

D-R-A-F-T

MONDAY, OCTOBER 4, 2004
DURHAM TOWN HALL -- COUNCIL CHAMBERS
TOWN COUNCIL MINUTES
7:00 PM

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

MEMBERS ABSENT: Peter Smith

OTHERS PRESENT: Todd Selig, Town Administrator; Victoria Parmele, Minute Taker, interested members of the public

I. Call to Order

II. Approval of Agenda

Councilor Kraus and Morong MOVED to approve the Agenda as submitted.

Administrator Selig said that Item X B should be removed from the Agenda and deferred to another meeting, so the Committee would be able to prepare a written submission in advance of the meeting.

Administrator Selig also asked that under Item XIII, the Council go into nonpublic session, in accordance with RSA 91-A:3 II (d) land matters, in order to have a discussion on the Route 108 Sunoco Station.

Councilor Needell MOVED to amend the Agenda to include a nonpublic session in order to have a discussion on the Route 108 Sunoco Station. The motion was SECONDED by Councilor Kraus, and PASSED unanimously.

The motion to approve the Agenda, as amended, PASSED unanimously.

Administrator Selig noted that the minutes taker, Victoria Parmele was not present, but would use a videotape of the meeting to do the minutes. Administrator Selig said he would also take careful notes of the meeting.

III. Special Announcement

Introduction of New Patrol Officer - Joe Gagnon

Police Chief David Kurz introduced Mr. Gagnon, and explained that a nine-month process had determined that he was the most qualified person for the position, and would be the best fit for Durham. He provided details on Mr. Gagnon's background, as well as the involved process that had been used to choose him. He noted that Mr. Gagnon was currently undergoing field training, and would be on patrol by himself in 6-8 weeks.

IV. Review of Minutes

A. September 13, 2004

Councilor Kraus MOVED to approve the September 13, 2004 minutes as submitted. The motion was SECONDED by Councilor Morong, and PASSED unanimously.

B. September 20, 2004

Councilor Kraus MOVED to approve the minutes as submitted. The motion was SECONDED by Councilor Morong.

There was discussion of a name and address on Page 5 that was not complete.

The motion PASSED unanimously.

V. Report of Administrator

Administrator Selig noted that the upcoming 28th Annual Leif Erickson parade would be held on Sunday, October 10, 2004, on Main Street in Durham.

Administrator Selig said the next DCAT meeting would be held on Tuesday, October 5, 2004, and said members of the public were welcome to partake in the discussions concerning programming.

Administrator Selig said the Town Offices would be closed on Columbus Day, Monday, October 4, 2004.

Administrator Selig said Councilor Harris had requested a map that would provide some idea of the footprint of the central part of Durham, and said Town staff had provided this map.

Administrator Selig noted the upcoming nonpublic session on the Route 108 Sunoco property.

Administrator Selig said he had met with the Durham Library Trustees as part of his annual Budget development process, and had given them a list of 20 questions regarding utilizing the Town Office site for the new library. He said it was a good meeting, and acknowledged it would be a lot of work for the Trustees to respond to these questions. He said he had explained to them that in order to bring their proposal forward to the Council as part of the Budget process, it was imperative for him to have this information. Administrator Selig said he also told the Trustees they could, on their own, bring forward a proposal concerning the Library, therefore appealing to the Council directly.

He said had concerns as to whether there was sufficient parking for all the uses on the site, – Town Hall, the Library, and the Court, and said if there was not enough parking, the other questions were secondary. He said the Trustees would be looking closely at this.

VI. Reports and Comments of Councilors

Councilor Van Asselt suggested that the Council should hold a special work session very soon on Durham's public community facility needs. He said such a work session would not

involve a public hearing, and would not include any formal actions. He said there had recently been discussions about facility needs, and also said that in the past several months, there had been various discussions about Town own land, possible swapping of land, taking of land, land that might or might not be available, properties that were available or were not available.

Councilor Van Asselt said a planning session was needed where the Council could get factual information about space available, space needs, realistic costs for construction, and infrastructure costs. He said depending on the scenarios that developed out of this, the Council could then talk about where the funds would come from.

Councilor Van Asselt said the Council hadn't yet had a chance to talk about all of this, and was being encouraged to make a decision on the library when it was only one piece of the puzzle. He said he thought these decisions should be made in an integrated way, and said a long range, vision and plan was needed. He said the Council couldn't get at this as part of a regular Council meeting.

Councilor Van Asselt said this idea was not a tactic to avoid responding to the Trustees' proposal, and was actually the reverse. He said it was a way to the Council to a point where it could make a decision on one piece, and then the other pieces might begin to fall as well. He asked for input from Council members as to whether they thought this was a good idea.

Chair Sandberg said the Council could have further discussion of this topic under Councilor Comments, or could address it further under Item XII, New Business. He said as part of the discussion, it could ask Councilor Grant, as representative to the Planning Board, whether the Board had looked at long-term town needs concerning the Town Hall site.

Councilor Morong reported that the recent Rental Housing Commission meeting was mainly focused on the proposed ordinances. He also said there were a number of positive things to report at the meeting concerning student housing. He said the Commission received reports from Code Enforcement Officer Tom Johnson and Deputy Chief Rene Kelley that there was increased compliance concerning noise levels, as well as the no more than 3 unrelated provisions, and also said police were seeing fewer fights.

Councilor Morong said fraternities parties on lawns had decreased, and also said there were fewer problems in areas such as Young Drive, noting that more properties were being bought by more responsible landlords. He said the University was also being more helpful, making more arrests on campus, sending students' police reports to Deans at the University, and looking at putting this information on permanent records, if students were convicted. He said they were all seeing positive results of code enforcement and police efforts, and said he hoped they could all say the same thing after the Red Sox games.

Chair Sandberg thanked Councilor Morong for this positive report.

Councilor Grant thanked Chief Kurz for his initiatives concerning proprietors in Durham who sold alcohol, involving undercover checking of IDs. He said this was a positive step, and was in the best interest of students and the community.

Chair Sandberg said the Council wanted to thank Chief Kurz for his efforts.

Councilor Needell said the Main Street Reconstruction Committee had met and interviewed the final five engineering firms, and had selected the firm to do phase I planning and design, which would soon begin. He said there would be opportunity for public input as part of this process.

VII. Public Comments

Julian Smith, 246 Packers Falls Road, said he would speak first as a Library Trustee, and then as a citizen of the Town. He thanked Administrator Selig for his many questions to the Trustees, but said he wished the Trustees had received most of these questions before the public hearing. He said the questions had given the Trustees the opportunity to reconsider what they were proposing, especially those questions concerning cost, size, and design of the library. He noted he was one of the few Trustees willing to consider more compact design of the library.

Mr. Smith said that on the parking issue, Administrator Selig had been quite clear that he was inclined to not recommend that the library be built at the Town Hall site if it could not be demonstrated that there was sufficient parking. Mr. Smith said he didn't think it could be demonstrated that there was sufficient parking anywhere in Town all of the time. He said he would be disappointed if the Council could not trust the citizens of Durham to figure out how to use the services at the Town Hall site on days when many events came together.

He said that as a citizen, it was quite clear to him and other Trustees that the thrust of Administrator Selig's presentation, and Chair Sandberg's comments was to encourage the Trustees to reconsider how the purchase of Smittys would be useful in advancing their proposal. He said as a citizen, he was not interested in buying Smittys, and as a Trustee, would hope the library plans would not be connected with plans for Smittys.

Mr. Smith also said he did not think there were a lot of people in Durham who wanted the Town Hall site to be turned into a commercial site. He said perhaps they should go to the voters and ask them this; ask them if they wanted a library at the Town Hall site; ask them if they wanted Smittys, etc., and then let the Council sort all of this out.

Chair Sandberg noted there would be discussion on community facilities under New Business, so Mr. Smith might want to stay tuned for this discussion.

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

- A. Shall the Town Council approve the Special Events permit application submitted by the UNH Campus Recreation Department requesting that a portion of Main Street be closed to conduct the annual UNH Homecoming 5K Road Race on Saturday, October 16, 2004?
- B. Shall the Town Council approve the Special Events permit application submitted by Kathleen Brogan, Executive Assistant to the UNH President, and Erika Svanoe, Director of the UNH Marching Band, to close a portion of Main Street in front of Thompson Hall

to Cowell Stadium for the UNH Marching Band to march to home games scheduled for October 16 and 23 and November 3, 2004?

- C. **Resolution #2004-17** authorizing the issuance of two million one hundred thousand dollars (\$2,100,000.00) in Tax Anticipation Notes (TANs)
- D. Shall the Town Council authorize the Town Administrator to sign a Boundary Line Adjustment Warrant Deed for the Town's gravel pit located at Packers Falls Road?

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

IX. Committee Appointments

- A. Shall the Town Council appoint Susan E. Roman, 16 Littlehale Road, as an alternate member on the Durham Public Library Board of Trustees as recommended by the Library Trustees?

Ms. Roman said she would be happy to answer any questions, but there were none. Chair Sandberg thanked her for willingness to serve.

Councilor Grant MOVED to appoint Susan E. Roman, 16 Littlehale Road, as an alternate member on the Durham Public Library Board of Trustees as recommended by the Library Trustees. The motion was SECONDED by Councilor Harris, and PASSED unanimously.

- B. Shall the Town Council appoint Denny Byrne, 2 Foss Farm Road, as an alternate member to the Durham Parks and Recreation Committee?

Administrator Selig noted Mr. Byrne had already served on the Committee, but his term of office had ended, so needed to be reappointed.

Councilor Kraus MOVED to appoint Denny Byrne, 2 Foss Farm Road, as an alternate member to the Durham Parks and Recreation Committee. The motion was SECONDED by Councilor Needell, and PASSED unanimously.

- C. Shall the Town Council move Beryl Harper from her current position as an alternate member on the Conservation Commission and appoint her to fill the regular member vacancy created by Richard Hallett as recommended by the members of the Conservation Commission?

Councilor Kraus MOVED to move Beryl Harper from her current position as an alternate member on the Conservation Commission and appoint her to fill the regular member vacancy created by Richard Hallett as recommended by the members of the Conservation Commission. The motion was SECONDED by Councilor Needell, and PASSED unanimously.

- D. Shall the Town Council consider the applications submitted by Cynthia Belowski, 35 Edgewood Road, and Wendy Snow Fogg, 185 Wednesday Hill Road, and appoint one of these candidates to fill the alternate member vacancy created by Beryl Harper on the Conservation Commission?

Administrator Selig said both applicants were present, but noted that only one position was available.

Dwight Baldwin, Chair of the Conservation Commission, spoke before the Council. He explained that there had been an additional resignation, that of Bill Skinner, so there were actually two openings and two citizens who wanted to serve. In answer to a question from Councilor Grant, Mr. Baldwin explained that one of the two current alternates would move up to the position Mr. Skinner had held, leaving two alternate positions open that could be filled by the two applicants.

There was discussion and clarification of the dates of expiration of terms of those members leaving. It was agreed that the Council would make one appointment that evening, and would make the other appointment, to fill the position vacated by Mr. Skinner, in the near future.

Cynthia Belowski said she was a UNH graduate, and had moved to Durham the past year. She said she had a strong business background, was a UNH Marine docent, and had a degree in Marine Studies. She said she had worked with the Audubon Society, had experience in land conservation as well as water resource management issues, and said this was an area she would especially like to concentrate on.

Wendy Fogg said she had lived in Durham for 25 years, and was a practicing clinical herbalist who ran an herbal center. She said conservation was near and dear to her heart, and said she realized that once the concrete was laid, the land couldn't breathe anymore. She said she had watched over the years as beautiful pieces of woodland and farmland in Town had succumbed to development.

She said her property bordered on the Town of Lee, and said the previous spring when the conservation bond was voted down, it was clear to her there needed to be a better way. She said there should be fundraising by local people who cared, so there would be a voluntary way for citizens to participate in conservation. She also said there was a need for education about conservation easements, and their long term benefits, because the concept frightened people. She said she was ready to work for these things, and said she had good organizational and people skills needed to get the job done.

Councilor Van Asselt MOVED to appoint Ms. Belinski to fill the alternate member vacancy created by Beryl Harper on the Conservation Commission. because her name started with B.

Councilor Van Asselt said the Council could move ahead to appoint Ms. Fogg at a later meeting.

Councilor Harris SECONDED the motion.

Councilor Kraus received clarification that both open positions were for alternates to the Commission.

Chair Sandberg noted that more people might come forward to fill the second position, which would not actually be vacant until November 1, 2004, and said the Council would deal with filling the vacancy at that time.

Councilor Grant said the Council might want to appoint both alternates that evening.

Administrator Selig said that according to statute, there could not be three alternates, which was what would happen if both women were appointed that evening. There was additional discussion about this.

The motion PASSED unanimously.

Chair Sandberg said the Council would be back in touch with Ms. Fogg.

X. Presentation Items

A. Report on the Conservation Commission -- Dwight Baldwin

Mr. Baldwin provided highlights of the Commission's work for the previous six months. He described site visits that had been conducted: Spruce Woods Retirement Community; the Omnipoint Cell Tower site; Fairley Lane, a road in Fitts Farm; and Fellows Lane, also at Fitts Farm.

Mr. Baldwin also said an ongoing thrust of Commission's work was Mill Pond, which had been on the agenda for a long time. He said the shrubbery there had been cut back significantly, with the help of townspeople and students, but said they would continue to battle new growth, which would need ongoing work. He described other work being done at the site, and said it was now a much more attractive spot.

He said a draft of the wetlands application permit for Mill Pond had been done by NH Soils, and was now being reviewed by the Commission and Mike Lynch of the Public Works Department. He said the application would soon be going to NHDES for formal review.

Concerning dredging of Mill Pond, he said it was hoped the work would be done by late summer, early fall of 2005, if the wetlands permit was approved. He said there was ongoing discussion with the University about possibly using the dredged materials for fields.

Mr. Baldwin also spoke about concerns expressed the previous winter by Andrea Bodo about a gasoline contaminant plume moving down toward the river and her property. He noted his background was in groundwater hydrology, and said he had talked to NHDES about this issue, and had looked at maps that showed the extent of the plume at that time. He said as a result of this, the ongoing migrating plume had been raised to a higher level of review by NHDES. He said there was periodical sampling to make sure contamination was not getting

to the Bodo well, the only one it was believed was threatened by the plume, since other properties in the area were served by Town water.

Mr. Baldwin spoke about the work of the Land Protection Working group, and said the Commission gave the group advice, provided financial assistance when needed, and also did appraisals of parcels being considered.

He said the Commission reviewed work for which wetlands permits had been approved, and said if there were problems, they notified NHDES. He said that during his tenure as Chair, he the Commission had not found problems with in any permits.

Mr. Baldwin said an exciting new initiative was review of all Town land with respect to trails, in order to consider what the purpose of this land was, or could be.

Mr. Baldwin said for the first time, the Commission had had a table at the Durham Days celebration that provided information to citizens on what the Commission, the Land Protection Group and the Parks and Recreation Committee were trying to accomplish for Durham residents. He thanked the Council for continued support of the Commission's efforts, and asked for their ideas and input, moving forward.

Councilor Grant recommended that if the Commission and the Parks and Recreation Department located properties that were not useful for recreation or conservation purposes, that these properties might be sold, and put back on the tax roles.

Mr. Baldwin said the Commission would do this.

Councilor Needell asked if the dredging project was contingent on UNH taking the spoils, and Mr. Baldwin said it was not, and there were other alternatives. He said the work as contingent upon the availability of the National Guard and its equipment.

Chair Sandberg thanked Mr. Baldwin for his presentation.

He also noted that Councilor Niman had just arrived at the meeting. **(7:55 PM)**

B. Report on the Historic District Commission -- Crawford Mills

POSTPONED

C. Report on the Integrated Waste Management Advisory Committee -- Tracy Wood

Ms. Wood said she had been the Chair of the Committee for a year, and said that currently, there were 6 volunteers, 1 Council volunteer (Councilor Kraus), and two openings. She explained that the Committee was a citizen advisory group to the Public Works Department whose mission was to eliminate/minimize waste and its impacts to the environment. She said the Committee continued the work of the former Recycling Committee, monitoring recycling curbside and at the transfer station, but also said the Committee had broadened its efforts.

She said that thanks to Council acceptance of the idea, the Town now used 80% recycled, chlorine free paper, which was a good example of sustainable practice.

She also said that home composting was done more and more in Town, and for those properties for which this wasn't an option, the brown leaf bags used last year had been very successful in encouraging composting. She said the bags were also available this year.

Ms. Wood also said the Swapshop at the transfer station was now a permanent structure, and the number of volunteers who worked there had increased to 30. She said the shop was very successful, and was a viable option for exchanging used items.

She said the Committee was also trying to make sure that local schools were following through with recycling, noting that historically the Middle School had a program, so the Committee was focusing more of its efforts on the High School. She also said the Committee would like to expand the household hazardous waste program, which was conducted on a yearly basis at present. She said it was very important to keep these materials out of the waste stream, and to educate citizens about reducing the use of these materials and finding viable alternatives to them.

Ms. Wood said the Committee put out two newsletters a year, and communicated with the public on the Town web site, on DCAT, on the Town listserv, and at the Durham Day display. She said the Committee held monthly meetings, which residents were welcome to attend, and said the Committee occasionally invited speakers to these meetings, to help members and residents get better acquainted with various issues.

She said the Committee continued to join forces with UNH, businesses and other groups who were in line with the Committee's mission to help Durham become a more sustainable community. She provided some detail on some of the initiatives the Committee was involved with, including UNH's RENEW Program, which recycled belongings of departing students, and the regional wastewater management study.

Councilor Kraus said this Committee was a sterling example of a committed, dedicated, self propelled committee in Durham, and described it as an unpaid adjunct to the Public Works Department. He noted the Committee got terrific support from Doug Bullen at the Department of Public Works.

Councilor Needell said the swap shop was a beautiful facility, and asked if there were any numbers on how much came in and went out from the facility.

Ms. Wood said there were no specific numbers, but said there was a significant amount of turnover at the facility.

Councilor Kraus said if good stuff was brought in, it went out fast.

Chair Sandberg said the swap shop made going to the transfer station enjoyable, and also said it did a wonderful service for the Town. He also said it would be good to know what the financial savings were from recycling. There was discussion about this. Chair

Sandberg this kind of information could be useful in showing other communities the resulting reduction in the waste stream.

D. Report on School Funding Apportionment Issue -- ORCSD Superintendent Thomas Carroll

Administrator provided background on this issue, explained that the previous year, the towns in the School District had developed a tentative resolution to see if State law could be changed to allow cooperative school districts to divide up the funds received from the State. He said Mr. Carroll had questions for the Council regarding this effort.

Mr. Carroll explained that the final version of HB 1281 was somewhat different than what local representatives had testified about at the hearings. He said these changes were significant, and could impact the School Board's decision on this issue.

He provided details on these changes, and said one was that any percentage of state aid could be applied, from 0-100%. He said another was that a warrant article coming out of this would be a School District warrant, not warrants on each of the town ballots. He also said this warrant article would have to be approved by a majority of voters in each town, so that if one town voted no, the issue was dead.

He said the School Board wanted to make sure the warrant article being developed was one that was clear, and said it wanted to avoid the possibility of 2-3 competing warrant articles. He said he was therefore going to the different towns to make sure that there was agreement on the wording of the warrant article. He said this was a complex issue, and difficult to explain to a large group of voters, so it was important to make things as simple as possible. He said the goal was to come up with the wording early in November so this education process could be started early, well in time for February.

Chair Sandberg asked if there was draft wording available.

Mr. Carroll said before draft the wording, the School Board wanted to know if there was interest in going 50-50. He provided details of the new funding formula, and alternatives for handling the various portions of the aid.

Chair Sandberg explained that the Committee had recommended that all State funds would go to the School District to be applied to the budget, prior to application of the 50-50 formula.

Councilor Niman said he believed things should be kept as simple as possible. He said they should go with the Committee's recommendation, and said the key issue was whether the Towns would work cooperatively as community, and if so, should share and share alike.

Councilor Needell asked if it would be helpful to recommend this in a motion.

Chair Sandberg suggested that Councilors should first respond to the idea of the concept.

Councilor Needell said he endorsed the proposal, and asked if under the new legislation, if changes could conceivably be made on an annual basis.

Mr. Carroll said that theoretically it could change on an annual basis. He explained that the existing provisions would stay in place until another proposal was presented, so that this didn't necessarily have to be voted on every year by the towns. There was discussion on what would happen if there was a new proposal, and this was voted down by one of the towns.

Councilor Kraus said he agreed with Councilor Niman to stay with what the Committee had recommended the previous year, and agreed the concept was difficult to make clear to the voters. He said they would want to know if and why it would mean they would have to pay more, or less.

Administrator Selig agreed, but said his concern about endorsing this at present was that it was not known whether Durham taxpayers would have to pay more or less as a result of this. He said there was not yet enough data to estimate what this change would mean to Durham voters, and said he would like to see the numbers first.

Mr. Carroll said there were two steps to this process: getting endorsement of the language on this, and then whether the Towns would vote for it.

Councilor Needell said that perhaps a decision like this was best made without knowing the numbers. He said there was no way that everyone would pay less as a result of it, but said the recommendation was based on the idea of providing fairness.

Councilor Niman said he agreed with Councilor Needell, and said this fundamentally boiled down to whether the towns would work together, or instead in their own best interests. He said this understanding was reflected in the work of the Committee, and said the educational process needed to focus on the fairness issue. He said if the article didn't pass, it would mean the towns were on their own, and at that point, Durham would have to reassess its options, and pursue something that worked exclusively in its favor.

Administrator Selig said he was looking out for Durham, and wanted to be sure this approach would not mean that taxpayers would have to pay more.

Councilor Morong said he was also concerned about the fairness issue, and was comfortable with this approach. He said it was understood that it would bring the formula back to before the State got involved, and said if as a result Durham had to pay more, fair was fair.

Councilor Kraus said who knew what the State would be doing next, but agreed that fair was fair, and said the vote should reflect where the discussion had been.

Councilor Needell moved that the Town Council endorse drafting a warrant article that says 100% of State grant money should go to the School District, prior to apportionment to the Towns. The motion was SECONDED by Councilor Grant.

Councilor Needell said it was important to keep in mind that the Council was endorsing the draft article, and beginning the education process, but was not in a position yet to endorse the final article.

Councilor Niman said the logic behind taking the money off the top was to take the State out of the equation. He said if all the money went to the District, not the individual towns, even if the State changed the state aid every so often, this would not result in reshuffling the three towns into winners and losers. He said if the goal was to preserve the School District, the goal should be to take the State out of the equation, so citizens in each of the towns would see that they all shared in the benefits and losses, and would thus feel more positive about being a part of the cooperative school district.

Chair Sandberg asked if Councilor Needell thought he might have reservations about the final warrant article.

Councilor Needell said he had every intention of endorsing it, but would like to hear what the School Board thought about it.

Mr. Carroll said the sentiment appeared to be that they were supportive, but said he was not in position to say this for certain.

Councilor Kraus said he was interested in seeing wording place in the motion regarding fairness.

There was additional discussion about wording of the motion, and it was agreed that the key language in the motion was that the Council endorsed the 100% number.

The motion PASSED unanimously.

Mr. Carroll noted it was that the 50th Anniversary celebration of the School District would be held on Oct 23-25th, and invited everyone to stop by for the various activities.

The Council recessed at 8:40, and reconvened at 8:50.

XI. Unfinished Business

Report by the Town Administrator on the concept of disorderly house and gathering permit policies

Administrator Selig reviewed the ordinances under consideration. He said that after a great deal of discussion at meetings of the Rental Housing Commission and with Town department heads, he had decided it was not appropriate to advocate to the Council that it should move forward with either of these ordinances. He noted that through enforcement activities and peer pressure, property owners had seen that the Council was serious, and had taken more action to control student behavior. He said the disorderly house ordinance had been drafted carefully and was ready if it was found it was needed in the future.

He said even though the assembly permit ordinance had been changed to only be applicable to non-owner occupied properties, it was thought that the ordinance would be challenging to enforce. He said it was therefore preferable not to move forward with it at present. He said Chief Kurz was present to discuss the results of police efforts, including statistics for this year as compared to last year.

Chief Kurz said he was the author of the disorderly house ordinance, and said it had come out of his office because the Town was having great difficulty bringing problem properties to the table. He said that peer pressure from the Rental Housing Commission had helped improve the situation, and described a number of successes in dealing with student behavior. But he said if the successes were short lived, the ordinance was ready to go.

Chief Kurz noted there had also been more cooperation from the Landlords Association, noting that every time police were called to one of their properties, paperwork on this went to the owner of the property, which allowed for more interaction. He said many other initiatives were going on, but the bottom line was that they were seeing progress. He provided statistics for the current year as compared to the previous year. Chief Kurz said a lot of people were working together to make the slogan “Durham - its where you live”, mean something.

Councilor Morong said the Rental Housing Commission had seen that things were starting to coming around, noting there appeared to be a better understanding of the proper way for tenants and landlords to act. He noted that some of larger landlords were taking more responsibility toward their properties and the people living there. He said he personally had seen very few problems so far this semester. He said the responsibility was now on the landlords and the Rental Housing Commission to keep things moving in a positive direction.

Councilor Grant MOVED that the Town Council accept the recommendations of the Town Administrator and Police Chief, and postpone action on the disorderly house and assembly permit ordinances until such time as circumstances so indicated.

Chair Sandberg said in terms of protocol, he didn’t believe the Council had to take action on this if there were not any ordinances moving forward.

Councilor Harris suggested that since UNH was early into the semester, the Council should look at the situation at the end of the semester to see if the ordinances were needed.

Chair Sandberg said that any Councilor could request that this be looked at again in the future, so he did not think a motion was needed on it.

Councilor Morong said the Rental Housing Commission had made suggestions for wording for the ordinance which gave police more leeway in applying fines. He said he would like to see these changes made to the draft ordinance.

Chair Sandberg said if this issue was looked at again in January, and a motion was then made concerning the ordinance, it would be appropriate at that point to amend the language.

Councilor Morong said he just wanted to be certain that this language did not get lost.

Chair Sandberg said he was sure this wouldn't happen as long as Councilor Morong was on the Council.

Councilor Kraus said he would like to second Councilor Grant's motion, so the Council could then have some discussion on the issues that still required clarification.

Chair Sandberg said the status quo was that there was no ordinance to act on, so to take action to not take action was not logical.

Councilor Grant noted that his motion said the Council should reconsider the existing circumstances in the future. He said he would like to see the Council make a decision on this, this year, and would not like to see something come back to them in 60 days unless there was a problem. He said his motion recommended holding the ordinances on the shelf, and bringing them back if necessary, and said it would be frustrating if the Council did not take any action.

Chair Sandberg said in his mind, the proper procedure was to move, second, and postpone voting on this until January.

Councilor Niman said he was willing to jump on the good faith bandwagon, but would like a town employee other than the Town Administrator to assume responsibility for this problem. He said he would like to see someone own this, track it, meet with citizens of neighborhoods to make sure they were heard, and protected, monitor the progress of the Rental Housing commission, and come before the Council periodically to say how things were going. He said at that point the Council could decide whether to move forward with the ordinances. He said he was not interested in moving forward with the ordinances at present if such a framework was established.

Administrator Selig said the Rental Housing Commission was charged with looking at these things, and noted that at Councilor Harris's recent suggestion, there would be a new seat on the Rental Housing Commission representing Durham residents affected by student housing properties. He said the Commission had been empowered as a result of the proposed ordinances to address these kinds of things, and said it was finally starting to get residents to come to meetings to express their concerns. He noted that a main reason the ordinances were developed was because residents asked the Council to do something about the student housing issues.

He noted that Deputy Police Chief Kelley and Councilor Morong were both representatives to the Commission, and said that was the appropriate link.

Chair Sandberg suggested that if Councilor(s) wished to make motion to accomplish something that evening, they could direct the Town Administrator to schedule a review of the ordinances in January.

Councilor Needell said he had heard from the three entities involved – the Police Chief, the Rental Housing Commission and the Town Administrator, that things were running smoothly, and said he was satisfied with this. He also noted that although the disorderly housing ordinance was ready to go, the assembly permit ordinance still needed work.

Councilor Van Asselt said that as a property owner who had students living next door in non owner-occupied houses, he saw that there continued to be a problem with these kinds of houses, where anywhere from 3-7 students lived. He said he didn't have an automatic solution for this, but noted that he had asked the question several times whether the Town should increase enforcement of existing ordinances, which would help with these problems.

Councilor Van Asselt said if it was agreed there was a need for more enforcement, then another employee was needed to do this. He said he would like to see Administrator Selig bring forward a proposal in the budget for this, so the Council could debate whether this was the way it wanted to go. He said if the answer was yes, the University should assist with paying for this, because the reason these students were in the neighborhoods, was that there was a lack of dormitories at UNH. He said he did not mind putting these ordinances aside, if his concept was given consideration.

Administrator Selig suggested that Code Enforcement Officer Johnson should come in to talk to the Council about this issue, and said that discussion could be helpful. He also said he did not believe an additional code enforcement employee would be useful at present to get at these issues.

Councilor Harris said her concern was also about enforcement, noting it was hard to really accomplish this, and said that was why a registry and required inspections would potentially work. She said she believed these problems were a great burden to the community.

Councilor Morong noted the pressure the University was putting on students and landlords to address the problems, and provided details on this. He said he wanted to make sure the University received its fair share of recognition for the improvements that had been observed.

Councilor Kraus said he was concerned about what the perception of citizens would be if the proposed ordinances simply dropped out of sight. He said that the Council sometimes needed to make a decision with some clarity.

Councilor Harris said she was concerned that there would inevitably be changes in leadership over time, and if these ordinances were not on the books, the Town would have to start all over again. She said she hoped that the fact that the Council was doing nothing at present would not come back to bite them in five years.

Chair Sandberg said drafting language for the ordinances had been a huge project, and the ordinances would only die if the Council let them die. He said if they were put on the agenda for Jan 3rd, they would in fact come back. He also asked what was wrong with passing the ordinances, because if things were going so well, one could imagine how things would be even better with them.

Councilor Niman said January 10th would be good time to bring this up, noting this was the same time the Council would be discussing the issue of carryout establishments. He said he was inclined to say that because he was hearing things were going well, to simply wait and see what happened. But he said he would like to challenge the Rental Housing Commission to solve the problem with the neighborhoods, and would like the Commission to come up with answers to Councilor Van Asselt's questions.

Councilor Needell said he had no problem with dealing with this again in January. He also noted that a public hearing had already been held for the “carryout establishments ordinance”, so it was further along.

Councilor Van Asselt MOVED that this ordinance come back on January 10th or before for Council review, and along with this should come a report from the Rental Housing Commission on what can be done with the neighborhood housing issues such as enforcement of more occupants than are allowed by the Ordinance. The motion was SECONDED by Councilor Harris.

Councilor Morong said didn’t see a need to set a date for this, and also didn’t see the need to tie the Rental Housing Commission report in with this. He said he would like to propose an amendment to not include that wording in motion.

Councilor Van Asselt said he would be happy with this as long as Administrator Selig received feedback from the Commission on neighborhood housing issues. There was further discussion on the date to reconsider the ordinances.

Administrator Selig noted he had recommended that the Council drop the ordinances at present. He said he had seen cooperation and progress on the student housing issues, and said again that the disorderly house ordinance could be brought back if necessary. He said he liked Councilor Grant’s original motion, that the Council should take a position, and said an important next step should be for the Council to hear from Town staff on enforcement issues.

He said it was important at present to give the landlords and the Rental Housing Commission some credit for their efforts, and also said that leaving the ordinances out there hanging was not helpful at all. He said Town staff had to put out fires every time these ordinances were brought up.

Councilor Van Asselt said he wished Administrator Selig had stated his perspective more clearly earlier in the discussion, and said he would be happy to withdraw his motion if Councilor Harris agreed.

Administrator Selig said he had been pounding staff to put the clamps on the landlords and the University, and said they were seeing this pay off. He said he would keep an eye on things, and wanted to see if the successes continued.

Chair Sandberg provided clarification that the choice at the moment was to vote for or against the Van Asselt motion.

The motion FAILED 0-8.

Councilor Grant MOVED that the Town Council accept the recommendations of the Town Administrator and Police Chief, and postpone consideration of the proposed disorderly house and assembly permit ordinances until such time as reconsideration seemed desired. The motion was SECONDED by Councilor Needell, and PASSED unanimously.

Councilor Morong said the next Rental Housing Commission meeting would be held on November 16th, and said he would ask Mark Henderson and the Commission to work on the issue brought up by Councilor Van Asselt. He said residents were welcome to come to the meeting.

XII. New Business

Other Business

Chair Sandberg noted that Councilor Van Asselt had recommended that the Council should hold a special work session on Durham's public community facility needs.

Councilor Van Asselt said that because the Library issue had been driving the Council in recent months, it needed to address what the needs and options were. He said if they made one decision, the others might begin to fall, and said all of this should be looked at collectively.

Chair Sandberg said they were entering the Budget season shortly, and could either bring this into the CIP discussion if their discussion had capital implications, or hold an extra Council meeting to address it.

Administrator Selig told the Council that the Public Works facility was in good shape for many years to come. He said the Fire Department had reached tentative agreement with UNH that the terms of their lease could be extended out from 2010 until 2019. He said that next year, the Police Department would be putting together a feasibility study on facility needs for the next 10 years. He said that long term, a combined safety facility would make sense, but said the problem was that there was not a lot of land available to construct such a facility, so the longer the Town waited, the greater the cost would be.

Administrator Selig said storage space was a real problem at the Town Offices, and noted the CIP included a proposal to add an extension to allow more space for code enforcement and storage. He said at present, they were simply trying to find ways to stay there as long as possible. He said if the library was not constructed behind the building, the Town offices could be added onto at a future date.

He said that to date, there had been no grand facilities scheme to determine what would be needed for a new Town Center complex, in terms of space. He noted that the most cost effective approach would be to combine the library/Town Hall facility in order to save on energy.

Chair Sandberg asked if it made more sense to have a workshop discussion on this before November 1st, or in conjunction with CIP discussions.

Administrator Selig said that from the perspective of the Library trustees, anything that postponed discussion on the Library would be frustrating for them. He said that for the Council's purposes, it should look at doing this in November. He said Town staff needed time at the moment to focus on the Budget and not an additional Council meeting. He said by November they could pull together information for such a meeting.

Councilor Needell said that perhaps the crux of the matter was getting lost. He said although discussion on all facilities was important, the Council could probably dispense with police and fire issues at present, and focus on the issues that were causing the gridlock. He said it was important to have a discussion on this soon, and said it was important that there be decision on one of these areas, or else nothing on these issues would move. He noted that the Library Trustees had been charged with more work, for something that might not be entertained, and said until the Council could provide a clear path, this wasn't fair to them.

Chair Sandberg said the nonpublic session might help resolve some of these things.

Councilor Harris said she was concerned that questions to Trustees would therefore not need to be answered, and said answers to the questions would be helpful to everybody.

Councilor Niman said he would like to have the conversation on these issues in October, before the Budget/CIP discussions, and said Town staff didn't need to prepare anything for this. He said the Council needed to have a discussion on what everyone meant by a Town Center, a community center; about issues like a possible skateboard park, a green of some kind, and other things that might not even have been contemplated in the CIP.

He said the Council needed to come up with a collective vision before doing anything else, and noted this could help shape the discussion for the CIP. He said the Council might very well come to the conclusion that they could not agree, and the best solution was to build the library some place. But he said they should have this discussion, and suggested it could be held on October 25th.

Councilor Niman MOVED to schedule a special session on Monday October 25, 2004, to talk about the concepts of a Town Center, community center and overall Town space/land needs. The motion was SECONDED by Councilor Van Asselt.

Councilor Needell said no preparation was required for this, and the session would simply be an opportunity for the Council to talk together on these issues.

Councilor Van Asselt said this would not be a public hearing, but said the Council might want individuals to be there to help with the discussion.

Councilor Grant said he strongly recommended that at this meeting, Councilors come to the meeting with an understanding of the Master Plan and what it intended. He said this was an important starting point, and noted a lot of time and effort went into this.

Administrator Selig noted the Council might want to consider including the Planning Board in this kind of discussion.

Councilor Kraus said it would be difficult to limit this, and could turn out to be unwieldy to set up, thus requiring more staff time. He said he would like to see the Council take a position that was just its position.

The motion PASSED unanimously.

Councilor Kraus MOVED to extend the meeting by 15 minutes. The motion was SECONDED by Councilor Needell and PASSED unanimously.

XIII. Nonpublic Session

Councilor Kraus MOVED that the Durham Town Council enter into Nonpublic Session in accordance with RSA 91-A:3 II (d) land matters for the purpose of discussing the Route 108 Sunoco property. Councilor Morong SECONDED the motion and it PASSED on a roll call vote of 8-0 as follows:

Peter Smith	Absent	Arthur Grant	Aye
John Kraus	Aye	Malcolm Sandberg	Aye
Mark Morong	Aye	Annmarie Harris	Aye
Karl Van Asselt	Aye	Neil Niman	Aye
Jerry Needell	Aye		

The Council entered into Nonpublic Session at 10:01 PM.

The Council returned to public session at 10:46 PM.

Councilor Grant MOVED to seal the Nonpublic Session minutes of October 4, 2004. Councilor Kraus SECONDED the motion and it PASSED unanimously.

XIV. Adjournment

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

The meeting ADJOURNED at 10:47 PM.

Victoria Parmele, Minute Taker