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D-R-A-F-T

DURHAM TOWN COUNCIL
MONDAY, MAY 6, 2024
DURHAM TOWN HALL - COUNCIL CHAMBERS
7:00 PM

MEMBERS PRESENT: Council Chair Sally Needell, Councilor Curtis Register, Councilor Darrell Ford, Councilor Eric Lund, Councilor Wayne Burton, Council Pro Tem Joseph (Joe) Friedman, Councilor Emily Friedrichs (who uses the pronouns ze/zir/zirs/zirself and the title Mx. Friedrichs), Councilor James Bubar, Councilor Heather Grant

MEMBERS ABSENT: None

OTHERS PRESENT: Administrator Todd Selig, Town Planner Michael Behrendt, Town Assessor Jay Ferriera, Director of Public Works Rich Reine, Town Engineer April Talon, Business Manager Gail Jablonski

I. Call to Order

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

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

III. Roll Call of Members

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

IV. Approval of Agenda

*Chair Needell **MOVED** that the Durham Town Council does hereby **APPROVE** the meeting agenda for Monday, May 6, 2024, as presented. The motion was **SECONDED** by Councilor Grant and **PASSED** unanimously 9-0 by a show of hands.*

V. Special Announcements - None

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

William Hall, Smith Park Lane, briefly mentioned the Northern Connector. He also spoke about the Town’s drinking water from the Lamprey River and referred to the handout he had provided to Council members.

Joshua Meyrowitz, 7 Chesley Drive, spoke about the recent protests over Gaza occurring in universities across the county and about Columbia University renaming Hamilton Hall “Hind’s

1 Hall” after Hind Rajab. Professor Meyrowitz showed a segment from Democracy Now about
2 Hind.

3
4 **VII. Report from the UNH Student Senate External Affairs Chair or Designee - None**

5
6 **VIII. Unanimous Consent Agenda**

7 Shall the Town Council Accept the Recommendations of the Town’s Prior Assessor, Jay
8 Ferreira, and the Administrator relative to FY 2023 Property Tax abatement requests in the
9 total amount of \$45,269.96? Nancy and Kenneth Lynch of 32 Bagdad Road

10
11 Chair Needell said since this item includes her, she is recusing herself from discussion and
12 turning the meeting over to Chair Pro Tem Friedman.

13
14 Chair Pro Tem Friedman said this item had been pulled from the Unanimous Consent agenda
15 because of questions/concerns that arose at the last Council meeting. He said one of his concerns
16 is that the class action nature of this appeal is not consistent with what Durham has done before
17 and may not be consistent with what is allowed in New Hampshire. He noted that Assessor Jim
18 Rice was present to make a presentation about the abatement request.

19
20 Mr. Rice thanked the Council for pulling this item from the agenda because from a professional
21 standpoint he said he would be remiss if he did not explain certain things pertaining to the
22 abatement application that are very concerning to him and should be concerning to the Council
23 as well. He said based on his merits of the application and his recommendation previously, the
24 Council had voted to deny this application once already and this evening’s recommendation is a
25 reconsideration of that decision.

26
27 Ken and Nancy Lynch, 32 Bagdad Road, submitted an abatement application on behalf of 28
28 properties located on Bagdad Road based on disproportionality. They and their neighbors
29 believe that the code of 85 for this section of Bagdad road that was applied by Municipal
30 Resources, Inc., the company that did the reevaluation in 2023, is disproportionate when
31 compared to other neighborhood code designations in nearby neighborhoods. The primary
32 reason why the applicants are appealing the neighborhood code is because they believe their
33 property valuations increased disproportionality 89% when compared to the average increase of
34 48%. None of the applicants are disputing the total assessed values and the taxpayers are
35 appealing the methodology used to arrive at their assessed values that affect the land portion of
36 their assessment rather than appealing their total assessed value.

37
38 Mr. Rice said that someone cannot file a Class Action lawsuit in one abatement application. He
39 said he verified that again with the Board of Tax and Land Appeal today. Also, if you do file as
40 a representative, all of the applicants have to sign that application and that did not take place in
41 this particular application. Only 13 of the property owners signed a statement that they were in
42 support of it, but not all of them signed the application. Therefore, technically 15 property
43 owners have not consented to this appeal.

44
45 Mr. Rice continued with his explanation of the process and concluded that although the Assessor
46 Ferreria accepted the application as is, against Mr. Rice’s recommendation, instead of insisting
47 on separate applications, Mr. Ferreria has now created what is called an “estoppel argument” for
48 the courts if the application is appealed at the state level to accept this application as it was
49 submitted to the Town. However, because the application was originally denied by the Town

1 Council, based on its merits and everything Mr. Rice has just explained, that decision will likely
2 be upheld at the state level.

3
4 Mr. Rice said that after speaking to his professional colleagues, approving this application would
5 set a bad precedent for the Town of Durham and goes against state statutes and previous court
6 cases. Therefore, he encouraged the Town Council to not approve the application.

7
8 Chair Pro Tem Friedman said that Mr. Rice, who had been the Town’s assessor for many years
9 and is now its current temporary assessor, is recommending that the Council repeat the action
10 that was done before to deny the appeal.

11
12 ***Chair Pro Tem Friedman MOVED to deny the appeal submitted by the Paulins, 29 Bagdad***
13 ***Road. The motion was SECONDED by Councilor Bubar.***

14
15 Councilors had some discussion regarding this matter. Given the unusual circumstances
16 surrounding this matter, Councilor Burton recommended that the Paulins should be given an
17 opportunity to speak.

18
19 Administrator Selig said that what he is suggesting is that the Town, on its own, for good cause
20 shown, adjust the 28 properties and provide the abatement. He said he is recommending this in
21 issue of fairness and justice from his perspective, and in doing that, the Town is not setting a
22 precedent allowing people to come in after the due date asking for an abatement application. The
23 Town is choosing to do this because of a flaw in the process, the conflicting information from
24 the different assessors, and the confusion by different information that was caused by the
25 taxpayers. He is recommending approval of the Paulins’ request for an abatement.

26
27 ***Chair Pro Tem Friedman called for a roll call vote, which was DEFEATED 5-3 by a roll call***
28 ***vote: Councilor Register—No, Councilor Ford—No, Councilor Lund—No, Councilor***
29 ***Burton—No, Chair Pro Tem Friedman—Aye, Councilor Emily Friedrichs—Aye, Councilor***
30 ***Bubar—Aye, Councilor Grant—No.***

31
32 ***Councilor Friedrichs made a MOTION to amend the original motion to clarify that this is not***
33 ***a Class Action abatement, but an adjustment to the abatement and to also adjust the***
34 ***abatement to a neighborhood factor/rating of 80 for all of the Bagdad neighborhood because***
35 ***the Town cannot do 75. It is unfair to other residents across the Town for one group of***
36 ***residents to be paying under. One rating by one assessor was 75, the other rating from one***
37 ***assessor was 85 and meeting them in the middle would be 80, which is available to the Town.***
38 ***If the Town ranked it under what either of the assessors recommended, it would be an***
39 ***injustice to all being assessed fairly. A rating of 80 serves justice in terms of acknowledging a***
40 ***mistake that was made, taking action to correct it, and is between the two professional***
41 ***opinions of the Town’s assessors. Councilor Register SECONDED the motion.***

42
43 ***At this time, the Council decided to allow members of the public to speak to this item with a***
44 ***limit of 5 minutes, which PASSED 8-0 by a show of hands.***

45
46 **Ken and Nancy Lynch, 32 Bagdad Road**, explained their reason for filing the abatements on
47 behalf of the Bagdad neighborhood.
48

1 **Michael Stasko, 31 Bagdad Road**, briefly explained what occurred in his experience with the
2 process for filing the abatements.
3

4 **Chris Hall, 23 Bagdad Road**, spoke about what had been explained to the neighborhood by
5 both assessors, which certainly conflicted with one another. He also spoke about the different
6 ratings and assessments within neighborhoods throughout Town. He asked the Council to
7 approve what Mr. Selig asked recommended and he felt Mr. Selig's recommendation would
8 bring the Bagdad neighborhood in fairness with other neighborhoods in Durham.
9

10 Chair Pro Tem Friedman pointed out that Mr. Hall, along with everyone in the Bagdad
11 neighborhood did have an opportunity to write all of that down and provide proof as opposed to
12 anecdotal proof of increases in one place as opposed to another place.
13

14 Nancy Lynch clarified that when she spoke to the State of NH they told her that if someone
15 includes their collective abatement application, then they can appeal. She also had data to share
16 on the neighborhood ratings of 70 versus 80 in the Bagdad surrounding neighborhoods.
17

18 Mr. Rice said his objection to this abatement recommendation is procedural. It is based on
19 procedure, how it was incorrectly filed, they are not disputing their total assessed values, they
20 are just disputing a portion of the assessment affecting the land portion of the assessment. The
21 Supreme Court decision states that you cannot do that. You have to look at the aggregate, and
22 that is why he is objecting to the request.
23

24 ***Chair Pro Tem Friedman called for the vote on the amendment which FAILED on a roll call***
25 ***vote of 4-4: Councilor Register—Aye, Councilor Ford—No, Councilor Lund—Aye,***
26 ***Councilor Burton—Aye, Chair Pro Tem Friedman—No, Councilor Emily Friedrichs—Aye,***
27 ***Councilor Bubar—No, Councilor Grant—No.***
28

29 ***Councilor Burton MOVED that the Durham Town Council does hereby accept the***
30 ***recommendations of the Town's Prior Assessor, Jay Ferreira, and the Administrator relative***
31 ***to FY 2023 Property Tax abatement requests in the total amount of \$45,269.96. Councilor***
32 ***Ford SECONDED the motion.***
33

34 Mr. Selig noted, for the record, that this is an adjustment that is being made, which is an
35 important clarification if the motion is approved. This is an adjustment that the Town is overtly
36 proactively making for good cause shown.
37

38 ***Chair Pro Tem Friedman called for the vote which FAILED on a roll call vote of 4-4:***
39 ***Councilor Grant—Aye, Councilor Bubar—No, Councilor Friedrichs—No, Chair Pro Tem***
40 ***Friedman—No, Councilor Burton—Aye, Councilor Lund—Aye, Councilor Ford—Aye,***
41 ***Councilor Register—No***
42

43 ***Councilor Register made a MOTION to reconsider the motion with the 70% neighborhood***
44 ***factor. Councilor Lund SECONDED the motion, and it PASSED 7-1 on a roll call vote:***
45 ***Councilor Grant—Aye, Councilor Bubar—No, Councilor Friedrichs—Aye, Chair Pro Tem***
46 ***Friedman—Aye, Councilor Burton—Aye, Councilor Lund—Aye, Councilor Ford—Aye,***
47 ***Councilor Register—Aye***
48

1 ***The Town Council voted to reconsider the motion to approve the original information***
2 ***presented to the Council in the packets with the 70% neighborhood factor. The motion***
3 ***PASSED 6-2 on a roll call vote: Councilor Grant—Aye, Councilor Bubar—No, Councilor***
4 ***Friedrichs—Aye, Chair Pro Tem Friedman—No, Councilor Burton—Aye, Councilor Lund—***
5 ***Aye, Councilor Ford—Aye, Councilor Register—Aye***
6

7 This abatement was approved as an administrative adjustment to the neighborhood factor for 28
8 properties on Bagdad Road upon the recommendation of prior Assessor Jay Ferreira and
9 Administrator Selig, for good cause shown, by the Town Council on 5/6/24. Neighborhood
10 factor is adjusted to 70.

11
12 Chair Needell returned to the Council table at this time.

13
14 **IX. Committee Appointments**

- 15
16 A. Shall the Town Council, Upon Recommendation of the Conservation Commission Chair,
17 Appoint Nicholas Lanzir, 12 Ambler Way, to fill an Unexpired Regular Membership on the
18 Conservation Commission with a term expiration of April 2025

19
20 ***Chair Pro Tem Friedman MOVED that the Durham Town Council does hereby, Upon***
21 ***Recommendation of the Conservation Commission Chair, Appoint Nicholas Lanzir, 12***
22 ***Ambler Way, to fill an Unexpired Regular membership on the Conservation Commission with***
23 ***a term expiration of April 2025. The motion was SECONDED by Councilor Lund and***
24 ***PASSED unanimously 9-0 by a roll call vote: Councilor Register—Aye, Councilor Ford—***
25 ***Aye, Councilor Lund—Aye, Councilor Burton—Aye, Chair Pro Tem Friedman—Aye, Chair***
26 ***Needell—Aye, Councilor Emily Friedrichs—Aye, Councilor Bubar—Aye, Councilor Grant—***
27 ***Aye***
28

- 29 B. Shall the Town Council, Upon Recommendation of the Conservation Commission Chair,
30 Appoint Jacob Cragg, 127 Durham Point Road, to fill an Alternate Membership on the
31 Conservation Commission with a term expiration of April 2027?

32
33 ***Chair Needell MOVED that the Durham Town Council does hereby, Upon Recommendation***
34 ***of the Conservation Commission Chair, Appoint Jacob Cragg, 127 Durham Point Road, to fill***
35 ***an Alternate Membership on the Conservation Commission with a term expiration of April***
36 ***2027. The motion was SECONDED by Councilor Grant.***
37

38 Mr. Cragg provided a brief background about himself. He said he was excited to be on the
39 Council's docket for appointment and was looking forward to serving on the Commission.

40
41 Chair Needell called for the vote, which ***PASSED unanimously 9-0 by a roll call vote:***
42 ***Councilor Grant—Aye, Councilor Bubar—Aye, Councilor Friedrichs—Aye, Chair Needell—***
43 ***Aye, Chair Pro Tem Friedman—Aye, Councilor Burton—Aye, Councilor Lund—Aye,***
44 ***Councilor Ford—Aye, Councilor Register—Aye***
45

- 46 C. Shall the Town Council, Upon Recommendation of the Conservation Commission
47 Chair, Appoint Steve Moyer, 13 Fellows Lane, to fill an Alternate Membership on the
48 Conservation Commission with a term expiration of April 2026?
49

1 **Chair Needell MOVED that the Durham Town Council does hereby, Upon Recommendation**
2 **of the Conservation Commission Chair, Appoint Steve Moyer, 13 Fellows Lane, to fill an**
3 **Alternate Membership on the Conservation Commission with a term expiration of April 2026.**
4 **The motion was SECONDED by Councilor Lund.**

5
6 Mr. Moyer provided a brief background about himself. He said he recently retired and has been
7 in Durham for one year. He wants to give a little bit back to the Town if he can and be of help.

8
9 Chair Needell called for the vote, which **PASSED unanimously 9-0 by a roll call vote:**
10 **Councilor Register—Aye, Councilor Ford—Aye, Councilor Lund—Aye, Councilor Burton—**
11 **Aye, Chair Pro Tem Friedman—Aye, Chair Needell—Aye, Councilor Emily Friedrichs—Aye,**
12 **Councilor Bubar—Aye, Councilor Grant—Aye**

- 13
14 D. Shall the Town Council, Upon Recommendation of the Conservation Commission
15 Chair, Appoint Anne Lightbody, 95 Madbury Road, to fill an Alternate Membership
16 on the Conservation Commission with a term expiration of April 2025?

17
18 **Chair Needell MOVED that the Durham Town Council does hereby, Upon Recommendation**
19 **of the Conservation Commission Chair, Appoint Anne Lightbody, 95 Madbury Road, to fill an**
20 **Alternate Membership on the Conservation Commission with a term expiration of April 2025.**
21 **The motion was SECONDED by Councilor Friedrichs.**

22
23 Ms. Lightbody provided a brief background about herself. She noted that she had represented
24 the Town of Durham several years ago as its representative to the Lamprey River Advisory
25 Committee and felt serving on the Conservation Commission would be another area where she
26 could give back to the Town.

27
28 Chair Needell called for the vote, which **PASSED unanimously 9-0 on a roll call vote:**
29 **Councilor Grant—Aye, Councilor Bubar—Aye, Councilor Friedrichs—Aye, Chair Needell—**
30 **Aye, Chair Pro Tem Friedman—Aye, Councilor Burton—Aye, Councilor Lund—Aye,**
31 **Councilor Ford—Aye, Councilor Register—Aye**

- 32
33 E. Shall the Town Council, Upon Recommendation of the Administrator, Appoint Michael
34 Lehrman, 20 Cedar Point Road, to be a Durham representative to an unexpired vacancy on the
35 Strafford Regional Planning Commission with a term expiration of April 2026?

36
37 **Chair Needell MOVED that the Durham Town Council does hereby, Upon recommendation**
38 **of the Administrator, Appoint Michael Lehrman, 20 Cedar Point Road, to be a Durham**
39 **representative to an unexpired vacancy on the Strafford Regional Planning Commission with**
40 **a term expiration of April 2026. The motion was SECONDED by Councilor Lund.**

41
42 Mr. Lehrman said he has lived in Durham seven years and is a current member of the Durham
43 Energy Committee. He said he has attended meetings of the SRPC as well as the Rockingham
44 Regional Planning Commission to compare how the two differ in their operations. He would be
45 eager to coordinate with the Town Council to help move information and ideas to the SRPC.

46
47 Councilors Burton and Friedrichs said they supported the appointment of Mr. Lehrman.
48

1 Chair Needell called for the vote, which **PASSED unanimously 9-0 on a roll call vote:**
2 **Councilor Grant—Aye, Councilor Bubar—Aye, Councilor Friedrichs—Aye, Chair Needell—**
3 **Aye, Chair Pro Tem Friedman—Aye, Councilor Burton—Aye, Councilor Lund—Aye,**
4 **Councilor Ford—Aye, Councilor Register—Aye**
5

- 6 F. Shall the Town Council, Upon Recommendation of the Trustees of the Trust Fund Chair,
7 Appoint Victor Sosa, 45 Edgewood Road, to fill an Alternate Membership on the Trustees of the
8 Trust Fund with a term expiration of April 2025?
9

10 **Chair Needell MOVED that the Durham Town Council does hereby, Upon Recommendation**
11 **of the Trustees of the Trust Fund Chair, Appoint Victor Sosa, 45 Edgewood Road, to fill an**
12 **Alternate Membership on the Trustees of the Trust Fund with a term expiration of April 2025.**
13 **The motion was SECONDED by Councilor Lund and PASSED unanimously 9-0 by a roll call**
14 **vote: Councilor Register—Aye, Councilor Ford—Aye, Councilor Lund—Aye, Councilor**
15 **Burton—Aye, Chair Pro Tem Friedman—Aye, Chair Needell—Aye, Councilor Emily**
16 **Friedrichs—Aye, Councilor Bubar—Aye, Councilor Grant—Aye**
17

18 Chair Pro Tem Friedman thanked those that were appointed for serving. He said that as
19 Councilor Bubar pointed out to the Councilors in an email, the people that make up the Town's
20 boards and commissions are an impressive group, and at the time he wrote his email there were
21 105 volunteers and 33 vacancies. Now the Town is down to 16 vacancies. He listed vacancies on
22 the various boards, commissions, and committees, remaining to be filled for anyone interested in
23 applying:
24

25 Library Board of Trustees	1 alternate member vacancy – 1-year term
26 Trustees of the Trust Funds	1 alternate member vacancy
27 Land Stewardship Subcommittee	2 alternate member vacancies
28 Historic District/Heritage Commission	1 alternate member vacancy
29 Parks & Recreation Committee	1 alternate member vacancy
30 Planning Board	2 alternate member vacancies
31 Zoning Board of Adjustment	2 alternate member vacancies
32 Durham Energy Committee	2 vacancies
33 Lamprey River Local Advisory Comm.	2 vacancies
34 Oyster River Local Advisory Comm.	1 vacancy
35 SRPC MPO Policy Committee	1 vacancy

36
37 **Chair Needell MOVED that an adjustment be made to the agenda for the Council to do the**
38 **remainder of its business after hearing the HDC/HC activities and projects report and then**
39 **the First Reading on Ordinance #2024-03 regarding the “Fire Prevention” ordinance. The**
40 **motion was SECONDED by Councilor Register and PASSED unanimously 9-0 by a show of**
41 **hands.**
42

43 **X. Presentation Items**

44 Receive report on the Historic District/Heritage Commission activities and projects – Larry
45 Brickner-Wood, Chair
46

47 The Reverend Brickner-Wood summarized those key items that the commission has been
48 working on.
49

- 1 • The HDC/HC is close to starting the construction on the renovation of the house at Wagon
- 2 Hill Farm (Bickford-Chesley house).
- 3 • Held three roundtable conversations/sessions about the Oyster River Raid marker and came
- 4 to consensus regarding the language.
- 5 • Approved two solar projects in the Historic District; one for St. George’s Episcopal Church
- 6 and one for the Community Church of Durham (of which the Reverend Brickner-Wood
- 7 recused himself as he is a member of that church).
- 8 • Have been active in the Section 106 process for the Mill Pond Dam removal.
- 9

10 He thanked the Town Council for the opportunity to serve on the commission. He said the
11 commission has a wonderful group of people serving. He said the Town staff is also great with
12 Town Planner Michael Behrendt assisting the commission as the primary staff person, as well as
13 office staff members Karen Edwards and Tracey Cutler, who are amazing resources that the
14 commission is grateful to have.

15
16 Councilor Friedrichs said ze was a little concerned about the cost burden that may occur because
17 of site plan reviews regarding the two solar projects that were approved in the Historic District.
18 Ze asked the Reverend Brickner-Wood if that is something the Town should be looking at as a
19 minor committee review.

20
21 The Reverend Brickner-Wood said that was within the purview of the Planning Board. He said
22 there is probably some difference of opinion on the HDC/HC so he would be hesitant to speak
23 for the commission without having spoken to its members as a whole. He said personally, he
24 was a supporter of solar energy and was glad that they could find a reasonable path through so
25 that solar arrays are not just routinely turned down.

26
27 **XIV. New Business**

28 First Reading on Ordinance #2024-03 Amending Chapter 68 “Fire Prevention” of the
29 Durham Town Code To Repeal Article III “Sprinkler Code” and Scheduling a Public Hearing
30 for Monday, May 20, 2024.

31
32 Brendan O’Sullivan, Fire Marshal at the Durham Fire Department, said he was present to ask the
33 Council to repeal the sprinkler section of the Fire Prevention Code for the following reasons:

- 34
35 1. Article III “Sprinkler Code” conflicts with NH State Fire Code (National Fire Protection
36 Association: Life Safety Code, NFPA 101, 2018) in that the NH State Fire Code does not
37 require installation of sprinkler systems in existing residential buildings.
- 38 2. Article III “Sprinkler Code” is confusing as only buildings in certain districts and sections
39 of Town were included in the Article. Further, certain high-risk buildings are not covered
40 by Article III.
- 41 3. The Town of Durham Zoning Definitions are not consistent with, and in some cases,
42 contradictory to, the State of NH Life Safety Code definitions.
- 43 4. Article III “Sprinkler Code” places a significant financial burden on property owners
44 attempting to comply with the ordinance.
- 45 5. Rental housing properties within the Town of Durham (in all districts) are subject to rental
46 housing inspections pursuant to Chapter 72 “Housing Standards” of the Durham Town
47 Code to ensure that all rental properties are in compliance with current State Fire Codes.
- 48

1 The most pressing reason he said was that he believed it should align with the State Fire Code so
2 as not to create additional confusion.

3
4 Chair Needell asked what the impact would be on rental and duplex dwellings--when does the
5 code apply and when should sprinklers be in existence. Fire Marshal O’Sullivan replied that it
6 would only apply to new occupancies. The current ordinance applies to existing occupancies.
7 The state prohibits applying the code to one or two-family units, whether they are rentals or not.
8 It does permit the Town to require it to new three plus units. In Durham’s situation, it has a four
9 unit that is technically two duplexes because it has a firewall. One of the definitions in the
10 Town’s ordinance prohibits the Town from using firewalls, which is in direct contradiction of
11 what the state fire code will allow.

12
13 Fire Marshall O’Sullivan also responded to a few other questions raised by Councilors. The
14 complete presentation, along with comments, concerns, discussion, and responses to Council
15 questions, may be viewed on DCAT on Demand at www.ci.durham.nh.us.

16
17 *Chair Needell MOVED that the Durham Town Council does hereby move on First Reading*
18 *Ordinance #2024-03, as presented, Amending Chapter 68 “Fire Prevention” of the Durham*
19 *Town Code To Repeal Article III “Sprinkler Code” and Scheduling a Public Hearing for*
20 *Monday, May 20, 2024. The motion was SECONDED by Councilor Ford and PASSED*
21 *unanimously 9-0 by a roll call vote: Councilor Register—Aye, Councilor Ford—Aye,*
22 *Councilor Lund—Aye, Councilor Burton—Aye, Chair Pro Tem Friedman—Aye, Chair*
23 *Needell—Aye, Councilor Emily Friedrichs—Aye, Councilor Bubar—Aye, Councilor Grant—*
24 *Aye*

25
26 **XI. Unfinished Business – None**

27
28 **XII. Approval of Minutes – April 1, 2024**

29
30 Minor edits were submitted to Administrative Assistant Karen Edwards for inclusion prior to the
31 meeting.

32
33 *Chair Pro Tem Friedman MOVED that the Durham Town Council does hereby ADOPT the*
34 *Durham Town Council meeting minutes of April 1, 2024, with minor amendments. The*
35 *motion was SECONDED by Councilor Register and PASSED unanimously 8-0-1 by a show*
36 *of hands.*

37
38 *Councilor Friedrichs abstained as ze was not in attendance at the April 1st meeting.*

39
40 *Councilor Grant left the meeting at this time (8:58 PM).*

41
42 **XIII. Councilor and Administrator Roundtable**

43
44 Councilor Register – Agricultural Commission

- 45 - Ag Commission has not met since his last report to the Council.
46 - The commission’s next meeting will be on June 10, 2024.
47 - The commission will have a special meeting/survey on what the perception of having a
48 cooperative would mean.

- 1 - August 17, 2024, is Farm Day. Anyone interested in providing ideas to help it be a more
2 attractive event should reach out to Ag Commission Chair Theresa Walker or Vice Chair Ray
3 LaRoche, Jr.
- 4 - Councilor Register provided a report to the Council on the Train Riders Northeast meeting he
5 attended in Freeport, Maine.
- 6 - Reported on his ride along with the Durham Police last Saturday evening.

7
8 Councilor Ford – Land Stewardship Subcommittee

- 9 - The subcommittee met on April 10, 2024.
- 10 - Jim Lawson presented a matrix of nine Durham conservation areas and parks showing land area,
11 parking, recreational resources and amenities, which will be placed on the Land Stewardship
12 Subcommittee’s section of the Town’s website when completed.
- 13 - The Trustees of the Trust Funds are exploring the possibility of obtaining a grant from the SRPC
14 for the Doe Farm to help fund a study of forest climate adaptation resilience to add to their
15 Forest Management Plan.
- 16 - Land Stewardship Coordinator Sarah Callaghan had a list of 33 bridges and boardwalks that are
17 owned and maintained by the Town.
- 18 - A request was made to the Conservation Commission to add two alternates to the Land
19 Stewardship Subcommittee.
- 20 - Longmarsh Preserve has issues with bridges and boardwalks, which will need to be addressed in
21 the near future.

22
23 Councilor Lund – Historic District/Heritage Commission

- 24 - Councilor Lund attended a workshop on April 30th hosted by Plan New Hampshire on planning
25 of electric vehicle charging infrastructure. The takeaway from the meeting is that New
26 Hampshire has been lagging in charging station installation, largely due to the legislature and the
27 Public Utilities Commission being slow to act. The tourism and hospitality industries are
28 worried about losing business to Vermont and Maine which have been substantially more
29 aggressive about rolling out vehicle charging infrastructure.
- 30 - The HDC/HC met on May 2, 2024.
- 31 - There was one application from the Durham Community Church for various changes to the
32 existing building, including replacement of the granite steps; replacing/ rehabilitating numerous
33 windows; washing, repairing, and painting portions of the exterior; and rehabilitating the front
34 doors, the steeple, and the copper roof.
- 35 - The HDC forwarded to the Planning Board a proposed amendment to the Zoning Ordinance
36 relative to updating the tax map.

37
38 Councilor Burton – Conservation Commission

- 39 - The commission met on April 29, 2024.
- 40 - Mainly held discussion on the revision to the Wetland and Shoreland Overlay District of the
41 Zoning Ordinance. The commission voted to increase the buffer to 330 feet and its
42 recommendations will now go to the Planning Board.

43
44 Chair Pro Tem Friedman – Parks & Recreation Committee

- 45 - The P&R Committee met on April 23, 2024.
- 46 - The trails subcommittee is working with the Conservation Commission on “Discover Durham
47 Trails”.
- 48 - The study of Woodridge Park and Jackson’s Landing is ongoing with UNH. The focus groups
49 are now done.

- There is a subcommittee working on updating fees for the P&R programs. Recommendations should be forthcoming in June.
- Received a presentation on Churchill Rink from the rink manager.

Councilor Friedman - Seacoast Economic Developers Stakeholders (SEDS)

- The SEDS met on April 23, 2024, and discussed outdoor recreation. Its presentation was made by some of the same researchers that are working with Durham P&R on the Jackson's Landing and Woodridge Park report.
- There was a state-wide outdoor recreation plan and using outdoor recreation as an economic development driver. Speakers included representatives from the NH Department of Cultural and Natural Resources and the Bureau of Economic Affairs Office of Outdoor Recreation Industry.

Councilor Needell – Integrated Waste Management Advisory Committee (IWMAC)

- The UNH sustainability students that were assisting the IWMAC with how to do some educational outreach created an Instagram account and generated some videos on testimonials to share on Instagram. They provided suggestions to the committee for moving forward and lining up other UNH students to maintain the Instagram account going forward.
- Two IWMAC members attended the Northeast Resource Recovery Association (NRRRA) workshop on composting. They learned that Durham is ahead of other communities in this effort.
- Received a number of DPW updates from Sam Hewitt.
- Working on updating the IWMAC section of the Town's website.
- Next meeting will be held on May 15, 2024.

Councilor Friedrichs – Planning Board

- The board finalized its zoning definitions which will now be going to the Town Council for its consideration. Councilor Friedrichs said ze was sad that ze was not present for that meeting as ze had been out of country and there were several items ze is very concerned about as these amendments come before the Council. The Planning Board had a larger discussion about turning some parking downtown into private parking and how much to encourage that because parking is very bad for land use in terms of the tax base. It tends to take up very valuable land and provides very little tax base. It is also counter to the Town's climate goals. Ze was also disappointed that another Conditional Use was added when a long conversation at the Planning Board had been that there are too many categories for Conditional Use in Town. The problem with Conditional Use is that it is a little more vague which means it creates extra work for Town boards and Town staff when evaluating the applications and also for the applicant because it creates a more drawn out and expensive process, and it opens the Town and applicants up to more legal battles. Therefore, ze is very against increasing the number of Conditional Uses overall.

Councilor Friedrichs – Energy Committee

- The Energy Committee is meeting tomorrow evening, May 7, 2024.
- There are two bills that require swift action with the NH legislature that are energy related: 1) HB 1623 which will change the definition of the state energy policy and would shift it away from looking at an overall balance of all the pros and cons of energy to looking very specifically at the ability of the energy to meet demands on the spot. In essence, it would defund and deprioritize renewable energies and prioritize and would turn New Hampshire away from exploring other new technologies that are emerging. 2) HB 1600, which has been strongly advocated by the Community Power Coalition of New Hampshire because it would enable

1 community solar power options. It would allow communities to create community solar grids
2 that residents could benefit from without having to have solar energy on their individual
3 properties. It received favorable recommendations from the House Committee, the House floor,
4 and from the Senate Committee, but the Department of Energy has expressed concerns about it
5 which the Community Power Coalition of New Hampshire feels is wildly off base. Councilor
6 Friedrichs said that considering all of the benefits passage of HB 1600 could bring to Durham,
7 ze would like to ask the Council to ask Administrator Selig to send a letter to the NH Senators in
8 support of HB 1600 and another letter in opposition to HB 1623.

9
10 ***Councilor Friedrichs made a MOTION to ask Administrator Selig to send letters in support of***
11 ***participation in net metering energy, HB 1600, and against changes to the state energy policy,***
12 ***HB 1623. The motion was SECONDED by Councilor Lund.***

13
14 Chair Pro Tem Friedman asked if it would be more appropriate for the Energy Committee to
15 come to the Council with its recommendation regarding these bills. Councilor Friedrichs replied
16 that unfortunately there is not enough time before the final senate vote is taken on these bills.
17 However, ze could bring it to the Energy Committee meeting tomorrow evening and it could be
18 acted on separately.

19
20 Administrator Selig said he had reviewed both bills and believed that what Councilor Friedrichs
21 is recommending is consistent with the broad goals of the Town and he had no concern about
22 being asked to write a letter in support of HB 1600 and a letter opposing HB 1623.

23
24 Councilor Register read the description of each bill for the Council members' information.

25
26 Regarding HB 1623, Councilor Friedrichs said when compared to the state's current policy,
27 there are some significant changes. One is the emphasis of on demand reliable and firm
28 technology. What that means is current technology is coal and gas fire, which are on demand.
29 Solar and wind are not considered reliable or firm even though they can be paired with better
30 technology that could enable that in the future. So, unless someone's solar or wind farm is
31 paired by the same owners in the same sites with solar energy, it would not qualify, and as a
32 result, these technologies would automatically be prejudiced against in terms of the state's
33 energy policy and purchasing policy.

34
35 Councilor Friedrichs said the other big issue is the question of the sovereign authority to
36 involuntary retirement or decommissioning of electricity generators. New Hampshire does not
37 have a separate electric grid. It is part of the regional grid that covers the Northeast and is
38 operated by the Federal Energy Regulatory Commission. Currently, all of the power plants have
39 to operate within that grid, and they get funding through that grid as well as determination of
40 power supply and demand. If a larger grid were to stop purchasing energy through those plants,
41 then they would shut down because of lack of funding or they would be ordered to shut down by
42 a national or regional authority. Passage of HB 1600 would mean those plants would be unable
43 to shut down without separate permission from New Hampshire, which means they would have
44 to continue to operate. The questions then become have they been safety verified to continue to
45 operate, what is the time schedule for New Hampshire to run a separate study for that, and who
46 is paying to keep the plants open because if their funding is being cut off, they are no longer
47 getting income from selling to the grid and they are legally being forced to remain open.

1 Chair Pro Tem Friedman said it did not seem right to him to bring forward an issue that the
2 Council has not had time to fully look in to, that it is not well aware of, has only had some
3 reading of text on the bills, the bills are somewhere between the House and the Senate, and
4 Council is being asked to weigh in on state affairs after weighing in on international affairs. He
5 felt the Council was getting off track from the directives of the Town Charter. He said if the
6 Durham Energy Committee had brought this to the Council with its recommendations he might
7 have been more amenable to voting but did not feel this would be a proper vote and would vote
8 against it.
9

10 Councilor Friedrichs said HB 1600 would directly affect Durham residents and is being
11 sponsored by the Clean Power Coalition of New Hampshire of which Durham is a member. HB
12 1623 very clearly speaks to the Town's Climate Action Plan and its ability to achieve those
13 actions. Therefore, ze did not believe the Council was acting differently than it has with other
14 House Bills.
15

16 ***Consensus of the Council was to have Administrator Selig craft a letter of support for HB***
17 ***1600 and a letter of opposition for HB 1623.***
18

19 Councilor Friedrichs said that as a Town official, zir expectation of police forces in the local
20 areas is one of de-escalation and ze was very glad to have heard from Durham's Administrator
21 and Police Chief more about what the Durham Police is doing to emphasize de-escalation tactics
22 in terms of the Durham Police culture, training, and discipline system. Ze said the idea that the
23 consequences for filing a lawsuit should immediately be that police use of force is wrong and
24 problematic. Ze said ze is saying this in part because of what happened on the UNH campus on
25 May 1st. Ze said ze was uncomfortable about the messaging that went out about that incident
26 from the Town because it included misinformation and misrepresentation. Ze said the Town
27 should be focused and honest in its reporting of that incident and what the message and cause of
28 that incident were. Ze also felt it was important that the communications at the Town do not
29 focus on praising its police officers enforcing order but rather focus on their ability to de-
30 escalate incidents.
31

32 Councilor Bubar – Zoning Board of Adjustment (reporting as a regular member)

- 33 - Councilor Bubar had nothing to report.
34

35 Administrator Selig

- 36 - Mr. Selig provided an update to the Council on what is occurring at the Epping Wastewater
37 Treatment Plant and provided an explanation of the issues that were found at the plant that
38 Epping has been working on to correct.
39

40 **XV. 2024/2025 Town Council Goals**

41 Continued discussion on the draft 2024-25 Town Council goals
42

43 Discussion occurred around the newest draft of the goals, including any additions or deletions.
44 Some councilors thought the document could be simplified down to what the Council can
45 accomplish in the next year. The Council went over each item in the list and determined
46 whether an item would remain or be removed.
47

48 ***Councilor Register made a MOTION to extend the Council meeting beyond 10:30 PM (to***
49 ***11PM). The motion was SECONDED by Councilor Friedrichs and PASSED 6-2 by a show of***

1 *hands: (Councilors Register, Lund, Burton, Chair Pro Tem Friedman, Friedrichs, Bubar*
2 *voting in favor). (Councilor Ford and Chair Needell voting against).*

3
4 The Council continued through the list of goals. The complete discussion, comments, concerns,
5 and responses to Council questions, may be viewed on DCAT on Demand at
6 www.ci.durham.nh.us.

7
8 **XVI. Nonpublic Session (if required)**

9
10 **XVII. Extended Councilor and Administrator Roundtable (if required)**

11
12 **XVIII. Adjourn (NLT 10:30 PM)**

13
14 *Councilor Lund MOVED to ADJOURN the meeting. The motion was SECONDED by*
15 *Councilor Ford and PASSED unanimously 8-0 by a show of hands.*

16
17 **The meeting ADJOURNED at 11:00 PM.**

18
19
20 Jennie Berry, Minutes Taker