



TOWN OF DURHAM

8 Newmarket Road

Durham, NH 03824

Tel: 603-868-5571

Fax: 603-868-1858

www.ci.durham.nh.us

NOTICE: Although members of the Town Council will be meeting in the Council chambers, the Council meetings are still available for members of the public to participate via Zoom or in-person.

ORIENTATION SESSION FOR NEWLY
ELECTED TOWN COUNCIL MEMBERS
MONDAY, MARCH 18, 2024
DURHAM TOWN HALL - COUNCIL CHAMBERS

6:00 PM

(SEE SEPARATE AGENDA)

AGENDA

DURHAM TOWN COUNCIL
MONDAY, MARCH 18, 2024
DURHAM TOWN HALL - COUNCIL CHAMBERS
7:00 PM

NOTE: *The Town of Durham requires 48 hours notice if special communication aids are needed.*

- I. Call to Order
- II. Town Council grants permission for fewer than a majority of Councilors to participate remotely
- III. Roll Call of Members. Those members participating remotely state why it is not reasonably practical for them to attend the meeting in-person
- IV. Swearing in of Council Members - Rachel Deane, Town Clerk-Tax Collector
- V. Approval of Agenda
- VI. Selection of Council Chair and Chair Pro Tem
- VII. Special Announcements - Chair reads Land Acknowledgement Statement
- VIII. Public Comments (*) - **Please state your name and address before speaking**
- IX. Report from the UNH Student Senate External Affairs Chair or Designee

- X. **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 **Resolution #2024-11** establishing the regular Town Council meeting dates for April 2024 through March 2025?
 - B. Shall the Town Council, Upon Recommendation of the Administrator, Schedule a **Public Hearing for Monday, April 15, 2024** on **Resolution #2024-12** Authorizing the Acceptance and Expenditure of Funding from the National Fish and Wildlife Foundation (NFWF) National Coastal Resilience Fund (NCRF) for the Construction Improvements, Engineering Services, Monitoring and Inspection for the Phase 2 Wagon Hill Farm Living Shoreline Improvements in the Amount \$1,994,539.00 and Authorize the Administrator to Sign and Submit Grant Paperwork on Behalf of the Town of Durham?
 - C. Shall the Town Council, Upon Recommendation of the Administrator, Schedule a **Public Hearing for Monday, April 15, 2024** on **Resolution #2024-13** Authorizing the Acceptance and Expenditure of Funding from the NH Department of Environmental Services (NHDES) NH Clean Diesel Grant Program, Funded Through the U.S. Environmental Protection Agency’s (EPA) Diesel Emission’s Reduction Act (DERA), for Up to Two (2) Battery Electric Refuse Collection Trucks and Up to Two (2) Direct Current Fast Charging Stations (DCFC) That will Operate in Durham, New Hampshire to Reduce Diesel Emissions. Funding shall Equal an amount not to exceed 45% of the Cost of Each Eligible Vehicle and Charger Or a Total Not to Exceed \$723,681, Whichever is Less, and Authorize the Administrator to Sign and Submit Grant Paperwork on Behalf of the Town of Durham?
 - D. Shall the Town Council Schedule a **Public Hearing for Monday, April 15, 2024** on **Resolution #2024-14** Authorizing the Acceptance and Expenditure of Funding from the FY23 Congressionally Mandated Projects Program from the U.S. Environmental Protection Agency, for the Bennett Road Stormwater and Flood Resiliency Project, in the Amount of up to \$2,040,000, with a Required 20% Match of \$510,000, for a Total Grant and Match Amount of \$2,550,000, and Authorize the Administrator to Sign and Submit Grant Paperwork on Behalf of the Town of Durham?
 - E. Shall the Town Council Approve on First Reading **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, and set the **Public Hearing for April 1, 2024**?
- XI. **Committee Appointments**
- XII. **Presentation Items**
- XIII. **Unfinished Business**

- XIV. Approval of Minutes – February 19, 2024**
- XV. Councilor and Administrator Roundtable**
- XVI. New Business**
 - A. Annual appointments of Council representatives to the various town boards, commissions, and committees
- XVII. Nonpublic Session (if required)**
- XVIII. Extended Councilor and Administrator Roundtable (if required)**
- XIX. Adjourn (NLT 10:30 PM)**

(*) *The public comment portion of the Council meeting is to allow members of the public to address matters of public concern regarding town government for up to 5 minutes. Obscene, violent, disruptive, disorderly comments, or those likely to induce violence, disruption or disorder are not permitted and will not be tolerated. Complaints regarding Town staff should be directed to the Administrator.*



TOWN OF DURHAM

8 Newmarket Road
Durham, NH 03824
Tel: 603-868-5571
Fax: 603-868-1858
www.ci.durham.nh.us

AGENDA ITEM: **#6** *TS*

DATE: March 18, 2024

COUNCIL COMMUNICATION

INITIATED BY: Durham Town Charter

AGENDA ITEM: SELECTION OF CHAIR AND CHAIR PRO TEM

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Durham Town Council

AGENDA DESCRIPTION:

Section 3.3 in the Durham Town Charter addresses the procedures for the selection of the Chair and Chair Pro Tem, which in part states that at its first regular meeting following each election, the Council shall choose one of its members as Chair for a term of one (1) year and one of its members Pro Tem for a term of one (1) year who shall act in the absence or disability of the Chair.

Sally Needell has expressed an interest in remaining Chair.

LEGAL AUTHORITY:

Section 3.3 of the Durham Town Charter.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

The Town Council should select a Chair and Chair Pro Tem as the first item of business at Monday night's meeting.

MOTION:

The Durham Town Council does hereby APPOINT _____ as Chair of the Durham Town Council.

MOTION 2:

The Durham Town Council does hereby APPOINT _____ as Chair Pro Tem of the Durham Town Council.



TOWN OF DURHAM

8 Newmarket Road
Durham, NH 03824
Tel: 603-868-5571
Fax: 603-868-1858
www.ci.durham.nh.us

AGENDA ITEM: **#10A** TS

DATE: **March 18, 2024**

COUNCIL COMMUNICATION

INITIATED BY: Durham Town Charter

AGENDA ITEM: RESOLUTION #2024-11 ESTABLISHING THE REGULAR TOWN COUNCIL MEETING DATES FOR APRIL 2024 THROUGH MARCH 2025

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

Attached for Council's review and consideration is a resolution establishing the regular Town Council meeting dates for April 2024 - March 2025 in accordance with Section 3.7C of the Durham Town Charter. Attention has been paid to not scheduling meetings on holidays in accordance with Resolution #2022-07 approved on August 15, 2022.

It should also be noted for advance scheduling purposes that the Council typically schedules budget work sessions for each Monday in November and December when a regular meeting is not scheduled.

LEGAL AUTHORITY:

Section 3.7 (C) of the Durham Town Charter states that "Regular meetings shall be held on such day or days of each month at such time as the Council shall by ordinance or resolution direct."

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council hereby adopts Resolution #2024-11 establishing the regular Town Council meeting dates for April 2024 through March 2025.

RESOLUTION #2024-11 DURHAM, NEW HAMPSHIRE

Establishing Regular Town Council Meeting Dates for April 2024 through March 2025

WHEREAS, Section 3.7C of the Durham Town Charter states that regular meetings of the Council shall be, "... Held on such day or days of each month at such time as the Council shall by ordinance or resolution direct." and

WHEREAS, because of holidays, there is need to amend the regular meeting schedule of the Durham Town Council,

NOW THEREFORE, BE IT RESOLVED that the Durham Town Council does hereby adopt **Resolution #2024-11** establishing the regular meeting schedule of the Durham Town Council for the period April 2024 - March 2025 as follows:

Monday	April 1, 2024	Monday	October 7, 2024
Monday	April 15, 2024	Monday	October 21, 2024
Monday	May 6, 2024	Monday	November 4, 2024
Monday	May 20, 2024	Monday	November 18, 2024
Monday	June 3, 2024	Monday	December 2, 2024
Monday	June 17, 2024	Monday	December 16, 2024
Monday	July 15, 2024	Monday	January 6 2025
Monday	August 12 2024	Monday	February 3, 2025
Monday	September 9*, 2024	Monday	February 17, 2025
Monday	September 16, 2024	Monday	March 3, 2025
		Monday	March 17, 2025

*Second Monday of the month due to holiday.

PASSED AND ADOPTED on this 18th day of March, 2024 by a majority vote of the Durham Town Council with ___ voting in favor, ___ opposing, and ___ abstaining.

Sally Needell Chair, Durham Town Council

ATTEST:

Rachel Deane, Town Clerk-Tax Collector



TOWN OF DURHAM

8 Newmarket Road
Durham, NH 03825
Tel: 603-868-5571
Fax: 603-868-1858
www.ci.durham.nh.us

AGENDA ITEM: **#10B** TS

DATE: March 18, 2024

COUNCIL COMMUNICATION

INITIATED BY: Durham Public Works

AGENDA ITEM: SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, SCHEDULE A PUBLIC HEARING FOR MONDAY, APRIL 15, 2024 ON RESOLUTION #2024-12 AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF FUNDING FROM THE NATIONAL FISH AND WILDLIFE FOUNDATION (NFWF) NATIONAL COASTAL RESILIENCE FUND (NCRF) FOR THE CONSTRUCTION IMPROVEMENTS, ENGINEERING SERVICES, MONITORING AND INSPECTION FOR THE PHASE 2 WAGON HILL FARM LIVING SHORELINE IMPROVEMENTS IN THE AMOUNT \$1,994,539.00 AND AUTHORIZE THE ADMINISTRATOR TO SIGN AND SUBMIT GRANT PAPERWORK ON BEHALF OF THE TOWN OF DURHAM?

PREPARED BY: Richard Reine, Director of Public Works
April Talon, Town Engineer

CC: Todd Selig, Administrator
Gail Jablonski, Business Manager
Sam Hewitt, Assistant Public Works Director

PRESENTED BY:

AGENDA DESCRIPTION:

The purpose of this Council Communication is to request the Town Council schedule a public hearing for Monday, April 15, 2024, on a Resolution Authorizing the acceptance and expenditure of a National Fish and Wildlife Foundation (NFWF) National Coastal Resilience Fund (NCRF) Grant in the amount of \$1,994,539.00, to implement the Phase 2 Living Shoreline Improvement Project at Wagon Hill Farm.

PROJECT BACKGROUND

In 2020 the Town of Durham along with its project partners, which included the NHDES Coastal Program, Army Corps of Engineers, NHDES Wetlands Bureau, UNH Coastal Habitat Restoration Team (CHART), Great Bay Stewards, the Great Bay National Estuarine Research Reserve (GBNERR) and SRPC received grant funding in the amount of \$257,000 to, in part, develop preliminary designs, which would extend the existing Living Shoreline at Wagon Hill Farm 1,800 feet westward. Following completion of the 2020 design effort, the Town advanced the project design to the 100% level utilizing Seacoast Reliability Project Mitigation funding. During that same time the Project Team continued to identify and seek funding opportunities to implement the design improvements.

The proposed improvements include the construction of a Living Shoreline, which will stabilize severe erosion as depicted in the photos below and will increase the adaptive capacity of important habitat/recreation space as sea levels rise. Fish, at multiple life stages, and waterfowl will also benefit greatly from the restored ecosystem resulting from these proposed improvements. The Living Shoreline will protect valuable public property and continue to serve as an accessible example for nature-based solutions in coastal New Hampshire. The project includes the installation of fencing, similar to the Phase 1 Project, with the intent of mitigating marsh trampling, while reestablishing this environmentally sensitive area. Trail and foot bridge construction, and additional viewing platforms are proposed to be installed as part of the Living Shoreline project and will continue to provide visitors to the property with access in close proximity to the waterfront.



To the West of Phase 1 Restoration Area

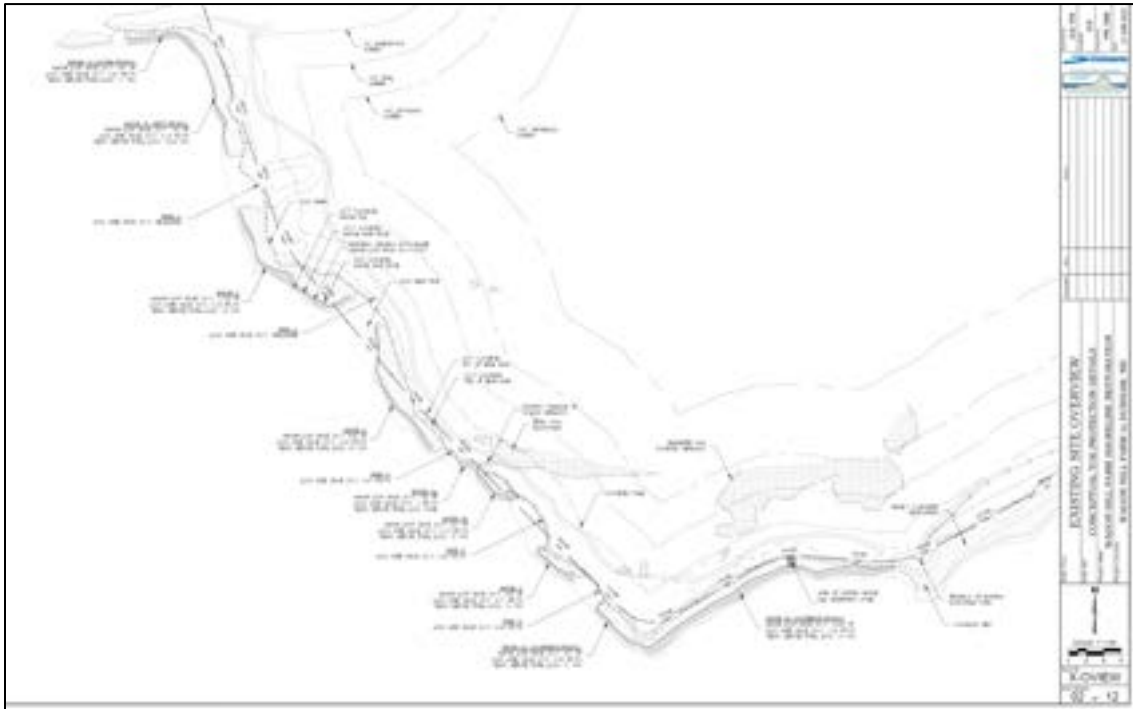


Wagon Hill Farm -Western

The Project Team is currently in the permitting phase working with the various regulatory agencies and intends on submitting permits over the next several weeks. Public meetings are also included as part of the Phase 2 project, which will seek public involvement and education about shoreline issues. Project Bidding is currently scheduled for the summer of 2024, subject to receipt of final permits.

As shown in the graphics below, upon the completion and dependent on project cost, this project will stabilize up to 1,835 linear feet of tidal shoreline, restore up to 4,060 square feet of salt marsh habitat and restore up to 2,810 square feet of tidal buffer. NFWF project requirements include a monitoring period of 5 years to evaluate project success.

The design approach includes a rock toe/rock slope that mimics nearby natural rocky, salt marsh shorelines and native salt marsh plantings along with natural bank stabilization in steeper eroding areas, including native transitional tidal bank-upland plantings.



Site mobilization in this densely wooded area will be challenging. The existing roadway adjacent to the historic “borrow pit” will be utilized for primary site access and will be restored upon project completion. Additional trees will be removed for the equipment access lane and this lane will ultimately be converted to an access trail for site users. Severely undercut trees at the shoreline will be removed to avoid tree fall on the project site and enable bank regrading. These trees were determined to be too severely undercut to survive any stabilization efforts. The root structures will remain in place as required by New Hampshire Shoreland rules due to the bank stabilization benefits they provided.

LEGAL AUTHORITY:

N/A

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

\$1,994,539.00 in Fiscal Year 2024 monies to be received from the National Fish and Wildlife Foundation (NFWF) National Coastal Resilience Fund (NCRF) for the construction, engineering, inspection, and monitoring of the Wagon Hill Farm Phase 2 Living Shoreline Project.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council, Upon Recommendation of the Administrator, Does Hereby Schedule a Public Hearing for Monday, April 15, 2024 on Resolution #2024-XX Authorizing the Acceptance and Expenditure of Funding from the National Fish and Wildlife Foundation (NFWF) National Coastal Resilience Fund (NCRF) for the Construction Improvements , Engineering Services, Monitoring and Inspection of the Phase 2 Wagon Hill Farm Living Shoreline Improvements In the Amount of \$1,994,539 and Authorize the Administrator to Sign and Submit Grant Paperwork on Behalf of the Town of Durham

RESOLUTION #2024-12 OF DURHAM, NEW HAMPSHIRE

AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF FUNDING FROM THE NATIONAL FISH AND WILDLIFE FOUNDATION (NFWF) NATIONAL COASTAL RESILIENCE FUND (NCRF) FOR THE CONSTRUCTION IMPROVEMENTS, ENGINEERING SERVICES, MONITORING AND INSPECTION OF THE PHASE 2 WAGON HILL FARM LIVING SHORELINE IMPROVEMENTS IN THE AMOUNT \$1,994,539 AND AUTHORIZE THE ADMINISTRATOR TO SIGN AND SUBMIT GRANT PAPERWORK ON BEHALF OF THE TOWN OF DURHAM

WHEREAS, the Town of Durham submitted an extensive \$1,994,539 grant application package titled, "Pipeline Wagon Hill Farm Living Shoreline (NH)," to NFWF as part of their National Coastal Resiliency funding opportunity under the Infrastructure and Jobs Act (IIJA); and

WHEREAS, in February of 2024, the Town was formally notified that the Board of Director's at the National Fish and Wildlife Fund approved an award for \$1,994,539; and

WHEREAS, New Hampshire Revised Statutes Annotated (RSA) 31:95-b permits municipalities to authorize acceptance and expenditure of funds from the state, federal or other governmental unit, or a private source, which becomes available during the fiscal year if they first adopt an article authorizing this authority indefinitely until specific rescission of such authority; and

WHEREAS, Resolution #99-19 adopting the provisions of RSA 31:95-b authorizing the Town Council to apply for, accept, and expend unanticipated funds from a Federal, state, or other governmental unit or a private source which becomes available during the Fiscal Year; and

WHEREAS, Council approval is required for the acceptance and expenditure of these funds; and

WHEREAS, RSA 31:95-b III(a) requires that a Public Hearing be held on unanticipated funds in excess of \$10,000; and

WHEREAS, on Monday, April 15, 2024, a duly posted and published Public Hearing was held by the Durham Town Council on the \$1,994,539.00 monies in accordance with RSA 31:95-b;

NOW, THEREFORE, BE IT RESOLVED, that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire does hereby approve **Resolution #2024-12** authorizing the acceptance and expenditure of funding from the National Fish and Wildlife Fund for the Construction Improvements, Engineering Services, Monitoring and Inspection of the Phase 2 Wagon Hill Farm Living Shoreline Improvements in the amount of \$1,994,539, and authorizes the Administrator to sign and submit grant paperwork on behalf of the Town of Durham.

PASSED AND ADOPTED this __ day of **April, 2024**, by a majority vote of the Durham Town Council with _____ affirmative votes, _____ negative votes , and _____ abstentions.

Sally Needell, Chair
Durham Town Council

ATTEST:

Rachel Deane, Town Clerk-Tax Collector



TOWN OF DURHAM

8 Newmarket Road
Durham, NH 03825
Tel: 603-868-5571
Fax: 603-868-1858
www.ci.durham.nh.us

AGENDA ITEM: **#10C** TS

DATE: March 18, 2024

COUNCIL COMMUNICATION

INITIATED BY: Durham Public Works

AGENDA ITEM: SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, SCHEDULE A PUBLIC HEARING FOR MONDAY, APRIL 15, 2024 ON RESOLUTION #2024-13 AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF FUNDING FROM THE NH DEPARTMENT OF ENVIRONMENTAL SERVICES (NHDES) NH CLEAN DIESEL GRANT PROGRAM, FUNDED THROUGH THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S (EPA) DIESEL EMISSION'S REDUCTION ACT (DERA), FOR UP TO TWO (2) BATTERY ELECTRIC REFUSE COLLECTION TRUCKS AND UP TO TWO (2) DIRECT CURRENT FAST CHARGING STATIONS (DCFC) THAT WILL OPERATE IN DURHAM, NEW HAMPSHIRE TO REDUCE DIESEL EMISSIONS. FUNDING SHALL EQUAL AN AMOUNT NOT TO EXCEED 45% OF THE COST OF EACH ELIGIBLE VEHICLE AND CHARGER OR A TOTAL NOT TO EXCEED \$723,681, WHICHEVER IS LESS, AND AUTHORIZE THE ADMINISTRATOR TO SIGN AND SUBMIT GRANT PAPERWORK ON BEHALF OF THE TOWN OF DURHAM?

PREPARED BY: Richard Reine, Director of Public Works
Sam Hewitt, Assistant Director of Public Works

CC: Todd Selig, Administrator
Gail Jablonski, Business Manager
John Baker, Administrative Assistant
April Talon, Town Engineer

PRESENTED BY: Richard Reine, Director of Public Works

AGENDA DESCRIPTION:

The purpose of this Council Communication is to request the Town Council schedule a public hearing for Monday, April 15, 2024, on a Resolution authorizing the acceptance and expenditure of a Grant for up to 45% of the costs or a total of \$723,681, whichever is less

from the NH Department of Environmental Services (NHDES), NH Clean Diesel Grant Program, for up to two (2) Battery Electric Refuse Collection Trucks and up to two (2) Direct Current Fast Charging Stations (DCFC).

PROJECT BACKGROUND

The Durham Public Works Curbside Municipal Solid Waste Collection Program consists of two diesel-powered collection vehicles that operate four days per week. Each vehicle is operated by a single collection equipment operator and services approximately 1,900 collection points, collecting an average of twenty tons of household trash and twelve tons of recycling per week. Continuous wear and tear on these vehicles since their 2014 and 2015 in-service dates has resulted in unplanned downtime and significant investments in the electrical, mechanical, hydraulic, and diesel exhaust fluid treatment systems in recent years. Photos of the two front line collection vehicles Durham Public Works operates today are shown below for your reference.



While these semi-automated collection vehicles are capable of mechanically hoisting certain containers, most of the containers setout curbside by our customers require

manual loading by the single collection equipment operator. Collection efficiencies are further reduced by uncontained household trash and recycling which is frequently windblown, lending itself to unsightly areas and animal scavenging. These factors significantly reduce the Department's ability to maintain right-of-way cleanliness and community satisfaction. Over the past two years, Durham Public Works, and the Integrated Waste Management Advisory Committee (IWMAC) focused on this issue and explored potential program improvements with the implementation of state-of-the art solid waste collection technologies. The focal point surrounded the potential advantages that would result from the transition to what has become an industry standard of a fully automated curbside collection program, complete with standardized collection carts servicing both solid waste and single stream recycling, often times utilizing a split body collection vehicle. Automated Collection Equipment Operators of automated curbside collection vehicles utilize a remotely operated arm from the driver's seat to unload material carts, eliminating the need to exit the vehicle at each collection point. Additionally, the use of these vehicles would result in a safer working environment by minimizing physical strain and reducing the risk of operator injuries while increasing their longevity in the position. This is a critical objective of Durham Public Works' current employee retention and hiring strategies.

A Mack Automated Collection Vehicle with Labrie Body and 96-gallon Toter® Cart (TS)





To further understand the details of the current program, Durham Public Works undertook a series of comprehensive curbside audits targeting the network of approximately 1,900 collection points. These audits were designed to gather information on metrics such as program participation, quantity of disposed materials, recycling participation and contamination levels. This exercise allowed the Department to determine the optimum container size for both solid waste and recycling collection. Our findings indicate that there was a large disparity between the lowest and greatest volumes of usage between households for our curbside collection program. Furthermore, the analysis confirmed that a 64-gallon solid waste container will satisfy 93% of the collection points and 96-gallon single stream recycling container would satisfy 100% of our customer needs. The Automated Curbside Collection Program with standardized carts will further incentivize recycling and allow for a prediction of maximum capacity for each collection day allowing for the proper vehicle selection and size to service each route. Additionally, the Department arranged consultations with surrounding municipalities who have established similar programs and solicited input from automated collection vehicle manufacturers.

On November 14th, 2023, the Integrated Waste Management Advisory Committee (IWMAC) formally endorsed the modernization of the solid waste operation and the transition to the Automated Curbside Collection Program. These program improvements were presented to the Town Council during the 2024 budget process and included within the approved 2024 Capital Improvement Plan.

Throughout 2023, Durham Public Works also explored the potential integration of alternative fuel refuse collection vehicles into its solid waste and recycling collection fleet. This evaluation included compressed natural gas and battery electric vehicles (BEV) with DCFC stations. It was determined that the utilization of battery electric collection vehicles would offer a range of benefits to the community and advance Durham's commitment to environmental sustainability and resiliency. Reduced environmental impacts would be realized through zero tail pipe emissions and noise reduction. Improvements in public health through emission reduction and decreases in particulate generation would result in improved air quality, a reduction in respiratory complications and improved overall health. Furthermore, an increase in energy efficiency through regenerative braking would lead to a reduction in energy waste and make the collection process more efficient.

Recognizing these benefits and in need of additional information, Durham Public Works communicated with truck dealerships, body manufacturers, private refuse collection companies utilizing battery electric Refuse Collection Vehicles, charging station providers, electrical utility providers, electrical contractors, the US Department of Energy, and the NH Department of Environmental Services (NHDES).

Durham Public Works analyzed the electrical distribution infrastructure at its current facilities, and the requirements of BEV solid waste collection vehicles. An analysis was completed to further understand the run-time capacity of selected BEV's, including the simulation of current routes using proprietary software provided by Mack Trucks.

With these findings, Durham Public Works submitted an application through the NHDES for a NH Clean Diesel Program Grant funded through the EPA's DERA. The DERA program funds projects that protect human health and improve air quality by reducing harmful emissions from diesel engines. The specific grant applied for by Durham Public Works provides up to 45% in funding for replacement of existing class 8 diesel vehicles with a Zero-Tailpipe Emission Power Source (such as BEV's) and the DCFC stations to charge these vehicles.

On September 26th, 2023 Durham Public Works was notified that the Town of Durham's project proposal to replace two (2) 2015 Diesel Refuse Trucks with two (2) 2024 BEV equivalents was selected for funding for the requested amount totaling \$723,681. Discussions with the NHDES DERA Program Manager continued while Durham Public Works undertook continued due diligence steps to further evaluate BEV technology and the feasibility of integrating this equipment into the Solid Waste and Recycling Collection Program. The largest concerns centered around vehicle range per charge, impacts due to number of cart lifts per stop, the influence of extreme high and low temperatures on battery performance, life cycle cost of equipment, expected longevity and disposal costs of batteries, complexity and cost of maintenance, and the Department's operational flexibility to implement a transition to BEV solid waste collection vehicles.

The vehicles involved in this project will service the 61 miles of public roadways within the Town on a weekly basis. Refuse collection points are distributed throughout, and are concentrated more heavily near the more developed urban central/North section of Durham. With a reported standard operating range of 100+ miles, Durham Public Works has determined that a Mack LR64 BE or a vehicle with similar capabilities could potentially handle the Town's collection routes under favorable conditions i.e. absent of extreme high and low temperatures where battery performance can be impacted. The longest collection route is 82.1 miles, which is inclusive of transportation to the Turnkey Landfill in Rochester, NH. The current routes would be optimized for new capacities and ranges, as some routes have more collection points but fewer miles.

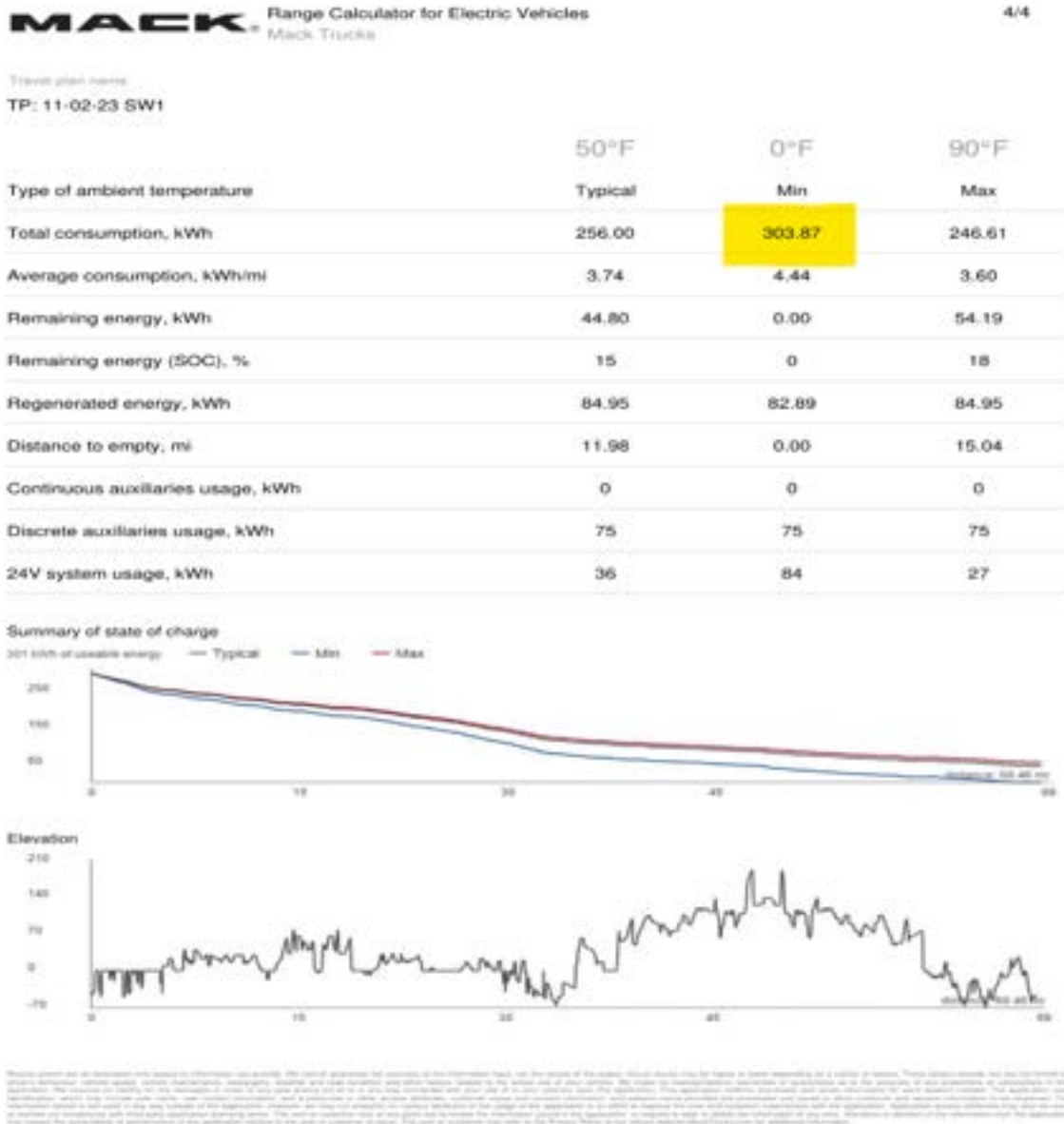
The Mack LR 64R BE specification sheet claims 375 kWh of energy is available at a full charge, however simulated data is run against 80% state of charge due to the limitations of batteries. This allows for about 300 kWh of usable consumption.

In simulations using Mack Trucks proprietary modeling software, the data shown below indicates our collection routes appear to be viable during normal operating conditions (50-90 °F).

Town of Durham, NH Summary										
Date	Miles	Total Consumpti on kWh	kWh/Mile	Stops	Stops/Mile	kWh				
						Propulsion	Body	Aux	Regen	
10/23/2023	82.1	228.3	2.78	266	3.24	224.2	45.0	37.0	77.9	
10/24/2023	52.7	208.8	3.96	369	7.00	165.6	63.0	35.0	54.8	
10/25/2023	75.9	238.3	3.14	327	4.31	227.7	56.0	36.0	81.4	
10/26/2023	68.1	238.3	3.50	385	5.66	216.9	65.0	34.0	77.7	
11/2/2023	68.5	256.0	3.74	444	6.49	219.5	72.0	29.0	64.5	
Totals	347.2	1169.7		1791		1053.9	301.0	171.0	356.2	
Averages	69.4	233.9	3.37	358	5.16	kWh/mile				
						3.04	0.87	0.49	1.03	

However, when looking at the simulation in temperatures of 0°F, the data below suggests operational challenges related to available battery capacity could be encountered.

The simulation below uses a Thursday collection route under three (3) temperature scenarios. This route has 444 stops which represents a heavier Thursday, but not a maximum of 100% participation. At 0°F, the kWh consumption for the route is 303.87 kWh, exceeding the available capacity of 300 kWh. Available energy is further depleted with two container tips per residential stop. As the batteries age, the maximum available energy will gradually decrease with each charge, further constraining the vehicles range over time.



A benefit of the Durham solid waste and recycling collection program is the operational flexibility we maintain. This includes expansion of collection to 5 days per week, returning to the transfer station to recharge as needed and disposing of materials the following day with a full charge.

As previously noted, these vehicles perform a critical task within Durham Public Works which must be completed each day without failure. Notwithstanding this operational flexibility and understanding this technology is evolving at a rapid pace, it would be imprudent to rely solely on BEV vehicles, recognizing the challenges noted above. Given these facts, Durham Public Works recommends the acceptance

of the New Hampshire Clean Diesel Grant as presented, with the intention of procuring one of the two vehicles approved in the NH Clean Diesel DERA grant. The Department would move forward with procurement of the 2nd vehicle, as approved in the 2024 Capital Plan. This second collection vehicle would be specified with an EPA Certified Diesel Engine which ensures compliance with EPA's emissions standards, while providing consistent performance, unimpacted by temperatures or weather events.

LEGAL AUTHORITY:

N/A

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

Up to \$723,681.00 in Fiscal Year 2024 monies to be received from the NHDES, Clean Diesel Program for Up to Two (2) Battery Electric Refuse Collection Trucks and Up to Two (2) Direct Current Fast Charging Stations (DCFC)

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council, Upon Recommendation of the Administrator, Does Hereby Schedule a Public Hearing for Monday, April 15, 2024 on Resolution #2024-13 Authorizing the Acceptance and Expenditure of Funding from the NH Department of Environmental Services (NHDES), NH Clean Diesel Grant Program, Funded Through the U.S. Environmental Protection Agency's Diesel Emission's Reduction Act (DERA) for Up to Two (2) Battery Electric Refuse Collection Trucks and Up to Two (2) Direct Current Fast Charging Stations (DCFC) That will Operate in Durham, New Hampshire to Reduce Diesel Emissions. Funding shall Equal an amount not to exceed 45% of the Cost of Each Eligible Vehicle and Charger Or a Total Not to Exceed \$723,681, Whichever is Less, and Authorize the Administrator to Sign and Submit Grant Paperwork on Behalf of the Town of Durham.

RESOLUTION #2024-13 OF DURHAM, NEW HAMPSHIRE

AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF FUNDING FROM THE NH DEPARTMENT OF ENVIRONMENTAL SERVICES (NHDES), NH CLEAN DIESEL GRANT PROGRAM, FUNDED THROUGH THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S (EPA) DIESEL EMISSION'S REDUCTION ACT (DERA) FOR UP TO TWO (2) BATTERY ELECTRIC REFUSE COLLECTION TRUCKS AND UP TO TWO (2) DIRECT CURRENT FAST CHARGING STATIONS (DCFC) THAT WILL OPERATE IN DURHAM, NEW HAMPSHIRE TO REDUCE DIESEL EMISSIONS. FUNDING SHALL EQUAL AN AMOUNT NOT TO EXCEED 45% OF THE COST OF EACH ELIGIBLE VEHICLE AND CHARGER OR A TOTAL NOT TO EXCEED \$723,681, WHICHEVER IS LESS, AND AUTHORIZE THE ADMINISTRATOR TO SIGN AND SUBMIT GRANT PAPERWORK ON BEHALF OF THE TOWN OF DURHAM

WHEREAS, the Town of Durham submitted a comprehensive grant application to the New Hampshire Department of Environmental Services (NHDES), NH Clean Diesel Program funding opportunity under the Environmental Protection Agency's (EPA) Diesel Emissions Reduction Act (DERA) in the amount of \$723,681 for the replacement of up to two diesel semi-automated refuse collection vehicles with up to two EV split body automated collection vehicles and charging stations; and

WHEREAS, on September 26, 2023, the Town was formally notified that the New Hampshire Clean Diesel Scoring Committee has selected the project for funding in the requested amount of \$723,681, noting the formal grant agreement must be approved by the Governor and Executive Council ; and

WHEREAS, New Hampshire Revised Statutes Annotated (RSA) 31:95-b permits municipalities to authorize acceptance and expenditure of funds from the state, federal or other governmental unit, or a private source, which becomes available during the fiscal year if they first adopt an article authorizing this authority indefinitely until specific rescission of such authority; and

WHEREAS, Resolution #99-19 adopting the provisions of RSA 31:95-b authorizing the Town Council to apply for, accept, and expend unanticipated funds from a Federal, state, or other governmental unit or a private source which becomes available during the Fiscal Year; and

WHEREAS, Council approval is required for the acceptance and expenditure of these funds; and

WHEREAS, RSA 31:95-b III(a) requires that a Public Hearing be held on unanticipated funds in excess of \$10,000; and

WHEREAS, on Monday, April 15th, 2024, a duly posted and published Public Hearing was held by the Durham Town Council on the \$723,681 monies in accordance with RSA 31:95-b;

NOW, THEREFORE, BE IT RESOLVED, that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire does hereby approve **Resolution #2024-13** authorizing the Acceptance and Expenditure of Funding from the NH Department of Environmental Services (NHDES), NH Clean Diesel Grant Program, Funded Through the U.S. Environmental Protection Agency’s (EPA) Diesel Emission’s Reduction Act (DERA) for Up to Two (2) Battery Electric Refuse Collection Trucks and Up to Two (2) Direct Current Fast Charging Stations (DCFC) That will Operate in Durham, New Hampshire to Reduce Diesel Emissions. Funding shall Equal an amount not to exceed 45% of the Cost of Each Eligible Vehicle and Charger Or a Total Not to Exceed \$723,681, Whichever is Less, and Authorize the Administrator to Sign and Submit Grant Paperwork on Behalf of the Town of Durham.

PASSED AND ADOPTED this __ day of **April, 2024**, by a majority vote of the Durham Town Council with _____ affirmative votes, _____ negative votes , and _____ abstentions.

Sally Needell, Chair
Durham Town Council

ATTEST:

Rachel Deane, Town Clerk-Tax Collector



TOWN OF DURHAM

8 Newmarket Road
Durham, NH 03825
Tel: 603-868-5571
Fax: 603-868-1858
www.ci.durham.nh.us

AGENDA ITEM: **#10D** TS

DATE: **March 18, 2024**

COUNCIL COMMUNICATION

INITIATED BY: Durham Public Works

AGENDA ITEM: SHALL THE TOWN COUNCIL SCHEDULE A PUBLIC HEARING FOR MONDAY, APRIL 15, 2024 ON RESOLUTION #2024-14 AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF FUNDING FROM THE FY23 CONGRESSIONALLY MANDATED PROJECTS PROGRAM FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY, FOR THE BENNETT ROAD STORMWATER AND FLOOD RESILIENCY PROJECT, IN THE AMOUNT OF UP TO \$2,040,000, WITH A REQUIRED 20% MATCH OF \$510,000, FOR A TOTAL GRANT AND MATCH AMOUNT OF \$2,550,000, AND AUTHORIZE THE ADMINISTRATOR TO SIGN AND SUBMIT GRANT PAPERWORK ON BEHALF OF THE TOWN OF DURHAM?

PREPARED BY: April Talon, Town Engineer
Richard Reine, Director of Public Works

CC: Todd Selig, Administrator
Gail Jablonski, Business Manager

PRESENTED BY: April Talon, Town Engineer
Richard Reine, Director of Public Works

AGENDA DESCRIPTION:

The purpose of this Council Communication is to request that the Council, at their March 18, 2024 meeting, schedule a public hearing for Monday April 15, 2024 on a Resolution Authorizing the Acceptance and Expenditure of funding from the FY23 Congressionally Mandated Projects Program from the U.S. Environmental Protection Agency, for the Bennett Road Stormwater and Flood Resiliency Project, in the Amount of up to \$2,040,000 with a required 20% local match of \$510,000, for a

total grant and match amount of \$2,550,000, and Authorize the Administrator to Sign and Submit Grant Paperwork on Behalf of the Town of Durham.

PROJECT BACKGROUND

Durham Public Works submitted a FY23 Congressional Directed Spending Request (CDR) application titled, “Town of Durham Bennett Road Stormwater and Flood Resiliency Project”, to Senator Shaheen’s office as part of their project solicitation in April 2022. The primary desired outcome of the Bennett Road Culverts Resiliency Project is to mitigate flooding of Bennett Road which creates a hazardous and impassable condition and continues to deteriorate the roadway and stormwater infrastructure. This will address the chronic public safety risks of isolated residences and properties during significant flooding events, which is an ongoing condition requiring construction improvements to mitigate. These sections of Bennett Road experienced significant road closures during the Mother’s Day storm of 2006, flooding in 2007 and 2010, and more recently on December 18th, 2023, and January 10th 2024.

Corsey Brook Crossing December 18th, 2023 - 3.31” of precipitation over ~24 hours from 6 PM on the 17th to 6 PM on the 18th



In the spring of 2023, the Town was formally notified by Senator Shaheen’s office that the Senate Appropriations Committee approved our application and to the Town was granted an award of \$2,040,000, with a required 20% match commitment of \$510,000 for the design, permitting and construction of the most deficient Bennett

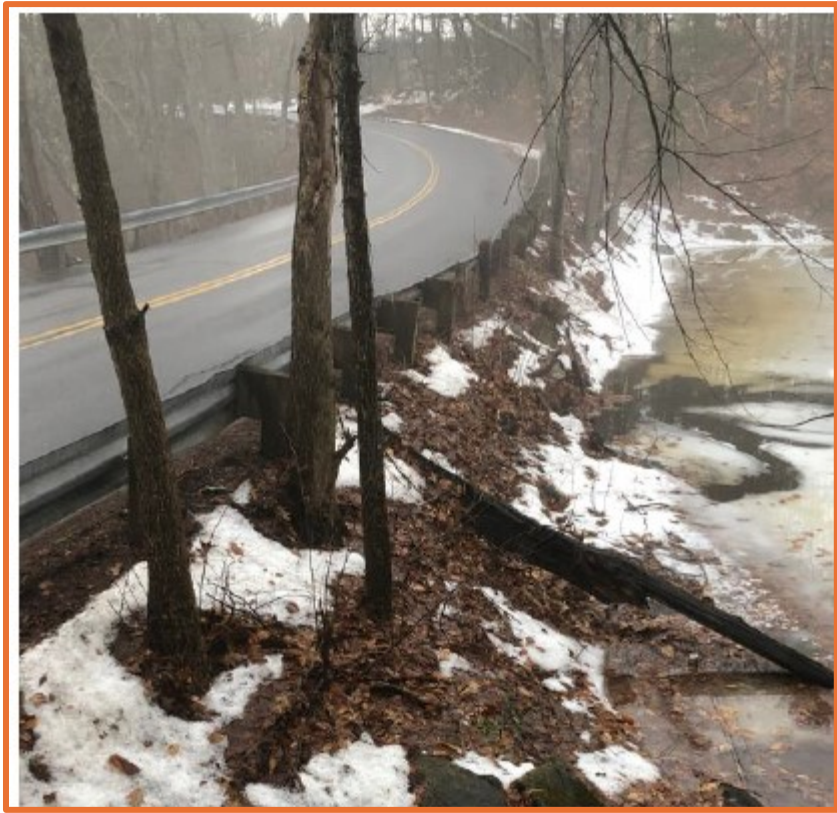
Road stream crossings. The match requirement has been included within the approved fiscal year 2023 and 2024 Capital Plans, along with additional project funding.

Bennett Road is a connector road between Packers Falls Road and Newmarket Road and runs east-west, parallel to the Lamprey River, a Designated Wild and Scenic River by the U.S. Congress. The road crossing at Woodman Brook consists of a 36-inch Reinforced Concrete Pipe (RCP) that, following our initial investigation, appears to have been constructed above an older granite slab box culvert. The RCP culvert has approximately 4 feet of fill over it and dry-laid stone headwalls at the inlet and outlet. There is also an additional 200 linear feet of stone retaining wall along the south side of the roadway, supporting the raised embankment and roadway. The outlet of the RCP culvert is severely perched while the inlet of the structure is typically underwater due to a wire grate over the inlet and significant debris covering the grate. The roadway width is approximately 24 feet wide with a guardrail on the north side as well as aerial utilities. There are a significant number of large trees located near the edge of Bennett Road along most of the corridor.

Bennett Road Culvert Locations



Woodman Brook - Upstream



Woodman Brook - Downstream Showing Perched Outlet and Compromised Retaining Wall and Embankment



Additional crossings along Bennett Road include Corsey Brook to the West (closest to Packers Falls Rd) and LaRoche Brook to the East. The culvert at Corsey Brook is a 36-inch diameter reinforced concrete pipe (RCP). The existing structure has approximately 6 feet of fill above it and dry-laid stone headwalls at the inlet and outlet.

Corsey Brook - Downstream



Corsey Brook - Upstream



The LaRoche Brook culvert crossing is a 30-inch CMP culvert with a 24-inch CMP overflow culvert located approximately 5 feet higher. The lower culvert has 7.5 feet of fill over it and significant dry stacked stone headwalls and wingwalls located at the inlet and outlet. This crossing is located at a higher elevation and is not directly

adjacent to the Lamprey River, therefore the construction of this culvert replacement is not included in the grant scope of work, and may be completed in-house in a future year.

In 2022, CMA Engineers was retained by the Town to advance previously completed 2013 conceptual designs of these crossings. CMA Engineers and the Town utilized subconsultants Doucet Survey (Doucet) and Miller Engineering & Testing (Miller) to collect additional site information. The limits of the previously completed survey were expanded at each crossing to include more of the roadway approaches which could be impacted by raising the roadway profile. Additionally, two rounds of additional borings were performed to collect additional information at the crossings and along the approaches where the profile grade may be raised.

CMA completed preliminary design in the fall of 2023 and recommends 10-foot span concrete box culvert embedded 2 feet below the channel bottom at both Woodman and Corsey Brook. They also determined that raising the road by up to 5 feet and the addition of retaining wall systems to support these grades would be required to elevate the profile above the FEMA 100-year flood elevation. The evaluation indicated that a minimum 2-foot roadway profile increase could be implemented to reduce potential flood impacts to the roadway from lesser storms in the event the full 5-foot increase becomes cost prohibitive.

Significant geotechnical work was also completed to determine that the material beneath the roadway consists of thick layers of compressible soils (clays) and organic materials where the weight of the additional fill materials would result in settlement beyond acceptable tolerances for the roadway, culverts, and wall structures, dependent on the degree of profile increase and thickness of additional materials. Lightweight fill would not be sufficient to mitigate the added weight at a 5-foot profile increase and driven piles or over-excavation of the entire site would be required at the approaches and structures. A recommended solution for this option is to utilize rammed aggregate piers and settlement platforms at both culvert locations which increases overall project costs.

Construction will require significant excavation for removal of the existing structure, placement of base gravels, embedment of culvert bottoms, and installation of stone fill for inlet and outlet scour protection. At the Woodman site, there are approximately 200 linear feet of stone retaining walls along the south side of the roadway. Reconstruction of the roadway to accommodate the proposed guardrail, or to raise the roadway profile, will require these walls to be removed and reconstructed.

Both Woodman and Corsey crossing sites have wetlands areas along the north and south sides of the roadway in the vicinity of the culverts. Wetland limits were delineated by West Environmental, Inc. in June and July of 2022. Installation of the

proposed replacement culverts will require an NHDES Dredge & Fill wetlands permit and compliance with NHDES Stream Crossing Guidelines. Additional wetlands impacts may also be generated by raising the elevation of the roadway profile. While it is not anticipated that permitting wetland impacts will be an obstacle for this project, multiple approaches for minimizing impacts have been evaluated.

Bennett Road is designated as a Scenic Road. It is anticipated that removal of trees will be required for installation of culverts and walls, slope grading, and widening of the roadway for guardrail installation. This will require coordination and consultation with the Planning Board.

The Town will continue to work with CMA Engineers to complete Final Design as well as wetland permitting for the replacement of the Woodman and Corsey Brook Culverts on Bennett Road. The completion date for design and permitting is anticipated during 2024/2025. This work is being funded by the Town of Durham utilizing existing funds, including grant match and ARPA funding, received, and included within previously approved Capital Improvement Programs. Following wetland permitting approval, construction plans and specifications will be developed to publicly bid the culvert replacement construction through a competitive bidding process. Bid advertisement and award is expected to be completed in 2025. Construction would begin in a subsequent construction season.

CONSTRUCTION ESTIMATE

The engineer's estimate of probable cost is \$2,973,000 at the current preliminary design phase. Please note the escalation of construction costs continues and this cost estimate is based on initial quantities and current unit costs. Additional funding or prioritization of the Woodman brook culvert may be required as the design is advanced, and the estimate of probable cost is further refined. The federal share provided by grant funding is \$2,040,000 and the grant matching funds to be provided by the Town of Durham are \$510,000, funded by the approved 2023 and 2024 Town Capital Improvement Program. Final design engineering and permitting costs are being funded by the Town of Durham capital funds.

The Total Budget includes the following items:

- Construction-phase contractor costs for the following project elements:
- Replacement of Culverts at Woodman Brook and Corsey Brook (as funding limits allow), and associated roadway profile adjustment and reconstruction of stone retaining walls.
- Construction-phase support services including construction administration and inspection services.

LEGAL AUTHORITY:

N/A

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

\$2,040,000 monies to be received from US EPA from the Fiscal Year 2023 Congressionally Mandated Projects Program for Design, Permitting and Construction of the Woodman and Corsey Brook culverts located on Bennett Road.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby schedule a public hearing for Monday, April 15, 2024 on Resolution #2024-14 Authorizing the Acceptance and Expenditure of Funding from the Fiscal Year 2023 Congressionally Mandated Projects Program from the U.S. Environmental Protection Agency, for the Bennett Road Stormwater and Flood Resiliency Project, In the Amount of up to \$2,040,000, with a Required 20% Match of \$510,000, for a Total Grant and Match Amount of \$2,550,000, and Authorize the Administrator to Sign and Submit Grant Paperwork on Behalf of the Town of Durham.

RESOLUTION #2024-14 OF DURHAM, NEW HAMPSHIRE

AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF FUNDING FROM THE FY23 CONGRESSIONALLY MANDATED PROJECTS PROGRAM FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY, FOR THE BENNETT ROAD STORMWATER AND FLOOD RESILIENCY PROJECT, IN THE AMOUNT OF UP TO \$2,040,000, WITH A REQUIRED 20% MATCH OF \$510,000, FOR A TOTAL GRANT AND MATCH AMOUNT OF \$2,550,000, AND AUTHORIZE THE ADMINISTRATOR TO SIGN AND SUBMIT GRANT PAPERWORK ON BEHALF OF THE TOWN OF DURHAM?

WHEREAS, the Town of Durham submitted an extensive grant application package titled, "Bennett Road Stormwater and Flood Resiliency Project," to Senator Shaheen's Office as part of their FY23 Congressionally Directed Spending funding requests; and

WHEREAS, in the Spring of 2023, the Town was formally notified that the Senate Appropriations Committee accepted the Town's full project proposal; and

WHEREAS, New Hampshire Revised Statutes Annotated (RSA) 31:95-b permits municipalities to authorize acceptance and expenditure of funds from the state, federal or other governmental unit, or a private source, which becomes available during the fiscal year if they first adopt an article authorizing this authority indefinitely until specific rescission of such authority; and

WHEREAS, Resolution #99-19 adopting the provisions of RSA 31:95-b authorizing the Town Council to apply for, accept, and expend unanticipated funds from a Federal, state, or other governmental unit or a private source which becomes available during the Fiscal Year; and

WHEREAS, Council approval is required for the acceptance and expenditure of these funds; and

WHEREAS, RSA 31:95-b III(a) requires that a Public Hearing be held on unanticipated funds in excess of \$10,000; and

WHEREAS, on Monday, April 15, 2024, a duly posted and published Public Hearing was held by the Durham Town Council on the \$2,040,000 monies in accordance with RSA 31:95-b;

NOW, THEREFORE, BE IT RESOLVED, that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire does hereby approve **Resolution #2024-14** Authorizing the Acceptance and Expenditure of Funding from the FY23 Congressionally Mandated Projects Program from the U.S. Environmental Protection Agency, for the Bennett Road Stormwater and Flood Resiliency Project, In the Amount of up to \$2,040,000, with a Required 20% Match of \$510,000, for a Total Grant and Match Amount of \$2,550,000, and Authorize the Administrator to Sign and Submit Grant Paperwork on Behalf of the Town of Durham?

PASSED AND ADOPTED this ____ day of **April, 2024**, by a majority vote of the Durham Town Council with ____ affirmative votes, ____ negative votes , and ____ abstentions.

Sally Needell, Chair
Durham Town Council

ATTEST:

Rachel Deane, Town Clerk-Tax Collector



TOWN OF DURHAM

8 Newmarket Road
Durham, NH 03824
Tel: 603-868-5571
Fax: 603-868-1858
www.ci.durham.nh.us

AGENDA ITEM: **#10E** TS

DATE: **March 18, 2024**

COUNCIL COMMUNICATION

INITIATED BY: Planning Board

AGENDA ITEM: SHALL THE TOWN COUNCIL APPROVE ON FIRST READING 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, AND SET THE PUBLIC HEARING FOR APRIL 1, 2024?

CC PREPARED BY: Michael Behrendt, Town Planner

PRESENTED BY: Michael Behrendt, Town Planner

AGENDA DESCRIPTION:

The amendment would 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's website. Notices for conditional use hearings would be sent by verified mail rather than by certified mail.

BACKGROUND

State law used to require that all notices for public hearings for site plan application, subdivision applications, and zoning amendments be advertised in a local newspaper and be sent by certified mail to abutters (for applications only). The law was changed a number of years ago to allow for placement on a town's website instead of buying an

ad in the newspaper and to send notices to abutters by verified mail rather than certified mail.

This was a beneficial change since there is no cost to the applicant or to the Town to place a notice on our website, and verified mail is much less expensive than certified mail. Verified mail is defined in RSA 21:53 as “any method of mailing that is offered by the United States Postal Service or any other carrier, and which provides evidence of mailing.” For verified mail now the Post Office simply provides a receipt when we bring the mail to the Post Office, confirming that we delivered the mail to them. It does not confirm that the mail was actually delivered, but our responsibility is only to bring the mail to the Post Office.

We changed our Site Plan Regulations and Subdivision Regulations recently to reflect this change in state law. We had to do so because the Durham regulations specifically still required placing an ad in the newspaper and sending notices to abutters by certified mail. Prior to the change we charged \$225 for the notice in the newspaper (the approximate cost for the notice) and \$9 per abutter for certified mail. Now we do not charge anything for posting the notice and only \$5 per abutter for verified mail (since some additional time is needed from the Planning Administrative Assistant).

There are four locations in the Zoning Ordinance where notice is given for a public hearing. The Planning Board voted to initiate this change at its meeting on February 28, 2024. Once the Ordinance changes have been approved, the Master Fee Schedule will be updated.

LEGAL AUTHORITY:

RSA 21:53; RSA 675:2; RSA 676:4; and Section 175-14 of the Durham Zoning Ordinance

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Town Council does Hereby Approve on First Reading 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, and set the Public Hearing for April 1, 2024?

ORDINANCE #2024-02 OF DURHAM, NEW HAMPSHIRE

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.

WHEREAS, RSA 676:4 has been changed to allow for notices of public hearings to be posted on a town's website rather than published in a newspaper of general circulation and it has been changed to allow for notices to be sent by verified mail rather than certified mail; and

WHEREAS, it costs several hundred dollars to publish a notice in a newspaper and there is no cost to post a notice on the Town's website and it costs more send a notice to an abutter by certified mail than by verified mail; and

WHEREAS, the legal responsibility of the Town is to ensure that notices to abutters are delivered to the Post Office, at which point we depend upon the reliability of the Post Office to deliver the mail properly; and

WHEREAS, Posting a notice on the Town's website likely reaches more local residents than publishing a notice in the newspaper; and

WHEREAS, These costs for publishing a notice in most cases are borne by the Town of Durham; and

WHEREAS, The Planning Board recently amended the Durham Site Plan and Subdivision Regulations in similar fashion and there remain four locations in the Durham Zoning Ordinance that still require publishing a notice in a newspaper and one location where it requires that notices to abutters be sent by certified mail; and

WHEREAS, the Durham Planning Board held a public hearing on February 28, 2024 and duly voted to initiate this amendment; and

WHEREAS, the Durham Town Council held a first reading on the amendment on March 18, 2024 and a public hearing on April 1, 2024.

NOW, THEREFORE BE IT RESOLVED that the Durham Town Council, the governing body of the Town of Durham, New Hampshire does hereby adopt **Ordinance #2024-02** amending Chapter 4 “Administrative Code”, Article VI “Procurement” of the Durham Town Code 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.

Wording to be deleted is annotated with **strikeout** type. New wording is annotated with underscoring.

ARTICLE I - GENERAL PROVISIONS

175-5. Applicability to Governmental Uses including the University of New Hampshire.

The provisions of this chapter shall be advisory with respect to governmental uses as identified by RSA 674:54 including the University of New Hampshire (UNH) except as provided in C. below.

- A. The state agency, county, municipal agency, university, school district or other governmental entity identified in RSA 674:54 shall provide the Planning Board with written notification of any use of its property or facilities that constitutes a substantial change in use or a substantial new use. This notification shall be provided to the Town Planner at least sixty (60) days prior to the start of construction and shall contain plans, specifications, and explanations of the proposed use and an assessment of the potential impacts of the use on the community. The notification for any project involving the University of New Hampshire shall be in accordance with the adopted “Process for Coordination and Communication” between the University and the Town. The Planning Board may hold a public hearing on the proposed use. If a hearing is held, the hearing shall be held within thirty (30) days of the receipt of the written notification and at least two (2) weeks after ~~publication of a notice thereof in a paper of general circulation in the town~~ posting of the notice on the Town website. The purpose of such hearing shall be to bring to light possible problems of traffic circulation, parking, provision

of utilities, the protection of persons and property or any other problems affecting the town or the neighborhood. A representative of the governmental entity or UNH shall be present at the hearing to present the plans, specifications, and construction schedule, and to provide explanations. The Planning Board may issue nonbinding written comments relative to conformity or nonconformity of the proposal with normally applicable land use regulations to the government entity or university within 30 days after the hearing, together with any recommendations for minimizing any adverse impacts of the project on the community.

ARTICLE IV- INTERPRETATION, AMENDMENTS, AND LEGAL PROVISIONS

175-14. Amendment Procedure.

D. Public Notice and Hearing Requirements.

1. Notice. Notice shall be given for the time and place of the public hearing at least ten (10) days before the hearing. The notice required under this section shall not include the day notice is posted or published or the day of the public hearing. Notice of ~~each~~ *the* public hearing shall be *posted prominently on the Town's website and published in a newspaper of general circulation in the municipality and shall be posted* in at least two (2) *other* public places.

ARTICLE VII - CONDITIONAL USE PERMITS

175-22. Procedures.

A. Application.

1. Application for a conditional use permit may be made by the owner of the affected property, or his or her designated agent, on a form obtainable from the Town Planner.
2. The completed application and fee as set by the Town Council shall be submitted to the Town Planner or his or her designee. Said fee is nonrefundable.

B. Procedure for Consideration.

1. After receipt by the Town Planner or his or her designee, the completed application shall be transmitted to the Planning Board staff for their review and evaluation.
2. The planning staff shall set a public hearing date and ~~post publish~~ a notice advertising the public hearing before the Planning Board *on the Town website in a newspaper of general circulation*. Public notice shall be made at least ten (10)

calendar days prior to the meeting of the Planning Board at which the application is to be considered.

3. The planning staff shall also mail written notice, by *verified certified* mail, to all abutting and adjacent property owners within three hundred (300) feet of the subject property and a sign measuring two by three (2 x 3) feet shall be placed on the property by the applicant not less than ten (10) calendar days prior to the time of the public hearing by the Planning Board. The sign shall remain on the property until the conclusion of the public hearing. This sign shall be visible from the most heavily traveled street right-of-way adjacent to the property. The sign shall state the date of the public hearing, the time, the location and the action to be considered. (Where the subject property abuts a public right-of-way, the three hundred (300) foot measurement shall be in addition to the right-of-way along the abutting side.)

ARTICLE XVII - DURHAM HISTORIC OVERLAY DISTRICT

175-95. Procedures For Review Of A Certificate Of Approval.

B. *Review of the Application.*

1. Public Hearing. At its discretion, when deemed appropriate, the Commission is authorized to hold a public hearing at which time opinions of abutters and interested citizens shall be heard. Notice of the Public Hearing shall be sent to abutters and posted *on the Town website in a newspaper of general circulation* at least ten (10) calendar days prior to the hearing. In the case of significant projects that involve demolition, the HDC may hold an additional public hearing any time after the start of construction to allow for concerns to be identified and conveyed to the applicant and Town enforcement officials. Applicants shall be invited, but are not required to attend any such public hearing.

PASSED AND ADOPTED by the Town Council of the Town of Durham, New Hampshire this _____ day of _____ by _____ affirmative votes, _____ negative votes, and _____ abstentions.

Sally Needell, Chair
Durham Town Council

ATTEST:

Rachel Deane, Town Clerk-Tax Collector



TOWN OF DURHAM

8 Newmarket Road
Durham, NH 03824
Tel: 603-868-5571
Fax: 603-868-1858
www.ci.durham.nh.us

AGENDA ITEM: #14
DATE: March 18, 2024

COUNCIL COMMUNICATION

INITIATED BY: Durham Town Council

AGENDA ITEM: APPROVE THE TOWN COUNCIL MEETING MINUTES FOR FEBRUARY 5, & FEBRUARY 19, 2024.

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd Selig, Administrator

AGENDA DESCRIPTION:

Attached for the Council's review and approval are the minutes for the meeting held on February 19, 2024. The minutes of February 5, 2024 were on the March 4 agenda but were not approved. Please call or email Karen Edwards with any grammatical/spelling changes prior to the meeting. Discussion at Monday evening's meeting should be limited only to substantive changes.

LEGAL AUTHORITY:

RSA 91-A:2 (II) specifies what must be contained in minutes of public meetings:

"Minutes of all such meetings, including names of members, persons appearing before the bodies or agencies, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection not more than 5 business days after the public meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of anybody or agency, or any subordinate body thereof, without exception."

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION #1:

The Durham Town Council does hereby approve the Town Council meeting minutes for February 5, 2024 (as presented/as amended).

MOTION #2:

The Durham Town Council does hereby approve the Town Council meeting minutes for February 19, 2024 (as presented/as amended).



TOWN OF DURHAM

8 Newmarket Road
Durham, NH 03825
Tel: 603-868-5571
Fax: 603-868-1858
www.ci.durham.nh.us

AGENDA ITEM: **#16** *TS*

DATE: **March 18, 2024**

COUNCIL COMMUNICATION

INITIATED BY: Durham Town Charter

AGENDA ITEM: ANNUAL APPOINTMENTS OF COUNCIL REPRESENTATIVES TO TOWN BOARDS, COMMISSIONS, AND COMMITTEES

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

Section 11.1, subparagraphs A-E of the Durham Town Charter addresses the procedure for appointment of Town Council representatives each year to various town boards, commissions, and committees. In addition to those appointments outlined in the Charter, there are other town working committees that Council representatives serve on for one-year terms.

CHARTER/ADMINISTRATIVE CODE-ESTABLISHED BOARDS

Council representatives shall be made to the following standing Town Boards, Commissions, and Committees for one-year terms:

<u>COMMITTEE</u>	<u>COUNCIL REPRESENTATION</u>	<u>TERM EXPIRES</u>	<u>MEETING NIGHTS & TIMES</u>
Cemetery Committee	3 reps.	03/25	As needed
Conservation Commission	1 rep.	03/25	4 th Monday of each mo./7:00 PM
Historic Dist./Heritage Commission	1 rep.	03/25	1 st Thursday of each mo./7:00 PM
Parks & Rec. Committee	1 rep.	03/25	4 th Tuesday of each mo./7:00 PM
Planning Board	1 reg. rep. 1 alt. rep.	03/25 03/25	2 nd and 4 th Wednesday of each mo./7:00 PM

TOWN WORKING COMMITTEES

Council representatives shall be made to the following Town working committees for one-year terms:

<u>COMMITTEE</u>	<u>COUNCIL REPRESENTATION</u>	<u>TERM EXPIRES</u>	<u>MEETING NIGHTS & TIMES</u>
Agricultural Commission	1 rep.	03/25	2 nd Monday of each mo./7:00 PM
Energy Committee	1 rep.	03/25	1 st Tuesday of each mo./7:00 PM
Housing Task Force	1 rep.	03/25	2 nd Monday of each mo./10AM
Human Rights Commission	Council Chair	03/25	As needed
Integrated Waste Management	1 rep.	03/25	1 st & 3 rd Wednesday of each mo./8AM
Land Stewardship Subcommittee (subcommittee of the Cons. Commission)	1 rep.	03/25	2 nd Wednesday of each mo./8:30 AM

Based upon appointment choices received from Councilors, attached is a slate of choices submitted by Council members indicating their selection(s) for appointments to various town boards, commissions, and committees. Once the Council has discussed and decided which Council members will fill the vacancies, a motion can be made to adopt the slate as presented or as amended.

LEGAL AUTHORITY:

Section 11.1, subparagraphs A-E of the Durham Town Charter.

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby ADOPT the attached slate of Council member representatives to the various town board, commission, and committee vacancies as presented/amended.

COUNCILOR SELECTIONS FOR TOWN BOARDS & COMMITTEES - 2024

<u>Committee</u>	<u># of Council Reps.</u>	<u>COUNCILOR SELECTIONS</u>	<u>Councilors Appointed</u>
Agricultural Commission	1 rep.	SALLY NEEDELL (IF NOT ELECTED CHAIR)	
Cemetery Committee	3 reps.	DARRELL FORD ERIC LUND CURTIS REGISTER	
Conservation Commission	1 rep.	JAMES BUBAR WAYNE BURTON SALLY NEEDELL (IF NOT ELECTED CHAIR)	
Energy Committee	1 rep.		
Historic Dist./Heritage Commission	1 rep.	ERIC LUND	
Housing Task Force	1 rep.	ERIC LUND CURTIS REGISTER HEATHER GRANT	
Human Rights Commission	1 rep.	SALLY NEEDELL (IF ELECTED CHAIR)	
Integrated Waste Management Advisory Committee	1 rep.		
Land Stewardship Subcommittee	1 rep.	DARRELL FORD	
Parks & Recreation Committee	1 rep.	JOE FRIEDMAN	
Planning Board	1 reg rep.	EMILY FRIEDRICHS	
	1 alt. rep.	HEATHER GRANT	