

These minutes were approved at the September 11, 2023 meeting.

**DURHAM TOWN COUNCIL
MONDAY, AUGUST 14, 2023
DURHAM TOWN HALL - COUNCIL CHAMBERS
7:00 PM**

MEMBERS PRESENT: Councilor Wayne Burton, Chair Pro Tem James (Jim) Lawson, Chair Sally Needell, Councilor Eric Lund, Councilor Emily Friedrichs (who uses the pronouns ze/zir/zirs/zirself and the title Mx. Friedrichs); Councilor Welsh, (participated via Zoom), Councilor Lonske, (participated via Zoom)

MEMBERS ABSENT: Councilor Charles (Chuck) Hotchkiss, Councilor Joseph (Joe) Friedman

OTHERS PRESENT: Administrator Todd Selig, Town Engineer April Talon, Jackson's Landing Rink Manager Bill Page

I. Call to Order

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

II. Town Council grants permission for fewer than a majority of Councilors to participate remotely

Chair Needell asked that Councilors, in addition to stating their names, also state if they grant permission for Councilors Welsh and Lonske to participate in the meeting via Zoom.

Councilor Burton—Yes; Chair Pro Tem Lawson—Yes; Chair Sally Needell—Yes; Councilor Lund—Yes; Councilor Friedrichs—Yes

III. Roll Call of Members

Councilor Burton—Aye; Chair Pro Tem Lawson—Aye; Chair Sally Needell—Aye; Councilor Lund—Aye; Councilor Friedrichs—Aye, Councilor Welsh—Aye, Councilor Lonske--Aye

IV. Approval of Agenda

Chair Pro Tem Lawson MOVED approval of the August 14, 2023, agenda as presented The motion was SECONDED by Councilor Lund and PASSED unanimously, 7-0, by a roll call vote: Councilor Burton—Aye; Chair Pro Tem Lawson—Aye; Chair Sally Needell—Aye; Councilor Lund—Aye; Councilor Friedrichs—Aye, Councilor Welsh—Aye, Councilor Lonske--Aye

V. Special Announcements - None

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

William Hall, Smith Park Lane, referred to a number of instances which have occurred throughout the years that he said pervades the management of Durham.

Matthew Swiesz, 17 Sumac Lane, said he is on the “Jump-Start Jackson’s” committee, which is attempting to raise money to help update the rink at Jackson’s Landing, and asked that the Council support the committee’s work.

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

Olivia Welsh, UNH Student Senate External Affairs Chair, said that the “Cat Crawl” event is planned for September 9, 2023, from 3 – 5PM and outlined how the event will be conducted with participating downtown businesses.

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

- A. Shall the Town Council approve on First Reading Ordinance #2023-07 Amending Section 132-1 “Blind Exemption” and Section 132-2 “Disabled Exemption” and Section 132-3 “Elderly Exemption”, Chapter 132 “Tax Exemptions and Credits” of the Durham Town Code Relating to Exemption Amounts, Income Thresholds, and Asset Limits and schedule a Public Hearing for Monday, September 11, 2023?
- B. Shall the Town Council Adopt Resolution #2023-21, authorizing the creation of the Churchill Rink Donor Trust, with private donations for said fund to be used on the Durham-owned ice rink, Churchill Rink at Jackson’s Landing, to make improvements and enhancements to ensure longevity of use by future generations?

Chair Needell read the above unanimous consent agenda items and MOVED their approval, as presented. The motion was SECONDED by Chair Pro Tem Lawson and PASSED unanimously, 7-0, by a roll call vote: Councilor Burton—Aye; Chair Pro Tem Lawson—Aye; Chair Sally Needell—Aye; Councilor Lund—Aye; Councilor Friedrichs—Aye, Councilor Welsh—Aye, Councilor Lonske--Aye

IX. Committee Appointments - None

X. Presentation Items

- A. Receive report on Conservation Commission activities and projects – Jake Kritzer, Chair

Mr. Kritzer was not present to provide a report.

- B. Presentation by Municipal Resources Inc. (MRI) regarding revised Residential, Commercial and Industrial Property Tax Assessments as a result of the 2023 Full Revaluation.

Ed Tinker, Municipal Resources, Inc., provided the Council with information regarding the final process and results of the Town’s 2023 full revaluation.

Mr. Tinker said the increase overall for the Town in assessed value was approximately 40%. The taxable value assessment-wise also went up 40%. He broke down the information by property types as follows:

Residential property increased by 40%
Vacant land increased by 51%
Condominium property increased by 40%
Commercial properties increased by 38%
Mobile home properties increased by 72%

He said the taxable assessment increased from the 2022 value of \$1,259,964,261 to a new taxable value of \$1,855,745,334. The median ratio for one year was 98.7%. The Town is required to be between 90 and 110%, with 100% being the ultimate percentage. He said 98.7% was a good percentage to be at based on the current market.

Mr. Tinker said that there were 156 hearings held with residents that occurred between June 24th and June 30th, which represented approximately 5.8% of the properties in Durham. Of those 156 hearings, 112 were in person, 29 were telephone hearings, and 15 were Zoom hearings. He said that most property owners were informed about the process and pleased with the process. Final notices should be mailed out soon once the final values are approved.

Mr. Tinker and Town Assessor Jim Rice addressed questions from Council members at this time. The complete presentation, along with comments, discussion, and responses to Council questions, may be viewed on DCAT on Demand at www.ci.durham.nh.us.

XI. Unfinished Business

Public Hearing & Action on Resolution #2023-20 to:

1. Authorize the Raising, Appropriating, and Expenditure of an Additional Four Hundred Twenty-Four Thousand, Two Hundred and Fifty Dollars (\$424,250) Within the Approved FY 2023 Capital Fund Budget (With \$424,250 to Come From a Clean Water State Revolving Fund loan, of Which \$42,425 of Loan Principal Forgiveness to be Forgiven) for the Completion of the Littlehale Creek at Edgewood Road Culvert Project.
2. Authorize the Borrowing, Issuance, and Incurrence of Debt of Not More Than \$424,250 in Long-term Bonds or Notes in Accordance With the Provision of the Municipal Finance Act (RSA Chapter 33) for Completion of the Littlehale Brook at Edgewood Road Culvert Project; and
3. Authorize the Administrator to Submit a Clean Water State Revolving Fund Loan Amendment Application to the NHDES and Execute all Necessary Documents in Accordance With New Hampshire Code of Administrative Rules Chapter Env-Wq for the Completion of the Littlehale Brook at Edgewood Road Culvert Project.

Chair Needell MOVED to OPEN the Public Hearing on Resolution #2023-20. The motion was SECONDED by Councilor Lund and PASSED unanimously, 7-0, by a roll call vote: Councilor Burton—Aye; Chair Pro Tem Lawson—Aye; Chair Sally Needell—Aye; Councilor Lund—Aye; Councilor Friedrichs—Aye, Councilor Welsh—Aye, Councilor Lonske--Aye

No members of the public came forward to speak on this item.

Chair Pro Tem Lawson MOVED to CLOSE the Public Hearing on Resolution #2023-20 on said items. The motion was SECONDED by Councilor Friedrichs.

Councilor Friedrichs asked Town Engineer April Talon what the Town was using as numbers to determine the capacity for the amount of water coming through culverts when they are being replaced.

Ms. Talon replied that DPW worked with the engineering firm Vanesse Hangen Brustlin, Inc. (VHB) under the Town's contract with them to ensure they were capturing all the flows coming through that network, which also included the culvert on Madbury Road. She said the Town is comfortable that the culvert is sized correctly. Information was also included in the wetland permit applications for that project that was reviewed by VHB and the New Hampshire Department of Environmental Services.

Councilor Friedrichs asked Ms. Talon how the Town was viewing the storm data (i.e., 20-year storms, 100-year storms, etc.).

Ms. Talon replied that the Town used the most recent rainfall tables for those corresponding storm events, and in some cases in the seacoast area, they inflate those by 10-15% to account for some of the extreme events that can occur. Responding to another question from Councilor Friedrichs regarding what tables were used. Ms. Talon said she believed it was the Cornell University tables that were used but would verify that information.

Chair Pro Tem Lawson asked which storm event data was being used. Ms. Talon said she believed it was based on a 50-year storm event.

Chair Needell asked Ms. Talon if she remembered what the standard was based on when the Town replaced the culvert on Bagdad Road. Ms. Talon replied that she thought it was based on a 50-year storm event but would double-check that information.

The motion to CLOSE the Public Hearing PASSED unanimously, 7-0, by a roll call vote: Councilor Burton—Aye; Chair Pro Tem Lawson—Aye; Chair Sally Needell—Aye; Councilor Lund—Aye; Councilor Friedrichs—Aye, Councilor Welsh—Aye, Councilor Lonske--Aye

Chair Pro Tem Lawson MOVED to APPROVE Resolution #2023-20 on said items. The motion was SECONDED by Councilor Burton and PASSED unanimously, 7-0, by a roll call vote: Councilor Burton—Aye; Chair Pro Tem Lawson—Aye; Chair Sally Needell—Aye; Councilor Lund—Aye; Councilor Friedrichs—Aye, Councilor Welsh—Aye, Councilor Lonske--Aye

XII. Approval of Minutes – July 17, 2023

Minor edits were submitted to Administrative Assistant Karen Edwards for inclusion prior to the meeting.

Chair Needell MOVED that the Durham Town Council does hereby APPROVE the July 17, 2023, Town Council minutes, as amended. The motion was SECONDED by Councilor Lund and PASSED unanimously, 6-0-1 by a roll call vote: Councilor Burton—Aye; Chair Pro Tem Lawson—Aye; Chair Sally Needell—Aye; Councilor Lund—Aye; Councilor Friedrichs—

(abstained due to being absent at the July 17th meeting), , Councilor Welsh—Aye, Councilor Lonske--Aye

XIII. Councilor and Administrator Roundtable

Councilor Friedrichs – Planning Board

- Continuing to move through the definitions of the Zoning Ordinance. Questions arose about how finishing spaces over garages should be treated. Planner Michael Behrendt will be presenting some suggested clarifications and amendments which will be revisited at the Planning Board's next meeting.
- The only application before the board currently is for 121 Technology Drive. The Public Hearing has been extended through to August 23, 2023. There are a number of improvements that will occur at that building, some energy-wise. Councilor Friedrichs said one of the items raised at the Energy Committee was that there are some holes in terms of the process and how to have a conversation around energy needs as this applicant will be doing some efficiency improvements on the building structure itself, but because tenants are outfitting the HVAC systems to meet their own needs, there is not an opportunity to talk through what work will be occurring at that point. Ze said a subcommittee of the Energy Committee had an informal conversation with Building Inspector Audrey Cline to discuss some future tweaks to the Town ordinances and Building Codes that may be helpful later.

Councilor Lund – Historic District/Heritage Commission

- Met on August 3, 2023.
- Reviewed one application at Tideline Public House for modification to approved plan to replace three windows and remove one window on an outbuilding on the site (the former ORYA building).
- Some concern has been raised with the HDC/HC regarding neglect of historic structures in Town, one on Packers Falls Road that may have been foreclosed on and one in the historic district at 1 Durham Point Road. He noted that the HDC/HC does have the ability to make a finding of demolition by neglect for structures within the historic district; however, it would be up to the Town Council to take final action once the HDC/HC makes such a finding.

Councilor Friedrichs asked if the HDC/HC had any concerns with other buildings in Town that could be considered for demolition by neglect.

Councilor Lund said that the commission does have concerns with other buildings but does not have the authority to take any action on those properties outside of the historic district. He said it has been suggested that the commission revisit its demolition by neglect ordinance at sometime in the near future.

Councilor Friedrichs wondered whether there were other communities that may be spread out and not have a concentrated historic district that define according to the age of a building instead of a defined geographic area.

Councilor Lund replied that this topic has never been raised since he has been on the HDC/HC. He said the Town's historic district is a defined area but covers multiple zones, including part of the Central Business District, much of Church Hill, part of the Courthouse District, and extending into the Residence B zone.

Chair Pro Tem Lawson said Durham has a historic district that is an Overlay District which is enabled by state Revised Statutes Annotated (RSAs) and did not believe the state RSAs enable a Town to define a historic district, property by property, based on age. One would need to research the RSAs.

Chair Needell – Integrated Waste Management Advisory Committee

- Discussed how to support “Sustainable Durham” in September. This is an initiative being done by the Durham Public Library. Signs and banners are being prepared for the September 1st launch by the Library.
- Next meeting of the IWMAC is Wednesday, August 16th at 8AM in Council chambers.

Chair Needell – Human Rights Commission

- The HRC will meet Tuesday, August 15th at 10:30 AM in Council chambers.

Chair Pro Tem Lawson

Chair Pro Tem Lawson said he checked his sources with *The New York Times*. He said that June 22, 1964, was a sad day for UNH and Durham because the community did lose two UNH students to the fraternity building fire that was referred to earlier this evening during Public Comments. He said he just wanted people to understand that the event occurred in 1964. He said he was 5 years old at that time and he did not believe that Administrator Selig was born.

Chair Pro Tem Lawson also noted that technology changes. In 1977, he was employed by UNH as a 9-1-1 dispatcher to help put him through college. He said the system that Mr. Hall showed earlier had been replaced several years earlier (around 1974), with the Caltron System. Caltron Systems no longer exist; everything now is based on a PC.

Chair Pro Tem Lawson said the loss of the two students was a sad event and that the community should learn from the past. He just wanted people to be aware that was 55 years ago and not recently.

Addressing Councilor Friedrichs regarding her earlier report, Chair Pro Tem Lawson said when looking at items related to energy that may be more restrictive than the building codes, he suggested she may want to talk with former Councilor Robin Mower regarding the work that was done to develop a higher water use standard during retro fits and building construction.

Councilor Burton – Strafford Regional Planning Commission

Councilor Burton said that the SRPC is a very active group. He said the downtowns of Dover, Rochester, and Somersworth are being redone. The waterfront in Dover is being redone. There is a new shopping center going in Rochester. He said it was exciting to see what is happening in these communities.

Councilor Welsh – Conservation Commission

- Met on July 25, 2023.
- Consideration is being given to a suggestion for setting up public binoculars for a viewing station at one of the scenic vista areas on Durham Point Road.
- Discussion was held on the lack of health of many of the native tree species in the Northeast, specifically in Durham. He said it was an eye-opening discussion and suggested Councilors take the time to view the July 24th Conservation Commission on DCAT 35 minutes into the meeting in which Durham resident and forester Nick Lanzer gave a presentation.

- He noted that there is a program scheduled at the Library on September 19th on sustainability so people may want to mark their calendars.

Councilor Lonske – Agricultural Commission

Councilor Lonske noted she was not able to attend the Ag Commission meeting this evening because the Town Council meeting was scheduled at the same time. She asked that the Council take this into consideration when scheduling next year's meeting calendar in August so there is not a conflict.

Administrator Todd Selig

- Administrator Selig said this was his first day back to work after having been on sabbatical and that he did not have anything formal to report.

Councilor Friedrichs asked Councilor Welsh how common it was to have a property where the landscaper or maintenance plan involved forestry types of initiatives relative to native plants and were there any state qualifications that would need to be followed by a landscaper for such practices.

Councilor Welsh replied that he did not know if there were any state requirements that are to be followed by landscapers. He said he thought that most landscapers are aware of the bad invasives and those species they should not be planting

XIV. New Business

Shall the Town Council, upon the recommendation of the Administrator

1. Authorize a change in use of \$35,000 in approved fiscal year 2020 capital Project funds Churchill Rink Renovations from construction to professional services for a capital campaign feasibility study.
2. Authorize the Expenditure of an amount Not To Exceed \$35,000 for a Churchill Rink Capital Campaign Feasibility Study.
3. Authorize the Expenditure of an amount not to Exceed \$50,000 for Churchill Rink Professional Services including Architectural and Design Engineering.

Bill Page, Jackson's Landing Rink Manager, was present to respond to questions from Council members.

Councilor Lund noted that in the first two motions, the amount is \$35,000 and in the last item, the amount is \$50,000. He asked Mr. Page if that was because the \$50,000 expenditure was different from items 1. and 2.

Mr. Page responded that the reason the \$35,000 amounts are listed separately is because they are changing the use of \$35,000 from construction to professional services. He said the \$50,000 was already budgeted for architectural design purposes in the Capital Improvements Program, but he thought it would be appropriate to come back to the Council for approval.

Chair Needell asked Mr. Page how the current funding balance applies to this request in terms of taxpayers.

Mr. Page responded that since the Town took over operation of the rink from the Oyster River Youth Association, the rink has maintained a self-sufficient status financially and has built up a

fund balance of \$311,000. He said the Jump-Start Jackson's Working Group (JSJG) will also be doing fund-raising to apply towards improvements.

Chair Needell asked Mr. Page what amount of money the JSJG is hoping to raise. Mr. Page said nothing has been targeted but that he is hoping to raise an amount of \$5 million.

Chair Pro Tem Lawson asked Administrator Selig when going out to bid for professional services, would it need to come back to the Council for approval.

Mr. Selig replied that it would depend on the amount of the contracts. He thought the threshold in the Town's Purchasing Policy was \$30,000. Therefore, if the contract was under \$30,000 it would not need to come back to the Council. If it is over \$30,000, then the Council would need to approve it. If the architect contract comes in at \$50,000, it would need to come back before the Council.

Mr. Page added that the intention is not to spend the entire \$50,000 on an architect. The thought is that there may be other disciplines to spend money on (such as soil science or structural engineering) that would not be part of the architect contract. He anticipated it would be more like \$30,000 for the architect.

Chair Pro Tem Lawson asked that the Council be provided with the agreement the Town had with ORYA in 2000 when the Town took over fiscal responsibility of the rink.

Administrator Selig said that the Town owned the rink and ORYA managed it. ORYA in the mid-2000s was ultimately not able to reinvest in the rink, so the rink began to become problematic, and in essence, ORYA ended the contract with the Town and the Town then took over management and operation. The goal at the time was to operate the rink in a way that would not impact the general taxpayers in the community and to operate it through user fees. Currently, there is no agreement with ORYA in terms of the facility. The Town owns and operates the facility. The only agreement that would exist now with ORYA would be for rental of ice time.

Mr. Page clarified that the agreement was between the Town and himself as the rink manager. He did not mean to insinuate that ORYA has an agreement with the Town.

Chair Pro Tem Lawson said he was comfortable with Mr. Page's clarification.

Councilor Burton asked Mr. Page if the trust that the Council approved for this project will be subject to Town policies on purchasing or is it a separate entity.

Mr. Page replied that the trust approved by the Council was established by the Town's Trustees of the Trust Fund on behalf of the Town.

Chair Needell MOVED that the Durham Town Council does, upon the recommendation of the Administrator

- 1. Authorize a change in use of \$35,000 in approved fiscal year 2020 capital Project funds Churchill Rink Renovations from construction to professional services for a capital campaign feasibility study.***

2. *Authorize the Expenditure of an amount Not To Exceed \$35,000 for a Churchill Rink Capital Campaign Feasibility Study.*

3. *Authorize the Expenditure of an amount not to Exceed \$50,000 for Churchill Rink Professional Services including Architectural and Design Engineering.*

The motion was SECONDED by Councilor Lund and PASSED unanimously, 6-0-1 by a roll call vote: Councilor Burton—Aye; Chair Pro Tem Lawson—Aye; Chair Sally Needell—Aye; Councilor Lund—Aye; Councilor Friedrichs—(abstained due to being absent at the July 17th meeting), , Councilor Welsh—Aye, Councilor Lonske--Aye

XV. Nonpublic Session (if required)

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

XVII. Adjourn (NLT 10:30 PM)

Chair Pro Tem Lawson MOVED to adjourn. The motion was SECONDED by Councilor Burton and PASSED, unanimously, 7-0, by a roll call vote: Councilor Burton—Aye; Chair Pro Tem Lawson—Aye; Chair Sally Needell—Aye; Councilor Lund—Aye; Councilor Friedrichs—Aye; Councilor Welsh—Aye; Councilor Lonske--Aye

The meeting ADJOURNED at 8:45 PM.

Jennie Berry, Minutes Taker