks to Friday Update, a few residents have applied to fill vacancies on the Committee.
- Parks and Recreation Committee reviewed the Wagon Hill Farm questionnaire in which members discussed, including how to allow humans and dogs to co-exist on the property. A separate dog park was suggested; perhaps at a different location on the property. Members also discussed expanding usage of the park.

Councilor Friedman--Seacoast Economic Development Stakeholders Meeting

- The SEDS met, and the Kiva Loan Program was introduced, which is for small businesses and start-up businesses with loans from \$1,000 to \$15,000. More information about the program can be viewed on [kiva.org](https://www.kiva.org). Councilor Friedman also

noted that he is following the housing and definition changes that are being considered by the Planning Board.

- Councilor Friedman noted that there was a meeting tonight of the County delegation relating to the very expensive new nursing home that is being considered for the County complex.

Regarding Councilor Friedman's report on Wagon Hill Farm and a possible dog park, Councilor Welsh said that the Land Stewardship Subcommittee has talked about the same matters regarding Wagon Hill and suggested it would be good if the Parks & Recreation Committee were to speak with the Land Stewardship group before beginning a new study because the topic of the property's usage and dogs has been going on for years.

Councilor Lawson wondered whether the issue is dogs off leash after 10AM or do issues still exist even with dogs on leash. He said his perception is that the problem is with individuals ignoring the rule of having their dogs on leash after 10AM.

Councilor Friedman replied that after reading the survey results, it appeared that not having one's dog under control when they are supposed to is the main issue.

Administrator Todd Selig

- Administrator Selig thanked Parks & Recreation and everyone involved for a wonderful Frost Fest event held last evening.
- Regarding the Town's Land and Mobile Radio project, Mr. Selig said that over the past year, Durham has been working in partnership with UNH to develop a new Memorandum of Understanding to allow for placement of the new Town equipment on UNH infrastructure, particularly on the WUNH tower, Stoke Hall, and wherever else needed on campus. The 10-year MOU is now complete and will go into effect on January 1, 2023.
- The subject of revenues in the proposed FY 2023 Budget was discussed at the last Council Budget Work session. Mr. Selig said that he and Business Manager Jablonski have spoken to Councilor Lawson about Parking revenues, as well as Councilors Welsh and Friedman about other ideas they have relative to revenues. He said when the Council discusses the budget this evening, he had some recommendations for Councilors to consider.
- Administrator Selig provided an update on the transition of the Administrative Assistant position in the Administrator's Office. Karen Edwards from the Planning and Zoning Office has been training with Jennie Berry, who is retiring the end of January 2023. Karen is learning the different functions of the position, including the preparation of this year's Town Report.
- The work of the Housing Task Force, and now the Planning Board, on the topic of housing has generated interest with residents. Administrator Selig said residents that have come in to speak with him about this topic have expressed concerns regarding the changes and that he has been directing those residents to the Planning Board so they can be a part of the process.
- An appeal was received from Colonial Durham Associates (CDA) relative to the Planning Board's denial of CDA's application for redevelopment of the Mill Plaza.

- The New Hampshire Housing Appeals Board ruled unanimously in the Town's favor upholding the Planning Board's denial of that application. CDA has now submitted a request for reconsideration to the appeals board. Town attorney Laura Spector Morgan has submitted a response to the appeals board for its consideration.
- The Portsmouth water line project is a topic that Durham has been discussing for approximately two years. Mr. Selig said he and Town staff have discussed this matter with the Land Stewardship Subcommittee and periodic updates on the project have been published in the Friday Updates. He provided background on what the project involves, noting that the water line supports approximately 70% of the City of Portsmouth's water supply. Portsmouth and Durham worked together to find another route on Wagon Hill Farm in which to install a new third underground waterline and are now discussing a license agreement for that route and what materials will be used and how the property will be restored to its current condition when the project is completed. Mr. Selig said that once the draft agreement is ready, he will bring it to the Council for review and comments.
 - Longtime Durham resident and person that has been involved with conservation work, Sara Callaghan, has been selected to replace current Land Stewardship Coordinator Tom Brightman.
 - The Durham Business Office is working on year-end closing.
 - The new legislative delegation gets sworn in on Wednesday this week, December 7th.
 - The focus of the Mill Pond Dam over the Oyster River continues to be securing external grants to help support the project. The Town has received two sizeable grants and is pursuing two others, one from the National Oceanic and Atmospheric Administration (NOAA) and one from the National Fish and Wildlife Federation.
 - Regarding dogs at Wagon Hill Farm, Mr. Selig said occasionally he will receive a report of a dog being off leash but anecdotally his sense is that not only is it happening in the morning when dogs are allowed off leash but also at other times throughout the day. Unfortunately, the Town does not have staff available to monitor the situation, so it is a challenge. He also added that at this time, there are no plans to increase the intensity of activities or the size of parking at Wagon Hill. Discussion for the uses plan for the farmhouse have been scaled to be supported by current parking and current configurations.
 - A draft update to the 2017 Multi Hazard Mitigation Plan is on the Town website to receive feedback from members of the community. The Town is also working with the Global Covenant of Mayors (GCOM) to ensure that the Hazard Mitigation Plan that meets FEMA requirements will also meet the GCOM's requirements.
 - Regarding the idea of designating Dame Road as a Scenic Road, Administrator Selig encouraged the Council to keep in mind that although a scenic road designation does create additional protections for a road where there are concerns that the Town wants to maintain the character of, at the same time, it adds significant additional process and time to departments that are already strapped in terms of personnel.

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

There was no designee present to provide 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 move alternate Planning Board member Emily Friedrichs to fill the unexpired regular member term of Lorne Parnell with a term expiration of April 30, 2025?
- B. Shall the Town Council accept the recommendations of the Town Assessor and Administrator relative to FY 2022 Property Tax abatement requests in the total amount of \$5,119?

Chair Marple MOVED to approve Unanimous Consent Agenda items A. and B. as presented. The motion was SECONDED by Chair Pro Tem Needell and PASSED unanimously, 9-0

XI. Committee Appointments – See X.A. above

XII. Presentation Items

There were no presentations to come before Council.

XIII. Unfinished Business

- A. **PUBLIC HEARING AND ACTION ON RESOLUTION #2022-26** authorizing the acceptance and expenditure of a grant from the Community Oriented Policing Services Office of the US Department of Justice under the 2022 FY 2022 COPS Technology and Equipment Program Invitational Solicitation in an amount up to \$900,000 to replace the Town of Durham's existing Public Safety and Emergency Services Land Mobile Radio (LMR) Communications Equipment with New Modern IP Based Technology and Equipment and authorizing the Administrator to sign and submit all necessary paperwork on behalf of the Town of Durham.

Chair Marple MOVED that the Durham Town Council does hereby OPEN the Public Hearing on Resolution #2022-26 Authorizing the Acceptance and Expenditure of a Grant from the Community Oriented Policing Services Office of the US Department of Justice under the FY 2022 COPS Technology and Equipment Program Invitational Solicitation of an Amount up to \$900,000 to be used to Replace the Town of Durham's Existing Public Safety and Emergency Services Land Mobile Radio (LMR) Communications Equipment with New Modern IP Based Technology and Equipment and Authorizing the Administrator to Sign and Submit all Necessary Paperwork on Behalf of the Town of Durham.

The motion was SECONDED by Councilor Lund and PASSED unanimously, 9-0.

There were no members of the public to speak to this item.

Councilor Lawson said that this upgrade had to happen, no matter what, and the Town has gotten a lot of mileage out of the current system. He said the Town staff that sought the grant funding for this project should be acknowledged as the funding didn't just fall in their laps. He said this is the direct result of the tenacity and work of Fire Chief

Emanuel, Police Chief Kelley, Deputy Police Chief Holmstock, Administrator Selig, and IT Manager Luke Vincent.

Administrator Selig also acknowledged Deputy Fire Chief Randall Trull and Administrative Assistant Kelly Fowler as being instrumental working to secure the grant as well.

Chair Marple MOVED that the Durham Town Council does hereby CLOSE the Public Hearing on Resolution #2022-26 Authorizing the Acceptance and Expenditure of a Grant from the Community Oriented Policing Services Office of the US Department of Justice under the FY 2022 COPS Technology and Equipment Program Invitational Solicitation of an Amount up to \$900,000 to be used to Replace the Town of Durham's Existing Public Safety and Emergency Services Land Mobile Radio (LMR) Communications Equipment with New Modern IP Based Technology and Equipment and Authorizing the Administrator to Sign and Submit all Necessary Paperwork on Behalf of the Town of Durham.

The motion was SECONDED by Councilor Welsh and PASSED unanimously, 9-0.

Councilor Lawson MOVED that the Durham Town Council does hereby ADOPT the Resolution #2022-26, as presented, Authorizing the Acceptance and Expenditure of a Grant from the Community Oriented Policing Services Office of the US Department of Justice under the FY 2022 COPS Technology and Equipment Program Invitational Solicitation of an Amount up to \$900,000 to be used to Replace the Town of Durham's Existing Public Safety and Emergency Services Land Mobile Radio (LMR) Communications Equipment with New Modern IP Based Technology and Equipment and Authorizing the Administrator to Sign and Submit all Necessary Paperwork on Behalf of the Town of Durham.

The motion was SECONDED by Councilor Lund and PASSED unanimously, 9-0.

- B. PUBLIC HEARING AND ACTION ON ORDINANCE #2022-02** Amending Chapter 153 “Vehicles and Traffic”, Section 153-49 of the Durham Town Code by prohibiting parking on Madbury Road from Main Street to Garrison Avenue and from Woodman Road to Garrison Avenue Extension between the hours of 1:00 and 6:00 AM and by deleting the municipal parking lot at the former Town Hall, 15 Newmarket Road.

Council Chair Marple MOVED that the Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2022-02 Amending Chapter 153 “Vehicles and Traffic”, Section 153-49 of the Durham Town Code by Prohibiting Parking on Madbury Road- Main Street to Garrison Avenue and Woodman Road to Garrison Avenue Extension Between the Hours of 1:00 am and 6:00 am and Deleting Municipal Parking Lot at the Former Town Hall, 15 Newmarket Road.

The motion was SECONDED by Councilor Lonske and PASSED unanimously, 9-0.

There were no members of the public to speak to this item.

Councilor Friedman asked how many parking spaces the Town would be losing.

Chair Marple said it wasn't a matter of losing spaces, just limiting the hours when parking can occur at those locations.

Administrator Selig provided background on this item noting that these sections of roads have been designated/marked for many years, but it recently came to the Police Department's attention that there was not an ordinance on the books to regulate and enforce the areas, so this is a housekeeping measure to have in place an ordinance to support what is actually marked on the streets.

Councilor Friedman clarified that he was referring to the deleting of "Municipal Parking Lot at the former Town Hall at 15 Newmarket Road".

Administrator Selig said this was being removed because day and overnight parking was allowed in certain spaces by permit only when the Town owned the 15 Newmarket Road parcel. However, since the Town no longer owns the property, there is no reason to keep this on the books.

Councilor Lund MOVED that the Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2022-02 Amending Chapter 153 "Vehicles and Traffic", Section 153-49 of the Durham Town Code by Prohibiting Parking on Madbury Road- Main Street to Garrison Avenue and Woodman Road to Garrison Avenue Extension Between the Hours of 1:00 am and 6:00 am and Deleting Municipal Parking Lot at the Former Town Hall, 15 Newmarket Road.

The motion was SECONDED by Councilor Hotchkiss and PASSED unanimously, 9-0.

Councilor Lund MOVED that the Durham Town Council does hereby ADOPT Ordinance #2022-02, as presented, Amending Chapter 153 "Vehicles and Traffic", Section 153-49 of the Durham Town Code by Prohibiting Parking on Madbury Road- Main Street to Garrison Avenue and Woodman Road to Garrison Avenue Extension Between the Hours of 1:00 am and 6:00 am and Deleting Municipal Parking Lot at the Former Town Hall, 15 Newmarket Road.

The motion was SECONDED by Chair Pro Tem Needell and PASSED unanimously, 9-0.

- C. **PUBLIC HEARING AND ACTION ON ORDINANCE #2022-03** Amending Chapter 153 "Vehicles and Traffic", Section 153-49 of the Durham Town Code by prohibiting parking on Park Court between the hours of 1:00 and 6:00 AM.

Chair Marple MOVED that the Durham Town Council does hereby OPEN the public hearing on Ordinance #2022-03 Amending Chapter 153 "Vehicles and Traffic", Section 153-49 of the Durham Town Code by prohibiting parking on Park Court between the hours of 1:00 and 6:00 AM.

The motion was SECONDED by Councilor Tobias and PASSED unanimously, 9-0.

There were no members of the public to speak to this item.

Chair Marple MOVED that the Durham Town Council does hereby CLOSE the public hearing on Ordinance #2022-03 Amending Chapter 153 “Vehicles and Traffic”, Section 153-49 of the Durham Town Code by prohibiting parking on Park Court between the hours of 1:00 and 6:00 AM.

The motion was SECONDED by Councilor Lund and PASSED unanimously, 9-0.

Councilor Lund MOVED that the Durham Town Council does hereby ADOPT, as presented, Ordinance #2022-03 Amending Chapter 153 “Vehicles and Traffic”, Section 153-49 of the Durham Town Code by prohibiting parking on Park Court between the hours of 1:00 and 6:00 AM.

The motion was SECONDED by Chair Pro Tem Needell and PASSED unanimously, 9-0.

- D. Continued deliberation on the Administrator’s proposed FY 2023 Operating, Capital, and Special Fund Budgets and the 2023-2032 Capital Improvement Plan.

Administrator Selig said that at the Council’s last meeting one of the charges from Council was to go back and revisit some of the revenue lines since Council and staff have now had a couple of months to review and fine tune the proposed budget.

Administrator Selig outlined the budget line items listed below where possible increases could be made, which collectively will add up to approximately \$150,000 in additional revenue. Mr. Selig also explained the rationale behind the proposed increases for each item.

<u>Item</u>	<u>Estimated Revenue</u>	<u>Increase</u>	<u>Revised Revenue</u>
Motor vehicles permit fees	\$1,150,000	\$15,500	\$1,165,500
Recreation Programs	160,500	19,500	180,000
Interest on investments	25,000	50,000	75,000
Insurance dividends & reimbursement	5,000	45,000	\$150,000
Transfer in – Parking Fund		20,000	
TOTAL		150,000	

Administrator Selig said he would suggest that the total revenue increases be placed in the contingency fund.

Councilor Lawson said that perhaps one of the benefits of doing that is if the Council decides to place the \$150,000 in the contingency fund and it turns out the money is not needed, then maybe next year the undesignated fund balance could be used. He said there has been a lot of demands on funding that balance over the past year, so he believed

creating the opportunity for some money to be placed in the undesignated fund balance, if possible, would be good.

Councilor Welsh said he felt the budget was well prepared this year and that overall, it was a good plan.

Councilor Friedman also felt it was a good budget, especially since it was a challenging year to keep costs in line and achieve the Town Council goals. He said he was in support of the budget as it has been presented.

Councilor Lawson suggested that if the Administrator could incorporate the additional changes in a resolution and bring that resolution to the Council for adoption on December 19, 2022.

Councilor Lund MOVED to cancel the Council's Budget Work session scheduled for Monday, December 12, 2022.

The motion was SECONDED by Chair Pro Tem Needell and PASSED unanimously, 9-0.

Administrator Selig noted that during the Public Hearing on the proposed FY2023 budget, one of the public comments was from HDC Chair Larry Brickner-Wood who wanted to be sure that the roof replacement for the Wagon Hill farmhouse was pursued and addressed. Mr. Selig said he believed there were sufficient funds in the Capital Improvement Plan to address the roof and do not need to have additional funding to accomplish its replacement.

XIV. New Business

Other Business

XV. Nonpublic Session (if required)

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

XVII. Adjourn (NLT 10:30 PM)

Councilor Tobias MOVED to ADJOURN the meeting, which was SECONDED by Councilor Hotchkiss and PASSED 9-0.

The meeting was ADJOURNED at 8:05 PM.

Jennie Berry, Administrative Assistant