

DURHAM TOWN COUNCIL MINUTES
MONDAY, MAY 20, 2002 – 7:00 P.M.
DURHAM TOWN HALL – COUNCIL CHAMBERS

MEMBERS PRESENT:	Malcolm Sandberg, Chair; Annmarie Harris; Peter Smith; Arthur Grant; Mark Morong; Scott Hovey
MEMBERS ABSENT	Katie Paine, Pete Chinburg, Mike Pazdon
OTHERS PRESENT:	Todd Selig, Town Administrator; Interested Members of the Public

I. Call to Order

Chair Sandberg called the meeting to order at 7:07 PM

II. Approval of Agenda

Mark Morong MOVED to approve the agenda. Peter Smith SECONDED the motion, and it PASSED unanimously.

III. Special Announcements

Chair Sandberg stated that there were no special announcements.

IV. Approval of Minutes

April 15, 2002

May 6, 2002

Arthur Grant MOVED to approve the minutes of April 15, 2002. Mark Morong SECONDED the motion.

Mark Morong stated that he felt the account of his statement on page 5 incorrectly portrayed the point he was making. He proposed changing the second sentence to say “He also stated his concern that they had not funded the Durham Main Street program, one argument being that it was private enterprise, yet they would be funding this project as a private enterprise if it passed.”

Peter Smith stated that amendments should be made to Mr. Dix’s statements in paragraph 5, page 7. He suggested the phrase “detail devaluation issues” in the 3rd sentence be replaced with “reveal issues respecting overall conditions”. He suggested the word “devaluation” in the 5th sentence be replaced with the phrase “conditions varying from average.”

Peter Smith stated that a reason for the abstention of Peter Smith and Arthur Grant from the vote on page 5 should be specified as “for reason of inadequate information.”

Peter Smith stated that on page 14, 2nd sentence, the words “may own” after the mention of UNH should be “claims it owns” and the words “may own” after the mention of Durham should be replaced with “owns.”

Peter Smith MOVED to approve the minutes of April 15 as amended. Arthur Grant SECONDED the motion, and it PASSED unanimously (Scott Hovey abstained for reason that he was not a member of the Town Council when the April 15, 2002 meeting occurred).

Annmarie Harris MOVED to approve the minutes of May 6, 2002. Peter Smith SECONDED the motion.

Peter Smith stated that his explanation for his objection to item VIII. B on the Unanimous Consent Agenda on page 4 should be clarified by changing the phrase “provisions are grated per the ordinance” to state that “the proposed ordinance was drafted – not to the substance of the changes.”

Chair Sandberg stated that in the motion to approve the remaining Unanimous Consent Agenda item on page 5, the phrase after the words “which was” should be “moved to the end of the May 6th, 2002 agenda.”

Peter Smith stated that on page 5, paragraph 4 after mention of “the policy” should be added “of the Planning Board.”

Chair Sandberg stated that his statement on page 6 should be changed to say “Chair Sandberg stated that the Council should focus on its conversation with Mr. Pizzi for the purpose of obtaining information from him”.

Peter Smith stated that in his statement on 2nd paragraph on page 2, after the mention of the Town, the word “and” should be replaced with “because it” and “the riverfront site” should be replaced with “this riverfront site.”

Chair Sandberg stated that his recommended motion on page 12 should be to “continue” the Public Hearing not to “postpone” it.

Peter Smith stated that in Mike Pazdon’s statement on page 13, the phrase “as he represented the quorum” should be “he was needed for a quorum.”

Chair Sandberg stated that on the bottom of page 14, it should be changed to say that the meeting adjourned “to 7 PM May 13th, at 10:15 PM.”

Peter Smith MOVED to approve the minutes of May 6th, 2002 as amended. Arthur Grant SECONDED the motion, and it PASSED unanimously

V. Report of Administrator

Administrator Selig reported on the following:

- The new website is operational at www.ci.durham.nh.us. In the future, both approved and draft minutes will be posted on the web.
- The recording secretary's table in the Council Chambers has been moved to allow more room for public seating and to facilitate easier access to the fire exit.
- The Great Bay Partnership and the Nature Conservancy have both expressed interest in the purchase of a part or all of the property at the Durham Business Park.
- The Memorial Day Parade will be on Monday, May 27th beginning at 10:00 AM, which will be sponsored by American Legion Auxiliary Unit 95.
- The Town/Gown Committee met May 13th and discussed the strategy for improving the relationship between the Town of Durham and the University of New Hampshire. The document pertaining to this strategy will be brought forward for the Council to review at the next meeting.
- It has been reported to the Town/Gown Committee, regarding the policing issue, that the Town has finally received information from UNH needed to consider the financial impact of one department vs. two departments, and the benefits of both scenarios. The goal is to have a recommendation for the Council by June or mid-July.
- There will be some septic system workshops open to regional residents starting May 29, in the Senior Center Room of Rochester Community Center. More details are available on DCAT channel 22 or on the Town's website.
- Despite efforts to find another use for the farmhouse at Wagon Hill Farm, no plans have come to fruition. As a result, the Town Administrator intends to enter into discussions to renew the lease with the current tenant.
- There will be 2 interns with the Town this summer, Bernie Sparks and Karen Kelliher, who are both full-time officers at the UNH Police Department, and are going through the Masters of Public Administration program.
- Proposals have been submitted on behalf of the Town to the New Hampshire Municipal Association for the legislative policy process. These proposals were read to the Council.

Peter Smith suggested that, at a later point in the meeting, the Council should discuss the proposals sent by Administrator Selig to the NHMA other than the one that had been recommended by the Council. He stated that that the discussion would give an opportunity to affirm that the other proposals reflected the position of the Council.

Chair Sandberg stated that he had made a note to discuss the NHMA proposals under item X. D, Other Business.

VI. Reports and Comments of Councilors

Peter Smith commented on issues he had with an anonymous letter sent to him, and an anonymous ad in Foster's that expressed objection to the decision regarding the Powerspan/Durham Office Park project. He spoke about the history of the project with Powerspan at the Durham Business Park and recounted details of that history to justify his position.

Arthur Grant stated that Frank Alix, CEO of Powerspan, had called and spoke with him at the request of Annmarie Harris. He spoke about Mr. Alix's substantiation of Powerspan's position resultant to the company's immediate need for a larger facility and subsequent inability to focus on the Durham Business Park project. He spoke about Mr. Alix's statements expressing possible interest in a long-term agreement involving the Business Park site but also conveying unwillingness to financially support that agreement. Mr. Grant stated that his intention in proposing reconsideration last week was to enable the Town Administrator to obtain a response from Mr. Alix such as he had received.

Mark Morong gave a brief report of the Conservation Commission meeting. He also spoke about the issue of misrepresentation by the newspaper of the projected tax revenue the Town would have realized from the Powerspan project.

VII. Public Comments

Morey Borovick, 50 Mill Road, spoke about his disapproval of the Council's decision regarding the Powerspan project. He spoke about the importance for Durham to attain a viable and complementary commercial/industrial tax base.

Fred Bramante, 587 Bay Road, spoke about his disapproval of the Powerspan project outcome in regards to the increasing taxes and the expectations of the town regarding development.

Mary Miller, 118 Piscataqua Road, recounted her negative experiences with the Town's Tax Assessors as well as with the Building Inspector.

Kendree Parker, 10 Winecellar Road, urged the members of the Council to attend the New England Conference of Healthy Communities on May 28th.

Malcolm McNeill, 44 Colony Cove Road, spoke about issues relating to the Council's progress on the Sandybrook Corp. and J.R. Collier Corp. request for Conditional Use Permit and Planned Use Development approval.

William Hall spoke about the various issues he had with the actions of the Town.

Julian Smith, 246 Packers Falls Road, introduced himself, stating that he had applied for the alternate seat on the Planning Board, and was available to answer any questions the Council might have for him.

Dave Pease, 11 Willey Creek Road, stated that he felt appointments to Town boards, committees, and commissions were inappropriately placed as part of the Unanimous Consent Agenda, and that there should be opportunity for discussion by the Council with the prospective appointee.

Chair Sandberg stated that any Councilor wishing to speak to the proposed appointment of Julian Smith could remove it from the Unanimous Consent Agenda for further discussion.

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

- A. Shall the Town Council appoint Julian Smith to fill the alternate vacancy on the Planning Board?
- B. Shall the Town Council approve the special event permit application submitted by the Bourgoin-Reardon Post 94 of the American Legion to close a portion of Route 108 and Main Street for the annual Memorial Day Parade?
- C. Shall the Town Council accept the nonindustrial sewer connection application for a change in the use of the UNH warehouse facility as recommended by the Water, Wastewater, and Solid Waste Committee?

Peter Smith requested the removal of item A for the purpose of allowing discussion with Julian Smith.

Annmarie Harris MOVED to approve the Unanimous Consent Agenda with the exception of item VIII. A, which was removed for discussion. Mark Morong SECONDED the motion, and it PASSED unanimously.

Peter Smith suggested that Julian Smith, proposed appointee to the Planning Board alternate vacancy, speak briefly about himself to the Council.

Julian Smith gave an overview of his experience living in Durham, as well as his interests regarding building restoration and the land use process.

In response to a question from Mark Morong, Julian Smith spoke about his interest in studying the zoning ordinances as they have evolved, as well as his experience as a contractor. In response to a question from Peter Smith, Julian Smith stated that, if appointed, he would be willing to make a commitment to attend the majority of Planning Board meetings.

Arthur Grant MOVED that the Town Council appoint Julian Smith to fill the unexpired term of Robert Gearheart as an alternate member of the Planning Board, said term to expire March 31, 2003. Peter Smith SECONDED the motion, and it PASSED unanimously.

IX. Unfinished Business *(Beginning NLT 8:00)*

- A. **Public Hearing (Continued): Planned Unit Development and Conditional Use Permit** application submitted by Jones & Beach Engineers, Inc. on behalf of J.R.

Collier Corporation for a Planned Unit Development and Conditional Use Permit in the Rural District for property located on Packers Falls Road

Mark Morong recused himself from this discussion.

Chair Sandberg stated that, for lack of a quorum, the Public Hearing would be continued until June 3rd, 2001.

The Council discussed possible meeting dates, to accommodate the request for a special meeting made by Malcolm McNeill, on behalf of the applicant.

Chair Sandberg declared an 8-minute recess, for lack of a quorum.

X. New Business (*Beginning NLT 9:30*)

A. Discussion with Conservation Commission on issues of interest

Administrator Selig introduced Lee Alexander, Chairman of the Conservation Commission. Mr. Alexander gave a report on the purpose and progress of various projects with which the Conservation Commission is involved.

Peter Smith stated that he would like more detailed information on the projects of the Land Conservation working group to aid the Council in prioritizing its active role regarding land conservation.

The Council discussed with Mr. Alexander the possible scheduling of a land acquisition bond question for the 2003 ballot.

Administrator Selig stated that a bond amount would need to be established by September to properly schedule the land acquisition for consideration for the warrant.

B. Report on Public Works Operations Division – Doug Bullen

Administrator Selig introduced Doug Bullen, Assistant Director of Operations. Mr. Bullen gave a presentation on the three divisions of the Operations Department, highlighting their territories, responsibilities and activities.

Scott Hovey requested that the vandalized pumping station on Old Landing Road be repaired.

The Council discussed with Mr. Bullen and Mr. Lynch the figures from this year's Spring Clean Up in relation to last year's figures. They discussed the possible need for further analysis of this year's figures in comparison to past years, to better determine the success of this year's clean up.

Mr. Bullen gave an overview of the Department's current and future projects.

Arthur Grant suggested the review of figures pertaining to the disposal costs of materials picked up during Spring Clean Up.

Administrator Selig stated that the Town has prepared to handle the impact of discarded materials when the UNH students move out.

- C. Shall the Town Council direct the Town Administrator to pursue ownership of the Route 108 Sunoco property as recommended by the Master Plan?

Chair Sandberg stated that the top priority in the administrative summary of the 2000 Master Plan was the recommendation to address the future development of the route 108 Sunoco property. He stated that consideration of this item was prioritized on the list of Goals and Recommendations adopted by the Council at the last meeting.

Scott Hovey requested the information from the Master Plan pertinent to this item.

Chair Sandberg read recommendations from the executive summary of the Master Plan for the Route 108 Sunoco property.

Mark Morong MOVED that the Council direct the Administrator to pursue ownership of the Route 108 Sunoco property located at 2 Dover Road in Durham. Annmarie Harris SECONDED the motion.

Mark Morong stated that he felt this would be ideal property for the Town to acquire if it was feasible and economical.

In response to a question from Mark Morong, Administrator Selig stated that it would not be time consuming or expensive to collect and present to the Council comprehensive information on this property.

Arthur Grant MOVED to extend the meeting for an additional 15 minutes. Annmarie Harris SECONDED the motion, and it PASSED on a vote of 5-1 (Scott Hovey was opposed).

Peter Smith requested information assessing the contamination issues at this property. He also requested an update on the broad prospects of use for the property. He stated that he supported the motion insofar as it enabled the gathering of information for the purpose of making an educated decision about this property.

Arthur Grant stated that he felt the motion should be reworded to clarify the intent of the Council.

The Council discussed rewording options for the motion to better specify the action requested of Administrator Selig regarding this property.

Arthur Grant MOVED that the Council amend the motion to read: The Council hereby directs the Administrator to investigate use options for the Route 108 Sunoco property located at 2 Dover Road in Durham. Mark Morong SECONDED the motion, and it PASSED unanimously.

Peter Smith stated that, should ownership of the property by taking it become a prospect, the propriety of subsequently selling the property and not using it for public purposes should be considered.

The motion as amended PASSED unanimously

D. Other Business

Chair Sandberg re-addressed the suggestion from Peter Smith that the Council affirm its support of the proposals that Administrator Selig submitted to the New Hampshire Municipal Association.

Peter Smith MOVED that the Council indicate its support of the propositions set forth by Administrator Selig in the letter to the New Hampshire Municipal Association and direct Administrator Selig to inform the appropriate New Hampshire Municipal Association committees of that support. Annmarie Harris SECONDED the motion, and it passed unanimously.

Peter Smith requested that Administrator Selig, while researching the Route 108 Sunoco property, investigate the contamination issue for that site. He also suggested that action be taken by the Town to clarify any incorrect and misleading information that has been circulating regarding the Powerspan issue.

Administrator Selig stated that he could respond to the complaint issued during the public comments regarding the conduct of the tax assessors.

Chair Sandberg suggested addressing the issue during the earlier part of the next meeting, as more residents would receive Administrator Selig's response at that time.

XI. Nonpublic Session (if required)

There was no nonpublic session required

XII. Adjourn (NLT 10:00 PM)

Peter Smith MOVED to adjourn. Annmarie Harris SECONDED the motion, and it PASSED unanimously.

The meeting adjourned at 10:15 PM.

Carrie White, Minute Taker