

D R A F T

DURHAM TOWN COUNCIL MINUTES MONDAY, AUGUST 4, 2003 DURHAM TOWN HALL – COUNCIL CHAMBERS 7:00 P.M.

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

MEMBERS ABSENT: Arthur Grant

OTHERS PRESENT: Todd Selig, Town Administrator; Ronald O’Keefe, Fire Chief, 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 Smith and PASSED unanimously.

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

Chair Sandberg said there were no special announcements other than to note that Council chambers were under construction. He explained for viewers at home that the room is being enlarged and the finished product is eagerly awaited.

IV. Approval of Minutes - July 7, 2003

The following amendments were made:

Page 2, V. Report of Administrator, sentence 4: “Bennett Road has been relined, and graded; the final phase of the project ...”

Page 2- Section VI, 3rd paragraph: “Councilor Smith commended the people who worked on the Fourth of July event.....”

Page 2, Section VII, 1st paragraph, change to read: “Representative Marjorie Smith distributed copies of information about the state role...”

Page 3 – 2/3 of way down, black type that reads “Counselor Kraus....., needs to be language added indicate that Item VII B that was taken off unanimous consent calendar was in fact not approved, it was postpone Councilor Smith suggested inclusion of the

following sentence after the word Administrator: “No action was taken by the Council to approve this Item”.

Councilor Smith MOVED to make the following changes to Page 4, 3rd paragraph of Section IX – Presentation Items, Section C. The motion was seconded by Councilor Kraus and PASSED unanimously:

Change to read: “Councilor Paine stated that she wanted to see some form of results reported from anyone to whom the Council gives money”.

Add sentence: “Councilor Smith agreed, and further stated that the Council must require that any private entity seeking Council funding for activities it carries out shall submit a proposed budget to the Town administrator in a timely fashion and with adequate detail.”

Page 5, fourth paragraph of page, insert comma after “occur.”

Councilor Harris MOVED to make the following changes to Page 6, 5th paragraph. The motion was seconded by Councilor Paine and PASSED unanimously:

Change fifth paragraph of Page 6 to read: “The second way to proceed would be if the School Board developed an 80/20 formula but if Durham wanted the 100% ADM (Average Daily Membership) formula, a petition could be prepared to put an article on the warrant for 100% ADM funding.”

Page 7, paragraph 4, insert “a” into “ Councilor Niman agreed with Councilor Smith that a commission should be comprised of volunteers from the Towns”.

Page 7, third paragraph from bottom, insert the word “past” to replace “passed”.

Page 7, bottom paragraph – reword sentence to read: “Chair Sandberg stated he would draft a letter to the School Board and copy all other selectmen.”

Page 8, second paragraph, change to read: “Chair Sandberg stated he felt it better to write the letter to the School Board and copy the other Towns.”

Councilor Paine MOVED to approve the minutes of July 7th, as amended. The motion was SECONDED by Councilor Morong and PASSED unanimously.

V. Report of Administrator

Administrator Selig noted the construction of Council chambers. He said that in addition to expanding the area, central air conditioning was being installed. He said the hope was to double the seating capacity as well as make it a much more comfortable room for the public and the Council.

Administrator Selig said he had been contacted by Mill Pond Center representatives, who were interested in giving a presentation to the Council on their various activities. He said they would probably give their presentation at the next Council meeting in August, or at the first September Council meeting.

Administrator Selig noted that work would begin soon at the landfill, and said that if the public or Councilors wanted to tour the site, or would like additional information about the construction planned, to call him at 868-5571.

Councilor Paine asked if the work would be impacting people who go to the dump on Saturday morning. Administrator Selig said there should not be an impact, but if there were, he would be sure to get the word out to the public about this.

Administrator Selig offered congratulations to a long serving Town employee, Duane Walker, who had completed 31 years of service as wastewater superintendent with the Town of Durham, NH as of July 31st.

Administrator Selig welcomed Victoria Parmele as the new Minute taker for the Council.

Administrator Selig informed the Council that he had received a petition from residents of Bayview Rd, and explained that this group has worked with the Town over the years to decrease the impact of students in that neighborhood. Administrator Selig said the group is requesting that the Council create a plan for the start of the upcoming academic year which will focus on the maintenance of reasonable community standards for noise and other forms of disruption, including public intoxication, trespassing, urination, damage to property, etc. on nights and weekends.

Administrator Selig spoke about his attendance for the last three weeks at the Kennedy School of Government at Harvard. He said it was a good experience, and thanked the Council for allowing him to attend as a representative of the Town of Durham.

VI. Reports and Comments of Councilors

Councilor Samuels informed Council members she had recently attended some of the Durham Main Street community music presentations which are held on Sundays between the two shopping centers. She said the music was wonderful, and was free. She also noted that DCAT would be advertising upcoming musical events.

Councilor Kraus reported that he had attended the most recent Integrated Waste Management Advisory Committee meeting, and said he wanted to bring to the Council's and the public's attention the fact that the committee strongly endorses the use of paper bags for leaf collection, as opposed to plastic bags. He said the committee also is inclined to recommend that there will be no leaf pickup in the fall, and that persons who want to take leaves to the dump can take them themselves. Councilor Kraus said this strategy is viewed by the committee as providing significant assistance to the Public Works Department.

Councilor Paine reported that the Durham Community Access Television (DCAT) committee met that afternoon, and she was very pleased to see one-half dozen new volunteers, who are trained and ready to help with production. She said DCAT Coordinator Craig Stevens is doing a great job, as well as Peter Brown, the new chair of the committee. Councilor Paine said the committee is working on expanding its rules and

guidelines. She also said that for the first time, the committee is close to having a full complement of members. She said meetings are typically 4:00 pm on the day of Town Council meetings, and that the next meeting is on August 8th.

Councilor Harris informed the Council that on Sunday, September 14, 2003, the Town of Durham would be holding its annual Durham Day picnic. She said there would be boat rides provided as part of this event. She asked Town residents who would be interested in providing boat rides for the event to contact her.

Councilor Samuels asked if the Council had received a response to its letter to the Oyster River School Board written by Chair Sandberg. Chair Sandberg responded that he had not yet heard back from the school board.

VII. **Public Comments**

William Hall, Smith Park Lane, expressed concern about the lack of enforcement of fire lanes at the UNH Field House, especially the area between the field house and the street, where 2500-3500 people have to funnel through to get to the street, if the fire lane is blocked with emergency vehicles. Mr. Hall said he had received a letter from Administrator Selig that said parking there was only for maintenance vehicle parking, which gave the appearance that everything was under control. Mr. Hall said this was not the case, and that he was trying to impress upon the Council that there is no enforcement of fire lanes at the university. Mr. Hall said he was disappointed that his talks with Administrator Selig and Fire Chief O'Keefe have not changed matters.

Mr. Hall provided pictures of various vehicles parking illegal in fire lanes, including pictures of the Whittemore Center, where he noted that 7,000 people normally exited after events held there.

Chair Sandberg said he appreciated Mr. Hall's input, and that the Council would give attention to his concerns.

VIII. **Unanimous Consent Agenda (NLT 7:45 PM)**

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

Shall the Town Council approve the special event permit application submitted by the Durham Main Street Program to close a portion of Main Street for the annual Young Artists' Showcase on August 16, 2003?

Councilor Morong MOVED TO APPROVE the unanimous consent item. The motion was SECONDED by Councilor Paine and PASSED unanimously.

IX. **Committee Appointments**

Shall the Town Council appoint Richard W. England, Joseph B. Murdoch and Robert W. Rush to the Economic Development Committee?

Administrator Selig explained that Joseph Murdoch and Robert Rush were not able to attend the Council meeting, but Richard England was present. He asked Mr. England to introduce himself to the Council.

Mr. English informed Council members that he had taught at UNH since 1976, and had been a resident of Durham since 1988. He explained that he had both a professional and personal interest in economic development issues in Durham, and would be happy to serve on the Economic Development Committee.

Councilor Samuels MOVED to appoint Richard W. England, Joseph B. Murdoch and Robert W. Rush to the re-established Economic Development Committee. The motion was SECONDED by Councilor Paine.

Councilor Niman said he had recently spoken with the Planning Board about the Economic Development Committee and found there was significant interest about having Planning Board representation on the committee. He said Planning Board member Steve Roberts volunteered to be on the committee. Councilor Niman asked if it was possible to include Mr. Roberts on the list of appointees that evening, or did that have to be done separately.

Chair Sandberg asked Council members if when the Council formed the Economic Development Committee, it included representatives from Planning Board, and was told it did not. He said the Council could amend the membership to include a Planning Board and a Town Council representative, or it could have Mr. Roberts go through the same application process as the other nominees.

Councilor Smith noted that the original resolution specifically provided for two members of the Town Council to be on the committee, and specified who they would be. He said there was no mention of anyone else. He said he would be more than happy for Mr. Roberts to apply, but did not think that without any notice the Council should change its process.

Councilor Kraus expressed some concern about Robert Rush's application, saying it was a bit short and lacking in detail. He said his initial reaction was underscored by reading Mr. Rush's resume. He said that reference to a JD degree program and an MA degree program did not indicate that Mr. Rush had received those degrees. He noted that the resume combined with the thinness of his application warranted some concern, and said he would like to receive more information from Mr. Rush, and perhaps an explanation of the degree programs referred to in Mr. Rush's application.

Councilor Kraus MOVED to amend the motion by removing Robert Rush's name from the slate at that time. The motion was SECONDED by Councilor Smith.

Councilor Samuels thanked Robert Rush for applying, and said she hoped he would take this amended motion in the manner in which it was offered. She said that the Council basically needed to check more thoroughly what his credentials were.

Councilor Paine said that the reason she did not necessarily question Mr. Rush was that she knew the references he gave. She said she was comfortable with Mr. Rush's nomination if Katie Wheeler was.

Councilor Morong said that he was not concerned about Mr. Rush's education, and that based on his experience, he would be happy to have him on such a committee.

Councilor Smith said he was reluctant to deny any member of the Council the opportunity to have more information if the Council member felt in good faith that that was appropriate. He said that in the current situation, the Council would simply be removing Mr. Rush from the vote at that time, and as additional information came forward, Mr. Rush's application could come before the Council again to be voted on.

The motion to remove Robert Rush from the original motion PASSED on a vote of 5-3-0. Councilors Niman, Morong and Paine voted against the motion.

The motion as amended, to appoint Richard W. English and Joseph B. Murdoch to the re-established Economic Development Committee PASSED unanimously. (No term expirations are assigned to these appointments).

Chair Sandberg thanked all three citizens for volunteering to serve on the Economic Development Committee. He said it was an important committee, and looked forward to some good work, including a report in January, from this group.

Councilor Harris requested that Administrator Selig call Mr. Rush and encourage him to fill the application forms out more thoroughly, so that the Council would have a better opportunity to consider him.

Councilor Kraus requested that Mr. Rush be asked explicitly if he had a JD degree and an MA degree, or if those entries represented coursework in pursuit of those degrees.

X. Unfinished Business (NLT 8:00 PM)

Public Hearing and Action 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

Administrator Selig explained that a first reading on this ordinance was held on June 16, 2003, and a public hearing on the ordinance was scheduled for August 4, 2003. He indicated that Fire Chief Ronald O'Keefe was present to answer questions.

Administrator Selig noted that at the first reading of the ordinance, Council members had many questions concerning the process, as well as what authority the Town has to designate fire lanes on state property, namely the University of New Hampshire.

Administrator Selig said since that time, the fire chief had been in contact with the Town attorney as well as the state fire marshal, Donald Bliss, to obtain clarification on the issues raised by the Council, and that information was offered in the memorandum presented to the Council.

Administrator Selig suggested that the Council could proceed in a number of ways: 1) If there were questions about the additional information provided, those could be addressed upfront; 2) If there was a sense that the Council was satisfied with that explanation, and with the ordinance itself as it is drafted, it could continue on with the public hearing; or 3) If there were concerns about the way the ordinance was drafted, those concerns could be addressed either as part of the public hearing or prior to opening the public hearing.

Councilor Smith suggested that since this was noticed for public hearing, the Council should hold the hearing. He said that to the extent Council members have questions, they would only be more informed by having public testimony. He said he would rather persons attending the meeting who wished to speak on this ordinance have the opportunity to testify.

Chair Sandberg suggested that prior to opening the public hearing, it would be helpful for the fire chief to tell the public more about what the ordinance is intended to do.

Chief O'Keefe explained that adopting the new codes locally allowed the Town to make them more stringent, if necessary. He said these codes were included in the state fire code; the same codes that were adopted earlier this year in April. He said the Town could simply follow them, or could make some things more stringent (fire lanes, amounts of combustible/ explosive material not included in these codes, for example). Chief O'Keefe said, as the local authority, it was important to be able to take into account new technologies and materials that come along.

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

William Hall, Smith Park Lane, commented on those items in the ordinance pertaining to the fire lane in the alley between Hayden Sports and the Licker Store, the fire hydrant at the Oyster River High School, and the fire lane on Old Piscataqua Road by the Jackson's Landing ice rink.

Mr. Hall said it has been a very disappointing experience to see how fire lanes have been handled in Durham, especially with the number of students crowded into apartment houses. He said that there had been some real issues with the fire lane at Smith Park Lane, noting that it is one matter to have an ordinance in place, but another matter to have the codes enforced.

Mr. Hall said he looked through the list of UNH fire lanes, and did not see anything for the Lundholm Gymnasium. He strongly suggested that the Town follow what was outlined in these codes. He said the Town of Durham is responsible for providing reasonable fire or emergency services for these places of assembly, regardless of whether they are on federal, state, Town or school property. He said that University police have no intention of enforcing fire lanes.

Councilor Kraus MOVED to close the public hearing. The motion was SECONDED by Councilor Paine.

Chair Sandberg said that after reviewing the proposed ordinance he had a number of concerns and was not satisfied he would be able to support it that night. He said that if there were going to be some changes, the Council might want to consider not closing the public hearing, and instead continuing the public hearing to a later date, so the Council could proceed without having to repost it. He asked Administrator Selig if he thought it would be better to close the hearing, and post another hearing notice in the future.

Administrator Selig said there was nothing to prevent the Council from closing the hearing and, pending the outcome of Council discussion, schedule another time to re-open the hearing.

Councilor Smith asked if it would be necessary to republish the public hearing notice if the hearing was closed.

Administrator Selig said the Council would need to reopen the hearing later that night, and continue it to some date in the future. He said that if the changes were substantive, it would make sense to have a separate hearing, that was noticed, and publish what the changes were. However, if changes were minor, a continuation seemed to be a reasonable approach to take.

Administrator Selig recommended that the Council address the current ordinance and at some point in the future bring back the issue of UNH fire lanes, because the Town had yet to sit down with the University to talk through the ramifications of that process. He said he did not want to move forward in that regard before having a detailed and open discussion with University officials so that they would be able to understand what the Town is doing.

Councilor Smith said he recalled that much of the concern expressed when the fire code update was first on the table had to do with the scope of the powers as Town Council, in particular given the enormous presence of the University in terms of fire safety operation in Durham. He said he shared the Chairman's desire to delay the vote on the ordinance, because of major concerns that now included the idea of severing the UNH relationship out of present consideration.

Chair Sandberg informed the Council that it could choose to close the public hearing, hold discussion, then reopen the public hearing this evening and continue the hearing to the next meeting. Or, if the discussion led to more comprehensive changes, the Council

could choose to stay with a closed public hearing, postpone a vote, and then post another public hearing at a later date.

Chair Sandberg repeated that the motion on the table was to close the public hearing, which had been made and seconded, and that the Council was now deliberating whether it was appropriate to close the hearing. Chair Sandberg said he had no objection to closing the public hearing, with the reservation that it could possibly be re-opened later that evening.

The motion to close the public hearing PASSED unanimously.

Councilor Niman MOVED to adopt 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. The motion was SECONDED by Councilor Samuels.

Councilor Smith said the eight-page memorandum regarding the ordinance changes was not clear in explaining what authority the Town had on this issue. He said having the relevant state statutes included in the packet would have been helpful. Councilor Smith said references to telephone calls and other information was incomplete and confusing, and that it was unclear the extent to which there have been explicit conversations with the University about this problem. Councilor Smith said there were many issues where the Town and UNH were involved with one another, and he wanted to be very clear on what the Town’s responsibilities are and are not regarding the substantial fire safety needs as a result of the University being in the Town of Durham.

Councilor Smith said that language contained in the Fire Protection Service Agreement was unclear as to whether the Fire Chief had general authority over UNH, or whether the Town of Durham in signing it accepted that it had an obligation to give a full range of fire services to UNH. He said that clearly the latter is the case, but this was very different than saying the Town can announce to UNH that it will them a particular service, whether they like it or not. Councilor Smith said that kind of lack of clarity runs throughout the memorandum.

Councilor Niman agreed with Councilor Smith. He said he found the information in the council communication to be distressing, and said it was his reading that if there was a disaster at the Lundholm Gymnasium and the fire department could not gain access to it because a car was parked in the fire lane, and it could be shown there was past practice of non-enforcement concerning the fire lane, the Town would be liable. Councilor Niman said the Council should not move forward on this ordinance until it receives further clarification on the Town’s statutory authority. He also said there needed to be greater clarification on the enforcement issue. Councilor Niman said there also needs to be clarification on whether UNH police or Town police are responsible for enforcement and develop a procedure that limits liability to the Town, if the Town is responsible.

Councilor Samuels said she thought the agreement said it was the responsibility of University police to enforce fire lanes.

Chair Sandberg said his interpretation was that if a Durham police officer witnessed a violation on UNH property, he or she had the authority and responsibility to take corrective action.

Councilor Kraus noted discussion in the minutes from June 16th concerning how the state establishes fire lanes on other state campuses or facilities, and said he did not see a response to that in the memorandum. He also said it was not clear if another question asked at the previous meeting had been answered in the memorandum; that question being: “If the Town is authorized by state law to pass a Town code stricter than state law, is it required, as a matter of law, that the University follow Town codes?”

Administrator Selig said the discussion had taken an interesting turn from the outset. The modification was developed to make the ordinance stricter for Town properties, not those on UNH campus, and was done in the interest of public safety. He said in addition, the fire chief has been inspecting fire lanes throughout the community, on and off campus. He said the discussion for the past two meetings had focused largely on UNH, which was important, but reminded the Council that the ordinance had little to do with UNH. He said he was hopeful they could come back to the Durham issues as well.

Administrator Selig said that in talking with the Fire Chief, not a lot of thought has been given to establishing fire lanes on state properties. This matter is being looked into with the state fire marshal, but there are no concrete answers as of yet.

Concerning policing in the Town of Durham, Administrator Selig said that all University police officers are also sworn Durham police officers. He said the Town and UNH have an interim policing agreement but the reality is that Durham officers are not routinely patrolling UNH property. Therefore, they would not routinely be coming across fire lane violations. He said in accordance with the agreement the UNH Police Department has primary jurisdiction for fire lanes on UNH campus, although they obtain their authority from the Town of Durham.

Administrator Selig asked the Fire Chief how the Town enforces fire lane violations, and also the rigor with which it does so.

Chair Sandberg asked Chief O’Keefe to comment on the jurisdiction issue concerning designating and enforcing fire lanes on private property.

Chief O’Keefe described how the fire department enforces fire lanes in the community. He said if a violation is witnessed the person is asked to move the vehicle. If the vehicle is not moved, then police assistance is requested. If there is a life safety violation in a building, the Fire Department can take legal action, but cannot for traffic violations. If there is no one in the car and it is blocking fire lane, fire personnel will call a tow truck, through the police because is a traffic violation.

Chief O'Keefe said the Fire Department is rigorous in enforcing fire lanes, but fire personnel cannot be everywhere. He said that when fire personnel witness violations, they deal with them, and if a car is truly blocking a fire lane, the department will shut activity down.

Concerning authority to enforce fire lanes on private property, Chief O'Keefe said much is covered under the site plan review which is a legal document, and enforceable by police. Therefore, new projects are clear on fire lane enforcement. Older properties, however, are the problem and the department is attempting to update these as part of the process.

Councilor Harris asked about jurisdiction concerning fire lanes in multi-units. Chief O'Keefe replied that one of the missing elements is authority for addressing older properties. Currently, if the department needs access to these properties it asks the property owner for written permission to be placed on file.

Chair Sandberg asked if the Fire Chief had authority to designate a fire lane. Chief O'Keefe replied in the affirmative. He said that he does not need permission from property owners, but prefers to get something in writing.

Councilor Paine asked if there were additional costs associated with the new ordinance in Chief O'Keefe responded that there would be a cost increase for putting up additional signs for fire lanes.

Councilor Smith asked for the law citing that any property that is private may be designated as a fire lane, and may be enforced, and what the statute says as to who may enforce it. Chief O'Keefe explained that going to the property owner is the first route to take to get cooperation, however, if they refuse, the department will do it anyway.

Councilor Smith said was still not clear how much authority the Town had regarding fire lanes on private property. Administrator Selig replied that this question has been posed to the Town's attorney.

Chair Sandberg said it was not clear to him what the width of fire lane must be in particular situations. He said there are also inconsistencies as to who has authority to set prices which should be clarified because the Council is moving in the direction of setting a standard price sheet, as part of budget process. He said there were numerous issues and questions that perhaps other Councilors may have which they might like to share with the Administrator and Fire Chief over the next few days.

Councilor Morong said he would like to see more clarity about working with UNH on this issue. Administrator Selig said the fire chief had been working closely with UNH facilities, safety and parking staff to develop designated UNH fire lanes, but said he had not been communicating with upper level administration concerning prospect of including UNH fire lanes in a Town ordinance, because this has not been the practice followed up until now.

Councilor Smith said he would like a letter from counsel explaining what power the Town has over UNH to designate fire lanes over private property. He also felt specifications about fire lanes at University which can be enforced by Durham NH policemen should be included in the ordinance. Lastly, he would like clarification in the content of the provisions of the ordinance with respect to state statutes on this subject. He said that the extent to which the proposed Town ordinance is the same or differs from state statute is not clear at this time.

Chair Sandberg said there were three options as to how to proceed with the ordinance: reopen public hearing, vote on the ordinance as written, or postpone the vote.

He asked the Council for input as to when would be the earliest reasonable date to have this subject back on a Town Council agenda.

Councilor Niman suggested making this into a two or three-part process. He said they could improve the language of the existing ordinance, and vote on just that piece at the next meeting, so could move forward with providing for the safety of the Town. Could adopt at next meeting revised version of what we have before us, with commitment that will work out other issues with UNH, in the coming months. He also said there needed to be a policy document about how we will enforce fire lanes. Would be irresponsible not to have explicit policy document concerning checking and enforcing fire lanes at various places, for various size events. He suggested that perhaps the cost for this could be built into the cost of the event; could then sit down with UNH police department and Durham police department say this was our expectation for these specific situations. If we had a policy, and could get enforcing agencies to work together with the fire department, could perhaps resolve some of the issues Mr. Hall has presented.

Chair Sandberg said that if the refinement Mr. Niman described could be done for the next meeting, it would be appropriate to postpone action until the next meeting, and based on the progress made, could schedule another session when *you could be ready*. Said the timeline was contingent on getting answers to questions raised by Councilor Smith concerning the Town's fundamental authority and responsibility.

Councilor Kraus MOVED to postpone action on Ordinance 2003-03 to the next meeting The motion was SECONDED by Councilor Niman.

C. Smith said he would like to give the administrator discretion to inform the Council that that would not be adequate time.

The motion to postponed action on Ordinance 2003-03 to the next meeting PASSED unanimously.

XI. Presentation Items (NLT 8:50 PM)

- A. Receive Report from the Land Protection Group regarding the development of a Land Acquisition Policy – Duane Hyde

The Council received a report from Duane Hyde of the Land Protection Working Group regarding the development of a Land Acquisition Policy for the Town of Durham.

Administrator Selig explained that the group was originally an offshoot of the Conservation Commission. He said it was this group that spearheaded the petition drive for the 2.5 million dollar bond proposal that was approved at the March election.

Duane Hyde introduced other members of the working group who helped to create the draft policy document before the Council. He explained that key decision points that would need to be made by the Council were italicized, and the working group's recommendations were imbedded in the document, and included appropriate procedures for implementing the bond effort approved by voters in March.

Mr. Hyde said the group had started preliminary discussions with landowners. He said the group's work is done informally, and that it does not consider itself to be all and end all of land conservation in Durham. He noted that the group works with the Conservation Commission and Planning Board, and wants there to be a free flow of information with everyone who has an interest in land protection in the Town.

Mr. Hyde described the various land protection criteria the group used when considering land parcels. He said the group had debated using a quantitative vs. non-quantitative approach for evaluating properties, but that group members had previously seen the limitations of using a quantitative approach.

Mr. Hyde said the group tried to maximize Town dollars through other grant sources, etc. He noted that it was becoming more difficult to find such funding sources because they have been cut dramatically in recent months.

Mr. Hyde said the group would like Town Council endorsement for the project approval process they had developed (page 5), and explained in some detail what this process would involve.

Chair Sandberg said that one of the most difficult aspects of land protection efforts was to get the ball rolling. He said he appreciated very much the great work the group was doing. He also asked Mr. Hyde about the possible role of other local land protection organizations relative to land protection in Durham.

Mr. Hyde said that the working group had connections with various land protection groups. He said this collaboration was important, but noted that it was important that the different groups not compete with each other in approaching landowners.

Councilor Kraus said the report from the Land Protection Working group was excellent. He questioned whether perhaps the land protection criteria should be bulleted rather than numbered, so they each would be considered of equal weight.

Councilor Smith said he agreed with the concept of keeping the working group as an informal group. He also said he would be looking to this group to a large extent, based on

the great work they are doing, although he recognized that other groups would have a role to play as well.

Councilor Smith suggested adding the words “and history” to criteria #3. Mr. Hyde wondered if that should also include historical structures.

Councilor Smith said the working group was doing a fabulous job. He noted that some consideration needed to be given to soliciting Councilor’s views early on in the project approval process, and that it was important to keep Council members informed throughout the process.

Councilor Paine said she was very impressed with the job the group was doing. She agreed with what Councilor Smith had said concerning historical aspects of land protection in Durham.

Mr. Hyde said there had been some debate about including language on history in the criteria.

Chair Sandberg said the next step seemed to be to work out a process so the Conservation Commission and the Town Council would each know what their roles would be. He said the Council would like to see that drafted within the next few months.

Councilor Niman asked if it would be possible to compile a list of properties in Town suitable for purchase or conservation easement. Mr. Hyde suggested it could be more harmful than helpful to create such a list. He said some landowners would not mind, but others would, and stressed that landowners like to be approached first, instead of discovering their property was on a list someone had developed. Mr. Hyde noted that maps of Durham existed which showed important resource areas in the Town without identifying specific tax parcels.

Councilor Niman said he had confidence in the group personally, but as a Councilor was concerned that Townspeople might see the working group as an elite club. Chair Sandberg agreed there should be discussion about avoiding this but said he did not sense that the working group was asking to be the ultimate authority on land protection in Durham. Councilor Kraus agreed.

B. Receive report from Fire Department -- Fire Chief Ron O’Keefe (approx. 10 minutes)

Administrator Selig welcomed Fire Chief O’Keefe and other members of the fire department. He explained that Chief O’Keefe would be presenting an overview of a variety of activities being carried out by the department. Administrator Selig said the presentation was part of the larger goal of bringing forward to the Council the activities of the various town departments. He said that when the budget season arrives, Councilors will thus already have some understanding of the programs and initiatives of the departments, and therefore will be able to address issues related to them early on.

Fire Chief Ron O’Keefe next presented the slide presentation “Improving the Quality of Life for the Community: Linking Fire Department and Town Council Goals and Values in 2003”.

The slide presentation addressed the following areas, and described specific programs and initiatives for each:

- Numerous non-emergency duties of the fire department
- Strengths of the fire department
- Key values held by the fire department
- Community activities fire department employees are involved in
- Ways in which the fire department is working to enhance the quality of life for Durham residents
- Issues of mutual interest under discussion between the fire department and UNH
- Cost saving measures implemented by the fire department

Chair Sandberg and other members of the Council thanked Chief O’Keefe for his very comprehensive presentation. They said it was succinct, timely and accurate, tied in well with the goals of the Council, and showed the best of the fire department.

Chair Sandberg also thanked fire department staff for demonstrating, by their attendance, their dedication and interest in the information presented by the Chief.

XI. New Business (NLT 9:15 PM)

Councilor Samuels asked if it would be appropriate to send a letter to Duane Walker for his 31 years of service to the town of Durham. Mr. Selig said this had already been done.

Councilor Morong asked if there would be additional discussion by the Council on email communication at some point. Chair Sandberg said he remembered that a committee had been established in Concord to consider legislation on that subject.

Councilor Smith said legislation on this issue had been passed and signed by the governor. He said the statute calls for the appointment of a commission, but said he did not know if this had yet happened, but should be happening soon. He also suggested that Councilors continue to use appropriate discretion with email communication in the meantime.

Chair Sandberg noted the issue was on the Council’s calendar for February 2nd, 2004, and said that whatever the Council did would have to be consistent with State guidelines and requirements. He recommended that as a general rule, when sending email, councilors should think of it as something that might end up on the front page of the newspaper, and thus use good judgment.

Councilor Samuels asked what the Council was doing concerning a follow up letter to the Oyster River School District. Administrator Selig replied that he had not been able to address this matter yet.

Chair Sandberg asked if anyone had seen the most recent school board meeting, and said that perhaps a phone call to the School District would be appropriate.

XIII Non-public Session (if required)

XIV. 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 PM.

Victoria Parmele, Minute Taker