

This set of minutes was approved at the 4/21/03 Town Council meeting

**DURHAM TOWN COUNCIL MINUTES
MONDAY, APRIL 7, 2003
DURHAM TOWN HALL – COUNCIL CHAMBERS
7:00 P.M.**

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

MEMBERS ABSENT: None

OTHERS PRESENT: Todd Selig, Town Administrator; Interested members of the public

I. Call to Order

Chair Sandberg called the meeting to order at 7:10 P.M.

II. Approval of agenda (7:12 P.M.)

*Councilor Paine **MOVED TO APPROVE** the agenda, as presented. Councilor Morong **SECONDED** the motion.*

*Councilor Smith **MOVED** to amend the agenda to transfer Item VIII. B. to Item XII. (Nonpublic Session). The motion was **SECONDED** by Councilor Samuels and was unanimously **APPROVED**.*

*The agenda, as amended, was unanimously **APPROVED**.*

III. Special Announcements (7:15 P.M.)

Fire Chief Ron O'Keefe introduced new firefighter, Barry Lavigne. Mr. Lavigne is a Firefighter and EMT and trained in hazardous materials operations.

Administrator Selig introduced Craig Stevens, the new coordinator of the Durham Community Access Television Station.

IV. Approval of Minutes (7:20 P.M.)

The following amendments were made:

Page 4. B. Resolution...to include the amount of the grant.

Page 2. VI. 2nd line beginning Councilor Paine – add a 3 to the date March 3, 2003.

Page 7. Insert Names... Councilor Grant MOVED.... And Councilor Kraus SECONDED... to paragraph 6 under Item I. Old Business.

Page 7. Other Business, 1st paragraph, change to read....Selig communicate with the Town's legislative delegation to watch out for the District Court appropriation...

Councilor Kraus MOVED to approve the minutes of March 17, 2003, as amended. Councilor Paine SECONDED the motion. The minutes were approved as amended 8-0-1 (Councilor Harris ABSTAINED due to absence).

V. **Report of Administrator (7:25 P.M.)**

Administrator Todd Selig reported that the Department of Public Works and the Integrated Waste Management Advisory Committee of the town are once again marketing compost bins. Members of the community are asked to contact the Department of Public Works at 868-5578. The bins costs \$30.00 and a sample can be viewed outside the Town Clerk's office.

Household Hazardous Waste Day is scheduled for August 23, 2003.

There will be a public hearing on April 21, 2003 on a tentative agreement between the Town and Comcast, the town's cable provider. The agreement would accomplish an extension of time for the cable company to wire the high school's new addition at no extra cost and would allow Durham to broadcast its DCAT signal through Lee, Madbury and Newmarket.

Administrator Selig mentioned that the most recent information he has is that the House Finance Committee has eliminated funding for the Durham District Court. He urged members of the full House and the Senate Finance Committee to support reinstating the funds.

The annual Easter Egg Hunt will be held Saturday, April 12, 2003 at the Durham Town Landing beginning at 9 A.M. The snow date is April 19.

The Durham Fire Department celebrates its 75th anniversary this year and is holding an open house at the Fire Department from 12:00 - 4:00 P.M. on April 27, 2003.

The Council Goal Setting session will be held on Saturday, April 12, 2003 from 9:00 AM – 12 noon. The meeting will be recorded and is open to the public.

There will be an Emergency Management Tabletop Exercise at the Durham Fire Department on Monday, April 14, 2003 to test emergency preparedness in the Town. It is likely that the exercise will revolve around a weather event.

The NH Municipal Association is again hosting a local official's workshop. The schedule has been forwarded to Council members.

The Durham police and fire departments are ready for whatever may occur both Thursday, April 10 and Saturday, April 12 as a result of fan enthusiasm for the UNH Men's Hockey Team's performance at the Final Four NCAA Hockey Championship in Buffalo, NY.

The Fire Department is conducting a planned burn on April 9, 2003 in the Dame Road area.

VI. Reports and Comments of Councilor (7:35 P.M.)
None

VII. Public Comments (7:36 P.M.)
None

VIII. Unanimous Consent Agenda (7:38 P.M.)
(Requires unanimous approval. Individual items may be removed by an councilor for separate discussion and vote)

All Items were removed from Unanimous Consent.

- A. Shall the Town Council approve a non-industrial sewer connection/extension application for Fellows Lane condominiums by Smithfield Construction?

Councilor Morong recused himself stating he has worked with Smithfield Construction in the past.

In response to a question raised by Councilor Smith, Town Engineer Bob Levesque stated that the Planning Board approved the Fellows Lane site in August 2003. The current matter in front of the Planning Board is a separate item and is not a part of

this approval request.

Councilor Smith expressed concern regarding the need for a more global view of wastewater capacity. Mr. Selig responded that the staff studied this issue and informed him that the application for Fellows Lane will have a minor impact on the Wastewater Treatment Plant.

Councilor Kraus suggested that in the future, history of capacity would be helpful with respect to wastewater permits.

Councilor Niman MOVED to approve a non-industrial sewer connection/extension application for Fellows Lane condominiums by Smithfield Construction. The motion was SECONDED by Councilor Kraus and unanimously APPROVED.

Councilor Morong returned to the table at 7:45 P.M.

A. Resolution #2003-12: Authorizing the issuance of seven million dollars (\$7,000,000.00) in Tax Anticipation Notes (TANs) **(7:45 P.M.)**

In response to a request from Councilor Grant, Administrator Selig provided a summary of the approaches developed by the Administrator and the Business Manager concerning the funding of the annual borrowing to finance Town government.

Councilor Grant MOVED to adopt Resolution #2003-12 authorizing the issuance of Seven Million Dollars (\$7,000,000) in tax anticipation notes. The motion was SECONDED by Councilor Morong and was unanimously APPROVED.

IX. Meeting with Legislative Delegation (8:00 P.M.)

Chair Sandberg stated that Items IX. A. and IX. B. are separate items and not part of the same presentation as the heading may indicate.

A. Presentation to Council members and Durham's legislative delegation by Mike Asselin, Danville, NH, regarding Durham's potential interest in joining the Coalition of Adequate Education Funding.

Mr. Asselin stated that he has been actively involved in the Seeking Common Ground process that Administrator Selig and Councilor Smith have been attending. The NH Municipal Association sponsors this program.

Mr. Asselin stated that the Danville Board of Selectmen have become concerned with the political influence of donor communities on the legislature. Legislative bills that have been submitted, if passed, would have negative consequences on receiver towns, which could result in increasing the tax rate receiver towns pay for education on the local level.

Mr. Asselin explained that towns need a voice in Concord and could suffer consequences of new plans that could be put into place that are not consistent with the Claremont Court decision and would result in increasing local school tax rates and causing disproportionate local school tax rates. His presentation included three parts as follows:

1. Mission of the Coalition: The Coalition is a grass roots effort bringing municipal governing boards together with state legislatures to work toward an appropriate solution for the adequate education funding question.
2. Why Durham Should be Interested: Durham received a 1.383% increase in funding with the new funding process.
3. Legislation: The Coalition tries to stay abreast of what is happening in the legislature regarding education funding. Mr. Asselin mentioned that both HB 608 and HB 717 raise over \$4 million for education funding grants but also eliminate the property tax. In response to a question from Chair Sandberg, he stated the Coalition supports SB 224-FN-A-Local that raises \$650 million for adequate education funding and results in local tax rate reductions.

Mr. Asselin completed his presentation by asking the Town of Durham to consider joining the Coalition and working with the legislature on these issues.

In response to a question from Councilor Samuels, Mr. Asselin stated that he is a volunteer on the Coalition and that he is a Selectman with the Town of Danville.

Councilor Kraus asked who was bringing the bills forward. Mr. Asselin stated he felt that a lot of attention was being paid to the bigger cities.

A. Discussion with Durham's legislative delegation on various issues of interest.

Members of the delegation introduced themselves, mentioned the committees they

served on, and the issues they felt were important for the Town.

Senator Iris Estabrook - Health and Human Services Committee, Public Institutions, Interstate Cooperation, Executive Departments & Administration.

Senator Estabrook stated that the delegation is very well informed and involved with the issues stated in Mr. Asselin's presentation. She has always been dedicated to the idea that the State must meet its obligations with regards to school funding and has consistently opposed measures that would reduce that obligation. The Senator presented the Council with updates of measures that have passed the Senate or have passed in the first vote and will be moving forward. She listed the following bills that would be of interest to the Town:

- SB 15 – changes methods of registration.
- SB 22 – referred to public higher education
- SB 36 – public safety
- SB 57 – water use
- SB 70 and SB 115 – wastewater treatment
- SB 71 – cost of health insurance for businesses
- SB 95 – work force housing
- SB 98 – right to register to avoid telemarketing calls
- SB 110 – small group health insurance bill
- SB 128 – movement of vital records
- Other bills that relate to taxes and school funding.

Representative Emma Rous – Environment and Agriculture Committee.
Representative Rous stated that a study committee has been formed to look at a broader plan on recycling.

Representative Judith Spang – Resources, Recreation and Development Committee.
Representative Spang stated that her committee has been working to protect the power of municipalities as the legislature has taken a turn at divesting the power of towns. She mentioned bills related to ATVs and zoning rights, ground water controls, land use controls, instream flows and water management.

Representative Janet Wall - House Judiciary Committee, Ethics Committee and Administrative Rules Committee. Representative Wall explained that the Administrative Rules Committee has oversight for the rule making of the 113 state agencies. She explained that the House Judiciary Committee deals with judges, lawyers and courts and that the Durham District Court is not the only court in

question. Her committee is also working on several water bills, draught management and municipal water needs. She is also working on a telemarketing bill with Senator Estabrook.

Representative Naida Kaen - Science Technology & Energy. Representative Kaen stated that she is personally sponsoring HB 115 regarding homeowners insurance. This bill relates to the issue of renewal of insurance if an insurer makes more than one claim in a year. She said that she would like to hear from people that have an interest in this issue. Representative Kaen's home phone number is 659-2205.

Representative Marjorie Smith mentioned that Representative Miller could not attend the meeting. He serves on the Health and Human Services Committee. She said If anyone in the district has questions about bills that may go before that committee, they should contact Representative Miller. Representative Smith also spoke in opposition of the elimination of the Certificate of Need Board, a board which protects small and regional hospitals.

Representative Marjorie Smith - Rules Committee and Finance Committee. Regarding Representative Spang's bill on instream flow, Representative Smith stated that money has been found in the capital budget which may be available to fund the project.

Reporting on the Durham District Court, Representative Smith stated that Division 1 removed funding for the court. She said that it is state law that the Durham District Court must continue. Once the bill goes to the Senate it will then be up to the Commissioner of Administrative Services to fund the Durham District Court. The Commissioner would then need to contact the Town Administrator to negotiate the continuance of the District Court.

Handouts to the Council included a copy of the bill regarding use of Internet in terms of communication between Board members, a spreadsheet "The Wallner/Smith Education Funding Comparison" in support of the Hager Amendment, and an article entitled *Plumbing the Numbers # 7 School Finance Reform*. The report, written by Doug Hall, lays out the complexity of school funding and shows that the formula set up to determine adequacy is now shortchanging citizens of NH by about \$90 million. This report can be viewed on line at www.nhpolicy.org.

In reply to a question from Councilor Niman about the feasibility of Durham joining the Coalition for Adequate Educational Funding, Representative Smith stated that the

Town of Durham has many resources of information. She felt it might not be necessary for Durham to be part of the Coalition.

Senator Estabrook stated that the delegation is very well versed on school funding issues.

Chair Sandberg asked the representatives if there was anything that the Council should include in its visioning process. Representative Spang mentioned it was important to remember that state statutes can change and that it would be helpful for Town boards to keep track of obstacles and communicate with the delegation because state statutes can be changed to meet needs.

At 9:00 P.M. Chair Sandberg called for a motion to extend the session 15 minutes as the next agenda item was to begin NLT 9:00 P.M. A change in the agenda requires a 2/3 vote.

Councilor Niman MOVED to extend the session 15 minutes. Councilor Kraus SECONDED the motion and it was unanimously APPROVED.

Representative Wall stated she would leave a copy of HB 608 to help clarify why no one in the delegation wants the bill to pass. She also stated the need to watch carefully what is happening on the county level. There is a problem with the amount of (PSP) Proportional Share Portion money to send back to nursing homes for Medicaid funding.

Representative Smith mentioned that the Finance Committee has to have its budget out by Thursday morning. She stated they will pass a budget (Plan A) the bottom line of which will equal the Governor's bottom revenue line. They will have a floor amendment (Plan B) which will be an add-on of between \$120 - \$125 million for the biennium. That plan will have an amendment for additional revenue.

Councilor Paine asked what the Council could do to help L-CHIP. Representative Spang stated that the Town cannot relax on this issue, particularly in relation to administrative costs, which have been funded primarily in interest on their appropriations. She said that the goal of the Chair of the Finance Committee is to no longer allow that to happen. There will be no funds for administration. Representative Smith stated that it would be most helpful to work with Senator Estabrook to organize support before the Senate Finance Committee, which will receive the house budget, and will then be able to make adjustments.

In response to a comment from Councilor Kraus, Senator Estabrook stated the state needs to look at funding more in the long-term rather than short-term.

Representative Smith stated that the people can tract the delegates voting records on the Internet at www.state.nh.us.

Councilor Smith stated that the Council needed a system of meeting with the delegation on a regular basis.

Councilor Spang stated it has been a pleasure and honor to work in partnership with the Town.

Chair Sandberg ended the discussion at 9:15 P.M. Business resumed at 9:20 P.M.

X. Unfinished Business (9:20 P.M.)

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

Chair Sandberg noted changes to the list. Peter Knight has asked to withdraw his name for appointment to the Planning Board. Linn Bogle sent a letter stating he would prefer to stay on as an alternate to the Zoning Board. Since he was already an alternate, his name was removed from the list of appointments. Lynne Christie asked that her name be removed for consideration for appointment to the Zoning Board. Administrator Selig stated that Richard Ozenich is comfortable serving on either the Planning Board or the Zoning Board.

Administrator Selig and Administrative Assistant Jen Berry led the Council in the voting process.

Ballot #1 - for two 3-year regular members on Planning Board

Nominations were made as follows:

Councilor Harris:	Nicholas Isaak.
Councilor Paine:	Kevin Webb
Councilor Grant:	Stephen Roberts
Councilor Morong:	Richard Ozenich

After discussion Ballot #1 was cast. To receive appointment the candidate must receive a majority of at least 5 votes.

Administrator Selig read the votes as follows:

Paine:	Isaak and Webb
Grant:	Isaak and Roberts
Smith:	Roberts and Isaak
Kraus:	Roberts and Isaak
Morong:	Roberts and Isaak
Sandberg:	Isaak and Roberts
Niman:	Isaak and Webb
Samuels:	Isaak and Webb
Harris:	Isaak and Roberts

Chair Sandberg declared that **Nicholas Isaak (9 votes)** and **Stephen Roberts (6 votes)** were appointed to the two 3- year regular positions on the Planning Board.

Ballot # 2 - for 2-year term of alternate member on the Planning Board

Nominations were made as follows:

Councilor Grant:	Kevin Webb
Councilor Paine:	Richard Ozenich

After discussion, Ballot #2 for 2-year alternate position on the Planning Board was cast as follows:

Paine:	Ozenich
Grant:	Webb
Smith:	Webb
Kraus:	Webb
Morong:	Webb
Sandberg:	Webb
Niman:	Webb
Samuels:	Webb
Harris:	Ozenich

Chair Sandberg declared that **Kevin Webb (7 votes)** was appointed for a 2 –year alternate position on the Planning Board.

3-year term of alternate member on the Planning Board

Councilor Kraus MOVED that the Council appoint Richard Ozenich as the 3-year alternate member on the Planning Board. The motion was SECONDED by Councilor Smith and was unanimously APPROVED.

Councilor Paine recused herself from the appointment of members to the Zoning Board of Adjustment. (9:58 P.M.)

3-year term of regular member positions on the Zoning Board

Nominations were made as follows:

Councilor Kraus: Jay Gooze

Councilor Niman: John de Campi

At 10:00 PM Councilor Kraus MOVED to extend the meeting for 30 minutes. The motion was SECONDED by Councilor Samuels and was unanimously APPROVED.

Mr. de Campi gave a brief presentation of his interest in serving as a regular member on the Zoning Board. He stated in response to a question from Councilor Smith that he would always vote according to zoning law.

Ballot #3 was cast for two 3-year regular appointments to the Zoning Board.

Chair Sandberg asked for a vote of all members voting in favor of appointing Jay Gooze to a 3-year term on the Zoning Board. ***Jay Gooze was appointed with a vote of 8-0.***

Chair Sandberg asked for a vote of all members voting in favor of appointing John de Campi to a 3-year term on the Zoning Board. ***John de Campi was appointed with a vote of 8-0.***

Councilor Paine returned to the table at 10:08 PM.

XI. New Business

- A. Meet with citizen candidates and begin process for appointing members to the remaining Town boards, commissions and committees.

The following citizen candidates introduced themselves as interested in appointments to various Town boards, commissions and committees.

Dwight Baldwin: Conservation Commission

Robert Doty: Alternate Conservation Commission.

Andrea Bodo: Historic District Commission

Frank Pilar: Parks and Recreation Committee

Craig Seymour: PDA Noise Compatibility Committee

Lee Alexander and Peter Brown were both at the Council meeting, but had to leave before

this agenda item was heard. Leslie Schwartz and Erica Mantz had scheduling conflicts.

Councilor Paine mentioned an interest in serving as a citizen member of the DCAT Committee due to her knowledge of history of the committee.

XI. Other Business

Councilor Harris MOVED to appoint Councilor Sandberg as Council Representative on the Historic District Commission and releasing Councilor Paine from that position. The motion was SECONDED by Councilor Kraus and was APPROVED unanimously.

XII. Nonpublic Session (10:25 P.M.)

Councilor Harris MOVED to enter into NONPUBLIC SESSION under RSA 91-A: 30 II (d) for the purpose of discussing personnel matters regarding personnel pay increases with respect to Resolution #2003-11. Councilor Niman SECONDED the motion and it PASSED on a roll call vote of 9-0 as follows:

Councilor Niman – aye, Councilor Samuels – aye, Councilor Harris – 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 10:25 PM.

Councilor Grant MOVED to exit Nonpublic Session. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

The Council exited Nonpublic Session at 10:43 PM.

Councilor Smith MOVED to seal the minutes of the Nonpublic Session. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

Councilor Smith MOVED to adopt Resolution #2003-11 establishing the compensation for non-bargaining unit employees for Fiscal Year 2003. The motion was SECONDED by Councilor Paine and PASSED unanimously.

XIII. Adjourn

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

The meeting adjourned at 10:45 PM.

Barbara Stoddard, Minute Taker