

DRAFT

**MONDAY, AUGUST 2, 2004
DURHAM TOWN HALL -- COUNCIL CHAMBERS
TOWN COUNCIL MINUTES
7:00 PM**

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

MEMBERS ABSENT: Arthur Grant; John Kraus

OTHERS PRESENT: Todd Selig, Town Administrator; Robb Dix, Town Assessor; David Kurz, Police Chief

I. Call to Order

II. Approval of Agenda

Councilor Smith MOVED to approve the Agenda as submitted. Councilor Morong SECONDED the motion.

Administrator Selig noted that the Agenda listed the July 12, 2004 minutes, and said this should read the July 19, 2004 minutes.

Councilor Smith MOVED to amend the Agenda as stated above. The motion was SECONDED by Councilor Morong, and PASSED unanimously.

The Agenda as amended PASSED unanimously.

III. Special Announcements

IV. Approval of Minutes

June 14, 2004 corrected minutes

Councilor Morong MOVED to approve the corrected June 14, 2004 minutes as submitted. The motion was SECONDED by Councilor Van Asselt.

Additional Minutes corrections:

Page 8, 1st full paragraph, should read "...he was more pessimistic about..."

Page 11, for the motion on top of page, the vote should read 7-0-1 because Councilor Kraus was absent from the meeting.

Councilor Smith MOVED to approve the amendments to the corrected June 14, 2004 minutes. The motion was SECONDED by Councilor Needell and PASSED unanimously.

The corrected June 14, 2004 minutes, as amended, PASSED unanimously.

June 21, 2004 Minutes

Councilor Morong MOVED to approve the June 21, 2004 minutes as submitted. The motion was SECONDED By Councilor Smith.

Page 13, motion at top of page, should read "...the Land Protection Working Group and authorize the Conservation Commission..."

Councilor Smith MOVED to approve the amendments to the June 21, 2004 minutes. The motion was SECONDED by Councilor Morong, and PASSED unanimously.

The June 21, 2004 minutes, as amended, PASSED unanimously.

July 19th, 2004 Minutes

Councilor Morong MOVED to approve the July 19, 2004 minutes as submitted. The motion was SECONDED by Councilor Van Asselt.

Page 1, Annmarie Harris should be listed under MEMBERS ABSENT, not MEMBERS PRESENT
Page 3, 3rd paragraph from bottom, should read "Councilor Smith asked for a meeting of the entire Council with Mr. Smith and Mr. Mitchell ..."

Page 8, 4th paragraph, should read "...as to how much the library would cost, and also how much revenue the land would produce if the library were put someplace else."

Page 10, 5th paragraph from bottom, should read ".....said his memo asked those questions, and more, including the library trustees' second and third choices."

Councilor Smith MOVED to approve the amendments to the July 19, 2004 minutes. The motion was SECONDED by Councilor Van Asselt, and PASSED 6-0-1, with Councilor Harris abstaining because of her absence from this meeting.

The July 19 2004 minutes, as amended, PASSED unanimously

III. Report of Administrator

- Administrator Selig said the Durham Police Department and UNH would be holding a workshop on August 11th where there would be a presentation on partnering for a safer community. He said the goal was to expose police, school personnel and other government service providers to issues of a diversified community, and said members of the community were invited to attend.

- Administrator Selig announced that approximately 100 compost bins had been delivered to members of the community, and noted the various benefits of using them.
- Administrator Selig said the UNH pool would be closing for 7-10 days, starting August 6th, in order to repair a broken pipe that had caused some leakage from the pool.
- Administrator Selig said the Town was planning for Household Hazard Waste Day, which would be held on August 21st. He said residents should call the Public Works Department to reserve space for the household wastes they planned to bring.
- Administrator Selig said that the new playground equipment would be installed at Woodridge Park on September 9th, and said that volunteers from Timberland Corporation would be there to assist with the installation. He said members of the public were also welcome to assist, and asked them to contact the Public Works Department if they were interested in doing so.
- Administrator Selig reminded residents that the Farmers Market would continue to be held at the Pettee Brook parking lot every Monday from 2:30-5:30, through October 4th.
- Administrator Selig said there were still a number of vacancies on several Town committees, - the Economic Development Committee, the Historic District Commission, the Planning Board, the ZBA, and DCAT, and provided details on the vacancies for each of the committees.
- Administrator Selig noted there would be a presentation on the *Durham, Its Where You Live* project by UNH representatives during the Public Comments portion of the Council meeting.
- Administrator Selig said the Durham-Great Bay Rotary Club would be announcing the sum of money that had been raised as a result of the July 4th event.

VI. Reports and Comments of Councilors

Councilor Smith called attention to the fact that Councilor Harris' daughter would be participating in the Olympics. He also noted that Chuck Cressy was in the audience, and in conjunction with this spoke about the great work done by the Durham-Great Bay Rotary Club for the July 4th celebration.

VII. Public Comments

Gregg Sanborn, UNH President's Office, spoke about the *Durham: Its Where You Live* Program. He said the program had come about as a result of conversations that had developed as a result of the student disturbances in the past few years. He noted that Dick Houghton, Houghton's Hardware, had been instrumental in getting the project off the ground, by expanding what began as small discussion group into a larger group which was planning specific ways to connect people together.

Mr. Sanborn said that approximately 2000 alumni and about 600 faculty lived in Durham, and the idea was to get them to connect with students and provide support while also helping students to develop a sense of respect for the community. He said the group had expanded to include landlord Paul Berton, as well as fraternities and sororities, and said the program that had been developed had tremendous potential.

Jennifer Murphy, UNH VP for Communications and Marketing, said the program was a collaborative effort, and said all those involved were making sure that students didn't think this program was one that was imposed upon them. She said that students were integrated into planning the program, and said the first portion of it would be launched with move-in day, when teams of University students and community members would be available to answer questions. She also said that University Day would be open to members of the community.

Charlie Knuth, UNH Student Body VP, spoke briefly about the *Durham: It's where you live* program, and noted that it had engaged students who were not typically actively involved in such efforts.

Chair Sandberg said he looked forward to seeing this program develop, and wished the participants great success with the effort.

Dave Leach, President of Durham-Great Bay Rotary Club, said the July 4th day had been a great show for young and old, and thanked everyone who had been involved in the effort.

Fire Chief Ron O'Keefe, VP of the Durham-Great Bay Rotary Club, thanked Town staff for their help, and also noted the important role that corporate sponsors had played in the effort.

Chuck Cressy, Durham-Great Bay Rotary Club, said the Rotary Club had met its financial goal for the event, noting that corporate sponsorship was key to this success, and said the Rotary Club would reach out even more to the business community next year.

Chair Sandberg thanked them all for their work, and said they had done a great service to the Town in creating a greater sense of community with the celebration.

Bill Schoonmaker, Durham Business Association, spoke about the *Durham: It's Where You Live* initiative. He said it looked like an exciting effort, and said the MainStreet Program was totally behind it.

He also said he had the utmost faith that Chief Kurz and others were working toward a good solution to what had been a difficult problem downtown concerning student loitering. But he provided details on why he was not sure the proposed ordinance was the right solution.

William Hall, Smith Park Lane, spoke about how he had been personally impacted by the student disturbances. He said he had never seen anything like this when he lived in Cambridge, MA, and said he hoped the UNH program would help reach out to these students. He also said he agreed it was important not to push the problems downtown out to the residential areas.

Mr. Hall also spoke about Smittys, including the cost of the property. He said the Town's offer of \$750,000 was short, which was why perhaps Smitty was not getting back to the Town as soon as would be desired.

Chair Sandberg noted that negotiations for real estate purchases were handled in a confidential way. He said there might be room for a more thorough understanding of what was going on with the Smith property, but said this should not be discussed within the public domain at that time.

Chuck Cressy said he was not in favor of Ordinance #2004-06 because he didn't agree with restraint of trade. He said the problem wouldn't go away by closing businesses, and in fact would only move the activity down to Store 24 and Young Drive. He said the Town should try other things first, including asking UNH police to take over. He noted that people who came to these restaurants most likely walked there, an option that parents were probably happy about, and said this was certainly better than having them get into their cars to get food.

Julian Smith, Packers Falls Road, said he wished to endorse what others had said about the proposed Ordinance #2004-06. He said he had rented to students for more than 30 years, and knew that when people in Town complained about students, they moved further out of Town. He said the Town should not push these problems away from the center of Durham.

Mr. Smith also spoke about the current assessment underway by the Town of the economic potential of the Town Hall site. He said he was not speaking as a Trustee, but said it was amusing, and also a bit annoying, that faced with a proposal about the library, that the Town was first looking at the economic development potential of the proposed site for the library. He said input from the Town was needed as to whether citizens wanted a library behind Town Hall, and said he hoped the economic review was not a delaying tactic to put off making a decision about the library. He also said he thought the idea of doing a land swap was stupid.

Roger Hayden, President of the Durham Business Association, spoke briefly about the successes of the Association since its inception 9 years ago, and said it was very encouraging to see the relations between the Town and businesses getting better. He complimented Chief Kurz and his department for the outstanding work they were doing, but said he was against Ordinance #2004-06. He said that control of the free market was not appropriate, and said the Town should find another way to solve the problems downtown.

Ed Valena, 9 Bagdad Road suggested keeping the Public Hearing on Ordinance #2004-06 open until the UNH students return, and then involving them and the UNH administration in discussion about the ordinance, in order to keep communication at a high level.

William Hall noted that Councilors might be unaware of some of the give and take on the gas stations, and said his comments on Smitty were meant to clarify the situation.

Councilor Van Asselt asked if other Durham residents were being involved in the *Durham: It's Where You Live* effort. He said there was another audience of Durham residents out there, who didn't fully understand what went on at UNH, and who were not understood by the students. He said he hoped the program could address the need for communication between students and those residents of Durham.

Mr. Sanborn said part of the program's goal was to engage the neighborhoods, and as many residents of these neighborhoods as possible.

Councilor Harris asked if Mr. Sanborn had been provided with a list of the Chairs of the various neighborhood associations that would have an interest in the program. Mr. Sanborn said he did not have one, but would like to get one.

VIII. Unanimous Consent Agenda

- A. **Resolution #2004-15:** Authorizing the acceptance of private donations and unanticipated revenues Received by the Town of Durham between January 1 and June 30, 2004.

Administrator Selig provided details of the private donations and unanticipated revenues received during this time period.

- B. Shall the Town Council approve an abatement request, as recommended by the Town Assessor and Town Administrator, for Smithfield Construction on condominium land that is now owned by all the unit owners?

Councilor Van Asselt MOVED to approve Unanimous Consent Agenda Items A and B. The motion was SECONDED by Councilor Smith, and PASSED unanimously.

IX. Committee Appointments

Administrator Selig said that two residents, Mark McPeak and Peter Ventura, had expressed an interest in serving on the Economic Development Committee.

Mr. McPeak and Mr. Ventura each spoke briefly about their interests in serving the Town on this committee.

Councilor Morong noted the amazing depth of volunteer resources in Durham. He encouraged other citizens to volunteer for the various Town Boards and committees, and said the Town could really use their experience.

Councilor Smith MOVED to appoint Mark McPeak, 4 Glassford Lane, and Peter Ventura, 71 Edgewood Road, to the re-established Economic Development Committee. No term expirations are assigned to these appointments. The motion was SECONDED by Councilor Morong, and PASSED unanimously.

Administer Selig announced that Councilors Niman and Morong had volunteered to serve as Council representatives on the Economic Development Committee.

Councilor Smith MOVED to appoint Councilors Niman and Morong as Council representatives to the re-established Economic Development Committee. No term expirations are assigned to these appointments. The motion was SECONDED by Councilor Needell, and PASSED unanimously.

X. Presentation Items

A. Report on the Trustees of Trust Funds and Cemetery Committee – Bruce Bragdon John deCampi, Craig Seymour

The trustees summarized the Trust Funds report, and said more detail on this could be provided for Council members if needed. It was noted that the Town's Trust funds were in the process of being shifted to Citizens Bank, where they should yield a greater return.

Chair Sandberg asked for an estimate of how much revenue was being generated by the trust funds. Mr. DeCampi said the return was less than a percent, which was one of the reasons for switching to Citizens Bank. He said the trust funds earned less than \$1000 a month, and explained that they were expended for things like purchasing flowers to be planted around Town, and to maintain the Town's graveyard and cemeteries

Mr. Seymour reported that there had been 14 burials in 2004, and noted that several lots had been purchased, in part because more people were turning in their lots. He said the idea of large family lots seemed to be going away, and said the Town needed to start thinking about long term needs, including re-designing the cemetery to accommodate smaller lots, and possibly expanding the acreage of the cemetery while this was still possible. He said he would like to schedule a meeting with the Council to address these issues.

Councilor Van Asselt noted that there were some dead arborvitae trees at the cemetery, and there was discussion about the fact that they might need to be replaced, and that some other landscaping work also needed to be done.

Mr. Seymour noted that the Durham-Great Bay Rotary Club had brought a crew out to cut brush and clean up leaves, and said he was always looking for more volunteers for this work, as well as to work on the database.

Councilor Smith noted that the previous fall, a program for incoming freshmen had sent students to clear brush at Mill Pond, and suggested that Mr. Seymour enlist the assistance of students from this program.

Mr. Seymour said that some students from that same program had done some work on the database, and said that hopefully they could do the same this year.

Dr. Bragdon noted that the Trust Fund's investments had to be fairly liquid, and also had to be insured so that the principal was always preserved. He noted that only the interest could be spent, and said that it could not be put back into the fund.

B. Report on the Pease Development Authority Noise Committee

Craig Seymour provided background information on the hotline that was available for citizens if they had concerns about noise related to Pease. He said the hotline got 6-12 complaints a month, a few of which came from Durham, mostly from people along Great Bay. He said the noise level was generally low, but said problems sometimes resulted from Pan Am jets taking off, or from transient jets that didn't know the proper procedure for approaching the runway.

Mr. Seymour also said some noise came from work done on engines, which generated ground level noise, and said that Pease had built berms and other sound enclosure systems to minimize this type of noise. He said personnel at Pease monitored noise levels carefully, and went out of their way to understand and address concerns that were raised.

Councilor Needell asked if any changes were expected at the airport in the near future. Mr. Seymour said Pease alerted the Committee when it knew a change was coming, for example, the airlift from the Middle East. He said that long-range increases were not anticipated.

C. Quarterly Financial Report Paul Beaudoin

Mr. Beaudoin reported to the Council on revenues and expenses for the General Fund, Water Fund, Sewer Fund, Parking Fund and Capital Fund through July 21, 2004.

Councilor Van Asselt noted that Town staff were working on three agreements: Fire, Water, and Forest Park, and asked for an update on the negotiations.

Mr. Beaudoin said he was working with UNH regarding the finer details of these agreements, and noted that the main focus of negotiations had been the Water agreement. He provided some detail about the Forest Park negotiations, and also said he would be working on a communication service agreement.

Councilor Van Asselt asked if Attorney Mitchell had a one-year contract. Administrator Selig said he did not, and explained that the Town had an ongoing agreement with Mr. Mitchell. He said Mitchell and Bates was engaged for most of the Town's legal needs, but noted two other firms that the Town consulted with for certain issues. He said legal work hadn't been sent out to bid for three years, but said the Town could do so at any time.

Councilor Smith noted the Town also had an attorney to handle prosecutorial services, and Mr. Selig said that was correct, noting that this attorney was on retainer.

Mr. Beaudoin said that the Library Trustees would be meeting with Citizens Bank to discuss possible management of their trust funds. He provided details on the Bank's program, and said the Town was also trying to get the ambulance corps into the program.

Mr. Beaudoin explained that the Town had taken over payroll processing for library employees. He said this had resulted in a minimal increase in workflow, while giving the Library greater accountability. He also said a line had been created in the budget for Library revenues and expenses.

Councilor Smith asked what the status was of the software contract. Mr. Beaudoin said there were two vendors that were still being considered, but said nothing had been finalized yet.

Administrator Selig said the key challenge in considering software was the issue of integration of departments, and said this as well as the cost issues needed to be explored more completely.

Chairman Sandberg declared a 5-minute recess at this time.

XI. Unfinished Business

A. Public Hearing and Action on Ordinance #2004-04 Amending Part II "General Legislation" of the Durham Town Code by creating a new chapter, Chapter 42, entitled "Camping on Public Land" and initiating a permit system for camping on public land.

Administrator Selig provided background information on this proposed ordinance, and introduced Chief Kurz to speak more about it.

Chief Kurz said the ordinance had been in the works for some time, and was developed in response to concerns expressed by neighbors about camping by people on weekends at Doe Farm. He said the ordinance had been looked at by a variety of people, including members of the Parks and Recreation Committee and the Conservation Commission.

Councilor Smith MOVED to open the public hearing on Ordinance #2004-04. The motion was SECONDED by Councilor Harris, and PASSED unanimously.

Administrator Selig noted that this ordinance would not prohibit entirely camping on public land, and said permission could be requested to camp at these sites. He said two weeks notice was required for this, and said that if the request was approved, appropriate facilities would be placed at the site by the Town.

Councilor Morong said this seemed to be similar to other permits granted in Durham, and Chief Kurz said that was correct. Councilor Morong also asked if the idea of allowing impromptu one night camping had been discussed.

Councilor Needell said his understanding was that this ordinance was not an invitation to camp on public land, and Administrator Selig noted that there were no sanitary facilities at these locations.

Councilor Smith said this ordinance should be viewed as a temporary solution. He said the initial draft was much more extensive, but it was decided it was premature, because the Parks and Recreation Committee and Conservation Commission were just getting to the point where they could analyze properties to determine and make recommendations about what their proper usage was.

There were no members of the public who wished to speak concerning the proposed ordinance.

Councilor Smith MOVED to close the public hearing. Councilor Morong SECONDED the motion, and it PASSED unanimously.

Councilor Harris MOVED to ADOPT, as presented, Ordinance #2004-04, an ordinance amending Part II “General Legislation” of the Durham Town Code by creating a new chapter, Chapter 42, entitled “Camping on Public Land” and initiating a permit system for camping on public land. The motion was SECONDED by Councilor Morong.

Councilor Morong asked if the ordinance was enacted, whether it would take effect immediately. Administrator Selig said it would, and that Town properties would be posted to inform the public about the ordinance. He said that practically speaking, the Town would issue warning at first, before issuing any fines.

Councilor Morong asked if the camping had been a problem this summer, and Chief Kurz said it had not, although it had been a problem the previous summer. Chief Kurz also said the Police Department would try to inform people before resorting to issuing fines, but said this ordinance would be a tool that was available if needed.

Councilor Smith MOVED to postpone voting on the motion until August 16, 2004.

Councilor Smith said he fully supported the ordinance in concept, but said there were some technical problems in the wording and organization of the ordinance that first needed to be addressed.

Councilor Van Asselt SECONDED the motion, and it PASSED unanimously.

- B. Public Hearing on and Adoption of Ordinance #2004-05: Amending Part II “General Legislation”, Chapter 53 “Vehicles and Traffic”, Section 153-46 of the Durham Town Code by prohibiting overnight parking in all municipal parking lots between the hours of 1:00 and 6:00 AM.**

Administrator Selig provided background information on this ordinance, noting it had first been discussed by the Council at the July 12, 2004 meeting.

Councilor Needell MOVED to open the public hearing. The motion was SECONDED by Councilor Smith, and PASSED unanimously.

Administrator Selig said the ordinance would apply to all municipal lots, not just the Town Hall lot. There was discussion about this.

Chief Kurz said this was essentially a housekeeping issue, because the provisions had not previously been included in the Town Code.

There were no members of the public who wished to speak for or against the ordinance.

Councilor Morong MOVED to close the public hearing. The motion was SECONDED by Councilor Harris, and PASSED unanimously.

Councilor Morong MOVED to adopt, as presented, Ordinance #2004-05 amending Part II “General Legislation”, Chapter 53 “Vehicles and Traffic”, Section 153-46 of the Durham Town Code by prohibiting overnight parking in all municipal parking lots between the hours of 1:00 and 6:00 AM. The motion was SECONDED by Councilor Harris.

Councilor Morong said he understood the need for this ordinance, in general, but said that one problem with it was that when feasible for the Town, students should be encouraged to leave their cars in Town late at night when they were inebriated.

Chief Kurz said this was something that should be left to the discretion of the police department, in terms of ticketing, and said allowing overnight parking as a policy would have negative ramifications.

There was discussion about how the ordinance would impact parking in various parts of Town.

The motion PASSED unanimously.

C. Public Hearing and Action on Ordinance #2004-06: Amending Part II “General Legislation” of the Durham Town Code by creating a new chapter, Chapter 34, entitled “Restaurant and Carryout Establishments Hours of Operation

Chief Kurz said he was the catalyst behind the ordinance, and said the idea of this ordinance was not being taken lightly. He said he was trying to be realistic about the resources that were available, and what the Town could afford. He explained that he was trying to balance the needs of a challenged workforce, the community, and the reality of young people who had been drinking gathering downtown, not all of them UNH students,

He said he would like to see the ordinance pass before the students came back in September for practical reasons, and said this was not designed to undercut the students. He said the department had been open about developing this ordinance, and had sent literature to businesses regarding the intent and process of the ordinance. He noted that the delivery option had been included in the ordinance, although delivery could not be to the sidewalk outside the restaurants. Chief Kurz said this was not an anti-business initiative, and said his department was known for trying to develop downtown partnerships.

Councilor Smith asked whether, if money were available to create new police positions, if that would deal with the problem sufficiently. Chief Kurz said if the money were available, the ordinance probably wouldn't be there. He said the reality was having to recycle tired police officers back into the community.

Councilor Smith asked if the problem could be solved if merchants hired their own personnel to supervise the activity outside the restaurants. Chief Kurz said perhaps it could, but said Town police were especially sensitive to the demands of the Town, and the realities of dealing with 12000 students in Durham who were learning how to live.

Councilor Harris said data provided by Chief Kurz indicated that in police calls for service, there were a disproportionate number of people involved who were not students. She said that to a considerable extent, this ordinance dealt with that reality.

Chief Kurz noted that this was data the Council had asked for, and said that of 815 arrests on Durham streets in six months, 51% were UNH Students, and 49% were not.

Councilor Niman asked whether, if police officers from other towns applied for jobs in Durham, if Chief Kurz would consider hiring them. There was discussion about this, and Chief Kurz spoke about the somewhat specialized training needed in order to be a police officer in Durham.

Councilor Smith noted that the possible use of UNH officers to keep order downtown late at night had been mentioned earlier, and asked if something like this was possible, where UNH would pick up the tab.

Chief Kurz noted that in the 6-month report, of the 815 arrests, UNH police had made 54% of them. But he said at present, their police department didn't appear to be interested in spending for overtime, noting the University was dealing with its own funding issues.

Councilor Smith MOVED to open the public hearing. The motion was SECONDED by Councilor Needell, and PASSED unanimously.

Catherine Clarke, UNH Student Body President, said she understood what Chief Kurz was trying to do, but said that if the restaurants were shut down late at night, there would be a fire storm. She said if people couldn't get something to eat, they would get into their cars and would go some place else to eat, and there would be accidents, which would

require those police officers anyway. She said she didn't know what the alternatives to the ordinance were, but said she didn't believe Councilors wanted drunk driving on their consciences.

Michael Libby, Libby's Bar and Grill, noted that the ordinance didn't apply to him, but said if the restaurants it did apply to closed their doors at 2:00 am, young people would go out of town, or to Store 24, etc. He said he would like to see UNH step up and provide officers for Chief Kurz, pointing out that many of the young people downtown, if not UNH students, were at least friends of those students. He said he didn't think businesses should be held accountable for what their customers did, and said the reason that young people loitered was not because they had a pizza in their hand.

Councilor Smith noted that Mr. Libby understood the situation downtown very well, and also knew about the funding problems at UNH. He asked Mr. Libby if he had specific ideas on how to deal with these realities.

Mr. Libby said that Mark Rubenstein, UNH VP for Student and Academic Services, seemed to understand the issues. He said this was a UNH problem, and said they should provide some assistance.

Joe Kelley, Joe's New York Pizza, said he had recently negotiated a long-term lease, and said much of his business was late night. He explained that he only sold pizza, and said there were limited hours when people would come to his restaurant. He said he could not defend drunkenness, but said he didn't think it would simply not occur there if he wasn't open.

He said the ordinance would be a disservice to the public, because young people did keep those hours. In answer to questions, he said his restaurant was open from 11-3-4 am, and said that from 2-4 am, he did about 6% of his business. He said he was not making a lot of money in town, noting that some students didn't come to his place during the day because they got free food at UNH. He said it was always a saving grace to have late night business.

Harkirat Singh, Manager of Campus Convenience, said if he closed at 2 am, this would not change the situation downtown - the young people would go someplace else, and he would lose business. He noted that his businesses had to make its money in 8 months rather than 12 months.

Steve Petrovitsis, Durham House of Pizza, said the ordinance wouldn't affect his establishment because he didn't stay open that late, but said it would affect the other businesses. He said the students would drive to get something to eat, and asked the Council to consider other options.

Brian O'Connell, said he worked at Joe's, and was a student. He said that when students needed to unwind, they kept late hours, and wanted food. He said Joe's and other places saved them from getting into their cars, and said being able to have something to

eat sobered people up somewhat so they could make a more realistic decision about driving. He also said Joe's did a considerable amount of business late at night, and said when there were skirmishes, the establishment did its best to work with everybody.

Jesse Maddau said he didn't think the ordinance would solve the problems, and would just move them someplace else. He said closing the establishments cut off the opportunity for people to sober up and relax. He noted that he had worked at one of these establishments for over three years, and remembered only a few instances, other than the riots, where the police had to come there.

Carrie Stepian said that passing the ordinance while students were away would cause a real uprising. She said there was a clear demand for these businesses, and the ordinance was going against this demand.

Joe Kelley noted that there had been a substantial tax increase for the property he rented for his restaurant, this past year. He said his rent had gone up when this happened, which made the risk of losing sales even more significant, and said that passing this ordinance would make his business unprofitable.

Councilor Needell asked whether, if the Councilor closed the hearing and decided to postpone action on the ordinance, if the hearing could then be reopened.

Chair Sandberg described the various options for proceeding.

Councilor Needell said he would prefer not closing the hearing until the Council had a better idea of where it was going on this issue.

Councilor Smith said he would like to keep the public hearing open, and said the Council should invite Scott Chesney, UNH Assistant VP for Student Affairs; Mark Rubenstein, UNH VP for Student and Academic Services and Nicholas Halias, UNH Police Chief, to the next meeting. He said he didn't see the Council being able to conduct the discussion on this adequately without the presence of leadership from UNH.

Councilor Smith MOVED to continue the public hearing until the August 16, 2004 meeting and that the Town Administrator invite UNH Police Chief Nicholas Halias, Mark Rubenstein and Scott Chesney to address the Council on this matter at the public hearing. The motion was SECONDED by Councilor Needell.

Councilor Needell said that if the motion to continue the hearing passed, he would still like to have a general discussion that evening as to where the Council would like to go on this issue.

There was discussion among Councilors as to how to proceed concerning the timing of the public hearing.

Councilor Morong MOVED to amend Councilor Smiths' to read that the public hearing would be continued to no sooner than the first meeting in September, when UNH students would come back. The motion was SECONDED by Councilor Needell.

Councilor Morong said since the Council was postponing closing the hearing anyway, he saw value in continuing the hearing until the students had come back to Durham. He also noted he would not be able to be at the next meeting, and would like to weigh in on this issue.

Administrator Selig spoke against postponing continuing the hearing until September 1st. He also said he supported this ordinance, for the reasons Chief Kurz had stated. He said he had heard loud and clear that costs in Durham needed to be controlled, but also heard that the Town needed to deal with inappropriate behavior. He said he had heard from the neighborhoods that the activity late at night downtown kept residents awake, and also heard that police officers were stressed, because they were out working late every weekend.

Administrator Selig urged that if the Council postponed making a decision on the ordinance, that everyone involved should do some problem solving on the issues involved. He said that it was not enough to oppose what was being offered by the ordinance and not on the other hand propose some more viable solutions. He said he believed this ordinance was one way of working toward addressing the current problems, and stressed that time was of the essence. He said if the Council was going to go forward with the ordinance, this should be done at the next meeting.

Councilor Harris agreed that time was of the essence, while acknowledging the impacts of moving quickly on this. But she said this was something the Council needed to deal with, and said that if it delayed taking action until September, this would preclude the possibility of passing anything at all.

Councilor Needell said it was not clear whether speaking about this issue with UNH would end the discussion. He said the proposed ordinance would represent a big change for Durham, and said some serious questions had been raised about the whole issue. He said he had some real concerns about the ordinance, and said passing hasty legislation was not a good idea. He said he did not support the motion to delay because he didn't think the discussion would end there.

Councilor Smith said he was sympathetic that Councilor Morong wouldn't be able to attend the next Council meeting, and also said he wanted other students to be part of this discussion. But he argued against postponing the discussion beyond August 16th unless UNH representatives could not attend that Council meeting.

Councilor Needell MOVED to remove the requirement that the Council adjourn the meeting no later than 10:00 pm. The motion was SECONDED by Councilor Smith and PASSED unanimously.

Councilor Morong said this was an important issue, and said the only reasonable solution involved UNH. There was additional discussion about this.

Councilor Van Asselt said Councilor Smith was right that the issue needed to be addressed with UNH. He said the Town had lived with this problem for many years, and said although he understood that it was an issue of some urgency, it was also a big issue, and should be worked on in the fall, when the students came back.

Councilor Morong's amended motion to continue the public hearing to no sooner than the first meeting in September, when UNH students would come back FAILED 2-5, with Councilors Morong and Van Asselt voting in favor of the motion.

There was additional discussion about the original motion and whether UNH representatives could attend the meeting.

Councilor Smith's original motion to continue the public hearing to the next meeting of the Town Council (August 16, 2004) and invite UNH representatives PASSED 5-2, with Councilors Harris and Morong voting against the motion.

Councilor Needell said a lot of issues had been raised by this discussion on the ordinance, and said it was his feeling that there was a long way to go on the ordinance. He also said he did not want to give the impression that the only further discussion would be between the Council and the University.

A. What guidance shall the Town Council provide to the Assessor's Office with respect to the display of certain property tax assessment info on town web site.

Administrator Selig provided background on the issue, which had been discussed at previous recent Council meetings. He noted that the motion to remove the photograph and the diagram had failed, but said Councilor Morong had made a motion that if a person wanted to remove their tax card information from the Town web site, he/she should have that option. Administrator Selig said he had researched whether this could be done, and found that it could be. He said the options were:

- 1) for a resident to have their complete record available online;
- 2) to have nothing available online, or
- 3) to remove just the photo of their property.

There was discussion as to why there were no other options in terms of suppressing other kinds of data, with Councilor Smith noting that the current display online did not include everything on the tax card.

Town Assessor Rob Dix said the data for the different variables could be suppressed, as long as it was suppressed for everybody.

Councilor Smith said this sounded counterintuitive to him.

Mr. Dix said special programming would be required to change this structure, and said this was not something the software company was willing to do. There was additional detailed discussion about this.

Chair Sandberg said that the multiplier values were currently not displayed online, and noted that these could substantially affect analyses of properties. He said his concern was that citizens were thinking the information on line was complete, when it was not.

Councilor Smith said if the limitations of the software were truly as had been described, this pointed in the direction of giving the taxpayer options #2 and #3. He said the inflexibility of the software was not the taxpayer's fault, but also said he hoped that the software company could be pressed more to provide a more flexible system.

Mr. Dix noted that the option to remove all property assessment data could be done in house, while removal of photos could only be done by the company. In answer to a question from Councilor Morong, he said there would be no additional cost for removal of the photos.

Councilor Van Asselt MOVED to have Administrator Selig move ahead with providing Options #2 and #3 for taxpayers. The motion was SECONDED by Councilor Morong.

There was discussion about how the database would reflect the fact that some information had been taken out.

Councilor Needell said he had no problem with supporting the motion, noting that he saw no reason not to allow people to opt out of providing their property assessment data online. He also spoke briefly about the limitations of the software for this information.

Councilor Niman said he planned to vote against this motion, explaining that perhaps there was a greater value to having every tax record online, and that they could be taking value away from citizens by allowing some citizens to opt out of the system.

Chair Sandberg said he had studied this issue of getting complete enough assessment data over a period of years. He noted again that multiplier information was not shown online, and said that comparing properties, which was a difficult enough process to begin with, was made more difficult because of the absence of this data.

Councilor Morong said he had no problem with having the tax assessment information public, but said this should be optional, for people like himself, who felt that too much personal information was available online.

Councilor Needell said he didn't think providing these two options would have a great impact on the ability to access tax assessment information online. He also said he assumed this would have no bearing on other information that would be available online in the future, such as GIS data.

Chair Sandberg asked what the logic was for not being able to display the multiplier information. He said he was suspicious that someone who had gone to as much trouble to provide detail as this software company had, didn't include this.

Administrator Selig said the company had tried to write software that would be what the average community would want, and said that Durham was not the average community.

Mr. Dix said the key issue was that the multiplier involved a subjective valuation procedure, and was not simply concerned with data points.

Chair Sandberg said while the data resulting from the multiplier might be subjective, it was still real data.

Councilor Smith said the notion that this data, which was so crucial to a property assessment, would be left out, was preposterous.

Councilor Harris said the key issue at stake was that this was subjective data, and that it wasn't published because it was hard to get good subjective data.

Councilor Van Asselt said whether the card system should be changed was a separate issue from whether citizens could have options concerning the display of their property assessment data. He said the motion on the table should be passed, and the Council could move on from there.

Administrator Selig said the original goal was to make as much data available online as possible, and also to cut down on the workload for Town staff. But he said if the Town found that hundreds of people asked to have their data removed, the Town might have to decide to provide a more limited amount of data online.

Councilor Smith said if that was how the public responded, that would be exactly what it would be appropriate to do.

Mr. Dix noted that the Assessor's Office had not had phone calls concerning the data available online, so if the motion passed, it would provide a good forum to ask the public how they felt about the online data.

Chair Sandberg said the taxpayers trusted the Council to be sure that what they paid was their fair share, and noted that most people didn't have the time to put into researching this. He said he had read the information available online, and what was there at present was incomplete, so that a taxpayer had no way to rationally argue whether their assessment was incomplete.

The motion to go forward with Options #2 and 3 PASSED 6-1, with Councilor Niman voting against the motion.

Councilor Morong MOVED to adjourn the meeting. The motion was SECONDED by Councilor Harris and FAILED 2-5.

XII. New Business

- A. **First Reading on Ordinance #2004-07:** Amending Chapter 132 “Tax Exemptions and Credits”, Sections 132-2 through 132-6 of the Durham Town Code to adjust tax credit amounts and income qualifications criteria based on passage of new state legislation and current Social Security Administration beneficiary information.

Administrator Selig said he had been careful to be sure the criteria were up to date, and provided a summary of the proposed changes.

Councilor Van Asselt MOVED to PASS on First Reading Ordinance #2004-07, an ordinance amending Chapter 132 “Tax Exemptions and Credits”, Sections 132-2 through 132-6 of the Durham Town Code to adjust tax credit amounts and income qualifications criteria based on passage of new state legislation and current Social Security Administration beneficiary information. Further, the Durham Town Council hereby schedules a Public hearing on Ordinance #2004-07 to be held on Monday, August 16, 2004. The motion was SECONDED by Councilor Niman.

Councilor Smith said he would vote to move ahead with this, but said he was skeptical that the financial details were accurate, and also noted that the wording in the box on page 3 of the Council Communication was hard to understand. He also asked for Council comments concerning the non-disabled veterans’ tax credit.

There was discussion as to whether it was necessary to adopt this ordinance by August 16th. Administrator Selig said it was important to revisit these amounts, but said they didn’t have to go into affect this year.

Councilor Smith MOVED to postpone indefinitely acting on the above motion. The motion was SECONDED by Councilor Van Asselt and PASSED unanimously.

XIII. Adjournment

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

The meeting ADJOURNED at 11:02 PM.

Victoria Parmele, minutes taker