

These minutes were approved at the May 6, 2024 meeting.

**DURHAM TOWN COUNCIL
MONDAY, APRIL 1, 2024
DURHAM TOWN HALL - COUNCIL CHAMBERS
7:00 PM**

MEMBERS PRESENT: Council Chair Sally Needell, Councilor Curtis Register, Councilor Darrell Ford, Councilor Eric Lund, Councilor Wayne Burton (arrived at 7:01 PM), Council Pro Tem Joseph (Joe) Friedman, Councilor James Bubar, Councilor Heather Grant

MEMBERS ABSENT: Councilor Emily Friedrichs

OTHERS PRESENT: Administrator Todd Selig, Town Planner Michael Behrendt, Town Assessor Jay Ferriera

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 - N/A

III. Roll Call of Members

Councilor Curtis Register, Councilor Darrell Ford, Councilor Eric Lund, Councilor Wayne Burton, Council Pro Tem Joe Friedman, Chair Sally Needell, Councilor James Bubar, Councilor Heather Grant

IV. Approval of Agenda

Chair Needell MOVED that the Durham Town Council does hereby APPROVE the meeting agenda for Monday, April 1, 2024, as presented. The motion was SECONDED by Councilor Ford and PASSED 7-0 by a show of hands.

Councilor Burton arrived at this time (7:01 PM).

V. Special Announcements - None

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

William Hall, Smith Park Lane, spoke about the Northern Connector.

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

Student External Affairs Chair Olivia Welsh said the Student Senate was able to get the trash cans added on the street and that seems to be going well. She also has met with the head of

Fraternity and Sorority Life and off-campus engagement about organizing future trash cleanup efforts.

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

Councilor Register asked that item #8E be pulled from the Unanimous Consent Agenda for further discussion.

- A. Shall the Town Council, Upon Recommendation of the Administrator, Approve a Special Event Permit Application Submitted by Durham Parks & Recreation to close certain sections of Town Roads for Memorial Day Ceremony to be held on Monday, May 27, 2024?
- B. Shall the Town Council, Upon Recommendation of the Administrator, Approve a Special Event Permit Application Submitted by Durham Parks & Recreation to close certain sections of Town Roads for Downtown Durham Day to be held on Saturday, June 22, 2024, with a rain date of Sunday, June 23, 2024?
- C. Shall the Town Council, Upon Recommendation of the Administrator, Approve a Special Event Permit Application Submitted by Durham Parks & Recreation to close certain sections of Town Roads for Durham Day Dash 5K Road Race to be held on Sunday, June 23, 2024?
- D. Shall the Town Council, Upon Recommendation of the Administrator, Approve a Special Event Permit Application Submitted by Kathryn Riddinger to close certain sections of Town Roads for University Day to be held on Thursday, September 5, 2024, with a rain date of Thursday, September 12, 2024?
- F. Shall the Town Council, upon recommendation of the Administrator, review and readopt the Town's Investment Policy as required by New Hampshire Revised Statutes Annotated (RSA) 41:9?

Chair Needell read and made a MOTION to approve Unanimous Consent Agenda items #VIII A, B, C, D, and F above, as presented. The motion was SECONDED by Councilor Lund and PASSED unanimously 8-0 by a show of hands.

VIII. Unanimous Consent Agenda

- E. Shall the Town Council, Upon Recommendation of the Administrator, Authorize the Administrator, on Behalf of the Town of Durham, to Sign and Submit to James Boffetti, Deputy Attorney General, Subdivision Participation Forms Relative to the National Prescription Opiate Litigation Brought by States and Local Political Subdivisions Against Three major Pharmacy Chains (CVS, Walgreens & Walmart) and Two Opioid Manufacturers (Teva & Allergan)?

Chair Needell read and made a MOTION to approve Unanimous Consent Agenda item #VIII E above, as presented. The motion was SECONDED by Councilor Burton.

Councilor Register asked that this item be pulled from the Unanimous Consent Agenda because he did not care for how the pharmaceutical companies have treated their accountability procedures in the last several years as accountability has chased them down. He also did not feel that Durham had been fairly compensated with this concession of losing the ability to litigate. He said he did not have strong enough feelings to oppose it but did not feel comfortable with having his name attached to pushing it forward either.

Administrator Selig explained that the State of New Hampshire has been filing suit against some of the pharmaceutical manufacturers and/or distributors, and in 2021, the NH Attorney General's office reached out to Durham because there were two such pharmaceutical settlements between the state and those companies. The companies are trying to limit their liability, so they want to make sure if they enter into an agreement with the states they don't get sued thereafter by the individual municipalities for the same thing. The pharmaceutical companies identified communities across the state that they demanded the State of New Hampshire pay waivers from, so that the money would go to the state, and the state would be the only suit that needed to be settled from their perspective.

He said from Durham's perspective the Town has not been heavily impacted by the opioid crisis in terms of overdoses and deaths that are experienced in the community. When the Attorney General's office approached Durham in 2021 about this arrangement, Durham had no plans to file suit against the pharmaceutical companies, nor does it currently. And, the plan the state had at the time was to obtain the best deal it thought it could and then take the financial proceeds and place them in a pool and then have those monies available to any and all towns and cities in the state that were struggling with opioid challenges and wanted to apply for those monies through a grant program that the state would administer and then use those monies locally for specific purposes allowable by the grant. So, in 2021, Durham signed on to this arrangement and the state settled the claims at that time. A pool was established, and some New Hampshire communities have applied for funding from that pool. Durham has not, to date, simply because the opioid crisis has not been a high-profile issue for Durham's Police Department.

Administrator Selig said earlier this year, the state approached Durham again and requested that it return to the same arrangement, so he felt it would be appropriate to return to the Town Council to determine whether it would be comfortable with doing that.

Chair Needell called for the vote, which PASSED 7-0-1: Councilor Register—Abstained due to the reasons stated above, Councilor Ford—Aye, Councilor Lund—Aye, Councilor Burton—Aye, Chair Pro Tem Friedman—Aye, Chair Needell—Aye, Councilor Bubar—Aye, Councilor Grant--Aye

IX. Committee Appointments

- A. Annual appointments and reappointments of citizens to various town boards, commissions, and committees.

Chair Needell said that unless she states otherwise, the reappointments and appointments she will be reading are for 3-year terms.

Agricultural Commission

John Carroll	reappointment to regular member
Holly Philbrick	appointment from alternate to regular member
Lee Alexander	appointment from regular to alternate member

Conservation Commission

Dwight Trueblood	appointment from alternate to regular member
Nicholas Lanzer	reappointment to alternate member

Historic District/Heritage Commission

Carolyn Singer	reappointment to regular member
Larry Brickner-Wood	reappointment to regular member

Human Rights Commission

Kathy Collins	reappointment to regular member
---------------	---------------------------------

Library Board of Trustees – 1-year term

Martha Gooze	reappointment to alternate member
--------------	-----------------------------------

Parks & Recreation Committee

Tracy Shroeder	reappointment to regular member
Matthew Swiesz	appointment from alternate to regular member
Erin Guyotte	reappointment to alternate member

Pease Airport Noise Compatibility Study Committee

Michael Lehrman	reappointment as Durham representative
-----------------	--

Planning Board

Tom DeCapo	appointment from alternate to regular member
------------	--

Stafford Regional Planning Commission & MPO Policy Committee – 4-year term

Wayne Burton	reappointment as Durham representative
--------------	--

Zoning Board of Adjustment

Micah Warnock	reappointment to regular member
Kevin Lemieux	reappointment to regular member

Chair Pro Tem Friedman listed vacancies on the various boards, commissions, and committees, remaining to be filled for anyone interested in applying:

Conservation Commission	2 alternate member vacancies
Downtown TIF District Committee	4 member vacancies
Durham Energy Committee	1 regular member vacancy
Historic District/Heritage Commission	1 alternate member vacancy
Housing Task Force	1 regular member vacancy
Library Board of Trustees	2 alternate member vacancies – 1-year terms
Parks & Recreation Committee	1 alternate member vacancy
Planning Board	3 regular member vacancies/1 alternate vacancy
SRPC MPO Policy Committee	2 regular member vacancies
Trustees of the Trust Funds	2 alternate member vacancies
Zoning Board of Adjustment	2 alternate member vacancies

Councilor Lund MOVED to ADOPT the above roster of citizen members to the various Town board, commission, and committee vacancies as presented. The motion was SECONDED by Councilor Register and PASSED unanimously 8-0 on a roll call vote: Councilor Grant—Aye, Councilor Bubar—Aye, Chair Needell—Aye, Chair Pro Tem Friedman—Aye, Councilor Burton—Aye, Councilor Lund—Aye, Councilor Ford—Aye, Councilor Register—Aye

- B. Shall the Town Council, Upon Recommendation of the Library Board of Trustees Chair, Appoint Elizabeth Newkirk, 40 Mill Pond Road, to fill an Alternate Membership on the Library Board of Trustees with a term expiration of April 2025?

Ms. Newkirk introduced herself to members of the Council. She said she felt serving on the Library Board as an alternate would be a good fit for her and appreciated the Council's consideration of her application.

Chair Needell MOVED that the Durham Town Council does hereby, upon recommendation of the Library Board of Trustees Chair, Appoint Elizabeth Newkirk, 40 Mill Pond Road, to fill an Alternate Membership on the Library Board of Trustees with a term expiration of April 2025. The motion was SECONDED by Councilor Lund and PASSED unanimously 8-0 by a show of hands.

X. Presentation Items - None

XI. Unfinished Business

Public Hearing and Action on Ordinance #2024-02 Amending Chapter 175, "Zoning Ordinance," Articles I, IV, VII and XVII to change the process for noticing public hearings for zoning amendments, conditional uses, historic district reviews, and UNH projects from publishing notices in a local newspaper to posting notices on the Town website, and to change the process for notices for conditional use hearings to be sent by verified mail rather than certified mail.

Chair Needell MOVED that the Durham Town Council does hereby OPEN the Public Hearing on Ordinance #2024-02 Amending Chapter 175, "Zoning Ordinance," Articles I, IV, VII and XVII to change the process for noticing public hearings for zoning amendments, conditional uses, historic district reviews, and UNH projects from publishing notices in a local newspaper to posting notices on the Town website, and to change the process for notices for conditional use hearings to be sent by verified mail rather than certified mail. The motion was SECONDED by Councilor Bubar.

No members of the public came forward to speak about this ordinance.

Councilor Bubar MOVED that the Durham Town Council does hereby CLOSE the Public Hearing on Ordinance #2024-02 Amending Chapter 175, "Zoning Ordinance," Articles I, IV, VII and XVII to change the process for noticing public hearings for zoning amendments, conditional uses, historic district reviews, and UNH projects from publishing notices in a local newspaper to posting notices on the Town website, and to change the process for notices for conditional use hearings to be sent by verified mail rather than certified mail. The motion was SECONDED by Councilor Lund and PASSED unanimously 8-0 by a show of hands.

Chair Needell MOVED that the Durham Town Council does hereby ADOPT, as presented, Ordinance #2024-02 Amending Chapter 175, "Zoning Ordinance," Articles I, IV, VII and XVII to change the process for noticing public hearings for zoning amendments, conditional uses, historic district reviews, and UNH projects from publishing notices in a local newspaper to posting notices on the Town website, and to change the process for notices for conditional

use hearings to be sent by verified mail rather than certified mail. The motion was SECONDED by Councilor Burton.

Chair Pro Tem Friedman asked once the Public Hearing is scheduled, how many days before it will appear on the Town's website. Town Planner Michael Behrendt responded that Zoning Ordinance amendments listed on the agenda such as this are required to be noticed within ten days, but usually it is posted on the website sooner than that timeframe. Notices are also posted on the outside bulletin board at Town Hall, the board outside of the Town Clerk's Office, and also one is sent to the Durham Public Library, as well as the website.

Chair Needell called for the vote which PASSED unanimously 8-0 on a roll call vote: Councilor Grant—Aye, Councilor Bubar—Aye, Chair Needell—Aye, Chair Pro Tem Friedman—Aye, Councilor Burton—Aye, Councilor Lund—Aye, Councilor Ford—Aye, Councilor Register—Aye

XII. Approval of Minutes – March 4, 2024

Chair Needell said the question arose before the meeting started as to whether there were enough people that were actually at the March 4th meeting to be a majority. Regardless, she said she would like to know what changes Councilors may have and then the minutes can be voted on at the next meeting. Council consensus was to postpone adoption of the March 4th minutes until the May 6th meeting to determine if enough Councilors were able to, because of a quorum, legally approve them. In the meantime, Councilors will submit any non-substantive changes to Administrative Assistant Karen Edwards and any substantive changes can be further noted at the May 6, 2024, meeting when Councilor Friedrichs will be present.

Chair Needell said she had one substantive change/clarification for Councilors concerning the Public Comments from residents Gavin Rile and Deborah Hirsch-Mayer that were placed as being in favor of the proposed resolution calling for the ceasefire in Palestine and she wondered if they should be placed in either the against list or some other category. Council consensus was to move these residents to the "opposed" list.

Chair Needell MOVED that the Durham Town Council ADOPT the Durham Town Council meeting minutes of March 4, 2024, with minor amendments and the amendment above with the stipulation that they will come back before the Council at the May 6, 2024, meeting if there are any issues concerning approval because of a quorum. The motion was SECONDED by Councilor Lund and PASSED 4-0-4 with Councilors Register, Ford, Bubar, and Grant abstaining as they were not yet elected to the Council at that time.

XIII. Councilor and Administrator Roundtable

Councilor Grant – Housing Task Force

- The Task Force met on March 25, 2024.
- Part of the committee discussion was around outreach and different ways to approach that. One idea is to provide submissions to the weekly Friday Updates and organize some onsite coordinated public events.

Councilor Grant – Planning Board

- The board met on March 27, 2024.

- Town Planner Michael Behrendt is working on matters relating to workforce housing with more continuing on that later.

Chair Needell – Integrated Waste Management Advisory Committee (IWMAC)

- The committee last met on February 7, 2024.
- Received a report on the progress from the UNH Sustainability students on their projects and they will present those projects on April 24, 2024. One project they were working on was to create an Instagram account to help the IWMAC to reach more people in Durham that are not being reached otherwise.
- The Department of Public Works is working on updating the Solid Waste Ordinance that will be coming before the IWMAC for review in the near future and eventually to the Town Council.
- Information will be provided in the Weekly Friday Updates about how citizens can get their bulky waste coupon to the Transfer Station for one free trip at any time during the year.
- The Swap Shop is “supposed” to open on Saturday, April 6, 2024. Uncertain because of weather predictions. Something more will be in the Weekly Friday Updates.

Chair Needell – Durham Human Rights Commission (HRC)

- The HRC will meet this coming Friday, April 5, 2024, at 1PM in Council chambers. There will be a presentation from the Durham Police Department on hate crime speech and how the department works with that issue in Durham.

Chair Pro Tem Friedman – Parks & Recreation Committee

- The P&R Committee met on February 27, 2024.
- The Memorial Day Celebration will be held on Monday, May 27, 2024, at Memorial Park downtown.
- Durham Day will be held on Saturday, June 22, 2024, with a rain date of Sunday, June 23, 2024.
- The Durham Day 5k road race will be held on Sunday, June 23, 2024.
- University Day will be held on Thursday, September 5, 2024, with a rain date of Thursday, September 12, 2024.
- The committee is working on the project about fees and comparing them to other towns in terms of revenue and expense and resident fees versus non-resident fees.
- The trails subgroup continues to do its work.
- The focus groups for Jackson’s Landing and Woodridge Park have started, so that project is moving forward as well to get some direction for those two parks.
- The P&R Committee has a representative to the Land Stewardship Subcommittee, Michael Drooker, who is stepping down from the P&R Committee. He served the subcommittee well for many years. Myrta Janosz has been selected to replace Michael on the subcommittee.
- Next meeting of P&R Committee will be Tuesday, April 23, 2024.

Councilor Friedman - Seacoast Economic Developers Stakeholders (SEDS)

- The SEDS met at Foss Manufacturing Company in Hampton, NH for a tour. Its next meeting will be on Tuesday, April 24, 2024.
- Chair Pro Tem Friedman noted that resident Bill Hall mentioned the Northern Connector earlier in Public Comments. He said his understanding is that the Northern Connector as an issue has been settled, been voted on, and is not a priority for Durham at this point and is not in the 10-year Plan for the SRPC who approves all road plans, and the priority in Durham is for the roundabout at Madbury Road and Route 4 due to accidents and deaths that have occurred at that location. Another priority is the completion of the Complete Streets Program from Madbury Road to Main Street to Route 4 and the new roundabout at West Edge.

Councilor Burton mentioned that when he bought his house on Madbury Road in the 1970s there was a lawsuit that had been filed by a neighbor who lived on the corner of Madbury Road and Route 4 that went to the Superior Court.

Councilor Burton – Conservation Commission

- The commission met on March 25, 2024.
- Discussed in depth an application for installation of a deck, patio, steps, retaining wall, and landscaping within the Shoreland Protection Overlay District.
- Discussed the addition of a member on the Land Stewardship Subcommittee.
- Discussed merging the Shoreland Overlay District (WSOD) with the Wetland Conservation Overlay District (WCOD). A committee appointed by the Conservation Commission has been working for over a year to rewrite the WCOD and SPOD. The committee now has a draft to present to the commission.

Councilor Lund – Historic District/Heritage Commission

- The 3rd and final meetings with the facilitators of the Oyster River Raid sign was held on March 21, 2024. He said although he was unable to attend the meeting, his understanding is that the parties came to a pretty close agreement and are ready to move forward with language for the sign that was previously located on Newmarket Road close to the General Sullivan sign before it was taken down.

Councilor Lund said there would be a solar eclipse of the sun next Monday, April 8th. The eclipse in Durham will cover about 95% of the sun's surface with the peak being around 3:25 PM. He said he knew of at least two eclipse viewing parties, one by UNH and one by the Durham Public Library. There is also a public lecture being put on by the UNH Physics Department on Wednesday, April 3, 2024, from 6-8PM at DeMerritt Hall. Special eclipse glasses will be distributed.

Councilor Ford

Councilor Ford had nothing to report.

Councilor Register – Agricultural Commission

- The commission has not met since his appointment. However, he did speak with Ag Commission Chair Theresa Walker and received an update on current initiatives of the commission.
- The Feeding New England Project just finished its ten-year analysis of trying to determine how much of our own food is eaten locally and how much is distributed out.

For clarification, Councilor Lund said that New England has imported the vast majority of food used here. He said the point is to increase the percentage of food locally and consumed locally as opposed to generally not exporting a lot of food.

Councilor Register corrected himself for the record to say that they are trying to get to 30% reliance on its own.

- There are several agricultural grants that will help with specialty equipment and crops, as well as infrastructure for the agricultural community.

- There are several fundraising events for the Agricultural Commission. April 14, 2024, is the 11th annual farm style breakfast fundraiser being put on by the Strafford County Farm Bureau and located at the Grange in Lee from 7:30 AM to 12:00 Noon.
- Durham Farm Day will be held on Saturday, August 17, 2024.
- The commission will meet next Monday, April 8, 2024, at 7PM in Council Chambers.

Administrator Selig

- At the next Town Council meeting on May 6, 2024, there will be a “non-meeting” held at 6PM with the Town’s Attorney to talk about collective bargaining.
- A potential winter storm is expected this coming Wednesday and Thursday.
- The annual Egg Hunt put on by Durham Parks & Recreation this past weekend was great. There was such a big crowd of people that they were lined up to come into the field down the path in the internal high school driveway and then way down the driveway.
- The Department of Public Works has submitted the wetland permit for the Mill Pond Dam Removal project which is under review by the NH Department of Environmental Services.
- Met with the organizers of the Durham Farmers’ Market. They are hoping to expand the number of vendors this year. It will be held on Monday afternoons at 66 Main Street beginning in June and going through the beginning of October.

XIV. New Business

- A. Discussion and Approval of the recommendations by the Town Assessor and Administrator relative to FY 2023 Property Tax abatement requests in the total amount of \$23,779.30.

Chair Needell recused herself from discussion and voting on this item and turned this portion of the meeting over to Chair Pro Tem Friedman.

For the benefit of the new Council members and members of the public, Chair Pro Tem Friedman briefly described what the abatement process was.

Town Assessor Jay Ferreira provided more detail into the process and how one applies for an abatement. He said an abatement is the process to dispute one’s property value. Typically, property owners will dispute their value if they disagree with the data on the field card or the methodology of the appraisal. At that point he schedules an inspection and meets with the homeowners to discuss their concerns. If he sees something wrong, he corrects it and uses the abatement as a vehicle to correct the value, and in turn, pay back the back taxes.

Councilor Burton noted the Class Action appeal from the residents of Bagdad Road. He said he was surprised that people do not understand that they cannot appeal based on process; only if they are given a new value for the property. He asked Mr. Ferreira to explain that process more.

Mr. Ferreira said former Assessor Jim Rice had called the BTLA and asked if the methodology could be disputed to arrive at the neighborhood values. The first person he spoke to at the BTLA said you could not do that. Mr. Ferreira said he didn’t know if you could or couldn’t do that, but anything can be disputed when it comes to an assessment and it’s his job to back it up. He said in the case of Bagdad Road, there were 27 people that put in for an abatement. He said even if he found in favor of the abatement, he couldn’t split it up in 27 ways, which is why he had to deny it.

Councilor Lund said that in the Bagdad Road abatement case, Mr. Ferreira's explanation as to why it was denied was not included in his backup information. He thought it would be helpful if that explanation was included with Mr. Ferreira's reasons because he was not entirely satisfied with the letter Mr. Ferreira included in the packet for that abatement.

Chair Pro Tem Friedman said there was a minor mistake in the number by 4 cents that was in the packet to be corrected and he made the following **MOTION** with that correction included: ***The Durham Town Council does hereby, upon the recommendations by the Town Assessor and Administrator, Approve the FY 2023 Property Tax abatement requests in the total amount of \$23,779.26. The motion was SECONDED by Councilor Lund.***

Administrator Selig clarified that the 4-cent correction was in abatement #16 for Toye in the Council communication. The Toye amount minus the 4 cents would then be \$8,528.58.

Chair Pro Tem Friedman called for the vote, which PASSED 6-0-1: Councilor Grant—Aye, Councilor Bubar—Aye, Chair Pro Tem Friedman—Aye, Councilor Burton—Abstain on the grounds of a possible conflict of interest, Councilor Lund—Aye, Councilor Ford—Aye, Councilor Register—Aye.

Chair Needell returned to the table at this time.

B. Initial discussion regarding development of the 2024/25 Town Council goals

Chair Needell said the intent of the Town Council goals are to provide and guide the decision-making that the Administrator does in the performance of his job.

Ideas noted from Councilors around what should be targeted in the goals:

- Metrics for the goals and tighten up efficiencies to make goals list more user-friendly to give Councilors, individually, a better understanding of what is being asked of Department Heads and what is being asked of the Town itself.
- Goals list should be used as more of a reference point for decision making, easier to read, and more descriptive.
- Do what the public wants—more public input.
- Higher sense of fiduciary responsibility to all of Durham's taxpayers. Fiscal management, compliance with budgets.
- Narrowing down the goals for each department, and where they have the most impact in the goals, allow them to focus on those.
- More reach out efforts to families in the community.

Administrator Selig said he felt the Council goals are designed to make sure that the Council and Administrator and Town staff are heading collectively in the right direction regarding the goal process. He said if there is something that the Council wants the staff to focus on as a "reach" goal to do a special task or project, which would be helpful to know.

Chair Needell said that if there are certain things Councilors want to see included in the goals, then they are to bring those suggestions to the next Council meeting for consideration.

Administrator Selig said the two parts of the goals statement he felt were important are the Mission Statement which states *“To provide ongoing stewardship for the Durham community including effective and efficient municipal services.”* Also, the Core Values which state *“Excellence, Integrity, Justice, Resilience, Respect, Transparency,”*

XV. Nonpublic Session (if required)

XVI. Extended Councilor and Administrator Roundtable (if required)

XVII. Adjourn (NLT 10:30 PM)

Councilor Grant MOVED to ADJOURN the meeting. The motion was SECONDED by Councilor Register and PASSED 8-0 by a show of hands.

The meeting ADJOURNED at 9:08 PM.

Jennie Berry, Minutes Taker