

# ***D-R-A-F-T***

**MONDAY, OCTOBER 18, 2004  
DURHAM TOWN HALL -- COUNCIL CHAMBERS  
TOWN COUNCIL MINUTES  
7:00 PM**

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

**MEMBERS ABSENT:** Chair Malcolm Sandberg

**OTHERS PRESENT:** Town Administrator Todd Selig; Business Manager Paul Beaudoin; Police Chief David Kurz; Fire Chief Ron O'Keefe; Code Enforcement Officer Tom Johnson

**I. Call to Order**

Councilor Arthur Grant explained that he would be serving as Chair for the meeting because Chair Sandberg was ill. He also said the presentation by Henry Smith, Chair of the ZBA, would be deferred to another meeting due to an illness in the family.

**II. Approval of Agenda**

*Councilor Morong MOVED to amend the agenda by removing Agenda Item IX. The motion was SECONDED by Councilor Kraus, and PASSED unanimously.*

*Councilor Kraus MOVED to approve the Agenda as amended. The Motion was SECONDED by Councilor Needell, and PASSED unanimously.*

**III. Special Announcement** - Introduction of Kathleen Brogan – Executive Assistant to the President, UNH  
Ms. Brogan was not present at the meeting.

**IV. Approval of Minutes**

September 27, 2004 Minutes

*Councilor Morong MOVED to approve the Minutes as presented. The motion was SECONDED By Councilor Kraus, and PASSED 6-0-2, with Councilors Harris and Smith abstaining because of their absence from the Sept. 27<sup>th</sup> meeting.*

October 4<sup>th</sup> Minutes

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*Councilor Kraus MOVED to approve the October 4<sup>th</sup> Minutes as amended. The motion was SECONDED by Councilor Niman, and PASSED 7-0-1, with Councilor Smith abstaining because of his absence from the October 4<sup>th</sup> meeting.*

Chair Grant asked Councilor Smith if he would serve as parliamentarian for the meeting.

October 4<sup>th</sup>, 2004 Nonpublic Session Minutes

Councilor Van Asselt and Councilor Harris both asked if specific comments they had made, which had not been included in the minutes, could be included.

***Councilor Kraus MOVED to approve the October 4, 2004, Nonpublic Session minutes as amended. The motion was SECONDED by Councilor Niman, and PASSED 7-0-1, with Councilor Smith abstaining because of his absence from the October 4<sup>th</sup> meeting.***

**V. Report of Administrator**

Business Manager Paul Beaudoin provided the report in place of Administrator Selig, who had just returned from a trip.

- Mr. Beaudoin reminded Councilors and the public that there would be a Needs Analysis regarding the Town Center concept at the next Town Council meeting, the following week.
- Mr. Beaudoin said that the Town received notification from the Department of Revenue Administration that the Town's 2004 tax rate has been set at \$25.14 per \$1,000 of assessed valuation, which is a 6.67% increase over last year's rate of \$23.57. He explained that the Town's portion increased by \$.17, the municipal school portion increased by \$2.45, the state education portion decreased by \$.95, and the County portion decreased by \$.10, leaving a net of \$1.57 increase in the overall tax rate.
- Mr. Beaudoin said the Town web site would soon provide information concerning the November 2, 2004 General Election.
- Mr. Beaudoin said that due to a shortage of flu vaccine, the Town's vaccination plans had been cancelled.
- Mr. Beaudoin noted that funeral service had been held the previous week for Roland LaRoche, a former fire fighter for the Town. He noted that the Fire Department provided an honor guard for the service.
- Mr. Beaudoin said the sidewalk construction downtown near Wildcat Pizza was almost complete.

Chair Grant provided clarification that the tax rate information was for 2004, and paid for this year's expenses.

**VI. Report and Comments of Councilors**

Councilor Kraus said the proper receptacles for leaf pickup were paper trash bags that were available locally. He said there had been a grace period concerning this the previous year, the first year for the program, but said there was no such grace period this year.

Councilor Needell said the Main Street renovation project for the stretch of road from the Pettee Brook interchange to the Whittemore Center was getting under way. He said there would soon be public hearings held concerning the project.

Councilor Van Asselt said the Impact Fees and UNH agreements discussions planned for the Council seemed to have fallen off the schedule for future meetings, and said he hoped they would resurface.

Councilor Van Asselt also said he would like to see the Council develop suggestions for how Chair Sandberg should structure the next Council meeting, which would involve doing a Needs Analysis on the Town Center concept. He said a framework was needed for this discussion.

Chair Grant asked Council members to pass on their ideas concerning this to Chair Sandberg by phone or by email.

Chair Grant said he would like to note that when he was recently exercising his dog at Wagon Hill Farm, he had seen a number of owners who let their dogs run without a leash. He said the leash requirement was clearly posted, and said he did not understand why it was not being respected. He said this was not a good situation, from a safety and a sanitary standpoint.

Chair Grant also noted that he had recently seen large delivery trucks parking on sidewalks downtown, and said that very morning he seen a truck on the newly cemented bricked sidewalk in front of Wildcat Pizza. He said this was destructive to the work being done, and also said it was a safety hazard, because trucks could not pull in far enough to get out of the traffic zone. He said this was a disaster waiting to happen.

Chair Grant thanked Lou and Ann Knight for collecting signatures that thanked the Town for improvements to Woodridge Road, streets in the area, and improvements to the playground there.

#### **VI. Public Comments**

There were no public comments

#### **VII. Unanimous Consent Agenda**

- A. Shall the Town Council approve the water and sewer warrant for fall 2004, and authorize the Town Administrator to sign said warrant?
- B. Shall the Town Council sign the Warrant for the General Election to be held on Tuesday, November 2, 2004?

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

#### **VIII. Presentation Items**

- A. Report on the Durham Cable Access Television (DCAT) Committee - Peter Brown  
Chairman

Mr. Brown said that day to day work was going well. He noted that some of the equipment had been upgraded, and the Town now had a DVD system, which allowed more flexibility in terms of programming and running shows.

He said there were discussions with Oyster River High School, which was doing a lot of good video work, about possible joint projects, working with their studio. He noted the High School had an editing suite, which opened up a lot of possibilities.

Mr. Brown said there were some other exciting things going on. He said the Committee was presently reviewing its policies to get them in line with what DCAT needed. He said they were looking at guidelines, in terms of timing and content for information on the community bulletin board. He also said they were looking at trying to get funding, through sponsorship/underwriting, for programming, and noted this had been done for the video on the July 4<sup>th</sup> picnic, which was paid for by the Rotary Club.

Mr. Brown said DCAT was continuing to try to do more programming about the community, and provided the examples of the Durham Day video, programming of the 4<sup>th</sup> of July celebration, and also, some student activities.

Mr. Brown said there were some residents who had done some good programming, and said DCAT was continuing to encourage residents to use DCAT to address subjects of interest to them. He noted DCAT had a training program, but said there had been no takers yet. He said there were plans to film the production of a program and then show it on DCAT, so people would realize it wasn't that difficult to do.

Mr. Brown said there were other ideas for DCAT, including a possible news show, and filming of concerts and plays at the High School. He noted some copyright issues needed to be resolved concerning the latter idea. He said there was one vacancy on the Committee, and said there had sometimes been problems getting quorums for meetings. He said they needed to get someone on the Committee who could generate more community involvement.

Councilor Smith asked if DCAT maintained a continuous log of what was shown, so one could look back over the last six months of programming. He said he would like to see a periodic update on this so the Council could track how the TV station was actually developing, - could see in what form it was growing beyond the various Board and Council meetings. He said this information would be useful in considering changes that might be needed.

Mr. Brown said the idea of a log was a good idea, for everyone involved.

Councilor Needell noted the time slot where more creative programming was presented, and there was discussion about this.

Mr. Brown said DCAT tried to get information on the Town Listserver as to when these programs would be shown.

Councilor Harris asked if the 50<sup>th</sup> anniversary celebration for the Oyster River School District would be shown on DCAT, and there was discussion about this.

There was discussion about possible filming of plays and concerts at the High School. Mr. Brown spoke about possible copyright issues, said that because of this, so far no one has stepped forward to do the filming.

B. Report on the Historic District Commission – Crawford Mills

Mr. Mills said that the Commission currently had six members, with one unfilled position. He said that the past January, the Commission had decided to become a more proactive body, and had taken several steps in regard to this.

He said the Commission had prepared a mailing of all property owners in the Historic district, and provided details on this.

Mr. Mills said he had attended the public hearing on Route 108. He noted that he and fellow Committee member Malcolm Sandberg had gone up to NHDOT, and had seen the map of Route 108, which indicated that there were a lot of historic sites that were presently not within the Historic District.

Mr. Mills said that Commission member Nick Isaak had attended the NH Preservation Alliance meeting, and said this was part of an effort to look at properties in Durham, and to develop architectural guidelines, so they would be in place when owners came to the Historic District Commission for advice. He said the Commission was working on providing architectural guidelines for several periods and styles.

He noted the Commission had invited Linda Wilson of the NH Heritage Commission to one of its meetings, and spoke about the role of the Heritage Commission in terms of historic preservation. He said it was very important to take a preservation approach as an alternative to reacting negatively to people wanting to tear things down, and spoke about the key role of education in this approach.

Mr. Mills said the Commission had invited members of the Durham Historic Association to its August meeting, and said the Association was a wonderful resource for understanding what historical property information existed about Durham. He said there was believed to have been a survey done of all the historical properties in the area, but said it could not be found. He said that if any one knew where this survey was, to please let the Commission know, because it was very important information. He noted the Commission was interested in funding research on historical properties.

He said that when the Commission presented its proposal for changes to the Historic District, it ran into some things it hadn't anticipated. He said the Commission was surprised to learn that the proposal did not conform to the Master Plan, and provided details about this.

Mr. Mills said that future goals for the Commission included investigation and establishment of a Heritage Commission in Durham. He also said the Historic

District Commission wanted to apply for grant funding. He noted there were several historic buildings in Town that were presently used as dormitories, and said the Commission was concerned about preserving them. He said a program to develop plaques for these buildings was planned.

Councilor Smith asked Mr. Mills to explain more about why the proposal to expand the Historic District boundaries had been dropped.

Mr. Mills said the intention of the Commission had been to go out to Route 4 with the district boundary, but said the Zoning Rewrite Committee wanted justification for each property that was included, and questioned in general whether this was the way to go. He said he then met with Town Planner Jim Campbell, who said the Planning Board had concluded that boundaries of the Historic District should stay where they were. He said it was suggested that for the outlying properties, there instead should be an Heritage Commission to use a non regulatory approach to preserve the historic buildings.

Councilor Harris noted Mr. Mills had said the Commission had applied for grant funding to develop a brochure, and asked what kind of funding they had, if grant money was needed to fund something as small as this.

Mr. Mills provided details on this. He also explained that a main reason the Commission would need to get outside funding was to do the survey of historic properties.

#### C. Report on the Planning Board - Stephen Roberts

Mr. Roberts first noted the hard work of Councilor Grant and Councilor Harris as Council representatives to the Planning Board. He said this was especially appreciated in light of the grueling work involved with the zoning rewrite process. He said the bulk of the work of the Board in recent months had been on the Zoning Rewrite, to make it conform to the 2000 Master Plan.

Mr. Roberts said there was a need for a different approach to updating the Master Plan, this time around, so that Board members could spend more time contemplating the issues/answers, and less time writing.

He said the Board's response to the Council's recommendations concerning specific items in the previous phase of the Zoning Rewrite was nearing completion, and said there were no major conflicts between the Board's views and the Council's views on these items. He said that in fact, they had much in common

Mr. Roberts said Mr. Campbell's schedule was that the Zoning Ordinance revisions would be completed by the end of 2004, and said he was appreciative that Mr. Campbell was working so hard to help the Board keep to this schedule.

He said the Board was presently on track with Strafford Regional Planning Commission to get a build out analysis

In terms of issues and concerns regarding zoning and planning updates, Mr. Roberts proposed that the Town go back to sending out an RFQ to planning consultants, to get assistance with the upcoming Master Plan Update in 2005. He said there were several reasons for this, including the fact that Board members sometimes had too much ownership of the writing, so that when the members changed, viewpoints changed. He said his experience working on a previous Master Plan update in Durham with an outside consulting firm was that this brought fresh perspective to the table. He said that in the long run, this would save the Town money.

He said that Board member Nick Isaak had assured the Board that there was a way to include design standards in the site plan review regulations for areas outside the Historic District, and provided some details on this.

Mr. Roberts spoke briefly about the recently revised sign language in the Zoning Ordinance, and noted this issue had been resolved through a cooperative effort.

He said it was time for the Town to take another look at the Master Plan, and said the Board would like to have some planning sessions, to look at issues such as viewscapes that were the gateways to Durham; cooperation between the Planning Board and other boards; the Town Center concept and the Planning Board's role in looking at this; and the north-south connector. He said student housing was another issue that needed to be looked at, noting that a major housing contractor had made a presentation at the most recent Board meeting. He also noted the role that Planning Board had to play concerning economic development, and said joint ventures with the Economic Development Committee concerning the Business Park would be worthwhile.

Mr. Roberts said the Board would be looking at the provisions in the Zoning Ordinance that allowed no more than 3 unrelated people to live in a single family residence, noting there were questions as to whether some definitions needed to be changed. He also spoke about design guidelines for multifamily housing.

He said the Board would also be looking at the role of conditional use and special exceptions in protecting property values. He noted that the current Board was finding that there were land uses that were essential to the Town in one sense, yet could be problematic in other ways, and gave the example of nursing homes.

Mr. Roberts said the Town's specifications concerning road widths were on a collision course with smart growth design, which encouraged narrower road widths. He said the narrower widths were often insufficient for many delivery trucks, and provided some details about this.

Councilor Needell asked Mr. Roberts to elaborate on his comments concerning the Master Plan and Zoning Ordinance updates.

Chair Grant explained that the Master Plan that was done prior to 2000 was directed by a consulting firm, and said the Board needed help with the upcoming Master Plan update, in order to bring into reality what the Town's needs were.

Councilor Kraus said Mr. Roberts was a great example of someone who as a citizen had served the Town well. He said he realized the work of the Planning Board was difficult, which made it difficult to get citizens to serve.

Councilor Morong said he would also like to thank Mr. Roberts for his hard work on the Planning Board. He also noted that there had been discussion the previous year about the possible need for more legal counsel for the Board, along with other expertise for reviewing proposals. He asked Mr. Roberts if the Board had used legal counsel much this year, and if so, had found it useful, and also asked what he recommended concerning this for the upcoming budget.

Chair Roberts said the Board had stayed out of court so far for the current year, and also noted that legal counsel had helped the Board with the Zoning Rewrite. He said funding was needed to support this activity.

Councilor Grant said he wore two hats when sitting on the Board, and said he often wished the Board had legal counsel there at the meeting, when issues came up. He said he believed that legal resources were essential to the Town, noting that the issues before the Board were complex and difficult to understand, and required a lot of guidance. He said the Town's legal counsel had given the Board good advice, and said that with an all-volunteer board, this counsel was a very important service.

Mr. Roberts noted that when he was on the Planning Board in the late 1970's, the Board had a lawyer on retainer.

Councilor Smith noted there had been recent action on the snipe sign matter by the Planning Board, and this matter would be coming before the Council.

Mr. Roberts said that was correct, and said the recommendations of the Board regarding revised language to sign provisions in the Zoning Ordinance had been forwarded to the Council.

Councilor Smith said it was his understanding that the zoning overlay revisions would be completed by the end of the year, and asked if these would be forwarded to the Council.

Chair Roberts said it was his expectation that this would happen.

Councilor Smith said this was overdue, and said he would welcome seeing the revisions. He received clarification that the Telecommunication overlay had previously been completed.

Chair Roberts said the overlays were essentially complete, but said hearings would have to be held on virtually all of them.



Councilor Van Asselt noted he had previously raised the issue of available planning capacity to deal with new developments. He said that in looking at the many complex issues the Board was trying to deal with, this seemed to be an even more urgent issue. He said there was a need for planning capacity that protected the interests of existing neighborhoods, but said the need was broader than this.

Chair Grant thanked Chair Roberts for the important work he was doing. He also provided clarification, for members of the public, that those people who had made presentations were not present because they were being called on the carpet. He said these reports were done periodically as required by the Town Charter.

D. Report on the Zoning Board of Adjustment – Henry Smith, Chairman  
Postponed

E. Quarterly Financial Report – Paul Beaudoin, Business Manager

Mr. Beaudoin updated the Council on the update of joint agreements with UNH. He also said Town Staff was presently busy preparing the 2005 Operating Budget and the CIP.

Mr. Beaudoin updated the Council on Revenues for the quarter. He said the Town had receive almost \$144,000 in land use change taxes, and had received nearly \$163,000 in interest on property taxes, which was almost double what was projected for the entire year.

He said building permits so far had totaled only \$32,000, 49% of what had been projected for the year, and said the Town probably wouldn't be seeing many more during the last quarter. He said the Public Works Department had received \$26,000, or 94% of dump permit fees, and had made \$28,000 by selling its old grader to the Town of Lee. He said solid waste recycling revenues had more than doubled the year's projection (\$31,000 so far), due to being able to take advantage of a favorable market for paper and cardboard.

Mr. Beaudoin next spoke about Expenditures. He said the Town Clerk's office expenditures were back in line with where they should be, having made up the deficit caused by Linda Ekdahl's retirement. He also said the Town was doing very well with legal fees so far for the year, with only \$35,000 spent out of the budgeted \$80,000. He also noted there was no welfare activity for the quarter.

He said the Police Department spending was within its overall budget, and said the Fire Department's overall expenditures was a bit less than projected. He noted overtime costs were below last year's spending, since the inception of the 24-hour shifts, even considering the pay raises in the new contract. He said Town staff would continue to monitor the financial impact of the new staffing schedule.

Mr. Beaudoin said spending by the Public Works and Sanitation Departments was running about 5% below what had been budgeted, and was in good shape for the rest of the year. He also said the short term debt service would show significant savings

due to continued favorable interest rates on Tax Anticipation Notes that had been issued.

Concerning the Water Fund, Mr. Beaudoin said both revenues and expenses were running more or less in line with projections, and said the Sewer Fund was also on target with revenues and expenses. He said Parking revenues were running about 16% below the previous year's numbers, and noted there could be a 40% shortfall if this trend continued. He said the reason for the decrease was that fewer parking tickets were being issued because the ordinance was being followed, and also said there appeared to be a decrease in demand for parking downtown.

Mr. Beaudoin said that capital projects were on course, noting it was anticipated that the Wastewater Treatment Plant upgrades would be completed under budget, despite the additional engineering and construction costs incurred. He said this was mainly due to liquidated damages the Town received from the construction bond company because the project had gone well beyond the targeted completion date. He noted there had a significant amount of extra work for Town staff because of the delays.

Councilor Kraus referred to the fact that Mr. Beaudoin had said there was presently a favorable price for cardboard recycled goods, and noted that Doug Bullen of the Public Works Department played a significant role in keeping track of the market for recyclables, functioning much like a stockbroker. He said Mr. Bullen did a very good job at this. Councilor Kraus also asked if the police budget included the extra expenses incurred from overseeing student celebration activities, and Mr. Beaudoin said they did.

Councilor Smith asked what accounted for the decrease in the demand for parking downtown.

Mr. Beaudoin said this was not really clear, but said perhaps more people were finding locations further out for parking, so were taking the bus to campus and downtown.

Councilor Smith said it would be useful to find out more about why this was happening, and also to get some numbers in order to determine the degree to which the demand for parking was decreasing.

Chair Grant noted that a number of institutions had developed private parking on their properties, which had therefore taken cars off the streets. He also said the ordinances which changed the times and prices, etc. for parking, for example at the Pettee Brook parking lot, seemed to be making a difference. He said Councilor Smith's question was a good one to follow up on, and asked Administrator Selig to make note of this.

Councilor Morong said he was pleased to hear that the wastewater treatment plant upgrade project was finishing in the black. He noted that the Council had recently been informed that there was a leakage problem that required repair, and asked for an update on this.

Mr. Beaudoin said this possible nightmare had been averted, at a relatively low cost, when the contractor had found that using expanding grout filled the leakage area well, thus solving the problem.

- F. Update and discussion on Inspection efforts of Fire Department and Code Enforcement Officer – Ron O’Keefe, Fire Chief; Mark Tetrault, Fire Inspector and Tom Johnson, Code Enforcement Officer

Mr. Beaudoin outlined for the Council how and why inspections were currently conducted in Durham. He said the majority of them were under the control of the Code Enforcement Officer and the Fire Department, and ranged from zoning, plumbing, electrical and building construction, to fire prevention, occupancy, life safety and assembly inspections.

He said that typically, inspections were scheduled with the property owner or complainant, and noted that neither the Code Enforcement Officer nor the Fire Chief could forcibly enter an occupancy unless there was reasonable suspicion of imminent danger to life and health.

He said the Town had placed a great deal of attention in recent years on inspections, in response to complaints about the impact of rental properties on residential neighborhoods, and the impact of establishments catering to Durham’s youthful population upon the community as a whole.

Mr. Beaudoin provided additional details about current inspection plans, and then introduced Fire Chief Ron O’Keefe and Code Enforcement Officer to provide overviews of the inspections that they provided for the Town.

Fire Chief Ron O’Keefe first noted that Mark Tetrault was not present because he was at home tending to a new baby in the family. He said 260 inspections had been done so far in 2004, which did not include an additional 200 plus night and weekend assembly checks at downtown bars, fraternity and sorority houses, and off-campus rentals.

He said it was not possible to inspect every property, and said the Department focused on properties where there was the most concern about possible loss of life, and high property loss. He said the Department made sure that dormitories, off campus housing, Greek houses, places of assembly, large buildings (especially commercial one), and University buildings were inspected every year.

Councilor Kraus noted that the Department could generally not force itself onto a property, and asked what would trigger an inspection, from an external standpoint.

Chief O’Keefe said the possible danger could be subjective, and gave the example of boarded bedroom windows.

Councilor Kraus asked what happened if the Department was denied access.

Chief O'Keefe said that typically, inspections were scheduled ahead of time. But he said if the Department saw something imminent, and was not allowed in, it could get an inspection warrant within about an hour. In answer to a question from Councilor Smith, Chief O'Keefe said the Department typically received cooperation from occupants, and said it only played the warrant card when it had to.

Councilor Needell asked what level of cooperation the Department was seeing from all quarters in 2004 as compared to previous years.

Chief O'Keefe said off campus units had generally always cooperated, and said this year they were even more receptive. He said dealing with students in fraternities was about the same, and noted the Department tried to educate them about the hazards. He spoke about the half day education provided to fraternities through the Fire Academy, where uncut footage from the nightclub fire was shown. He said he was seeing more cooperation, as students realized the dangers and that they were ultimately responsible for each other.

Councilor Needell asked if there were any new issues popping up.

Chief O'Keefe spoke about the issue of rooming and lodging houses, noting a local case involving such a building that had gone before the State Building Code Review Board, and came out in favor of Durham. He said the Town had realized there were many of these types of occupancies, so was taking a proactive stance in meeting with owners.

Councilor Kraus asked if dumpster issues were covered under inspections, and Chief O'Keefe said if a dumpster presented an undue fire hazard, a warning could be given.

Councilor Harris asked if the number of inspections of non-owner occupied single family homes had gone up significantly.

Chief O'Keefe said yes, noting that this issue had been focused on by the community more as citizens brought it forward. He said Town staff was starting to get a handle on it, and said they were getting in to inspect them more than ever before. He provided details about this.

Mr. Johnson noted that he checked dumpsters in his role as Health Officer. He said dumpsters were covered under the health regulations and also under the solid waste ordinance, and required screening. He said fines could be levied to landlords if necessary.

Mr. Johnson next described the inspections he did. He said he enforced the State Building Code on new residential and commercial properties, and noted there were many more permits being applied for than in the past. He provided details on various areas where he was responsible for inspections.

He said the number of cases before the ZBA had decreased, as a result of the Zoning Rewrite, but noted that the nature of cases before the Board was more controversial.

He said the case Chief O'Keefe had referred to concerning the State Building Code was a landmark case, and involved a property on Young Drive. He said the outcome of this case would ripple throughout Town for similar properties, and provided details about this.

Councilor Niman noted that at a ZBA meeting, Mr. Johnson had said, regarding a fraternity that was requesting a variance, that he had never been on the property. Councilor Niman said this was surprising, and asked Mr. Johnson if there were a number of properties he had never been in.

Mr. Johnson said he had not been in the majority of properties, noting he generally don't go in unless work was being done. He said the Town did not have a property maintenance code, and there was nothing that required him or allowed him to come in to check safety issues. He said the premise was that a property was built according to the codes in effect at the time, and unless there was an upgrade, he didn't get in to do an inspection.

Councilor Niman asked if there was anything that could be done concerning rental properties that would allow Mr. Johnson in to check for safety.

Mr. Johnson said the Town could develop a safety maintenance code, which would allow every property to be inspected. He said the Town could also pass an ordinance that required every 1-2 family dwelling sold to have smoke detector certification from the Fire Prevention Bureau. He said this inspection would get them on every level of a building, and they could report to him if they saw other problems. He also noted the option of the rental housing registry.

Councilor Van Asselt said he wanted to see this inspection work in a positive light. But he noted he had raised the issue previously, that despite these efforts, the fact remained that in a neighborhood of 15 houses, and a house with a lot of students in it changed the character of a neighborhood. He said there were numerous streets like this where non-owner occupied houses were disrupting the neighborhood.

He said he understood that this was a University town, and said what the Council had been told about inspections was commendable, but noted that being up to date with the fire code did not necessarily make a rooming house a good neighbor. He said maybe it was on the enforcement side where the Town was falling short.

Mr. Johnson provided details on enforcement efforts. He said more properties were coming into compliance, and said he saw neighborhoods where the problems were being solved. He also said that with the more than 3 unrelated provisions and the code enforcement approach for rooming houses, they were hitting the problems with off campus student rentals from both ends.

Chief O'Keefe said he and Code Enforcement Officer Johnson were working more and more as a team, and were following up on properties. He said they were starting to see a positive impact from this in the community.

Mr. Johnson said the departments were interacting well with one another. He noted that Doug Bullen reported to him about dumpsters, and he then would do an enforcement letter, and copy this to the Fire and sometimes the Police Department. He said a lot of the problems started with neighborhoods, but said he had “deputies” in a number of them to provide him with leads on problem areas.

Chair Grant asked who Durham residents should contact on these kinds of things.

Mr. Johnson said most problems started with a party, where the police were called about a noise violation.

Councilor Harris said it would be excellent for the Council to receive a summary report about rental properties where there was a problem.

Mr. Johnson said he was presently sending this information to the Rental Housing Commission, which was also dealing with these complaints. He noted that residents attended the Commission’s meetings.

Councilor Harris asked what the mechanism would be for getting this information to the Council. She said this information would be a deterrent, if it was public information.

Administrator Selig said that if the Council wanted this information, it could be provided.

Police Chief Kurz noted his department did a report of noise complaints at rental properties, and said that hopefully, this could provide details on specific properties where the Town was encountering noise complaints.

Chair Grant asked if it could be determined if that report would be enough information to provide to the Council, for the time being.

Councilor Harris said that addressed the multi-units properties, but not the single family homes with rentals. There was discussion about this with Chief Kurz.

Councilor Needell said a lot of problems were non-owner occupied dwellings, and asked if most of the time spent by Town staff was on them

Mr. Johnson said zoning complaints were mostly for these properties, but said inspections were done across the board. He noted it sometimes happened that for a particular property, it was suspected there were more than three unrelated people living there, but he was denied entry. But he said the next day, he might be required to do an electrical inspection for the same property, so would get in to see the property that way.

Councilor Van Asselt asked if the inspection standards were tough enough to accomplish the kinds of things that people in the neighborhoods were frustrated

about. He said if the problems were something Durham had to live with, the townspeople needed to know this.

Mr. Johnson said they were establishing a track record, and were seeing progress.

Councilor Van Asselt asked if there was anything that could be done to make the process work better.

Mr. Johnson said a one and two family rental registry was one thing that could be done. He said this would require a property to be inspected every 2-3 years, and if there were complaints, once a year.

Chief Kurz said the Department' standards were high, and said they were establishing a track record for solving the problems. He provided details about this.

Councilor Smith asked if Town staff had adequate tools to deal with the kinds of problems Councilor Van Asselt was talking about, tools that balanced the rights of privacy against the rights of peace and quiet in a neighborhood.

Chief Kurz said he did not think that the Town departments were too shy to ask for additional tools if they needed them

Chief O'Keefe said his department had adequate capability to get into multifamily dwellings. He said it was the one and two family building that they couldn't walk into, and often didn't know about. He said a rental registry was a way to get at this. He also said that with the decision of the Building Code Review Board, there was some ammunition. He said the Town should see significant changes in the next year or so, and said even if more resources were thrown at the problems right now, he didn't think this would make the difference.

Councilor Harris noted the disorderly house ordinance was on the shelf if needed.

Mr. Johnson said he could use additional staff, noted he shared Administrative Assistant Karen Edward's time with the other offices. He said he didn't have time to type up things like violation notices, and said additional staff could help speed up some of the process.

Administrator Selig said the Town needed additional time to see if its efforts would pay off, so other tools wouldn't be needed. He noted that Mr. Johnson was out straight with normal activities of code enforcement, and was chasing down nuisance calls on a regular basis. He said the same was true with the Fire and Police Departments.

He said this was especially cogent as the Town moved into the budget process, and said the shrinking tax base as a whole to support the growth in wages put additional pressure on the Town. Administrator Selig said he would love to see additional clerical support for Mr. Johnson, but said that needed to be looked at carefully in terms of what the Town could support. He said Town staff was presently exhausted chasing nuisance calls, and said the Town could use additional staff support to

respond to complaint calls sooner. He said Town staff was trying to provide the desired level of service in a cost effective way.

Councilor Niman asked if there were a rental registry, then perhaps Town staff wouldn't be spending so much time chasing nuisance calls. He said if the problems were stopped at the beginning, staff would be freed up to do other things.

Administrator Selig said they couldn't know the answer to this until they tried additional efforts. He said staff was trying to address this as subtly as possible with property owners, and noted that because of the kind of community Durham was, there would always be differences in lifestyles, and staff would always be chasing these kinds of calls. He said a rental registry could have a positive effect, but said he would like to give the proactive efforts more time to see if they paid off. He said if they didn't, the Town would know it would need the more obtrusive ordinances.

Chair Grant noted that of the 4000 + housing units, more than half were rental properties, so it required a big commitment to inspect them all.

Councilor Niman said the Town could charge a fee for this.

Councilor Smith said if the key problem was 1-2 apt situations, he didn't want to wait three years to find this out. He also said he was somewhat skeptical of the ability of the Rental Housing Commission to have a positive effect on the many single and double units that were not under the thumb of those with multi housing units.

Administrator Selig said that with the current enforcement structure, the Town was being as efficient as it could be with it. He said if it was found in the next year or so that the Town was not getting the results Councilor Van Asselt was asking for, the course would be changed, including using the ordinances.

## **IX. New Business**

- A. **First Reading on Ordinance #2004-07** amending Article II, "General Legislation, Chapter 98 "Rental Housing Commission", Section 98-3 of the Durham Town Code to increase membership to ten by adding a neighborhood representative.

*Councilor Morong MOVED on first reading, as presented, Ordinance #2004-07 amending Article II, "General Legislation, Chapter 98 "Rental Housing Commission", Section 98-3 of the Durham Town Code to increase membership to ten by adding a neighborhood representative and to schedule a public hearing for Monday, November 1, 2004. The motion was SECONDED by Councilor Kraus, and PASSED unanimously.*

- B. **First Reading on Ordinance #2004-08** amending Article VI "Schedules", Chapter 153 "Vehicles and Traffic", Section 153-49 of the Durham Town Code by establishing a parking permit system in the Bayview Road neighborhood.



Chief Kurz explained that the Police department would administer permits to each vehicle, and said each house would receive guest permits. He said any vehicle without a permit hanging in the mirror would be ticketed.

Chair Grant noted that spillover of parking to Bayview Road had been anticipated when the ordinance for Young Drive was approved, and said this in fact had happened.

***Councilor Smith MOVED on first reading, as presented, Ordinance #2004-08 amending Article VI “Schedules”, Chapter 153 “Vehicles and Traffic”, Section 153-49 of the Durham Town Code by establishing a parking permit system in the Bayview Road neighborhood, and to schedule a public hearing for Monday, November 1, 2004. The motion was SECONDED by Councilor Kraus and PASSED unanimously.***

- C. First Reading on Ordinance #2004-09** amending Article VI “Schedules” Chapter 153 “Vehicles and Traffic”. Section 153-34 of the Durham Town Code by reducing the speed limit on Canney Road to 25 mph.

Chief Kurz explained that this ordinance had been proposed by a resident. He said there had only been one response to the proposal, by a resident who said she had no problem with it, but said she was not sure it was needed.

***Councilor Needell MOVED on first reading, as presented, Ordinance #2004-09 amending Article VI “Schedules” Chapter 153 “Vehicles and Traffic”. Section 153-34 of the Durham Town Code by reducing the speed limit on Canney Road to 25 mph, and to schedule a public hearing on Monday, November 1, 2004. The motion was SECONDED by Councilor Smith.***

Councilor Kraus said he would vote against the ordinance, because it was brought forward by only one resident. He also said that changing the speed limit from 30 to 25 was trivial, and said he would oppose anything of this sort.

Councilor Smith asked Chief Kurz if the proposed ordinance was before them as a result of one resident, and if so, if that made sense.

Chief Kurz said the Traffic Safety committee had taken the position that 30 mph was the right speed for the area in question, but said the resident’s theory was that posting a speed limit of 25 mph would hopefully slow cars down to 30 mph. He noted that he had not seen that the neighborhood didn’t want the speed limit changed.

Councilor Smith said the reason he had asked the question was to determine if the proposal had any merit, in order to justify a public hearing. He said he wanted to know if the Department felt the proposal had any merit.

Chief Kurz said the 30 mph speed limit seemed adequate, noting there was a stop sign in the area that slowed things down. He noted that he had not brought this proposal on two previous occasions, which had frustrated the resident who developed

the proposal He said he was not opposed to the proposed ordinance, but said it was not the biggest issue he was facing at present.

Councilor Harris said she would vote against this, because it would involve putting even more signs up.

Councilor Needell said even if the proposal came from one citizen, there was a precedent for such a proposal to come before the Council. He said he had no problem with bringing it to public hearing.

Councilor Smith said did not want to view the police chief as a messenger, and said there needed to be a mechanism where these issues were screened first.

Chief Kurz said he had tried to elicit responses from neighbors, and noted a neighbor had said the speeding was a problem.

Councilor Niman said he agreed with Chief Kurz, and would like the Council to vote on it.

***The motion FAILED on a vote of 2-6 (Councilors Grant and Needell voting in favor of the motion; Councilors Smith, Kraus, Morong, Van Asselt, Harris and Niman voted against the motion).***

Councilor Morong said he wanted to note that when there were athletes running down that same road, with several runners sometimes running side by side, this was very dangerous with cars going by.

Chief Kurz noted that there had been some discussion about this problem.

## **X. Adjournment**

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

The meeting ADJOURNED at \_\_\_\_\_ PM.

Victoria Parmele, Minute Taker