

# **DRAFT**

## **DURHAM TOWN COUNCIL – WORKSHOP MINUTES MONDAY, SEPTEMBER 27, 2004 DURHAM TOWN HALL -- COUNCIL CHAMBERS 7:00 PM**

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

**MEMBERS ABSENT:** Peter Smith; Annmarie Harris

**OTHERS PRESENT:** Todd Selig, Town Administrator; Victoria Parmele, Minute Taker

### **I. Call to Order**

### **II. Approval of Agenda**

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

Councilor Sandberg said that Councilor Van Asselt had offered to put this workshop together in order to address four items from the work plan for management improvement that the Council had approved in April: \_Town Administrator Evaluation \_Council Meetings \_Council Communications \_Improving Efficiency

Councilor Van Asselt said the overall goal of this session was to find ways to help Councilors do a better job. He then described the way in which the information would be captured, and said ideas circled in red would be done; ideas circled in green were things the Council was serious about; and ideas not circled could at least be found in the minutes.

### **TOWN ADMINISTRATOR EVALUATION**

Councilor Van Asselt said the first issue was whether Council members wanted to participate in an evaluation of the Town Administrator, and said the goal here was for the Town Administrator to get feedback on how to do better job. There was discussion about this.

Councilor Van Asselt asked Administrator Selig if he would like to be able to evaluate the Council, and he said he would. Councilor Van Asselt then asked Councilors what the specific goals of the evaluation were.

Councilor Niman said it was to identify areas for improvement.

Councilor Needell said it was to confirm that Councilors were communicating their expectations clearly.

Councilor Sandberg said it was to improve efficiency in town government.

Councilor Morong said it was also to let Administrator Selig know what he was doing right.

Councilor Grant suggested that was a sufficient number of goals, noting it was important not to be too ambitious concerning this.

Councilor Van Asselt asked Administrator Selig what he would like to see as part of this process. Administrator Selig said he was most focused on finding out areas where he could improve, and what the Council's expectations of him were.

Councilor Kraus said that with a Council of nine members, it was important to develop a reasonably uniform expectation, and said it was the responsibility of the Council to sort this out.

Councilor Van Asselt suggested the Council should address whether all Councilors should participate in the evaluation process.

Councilor Needell said he agreed that all Councilors should theoretically participate, but noted that the question some months back was what to do if a Councilor did not participate.

Councilor Sandberg said there was an expectation that when one assumed the role of Councilor, he/she would attend meetings and perform certain functions. But he said there were circumstances where an individual Councilor might not be able to do this. He said if a Councilor couldn't participate, or chose not to, it would seem reasonable to allow this.

Councilor Kraus noted previous discussion and efforts concerning this issue, and said he believed that if a Councilor did not choose to complete a written evaluation, this was not something that should be hidden from public view.

Councilor Needell said he could not agree with this, and there was further discussion.

Councilor Niman said he agreed with Councilor Sandberg that if circumstances made it difficult, there should be some latitude. But he said what bothered him was if there were informal evaluations which other Councilors couldn't get information about. He said if the Council were going to come to some consensus on areas for improvement, Councilors needed to know where other Councilors were coming from.

Councilor Morong suggested that if the goal was to develop a consensus, perhaps the Council should get together as a group without the Town Administrator in order to get a better idea of where others were coming from.

Councilor Van Asselt suggested that Councilors shouldn't get hung up on everyone having to fill out an evaluation form. He asked Councilors to think more about what vehicle (written, oral, other/combination) should be used for the evaluation of the Town Administrator.

Councilor Sandberg said that the form could be filled out, but then could be used as a guide when sitting down with other Councilors to discuss the evaluation. He said in this way, if a particular Councilor did not fill out the form, he/she could say, this is what I would have written if I had filled it out.

Councilor Van Asselt said that fit well with the consensus idea.

Councilor Needell said it was critical that the Town Administrator hear from the Council, as a Council, not just from individual Councilors. He also asked if the completed forms had been circulated to other Councilors in the past.

Councilor Sandberg explained that he consolidated everyone's information.

Councilor Van Asselt asked if Councilors would like to meet to look at this information before meeting with the Town Administrator.

Councilor Grant said they were all in this together, and said the evaluation should only take one meeting.

Councilor Kraus said this process was important, and said each Councilor should have an understanding of what other Councilors were thinking about the Town Administrator in order for the process to work.

Councilor Needell stressed that as an individual, a Councilor's evaluation of the Town Administrator in no way represented the Council as a whole.

Councilor Van Asselt said if the intent of the evaluation was what the Town Administrator should focus on in the coming year, this could only be done if the Administrator met with the Council. He said a work session would be useful in order to go over what Councilors had written with the Town Administrator.

Councilor Morong said it could save the Chair work if he could provide some guidelines to Councilors, and after thinking about them Councilors could meet and go through them. Councilor Sandberg suggested that a form containing approximately four items could be provided to Councilors, and if each Councilor wrote a single paragraph for each item, this information could then be exchanged among Councilors.

Councilor Niman said he had found the evaluation process the previous year to be frustrating. He said that as long as four areas could be identified and comments could be obtained in writing or verbally, Councilors would be able to hear all Councilors' comments.

Councilor Needell said all Councilors should be encouraged to participate in this forum, and said that what people said to the Town Administrator individually should have no bearing.

Councilor Van Asselt suggested that he could assist the Chair in developing one page of guidelines, which Councilors could either fill out or bring to a work session.

Councilor Sandberg said it was likely that if all Councilors responded as part of this process, a draft statement could be developed that would be supported by the majority of Councilors, on each of the four items. He said this would become a proposed resolution.

Councilor Morong asked if this met the stipulations of the Town Administrator's contract.

Administrator Selig said he understood when he assumed his position that as he moved away in time from the Councilors who had originally hired him, there was the possibility that things could change. He said he thought the proposed process could be useful.

Councilor Kraus asked what should happen if there was a Councilor who simply said he had talked to the Town Administrator, and therefore had nothing to contribute publicly as part of the evaluation process.

Councilor Sandberg said if a Councilor chose not to participate, he/she would lose the opportunity to provide input. He questioned what recourse there would be other than letting it be known in a public forum that this person did not wish to participate.

Councilor Kraus said he did not feel that non-participation in this process was appropriate, but said what Councilor Sandberg had said made sense.

### **COUNCIL MEETINGS**

Councilor Van Asselt asked Councilors if the process for preparation of Council meetings should be changed.

Councilor Needell asked if was possible for Councilor to get a draft of the agenda.

Chair Sandberg described the process that was used to develop the agenda. He said there were certain items that were initiated because they were timely, for example a new truck that was needed, which the Council had to approve. But he said the calendar that was included in packets tracked items that Councilor asked to be put on future agendas, so these items wouldn't get lost. He said when a Councilor's item was put on the list, it was then a matter of whoever initiated the item putting together Council communication on it.

Councilor Kraus said in theory this had been a good process, but said there were some situations where items appeared on the agenda and seemed to take immediate precedent. He gave the example of the issue concerning viewing of tax assessment information on the Town website, which had not been on previous lists of upcoming agendas, yet suddenly took precedent and a lot of the Council's time. He said this concerned him, and wondered how it should be handled, when the Council already had many items it was trying to deal with.

Councilor Van Asselt asked if there were suggestions for improving Council meetings.

He said he was curious to know if there was any interest in having pre-Council meetings, where the Town Administrator could walk Councilors through the packet and they could ask questions. He said if issues were clarified ahead of time, this could eliminate a lot of discussion time at the meeting itself. He noted that Dover's Council met at 6:30, before their regular meeting. He said in this way, Councilors could show their ignorance to each other instead of to the public.

Councilors discussed the legalities involved in having a pre-Council meeting, which would not be a public meeting.

Councilor Grant said he was concerned that a half hour would expand to an hour, because that was what happened at the regular Council meeting.

Councilor Sandberg said that with comprehensive packets, the extra thirty minutes wasn't necessary, and also said he thought that it would be tacitly illegal to have such a nonpublic session. He said one of the expectations put on the Town Administrator was to ensure that the packets were comprehensive. He acknowledged that this required a lot of paper, but said that was why Town staff got the packets to Councilors the Wednesday/Thursday before the next meeting. He noted that Councilors could express their ignorance about issues by phone to department heads or the Town Administrator, and also noted that unanimous consent items could be taken off the agenda at the Council meeting if a Councilor so desired.

Councilor Niman said he thought what Councilor Van Asselt was really getting at was how to make meetings more productive. He said part of problem was the time spent on making minor corrections to the minutes, and said there needed to be a way to prevent this.

Concerning Council communications, he said to him the problem was that Councilors didn't get context and decision tools to help them figure out what the choices were, so there could be a more fruitful conversation.

Councilor Van Asselt suggested that for each agenda item, Administrator Selig could frame it more specifically for Councilors to respond to.

Councilor Morong said that presently when he saw an agenda item, he saw different options presented for motions, etc., so it seemed that the items were already being framed.

Councilor Sandberg said that if there wasn't enough information in Councilors' packet to allow them to make a decision, there was always the option for them to indicate they weren't comfortable about voting.

Councilor Needell said as hard as it was, all of the decision-making had to take place at meetings. He said it sounded like Councilor Niman wanted some of this decision-making to take place in advance of the meeting,

Councilor Niman said Councilor Needell was misinterpreting what he had said. He said some issues were complicated, so that in order to have a productive conversation, Councilors needed a systematic way, for example a decision tree, to organize the different options. He gave the Town Hall site situation as example of where this would have been useful, and said this would make more sense than having a conversation that was all over the place.

Councilor Needell said perhaps this kind of organizational thinking should happen at meetings like this.

Councilor Van Asselt suggested this issue could be addressed when evaluating the Town Administrator.

Councilor Kraus noted that even if options concerning issues could be laid out in advance, other alternatives might come up.

Councilor Morong said Council meetings could be improved if Councilors would say what they wanted to say in as few words as possible.

Chair Sandberg said the Chair's role was to keep people on target, but not to stop open dialogue. He also said that when there was an agenda item such as the Library issue, a logical flow chart would be useful.

There was discussion about this, and Councilor Van Asselt said it seemed that there would be interest in doing something like this. He also suggested that perhaps at one of the meetings each month, there should be a specific time when Councilors did some work concerning the work plan.

Chair Sandberg noted that the issue of impact fees was on the Town Administrator's to-do list. He suggested that the Administrator could inform the Council on issues like this, which the Council as a body had already said it was interested in, as part of his Update to Councilors at the meeting.

Councilor Van Asselt asked Councilors if it made sense to set aside a block of time to deal with issues like this.

Councilor Sandberg said the opportunity to address these issues already existed, and noted that the meeting could be extended in desired.

Administrator Selig told Councilors that he was not omnipotent, and said that in the development of any issue, it would be helpful if he could have a dialogue with Councilors on it at a Council meeting. He said doing this by phone was very time consuming, and left him trying to make a lot decisions while guessing what the Council as a whole wanted. He gave the impact fees issue as an example, which had good points and bad points. He said the Administrative Notes he sent out on Friday were originally intended to send out flags to Councilors to say he was thinking about doing certain things regarding different issues. He said this had worked until the concern about email confidentiality came up, so he now often didn't hear back from Councilors.

Councilor Van Asselt said he would circle this in green, and said perhaps there could be more informal discussion on it with Administrator Selig.

Councilor Grant said meetings already ran too long. He said Administrator Selig could ask Councilors for input by email, but the question was whether Councilors would respond.

Administrator Selig said this became a problem when he got various responses from Councilors.

Councilor Kraus noted the present tangle concerning email communications, and asked whether, if Councilors individually responded to Administrator Selig, this qualified as not being a meeting under the legal requirements.

Councilor Grant said the Town Administrator needed to have the Council as a sounding board on issues, and said this didn't work well with the cameras running.

Councilor Needell asked if a quarterly meeting could be scheduled to deal with these kinds of things, and noted this was similar to what the Planning Board presently did.

Councilor Grant noted that the quarterly Planning Board meetings were meant to address planning issues. He also noted that the Committee reports presently took too much time, and said there were other ways to let Councilors know what the committees were doing.

Councilor Niman said he would like to speak in favor of having informal discussion with the Town Administrator on issues, such as the possible closing of pizza parlors. He said this hadn't been done regarding that issue, so the ordinance was coming forward, and Councilors had to respond to it. He said this seemed to be a wasteful process.

Councilor Sandberg said Councilor Grant and Councilor Niman appeared to have different perspectives on this. There was additional discussion about this.

Councilor Van Asselt asked if there were agenda items that should be reconsidered because they consumed Town Council meeting time.

He noted that Councilor Grant had said that committee presentations didn't have to take up as much time as they presently did.

Councilor Grant asked what was legally required concerning this. He noted that the Council used to have these presentations at the annual Informational Town Meeting.

Councilors discussed the amount of time needed for this portion of the agenda.

Councilor Morong agreed that this took time, but he said it was good for people watching the meeting to be able to get this information.

Councilor Grant said DCAT could/should provide this information, and said this could involve interviews with the various committees.

Councilor Sandberg said another aspect of this was that it would seem that the Committees would like to get feedback from the Council, as a body, on the work they were doing. He also said it was not only good for viewers at home to see these exchanges, but was good for the Councilors as well.

Councilor Van Asselt asked if there was a way to shorten this portion of the meeting, perhaps by imposing a time limit.

Councilor Kraus said if Council members could assist the Chair, who had a difficult balancing act, in managing conversations around the table, perhaps this could help the Council move forward at its meetings.

Chair Sandberg said it was hard to impose a time limit on some discussions, noting it was important that there be an open dialogue with Councilors. But he said there were times when time limits could be imposed in order to make the discussion more concise.

There was additional discussion that if there were a Councilor who was speaking at length, there should be a way to shorten this discussion.

Chair Sandberg said one could call a point of order, and said Councilors should feel free to do this, short of calling the question.

Councilor Kraus noted that the minutes told the story.

Councilor Van Asselt commented that Chair Sandberg had said he would welcome other Councilors stating that it was time to move on in the discussion.

Councilor Sandberg said it would always come down to the Council as a group doing this, noting he tried not to step on toes.

Councilor Van Asselt asked if it was necessary to meet with legislators every quarter.

Administrator Selig said the agreement was that they came before the Council three times a year, and there was discussion about this.

Chair Sandberg said this was also an opportunity, through DCAT, to make the public aware of hot buttons in Concord. He said he felt the Council had a certain responsibility concerning this.

Councilor Van Asselt noted the previous comment by Councilor Niman concerning the time spent at Council meetings reviewing minutes. There was discussion about this.

Councilor Needell said a possible addition to the agenda was a second opportunity for public comment at the end of meetings. He noted that the School Board had traditionally done this, and said the public liked being able to do follow up on issues discussed at the meeting.

Councilor Morong said he saw value in doing this, but said the time allowed for this should be limited.

Councilor Kraus noted that many of the meetings in recent months had been captured by public comments. He said he didn't want to constraint comments, but said that when there was one issue with a lot of people wanting to comment on it, it would be good if one or two people could make key statements, and thus take less time.

Councilors discussed this at length. Chair Sandberg said it was a fine line to walk, welcoming people to speak, but subtly trying to find out if there were additional comments that had not been heard.

Councilor Kraus said he concurred with this, but noted that the people who came in to speak about the Packers Falls Bridge had become more succinct over time, and said this was much appreciated.

Councilor Kraus said when he called the question, he wanted to move things forward,



Councilor Niman said that the way some issues were framed, it was difficult to have a good discussion, and said some important issues didn't really get addressed. He also said he would like to be more direct, but sometimes didn't have the opportunity because the way the issue was framed, he wasn't asked what his view was, or the Council only looked at a narrow slice of an issue. He said they sometimes missed the heart of an issue, and were limited to using a framework that precluded talking about an issue from a different point of view.

Councilor Niman discussed some of the reasons why this seemed to happen, and asked if perhaps there could be more planning to figure out which issues fit together. He noted the disorderly house ordinance, and also noted the way the Library issue was addressed. He said first the issue was the location, then it was the bond, and now the issue was a referendum. He asked when there was time to really think this through, so the issues could be resolved, and there could be direct conversations where a Councilor could say that 54 parking spaces didn't appear to be enough. He said things might have been different if this conversation had taken place before the public hearing.

Councilor Morong said he trusted Administrator Selig to bring issues forward when he could, and said he realized he had many things to deal with.

Councilor Van Asselt said Councilor Niman should address these concerns as part of his evaluation of the Town Administrator.

Councilor Grant said he shared Councilor Niman's frustration, and said the Council had too many goals, many of which were carried over from previous years. He noted there was extreme frustration on the part of the Library Trustees because they thought the Council never handled their concerns, but said he was still looking for a firm plan from them.

Councilor Kraus noted Mr. Hall's direct comments at the public hearing concerning parking at the Town Hall site, and compared this to Julian Smith's vague response. He noted that Councilors didn't say anything about parking.

Chair Sandberg said he was surprised at how few questions the Council asked at the hearing, and said Councilors needed to be prepared to ask the hard questions.

Councilor Niman said he would have felt better if things had unfolded differently concerning this issue. He said he would have liked to see the Town Administrator's questions first, and said this would have helped him to formulate his own questions. He said this was what he meant in terms of having tools that would be useful for decision-making.

Councilor Van Asselt asked where this should start. Councilor Niman said he would like this to start with the Town Administrator. He said he would like assistance with thinking through an issue, and then would like to be able to respond to the issue.

Councilor Kraus said they should not forget that the Council was an elected body, which although a part of the democratic process, was notorious for not facing issues because Councilors wanted to be re-elected and therefore did not want to anger the public. He said this caused mushiness in the process, making it hard for an elected body to be efficient.

Councilor Van Asselt said this comment brought up the question of how the Council could be more efficient and effective. He asked whether Councilors thought there was enough opportunity for informal discussion.

Chair Sandberg said the question was what Councilors needed to have in order to make decision-making easier. He noted that at present there were comprehensive Council communications, and the option for Councilors to delay voting if they were not ready to do so. He asked if that wasn't working, what needed to be changed.

Councilor Morong said that as an "amateur", he did need more help in order to be more efficient on the Council.

Councilor Van Asselt said all the Councilors needed to ask themselves if they had done their share of the work, and noted the example of asking questions about the library issues.

Councilor Needell said it would help if people would be willing to make more decisions.

Administrator Selig said he tried hard not to come across as a dictator, explaining that he generally provided Councilors with information and then let them come to the decision. He said he believed government functioned better that way. He said he walked a fine line, noting he did not mind making decisions – for example, not enforcing the zoning provision on signage, but said he generally tried not to do this.

Councilor Van Asselt said Administrator Selig might find through the evaluation process that Councilors wanted him to be more of dictator, and there was discussion about this.

Chair Sandberg said he believed the Council should avoid being a committee, and micromanaging things.

Administrator Selig said the Council could be more effective if Councilors could be more direct. He gave the example of the Library proposal, and the need for directness about the parking situation.

Councilor Van Asselt asked Councilors to state one thing they could each do differently to help improve Town Council meetings.

Councilor Van Asselt said one thing he could do was to not explain in detail why he was asking a question.

Councilor Niman said he felt constrained with regard to the structure of meetings, and needed to find a way to make a contribution to the Council within the existing structure.

Councilor Kraus said in some cases, he was too direct, and poked a stick in someone's eye. He acknowledged that he sometimes stirred things up in the wrong way.

Councilor Morong said he wondered if he was explaining himself well when he provided input to the Council at meetings.

Councilor Grant said he should ask more questions before come to the meeting.

Councilor Sandberg said he valued where Councilors were coming from when asking questions, and said he should try to draw people out more, while at the same time encourage them to be more succinct.

Councilor Needell said he needed to be more comfortable asking more questions about what people were trying to find out.

Councilor Van Asselt said this was a useful exercise, and suggested that Councilors should ask themselves this question after Council meetings.

### **COUNCIL COMMUNICATIONS**

Councilors discussed the role of email in Council communications. Councilor Grant noted that Administrator Selig could make use of email to sound Councilors out for their opinions on issues.

Chair Sandberg noted there was not yet clear language from the Legislative Committee on how private email sent to Administrator Selig was, and there was discussion about this.

Administrator Selig said the public could see this email. But he said it was helpful to him when Councilors emailed him that they were having a problem on an issue.

Councilor Kraus said that unfortunately emails were recordable and thus recoverable, while telephone conversations were generally not.

Councilor Van Asselt said the email issue was an important one, and said that until there were clear guidelines on this, Councilors should be cautious.

Councilor Niman said he assumed that everyone read every email he sent. He also said he wished Administrator Selig would be more direct, noting there were times it wasn't clear whether something the Town Administrator sent was a trial balloon. Councilor Niman said he now responded to everything.

There was additional discussion about this. Councilor Sandberg said everyone needed to have more opportunity to express themselves in public.

Councilor Van Asselt said the need for an informal sounding board was a recurrent theme.

Councilor Van Asselt asked if Councilors were getting too much information on any aspects of meetings. He said he personally didn't need to see specs for equipment purchases, etc. and said a one-page summary was enough for him.

Councilor Needell said he disagreed. He said he wanted this information to be in the packets, because the Council had the responsibility of approving expenditures, so needed this information in order to make more informed decisions.

Councilor Kraus said he had come back to the view that Councilors needed this information. He said it often happened that a particular Councilor would look at something in detail, and pull out valuable details that were needed by the Council.

Councilor Morong said that as a diverse group, different Councilors looked at different things in the packets in more detail, so it was useful to have information that provided a level of detail. But he said he would prefer not to get duplicate information.

There was discussion as to whether it was more or less efficient to provide Councilors with copies of information provided at previous meetings.

Chair Sandberg said that Councilor Van Asselt should consolidate ideas from the evening's discussion into a summary sheet. He also said the Council should set aside a Saturday to work further on some of these ideas/issues.

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

The meeting ADJOURNED at 9:15 PM.

Victoria Parmele, Minute Taker