

DRAFT
DURHAM TOWN COUNCIL
MONDAY, OCTOBER 6, 2025
DURHAM TOWN HALL - COUNCIL CHAMBERS
7:00 PM

MEMBERS PRESENT: Chair Joseph Friedman, Chair Pro Tem Sally Needell, Councilor Wayne Burton, Councilor Heather Grant, Councilor Darrell Ford, Councilor Robin Vogt, Councilor Curtis Register, Councilor Em Friedrichs (who uses the pronouns ze/zir/zirs/zirself and the title Mx. Friedrichs), Councilor Carden Welsh

MEMBERS ABSENT: None

OTHERS PRESENT: Town Administrator Todd Selig, Town Engineer April Talon, Public Works Director Richard Reine, Town Planner Michael Behrendt

I. Call to Order

Chair Friedman called the meeting to order at 6:59 P.M.

II. Roll Call of Members

Chair Pro Tem Sally Needell, Councilor Wayne Burton, Councilor Darrell Ford, Councilor Curtis Register, Councilor Carden Welsh, Councilor Heather Grant, Councilor Robin Vogt, Councilor Em Friedrichs, Chair Joe Friedman.

III. Approval of Agenda

Chair Pro Tem Needell MOVED to approve the meeting agenda as written. Councilor Vogt SECONDED the motion. The motion PASSED on a unanimous show-of-hands vote.

V. Special Announcements - There were none,

VII. Public Comments

Chair Joe Friedman asked those in attendance who want to address the dam removal contracts issues to wait until the Public Hearing later in the meeting to speak.

Beth Olshansky, 122 Packers Falls Road, gave an update on the building height limit amendment discussion and highlighted changes Town Planner Michael Behrendt and resident and architect Douglas Bencks, who the Town Council asked for input, are proposing. She showed a PowerPoint presentation of drawings from Mr. Bencks submitted to the Council, and streetscapes showing how the proposed heights and design elements would look next to existing buildings. She said Mr. Behrendt made a last-minute increase in his proposed height to 45 feet and that this change doesn't appear in the Council's meeting packet. She said this new proposal doesn't agree with the town's current zoning and architectural design standards, and reiterated human scale for Main Street is 30 feet at the eaveline.

1 **Caroline Singer, 5 Woodridge Road**, noted how the Fox Run Mall is being razed and
2 Durham retail activity has declined, and adding more student housing doesn't grow or
3 retain retail businesses downtown. She supports Councilor Register's suggestion to do a
4 more comprehensive downtown study and taking a more thoughtful approach to housing
5 as part of commercial and retail uses before irreversibly changing downtown's aesthetics.
6

7 **Dennis Meadows, 34 Laurel Lane**, said he had submitted a draft of his remarks to
8 Councilors. He summarized that as the town enters into a tough budget season, his goal is
9 for the Council not to use obsolete fiscal assumptions to solve future fiscal problems, and
10 that conditions for taxpayers have changed dramatically as the Council considers
11 authorizing the contracts for dam removal.
12

13 Chair Friedman noted comments on dam removal must be made during the Public
14 Hearing later in the meeting.
15

16 Mr. Meadows said Durham runs its budget on real estate taxes and grants, and
17 circumstances like UNH closing four principal office buildings, enrolling 2,000 less
18 students by 2030, and cutting its budget by \$68.5 million by 2030, changing the fiscal
19 landscape. He added the impounding of federal funding against states with Democratic
20 senators makes it no longer wise. He asked the Council to consider authorizing
21 expenditures in the future only when it knows where the funding is coming from. He
22 suggested taking the words "and/or subject to funding with a Capital Improvement Plan
23 item" out of the resolution to avert the problem and remove the assumption that Durham
24 taxpayers are then committed to foot the bill.
25

26 **Julian Smith, 3 Chesley Drive**, said the Public Hearing is about spending money and a
27 decision has already been made about the dam. He suggested the town create a public
28 event and possibly a bronze statue to honor longtime Durham residents, UNH professors
29 and ecology scholars Margery and Lorus Milne who loved the Oyster River and the Mill
30 Pond Dam, and gave the town the Milne Sanctuary.
31

32 **Larry Harris, 56 Oyster River Road**, said he sent a letter to Councilors, presented
33 Hannah Miller's honors thesis about mercury in the Mill Pond versus the Sawyer Mill
34 Pond, and Professor Wil Wollheim who will present about College Brook at this meeting
35 stated on video that College Brook is the most polluted stream in the state. Mr. Smith said
36 the dam's removal would uncover a very toxic system and asked why UNH, which he
37 said is the perpetrator of all the pollution, is never involved in discussions about the dam.
38

39 **Dave Schwartz, 24 Laurel Lane**, who also has an office at 25 Newmarket Road, said the
40 debate is not about the dam, it's about the safety of Durham residents. He introduced
41 Attorney Ryan Garrette of the Shaheen & Gordon law firm, which represents Durham
42 residents. Mr. Schwartz lamented the lack of information and of a plan to handle the
43 contamination that he believes will occur when the dam is removed. He wondered how it
44 would be done, how the health of residents will be monitored and how they will be
45 protected from metals that could become airborne. He said the town also needs to protect
46 the economy of the town and its fiscal soundness, not just residents' health.

1 **Judith Spang, 55 Wiswall Road**, commended the Council for asking Mr. Behrendt and
2 Mr. Bencks for additional ideas on the downtown building height limit amendment. She
3 said she hasn't seen any proof that more residential housing units will increase downtown
4 vitality and the ramifications of increasing residential housing have not been studied.
5 Because of the opposition of 250 petitioners and many public commenters, she said the
6 Council must consider the ongoing community insistence on sticking to the Master Plan,
7 architectural design standards, the purpose statement for the Central Business District in
8 the town's existing zoning, and on maintaining Durham's human scale architectural
9 heritage. She said Mr. Bencks put human scale at an eaveline no higher than 30 feet and
10 buildings with a maximum height of 40 feet. She said she hoped the input Councilors
11 consider is these voices and not subordinate them to the speculation of unpredictable
12 commercial interests and uncertain market realities.

13
14 **Annmarie Harris, 56 Oyster River Road**, reinforced the comments made by Ms. Spang
15 and Ms. Olshansky and others. She said the zoning ordinance should be an outgrowth of
16 the Master Plan, and enhance and maintain the town's small town character. New
17 buildings should complement neighboring buildings. She said she strongly favors a
18 maximum height of 40 feet, with pitched roof rather than flat, even if there's a substantial
19 setback on a fourth floor, and incorporating dormers.

20
21 **VI. Report from the UNH Student Senate External Affairs Chair or Designee**

22 UNH student representative Caroline Bishop said Homecoming weekend went well and
23 thanked residents for dealing with the traffic. She said the weekend of Oct. 24 to 26 is
24 Parents' Weekend and may also see increased traffic. Her Student Senate committee is
25 working on solutions to Rite Aid closing and leaving no walkable pharmacy for students.
26 She said it is also having a listening session with Loren Selig, Wendy Thompson and
27 Councilor Burton in November. She is meeting with Administrator Selig this Wednesday,
28 and meeting with Mr. Behrendt on Friday to talk about student housing in Durham, and
29 bringing concerns from other Student Senate officers to discuss with them.

30
31 **VIII. Unanimous Consent Agenda**

32 Shall the Town Council accept the Administrator's Progress Report, as of September 30,
33 2025, on the list of approved 2025/2026 Town Council Goals adopted on June 16, 2025?

34
35 Councilor Burton asked about the completion of the Madbury Road project.
36 Administrator Selig said the goal is to complete it out to Route 4 where it will connect
37 with the state's new roundabout project. He said they are developing the Capital
38 Improvement Plan, which includes a multi-use path on one side of Madbury Road, and
39 the town is applying for grant funding so that part of the project wouldn't be started until
40 2027. Department of Public Works Director Rich Reine added the Madbury Road project
41 will be completed through the intersection with Edgewood Road in 2026.

42 ***Chair Friedman MOVED to adopt the Unanimous Consent Agenda. Councilor Grant***
43 ***SECONDED the motion. It was ADOPTED on a unanimous roll call vote of 9-0.***

44
45 **IX. Committee Appointments - There were none.**

46 **X. Presentation Items**

A. Presentation on the opening of the Oyster River Cooperative School District 2025/26 school year by Dr. Robert Shaps, Superintendent

Dr. Shaps thanked the broad community for the incredible support it showed for the school district when it was dealing with the horrific tragedy at the start of the school year. He said the district received an incredible amount of support from the local community and from across the region and state. He said the district has settled into the rhythm of school and enjoying the opportunity for teaching and learning.

He gave opening enrollment numbers for this school year. Total enrollment is 2,040 in grades K to grade 12, 28 less than last year.

He said the high school has 797 students, and this is the first time enrollment has dropped under 800 there. This number represents about 28 fewer students than last year.

The middle school has 560 students in grades 5 through 8, which is 26 less students than last year. He expects it will see a decline of 20 to 30 next year before it starts to rebound.

Elementary enrollment has been quite steady, he said, higher than expected for Moharimet, so the district shifted students to Mast Way to balance out the cohorts. Mast Way is up 20 students at 368; Moharimet has 315 students, up about 20 students.

By community, he said, Durham has 837 students, which is down 30 students; Lee has 712, which is up 11; and Madbury has 315, which is down 9. Barrington sends 176 tuition students to the high school, which has been steady for several years.

Dr. Shaps said the district is working on its strategic capital planning and using last year's building conditions survey to develop how to address capital repairs and replacements for next 10 years. He noted in March voters approved expanding and renovating the elementary schools which are at full capacity. He said the Mast Way cafeteria will be expanded by 20 feet, and the Moharimet building will add four classrooms so there is parity between the two elementary schools. It's also working to optimize inadequate space for special services such as occupational, physical and speech therapy, and reconfigure them through renovation. He said it will cost between \$8 million and \$10 million, and is getting final cost estimates for a warrant article in March. He said the high school has a geothermal grant opportunity it's pursuing that will replace its rooftop HVAC systems and will create savings over time.

Overall, the district's strategic plan is to focus on the future of learning and how public education is changing. He said the district is now in the throes of budget development and he will return to the Council in January to discuss the budget.

He noted last week a federal district court judge imposed a temporary injunction on HB2, the state anti-DEI legislation. Oyster River is one of four school districts suing the state over the legislation, and he said he felt the judge ruled in a sensible manner.

Councilor Register asked how the anti-DEI conflict impacted the district, its staff and its time. Dr. Shaps said he advises staff to continue to focus on creating conditions in the

1 classroom that allow for the exchange of ideas and diverse perspectives in all subject
2 areas. He said they didn't feel the need to change programs or the way they teach. They
3 were waiting for direction from lawsuits, and the district is still waiting for a decision in
4 its second lawsuit on the "Dear College" letter from last spring, but in both cases the
5 message to faculty is to maintain the subject matter they've taught for years and how they
6 interact with students around difficult topics.

7
8 He said the main issue is the legislation's vagueness and how that has the potential to
9 create a chilling effect on what teachers feel comfortable talking about and presenting. He
10 said there is a financial penalty, but he said there's uncertainty in how the law defines or
11 doesn't define what is included in HB2 and that is a problem.

12
13 Councilor Register said he knows transportation has been a challenge this school year
14 due to a lack of drivers, and said he appreciates the superintendent's and district's work
15 on the problem, and asked everyone to have patience with the drivers.

16
17 Councilor Burton said he was proud to sit with Dr. Shaps in court when the judge ruled
18 on the lawsuit. He said the "I" in DEI is for inclusion, and the judge in the decision said
19 the federal government can't ask schools to identify students with disabilities and then
20 make it illegal to ask if they have disabilities. He said he was proud of the school district
21 for standing up for that principle.

22
23 Councilor Welsh noted Durham taxpayers are undergoing a reassessment, and
24 households will be hit harder than in the past even if the town could flat fund its budget,
25 which it won't be able to do, and he asked him to keep that in mind during the school
26 budget process. Dr. Shaps said there are upcoming financial impacts to the schools
27 caused by the Legislature inserting itself into educational and curriculum decisions, but
28 the district will do its best in budgeting.

29
30 Chair Friedman asked how the cell phone ban is going. Dr. Shaps said the impact has
31 been insignificant because the school board last year implemented a ban at the high
32 school so students were already used to being without their cell phones. He said the social
33 interaction with students, face to face, has been noticeable, and it's been positive.

34
35 Councilor Friedrichs asked about the number of warrant articles and opportunity for
36 public input into the school budget this year. Dr. Shaps said it is part of the district's
37 annual goals to increase transparency and he anticipates more warrant articles on pending
38 contract agreements that are due and the elementary renovation project as well as others.

39
40 There was discussion about open enrollment initiatives and adequate funding at the state
41 level, and Dr. Shaps said the district is part of two adequate funding lawsuits.

42
43 Councilor Friedrichs asked if the enrollment numbers decline is due to population decline
44 or an increase in the number of residents who are using vouchers. Dr. Shaps said it is
45 hard to say. He said the high school and middle school have been consistent, but the
46 normal kindergarten cohorts between 150 to 175 are now in the range of 130 to 135.

Councilors thanked Dr. Shaps for his presentation and Dr. Shaps thanked them, and said he appreciates their support.

B. Presentation by UNH Professor Wil Wollheim about the upper College Brook restoration project

Dr. Wollheim, who said he lives at 8 Strout Lane and is a professor in the Department of Natural Resources at UNH, gave an update on the College Brook restoration efforts that are important to water flow and water quantity in the town of Durham. Moving forward with developing engineering plans, he said he works with University architect Ken Weston, Tom Kelly of the UNH Sustainability Institute who is now retired, Annique Fleurock and Peter Walker of VHB, and graduate students Jojo Baldus and Lara Munro.

College Brook is an impaired watershed, the most impaired in all of New Hampshire, Dr. Wollheim said, because more precipitation gets right into the stream, and it has the highest nitrogen loads in the Great Bay watershed. He said the Great Bay is also impaired for nitrogen. He said this affects habitats, high storm sediments, nitrogen, chloride due to road salt, and long sections underground where there's no habitat, which affects connectivity. He said they have focused on the upper part first, creating a conceptual plan for creating a stream channel and floodplain wetland, and how stormflows would work and reduce sediments, and dissipate in wetlands. They've worked with NH Agricultural Experiment Station to finetune their tractor use when spreading manure. UNH is willing to give up one practice/intramural field, and another will be incorporated into the project.

The project will benefit UNH, town and Great Bay, and centralize College Brook as a connecting part of campus. UNH has provided an easement to support the project, which is a requirement for one of the funding sources. The project will store stormwater, protect property against flooding, retain sediments and nitrogen, restore habitat, be a teaching and research tool with boardwalks with signage, and be a model for restoration efforts elsewhere. It will restore natural capital resources the way buildings are remodeled and maintained. Cost estimate is \$2.1 million, and funding is coming from several sources including Great Bay 2030 and UNH. Looking at the NH Aquatic Restoration Fund and congressionally directed spending for more.

Councilor Friedrichs asked why the numbers on nitrogen and chlorine are off the charts and what more can be done because Durham and UNH already use best practices. Dr. Wollheim said there is a lag for improvements to take effect when passing through groundwater and the data is about 10 years old, but new data doesn't show much improvement but it isn't getting worse either. Discussion ensued on reasons for this.

Councilor Friedrichs said ze and Councilor Needell were involved in the wetland shoreland ordinance and data around Great Bay had shown a decrease in quality in the '90s, and since 2010. Ze asked if that's what he has seen, and he said yes and discussed the need for newer data and looking at causes.

1 Councilor Friedrichs said ze knows of residents in the Faculty Neighborhood area with
2 wet basement complaints, and suggested students go door to door to get information.

3
4 Councilor Register asked if this project is contingent on removal of the dam, which Dr.
5 Wollheim said it isn't, and about mitigating the contaminated soil under the dam. Dr.
6 Wollheim said he couldn't speak to that. Administrator Selig said Peter Walker of VHB
7 could address that later in the meeting.
8

9 **C. Annual report on the Land Stewardship Subcommittee activities and projects –**
10 **Chair Neil Slepian**

11 Land Stewardship Subcommittee Chair and Conservation Commission Vice Chair Neil
12 Slepian introduced Land Stewardship Coordinator Veronique Ludington and gave an
13 update on the Land Stewardship Subcommittee's work.
14

15 Mr. Slepian said the subcommittee was created in 2010 as a subdivision of the
16 Conservation Commission to provide better oversight. The Land Stewardship
17 Coordinator's position was at first filled by professional part-time contractors. The town
18 had three over seven years so in 2025 decided to hire a part-time coordinator.
19

20 The subcommittee is collaborative and made up of three at-large members, six members
21 appointed by other committees and four town officials. He said the past year has seen a
22 lot of transition as Sara Callaghan left and Ms. Ludington was hired; Ann Welsh moved
23 to an at-large position and three different town councilors cycled through. The
24 subcommittee brought on a UNH graduate student as an alternative. The subcommittee
25 organizes projects and priorities, oversees signage and outreach materials for town lands,
26 and supports the coordinator. He said the town owns 18 properties, totaling 5,500 acres,
27 20 miles of trails and seven town held conservation easements.
28

29 He said Durham has twice the percentage of preserved public land than the other 52
30 towns in the Piscataqua Region and the Great Bay Estuary Watershed: 32.5 percent (not
31 counting any UNH preserved land) compared to 15.5 percent on average for other towns.
32 He said the town's vision, foresight and preservation mentality have made the town a
33 leader in land stewardship.
34

35 Ms. Ludington listed recent projects she has overseen including the Long Marsh scenic
36 bridge, working with a contractor to design a viewing platform for the Spruce Hold Bog,
37 working with the Rotary and other community groups on volunteer projects, replacing
38 rotting bog bridges at Longmarsh, helping with Pike Property cleanup, creating a new
39 loop trail at Jackson's Landing, invasive plant management projects in several locations,
40 trail bridge upgrades for Oyster River Forest, starting the trail connectivity discussion
41 with Parks and Rec and others, coordinating Durham Trails Day and other events,
42 making presentations at the library and Riverwoods, submitting information for the
43 Friday Updates, planning the upcoming Bio Blitz, and mentoring three UNH capstone
44 students.
45

1 He said the part-time land stewardship coordinator works about 10 to 12 hours unpaid a
2 week. He said the subcommittee has submitted a budget request for a modest salary
3 increase to make the coordinator a full-time position.
4

5 He said the subcommittee is now brainstorming 2026 goals and plans, looking at
6 remapping trails, improving accessibility at four properties, installing and repairing
7 kiosks, mapping invasive species on lands, working with DPW on the Oyster River
8 Forest bridge, and researching alternative funding and support ideas.
9

10 Ms. Ludington thanked all the trail stewards and volunteers who helped the
11 subcommittee in its work. Councilor Register thanked the pair for their work.
12

13 Town Councilors took a brief recess of five minutes before the next presentation.
14

15 **D. Annual report on the Integrated Waste Management Advisory Committee activities**
16 **and projects – Mike Pazdon, member**

17 Mr. Pazdon said he submitted a list of IWMAC's activities to Councilors in their meeting
18 packet so he did not want to repeat those and invited any questions they may have. He
19 said the committee does many small things to change people's behavior, and some larger
20 efforts that take more time. He noted the recycling of flower and vegetable pots was a
21 success this year and they didn't go into the waste stream. He asked the committee is
22 asking that a couple alternate members be added to the committee.
23

24 Chair Friedman said the Friday Updates suggestions from the committee are very helpful.
25 Administrator Selig said town staff met with the committee about a \$5,000 allocation to
26 run a free composting pilot program for 30 households. Mr. Pazdon said they were denied
27 a grant so turned to the town, and will work with the UNH Sustainability Department and
28 use a vendor on the pilot. Councilor Register applauded the committee's Compost
29 Challenge to Councilors and town employees because reducing the town's solid waste
30 saves money. He said in the smaller pilots they've done, they've been able to save 30
31 percent of solid waste from the landfill.
32

33 **X. Unfinished Business**

- 34 **A. Public Hearing and Possible Adoption on Resolution #2025-18** authorizing the
35 acceptance and expenditure of funding from the National Oceanic and Atmospheric
36 Administration (NOAA) Community-Based Restoration Program, for the Mill Pond Dam
37 Removal and Oyster River Restoration Project, in the amount of up to \$3,247,201, and
38 authorize the Administrator to sign and submit grant paperwork on behalf of the Town of
39 Durham.
40

41 ***Chair Friedman MOVED to open the Public Hearing.***
42

43 Administrator Selig invited Peter Walker of VHB to give an update on the project before
44 the Public Hearing. Mr. Walker introduced himself as an environmental scientist who has
45 worked on the dam removal project since almost its beginning. He introduced Jake San

1 Antonio, who is a chief water resources engineer and the environmental services leader
2 for New England for VHB, and an expert in stream and river restoration.

3
4 Mr. Walker said the dam has one-third of the capacity it needs now, maybe as low as
5 one-tenth, and in 1999 received a letter of deficiency from the Dam Safety Bureau. It has
6 experienced increased deterioration since then. He said this has resulted in poor water
7 quality in Mill Pond, declining habitat, and a decline in blueback herring population.

8
9 He said in summer 2022 additional surveys were done and grant applications were made.
10 In 2023, the design and impact of the project was developed and studied and included a
11 risk assessment review, in which he said experts concluded the sediment that would be
12 released by the removal of the dam poses a low risk to human health. He said regulatory
13 reviews were done in 2024 and this year. He said concerns raised in the Public Comment
14 section of this meeting were also raised at the state Public Hearing in April of 2025. He
15 said they've gone through the construction bidding process and identified funding
16 sources. He said the state Department of Environmental Services approval was
17 conditional on one design revision, which they are working on. He said the historical
18 nature of the dam required a National Historic Preservation Act Section 106 assessment
19 of the loss of its historic character and will require measures to offset and mitigate it. He
20 said a memorandum of agreement was executed. The Army Corps of Engineers issued
21 the required permit. SumCo was identified as the contractor. He said he expects
22 construction to take place in the summer and fall of 2026, and that they always plan for a
23 subsequent year of adaptive management after that. In this case, they may need to adjust
24 the river channel, monitor erosion and optimize fish habitat conditions.

25
26 Councilor Needell asked if the town did nothing with the dam, would an eruption expose
27 sediments and waste. Mr. Walker replied yes, and if the town elects to do nothing, DES
28 might penalize the town financially.

29
30 Councilor Welsh asked if the town does nothing, is there more risk of exposure to
31 pollutants. Mr. Walker said yes, noting part of the design of the project is to remove
32 material that contains the highest level of contamination that would be released in an
33 uncontrolled breach.

34
35 Councilor Friedrichs asked what kind of event might cause a breach and what the result
36 would be. Mr. San Antonio said an event like the 2006 Mother's Day flood might cause
37 the dam to fail and discussed other ramifications of that kind of storm. Mr. Walker said it
38 is a difficult question to answer because the dam is continuing to disintegrate.

39
40 Councilor Burton expressed concern about the town not receiving the \$1.3 million dollars
41 yet amid future additional predicted cuts to NOAA funding. He asked what happens if the
42 town doesn't receive the money.

43
44 Town Engineer April Talon had provided two potential funding scenarios for the project
45 in the Council packet - one assuming the town receives the money, and one if it doesn't.
46 She said the Council could approve a FY26 Capital Improvement Plan item to provide

1 the funding. She said the NOAA grant managers have been very forthcoming, but don't
2 have any information about the outstanding funding or a timeline for its release.

3
4 Councilor Register asked about harmful chemicals being released as the dam is removed.
5 Mr. Walker recommended reading the 2020 and 2021 studies, the Council Q&A, and the
6 two 2025 memos from Dr. Kyle Apigain, all on the town website, to learn more. He said
7 no contamination will be put in drinking water, and went on to discuss other forms of
8 contamination that residents may be concerned about. He said the DES did look at
9 everything, determined it was low risk, and issued the permit to proceed this summer.

10
11 Administrator Selig noted the costs for options saying the estimated cost for dam
12 stabilization in 2022 was \$1,392,518; dam stabilization with dredging was \$5,321,198;
13 and dam removal and restoration was estimated at \$1,462,950. He said the town
14 estimated it could procure around 60 percent of the cost of dam removal based on other
15 Seacoast dam removal projects, but there were no funds available for stabilization. He
16 said the town has surpassed the 60 percent goal. He said there is \$1.3 million dollars that
17 is under "political review" still and said he would bet the town won't receive it given the
18 political environment. He said in terms of the initial \$1.9 million, there is a U.S. Treasury
19 Department payment application system that NOAA uses and the \$1.9 million has been
20 deposited in Durham's account there and is ready for drawdown. He said the only thing
21 keeping the town from drawing it down is its internal processes of accepting the grant
22 and awarding the contract. He said the longer the town doesn't act and draw down the
23 funds, the more at risk the funds will be.

24
25 Councilor Friedrichs asked if at the time of those cost estimates if the dredging of the
26 pond would have been allowed if the dam was retained, and Mr. Warner said DES didn't
27 say no to the type of dredging that was needed in the pond, but it almost did.

28
29 ***Chair Friedman MOVED once again to open the Public Hearing. Councilor Grant***
30 ***SECONDED the motion. The motion PASSED on a unanimous roll call vote of 9-0.***

31
32 **Ryan Garrette, an attorney with Shaheen and Gordon, and a resident of Concord,**
33 **said his firm has been retained to represent Durham residents concerned about the**
34 **removal of the dam. Attorney Will Baker at the firm's Dover office is the lead attorney,**
35 **but he is presenting to the Rochester Planning Board on the night of this meeting and**
36 **couldn't attend. He said without a proactive plan to address concerns about**
37 **contamination such as damage to drinking water and public safety, the firm is in fact-**
38 **finding mode, and has had positive interaction with town engineer so far. He said the firm**
39 **looks forward to working with the town and ensuring the public remains safe.**

40
41 **Mike Pazdon, 163 Dame Road, former director of the hazardous waste lab for the state**
42 **DES and of one of the Superfund labs for the U.S., said he is familiar with the VHB**
43 **sediment study of the dam and said he wouldn't trust the numbers on mercury because of**
44 **the way they were studied. But, he said, as far as the sediments go, if he dug a hole in**
45 **everyone's yard, you'd find the same contaminants there that were found at the dam that**
46 **result from coal burning, diesel and gasoline. He said VHB has a good plan, the town**

1 should take the dam out, remove the channel, and stabilize the area. He said the money's
2 there, let's take the money,

3
4 **Jeff Hiller, 6 Laurel Lane**, said he doesn't about the dam or any water body, but cares
5 about the impact of dam removal on the environment and on his taxes. He said he felt the
6 town dam removal vote was largely based on people wanting to do the right thing for the
7 environment and choosing the least expensive alternative. He spoke to the scope of the
8 work dealing with contaminated sediments, scope of analysis, the impact on private
9 wells, and gaps in the plan including the not-yet-received grant money. He elaborated on
10 the project details, his concerns about issues that won't be addressed, and the sediment
11 remediation method. He disputed the determination of the contamination risk. He asked
12 why the state DES didn't have a representative present to address questions.

13
14 Chair Friedman asked Mr. Hiller to end his presentation as his second five-minute
15 allotment had ended and said he could speak again after others waiting have spoken.

16
17 **Brooke Baldwin, 8 Timberbrook Lane**, said the town should free the funds, and free
18 the river.

19
20 **Kitty Marple, 82 Madbury Road**, asked the Council to please remove the dam. She said
21 it was decided a long time ago and can't believe the town is back here doing this again.

22
23 **Derek Sowers, 32 Oyster River Road**, said the point is not to relitigate this issue or
24 imply it hasn't been well-evaluated. He thinks it has been the most thoroughly researched
25 and incredible public process since it began in 2008. The question is whether the town
26 accepts the money in this implementation phase. He asked why wouldn't the town? He
27 said he worked in environmental restoration and now has a PhD in ocean exploration.

28
29 **Dave Schwartz, 24 Laurel Lane**, asked what the amount the town has to fund is. He
30 said he still doesn't know what the cost to taxpayers will be.

31
32 Administrator Selig asked Ms. Talon to address his question.

33
34 Ms. Talon said there are two different funding scenarios for executing the contracts with
35 SumCo and with VHB. The SumCo bid was \$3,142,193 and the VHB bid was \$394,950.
36 She said the town has allocated \$150,000 for the Section 106 historical mitigation efforts.
37 She said, as with any project, the town has also allocated additional funding to cover
38 contingencies like the design changes DES requested.

39
40 Councilor Needell said by her count the town already has \$2,214,701 in hand. If you
41 subtract that from the total expense of \$3,537,201, it leaves \$1,322,500 to fund.

42
43 Mr. Schwartz asked how the town will pay that. Chair Friedman said this is not a debate.
44 Mr. Schwartz said taxpayers need to know before the town signs contracts.
45

1 Ms. Talon said the remaining federal NOAA funding is the \$1.3 million that is needed.
2 The town has not received that funding, and doesn't know if and when it will. If the town
3 doesn't see it, she said the town had approved \$1.6 million in the FY22 budget to be
4 bonded for the project and \$1.4 million of that is remaining.

5
6 She said if the town needs an additional funding source beyond that, there could be a FY
7 26 Capital Improvement Plan request of \$900,000, a bonded amount, use that. She said if
8 the project gets rolling, and the town does get the federal money, it could use the
9 \$900,000 to offset the budget or use it to fund later phases of the project. Tallon offered
10 to meet with residents to go over the process with them and answer questions.

11
12 Administrator Selig also noted the funding scenarios are included in the Council packet.

13
14 **Wil Wollheim, 8 Strout Lane**, speaking as a resident, said the town should accept the
15 funding being offered. If they pull it back at some point, the town deals with it then.
16 Otherwise, it's anticipatory obedience, which is a problem the country is facing. He urged
17 residents concerned about contamination to look at the region's existing floodplains. He
18 said there's one on College Brook behind the MUB, one on Little Hale Brook, near
19 Bellamy River upper and lower which is now flat forest. He said they are beautiful
20 ecosystems. He said it is going to be a great ecological benefit to the region to improve
21 herring runs, improve water quality and manage it turning into a river.

22
23 **Steve Taylor, 20 and 22 Newmarket Road**, said there is no guarantee the town will
24 receive any of the federal funding, and residents should not give Administrator Selig a
25 blank check on the Durham taxpayer account. He said he met with Administrator Selig
26 and Mr. Reine, who said if everything went well at this meeting, the town could start
27 work on the dam tomorrow. He said once that starts there's no going back and the town is
28 obligated to pay the money. He noted the 74 percent of town residents who voted to
29 remove the dam which is often cited is incorrect. He said actually 11 percent of residents
30 voted to remove the dam because of the 15,000 residents in March 2022, only 1,700 or 11
31 percent of residents voted to remove the dam.

32
33 **Diane Freedman, 28 Laurel Lane**, said she is worried about an expenditure of money
34 the town doesn't have. She said she believes the Section 106 historical study also isn't
35 done and asked to be corrected if she is wrong but projects aren't a go until that's done.
36 She said back when Administrator Selig was circulating the price of removing the dam or
37 doing nothing, he included the cost of dredging, but the dredging wasn't going to be able
38 to happen. She said she thought that was one bad faith moment with voters thinking
39 keeping the dam would cost \$5 million. She said there might have been a different
40 resulting vote if it was clear to residents that it would be less money to retain the dam.

41
42 She also noted the information sheet about the dam's removal at the time was placed next
43 to the Absentee Ballot forms and said she objected at the time and that it felt like
44 proselytizing. She said there was also not a lot of time for the public to ask questions or
45 make an equal statement in print or at meetings. She said she is worried about
46 contamination for pets, etc., before the floodplain fills in and settles the sediment and that

1 the 17-acre impoundment has more contamination than the Sawyer Mill area. She said
2 fish are not a reason to do it because there's not going to be a spawning pond for alewives
3 and 148 species will have a different environment. She asked if there is a conflict of
4 interest for those consultants who advised the town on removing the dam who are now
5 being hired to do the work.
6

7 **Paul Rasmussen, 5 Glassford Lane**, Planning Board Chair, speaking as a resident said
8 the dam is a ticking time bomb. If the town doesn't do anything, the dam is going to fail,
9 noting it could fail during this meeting, and that will be a lot more costly than removing it
10 in a controlled way. He said the town should do what it was asked three years ago.
11

12 **Steve Moyer, 13 Fellows Lane**, an alternate member of the Conservation Commission,
13 said the commission directed him by unanimous vote to come before the Council and
14 remind it that the commission continues to strongly support this project. It will have
15 excellent watershed and fisheries benefits to the town, Great Bay and the region. He said
16 a careful look at the NOAA community restoration program, which has promised the
17 town funding, shows it has bipartisan support, and has been tried and true, and is so
18 effective. The town's receiving the award is a huge accomplishment and there's a good
19 chance it will come through. He urged the Council to accept funding and move forward.
20

21 **Sally Tobias, Madbury Road**, said she can't believe she's talking about accepting
22 money she thought was a done deal. She said the process was scientific, researched well
23 and discussed at length by the Council. She said it was not an easy choice to make, but
24 Councilors made the decision and it's time to accept the money and move on.
25

26 **Scot Calitri, 125 Longmarsh Road**, said he's been involved following the project for a
27 little over five years, and it's time to take definitive action. He said his friends, former
28 residents of 20 and 22 Newmarket Road, asked the town to do the best thing for the river,
29 save dollars, improve water quality, reduce the risk of flooding, improve ecosystem
30 health and respect indigenous history. He said if you look at the groups who support the
31 project - Nature Conservancy, Indigenous NH Cooperative Collective, Conservation Law
32 Foundation, Great Bay Stewards, Native Fish Coalition, Trout Unlimited, Sea Run Brook
33 Trout Coalition and Coastal Conservation Association of NH - you can tell it's the right
34 thing. He said the community needs to start healing as a town and a river. He said the
35 river's counting on residents and urged the Council to decide correctly.
36

37 ***Councilor Register MOVED to extend the meeting to 11 p.m. Councilor Friedrichs***
38 ***SECONDED the motion.***
39

40 Councilor Welsh moved to delay the next agenda item about the building height limit
41 amendment to the next Council meeting so people waiting for that issue can leave.
42

43 Councilor Friedrichs said ze'd like to respect people who have sat through the whole
44 meeting to speak on the building height limit, and keep it on the agenda.
45

46 ***The Council PASSED the meeting extension to 11 p.m. by a unanimous roll call vote.***

Chair Friedman asked for a show of hands of those still expecting to speak.

Councilor Register MOVED to delay the building height limit discussion to a future Council meeting. Chair Pro Tem Needell SECONDED the motion. The motion PASSED on a unanimous roll call vote.

Chair Friedman said the new time will be published and returned to the Public Hearing.

Diane McCann, 27 Oyster River Road, asked if the town bonds \$900,000 in case the town doesn't get the grant money, and then it does, would it then use the \$900,000 to do something with the dam upriver. She said she wanted to put it in context with the town's financial situation with business revenue down, and understand how much.

Administrator Selig asked Ms. Talon to answer. She said if the town approves an FY 26 capital item for \$900,000 and the town is able to use that to fund the construction, and then receives the \$1.3 million, the town would have to decide at that point about what to do with that funding. The town had wanted the project to go beyond removing the Mill Pond Dam and restoring the river to allow fish migration to go upriver to the reservoir dam which is at the UNH Durham water treatment plant. Currently there is no fish ladder or any way to get fish above that dam. The town would need to make a decision to offset costs or fund that additional step. She said there may be an opportunity to apply for further funding from Great Bay 2030, which she said the town has submitted a letter of intent to and will keep pursuing.

Annmarie Harris, 56 Oyster River Road, said the town is not helping the herring because they can't go more than 1.7 miles upriver until they hit the next dam after all the expert opinions under the current project. She noted at the time, 1,000 people had signed a petition to keep the dam. She feels voters voted on whether they supported the Town Council's decision to remove the dam, not on actually removing the dam or repairing it. She said they voted for what would be less expensive rather than getting rid of the historic dam, which has great value in other respects and recreation.

Chris Gallo, 28 Newmarket Road, said he hopes the Council is being cautious. If there's money that's not in the town's bank account today, it can't count on it. He said he hopes the town isn't counting on the grant managers because they're good people. The decision is out of their control, he said, and the town can't commit to spending it.

Jeff Hiller, 6 Laurel Lane, who spoke earlier, added he will email his letter to Councilors so it is in the public record and will respect any decision Councilors make. Administrator Selig noted he had forwarded Mr. Hiller's earlier emails to the Council.

Councilor Needell MOVED to close the Public Hearing. Councilor Vogt SECONDED the motion. The motion PASSED on a unanimous roll call vote.

1 Councilor Friedrichs asked if to receive the grant money the town has to have a signed
2 contract to begin dam removal. Ms. Talon said the town needs to have a signed contract
3 to accept the grant money.
4

5 Councilor Ford called a point of order asking if the motion on the resolution had to be
6 made before the discussion of it. Chair Friedman confirmed that would be appropriate.
7

8 ***Councilor Ford MOVED to adopt Resolution #2025-18. Chair Pro Tem Needell***
9 ***SECONDED the motion.***
10

11 Indicating he is going to vote against the resolution, Councilor Burton said he was
12 concerned that when voters voted to remove the dam, they believed there'd be federal
13 funding to pay for it and it was a point of emphasis during the hearings at the time. He
14 said it was not a vote on removing the dam with the town having to pay for all or some of
15 it. He noted the town is facing a bleak budget process and is worried about voting to incur
16 another million dollars on behalf of the town.
17

18 Councilor Welsh said the Council voted 7-2 to remove the dam. Then the town voted at
19 almost the same percentage as the Council to remove the dam so the rewriting of history
20 isn't valid. He said we don't know why people voted as they did just that they did, and he
21 thinks it was because it was a good idea. This Council voted to spend a million dollars to
22 redo an old barn on Wagon Hill, he said, and this resolution will change the river and
23 help the Great Bay and the wildlife in an unbelievable fashion. He said it's problematic to
24 take all the work a prior Council has done and voted on after years of discussion and
25 public comment, and now say maybe people were confused when they voted.
26

27 Councilor Burton began to contest Councilor Welsh's comments. Councilor Friedrichs
28 called the motion, ending discussion. The Council then voted on calling the vote. ***The***
29 ***motion CARRIED on a roll call vote of 8-1.***
30

31 ***Councilor Welsh - aye, Councilor Register - aye, Councilor Ford- aye, Councilor***
32 ***Burton - nay, Chair Pro Tem Needell - aye, Chair Friedman - aye, Councilor***
33 ***Friedrichs - aye, Councilor Vogt - aye, Councilor Grant - aye.***
34

35 The Council then voted on the earlier motion to adopt the Resolution. ***The motion to***
36 ***adopt the resolution PASSED on a roll call vote of 8-1.***
37

38 ***Councilor Welsh - aye, Councilor Register - aye, Councilor Ford- aye, Councilor***
39 ***Burton - nay, Chair Pro Tem Needell - aye, Chair Friedman - aye, Councilor***
40 ***Friedrichs - aye, Councilor Vogt - aye, Councilor Grant - aye.***
41

- 42 B. Shall the Town Council, Upon Recommendation of the Administrator, Award the
43 Construction Contract for the Mill Pond Dam Removal and Oyster River Restoration
44 Project to SumCo Eco-Contracting, LLC of Peabody, MA in the amount of \$3,142,193,
45 Subject to Receiving Remaining Federal Grant Funding from NOAA, and/or Subject to

1 Funding with a FY26 Capital Improvement Program Item, and Authorize the
2 Administrator to Sign Associated Documents?

3
4 ***Chair Friedman MOVED to authorize the Administrator to award the Construction***
5 ***Contract for dam removal and river restoration to SumCo. Chair Pro Tem Needell***
6 ***SECONDED the motion.***
7

8 Councilor Friedrichs asked Administrator Selig and Ms. Talon if the resolution could be
9 edited to remove at this time “subject to funding with the Capital Improvement Plan
10 budget.” Administrator Selig said if the town didn’t receive the federal funding, it would
11 have to come back to the Council later to vote on getting the supplemental funding. He
12 said the resolution was crafted for efficiency to allow the town to move forward and still
13 allow the Council to decide on the capital item during the budget process.

14
15 Councilor Friedrichs said ze was uncertain if there would still be an opportunity to
16 include or remove this as a Capital Improvement cost if this is in the resolution.
17 Administrator Selig said it would not be a problem if the town did receive the money in
18 the end.

19
20 ***The MOTION was approved on an 8-1 roll call vote.***
21

22 ***Councilor Friedrichs - aye; Councilor Vogt- aye, Councilor Grant - aye; Council***
23 ***Welsh - aye; Councilor Register - aye; Council Ford - aye; Councilor Burton - nay;***
24 ***Chair Pro Tem Needell - aye; Chair Friedrichs - aye.***
25

- 26 C. Shall the Town Council, upon recommendation of the Administrator, award the
27 Construction Phase Engineering Services Contract for the Mill Pond Dam Removal and
28 Oyster River Restoration Project to VHB, Inc. of Bedford, NH in the amount of \$394,950,
29 subject to receiving remaining federal grant funding from NOAA, and/or subject to
30 funding with a FY26 Capital Improvement Program Item, and authorize the Administrator
31 to sign associated documents?
32

33 ***Chair Friedman MOVED to approve the awarding of the Construction Phase***
34 ***Engineering Services Contract for the Mill Pond Dam removal and Oyster River***
35 ***Restoration Project to VHB Inc. Councilor Friedrichs SECONDED the motion. The***
36 ***motion carried on a roll call vote of 8-1.***
37

38 ***Chair Pro Tem Needell - aye; Councilor Burton - nay; Councilor Ford - aye;***
39 ***Councilor Register - aye; Councilor Welsh - aye; Councilor Grant - aye; Councilor***
40 ***Vogt - aye; Councilor Friedrichs - aye; Chair Friedman - aye.***
41

- 42 D. **Presentation and Discussion** with Planner Michael Behrendt and resident Doug Bencks
43 on the possible changes to recommend to the Planning Board on the three-story building
44 height limitation in the Central Business-1 Zone.
45 It was agreed to move this agenda item to the next Council meeting’s agenda.
46

XII. Councilor and Administrator Roundtable

It was agreed to move this agenda item to the next Council meeting.

XIII. Approval of Minutes - Sept. 8 and Sept. 15, 2025 meetings

Chair Friedman MOVED to accept the minutes of the Sept. 8, 2025 Council meeting..

Councilor Welsh pointed out he was left out of the list of Councilors present at the meeting. Councilor Friedrichs wanted to clarify in zir report about the Land Stewardship Subcommittee that some committee members worked Farm Day and a separate group of residents who had the blessing of the Conservation Commission and Agricultural Commission to be handing out yellow lightbulbs, but that was not part of the Land Stewardship Subcommittee

Councilor Friedrichs also wanted to clarify that zir comments about the rewriting of the current Conservation Subdivision rules without turning to the Master Plan and getting resident input were made of zir own opinion and do not reflect the opinion of the Land Stewardship Subcommittee. Administrator Selig said he would ask Administrative Assistant Karen Edwards to watch the video of the meeting and rewrite to clarify.

Councilor Ford pointed out that at the bottom of Page 13 and beginning of Page 14 that Councilor Friedrichs' motion to remand the building height limit amendment to the Planning Board doesn't mention that Mr. Behrendt and Mr. Bencks would come back to the Council with new wording for the Council to consider. Councilor Ford said he felt that was important to include and Chair Friedman agreed.

Councilor Register MOVED to extend the meeting to 11:10 p.m. Councilor Welsh SECONDED the motion. The motion carried on a roll call vote of 8-1.

Councilor Friedrichs - aye; Councilor Vogt - aye; Councilor Grant - aye; Councilor Welsh - aye; Councilor Register - aye; Councilor Ford - nay; Councilor Burton - aye; Chair Pro Tem Needell - aye; Chair Friedman - aye.

The motion to accept the minutes of the Sept. 8, 2025 Council meeting as amended PASSED on a roll call vote of 8-0. Chair Pro Tem Needell abstained because she was not present at the Sept. 8 meeting.

Chair Friedman MOVED to accept the minutes of the Sept. 15, 2025 Council meeting as written. Councilor Ford SECONDED the motion. The motion was APPROVED by a unanimous show of hands vote.

XIV. New Business

Chair Friedman said there was time to mention anything that was pressing to communicate. Administrator Selig had one update. He said the N.H. Municipal Bank had lost board member Mark DeCoteau, the town manager in Waterville Valley, when he unexpectedly died and asked him to fill out his term. He agreed to do so.

1 Chair Pro Tem Needell showed Councilors the kit they will receive to participate in the
2 Compost Challenge, and discussed some tips for composting. She stressed the importance
3 of weighing the compost each week, noting scales are available, and of recording the
4 weight and any comments and feedback to the UNH capstone students running the
5 challenge. She said the kits are in the lobby outside Council Chambers for pick up.
6

7 **XV. Nonpublic Session - Not Required**
8

9 **XVI. Adjourn (NLT 10:30 PM)**

10 ***Councilor Ford MOVED to adjourn. Councilor Register SECONDED Councilor***
11 ***Ford's motion to adjourn. The motion PASSED on a unanimous show of hands vote of***
12 ***9-0.***
13

14 The meeting was adjourned at 11:01 PM.
15

16 - Jane Murphy, Minutes Taker