

This set of minutes was APPROVED at the July 7, 2003 meeting.

**DURHAM TOWN COUNCIL MINUTES
MONDAY, JUNE 16, 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, and Interested Members of Public

I. Call to Order

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

II. Approval of Agenda

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

III. Special Announcements

None

IV. Approval of Minutes

May 5, 2003

Councilor Morong MOVED to accept the minutes of May 5, 2003. The motion was SECONDED by Councilor Kraus.

The following corrections were made to the minutes of May 5, 2003.

Page 2. Change the vote on the first motion to read 6-0-3. Councilor Samuels and Councilor Morong abstained, as they were not present at the meeting. Chair Sandberg abstained as he had recused himself during the original discussion.

The note taker reviewed the tape and discovered that Chair Sandberg voted on the next two amendments. The vote remains as stated in the draft minutes.

Page 9, 2nd paragraph and last paragraph add the last name of “Mike” to read “Mike Everngam.”

Page 10, 4th paragraph beginning with the word "Findings" change incomplete sentence. Also correct incomplete wording on paragraph beginning with the word "Given."

Councilor Smith MOVED to amend the second sentence on page 11 to read: Councilor Smith stated that he felt it would be an error for the Council to make judgments at this time respecting any changes in the local funding formula. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

Page 11, 4th paragraph from bottom, change to read strike the word as in the first sentence and add the word will to the second sentence to read "...the Council will continue..."

Councilor Smith gave non-substantive changes to the minute taker.

Councilor Morong MOVED to approve the minutes of May 5, 2003 as amended. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

May 19, 2003

Councilor Kraus MOVED to accept the minutes of May 19, 2003. The motion was SECONDED by Councilor Morong.

Page 2, top change the second line to read and Adams Road to Adams Point Road

Chair Sandberg MOVED to amend the paragraph beginning "Paul Beaudoin" on page 6 to read as follows: "Paul Beaudoin is based on average daily membership and ability to pay." The motion was SECONDED by Councilor Smith and PASSED unanimously.

Councilor Smith MOVED to amend the third full paragraph, second sentence on page 6 to read as follows: "He further used two examples to help explain the effect of the state property tax on the three towns that comprise the Oyster River School District and to clarify Councilor Niman's position on school funding. The motion was SECONDED by Councilor Paine and PASSED unanimously.

Councilor Smith MOVED to amend the second full paragraph on page 9 to read as follows: "Councilor Smith stated that discussions needed to be held with the University to obtain from it clarification of precisely what information respecting student disciplinary actions it is willing to release to the town. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

The motion to approve the minutes of May 19, 2003 as amended PASSED unanimously.

June 2, 2003

Councilor Kraus MOVED to approve the minutes of June 2, 2003 as submitted. The motion was SECONDED by Councilor Paine.

Page 2, Item VI. 1st paragraph add the words be developed as follows: "...some Councilors have received copies he developed of portions of minutes from 1991 and 1992 pertaining to the Mast Road Gate activity. Copies would be provided also to the remaining Councilors."

Page 4, change the motion beginning Councilor Paine to read as follows: "Councilor Paine MOVED that the Town Council schedule a public hearing for its meeting on June 16, 2003 to obtain input from the citizens regarding a proposed conceptual redesign of the Memorial Park stone."

Page 5; correct spelling of Councilor Pain to Councilor Paine.

Page 6, strike the second and eight paragraphs under Item X.A.

Page 7; add vote to Failed motion. 0-8-0.

The motion to approve PASSED on a vote of 7-0-1. Councilor Harris abstained due to absence.

V. Report of the Administrator

1. A schematic drafted by Robbi Woodburn of the enclosure for the dumpsters in the Store 24 parking lot was forwarded to the Council for input prior to implementation. One dumpster will be removed and frequency of pick up will be increased. In response to questions from various Councilors, Mr. Selig reported the following: The cost of the screening will be \$16,000. The funds are available because of savings in the Public Works Department due to a reduction in personnel. Truck access is from the side. The height of the fence is 6ft. There is a 2 ft. wall for a total of 8 ft. The dumpster is also 8 ft. high. Councilors suggested using a combination of greenery and fencing in order to determine which holds up better in the winter.
2. Mr. Selig presented an update on the Wagon Track Bike Path. He reported the following. A) Construction costs have increased. Public Works has provided a financial overview, which will be shared with the Council when the issue is brought forward again. B) The assessor has developed a rough estimate of the effect on property values of properties along the path. C) The town attorney will be addressing the points in other letters that have been received from various attorneys providing feedback. D) The Seacoast Bike Club is interested in working with the town to petition for a declaratory judgment to find out if in fact the concerns raised by the Keefes and their attorney are valid. The declaratory judgment would also see if the concerns of the town's attorney were valid. Mr. Selig stated that the Council needs to determine whether to proceed with a declaratory judgment request. The project is in process and a presentation is likely anticipated for August 4, 2003. Councilor Smith requested that the Administrator include in the report the rough costs of such declaratory litigation and who would be paying those costs.
3. Currently there are no restrictions to camping at the Doe Farm. So-called squatters stay in the area during the summer presenting problems in fire safety, sanitation and

security. The Code Enforcement Officer has been to the property to address the sanitary issues. The Town needs to move forward with an ordinance if it wants to prohibit camping on Town property altogether. The Town Planner has a draft of an ordinance for review.

4. Councilors asked about developing a conservation acquisition policy for conservation lands associated with the \$2.5 million bond passed in March. Members of the Conservation Commission and the Land Preservation Group will be meeting with the Council in July or August.
5. MRI Consulting Firm, Town Attorney Walter Mitchell and John Harwood, Temporary Contract Planner have all been approached to develop a draft of a rental housing permit ordinance system for Durham. The drafts could be brought before the Council, the Rental Housing Commission or a committee to evaluate and provide input.
6. Channel 22 DCAT is now active in Lee and Madbury on Channel 22.
7. The university has forwarded a letter to abutters on the topic of the Mast Road Gate, which the university wants to remove and replace with an electronic gate. The Town and the University are waiting to hear the responses from the abutters. The research that Councilor Kraus recently pulled together when the issue came before the Council ten years ago has been forwarded to Doug Bencks at the University.
8. In response to public comments from Mr. William Hall, Smith Park Lane, on the number of injuries to solid waste workers, Mr. Selig spoke with the Department of Public Works to determine if there is an issue. The Department and the Workers' Compensation Carrier used by Durham conveyed that the incidence of injury has dropped due to training and through other efforts of the Department of Public Works. The possibility of electronic lifters for the trucks will be evaluated in terms of cost of lifters and savings in terms of injury time to the employees.
9. The School Board will be considering the School Study Commission's report in August. The Madbury Selectmen are not interested in participating in further talks on that topic with the Durham Study Commission. They feel the appropriate venue would be a committee appointed by the school board with equal representation from each community. The selectmen also feel the topic should not be addressed until a solution is found for the state education funding mechanism. Mr. Selig suggested that the Council talk about the issue on a future agenda.
10. Renovations to the Council chambers are moving forward. Renovations include central air conditioning, room expansion outwards toward the old DPW garage, replacement of fire rated siding, addition of windows, egress and lighting. A majority of the work will be done in-house. Councilor Kraus suggested that careful attention be paid to ensure that machinery noises do not interfere with the reception of the meetings. In response to a question from Councilor Morong, Mr. Selig stated that it is too time consuming and costly to open the ceiling.
11. Mr. Selig asked the Council to consider having one meeting in July - on July 7th.
12. As a result of the February 17 – 18 snow events this winter, Durham requested and received a \$16,383 grant from FEMA. The grant will help offset snow removal costs.
13. There are vacancies on many of the town boards. There are 2 vacancies on the Zoning Board of Adjustment. Mr. Selig encouraged interested members of the public to apply.

14. The Town is continuing to talk about the July 4th event becoming a Great Bay Rotary event rather than a Town of Durham event. Durham would still be involved in a support capacity providing police, fire and public works services.
15. The Chancellor's office of USNH had requested a meeting dealing with Group 2 retirement benefits for UNH and Plymouth State College police officers. The meeting scheduled for June 17, 2003 at the Chancellors Office from 9-11 a.m. has been postponed until further notice due to legislative schedule conflicts.

VI. **Reports and Comments of Councilors**

Councilor Kraus thanked the Fire Department for visiting the Block party on Cutts Road.

Councilor Smith reported that if the Town Council requested it, the Conservation Commission would review and develop a report on the issue of the swans in the Mill Pond. He further reported that the Conservation Commission has completed site visits and written a memorandum at the request of the Planning Board concerning Fitts Farm. There is strong sentiment on the Conservation Commission that given recent history of construction issues and the absence of appropriate compliance that the Town stay abreast of the matter pursuant to the provisions that the Planning Board adopted.

Councilor Grant amplified Councilor Smith's remarks in regard to the inspection of the Perley Lane and the Fitts Farm development. The provisions that the Planning Board made in granting approval of the project included 30 conditions attached to the approval. The conditions include provisions for independent professional inspectors to be used at the expense of the applicant. There is also a condition for the town, particularly the Public Works Department, to exercise close oversight of the project. Councilor Grant stated that if those two measures are followed, then the Town would hopefully see protection of a very sensitive environmental area.

Councilor Niman thanked Administrator Selig for following up on the outstanding issues as mentioned in the administrator's report. He further stated that there are a number of issues that have not been talked about that are coming up in the fall. He requested that Mr. Selig create a flow chart to list all the issues that need to be addressed and to determine if the Council can afford to cancel the second meeting in July. Councilor Niman further stated that he has had 6 separate conversations with different individuals indicating that people have decided not to buy real estate in Durham due to the tax situation. He suggested that the Council discuss this issue and determine if the tax issue is a problem and develop plans to address the issue.

Councilor Smith stated that he was happy to hear that DCAT is now being fed through Lee as he has a constituent who has been patiently waiting for access.

Councilor Smith MOVED to amend the agenda to extend Item VIII to not later than 8:05 p.m. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

Councilor Samuels left the meeting at 7:58 p.m.

VII. Public Comments

William Hall, Durham, stated that the Town Council had required that the trash truck be ordered with a pick up that could pick up any barrel. He stated that a pick up was not bought or was removed. He felt the issue had been countervailed by the Public Works Department.

In response to a question from Mr. Hall, Mr. Selig stated that the drawing for and direction of the dumpster site was produced by Robbi Woodburn in accordance with specifications developed by Public Works and with input from the design committee of the Main Street Program for use by Public Works.

Mr. Hall expressed concern that an engineer did not do the design work for the Pettee Brook metered parking lot and now the dumpster. He stated that problems are not solved because everyone forgets the history.

Mr. Selig stated that Robbi Woodburn is a valued member of the community and on her own time provided assistance to the Department of Public Works. He further stated that whatever any architect or person of the community suggests is merely a suggestion and if the Town acts on that suggestion, then it is the Town that should be held accountable for the outcomes. He expressed the Town's appreciation to Robbi Woodburn for her assistance.

VIII. Unanimous Consent Agenda *(Requires unanimous approval. Individual items may be removed by any Councilor for separate discussion and vote.) 8:05 p.m.*

- A. Shall the Town Council approve refunds, abatements, and a supplemental warrant for water and sewer?
- B. Shall the Town Council approve property tax abatements for 2002 as recommended by the Town Assessor?

Councilor Kraus MOVED to approve Item VIII. A. and Item VIII. B. The motion was SECONDED by Councilor Paine and PASSED on a vote of 7-0-1. Councilor Morong abstained due to a conflict of interest.

IX. Committee Appointments

- A. Shall the Town Council reappoint Cynthia Cote, Philip Ginsburg, and Norma Segal for one-year terms as alternates to the Durham Public Library Board of Trustees as recommended by the Library Trustees?

Mr. Selig stated that all three of these individuals have finished a term of one year as alternates to the Library Board of Trustees. RSA 202-A: 10 allows for the appointing authority, which in this case it is believed, is the Council to make the appointments. The Library Trustees have requested that the Council reappoint these individuals.

Councilor Grant MOVED to appoint Cynthia Cote, Philip Ginsburg, and Norma Segal as alternate members to the Durham Public Library Board of Trustees for a one-year term; said term to expire March 31, 2003. The motion was SECONDED by Councilor Kraus.

Councilor Smith stated that he had raised the issue one year ago concerning the authority of the Town Council to appoint alternate members to the Library Board of Trustees. He questioned if the appointing authority is the Town Council or the people of Durham through popular election. He stated that he is not convinced that the Council has the authority to appoint alternates while the population elects the regular members. He stated he would vote against the motion on that point which has nothing to do with the individuals.

Chair Sandberg asked Councilor Smith if the town charter needed to be amended.

Councilor Smith stated that the statute allows a certain number of alternates. There is a provision in the State law for alternates. The statute does not take a position by which way a person is made a trustee of the library. Councilor Smith believes alternates can be placed on the ballot as alternates.

Mr. Selig stated that this was the third time this issue has been addressed. He stated that he had checked the NH Municipal Association who felt that the Council had the authority to make the appointment if the Council wanted to exercise the authority. This issue is on the list of things to address in the charter.

In response to a question from Councilor Grant, Mr. Selig stated that the charter provides that the Library Trustees will be elected and that it does not address the issue of alternates. The state statute was changed subsequent to the adoption of the charter to allow for the alternates.

Councilor Grant MOVED to amend his motion to include the statement: "In taking this action the Town Council recommends that in the future the alternates for the position of library trustee alternates be included on the elective ballot." There was no SECOND to the motion.

Chair Sandberg, referring to RSA 202-A:10, read the following: "The Board of the Library Trustees may recommend to the appointing authority the names of no more than three persons who may serve as alternate members on the board when elected members of the board are unable to attend the board meeting. The alternate member shall be appointed to a one-year term. He further stated that there is nothing in the charter that says the general population is required to be the appointing authority. The Town Council is the legislative body in the community and Chair Sandberg stated he had no problem with the Council making the appointments for one-year terms. He suggested that the language should be incorporated into the charter and would entertain a motion to amend the charter rather than trying to amend the charter by Councilor Grant's amendment.

Councilor Kraus stated that he does not see the Council appointing the alternates as a problematic issue.

In response to a question from Councilor Harris, Mr. Selig stated that the library alternate positions were listed under the vacancy listings and that anyone from the community had the opportunity to submit a letter of interest.

The motion PASSED on a vote of 7-1-0. Councilor Smith voted against the motion and Councilor Samuels was absent.

- B. Shall the Town Council appoint Susan Roman and Chris Regan to the July fourth Independence Day Celebration Committee?

Councilor Kraus MOVED to appoint Susan Roman and Chris Regan to the Fourth of July Independence Day Celebration Committee. The motion was SECONDED by Councilor Paine and PASSED unanimously.

X. **Unfinished Business (8:22 p.m.)**

- A. **Public Hearing** on the conceptual redesign of the Memorial Park stone to accommodate the addition of names of veterans who have served in conflicts since World War II.

Mr. Selig stated that there are three alternatives for the site: 1) Take the existing monument and raise it up, place on a pedestal, which would allow more room to add additional names; 2) Leave the monument as it is and add an additional monument to the site or possibly to another location in the community; or 3) Take the current monument, split it on the diagonal to create two additional faces.

The Public Works Department contacted memorial stone companies that were concerned that due to the age of the stone, it would crumble if it were to be split.

Councilor Smith MOVED to open the public hearing to obtain input from the citizenry regarding a proposed conceptual redesign of the Memorial park Monument. The motion was SECONDED by Councilor Grant and PASSED unanimously.

The Council received a letter from the Durham Historic Association recommending that the existing memorial stone be left untouched. They further recommended that an additional memorial stone with a traditional style be erected in Memorial Park or on town property nearby such stone to accommodate the additional names of veterans not listed on the existing stone.

There was no one from public to speak.

Chair Sandberg stated that he felt it would be wise to leave the park as it is. He felt the Council should give consideration to the footbridge becoming a memorial bridge. Names of veterans would be added and the spot would be used for dignitaries to speak during the Memorial Day Parade.

Councilor Paine stated a concern that the Council did not have the view of veterans.

Councilor Grant stated that he is aware of least one veteran's widow who has been active on the committee working on the project who was unable to attend the public hearing. He further stated that the public hearing could be continued to obtain more specifics on proposals and to seek further public input.

In response to a question from Councilor Niman concerning ADA requirements, Mike Lynch, Director of Public Works, stated that federal regulations do not require meeting ADA standards.

Councilor Smith stated that ADA standards should be applied. He further stated that Chair Sandberg's suggestion was well worth exploring.

Councilor Paine MOVED to amend the agenda at Item XI to (NLT 9:00 p.m.) The motion was SECONDED by Councilor Kraus and PASSED unanimously.

Councilor Kraus proposed that all veterans that have served since WWII forward be included in on the second monument.

Councilor Grant suggested that the public hearing be continued as the issue is complex.

Councilor Grant MOVED to close the public hearing. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

Councilor Niman MOVED to reopen the public hearing. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

William Hall, Durham stated that groups such as the legion auxiliary should not be excluded from the discussions. He stated that the current monument is sacred as it is and that he is opposed to splitting the monument. He stated that he prefers a second monument be built.

Councilor Paine MOVED to close the public hearing. The motion was SECONDED by Councilor Niman and PASSED unanimously.

Councilor Grant MOVED to postpone action on the memorial park indefinitely. The motion was SECONDED by Councilor Kraus.

Councilor Paine stated that indefinitely sounds like the Council has tabled the issue and does not care.

Chair Sandberg stated that it would be postponed until someone develops a plan.

Councilor Grant stated that it is a complex issue and that there is a great deal of work to be done.

Councilor Harris stated that a citizen's committee could come forward.

The motion PASSED unanimously.

- B. Shall the Town Council support the proposed concept by Seacoast Hospice to build a hospice center at the Durham Business Park? (8:43 p.m.)

Administrator Selig stated that Suzanne Cole, Executive Director of Seacoast Hospice, was present to inquire if the Town is interested in pursuing further dialogue concerning the proposed project and the development of a Purchase and Sale Agreement. At the meeting on March 3, 2003 the representatives from Seacoast Hospice indicated they would be interested in purchasing the entire parcel, constructing a hospice center on the buildable portion of the property, and then deeding back to Durham that portion of the property which they were not using for their center.

Mr. Selig stated that he has talked with Ms. Cole and Mr. Beckett, a member of the Seacoast Hospice Board since the meeting on March 3, 2003. Mr. Selig further stated that he has talked with Mr. Beckett about the idea of possibly establishing payment in lieu of taxes for the property. They also talked about what a fair purchase price would be for the property. A purchase price for the entire parcel that has been discussed is \$500,000, which represents what the Town paid for the parcel. However, the Town has put far more into the parcel, raising the total to \$739,000 which includes tax abatement for \$98,000, extension of water line, legal fees, appraisal fees, survey fees, wetland fees and other miscellaneous fees.

Seacoast Hospice has engaged a consultant to advise them as to whether it will be feasible to raise enough money to purchase the property, build the center, and create an endowment that would make the property self-sustaining. Mr. Selig stated that if the town wanted to develop payment in lieu of taxes, then the proposed purchase price would need to be factored into the feedback the Hospice receives from the consultant as to how much money the entity can viably raise.

The question for the Council is how they wish to proceed. There are many concepts about the property. The property could be developed into a business park with purely taxable properties. The Council could decide to keep the property in its natural state and not develop it at all. The third alternative would be a project such as that Seacoast Hospice is proposing which would include

payments in lieu of taxes for services required. If this were combined with a land exchange so that the town obtains a great majority of the property back as well as sale funds for the property, the town could pay back the sewer fund as well as the University for contributions to purchase of the property. The town would also have a parcel of land to develop for ball fields or passive recreation.

Mr. Selig stated that the Council was not here tonight to talk about price but rather if it wants to move in the direction of the proposal. Mr. Beckett had suggested that a purchase and sale agreement could be developed and then the question could be put to the voters in March 2004 as a referendum.

Councilor Smith asked if Seacoast Hospice has looked at other properties or is there interest in this one piece of property.

Suzanne Cole stated that it is not the only land they would be interested in but that this parcel would be ideal.

Councilor Smith stated that he felt the Town of Durham would take interest in seeing that the project Seacoast Hospice is proposing is located in the town of Durham. The work of hospice is extremely useful and important. He further stated that the property has such unique characteristics in terms of its physical nature and its connection to Durham's most important asset, its waterway, that it should be utilized for some form of active or passive recreation.

Councilor Kraus stated that he would favor the project. He feels this would be a wonderful opportunity as it is fitting for the location and there could still be some recreational activities on the property.

Councilor Paine agreed with Councilors Kraus and Smith. She felt the project provides recreation and a sustainable business that would not negatively impact the area.

Councilor Morong cautioned that an attractive building, as opposed to a concrete block, would need to be developed so that it will appeal to the Town.

Councilor Grant stated that he believes the property would be an attractive site for an office park. In 10 years the town has had only one viable applicant but their proposal did not fit the guidelines. He further stated that he was attracted to the proposal of the Seacoast Hospice.

Councilor Harris stated she supported this as a beneficial contribution to the community and that it would be good to keep passive recreation.

Councilor Niman stated that he was not sure that Councilor Grant was correct that only one company had looked at the property.

Councilor Grant stated that he had used the word “viable.” He stated there were a number business that looked at the property including a transport storage facility, an automotive repair center, and a company from Texas that wanted to put in a petro chemical plant.

Councilor Niman stated that a software company had also looked at the property. He further stated that he does not object to the Seacoast Hospice proposal in principle and that he eventually may be able to support. But he feels that as far as economic development is concerned and expanding the tax base in the town that the office park is the only viable opportunity at this time. If there is another piece of land that could be developed as an office park then he could agree with the proposal. Mr. Niman stated that he did not feel it was appropriate to take a symbol of economic development in the town away from the citizens. He feels that if we move forward on the hospice proposal then the Council is saying to the citizens that it is not interested in economic development or expanding the tax base and that the town is giving away the only viable opportunity.

Chair Sandberg stated that he had a strong sense of the value of the land as a recreational parcel. He would also like to see the property developed much the way a New England farm would be developed with barn type structures, Greek revival type architecture that would be fitting for the setting and would blend into the riverscape. He further stated that if we can develop appropriate financial terms it would be a viable option.

Chair Sandberg stated that all the Councilors have spoken and there is no commitment one way or the other at this point except to encourage Mr. Selig to continue to explore development schemes and the potential for an agreement. The proposal will be discussed in a nonpublic session at a future date.

Chair Sandberg called for a recess at 9:05 p.m.

Chair Sandberg called the meeting back to order at 9:10 p.m.

XI. Presentation Items

A. Receive report from the Parks and Recreation Committee

Kenneth Andersen, Chair, Parks and Recreation Committee presented a report which is attached to the Council packet.

Mr. Andersen reported that the first meeting of the new subcommittee would take place on July 1, 2003. A long-range plan for the committee will be to develop trail maps with the assistance of Nancy Lambert of the UNH Extension Service, who is an expert in mapmaking using GPS/GIS technology. There is an Eagle Scout exploring the possibility of developing/planning a nature trail at Wagon Hill Park: the entrance would be on Watson Road.

In response to a question from Chair Sandberg, Mr. Andersen stated that the committee's focus is on passive recreation.

Councilor Harris stated that she was impressed that Nancy Lambert, the expert from the University in GPS and GIS, seems willing to work beyond the recreation committee but also with the town.

Councilor Grant stated that the brochure could be included as the center section of the town report.

In response to a question from Councilor Paine, Mr. Andersen stated the brochure information could be updated and available for the website by June 26, 2003.

B. Receive report from Town Engineer, Bob Levesque (9:20 p.m.)

Robert Levesque, Town Engineer presented a report on the Storm Water II Regulations. A copy of the general permit that was filed with the State of NH was forwarded to Council members.

Mr. Levesque stated that they submitted the application due to an EPA deadline of March 10. Mr. Selig stated that this was a major project and that Durham was ahead of other communities in the state.

The plan was attached for the Council to review. There were 6 mandatory control measures that Mr. Levesque covered in his report: Public Participation/Involvement, Public Education and Outreach, Illicit Discharge Detection and Elimination, Pollution Prevention/Good Housekeeping, Construction site Runoff Controls, and Post-Construction Runoff Control.

In response to a suggestion by Councilor Harris, Mr. Levesque stated that the Public Works Department would look at working with the Durham Business Association in relation to Public Education and Outreach issues.

In response to a question by Councilor Morong, Bob Levesque stated that the EPA has not addressed the road salt issue but they are trying to address the road sand issue.

In response to a question from Chair Sandberg, if the Public Works Department was getting all the support it needed from the County and State level in respect to fulfilling these obligations, Mr. Levesque stated that they have gotten some support on the County level and that the State is starting to release some monies.

XII. **New Business** (9:41 p.m.)

- A. First Reading on Ordinance #2003-03: **Amending** certain sections of Chapter 68 "Fire Prevention" of the Durham Town Code in order to adopt the 2000 editions of the Fire Prevention Code and the Life Safety Code published by the National

Fire Protection Association, and adding the fees of this section into the Town-wide Master Fee Schedule.

Chair Sandberg stated that this is a first reading on the Ordinance and that a public hearing would be scheduled at a later date.

Chief O'Keefe stated that the State of NH updates the State Fire Code. The Town of Durham adopts the codes locally as it gives the Fire Department better enforcement abilities, having appeals done in the Town of Durham, and gives the fire chief authority to accept alterations of the code, and the ability to make alterations to the code.

He further stated that they have cleaned up some language and added some language to the code.

In response to a question from Councilor Kraus, Chief O'Keefe stated this reading does not refer to the NFPA 17:10 which addresses staffing issues. This is just dealing with fire prevention and safety codes.

In response to a question from Councilor Grant regarding mention of the University, Chief O'Keefe stated that the University has never been included in a town ordinance. Enforcement of fire lanes on university buildings is done under the university rules.

Mr. Selig stated that the University is required to conform to the codes under the State statutes and under those auspices the local fire department has enforcement authority.

In response to a request for clarification, Chief O'Keefe stated that the town adopts the state code locally in order to make changes and alterations in some cases that are stricter. The state code applies to state property. If the local authorities make things more stringent, they can attempt to apply them to the campus, which the fire department has done.

Councilor Smith asked if the town is authorized by state law to pass a town fire code stricter than the state law and require as a matter of law the University of NH to follow our town codes. Chief O'Keefe stated he did not have the answer to that question.

In response to questions from Chair Sandberg, Chief O'Keefe stated that the Durham Fire Department would call the UNH Police Department, not the Durham Police Department for a university property issue. The Fire Department would call the University Police or the parking enforcement people if there were issues on the campus in relation to fire lane violations.

In response to a question from Chair Sandberg, Chief O'Keefe stated that both the town and the university have a list of fire lanes.

In response to a question from Councilor Smith, Chief O'Keefe stated that he develops the list of university fire lanes according to the ordinance adopted by the State.

Chair Sandberg asked how to get the answer to the questions: "Does the town have the authority for the Durham NH Fire Department to go and designate a piece of real estate on campus as a fire lane?", and "If the Town of Durham can adopt a fire lane, would we not expect the Durham Police Department to be one of the agencies qualified to address the issue?"

Administrator Selig replied that we should talk with the State Fire Marshall to find out how the State establishes fire lanes on other state campuses or facilities. With regard to policing authority, the University of NH Police Department obtains its policing authority through the Town of Durham.

Chair Sandberg stated that he would like to know if the Durham Town Council should be deciding where the fire lanes should be on campus and whether they should be involved in the ordinance.

Councilor Paine MOVED that the Durham Town Council hereby passes proposed Ordinance #2003-03 on first reading, as presented, amending certain sections of Chapter 68 "Fire Prevention" of the Durham Town Code in order to adopt the 2000 editions of the Fire Prevention Code and Life Safety Code published by the National Fire Protection Association, and adding the fees of this section into the Town-wide "Master Fee Schedule." Further, the Durham Town Council hereby schedules a public hearing on proposed Ordinance #2003-03 for July 21, 2003. The motion was SECONDED by Councilor Kraus.

Councilor Smith MOVED to postpone action on this pending a more detailed report from the town administrator. The motion was SECONDED by Councilor Grant.

Councilor Kraus stated that it is clear to him that the Town does have the authority to enact the ordinance for the Town properties and that the university sets its fire lanes and the Durham Fire Chief oversees that. Mr. Kraus did not feel that postponement was necessary.

The motion to postpone FAILED on tie vote of 4-4-0. Voting against the motion to postpone were Councilors Niman, Kraus, Morong and Paine. Vote for the motion to postpone were Councilors Harris, Grant, Smith and Sandberg.

Councilor Paine AMENDED the motion to schedule a public hearing on the ordinance to August 4, 2003. The motion was SECONDED by Councilor Kraus and PASSED unanimously.

- B. Other Business
None

XIII. **Nonpublic Session**
None

XIV. **Adjourn**

Councilor Kraus MOVED to adjourn. The motion was SECONDED by Councilor Paine. The motion PASSED on a vote of 6-1-0. Councilor Niman voting in the negative.

Chair Sandberg adjourned the meeting at 10:02 p.m.

Barbara Stoddard, Recording Secretary