

**DURHAM TOWN COUNCIL MINUTES
MONDAY, AUGUST 5, 2002– 7:00 P.M.
DURHAM TOWN HALL – COUNCIL CHAMBERS**

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

MEMBERS ABSENT: 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 7:00 PM.

II. Approval of Agenda

Arthur Grant MOVED to approve the agenda. Katie Paine SECONDED the motion and it PASSED unanimously.

Administrator Selig stated that the date listed for the annual UNH campus picnic under agenda item VIII.C. was incorrect and should be changed to September 17, 2002.

Mark Morong MOVED to amend agenda Item VIII.C. to change the date listed from September 11, 2001 to September 17, 2002. Arthur Grant SECONDED the motion and it PASSED unanimously.

Administrator Selig stated that at Annmarie Harris's request he would like to suggest, under item IX. New Business, that Other Business be moved from item IX.G. to IX.H. and that discussion about the SAE Fraternity at 28 Madbury Road coming up for Public Auction on August 15th, be added as item IX.G.

Katie Paine MOVED to amend agenda item IX. New Business to include a new item IX.G Discussion of the SAE Auction, and move Other Business to item IX.H. Arthur Grant SECONDED the motion and it PASSED unanimously.

The motion to approve the agenda as amended PASSED unanimously.

III. Special Announcements

Administrator Selig introduced Jonathan Kipp, the Loss Prevention Manager from Primex (NH Public Risk Management Exchange).

Jonathan Kipp spoke about the Loss Prevention Managers' award that the Town had been chosen to receive and presented the award to Chair Sandberg.

Chair Sandberg thanked Jonathan Kipp on behalf of the Town.

IV. Approval of Minutes

Minutes of July 8, 2002

Arthur Grant MOVED to approve the minutes of July 8, 2002 as presented. Katie Paine SECONDED the motion.

Chair Sandberg stated that an addition needed to be made on page 9 to make reference to the document submitted by Robin Rousseau.

Chair Sandberg MOVED to add the following at the end of the first paragraph on Page 9: "She referred to a document 'Allen Farm Subdivision Request for Denial by Durham Town Council' to support the argument that the project would have adverse fiscal impact on the Town." Peter Smith SECONDED the motion.

Scott Hovey questioned whether so much time should be put into creating the meeting minutes as there are also video and audiotape copies of the meeting.

The motion PASSED on a vote of 5-0-3 (Mark Morong, Pete Chinburg, and Katie Paine abstained as they had recused themselves from the discussion).

Peter Smith moved that on page 10, 5th paragraph down that "majority" be changed to "average age" and "year olds" should be "years old." Arthur Grant SECONDED the motion and it PASSED on a vote of 5-0-3 (Mark Morong, Pete Chinburg, and Katie Paine abstained as they had recused themselves from the discussion).

The motion to approve the minutes of July 8, 2002 as amended PASSED 5-0-3 (Mark Morong, Pete Chinburg, and Katie Paine abstained as they had recused themselves from the discussion).

Minutes of July 22, 2002

The Council discussed issues relating to the recounting of Jim Campbell's statements on page 7, 4th paragraph and it was the consensus of the Council that the statements should be verified with the tape recording of the meeting.

Peter Smith and Mark Morong indicated that they would be voting on approval of the minutes but not with respect to item XI.A, as they had recused themselves from the discussion on that item.

The motion to approve the minutes as submitted PASSED 7-0-1 (Annmarie Harris abstained as she had not been present at the meeting).

The Council briefly discussed Scott Hovey's comment about the detail of the minutes.

V. Report of Administrator

- There is a very informative program about the Revaluation process that is currently airing on DCAT and he announced the various air times.
- He will be proposing to the Council in the next month a fee structure for parking in the Town, particularly in the Downtown area.
- He and representatives from the Police Department traveled to Cleveland, Ohio to attend a meeting of the Commission on Accreditation for Law Enforcement Agencies to seek reaccreditation, which they were successful in obtaining.
- On Friday the new street sweeper arrived and it has been in operation.
- Two lightpoles were lost on Pettee Brook Lane due to accidents and they will be replaced in the next few weeks as replacement parts arrive.
- The painting, carpeting and restroom modifications at the Town Hall are nearly complete and the next stage in modifications will be to upgrade the restroom at the courthouse to be ADA compliant. The modifications were well timed as the ADA inspector will be visiting in 2 weeks.
- Information has been forwarded to the Council clarifying the Spring Cleanup numbers that had been reviewed.
- New articles have been added to the Town of Durham website at www.ci.durham.nh.us including an article about the renovations at the Solid Waste Management Facility.
- UNH has proposed improvements to the intersection of Main Street and College Road and detailed information has been forwarded to the Council. He spoke briefly about the proposed modifications, noting they would be of no cost to the Town. In response to a question from Peter Smith, he stated that the electronics for the lights that run under the roadway would be replaced with state-of-the-art technology, as long as there was no opposition from the Council. Administrator Selig indicated that he would authorize the modifications proposed by UNH. No concern was expressed by the Council.

VI. Reports and Comments of Councilors

Pete Chinburg announced that the next Durham Rental Housing Commission meeting would be on Thursday, August 20, 2002 at 4:00 PM.

Peter Smith stated that in the near future he would like the Council to have a discussion about the use of e-mail correspondence between Council members and the Administration. He said he was concerned because he felt the extent of recent e-mail communications had exceeded an appropriate level.

Chair Sandberg stated that a discussion on this issue would be scheduled at the earliest possible convenience.

Arthur Grant announced that the School Funding Formula Study Commission would have an organizational meeting on August 22, 2002 and that when the meeting location was determined it would be posted.

Mark Morong commended Department of Public Works personnel on the nice job they did painting the crosswalks downtown and their efforts to find a more cost-effective way to do the job.

In response to a question from Katie Paine, Scott Hovey stated there has not been a decision on the date of the Durham Day Picnic. Katie Paine stated, that irrespective of the date for the picnic, the Gundalow will be in Durham September 6-8, 2002.

VII. Public Comments

Bill Schoonmaker, 24 Mill Road, stated that he is one of the Town Library Trustees and that Annmarie Harris had made him aware of the SAE Fraternity auction. He said the Library Trustees have not discussed this matter yet as their meeting is not until Thursday. He stated that the location and the building are attractive but the building would need to be expanded and major work would need to be done to accommodate their needs.

William Hall spoke about issues he felt the Town Administrator had not been taking appropriate action on. He also spoke about issues he had with a sidewalk blockage incident he witnessed that was resolved by the Town and the Police. He stated that Chief Kurz had contacted him about the incident and extended an apology to him.

Betsy Horskin, Smith Park Lane, spoke further about the sidewalk blockage incident and about issues she had with how the Town Staff and Police had been handling problems.

Chair Sandberg stated that the Town was doing the best it could with limited resources and that it relies on citizens to report incidents as police are not available to be at every intersection.

Bonnie McDermott, 80 Dover Rd, spoke about her objection to the proposed Solid Waste Ordinance and Fee Schedule. She also stated her support for the land acquisition fund as a ballot item.

Robin Rousseau, 345 Packers Falls Road, asked for an update on the process of polling the community in regards to opinions about a land acquisition bond ballot item.

Administrator Selig stated that the Council feedback was given to the Land Protection Subcommittee who is heading the effort and they will decide about a poll and submit any results to the Council.

Ms. Rousseau spoke about the issue of the minutes. She stated that she believes the minutes should be as accurate as possible as she feels that the minutes are referred to, rather than the tapes, in legal proceedings and by the Town Boards.

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 accept the nonindustrial discharge permit application for the UNH Dining Hall?
- B. Resolution #2002-17: Authorizing the acceptance of private donations made to the Town between January 1 and June 30, 2002
- C. Shall the Town Council approve the Special Event Permit to close a portion of Main Street for the annual UNH campus picnic on September 17, 2002 as requested by the UNH Office of Public Programs and Events?

None of the Unanimous Consent Agenda Items were removed for discussion.

The Unanimous Consent Agenda was APPROVED unanimously.

Chair Sandberg read the list of and thanked those who made private donations to the Town from January 1-June 30, 2002.

IX. 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

Katie Paine, Mark Morong, and Pete Chinburg recused themselves from this discussion.

Chair Sandberg noted that there was lack of a quorum. He stated that Mike Pazdon had notified them that he suffered a back injury this afternoon and was uncertain if he would be able to attend the meeting. He suggested either postponing this item until the next meeting or until Mike Pazdon arrived at the meeting.

Scott Hovey requested that if the item is postponed, they meet before the next regularly scheduled meeting on this item.

Chair Sandberg stated that he would not be available prior to the August 19th meeting.

Mark Morong suggested contacting Mike Pazdon to determine if he would be able to make it to the meeting.

Peter Smith suggested a 5-minute recess to allow Administrator Selig to try and contact Mike Pazdon.

Chair Sandberg declared a 5-minute recess at 8:50PM.

Administrator Selig stated that he had spoken with Mike Pazdon, who said he would not be coming to the meeting because of his back injury.

Chair Sandberg stated that the Public Hearing on this application would be continued until the August 19, 2002 meeting of the Town Council.

IX. New Business (Beginning NLT 9:45)

A. Presentation of the 2001 Audit Report - David Clukay, Vachon and Clukay, Co., P.C.

Administrator Selig gave a brief introduction of this presentation.

David Clukay gave a summary of the 2001 Audit Report for the Town. He stated that in the 10 years his firm has been auditing the Town there has been a great improvement in the accounting practices of the Town.

The Council discussed with Mr. Clukay the issue of not reconciling with the DRA. They also discussed with Mr. Clukay the fund balance increase, and what percentage increase is appropriate.

B. Town Clerk-Tax Collector staff report – Linda Ekdahl

Linda Ekdahl spoke about the Tax Collection Report. She spoke in detail about the numbers related to the Land Use Tax, unpaid Tax Liens, and the Boat Tax. She stated that payments for Boat Registration can be made at the Town Hall, and the Boat Tax portion of the Fee contribute to the Town in which one pays. In response to a question from Peter Smith she spoke about the Tax Lien process.

Arthur Grant suggested advertising the services of the Tax Collectors Office in the next Town Report.

Mark Morong commended Linda on the good job she has done as the Tax Collector.

C. Zoning, Code Enforcement and Health Department staff report – Tom Johnson

Administrator Selig introduced Tom Johnson, Zoning Administrator, Code Enforcement Officer and Health Officer and Jane Towle, Vice Chair of the Zoning Board of Adjustment.

Jane Towle spoke about the Zoning Board of Adjustment requests and results since January 1, 2002. She spoke about the number of requests for variances that are required only because of non-conforming lots. She spoke briefly about the definition of a non-conforming lot.

Peter Smith stated that he thought variances were supposed to be rarely granted.

Tom Johnson spoke about the non-conforming lot issue, and stated that this is a topic of discussion for the Zoning Rewrite Committee.

Chair Sandberg stated that the Council would like a written report of the information Ms. Towle has presented.

Arthur Grant said there is a possibility that previous Code Enforcement Officers have allowed building permits if the proposed construction met all requirements, even if it was a non-conforming lot. He stated that Mr. Johnson strictly interprets the law and allows such issues to be handled by the Zoning Board.

Tom Johnson gave a report about the Health Department progress and projects. He stated that he had acquired a DES permit if mosquito control treatments are required in lieu of a West Nile Virus threat. He gave a report about Code Enforcement progress and projects. In response to a question from Arthur Grant, he stated that the Legislative Report suggests that code compliance should be completely entrusted to the contractor and applied to towns that do not have code enforcement.

Arthur Grant asked if having building codes enforced by the Town imposes liability upon the Town in case the contractor somehow does not comply with the code and the Town misses it. Tom Johnson stated that this would be a civil matter between the contractor and the homeowner.

In response to a question from Peter Smith, Tom Johnson stated that the 2002 codes need to be updated in the ordinance. He stated that the codes will become mandatory in 2003, and it would be fine if they were proposed for adoption in the next 3-4 months.

The Council discussed a code update from a few years ago and requested that it be determined if these updates were pertinent to just fire codes or to the building codes as well.

Tom Johnson stated that he was just notified that the new ISO rating for the Town that is provided to homeowners insurance companies is 2 (on a scale of 1-10, 1 being the best). He stated that there has been a great improvement since the rating of 9 in 1995.

Mark Morong asked if the 2002 State Codes were similar to National Codes. Tom Johnson stated that what the State has adopted are the International 2000 Codes.

In response to a question from Arthur Grant, Tom Johnson stated that the new codes could be adopted by reference and the wording does not have to be incorporated into the ordinance unless amendments are made to them. He spoke briefly about the Zoning Rewrite progress. He gave a report about the Zoning Administration's progress. He discussed efforts to remove political signs that are inappropriately placed around town.

The Council discussed the political sign restriction issue.

Tom Johnson spoke about progress on enforcement of the occupancy restrictions on residences and better ways to assure that these restrictions are being met.

Peter Smith felt the Town should research the State statutory provisions and adopt any that would aid the occupancy restriction enforcement efforts.

Annmarie Harris asked about the inspection procedure for multi-unit dwellings. Tom Johnson stated that the Fire Department does this type of inspection any time there is an incident.

Tom Johnson spoke about enforcement issues in regards to illegal accessory apartments that are permitted to be converted into duplexes.

D. Preliminary 2003 Budget discussion

Administrator Selig spoke about his request to department heads to bring forward zero increase budgets and to propose prioritized lists of new initiatives. In response to a question from Pete Chinburg, he stated there is a chance that the tax rate could go down if the fund balance is drastically reduced.

Arthur Grant asked if the department heads had considered eliminating certain current costs. Administrator Selig stated that he requested the department heads review their overall allocated funds in considering their budgets.

Scott Hovey stated that instead of looking at the fund balance, the Town should reduce spending and the Council should find ways to increase revenues.

Annmarie Harris asked about the progress of proposing impact fees as a way to increase revenue.

Chair Sandberg stated that there had been discussion about increasing revenues through the permit fees and the Solid Waste Ordinance was one proposition.

Administrator Selig spoke about the areas where permit fees might be increased. He stated that during the Budget season the Council should inform him of any cuts it believes should be made. He stated that his focus during the budget process would be to get increased police coverage downtown, to address the housing occupancy issue and to evaluate the Fire Department staffing.

E. Suggestions for expansion of the Council Chambers

Administrator Selig spoke about different proposed configurations and costs for expansion of the Council Chambers and how the funds for this project might be acquired.

Scott Hovey stated that he would be willing to support holding back on this issue so long as the issue would be resolved before next year.

Pete Chinburg felt the suggestion to reconfigure the current space would be the best option.

Chair Sandberg stated that the occupancy permit rates the Council chambers for 56 people. Administrator Selig noted that there are currently seats to accommodate 48 people.

Peter Smith believed reconfiguring of the room would not be a good option. He asked the Council if the premise for consideration of spending \$30,000 on expanding the Chambers was a result of the conclusion that a new Library facility, with adequate meeting space, would not be available within a reasonable amount of time.

Katie Paine stated that she has heard no complaints from residents about the current meeting space as many stay home and watch meetings on DCAT. She felt consideration of spending money on expansion of the chambers is hypocritical in lieu of the Council's discussion about cutting back on services and the budget.

F. Discussion of revisions to the Solid Waste Ordinance and related fee schedules

Administrator Selig gave an overview of proposed revisions to the Solid Waste disposal fee schedule including elimination of the coupon system and implementation of a permit system. In response to a question from Annmarie Harris, he stated the revision proposed that owners of multi-unit properties would have to purchase one sticker per unit.

Chair Sandberg noted the revision proposed that irrespective of the amount of trash generated by a business, they were held to the same fees as residential users.

Administrator Selig spoke about additional revisions to the Solid Waste disposal fee schedule. He spoke about other proposed changes to the Solid Waste Ordinance, which would restrict the placement of waste containers and prohibit offensive matter.

Pete Chinburg stated that he had an issue with charging the same fee for residences as for businesses, irrespective of the amount of trash generated.

In response to a question from Chair Sandberg, Administrator Selig stated that the Town did not pick up commercial trash but did allow commercial entities access to the Transfer Station.

Mike Lynch, Director of Public Works, stated that the proposed ordinance's definition of a "unit" was a taxable property.

Peter Smith felt there needed to be more clarification to the fee schedule so the Council could assess the reasonability of the fees.

Katie Paine suggested that there be an easier way to acquire the permits since the Public Works Department was only open during times most inconvenient for the citizens who work during the day.

Peter Smith felt there was an issue with not having a limitation on the amount of bulky waste that can be contributed. He asked for clarification about how the electronic/appliance stickers would be submitted.

Mike Lynch stated that the electronic/appliance sticker would be purchased and adhered to the item to be removed.

Chair Sandberg questioned if the \$25 permit sticker was appropriate for those who have normal trash pick up available, yet made the effort to bring their trash to the transfer station. He suggested that the permit might be multi-purpose and allow access to other Town facilities, such as Wagon Hill and a percentage of funds from the permits would also benefit these other facilities. He asked if consideration had been given to a program such as the City of Dover where appliances are removed on demand, not just during spring cleanup.

Mike Lynch stated that providing such a service would tax Public Works' manpower resources. He spoke about the concept behind the fee schedule and the relief program from the fees.

G. Discussion of the Public Auction of the SAE Fraternity at 24 Madbury Road

Annmarie Harris said it had come to her attention that the SAE Fraternity building is up for auction. She briefly spoke about the building's configuration and condition. She believed that the building was located in a very attractive location for a Town facility such as a library. She said John Aber, Chair of the Library Trustees, stated that this building had been considered in the past.

Katie Paine agreed with Annmarie Harris's endorsement of the building for a library but she also believed that it was at the discretion of the Library Trustees to choose this building.

Chair Sandberg believed it was the sentiment of Library Trustee, Bill Schoonmaker, that the floor space in the building would not be adequate.

Arthur Grant MOVED to extend the discussion for 15 minutes. Annmarie Harris SECONDED the motion and it PASSED on a vote of 6-2 (Scott Hovey and Pete Chinburg were opposed).

Arthur Grant stated that various scenarios involving the property adjacent to the Town Hall have put into question the feasibility of fitting the Library on the Town Hall property. He spoke about consideration of the fraternity property for other uses besides a library and how he felt this would be in line with the Master Plan.

Pete Chinburg questioned if the appropriate action could be undertaken in time to bid on the property. He felt the Town Hall property would be a bad place for a library.

Peter Smith asked if it would cost more to build a new library facility inside the gutted building or to build an entire new structure.

Katie Paine believed it would be more expensive to build within the existing building than to build an entirely new facility.

Mark Morong stated that the building may not be ideal for the Library but the location would be. He felt the building might also be good for another Town facility if not for the library.

Chair Sandberg spoke about different scenarios that would be possible for the Town involving both the current Town Hall property and the fraternity property.

Katie Paine agreed that the Town Hall property would be a bad location for the Library.

Chair Sandberg said he would like to get feedback from the Library Trustees about the property.

Peter Smith stated that the immediate neighborhood of the fraternity property had unattractive aspects.

Arthur Grant was concerned that there was no long-range plan to guide the Council. He stated that although he does not favor the Town acquiring more property than it has, he felt this particular parcel was very unique.

Peter Smith MOVED to extend the discussion for 15 minutes. Arthur Grant SECONDED the motion and it PASSED on a vote of 6-2 (Scott Hovey and Pete Chinburg were opposed).

Administrator Selig spoke briefly about the feasibility of use of the fraternity property for other Town facilities. He briefly spoke about the logistics of bidding in lieu of the limited time frame if that were the interest of the Council.

X. Nonpublic Session (if needed)

Annmarie Harris MOVED that the Durham Town Council enter into nonpublic session for discussion of land matters in accordance with RSA 91-A:3 (II) (d). Mark Morong SECONDED the motion and it PASSED on a roll call vote at follows:

<i>Peter Smith</i>	<i>YES</i>	<i>Arthur Grant</i>	<i>YES</i>
<i>Scott Hovey</i>	<i>YES</i>	<i>Chair Sandberg</i>	<i>YES</i>
<i>Mark Morong</i>	<i>YES</i>	<i>Annmarie Harris</i>	<i>YES</i>
<i>Katie Paine</i>	<i>YES</i>	<i>Pete Chinburg</i>	<i>YES</i>

The Town Council entered into nonpublic session at 10:20 PM.

***Pete Chinburg MOVED that the Durham Town Council enter into public session.
Arthur Grant SECONDED the motion and it PASSED on a roll call vote as follows:***

<i>Peter Smith</i>	<i>YES</i>	<i>Arthur Grant</i>	<i>YES</i>
<i>Scott Hovey</i>	<i>YES</i>	<i>Chair Sandberg</i>	<i>YES</i>
<i>Mark Morong</i>	<i>YES</i>	<i>Annmarie Harris</i>	<i>YES</i>
<i>Katie Paine</i>	<i>YES</i>	<i>Pete Chinburg</i>	<i>YES</i>

The Town Council entered into public session at 10:54 PM.

***Arthur Grant MOVED that the nonpublic meeting minutes be sealed. Katie Paine
SECONDED the motion and it PASSED unanimously.***

XI. Adjourn (NLT 10:00 PM)

***Katie Paine MOVED to adjourn. Peter Smith SECONDED the motion and it
PASSED unanimously.***

The meeting adjourned at 10:55PM.

Carrie White, Minute Taker