

This set of minutes was APPROVED at the May 5, 2003 meeting.

**DURHAM TOWN COUNCIL MINUTES
MONDAY, APRIL 21, 2003
DURHAM TOWN HALL – COUNCIL CHAMBERS
7:00 P.M.**

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

MEMBERS ABSENT: Patricia Samuels, Mark Morong

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 P.M.

II. Approval of agenda (7:01 P.M.)

Councilor Kraus MOVED TO APPROVE the agenda, as presented. The motion was SECONDED by Councilor Paine and PASSED unanimously.

III. Special Announcements (7:02P.M.)

None

IV. Approval of Minutes (7:03 P.M.)

The following amendments were made:

The date on the header should read April 7, 2003.

Councilor Paine MOVED to approve the minutes of April 7, 2003, as amended. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

V. Report of Administrator (7:05)

Administrator Selig reminded the public that compost bins are on sale offered by the Integrated Solid Waste Management Advisory Committee and the Department of Public Works. Orders are due by May 2, 2003, and the price is \$30.00. Interested people should call 868-5578.

Mr. Selig thanked Mr. Richard Dewing of Durham and other members of the Town,

including members of the Fire Department, for putting on a wonderful Easter egg hunt for the children of the community on Saturday, April 19, 2003.

Mr. Selig announced that regarding the Durham District Court issue; there was an effort by the House Finance Committee to eliminate funding for the lease on the Durham District Court from approximately \$32,000.00 to \$0.00. Thanks to efforts of Marjorie Smith and Janet Wall, \$1.00 was instituted in the line item. The budget has now crossed over to the NH State Senate, and the Town will be talking in great depth to the Senate Finance Committee in an effort to increase funding from \$1.00 to a higher amount. If the legislature and governor ultimately approve an amount less than \$32,000.0 per year, Mr. Selig will negotiate with the Towns of Lee, Madbury, and UNH to enter into a partnership with those communities to make Durham whole for the rental dollars it would lose as a result of the lowered approved rental amount.

The UNH outdoor pool is scheduled to open on June 14, 2003. Families with children and Senior Citizens are encouraged to contact the Town office at 868-5571 to inquire about the pool voucher program.

On April 24, 2003, 29-year employee Guy Hodgden, Superintendent of Water and Solid Waste, will be leaving as part of a reduction in force within that department. This is part of a larger reorganization of the Department of Public Works. Details will be forwarded to the Council in the near future.

VI. Reports and Comments of Councilors (7:15 P.M.)

Councilor Kraus requested an agenda item for a Council meeting in the near future that would address the matter of the Council having a position statement for civil disturbances in the community. Councilor Kraus distributed to the Council a proposal that he had written as a beginning point for dialogue and discussion. The statement is as follows: "The Town of Durham is not a playground for vandalism and bad behavior. The Town will not permit unruly groups or mobs to congregate and will employ appropriate measures to insure the safety of its citizens and free and safe passage on its public ways."

Councilor Kraus also suggested that the Police Department develop a simple, single sentence mission statement that addresses similar issues to be discussed at a future Council meeting. He suggested the following: "The police mission in this regard would be to disperse any assembly of persons deemed inappropriate in numbers and/or conduct and cause those persons to return from whence they came or face immediate sanctions."

At the suggestion of Councilor Sandberg, Councilor Kraus agreed to circulate his proposal

among the members of the administration, to seek input, and to then prepare a Council communication for a discussion item. The Council will include the proposal on its earliest available date.

Councilor Smith stated that he attended a meeting of the Conservation Commission on April 10, 2003 and was impressed by the quality of the people on the Commission. He stated that Representative Judith Spang, in her capacity as Chair of Lamprey River Commission, presented a proposal regarding the purchase of an easement on a significant piece of Durham Property (about 50 acres) that abuts the Lamprey River. The Commission discussed making funds available to match other funds that are already available for the proposal.

Councilor Smith also stated that Duane Hyde would like to meet with the Council for a more global discussion as to how his group and the Conservation Commission should proceed with respect to looking for land purchases and easements in connection with the action the voters took in March on the bond issue. Councilor Smith requested that Mr. Selig contact Mr. Hyde.

Councilor Smith stated that he had the opportunity to be present at the riot event on Saturday, April 12, 2003. He stated that he felt a statement, found in the introduction of the UNH student handbook, should be a part of discussions regarding the events of that evening. The statement from the Vice President of Student Affairs is found on page one of the handbook entitled, Students Rights, Rules and Responsibilities. It states, "...being part of the UNH and Durham communities means that you will enjoy both the benefits and responsibilities of being a citizen in both communities."

Councilor Smith stated that he was proud of the degree of self-restraint, tolerance, and maturity demonstrated by the Town's police force. Councilor Smith thanked Police Chief Kurz, Deputy Chief Kelly, and the entire Police Department for a terrific job.

Councilor Grant noted the passing of Lt. Col. Carol Moon Mullins. He was a professor of military science and tactics at the University and worked for the state highway department during his retirement years. He was a strong and effective advocate for his neighborhood. He was a kind person. Councilor Grant was proud to have known him.

Chair Sandberg agreed with Councilor Smith that the members of the Police Department acted in an exemplary manner. In addition, he recognized the good work of the Fire Department that evening. He condemned the abhorrent behavior of some of the citizens of the Town.

Councilor Smith mentioned legislation from the State of Michigan, Act 175, Chapter 769.1G, that includes language related to offenses relating to riot, encitement to riot and unlawful assembly or civil disorder within public community colleges or University campuses. The language would enable the courts to take strong action against members of the community who engage in unlawful activities in respect to their attendance at a University or at a college. Councilor Sandberg stated that he felt the Council could include this ordinance in its discussions about Councilor Kraus' proposal.

Councilor Sandberg thanked the University for supplying copies of the Student Rights and Responsibilities Handbook to all the Councilors.

In response to a question from Councilor Paine, Councilor Sandberg stated that the Council might wish to include in Other Business discussion, if as a body the Council wishes to encourage Representative Marjorie Smith to put this legislative proposal forward.

Councilor Smith thanked the Chair for recognizing the Fire Department. He stated that he would like to thank all the Department of Public Works for its involvement in the events that night.

VII. Public Comments (7:30 P.M.)

Warren Daniel, 4 Palmer Drive, President of the Durham Main Street Program stated that representatives from the Main Street Program would like to address the Council once a quarter. Mr. Daniel introduced Jane Faix, Madbury, who reported on the Operations and Promotions Committees of the Main Street Program. Ms. Faix stated that a new slate of officers was elected on April 8, 2003. She further reported that the 7th Annual Young Artist Program has been scheduled for August 16, 2003, 6 concerts have been scheduled for the summer concert series, and the program has applied for a grant through the NH Arts Council to help fund both the Young Artist and the summer concert series.

Mr. Daniel distributed to the Council members, the property and law statements for the year ending March 31, 2003 as well as a budget for next year. Mr. Daniel highlighted portions of the NH Main Street annual report, which was completed in February. Mr. Daniel also highlighted changes, which have occurred over the past five years. Recommendations from the report included: revitalization of the organization committee, communication with the Town, continuation of the newsletter, and efforts to increase the volunteer base.

Erika Mantz, 31 Edgewood Road, Durham. Ms. Mantz stated that she was asking the

Council to appoint her as the UNH Representative of the DCAT Committee. She stated that she has been at the University for four and one-half years and that she works in media relations for the University.

William Hall, Smith Park Lane, stated several instances in which he feels that the Council deals with symptoms of a problem but does not fix the problem. Mr. Hall said the Council must deal with issues, such as student behavior, on an ongoing basis.

Michael Blake, 7 Carriage Way, and Assistant Fire Chief for Durham. Mr. Blake stated that he would like to express his gratitude to the firefighters of Durham who acted admirably Saturday night. Mr. Blake stated that he would like the Town Council to reconsider negotiations with the firefighters.

VIII. Unanimous Consent Agenda (7:48 P. M.)

(Requires unanimous approval. Individual items may be removed by any Councilor for separate discussion and vote.)

No Unanimous Consent Items.

IX. Unfinished Business (7:48 P.M.)

Appoint citizen members to the Conservation Commission, DCAT, HDC, July 4th Independence Day Celebration Committee, Parks and Recreation Committee and the PDA Noise Compatibility Committee.

In reference to the Conservation Commission, Mr. Selig stated there is one 3-year regular member vacancy and one 3-year alternate member vacancy to be filled. There are three people that have indicated an interest in the Commission, one of which is requesting an alternate position as his first choice.

Councilor Smith stated that Mr. Alexander is doing a first rate job on the Commission at the moment and that Mr. Baldwin has been attending meetings of the Conservation Commission.

Councilor Grant nominated Lee Alexander for the 3-year regular position.

Councilor Paine nominated Dwight Baldwin for the 3-year regular position.

Councilor Grant stated his support for Mr. Alexander's reappointment to the Commission. He further stated that he has watched Mr. Alexander in action as Chair of

the Conservation Commission and that he shows good leadership.

Councilor Harris endorsed Mr. Alexander.

Chair Sandberg called for the vote to appoint Lee Alexander to fill the 3-year regular member vacancy on the Conservation Commission. The vote was unanimous and Chair Sandberg declared the vacancy filled by Lee Alexander.

Councilor Smith nominated Dwight Baldwin for the 3-year alternate position on the Conservation Commission.

In response to a question from Councilor Grant regarding additional alternates on the Conservation Commission, Mr. Selig stated he did not know if there is a limitation on the number of alternates the Commission may have.

Councilor Grant nominated Robert Doty and recommended that the Council appoint two alternates.

Chair Sandberg stated that the question of whether or not the Conservation Commission could add another alternate position would need to be researched.

Councilor Grant MOVED that the Council postpone consideration of the appointment to the 3-year alternate position on the Conservation Commission to May 5, 2003. The motion was SECONDED by Councilor Kraus. The motion FAILED 2-5-0. Councilor Kraus and Grant voted in favor. Councilors Niman, Harris, Paine, Smith and Sandberg voted in opposition.

Chair Sandberg called for a vote from all in favor of the appointment of Dwight Baldwin for the 3-year alternate position. The vote was unanimous and Chair Sandberg declared the vacancy filled by Dwight Baldwin.

Mr. Selig read the Slate of Appointees for the other committees and Commissions as follows:

DCAT Governance Committee (Two 3-year citizen member vacancies and one 1-year UNH representative vacancy)

Peter Brown, Katie Paine and Erika Mantz (UNH representative)

Historic District Commission (Two 3-year regular member vacancies)

Andrea Bodo and Leslie Schwartz

July 4th Independence Day Celebration Committee (nine citizen member vacancies)
Belinda Curtis, Ann Shump, Shirley Thompson, 6 vacancies remaining.

Parks and Recreation Committee (Two 3-year regular member vacancies)
Frank Pilar and 1 regular member vacancy remaining.

PDA Noise Compatibility Committee (One citizen member vacancy)
Craig Seymour

Councilor Harris MOVED to approve the slate of appointees as submitted. The motion was SECONDED by Councilor Niman.

Councilor Paine recused herself from discussion and vote as she was a nominee for a citizen member of the DCAT Governance Committee.

Councilor Kraus expressed his concern over a member of the Council serving as a citizen member of a committee. He felt that the Council would be setting a bad precedent in this matter.

Councilor Smith agreed with Councilor Kraus and suggested that Councilor Paine could attend meetings as a member of the public in order to provide historical background for the committee.

Councilor Kraus MOVED to amend the slate of appointees by deleting Katie Paine's name from the DCAT Governance Committee. The motion was SECONDED by Councilor Smith.

The motion PASSED on a vote of 4-1-1. Councilor Harris voted against and Councilor Grant abstained, stating he did not like to vote.

Administrator Selig suggested that Councilor Paine be brought back in for the vote on the slate of appointees as she is no longer on the slate.

Councilor Paine returned to the table at 8:20 P.M.

The motion to approve the slate of appointees, as amended, PASSED unanimously.

X. **New Business (8:20 P.M.)**

- A. Public Hearing:** Proposed amendment to Durham's cable franchise agreement to provide and install coaxial cable to the Oyster River High School and to provide DCAT services to residences served through the Lee, Madbury and Newmarket cable systems currently not receiving this service.
- B. Authorize the Town Administrator to sign the proposed amendment to Durham's cable franchise agreement to provide and install coaxial cable to the Oyster River High School and to provide DCAT services to residences served through the Lee, Madbury and Newmarket cable systems currently not receiving this service.

Councilor Sandberg recused himself from the issue, as he is one of the residents affected by this proposal. Chair Pro Tem Grant presided over the hearing.

Administrator Selig stated that the Town has been working with its cable provider to bring its local channel DCAT to those households in Durham that currently do not receive this service. The Town has also discussed with Comcast the notion of extending the time horizon whereby the cable company will be obligated to install coaxial cable to the addition at the Oyster River High School at no cost. Mr. Selig stated that Attorney Susan Chamberlain, the Town's negotiator on behalf of cable issues and Jerry Reese, the manager for government affairs for Comcast, were present to speak to the issue.

Councilor Smith made the MOTION to open the public hearing. The motion was SECONDED by Councilor Paine and APPROVED unanimously.

Chair Pro Tem Grant opened the public hearing at 8:25 P.M. and the following members of the public spoke on this matter:

William Hall, 1 Smith Park Lane

Malcolm Sandberg, 15 Langley Road

Attorney Susan Chamberlain, representing the Town in the contract negotiations.

Jerry Reese, Manager of Government Affairs, Comcast Cable

Councilors John Kraus and Katie Paine also asked Mr. Reese to provide details of why it would cost \$1700 to bring cable to the homes that are not served under the new agreement.

Councilor Kraus MOVED to continue the public hearing until May 5, 2003 as there was not a quorum to vote. The motion was SECONDED by Councilor Paine and PASSED unanimously. (9:10 P.M.)

Chair Sandberg called for a five-minute recess at 9:10 P.M.

The meeting reconvened at 9:15 P.M.

- A. Shall the Town Council ratify the Collective Bargaining Agreement between the Town of Durham and the Durham Police Officers Association (DPOA) for the period January 1, 2003 through December 31, 2005?

Attorney Joe McKittrick, the Town's attorney in collective bargaining matters, presented the tentative agreement between the Town and the Durham Police Officers Association.

Councilor Kraus MOVED to ratify the Collective Bargaining Agreement between the Town of Durham and the Durham Police Officers Association (DPOA) for the period January 1, 2003 through December 31, 2005. The motion was SECONDED by Councilor Smith and PASSED unanimously.

- A. Shall the Town Council approve a permit application submitted by Seacoast Growers' Association to conduct its Farmer's Market during the period June 9– October 13, 2003? (9:25 P.M.)

Councilor Paine MOVED to approve a request by Seacoast Grower's Association to conduct a Farmer's Market in the Pettee Brook Parking Lot each Monday afternoon from 2:15 to 5:30 PM beginning Monday, June 9 and ending Monday, October 13, 2003, and to lease 15 parking spaces closest to the road, subject to the special conditions of approval indicated on the second page of the application. The motion was SECONDED by Councilor Niman.

Councilor Grant MOVED to amend the fee to \$250.00. The motion was SECONDED by Councilor Harris. The motion to amend PASSED unanimously.

The motion, as amended to reduce the fee to \$250.00, PASSED unanimously.

- A. Receive Quarterly Financial Report – Paul Beaudoin, Business Manager

Business Manager, Paul Beaudoin stated that the first quarter revenues were down,

but that this is mainly an issue of timing and that the Business office is monitoring this matter carefully. He further stated that expenses are \$5,000.00 over last year for snow removal and that the Town is anticipating a \$12,500.00 grant from FEMA to offset costs.

In response to a question from Councilor Smith regarding the drop in revenues from motor vehicle registrations, Mr. Beaudoin explained the change in revenues could be a matter of the time people register their cars, as well as an indication of a sluggish economy. He stated that the office will continue to monitor revenues in this area.

A. Receive report on the progress and finalization of the revaluation process – Robb Dix, Assessor **(9:40 P.M.)**

Mr. Dix made a presentation to the Council on the revaluation process that included history, valuation, field review, hearings, and tax bills. He stated that once it appears that the values are full, then notices will be sent to every taxpayer with their proposed values. He thanked the citizens for their cooperation and cordiality during the process.

Mr. Dix presented some tentative time lines for tax bills. Valuation (April – May), Field Review (May – June), Adjustments (June), Hearings (July), Total adjustments (August) and new tax bills (October).

Councilor Kraus stated that the Town should be careful how information is conveyed to citizens so that there are no misunderstandings.

At a request of Councilor Niman, Mr. Dix will attempt to provide additional information to property owners such as average depreciation comparisons so that citizens can get a sense of their tax burden relative to other houses.

Councilor Grant stated that July and August were not good months for appeal hearings. He suggested that September be considered for hearings.

Councilor Kraus MOVED to extend the meeting 15 minutes. The motion was SECONDED by Councilor Grant and PASSED unanimously. (10:00 P.M.)

A. Discuss request from Superintendent of the Oyster River Cooperative School District, Thomas Carroll, to organize a joint meeting between the Oyster River School Board and Councilors and selectmen from Durham, Lee, and Madbury to discuss topics of mutual interest. **(10:02 P.M.)**

Councilors agreed on a joint meeting date of Tuesday, May 20, 2003, at 7:00 P.M. They agreed that the agenda would include the school funding formula and the need for an athletic field. Councilor Grant suggested that Councilors make suggestions for other agenda items at the May 5, 2003 Council meeting.

A. Other Business (10:05 P.M.)

The Council continued discussion regarding the Michigan Law regarding civil disorder within University campuses.

Councilor Paine stated that the Town has a window of opportunity for the Durham Delegation to propose new legislation on Tuesday, Wednesday, or Thursday of this week.

Councilor Harris stated that the Town could make more suggestions once everyone has had an opportunity to read the Michigan legislation.

Councilor Niman stated that he did not support the legislation as it may (1) have a negative impact on the Town's relationship with the University, and (2) its potential impact on civil liberties.

Councilor Smith stated that the purpose for introducing the legislation at this time would be to get on the docket, which would get discussion and dialogue started on this issue.

Chair Sandberg stated that the Council would not be sponsoring the legislation. Members of the Town's legislative delegation would be bringing it forward to the legislature for discussion.

I. Nonpublic Session (if required)

None

XII. Adjourn

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

Chair Sandberg adjourned the meeting at 10:16 P.M.

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Barbara Stoddard, Minute Taker