

These minutes were approved at the March 20, 2023 meeting.

**DURHAM TOWN COUNCIL
MONDAY, MARCH 6, 2023
DURHAM TOWN HALL - COUNCIL CHAMBERS
7:00 PM**

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

MEMBERS ABSENT: Councilor Carden Welsh

OTHERS PRESENT: Tom Selig, Administrator

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 during Roll Call of Members, Councilor Lund attended tonight's meeting via Zoom due to the isolation period for positive covid test.

III. Roll Call of Members. Councilor Friedman–Yes, Councilor Lonske–Yes, Councilor Hotchkiss–Yes, Chair Pro Tem Needell–Yes, Chair Marple–Yes, Councilor Lawson–Yes, Councilor Tobias–Yes, Councilor Lund - attended remotely due to the isolation period for positive covid test.

IV. Approval of Agenda

Chair Marple MOVED to APPROVE the agenda as presented. SECONDED by Councilor Hotchkiss and PASSED unanimously 8 - 0 through roll call vote: Councilor Lund–Yes, Councilor Tobias–Yes, Councilor Lawson–Yes, Chair Marple–Yes, Chair Pro Tem Needell–Yes, Councilor Hotchkiss–Yes, Councilor Lonske–Yes, Councilor Friedman–Yes.

V. Special Announcements - Adoption of Resolution #2023-03 and Recognizing Outgoing Elected Officials for their Services to the Town of Durham.

Chair Marple read Resolution 2023-03 of Durham, New Hampshire Recognizing Outgoing Elected Officials for their Dedicated Services to the Town of Durham, Whereas the Town of Durham is fortunate to have a number of highly dedicated and civic minded citizens who have served as elected officials and whose terms will shortly expire, and

Whereas each of these public servants devoted many countless hours toward enacting changes for the betterment and enrichment of the Durham community, and Whereas the Durham Town Council wishes to recognize these citizens for their contributions while serving in these various capacities, Now therefore be it resolved that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire, does hereby adopt Resolution 2023-03 expressing its appreciation to and recognizing the following Durham elected officials for their dedication, hard work, and commitment on behalf of the Town of Durham.

Chair Marple read the general statement on the awards presented and called up the individuals being recognized:

In recognition of your commitment and the contributions you made serving as a Durham Library Trustee, your dedication to the betterment of Durham and its citizens is commendable and reflects favorably upon you and the entire community: Robin Glasser, Martha Gooze, and Nancy Lambert.

In recognition of your commitment and the contributions you made serving as Durham Treasurer, your dedication to the betterment of Durham and as citizens is commendable and reflects favorably upon you and the entire community: Karl Van Asselt.

Chair Marple read the following prepared statement in recognition of Councilor Tobias' contributions to the Durham Town Council. "Every March since I have chaired the council, I have tried to remember all of the accomplishments of those councilors who are leaving. Sally Tobias' are varied and appreciated. She and Al Howland worked doggedly with members of our business community to promote Durham as a destination with Celebrate Durham. Sally's membership on the Land Stewardship Committee preceded her time on the Council. Her time on the Planning Board as the Council Representative was arduous at times, but she stuck with it through several long projects and late meetings. Sally's latest efforts on the Housing Task Force complete her Council resume. In my opinion, Sally has focused on making Durham a well-rounded town with an emphasis on doing good works. Sally, thank you for your service."

Chair Marple read the following in recognition of Sally Needell, who will be continuing her work as Durham Town Councilor: in recognition of your commitment and the contributions you made while serving as Durham Town Councilor, your dedication to the betterment of Durham and as citizens is commendable and reflects favorably upon you and the entire community: Sally Needell.

Chair Marple read the following in recognition of Bill Cote: "In recognition of your commitment and immeasurable contributions and service to the citizens of the Town of Durham spanning twelve years in the following capacities: 1996-2000 Planning Board, 2010-2013 Durham Town Council, 2010-2012 Planning Board, 2011-2012 Cemetery Committee, 2014-2023 Trustees of the Trust Funds, 2015-2023 Cemetery Committee. On behalf of myself and the other Council members, we sincerely hope that you will remember with fondness those fellow citizens and employees whom you met and worked

with along the way and will take with you the gratitude and appreciation of the Durham community for the many years of dedicated public service and the efforts you provided for its betterment. Thank you, Bill.”

Certificate of Appreciation Lorrie L. Pitt, Town Clerk/Tax Collector 31 Years of Service Presented this 6th day of March 2023 in recognition of your 31 years of service to the Town of Durham beginning with your employment as the Deputy Town Clerk/Tax Collector on July 12, 1992 and later with your successful election to the office of Town Clerk/Tax Collector on March 9, 2004, your dedication and commitment to the citizens of Durham is exemplary and always above reproach. The knowledge, wisdom, and sound judgment with which you execute your duties are admirable. It is therefore with great pleasure that the Town of Durham conveys its sincerest appreciation to you for 31 years of service. The professional, caring, and devoted service you have provided to the citizens of Durham is commendable and has earned you a high degree of respect within the community. On behalf of the Town of Durham, thank you for your valuable service.

Chair Pro Tem Needell read the following statement of recognition of Kitty Marple. “Tonight we are recognizing Kitty Marple for her twelve years of active service on behalf of the Town of Durham. She joined the Town Council in 2011 and is completing her fourth consecutive term. She has served as Chair of the Council for her last two terms. She has worn many hats during her tenure. She has served as Town Council Representative to the Integrated Waste Management Committee, the Historic District Commission, the Planning Board, the Cemetery Committee, and the Durham Human Rights Commission, of which she has been chair for the last six years. Her work with these town groups has provided her with a breadth of experience with which she has supported the Town of Durham. She has modeled the value of Councilors taking part in Town committees, commissions, and boards. Kitty, thank you for your years of consistent leadership you have given to the Town Council. Thank you for your commitment and dedication, the generous contribution of your time, your respectful interactions with the members of the Council and the people of Durham, and your sense of humor. As Sally Tobias shared with me, we appreciate your balanced and calm demeanor. You have walked a line of giving us the space to share and/or vent our thoughts and concerns and kept our discussions positive and productive. In March, 2020, I was elected to Town Council along with Kitty Marple and Sally Tobias. We were two Sallys and a Kitty. It has been my great pleasure to work with both of these Councilors. And I will miss you.”

Mr. Selig said it is a tradition of the Council that when a Chair leaves, the Town gives that person a chair to take with them. He said Public Works will deliver a chair to Chair Marple’s house.

Chair Marple shared the following prepared statement: “I have enjoyed my four terms on our Council. I have met many interesting people, learned much about Town operations, local laws, and how to yell politely at some of you (looking at you, Carden and Jim). Our town is fortunate that people with a wealth of knowledge and experience choose to be on the Council. It has been a privilege to serve with each of you and with those who have retired before me. I thank Todd Selig and our excellent town staff for answering my

questions and for doing your jobs above and beyond what is necessary to make Durham chug along. Even though I know that I will still see some of you out in Town, I will miss our regular contact. Be well, everyone. Your friend, Kitty Marple.”

Councilor Lawson read a letter from Counselor Welsh in the latter’s absence. “Hi Kitty. Very sorry to miss your final meeting, but Jim has agreed to read you my thoughts. So many years ago I met you for the first time and you made a big impression. The Council was discussing the Change of Use tax and Jim, of course, and others wanted to use it for the general fund instead of for its designated purpose, which was to help preserve land in Durham. I came to speak in favor of preserving land, and I remember seeing this little woman on the Council, her chin barely reaching the top of the table. I wondered about her vote. Then you said something that was quiet but very powerful and land preservation won the day. Later, I joined the Council and found you to be a wonderful colleague and, for the last few years, a wonderful Chair. You have always been thoughtful, diligent, and almost always careful to listen to the rest of us. You were able to guide us and on admittedly rare occasions, some of us were able to guide you since you always remained open-minded. Durham will certainly miss you, but you are young enough to come back some day. Enjoy your time off, Carden.”

Councilor Lawson shared comments of recognition for Chair Marple’s service. He shared an old photograph of the Library Board of Trustees and Durham Town Council Candidates’ Forum where they first met. He said there are a number of adjectives that come to mind when thinking of Chair Marple: thoughtful, engaged, honest, receptive, approachable, and at times, humorous. He hopes she enjoys her time off and said the Council is likely to see her sitting at the table some March in the future.

VI. Public Comments

William Hall, Durham - Mr. Hall stated Mr. Lawson said last week that the latest report was based on aquatic life in the Lamprey River. Mr. Hall stated the Lamprey is a very healthy river. He asked if the Council has an evaluation of the dissolved oxygen at that time. He stated the Oyster River has had two fish kills as a result of inappropriate actions by the State: one because Durham wasn’t pumping water from the Lamprey and the other when the State opened the dam and there was no water left downstream. He said he was given reports about this by Gail and found no linkage between the aquatic problems and the study. He suggested there was something strange going on between Administrator Selig and Robert Scott, and that the people are not getting the whole story. Mr. Hall also addressed the number of sewer employees, five, versus the number of employees in the water department, one, listed in the Town Report this year. He suggested that money is being inappropriately allocated to fund UNH’s portion of the tank on Foss Farm.

Robin Mower, Britton Lane - Ms. Mower rose to acknowledge the contributions of Chair Marple to the Town Council and the Town of Durham. She stated there have been some comparisons over the years of Chair Marple to Queen Elizabeth and acknowledged some parallels in that comparison do ring true. Both women presided over many transitions in their governing bodies and changes in their societies and constituencies, both held themselves apart from the fray, both knew when to hold their tongues, both suffered

through many difficult years, both took seriously the obligations of duty, and both earned the respect and admiration of their peers and the people. She thanked Chair Marple for her service.

Terry Finnegan, Fellows Lane - Mr. Finnegan stated he served many years in the armed services and noted many of the issues the Town has dealt with over the years of Chair Marple's service were global. As a sibling of Kitty, he takes great pride in the strong leadership Durham had during her tenure. He thanked Kitty and said she is the best.

VII. Approval of Minutes - February 20, 2023

Chair Marple MOVED to APPROVE the Town Council meeting minutes for February 20th, 2023 as amended with changes sent to Karen, which was SECONDED by Councilor Tobias and PASSED 8-0 via roll call vote: Councilor Lund–Yes, Councilor Tobias–Yes, Councilor Lawson–Yes, Chair Marple–Yes, Chair Pro Tem Needell–Yes, Councilor Hotchkiss–Yes, Councilor Lonske–Yes, Councilor Friedman–Yes.

VIII. Councilor and Town Administrator Roundtable

Councilor Lund--Historic District/Heritage Commission

- Councilor Lund reported the Commission met March 2nd. They had a short discussion about the renovations about the farmhouse at Wagon Hill Farm. They have hired a preservation contractor to do the renovations. The current status on the Oyster River Raid Historical Marker is that there has been some language proposed by the Abenaki, and the Durham Historical Association, which is not affiliated with the town, has not yet approved their version of the language. There was a suggestion to bring in Colin Calloway, a Dartmouth professor and expert on the subject, to have a public forum on this topic. The Commission has a pretty well thought-out design for the Lafayette Plaque seating area. There would be a bench (a potential donation opportunity in memory of John Smith), along with two or three boulders surrounding the plaque in front of the Town Hall. On the old sewer pump station, the Commission has identified a potential user for this; Rachel Gasowski indicated Parks and Rec would like to use it as storage. Chair Marple asked if the pump station would be moved to be outside of the tidal zone. Councilor Lund said it wouldn't be moved at this point as there isn't a place to move it to. They may want to consider raising it as sea level rises. One of the HDC members stated he believes this was originally built at grade and then filled in.

Councilor Tobias – Planning Board

- The Planning Board met on Wednesday, January [sic] 25th. An Eversource utility pole was approved in the WCOD. The Board continued its review of definitions and made it through C. Many of the Board members over the years have found issues with some of the definitions and other definitions need clarity. The goal of the definitions review is to make the definitions clear and concise. There is a meeting coming up on Wednesday where they will continue reviewing definitions.

Councilor Lawson--Durham Energy Committee

- Councilor Lawson had nothing to report.

Chair Pro Tem Needell--Land Stewardship Subcommittee

- Pro Tem Needell reported the Subcommittee, at their last meeting, had a presentation on the Portsmouth Water Line given by the Assistant Director of Portsmouth's DPW and the Project Manager. Along with that, the Subcommittee described new plans for the access road, which will follow the Eastern edge of Wagon Hill Farm and will require a new entrance. The Land Stewardship Coordinator, Sara Callaghan, gave an update on her activities. Gale Carey shared the results of the Oyster River Forest and Spruce Hole Bog Conservation Area questionnaire that residents completed for the subcommittee. The Subcommittee also worked on prioritizing a list of the town properties that need to be surveyed. A number of town properties are not surveyed, so they want to begin that work.

Councilor Hotchkiss--Planning Board

- Councilor Hotchkiss had nothing to report.

Councilor Lonske --Agricultural Commission

- Councilor Lonske had nothing to report.

Councilor Friedman—Parks & Recreation Meeting

- Councilor Friedman reported that Durham Parks & Rec met on the 28th of February. Summer Camp registration is starting on March 17th. Camps will be at the middle school. They are looking for summer staff aged 16 to college age. Durham Day may be turning into a weekend event starting on Friday, June 2nd, with the main event on Saturday, June 3rd from 12:30 - 3:30 pm in the Downtown area. The Committee had a further question and answer session with the UNH consultants regarding the plans for Woodridge Park and Jackson Landing. A revised proposal will be coming, at which time the Committee will make a recommendation to the Administrator based on the revised proposal. The next meeting is March 28th. The Seacoast Economic Development Group is supporting Strafford Regional Housing Needs Assessment, which is in the public comment period and which started Feb 13th and continues to March 14th. There will be a public hearing Friday, March 17th at 9:00 am in person or by Zoom. The next call for that group is tomorrow morning. Councilor Friedman shared he appreciates Councilor Joe Kenney coming to the Durham Town Council to speak with us and his follow up letter to the New Hampshire Finance Committee in support of Durham's Coast Transportation System and other transportation systems offered in NH. Councilor Friedman also thanked NH Congressman Pappas for his letter of support in funding apparatus for Durham's fire department. Additionally, Councilor Friedman thanked Todd and Rich for their letter of support for transportation dollars from the State of NH under Senate Bill 270 for Durham's roads.

Todd Selig – Administrator

- Mr. Selig shared that the Annual Town Election will be Tuesday, March 14th at Oyster River High School from 7 am - 7 pm. That is also the polling place for Durham residents for the school elections. Madbury and Lee residents will vote in Madbury and Lee respectively. There is a meeting of the Northern Passenger Rail Authority tomorrow in Dover to discuss the Downeaster. This group meets once a month and Mr. Selig regularly attends. John Carroll also attends for Durham as does Steve Pesci for UNH. Durham is approaching its one millionth rider at the UNH Durham Depot, which may happen around April depending on ridership. UNH sustainability fellow candidates are being interviewed for the coming summer and year. Councilor Lawson and Jennifer Andrews from the UNH Sustainability Institute are also participating in those interviews. There are some excellent candidates. Town Clerk/Tax Collector's office staff have been hard at work finding a new deputy to take over for Rachel Deane. They have found an individual who has accepted the position, so stay tuned for news about that. Administrator Selig noted the Portsmouth Water Line presentation mentioned by Councilor Needell was a good presentation. They're planning to bring the assistant public works director of Portsmouth in to give the Council an update on that plan in the beginning of April. There has been a good deal of activity with the Community Power Coalition of NH. Durham has made a decision not be part of the first wave, but they may be part of the 1.5 or second wave. Finally, the Town has been busy managing the many grants that Durham has received, is in the process of administering, or is in the process of obtaining.

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

Student Senate External Affairs Chair Kania reported that there is another candidate running for Student Body President. Applications for this election close on Friday. This past Sunday, the Senate passed three resolutions: one regarding the UNH Discovery Program, one about hand dryers in dorm bathrooms, and the last one about the recent antisemitic acts in Portsmouth. The Senate is hoping the university will acknowledge those acts and reach out to students, especially as there are students who commute from Portsmouth. Lastly, the Chair's Council has been working on updating the commuter student lounge. They found the necessary \$70k in funds and are hoping to get the asbestos removed over spring break and the new furniture (couches, table) installed over the summer. Mr. Selig asked if people run for Vice President. Chair Kania said yes, they do run on a ticket together. The presidential candidates choose their vice president. Once elected, they choose all their chairs. Councilor Tobias asked Chair Kania to encourage whoever is in the Senate next year to continue their involvement with the Durham Town Council. The Council thanked Chair Kania for his work with them this year.

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

Chair Marple pulled item B at the request of Councilor Friedman.

- A. Shall the Town Council, upon recommendation of the Administrator, Ratify the Collective Bargaining Agreement Between the Town of Durham and the American

- Federation of State, County and Municipal Employees Council 93, Local 863 (AFSCME - DPW) for the Period January 1, 2023 through December 31, 2025?
- C. Shall the Town Council, upon recommendation of the Administrator, Award the 2023 Road and Sidewalk Program to Continental Paving Inc. of Londonderry, NH in the Amount of \$780,792.12 and Authorize the Administrator to Sign the Associated Contract?

Chair Marple MOVED that the Durham Town Council does hereby approve Unanimous Consent Agenda items A and C above as presented. The motion was SECONDED by Chair Pro Tem Needell and PASSED 8-0 via roll call vote: Councilor Lund–Yes, Councilor Tobias–Yes, Councilor Lawson–Yes, Chair Marple–Yes, Chair Pro Tem Needell–Yes, Councilor Hotchkiss–Yes, Councilor Lonske–Yes, Councilor Friedman–Yes.

- B. Shall the Durham Town Council, upon the recommendation of the Administrator, Waive the Deeding for the property located at 236 Mast Road, Map 210, Lot 9, with the terms of the attached Agreement?

Councilor Friedman had a few questions about the process and the deal that was made. He asked if the property has been in lien status for many years, back to 2011. Lorrie Pitt stated that sounds correct. Councilor Friedman asked what the process is for liening a property in Durham in terms of timing and taxes. Ms. Pitt stated that if the 2011 taxes were not paid in 2011, any lienable item would go to tax lien. If not paid, they send out a 30-day certified notice. The property owner has a two-year window where the process of deeding could start. For the most part, agreements are kept and regular payments are made. During COVID, it became a bigger problem. Since Ms. Pitt is retiring, the Town wants to clean up as many outstanding items as possible. Administrator Selig said in the 2019-2020 time frame, Lorrie brought this issue to his attention and they made the decision to work with the property owners to make them current, but the owners have fallen further behind. It made sense to clean up the outstanding items. This is one of two parcels left in town that's eligible for deeding. The second parcel is located on Packers Falls Road; it used to be owned by NE Telephone and was transferred to a trust that has stopped making payments on it. It's a small 100' by 100' parcel. In fact, the current owner has written to the Town of Durham stating he is giving the property to the Town. As it's not a parcel Durham is interested in taking, The Town has reached out to the abutter to see if they are interested in trying to acquire the parcel and pay off the taxes. Regarding the outstanding issue on the table tonight, the Town worked with their attorney at the Mitchell Group to work out an agreement to bring the owner current. The owners of the parcel have agreed to this. Mr. Selig stated it was made clear to the owner that this deal was subject to Council approval. Councilor Friedman asked if the owners have defaulted on any previous agreements made with the Town prior to the agreement in question. Ms. Pitt said during COVID, they were not able to keep up with their regular payments based on an agreement made prior to COVID. The owner added her two daughters to the property as owners. One of the daughters is now living there and she is now the one paying and has signed the agreement. She will be the primary person paying every month. Mr. Selig stated there hasn't been a formal agreement in the past. This is

the first formal agreement. Councilor Friedman asked if the property were to be taken in tax lien and sold by the town at best price, would the landowner receive the net profits and the town would only receive the taxes owed. Mr. Selig said he would need to review the specifics of the process, but what Councilor Friedman described is exactly what would happen. Councilor Friedman stated this agreement would fund the owners tax payments over the next four years at 8%. Ms. Pitt said up until 2019 they were paying 18%; it's now 14% for tax lien, 8% on property tax. So they are paying the town 14% interest. That's part of the reason it's been hard for them to catch up. Councilor Friedman asked about the agreement itself; #2 talks about the amount shown in Exhibit A. He asked for clarification about what in the packet is Exhibit A. Administrator Selig said it is the document showing taxes due. Councilor Friedman asked that if the Council does approve this Unanimous Consent Agenda item, the correct page is labeled Exhibit A as part of the agreement. Councilor Friedman asked if the agreement is made and the owner doesn't make the payments, does the process start again and if the Town has to wait two years. Ms. Pitt says no. The Town needs to send out a 30 day letter to the owners, but it doesn't have to meet a two-year mark. Councilor Friedman stated he is reluctant to have the town continue to finance residents' obligations for taxes, but he understands there is a process and perhaps this is a way they could not go through the legal problems with this situation. Chair Marple said that, as this item has been taken off the unanimous consent, Councilor Friedman does not need to vote to approve. It is within his right to abstain or vote no. Councilor Lawson stated that the interest rates charged are allowed in the State of NH to make it difficult for owners to use municipalities to float property taxes, as the rates are much higher than market rates. He stated one of his concerns is what happens if the agreement is put in place and then the property goes under mortgage; is the town then subordinate to the mortgage? The answer is no, the town is always in the first place in the mortgage. Lastly, Councilor Lawson didn't see anything in the agreement to make him concerned that Durham is subordinating their status in the issue. It seemed to be a positive in not having to go through a foreclosure process. He stated the history of the case seems to indicate good faith on the part of the property owners. Chair Pro Tem Needell clarified if the agreement is asking the property owners to make the payment once a month for twenty-four months. Mr. Selig said that is correct.

Chair Marple MOVED that the Durham Town Council upon the recommendation of the Administrator, Waive the Deeding for the property located at 236 Mast Road, Map 210, Lot 9, with the terms of the attached amended Agreement. The motion was SECONDED by Councilor Hotchkiss and PASSED 8-0 via roll call vote: Councilor Lund–Yes, Councilor Tobias–Yes, Councilor Lawson–Yes, Chair Marple–Yes, Chair Pro Tem Needell–Yes, Councilor Hotchkiss–Yes, Councilor Lonske–Yes, Councilor Friedman–Yes.

XI. Committee Appointments

- A. Shall the Town Council nominate resident David Steinberg for a three-year appointment by the NHDES Commissioner as a Durham Representative to the Lamprey River Local Advisory Committee?

Mr. Steinberg introduced himself as a resident of Packers Fall Road. He is currently a lecturer at the University of New Hampshire in the Department of Biological Sciences and teaches ecology and reptilian and amphibian biology. He moved here three years ago and is relatively close to the river. He felt this would be a good opportunity to give back to the community.

Councilor Hotchkiss MOVED that the Durham Town Council does hereby nominate resident David Steinberg for a three-year appointment by the NHDES Commissioner as a Durham Representative to the Lamprey River Local Advisory Committee. SECONDED by Chair Pro Tem Needell and PASSED 8-0 via roll call vote: Councilor Lund–Yes, Councilor Tobias–Yes, Councilor Lawson–Yes, Chair Marple–Yes, Chair Pro Tem Needell–Yes, Councilor Hotchkiss–Yes, Councilor Lonske–Yes, Councilor Friedman–Yes.

XII. Presentation Items

- A. Presentation by Attorney Katherine Miller of Donahue, Tucker & Ciandella, PLLC, on Cable Franchise Renewal Proceedings Between the Town of Durham and Comcast/Xfinity, the Town's Current Cable Operator.

Ms. Miller spoke about the renewal of the Comcast franchise. She stated many of the things that are most irritating to the customer are not within the Council's jurisdiction to control: prices, channel selection, and purchase of programming in tiers. The Council does have control over the length of term. As many people in the area still look to purchase cable, DTC are recommending Durham go with a relatively long term, perhaps a ten-year term, which would mean Comcast would be obligated to provide service in the Town of Durham in the same format that it's in now, recognizable as cable tv and lineup. She's not sure when the transition from this model to only internet will happen, but Ms. Miller says it may be some time after ten years, and in that time, Durham may see some of its franchise fee revenue of the cable tv system slightly reduced over time, as there may be fewer subscribers. The other item the firm can negotiate has to do with the local access channels. Durham has a vibrant system in place currently. One hope is to move the local access channel to a high-definition system. Comcast is bringing in the possibility of an HD channel. The other item they can discuss is the amount of the franchise fee. Currently the town is at 4%. The max is 5% of Comcast's revenue in the town. With the decline in the number of subscribers, and with part of the DCAT system financed by the franchise fees, the Town may want to think about if now is a good time to increase the franchise fees up to the 5%. In 2019, there was a change in the FCC rules in regards to the total amount a cable company can be obligated to support a town with. The 5% franchise fee now includes any free or in-kind services the company provides. So far, no companies in NH have opted to implement that rule. The first step in the process is to open the beginning of the renewal negotiations, including soliciting input from the community about future cable related needs and interests. That doesn't include internet service, as the Council doesn't have jurisdiction over that portion of services. If the Council would be willing to mark that initiation this evening and let the public know if they have ideas about future cable related needs or interests of the community, they can contact the Administrator to share their thoughts and ideas. Ms. Miller will be working

with the town staff who are experienced in putting together some audit questions to make sure Comcast is doing all the things it should be doing under the current franchise. This is the time to make sure they are complying with all of the requirements. Councilor Friedman asked how other towns similar to Durham are doing with franchise fees and if they are at the 5% or 4% rate. Ms. Miller said it varies. For towns with cable access channels, they tend to have fees in the 3, 4, or 5% range. Other communities who don't have local access tend to have lower or no franchise fees at all. One way to think about it is the franchise fees are similar to rent to use the public rights of way to get access to all of the customers in town. It's a way for the town to recoup the use of the public property in a way that benefits a private company. Without the public rights of way, the company couldn't get out to all the customers. It's like renting a public building to a private company. Councilor Friedman asked if there is any reason Durham wouldn't ask for 5% at this time. Ms. Miller stated it shows up on the subscribers' bill and is billed back to the subscriber. The residents would pay the additional 1%. Councilor Lawson asked if cable users on campus also pay the fee and will continue to pay the fee. Mr. Selig said his understanding is the subscription on campus does get bundled into the Town's franchise fee. Councilor Lawson asked if any of the staff indicated if they have a preference for HD or two town channels. Mr. Selig said the preference is for HD, as the Town already has two channels: one for town and one for school. There is the ability to activate a third channel if Durham wanted to, but they have to reach a certain broadcast threshold, and a third channel doesn't seem needed at this point.

Mr. Selig stated he will put information in the Friday Updates. To the extent the public would like to provide feedback, they can write to Karen Edwards, our administrative assistant at kedwards@ci.durham.nh.us or they can write to the Durham Town Hall at 8 Newmarket Road, Durham, NH 03824.

Mr. Selig informed the Council that atop the Foss Farm water tank built on UNH land, there is a cellular node from Verizon, which has been there since 2004. There is a lease agreement that extends to 2029. Verizon has the ability to extricate itself from that agreement at any time. Verizon's representatives have contacted the town to let Durham know the lease, in the range of \$30 – 40 thousand a year, is beyond their market parameters. The market is changing, and they'd like to reduce the amount they pay Durham. They'd like to negotiate a new lease at a substantially reduced rate, approximately \$3k/month. It is currently close to twice that. They are interested in longer term 5G, which uses attachments to telephone poles. Mr. Selig asked Ms. Miller how she envisions 5G technology changing the telecommunications marketplace. Ms. Miller said it is likely to eventually make a big change. One of the items they've worked on is a right of way ordinance to address wireless use of the public rights of way. Permitting for 5G antennas is very different. The table is set for there to be rollouts of 5G networks in communities. She's not sure how quickly that will be coming, but it seems to be the wave of the future opposed to the more hardware-based cables and wires model we have today. She said eventually companies will be sending their signals into homes' smart devices. Mr. Selig clarified Verizon currently pays \$3,400/month and they're interested in \$2,850/month. Councilor Friedman asked when that contract ends. Mr. Selig said 2029. Councilor Friedman asked if Verizon is asking Durham to unilaterally reduce the cost.

Mr. Selig said yes, otherwise they would potentially terminate their agreement and move their apparatus elsewhere.

XIII. Unfinished Business

No unfinished business.

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)

Before adjourning, Chair Marple thanked videographer Richard Belshaw for all his good work getting the Town Council on the television.

Councilor Tobias MOVED to adjourn the meeting. The motion was SECONDED by Councilor Lonske and PASSED 7-1 via roll call vote: Councilor Lund–Yes, Councilor Tobias–Yes, Councilor Lawson–No (he doesn’t want it to end), Chair Marple–Yes, Chair Pro Tem Needell–Yes, Councilor Hotchkiss–Yes, Councilor Lonske–Yes, Councilor Friedman–Yes.

The meeting ADJOURNED at 8:24 PM.

Respectfully submitted by Daphne Chevalier