

D R A F T

DURHAM TOWN COUNCIL MINUTES MONDAY, NOVEMBER 17, 2003 DURHAM TOWN HALL – COUNCIL CHAMBERS 6:30 P.M.

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

MEMBERS ABSENT: John Kraus

OTHERS PRESENT: Town Administrator Todd Selig; Business Manager Paul Beaudoin; other interested members of the public

I. Call to Order

II. Approval of Agenda

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

III. Nonpublic Session

Councilor Smith MOVED to go into Nonpublic Session for the purpose of discussing land matters in accordance with RSA 91-A:3 II (d) relating to the Craig Supply property. The motion was SECONDED by Councilor Samuels and PASSED on a roll call vote of 8-0 as follows:

Smith Aye; Kraus Absent; Morong Aye; Paine Aye; Grant Aye; Sandberg Aye; Harris Aye; Samuels Aye; Niman Aye

The Council entered into Nonpublic Session at 6:35 PM.

The Council exited Nonpublic Session at 7:19 PM.

Councilor Grant MOVED to seal the minutes. The motion was SECONDED by Councilor Niman and PASSED unanimously.

The public meeting reconvened at 7:20 pm.

Chair Sandberg explained for members of the public that the Council had been in nonpublic session with its attorney and was now coming back into public session.

IV. Special Announcements

Introduction of Keith Dawson – New Firefighter

Assistant Fire Chief Michael Blake introduced Keith Dawson, the new firefighter for the Town. Mr. Blake said Firefighter Dawson had been working for the Town for about three weeks, and came with a varied and interesting background. He said Firefighter Dawson had recently been deployed to Bosnia, and in addition to his work for Durham, he volunteered with the Chichester Fire Department and was also a reserve member of the NH Army National Guard.

Firefighter Dawson explained that he primarily did medi-vacs in Bosnia, and that it was great to be home. He said he enjoyed working for the Town, and hoped to do so for a long time.

Council members welcomed Mr. Dawson.

V. Approval of Minutes - November 3, 2003

Councilor Paine MOVED to approve the minutes as submitted. Councilor Grant SECONDED the motion.

The following amendments were offered:

Page 5, 2nd paragraph from bottom, should read “Ed Valena, Bagdad Road, noted that the idea of the Town using recycled paper was a good one”.

Page 6, VIII Unanimous Consent Agenda. Remove the motion “Councilor Grant MOVED to remove Item D.....”, and in its place, not in motion format, include “Councilor Grant asked that Item D be removed from the Unanimous Consent Agenda”.

Page 11, last paragraph, put quotes around the phrase “adequate education”.

Page 13, 6th full paragraph, delete first sentence reading “Councilor Smith said he raised another question...”. Also, change the remaining sentence in that paragraph to read “He said that the issue of the three towns reaching such agreement was very complicated because of their different systems of governance”.

Page 14, 3rd full paragraph, starting with “Councilor Niman asked....”, include quotes around the phrase “adequate education”.

Page 14, 4th full paragraph, change first sentence to read “Councilor Smith asked if the provision in State statute he earlier cited had been discussed”. Also, next sentence of that paragraph should read “Councilor Smith said the committee should look at the legal questions.....”

Councilor Smith MOVED to approve the amendments as suggested. The motion was SECONDED by Councilor Paine, and PASSED unanimously.

The motion to approve the minutes as amended PASSED unanimously.

VI. Report of Administrator

- Administrator Selig updated Council members on the following events and issues:
- Administrator Selig said the American Cancer Society was hosting its annual challenge for people to stop using tobacco. Administrator Selig said the website www.cancer.org provided information on this.
- Administrator Selig noted Governor Benson and the Executive Council recently reappointed Ron O'Keefe to the NH Fire Standards and Training Commission.
- Administrator Selig said there would be a Traffic Safety Committee meeting at the Durham Police Department on Tuesday, November 18, 2003, at 2:00 pm to discuss a presentation by UNH on the transportation section of their master plan. He noted that members of the public were welcome to attend this meeting.
- Administrator Selig said the UNH Community Breakfast would be held on November 20, 2003 from 8:00-9:30 am at Huddleston Hall, and said this year at the breakfast, students will talk about their experiences volunteering in the Town.
- Administrator Selig noted that a copy of the Administrator's Transmittal Letter for the Budget and Capital Improvement Plan (CIP) had been put on the Town website. He said the matrix illustrating the CIP as well as the Fiscal Forecast would also be available soon on the website. He also said they were going to post a listing of major increases and decreases in the budget, so people would have a better sense of what was being proposed, and would be better able to follow what the Council was talking about during the budget process.
- Administrator Selig noted the listserv was down because the server became a remote sending site for a spam company, and received 70,000 spam messages. He said the problem was still being worked on. He noted that to date, 122 people had signed up for the ListServ.
- Administrator Selig told Council members that Durham won the court case "Durham Planning Board v. Stonemark Management", relating to the Craig Meadows application, and said more details on this would be forthcoming.
- Administrator Selig held up a large "Thank You" poster the Town had receive for its help in making the 7th Annual Moharimet Clean-a-thon a success. Administrator Selig and Council members thanked the school, as well, for all of their work.
- Administrator Selig noted that a public hearing on the proposed 2004 Budget would be held on December 1st, at a regular Town Council session.
- He said the School Funding Committee of the Oyster River School District would be reporting to the School Board on Wednesday, November 19, 2003, at 7:30 pm at the High School. He noted he would be attending, and said the public was also welcome to attend. Administrator Selig said it was very important to stress to the School Board that Durham took this issue seriously, was very concerned about the funding formula, and felt strongly that the Board needed to address it in a significant way.

VII. Reports and Comments of Councilors

Councilor Smith noted there was a soccer game on the DCAT channel, and suggested there might be a technical glitch that needed to be looked into.

Councilor Morong said it was great that UNH students were offering to assist residents having trouble doing their yard work, and said hopefully information on this was on the Town website. He suggested that people who needed help with yard work, including snow removal, should contact Administrator Selig.

Councilor Grant said the Planning Board was holding a public hearing on Wednesday, November 19, 2003, concerning the proposed changes to the Subdivision Regulations.

Councilor Niman said the School Funding Committee was done with its work, and had submitted its report to the School Board. He noted the upcoming meeting on Wednesday, and encouraged people to attend or watch on Channel 22.

VIII. Public Comments

There were no members of the public wishing to speak.

IX. Unanimous Consent Agenda

Shall the Town Council approve the Special Events Permit application to close a portion of Main Street for the annual “Light Up Durham” celebration on December 5, 2003 from 5:00-8:00 pm as requested by the Durham MainStreet Program?

Councilor Grant MOVED to approve the Special Events application to close a portion of Main Street for the annual “Light Up Durham” celebration on December 5, 2003. The motion was SECONDED by Councilor Morong.

Councilor Samuels stressed that this event was an important part of Durham community life, and recommended more advertising for it so that more residents would be aware of it.

The motion PASSED unanimously.

X. Presentation Item

Receive Quarterly Financial Report – Paul Beaudoin, Business Manager

Mr. Beaudoin reviewed the Town’s Quarterly Financial Report with the Council. He said that revenues had come in as anticipated, generally speaking, and said one of the highlights was that the amount of money the Town had received from interest on property taxes had doubled. Mr. Beaudoin said this helped to offset a decrease in permit fees, and also noted the Public Works Department had received \$16,000 from FEMA for the bad snowstorm last year.

Concerning expenses, Mr. Beaudoin said everything was pretty much in line with what had been anticipated for Town departments, but noted there were additional expenses caused by the downtown disturbances. He said that both the police and fire departments had gone over their overtime budgets so were being careful in other areas of their budgets.

Chair Sandberg asked if Council action would be required to shift money from one department to another. Mr. Beaudoin said the departments should be able to work with what they had. He noted an area that was difficult to plan for was special details, needed for events like the downtown disturbances and heavy snowstorms.

Council Smith remarked that court fines were said to be lagging in the financial report and asked what that meant. Mr. Beaudoin explained that \$70,000 in fines had been anticipated, and the Town had actually received \$47,000.

Councilor Smith asked if payments from UNH for the April student disturbances had been received. Administrator Selig said some or all of the payments, for police costs, had been received and totaled \$17,000. He said additional payment would be forthcoming for fire costs.

Mr. Beaudoin said that revenues for the Water Fund were in line with projections and that expenses were less than expected because of the change in the superintendent position. He also noted that the Sewer Fund revenues and expenses were running at projected levels. He said that parking revenues were 15% above what was projected for the year because parking permit fees, meter revenues, and parking fines had all increased.

Concerning the Capital Fund, Mr. Beaudoin said several projects were near completion, including Packers Falls Bridge and the Transfer Station.

There was discussion about baseline improvements being made to the Wastewater Treatment Plant being on hold because of the bankruptcy of the contractor. Councilor Smith asked Mr. Beaudoin to explain for the public why the fact that the company doing the improvements had gone bankrupt would not cost the Town money.

Mr. Beaudoin explained that there was a 100% bond on the project, the Town had already paid 40% of the cost, and 40% of the project was done. He said the company that bonded the project was now responsible for completing it, and there should be no extra costs to the Town because of the bankruptcy.

Councilor Paine asked if there would be a problem finding someone to complete the project.

Mr. Beaudoin said the bond company would be coming to look at the site soon, and explained that they were responsible for hiring another contractor. He noted they had significant motivation to find a contractor who could complete the work quickly and economically.

Councilor Morong asked about some unexpected costs concerning the Packers Falls Bridge, and Mike Lynch explained there had been some problems with one of the walls. Administrator Selig said this added expense was well within the contingency budget, so there were no extra costs.

Council members noted that the Budget report content and format that Mr. Beaudoin continued to provide were a significant improvement over past Budget reports and thanked him for his work.

XI. Unfinished Business 7:55 pm

- A. Shall the Town Council adopt the proposed Charter amendment wording and timeline to be placed on the March 14, 2003 election ballot?

Administrator Selig summarized the changes that had been incorporated into the Charter language, based on input from Council members.

There was discussion on additional changes that were still needed.

Councilor Smith noted that in Section 11.4 the word “will” needed to be changed to “shall”, if it was intended as a mandatory requirement. He also noted that the Town Council was referred to in several different ways throughout the Charter document, and that more consistency on this was needed.

Chair Sandberg questioned the wording “Unless otherwise specified” at the beginning of Section 11.5. Following up on a discussion at a previous Council meeting on Charter language, there was additional discussion about the best wording for Section 11.5, as well as portions of Sections of 11.3, 11.4. Various suggestions were offered to improve the clarity of the wording of Sec. 11.5 and Chair Sandberg suggested Councilor Smith should develop the proper wording with Administrator Selig.

Council members agreed the revised Charter wording should be scheduled for a Public Hearing at the December 1st Council meeting.

Councilor Niman MOVED to schedule a Public Hearing on proposed Charter amendments for December 1st, 2003. The motion was SECONDED by Councilor Paine, and PASSED unanimously.

Councilor Samuels encouraged members of the public to come to the public hearing to provide input on the proposed wording changes concerning Article 9, Section 9.2 “Informational Town Meeting” (it is proposed that the wording be taken out of the Charter). She noted she had previously suggested that instead of being eliminated, perhaps the Informational Town Meeting could be held a week or two prior to voting, so that issues and candidates the Town would be voting on could be discussed and citizens would therefore have a greater incentive to attend.

- B. Discussion on the proposed 2004 Operating Budget and 2004-2013 Capital Improvement Plan

Administrator Selig said it had been decided to focus on the CIP that evening in order to look at the big picture first, and then work on the budget at the next meeting. He noted he had gone through the CIP in detail with the Planning Board at a recent meeting, and said

that since Council members had had the CIP for quite some time, it made sense for them to focus on and discuss areas they had questions and concerns about.

Councilor Grant noted that in the discussion on the Quarterly Financial Report, Mr. Beaudoin had said there was money in hand for the purchase of Smitty's property. Mr. Beaudoin clarified that the authorization for this was in hand. Administrator Selig noted they weren't planning to bond the whole thing, and also had other money for this purpose.

Administrator Selig, Mr. Beaudoin and Council members next went through the different department expenditures outlined in the CIP Summary.

CONSERVATION COMMISSION

Land Purchase

Administrator Selig explained that \$2,500,000 of the \$2,600,000 in the CIP for 2004 was for land conservation, but stressed that the Town had no intention of expending all of this in 2004.

Councilor Smith commented that the land conservation working group was looking at various pieces of land, but was far from ready to suggest a purchase of land.

PLANNING

Mill Plaza Study

Councilor Paine questioned the funding put into the CIP for the Mill Plaza study, suggesting there were already large volumes of information on this topic. Councilor Harris and Chair Sandberg agreed. Chair Sandberg said he checked the Master Plan and this project was specifically proposed, but said he didn't think the solutions proposed in the Master Plan would get much endorsement at a public hearing.

There was detailed discussion about the Mill Plaza traffic problem, and other traffic problems in Durham that related to it. Council members agreed the Mill Plaza study should be removed from the CIP for the year 2008.

Downtown Sidewalk Construction

Councilor Grant noted that in the 2006 CIP expenditure for Downtown sidewalk construction was twice as much as the Town spent each year for road maintenance. He said he would like to see that expense spread out, at perhaps \$100,000/year for four to five years.

Administrator Selig noted a large portion of the expense would be funded through grant money. It was clarified that this funding would be for new sidewalk and would be put in at Garrison Ave., Madbury Rd., etc, areas where there were no sidewalks now.

Wagon Hill

Councilor Grant said the proposed parking area at Wagon Hill should be smaller, and should be developed sooner than 2008.

Administrator Selig said he also had concerns about this, and explained that although better parking was needed there, the Town could do this at a smaller scale than was originally considered, and at a lower cost than \$260,000. He said the Planning Board had also recommended moving the project forward, and agreed the figure was too high.

It was agreed that a scaled back parking area, with a gravel base, was the way to proceed, and would be moved up in time in the CIP. Administrator Selig said he would get a price on this from the Public Works Department, and provide it at the next meeting.

US 4/Route 108 Interchange

Administrator Selig explained that this was projected out to 2011 because the money for it would not be available until then.

Chair Sandberg asked if the work could possibly be move up, and there was additional discussion about the need for the project. Chair Sandberg said the item would be left in the CIP as it was, but stressed it was a significant problem.

RECREATION

Athletic Fields

Councilor Niman said there was a desperate need for recreation fields in the Town, but said he recognized there were financial limitations. He suggested that perhaps it was time to ask UNH to pay the full cost of Forest Park students, so the Town could use those revenues for athletic fields. He said that if this could be accomplished, the funding for athletic fields could be moved up to 2004.

Administrator Selig stressed that present budgeting was conservative, and worked with what the Town had right now, so it made sense to push back athletic fields until 2005. He noted however that possible locations for new athletic fields had been identified, although nothing had been decided. He also said the Forest Park idea was worth considering.

Councilor Samuels said that the possible revenues from Forest Park should be used instead for school costs. She also noted that when the Woodridge development had been built, athletic fields had been included in it. She suggested athletic fields should be included in other subdivisions developed in the Town, and that impact fees could be part of this.

POLICE DEPARTMENT

Vehicle Replacement

Administrator Selig explained the logic behind amounts and timing of expenditures for vehicle replacement

FIRE DEPARTMENT

Car/Truck Replacement

Administrator Selig explained the logic behind amounts and timing of expenditures for truck and car replacement, and also spoke about plans for fire cisterns. It was clarified that

the CIP referred to cisterns for areas that were already developed, and where there was not a large source of water for fire protection.

Fire station replacement

Councilor Niman asked when there would be a conversation about the idea of building a combined safety complex. Administrator Selig explained there had been no determination on this yet. Councilor Niman also asked why there was such a high price tag for the Fire Station replacement, relative to new facilities built for the towns of Lee and Madbury.

Administrator Selig explained this might be in part because Durham had a full time fire department, and therefore needed more space, and also said the specifications for the Durham project were probably higher. He noted the \$ 400,000 in the CIP for 2005 for purchasing land for the future building might not be enough. He stressed that the existing facility was substandard, and if the Fire Department were going to stay there beyond 2009, some real improvements would need to be made. He said they would need to determine the costs for this, working with UNH.

Councilor Samuels asked if there was a committee looking at potential sites, including UNH property. She suggested that since a key fire protection concern was UNH students, sites on campus would be most appropriate.

Administrator Selig said there was not such a committee, and said the only discussion that was ongoing was between the Fire Department, the University, and the Town's representatives to the UNH Master Plan process. He said they were encouraging UNH to identify sites on campus or nearby where a fire station could be located.

There was additional discussion about the relationship between the Town and UNH concerning fire protection. Chair Sandberg noted that the present cooperative relationship might not go on forever, and said there should be "placeholders" in the CIP to address that possible eventuality.

Councilor Smith said that the analyses on this subject should factor in the relative contributions made by Durham and UNH in terms of physical infrastructure that needed to be protected, in order to calculate the true costs of this.

Administrator Selig provided additional rationale for the expenditures included in the CIP for the fire station replacement. He said they were considering some of the ideas Councilor Smith talked about.

Councilor Smith asked for clarification as to whether this was being considered not just with respect to annual operating budgets, but also in terms of building new structures, and who was going to pay for them. Administrator Selig said it all was being considered together.

Councilor Niman recommended there should be one formula for operational expenses and a different formula for capital expenses, and suggested they should follow Councilor Smith's train of thinking.

Chair Sandberg said more information was needed on what it was the Town should be paying for fire protection, and how the costs will be divided up. He also said the \$400,000 for land purchase was a placeholder, and might be moved up, but that it didn't make sense to change it right now.

PUBLIC WORKS

Councilor Grant noted the large number of expenditures planned for this department in 2004, and asked if some could be deferred to another year. Administrator Selig addressed several of the projects for which expenditures were planned, and explained the justification for these.

Sidewalk Improvements

Administrator Selig provided details on what was planned. He noted that the work was bonded so the costs could be spread out over time, and said the improvements represented an important long-term investment in the community.

Wiswall Dam repair

Administrator Selig said that a study in 2004 would determine what needed to be done, but said this study could be pushed off for a year, which was why it was ranked #5. He explained that the floodgates of the dam didn't open and close properly, and noted work on the dam would be done in conjunction with the proposed installation of a fish ladder.

Chair Sandberg noted there had been discussion some years back by the Park Service about taking out the dam. He asked for the status of this, and said he would hate to see the Town spend money on repairs to the dam, and then have the Park Service come in and change the whole thing.

Mr. Lynch said removal and replacement of the dam would not be happening, but said the fish ladder attachment to the dam was still on the table. He said a project was also being planned for the area, which would create a natural fish ladder, and described the design for this. There was additional discussion on the Wiswall Dam.

Chair Sandberg clarified that keeping this Item in the CIP for 2004 would not give the automatic go ahead for the project without further Council involvement. He said he wanted to make it clear that if the \$175,000 for this project was left in the CIP for 2004, this was not a green flag to go ahead and do it.

Wiswall Bridge replacement

Administrator Selig said the expenditure in 2004 of \$50,000 was for an engineering study, and explained that the idea was to spend the money on the study so they could get a better sense of the repairs needed. He said the study might show that the repairs could be delayed for a period of time, or could indicate that the repairs were needed as soon as 2005. He noted there was an 80/20 split with the State in funding the project.

Councilor Morong asked when the \$40,000 from the State for the study would come in, to match \$10,000 spent by the Town. Administrator Selig said it would come back the same year.

Chair Sandberg noted the Wiswall Bridge replacement cost was \$500,000 last year, and was now \$600,000. Mr. Lynch explained that bridge projects were reviewed every five years, and said the last one, which estimated the cost would be \$500,000, was done five years ago.

Crommets Creek Bridge Repair

Councilor Smith asked what the money in the CIP for this item was for. Administrator Selig said \$40,000 was for the engineering study, and the rest for was for the repairs. He noted that the work would keep the bridge as it was, and would simply strengthen it.

Councilor Grant recommended that the CIP Summary should include another row for “Offsetting revenues”, at the bottom of the spreadsheet, under Total General Fund, and then should include an additional row for Net General Fund. He said this would demonstrate that even though a particular project cost a certain amount, that because of revenues, grants, etc., it wouldn’t actually cost the taxpayers that much.

Refuse Recycling Collection Vehicle

Administrator Selig explained that the Sanitation Division proposed to purchase a vehicle that could do both refuse collection and recycling simultaneously

Mr. Lynch said his department had evaluated several vehicles, and was trying to find the one that work best for their purposes.

Pump house renovations

Administrator Selig said the building would be given a facelift, with a new slate roof, windows, etc.

Chair Sandberg aid \$28,760 seems like a lot of money to renovate a building that had no use right now.

Councilor Samuels suggested the Pump house could be used as a rental facility for kayaking equipment. There was additional discussion about possible uses of the building, and its value to the community. Councilor Paine recommended that a tenant for the Pump house should be found who would make repairs to it in exchange for using it.

Administrator Selig said there appeared to be many people in community who wanted the property to be maintained it, and said this fit with his own philosophy to focus on maintaining well what the Town had.

Chair Sandberg said the whole landing area could be made more attractive. Councilor Smith asked if the building had any historic value, and said he would view it differently if had this value. He suggested the Historical Association should be contacted about this. Councilor Samuels said the building had charm, and a face would enhance this. Councilor Harris suggested going out to look at the building and think about the possibilities.

Chair Sandberg noted the public hearing would look at this item, and suggested putting it on the side burner for the time being.

LIBRARY

Administrator Selig noted that a big-ticket item not listed in the CIP was the Library. He said the current library trustees were evaluating possible sites for a new library, and said he had not included anything specific in the CIP because nothing specific has been forthcoming.

Chair Sandberg said he presumed the expense for this would be offset with revenues.

Councilor Smith asked if the Library Board of Trustees was planning to sign a seven-year lease extension for the present library site. He also asked what the yearly cost of this was. He noted this would be useful information in determining how to proceed concerning the library.

Administrator Selig said he believed the lease extension was through 2005, but said he needed to determine the yearly cost.

Councilor Samuels said that the rent being paid to UNH for the present Durham Library would be better spent on a new library. She suggested the Town could provide the land for the library. Council members discussed previous Council discussions on this topic.

Councilor Niman said that because of his interest in impact fee development, he wanted to know if school capital projects needed to be included in the Town CIP in order to create a school impact fee.

Mr. Beaudoin said the School Board had their own CIP program based on their program and the funding formula, so school capital projects did not need to be incorporated into the Town's CIP.

Water Fund

Councilor Harris asked if a long-range study was planned to identify how much water the Town had available. Administrator Selig said a water system study costing \$29,000 was included for 2004, following discussion on water capacity with the Planning Board.

Chair Sandberg said he was in the process of drafting a letter to the University on the water capacity issue, as part of the campus master planning process.

Councilor Smith asked who would pay for the 2005 water line replacement on Madbury Road. Mr. Beaudoin said this would be paid for generally by water bills.

Wastewater Fund

In answer to a question from Councilor Samuels, Administrator Selig said an analysis concerning the present inadequate dilution of wastewater by the Oyster River would be included in the wastewater treatment plant phase III improvements. He said that \$50,000 was budgeted in 2004 for an engineering study, and said the \$3.3 million project would move forward in 2005. He described 3 alternatives being considered for dealing with the dilution problem, including a possible regional alternative where the Town would work with other communities in the Great Bay area to discharge wastewater out into the Atlantic Ocean.

Chair Sandberg noted that a study was being put together on this by the Legislature, and there had been a hearing on it the previous week. He said there were mixed reviews on the idea.

XII. New Business

None

XIII. Nonpublic Session (if required)

Not required

XIV. Adjourn

Councilor PAINE MOVED to adjourn the meeting. The motion was SECONDED by Councilor Morong, and PASSED unanimously.

The meeting ADJOURNED at 10:00 pm.

Victoria Parmele, Minute Taker