



# TOWN OF DURHAM

8 Newmarket Road  
Durham, NH 03824  
Tel: 603-868-5571  
Fax: 603-868-1858  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

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

## **AGENDA**

### DURHAM TOWN COUNCIL

MONDAY, MAY 15, 2023

DURHAM TOWN HALL - COUNCIL CHAMBERS

**7:00 PM**

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

- I. Call to Order
- II. Town Council grants permission for fewer than a majority of Councilors to participate remotely
- III. Roll Call of Members. Those members participating remotely state why it is not reasonably practical for them to attend the meeting in-person
- IV. Approval of Agenda
- V. Special Announcements - None
- VI. Public Comments (\*) - **Please state your name and address before speaking**
- VII. Approval of Minutes - May 1, 2023
- VIII. Councilor and Town Administrator Roundtable
- IX. Report from the UNH Student Senate External Affairs Chair or Designee
- X. **Unanimous Consent Agenda** (*Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote*)
  - A. Shall the Durham Town Council authorize the Administrator to sign the Town of Durham's first half 2023 Property Tax Warrant and direct the Tax Collector to collect partial payment of property taxes assessed on April 1, 2023 in the amount of \$18,097,611?
  - B. Shall the Town Council, Upon Recommendation of the Chair of the Trustees of Trust Funds, Approve the Addition of Mr. Robert Mangene's name to the Viet Nam plaque in Durham Memorial Park?
  - C. Shall the Town Council, upon the recommendation of the Administrator, authorize the purchase of new LED lighting at Churchill Rink for an amount not to exceed \$12,000 and to be paid from account 07-2095-814-36-000 with funds being transferred from the Rink's current fund balance of \$311,238?

- D. Shall the Town Council, Upon Recommendation of the Administrator, Award the West End Sewer Planning Study Contract to Wright Pierce Engineers of Portland, Maine in the Amount of \$99,978 and Authorize the Administrator to Sign the Associated Contract?

**XI. Committee Appointments**

- A. Shall the Town Council, upon recommendation of the Planning Board Chair, appoint Chris McClain, 54 Edgewood Road, to fill an Alternate Member vacancy on the Planning Board with a term expiration of April 2026?
- B. Shall the Town Council, upon recommendation of the Zoning Board Chair, appoint James Bubar, 4 Old Piscataqua Road, to fill a Regular Member vacancy on the Zoning Board of Adjustment with a term expiration of April 2026?
- C. Shall the Town Council, upon recommendation of the Energy Committee Chair, appoint Michael Lehrman, 20 Cedar Point Road, to fill a Regular Member vacancy on the Energy Committee with no term expiration?

**XII. Presentation Items**

Presentation by Ice Rink Manager, Bill Page on the 2022-2023 skating season.

**XIII. Unfinished Business**

**XIV. New Business**

- A. **First Reading on Ordinance #2023-03** to amend Chapter 175 "Zoning", Article XIII, "Wetland Conservation Overlay District" and Article XIV, "Shoreland Conservation Overlay District" of the Durham Town Code.
- B. **First Reading on Ordinance #2023-04** to amend Chapter 102, "Scenic Roads," Section 102.1, "Scenic Roads Established," of the Durham Town Code to designate Dame Road as a Scenic Road.

**XV. Continue discussion and possible adoption of the draft FY 2022-23 Town Council goals**

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

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

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

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



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AGENDA ITEM: **# 7 TS**  
DATE: **May 15, 2023**

### COUNCIL COMMUNICATION

**INITIATED BY:** Durham Town Council

**AGENDA ITEM:** APPROVE THE TOWN COUNCIL REVISED MEETING MINUTES FOR MAY 1, 2023

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Todd I. Selig, Administrator

**AGENDA DESCRIPTION:**

Attached for the Council's review and approval are the minutes for the meeting held on May 1, 2023. Please call or email Karen Edwards with any grammatical/spelling changes prior to the meeting. Discussion at Monday evening's meeting should be limited only to substantive changes.

**LEGAL AUTHORITY:**

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

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

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION:**

*The Durham Town Council does hereby approve the Town Council meeting minutes for May 1, 2023 (as presented /as amended).*



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AGENDA ITEM: **# 10A** *TS*

DATE: May 15, 2023

## COUNCIL COMMUNICATION

**INITIATED BY:** Rachel Deane, Town Clerk-Tax Collector  
Jim Rice, Assessor

**AGENDA ITEM:** SHALL THE TOWN COUNCIL AUTHORIZE THE ADMINISTRATOR TO SIGN THE TOWN OF DURHAM'S 1<sup>ST</sup> HALF 2023 PROPERTY TAX WARRANT AND DIRECT THE TOWN CLERK-TAX COLLECTOR TO COLLECT PARTIAL PAYMENT OF PROPERTY TAXES ASSESSED ON APRIL 1, 2023 IN THE AMOUNT OF \$18,097,611?

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Todd Selig, Administrator

**AGENDA DESCRIPTION:**

Attached for the Council's review is a draft tax warrant authorizing the Town Clerk-Tax Collector to collect partial payment of property taxes assessed on April 1, 2023 in the amount of \$18,097,611. The tax warrant and a complete list of assessed properties and amounts due for the first half of 2023 property tax billing are available in the Town Clerk-Tax Collector's office.

**LEGAL AUTHORITY:**

RSA 76:15-b allows the Town Council, by majority vote, the ability to adopt the provisions of RSA 76:15-a Semi-Annual Collection of Taxes.

RSA 41:35 outlines the duties for the collector of taxes.

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION:**

*The Durham Town Council does hereby authorize the Administrator to sign the Town of Durham's first half 2023 Tax Warrant and directs the Town Clerk-Tax Collector to collect partial payment of property taxes assessed on April 1, 2023 in the amount of \$18,097,611.*

# Property Tax Warrant - Final

Town of Durham  
TAX1 SEMI ANNUAL 2023

ZZZZZZZZZZ

## TOTALS

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Gross Valuation:	1,261,940,336.00	Previous Bill Total:	0.00
Exemptions:	-6,685,151.52	Previous Abatements:	0.00
Unapplied Exemptions:	145,700.00	Net Previous Bill Total:	0.00
Total Tax:	18,163,285.00	Unapplied Prev Bills:	0.00
Charges:	0.00	<b>Tax Due:</b>	<b>18,097,611.00</b>
Credits:	-65,750.00	PrePayments:	-1,730.00
Unapplied Credits:	76.00		
Net Total Tax:	18,097,611.00	TIF Value:	6,226,437.00
Owner Count: 2,431	Exmpt Count: 153	Current Value:	1,965,200.00
Assess Count: 2,732	Credit Count: 199	Increment Assess:	-4,261,237.00

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AGENDA ITEM: # **10B** TS

DATE: May 15, 2023

## COUNCIL COMMUNICATION

**INITIATED BY:** Mike Everngam, Chair, Trustee of the Trust Funds

**AGENDA ITEM:** SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE CHAIR OF THE TRUSTEES OF TRUST FUNDS, APPROVE THE ADDITION OF MR. ROBERT MANGENE'S NAME TO THE VIET NAM PLAQUE IN DURHAM MEMORIAL PARK?

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**CC PRESENTED BY:** Todd Selig, Administrator

**AGENDA DESCRIPTION:**

On April 17, 2023 the Town Council established a policy, through Resolution #2023-13, whereby criteria was formalized for the recognition of veterans at the Durham Memorial Park and for the placing of name plaques on the memorials. On April 28, 2023, Chair of the Trustees of the Trust Funds, Mike Everngam, submitted a letter requesting that Mr. Robert Mangene's name be added to the Viet Nam plaque in the Memorial Park. The Trustees of the Trust Fund have found that Mr. Mangene meets the criteria established by Resolution #2023-13.

**LEGAL AUTHORITY:**

Resolution #2023-13

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

*Motion:*

*The Durham Town Council does hereby, upon recommendation of the Chair of the Trustees of Trust Funds, approve the addition of Mr. Robert Mangene's name to the Viet Nam plaque in Durham Memorial Park.*



TOWN OF DURHAM  
8 Newmarket Road  
Durham, NH 03824-2898  
603.868.8064  
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## Durham Trustees of Trust Funds

April 28, 2023

Town Council  
Town of Durham, NH

Dear Members of the Council:

We have received a letter from Dr. Bruce Bragdon, a former resident and dedicated Town volunteer, and Ms. Pamela Mangene, widow of Mr. Robert Mangene, requesting that Mr. Mangene's name be added to the Viet Nam veteran's memorial in Durham's Memorial Park. The letter and Mr. Mangene's DD Form 214 are attached.

The Trustees have reviewed Dr. Bragdon's and Ms. Mangene's request and found that Mr. Robert Mangene's service as a US Navy aviator clearly merits his recognition as a veteran in Durham's Memorial Park. His family regards Durham as its hometown. He served on active duty for 4 years and 6 months, and of that service, 3 years and 10 months were overseas or at sea, His character of service was honorable. He was awarded 19 Air Medals, a great many of which were for his combat missions in the helicopter unit which conducted search and rescue missions for aviators downed over the Ho Chi Minh trail in Viet Nam.

The Trustees of Trust Funds recommend that the Town Council approve the request of Dr. Bragdon and Ms. Mangene and authorize the Department of Public Works to have Mr. Mangene's name added to the Viet Nam plaque in the Durham Memorial Park.

Michael H. Everngam, Chair  
Trustees of Trust Funds

Encl: as

Dear Durham Trustees of the Trust Funds, Michael, Bill and Craig.

First thanks for volunteering and all you do. Having been there personally, I know you provide a huge service to the town. I have two items I was hoping you could help me with.

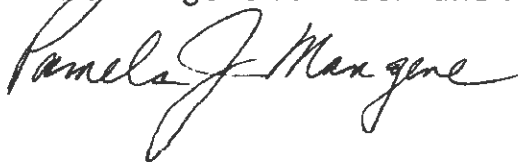
First, I include a check for \$300 that I donate in my wife Irene's memory to light the Smith Chapel during the Christmas holidays as an expendable donation. When George Frick was a Trustee, he made a donation to light the chapel also. Irene and I were great admirers of Curly and hope the tradition continues.

Second, Pamela Mangene is hoping to add her husband Robert's name to the Vietnam War Memorial stone. Bob did two tours in Vietnam as a helicopter pilot and passed two years ago. Bob and Pam lived in Durham for 10 years until 1990. Both of their boys David and Scott consider Durham their home town. David played with my son Todd on the Class of 1988 championship basketball team. When I was the chair of the Trustees and trying to decide on eligibility to have to have a name listed on the stones, we decided on six years because at the time that was how long you had to be a resident to get a burial plot. It is Pam and the boys hope that this will qualify Bob. I enclose a copy of Bob's DD214n form to verify his service record.

Thanks for your help. Merry Christmas and Happy New Year, Bruce

Bruce Bragdon 3648 Cosmos Way The Villages Fl 32163 [tthdr@aol.com](mailto:tthdr@aol.com)

Pamela Mangene 607 Ybor Lane The Villages, FL 32163







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## RESOLUTION #2023-13 OF DURHAM, NEW HAMPSHIRE

### ADOPTION OF RESOLUTION #2023-13 ESTABLISHING A POLICY FOR THE ADDITION OF VETERANS' NAMES ON THE MEMORIAL AT MEMORIAL PARK

WHEREAS the Administrator and the Trustees of the Trust Funds wish to establish a policy for the addition of future names of veterans on the memorial at Memorial Park:

NOW, THEREFORE, BE IT RESOLVED that the Durham Town Council, the legislative body of the Town of Durham, New Hampshire approves Resolution #2023-13 authorizing the following policy for the addition of Veterans' names on the memorial at Memorial Park:

### POLICY ON ADDING OF VETERANS' NAMES TO THE MEMORIAL AT MEMORIAL PARK

Consideration will be initiated by a letter from the military veteran, the veteran's family, or from a resident on behalf of the veteran, to the Trustees of Trust Funds requesting recognition of the veteran's service by inclusion of the veteran's name on a plaque in the Memorial Park. A former resident with continuing ties to the Town could be considered a resident for the purposes of this recommendation.

The following should be included with the letter:

- A record or report of residency in Durham for a period of at least 6 years, together with an attestation of a sense of Durham being the veteran's hometown.
- Attached to the letter will be a copy of the veteran's DD Form 214 (or in the case of an unrecoverable DD Form 214, an NA Form 13038 National Personnel Records Certification of Military Service) which will authenticate the veteran's:
  - Term(s) of service to be at least 2 creditable years of service on active duty. Veterans discharged due to injury/illness/death in the line of duty will be considered eligible provided the other listed conditions are met.
  - Dates/places of service to align the veteran's service with an appropriate memorial plaque.
  - Character of service as recognized by an honorable discharge.



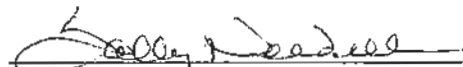
Additional weight to the request could be:

- Military Awards: The Purple Heart, or awards for valor, achievement, or merit.
- Significant contributions to the Town's governance or character.

Approval Process:


- The Trustees will receive, review, and recommend a final action on the request by the Town Council.
- The approval of any request will in no way be contingent upon a contribution to the Memorial Park Trust Fund.
- When a request is approved, the DPW will be notified to arrange placement of the veteran's name on the appropriate plaque.

**PASSED AND ADOPTED** this 17<sup>th</sup> day of April by a majority vote of the Durham Town Council with 8 affirmative votes, 0 negative votes, and 0 abstentions.



Sally Needell, Chair  
Durham Town Council

**ATTEST:**



Rachel Deane, Town Clerk-Tax Collector



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AGENDA ITEM: # **10C** TS

DATE: May 15, 2023

### COUNCIL COMMUNICATION

**INITIATED BY:** Bill Page, Ice Rink Manager

**AGENDA ITEM:** SHALL THE TOWN COUNCIL, UPON THE RECOMMENDATION OF THE ADMINISTRATOR, AUTHORIZE THE PURCHASE OF NEW LED LIGHTING AT CHURCHILL RINK FOR AN AMOUNT NOT TO EXCEED \$12,000 AND TO BE PAID FROM ACCOUNT 07-2095-814-36-000 WITH FUNDS BEING TRANSFERRED FROM THE RINK'S CURRENT FUND BALANCE OF \$311,238?

**CC PREPARED BY:** Bill Page, Ice Rink Manager

**CC PRESENTED BY:** Bill Page, Ice Rink Manager

**AGENDA DESCRIPTION:**

The 2020 Capital Fund budget includes \$650,000 for Churchill Rink Renovations. In 2021 the Churchill Rink Renovations project was updated and a new project cost of \$713,200 was arrived at. The 2021 Capital Fund budget approved an additional \$63,200 to bring the total budgeted for the project in years 2020 and 2021 to \$713,200.

Resolution #2020-21 "Approving the FY 2021 General Operating Budgets, the Capital Fund Budget and the 2021-2030 Capital Improvements Plan" included language stating: "WHEREAS, the Administrator would provide additional cost and financial analysis data for the 2021 Churchill Rink upgrades, and obtain the consent of the Council, before proceeding with the Churchill Rink Capital Improvements."

This Council Communication is requesting the consent of the council to move forward with one of the components of this project - "LIGHTING UPGRADE TO LED" - at the Churchill Rink. This proposed expenditure was estimated at \$12,000 and is a small piece of a larger project, the rest of which we are not ready to pursue.

**Existing System:**

- 50 Fluorescent fixtures installed in 2010.
- 32-watt fluorescent bulbs x 4 = 128 watts per fixture. 50 fixtures x 128 = 6,400 watts.
- Light level output has degraded to 12 FC at the playing surface. (FC standards for ice rinks is 25-100)

**Proposed New System:**

- Bluetooth enabled with programable scenes for total on/off and light level control by fixture.
- 218 w per fixture @ 100% set point = 218 x 50 = 10,900 watts. (+4,500, this setting will never be used)
  - @ 84% avg. set point = 183 w per fixture x 50 = 9,156 w. (+2,756 w, 80 FC, high level hockey)
  - @ 42% avg. set point = 91.5 w per fixture x 50 = 4,578 w. (-1,822 w, 40 FC, low level hockey)
  - @ 21% avg. set point = 46 w per fixture x 50 = 2,300 w. (-4,100 w, 20 FC, public skating, maintenance)
- Most sessions will use 42% set point resulting in reduced energy use. High level hockey here is rare.
- Fixtures will be prewired with cords and plugs for simple connection to existing outlets on ceiling.
- 4 fixtures will have battery backup. No fixtures have this now causing total darkness when power fails.
- Increased light levels will bring the rink up to industry standards and allow pursuit of activities where sufficient light levels are required such as pickleball.

**LEGAL AUTHORITY:**

Council approval in 2021 included language stating: "WHEREAS, the Administrator would provide additional cost and financial analysis data for the 2021 Churchill Rink upgrades, and obtain the consent of the Council, before proceeding with the Churchill Rink Capital Improvements." This communication is submitted to provide cost and financial analysis for a small portion of the original proposal.

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

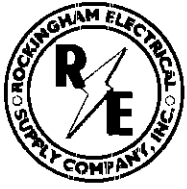
- Qualifies for NH SAVES instant rebate/ discount of \$130 per fixture or \$6,500. (Must purchase by 6/30)
- Fixture cost after pre-purchase rebate: \$9,536.25 or \$190.73 each.
- Lift Rental: \$2,000.00.
- Miscellaneous: \$463.75.

- Total anticipated cost paid from Rink Fund Balance: NTE \$12,000. (Current fund balance is \$311,238)

**SUGGESTED ACTION OR RECOMMENDATIONS:**

*Motion:*

*The Durham Town Council does hereby, upon the recommendation of the Administrator, authorize the purchase of new LED lighting at Churchill Rink for an amount not to exceed \$12,000 and to be paid from account 07-2095-814-36-000 with funds being transferred from the Rink's current fund balance of \$311,238.*



**Rockingham Electrical Supply Co Inc**  
**437 Shattuck Way**  
**NEWINGTON NH 03801**  
**603-436-2310 Fax 603-436-9665**

**Quotation**

QUOTE DATE	QUOTE NUMBER
04/26/23	S3721335
QUOTE TO: Rockingham Electrical Supply Co Inc 437 Shattuck Way NEWINGTON NH 03801 603-436-2310 Fax 603-436-9665	PAGE NO.  1 of 1



QUOTE TO:  
 TOWN OF DURHAM  
 100 STONE QUARRY DRIVE  
 DURHAM, NH 03824

SHIP TO:  
 TOWN OF DURHAM  
 churchill rink  
 10 Old Piscataqua Road  
 DURHAM, NH 03824

CUSTOMER NUMBER	CUSTOMER ORDER NUMBER	RELEASE # / JOB NAME	WRITER	
4420			Randy Cook	
REQUESTED BY	SHIP VIA	TERMS	VALID THROUGH	
		DISCOUNT 10TH, NET 25TH	04/25/23	
ORDER QTY	DESCRIPTION	NET PRICE	UOM	EXT PRICE
46ea	COL PELA-850-L36-B-EDU-ST-NXCHM-C12TL15 ** Special Order Item **	305.725	e	14063.35
46ea	NH UPSTREAM REBATE-LED HIGH/LOW BAY > = 200 WATT \$130. (FEB-JUNE) REBATE APPLIES DLC RATED	-130.000	e	-5980.00
4ea	COL PELA-850-L36-B-EDU-ST-NXCHM-C12TL15 -1LL20-NSH ** Special Order Item **	493.225	e	1972.90
4ea	NH UPSTREAM REBATE-LED HIGH/LOW BAY > = 200 WATT \$130. (FEB-JUNE) REBATE APPLIES DLC RATED Your validation code for your search at 10 PISCATAQUA ROAD is: 797365875509	-130.000	e	-520.00
TAXES NOT INCLUDED				

Special orders are non-returnable. Order placement is subject to credit approval.  
 Pipe and wire prices are in effect at time of order. Return materials must have prior  
 approval. Return charges may be assessed up to 50%. All claims for shortages or  
 errors must be made within 2 business days. Past due invoices subject to 2% service  
 charge.

Subtotal	9536.25
S&H CHGS	0.00
<b>Amount Due</b>	<b>9536.25</b>



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## RESOLUTION #2020-21 OF DURHAM, NEW HAMPSHIRE

### TOWN COUNCIL APPROVAL OF THE FY 2021 GENERAL OPERATING BUDGETS, THE CAPITAL FUND BUDGET AND THE 2021-2030 CAPITAL IMPROVEMENT PLAN

**WHEREAS**, the Town Council of Durham, New Hampshire, in accordance with Article 5 of the Durham Town Charter, has reviewed the proposed FY 2021 budgets and Capital Improvements Plan and conducted a public hearing on November 30, 2020 on the proposed FY 2021 Town Budget and Capital Improvement Plan; and

**WHEREAS**, the Town Council hereby approves the **General Fund Budget** in the amount of **\$16,963,700** with an estimated property tax rate of **\$7.86** per thousand of assessed valuation; and

**WHEREAS**, in 2021 the Town of Durham will be transferring ninety percent (90%) of the Depot Road Fund net revenues and one hundred percent (100%) of the Parking Fund net revenues to the General Fund; and

**WHEREAS**, the 2021 budgets include funds to be allocated by the Administrator to be used for compensation of non-union employees; and

**WHEREAS**, the 2021 Budget includes use of Unassigned Fund Balance in the amount of \$455,000 to cover COVID related expenses and the possible abatement of property that is currently being appealed at the Board of Tax and Land Appeals or Superior Court; and

**WHEREAS**, the Administrator will provide additional cost and financial analysis data for the 2021 Churchill Rink Upgrades, and obtain the consent of the Council, before proceeding with the Churchill Rink Capital Improvements; and

**WHEREAS**, the Town Administrator and Business Manager will monitor the budget expenditures and revenues throughout the year with particular concern given the impact of the COVID-19 virus on Town revenues and responsibilities and will make changes as necessary to meet the needs and demands of the Town; and

**WHEREAS**, the Town Council hereby approves the **Water Fund Budget** in the amount of \$1,190,200 and hereby sets the water rate at \$7.74 per hundred cubic feet of metered water usage effective 01/01/21; and

**WHEREAS**, the Town Council hereby approves the **Sewer Fund Budget** in the amount of \$2,876,000 and hereby sets the sewer rate at \$8.97 per hundred cubic feet of metered water usage effective 01/01/21; and

**WHEREAS**, the Water and Wastewater System Agreement between the Town of Durham and University System of New Hampshire reads "the jointly funded capital reserve fund for the **water system**, in the custody of the Town of Durham's Trustees of the Trust Funds, ... should not exceed \$800,000."; and also reads "the jointly funded capital reserve fund for the **wastewater system**, in the custody of the Town of Durham's Trustees of the Trust Funds, ... should not exceed \$800,000."; and

**WHEREAS**, it further states "The parties agree to contribute, on a prorated basis, \$40,000 annually to each fund to be comprised of all connection fees received by the Town and the balance to be funded at the cost share ratio outlined..."; the Council after reviewing the FY 2021 Water and Sewer Fund Budgets agree to the transfer of funds to the Water Capital Reserve and Sewer Capital Reserve Funds with the condition that the amount to be transferred will not exceed the surplus available at the end of the year;

**WHEREAS**, the Town Council hereby approves the **Parking Fund Budget** in the amount of \$381,350; and

**WHEREAS**, The Town Council hereby approves the **Capital Fund Budget** in the amount of \$7,497,200, with \$764,000 to be raised through property taxes, user fees and general revenues; \$5,147,200 to be raised in revenues from bonds, notes, and other forms of long-term debt; \$156,000 to be funded from the Fire Department Equipment Capital Reserve Account; \$80,000 to be funded through the Wastewater Capital Reserve Fund, and \$1,350,000 to be funded with Impact Fees and TIF Funds; and

**WHEREAS**, the Town Council hereby approves the **Depot Road Parking Lot Fund Budget** in the amount of \$103,000; and

**WHEREAS**, the Town Council hereby approves the **Churchill Rink Fund Budget** in the amount of \$285,400; and

**WHEREAS**, the Town Council hereby approves the **Library Fund Budget** in the amount of \$532,200 with \$512,200 being funded through a transfer from the general fund and \$20,000 funded by the Library Board of Trustees; and



**WHEREAS**, the Town Council hereby approves the **Downtown Tax Increment Financing District Budget** in the amount of **\$151,700**; and

**WHEREAS**, any transfer of unspent balance or portion thereof from one department to another will occur with the approval of the Town Council in accordance with Section 5.7 of the Town of Durham Charter, except that the Town Council does hereby authorize the Administrator to transfer any balance or portion thereof from the Town Council Contingency fund to any department during 2021; and

**WHEREAS**, the Administrator will not hire additional regular full-time employees during 2021 without the advice and consent of the Town Council except for those regular full-time positions provided for in the approved 2021 Budget;

**NOW, THEREFORE BE IT RESOLVED** by the Durham Town Council that an estimated amount of **\$9,902,650** (\$9,750,950 of general tax revenue and \$151,700 of Tax Increment Financing District tax revenue) shall be raised by taxation which together with estimated operating revenues of **\$20,048,800** for the aggregate amount of **\$29,951,450** is hereby raised and appropriated for the use of the several departments of the town government for the fiscal year beginning January 1, 2021.

**BE IT FURTHER RESOLVED** that the Town Council of the Town of Durham, New Hampshire hereby adopts **RESOLUTION #2020-21 APPROVING** the FY 2021 General Operating Budgets, Capital Fund Budget, and 2021-2030 Capital Improvement Plan by a majority vote of the Durham Town Council.

**PASSED AND ADOPTED** this 22nd day of December, 2020 by a Eight (8) to Zero (0) roll call vote of the Durham Town Council as follows:

Sally Tobias	<u>Yes</u>	Wayne Burton	<u>Yes</u>
Dinny Waters	<u>Absent</u>	James Lawson	<u>Yes</u>
Al Howland	<u>Yes</u>	Sally Needell	<u>Yes</u>
Katherine Marple	<u>Yes</u>	Andrew Corrow	<u>Yes</u>
Carden Welsh	<u>Yes</u>		

  
Katherine A. Marple, Chair  
Durham Town Council

**ATTEST:**

  
Lorrie Pitt, Town Clerk-Tax Collector

**SUMMARY OF BUDGETS BY FUND:**

General Fund	\$16,963,700
Water Fund	\$ 1,190,200
Wastewater (Sewer) Fund	\$ 2,846,700
Parking Fund	\$ 381,350
Capital Fund	\$ 7,497,200
Depot Road Fund	\$ 103,000
Churchill Rink Fund	\$ 285,400
Library Fund	\$ 532,200
TIF District Fund	<u>\$ 151,700</u>
 TOTAL ALL FUNDS	 \$29,951,450



## TOWN OF DURHAM

8 Newmarket Road  
Durham, NH 03824  
Tel: 603-868-5571  
Fax: 603-868-1858  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

AGENDA ITEM: **# 10D TS**

DATE: May 15, 2023

### COUNCIL COMMUNICATION

**INITIATED BY:** Public Works Department

**AGENDA ITEM:** SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, AWARD THE WEST END SEWER PLANNING STUDY CONTRACT TO WRIGHT PIERCE ENGINEERS OF PORTLAND, MAINE IN THE AMOUNT OF \$99,978 AND AUTHORIZE THE ADMINISTRATOR TO SIGN THE ASSOCIATED CONTRACT?

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

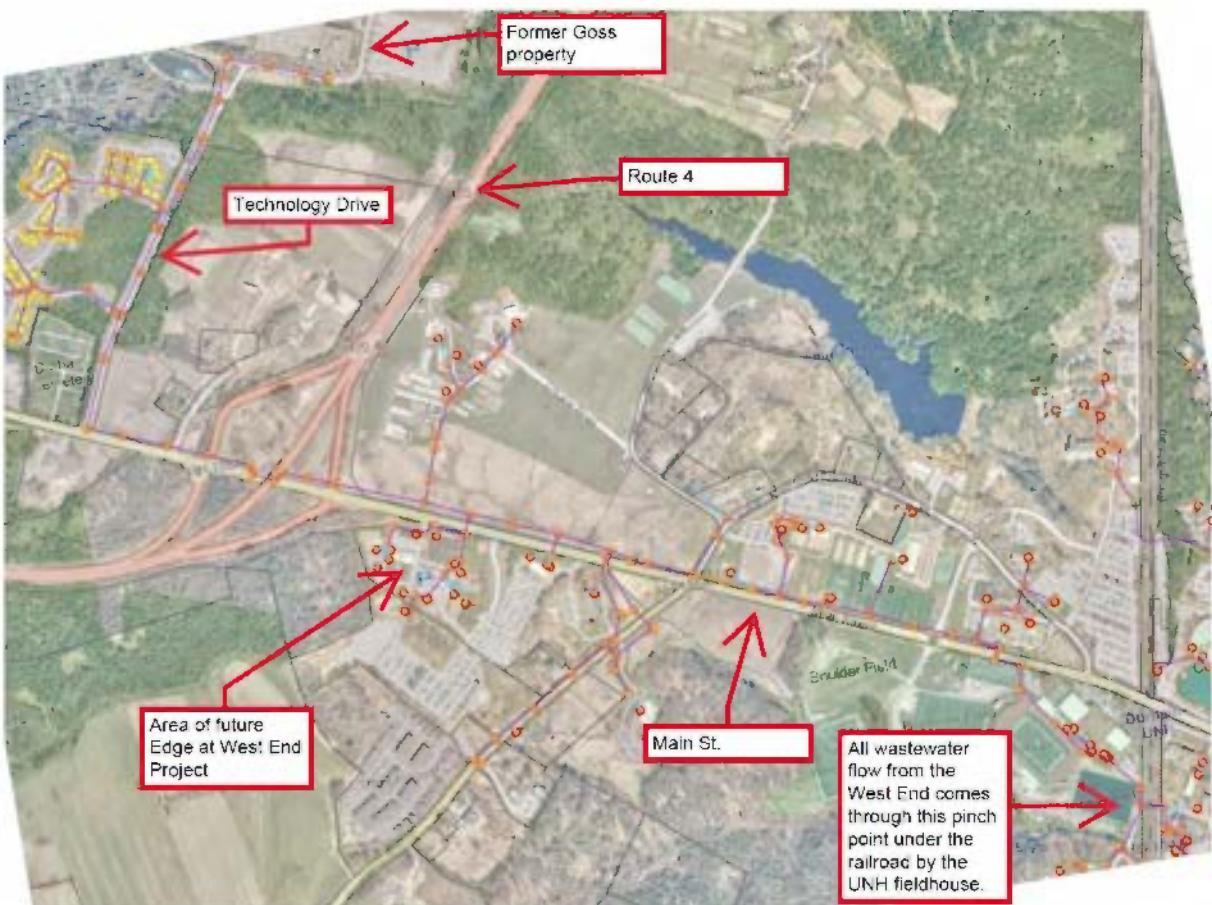
**PRESENTED BY:** April Talon, Town Engineer  
Richard Reine, Director of Public Works

**AGENDA DESCRIPTION:**

The purpose of this Council Communication is to request the Town Council's approval to award a Contract for the West End Sewer Planning Study Contract to Wright Pierce of Portland, Maine in the amount of \$99,978. This contract is being entirely funded by an American Rescue Plan Act (ARPA) Grant from the New Hampshire Department of Environmental Services (NHDES) which was approved through Resolution #2022-12 on July 11, 2022.

Wright Pierce was selected through a competitive RFQ process to complete this work. Wright Pierce continues to work with the Town on its essential wastewater system improvement projects both in the collection system and at the Durham Wastewater Treatment Plant.

Current wastewater flows from the west end of Durham come from Technology Drive including the Cottages and RJ Kelly building, formally Goss facility, Mast Road including The Lodges, and Main St. including the US Forestry Building and various UNH facilities. These flows are collected at the Old Concord Road Pump Station which was rehabbed in 2013. Additional wastewater flow is collected along Main St. including the Wildcat Stadium and Field House and flows to the southern College Brook Interceptor via the small railroad underpass between Colovos Road and Library Way. This section of sewer which is located directly under the narrow railroad overpass is an undersized 8" diameter main and while it does not currently experience surcharging, it is a bottleneck and is suspected to have no additional capacity for future flows.



Map above showing sewer system on the west side of UNH/Durham. Sewer manholes are orange circles and the sewer mains are purple lines.

This study will also be used to update and expand on previous work that was completed in 2010/2011 by Wright Pierce Engineers. It is expected that future west end development could be accommodated with various improvements including lining of sewer mains, upsizing sections of mains, and/or rerouting flow.

Results from this planning study will be used for future wastewater capital projects and placed in the Town’s Capital Improvements Plans (CIP). They may also be used in conjunction with and to validate any required wastewater capacity studies and capital contributions completed by potential west end property developers who require additional wastewater capacity beyond what is currently available.

**LEGAL AUTHORITY:**

Section 4-21 of the Administrative Code of the Town of Durham requires that professional services contracts (architecture, engineering, construction management, risk management, financial and auditing and other professional services or consulting work) of thirty thousand (\$30,000) dollars or more may be entered into after receiving proposals from various interested firms, evaluating those proposals and anticipated quality of service to be rendered, and Town Administrator recommendation to and approval by the Town Council.

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

\$100,000 in American Rescue Plan Act (ARPA) Grant monies to be received from the New Hampshire Department of Environmental Services (NHDES) per Resolution #2022-12.

**SUGGESTED ACTION OR RECOMMENDATIONS:**

*The Durham Town Council does hereby, upon recommendation of the Administrator, award the West End Sewer Planning Study Contract to Wright Pierce Engineers of Portland, Maine in the amount of \$99,978 and authorizes the Town Administrator to sign said contract.*



TOWN OF DURHAM  
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## **RESOLUTION #2022-12 OF DURHAM, NEW HAMPSHIRE**

**AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF AN AMERICAN RESCUE PLAN ACT OF 2021 (ARPA) GRANT IN AN AMOUNT UP TO \$100,000 FROM THE NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES FOR THE WEST END SEWER PLANNING PROJECT AND AUTHORIZING THE ADMINISTRATOR TO SIGN AND SUBMIT GRANT DOCUMENTS ON BEHALF OF THE TOWN OF DURHAM**

**WHEREAS**, the Town of Durham submitted a pre-application to the New Hampshire Department of Environmental Services (NHDES) as part of their project solicitation in June 2021; and

**WHEREAS**, in December 2021, the Town was notified that the Town was offered an American Rescue Plan Act (ARPA) grant for this planning study in the amount of up to \$100,000; and

**WHEREAS**, the Town of Durham, after thorough consideration, decided that the completion of the West End Sewer Planning Study is of critical important to the future planning of capital improvements for the wastewater collection system; and

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

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


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

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

WHEREAS, on Monday, July 11, 2022, a duly posted and published Public Hearing was held by the Durham Town Council on the \$100,000 ARPA monies in accordance with RSA 31:95-b;

NOW, THEREFORE, BE IT RESOLVED, that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire does hereby approve Resolution #2022-12 authorizing the acceptance and expenditure of Local Fiscal Recovery Funds from the State of New Hampshire under the American Rescue Plan Act of 2021 in an amount up to \$100,000 and authorizes the Administrator to sign and submit grant documents on behalf of the Town of Durham.

PASSED AND ADOPTED this 11<sup>th</sup> day of July, 2022, by a majority vote of the Durham Town Council with Eight (8) affirmative votes, Zero (0) negative votes, and Zero (0) abstentions.

  
Katherine Marple, Chair  
Durham Town Council

ATTEST:

  
Lorrie Pitt, Town Clerk-Tax Collector



## TOWN OF DURHAM

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AGENDA ITEM: **#11A** TS

DATE: May 15, 2023

### COUNCIL COMMUNICATION

**INITIATED BY:** Chris McClain, 54 Edgewood Road

**AGENDA ITEM:** SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE PLANNING BOARD CHAIR, APPOINT CHRIS MCCLAIN, 54 EDGEWOOD ROAD, TO FILL AN ALTERNATE MEMBER VACANCY ON THE PLANNING BOARD WITH A TERM EXPIRATION OF APRIL 2026?

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Todd I. Selig, Administrator

**AGENDA DESCRIPTION:**

Attached for the Council's information and consideration is an application for board appointment submitted by Chris McClain, requesting appointment as an alternate member to the Planning Board.

Mr. McClain has attended at least one meeting of the Planning Board and has spoken with Chair, Paul Rasmussen. Attached for the Council's information is Chair Rasmussen's endorsement of Mr. McClain's appointment.

Mr. McClain will attend Monday night's Council meeting relative to his request for appointment.

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION:**

*The Durham Town Council does hereby, upon recommendation of Planning Board Chair, appoint Chris McClain, 54 Edgewood Road, to fill an alternate member vacancy on the Planning Board with a term expiration of April 2026.*





# Town of Durham

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[kedwards@ci.durham.nh.us](mailto:kedwards@ci.durham.nh.us)

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Town of Durham  
MAY - 2 2023

Administration Office

## Application for Board Appointment

Type of Appointment and Position Desired (Please select only one):

New appointment/regular member       New appointment/alternate member   
Reappointment/regular member       Reappointment/alternate member

**NOTE:** New applicants are asked to attend AT LEAST ONE meeting, as well as to meet separately with the Chair(s) of the committee(s) to which they are applying, prior to submitting an application for appointment.

**Applicant has:**

ATTENDED A MEETING  
 SPOKEN WITH CHAIR/V CHAIR  
 BEEN RECOMMENDED FOR MEMBERSHIP

Name: Chris McClain

Date: 4/26/23

Address: 54 Edgewood Rd, Durham

E-Mail Address: [Chris@mcclaincells.com](mailto:Chris@mcclaincells.com)

Telephone: 603-969-6435

Board/Commission/Committee to which you are interested in being appointed. (Please list in order of preference, if interested in more than one appointment).

1. Planning Board
2. Zoning Board
3. Energy Committee

Are you willing to attend ongoing educational sessions offered by the New Hampshire Municipal Association, Strafford Regional Planning Commission, et al, and otherwise develop skills and knowledge relevant to your work on the board/committee?  YES     NO

(Over)

Please provide a brief explanation for your interest in appointment to a particular board, commission or committee: *I'd like to become more of a part of the community, and I think I would be a great fit, with my experience in Real Estate, and having grown up in the OR district*

Please provide brief background information about yourself: *I grew up in Lee, and attended Oyster River. After living in other Seacoast towns, my fiancé and I purchased a home in Durham. I'm a Realtor for The Masiello Group with an office here in town*

Please provide below the names and telephone numbers of up to three personal references:

- |                             |                                |
|-----------------------------|--------------------------------|
| Name: <i>Victoria Lendi</i> | Telephone: <i>617-538-3946</i> |
| Name: <i>Mine Sorl</i>      | Telephone: <i>603-818-6637</i> |
| Name: <i>Marie Burbank</i>  | Telephone: <i>207-752-2079</i> |



Thank you for your interest in serving the Town. Please return this application, along with a resume, if available, to: Town Administrator, 8 Newmarket Road, Durham, NH 03824, or email Karen Edwards at [kedwards@ci.durham.nh.us](mailto:kedwards@ci.durham.nh.us).

**From:** [paul.rasmussen](mailto:paul.rasmussen@ci.durham.nh.us)  
**To:** [Karen Edwards](mailto:karen.edwards@ci.durham.nh.us)  
**Cc:** [Michael Behrendt](mailto:michael.behrendt@ci.durham.nh.us); [Chris McClain \(chrismcclain@masiello.com\)](mailto:chrismcclain@masiello.com); [Andrea J. Novotney](mailto:andrea.j.novotney@ci.durham.nh.us)  
**Subject:** Re: Planning Board alternate  
**Date:** Wednesday, May 3, 2023 9:00:35 AM

---

I recommend Chris McLain for a position on the Planning Board.  
Paul Rasmussen

On Wed, May 3, 2023, 08:00 Karen Edwards <[kedwards@ci.durham.nh.us](mailto:kedwards@ci.durham.nh.us)> wrote:

Yes, it will be on the May 15 agenda.

Paul – please send me a recommendation for Chris via email.

Chris – please plan to attend the May 15 Town Council meeting to introduce yourself to the Council.

*Karen Edwards*

Administrative Assistant

Administrator's Office

Town of Durham

8 Newmarket Road

Durham, NH 03824

(603) 868-5571

[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

She/her/hers

---

**From:** Michael Behrendt <[mbehrendt@ci.durham.nh.us](mailto:mbehrendt@ci.durham.nh.us)>  
**Sent:** Tuesday, May 2, 2023 4:55 PM  
**To:** Karen Edwards <[kedwards@ci.durham.nh.us](mailto:kedwards@ci.durham.nh.us)>  
**Cc:** Chris McClain ([chrismcclain@masiello.com](mailto:chrismcclain@masiello.com)) <[chrismcclain@masiello.com](mailto:chrismcclain@masiello.com)>; paul rasmussen ([pnrasmus@gmail.com](mailto:pnrasmus@gmail.com)) <[pnrasmus@gmail.com](mailto:pnrasmus@gmail.com)>; Andrea J. Novotney <[anovotney@ci.durham.nh.us](mailto:anovotney@ci.durham.nh.us)>  
**Subject:** Planning Board alternate



## TOWN OF DURHAM

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AGENDA ITEM: **#11B** TS

DATE: May 15, 2023

### COUNCIL COMMUNICATION

**INITIATED BY:** James Bubar, 4 Old Piscataqua Road

**AGENDA ITEM:** SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ZONING BOARD CHAIR, APPOINT JAMES BUBAR, 4 OLD PISCATAQUA ROAD, TO FILL A REGULAR MEMBER VACANCY ON THE ZONING BOARD WITH A TERM EXPIRATION OF APRIL 2026?

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Todd I. Selig, Administrator

**AGENDA DESCRIPTION:**

Attached for the Council's information and consideration is an application for board appointment submitted by James Bubar, requesting appointment as a regular member to the Zoning Board.

Mr. Bubar has attended at least one meeting of the Zoning Board and has spoken with Chair, Micah Warnock. Attached for the Council's information is Chair Warnock's endorsement of Mr. Bubar's appointment.

Mr. Bubar will attend Monday night's Council meeting relative to his request for appointment.

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION:**

*The Durham Town Council does hereby, upon recommendation of Planning Board Chair, appoint James Bubar, 4 Old Piscataqua Road, to fill a regular member vacancy on the Zoning Board with a term expiration of April 2026.*



# Town of Durham

8 Newmarket Road  
Durham, NH 03824-2898  
Tel: 603/868-5571  
Fax 603/868-1858  
[kedwards@ci.durham.nh.us](mailto:kedwards@ci.durham.nh.us)

RECEIVED  
Town of Durham  
APR 18 2023

Administration Office

## Application for Board Appointment

Type of Appointment and Position Desired (Please select only one):

New appointment/regular member       New appointment/alternate member      
Reappointment/regular member          Reappointment/alternate member       

**NOTE:** New applicants are asked to attend AT LEAST ONE meeting, as well as to meet separately with the Chair(s) of the committee(s) to which they are applying, prior to submitting an application for appointment.

Applicant has:

  /   ATTENDED A MEETING I attended meetings as an applicant needing a variance in order to build my house.

  /   SPOKEN WITH CHAIR/V CHAIR  
       BEEN RECOMMENDED FOR MEMBERSHIP

Name: James A Bubar

Date: 17 April 2023

Address: 4 Old Piscataqua Road

E-Mail Address: jamesabubar@gmail.com

Telephone: 603.343.7890

Board/Commission/Committee to which you are interested in being appointed. (Please list in order of preference, if interested in more than one appointment).

1. Zoning Board of Adjustment
- 2.
- 3.

Are you willing to attend ongoing educational sessions offered by the New Hampshire Municipal Association, Strafford Regional Planning Commission, et al, and otherwise develop skills and knowledge relevant to your work on the board/committee?    YES    NO

(Over)

Please provide a brief explanation for your interest in appointment to a particular board, commission or committee: **I have been on the Planning Board for 5 years and numerous other boards over the last 7 to 10 years, I have attended a few zoning Board meetings and generally think it is an important service to the Town.**

Please provide brief background information about yourself: **I have a BA in Administrative Science, and MBA and was a Certified Management Accountant (CMA). I spent my whole career in the regulated independent telephone industry in accounting, regulatory affairs, general management, product development, and information systems.**

Please provide below the names and telephone numbers of up to three personal references:

Name: Telephone:

Name: Telephone:

Name: Telephone:



Thank you for your interest in serving the Town. Please return this application, along with a resume, if available, to: Town Administrator, 8 Newmarket Road, Durham, NH 03824, or email Karen Edwards at [kedwards@ci.durham.nh.us](mailto:kedwards@ci.durham.nh.us).

**From:** [Micah Warnock](#)  
**To:** [Karen Edwards](#); [Andrea J. Novotney](#)  
**Subject:** James Bubar ZBA Recommendation  
**Date:** Wednesday, May 10, 2023 8:47:42 AM

---

Council,

I had the pleasure of sitting down with James Bubar and discussing his interest in the Zoning Board of Adjustments. James, interest is in line with the charge of the ZBA. He is thoughtful in his words and understands the obligations of the board. He is pleasant to chat with and is respectful. I believe he will make a great addition to the board. I have no hesitancy with recommending him to be a full member of the Zoning Board of Adjustments.

Best,

Micah



## TOWN OF DURHAM

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AGENDA ITEM: **#11C** TS

DATE: May 15, 2023

### COUNCIL COMMUNICATION

**INITIATED BY:** Michael Lehrman, 20 Cedar Point Road

**AGENDA ITEM:** SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ENERGY COMMITTEE CHAIR, APPOINT MICHAEL LEHRMAN, 20 CEDAR POINT ROAD, TO FILL A REGULAR MEMBER VACANCY ON THE ENERGY COMMITTEE WITH NO TERM EXPIRATION?

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Todd I. Selig, Administrator

**AGENDA DESCRIPTION:**

Attached for the Council's information and consideration is an application for board appointment submitted by Michael Lehrman, requesting appointment as a regular member to the Zoning Board.

Mr. Lehrman has attended at least one meeting of the Energy Committee and has spoken with Chair, Wayne Burton. Attached for the Council's information is Chair Burton's endorsement of Mr. Lehrman's appointment.

Mr. Lehrman will attend Monday night's Council meeting relative to his request for appointment.

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION:**

*The Durham Town Council does hereby, upon recommendation of Energy Committee Chair, appoint Michael Lehrman, 20 Cedar Point Road, to fill a regular member vacancy on the Energy Committee with no term expiration.*





# Town of Durham

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[kedwards@ci.durham.nh.us](mailto:kedwards@ci.durham.nh.us)

## Application for Board Appointment

Type of Appointment and Position Desired (Please select only one):

New appointment/regular member       New appointment/alternate member   
Reappointment/regular member       Reappointment/alternate member

**NOTE:** New applicants are asked to attend AT LEAST ONE meeting, as well as to meet separately with the Chair(s) of the committee(s) to which they are applying, prior to submitting an application for appointment.

**Applicant has:**

ATTENDED A MEETING  
 SPOKEN WITH CHAIR/V CHAIR  
 BEEN RECOMMENDED FOR MEMBERSHIP

Name: *Michael Lehrman*      Date: *5/8/2023*

Address: *20 Cedar Point Rd., Durham*

E-Mail Address: *mdlwindham@comcast.net*

Telephone: *603 560-5024*

Board/Commission/Committee to which you are interested in being appointed. (Please list in order of preference, if interested in more than one appointment).

1. *Energy Committee*
- 2.
- 3.

Are you willing to attend ongoing educational sessions offered by the New Hampshire Municipal Association, Strafford Regional Planning Commission, et al, and otherwise develop skills and knowledge relevant to your work on the board/committee?  YES  NO

(Over)



Dear Councilor Burton,

I am interested in joining the Durham Energy committee. I am writing to you as the Interim Chairman and would appreciate a chance to speak with you on the phone for a few minutes when convenient. I briefly introduced myself to the committee Tuesday evening.

I attended a few prior Energy Committee meetings and had spoken with Jim Lawson in March about applying to join the committee. Jim had provided me with the Energy Committee "charter" and goals that I read. Jim was supportive of my applying for the committee. He and I became acquainted when I had previously spoken before the Town Council on a few occasions regarding a proposal that was pending to develop an air cargo terminal at Pease.

I held off applying for the Energy committee and missed attending the April meeting as I had surgery at the end of March but am recovered and fine now.

I am a retired health care executive with a long-term interest in "energy". I see it as a key infrastructure to our economy, a significant factor in national security, a critical factor impacting our environment and climate change and a not insignificant component of most household's expense budget. I would see joining the committee as one small way of giving back to the town. I have no other business, financial or other connections to any energy business or conflict of interest.

In my professional career I was involved in a number of construction projects. Along with engineers and architects I exercised judgement on numerous issues balancing building design, energy efficiency and construction cost. I was also responsible for procuring, through brokers, about \$1 million/ year in energy for facilities operations.

While not an engineer, I am pretty well grounded on science and would bring broad management and administrative perspective to the committee.

I would appreciate the opportunity to speak with you. If possible, please let me know when might be a convenient so that I can be available and prepared.

Thank you,

Mike Lehrman

20 Cedar Point Road  
Durham, NH  
603 560-5024

**From:** [Wayne Burton](#)  
**To:** [Mike Lehrman](#)  
**Cc:** [Todd Selig](#); [Karen Edwards](#)  
**Subject:** Re: Question RE Durham Energy Comm  
**Date:** Friday, May 5, 2023 12:31:49 PM  
**Attachments:** [Letter Wayne Burton RE Energy Comm 5 3 23.docx](#)

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Mike -

Thanks very much for your interest in joining the Energy Committee. I believe Todd was going to check on our membership to determine if we have an opening.

By copy, I'm alerting Todd and his assistant, Karen Edwards to check. If we have an open seat, they can send the application form to you.

Thanks again for stepping forward.

Wayne

Sent from my iPhone

On May 4, 2023, at 10:46 AM, Mike Lehrman <[mdlwindham@comcast.net](mailto:mdlwindham@comcast.net)> wrote:

Hello Councilor Burton,  
I spoke with Karen Edwards who provided your email.  
I am following up on my brief introduction to the Energy Committee Tuesday evening.  
Please see attached letter.  
Thanks  
Mike Lehrman  
Durham, NH  
603 560-5024



# TOWN OF DURHAM

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AGENDA ITEM: **# 12 TS**

DATE: **May 15, 2023**

## COUNCIL COMMUNICATION

**INITIATED BY:** Todd Selig, Administrator

**AGENDA ITEM:** PRESENTATION ON 2022-2023 SKATING SEASON AT DURHAM'S ICE RINK

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Bill Page, Ice Rink Manger

**AGENDA DESCRIPTION:**

At the April 25, 2023 Parks and Recreation Committee meeting, Bill Page, Ice Rink Manager, presented an overview of the 2022-2023 skating season. Administrator, Todd Selig, requested that Mr. Page also make a presentation before the Town Council.

**LEGAL AUTHORITY:**

N/A

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

No action required at this time. Receive presentation from Bill Page, Ice Rink Manager.

# Churchill Ice Rink - End of Season Report - October 2022 – March 2023

## Bill Page, Rink Manager – April 25, 2023

Fees: Ice rental rates remained the same at \$261/hour for Prime Time and \$225 for Non-Prime. Fees for ancillary sales also remained the same. PS Child \$6, PS Adult \$8. Stick & Puck/Pond Hockey \$8. Drop-In Hockey \$12. Sharpening \$7.  
Season Passes: Family \$230 • Individual \$115.

Ice Sold by Season: 19/20 = 825/\$184,005 20/21 = 857/\$190,652 21/22 = 894/\$221,716 22/23 = 753/\$199,631\*

Ancillary Sales: Public Skating: Child \$38,454 (6,409, up 174) Adult \$21,080 (2,635, down 149) • SK8 Rentals \$17,550 (3,510, up 196) • Season Passes: Family \$14,490 (66, up 9) Individual \$7,360 (57, up 16) • Stick & Puck \$9,816 (1,227, up 89) • Pond Hockey \$1,920 (240, down 22) • Drop-In Hockey \$6,852 (571, up 105) • Skate Sharpening \$6,685 (955, down 72) • Concessions \$12,655 (up \$4,319) • Slush Cup \$1,200 (down \$528) • Total Public Session Admissions 11,082 (up 252) •

NOTABLE: 1626 Hot Chocolates • 5,532 Airheads • 657 Gatorades • 406 Waters

SEASON PASS RESIDENCY: Durham 55 • Lee 15 • Madbury 9 • Newmarket 16 • Other 29

Staff: Part-Time staff during the season were Aidan Busnel, Doug Bullen, Derek Swenson, and Jim Chambers. The 5 of us worked most of the hours with support from, Rori Coomey, and Sue, Katherine, and Sydney Page during vacation weeks.

Chiller Barrel Breach: It was discovered at the end of our annual maintenance in October that some internal piping in our 26-year-old refrigeration system chiller barrel had corroded and was leaking. This scenario is considered a major system failure and unfortunately is almost impossible to detect until it's happened. We were able to find a company from Chelmsford MA who was capable of "re-tubing" our chiller barrel on site. Because of this situation, we were not able to open until 24 days later than scheduled. (Oct 18-Nov 11) \*This situation resulted in the loss of group rental revenue of approximately 100 hours or \$26,000 and an undetermined amount of lost ancillary revenue. The unbudgeted expense for repair of the chiller barrel was approximately \$68,000. Lost revenue and unbudgeted expenses were, however, covered by revenue earned during FY 2022 and *did not* need to be taken from our fund balance.

Projects Accomplished: Work continued during the off-season on the brine loop and related fittings which were clogged with rust, corroded and leaking. This off-season, the remaining old pipe nipples will be replaced. The refrigeration brine pump and motor were removed and reinstalled after both were rebuilt. The header trench out back was reconfigured, and a roof built over it to protect it from snow, rain, and frost from heaving and breaking the pipes again during the season. New benches were built in changing rooms 1, 3 & 4. Much painting was accomplished, and rubber matting was expanded. (and more...)

Refrigeration Plant: Once up and running, the refrigeration plant ran well all season. We have switched refrigeration companies and are now using Northstar Refrigeration. We will begin annual maintenance sooner going forward with an eye toward preventing a similar scenario from transpiring in the future.

Zamboni: Last Spring, we decided to hold off buying a used replacement funds for which remain in our capital budget. (\$40,000) We chose to restore our current machine last summer based on the idea that if we do acquire another machine in the future, we should keep our current machine as a backup. And, if we can enclose the building soon, we would likely want to acquire an electric (battery) Zamboni as opposed to another propane model. Our 1995 Zamboni was almost completely rebuilt last summer and ran very well all season.

2023 Off-Season Projects: New LED rink lights. New sound system from UNH installed. 480 Amp refrigeration breaker repaired or replaced. Establish rink working group. Plan for building upgrades. Painting as needed. Concessions display box built. Meet our team sign. Season pass sign in station. Water-bottle fill stations in rest rooms. New laces in all rental skates. (and more...)

FY 2022 End of Year Financials (unaudited):

Revenue - \$326,136.29 (Increase of \$24,309.96)

Expense - \$320,726.04 (increase of \$85,333.53)

Net added to Fund Balance – \$5,410.25 (Decrease of \$61,023.57)

Fund Balance as of 12/31/2022 = \$311,238.70



## TOWN OF DURHAM

8 Newmarket Road  
Durham, NH 03824  
Tel: 603-868-5571  
Fax: 603-868-1858  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

AGENDA ITEM: **#14A** TS

DATE: May 15, 2023

### COUNCIL COMMUNICATION

**INITIATED BY:** Planning Board

**AGENDA ITEM:** FIRST READING ON ORDINANCE #2023-03 TO AMEND CHAPTER 175 "ZONING", ARTICLE XIII, "WETLAND CONSERVATION OVERLAY DISTRICT" AND ARTICLE XIV, "SHORELAND CONSERVATION OVERLAY DISTRICT" OF THE DURHAM TOWN CODE.

**CC PREPARED BY:** Michael Behrendt, Town Planner

**PRESENTED BY:** Michael Behrendt, Town Planner

**AGENDA DESCRIPTION:**

Town Council consideration of a proposed zoning amendment initiated by the Planning Board on April 26, 2023 pertaining to conditional use criteria, formatting, and procedures in the Wetland Conservation Overlay District (WCOD) and the Shoreland Protection Overlay District (SPOD).

**BACKGROUND**

The Conservation Commission voted on March 27, 2023 to recommend a set of amendments to the WCOD and the SPOD. The draft was presented to the Planning Board on April 12. The board made some changes to the draft and then held a public hearing on that revised version on April 26. That same evening, after the public hearing, the board made several minor changes to the document and then voted to formally initiate the amendment. It is now before the Town Council for consideration. If the council wishes to move the amendment forward it will hold a first reading and schedule a public hearing.

**Wetland and Shoreland Overlay Districts.** The Planning Board receives many applications for conditional uses in the Wetland and Shoreland Overlay Districts. The applications are for single family, commercial, utility, and other uses. The WCOD

includes a wetland and an adjacent buffer strip 75 or 100 feet wide (there is a 150-foot-wide buffer for certain rare wetlands). The SPOD includes surface waters (numerous rivers, streams, a few ponds, and Little Bay) and an adjacent setback of 25, 75, or 125 feet depending on the specific water body. A range of structures and uses are allowed within the overlay districts, variously, with no review by a Town board (Permitted Use A), a moderate level of review by the Conservation Commission and the Planning Board (Permitted Use B), or a detailed review by the commission and the board (Conditional Use).

The Planning Board is currently reviewing the entire Zoning Ordinance, section by section, making substantial changes as needed. The Conservation Commission recognized that there are shortcomings in the WCOD and the SPOD so the Commission will be preparing a set of changes to the two districts, nicely supporting the Planning Board's zoning overhaul for these articles.

**Conservation Commission Committee.** The Conservation Commission appointed a committee to do two things: 1) develop changes to the four criteria for conditional uses in the WCOD and SPOD; and 2) review the entirety of these two articles and propose appropriate changes. The committee completed the first task and continues work on the second. It will take a number of months for the committee to develop a new draft of these articles.

The members of the committee are Conservation Commission members Neil Slepian and Dwight Trueblood, Planning Board members Paul Rasmussen and Emily Friedrichs, and former Conservation Commission chair and current Town Council chair Sally Needell. The commission asked Ms. Needell to serve and asked the Planning Board to appoint one or two members, which it did.

**Purpose of Amendment.** The current amendment is focused on new wording for the conditional use criteria: subsections 175-61. B. (and a new C.) and 175-72. B. (and a new C.). The committee included other secondary improvements while it was examining the conditional use criteria – the main paragraphs of the Permitted Use B. and the Conditional Use. It also added a note under Sections 175-59 and 175-70 Applicability, about the applicant's responsibility to consult with the New Hampshire Department of Environmental Services about any required state permits.

The existing allowed uses and criteria for the WCOD and SPOD are virtually identical, and the proposed amendments are likewise virtually identical (e.g., with references to the *WCOD* or *SPOD* and the *wetland* or *water resource*, respectively).

**Criterion 1.** The new criterion 1. is largely a reworking of the current criterion 1. One impetus to revise the criteria was the frustration that the commission experienced with the Gerrish Drive subdivision. The commission was inclined to examine a possible alternative access from Bagdad Road but was precluded from doing so because the



allowance for an alternative location had to be outside of the WCOD (under criterion 1.), even though an access from Bagdad Road might theoretically have had less environmental impact. The change in criterion 1. would allow for the examination of an alternative access even if that alternative still runs through the WCOD. This change provides more flexibility, but still involves a fairly high hurdle for a determination that an access different from that proposed by the applicant should be used, as provided in a), b), and c) under criterion 1. (The outcome would be the same for Gerrish Drive with this new language because use of Bagdad Road would arguably not meet the standards under b) and c) and would appear to also have a greater impact on the WCOD and/or overall ecological resources.)

Standard 1. a) refers to impact on the WCOD/SPOD *and* overall ecological values because it would not be productive to expect a different access with *less impact* on the WCOD/SPOD be used, if that access had a *more adverse impact* on overall ecological values. It was debated, therefore, whether to retain WCOD/SPOD in this standard along with the overall ecological values, but I think it should be retained because the focus of these overlay districts is on the wetlands and water resources.

On a second point one might ask why we include b) be workable and c) be reasonable under criterion 1. These are different things. We had a conditional use application a while ago for a new house off Durham Point Road on a large, high value lot. The applicant could have been expected to build the house close to Durham Point Road where no wetland would be affected (i.e., that was *workable*) but it would not have been *reasonable* given the attraction of building on such a lot closer to the water.

**Other Criteria.** The new criteria 2. and 3. are mainly a reworking of current criteria 2., 3., and 4. The proposed criterion 4. is new. The intent of this standard is to allow for an application to be denied in a very rare situation where a high value wetland or water resources is being substantially harmed, such as where a large area of a bog would be filled. Inclusion of this provision is especially useful if the 8 general conditional use criteria (which include broad language about impact on natural resources) are removed from consideration for conditional uses in the near future in the WCOD and SPOD as has been recommended by the Town Planner and others. See the second sentence in 4. *I want to emphasize that the intent here is not to create a burden for applicants to pay for additional studies to demonstrate that they are not having a substantial adverse impact. This requirement should be triggered only in rare situations.*

**Procedures.** The procedure for input from the Conservation Commission is clarified. It is ambiguous what “with the advice of the Conservation Commission” means. The new language states simply that the Planning Board cannot take final action until the commission has offered its comments.

**LEGAL AUTHORITY:**

RSA 674:21, 675:2, and 175-14 of the Durham Zoning Ordinance.

**LEGAL OPINION:** n/a

**FINANCIAL DETAILS:** n/a

**SUGGESTED ACTION OR RECOMMENDATIONS:**

*The Durham Town Council does hereby move on First Reading (as presented/as amended), Ordinance #2023-03, to amend Chapter 175 "Zoning", Article XIII, "Wetland Conservation Overlay District" and Article XIV, "Shoreland Conservation Overlay District" of the Durham Town Code.*

# **ORDINANCE #2023-03 OF DURHAM, NEW HAMPSHIRE**

## **AN ORDINANCE AMENDING CHAPTER 175 “ZONING”, ARTICLE XIII, “WETLAND CONSERVATION OVERLAY DISTRICT” AND ARTICLE XIV, “SHORELAND CONSERVATION OVERLAY DISTRICT” OF THE DURHAM TOWN CODE**

**WHEREAS**, the Wetland Conservation Overlay District (WCOD) and Shoreland Protection Overlay District (SPOD) are important overlay districts for protecting wetlands, water resources, and other natural resources in Durham and beyond and the purposes of each district are stated in Sections 175-58 and 175-69 respectively; and

**WHEREAS**, the Conservation Commission appointed a committee to review the four conditional use criteria contained in both the WCOD and SPOD, recognizing that there are some shortcomings with the current criteria; the committee carefully reviewed the two articles in the Zoning Ordinance; and presented proposed revisions to the Conservation Commission; and

**WHEREAS**, the Conservation Commission discussed and analyzed possible changes to the conditional use criteria over five meetings, finally endorsing a set of proposed changes on March 27, 2023 and forwarding the proposal to the Planning Board for consideration; and

**WHEREAS**, the proposed changes were presented to the Planning Board on April 12, 2023, the Planning Board made some modifications to the draft, and scheduled a public hearing on the revised draft on April 26, 2023; and

**WHEREAS**, the Planning Board held a public hearing on April 26, 2023 and received generally positive responses to the proposal, the Planning Board made several minor adjustments to the draft, and then duly voted to formally initiated this amendment and forward it to the Town Council for consideration; and

**WHEREAS**, the proposed changes represent an improvement in the current WCOD and SPOD articles of the Zoning Ordinance in terms of clarifying the procedure for the Conservation Commission to make its recommendations, improving the formatting, and providing more precise, environmentally grounded, practical, and reasonable standards for review; and

**WHEREAS**, the intent of the new criterion in 175-61. B.4. and 175-72. B. 4. is to allow for consideration of potential substantial adverse impact upon very valuable wetland and water resources in rare situations, and not to require applicants to do additional studies or pay for additional studies to demonstrate that the proposal does not have a substantial adverse impact, except in those rare situations; and

**WHEREAS**, at its meeting on May 15, 2023, the Town Council moved this ordinance on First Reading and scheduled a Public Hearing for its meeting on Monday, June 5, 2023. A Public Hearing notice was published in the *Foster's/Seacoast Online* on Thursday, . The notice was also posted on the outside bulletin board at Town Hall, as well as at the Durham Public Library and Department of Public Works.

**NOW, THEREFORE BE IT RESOLVED**, that the Town of Durham, through the Durham Town Council, the legislative and governing body of the Town of Durham, New Hampshire, hereby adopts Ordinance #2023-03 and does hereby amend Chapter 175 "Zoning", Article XIII, "Wetland Conservation Overlay District" and Article XIV, "Shoreland Conservation Overlay District" of the Durham Town Code.

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

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### **Article XIII - Wetland Conservation Overlay District**

#### **175-59. Applicability.**

- C. The provisions of this article apply in addition to any state requirements for a dredge and fill permit or other state approval or permit. It is the intention of the Town that these provisions be coordinated with state requirements and standards but that these standards shall govern if they are more stringent than state standards. *(NOTE: It is the responsibility of the property owner/applicant to consult with the New Hampshire Department of Environmental Services to obtain all required permits for any ground disturbance in wetlands.)*

#### **175-60. Permitted Uses in the WCOD.**

- B. The following uses ~~or~~ *and* activities, including any necessary grading, shall be permitted in the WCOD ~~if only if~~ they are permitted in the underlying zoning district ~~provided that the Zoning Administrator issues a permit for the activity after~~ *and* the Planning Board, ~~with the advice of the Conservation Commission,~~ determines that: ~~a.)~~ *1)* appropriate erosion control measures will be used, ~~b.)~~ *2)* any disturbed area will be restored, and ~~c.)~~ *3)* the activity will be conducted in a manner that minimizes any impact on the wetland. *The Planning Board shall not take final action on an application until the application has been presented to the Conservation Commission and the Conservation Commission has offered its comments/recommendations.*

#### **175-61. Conditional Uses in the WCOD.**

- A. The following uses, including any necessary grading, shall be permitted as conditional uses in the WCOD provided that the use is allowed in the underlying zoning district *and the Planning Board determines that the criteria in 175-61. B., below, are met.* ~~and a Conditional Use Permit is granted by the Planning Board in accordance with Article VII:~~

*The Planning Board shall not take final action on an application until the application has been presented to the Conservation Commission and the Conservation Commission has offered its comments/recommendations.*

...

*B. The Planning Board shall approve a Conditional Use Permit for a use in the WCOD only if it finds that all four of the following criteria have been met in addition to the general criteria for conditional uses and any performance standards for the particular use:*

*1. There is no alternative design and location on the parcel for the proposed project that would:*

- a) have less adverse impact on the WCOD and overall ecological values;*
- b) be workable; and*
- c) be reasonable to expect the applicant to utilize.*

*2. The design, construction, maintenance and operation of the proposed structures and activities within the wetland and buffer will minimize soil disturbance and adverse impacts to water quality to the extent workable.*

*3. Mitigation and restoration activities of the area being disturbed will allow for the site to perform the functions of the wetland and buffer to the extent workable. Planting of native or naturalized vegetation shall be included as appropriate (See Section 175-60 A. 1. for reference).*

*4. The proposed project will not have substantial adverse impacts to known rare species, rare habitats, water quality, aquatic connectivity, or wildlife corridors. Applicants are not required to provide supporting documentation for this criterion unless the Planning Board has good reason to believe this criterion applies.*

*C. Ecological value is defined as the environmental functions performed by all lands and waters to support the variety of habitats and the abundance and diversity of all flora and fauna.*

~~*B. The Planning Board shall approve a Conditional Use Permit for a use in the WCOD only if it finds, with the advice of the Conservation Commission, that all of the following standards have been met in addition to the general standards for conditional uses and any performance standards for the particular use:*~~

- ~~*1. There is no alternative location on the parcel that is outside of the WCOD that is reasonably practical for the proposed use;*~~
  - ~~*2. The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;*~~
  - ~~*3. The location design, construction, and maintenance of the facilities will minimize any detrimental impact on the wetland, and mitigation activities will be undertaken to counterbalance any adverse impacts; and*~~
  - ~~*4. Restoration activities will leave the site, as nearly as possible, in its existing condition and grade at the time of application for the Conditional Use Permit.*~~
-

**Article XIV – Shoreland Protection Overlay District**

**175-70. Applicability.**

The provisions of this article apply in addition to any state requirements for shoreland areas or other state approvals or permits. It is the intention of the Town that these provisions be coordinated with state requirements and standards but that these standards shall govern if they are more stringent than state standards. *(NOTE: It is the responsibility of the property owner/applicant to consult with the New Hampshire Department of Environmental Services to obtain all required permits for any activities within or in proximity to protected water resources.)*

**175-71. Permitted Uses in the SPOD.**

- B. The following uses ~~or~~ *and* activities, including any necessary grading, shall be permitted in the SPOD *if only if they are permitted in the underlying zoning district provided that the Zoning Administrator issues a permit for the activity after and* the Planning Board, ~~with the advice of the Conservation Commission,~~ determines that: ~~a.) 1)~~ appropriate erosion control measures will be used, ~~b.) 2)~~ any disturbed area will be restored, and ~~c.) 3)~~ the activity will be conducted in a manner that minimizes any impact on the shoreland. *The Planning Board shall not take final action on an application until the application has been presented to the Conservation Commission and the Conservation Commission has offered its comments/recommendations.*

**175-72. Conditional Uses in the SPOD.**

- A. The following uses, including any necessary grading, shall be permitted as conditional uses in the SPOD provided that the use is allowed in the underlying zoning district *and the Planning Board determines that the criteria in 175-72. B., below, are met. and a Conditional Use Permit is granted by the Planning Board in accordance with Article VII: The Planning Board shall not take final action on an application until the application has been presented to the Conservation Commission and the Conservation Commission has offered its comments/recommendations.*

...

- B. *The Planning Board shall approve a Conditional Use Permit for a use in the SPOD only if it finds that all four of the following criteria have been met in addition to the general criteria for conditional uses and any performance standards for the particular use:*
1. *There is no alternative design and location on the parcel for the proposed project that would:*
    - a) *have less adverse impact on the SPOD and overall ecological values;*
    - b) *be workable; and*
    - c) *be reasonable to expect the applicant to utilize.*

2. *The design, construction, maintenance and operation of the proposed structures and activities within the water resource and buffer will minimize soil disturbance and adverse impacts to water quality to the extent workable.*
  3. *Mitigation and restoration activities of the area being disturbed will allow for the site to perform the functions of the water resource and buffer to the extent workable. Planting of native or naturalized vegetation shall be included as appropriate (See Section 175-60 A. 1. for reference).*
  4. *The proposed project will not have substantial adverse impacts to known rare species, rare habitats, water quality, aquatic connectivity, or wildlife corridors. Applicants are not required to provide supporting documentation for this criterion unless the Planning Board has good reason to believe this criterion applies.*
- C. *Ecological value is defined as the environmental functions performed by all lands and waters to support the variety of habitats and the abundance and diversity of all flora and fauna.*
- ~~B. The Planning Board shall approve a Conditional Use Permit for a use in the SPOD only if it finds, with the advice of the Conservation Commission, that all of the following standards have been met in addition to the general standards for conditional uses and any performance standards for the particular use:~~
- ~~1. There is no alternative location on the parcel that is outside of the SPOD that is reasonably practical for the proposed use;~~
  - ~~2. The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;~~
  - ~~3. The location design, construction, and maintenance of the facilities will minimize any detrimental impact on the adjacent shoreland and waterbody as well as downstream waterbodies, and mitigation activities will be undertaken to counterbalance any adverse impacts; and~~
  - ~~4. Restoration activities will leave the site, as nearly as possible, in its pre-existing condition and grade at the time of application for the Conditional Use Permit.~~

**PASSED AND ADOPTED** this \_\_\_ day of \_\_\_, **2023** by the Durham Town Council, the legislative and governing body of the Town of Durham, New Hampshire, with \_\_\_ voting in favor, \_\_\_ voting against, and \_\_\_ abstaining.

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Sally Needell, Chair  
Durham Town Council

**ATTEST:**

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Rachel Deane, Town Clerk-Tax Collector



## TOWN OF DURHAM

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AGENDA ITEM: # **14B** TS

DATE: May 15, 2023

### COUNCIL COMMUNICATION

**INITIATED BY:** Citizen Petition

**AGENDA ITEM:** SHALL THE TOWN COUNCIL HOLD A FIRST READING OF ORDINANCE #2023-04 AMENDING CHAPTER 102 "SCENIC ROADS", SECTION 102.1 "SCENIC ROADS ESTABLISHED" OF THE DURHAM TOWN CODE TO DESIGNATE DAME ROAD AS A SCENIC ROAD?

**CC PREPARED BY:** Jim Lawson, Councilor

**PRESENTED BY:** Jim Lawson, Councilor

**AGENDA DESCRIPTION:**

The Town received a petition from residents requesting to designate Dame Road as a scenic road in accordance with RSA 231:157. The primary benefit of designating the road as scenic is the Planning Board's review and approval of routine (non-emergency) utility work involving tree trimming, tree removal or an extension of the power lines from either end of the Road. The following briefly describes Dame Road and the benefits of designating it as a scenic road.

Dame Road is approximately 3.2 miles long connecting Durham Point Road with Newmarket. Approximately .4 miles is paved coming from Newmarket and the remaining 2.8 miles is an improved gravel road. The majority of the land abutting the road past the Brown Center is conserved, and the Sweet Trail parallels the south side of the road for a long stretch. Power lines extend part way down Dame Road from both the Durham Point Road and Newmarket ends, leaving a large portion of the road with a natural tree canopy that is undisturbed by utility poles and tree trimming as shown in Figure 1.





Figure 1 – Undisturbed Tree Canopy on Dame Road

According to a map of the Oyster River Plantation available in the book “History of the Town of Durham New Hampshire” Dame Road is in the proximate location of what had been named Back Road. More than a dozen homesteads existed along the road according to the 1871 map of the town. William Wormwood’s estate was administered by his son in 1743, and states he lived on Back Road, attesting to the unique and long history of the area. It can be surmised that many of the stonewalls were built during this period.

Today, there are nineteen residential properties on Dame Road, and the road requires regular maintenance including, but not limited to, spring and fall grading and rolling, periodic removal of debris and organic materials from side ditches, replacement of gravel, culvert maintenance, washout repair and culvert replacement. The paving of

Dame Road *is not* in the town’s 10-year Capital Improvement Plan. The town can continue to maintain and improve Dame Road with a scenic designation without the review and approval of the planning board, unless the activity requires one of the following per RSA 231:158:

1. Removal of a tree(s) greater than 15” in circumference, unless the tree is a public nuisance posing a threat to safety or property, or
2. Destruction or removal of any portion of a stonewall.

Utility poles along the road are often located close to the travel lanes (see Figure 2) and trimming can impact the tree canopy over the road. Locations where the poles are further from the road show signs of aggressive tree trimming by Eversource, and provides evidence of the benefits provided by review and approval of the Planning Board before such work. It is important to note that Eversource’s standard trimming practices are very aggressive with trimming 8-10 feet to the sides, 10 feet below and 15’ above the power line – an area of 500 square feet around the line.



Figure 2 – Utility Pole Placement Near Dame Road Travel Lane

Designating Dame Road as a scenic road will help maintain the scenic character of the road by regulating tree trimming along and over the road by Eversource and protecting the historic stonewalls.

**LEGAL AUTHORITY:**

RSA 231:157 allowing cities and towns to designate Scenic Roads. RSA 231:158 on the effect of designating a scenic road.

**231:157 Scenic Roads; Designation.**

Any road in a town, other than a class I or class II highway, may be designated as a scenic road in the following manner. Upon petition of 10 persons who are either voters of the town or who own land which abuts a road mentioned in the petition (even though not voters of the town), the voters of such town at any annual or special meeting may designate such road as a scenic road. Such petitioners shall be responsible for providing the town clerk with a list of known property owners whose land abuts any of the roads mentioned in the petition. The town clerk shall notify by regular mail within 10 days of the filing all abutters along the road that lies within the town that a scenic road petition has been filed for and that an article to designate such road as a scenic road will appear in the warrant at the next town meeting. The voters at a regular town meeting may rescind in like manner their designation of a scenic road upon petition as provided above. Notice to the abutting landowners shall also be given as provided above. Each town shall maintain and make available to the public a list of all roads or highways or portions thereof within the town which have been designated as scenic roads. Such list shall be kept current by updating not less than annually and shall contain sufficient information to permit ready identification of the location and extent of each scenic road or portion thereof, by reference to a town map or otherwise.

**231:158 Effect of Designation as Scenic Roads. -**

I. As used in this subdivision, "tree" means any woody plant which has a circumference of 15 inches or more at a point 4 feet from the ground.

II. Upon a road being designated as a scenic road as provided in RSA 231:157, any repair, maintenance, reconstruction, or paving work done with respect thereto by the state or municipality, or any action taken by any utility or other person acting to erect, install or maintain poles, conduits, cables, wires, pipes or other structures pursuant to RSA 231:159-189 shall not involve the cutting, damage or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the planning board, or any other official municipal body designated by the meeting to implement the provisions of this subdivision, after a public hearing duly advertised as to time, date, place and purpose, 2 times in a newspaper of general circulation in the area, the last publication to occur at least 7 days prior to such hearing, provided, however, that a road agent or his designee may, without such hearing, but only with the written permission of the selectmen, remove trees or portions of trees which have been declared a public nuisance pursuant to RSA 231:145 and 231:146, when such trees or portions of such trees pose an imminent threat to safety or property, and provided, further, that a public utility when involved in the emergency restoration of service, may without such hearing or permission of the selectmen, perform such work as is necessary for the prompt restoration of utility service which has been interrupted by facility damage and when requested, shall thereafter inform the selectmen of the nature of the emergency and the work performed, in such manner as the selectmen may require.

III. Designation of a road as scenic shall not affect the eligibility of the town to receive construction, maintenance or reconstruction aid pursuant to the provisions of RSA 235 for such road.

IV. Designation of a road as a scenic road shall not affect the rights of any landowner with respect to work on his own property, except to the extent that trees have been acquired by the municipality as shade or ornamental trees pursuant to RSA 231:139-156, and except that RSA 472:6 limits the removal or alteration of boundary markers including stone walls.

V. A town may, as part of a scenic road designation under RSA 231:157 or as an amendment to such designation adopted in the same manner, impose provisions with respect to such road which are different from or in addition to those set forth in this section. Such provisions may include, but are not limited to, decisional criteria for the granting of consent by the planning board or other designated municipal body under paragraph II, or protections for trees smaller than those described in paragraph I, designated for the purpose of establishing regenerative growth along the scenic road.

VI. Any person who violates this section or any local provision adopted under this section shall be guilty of a violation and shall be liable for all damages resulting therefrom.

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

**MOTION:**

*The Durham Town Council does hereby move on First Reading (as presented) (as amended) Ordinance #2023-04 Amending Chapter 102 "Scenic Roads", Section 102.1 "Scenic Roads Established" of the Durham Town Code to Designate Dame Road as a Scenic Road, and schedules a Public Hearing for June 5, 2023.*

## **ORDINANCE #2023-04 OF DURHAM, NEW HAMPSHIRE**

### **AN ORDINANCE AMENDING CHAPTER 102 “SCENIC ROADS”, SECTION 102.1 “SCENIC ROADS ESTABLISHED” OF THE DURHAM TOWN CODE TO DESIGNATE DAME ROAD AS A SCENIC ROAD**

**WHEREAS**, the Town of Durham currently has four designated scenic roads – Bay Road, Bennett Road, Durham Point Road and Packers Falls Road; and

**WHEREAS**, on February 22, 2023 the Administrator’s Office received an email from Mike Hoffman indicating his desire for Dame Road to be designated as an additional scenic road; and

**WHEREAS**, on April 11, 2023 a petition was submitted to the Administrator’s Office where twenty petitioners requested that Dame Road be designated a scenic road; and

**WHEREAS**, at the April 17, 2023, Town Council meeting, Mike Hoffman presented a proposal regarding this request; and

**WHEREAS**, RSA 231:157 addresses the procedure of designating roads as scenic roads; and

**WHEREAS**, Dame Road is scenic for many reasons including its tree canopy over the road, abutting conservation land and historic stonewalls; and

**WHEREAS**, many of the utility poles are placed in close proximity to Dame Road’s travel lane; and

**WHEREAS**, utility tree trimming must be carefully planned, reviewed and executed in order to maintain the tree canopy, tree health and the scenic character of the road; and

**WHEREAS**, the Town Code and RSA 231:158 allow for the removal of Public Nuisance Trees and trees presenting an imminent hazard to life or property without Planning Board review; and

**WHEREAS**, RSA 231:158 allows the Town of Durham to maintain or improve Dame Road without review by the Planning Board including, but not limited to, grading, rolling, ditch maintenance, gravel replacement, culvert maintenance and culvert replacement unless trees greater than 15” in circumference are removed or stonewalls are disturbed; and

**WHEREAS**, the Durham Town Council desires to designate Dame Road as a scenic road for the purpose of protecting the scenic character of Dame Road's tree canopy by regulating tree trimming along the road by Eversource through a scenic road designation; and

**WHEREAS**, at its meeting on May 15, 2023, the Town Council moved this ordinance on First Reading and scheduled a Public Hearing for its meeting on Monday, June 5, 2023. A Public Hearing notice was published in the *Foster's/Seacoast Online* on **Thursday, TBD**. The notice was also posted on the outside bulletin board at the Town Hall, as well as at the Durham Public Library and Department of Public Works.

**WHEREAS**, the Administrator's office, in a letter dated May, **TBD**, 2023, notified the abutters along Dame Road of the scheduled public hearing.

**NOW, THEREFORE BE IT RESOLVED**, that the Town of Durham, through the Durham Town Council, the legislative and governing body of the Town of Durham, New Hampshire, hereby adopts Ordinance #2023-04 and does hereby amend Chapter 102, Section 102.1 of the Durham Town Code designating Dame Road as a scenic road as indicated below.

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

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#### **102.1 Scenic Roads Established.**

The ~~four~~ five roads listed below have been established as scenic roads. Additional scenic roads may be established in the future in accordance with RSA 231:157.

- Bay Road (established 1996)
- Bennett Road (established 1971)
- Dame Road (established 2023)
- Durham Point Road (established 1972)
- Packers Falls Road (established 1971)

**PASSED AND ADOPTED** this 5th day of June, 2023 by the Durham Town Council, the legislative and governing body of the Town of Durham, New Hampshire, with \_\_\_ voting in favor, \_\_\_ voting against, and \_\_\_ abstaining.

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Sally Needell, Chair  
Durham Town Council

**ATTEST:**

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Rachel Deane, Town Clerk-Tax Collector



# TOWN OF DURHAM

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AGENDA ITEM: **# 15 TS**

DATE: **May 15, 2023**

## COUNCIL COMMUNICATION

**INITIATED BY:** Durham Town Council

**AGENDA ITEM:** CONTINUED DISCUSSION REGARDING THE DEVELOPMENT OF TOWN COUNCIL GOALS FOR 2023/24

**CC PREPARED BY:** Karen Edwards, Administrative Assistant

**PRESENTED BY:** Todd I. Selig, Administrator

**AGENDA DESCRIPTION:**

At the April 3, 2023 Town Council meeting, Council members began discussing the process for the development of goals for the upcoming year. At the April 17, 2023 Town Council meeting, the Council was presented with a draft document including the Administrator and Council members' suggestions for changes to the goals. The discussion on the draft was continued until the next Council meeting. In addition, any Councilors who had not commented on the draft were asked to submit changes to the Administrator's office.

At the May 1, 2023 Town Council meeting, the Council requested that Administrator Selig collate all of the suggestions into one document to be reviewed at the next meeting. There was a desire to create a one-page document that was concise with all of the Council goals.

Attached for the Council's information are two documents prepared by Administrator Selig. The first is the concise, one-page list of Council Goals as requested by the Council. The second document is a longer, more detailed list of Council Goals and associated tasks as developed by the Administrator. This document would be used by Administrator Selig for monitoring of Council Goals and for preparing Quarterly Updates to the Council and will evolve over the course of the year as circumstances dictate.

**LEGAL AUTHORITY:**

N/A

**LEGAL OPINION:**

N/A

**FINANCIAL DETAILS:**

N/A

**SUGGESTED ACTION OR RECOMMENDATIONS:**

No formal motion is required. Continue discussion and working toward adopting a final list of Council goals for FY 2023/24.



TOWN OF DURHAM  
8 Newmarket Road  
Durham, NH 03824-2898  
603.868.5571  
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**DRAFT**  
**2023-2024 Council Goals \***

*(Consolidation and streamlining by tselig 5.5.23, 5.8.23, 5.9.23, 5.10.23)*

**Mission**

To provide ongoing stewardship for the Durham community including effective and efficient municipal services.

**Core Values**

Excellence, Integrity, Justice, Resilience, Respect, Transparency

**Goals**

Note: These goals are intended to convey a **1- to 5-year** time horizon and assume but do not list all baseline activities.

- 1. Facilitate continued optimal functioning of Town government through continuous improvement, new efficiencies, waste reduction, and inter-agency collaboration.**
- 2. Conduct planning and take steps as necessary to protect public health and safety and provide ongoing service continuity given the anticipated impacts of climate change, the post-pandemic era, and general operational challenges.**
- 3. Pursue long-term economic strength and resiliency, anticipating the community's, the region's, and the nation's economic characteristics and opportunities.**
  - Task the Administrator with holding the updated 2023 municipal tax rate to no more than the rate of inflation and continuing to make an effort to control spending, enhance revenues, broaden the tax base, and explore innovative ways to stabilize or reduce the municipal tax rate.
- 4. Pursue long-term environmental sustainability and resiliency, taking into account existing and predicted impacts of climate change in multiple areas including drinking water, agriculture, food, society, transportation, ecology, and economy.**
- 5. Pursue long-term social resiliency and quality of life in Durham intended to strengthen the community in a welcoming and inclusive manner by supporting the needs of residents, families, and other identified stakeholders by offering a wide array of active and passive parks & recreation and library opportunities, programming, events, facilities, and publicly facing educational information celebrating the rich tapestry of Durham history.**
- 6. Continue cooperative and collaborative efforts with UNH to enhance mutual intellectual, cultural, environmental, social, and economic benefits associated with hosting New Hampshire's flagship state university.**
- 7. Leverage town committees and subcommittees to develop tactical plans to align with the broader goals of the Council and encourage them to collaborate with each other and communicate as necessary with the community at large.**

*\* Note that the order of the goals does not imply priority.*





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***DRAFT***  
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**Core Values**

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**Goals**

Note: These goals are intended to convey a **1- to 5-year** time horizon and assume but do not list all baseline activities.

- 1. Facilitate continued optimal functioning of Town government through continuous improvement, new efficiencies, waste reduction, and inter-agency collaboration.**
  - a. Take steps as necessary to ensure Durham's IT infrastructure remains secure from cybersecurity threats, technology obsolescence, and other challenges. [IT, Business Office, Administration]
  - b. Research whether consistent municipal financial & permitting software across all departments is possible. [Business Office, PZA Office, Fire, Public Works]
  - c. Evaluate updating procurement guidelines to determine whether increasing purchasing thresholds due to inflation & establishing exceptions for restoration/repairs of important historic properties to ensure proper historical workmanship would be appropriate. [Business Office, DPW]
  - d. Complete update to the Fire Department's strategic plan by end of 2023. [Fire]
  - e. Complete facility improvements at Fire Department within newly occupied space by end of 2023. [Fire/UNH]
  - f. Although unsuccessful in 2022, pursue Federal FEMA Assistance to Firefighters Grant in amount of \$515,480 for replacement of 2011 SCBA equipment in 2023/24. [Fire]
  - g. Evaluate potential opportunities for shared municipal services with surrounding communities and external entities as opportunities arise. [All Depts./Committees]
  - h. Completion of Land and Mobile Radio upgrade for public safety services [12/31/23] and emergency generator installation project for Durham's critical infrastructure [6/30/24]. [IT, Police, Fire, DPW, Administration]
  - i. Ongoing compliance with Commission on Accreditation for Law Enforcement Agencies (CALEA) at Durham Police Department in preparation for 2025 reaccreditation process. [Police]
  - j. Complete Comcast/Xfinity cable franchise renewal process. [IT/DCAT/Administration]
  - k. Ensure optimal working environment for staff members. [Administration/Business Office]
  - l. Annual orientation for new Town Councilors [Administration – Completed 4/3/23]
  - m. Annual orientation for new board/committee officers in fall 2023 (if needed) [Administration]

- n. Annual forum on Right-to-Know Law for committee members and Durham community scheduled for May 25, 2023. [Administration]
- o. Replacement of 2011 aerial bucket truck totaling \$135,000 in 2023. [DPW]
- p. Replacement of 1998 Landini sidewalk snow tractor totaling \$195,000 in 2023. [DPW]
- q. Replacement of 2008 International combination vacuum/jet rodder truck totaling \$520,000 in 2023. [DPW]

**2. Conduct planning and take steps as necessary to protect public health and safety and provide ongoing service continuity given the anticipated impacts of climate change, the post-pandemic era, and general operational challenges.**

- a. Continue to monitor and evaluate the reliability, capacity, and functionality of public water, wastewater, and stormwater services, and move ahead with associated capital initiatives as appropriate and work with the EPA and NHDES on swift enforcement for any violations that impact Durham/UNH infrastructure or resources. [DPW/Administration]
- b. Make changes to land use and other regulations as necessary to ensure local resilience associated with climate change in accordance with the recommendations of the Climate Action Plan. [Planning Board, Energy Committee, Conservation Commission, Ag. Commission, Council, Administration]
- c. Adopt the draft Climate Adaptation Chapter as an Administrative document if not adopted as part of the Master Plan by end of 2023. [Planning Board/Administration]
- d. As time allows, evaluate the cost/benefit of buying out the 2016 Power Purchase Agreement (PPA) relative to the 640 kW Oyster River Solar Array located at the Town's Packers Falls Road gravel pit. Estimated purchase price is \$850,000. [Energy Committee/Administration]
- e. Continue developing plans and commencing work for the rehabilitation of both the Old Town Hall/Courthouse and the Bickford-Chesley House at Wagon Hill Farm (new roof in 2023). [DPW, Working Group, Administration]
- f. Complete annual \$490,000 road resurfacing program (with an additional \$131,250 funded by UNH for University roadways) and \$84,500 sidewalk program focusing on Emerson Road, Durham Point Road, DPW Facility lot, Misc. locations during 2023 paving season. The 2023 sidewalk program focuses on the southern side of Main Street from approx. Smith Park Lane to Mill Pond Road including ADA tip downs, relocation of crosswalk in front of Town Hall, etc. [DPW, Historic District/Heritage Commission, Planning, Administration, Council]

**3. Pursue long-term economic strength and resiliency, anticipating the community's, the region's, and the nation's economic characteristics and opportunities.**

- a. Task the Administrator with holding the updated 2023 municipal tax rate to no more than the rate of inflation and continuing to make an effort to control spending, enhance revenues, broaden the tax base, and explore innovative ways to stabilize or reduce the municipal tax rate.
- b. Work to secure meaningful external grant funding opportunities and successfully manage a rigorous web of required Federal, state, and third party financial and programmatic reporting.
- c. Support as appropriate the efforts of local businesses, the Durham Business Association, and Celebrate Durham as they plan and host events and activities intended to maintain and enhance a vibrant downtown Durham. [Administration/Parks & Rec. Dept./DPW]
- d. Continue planning for the re-development of 66 Main Street beginning in spring 2024 or as circumstances dictate and consider adding the Town's Pettee Brook Parking Areas to the project. [Administration/Planning]
- e. Consider working with the General Services Administration for the possible redevelopment of U.S. Government properties in Durham.

[Administration/Planning/Council]

- f. Continue to work toward understanding, defining, and addressing downtown parking challenges in the post-Covid era to support local businesses, the diversification of downtown housing opportunities, and the expansion of the tax base. [Administration, Police, Code Office, Council, Planning Board]
- g. Complete the 2023 full revaluation of the Town of Durham including public engagement, mailings, and the abatement process as necessary. [Assessing Department]
- h. Navigate planned retirement transition of Assessor position scheduled to occur in early 2024. [Assessing/Administration]

**4. Pursue long-term environmental sustainability and resiliency, taking into account existing and predicted impacts of climate change in multiple areas including drinking water, agriculture, food, society, transportation, ecology, and economy.**

- a. Take steps that reflect the implementation and, when appropriate, revisions to Durham’s Climate Action Plan (CAP) toward a reduction in GHG emissions of 2019 levels by 42.8% by 2030, and achieving zero emissions by 2050. [Energy Committee/Administration/UNH Sustainability Fellow]
- b. Evaluate whether Durham’s commitment to the Global Covenant of Mayors for Climate and Energy (GCoM) has been effective and whether that commitment going forward is the best framework for achieving Durham’s CO2 reduction goals. [Energy Committee/Administration/UNH Sustainability Fellow]
- c. Work with the Town Clerk, Town Assessor, Code Officer, and Admin. Asst. to Administrator to implement a method for tracking EV adoption and building electrification in Durham and create a plan for promoting and educating residents on both. [Administration/Energy Committee]
- d. Complete an updated greenhouse gas inventory using previous modeling methodologies and evaluate the feasibility of using a consumption-based model for the inventory by May 2024. [UNH Sustainability Fellow]
- e. Monitor and continue evaluating opportunities to move forward with Durham Community Power with the goal that the default rate is less than Eversource and the renewable content is greater. [Administration/Energy Committee]
- f. Support efforts of the Integrated Waste Management Advisory Committee, Agricultural Commission, and Public Works to reduce municipal solid waste landfill use through a volume-based approach and increase composting. [DPW/Integrated Waste Management Advisory Committee]
- g. Complete the regulatory requirements for dam removal, secure grant funding and finalize the Mill Pond dam removal plan and river restoration design, including the possibility of adding a fish ladder to the upstream UNH dam, such that permitting and contractor bids can be secured in 2024. [DPW/Administration]
- h. Move forward with Phases II and III of the Wagon Hill Farm Shoreline Restoration project. [DPW, UNH, NHDES Coastal Program, Administration]
- i. Work with City of Portsmouth to mitigate impacts to Wagon Hill Farm as part of waterline replacement project under Little Bay. [DPW/Administration]
- j. Support local and regional efforts to promote and improve the long-term health of the Great Bay Watershed, including its tributaries and surrounding catchment areas. [DPW/Administration/Conservation Commission/Planning Board/Council]
- k. Continue to support the proactive stewardship of Town-owned lands and other lands in Durham held in conservation or under easement with nonprofit organizations while improving appropriate and sustainable public access and use of those lands. [Land Stewardship Subcommittee, Land Stewardship Coordinator, DPW, Administration]
- l. In 2023, review and possibly update renewable energy exemptions now available to property owners under NH laws in order to support community transition to renewable

energy alternatives versus fossil fuels. [Assessing Office/Energy Committee/Administration]

- m. Support and preserve a potential and/or working landscape of farms, gardens, and forests. [Agricultural Commission, Land Stewardship Subcommittee, Conservation Commission]

**5. Pursue long-term social resiliency and quality of life in Durham intended to strengthen the community in a welcoming and inclusive manner by supporting the needs of residents, families, and other identified stakeholders by offering a wide array of active and passive parks & recreation and library opportunities, programming, events, facilities, and publicly facing educational information celebrating the rich tapestry of Durham history.**

- a. Continue to work to preserve the health and vitality of Durham’s neighborhoods by addressing noise, trash, and zoning violations. [Code Office, Police, DPW, Planning Board, Administration, Council]
- b. Work with the NH Division of Historic Resources to develop updated wording on the State Historic Marker commemorating the July 18, 1694 attack on the Oyster River settlement by Native American forces under French command during King William’s War consistent with the above stated goal. [Durham Historic Association, Historic District/Heritage Commission, Human Rights Commission, Administration, Council]
- c. Support efforts to investigate opportunities, challenges, and options to ensure the availability of a full range of housing types in Durham. [Housing Task Force, Energy Committee, Human Rights Commission, Conservation Commission, Agricultural Commission]
- d. Support ongoing improvement of pedestrian and bicycle connectivity and access to public transportation. [Administration, UNH, DPW, Planning]
- e. Move forward with multi-phased Madbury Road Complete Streets and water/sewer initiative over the next four to five years. [DPW, Administration, Council]
- f. Support initiatives that welcome diversity, equity, and inclusion within our community. [All]
- g. Edit Town forms to include a nonbinary option by the end of 2023. [Business Office/Administration]
- h. Update 2003 General Public Assistance/Welfare Regulations for readoption in 2023. [Business Office]
- i. Update Elderly Exemptions qualification thresholds for income and assets (last updated around 2017) to coincide with 2023 revaluation. [Assessing]

**6. Continue cooperative and collaborative efforts with UNH to enhance mutual intellectual, cultural, environmental, social, and economic benefits associated with hosting New Hampshire’s flagship state university.**

- a. Work collaboratively with UNH to develop The Edge at West End in ways that support both Town and Gown. [Planning/Administration/Council]

**7. Leverage town committees and subcommittees to develop tactical plans to align with the broader goals of the Council and encourage them to collaborate with each other and communicate as necessary with the community at large.**

- a. Town committees are encouraged to outline 3-5 goals with the Council & Administrator that support initiatives outlined herein as well as plans for working to achieve them.

*\* Note that the order of the goals does not imply priority.*