

These minutes were approved at the May 13, 2002 meeting.

**DURHAM TOWN COUNCIL
MONDAY, APRIL 1, 2002 – 7:00 PM
DURHAM TOWN HALL – COUNCIL CHAMBERS**

MEMBERS PRESENT: Mal Sandberg, Chair; Katie Paine, Arthur Grant, Annmarie Harris, Peter Smith, Mark Morong, Pete Chinburg

MEMBERS ABSENT: Mike Pazdon, Eileen Fitzpatrick

OTHERS PRESENT: Todd Selig, Town Administrator;
Interested Members of the Public

I. Call to Order

The meeting was called to order at 7:05 pm

Councilor Grant Moved to APPROVE the agenda, as presented. The motion was SECONDED by Councilor Chinburg and PASSED unanimously.

Chair Sandberg read a letter from Eileen Fitzpatrick tendering her resignation from the Town Council, effective May 1, 2002, due to time constraints for health reasons. He explained that the Town Charter directs that upon the occurrence of a vacancy on the Town Council, the Council should appoint a suitable replacement at the next regularly scheduled meeting, which in this case would be May 6, 2002. That appointment would be in effect until the next regularly scheduled general election in March 2003, at which point there would be four vacancies appearing on the town ballot.

II. Approval of Minutes for March 4 and March 18, 2002

March 4, 2002 Minutes

Councilor Harris MOVED approval of the March 4, 2002 minutes. The motion was SECONDED by Councilor Chinburg.

Councilor Smith said that he was uncomfortable approving the minutes due to their level of detail.

Chair Sandberg felt that there had been substantive errors in the minutes. He suggested that the Council go through the substantive corrections page by page.

Councilor Grant Moved to APPROVE the March 4, 2002 minutes, as amended. The motion was SECONDED by Councilor Harris and PASSED on a vote of 4-2-1 (Sandberg, Harris,

Paine and Chinburg voting in favor; Morong and Grant abstaining, and Smith voting against).

March 18, 2002 Minutes:

Councilor Grant MOVED to approve the minutes of March 18, 2002, as amended. The motion was SECONDED by Councilor Harris and PASSED on a vote of 7-1 (Councilor Smith voting against).

V. Report of Administrator

Town Administrator Selig reported on the following:

- ADA modifications to town bathrooms will be begin this week.
- A public information session regarding the Durham Police accreditation process will be held on Tuesday, April 23 at 7:00 pm in Council chambers.
- The "Skate with the Champions" event was successful. Donations were received totaling \$972.00, with a net profit of \$1.50.
- A Council Visioning Session will be held on Saturday, April 6th in the Council Chambers. The public is welcome to watch.
- A drought emergency has been declared by the State of New Hampshire. Durham is declaring a drought "watch". Under the drought watch, citizens are asked to voluntarily reduce water usage, particularly for lawn watering and vehicle washing (both by civilian and Town vehicles). Citizens are asked to fully load dishwashers and washing machines, to take shorter showers and to monitor the water levels of private wells. Regarding preparedness, there is still water going over the dam. The main concern relates to the groundwater, particularly in the Lee well. The Town has stepped up flushing of water and hydrant systems while there is water running over the dam. The flushing will run through April 15th. From April 15-May 15, the Lee well will be shut down to allow it to recharge and to divert the water source to the Oyster River.

Councilor Smith asked if all of the different levels of water/drought alerts apply equally, regardless of whether someone draws water from other sources or a private well. Town Administrator Selig responded that the different stages of alert refer specifically to the municipal water users in Durham, and does not include private well users.

Town Administrator Selig was asked if the Town had any legal jurisdiction in a water emergency regarding the University's use of water. He responded that in most all of the Town's water discussions, Public Works professionals are at the table with their counterparts from UNH. Both groups seem to be in accord at this time. He said he would expect that the UNH would be as concerned as the Town about their water usage, if the situation worsens.

- The opening of the UNH pool will be considered at a meeting scheduled for May 1, 2002 with UNH recreation personnel.
- Low water usage plants will be planted around Town this year.
- 4th of July plans are underway.

- The Planning Board received a presentation from UNH about the proposed police station and held a Public Hearing on this proposal at its March 27, 2002 meeting. Town Administrator Selig said that he was sure UNH would be willing to address any concerns that the Board may have on this matter.

Councilor Paine suggested that the process of selecting low-water plants be broadcast on DCAT. Councilor Paine also indicated that DCAT was still seeking an additional member to the committee.

Councilor Harris felt that the Council should have a presentation from UNH and its architect on the police annex project.

Councilor Morong felt that the Police Strategic Planning presentation was very informative. He said there was concern about allegations voiced by a member of the public against the Police Chief with references to stealing. Town Administrator Selig said that he had spoken with Mrs. Lund, whose husband had spoken with the police on this matter, and that Mr. Lund considered it resolved. Town Administrator Selig said that he was satisfied that this was a non-issue with respect to allegations concerning the Police Chief.

VI. Reports and Comments of Councilors

Regarding the Council vacancy, Councilor Smith urged members of the public to seriously consider service on the Council, which would only obligate them for 10-11 months.

Councilor Smith addressed the proposal by UNH regarding the police station. He agreed that the item should be placed urgently on the Council's agenda. He asked that UNH be prepared to address not only the general planning matters that were the main subject of their appearance before the Planning Board, but also the whole timing of the proposal by UNH at a time when the UNH and the Town are engaged in serious, difficult and complex negotiations regarding the future of the police arrangements in the Town. Councilor Smith is concerned about an entity moving ahead to build a new police headquarters when the underlying issue is obviously not resolved. He would like UNH to address this issue.

Councilor Chinburg noted that the UNH/Town policing issue is on the April 15 agenda. Regarding comments made that the Town has no water shortage because there is water going over the dam, Chinburg felt that was a deceptive thought. He said that the UNH owns the water treatment plant and that the Town buys water from the UNH through a cooperative agreement. He would expect that cooperative arrangement would continue agreeably.

Chair Sandberg stressed that a cooperative effort between town and gown be pursued.

Councilor Grant inquired about the technicalities of holding title to water. He also stated that there has been a lot of misinformation that has occurred because people assume things.

Town Administrator Selig stated that the May 6 agenda is for the Durham Police Department to give their report on the issue.

VII. Public Comments

Eric Froeberg, 170 Packers Falls Road, spoke on the Wagon Track Bike Trail. He had hoped that tonight's meeting would provide information on the moving forward of this project, which was started two years ago, rather than continuing a debate which was already settled and approved by the Council. He addressed some key dates in the project's history.

Dianna Carroll, 54 Canney Road, spoke about the Integrated Waste Management Advisory Committee's newsletter, which will go out to Durham households this week. It is a cooperative project with Department of Public Works. The Committee received a small grant which paid for some of the costs of producing the newsletter. She encouraged backyard composting, noting that composting saves the Town money by reducing garbage that goes into the Town's waste stream. She informed the public that order forms were available in the newsletter, in the Town offices, and at Department of Public Works for anyone desiring to purchase a composting bin.

Councilor Harris MOVED, SECONDED by Councilor Smith, to extend the public comments period by 15 minutes. The Motion PASSED unanimously.

William Hall, Smith Park Lane, said that the Council was not informed of the entire fiasco regarding the Durham Police. He said that it is difficult to bring action against the Police. He said the reason he had brought this issue up at the Informational Town Meeting was because he had received complaints. He said that he had a letter telling him what to do with problems at Smith Park Lane. He felt he had done what Deputy Chief Rene Kelly told him to do regarding the issue and was "jumped on" by police for following that advice. Since Town Administrator Selig's intervention, however, the procedures of the police in the neighborhood have proceeded to his satisfaction. He suggested that the Town Council look into this further.

Lynn Allen, 148 Packers Falls Road, encouraged the Council to pass, on first reading, a citizen's petition version of an ordinance pertaining to the use of outdoor recreational playing fields. She stated that the two versions were coming forward at tonight's meeting. One version was submitted though a citizens' petition and the other version was originated by the Planning Board. The citizens are asking for a Technical Review Committee, consisting of Town staff, to review such proposals, instead of having to go through a site plan review by the Planning Board. She felt that review of applications for recreational playing fields could be done more expeditiously by Town staff rather than burdening the Planning Board, which is already very busy.

Gerald Smith, 1 Back River Road, stated that the most expensive rural property in Durham, Wagon Hill Farm, is owned by the Town. He said that Wagon Hill is the most underused, expensive land that one could have, and he would like to see the money that would go into the bike path be spent on developing the land at Wagon Hill.

Hillary Scott, Route 4, also spoke on the bicycle path. She felt that the most important issues (i.e. dangerous road crossing, safety, environmental, etc.) still exist, which is why the topic has not been resolved.

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

Item A was removed for discussion.

Items B, C, and D were PASSED by unanimous consent. Those items were as follows:

- B. Resolution #2002-10: Accepting a Hazardous Materials Response Planning Grant from the New Hampshire Office of Emergency Management and authoring expending the fund for the purchase of hazardous materials reference manuals as outlined in the grant?
 - C. Shall the Town council approve the fall 2001 water/sewer abatements and the supplemental fall 2001 water/sewer warrant?
 - D. Shall the Town Council approve the purchase of the dump body and plow attachments from Howard P. Fairfield, Inc. for the sum of \$37,044.00?
- VIII A. Shall the Town Council approve the Special Event Permit application by the University of New Hampshire to conduct a parade for the UNH men's hockey team on April 8, 2002?

Councilor Harris proposed that the parade be initiated at Garrison Road (the alternate route suggested in the UNH President's letter). Town Administrator Selig addressed the route of the Parade.

Councilor Smith asked if the number of police personnel called for would be adequate, and what potential additional costs might result for the Town. Town Administrator Selig indicated that the Police Department had reviewed this proposal.

Councilor Paine requested that something be provided in writing stating that the cost would be borne by UNH. Town Administrator Selig indicated that he would ensure that the UNH pay any additional costs.

Councilor Harris MOVED that the Town Council approve the alternate route suggested by the UNH President and close a portion of Garrison Avenue between the hours of 6:00 and 6:30 pm for the parade. The Motion FAILED for lack of a Second.

Councilor Grant MOVED to close a portion of Main Street between the hours of 6:00 and 6:30 pm on April 8, 2002 for UNH to conduct a parade for the UNH men's hockey team. The motion was SECONDED by Councilor Smith and PASSED unanimously.

IX. Unfinished Business

A. Council Rules of Procedure

At the March 18, 2002 Council meeting, Councilor Pazdon made a motion to continue using the previously adopted Council Rules of Procedures.

Chair Sandberg encouraged the Council to endorse the original proposal which was to adopt *Roberts Rules of Order* as the Council's guide for parliamentary procedures. Councilor Smith concurred with Chair Sandberg's recommendation and suggested that the Council vote in opposition of adopting Councilor Pazdon's previous motion. *A vote was taken and the motion to continue using the Council Rules of Procedure FAILED unanimously .*

Councilor Harris MOVED, SECONDED by Councilor Smith, to adopt Roberts Rules of Order as the Council's guide for parliamentary procedures. The motion PASSED unanimously.

B. Who shall the Town Council appoint as citizen members to the Historic District Commission and Parks and Recreation Committee?

Vacancies for these boards were advertised in the *Foster's Daily Democrat*. Only one letter from a current member on the Historic District Commission was received with a request for reappointment. Town Administrator Selig suggested that the councilors talk with the applicants and move forward with a slate of nominations.

Councilor Paine asked why applicants had not completed the requested application forms and submitted resumes. Town Administrator Selig indicated that completion of applications had not occurred because he felt that it would be insulting to ask incumbent members to fill out applications.

Chair Sandberg suggested dispensing with the Historic District Commission appointment first, then hearing from the other applicants.

The floor was opened for nominations.

Two, 3-year regular terms on the Historic District Commission

Councilor Grant nominated Joan Graf.

Councilor Paine MOVED that the nomination of Joan Graf to fill one of the two HDC regular member vacancies be approved. The motion was seconded by Councilor Smith and PASSED unanimously.

Two, 3-year regular terms on the Parks and Recreation Committee

Ken Anderson indicated that he had been on the committee for one year filling a vacancy and was seeking appointment for a 3-year term.

Councilor Harris nominated Ken Anderson and Greg Moore. Councilor Chinburg nominated Jane Crooks.

Councilor Chinburg: Anderson and Crooks.

Chair Sandberg:	Anderson and Crooks
Councilor Grant:	Anderson and Crooks
Councilor Paine:	Anderson and Crooks
Councilor Harris:	Anderson and Moore
Councilor Morong:	Anderson and Crooks
Councilor Smith:	Anderson and Crooks.

Vote: Kenneth Anderson and Jane Crooks will serve until March 2005.

One 3-year alternate term on the Parks and Recreation Committee:

Councilor Grant nominated Greg Moore. Councilor Chinburg nominated Judith Breen.

Councilor Chinburg: Breen

Chair Sandberg:	Breen
Councilor Grant:	Moore
Councilor Paine:	Breen
Councilor Harris:	Moore
Councilor Morong:	Breen
Councilor Smith:	Breen

Vote: Judith Breen will serve until March 2005.

C. Update on Wagon Track Bike Trail – Mike Lynch and Bob Levesque

Public Works Director, Mike Lynch, stated that this project had been de-prioritized due to more pressing needs, but has now been brought back to the forefront. He explained that it is a time-consuming project, particularly from a wetlands standpoint, and felt that it may have been more productive to have outsourced the project a few years ago.

Town Engineer, Bob Levesque, stated that he had provided a timeline which was included in the Council packet for the meeting. He said that the state entrance permit was problematic because minimum sight distances for the speed limit on Route 108 cannot be maintained. The plan for improvements will entail taking some of the crest off the hill to increase the sight distances. He explained that another issue was the wetlands that are involved, including the Johnson Creek, an environmentally sensitive area. Wetlands flags are not present on the site and would need to be re-established by the original wetlands scientist who had worked in that area. He indicated that he had received a verbal commitment from the Seacoast Area Bicycle Route (SABR) to do the entire re-flagging of the wetlands area. Levesque said that he expected to spend approximately 40% of his time over the next year on this project to prepare construction documents to go out to bid.

Councilor Smith asked whether the amount of time that was projected for the Town Engineer on this proposal, at the time of its approval was, in Mr. Levesque's judgment, the same as what is now being projected. Levesque indicated that the timeline was consistent and that the amount of time would be the same. Councilor Smith asked further if the Town's financial commitment to this project had changed or remained consistent, particularly in terms of the matching percentages. Levesque indicated that it currently looked as though the project was exactly on budget as proposed.

Paine asked what decision the Town Council would need to make next on this project. Town Administrator Selig responded that the next step would be to apply to NHDOT for a permit access on to Route 108. Town Administrator Selig stated that if the Council indicates that it does not want to move forward with this project, it should be stated at this time. Otherwise, the project would continue to move forward.

Councilor Paine asked if the Council had the ability to renege on the contract signed by the previous Council. Town Administrator Selig responded that the Town of Durham had committed to Madbury and to participating with the grant. He did not feel that Durham had a valid reason to renege on the project as it stands. However, denial of the petition for access on to Route 108 could present a valid reason to discontinue participating in the project.

Chair Sandberg asked for clarification on the Class VI definitions/status. Jim Campbell stated that the Town attorney did not feel that there were any issues at this point with the path and making it a 10-foot wide paved path, and that doing so would not affect the Class VI status nor alter it.

Grant asked if Durham had provisions to prevent ATV use of this path. Town Administrator Selig stated that in the agreement signed with Madbury, it was contemplated that when the path was ready to open, the Durham Council and the Madbury Selectmen would come to an agreement on what those restrictions would be and then enact the appropriate ordinances.

Councilor Smith commented that he was not on the Council when this project was approved, but that he did have substantial concerns about it. However, suggestion of a breach of contract concerned him.

Town Administrator Selig stated that if the agreement were to be broken with the state, the Town would have to refund the \$20,000 previously funded, and Madbury might be able to pursue action against Durham.

Councilor Harris MOVED to amend the rules to continue discussion for an additional 15 minutes. Paine SECONDED the motion, which PASSED unanimously.

Councilor Harris pointed out that Durham had accepted money from the Sustainability Program at UNH and also from the SABR. Town Administrator Selig characterized those contributions as significant but that they would not necessarily need to be re-funded should the project be dropped.

An unofficial spokesperson of SABR, from Kittery, Maine, stated that SABR put up the money to do the original wetlands survey. No contract was entered into. It was entered into as a good-faith gesture, and that the Office of Sustainability had committed perhaps \$10,000.

Councilor Chinburg asked if there was any language in the current agreement prohibiting motorized vehicles on the bike path. It was agreed that such language did exist in the contract, however, ordinances would need to be put in into place in order for that to take effect.

Councilor Grant asked if, the Town Engineer spent 40% of his time on this project, what would be de-prioritized in its place. Mr. Lynch responded that it would mostly impact inspection of subdivisions, some of which would be taken over by the Director of Operations. Also, everyday inspections of roadways would be impacted, cleanup on the capital projects and new incoming projects of baseline improvements, and water/sewer ordinances, which take a considerable amount of time, just in terms of reading and reviewing.

Councilor Grant questioned the appropriateness of making the bike path a priority over, in particular, updating of ordinances. Chair Sandberg stated that he felt the bike path should be a backburner issue and was confident in the administrator to determine the priority of the project.

Town Administrator Selig said that he heard the concerns about keeping ordinances up- to-date, but that Durham needs to think about the projects undertaken in the future so that it does not again essentially bite off more than it can chew.

D. Discussion of Wiswall Dam

This issue had been raised by Councilor Fitzpatrick at the last meeting. Chair Sandberg stated his concern that, if the model as the lynchpin of the project is that Lamprey River water needs to be pumped over the hill and into the Oyster River aquifer, the act of doing that might undo the entire rationale for having installed the pipeline to the river in the first place. However, if the proposed study was going to look at other alternatives, he was comfortable with the study moving forward.

Councilor Harris said she could not imagine the dam being removed altogether, regardless of whether or not a fish ladder is installed, and that either way a study would need to be done. Recreational uses and water storage would seem to her to be deterring reasons against taking out the dam. However, if the money is being provided, even for the fish ladders, then she saw no reason for the study not to go forward.

X. New Business

- A. Shall the Town Council authorize a twelve-month extension on the Powerspan purchase and sales agreement.

A letter from Powerspan's attorney was received requesting a 12-month extension. A representative of Powerspan, Lynn Freidel, was present to answer questions from the Council. It was commented that a one-year extension seemed to be an extraordinary length of time, and the question was posed as to why the extension should be granted.

Lynn Freidel referred to an attachment provided to the Council. She indicated that the approval process can be lengthy. She explained that nothing had been decided by NHDOT until this past November, and that none of the site engineering could be accomplished until that approval had been received.

Councilor Grant MOVED, SECONDED by Councilor Harris, to grant a 12-month extension to Powerspan.

After some points of order were raised regarding the appropriateness of granting an extension on a contract that has technically expired, a 5-minute recess was declared at 9:18 pm. The meeting reconvened at 9:24 pm.

Councilor Grant MOVED that the Council renew its previous contract with Powerspan under the same conditions and terms, and to grant and allow 12 months for the completion of the permitting of the project. Councilor Chinburg SECONDED the Motion.

Councilor Grant commented that a number of businesses were interested in the location, none of which were considered truly desirable by the Town of Durham. He felt that Powerspan was the most attractive option presented.

Councilors Chinburg and Paine supported the renewal of the contract, but Councilor Paine said that her preference would be a lesser term such as seven or eight months. She asked Town Administrator Selig what kind of milestones could be put in place on this project, and assurances that they could be met. Town Administrator Selig suggested that a representative of Powerspan could be asked to report in six months on the status of the project.

Councilor Morong agreed that the Powerspan proposal seemed preferable to other options that may be reasonably pursued at the Business Park. He asked Town Administrator Selig if the timeframe of the motion was reasonable. Town Administrator Selig responded that he felt Powerspan had resolved some of its major issues with NHDOT, and that 12 months was a reasonable timeframe.

Chair Sandberg said that he was not confident that a renewal of the original contract did not have some complications and potential consequences in it, and suggested that the advice of legal counsel might be desirable before voting on the matter. He reminded the Council that some guidelines for the property had previously been developed and that he had been under the impression that the guidelines had been incorporated in to the P&S agreement. However, he later discovered that they had not been incorporated. He said that he was displeased when he attended a recent Planning Board meeting and saw the latest plans unveiled because he did not feel those plans reflected the best use of the property. He said that he is even more concerned because of the architectural rendition that is now before the Planning Board. Chair Sandberg encouraged the Council to further tighten up the architectural guidelines.

Councilor Grant was concerned that the architectural standards were not present as part of the P&S agreement, and that a considerable amount of time had been invested in the development of the architectural guidelines.

Councilor Paine suggested that it be ascertained whether or not the architectural guidelines were provided to the architect at an appropriate point in the process. Jim Campbell indicated that revisiting the guidelines could force Powerspan to go back to the Planning Board if the plans had changed.

Councilor Smith MOVED to postpone this issue to the next meeting for further discussion, and that in the interim, legal aspects of the issue be explored. The motion was SECONDED by Councilor Morong and PASSED on a vote of 6-1 (Chinburg voting against).

B. Revaluation overview with Assessor Rob Dix

Councilor Morong MOVED to extend the meeting until 10:30 pm to allow enough time for a full presentation by Rob Dix. Councilor Paine SECONDED the Motion and it was APPROVED unanimously.

Town Assessor, Rob Dix, briefly recapped the history of the state education tax. He gave a multimedia presentation which addressed, in-depth, the Town's assessment practices, procedures, and standards. Some items covered in the presentation included a review of the Data Collection Phase of assessment, in which a sample property card was displayed, as were photos of an average and an average-plus-20 house. A very basic schematic sketch is a component of the property card. Chair Sandberg asked Mr. Dix to briefly explain the difference in the process that is applied to a residential house as opposed to the process that is applied to commercial properties.

Councilor Harris MOVED, SECONDED by Councilor Smith, to continue the meeting for another 30 minutes to 11:00 pm. The Motion PASSED unanimously.

Councilor Smith asked that Mr. Dix be invited back soon to continue the discussion. Councilor Paine suggested a session on DCAT for public information, instead of addressing the Council again directly.

C. Resolution #2002-11: Authorizing the issuance of \$8,075,000 in Tax Anticipation Notes

Town Administrator Selig explained that the Town of Durham issues an annual tax bill. In the interim, a Tax Anticipation Note (TAN) is issued to obtain the funds needed in anticipation of the expenses that the Town knows will be forthcoming. He said that the Town will run out of money in May unless a TAN is issued at this time. Interest rates are competitive, which means Durham will pay a small interest rate on these funds.

Councilor Paine MOVED adopt Resolution #2002-11, as presented. The motion was SECONDED by Councilor Harris and PASSED on a roll call vote of 5-2 as follows:

<i>Fitzpatrick</i>	<i><u>Absent</u></i>	<i>Sandberg</i>	<i><u>Aye</u></i>
<i>Morong</i>	<i><u>Aye</u></i>	<i>Harris</i>	<i><u>Aye</u></i>
<i>Smith</i>	<i><u>Aye</u></i>	<i>Pazdon</i>	<i><u>Absent</u></i>
<i>Paine</i>	<i><u>Aye</u></i>	<i>Chinburg</i>	<i><u>Aye</u></i>

Grant

Aye

- D. Ordinance #2002-05: First Reading amending Chapter 138 "Taxation" of the Durham Town Code by removing the Elderly Exemption, Solar Energy Exemption and Exemption for the Blind

Town Administrator Selig indicated that this ordinance would serve to clean up chapters in the Town Code with regard to exemptions.

Councilor Paine MOVED to adopt Ordinance #2002-11 on First Reading, as presented, and schedule a Public Hearing for April 15, 2002. The motion was SECONDED by Councilor Chinburg, and PASSED unanimously.

- E. Ordinance #2002-06 (by petition): First Reading amending Chapter 175 "Zoning" of the Durham Town Code by creating a new use for recreational playing fields (outdoor) and allowing said playing fields in certain zoning districts.

Note: Items E&F were combined in information in the Council packet, but Chair Sandberg suggested that they be addressed individually.

- F. Ordinance #2002-07: First Reading amending Chapter 175 "Zoning" of the Durham Town Code by creating a new use for recreational playing fields (outdoor) and allowing said playing fields in certain zoning districts

Town Administrator Selig recognized Jim Campbell, Town Planner, who recapped the zoning change petition underway in terms of the outdoor recreational playing fields issue, and the history of that petition. He explained that the Town had received a complaint about the recreational use of Paul and Lynn Allen's fields, and whether or not the use of the fields was an accessory use of that property. The issue eventually went to the Zoning Board of Adjustment, and a cease and desist order was placed on the Allen's, who then pursued a Conditional Use Permit. The Allen's eventually withdrew their application due to the complications arising from the petition process. In an attempt to simplify the process of not going for a Conditional Use Permit, Jim Campbell suggested some language for definitions of recreational fields and recreational facilities.

The Allen's petition had called for review by a Technical Review Committee (TRC), as opposed to Planning Board review. The TRC would essentially be composed of Jim Campbell and the Code Enforcement Officer, who would also have the authority to bring in other Town entities if they felt it was necessary.

Councilor Smith asked if the Council had the authority to make substantive changes to the petition version of the ordinance. Jim Campbell replied that the Council had the authority to make such changes.

Councilor Grant made a MOTION to deny Ordinance #2002-06 as submitted by the Allen's, and other petitioners. The motion was SECONDED by Councilor Paine.

Councilor Morong expressed confusion about why Ordinance #2002-06 would not be desirable. He asked if there was an appeal period stated anywhere in Ordinance #2002-06. Jim Campbell replied that currently the technical review grace period for appeals is 20 days. Campbell indicated that the Planning Board provides a bit more protection for abutters. With a site plan review, the Planning Board still has the authority to refer something to technical review if it so chooses.

Councilor Smith felt it was inappropriate for a matter such as this to go to the Technical Review Committee, feeling that it essentially leaves the public out of the process.

The motion to deny Ordinance #2002-06 PASSED unanimously.

Councilor Grant MOVED to advance Ordinance #2002-07 to second reading. Councilor Paine SECONDED the Motion.

A public hearing would be scheduled for April 15. Councilor Grant pointed out the definition of recreational playing fields (outdoor), and the use of the term "for organized practices." In his opinion, the problem with the Allen's arose because their field became a game field, and that someday the problem would need to be addressed again.

Councilor Smith asked Jim Campbell about the zoning rewrite currently underway, and what was the immediate necessity of taking this proposal out of line. Campbell said that the Planning Board felt strongly that this type of recreational activity is needed, and time is sensitive due to the approaching soccer season. Councilor Smith asked if the Council would move without clarifying whether they are working as an administrative agency under these circumstances. He did not feel that this question was an issue separate from the petition's processing at this meeting.

Town Administrator Selig stated that the Allen's will be away on April 15 and would like the hearing to be postponed until May 6 so that they may be in attendance.

Councilor Paine MOVED to pass Ordinance #2002-07 on First Reading and schedule a Public Hearing on May 6, 2002. The motion was SECONDED by Councilor Grant and PASSED on a vote of 5-2 (Chair Sandberg and Councilor Smith voted against the motion).

Councilor Chinburg MOVED to adjourn the meeting. Councilor Harris SECONDED the motion and it PASSED unanimously.

The meeting ADJOURNED at 10:35 PM.

Marie MacDonald, Minute Taker