

*This set of minutes was APPROVED at the April 7, 2003 Town Council meeting.*

**DURHAM TOWN COUNCIL MINUTES  
MONDAY, MARCH 17, 2003  
DURHAM TOWN HALL – COUNCIL CHAMBERS  
7:00 PM**

**MEMBERS PRESENT:** Malcolm Sandberg, Chair; Arthur Grant; Peter Smith, Katie Paine, Mark Morong, John Kraus, Patricia Samuels, Neil Niman

**MEMBERS ABSENT:** Annmarie Harris

**OTHERS PRESENT:** Todd Selig, Town Administrator

**I. Call to Order**

Chair Sandberg called the meeting to order at 7:00 P.M.

**I. Approval of Agenda**

*Councilor Kraus **MOVED** to approve the agenda. The motion was **SECONDED** by Councilor Paine and was unanimously **APPROVED**.*

**I. Swearing in of Council Members (7:03 P.M.)**

Chair Sandberg invited Pat Samuels and Neil Niman to the table. He asked all the Councilors to rise and restate their vows as Town Clerk Linda Ekdahl read the oaths of office.

**IV. Selection of Council Chair and Chair Pro Tem (7:06 P.M.)**

A **NOMINATION** was made by Councilor Grant and **SECONDED** by Councilor Paine for Malcolm Sandberg as Chair of the Council. No further nominations were made.

*Councilor Grant **MOVED** to cast one ballot for the election of Malcolm Sandberg as Chair. The motion was **SECONDED** by Councilor Smith and was unanimously **APPROVED**.*

A **NOMINATION** was made by Councilor Smith and **SECONDED** by Councilor Kraus for Arthur Grant as Chair Pro Tem.

***Councilor Smith MOVED to close the nominations. The motion was SECONDED by Councilor Kraus and was unanimously APPROVED.***

***The nomination of Arthur Grant as Chair Pro Tem was APPROVED unanimously.***

**I. Special Announcements (7:08 P.M.)**

None

**I. Approval of Minutes – March 3, 2003 (7:08 P.M.)**

***Councilor Paine MOVED to approve the minutes of March 3, 2003, as presented. The motion was SECONDED by Councilor Morong.***

The following amendments were made:

Page 7. Change XI. New Business: Paragraph 5 changed to read: “Councilor Pazdon MOVED to remove from the table Item X.D.”

Page 4. Insert the line “Also speaking in favor:” above the line beginning “Dork Sahagian...” and above the line beginning, “Annmarie Kane...”

Page 4: Last line. Insert word “Crown” after Ford.

***Chair Sandberg called for approval of the above amendments. The vote to include the amendments to the March 3, 2003 minutes PASSED 6-0-2 (Councilors Samuels and Niman abstained).***

***Chair Sandberg called for the approval of the March 3, 2003 minutes as amended. The vote to approve the March 3, 2003 minutes, as amended, PASSED 6-0-2 (Councilors Samuels and Niman abstained).***

**I. Report of Administrator (7:16 P.M.)**

Administrator Selig reported on the following:

He introduced the temporary minute taker, Barbara Stoddard.

As of a week ago, 16% of the snow and ice budget is remaining. The budget line item will continue to be monitored.

American Red Cross Flags are now flying outside of the Town Offices, Post Office and Police Department, as March is American Red Cross Month.

Administrator Selig and Councilor Smith have been active in The New Hampshire Municipal Association group called "Seeking Common Ground." The group looks mostly at ways education is funded in the state. The group has been evaluating various educational funding proposals being discussed in Concord. Administrator Selig will be sending summaries of the proposals in draft form to the remaining members of the Council.

The annual "Durham Day" event is planned for September 14, 2003 from 1 – 4 P.M.

The Town's accounting firm, Plodzik and Sanderson Associates, has begun the audit for fiscal year 2002 and will be presenting data to the Council in the near future.

The State District Court system utilizes the first floor of the historical building in Durham as the Durham District Court. Administrator Selig has signed the agreement on behalf of the town for an additional 2-year agreement with a 2-year optional extension. The 2 years will be at a 4% increase. The State has indicated they will sign, contingent upon an appropriation by the State Legislature.

#### **I. Reports and Comments of Councilors (7:24 P.M.)**

Councilor Smith followed up on comments from Administrator Selig regarding the Seeking Common Grounds Group. He said they expect additional proposals, which they will continue to monitor.

Councilor Grant reported receiving copies of school funding reports distributed at the Informational Meeting on Wednesday, March 12, 2003. He said Durham is trying to arrange a meeting with the school board and with the selectmen of the towns of Lee and Madbury to discuss this matter.

Councilor Morong announced that he would no longer be Council representative to the Conservation Commission. He reported that the public information meeting on the dredging of Mill Pond has been set for April 10, 2003 at 7:00 P.M. in Council Chambers and will be posted on DCAT.

Councilor Samuels expressed her appreciation for the thorough Council informational packets.

Councilor Paine announced that the DCAT Committee will be meeting Wednesday, March 19 at 8:00 A.M. in the Council chambers. She encouraged citizens to volunteer for this committee.

**I. Public Comments (7:34 P.M.)**

Todd Ziemack, 41 Emerson Road, spoke on behalf of the Wagon Track Bike Path.

Mike Blake, 7 Carriage Way, encouraged the Council to settle contracts with the Fire, Police and Public Works Departments collective bargaining units.

Cameron Wake, Kittery, Maine and President of the Seacoast Area Bicycle Routes (SABR) organization, spoke in favor of the Wagon Track Bike Path and stated that the organization would continue to support the project.

Beth Olshansky, 122 Packers Falls Road, spoke in favor of the Wagon Track Bike Path.

**I. Unanimous Consent Agenda** (Requires unanimous approval. Individual items may be removed by a councilor for separate discussion.) **(7:50 P.M.)**

*Item X.A was removed from unanimous consent for discussion.*

**A. Resolution #2003-10:** authorizing the acceptance of funds from the New Hampshire Department of Safety, Emergency Management grant awarded for the purchase and installation of an emergency electrical generator as requested by the Police Chief.

The grant funds from the State of New Hampshire will be reimbursed to Durham in the amount of 75% or a maximum of \$14,671.00 for the completed work.

The grant requires a local match of 25% from the community, which has been funded and currently exists in account 07-4600-1001-999-03.

*Councilor Paine MOVED to approve by unanimous consent, Resolution #2003-10. The motion was SECONDED by Councilor Grant and was unanimously APPROVED.*

**A. Resolution #2003-09:** Establishing regular Town Council meeting dates for April 2003 through March 2003.

A brief discussion ensued relating to a question Councilor Smith asked concerning clarification of dates set in January 2004.

***Councilor Paine MOVED to adopt Resolution #2003-10 as presented. The motion was SECONDED by Councilor Morong and was APPROVED unanimously.***

**I. Unfinished Business (7:52 P.M.)**

**Public Hearing and Action on Ordinance #2003-02:** Establishing 15-minute parking limit in the Durham Post Office parking lot, adding the words “Madbury Road Parking Lot” behind the Pettee Brook Lane street designation, and deleting the street designation referred to as “Parking Lot” in its entirety.

Administrator Selig provided background information and the reason for revising the wording of the ordinance.

***Councilor Samuels MOVED to open the public hearing on Ordinance #2003-02. The motion was SECONDED by Councilor Paine and was unanimously APPROVED.***

There were no Public Comments on this Ordinance.

***Councilor Grant MOVED to close the Public Hearing Ordinance on #2003-02. The motion was SECONDED by Councilor Smith and APPROVED unanimously.***

***Councilor Paine MOVED that the Town Council adopt Ordinance #2003-02 Amending Chapter 153 “Vehicles & Traffic” Section 153-26 and 153-52 by creating a 15-minute time limit for parking in the Durham Post Office Parking Lot on Madbury Road, adding the words “Madbury Road Parking” behind the Pettee Brook Lane street designation, and deleting the street designation referred to as “Parking Lot” in its entirety. The motion was SECONDED by Councilor Kraus and was unanimously APPROVED.***

**XII. New Business (7:56 P.M.)**

**I. Discussion regarding the scheduling of a goal setting session for the Durham Town Council.**

Mr. Winthrop Puffer has agreed to assist the Council in the process of developing a revised goal statement for 2003. Tentative dates were discussed. The workshop session was scheduled for Saturday, April 12, 2003, and will be open to the public.

- B. Who shall the Town Council appoint as Council representatives to the various Town boards, commissions?

***Councilor Kraus MOVED that the Durham Town Council hereby appoints Council members to the boards, commissions and committees listed on the "slate of appointees" for one-year terms (unless otherwise indicated), said terms to expire on March 31, 2004. The motion was SECONDED by Councilor Smith and was unanimously APPROVED.***

- C. Discussion on process and schedule for upcoming citizen appointments to the various Town boards, commissions and committees.

The Council discussed the procedure to make the appointments. Samples of individual ballot and tally sheets from last year's process were included in the Council packets. At Administrator Selig's suggestion, the Council agreed to continue with the process established last year.

- A. Meet with citizen members interested in appointments to the Planning Board and Zoning Board of Adjustment.

Chair Sandberg noted that there are 2 full-time voting positions and at least 2 alternate positions on both the Planning Board and the Zoning Board of Adjustment.

Administrator Selig stated that Robbi Woodburn has removed her name from consideration for the Zoning Board of Adjustment and that John de Campi was interested in a voting position unless Robbi Woodburn remained on the Zoning Board.

The following citizens spoke before the Council. Their applications for Board Appointment were included in the Council packet, along with applications from other interested parties not present.

Richard Ozenich, 15 Fitts Farm Drive, Durham.  
Stephen N. Roberts, PO Box 175, 174 Packers Falls Road, Durham  
Kevin M. Webb, 22 Davis Avenue, Durham  
Lynn Christie, 201 Dame Road  
Jay B. Gooze, MD, 9 Meadow Road, Durham

- A. Appoint citizen members to the Planning Board and Zoning Board of Adjustment.

Administrator Selig stated that ballots were not prepared for this meeting.

***Councilor Smith MOVED to postpone consideration of Item 12E to the Town Council Meeting scheduled for April 7, 2003. The motion was SECONDED by Councilor Kraus and was unanimously APPROVED.***

- F. **Resolution #2003-08:** Directing the Town Administrator to discontinue development of the Wagon Track Bike Path.

Councilor Morong recused himself from any discussions with respect to the Wagon Track Bike Path.

Administrator Selig stated that one course of action the Council could take is to ignore the legal information it has received to date and proceed with the project as planned. A second course of action would be that as a result of the legal challenges the Town of Durham has received in regards to the project, and concerns raised by Town Attorney Walter Mitchell, the Council could discontinue the project. He also noted that the Town of Madbury and the State have both indicated they would not have an issue with Durham doing so. However, the SABR organization has indicated it believes this is a good project for the region and that it would be willing to support some of the legal costs if the project is continued. In addition, SABR has stated that if the Town decided not to proceed with the Bike Path, it will instruct its attorney to sue the Town because of discontinuing the project and because of expenses it has expended over the years.

Administrator Selig suggested that the Town wait until it receives follow up information from Attorney Walter Mitchell addressing the outstanding issues, in order to be fair to all interested parties.

***After some discussion, Councilor Kraus MOVED to postpone deliberation on this matter until the Administrator is prepared to make a subsequent presentation. The motion was SECONDED by Councilor Smith and unanimously APPROVED.***

Councilor Morong returned to the table at 9:45 P.M.

- A. Shall the Town Council authorize the award of a bid for the purchase of a new 35,000 G.V.W. dump truck with flow dump body and snowplow attachments as requested by the Public Works Director?

***Councilor Paine made a MOTION that the Durham Town Council, upon***

***recommendation by the Town Administrator, hereby awards the bid and authorizes the purchase of a new, 2003 Sterling L7500 35,000 G.V.W. Dump Truck with plow attachments from McDevitt Trucks Inc. of Manchester, NH for the net sum of \$86,520.00 with the expenditure to be paid from Capitol Fund account #07-4800-1004-999-03. The motion was SECONDED by Councilor Morong and unanimously APPROVED.***

- A. Shall the Town Council authorize the award of a bid for the FY 2003 road programs requested by the Public Works Director?

***Councilor Paine made a MOTION that the Durham Town Council, upon recommendation of the Town Administrator, hereby authorizes the award of the 2003 Road Resurfacing Program to Pike Industries or Portsmouth, NH at a total cost of \$226,374.50 to be paid from the Capital Fund Budget #07-4800-1004-999-03. The motion was SECONDED by Councilor Morong and was unanimously APPROVED.***

A. Other Business

Councilor Grant asked that Administrator Selig communicate with the Town's legislative delegation to watch out for the District Court appropriation as mentioned earlier in the evening.

***Councilor Smith MOVED to extend the meeting for fifteen minutes to go into Nonpublic Session. The motion was SECONDED by Councilor Grant and was unanimously APPROVED. (10:00 P.M.)***

***Councilor Samuels MOVED to enter into NONPUBLIC SESSION under RSA 91-A: 30 II (d) for the purpose of discussing the proposal by the Seacoast Hospice to purchase property at the Durham Business Park. Councilor Morong SECONDED the motion and it PASSED on a roll call vote of 8-0 as follows:***

***Councilor Niman – aye, Councilor Samuels – aye, Councilor Sandberg – aye, Councilor Grant – aye, Councilor Paine – aye, Councilor Morong – aye Councilor Kraus – aye, Councilor Smith – aye.***

The Council entered into Nonpublic Session at 10:01 PM.

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



***Councilor Niman – aye, Councilor Samuels – aye, Councilor Sandberg – aye, Councilor Grant – aye, Councilor Paine – aye, Councilor Morong – aye Councilor Kraus – aye, Councilor Smith – aye.***

The Town Council entered public session at 10:17 PM.

**XIII. Adjourn**

***Councilor Kraus MOVED to adjourn. The motion was SECONDED by Councilor Paine and PASSED unanimously.***

The meeting adjourned at 10:18 PM.

Barbara Stoddard, Minute Taker