1 2 3 4 5		DRAFT DURHAM TOWN COUNCIL MONDAY, NOVEMBER 4, 2024 DURHAM TOWN HALL - COUNCIL CHAMBERS 7:00 PM
6 7 8 9	Bubar Counc	BERS PRESENT: Chair Sally Needell, Councilor Heather Grant, Councilor James, Councilor Wayne Burton, Councilor Darrell Ford, Chair Pro Tem Joseph Friedman, Eilor Eric Lund, Councilor Curtis Register, Councilor Emily Friedrichs (who uses the uns ze/zir/zirs/zirself and the title Mx. Friedrichs)
11 12	MEM	BERS ABSENT: None
13 14 15 16 17	Assess Works	ERS PRESENT: Administrator Todd Selig, Town Clerk/Tax Collector Rachel Deane, Tax sor Darcy Freer, Trustees of the Trust Funds Chair Ted Howard, Department of Public S Director Rich Reine, Assistant DPW Director Sam Hewitt, Planning Board Chairman Rasmussen, Town Planner Michael Behrendt
18 19 20	I.	Call to Order Chair Needell called the meeting to order at 7:01 PM.
21 22 23	II.	Town Council grants permission for fewer than a majority of Councilors to participate remotely - $\ensuremath{\mathrm{N/A}}$
24 25 26 27 28	III.	Roll Call of Members Councilor Curtis Register, Councilor Darrell Ford, Councilor Eric Lund, Councilor Wayne Burton, Chair Pro Tem Joe Friedman, Chair Sally Needell, Councilor Emily Friedrichs, Councilor James Bubar, Councilor Heather Grant.
29 30 31 32	IV.	Approval of Agenda No changes to the agenda were proposed. Chair Needell MOVES to adopt the agenda; Councilor Lund SECONDS the motion. Motion PASSES on a unanimous hand vote.
33 34	V.	Special Announcements - None
35 36	VI.	Public Comments (*) – Please state your name and address before speaking
37 38 39 40 41		William Hall, Smith Park Lane, commented on the memoranda of understanding agreements the town has entered into with the University of New Hampshire over the years on the cost sharing of the shared water and wastewater systems and how he feels the town consistently pays more than its fair share of the cost of projects.
42 43 44 45 46		State Representative Timothy Horrigan, Strafford District 10, 7-A Faculty Road, reminded everyone of the importance of voting. He talked about his late mother, who died just before the N.H. Primary this year, and remembered how voting was so important to her that one of the last things she did was vote by absentee ballot. He said in this election absentee ballots have come under attack and been referred to as somewhat

nefarious by some, but they are just as important as any ballot. He encouraged all to vote in the Nov. 5 General Election.

State Representative Loren Selig, Strafford District 10, 3 Nobel K. Peterson Drive, reminded everyone to vote in the General Election, that polls are open from 7 a.m. to 7 p.m., and that there is a question on the back of the ballot so voters need to turn their ballots over. She thanked the town councilors who will volunteer at the polls, the town's moderators, clerks and supervisors of the checklist for their hard work preparing for the election, the town's Department of Public Works personnel who set up the polls at the high school, and the town's Police Department who will work the polls to ensure everyone's safety. She reminded residents to bring their ID, patience and kindness to the polls.

Al Howland, 32 Ffrost Drive, commended on agenda item XI-C, the Workforce Housing Overlay District, on which a public hearing will be set at this meeting. Over the 11-month process bringing the proposal to this point, he said it became apparent what a challenge it is to build "missing middle" housing in town. He said as the process moves forward, it will be important to clearly define student housing in order to allow the type of workforce housing units the town needs.

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

Ben Doyle, Campus Structure Council Chair, updated the Town Council on behalf of Abigail Bagley, the External Affairs Chair for the student body president at UNH, because she could not be present. He thanked the town's police, EMS and firefighters for helping create a safe and peaceful Halloween on campus, noting there were no major incidents. He said Bagley met with UNH Police Capt. Frank Weeks about possible disruptions on Election Day and they both felt confident with the plan in case of an incident or unwanted groups on campus. He said he and Bagley brought a resolution to the UNH Senate about the planned improvement of South Drive on campus, which is part of the UNH Master Plan, asking that it be moved higher in priority because the problems it poses need to be resolved for safety. Councilor Register asked that a copy of the resolution be forwarded to Town Council members. Council Friedrichs said ze had difficulty submitting a comment online to the President's Free Speech Working Group because the form wasn't working. Ze said ze'd heard from members of the public that they weren't able to submit either. Doyle said he would look into it and follow up with councilors.

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

Councilor Ford MOVED to add item XI-B on the agenda under Unfinished Business - Discussion and possible Adoption of Resolution #2024-24 Amending Resolution #2013-14 to Change the Membership Composition on the Human Rights Commission to be as follows – Five (5) citizens who are residents of Durham, One (1) Council Representative with a one-year term as an Advisory, Non-Voting Member, and the Administrator as an

Advisory, Non-Voting Member - to the Unanimous Consent Agenda. Councilor Bubar SECONDED the motion. Chair Needell invited discussion, but there was none. The resolution was added to the Unanimous Consent Agenda.

Since the Property Tax Warrant authorization is on the Unanimous Consent Agenda, Administrator Selig made councilors aware that several properties had not been charged the state education tax during this billing cycle and that there would have to be a Supplemental Tax Warrant authorization in the future to collect the tax that was missed. Town Clerk/Tax Collector Rachel Deane said she and Tax Assessor Darcy Freer believe the omission was due to a coding error in the way the assessing software program talks to the tax collection software program and it may have been occurring for a while. This omission affected about 12 to 15 industrial and utility communications properties, they said, and those properties will receive a second tax bill to collect the state education tax.

Ms. Deane added her thanks to Ms. Freer for catching the error and how much she has enjoyed working with the new assessor.

 Chair Pro Tem Friedman questioned if any wording change to the Property Tax Warrant authorization was needed before the Town Council voted on it, and it was decided no change was needed.

Chairman Needell MOVED that the Town Council adopt Items A, B and C of the Unanimous Consent Agenda - A. Shall the Town Council authorize the Administrator to sign the Town of Durham's second half 2024 Property Tax Warrant and direct the Tax Collector to collect payment of property taxes assessed on April 1, 2024 in the amount of \$18,804,458? B. Shall the Town Council Adopt Resolution #2024-25 Proclaiming Saturday, November 30, 2024, as "Small Business Saturday" in Durham, NH and urge Durham residents to support small businesses and merchants in Durham on this day and throughout the year?; C. (Formerly item XI-B under Unfinished Business) Discussion and possible Adoption of Resolution #2024-24 Amending Resolution #2013-14 to Change the Membership Composition on the Human Rights Commission to be as follows – Five (5) citizens who are residents of Durham, One (1) Council Representative with a one-year term as an Advisory, Non-Voting Member, and the Administrator as an Advisory, Non-Voting Member.

Councilor Ford SECONDED the motion. Councilor Friedrichs asked for a clarification on the Small Business Saturday resolution being a council initiative and which councilor submitted it. Chair Needell confirmed she had submitted the resolution. The motion to adopt PASSED on a unanimous roll call vote.

IX. Committee Appointments - None

X. Presentation Items

 A. Presentation of the 2023 Audit Report – Plodzik & Sanderson, Concord, NH

Mike Campo of Plodzik & Sanderson said the town received a clean audit report. He said the town had a successful year growing the General Fund by \$1.5 million in 2023, with expenses coming in at \$500,000 under budget and tax revenue coming in at \$670,000 above the estimate for tax revenue.

In total, the General Fund performed \$1.5 million under budget, he said.

The schedule showing the actual performance of the General Fund is on Page 16 of the report.

Page 58 gives more detail, showing property taxes came in at almost \$712,000 above the estimate; and the town did well in miscellaneous income.

Pages 59 and 60 show the expenditure appropriations. He said they are presented line by line and show how the town's budget functioned. This chart also factors in prior year encumbrances and current encumbrances.

Page 61 is a quick summary of the General Fund balance in more detail that shows the \$1.5 million surplus again.

Page 4 begins the management discussion and analysis, which the town's management puts together to make the budget easier to understand for average users. Mr. Campo encouraged Town Councilors to read it because the audit report is very complex.

Councilor Bubar asked if the town's water and wastewater bills are reasonably accurate. Mr. Campo referred to Page 63 for information on the water fund, but said the accurateness of the bills are beyond the scope of the audit.

Councilor Register asked if the audit would have detected any misuse of funds or fraud. Mr. Campo said the intent of the audit is not to detect fraud, but if they find any evidence of it, they are required to report it to management and governance. He said nothing of that nature came up in the town's audit.

Councilor Grant brought up an action item concerning procurement that the audit pointed out. Mr. Campo said the town's management had already addressed the issue. He said there is a requirement when spending more than \$25,000 with a contractor, that the town consult a governmental list of contractors who are not in good standing and should not be used. The town was unable to provide evidence that it had done that step, he said, and since then, the town has taken steps to make sure that doesn't happen again.

Councilor Grant then asked about the status of several process changes and updates the town needed to make. He said during the audit a risk assessment is done and he said one of the areas is IT policies and procedures, which is important because three of his firm's clients have been hacked. He encouraged the town to make it a high priority to review its IT policies to make sure the town's data is safeguarded and that there is a backup procedure in place that is documented.

Outdated checks is another area the audit found last year that still remains. He said reconciling older checks is a good idea and anything over two years old probably won't clear at the bank anyway. He advised the treasurer to follow up with payees or turn the checks over to the state as abandoned property.

Councilor Grant asked about financial reporting changes that are needed, and Mr. Campo said his firm is still training on these and will roll them out to its clients soon.

Mr. Campo recommended the Town Council review its financial policies at least every three to five years. He also recognized the town's Business Office as "a very great team" and "very talented and hard-working, "and he thanked them for their cooperation and collaboration during the audit process.

B. Report from the Trustees of the Trust Fund – Ted Howard, Chair

Mr. Howard reported on the Trustees of the Trust Fund's financial results and activities for 2023 and through Sept. 30, 2024. The Trustees oversee three broad accounts - capital reserves, trust funds and the cemetery fund. He said the trust funds' portfolio was valued at about \$5.1 million in 2023, noting much of that is additions to the capital reserves and not income. The capital appreciation in 2023 was \$267,000. He said the weighted average return was 8 percent in 2023. He said the Trustees review their investment policies each year and have to approve them each year. He said the town has done reasonably well so far in 2024, with the total appreciation at a little less than half a million dollars. Income and market appreciation are going as projected, he said, but noted the upcoming election and the Fed meeting could change things. On the whole, he said, he thinks the funds will do better this year than last year.

Under activities, he said they've been working on Doe Farm, especially on eliminating invasive species such as glossy buckthorn. He said they're developing a new forest management plan, especially looking at climate change and its impact on the farm. He said the Trustees' meeting minutes and agenda are readily available as they want to be as transparent as possible and they welcome public participation at their meetings. He said a complete list of investment holdings is available. He said the investment policy from 2022 was reaffirmed two weeks ago. The Trustees have one alternate, but want to have a second alternate and have identified some prospects. He said they are also in the process of establishing a fund for the town's 300th anniversary. Councilor Register asked for the list of investment holdings and Mr. Howard said he will forward it to Administrative Assistant Karen Edwards to be distributed to all councilors.

C. Report from the Energy Committee – Matthias Dean Carpentier, Chair

Mr. Carpentier said he will have final numbers and a more detailed report which he will submit next month for the town's Annual Report. He said the Community Power Coalition of New Hampshire program which started Feb. 1 has been successful and has not seen a significant rate of opt-outs. He said the town is doing well in the Seacoast

Energy Challenge with several other towns, but he is not certain it will win the competition.

The committee participated in Earth Day with a booth with information about heat pumps, electric vehicles and other energy efficiencies. The committee has been circulating a survey developed with UNH to gauge the interest in EVs in town. They're developing ways to continue to distribute it on a regular basis to analyze how feelings change, perhaps including it in the Friday Updates. On the first Sunday of June, the committee held an EV showcase at Tideline Public House with owners and dealerships for both electric cars and bikes. He said there was quite a bit of interest and that the committee is planning to present the event annually.

He said committee members are hearing of an increased rate in usage and demand for additional charging locations. The committee is researching ways to collaborate with UNH on US DOT grants and in other ways. It is investigating possible locations for solar arrays, having looked at Depot Road and at the capped transfer station land. The committee is researching additional sources of funding for all projects. It is contributing information each week to the Friday Updates to increase outreach. It is planning to continue the goals it set this year into next year. Councilor Friedman praised the committee's contributions to the Friday Updates, and asked if the market had settled on a standard for the plugs on charging stations, and Mr. Carpentier said it had settled on a single plug design.

D. Presentation on the progress for the update to the town's Climate Action Plan and the integration of conclusions into the town's long-term planning efforts – Sophie Goodwin, UNH Sustainability Fellow

Ms. Goodwin gave a PowerPoint presentation, "2025-2030 Climate Action Plan: Goals, Themes and Progress." She said the 2022 Plan was Durham's first CAP. The reduction goal was set at 42.8 percent reduction of 2019 levels by 2030. It focused primarily on energy and the built environment, and set goals and metrics based on emissions reductions.

The 2025-2030 plan will focus on four areas: buildings, transportation, solid waste and resources consumption, and natural resources.

The transportation goal is to reduce vehicle miles traveled by promoting active and public transportation, and encouraging the use of hybrid and electric vehicles. She said the town clerk keeps track of electric vehicles registered in town and EVs are estimated at about 20 percent. Transportation accounted for 41.1 percent of the town's 2022 greenhouse gas inventory. Total reduction potential is 7,715 MTCDE or about 7.2 percent of the 2019 level. Councilor Friedrichs asked if that was 7.2 percent of just the transportation or of the total, and Ms. Goodwin confirmed it was the total. Councilor Lund asked about the acronym MTCDE, which Goodwin said means Metric Tons of Carbon Dioxide Equivalents. She said in 2019 Durham had 104,472 MTCDE and it decreased in 2022 to about 97,000 MTCDE.

The built environment goal aims to reduce emissions associated with powering buildings and focuses on energy efficiency and electrification, continued participation in the Community Power Coalition of N.H., and renewable energy. The built environment accounted for 55.5 percent of the 2022 greenhouse gas inventory for the town. The total reduction potential is 9,500 MTCDE, which is 9.1 percent of 2019 levels.

Ms. Goodwin said solid waste makes up only about 1 percent of Durham's emissions so it's hard to determine how much it would affect overall reduction. The solid waste and resource consumption goal is to reduce food waste and solid waste, and to promote the local food system and healthy choices. It aims to promote composting, support local businesses and the Durham farmers' market, and to reduce solid waste and consumption.

Natural resources goals are to conserve and protect important areas of land, improve trails and recreational opportunities in nature, and to promote sustainable landscaping and land use. They are based on removing emissions; not reducing them, Goodwin explained. The 2019 greenhouse gas inventory found the town's trees sequestered an amount equal to 31 percent of the town's emissions.

 To promote resilience, the plan uses the 2024 Hazard Mitigation Plan to adapt to climate change impacts, builds capacity through intergroup collaboration with commitment to sustainability, and to support UNH's goal of reducing Scope 1 and 2 emissions by 50 percent by 2030.

Councilor Bubar asked if you can get the overall total of electricity the town buys from Eversource. Ms. Goodwin said it is possible and she has the numbers from 2019 through 2022, the last year the info is available at this point.

Councilor Friedrichs asked given the reductions Durham has already seen, if generalized to the planet, what would it equate to in a reduction in warming. Ms. Goodwin said it would be about 1.15-degree Celsius increase. She said it's a difficult time to make projections because of the changes during the pandemic that skewed the emissions numbers.

Council Friedrichs asked how Ms. Goodwin came up with the number of 5 percent electrification in the built environment each year. Ms. Goodwin said she took the 8 percent, which her forecast modeler for local governments uses, and researched the rates in New England, and concluded it would be about 6 percent. She used less - 5 percent - just to make sure the town could achieve that amount.

There was discussion about how much solid waste the Swap Shop keeps out of the landfill and how it's hard to measure its effect and quantify other programs like the composting program. Ms. Goodwin said she did not include the composting operation at Kingman Farm because it's outside Durham and councilors discussed how most of the compost there comes from Durham.

Councilor Friedrichs asked if Ms. Goodwin connected with the Assessor's Office to track electric and geothermal energy implementation in homes as we're doing with cars. Ms. Goodwin said she will follow up and include that information if she can.

Administrator Selig said Ms. Goodwin is going to stay on through the rest of the school year as the town's Sustainability Fellow, which will help with continuity.

Council Register said Theresa Walker of the Agricultural Committee is interested in working with Ms. Goodwin on the Climate Action Plan and on getting residents interested in local backyard food production to reduce emissions. Ms. Goodwin said she has met with her and incorporated some of her information in the plan, and will continue to reach out to her.

XI. Unfinished Business

A. Chair Needell MOVED to open the Public Hearing and possible Adoption of Ordinance #2024-08 Amending Chapter 118 "Solid Waste" of the Durham Town Code, reflecting current operating plans to accommodate Planned Solid Waste Program Changes. Councilor Lund SECONDED the motion. The motion passed on a unanimous show of hands.

Chair Needell asked if there was anyone from the public present or on Zoom to speak. Hearing no response, Chair Needell MOVED to close the Public Hearing on Ordinance #2024-08. Councilor Register SECONDED the motion. The motion passed on a unanimous show of hands.

Chair Needell asked Department of Public Works Director Rich Reine and Assistant DPW Director Sam Hewitt if they had anything they wanted to add or discuss about the ordinance, and Director Reine said they were just available to answer any questions.

Chair Pro Tem Friedman thanked them for their work on the ordinance, and asked what the acronyms BEV and DERA stand for. Mr. Reine said BEV stands for Battery Electric Vehicle and DERA stands for Diesel Emissions Reduction Act. Councilors went on to make several minor line edits to the ordinance.

 Chair Needell asked if there were any additional questions, and hearing none, MOVED to adopt as amended Ordinance #2024-08 Amending Chapter 118 "Solid Waste" of the Durham Town Code, reflecting current operating plans to accommodate Planned Solid Waste Program Changes. Councilor Lund SECONDED the motion. The ordinance was adopted in a unanimous roll call vote.

B. Discussion and possible Adoption of Resolution #2024-24 Amending Resolution #2013-14 to Change the Membership Composition on the Human Rights Commission to be as follows – Five (5) citizens who are residents of Durham, One (1) Council Representative with a one-year term as an Advisory, Non-Voting Member, and

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the Administrator as an Advisory, Non-Voting Member. - This resolution was approved earlier as part of the Unanimous Consent Agenda.

C. Continued Discussion & First Reading on Ordinance #2024-09 Amending Chapter 175 "Zoning," Article II, "Definitions," Article XII.1, "Use and Dimensional Standards," Article XVIII, "Personal Wireless Service Facilities Overlay District." Article XIX, "Conservation Subdivisions," and the Zoning Map; and adding a new Article XVIII.1, "Workforce Housing Overlay District." A public hearing can be set for Monday, November 18, 2024.

Planning Board Chairman Paul Rasmussen and Town Planner Michael Behrendt joined the meeting for the discussion. Chair Needell said Councilor Bubar had circulated comments on the ordinance in an email on the day of the meeting.

Chair Needell said the first comment was about the fact sheet. Councilor Bubar said the comments are extensive and may take up too much time. Mr. Rasmussen said they would respond later to Councilor Bubar's concerns before the Public Hearing.

Mr. Rassmussen said the fact sheet addresses some of the concerns brought up during the Planning Board's hearings and will not be part of the ordinance, but is mentioned in the ordinance in a Whereas.

Planner Behrendt said the ordinance has not changed since Oct. 11 and there is no plan to change it unless the Town Council would like to add to it after hearing from the public.

Councilor Burton said he has been following this process through the eyes of one of the owners of a parcel of property in the overlay district created by the ordinance and commented that the ordinance is written from the perspective of what the town wants to accomplish, but not from the perspective of landowners. He said landowners have to be motivated to participate in the process to be able to create workforce housing.

There was discussion about the 60 percent of gross parcels required to be open space on projects in the Workforce Housing Overlay District, and what that would mean for developers.

Mr. Behrendt explained in response to a question from Councilor Burton that a parcel could be subdivided to develop part of the parcel and keep part of it undeveloped for an owner, and the owner's part would not be subject to the Workforce Housing Overlay District zoning, and the 60 percent open space requirement would apply only to the lot being developed. In response to an email from Administrative Assistant Karen Edwards, Mr. Behrendt said he and Mr. Rasmussen had discussed adding in the ordinance some flexibility for the Planning Board to address some of these concerns.

Councilor Burton asked if planners consider the ROI an owner can get out of selling or developing a parcel, and how the town can motivate an owner to sell to develop the workforce housing. He said there are just three sites in town that could be developed for workforce housing under the new district and it's important to think about how rules affect landowners. Mr. Rassmussen said it is always in the back of his mind and that's why he pushed for the dense allotment the ordinance allows. He explained the board's thought process.

Councilor Bubar said he thought the ordinance was designed to get the owner market rate for the land, and the density was designed to make that price work for the developer. He said he didn't think they were looking for the landowners to subsidize workforce housing development.

Councilor Burton said the question if you're a landowner is if you can make more money building large single-family homes instead of affordable housing. Discussion ensued about how a developer could work with the ordinance and with an owner to design an affordable housing project that would work for them and make sense to build.

Mr. Behrendt invited any owner to come into town hall and ask questions about the ordinance and how it affects their land.

Councilor Lund pointed out there is no requirement for hiring more professionals for an affordable housing project than are needed to build large single-family homes, and Mr. Behrendt and Mr. Rasmussen confirmed there was not.

Councilor Burton asked how they settled on the 60 percent open space and Mr. Rasmussen explained the Planning Board's thought process on it and on getting the level of density needed. He said keeping 60 percent of a parcel open promotes wildlife corridors and improves the setbacks because the town wants to bring the living units on the parcel close together. There was discussion of the Cottages at Dover development on Back River Road in Dover. Mr. Behrendt encouraged people to visit the development.

Discussion continued about the value of land and how developing an affordable housing rental unit project is worth more than selling single-family homes.

Councilor Friedrichs asked what the change in language that allowed greater flexibility that Mr. Behrendt referred to earlier was. He said it was on Page 12 of the ordinance under item J. Density and Dimensional Standards, allowing the Planning Board to alter requirements for good cause.

Councilor Bubar pointed out there is flexibility in item T where it states the Planning Board can alter density or open space if it deems it necessary.

Councilor Friedrichs asked about the situation with the Town Grange affordable housing project where workforce housing could not be rented and was converted to student use, and how it was handled in the condition of sale. Administrator Selig said it was because of the noise at the location that it was difficult to find tenants and that he believed it was part of the purchase and sales agreement. Councilor Friedrichs advocated adding a mechanism the town could use again in the workforce housing district. Mr. Rasmussen

for a downtown district.

Councilor Burton asked how the town enforces the workforce rents and Mr. Rasmussen said the landlord files an annual report. He explained how the rents would be set according to HUD rates.

said he wouldn't recommend it for the Workforce Housing Overlay District, but perhaps

Chair Pro Tem Friedman questioned missing footnotes he identified, and how they corresponded was discussed. He stated for the record that he questions why the ordinance allows rentals only and not affordable housing for sale, and that maybe the ordinance could be amended in the future to allow for sales. Mr. Behrendt explained the Planning Board went only with rental units because it's easier to structure; developers usually do one or the other; rent is easier to get the volume to make it feasible; and most importantly it's easier to keep it affordable in perpetuity. HUD sets the rent levels, updates them annually and landlords have to abide by those amounts. To mandate affordable housing in sales, it would have to be included in each individual deed. He said the board also felt the greater need in the region is for affordable rentals.

There was a discussion about the fair market rent amounts and whether they include utilities and other costs or not.

Councilor Friedman questioned the maximum of 12 dwelling units per building. Rasmussen said that it complies with the fire code, which has a minimum distance from an apartment door to the stairs going down out of the building. He said it encourages a center staircase, three-story, four-units-per-story type of buildings and creates a more "Durham-esque" look. He said 12 is arbitrary, but the board felt it was a reasonable maximum.

Chair Needell suggested if councilors have more questions if they could submit them in writing and councilors discussed how to proceed.

Chair Pro Tem Friedman said the map in the ordinance also needs to be improved and he'll send comments to Mr. Behrendt. Councilor Friedrichs added it would be good to have a solid map before the public hearing.

Chair Needell MOVED to approve the first reading of the ordinance and set the public hearing. Ford SECONDED. Needell asked for discussion and there was none. The motion passed on an 8-1 roll call vote. Chair Needell - Aye, Council Friedrichs - Nay, Councilor Bubar - Aye, Councilor Grant - Aye, Councilor Register - Aye, Councilor Ford - Aye, Councilor Lund - Aye, Councilor Burton - Aye, Chair Pro Tem Friedman - Aye.

 D. Presentation & First Reading on Ordinance #2024-10 Amending Chapter 175 "Zoning," Article III, "Administration and Enforcement," Article VI, "Zoning Board of Adjustment," Article XII.1, "Use and Dimensional Standards," Article XX, "Standards

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1 for Principal Uses," and Article XX.1, "Standards for Agricultural Uses." A public 2 hearing can be set for Monday, November 18, 2024. 3 4 Chair Needell invited Mr. Behrendt and Mr. Rasmussen to explain the proposed changes 5 in this ordinance. Mr. Behrendt explained the changes are a few miscellaneous issues that 6 have come up over time in zoning and when reviewing site plans that need clarification. 7 He said the ordinance is bringing the town up to date on some housekeeping items. 8 9 Councilor Bubar asked if the changes would eliminate all the instances of "administrative gloss" that arise. Mr. Rasmussen said it wouldn't and Councilor Bubar asked why not. 10 Mr. Behrendt said he believes it does address most of the concerns that have been raised, 11 but that there are always more ambiguous items that arise. He invited councilors to let 12 13 him know of other instances that come up and he'll start a new list. Discussion continued 14 about how this is not meant to be a complete change and that it's OK to change 15 ordinances in pieces. 16 Councilor Lund brought up the public is concerned why parking is a primary use still 17 18 19 20 up for public hearing in a few weeks. 21

allowed by conditional use at Church Hill and this ordinance does not address things of that nature. Mr. Behrendt said that is addressed in the definitions, which will be coming

Councilor Grant said the ordinance includes a compliance change about childcare. Mr. Behrendt added it includes a change that allows small group net metering for solar arrays.

Chair Needell suggested councilors handle additional questions and concerns at the time of the public hearing as they agreed for the ordinance before this one.

Chair Needell MOVED to approve the first reading of the ordinance and set the public hearing. Councilor Friedrichs SECONDED the motion.

Councilor Lund had a question on item C in the ordinance, the concurring vote of three members to pass a motion on the Zoning Board of Adjustment when a quorum is four and discussion ensued about how that would work and how this item makes the town consistent with state law.

The motion PASSED on a unanimous roll call vote.

Approval of Minutes of the October 7, 2024 meeting and of the October 21, 2024 XII. meeting

Councilor Friedrichs MOVED to approve the minutes of the October 7, 2024 meeting with minor amendments. Councilor Friedman SECONDED the motion. The minutes were approved on a unanimous roll call vote.

Councilor Friedrichs said ze did not make a comment credited to zir in the October 21, 2024 meeting minutes. The comment is on Page 12, Line 37 about how limiting the number of units at 12 in a building is not really workforce housing. Discussion ensued about who had said it. Consensus was it was Chair Pro Tem Friedman, but he said he didn't make the comment, but just questioned the limit of 12 units per building.

Councilor Friedrichs said ze also did not ask about other town lands that could be sold in a discussion on Page 10, Line 7. Consensus was Councilor Grant actually made that point.

Councilor Lund MOVED to accept the minutes of the Oct. 21 meeting as amended. Councilor Bubar SECONDED the motion. The minutes were APPROVED on a unanimous hand vote.

XIII. Councilor and Town Administrator Roundtable

Chair Needell - Human Rights Commission

Chair Needell reported the commission worked on restructuring the commission membership, which was voted on earlier in this meeting. She said the commission wrote a letter in support of the improvement project at the farmhouse at Wagon Hill Farm and the outreach, accessibility and inclusivity of the project. The commission discussed Indigenous People's Day and support for the nonprofit 21 Senses, which is now included in the town's proposed budget. Next meeting is Dec. 4.

Chair Needell

Chair Needell reminded councilors about working the polls tomorrow and thanked them for volunteering.

Councilor Lund - Historic District/Heritage Commission

Councilor Lund reported the commission met on Oct. 10 and approved replacement of windows at 4 Smith Park Lane. It approved the placement of a plaque at the old brick town hall, which the commission hopes is the first in a series of plaques on buildings within the Historic District. It forwarded to the Planning Board an ordinance with a couple of minor tweaks to the HDC ordinance. One of them modifies tree removal requirements and the other deals with minor activity exempt from HDC review. The November HDC meeting has been canceled because of a lack of business so the next meeting will be Dec. 5.

Councilor Lund- Energy Committee

The November meeting of the Energy Committee has been moved to Nov. 12 to avoid meeting on the night of the election.

Councilor Ford - Land Stewardship Subcommittee

The Subcommittee has not met since the Council's last meeting. Two subcommittee members have volunteered for land stewardship of town-owned land training with Sarah Callaghan. She is doing the training as part of her new role at UNH.

Councilor Register - Agricultural Committee

Councilor Register said he hasn't attended meetings recently because they conflict with the Town Council meetings and the next one he can attend in person is Dec. 9. The committee heard the Housing Task Force presentation. It also reviewed Farm Day and deemed it successful. The committee is thankful for the community's input and participation. Next year, they will work for more town representation to help with promotion and to have booths during the event. He reiterated the committee's interest in working with the Sustainability Fellow on the Climate Action Plan. The committee's next meeting will be Nov. 18 at the police department.

Councilor Register - School Board

The School Board met Oct. 22. The new cell phone police received a lot of praise. It heard a presentation on internet crimes against children by the School Resource Officer. It talked about report cards and heard a presentation by a children's storyteller who is a junior who recently won a national competition as part of a series called Impactful Community Connections. The board is doing a building needs assessment to create a long-term capital plan. It held a budget workshop on Oct. 31. It will meet next Nov. 6.

Council Register - Strafford Regional Planning Commission

He was unable to attend its last meeting. It next meets on Nov. 15, which conflicts with the inauguration of new UNH President Elizabeth Chilton. He asked for guidance and consensus was he should attend the inauguration.

Councilor Register

He made a personal statement thanking the Town Clerk's office for all its work on the General Election, getting ready for it, registering voters and fulfilling requests for information about the election while protecting individual's private information, and facilitating normal operations while dealing with being displaced by the flooding at town hall. He praised Town Clerk Rachel Deane specifically. He also thanked all those volunteering at the polls during the General Election and reminded residents to be kind and to vote.

Councilor Burton - Conservation Commission

The commission met on Oct. 28. It heard from Sarah Callaghan and appointed her to be an alternate to the Land Stewardship Subcommittee. It reviewed an application from Riverview Court for a structure on the shoreland, but they didn't have enough information from the landowner so they will return at a future meeting. Burton said it's a complicated project and it's right on the water. The commission had a long discussion about the Wetland Shoreland Overlay District and passed it on to the Planning Board. It was not able to have their plant species and site plan regulation discussions.

Councilor Burton

Councilor Burton said he is really worried there is a national strategy to "gum up the works" in the election even down to the town level so that a candidate can deny the results of the election. He said there is something very strange about a little town like

Durham getting the requests that it has for voting information this election. He said he hopes this is not the case, but is worried.

Councilor Grant - Housing Task Force

The Housing Task Force had a discussion about putting out communication about the discussions it has had with various boards when they presented at their meetings. They heard a review of the Housing Champion Program from the state that includes grants and money for improvements in zoning to enable more housing. Councilor Grant said it would be worth reviewing at a future Town Council meeting. She said there is \$5 million allotted for the program's first year.

Councilor Bubar

Councilor Bubar said he didn't attend any meetings, but asked if anyone attends the Traffic Safety Committee meetings. Administrator Selig confirmed he does. He reported a complaint from a neighbor about getting off Old Piscataqua Road onto Route 108 and said he passed it along to the committee. He also said he would be out of town on Election Day, but should be back by 7:30 p.m. and would be available to volunteer if needed.

Councilor Friedrichs - Planning Board

Councilor Friedrichs said ze ran into Administrator Selig at the NHMA meeting and knows he attended the Housing Champion program session and that the Planning Board is anxious to hear the Town Council's and town staff's analysis of the program. Ze was unable to attend the Planning Board's workshop last week but the agenda for that included reviewing the definitions and incorporating the Town Council's thoughts on them. Ze said it was a workshop, not the Public Hearing, which ze said ze mistakenly said earlier in the meeting.

There was an early discussion about the planned unit development for developing West Edge, again not yet the public hearing. There was discussion of being in compliance with new state laws, which the Planning Board and the Town Planner said the town will be once the Town Council passes the minor amendments ordinance that was just scheduled for the Nov. 18 public hearing. On Durham Point Road, there was an adjustment of a right-of-way line with a public hearing happening on Nov. 13. The former owners of the lot made an agreement with the town of Durham in 1985 for the town to relocate a portion of that road, but it was never conveyed to the town nor was the right-of-way line moved so this corrects that issue.

Councilor Friedrichs said ze wants to state that ze has not been voting to move the Workforce Housing Overlay District forward because ze thinks that there are some tweaks needed that would make the amendment better including targeting the workforce in terms of who's eligible to live in those apartments and making sure they are affordable from a rent-plus-utilities perspective. Ze believes that the tweaks are significant enough that they would have to go back to the public hearing level so that's why ze hasn't voted for the measure to go forward either at the Town Council or at the Planning Board.

Councilor Friedrichs

Councilor Friedrichs said ze attended the local energy conference made possible by the town of Durham with Charlie Forcey, who is also a member of the Energy Committee, and heard about calls to reform the state's utility system and what would be needed to create a green energy system. There was discussion of moving to a more distributed grid where there would be more local power producers, both individuals with solar in their home but also on the municipal level, because transmission costs are going to continue to increase - that's the cost of managing the transmission lines that Eversource oversees and passes along to ratepayers. Having more localized power is one way to decrease transmission costs and make them more green. In the legislative presentation, there was discussion of small nuclear power plants and doing some privatization options within the grid. Ze also attended a session on creating green affordable housing, making them net zero or passive house projects.

Councilor Friedrichs said ze has ongoing questions about the relationship between the Durham and UNH police departments and said ze has received a lot of questions from residents who are concerned. Ze said ze has shared the questions and concerns with Administrator Selig and Chief Rene Kelly. There is concern about being excluded from the investigation of the May 1 protest arrests and about the body cam footage from the incident not being reviewed in the public record. Ze said there have been two different Right to Know requests to state police and neither has shown that Governor Sununu did direct police to Durham. Ze said there is concern about the lack of transparency and why isn't the information showing up in a Right to Know request that aligns with the official narrative that has been put out by UNH.

Chair Pro Tem Friedman - Parks and Recreation Committee

Parks and Recreation didn't meet this month. Next meeting is Nov. 26. Chair Pro Tem Friedman said the Parks and Recreation Chair Cathy Leach would soon present her report to the Town Council.

Administrator Selig

Administrator Selig confirmed he had attended the Housing Champion session at the New Hampshire Municipal Association meeting. The state has allocated funding to incentivize towns to modify zoning and put other plans in place that would qualify them as Housing Champions. Towns receiving the designation would be eligible to apply for money in two ways. One way is for every additional unit of workforce housing created, the town would be eligible to apply for a \$10,000 grant from the state that could be used in any way. The second way is to apply for money for water and wastewater improvements that make affordable housing projects possible. He said that he and Mr. Behrendt don't believe at this time the town would qualify, but said it can certainly work toward qualifying. He recommends focusing on applying next year. Deadline is mid-November of this year for the first round. He believes there'll be another round of funding appropriated next year that the town can apply for.

He thanked the Department of Public Works staff and the Integrated Waste Management Committee for their work on the changes to the solid waste ordinance, saying they did a great job in moving the project forward.

He said he met with university officials concerning the Edge at West End development to get an update on its status. He said the Board of Trustees is struggling to be comfortable with the economics and the ROI of the development. The UNH team is figuring out how to improve the ROI. He brought up the creation of a Tax Increment Finance district where the development could help fund the cost of the infrastructure needed to create the project, which brings costs down. The agreement to create the TIF would have to say ironclad that taxes would be paid on the new square footage being built. If in place, that would answer some of the questions Councilor Burton has raised about guaranteeing that Durham will receive tax revenue from the project. UNH officials are interested in working with Durham to research grants that Durham could apply for.

He thanked the Town Clerk's Office staff, the moderator, supervisors of the checklist, and all the volunteers for their work on the election. He emphasized to residents to be kind, considerate and patient at the polls on what could be a long Election Day. He said the town just wants to have a safe and fair election.

He responded to Mr. Hall's concerns in Public Comment about water projects. He said that on the Lamprey River Hard Pipe Project in 2001 to 2002, \$1,546,715 was spent on the project, displaying a slide that shows the town paid 35 percent of the cost (\$500,995) and UNH paid 65 percent of it (\$930,402). He said he doesn't know where Mr. Hall is getting the information that Durham paid more than UNH on the project, he may be confused because he believes UNH had cash in the amount of \$600,000 that it paid and so only \$300,000 was bonded, and maybe he's only looking at what was bonded.

 On the Cutter Beech Hill LLC v. Town of Durham legal case in 2017, Selig said Mr. Hall implies there was something secretive about it, but it was discussed at Town Council meeting and highlighted in the Friday Update on June 23, 2017. He invited folks to read the excerpt.

 He showed the town allocated \$250,000 in January 2018 for the \$550,000 settlement of the case, which included \$191,000 from the water capital reserve fund and \$59,000 from the water fund balance, which the Town Council approved. The town's insurer Primex covered the residual. He said the case began with a land transaction in the 1980s when the Gangwers who owned the Tin Palace wanted to buy the land in front of the restaurant to create an outdoor patio and the town wanted the use of the land where the water tank was located on land they owned so there was a swap. He said for an unknown reason either the town never received the deed or it did and it was lost and never recorded, but the town was left with trying to figure out how to resolve the issue. Since the settlement, the town has the right to the water tank. Councilor Burton concurred he was on the council then and the case was handled all above board.

On Mr. Hall's comments on the water cost sharing, Selig read from the Memorandum of Understanding between UNH and the town that the capital and operating costs of the water system will be shared using the average percentage of water usage for each 12-month period starting the following January. Councilor Bubar asked if the cost sharing formula was approved by the Town Council and Administrator Selig confirmed it was. He said the agreement was made in 2016 as a 10-year agreement. He extended the expiration of this MOU this year with President Dean before he retired to be in one-year increments. Councilor Bubar asked if it was done in an open public meeting of the Town Council and Administrator Selig confirmed it was.

He said Mr. Hall in Public Comment also referred to a time when the meters were not functioning. Administrator Selig said that it was long before he arrived in 2001 and that the problem was resolved long ago.

Councilor Friedrichs MOVED to extend the meeting by 15 minutes. Councilor Lund SECONDED the motion. The motion passed on a 7-2 hand vote. Councilors Bubar and Register voted not to extend the meeting.

XIV. New Business

Initial presentation of the Administrator's proposed FY 2024 Operating, Capital, and Special Fund Budgets and the 2024-2033 Capital Improvement Plan.

Administrator Selig introduced the three budget documents that are available for review in hard copy at the Durham Town Hall in the foyer, at the Durham Public Library, and online at the town's website at https://www.ci.durham.nh.us/.

 The documents are the 2025 Operating Budget

(https://www.ci.durham.nh.us/businessoffice/proposed-2025-operating-budget), the 2025-2034 Capital Improvement Plan

(https://www.ci.durham.nh.us/businessoffice/proposed-2025-2034-capital-improvements-program) and the supplemental Proposed Budget Information Booklet (https://www.ci.durham.nh.us/businessoffice/proposed-2025-budget-information-booklet).

Administrator Selig gave an overview of the information the 2025 Operating Budget document contains, highlighting the following:

He recommended the Table of Contents as a great guide and resource to find what you're looking for.

Page 1: The Administrator's budget letter, which summarizes what the proposed budget includes.

Page 8: A bird's-eye view comparison of the changes between the town's 2024 budget and the proposed 2025 budget by department.

1 2	Page 10: An organization chart of those employed by the town.
3 4	Page 11: More detail on employees by department from 2014 to the present.
5 6	Administrator Selig pointed out that there are no new positions in the proposed 2025 budget.
7 8 9	Page 14: An inventory of vehicles the town has owned from 2010 to 2024.
10 11 12	He said it shows the town owns 72 vehicles in 2024, one more than last year, because a new all-terrain Ranger was donated to the town for the Fire Department.
13 14 15	Page 17: A fiscal forecast that shows actual expenditures and actual revenues, past tax rates and then what's being proposed and what the town is projecting going forward.
16 17 18	He noted one uncertainty in the forecast is three collective bargaining agreements expire at the end of 2025 so that will have an unknown effect on the 2026 budget.
19 20	Page 20: Proposed debt schedule for the General Fund
21 22 23	Page 22: Town Administrators estimated revenues for 2025. These are updated as better data becomes available.
24 25 26	Page 36: The letters from department heads with their requests for the 2025 budget. He noted the requests are not what he is recommending, and there is an explanation of what he didn't include in his recommended budget and why.
27 28 29	Page 140: Fiscal Forecast for the Water Fund
30 31	Page 152: Fiscal Forecast for the Wastewater Fund
32 33	Page 167: Fiscal Forecast for the Parking Fund
34 35 36	Page 171: Fiscal Forecast for the Capital Fund (lists all items in the Capital Improvement Fund for 2025)
37 38	Page 183: Library Fund (the town handles the library as a separate fund)
39 40 41	In the second document, the 2025-2034 Capital Improvement Plan, Administrator Selig highlighted:
42 43 44 45	He said the plan is for items that cost \$10,000 or more and have a lifespan of five or more years. The plan looks out 10 years. The town charter only requires looking out six years, but he feels that's not long enough. He said each item in the CIP has a separate page with that item's details and financing plan.
46	

1 2 3	Page 14: The financing plan for Tanker 4 for the Fire Department. Administrator Selig explained the town and the University of New Hampshire fund the fire department equally, on a 50-50 cost sharing plan.
4 5 6	Councilor Ford questioned if UNH has to approve the purchase. Administrator Selig explained per a Memorandum of Understanding with UNH, the town provides a
7 8	courtesy consultation to UNH officials and they have an opportunity to provide feedback. Once the item is approved by the Town Council, UNH is required to pay its
9	share. If UNH has a concern about something, they discuss it and there is a lot of
10	advance notice and no surprises. Once the budget is approved, if the town wants to
11	modify and increase it, it can only be within a certain percentage or the town would
12	have to go back to UNH to make sure they agree.
13	
14	Administrator Selig explained the third document, the Proposed Budget Information
15	Booklet, is designed to capture the answers to residents' questions before they are asked.
16	He highlighted the following:
17	
18	Page 3: An explanation of how the tax rate is set.
19	
20	Page 4: A history of the Durham tax rate from 2011 to 2024
21	
22	He noted the tax rate was kept the same in 2024 as it was in 2023.
23	
24	Page 5: A history of the water and wastewater rates
25	
26	Page 6: The allocation of shared costs of the water and wastewater rates
27	
28	Page 11: A list of the town's fixed costs
29	
30	Page 12: Personnel costs, full-time, part-time and overtime
31	
32	Page 13: A breakout of the Police, Fire and Public Works departments' full-time, part-
33	time and overtime costs
34	
35	Page 14: Health and dental insurance costs for the town's personnel
36	
37	Page 15: Retirement costs for the town's personnel
38	
39	Page 19: A debt summary for the General Fund.
40	
41	He noted the town is using 13 percent of its allowable debt capacity and is not
42	overextended on debt.
43	
44	Chair Needell gave a warning that the meeting extension will be up in 2 minutes.
45	
46	Page 23: Debt summary for water fund.

1		
2		Page 27: Debt summary for wastewater fund.
3		
4		Page 39: Outside agency requests to be included in the town's budget.
5		
6		Page 109: He highlighted the request from 21 Senses, a non-profit which provides
7		quiet zones during recreational programming. It has been providing this service to
8		Durham using it as a beta site during town events and programs free of charge for
9		several years. Administrator Selig has recommended the town fund their request for
10		funding in 2025
11		
12		Councilor Register acknowledged to Chair Needell that his concerns about
13		getting through tonight's agenda were unfounded.
14	****	
15	XV.	Nonpublic Session (if required) - Not required.
16	****	
17	XVI.	Extended Councilor and Town Administrator Roundtable (if required) - Not
18		required
19	***	A M. CANTELLO AO DIA
20	XVII.	Adjourn (NLT 10:30 PM)
21		
22		Councilor Lund MOVES to adjourn the meeting. Councilor Ford SECONDS the
23		motion, which passes on a unanimous hand vote.
24		TI
25		The meeting is adjourned at 10:48 PM
26		
27	- Jane	Murphy, Minutes Taker