

DURHAM TOWN COUNCIL MINUTES
MONDAY, MAY 19, 2003
DURHAM TOWN HALL – COUNCIL CHAMBERS
7:00 P.M.

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

MEMBERS ABSENT: None

OTHERS PRESENT: Todd Selig, Town Administrator; Interested Members of Public

I. Call to Order

Chair Sandberg called the meeting to order at 7:00 p.m.

I. Approval of Agenda

Councilor Morong MOVED to approve the agenda as submitted. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

Councilor Grant MOVED to amend the agenda to include Item VIII. b. Request for approval of the Memorial Day Parade. The motion was SECONDED by Councilor Morong and PASSED unanimously.

The agenda was approved as amended.

I. Special Announcements

Mr. Brian Beers, veteran of the Durham Public Works Department, was presented with the Road Scholar Award by David Fluharty, Director Technology Transfer Center and UNH.

Mr. Beers attained the highest level of achievement as Master Road Scholar for attending 20 workshops. Examples of training that Mr. Beers attended include training in asphalt maintenance, gravel road maintenance, subsurface drainage, traffic control and work place safety. Mr. Fluharty stated that this was also an award for the Town because of its support for the training.

Chair Sandberg congratulated Mr. Beers on behalf of the Town Council.

I. Approval of Minutes

Councilor Niman MOVED to approve the minutes of May 5, 2003. The motion was seconded by Councilor Grant.

Councilor Smith stated that he had submitted some changes to the minutes to Administrator Selig.

Pg. 4, change name of Gorsky to Horskin

Pg. 7, change Dane Road to Dame Road, Wine Road to Winecellar Road and Adams Point Road

Pg. 12, top of page – add “...In response to a question from Councilor Samuels expressing concern that the changing of the gate to allow for frequent shuttles, Mr. Selig stated that...”

Councilor Samuels MOVED to make the change on page 12 as shown above. The motion was SECONDED by Councilor Paine and PASSED unanimously.

There were no objections to accepting the non-substantive changes as mentioned.

Councilor Morong stated that the minutes need to reflect the discussion initiated by Councilor Smith regarding searching archives to find minutes referring to the original school funding formula in the 1950s.

Chair Sandberg asked Councilor Morong to develop the language to include this issue in the record.

Councilor Morong MOVED to postpone approval of these minutes until the next meeting. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

I. Report of Administrator

Administrator Selig reported on a number of updates.

- Monday, May 26 – Memorial Day Parade beginning at 10:00 a.m. in Durham.
- Saturday, May 31 – from 9 a.m. – 11 a.m. - the Durham Conservation

Commission and Friends of the Mill Pond are invited to take part in the 1st annual Pond Bank Maintenance Session. Rain Date will be June 7.

- Tuesday, May 20 – Joint meeting of Durham Town Council, Lee Selectmen, Madbury Selectmen and Oyster River School District to discuss a number of items including school funding. 7 p.m. at Oyster River High School Library. Members of the public are encouraged and invited to attend.
- The final audit report for fiscal year 2002 is near completion and it has been stated

that no major problems were found.

- The Department of Public Works has planted approximately 100 arboriti saplings to screen the new public works facility from route 4.
- There will be ongoing crosswalk painting and downtown beautification project continuing this week.

I. Reports and Comments of Councilors (7:15 p.m.)

In response to questions from Councilors Harris and Samuels, Mike Lynch stated that he was aware that trees had been removed near a crosswalk on Main Street and there are plans by the Public Works Department to refurbish the Oak Landing Park.

Councilor Morong thanked Administrator Selig for including the letter from Representative Marjorie Smith in the Councilors' packets concerning the Town's response to the governor's office

Councilor Smith reported on the last meeting of the Conservation Commission. Further soil testing for excess hydrocarbons is needed at Mill Pond. In response to questions from Councilors Grant and Morong, he stated that the source of hydrocarbons should be made clear with the new test samples and dredging on the pond has been postponed as the Army Corps of Engineers is away due to the war.

Councilor Smith also reported that the Conservation Commission will be presenting a written report to the Planning Board regarding alterations at the Fitts Farm Property.

Councilor Harris stated that she had received a letter from Steve Pesci, Director of Transportation Planning at the University, regarding the gate on Mast Road. She will share the contents with interested Council members.

In response to a question from Chair Sandberg, Administrator Selig stated that the issue of gates on Mast Road would come before the Council once all affected landowners are contacted.

Public Comments (7:21 p.m.)

William Hall, Smith Park Lane, spoke about jaywalking/pedestrian issues and vandalism in Durham. He stated that he had witnessed some police officers giving citations to cyclists riding on sidewalk while others do not. He stated that the Council and the Administrator must be vigilant about these issues.

VIII. Unanimous Consent Agenda (*Requires unanimous approval. Individual items may be removed by a Councilor for separate discussion and vote*) (7:26 p.m.)

- A. Shall the Town Council authorize the award of a bid for the purchase and installation of an emergency electrical generator at the police facility to Yates Electric Service, Inc. in the amount of \$27,000.00 as recommended by Police Chief David Kurz?
- B. Approve special event permit application by the American Legion to conduct annual Memorial Day Parade.

Councilor Paine MOVED to approve the unanimous consent items. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

IX. Presentation Item (7:29 p.m.)

Receive Wastewater Division report – Duane Walker, Superintendent of Wastewater

Mr. Selig introduced Duane Walker, the Superintendent of Wastewater. The Council was asked to hold any questions until after the presentation.

Mr. Walker made a 15-minute slide presentation to explain the functions and responsibilities of the Wastewater Division. The presentation covered the following topics: Wastewater Division Staff, Sewage Lift Station, Treatment Facilities, Anticipated Permit Changes, Sewer Manhole Rehabilitation Project, and Baseline Improvements Project. A copy of the information on each slide was included in the Council packets.

Councilor Samuels asked why the discharge of TSS (Total Suspended Solids) had doubled in 2002. Mr. Walker stated that it was due to the final clarifiers, which are 23 years old, and are at the end of their ability to quickly remove salty settled sludge and return. This is the reason why the mechanism is being replaced with more efficient units. Councilor Samuels asked if the problem was added to by dredging the Oyster River Channel and filling in the sludge. Mr. Walker stated that the level of suspended solids from the dredging is miniscule.

Discussion was held regarding the levels of discharge and the fact that the equipment is old and not efficient. Stormwater runoff is a bigger issue than waste from suspended solids.

In response to a question from Councilor Smith regarding “polished flow,” Mr.

Walker explained what Primary Sewage is a gray color, after it passes through the primary it is still gray. The water is considered polished after it goes through the secondary, then the microorganisms and the final clarifiers work on it and then the solids settle out.

In response to a question from Councilor Smith, Mr. Walker stated that one reason the past year's average pH level was below the average range of 6.5 to 8 was that Durham's water is predominantly surface water, which in New Hampshire means acid rain. A request to the EPA to get the numbers changed was denied. A second reason is that in the aeration tanks, nitrification is occurring. It is denitrified in final the clarifier and the current sludge collecting equipment cannot remove it fast enough. The de-nitrification process also lowers the pH level. This should improve with the new final clarifier equipment.

In response to questions from Councilors Smith, Morong, Paine and Grant, Mr. Walker stated the department has no control over copper that comes from people's houses; the electric pumping stations have back up power; arsenic and other substances are tested for each year; and that manhole inspection has been completed.

Councilor Grant asked for a description of the baseline treatment plant improvements. Mr. Walker explained that the aerated grip tanks are going to be covered. The flows are pumped to the Dover Pumping station then pumped a mile in a force main to the treatment plant. When they come out and inject air in the system, then hydrogen sulfide and methane gases are driven out into the atmosphere. The project will cover the tanks, capture the air and treat it. Also in that same area a mechanical screen will be installed that will remove rocks, rags, and other debris that doesn't belong in the system.

Mr. Walker further explained that there are scum collection troths at the far end of the effluent end of the tanks that will be upgraded so that foldable grease will be skimmed off easily.

He also explained that the Stanford Baffle would be installed. The return activated sludge pumps will be replaced with a more modern, more efficient model. The main transformer in the treatment plant is being replaced with generator switchgear. The work will be completed by the end of 2003.

Mr. Walker invited Council members to the Plant for a tour at any time.

- X. Unfinished Business (NLT 8:00 PM)
 - A. Discuss final report of School Funding Study Commission (8:02pm)

Chair Sandberg stated that the Council has asked the School Funding Study Commission to duplicate the presentation they presented before the Council on May 5, 2003 for the benefit of people from Lee, Madbury, and the School Board at the meeting scheduled for May 20, 2003. Mr. Sandberg asked if there were any Councilors that wished to express interests, concerns or observations.

Councilor Samuels expressed appreciation to Councilor Niman for his letter addressed to the School Board members. She felt his approach made sound economic sense.

Councilor Niman presented his thoughts and observations, which are attached to these minutes. Councilor Niman thanked Rob Toutkoushian for his assistance. When the formula was first developed cost and taxes were basically the same thing. This changed in 1999 with the introduction of the state property tax. Councilor Niman believes that Durham has over paid taxes to the school district.

Councilor Morong asked if Councilor Niman felt that Lee, Madbury, and Durham should be operating as one Town and that all monies the towns get from state should be put in one pool. Councilor Niman stated that if the towns are going to honor and be consistent with past practices then they should share the number of students as well as state aid.

In response to comments from Chair Sandberg, Councilor Niman stated that the difference is that Durham has more taxable properties than Lee or Madbury. Durham will always pay more in taxes as the issue is not equally valued houses but contributions of individual Towns in light of how many students are sent to the school district.

Paul Berton stated that the 50/50 formula is based on ability to pay. Pre 1999 Durham was paying more per student but this was spread over a bigger tax base. The adequacy grant in 1999 skewed the amount. The state formula did not look at local formula that school district has which takes into account ability to pay and use of services.

There was further discussion on the funding formulas. Councilor Niman stated that the Town of Durham never agreed to pay 60% of taxes that go to school district. He stated that he believes it is not fair to ask the citizens of Durham to do something that is responsibility of the State.

Councilor Smith stated that he looked forward to the meeting on May 20, 2003 to listen to the perspectives of different people. He further developed a theory to

help explain what he believes is happening in terms of funding.

Further discussion was held among the Councilors regarding the formula for funding and how it has developed and if it is being applied properly. Councilor Niman further stated that he believes Durham is overpaying because of the way the funding formula is being applied.

Councilor Smith stated that as the Council goes into the meeting with the School Board, they must keep in mind those things that can be changed through the consolidated district, those things that can be changed as individual towns, and those things that can only be changed by the State.

In response to a question from Councilor Morong about how the formula can be changed, Chair Sandberg stated that would be a question to ask Superintendent Tom Carroll at the meeting on May 20, 2003.

Councilor Grant stated that the School Funding Study Commission considered a number of options and chose one recommendation. The options included modifying the formula to put a greater emphasis on ADM, which were considered to be political in nature. The Commission agreed on the 100% ADM as being the appropriate solution to the approach they have taken.

Councilor Kraus stated that people should be aware that there are concerns as to how the formula was developed.

Chair Sandberg ended the discussion at 8:58 p.m. and called for a 5-minute break.

Chair Sandberg called the meeting back to order at 9:05 p.m.

- A. Shall the Town Council adopt the “Core Purpose, Values, and Goal Statement” established at the Town Council visioning session conducted in April 2003?

Councilor Grant MOVED to adopt the “Core Purpose, Values, and Goal Statement” established at the Town Council visioning session conducted in April 2003. The motion was SECONDED by Councilor Morong.

Councilor Smith MOVED to amend the statement on page 6, 3rd bullet to read “...Strongly encourage adequate on campus housing of at least 70% of undergraduate degree students. The motion was SECONDED by Councilor Harris and PASSED unanimously.

Councilor Kraus MOVED to postpone discussion and action on this item until the next meeting. The motion was SECONDED by Councilor Samuels and PASSED unanimously.

I. New Business

A. Update by Police Department on the following:

1. Downtown pedestrian issues

Police Chief David Kurz and Deputy Chief Rene Kelley provided an update on pedestrian issues in Durham.

Chief Kurz stated that there were 2 pedestrian accidents that occurred in the downtown area. One person was illegally crossing the street and was struck by a vehicle. The police summoned that person. The other occurred in the middle of Main Street when a mother and daughter walked into a vehicle in the crosswalk. They were not summoned.

Chief Kurz stated that the department is trying to increase the presence of officers in the downtown area. A part-time officer has been hired to enforce pedestrians and cyclists in the downtown area. In addition, effective May 26, 2003, an officer will be assigned to the downtown area.

In response to a question from Councilor Morong, Deputy Chief Kelley responded that the edict from both the Chief and the Deputy Chief is that officers are not to turn a blind eye to violations.

Councilor Grant stated that not only the students jaywalk. He requested that the department get signs that say, "Pedestrians Use the Crosswalk." Deputy Chief Kelley stated that the department is applying for grants for public education.

In response to a statement from Councilor Grant, Chief Kurz stated there is a tunnel for the purpose of crossing from A Lot to the University and that there has been discussion about redesigning the College and Main Street traffic intersection.

Chief Kurz stated that he would be talking about some of the

issues with Administrator Selig.

1. Discussion on Councilor Kraus' proposed Position Statement relating to the congregation of unruly groups or mobs within the Town of Durham

Councilor Kraus MOVED that the Council adopt the following position statement. The Town of Durham is not a playground for vandalism and bad behavior. The Town will not permit unruly individuals, groups or mobs to congregate and will employ appropriate measures to insure the safety of its citizens, public and private property, and free and safe passage on its public ways. The motion was SECONDED by Councilor Grant.

Councilor Smith MOVED to amend the first sentence to read, The Town of Durham will not tolerate vandalism and bad behavior. The motion was SECONDED by Councilor Paine and PASSED unanimously.

Councilor Harris MOVED to amend the second sentence to read, Unruly individuals, groups or mobs will not be allowed to congregate and appropriate measures will be used to insure the safety of its citizens, public and private property, and free and safe passage on its public ways. The motion was SECONDED by Councilor Paine and FAILED.

The motion reads as follows: ***The Town of Durham will not tolerate vandalism and bad behavior. The Town will not permit unruly individuals, groups or mobs to congregate and will employ appropriate measures to insure the safety of its citizens, public and private property, and free and safe passage on its public ways.***

The Motion PASSED unanimously.

3. Accounting for the arrests made during the riots.

Chief Kurz stated that 87 people were arrested and names forwarded to the University to process as University. The Town of Durham was responsible for 30 arrests and the University Police Department was responsible for 15 arrests. There were 14 other cases in which 8 were not processed and 6 released. Chair

Sandberg stated that the Town deserves to know the numbers.

Councilor Kraus MOVED to extend the meeting 15 minutes. The motion was SECONDED by Councilor Smith and PASSED 8-1-0. Katie Paine voted against the motion.

Councilor Smith stated that discussions needed to be held to obtain from the University a statement disclosing actions as far as what would be permissible to release.

Consensus from discussion was reached that the Town Administration seek out information regarding what occurs on the University end and how the Town can receive information.

A. Other Business

Administrator Selig stated that any of the effort the Town puts toward downtown will stretch the budget and that additional resources will not be sought.

XII. Nonpublic Session (if required)

I. Adjourn (NLT 10:00 PM)

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

The meeting adjourned at 10:15 p.m.

Barbara Stoddard, Recording Secretary