

DRAFT

**DURHAM TOWN COUNCIL
MONDAY, DECEMBER 15, 2003
DURHAM TOWN HALL -- COUNCIL CHAMBERS
7:00 PM**

MEMBERS PRESENT: Malcolm Sandberg, Chair; Peter Smith, John Kraus, Arthur Grant, Neil Niman, Mark Morong, Patricia Samuels (arrived at 7:09 PM) and Annmarie Harris (arrived at 7:03 PM)

MEMBERS ABSENT: Katie Paine

ALSO PRESENT: Town Administrator Todd Selig, Paul Beaudoin, Business Manager; Ron O’Keefe, Fire Chief; Mike Lynch, Director of Public Works, members of the public

I. Call to Order

Chairman Sandberg called the meeting to order at 7:00 PM.

II. Approval of the Agenda

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

III. Approval of Minutes

November 24, 2003

Councilor Morong MOVED to approve the November 24, 2003 Town Council meeting minutes as presented. The motion was SECONDED by Councilor Kraus and PASSED on a vote of 7-0-1 (Councilor Smith abstained due to his absence from the November 24, 2003 meeting.)

December 1, 2003

Councilor Grant MOVED to approve the December 1, 2003 Town Council meeting minutes as presented. The motion was SECONDED by Councilor Kraus.

The following amendments were made:

Page 2, Report of Administrator, 5th bullet: Change the number “4” to “3” in the first sentence.

Page 4, 2nd paragraph: Remove the last two words in the first sentence “had attended” and replace with: “that there were several vacancies resulting in certain constituencies

not being represented.” Change the second sentence to read: “He asked if all positions on that Commission were now filled.”

Page 4, 3rd paragraph, Change to read: “Councilor Smith said that having full membership was vital to solving problems.”

Page 6, first motion: Change “1-minute” to read “10-minute”.

Councilor Smith also submitted other non-substantial corrections to the minutes.

Councilor Smith MOVED to approve the December 1, 2003 Town Council meeting minutes as amended. The motion was SECONDED by Councilor Niman and PASSED unanimously.

IV. Town Administrator Updates

Administrator Selig informed the Council that he had spoken to Superintendent Thomas Carroll about the possibility of canceling school on January 27, 2004 to allow for elections to be held at the Middle School on that day, and was informed that it would not be possible. He also said three calls had been made to the Heidelberg Harris Plant, and he had gotten a call back that day that they had questions about the idea of holding the election there.

Administrator Selig said that unless the Council directed otherwise, the Town would be holding voting at the Evangelical Church. He acknowledged some members of the Council had concerns about this, and might want to discuss this under “Other Business”.

V. Councilor Comments

Councilor Smith asked Administrator Selig whether he had also asked about switching the planned Teacher’s workshop day with January 27th in order to hold elections. Administrator Selig responded that he had, and it was not a possibility at that time because it was logistically difficult, involving an extra day of school cancellation, and a possible three-day week.

Councilor Smith asked if Superintendent Carroll indicated why it was not a possibility, and Administrator Selig said he did not press him on this. Councilor Smith said as he understood it, all the schools in the school district had a Teacher workshop day on that Monday, and if only one of the schools switched, there could be a busing problem, but if all the schools simply switched Monday to Tuesday, the logistical difficulties wouldn’t exist. He said he was curious because it seemed to be such an elegant solution.

Administrator Selig said he had been told it would be problematic. He also said School Board members thought there was a viable alternative – the Evangelical Church, so it didn’t make sense to change their schedule.

Councilor Smith expressed his disappointment.

Councilor Morong indicated he would like to discuss the election venue issue further under “Other Business”. Chair Sandberg noted there was no Agenda Item “Other Business” that evening, but would amend the Agenda to allow this discussion.

Administrator Selig said the election venue had been an issue of great concern for several residents over the past few days, and stated that the Evangelical Church selection was purely a matter of finding a physical space that would accommodate the election in the best possible way.

Councilor Grant commended the Supervisors of the Checklist for conducting voter registration on the UNH campus for the convenience of students.

Councilor Samuels said she was disappointed that the Town could not use the Middle School for the elections, which they had done for many years. She also informed Council members she must leave the meeting at 8:30 to pick up her daughter at the airport.

VI. Public Comments

Anne Valenza, 30 Mill Road, said she was the Town Moderator and spoke to the issue of a voting venue for conducting elections. She said they had looked at lot of places, and were renting the Evangelical Church because it was a very useful space, and that they were not subscribing to any particular philosophy. She said she wanted to be sure the Town Council was clear on accessibility requirements. She said the absentee ballot requirements were very strict, and anyone who applied for one who didn't really need one would be guilty of a misdemeanor. Ms. Valenza said people might not realize how much space was needed for same day registration, and noted that in addition to ten tables, waiting space was also needed.

Paula Roy, Davis Avenue, read a prepared statement expressing the fact that she did not support voting at the Evangelical Church. She said she understood the constraints presently on the Town, but said the Church was an organization that had aligned itself with actively denouncing members and supporters of the gay and lesbian community. She said that by using this venue, the Town was passively condoning the ideology of the Church, and asked what had become of the separation of church and state.

Ms. Roy said she would not set foot in that building, and said she and others would feel that their voting privileges were denied if that church was used for voting. She said she would be happy to help find another possible site, and also noted that because the Church was so far out of Town, many "foot traffic" voters would be discouraged from voting. Ms. Roy urged Administrator Selig and the Town Council to explore all options to give the voters in Durham a neutral venue.

Roseanne Santos, 96 Bucks Hill Road, said she agreed with Paula Roy, and that given recent events, it was not appropriate to hold the election at the Church. She said that there surely must be another place where it could be held.

Julian Smith, 246 Packers Falls Road, asked why the Town could not have two voting places, with one being the Town Hall, for those who would prefer not to vote at the Evangelical Church.

Town Administrator Selig said a Town Councilor had inquired about this. He explained that in order to do this, the Town would need to create a ward system, but the choice of

where to go would be based on where one lived, not where they felt most comfortable voting. He also said logistically, there were not enough people to staff a second site.

Councilor Smith asked why it had to be a ward system, and Administrator Selig said that was what the State allowed, and noted that he had checked with the Secretary of State's Office about this. Chair Sandberg explained that they wouldn't want people voting twice.

Cliff Zetterstrom, 80 Dover Road, said he was very displeased that someone wanted to change the Packers Falls Bridge by two inches, noting it would be expensive, and would not be a good use of taxpayer money. He suggested that some pavement could simply be added.

Cari Moorhead, 4 Bayview Road, said she had lived in Durham since 1990, and had just become an American citizen who was looking forward to the day when she could cast her ballot. She said she was afraid that now that the Evangelical Church seemed to be the location for voting, that moment would be very difficult for her, as a lesbian in the community. She urged the Town not to force her and others like her to have to vote there, if at all possible.

Councilor Niman asked if the Catholic Student Center gymnasium, or a similar location, would be appropriate.

Chair Sandberg said public comments and concerns like his should be deferred to the Town Administrator. He said Administrator Selig would be making his recommendation to the Council, which then, according to the Town Charter, would make the final decision.

Administrator Selig said that according to the Charter, the Council was responsible for selecting the voting venue, but was not specific in terms of what kind of election was being held. He said they were also responsible for insuring that the practical aspects of holding an election were in place. He explained that historically, the Moderator in Durham found the site, and made sure everything was in place for the election. He noted there hadn't been any problem previously because voting took place at the High School, which was the place that made the most sense.

He said that because the Council had not taken an active part in this process in the past, he had taken it upon himself to help find a site that was suitable. He said the very best location was the Evangelical Church, because it was handicap accessible, had plenty of parking, was centrally located, and was available on all four dates, which he noted was very important in order to avoid confusion. He said they were also concerned about access for the elderly, and about being able to make election workers comfortable.

He pointed out that for the national election, they had between 800-1200 walk-in registrants, and there needed to be a place to hold as many as 200 students waiting to register. He also noted other logistics that had to be taken into consideration, and said these were not hypothetical problems. He said the only other site that was possibly available was the Heidelberg site, noting he and several Councilors had met with them the previous week. He said there was a vast room in the building that was not being

utilized, and said it might work for a local election, but not for a national election. He also said the company had not yet committed to providing the site.

Administrator Selig said the issue of religious posters and pamphlets at the Church had been considered, and noted there was not much at the Church, but to the extent that there was, this would be covered over. He said the Attorney General's Office said voting in a religious place was fine as long as religious symbols were covered over. He also noted the Town had offered to reimburse the Church and they refused, saying it was their community responsibility. Administrator Selig said he had tried to consider many factors in finding an appropriate site, and unless the Council said otherwise that evening, he would be moving forward with the Church as the site for the elections.

Judith Spang, 55 Wiswall Road, said she felt as strongly as anyone about the Church's reaction to the ordination, but also felt the Town should consider the long-term ramifications of saying that the Evangelical Church was not a respected part of the community. She said the Church had been a wonderful citizen of the community and had allowed all kinds of activities to occur there, and recommended that the Town should move beyond this issue.

Beth Olshansky, 122 Packers Falls Road, spoke to the issue of the Packers Falls Bridge. She said the Town had a wonderful scenic heritage, and noted that those people who did not live on the bay or the rivers, could enjoy the various vistas when riding around or going for a walk. She said the vista from the Packers Falls Bridge was one of those places where she could go, and she was heartsick that she could no longer see the river. She noted that Administrator Selig had done some research on why the wall was 57", and determined this was because 54" was required for a bike path. Ms. Olshansky said she checked the minutes from the meeting when this was approved, and read that it was approved as a pedestrian walkway, and the State requirements for this was 42", not 54". She said a bike path was not approved and said she hoped the Council would discuss this issue and look further into how this happened. She also said she believed the State did not allow bicycles on a pedestrian walkway, or on a sidewalk, so the idea of having a pedestrian walkway and bike path together might not even be legal. She said the guardrails had massive amounts of metal, which didn't fit at all with this historic bridge, and asked why it was needed. She said the 200 ft. crushed rock pathway required that there be the guardrail, and said she hoped they could hopefully get rid of the guardrail. She said she now actually had to walk on the road in order to be able to see the river, which was counterproductive.

Ms. Olshansky said it was possible that building up the roadway pavement might improve visibility, and also noted the cost estimate for replacing the railing, and asked what that would cover. She suggested that it should be taken down and replaced with something like what was going across the Wiswall Road Bridge, cast iron, vertical, see-through posts.

Chair Sandberg said Council members took this issue seriously, and it was on the evening's agenda, but said it was not clear whether they would get to it because of the Budgets that had to be passed. He noted that because it was winter, they had a window of

opportunity to carefully consider the options for addressing the Packers Falls Bridge issues.

Judith Chandler, 87 Packers Falls Road, said the guardrail made the bridge look tacky and should be removed, and perhaps put someplace else in Durham where they were needed. She also noted the wood on the pedestrian walkway, and said she would rather see something attractive there or nothing at all. She also said there might be a safety advantage to lowering the bridge.

Holly Harris, 154 Packers Falls Road, said she was disappointed with the bridge. She said going over it now felt like going through a concrete tunnel. She described the bridge as an epicenter for people in the neighborhood, and said it was now an abomination. She said 95% of the people involved in the planning process had wanted to keep it the way it was, and although it still looked good from down the river, most of the time residents were on top of the bridge. She said they could no longer see the water, which was one of the reasons people moved to the area, and encouraged the Council to bring the Bridge back to the way it was. Ms. Harris also wondered why Sullivan Falls Road had been paved the past summer, which seemed like a waste of money.

Henry Smith, 93 Packers Falls Road, said the concrete structure on the Bridge there was a great disappointment to him and said that this modern structure had ruined an aesthetically pleasing view. He asked the Council to find a creative solution to this problem.

Don Brautigan, 122 Packers Falls Road, said he had crossed over the bridge for 20 years, and was very discouraged to see the bridge in its current state. He said the outcome was especially disappointing given the public concern expressed about maintaining the rural flavor of the area. He said he recognized that putting a monetary value on such an aesthetic issue was difficult, and one might question the wisdom of placating a minority of citizens living near the bridge, but he said the bridge would be around long after everyone was gone and he would prefer to preserve the landscape of Durham for present as well as future generations.

Daniel Miner, Sullivan Falls Road, said he was an abutter of the bridge. He underscored what had been said by others, and noted that this last-minute protest about the changes was based on the fact that people couldn't be on the bridge while it was being worked on. He said at 6'4", he was now one of the few people in the neighborhood who could see over it. He also questioned the paving of Sullivan Falls Road and said this should be looked at, at some point.

Richard Lord, 85 Bennett Road, noted he had previously spoken about the bridge. He said the pedestrian railing appeared to be considerably overbuilt, and hoped that the proposed solution would not involve overbuilding again. He also said he checked the 2001 preliminary blueprint/plans and they had listed a pedestrian walkway, not a bike path and a pedestrian walkway. He said he hoped it would be clarified what had happened with the bridge. Mr. Lord also asked if the Whittemore Center had been explored as a possible venue for the election, and Administrator Selig responded that the University said this location was not available on the dates of the election.

Bonnie McDermott, 80 Dover Road, noted that people didn't seem to like change. She said that aesthetically, the bridge looked very nice, although not like it used to be. She also said she objected to spending any money to rectify what had been built, noting her taxes were a hundred dollars more per month than her mortgage. She said that when her husband retired in three years, they wouldn't be able to afford to live in Durham.

Julian Smith agreed with Ms. McDermott's statement regarding taxes. He also said he had lived on Packers Falls Road for 38 years, and when the bridge reconstruction came before the Council, he had argued that widening the bridge would be dangerous, and that if the State wanted to spend money widening a bridge that had been safe, changing it would require a pedestrian walkway.

Mr. Smith said the Public Works Department had said there was a lot of good publicity about the pedestrian walkway over the Oyster River on the Route 108 Bridge, so some residents were happy with this comparison. However, he said the Oyster River Bridge didn't get a walkway. He said the people who had designed the Packers Falls Bridge project had not paid attention to how the bridge was used, how the river was used, or how the park area was used. He noted that he had complained about the long barricade going up, which cut off access to the river, and that most of it came down the next day after talking with town officials. He said whoever came up with the notion that the pedestrian walkway must accommodate bicycles didn't pay attention to how bicycles used Packers Falls Road, and the bridge. He said he was disappointed that he had not paid more attention to what was going on.

Mr. Smith read a portion of an e-mail from Marilyn Dewey, who had lived on the road since 1958. Ms. Dewey asked how it could be that there was money to overdo the construction of the pedestrian path when a modestly constructed one would have done the job and would not have detracted from the bridge. She said that she and others who wanted the bridge left alone were willing to accept the changes necessary to come up to code, but not changes that tempted cars to drive faster on a now larger bridge, with a guardrail longer than necessary for a backcountry road. She said the railing was meant to be an inconspicuous add-on, not a towering monument that blocked the view. She also said her comments were not made to find blame.

Judith Spang, 55 Wiswall Road, said it was relevant that this discussion was coming up on an evening when the Budget was being voted on. She said people living near the bridge cared very much about it as an anchor of the quality of life of the western part of Durham. And she noted people had spent a lot of time and money making sure the river was protected for its ecological, scenic and historic values, noting the bridge was one of the most scenic places on the Lamprey River. She also said this had been a waste of money to create a bridge that was massively overbuilt, and said the citizens shouldn't have to be looking over the shoulders of engineers.

She asked in general why money was being spent to overbuild things, and suggested that perhaps safety was being overemphasized in Durham. She said she believed they could find \$30,000 elsewhere, noting this was the time to fix the situation. and said it was the Town's responsibility to make sure it was a good steward of its scenic resources. She

also pointed out that the Wiswall Bridge was next, and worried about the decisions that would be made about this bridge.

Administrator Selig said there were five additional emails on the Packers Falls Bridge that would be forwarded to Councilors.

Chair Sandberg said all of the comments had been duly noted, and said unfortunately, when the bridge was discussed, few of the Councilors sitting at the table were a part of that decision-making. He said they would be looking at the drawings from a slightly different perspective, and would be most interested in deliberating on the comments.

Councilor Harris asked to make a brief statement concerning the bridge.

Councilor Smith asked if this would be more appropriate later in the Agenda.

Councilor Samuels MOVED to amend the agenda to continue the discussion regarding the Packers Falls Bridge rehabilitation for a period of 15 minutes. The motion was SECONDED by Councilor Harris.

Councilor Samuels said she realized the Budget was an important issue, but wanted to consider the residents who had come concerning the Packers Falls Bridge issue.

Councilor Kraus said he would oppose the motion, because it could not be encapsulated in 15 minutes. He said the Council had a responsibility to the larger citizenry of Durham to deal with the Budget issues before it.

Councilor Harris agreed that not much time could be spent on the issue that evening, but said she would simply like to make a brief statement about the work she had done that day, and suggest that they then delay discussion until a later time.

Councilor Smith said he agreed wholeheartedly with Councilor Kraus, having listened to the evening's discussion. He said the issue was very complex in terms of its history and its resolution, and said it would be disrespectful to the citizens at the meeting if there was discussion that lasted 15 minutes.

The motion FAILED on a vote of 2-6 (Councilors Samuels and Harris voting in favor of the motion).

Chair Sandberg said Councilor Harris would have the opportunity to speak on this issue at the end of the meeting.

Councilor Samuels left the meeting at this time (8:23 PM).

VII. Unanimous Consent Agenda

None

IX. Unfinished Business

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

BUDGET DISCUSSION

Chair Sandberg explained that there were four active motions before the Council: the Operating Budget and three other motions made at the previous meeting that had been set aside. He explained that Town Administrator Selig and Business Manager Paul Beaudoin would bring the Council up-to-date on any changes or documents that needed to be considered before deliberating those motions.

Administrator Selig said Councilor Paine was delayed at the airport and could not attend the meeting. However, in an email she had expressed concern about the bridge projects in the CIP because of what she believed to have been over-engineering of the Packers Falls Bridge. He noted she also raised concerns about utilizing the Evangelical Church for the elections.

Paul Beaudoin highlighted the following changes in the proposed budget, based on previous discussions with Councilors. He said there had so far been no approved amendments to the operating budget, although there was an approved change to the CIP.

- Add \$7,500 to Public Works Department (for a total of \$10,500) for the rental of a grader, to be used 3-4 times a year for dirt roads in town, in conjunction with plans to sell the existing grader.
- Add \$3750.00 to Public Works Department for long-term disability payment for an employee.
- Add \$4500 to pay for a consultant to work on development of an impact fee ordinance.
- Add \$15,172 to Communications Center budget (because previously estimated amount wouldn't be enough).
- Save \$26,165 from health insurance, and other benefits adjustments for Town employees; changes that reflect adjustments made to Fire Department budget, for things like health insurance, benefits adjustments will reduce revenue received from UNH by about \$9900.
- Small adjustments in water and sewer funds on adjustments to health insurance and other benefits.
- \$7,600 coming in from Workers Comp insurance after 2004 from rebates, added to revenue side.
- UNH will pay \$4,280 as their share of state revolving loan fund payment for landfill closure.

Councilor Grant asked if there was something wrong with the existing grader. Administrator Selig said there was not, but the problem was that it wasn't utilized very often. He said previous discussion had brought up the possibility that the grader was used for snow plowing in the winter, but the Public Works Department said it did not as a matter of practice use the grader for snow plowing.

Councilor Kraus noted he had previously questioned whether the driving skills of the person using the Town's grader might not be as high as those of someone hired as part of the rental of the grader.

It was clarified that the \$7,500 included the personnel doing the grading, and was needed in addition to the \$3,000 originally budgeted because the \$3000 would only cover one visit.

Councilor Kraus said there might be a high demand for the grader when there were snowstorms, and asked what assurances the Town had that they would be able to obtain the grader during a snow emergency if they really needed it.

Mr. Beaudoin said the grader was mainly being used for leveling of dirt roads, and noted that when a grader had been rented this year, the residents were pleased with the job. He said it didn't make sense to have such an expensive piece of equipment when it was only used for a few hours per year.

Councilor Grant asked if a grader had been contracted out the past year, within the 2003 budget, why an additional \$7500 needed to be put in the budget for 2004.

Mr. Lynch explained that the use of the grader was a demonstration to see if renting one would work out. He said it worked out very well. He also said that in 2008, a capital expenditure of about \$285,000 would be needed to purchase a new grader, so there would be that cost savings as well.

Mr. Beaudoin said the net effect of the changes was that in order to get to the 2.9% increase in the tax rate, instead of using \$360,000, they would have to use \$365,000 to get to that same point.

Chair Sandberg said that was the new starting point, until they dealt with any possible upcoming amendments to the operating budget. He said the outstanding motions from the previous meeting should be dispensed with.

Councilor Smith asked if a decision had been made to view the budget without the impact of the conservation bond, as compared to the view some weeks back.

Administrator Selig said the previous view was done for illustrative purposes only, and said people wanted to see, more realistically, what the impact would be on the tax rate over time, given the fact it was unlikely the Town would incur the full \$2.5 million of debt in the first year. But he noted that in the proposed budget, they would move forward with an appropriation that simply represented the possibility that the Town might incur that debt in the first year.

Councilor Smith said the second fiscal impact document had made him think more about the original discussion of why Mr. Beaudoin thought it was appropriate to include the full \$2.5 million in projecting the fiscal 2004 budget. He asked whether, if the Council determined that for the coming fiscal year, it would not approve more than X amount of the \$2.5 million bond, it would then still be necessary to project the entire amount.

Mr. Beaudoin said it would not, and explained that if the Council could give him a blueprint of what it thought would be spent year to year, his spreadsheets could show exactly what the impact was. He said in doing a 10-year projection without a crystal ball, the sensible thing was to put the amount in for 2005, and the only reason he had calculated the fiscal impact a second way was because of feedback from the Council.

Councilor Smith said it was unrealistic to believe that the Town would be using much of the \$2.5 million bond in 2004, noting his involvement on the Conservation Commission. He said he did not understand why that couldn't be taken into consideration, and if they were anxious to keep the tax rate at a certain point, and not seriously diminish the fund balance, they could set a limit for themselves, which would be a realistic thing to do for the next year.

Councilor Kraus asked if when the bond was approved, it provided for an incremental disbursement of the funds, or if the citizens voted for it as though there could be that entire expenditure in one year.

Administrator Selig explained that when the voters approved the warrant article the previous year, they authorized the Town to move forward with the bonding of \$2.5 million, although it was understood that the likelihood of needing to do go out and bond the entire amount all at once was very small. He said there were a numbers of ways in which they could proceed with this, but he and Mr. Beaudoin had taken the most conservative path.

Administrator Selig said it would be possible for the Council to approve the \$2.5 million in the capital budget, which would be different from authorizing the debt, and the Council could then come up with a policy statement that said the Council would be pledging not to spend any more than a certain amount per year. He said an argument could also be made for saying that authorization at the Town Meeting carried forward in time, and no appropriation would be made until the land became available, at which time a public hearing would be required in order to modify the budget. He said it made sense to appropriate the funds now, but did not require that the full amount be spent, and if it were not, it wouldn't have the tax impact that was projected.

Councilor Smith restated it was unlikely that the full amount would need to be spent in one year, for mechanical reasons, but also said in the course of the next year, it would never happen, as a matter of policy.

Chair Sandberg asked if Councilor Smith was asking that this \$2.5 million be taken out of the 2004 column and perhaps divided into 10 years, where if the amount allocated for a given year wasn't used, it would carry over to the next year.

Councilor Smith said he was more concerned about the numbers game played in maintaining a lower tax rate by using more of the fund balance, which was like operating with a credit card.

Chair Sandberg asked what Councilor Smith proposed should be done.

Councilor Smith recommended that if the Council thought it was appropriate, the full \$2.5 million wouldn't be moved to 2005, but put some modest portion would be apportioned in 2004 and the rest would be distributed in some way.

Administrator Selig said the impact on the tax rate wouldn't come until they were ready to buy a piece of property, so distributing the \$2.5 million over time would still be fictional, unless the money was actually spent. He said for the sake of record keeping, it made more sense to include it all as one item now, and carry that line item forward until all the money was appropriated. He said either way, there would be no impact on the 2004 tax rate, because the hit wouldn't come until 2005.

Councilor Niman said he thought the policy question was something different. He said he thought the discussion was whether, if the Town bonded the conservation project, the expense of that project should be included in the 2.9% tax rate, or over and above the 2.9% rate. He said that if they decided that funding conservation projects should be over and above what was set as the target tax rate of the budget, then it wasn't an issue.

He said it was his understanding that when the bond was sold to the public, there was the understanding that it wouldn't add more than \$0.99 to the tax rate, and there was the implicit assumption that if the Town were buying conservation land, the cost of that would add on to whatever the tax rate was. He said from a policy perspective, the Council should be targeting a tax rate independent of the land conservation bond.

Chair Sandberg said that because the Town couldn't know for sure if revenues and expenses would be what was projected, the worst case scenario was provided, with the \$2.5 million being spent, and then another one was provided that didn't include this.

Councilor Smith asked if the policy decision described by Councilor Niman had been made by the Council. He said if had not been, perhaps it should be.

Councilor Grant clarified that if the Town were to do the conservation bond in 2004, the impact would not be felt until 2005, so it would not change the 2004 tax figure, but would change the 2005 tax rate.

Chair Sandberg clarified that when the warrant article passed, the Council was authorized to issue the bond, so that land conservation could take place in a timely fashion.

Administrator Selig noted that the goal was also to clarify the process for the Business Office, so line items could be tracked more easily.

Councilor Kraus made reference to Councilor Niman's previous statement that 80% of the budget increase was attributed to personnel expenses, and also to his statement that it was important to look at the structural problems with the budget that were causing Town expenditures to grow faster than the tax rate. He said Councilor Niman's point about holding the bond separate from the budget was perfect.

Chair Sandberg noted again that there were four amendment motions before the Council.

He said one amendment was the idea of having a veterans memorial site adjacent to the bridge, on the Oyster River. He noted that a study group had previously looked at the memorial park on Main Street, and the consensus was that it would be risky to try cutting that stone, so other options were considered. He said he was primarily interested in seeing a line for the Item in the budget to get the veterans memorial idea moving again, so something would finally happen.

Councilor Smith said the idea should be explored, but didn't see the point of putting a dollar item in the budget unless it believed that amount would actually be needed in 2004.

Chair Sandberg asked Administrator Selig if money would be needed in the budget in order to move the veterans memorial idea forward. Administrator Selig said that it would not. Chair Sandberg withdrew his motion from November 24, 2003 to place money in the budget for a memorial park at the Old Landing, and said the idea could be put on the Council's goals list for 2004.

Councilor Niman said it made sense to put a placeholder for this Item in the CIP for 2006-2007.

Chair Sandberg explained that another proposed amendment concerned what should be used as a target for the fund balance. He explained that he had recommended that the fund balance should, as a matter of principle and practice, be maintained at \$1.5 million so the Town could operate in a smooth and efficient way, and there would be a greater sense of reality about what the Town was approving from one year to the next.

Councilor Smith asked for detail on whether \$1.5 million represented an appropriate figure. He said he agreed with Chair Sandberg's underlying premise, and said it made sense to vary in one direction or another from \$1.5 million (assuming it was a good number) if there were special circumstances that required this, with the understanding that this wouldn't be done every year in order to pretend that the tax rate was lower than it was.

Mr. Beaudoin said a projection used for the coming year that varied from prior projections was the growth in the tax base. He said the Town usually budgeted for an approximately 2.5% increase per year, but based on the value of building permits issued in 2003, it was down almost 1.5%. He said it was hoped that in 2004, the building permits would increase again, once the zoning issues were resolved.

Mr. Beaudoin said that a 1.5% growth in the tax base was an ideal number, and explained that when the tax rate was set, it was set on all taxable property whether taxes were received or not. He said that a solid fund balance helped the Town's cash flow in situations where they were collecting taxes for other entities, and paying it out before they ever received it.

Chair Sandberg asked if it affected the Town's bond rating, and Mr. Beaudoin said it had helped the Town get the bond rating it presently had, by showing that it planned for the future.

Councilor Grant said he agreed with Chair Sandberg's underlying principle that the Town should maintain a fund balance of approximately \$1.5 million dollars. But he said he came at this from a different perspective, and said he found a 5% increase in spending in the coming year was excessive. He said the present 2.9% tax increase had severely impacted peoples' taxes, and therefore would not want to remove the \$365,000 from the budget and put it on the tax rate.

He said that drawing against the reserve was perfectly appropriate, but suggested that they did not need to anticipate that they would have to use the \$365,000 out of the reserve, noting that previously, through good management, increased revenues, and reduced expenditures, the Town didn't need to use as much of the reserve as had been budgeted. He recommended leaving the fund balance just as it was, but stating to the Administrator and staff that the Council never expected staff to use that \$365,000, and instead challenged them to find ways to reduce the drawdown so the reserve balance would stay at no less than \$1.5 million dollars. He said he had every confidence that under Administrator Selig's leadership, that could be achieved.

Councilor Morong said that whether or not the Town used the unreserved fund balance, if the budget was approved, spending would be increasing by 8%. He said he understood both sides of the issue, but in this particular year, when people had unexpectedly higher tax bills, he thought it would be a good time to use the fund balance as a shock absorber, noting that was what it was set up to be.

Councilor Smith said he agreed with Councilor Morong, and said this was an example of when the fund balance should be used to even things out. But he said he didn't want the Council to get into the situation where each year it found a reason to use the fund balance. He said his concern with Councilor Grant's approach was that Councilors couldn't find many specific areas of the budget to cut money out of, but were saying this should somehow be done by Town staff anyway.

Councilor Niman suggested the following wording "The Town Council may not use more than \$200,000 in fund balance to reduce the tax rate in any year, except if the fund balance was greater than \$1.5 million in that year." He said the amount of flexibility the Council should allow itself should depend on how large the fund balance was, and said this would provide the flexibility to be able to draw down the fund balance if unexpected things happened, with the understanding that in the following year, it would be built back up.

Chair Sandberg said one of the difficulties with this was that one Council could not bind the next Council, so questions regarding the fund balance came up every year as a matter of course. He also spoke to Councilor Grant's argument, and said it was hard to look at a 6% tax rate increase, but it would be much harder to look at a 10% increase if they went for the \$500,000, so it would be better to do incremental increases, while at the same time looking for increases in revenue.

Councilor Smith asked if Chair Sandberg thought that this year, according to Mr. Beaudoin's framework, there was a special justification to borrow against the fund balance. Chair Sandberg said that was the judgment call, but noted that the continually

declining fund balance showed they were on a dangerous slope, and should bite the bullet each year until they could turn this around.

Councilor Grant said he was focusing on appropriations going up \$5 million in the next 8-9 years. He said in response to Councilor Smith's statement that he was not abdicating his responsibilities and was prepared to give the Town Administrator a budget guideline to follow, but wanted to build in incentives for finding ways to reduce expenditures.

Councilor Kraus said the discussion was a good one, and noted one of the structural problems the Council was faced with was having excellent spreadsheets that showed the projected increases, which numbed them into expecting these increases would continue on into the future. He recommended that the Council should be forward of the budget process next year, so it would have more input into the dimensions of the spreadsheet, rather than passively waiting for it.

Chair Sandberg said the discussion had been excellent, and recommended that Mr. Beaudoin should change the \$365,000 in the spreadsheet to a number that would bring the fund balance up to \$1.5 million, and then would ask for a vote on it. He said the Town would survive whether or not his motion passed, but said it would be a valuable reference point.

Mr. Beaudoin passed out copies of the spreadsheet that showed this change.

Administrator Selig clarified that the actual fund balance figure that would be used would depend on what tax rate the Council had decided was appropriate.

Councilor Grant said the revenues projected in the budget were conservative, and he fully expected them to exceed the numbers in the budget.

Councilor Niman said he was not comfortable voting for the motion unless the Council talked about how it would begin to deal with the structural problems, and said he agreed with Councilor Kraus' recommended approach.

Councilor Smith said the discussion, although excellent, caused him to be more uncertain as to what should be done. He asked how certain Mr. Beaudoin was that what he described as a special circumstance was one not likely to be matched in size by another circumstance year after year. Mr. Beaudoin said he was not at all certain.

Administrator Selig said there were three things that were special circumstances that to him warranted the 2.9% increase: the revaluation; the fact that the economy had been weak, and the overall increase in the Town's tax rate in the past year. He said to support the operational budget he was proposing, an increase of 4% was appropriate, but that could not be justified given the factors he had outlined.

Councilor Smith asked Administrator Selig if the increase in the School budget was the factor which was the most powerful. Administrator Selig responded that it was the factor. Councilor Smith asked Administrator Selig if in the following years it was likely to be substantially less. Administrator Selig said he expected the rate would increase.

Councilor Smith asked how that affected his theory of special circumstances. Administrator Selig said that realistically, every year was a bad year. There was additional discussion about this matter.

Chairman Morong MOVED to change the Fund Balance from \$365,000.00 to \$205,618.0, in the column Council Approved Fiscal Year 2004. The motion was SECONDED by Councilor Kraus.

Chair Sandberg called for a five-minute recess at 9:45 PM.

The meeting reconvened at 9:50 PM.

Chairman Sandberg called for a vote on the motion to change the fund balance amount from \$365,000 to \$205,618. He clarified that regardless of whether this motion passed, the fund balance issue would be addressed again when the vote ultimately took place on the Operating Budget.

The motion FAILED on a vote of 3-5 (Councilors Smith, Morong and Sandberg voting in favor; Councilors Kraus, Grant, Harris and Niman voting against).

Councilor Smith MOVED to extend the meeting to 10:30 PM. The motion was SECONDED by Councilor Grant and PASSED on a vote of 6-1 (Councilor Kraus voting against).

CIP DISCUSSION

Chair Sandberg said the primary focus of the discussion should be looking at 2004, which was what would be shifted into the Operating Budget.

Administrator Selig summarized changes that had recently been made to the CIP based on input from the Council:

- Elimination of \$28,000 for the Mill Plaza Access Study.
- Wagon Hill parking area, planned for 2008 was reduced from \$260,000 to \$50,000, which would be used for a gravel parking area in the vicinity of the apple orchard.
- Elimination of the pump house renovations at the Old Landing for 2004.

Chair Sandberg said he thought it was premature to demolish the pump house because there might be a potential use for it as part of other community goals, but it was also premature to put \$28,000 into it at the present time. He proposed the figure be changed to \$1,000 to improve the look of the building, and then the Town could start looking for other ways to adaptively reuse it.

It was clarified that the \$28,000 would have involved bonding, but if the amount was reduced to \$1,000, this amount would be moved over to the Operating Budget as a line item under Buildings and Grounds, within the Public Works Department.

Councilor Grant MOVED to remove from the CIP the \$28,000 for the pump station renovations at the Old Landing and to add \$1,000 for this item to the Operating Budget. The motion was SECONDED by Councilor Smith and PASSED unanimously.

Councilor Kraus questioned the planned expenditures on the Wiswall Dam and Bridge repair in 2004, but said he would like to see more money put into the Road Resurfacing program.

Councilor Kraus MOVED to move the CIP item of \$175,000 for Wiswall Dam repairs from 2004 to 2005, \$50,000 for the Wiswall Bridge replacement from 2004 to 2005 and \$600,000 for the Wiswall Bridge replacement from 2005 to 2006. The motion was SECONDED by Councilor Harris.

Mike Lynch said the Wiswall Dam project had been on the NHDES books for the past few years. He explained that the dam was cracked, and was a concern, but the work could be moved out a few years. He noted the Town was still in limbo concerning the fish ladder project related to the dam, and said the Town could explain to NHDES that they were still working on the scenario for this project.

Councilor Smith asked if there was a recent engineering study that described safety concerns related to the bridge, and it was clarified that there was a five-year old study that didn't say there was imminent danger, but said the cracks needed to be addressed.

Councilor Grant noted these projects were ranked 5th and 6th, and road resurfacing, a loader a sand storage shed and sidewalk reconstruction ranked ahead of them. He said that made it clear the dam and bridge projects didn't need to be done this year.

Councilor Kraus said that given the controversies surrounding the Packers Falls Bridge project, and also noting comments that evening concerning the Wiswall Bridge, it would be prudent to take the time to learn some lessons from the Packers Falls experience.

Councilor Morong asked if it was life-threatening downstream if the dam was to fail, and Mr. Lynch said low-lying houses would be impacted.

Administrator Selig explained that besides the safety issues, the dam was a major component of the water supply, so the Town had to be sure that the water supply was secure.

Chair Sandberg said the Public Works Department would continue to monitor the status of the dam on a regular basis.

Mr. Lynch spoke about the Wiswall Bridge replacement. He said the bridge was on the State's red list for replacements, and he was opposed to taking it out of the CIP, but he also said it involved a low impact road, and the project could be moved out.

The motion PASSED unanimously.

Chair Sandberg asked Mr. Lynch to speak about the Sullivan Road issues, and whether \$250,000 was adequate, noting Councilor Kraus' concerns.

Mr. Lynch said they were on track, and noted Sullivan Falls was a road built in 1985. He said they wanted to work on it before it got so bad that it would cost more to reclaim the road before resurfacing it – as had happened with Bennett Road. He said the Public Works Department would welcome more money for the Road Resurfacing Program.

Administrator Selig was asked by Councilor Smith what his recommendation was, and said that \$250,000 was appropriate. He explained that historically money always seemed to get taken away from the Roads Program so he had made a commitment to a disciplined program. He said he believed that spending \$250,000 every year over 13-14 years would get the Town where it needed to be, and also pointed out that the \$250,000 was not bonded, and was raised directly from the tax rate.

Councilor Kraus said that as he looked at some of the roads in Durham, it was hard to see that they could wait as long as was planned for in the Roads Program.

Councilor Harris noted there were some years when the actual sequence of repaving was revised, based on recommendations from the Planning Board. She also said she hoped that if an increase was made in expenditures for roads, this would not preclude serious consideration of the Packers Falls improvements, which might come out of their discussion.

Councilor Grant said that he had not been aware that increasing the amount for the Roads Program would increase the tax rate, and said he would therefore be voting against the motion.

Councilor Kraus MOVED to increase the Road Resurfacing Program amount in 2004 from \$250,000 to \$300,000. The motion was SECONDED by Councilor Grant and FAILED on a vote of 1-6 (Councilor Kraus voting in favor).

Chair Sandberg asked if there were other Items in the CIP that needed attention.

Councilor Niman said he was very disappointed that the Woodridge athletic fields could not be expanded in 2004, and encouraged the Town Administrator to put together a plan so the Council could act on this issue in the coming year. He said the facility was past its prime, and improving it for the young children of Durham, including his own, would improve the quality of life in Town, at a reasonable cost.

Councilor Niman MOVED to move the \$49,000 Woodridge Field playground item from 2006 to 2004. The motion was SECONDED by Councilor Morong.

Chair Sandberg asked if there was a plan in place that could accomplish this goal if the Council voted to approve the funding. Mr. Lynch said the basic plan was to do something similar to what was done at Jackson's Landing, to replace the wooden structure with a modular structure. He said the key issue was that the wooden playground at Woodridge Field had some chemicals in it, so there was some urgency to replacing it.

Councilor Morong said he assumed this was a bonded item, and since some bonded items had been taken out of the budget, the tax rate would not be affected.

Councilor Smith asked what the justification had been for putting this Item in the CIP for 2006, and Administrator Selig explained that the lifespan of the structure was considered, and the various recreational expenditures were ranked in terms of importance. He agreed that the playground was not ideal.

Councilor Grant asked if the tennis court and playground rehabilitation could both be done in the same year, and was told by Administrator Selig that they could.

Councilor Harris said the chemicals in the wood had probably leached out by now, and the structure was still functional for the time being. She noted there were other neighborhoods in Durham where there were no playgrounds and many children.

Administrator Selig was asked by Councilor Smith if he thought the replacement of the tennis courts was a higher priority, and he said the courts were badly in need of repairs.

Councilor Morong noted that the Woodridge field playground got a lot more use than just from the kids in the neighborhood.

The motion PASSED on a vote of 6-1 (Councilor Harris voting against).

There was discussion about the fire cistern program planned for 2004. Administrator Selig clarified that the cisterns would be placed in fully developed neighborhoods where no future development was possible.

Chair Sandberg asked where the cisterns would be placed, and Fire Chief O'Keefe said they had spoken to property owners in the areas that had been identified: Wedgewood Development; Sandy Brook Development; Durham Point; Bay Road area. He said some parcels of land were Town owned, and others were common land portions of developments, and no land purchases would be required.

He also explained that there were some existing cisterns that were functional but did not fit well into the landscape, and his department said this could be improved. He noted that fire insurance rates would be lowered for homeowners in many cases. He also said the capacity of each cistern was 15,000 gallons, which translated to 10 minutes of pumping water, and should be sufficient to put out the typical structural fire.

Councilor Grant said a constituent asked him why the Town stopped leasing vehicles. Administrator Selig said it was found that it cost more, over time, to lease vehicles, so the decision was made the previous year to pay more up front, but save money in the long run.

Chair Sandberg noted that amendments had been made to the CIP, without asking the Council to move the CIP before discussion started. He said he would therefore ask for a motion to approve the CIP, as amended.

Councilor Grant MOVED to ADOPT Resolution #2003-23 approving the 2004-2013 Capital Improvement Plan as amended. The motion was SECONDED by Councilor Kraus.

There was discussion about how best to proceed with the meeting at this point.

Chair Sandberg MOVED to extend the meeting to 11:00 PM. The motion was SECONDED by Councilor Grant and PASSED on a vote of 6-1 (Councilor Kraus voting against).

Councilor Niman referred to a previous Council discussion about the Northwest-southeast transportation linkage. He noted that Chair Sandberg had written a good memo commenting on the University's Transportation plan, but the University didn't seem very receptive to the Town's concerns about the linkage, and in fact indicated their experts thought the Town's concerns were ungrounded. Councilor Niman asked if perhaps the Town should hire its own expert in order to provide legitimacy to these concerns, and if so, if it made sense to move this Item forward in the CIP from 2006.

Chair Sandberg said it was fair to say that the response from the University staff was a huge disappointment, and there was little or no empirical data presented that convinced anyone there that we should not be pursuing the Northern connector. He also said it would be premature to move the Item forward in the CIP based on the data he had seen. He said he was disappointed in the letter from the UNH President, and was concerned that she may have been misled. He said his reaction was that the Town should not be put off so easily, and said he would be meeting with Administrator Selig to discuss possible responses. He said he was not excited about spending \$100,000 on a study on this issue, but would not expect the University to share in such a study.

The motion to ADOPT the 2004-2013 Capital Improvement Plan, as amended, PASSED unanimously.

Chair Sandberg thanked the staff again for their excellent work in putting together the CIP.

Councilor Morong recommended having a brief discussion on the election venue, while the final numbers for the operating budget were being calculated.

Chair Sandberg said the motion to approve the Operating Budget would be tabled until Mr. Beaudoin was ready.

Councilor Morong MOVED to table the discussion on the Operating Budget, and the motion was SECONDED by Councilor Smith. The motion PASSED 6-1 (Councilor Kraus voted against the motion).

Chair Sandberg noted that the next issue on the Agenda was to discuss the Packers Falls Bridge issue, and entertained a motion to postpone this discussion until January.

Chair Grant MOVED to postpone the discussion on the Packers Falls Bridge issue until the January 5, 2004 Town Council meeting. The motion was SECONDED by Councilor Smith and PASSED unanimously.

Councilor Morong spoke about the voting venue issue. He said he had spoken to several people about it, and had talked to Administrator Selig about exploring different possibilities. He said initially he had agreed that the Evangelical Church, practically speaking, was the ideal place to hold the election. But he noted that Administrator Selig had said that being Jewish, he was a bit uncomfortable going to the church to vote. Councilor Morong wondered whether if, instead of anti-gay protests at the church, there had been anti-Jewish protests, or anti-black protests, if they would even be discussing the Church as a venue. He questioned whether the present stance was one Durham as a Town wanted to take.

Councilor Kraus said his greatest concern was that there had been an enormous diversion of Town staff time and energy to address the concerns expressed by a particular pressure group. He said Judith Spang's remarks that evening were perfect, and asked that the Council be mindful of the need to be tolerant of all aspects of society, and that that tolerance cut both ways.

Councilor Smith said he realized that Administrator Selig had worked very hard to find a different location. But he said this was a difficult and important issue, and there were moral, and also legal reasons why they should not be voting in any church, regardless of the specific attention focused on the Evangelical Church in the previous week. He said the comment made about absentee voting was correct, leaving some people with a very difficult choice.

He said he was very distressed to hear that Superintendent Thomas Carroll said no to the use of the School, and said the reason for this was not clear. He said he wanted to know why, with a month and a half of lead time, the School district could not switch the dates. He said the Middle School was a perfectly fine location for a voting location, and was not satisfied that that it had been pushed hard enough. He also questioned if the University had been cooperative enough in terms of their facilities.

Councilor Harris asked if perhaps it was appropriate to take this to the School Board Chair, because she recalled Tom Carroll had mentioned the need for a policy about the use of their facilities at a recent School Board meeting, but there was no follow-up.

There was discussion about where the School Board elections were held, and Administrator Selig said they had always been held together. He said in essence the Town was finding a location for both sets of elections.

Chair Sandberg pointed out that this was a temporary problem, and it was reasonable to ask the administration to make all reasonable efforts to find a non-religious venue. But, he noted the significant amount of time already spent on this issue. He recommended that Administrator Selig do the best he could to find another venue, but if the best he could do was the Evangelical Church, the Town should live with this.

Councilor Kraus MOVED to endorse the selection of the Durham Evangelical Church as the voting location for the January 27, 2004 primary election. The motion FAILED for lack of a second.

Administrator Selig clarified that he had not dismissed the concerns of those people who were against the use of the Evangelical Church specifically because of their sexual orientation.

Councilor Morong said that if the Evangelical Church did not exist, the Town would somehow find another venue. He also said that if it turned out that the Heidelberg facility could be used, there were people in Durham who would volunteer to move the furniture there, if needed.

Councilor Grant said he supported Chair Sandberg's recommendation.

X. New Business

- A. **Resolution #2003-22:** Adopting the 2004 Operating Budget (including the General Fund, Capital Fund, Water Fund, Sewer Fund and Parking Fund) and setting the water and sewer rates for FY 2004

Councilor Smith MOVED to remove the Operating Budget from the table. The motion was SECONDED by Councilor Harris and PASSED unanimously.

Chair Sandberg read Resolution #2003-22.

Chair Sandberg called for the vote on the following motion made at the previous Council meeting:

Councilor Kraus MOVED to ADOPT Resolution #2003-22 approving the 2004 Operating Budget (including the General Fund, Capital Fund, Water Fund, Sewer Fund and Parking Fund) and setting the water and sewer rates for FY 2004. The motion was SECONDED by Councilor Paine.

Administrator Selig clarified the contingency amounts in the budget. He also said in terms of increases for non-union employees, there was a pool of money equivalent to a 5% increase, for each.

Councilor Smith asked if that meant the decision had been made with respect to 5%, or simply a fund from which to draw based on his research. Administrator Selig said it was a fund from which to draw, based on his research.

Councilor Grant asked if this amount was in the reserve balance, or was it a separate account that didn't affect the reserve balance. Administrator Selig explained it was in the contingency – part of the \$80,000.

The motion to Adopt Resolution #2003-22, with amendments, PASSED on a vote of 5-1-1 (Councilor Niman voted against the motion and Councilor Kraus abstained, on process.)

Councilor Kraus explained that he had experienced budgetary problems in the past when Council members did not have the opportunity to personally read the final budget and check all the details, so he was abstaining on process.

Chair Sandberg said he wished Councilor Kraus had moved to postpone action, and there could have been a discussion about this, but Councilor Kraus said he felt there was momentum to complete the process.

Chair Sandberg thanked Administrator Selig, Mr. Beaudoin and all the department heads for all of their hard work on the Budget package.

B. Resolution #2003-23: Adopting the 2004-2013 Capital Improvement Plan

See motion above adopting the CIP Plan.

C. Discussion concerning Packers Falls Bridge Reconstruction Project

Postponed until the January 5, 2004 Town Council meeting.

XI. Nonpublic Session (if required)

None

XII. Adjourn

Councilor Grant MOVED to adjourn the meeting. The Motion was SECONDED by Councilor Kraus and PASSED unanimously.

The meeting adjourned at 11:04 pm

Victoria Parmele, Minute Taker