

This set of minutes was approved at the June 7, 2004 Town Council meeting

**MONDAY, MAY 17, 2004
DURHAM TOWN HALL -- COUNCIL CHAMBERS
TOWN COUNCIL MINUTES
7:00 PM**

MEMBERS PRESENT: Chair Malcolm Sandberg; Arthur Grant; John Kraus; Neil Niman; Annmarie Harris; Gerald Needell; Karl Van Asselt; Peter Smith; Mark Morong

MEMBERS ABSENT: None

OTHERS PRESENT: Todd Selig, Town Administrator
Paul Beaudoin, Business Manager

I. Call to Order

II. Approval of Agenda

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

Councilor Kraus noted that the April 19th minutes had already been approved, so did not need to be on the agenda.

The motion PASSED unanimously.

III. Special Announcements

Administrator asked Town Clerk-Tax Collector Lorrie Pitt to introduce Barbara Landgraf, the new Deputy Town Clerk-Tax Collector. Ms. Landgraf spoke briefly to the Council, noting that she had been a resident of Durham for over 20 years.

IV. Approval of Minutes

April 19th, 2004 (Regular meeting)

Councilor Kraus noted again that these minutes had already been approved.

April 19th, 2004 (Nonpublic Session)

Councilor Kraus MOVED to approve the minutes for the April 19th, 2004 Nonpublic Session minutes. The motion was SECONDED by Councilor Morong.

Chair Sandberg said that after reviewing these minutes, he had determined that although sealed, the minutes could be opened.

Councilor Grant moved to unseal the minutes of the April 19th 2004 for the Nonpublic Session. The motion was SECONDED by Councilor Niman, and PASSED unanimously 9-0.

Administrator Selig noted that under “Others Present” in the minutes, his name was listed, but should not be.

Councilor Needell MOVED to amend the minutes to remove Administrator Selig’s name from the “Others Present” list, and add the names Paul Beaudoin, Acting Town Administrator; Duane Hyde; and Dea Brickner Wood. The motion was SECONDED by Councilor Kraus and PASSED unanimously 9-0.

The motion to pass the minutes as amended PASSED unanimously.

May 3rd, 2004

Councilor Kraus MOVED to approve the minutes as amended. The motion was SECONDED by Councilor Smith.

Page 15, last paragraph, should read “...he had felt for a long time that using the property for commercial purposes was a mistake...”

Page 18, 6th full paragraph should read “... 60% of the money to UNH.”

Councilor Grant MOVED to approve the amendments to the minutes. The motion was SECONDED by Councilor Kraus, and PASSED unanimously.

The minutes as amended PASSED unanimously.

V. Report of Administrator

- Administrator Selig showed Council members a picture of Crommets Creek recently taken by Durham resident Steve Roberts, and said it was a strong candidate for inclusion in the next Annual report.
- He said there was going to be a public hearing on playground equipment for the Woodridge Field on May 20th, and welcomed neighbors and residents of Durham to attend.
- He noted that the annual spring cleanup had resulted in a significant increase in bulky wastes left curbside this year. He said the last of it was expected to be picked up that week, therefore allowing the Public Works Department to move on to other things like crosswalk painting.
- He said the Town had received a complaint regarding the swans at Mill Pond, and asked residents not to feed them because it encouraged unnatural and dangerous behavior.
- Administrator Selig said the tax relief program regarding the education property tax was in place, and noted that the forms regarding the program had been sent to residents who qualified for various elderly exemptions. He said these forms could also be obtained at the Assessor’s and Tax Collector’s offices, and said the filing period was from May 5th to June 30.

- Administrator Selig noted that now that the book sale at the Old Town garage had been completed, there would be no more activities there because the building had become too dangerous to occupy, and had been vandalized. He said the Town needed to decide what to do with the building, noting that the plan was to allocate funds to demolish it next year.
- Administrator Selig said that the Library Board of Trustees would be holding a retirement party for outgoing trustees on Thursday, May 20th, and said members of the public were invited to attend.
- Administrator Selig said the Town had recently evaluated whether to switch its savings to another bank that had better interest rates and terms, and said that after looking into this, had decided to stay with Citizens Bank.
- Administrator Selig noted that the health insurance increase that had been budgeted at 17.8% as of July 1, 2004 would only be about 8.8%, which would save the Town approximately \$40,000 for the second half of the year.
- Administrator Selig said that as part of the upgrade of the Wastewater Treatment Plant, a gap/crack had been found in the floor of one of the tanks. He said this problem would need to be addressed in order to complete renovations on the treatment plant, and would cost an additional \$50,000.
- Administrator Selig noted that the UNH commencement would take place on May 22, 2004, and said May Jamison, the first black woman in space, would give the commencement address.
- Administrator Selig noted that property assessment information could now be obtained online at the Town's website.
- He noted that the Council would be discussing a grant of \$22,000 the Town had received in order to conduct a full-scale exercise for response to terrorist acts, as outlined in the grant.
- Administrator Selig said that the Fire Department had stepped up inspection of assembly areas, given an increase in evening activity.
- He said that Household Hazardous Waste day would be held on August 21st, and said residents could call the Public Works Department to find out more about this.
- Administrator Selig noted that UNH pool passes had gone on sale, and said citizens could apply for a discount pass for elderly and younger residents at the Town Clerk's office.

Councilor Grant asked Administrator Selig to provide an update on the issue of summer parking permits for the pool.

Administrator Selig explained that UNH had been struggling with the existing parking fee structure, and had determined that Town of Durham pool users should have to pay an annual fee of \$30 to park at the pool, the same amount that others wishing to park there in the summer would have to pay. He noted that the Town assisted in maintaining UNH's outdoor pool, and in addition, pledged \$15,000, which went toward providing subsidized passes for elderly and young people. He said the Town had filed a complaint about the proposed parking fee, and said UNH had decided to completely waive it, so there would be no change from the previous year.

Councilor Van Asselt noted a previous memo sent to Councilors on the Town Garage, and asked why the Town should wait a year to demolish it. Administrator Selig said the Town

garage issue was somewhat complicated, and provided background information on it, as well as details about the current state of the garage. He said he didn't want to make a sudden change that would surprise people, and so was giving people time to think about the building, and possibly find funds to tear it down.

Regarding the Town's research on possible lower bank interest rates, Councilor Van Asselt asked if the Town was eligible to use credit unions for investment funds, noting he had had good experience with them. Administrator Selig said he did not know.

VI. Reports and Comments of Councilors

Councilor Van Asselt noted an article that described how Exeter Academy had organized a recycling effort with other local groups. He said it was a stimulating article, and suggested this kind of cooperative effort might be something that UNH or the Oyster River School District could approach the Town about.

Councilor Smith noted that he had forwarded to other Councilors a copy of a report regarding alcohol consumption at UNH, which was based on a 2003 study.

Councilor Smith also said he couldn't let the day go by without noting that it was the 50th anniversary of the Supreme Court case *Brown v. the Board of Education*, and said that in his view, it was one of the most important dates in the history of the country.

VII. Public Comments

Representative Marjorie Smith said that over a year ago, when the Town was struggling with the student riot issues, Deputy Police Chief Rene Kelly had done something above and beyond what one would expect of Durham employees. She explained that he had done research on what other parts of the country were doing to address this problem, and had come to her with the idea of bringing to the attention of the students the fact that the entire community cared about the problems, not just the police or the UNH administration.

She noted that a bill passed in Michigan was in large part the basis for the bill recently passed in New Hampshire, and said she was mentioning it at the Council meeting because she wanted to make note of the initiative and thoughtfulness of Deputy Chief Kelly, who took it upon himself to try to figure out how to make the situation better. She said Deputy Chief Kelly was a superb example of the outstanding employees in Durham, and said she wanted to thank him in a very public way for his efforts.

Richard Clark, 32 Main Street, noted that New Business Item D would address rental housing ordinance schemes, and asked what constituted a violation by a landlord of a Durham code.

Administrator Selig said this could involve any number of Durham codes: violation of the noise ordinance; violation of the Zoning Ordinance provisions concerning more than 3 unrelated persons occupying a dwelling; an occupancy violation involving the life safety code; an alcohol use violation; etc.

Mr. Clark noted a recent report in *Foster's Daily Democrat* concerning a proposal regarding landlords in Durham. He explained that a landlord couldn't possibly watch all the students that rented housing, and said he would have no way of fully knowing the character of each tenant. He said the proposed process, where after one violation the landlord would be put on notice, and after two, could be fined, seemed totally unreasonable.

He noted that the Fosters article said the problem was with a minority of landlords, and said most landlords tried to be reasonable and address the problems.

Chair Sandberg explained that what was on the table was simply a report and recommendation from the Town Administrator, and said that when the Council got to this agenda item, it would talk about the ramifications of such an idea. He said that after completing deliberations, the Council could then, if it chose to do so, ask Administrator Selig to draft specific language, and present this for a first reading to the Council as a proposed ordinance.

He said the Council would then weigh that language and decide whether to pursue it. He noted that if the Council decided to move forward, it would hold a public hearing, where all citizens would have the opportunity to express their opinions with respect to the proposal. He said the Council would then consider all of the information that had been received. Chair Sandberg encouraged Mr. Clark to stay and listen to the presentation, and to continue to express his concerns as the process moved forward.

Edward Tillinghast, 33 Mill Pond Road, thanked the Council for taking up the student housing/landlord issue.

VIII. Committee Appointments

- A. Shall the Town Council appoint Catherine Leach and Lois Unterborn as alternate members to the Durham Public Library Board of Trustees for one-year terms, as recommended by the Library Trustees?

Councilor Van Asselt MOVED that the Durham Town Council appoint Catherine Leach and Lois Unterborn as alternate members of the Durham Public Library Board of Trustees for one-year terms said term to expire April 30th, 2005. The motion was SECONDED by Councilor Kraus and PASSED unanimously 9-0.

- B. Shall the Town Council appoint Catherine Leach as a regular member to the Historic District Commission for a three-year term?

Councilor Kraus MOVED that the Durham Town Council appoint Catherine Leach, 14 Fairchild Drive, as a regular member on the Historic District Commission for a three-year term, said term to expire on April 30, 2007. The motion was SECONDED by Councilor Niman, and PASSED unanimously 9-0.

- C. Shall the Town Council appoint Neal Ferris to the Integrated Waste Management Advisory Committee?

Councilor Kraus MOVED that the Durham Town Council hereby appoint Neal Ferris, 24 Woodridge Road, to the Integrated Solid Waste Management Advisory Committee. The motion was SECONDED by Councilor Grant, and PASSED unanimously.

IX. Unanimous Consent Agenda (Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote.)

Item A, concerning approval of a special event permit, was removed from the Unanimous Consent Agenda.

- B. Shall the Town Council approve a special event permit application submitted by New Hampshire Ducks Unlimited to conduct its “Ducker’s Day” event on Saturday, September 11, 2004?

- C. **Resolution #2004-13:** Authorizing the issuance of \$7,700,000 in Tax Anticipation Notes

Chair Sandberg noted the amount on the agenda was incorrect, and the correct amount was \$7,700,00

Councilor Kraus MOVED to approve Unanimous Consent Agenda items B and C. The motion was SECONDED by Councilor Van Asselt, and PASSED unanimously 9-0..

- D. Shall the Town Council approve a special event permit submitted by Bourgoin-Reardon Unit 94 American Legion Auxiliary to conduct its annual Memorial Day Parade to be held on Monday, May 31, 2004?

Councilor Smith MOVED to approve the request for a special use permit submitted by Bourgoin-Reardon Unit 94 American Legion Auxiliary to conduct its annual Memorial Day Parade to be held on Monday, May 31, 2004, contingent upon the resolution of questions regarding insurance coverage.

There was discussion about the insurance for this event. Administrator Selig said he believed there was insurance, but said a form noting this insurance had not been attached to the application.

Councilor Morong noted the Council had previously discussed the importance of submitting applications significantly more than 2 weeks before an event.

Administrator Selig acknowledged that the Town did ask groups to do this, but said it was not always easy to get them to comply, noted that they were, after all, comprised of volunteers.

Councilor Grant pointed out that the permit application was dated April 28, which was well ahead of time, and said perhaps there had been a Council scheduling problem.

The motion PASSED unanimously.

X. New Business

- A. Public Hearing on **Resolution #2004-12** Authorizing the Town to accept and expend a grant in the amount of \$22,062.00 from the State of New Hampshire Department of Safety, Bureau of Emergency Management to conduct a full-scale exercise for response to terrorist acts as outlined in the grant.

Administrator Selig said he was pleased to say that the Town had received this grant. He noted that this funding was available for training purposes because of September 11th, and said Durham was aggressive in applying for this grant. He said that all costs associated with the emergency drill would be covered by this grant. He said he would like Fire Department representatives to speak briefly about what the simulated response would entail.

Chair Sandberg asked why this resolution required a public hearing.

Administrator Selig explained that receiving this funding did not require an amendment to the operating budget, but said that because the Town had been awarded the grant, the Council needed to vote to accept and expend the funds for a specific purpose.

Chair asked if Resolution #99-19, previously adopted to grant specific authority to the Town Council to accept Items like this, granted authority to the Town Council to accept this Item without a public hearing.

Administrator Selig explained that Resolution #99-19 allowed the Town to follow the process outlined in State statute, which included holding a public hearing.

Councilor Smith MOVED to open the public hearing on Resolution #2004-12 authorizing the Town to accept and expend a grant in the amount of \$22,062 from the State of New Hampshire Department of Safety, Bureau of Emergency Management to conduct a full-scale exercise for response to terrorist acts as outlined in the grant. The motion was SECONDED by Councilor Grant.

Councilor Kraus asked if people speaking on this issue could also discuss possible coordination of this effort with the University.

The motion PASSED unanimously.

Deputy Fire Chief Mike Blake said this grant was especially important because it paid for training, and also noted that this was the Town's first opportunity to bring in outside people for training, and to see if its emergency policies and procedures would work in reality. Mr. Blake said Firefighter Jim Lapolla would provide detail about the planned training exercise.

Firefighter Lapolla said the drill was meant to overwhelm a variety of agencies – the Fire Department, the Police Department, UNH police, the Durham Ambulance Corps, the Whittemore Center, and the UNH Communications Center. He said they were trying to keep the scenario under wraps so it would be a true test, and invited Councilors to come and observe the training program. He said the Fire Department was quite pleased that it would have the opportunity to test the system that had been designed.

Chair Sandberg asked when the drill would take place, and was told it would occur in mid summer.

Councilor Smith asked if this exercise was restricted to a scenario that involved a terrorist act, as compared to other kinds of emergencies the Town could be involved in, Firefighter Lapolla said the State and Federal government had a very broad definition of what a terrorist act was, and explained that in the scenarios that had been developed for Durham, the main component involved possible chemical release of anhydrous ammonia at the Whittemore Center and the skating rink.

Councilor said he imagined that the Town would be restricted from using the training funding for emergencies that would be more probable in Durham than a terrorist act, such as a railroad crash. He asked if those kinds of scenarios were not on the table.

Firefighter Lapolla said not at all, but explained that the Fire Department wanted to insure that the first exercise was very plausible, and also wanted to keep the training event relatively manageable.

Councilor Smith also said that the previous year, the University had conducted an exercise dealing with an emergency situation, and said he recalled that a substantial part of the exercise was to test the way the leadership of the University organized itself in dealing with this.

Councilor Kraus asked if William Conk, the University's emergency planner, was aware of this exercise. When told he was not, Councilor Kraus suggested that he should be.

Firefighter Lapolla noted that this was not an exercise for planners, but was a test of the first line people. But he said he would contact Mr. Conk.

Councilor Needell asked if the funding agent would observe and evaluate the exercise.

Firefighter Lapolla said there would be evaluation of the various departments, and said the exercise could go smoothly, or there could be complete chaos.

Councilor Grant MOVED to close the public hearing on Resolution #2004-12 authorizing the Town to accept and expend a grant in the amount of \$22,062 from the State of New Hampshire Department of Safety, Bureau of Emergency Management to conduct a full-scale exercise for response to terrorist acts as outlined in the grant. The motion was SECONDED by Councilor Kraus, and PASSED unanimously 9-0.

Councilor Needell MOVED to accept and expend a grant in the amount of \$22,062 from the State of New Hampshire Department of Safety, Bureau of Emergency Management to conduct a full-scale exercise for response to terrorist acts as outlined in the grant. The motion was SECONDED by Councilor Kraus, and PASSED unanimously 9-0.

Councilor Smith asked if the event imposed any financial cost on the Town, Administrator Selig said it did not.

Councilor Van Asselt said he was familiar with a similar training event that had taken place in Rochester, and said it was essentially a testing of a system's ability to respond, regardless of what the particular incident was. He said this was a very important exercise for Durham.

The motion PASSED unanimously.

Chair Sandberg asked Deputy Fire Chief Blake and Firefighter Lapolla to keep the Council posted on the training exercise.

B. Quarterly Financial Report – Paul Beaudoin

Business Manager Paul Beaudoin summarized the information in the Quarterly Financial Report, providing a variety of data on Revenues and Expenses for the General Fund, the Water Fund, the Sewer Fund and the Capital Fund.

Questions/Comments about the General Fund

Councilor Needell asked if the Town had received reimbursement funds from UNH. Administrator Selig said that this reimbursement money came into the General Revenue Fund. There was additional discussion about this.

Councilor Van Asselt said it was good that the anticipated 17.8% increase in health insurance costs would only be about 8%, but asked if the Town had looked at alternatives to the NH Municipal Association. Administrator Selig said the Town had looked at alternatives.

Councilor Niman noted that Administrator Selig had spoken about changing the Town's dispatch services, and asked if a decision had been made about this.

Mr. Beaudoin said the report on this was almost complete, and said the Town would approach UNH first before deciding on how to proceed.

Councilor Grant spoke with Mr. Beaudoin about the figures in the Financial Report concerning the fund balance.

Questions/Comments about the Water Fund and Sewer Fund

Mr. Beaudoin said the problem with the concrete floor of one of the pools at the Wastewater treatment plant was totally unanticipated, and said that if the cost went beyond the total appropriation of \$2.4 million, additional funds would have to be raised and would probably have to come from the capital reserve fund for the Sewer fund.

Councilor Grant noted there was a difference in the amount of revenue received for the Sewer Fund as compared to the Water Fund, and asked why this was the case.

Mr. Beaudoin explained that reimbursement from UNH had come in for the Sewer fund.

Councilor Van Asselt said the Quarterly Report was very well presented, and made note of the reference in the report to agreements with UNH. He said he was curious as to which agreements would be addressed.

Mr. Beaudoin said the Town needed to get the most important agreements cleaned up first: the water system agreement, involving an issue that was extremely complicated; the fire service agreement; the communications agreement; and the Forest Park agreement.

Councilor Van Asselt said he was delighted to see the Town pushing the issues of fair and equitable agreements and reasonable reimbursement for Town expenses, and said he hope that each month one of these agreements could be worked out and resolved.

Questions/Comments about the Capital Fund:

The Council discussed that the cost for reconstruction of the Woodridge Tennis Courts, as well as the cost of a new cubic yard loader was lower than what had been budgeted for each of them.

C. Discussion Regarding FY 2005 Town Budget and guidelines

Councilor Grant said Councilor Niman had requested guidelines at the February 16th meeting for the Fiscal 2005 Operating Budget, and he had responded with a memorandum for Council members. He said this in no way implied criticism of the Town Administrator or Business Manager, but said he and Councilor Niman thought that before they prepared the budget for 2005, the Council should have the opportunity to discuss the broad guidelines, and anticipate what might be coming forward.

Councilor Grant noted a budget projection had been developed a few years back stretching out 10 years, which included various scenarios. He said his memo provided details of his own thoughts on budgetary issues, and raised 6 guidelines for consideration. He said he was not intending to micromanage the staff, but was intended to give the Council some idea of what would happen when they received the budget proposal in the fall. He also said it was intended to give the Administrator and staff some feedback from the Council before the budget process began.

Chair Sandberg asked Town Administrator Selig how the Council could help with the budget process.

Administrator Selig said he and Mr. Beaudoin had been very deliberate in trying to make the budget process as simple as possible, and said part of this was creation of the fiscal forecast. He provided additional description of the way Town staff had approached the budget process, and discussed details of the budget.

He said the Town had combed through the budget over the past few years and had reduced large amounts of excess that had been stored in it, so that it now was showing real costs that reflected what it cost to maintain certain levels of service. He said the question at this point was what these levels of service were, and what levels the Town was willing to provide.

He said he and Mr. Beaudoin had tried to streamline the budget process so Council members could focus more on the public policy issues of what services should be provided. He said going forward, it would be helpful for the Council members to focus their questions specifically on these services, and provided examples of these various services and questions that could be asked concerning them.

Councilor Kraus said the current tax rate didn't quite reflect what it should, so that citizens would really feel what it cost to run the Town. He said the Town was living beyond its

means, and said the real question was how long it could do this, and should do this. He said Administrator Selig had raised excellent questions such as what it actually cost the Town to plant flowers, etc., and said that residents didn't really know what they were actually paying for with these kinds of services because they essentially had a rich uncle (the fund balance) to cut the pain.

Administrator Selig said the basic question regarding the fund balance was what an acceptable level was, and said that depending on whom one asked, the answer was 1-2 million dollars. He said the Town had targeted a fund balance of \$1.5 million, and had tried to increase it over time. He said the purpose of the fund balance was to ensure the Town would have an adequate cash flow, and to provide a buffer in difficult years by taking the edge off what otherwise would be an unacceptable tax hike. He said the fund balance could also be used as a savings mechanism, but said the funds were liquid, so that if the Town needed to buy something like a new vehicle, it was acceptable to take some of the fund balance and put it toward this.

Administrator Selig said he did not look at the fund balance as being a slush fund to mute otherwise unacceptable increases. He said he thought of it as something the Town didn't want to spend, and only would use when the Council appeared to want a certain level of service, when a tax increase would not be acceptable. He said that for 2004, he had gone back several times to cut department funds before thinking of using the fund balance, and had projected adding \$100,000 a year to it.

Administrator Selig noted there was very little in the CIP to build out infrastructure for economic development, and said the whole topic was so amorphous at present that it was hard to quantify. He also said it was important to be conservative concerning revenue estimates.

Councilor Van Asselt discussed his response to Councilor Grant's memo. He said the scenarios used were the traditional ones, but said there were other ways to look at this. He said he liked the reduction budgeting idea, where department heads were asked to provide the same level of service, but reduce the budget to achieve this. He said it was difficult to do but was an exercise worth doing. He also said he liked the idea of a sunset budget. Councilor Van Asselt said the issue of new revenues was key, and the Council needed to support Town staff in this area, especially concerning enlarging the economic base and getting payment in lieu of taxes from the University.

Councilor Needell noted much of this was new to him, but said it would be enlightening to see what would happen to the tax rate if the fund balance was maintained.

Administrator Selig said that during the budget process, a number of different scenarios had been provided. He said his point was to ask what it would take in fund balance to maintain a 4 percent increase going forward, and what would that do the fund balance.

Councilor Needell said the fund balance shouldn't necessarily be used to hold taxes down, and was more concerned about the Town living beyond its means in the long-term.

Chair Sandberg said it would be useful to put out different spreadsheets, with different tax rates, representing different models to give the Council a feel for this. He said Town staff

was looking for direction, and would like to present the Council with a budget on November 1st that it would want, and would be ready to approve. He said the staff needed answers to questions such as how important it was to stay with the \$ 1.5 million fund balance, or what services the Council would want to cut.

Chair Sandberg noted the Council had asked Town staff to work diligently to increase revenues, which could change the budget. He said he therefore didn't see the budget putting the Town on the track to oblivion.

Chair Sandberg called for a break at this time.

The meeting reconvened at 9:30 pm.

Chair Sandberg noted there were still other agenda items to be covered that evening, and asked how the Council would like to proceed.

Councilor Grant said there were items concerning the budget that deserved further consideration at another meeting. But he said that in order for this initial budget discussion to have some significance, he would like to find out if there was agreement that a 7% increase in total expenditures in Fiscal year 2005 was appropriate, and if there was agreement that projecting the property tax rate to a 4.2% increase was appropriate. He noted that other towns talking were talking about increases, but said a 7% increase seemed high, especially considering the fact that there had recently been a property revaluation.

Councilor Smith said he found those figures somewhat too high, and they were not simply because of the revaluation. He said the figures would substantially exceed the cost of living increase, and said while the Town was fairly wealthy, this wealth was not spread evenly among everyone. He said the current taxing system was troubling for him because there could not be special taxing mechanisms for those persons on fixed incomes, etc. He said he was therefore constantly trying to keep the figure as low as possible. He also said he was generally not comfortable with using the fund balance, except in extraordinary circumstances.

Councilor Niman said he thought these projected numbers were low, because the Land Protection Working Group was doing an amazing good job of finding conservation land so much of the bond might be spent in a relatively short period of time. He said an important policy issue was whether that increase in the tax rate would be over and above the 4.2% increase projected, or would that be something that should be included.

Councilor Niman said he had never seen the list of Town services with dollars associated with them, and suggested it would be good for Council members to see this. He noted that moving to the 24-hour shift at the Fire Department was saving money by reducing overtime hours, and said he hoped this was a trend. He said he wondered how many other changes like this could be made in order to save money, and asked who in Town was specifically charged to think about this. He said he would like the Council to have a process for bringing these kinds of ideas forward. He said he was not committed to a \$1.5 million fund balance, but said he would like to see the Council put a range on this, and ask the Town Administrator to work within this range.

Councilor Kraus expressed concern about revenue projections, and said he personally didn't think the economy would be doing as well as is projected. He said he was concerned that the Town would have to cover expenses formerly paid for by the federal government, and said it was important to prepare for this possibility.

Councilor Morong noted that he had expressed his concern about the fund balance during the budget season. He said he would like to see more belt tightening in Town departments, and also said the Town needed to be more aggressive in terms of revenues. He also said he was frustrated to see so much money going to the School district, and yet the Town could do so little about that.

Councilor Grant suggested continuing discussion of this item at the next meeting, and try to wrap up that discussion with guidance to the Town Administrator.

Chair Sandberg said this had been an important conversation, and said it would be worthwhile to mull over the various issues and come prepared to give some summaries at the next meeting.

Administrator Selig agreed it had been a good discussion, but said he was not sure it had been especially helpful. He said developing various scenarios took significant time, and said he would prefer to see the Council provide some firm direction. He said it was not enough to say 7% was too high, and said the statement needed to be backed up with where to cut the budget.

There was additional discussion about this. Chair Sandberg said the Council would address this whole issue in more detail at the next meeting.

D. Shall the Town Council endorse the recommendation by the Town Administrator concerning rental housing ordinance schemes?

Chair Sandberg noted that an extensive report and recommendations had been developed by Administrator Selig. He said Mr. Selig was proposing that the Council direct him to move forward with drafting a disorderly house ordinance.

Councilor Van Asselt MOVED to direct the Town Administrator to move forward with drafting a disorderly house ordinance. The motion was SECONDED by Councilor Harris.

Councilor Harris asked if the 13 page summary could be provided to members of the public.

Administrator Selig provided background information on the development of the various rental housing ordinance schemes. He said the three schemes that had been developed were: a disorderly house ordinance; a rental registry inspection type of ordinance; and a large gathering/assembly permitting ordinance. He provided details about these various approaches. Administrator Selig recommended pursuing the disorderly house ordinance, in order to focus on the houses that were the most problematic, and noted that the Rental Housing Commission was also recommending this ordinance.

Councilor Grant MOVED to continue the meeting beyond 10:00 pm. The motion was SECONDED by Councilor Kraus, and PASSED unanimously.

Councilor Kraus concurred that this was a great piece of work, and said it certainly seemed that the effort needed to be focused where the problems were. He said applying a blanket kind of ordinance that covered everyone would cause the good landlords to have the same burden as the bad landlords, and it seemed reasonable to him to move in this direction.

Councilor Needell asked how the disorderly house might be defined, and what the triggering level would be.

Administrator Selig said there would be some discretion in terms of enforcement, noting this was a concern of landlords. There was additional discussion about the triggering process. He said there could be any number of issues that qualified as disorderly, - noise problems, out of control parties, criminal activity, over-occupancy, trash, etc., and provided detail about the way the ordinance would work.

Councilor Morong said they had spent a lot of time on this issue at the Rental Housing Commission. He said the common denominator was landlord involvement, and said the Commission had felt that if this couldn't be obtained voluntarily, a good first step was to require landlord involvement. He said this approach would target problem areas, and could also be applied as "fires" broke out.

Councilor Smith said the question was whether this approach would work. He said if a landlord wanted to go into the rental housing business, his business should be done in a way that was consistent with proper standards in the Town. He said if a landlord had problem tenants, it meant he wasn't managing his property properly. But he said adequate enforcement was the key, and said an important question was therefore whether the disorderly house ordinance would succeed if there were not a rental registry to raise the revenue needed for enforcement. Councilor Smith asked if the chances were sufficiently high the Town would see substantial improvement as result of this ordinance, or was it instead just a shot in the dark.

Administrator Selig said the Town would see substantial improvement in the more problem houses, but said Durham would still be faced with a young population that would impact neighborhoods.

Chair Sandberg asked what the argument was for not doing all three ordinances.

Councilor Harris said this was likely to be a concession to the Rental Housing Commission, which had requested the Town do one, but not all three of the ordinances to see if it worked. She said the Town could certainly have the others ordinances waiting in the wings if needed.

Councilor Kraus suggested they should start with the disorderly house ordinance, and see how successful it was. He noted that the landlords generally didn't set out to have bad tenants, and said the Town needed to have a process that helped them when this happened.

Councilor Grant noted Dr. Tillinghast's comments that evening, and said it was long past time for the Town to take steps like this to bring things under control, and to make it clear that there were standards. He noted that there were other towns with students that didn't have rioting behavior.

Chair Sandberg asked what the timeline would be for this, and Administrator Selig said the goal was to have the first draft of the ordinance at the first or second Council meeting in June, and to adopt the ordinance by the fall.

Councilor Harris said it was important that landlords be given enough time to follow the process in the ordinance, so they could rent to reasonable students.

Councilor Van Asselt said he had no sympathy for landlords who had problem tenants. He said it was not right to bring back just this one ordinance, and to leave out the other important issues. He said it was a partial approach, and said that in some ways, the occupancy of more than 3 unrelated people was a bigger issue. He said he was concerned that it would not be addressed by the disorderly ordinance.

Chair Sandberg noted that Councilor Van Asselt could amend the motion if he wished. He said that the motion before the Council was the disorderly house ordinance, but said the rental registry ordinance could be included as an amendment.

Councilor Niman said he agreed with Councilor Van Asselt, but said he thought the problem was not the landlords, but rather was a problem of culture and community. He said they all had a responsibility to provide safe housing to students, but said at present students didn't feel they were a part of the community because they were not being treated well in the community. He said that because they were often shoehorned into housing units, they didn't feel they had to act appropriately. He said he believed the problem was landlords who seemed to be exploiting students, and said he was therefore very much in favor of a rental registry.

Councilor Niman noted the block party issue at the previous meeting, and the Town resources that were needed to deal with this. He asked if such a party could be prevented with this ordinance, or would they still have to send large numbers of police officers out for events like this.

Administrator Selig said the assembly permit ordinance would have a more beneficial effect for the largest number of Durham residents than any other approach, but said there had been negative input about it from a number of members of the community. He said such an ordinance would allow police to immediately respond when they saw such a gathering, and would prevent having to get into the disorderly house issue. But he said he was hesitant to champion such an approach before doing something less.

Councilor Harris said this was a perfect time for the Council to collectively decide on this. She said she agreed with Councilor Van Asselt, and said she was in favor of moving forward with drafting of all three ordinances at the earliest possible date.

Councilor Harris moved to amend the motion, to include directing the Town Administrator to draft a disorderly house ordinance, an assembly permit ordinance, and a rental registry ordinance for future Council consideration. The motion was SECONDED by Councilor Niman.

Councilor Smith asked whether there was a legal reason why the part of the motion amendment dealing with large gathering/assembly permits would apply to all properties in Town. Administrator Selig said there was a legal reason, and provided details on this.

Councilor Smith said there was an overwhelming social problem in Town stemming from a high concentration of young people, some of who didn't act responsibly. He said he wanted to see the case law that said a town, in order to deal with that explicit problem, also required that a homeowner get a permit in order to hold a wedding.

Councilor Smith said he supported the amendment to the motion, stating that at the minimum these ordinances should be drafted. He said he understood wanting to get something passed, and getting the cooperation of landlords, and noted he might end up supporting one ordinance. But he said one way to keep the problem on a very short leash was to consider three ordinances. He said he understood that responsible landlords wouldn't want this, but said the problems had gone on for too long.

Councilor Needell said he was not prepared to endorse all three ordinances yet because there were important questions concerning each of them.

Chair Sandberg provided clarification that the motion was only in regard to drafting of the three ordinances, and said there would be a lengthy process, including public hearings, to consider them independently.

Councilor Morong said this approach was likely to start a war with the landlords. He said adopting one ordinance would be a good start, and said the others ordinances could be brought forward as needed.

Councilor Niman asked if certain events could be exempted from a regulation on large gatherings.

Administrator Selig said he understood it would have to apply to all large gatherings or none. He said that if the Town tried to work with a disorderly house ordinance, it would have the support of the landlords, but if the Town moved forward with a rental registry, it would have all out war with the landlords, and would not get cooperation. He said if the Town moved forward with a large gatherings regulation, the fallout from this would create a lot of resistance, and substantial resources would be needed to deal with this.

Councilor Kraus recommended the Town should start with the disorderly house ordinance first, and see what happened.

Councilor Van Asselt said the sentiment of the Council showed there was an interest in working with these other ordinances. He asked Administrator Selig if he could move forward with the disorderly house ordinance but also work on the other two ordinances, so that a few months from now, he could come back to the Council with them.

Administrator Selig said that if the Council wanted to move forward with several schemes, it should vote on this now, and if not, he would focus on the disorderly house ordinance.

There was additional discussion among Council members about what the motion should include. Councilor Harris said she was appreciative of everyone's concerns, but also said Administrator Selig needed to be given the opportunity to work cooperatively. She said she would therefore like to withdraw her amendment to the motion.

Chair Sandberg said this could not be done, and the Council would have to vote on it.

Councilor Niman said he was skeptical that landlords would self regulate, but agreed the Council should give the disorderly house ordinance a try.

Chair Sandberg said the voices not heard that evening were those of the residents of neighborhoods, noting much of the discussion on the student problems had come from residents. He said it had taken the Town a year to get this far, but said he believed Town staff was now in a position to draft three ordinances. He said this did not mean the Council would pass them all. He said they would be useful to have as ammunition on the shelf, but said at present he was not in favor of loading the gun. He said that the Council should move forward with the first ordinance, as recommended by the Town Administrator, but would be missing the opportunity to not have the staff, which was fully in tune with this issue, draft the other two ordinances. He said they would hear from the landlords and their attorneys at the public hearings, but said he was certain they would also hear from other residents of the Town.

Councilor Niman said he would have agreed with Chair Sandberg earlier in the evening, but said a compelling argument against this was Administrator Selig's warning that addressing all three ordinances would mean war with the landlords and could affect negotiations with UNH. He noted that revenue generation was at the top of his list, so was willing to make peace for the time being if this would bring more revenue into the Town.

Councilor Morong said as a resident of Durham, he wanted nothing more than to stop the problems. He said he thought the disorderly house ordinance was a good start, and said landlords understood what was down the road if this approach didn't work. He said they didn't need to see a draft of the other ordinances sitting on the shelf to know the gun was loaded.

Councilor Smith said he did not hear Administrator Selig say that efforts to reach agreement with UNH would go down the drain if the Council passed this amendment. He said his decision to vote against the amendment was based on the fact that he believed the discussion that evening had made it very clear that landlords would have 2- 3 months, and if there was not evidence of major progress, he would move to pass those other ordinances, fast.

Administrator Selig noted money had been budgeted for a second code enforcement position, and implementation of a permit system. He also said if the Council moved down the path of all three ordinances, this wouldn't necessarily prevent dealing with UNH, but it would be a distraction. He also suggested that if the Council was eager to have an impact on the problems, he believed the assembly permit process was the most effective way to get at the problems

Councilor Smith asked if he thought that if the Town took this approach, the war with landlords would be of the same size.

Administrator Selig said he believed they would be reasonably supportive of this approach, and said in some ways it might make it easier for them because they would have the Town as an ally. He said a larger number of complaints resulted from large gatherings, and said if the Council wanted to take the gloves off, the assembly issue was the way to go. He said by moving in that direction, the Town would be trying to create a new culture in Durham, of smaller gatherings of people, that were more spread out. He noted the students were likely to hate this approach because it would be specifically targeting them.

There was discussion on how to proceed in terms of the motion and amendment on the table.

Councilor Van Asselt called the question to cease discussion on the amendment to the motion, and this PASSED, with Councilors Smith and Needell voting against this.

The amendment to the motion FAILED 0-9.

Councilor Needell called for a point of order. He said before amending the original motion again, the option existed to pass the motion concerning the disorderly house ordinance, and then to create a separate motion for the assembly permit ordinance. He said if they were kept together, he would vote against the motion.

Councilor Smith moved to amend the original motion to add “assembly permit ordinance”. The motion was SECONDED by Councilor Van Asselt.

Councilor Smith said he did not believe an assembly permit ordinance would have to apply to all large gatherings in Town, and said he would like to see data regarding this.

Chair Sandberg asked why Councilor Needell would vote against putting the two ordinances together in one motion.

Councilor Needell said he was not convinced that the large assembly permit ordinance was a good idea. When asked why, he said the breadth of the ordinance would create a lot of questions as to how it would work.

Administrator Selig said he didn't have an answer to those questions.

Councilor Smith said raising questions like this was perfectly reasonable, and noted some questions might ultimately cause the Council to turn the ordinances down.

Councilor Morong said he would not vote for more than one ordinance at a time, because this would send a bad message.

The motion to amend the original motion PASSED 6-3, with Councilors Morong, Needell and Niman voting against it.

Councilor Needell said by lumping the two ordinances together, the message here was too heavy handed, and Councilor Morong said he agreed.

Councilor Harris said she didn't see this as lumping the ordinances together, and said that passage of the motion meant only that Administrator Selig would be drafting the ordinances.

Administrator Selig restated that his recommendation to the Council had been to authorize drafting of the disorderly house ordinance. But he said that if the Council wanted to do more, the next step he would recommend would be an assembly permit ordinance.

Councilor Morong said regardless of the final vote, the Council was sending a message to the landlords, the University and to the community, and asked if it was the one it wanted to send.

Councilor Harris asked if the message being sent would be any different if motions for each of the ordinances were voted on separately, and both passed.

The motion as amended, PASSED 5-4, with Councilor Niman, Needell, Kraus, and Morong voting against it.

Councilor Kraus MOVED to adjourn the meeting. The motion was SECONDED by Councilor Grant, and PASSED 7-2, with Councilors Niman and Needell voting against it.

The meeting **ADJOURNED** at 10:30 pm.

Victoria Parmele, minutes taker