

1 **DRAFT**
2 **DURHAM TOWN COUNCIL**
3 **MONDAY, FEBRUARY 3, 2025**
4 **DURHAM TOWN HALL - COUNCIL CHAMBERS**
5 **7:00 PM**
6

7 **MEMBERS PRESENT:** Chair Sally Needell, Chair Pro Tem Joseph Friedman, Councilor
8 Wayne Burton, Councilor Eric Lund, Councilor Darrell Ford, Councilor Curtis Register,
9 Councilor Heather Grant, Councilor James Bubar and Councilor Emily Friedrichs (who uses the
10 pronouns ze/zir/zirs/zirself and the title Mx. Friedrichs).
11

12 **MEMBERS ABSENT:** None
13

14 **OTHERS PRESENT:** Administrator Todd Selig, Planning Board Chairman Paul Rasmussen,
15 Business Manager Gail Jablonski, State Rep. for District 20 Allan Howland
16

17 **I. Call to Order**

18 Chair Needell called the meeting to order at 7:07 P.M.
19

20 **II. Town Council grants permission for fewer than a majority of Councilors to**
21 **participate remotely - Not needed.**
22

23 **III. Roll Call of Members**

24 Councilor Heather Grant, Councilor James Bubar, Councilor Emily Friedrichs, Chair
25 Sally Needell, Chair Pro Tem Joseph Friedman, Councilor Wayne Burton, Councilor Eric
26 Lund, Councilor Darrell Ford and Councilor Curtis Register.
27

28 **IV. Approval of Agenda**

29 In response to Chair Needell's request for any changes to the meeting's agenda,
30 Councilor Lund noted there is a discrepancy in a roll call vote in the minutes of one of the
31 Non-Public Sessions from 2009, which are being unsealed at this meeting. He
32 recommended the Council vote to correct those minutes after accepting the Unanimous
33 Consent Agenda, in which the minutes will be unsealed. Chair Needell agreed.
34

35 *Chair Needell MOVED to adopt the agenda as amended. Councilor Register*
36 *SECONDED the motion. The motion PASSED on a unanimous 9-0 vote by a show of*
37 *hands.*
38

39 **V. Special Announcements - None**
40

41 **VI. Public Comments**
42

1 **Paul Rasmussen, 5 Glassford Lane**, praised the efforts of Ellie Lonske, a resident who
2 picks up litter downtown. He said he has seen her working at 8 a.m. in 20-degree weather
3 picking up litter. He thanked her for her longtime efforts.
4

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

6 **UNH student Abigail Bagley**, the External Affairs Chair for the student body president
7 at UNH, said she is glad to be back for her last semester at UNH after the holiday break.
8 She said the Student Senate is busy planning activities and scheduling meetings with
9 individuals to speak before the Senate. She invited any member of the Town Council to
10 address the Student Senate on any subject. She asked those interested to contact her. She
11 said there will be a Master Plan forum for Student Senate and students again in March.
12 She said the Senate’s Community Development Campus Structures Chairs are working
13 on trash cans and invited the town to give input. She said she met with Dean of Students
14 Michael Blackman on the proposed House bill that will affect student housing. She said
15 she also met with Administrator Selig to learn about the ordinance being considered at
16 this meeting and the general history about off-campus student housing. She encouraged
17 the Council to schedule a public hearing on this ordinance so students’ voices can be
18 heard. She said the Senate appreciates the work by the town and the fire chief to represent
19 the student body’s interests in the town.
20

21 Administrator Selig asked how her debate went. Ms. Bagley said she is a member of the
22 Mock Trial Team who competed at regionals at Boston College this past weekend. She
23 said the team didn’t make it past the regional round, but it was a fun and good
24 experience.
25

26 Chair Needell said the Council always has a Public Hearing on ordinances so there will
27 be one. She asked if Ms. Bagley thought students would come to the Public Hearing to
28 speak. Ms. Bagley said yes and that she’s researching the Student Senate’s response to
29 the bill and the ordinance.
30

31 Councilor Friedrichs asked if the revised ordinance ze has submitted could be put online.
32 Administrator Selig said yes and that it is available on paper at this meeting.
33

34 **VIII. Unanimous Consent Agenda**

- 35 A. Shall the Town Council approve the 1st 2025 Warrant billing computed from the 4th
36 Quarter Water and Sewer readings of 2024 totaling \$758,296.36, commit the bills for
37 charges to the Tax Collector for collection, and authorize the Administrator to sign said
38 Warrant?
39 B. Shall the Town Council, upon the recommendation of the Administrator, authorize the
40 purchase of a new 2025 Zamboni model 526 ice resurfacer with 100% of purchase cost
41 being paid from the Churchill Rink fund?

- 1 C. Shall the Town Council, Upon Recommendation of the Town Assessor and
- 2 Administrator, Approve FY2022, FY2023 & FY2024 Property Tax Abatements at the
- 3 Local Level or for Outstanding Appeals Before the Board of Tax and Land Appeals
- 4 (BTLA) Totaling \$46,597.81?
- 5 D. Shall the Town Council Approve **Resolution #2025-01** Recognizing the 101st
- 6 Anniversary of the UNH Theatre and Dance Program?
- 7 E. Shall the Town Council unseal the Nonpublic Session minutes from the year 2009 dated
- 8 March 16 and December 21; and from the year 2010 dated February 15 and April 5?

9
10 ***Chair Needell MOVES that the Town Council approve the Unanimous Consent***

11 ***Agenda. Councilor Friedrichs SECONDS the motion. The motion PASSED on a***

12 ***unanimous 9-0 roll call vote.***

13
14 Councilor Lund said in the minutes of the Non-Public Session on Dec. 21, 2009, the roll

15 call vote to go back to Public Session is recorded incorrectly. The minutes should show

16 that the motion to go back to Public Session PASSED on a 6-0 roll call vote. The minutes

17 show roll call votes from eight councilors, which is inconsistent with the recorded

18 attendance. He recommended the vote from the two Councilors not present should be

19 stricken from the minutes. Administrator Selig, who is the only person present who was

20 at that meeting, said Councilor Lund is correct.

21
22 ***Councilor Lund MOVES that the Council correct the minutes from the Non-Public***

23 ***Session on Dec. 21, 2009, which are being unsealed, to correct the roll call vote to the***

24 ***Councilors who were actually present. Chair Needell SECONDS the motion. The***

25 ***motion PASSES on a hand vote of 8-1 with Councilor Ford opposing.***

26
27 Chair Needell notes she is not the Councilor Needell in the minutes; Council Lund

28 confirmed that it was her husband who was on the Town Council in 2009.

29
30 **IX. Committee Appointments - None**

31
32 **X. Presentation Items**

33
34 **End of Year Financial Report through December 31, 2024 – Gail Jablonski, Business**

35 **Manager**

36
37 Business Manager Gail Jablonski said the town's 2024 revenue came in on target. For

38 expenses, she said 96 percent of expenditures for the year have been paid as of January

39 and there should be a \$500,000 to \$600,000 surplus. She said auditors will be at the town

40 this week, and the final audit will be done in March.

41
42 The other funds - water, sewer, parking depot, rink and library - all came in very well.

43 Parking Depot revenues were up a little bit, which means the town was able to transfer a

1 little more into the General Fund, which helped with its revenues, she said. She invited
2 questions from Councilors.

3 Chair Needell asked about the Department of Public Works sanitation solid waste
4 management spending more money than budgeted and if that was overtime. Ms.
5 Jablonski confirmed it was.
6

7 Chair Pro Tem Friedman asked about parking impact fees and what the fee is. Ms.
8 Jablonski said the fees are assigned at the Planning Board when a project is approved.
9 She estimated it at about \$3,300. Administrator Selig added they are based on the number
10 of units in a project. Councilor Lund explained that the entry is 0 because no projects
11 were approved in 2024 that required a parking impact fee. Chair Pro Tem Friedman
12 asked about the amount of the parking impact fee and the school impact fee. Ms.
13 Jablonski said she believes it is \$3,699 each respectively, depending on the size of the
14 project. There was discussion that the required parking minimum was reduced in the
15 workforce housing overlay, but the fee was not changed. Councilor Friedrichs said the
16 parking impact fee applies to commercial and residential projects if it cannot provide the
17 minimum required parking spaces, the developer must pay a one-time fee, which is listed
18 in the master fee schedule and should be reviewed on an annual basis.
19

20 Chair Pro Tem Friedman questioned how revenue and expenses that are greater than
21 expected are shown as a negative, and when they're less than expected, they are shown as
22 a negative, and that seems counter-intuitive. Ms. Jablonski said that is something she will
23 change going forward.
24

25 Councilor Grant asked about the positive impact of investment income for 2024 and what
26 the amount was. Ms. Jablonski replied the town has two accounts: a checking account
27 and an investment account with a higher interest rate. She said the town receives monthly
28 investment income and said it was about \$70,000 and \$80,000 for the year. She said she
29 will provide that information for Councilors.
30

31 Chair Pro Tem Friedman asked about abatements and Ms. Jablonski said the town set
32 \$485,000 and only gave out \$126,000 so was under budget \$358,000 for 2024. She
33 explained that was the money that was set aside for the Eversource abatements, which
34 were reallocated this year.
35

36 Chair Pro Tem Friedman asked what the departmental income is and Ms. Jablonski said
37 that's income for Parks and Rec, the Police Department, Fire Department from things like
38 permit fees. It was significantly over budget and that was due to Parks and Rec bringing
39 in more fees from additional programming it offered this year, she explained.
40

41 Council Lund recalled that the Council discussed this extensively during budget sessions
42 that Parks and Rec income and expenses were both substantially over budget. Councilor
43 Grant pointed out that the second year of operation of the Parks and Rec programs should
44 be more stable and give a better picture of what to predict than this first year.
45 Administrator Selig said the hope is this second year will give a better baseline for
46 budgeting.

1
2 Councilor Friedrichs clarified that the parking impact fee is \$1,500, which ze was able to
3 find online during the meeting. Councilor Lund said he was uncertain if that one-time fee
4 is paid when you propose a project or when you build a project. He reiterated the item is
5 0 on the financial statement because no projects that required it were approved in 2024.
6

7 **XI. Councilor and Town Administrator Roundtable**

8 Chair Needell

9 Chair Needell detailed several items of meeting decorum that she wants Councilors to
10 remember in order to make meetings more efficient and move discussions along faster.
11 These included waiting to be recognized by the Council Chair before speaking; after
12 speaking, letting others talk before speaking again; not repeating comments; being as
13 specific as possible; giving advance notice if you want to bring a new subject up; and
14 distinguishing if comments are as a Councilor, as a community member or as a concerned
15 resident.
16

17 Chair Needell - Human Rights Commission

18 The Human Rights Commission met last week. Discussion was on the student housing
19 ordinance, and on the state law requiring towns to use official holiday names.
20

21 Councilor Register - Agricultural Commission

22 He said the Agricultural Commission met Jan. 13 and most of the discussion was about
23 the annual Farm Day, which will be Aug. 16 this year, and how to increase participation
24 and partnerships. It also discussed the backyard garden program and collaboration with
25 IWMAC on how to make composting more accessible. He said the commission is
26 continuing to develop a survey for residents and has expanded the scope. He said there is
27 a new tab on the commission's website for locating local farms. The next meeting is Feb.
28 10 at 7 p.m.
29

30 Councilor Register - School Board

31 The School Board met Jan. 22 in a joint meeting with the Barrington School Board,
32 which he said praised Oyster River schools. He said the school deliberative session is
33 Feb. 4. Next meeting of the school board is Feb. 5 at 7 p.m. at the Morse Recital Hall at
34 ORMS.
35

36 Chair Needell asked if the Agricultural Commission survey could include a question
37 about composting, asking if residents are composting or not, in their back yard or using a
38 service like Mr. Fox, or if they drop it off at the composting collection at the transfer
39 station. Councilor Register said it could.
40

41 Councilor Ford - Land Stewardship Subcommittee

1 He said the Subcommittee met in January and mostly discussed improvements to the
2 Oyster River Forest Trail, which are extensive. He offered to give an update individually
3 to anyone who wanted one. He said Land Stewardship Coordinator Veronique Ludington
4 is getting acclimated to her new position. He said the next meeting is Feb. 12 at 8:30 a.m.

5
6 Chair Sally Needell asked if there was any mention of when Ms. Ludington would meet
7 with the volunteer Trail Stewards. Councilor Ford said UNH Extension's Community
8 Conservation Field Specialist Sara Callaghan was planning a Trail Steward training soon.

9
10 Councilor Lund - Historic District/Heritage Commission

11 He said the Commission didn't meet in January and will next meet Feb. 13 because Town
12 Planner Michael Behrendt is recovering from surgery and will be back at that time.

13
14 Councilor Lund - Energy Committee

15 He said the Committee did not meet in January. He said the grant from NHDOT for two
16 EV charging stations is on hold due to President Trump's Executive Order freezing
17 federal expenditures. The committee is keeping an eye on the grant. Councilor Register
18 asked if that would cancel the contract. Councilor Lund said the town would not purchase
19 them unless the grant is in place to fund it.

20
21 Chair Pro Tem Friedman said the Community Power Coalition of NH has set a rate
22 higher than Eversource for the next six-month rate period and that is not what they sold
23 the town on. He said they said they would always be lower than Eversource and in just
24 three years, they are more expensive. He asked if the Energy Committee would be talking
25 about that and making any recommendations. Councilor Lund said the issue would be on
26 the agenda of the next Committee meeting, which is Feb. 4. Councilor Friedrichs said
27 that over the last two years, CPCNH has offered substantial savings over Eversource. Ze
28 said it's important to look at it over time, not just at one six-month period. Ze said the
29 increase is being questioned. Chair Pro Tem Friedman said Eversource has put pressure
30 on CPCNH by intentionally offering lower rates. Councilor Lund said there are rumors
31 about CPCNH's financial viability and said they are false. Constellation New Energy
32 may be CPCNH's new financial partner because it is buying Cal Pine.

33
34 Councilor Burton - Conservation Commission

35 Councilor Burton, who is also a NH state representative, said he missed the Conservation
36 Commission meeting because he had conflicts in the Legislature.

37
38 Councilor Burton

39 In a legislative update, he said he is on the Education Financial Committee and it is trying
40 to find relief for towns being hit with high special education costs. They will be voting on

1 legislation starting Feb. 4. He said the county delegation visited the county jail and
2 nursing home, and both facilities are in tough shape. Councilor Burton has been
3 appointed to the Higher Education Study Committee for the state, which is trying to
4 integrate the university and community college system around workforce development.

5
6 He said the Conval school funding lawsuit, which includes Durham because it is a
7 recipient town, is waiting for the superior court judge in Exeter to make a judgment. This
8 affects the OR school district's ability to budget, he said. He explained some of the
9 lawsuit's history and state school funding process.

10
11 Chair Pro Tem Friedman - Parks and Recreation Committee

12 The Committee met last Tuesday and discussed the parks study of Jackson's Landing and
13 Woodridge Park, which is ongoing and scheduled to be delivered this spring. It also
14 talked about the renovation of the Churchill Rink, noting the plan is more developed now
15 and the committee hopes to get pricing soon. They also talked about goals for 2025 and
16 welcomed a new member Chris Gowan so the committee is at full membership. There is
17 still an alternate seat open. He said the Friday Update is effective in finding new
18 members because that's where Mr. Gowan learned about the opportunity.

19
20 Chair Pro Tem Friedman - Seacoast Economic Development Stakeholders

21 He said SEDC had its monthly meeting on Jan. 25 and there was a presentation by New
22 Hampshire Environmental Services about wetlands and wetlands approvals. Town
23 representatives reported on development projects in their towns. Councilor Friedman
24 mentioned the attainable housing overlay zone implemented in December and the West
25 Edge project moving forward. The state Business and Economic Affairs office contacted
26 him after the meeting to learn about what Durham is doing about housing to report to the
27 Commissioner and the Governor.

28
29 Councilor Friedrichs

30 Ze noted that rebates and tax credits for energy improvements to homes are still available
31 and not affected by the freeze on federal funds. There is information on the IRS website
32 if anyone is trying to do their taxes.

33
34 Councilor Friedrichs - Planning Board

35 Ze said the three projects the board has been working on are the Dunkin' Donuts at
36 3 Dover Road, its preliminary design review and the focus has been on the traffic pattern;
37 Riverwoods Phase 2, which includes two multi-unit housing buildings, a clubhouse and a
38 garage. Ze said there was some discussion of a swap or sale of town land to smooth out a
39 curve in the road there and also to determine where buildable land is because there are a
40 lot of wetlands on the site. The Planning Board is determining which wetlands are more

1 valuable and pristine because they haven't been compromised yet, and developing
2 setbacks that will be needed. Ze said they are being careful because the wetlands there
3 feed the area's tidal waters. Ze said there was a discussion about creating a sidewalk
4 between DPW and Riverwoods. Ze said ze is not in favor of that because ze believes it
5 would be little used and would be expensive to maintain. The third topic the board has
6 been discussing is the Planned Unit Development (PUD) ordinance.

7
8 Councilor Friedrichs

9 Ze wanted to bring up for discussion the University's report on the May 1 protest and the
10 response by UNH and State Police. Ze said it is important to discuss how the Town
11 Council can support accountability as well as de-escalation in the future. Ze asked
12 Administrator Selig to address the report at this or a future meeting especially the request
13 for the Durham Police Department to solicit a thorough investigation into conduct and
14 statements and the UNH Working Group's concern that the oversight of the UNH Police
15 Department is unclear. Ze asked for a summary of the meeting between Administrator
16 Selig, Police Chief Rene Kelley and UNH President Elizabeth Chilton. Ze also said the
17 standout point of that report for zir was the need to repair relationships. Ze said that's
18 what the community has really been feeling since the protest and arrests. Ze invited the
19 Councilors to share their thoughts on whether this merits further discussion.

20
21 Councilor Burton said a bill was filed in his committee to have the Legislature write the
22 due process for UNH and he feels it's scary because you don't want the Legislature
23 writing the policies inside the University. He said the relationship of the UNH Police
24 Department to the town and the University was discussed as unclear at the House
25 Education Committee.

26
27 Councilor Register said he doesn't know if it's worth more discussion because of the
28 town's resolution in the matter. He is concerned that UNH doesn't understand who
29 oversees the UNH Police Department. He thinks relationship repair and commitment to
30 de-escalation and community policing are important as direction to the UNH police, but
31 he doesn't think there's more for the Council to do.

32
33 Councilor Burton complimented the testimony Councilor Register, who was representing
34 himself as a resident, gave recently before the Education Committee of the Legislature.

35
36 Councilor Bubar - Integrated Waste Management Advisory Committee

37 He said the committee had a Zoom call with the Brattleboro, Vt., Composting Program.
38 He said he took away that if you want to improve composting, you have to go pay-as-
39 you-throw and it will increase 50 to 100 percent, and potentially increase the amount of

1 reuse, recycle, repair and repurpose also. Next meeting is Feb. 4.

2
3 Councilor Bubar - Zoning Board of Adjustment

4 He said he believes the ZBA will meet next week after not meeting for months.

5
6 Councilor Friedrichs said Exeter and Newmarket and other surrounding communities do
7 pay-as-you-throw and wondered if they have composting programs. Councilor Bubar said
8 he didn't know, but committee member Mike Pazdon has been leading the effort so he
9 may know. There was discussion about how expensive composting programs are and
10 what future savings may be. Councilor Register said he has heard IWMAC will be asking
11 the Councilors to compost themselves.

12
13 Councilor Grant - Housing Task Force

14 She said the Housing Task Force met Jan. 13 and heard from Mimi Kell, who is the
15 Community Manager at Madbury Commons, who said they are reducing density per
16 room, converting to singles, because upperclassmen want privacy. She said it is at 70
17 percent occupancy for next school year, normally they would be at 90 percent in January.
18 Once they reach their student occupancy, she said they then market to regular renters.
19 She said regular renters don't want to rent in student housing. She said there may be a
20 time in the future when they designate a whole property as regular rentals; separate from
21 student properties. They are challenged with mixing the two because they don't allow
22 pets or offer other things a traditional renter would want. Councilor Grant said they book
23 parking spaces separate from apartments. She said they earn 50 percent less on traditional
24 renters than they do on students. Councilor Grant said State Rep. Allan Howland also
25 gave an update of the bill in the Legislature to the task force. She said the rest of the
26 meeting was about the Downtown Zoning Subcommittee and a discussion of
27 conservation subdivisions and bringing more density into them.

28
29 Councilor Grant said the Downtown Zoning Subcommittee did meet and there was
30 discussion of RSA 79-E that comes to the Council the first meeting in March; allowing
31 mixed-use residential in the Professional Office, Churchill and Courthouse districts;
32 separating the Central Business District into Central Business 1 and Central Business 2 to
33 put benefits into the zoning of Main Street businesses and separate the Mill Plaza and
34 buffer zone; and the height limit. She said there are a lot of challenges in the capacity of
35 the housing boards to work on so many fronts and she suggested one or two people focus
36 on the downtown points and put them into a single document that would come out of the
37 Town Council to speed things up.

38
39 Councilor Lund commented that separately booking the parking spaces from the
40 apartments is fairly common in other locations.

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Administrator Selig

He said CPCNH will most certainly be discussed at the Energy Committee on Feb. 4 and he said Councilor Friedrichs is correct, it is important to take the long view, and CPCNH has had lower prices all along and has actually driven down the market overall. He said consumers can switch back to Eversource for a cycle if they don't like the CPCNH price and then switch again later.

He reported that UNH is about to begin reviewing the RFPs for the West Edge project. He said Chair Pro Tem Friedman is working with him on this and will attend a gear-up meeting next week. Then they will hear presentations from the applicants and decide which firm is the best fit for UNH and Durham.

He reported the Climate Action Plan is slowly coming together and another draft is under review.

He said the Durham Police Department is struggling with turnover. When Deputy Chief David Holmstock retires in July, Capt. Jack Dawson will be promoted to that position, Chief Rene Kelly announced, and Detective Sgt. John Lavoie will be promoted to the Captain position. He noted both Jack and John are Durham residents. He remarked they are both good people and the Police Department has a strong bench. He said one officer has left to go to Portsmouth, another will go to Londonderry, another is in military training, and two will be going out on parental leave, so the PD will be going to 12-hour shifts beginning in March. Administrator Selig said this is really hard on the staff, but they have been positive about it and stepping up to make sure shifts are covered, which he said is admirable and the town really appreciates it.

Dominion Voting/LHS has notified the town that the new voting machines have been approved by the Secretary of State's Office and they will begin taking orders soon. The town is ordering two machines and the school district is ordering one, but the town won't have them in time for the Town Election in March.

House Bill 457, which will strike down the town's no more than three unrelated longtime zoning in town, is scheduled for a public hearing before the Housing Committee on Feb. 18 at 1 p.m. The town will have a contingent there, he said. Councilor Register asked if it would help to have a Council representative at the hearing. Administrator Selig welcomed the idea and said the town is coordinating with State Rep. Allan Howland, who is presenting an amendment to the bill, so the town will comment on the bill as well as the amendment. Councilor Register said he can do it, but would prefer to speak on behalf of the Town Council. Administrator Selig said the town would prefer to keep the statute

1 as is where the town has local authority, but, if there is going to be a change, he said the
2 town would prefer to do it as Rep. Howland's amendment lays out.

3
4 Councilor Burton proposed a resolution be created and issued by the Town Council.
5 Administrator Selig said he could pull something together and have the Council act on it
6 at the Feb. 17th meeting. He said Code Enforcement Officer Audrey Cline and town Fire
7 Marshal Brendan O'Sullivan will also attend the hearing on behalf of the town.

8
9 Administrator Selig pointed out the town has been highlighting volunteers in the Friday
10 Updates to interest other residents in volunteering for a board or committee.

11
12 He said he is taking a class at the Kennedy School at Harvard via Zoom called, "Leading
13 Through The Changing Media Landscape," Mondays, Wednesdays and Fridays this week
14 and next from 8 a.m. to 1 p.m. so he is in his office, but on the call at those times.

15
16 Selig said the sidewalk at Riverwoods was proposed because residents regularly use
17 Stone Quarry Drive to access the wooded trails across the street which puts them and
18 their pets in the roadway with DPW heavy equipment and trucks. He said DPW has
19 expressed concerns. Discussion continued on the trails at the site and the sidewalk.
20 Administrator Selig said his understanding is the sidewalk would be on Riverwoods land
21 and be maintained by Riverwoods, not the town. Councilor Friedrichs asked if the
22 sidewalk was deeded to the town would it come before the Town Council and he said if it
23 was an easement or something like that that the town would have to maintain, it would
24 probably have to be considered by the Town Council because of the tax implications of
25 its maintenance.

26
27 At the Trail Stewards meeting, he said he is meeting with Ms. Ludington and will bring it
28 to her. He said she is doing a great job in getting up to speed in her new position.

29
30 He said the Durham Historic Association has contacted the town to let it know it has a lot
31 of historical artifacts stored in the barn at Wagon Hill Farm that will need to be moved
32 before renovation begins there. DHA asked if it could store things in the attic at the
33 farmhouse so the town needs to look at options. He said he would ask them for an
34 inventory of the items before moving them. Councilor Register suggested a photo
35 inventory would be a good idea.

36
37 Administrator Selig reminded residents that the Oyster River School Deliberative Session
38 is Feb. 4 at 7 p.m. at the Morse Recital Hall at the Oyster River Middle School. He said
39 the school process is different from the town process. He said the deliberative session is

1 where things are discussed and voted on, and determines what's on the ballot at the
2 annual School Meeting on the second Tuesday of March.

3
4 He said he's gotten a lot of positive response to the radar sign on Canney Road, which
5 helps slow down drivers by showing them their speed.

6
7 In regard to the UNH Working Group's report about the May 1 protest, he said he and
8 Police Chief Rene Kelley did meet with UNH President Elizabeth Chilton and her staff,
9 and expressed some concerns and observations about the report because he said they felt
10 there were some pretty stark inaccuracies. He said it was a good conversation and laid a
11 framework to move forward. He said President Chilton did have some ideas for
12 modifying the Memorandum of Understanding moving forward to make it really explicit
13 that the UNH president does have authority over the UNH Police Department. She is
14 going to evaluate if any external review would be beneficial and he said it is definitely
15 not something the DPD would participate in or order. Selig said he does not see value in
16 it, but it is up to the UNH President. He then read an unsolicited letter from former
17 Durham Police Chief Dave Kurz about the history of the relationship with the UNH
18 Police Department over the past couple decades.

19
20 Councilor Burton said when he was president of a university with its own police
21 department, he didn't arm them. He said the culture of a college is different from the
22 culture of society as a whole. He said it was better to separate the college police from the
23 municipal police, but call them in when needed. He recalled his experiences of a night he
24 rode along with the Durham Police Department and how they interacted with students..

25 26 **XII. Unfinished Business**

- 27
28 A. Continue Discussion and Finalization of Administrator's Annual Performance Evaluation
29 for 2024 in Accordance With the Employment Agreement Between the Administrator and
30 the Town of Durham.

31
32 Chair Needell thanked Councilors for submitting their evaluations of Administrator Selig
33 to her. She said numerical averages were used to give Selig a score in each category and
34 to give him an overall score. She acknowledged the subjectiveness of the process, and said
35 values ranged from 1.5, where 1 is unacceptable, up to 5, which is excellent. She said
36 Todd's relationship with councilors, businesses, UNH, department heads, committee,
37 boards and citizens, earned the highest average of 4.6 out of 5; financial oversight, 4.3;
38 leadership and initiative, 4.4; other, 4.2; overall average was 4.4. She said a common
39 concern was the time and energy demands on Administrator Selig, some desired more
40 information about the budget process, and another concern was his advisory role of
41 entities that operate independently of the town.
42

1 Administrator Selig responded saying he works for all nine of the Councilors, and that
2 those nine change and evolve as do the challenges. He said he's not perfect, but he tries
3 very hard to meet the Council's needs and serve the town to the best of his abilities. He
4 said he feels this year's evaluation process was helpful. He said it was a difficult budget
5 year, that while he can control to a certain extent the town's costs, he has little control
6 over what the revenue will be, and that makes meeting the Council's budget goal
7 challenging. He said an area where his score was lower this year was bringing in the
8 budget at goal. He said he did what he thought was right, bringing to the Council a budget
9 that meets the needs of the town as opposed to a budget that meets the goal but wouldn't
10 serve the town's needs. He said he appreciates the council's willingness to engage with
11 him on it.

12
13 B. Continued discussion of the present composition of Downtown Durham.

14
15 Chair Pro Tem Friedman said in regard to the budget discussion, he reminded everyone
16 that the Council had decided to use the unassigned fund balance, and that Administrator
17 Selig had warned it is not something to do every year, because eventually you won't have
18 any fund balance if you do. Chair Pro Tem Friedman said part of the discussion of the
19 downtown is it is an area where the town could earn more revenue by having more
20 commercial development. There are not a lot of plans on the books for 2025, but the town
21 in 2025 has an opportunity to change some things that would encourage investment and
22 development downtown. He said the town's expenses continue to go up so to continue to
23 cover those, the town's revenue has to go up, too.

24
25 He asked Councilor Grant to give her perspective as a councilor and also a member of the
26 Planning Board. She said there are several ideas that have been developing at the Planning
27 Board's subcommittees. She said many buildings and businesses downtown are for sale,
28 offering the chance for new development. She said raising the height limit downtown
29 would allow for more multi-housing options. She said addressing RSA 79-E is important.
30 She said the Council needs to move forward with some changes that might be
31 uncomfortable, but are necessary to create excitement around developing downtown. She
32 said the town needs to look not just at the Central Business zone, but what's around it and
33 make changes in those zones also. She suggested forming a small group to work on these
34 zoning changes.

35
36 Chair Pro Tem Friedman said creating a Town Council directive has happened before and
37 it would still go to the Planning Board, but with some direction from the Council such as
38 looking at the three-story height limit, at allowing more housing downtown, and at
39 splitting the Central Business District in two, one encompassing Main Street and one
40 encompassing the Mill Plaza and Campus Crossing area. He said the small group on the
41 Council would compose the suggestions, which would then go to the Planning Board for
42 its comments, and then come back to the Council for a vote.

43
44 Councilor Lund suggested expanding where multi-use developments can go in the
45 Professional Office zone, for example, with housing above doctors' and lawyers' offices.
46 He said expanding in Church Hill would be a good fit. Though much of this district is in

1 the Historic District, the practice of having a business on the first floor and the owners
2 living upstairs is historical, he said. He believes the Council should also look at
3 diversifying the town's housing stock overall. He said the town needs to have people
4 living and working downtown to sustain downtown businesses. He said he knows
5 downtown business owners complain about parking, but he doesn't think that's really the
6 issue. He observed Portsmouth and Dover both charge for parking and people still go
7 there because they have places to go. Councilor Grant added the town has to have parking
8 control or students would be parking in all the spaces downtown.

9
10 Discussion continued about businesses struggling and about businesses in the proximity of
11 St. Thomas More Catholic Church on Madbury Road not being able to get a liquor
12 license. Administrator Selig confirmed that is no longer the case at all. He gave the history
13 of how the town rule changed about 20 years ago.

14
15 Councilor Friedrichs suggested removing the uncertainty from downtown zoning, making
16 uses either prohibited or permitted, and moving the current conditional use questions into
17 requirements for permitted uses. Ze also suggested creating more events to draw more
18 people downtown in the summer such as closing down part of Main Street when traffic is
19 light for more seating area for music or for festivals. Ze gave the example of Exeter's arts
20 and music festivals where they really encourage attendees to patronize downtown
21 businesses by not providing food or drink or ice cream. Ze also said in Exeter the
22 Farmer's Market is very visible, and noted Durham's is somewhat hidden and suggested
23 moving it to somewhere more visible like the Mill Plaza.

24
25 Councilor Burton said with half of downtown for sale, that may drive what the Council
26 does because offers are going to be contingent upon zoning changes. Discussion around if
27 buyers have flexibility they might be more likely to buy a property downtown and which
28 comes first. Chair Pro Tem Friedman said the town needs to set up a framework with a
29 higher height limit, mixed use and fixing the uncertainty of all the conditional uses.

30
31 Councilor Register suggested consulting with Newmarket and Exeter to try to figure out
32 what challenges they faced and what worked for them.

33
34 Administrator Selig said one important characteristic of a successful downtown is having
35 a non-college population with expendable income living above the buildings downtown
36 who can patronize the businesses below. He said it's just too quiet in summer and makes it
37 tough for the businesses.

38
39 Discussion continued on the downtown revitalization being the most important issue
40 facing the town over the next five years, and different possibilities for the town-owned
41 parcels. Chair Pro Tem Friedman invited councilors who want to work on this in a smaller
42 group to contact him.

43
44 **XIII. Approval of Minutes - January 6, 2025**

45

1 ***Chair Pro Tem Friedman MOVED to approve the minutes of the January 6, 2025***
2 ***Town Council Meeting subject to minor corrections. Councilor Register SECONDED***
3 ***the motion. The motion PASSED on a hand vote of 8-0 with Councilor Friedrichs***
4 ***abstaining because she was not present at the meeting.***
5

6 **XIV. New Business**
7

8 **A. First Reading on Ordinance #2025-03** Amending Chapter 175, “Zoning,” Article II,
9 “Definitions,” Article XII.1, “Use and Dimensional Standards,” and Article XX,
10 “Standards for Specific Uses,” Regarding Student Rentals and scheduling a Public
11 Hearing for Monday, February 17, 2025.
12

13 Planning Board Chair Paul Rasmussen said this ordinance is the town’s safety net if some
14 of the more drastic measures being considered in the NH Legislature go into effect. The
15 idea is to have a second rule in place that would survive the removal of family
16 relationship restrictions. This change would define housing based on the fire code rules,
17 Mr. Rasmussen said, and then creating a definition of a student housing by establishing a
18 certain threshold of undergraduate students which he believes is over four. The five or
19 more is where a lodging house comes into play so it is a student housing use, and the
20 town restricts where that use is permitted. He said the Central Business District, Church
21 Hill, Professional Office and Courthouse zones are where that use would be allowed. He
22 invited questions from Councilors.
23

24 Councilor Lund cited an email that said the town’s legal counsel said the proposed
25 change would be in conflict with what’s proposed in the Legislature and asked if
26 someone could point out the conflicts. He also asked State Rep. Allan Howland to
27 explain the amendment he is proposing.
28

29 State Rep. Al Howland said the contention made by the new legislation is that occupancy
30 is being used to discriminate. He said his amendment is trying to take away that
31 argument of discrimination. His amendment is saying occupancy is totally determined by
32 fire code. He said a town limits occupancy by fire safety, not by anything else. He said
33 uses you can limit, citing a town saying you can’t have a hotel or a duplex or a day care
34 in a certain area. He said that is clearly defined by the state in Chapter 674:16 of the
35 Local Land Use Planning and Regulatory Powers.
36

37 He said the opposition to using any familial relationship in occupancy is very strong in
38 the state Legislature. He said he is absolutely certain the three unrelated rule, which
39 Durham currently uses, will not survive.
40

41 He said adding more stringent requirements above the fire code reduces the ability to
42 build housing because it makes building it more expensive. So, the effort is to eliminate
43 discrimination, but also to make it more affordable to build housing.
44

45 He said the rationale for being able to permit certain uses in certain zones is because
46 those areas are on the UNH bus routes, but he is uncertain if that argument will work.

1
2 Discussion of how you identify who is a student followed. State Rep. Howland said the
3 state doesn't have a definition of what a student is and he is hoping to develop that on the
4 Housing Committee to be able to define student housing. He said another troubling thing
5 he's come upon in Chapter 20 of the fire code is it doesn't define bedrooms, it just says
6 how many people can be housed in a building. For high turnover buildings like student
7 housing are very transient, and the town needs to be able to register and inspect it. It was
8 discussed how the university may or may not confirm for the town who is a student,
9 needing an explanation about the town's enforcement in each specific case, and that
10 online students studying at home are not accounted for.

11
12 Durham resident Jay Gooze, 9 Meadow Road, said the new bill 457 specifically mentions
13 students, but doesn't define them. He said he feels it is a very poorly crafted bill, but
14 there's a good chance this Legislature will pass it. He said there's a lot of landlords and
15 developers on the Housing Committee and they believe a town ordinance cannot
16 discriminate on the basis of familial or non-familial occupants. He also advised the town
17 that the Housing Committee members don't want to hear anything about student behavior
18 or lifestyle so not to refer to that if anyone does attend the hearing.

19
20 Councilor Friedrichs said the town's new proposed ordinance looks at student housing as
21 a use. Ze said the reason many housing zoning ordinances across the country have relied
22 on definitions of family is because the Supreme Court restricted occupancy by family
23 status. Durham is not unique in doing this, ze said, there is a legal history to it.

24
25 There was discussion about what would happen if Durham didn't change its ordinance
26 and the Legislature passes the new bill that would not let Durham's rule stand. Some
27 thought it would allow large numbers of students to live in a single family house in a
28 residential neighborhood with no ability for the town to regulate it. It also could cause
29 developers to buy affordable single homes in town to flip to student housing, further
30 decreasing the more affordable housing stock in town. It was acknowledged that the
31 decrease in UNH enrollment and the UNH rule that sophomores must live on campus is
32 changing the student housing market and that it might not be as desirable for developers
33 to create more student housing at this point.

34
35 Councilor Friedrichs explained the amendment ze has written as a slightly different
36 version of the Planning Board's proposed ordinance. Ze based it on public comments at
37 the Planning Board Public Hearing of the ordinance and on Planning Board discussion.
38 Ze said the language of the proposed ordinance is confusing to many, and that many are
39 concerned about investors buying up affordable housing options in Durham to create
40 more student residences, and leaving the town with less housing stock for families. Ze
41 said ze added in the fire code definitions of dormitory and lodging house to limit large
42 houses with large amounts of students; and limited the student housing use to two zones,
43 instead of four as is allowed now.

44
45 A discussion ensued of whether to pass the proposed ordinance after the Public Hearing
46 at the Feb. 17th meeting to have it in place for the hearing at the Legislature's Housing

1 Committee on Feb. 18, and then revisit it later to consider changes that Councilor
2 Friedrichs and others have proposed. The timing of when the different ordinances and the
3 bill and amendment would be effective was discussed.

4
5 State Rep. Howland said he was certain the bill would go through, and he hopes his
6 amendment does, too, but he is nervous about that. Councilor Bubar said he was not
7 opposed to moving the original proposed ordinance to a Public Hearing, saying he would
8 like to hear from the public before voting. Councilor Burton said Rep. Howland's
9 amendment timing doesn't put the town under the gun to act. Councilor Lund said if the
10 amendment fails, the town is under the gun.

11
12 ***Councilor Register MOVED to extend the meeting by 15 minutes to 10:45 p.m.***
13 ***Councilor Lund SECONDED the motion. The motion PASSED on a hand vote of 6-3.***

14
15 ***Councilor Bubar MOVED to schedule the ordinance for a Public Hearing. Chair Pro***
16 ***Tem Friedman SECONDED the motion.***

17
18 Councilor Lund asked if the amendments Councilor Friedrichs is proposing would be
19 minor enough that it would not have to go back to the Planning Board. Planning Board
20 Chair Rasmussen said he sees conflicts with the town's other definitions so he would
21 definitely want to sit down and review them at the Planning Board.

22
23 Chair Needell said her only concern if the Council is not sure where it's going with the
24 ordinance or the newly proposed revision, the public might be confused about what
25 they're coming to speak about at the Public Hearing. It was confirmed the Public Hearing
26 would just be about the original ordinance change proposed by the Planning Board.

27
28 Administrator Selig noted that while the Council is trying to move the process along, the
29 town is following the same normal process as it always does. He said this time it has a
30 possibility of working with the Legislative schedule so it seems faster, but all the steps
31 are being followed. He said it seems Councilor Friedrichs' proposal is more restrictive
32 and it would zone the student housing use out of two zones where it is currently utilized,
33 which is a major change and would create legally non-conforming homes, so he would
34 want the town's code and fire staff to look over the wording. He said he thinks the
35 proposed ordinance makes sense and is defensible, and not a rush process. He said it is a
36 big change because it's changing something that's been in place for 30 years.

37
38 Councilor Friedrichs said the language of the original proposal by itself is confusing.
39 Administrator Selig asked if Councilor Friedrichs' revised ordinance proposal creates less
40 opportunity for student properties and ze concurred it is more restrictive for creation of
41 new student residences, not existing, and said maybe the town wants to be more
42 restrictive where new ones go in because it has less attainable housing. Ze said it is a
43 misconception that more students in a house bring down the cost for each student; it
44 doesn't, it just packs more students in a single family home, doesn't decrease their rent
45 and makes it harder to have workforce housing.

46

1 Mr. Gooze reiterated that if legislators see anything more restrictive in an ordinance, it's
2 dead in water. He said this feeling is being driven by landlords, a Legislature and a
3 Housing Committee that will pass the new bill, that he's not so sure the bill will pass
4 Senate, but it would be good for State Rep. Howland to have the ordinance change for the
5 hearing. Councilor Burton said the town should change the ordinance not because of
6 Howland's amendment or because of the state, but because it's good for the town and it's
7 time to change. He said Mr. Gooze would not be advocating for this if it weren't good for
8 Durham. State Rep. Howland said his committee is also considering proposed legislation
9 that would limit the town's ability to regulate parking. He said Bill 457 has a common
10 theme with other proposed bills - the common theme is to strip municipalities of their
11 ability to regulate things.

12
13 ***The motion to schedule the ordinance for a Public Hearing on Feb. 17th PASSED on***
14 ***a roll call vote of 8-1.***

15
16 ***Councilor Grant - aye; Councilor Bubar - aye; Councilor Friedrichs - nay; Chair***
17 ***Needell - aye; Chair Pro Tem Friedman - aye; Councilor Burton - aye; Councilor***
18 ***Lund - aye; Councilor Ford - aye; Councilor Register - aye.***

19
20 **XV. Nonpublic Session - Not Required**

21
22 **XVI. Adjourn (NLT 10:30 PM)**

23
24 ***Councilor Lund MOVED to adjourn. Councilor Register SECONDED the motion. The***
25 ***motion passed on a unanimous hand vote.***

26
27 ***The meeting was adjourned at 10:38 p.m.***

28
29 ***- Jane Murphy, Minutes Taker***