

*These minutes were approved at the March 6, 2023 meeting.*

**DURHAM TOWN COUNCIL  
MONDAY, FEBRUARY 20, 2023  
DURHAM TOWN HALL - COUNCIL CHAMBERS  
7:00 PM**

**MEMBERS PRESENT:** Council Chair Katherine (Kitty) Marple, Councilor Sally Tobias; Councilor Jim Lawson, Councilor Eric Lund, Vice Chair Sally Needell, Councilor Charles (Chuck) Hotchkiss, Councilor Carden Welsh, Councilor Joe Friedman; Councilor Eleanor (Ellie) Lonske attended via Zoom

**MEMBERS ABSENT:**

**OTHERS PRESENT:** Gail Jablonski, Business Manager

**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** – On approval by the Council, Councilor Lonske attended tonight's meeting via Zoom.

**III. Roll Call of Members.** Councilor Friedman, Councilor Welsh, Councilor Hotchkiss, Chair Pro Tem Needell, Chair Marple, Councilor Lund, Councilor Lawson, Councilor Tobias, Councilor Lonske (on Zoom)

**IV. Approval of Agenda**

*Chair Marple MOVED to ACCEPT the agenda as presented. SECONDED by Councilor Lund and PASSED unanimously, 9-0.*

**V. Special Announcements - None**

**VI. Public Comments**

William Hall, Smith Park Lane. Mr. Hall spoke in response to a comment made by Councilor Lawson at the last meeting regarding the water; Mr. Hall stated that the water can't be used when the Town needs it. He presented history on the matter, reading from a letter to Sarah Callaghan when she was on the Lamprey River Committee explaining that Durham does not regulate for drinking water. He is not sure how the measure went from 18" to 6" or a foot. He stated that the de minimis restriction that came in about two years ago isn't based on any data and was "pulled out of thin air," making the Lamprey Pump Station just about useless. He provided materials to the Council for review. Councilor

Lawson stated that when he first joined the Council, the 401 certificate was applicable to Durham's withdrawals and asked if the 401 certificate is now even relevant. Mr. Hall said no because Durham has agreed to the restriction without any statute. He asked what the de minimis restriction is based on and how it is calculated. Councilor Lawson said after he reviewed the 401 restrictions and the protected instream flow restrictions, he concluded the 401 was far more restrictive than the instream flow restrictions. Mr. Hall disagreed. Councilor Lawson said Durham has no reason to take a de minimis withdrawal from the river, so it's a non-issue. He offered to have a longer conversation with Mr. Hall regarding the protected instream flow without looking back with frustration on the 401 certificate. Mr. Hall said before that conversation, he needs to know what the restrictions are based on. Councilor Lawson noted that the report cited by Mr. Hall saying there were no restrictions on withdrawals from the Lamprey River was written forty-five years ago.

Wayne Burton, 106 Madbury Road. Mr. Burton spoke about the gun issue on campus. Even though there is no law prohibiting the carrying of weapons on campus, he feels it is very dangerous for people to be able to walk around the campus carrying guns. On another note, he thanked Administrator Selig and Rich Reine for picking up the idea of putting the construction road on the left-hand side of Wagon Hill Farm.

**VII. Approval of Minutes**—Revised November 7 and November 14 minutes, February 6, 2023

***Councilor Lund MOVED to APPROVE the Town Council meeting minutes for November 7<sup>th</sup>, 2022 and November 14<sup>th</sup>, 2022, which was SECONDED by Chair Pro Tem Needell and PASSED by roll call vote 7-0-2.***

Councilor Friedman - Yes, Councilor Welsh - Yes, Councilor Hotchkiss - Yes, Chair Pro Tem Needell - Yes, Chair Marple - Abstain, Councilor Lund - Yes, Councilor Lawson - Abstain, Councilor Tobias - Yes, Councilor Lonske – Yes.

Chair Marple called for discussion on the February 6 meeting minutes. Councilor Friedman stated on page 4 in the middle of the page under Administrator Selig's comments there is mention of a Feb 20<sup>th</sup> 6 pm meeting with the labor attorney; that meeting is scheduled for March 6th. Councilor Lawson clarified that the minutes reflect what was said in the meeting, so the minutes will not be amended.

***Councilor Friedman MOVED to APPROVE the minutes of the February 6, 2023 Town Council meeting, which was SECONDED by Councilor Tobias and PASSED unanimously, 9-0.***

**VIII. Councilor and Town Administrator Roundtable**

Councilor Friedman—Parks & Recreation Meeting

- Councilor Friedman reported that Durham Parks & Rec is doing a good job communicating their programming to the public in the Friday updates. People can also subscribe to the email list to get more information. This week the Committee is working hard on school vacation programs, and they are also working on the

upcoming Memorial Day Celebration. The Committee is also working on finalizing the scope of work and other elements for the proposal that was made on the study in Woodbridge Park and Jackson's Landing. The Seacoast Economic Developers stakeholders are continuing their housing needs assessment. Tomorrow, they are co-hosting with the Business and Economic Affairs Division of the State of New Hampshire the Invest New Hampshire Road Show in Dover from 9:30 - 10:30 where they will lay out what they've done in housing and broadband in the state. Councilor Friedman discussed one of the last bullet points in the minutes from the last meeting regarding the Housing Task Force charge which stated, "avoid housing forms designed primarily for an undergraduate student population." Councilor Friedman stated he is not sure that is what was agreed would be said but offers perhaps it could read "encourage student housing being built on the campus of the University of New Hampshire" to be more positive in the charge. Councilor Friedman stated the Council may not want that type of housing on town property, but that doesn't mean that type of housing doesn't belong in Durham. Councilor Friedman shared that more student housing could increase business in the downtown area as well as reduce the number of road trips required for students to drive to campus from out of town, thus meeting the Town's environmental goals. Councilor Welsh agreed, adding Councilor Friedman's suggested language would be a good idea and questioned why UNH only houses two-thirds of their population. Councilor Lawson shared concerns about what would happen with housing in town with declining enrollment at the university.

#### Councilor Welsh--IWMAC

- Councilor Welsh reported that the Commission met February 8<sup>th</sup> and discussed plans for Earth Day, where they want to have a presence and a pamphlet about recycling.

#### Councilor Lonske --Agricultural Commission

- Councilor Lonske reported she was thrilled to be able to attend the meeting as a Town Council representative. She explained there was some general unhappiness on the Commission in response to Durham's Climate Action Plan. John Carroll wrote a follow up email, from which Councilor Lonske read a brief excerpt, in which Mr. Carroll shares concerns that the report is missing an entire section on food and agriculture, ignoring a significant part of what Durham must do to respond to climate change. Mr. Carroll writes about the need to reduce greenhouse gas emissions, requiring a shift from large-scale agriculture and long-distance transport of food. He further states the question at hand is to what extent Durham can be fed from its region.

#### Councilor Hotchkiss--Planning Board

- Councilor Hotchkiss had nothing to report.

#### Chair Pro Tem Needell--Land Stewardship Subcommittee

- The subcommittee has not met since the last Council meeting but is meeting next Tuesday, Feb 28<sup>th</sup> at 8:30 am at the Town Hall. Chair Pro Tem Needell thanked those

who responded to the Jackson Landing questionnaire that was in the Friday Updates. She shared that the swap shop should open on April 1<sup>st</sup>.

Councilor Lund--Historic District/Heritage Commission

- Councilor Lund had nothing to report.

Councilor Lawson--Durham Energy Committee

- Councilor Lawson shared he believes people may find it a daunting task to determine what benefits are available in the Inflation Reduction Act for things like weatherization given the number of options available and the variation in how those options can be applied. At the Energy Committee meeting, Emily Friedrichs, who works for a company called Elevation, demonstrated an online tool she is developing to assist citizens in finding out what is available and how to prioritize those options. He believes the intention is to make that tool available to everyone and that the Energy Committee will promote its use. The Energy Committee kicked off the planning process for Earth Day, which will be held Saturday, April 22<sup>nd</sup>, and is working with IWMAC on this. He feels supported by Parks & Rec, DPW, and other town departments in this work. He encouraged people to review the weatherization article published on the Town website, as there is an opportunity for savings to homeowners and on the Town's carbon footprint. Councilor Lawson discussed the recent fire in Durham that was quickly suppressed by the building's sprinkler system; he shared that the ordinances around sprinkler systems helped to keep this fire manageable. He shared that the Climate Action Plan is a Durham plan and explained that this allows towns to maintain local control. In the carbon inventory for Durham, which will be updated next year, agriculture actually counts for a small part of that footprint. Increasing agriculture in Durham will increase Durham's carbon footprint.

Councilor Tobias – Planning Board

- The Planning Board met on Wednesday, February 8<sup>th</sup>. They recognized Lorne Parnell who stepped down from the Board after serving for many years. This Wednesday, the Board will be recognizing Nick Germain for the time he spent on the Board. The Board approved a utility pole and the wetlands conservation overlay district for Eversource. They continued their review of definitions. They discussed the extent to which the Board would be involved in a redevelopment on Technology Drive of the R. J. Kelly property; it will be dealt with at an administrative level. Most of the proposed changes are interior, including adding loading docks. The purpose of the redevelopment is for light and high technology. Councilor Tobias provided pictures of the plans for the Council's review. Councilor Welsh asked if the companies coming into the property are offices. Councilor Tobias said the Board doesn't know who is coming into the property. Councilor Welsh asked if the changes are turning the property into a distribution center or offices. Councilor Tobias said the focus is light and high technology production and manufacturing. At the next meeting, this Wednesday, the Board will continue their review of the definitions. There are no applications in front of the Board at this time. The Housing Task Force met Monday February 13<sup>th</sup> with all the new members present. The focus of the meeting was to

review the Council's goals. There was a discussion about the updates on various pieces of legislation up in the State House and Senate. They applied for a \$5k and \$25k grant. Part of the \$25k grant will be used for data analysis and community outreach. They expect to hear back on those grants soon. The Housing Committee doesn't want to focus on housing in a negative way. The Task Force has seen a need to properly define undergraduate student housing and encourage a distinct definition of what it is, how it is marketed, and what it looks like to differentiate it from market-based housing. Once that task is completed, that use can be assigned where it is best suited for the residents, the Town, and the University. Councilor Tobias explained the Task Force could ask for specifics in how leases are written, how those properties will be marketed, and how those properties are set up. She acknowledged it is a challenge. Councilor Tobias shared that Celebrate Durham is making its way back into the community; Rachel has started planning for Durham Day and some of the Board are involved in that planning as well. She believes it will be the 1<sup>st</sup> Saturday in June, with the hopes of having a 5k race the day before. More information will be forthcoming from Parks and Rec.

Gail Jablonski – Business Administrator

- Ms. Jablonski reported that the Town Reports are in and available in the Town Clerk's office or, if you call Karen, she will get one out to you. There is a conditional offer of employment out for the IT position; she hopes to hear back from the candidate in the next few days. In anticipation of Lorrie Pitt's retirement and Rachel Deane's winning the election for Town Clerk/Tax Collector, they have begun advertising for the deputy position and have received a few applications. She hopes they will have someone on board within the month to have a smooth transition. The non-meeting meeting will take place Monday, March 6th at 6:00 pm with the labor attorney.

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

Student Senate External Affairs Chair Kania introduced Emily Dennison, Student Body President. Chair Kania reported the Student Senate passed a resolution regarding the Michigan State University shooting, standing with them and acknowledging that it could happen on the UNH campus as well. The elections for next year have begun. One candidate has come before the Senate so far proposing their ideas. Chair Kania's council is working on pedestrian safety, talking about campus lighting and crosswalk safety. He requested from Durham PD the past few years of pedestrian involved accidents; the Durham PD provided twenty years of data, so the Senate will be reviewing that information. He shared that the Senate will begin to review student involvement downtown in the following weeks, as the Senate has two resolutions coming before them this weekend. He shared that the Senate is working on a project in mid-March that he hopes to be able to report on soon. Student Body President Dennison shared they are meeting with Chief Dean and Frank Weeks to talk about campus safety and gun violence on campus. She asked about the housing issue that the Council discussed earlier in the meeting. Chair Marple clarified that the goal is to allow people to be able to afford to live and work in the same community. Councilor Lawson shared his knowledge about The Edge project, that it hasn't been funded yet, and that the grant was to do an additional

study for the project. Student Body President Dennison said she is meeting with President Dean on Friday to discuss The Edge project, but she doesn't think he will reveal much at this time. Councilor Tobias shared additional information about the housing issue, explaining there aren't many rental properties for graduate students in town in their price range. Student Body President Dennison shared information about the residential life plan for next year that will require first and second year students to live on campus, which will open up apartments in Durham. Councilor Lawson asked why the change, as he understood university housing was full. Student Body President Dennison shared that the University is trying to fix up Hetzel Hall before next year. She shared that 98% of freshmen and 70% of sophomores live on campus. Chair Kania reported that UNH will be bringing back triples next year, which will allow more students to live on campus. Councilor Lawson stated the housing requirements at UNH will be a large change and Administrator Selig may want to follow up on that issue. He also referred back to his previous statement that the university is the only landlord in Durham that by policy can guarantee 100% occupancy, of which this policy change is an example. Councilor Welsh shared that in a meeting about a year ago, the university said they didn't have enough housing on campus and had to reject some students from housing. Councilor Lawson stated it may have had something to do with covid, but the issue needs to be clarified. Councilor Lund asked what role the Greek system plays in university housing; would that be considered acceptable housing for a sophomore? Student Body President Dennison said Greek housing will be considered on-campus housing. Chair Kania offered to send to the Council information about the two-year housing requirement. The Council requested Chair Kania send that information to Administrator Selig. Councilor Tobias said she would like to connect with Chair Kania and Student Body President Dennison in her work for the Housing Task Force to ask them how they see their needs changing post-graduation. Chair Kania, in response to the Council's question, stated he believes the SERC's housing is five stories.

- X. Unanimous Consent Agenda** *(Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote)*
- B. Shall the Town Council, Upon Recommendation of the Administrator, Award a Contract for the 2023 Stormwater Asset Management Grant Project to Environmental Partners Group of Quincy, MA in the Amount of \$65,400 and Authorize the Town Administrator to Sign Associated Documents?
  - C. Shall the Town Council, upon recommendation of the Administrator, award the bid and authorize the purchase of a 2023 GMC Yukon AT4 XL in the amount of \$72,754, with vehicle trade-in of \$12,000 at the time of delivery, for a total price of \$60,754 to be paid from Capital Fund account # 07-2002-701-36-000 and authorizes the Administrator to sign all associated documents?

**Chair Marple** ***MOVED** that the Durham Town Council does hereby approve Unanimous Consent Agenda items B and C above as presented. The motion was SECONDED by Councilor Lund and PASSED unanimously by roll call vote, 9-0.*

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, Councilor Lonske – Yes

- A. Shall the Town Council Approve an Amendment to the previously adopted Durham Community Power Electric Aggregation Plan?

Councilor Lawson stated that there two changes he and Councilor Friedman would like to make to the document. On page 2 (page 11 of the Council packet), where there is an overview of Durham community Power, there is a set of four bullets. One bullet points states the following: “Serve as default electric supplier for all customers on a default opt-out basis except customers served by NH Electric Cooperative will be offered service on an opt-in basis.” Councilor Lawson stated he and Councilor Friedman believe it should read “competitive electric power suppliers or NH Electric Cooperative.” Additionally, there is a typo for the spelling of “basis,” which would be corrected in the revision. The second change Councilor Lawson proposed is in attachment 7 (page 23 of the attachments, page 61 of the Council packet). This attachment explains Durham’s public planning process. This was changed to express the past tense. The document states “The following key activities have taken place or are planned;” however, there is nothing in the list that is planned, so it was suggested that “or are planned” be struck from the document. There is a typo further down: “reposed” should say “reposted.”

***Councilor Lawson MOVED that the Durham Town Council does hereby approve Unanimous Consent Agenda item A with the above presented amendments. The motion was SECONDED by Councilor Friedman and PASSED unanimously by roll call vote, 9-0.***

Councilor Friedman - Yes, Councilor Welsh - Yes, Councilor Hotchkiss - Yes, Chair Pro Tem Needell - Yes, Chair Marple - Abstain, Councilor Lund - Yes, Councilor Lawson - Abstain, Councilor Tobias - Yes, Councilor Lonske – Yes

**XI. Committee Appointments - None**

**XII. Presentation Items**

- A. End of Year Financial Report through December 31, 2022 – Gail Jablonski, Business Manager

Ms. Jablonski reported the town came in under budget. Councilor Lund asked for clarification about the interest and penalties on delinquent taxes, noting that the Town collected 366% of what was in the budget. Ms. Jablonski stated the estimate was based on prior years; this year there were a number of people who were going to go to a lien and decided they would pay their taxes instead, which included the interest. Councilor Welsh pointed out earlier this year there were problems with abatements and the decision was made to take the funds out of reserve balances. This year Durham did so well with budgets and expenses that the Town made up what was taken out of reserves.

**XIII. Unfinished Business**

A. Public Hearing and Action on Ordinance #2023-02 Amending Chapter 132 “Tax Exemptions and Credits”, Section 132-5 Veterans’ Tax Credit” of the Durham Town Code Re-Adopting the Optional Veterans’ Tax Credit in the Amount of \$500.00.

*Chair Marple MOVED that the Durham Town Council does hereby OPEN the public hearing on Ordinance #2023-02 Amending Chapter 132 “Tax Exemptions and Credits”, Section 132-5 Veterans’ Tax Credit” of the Durham Town Code Re-Adopting the Optional Veterans’ Tax Credit in the Amount of \$500.00. The motion was SECONDED by Councilor Lund and PASSED unanimously, 9-0.*

Chair Marple explained that she believes this is something the Council already does but has to readopt every year. Councilor Lund clarified it’s because the legislature modified the statute, which is why the Council needs to readopt.

*Chair Marple MOVED that the Durham Town Council does hereby CLOSE the public hearing on Ordinance #2023-02 Amending Chapter 132 “Tax Exemptions and Credits”, Section 132-5 Veterans’ Tax Credit” of the Durham Town Code Re-Adopting the Optional Veterans’ Tax Credit in the Amount of \$500.00. The motion was SECONDED by Councilor Hotchkiss and PASSED unanimously, 9-0.*

*Chair Marple MOVED that the Durham Town Council does hereby ADOPT as presented Ordinance #2023-02 Amending Chapter 132 “Tax Exemptions and Credits”, Section 132-5 Veterans’ Tax Credit” of the Durham Town Code Re-Adopting the Optional Veterans’ Tax Credit in the Amount of \$500.00. The motion was SECONDED by Councilor Tobias and PASSED unanimously, 9-0.*

**XIV. New Business**

No new business.

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

Not required.

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

Not required.

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

*Councilor Lund MOVED to adjourn the meeting. The motion was SECONDED by Councilor Tobias and PASSED unanimously by roll call vote, 9-0.*

Councilor Friedman - Yes, Councilor Welsh - Yes, Councilor Hotchkiss - Yes, Chair Pro Tem Needell - Yes, Chair Marple - Abstain, Councilor Lund - Yes, Councilor Lawson - Abstain, Councilor Tobias - Yes, Councilor Lonske – Yes

The meeting ADJOURNED at 8:07 PM.  
Respectfully submitted by Daphne Chevalier