

DRAFT
MONDAY, NOVEMBER 22, 2004
DURHAM TOWN HALL -- COUNCIL CHAMBERS
TOWN COUNCIL MINUTES
7:00 PM

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

MEMBERS ABSENT: None

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

I. Call to Order

Chair Sandberg noted that this was a special Town Council meeting being held to discuss the proposed 2005 Budget and Capital Improvement Program (CIP).

Councilor Kraus MOVED to approve the Agenda as submitted. The motion was SECONDED by Councilor Smith, and PASSED unanimously 9-0.

Chair Sandberg noted that no decision had been made at the previous Council meeting concerning funding of the library, and provided details on this. He said the Council was left to contemplate whether it wanted to keep the \$2.96 million or wanted to change it.

Councilor Van Asselt asked if the proposed \$75,000 in 2005 was Trustee held funds was meant to be used for the design phase, and if so, why this was being included in the CIP.

Administrator Selig said these were Trustee held funds, and explained that they would need this money to get professional assistance in answering a number of questions he had posed to them relating to the development of the project. He said it was hoped that by this time next year, they would have these answers.

Councilor Van Asselt said he agreed they would need money, but said he wasn't sure the Council needed to put this money in the CIP.

Councilor Smith questioned why this money was in the capital budget when it wasn't Town appropriated money, and was money in funds operated by the Trustees.

Business Manager Paul Beaudoin said that as with any project in the CIP, funding could come from a number of sources. He said for this project, the \$75,000 was earmarked as coming from the Trustees funds.

Administrator Selig agreed it was not necessary for the Council to show an appropriation for this, because the Trustees already had the authority to expend this money. But he said this was simply intended as a strong hint that the Trustees spend this money so they would have something ready by next year.

Councilor Smith explained that the Library's governance structure was different than other aspects of town government, with the exception of the Conservation Commission. He said there were many questions still to be answered as to where the authority of the Trustees began and ended, and said he didn't want the Council to go down the wrong path as to who had what power here. He said he agreed with the purpose of what Administrator Selig was doing, but questioned whether it was appropriate to list the funding in the capital budget.

Councilor Needell suggested that if the Council took the line item amount and put an asterisk in its place, this would serve as a space holder, and have no impact on the tax rate.

Administrator Selig said it was enabling, but agreed it was not necessary to have it there.

Councilor Needell said it was not really enabling either, in that the lack of it would not be disabling.

Councilor Grant asked if \$2.9 million proposed for the Library for 2006 implied that the Town would arrange and oversee the construction.

Administrator Selig said had not worked out these details with the Trustees, but said it was essentially the same mechanism in 2006 as in 2005.

Chair Sandberg asked if any one at the table thought that money of some sort didn't need to be spent in order to do the work needed.

Councilor Smith said he didn't think that was the right question to be asking. He said the Trustees had jurisdiction over the money, and said the initial question was whether the \$75,000 belonged in the CIP.

Chair Sandberg said he was asking this question so it was clear to the Trustees that the Council believed a lot of work needed to be done prior to approving \$2.9 million or any other figure.

Councilor Kraus suggested that perhaps the Trustees could work among themselves in considering the design details for the library, using the money they determined that they needed. He said this might save substantial funds.

Councilor Needell said that if the \$2.9 million stayed as it was, he hoped the Council was sending a unified message to the Trustees that the Council encouraged them to follow through with this, and there was reasonable support for the library. He said the Trustees shouldn't be spending money on a design if the Council thought the library shouldn't be built.

Councilor Van Asset said he asked the question because he simply didn't feel the \$75,000 belonged there, and also because he believed that when a number was put in a budget, it suggested that this amount should be spent. He also noted that he had strong feelings about the \$2.9 million figure as well, but wanted to deal with the \$75,000 figure first. He asked Chair Sandberg if the Council was supposed to amend these things as they went along.

Chair Sandberg described the options concerning amending the Budget and CIP, and said that he personally felt the most orderly process was to move amendments as they went along, and to adopt the Budget and CIP, as amended, later on.

Councilor Needell asked Chair Sandberg to go over the rules concerning future reconsideration of amendments. Chair Sandberg provided details on this, and there was discussion on this process.

Councilor Van Asset MOVED to delete \$75,000 from the 2005 column on line 4100-1000-05, the item for the new library, and leave the line blank. Councilor Kraus SECONDED the motion.

Councilor Needell asked if there were other line items like this in the Budget that were essentially suggestions. He said his sense was that there were.

Administrator Sleigh said this was essentially a unique situation.

Councilor Needell asked if they removed this, if they were done discussing it.

Chair Sandberg said they were simply done discussing the \$75,000.

Councilor Morong said he would rather not see a zero where the \$75,000 had been, and asked if it was possible to simply leave the line blank.

Councilors Van Asset and Kraus agreed to amend their motion and second to say the amount should be left blank, instead of saying there was zero funding.

The motion PASSED unanimously 9-0.

Councilor Van Asset said it seemed that previous discussion had indicated that the \$2.9 million figure was relatively meaningless. He said he understood where it came from, but said he didn't see any need for it in 2006, and would rather that this line be blank. He said his reason for saying this was related to what Councilor Smith had said about having realistic numbers that would make sense, down the road. He also said that when a number was put in a budget, people tended to work toward it, which was a mistake.

Administrator Selig said the rationale for putting in this number was that at present, it was the best number available. He said if it were eliminated, it was impossible to do long-range budget projections. He said this did not mean the number was being endorsed.

Councilor Smith said he felt there was too much guesswork in the number at present. He said if the Council decided to leave the number in, it must have the debate, and make some preliminary decisions as to how much it was the intention of the Town to raise, and from what sources. He said he believed it was important to have this debate before the end of December, because it was essential to indicate to the Trustees what the Council believed the source of the funding for the library should be.

He said he was reluctant to put a figure in until this debate had taken place, and until the Council had a reasonable basis for knowing if this was the correct number, regardless of the source of the money. He proposed to take this number to zero, or to leave it blank, and then to have the discussion within the next few weeks as to what the source of this money should be.

Councilor Morong said he would prefer that it be left blank until a reasonable number was available within the next few months. He said the Council would then be able to get a better idea of how the project would affect future taxes. He said he agreed with Councilor Van Asselt that people tended to work toward a number once it existed.

Councilor Needell said he disagreed with most of what had been said, and said he did not believe the \$2.9 million figure was arbitrary, noting it was considered to be a reasonable number by the people who had developed it. He said he looked at this as an endorsement that the Council accepted as a starting point, although it was a long way from committing to the project. He noted the number was predicated on using the Town Hall site, where there were still some real issues. But he said he was willing to say if the Trustees could make it work, they should move forward. He said he would like the number to stay, and make this statement to the Trustees.

Councilor Kraus noted that he had reminded the Council at the previous meeting that the Council had previously had money in the CIP for the library, and took it out. He said the money seemed to be an endorsement if it was left in, and said the line should be left blank, which indicated that there were still substantial questions about the money, although it didn't preclude it coming back in. He said this issue was of heightened concern in Town, and said the Council had to be very careful about sending signals pro and con to the groups involved in this.

Councilor Niman suggested that the figure of \$1.6 million should be put in instead. He explained that the Trustees currently paid approximately \$50,000 for rent, which would service a \$750,000 bond; they currently had \$350,000 in the bank; and they had committed to raising \$500,000, all of which totaled \$1.6 million. He said if the Trustees came to the Council and said they had raised \$500,000, and would like the Town to float a 750,000 bond which they would service at \$ 50,000 a year for a \$1.6 million library, the Council would probably agree to this. He said that given their present financial situation, the Trustees could afford a \$1.6 million library, so that number should be put in, and after subsequent conversations the number could be changed. He said this would demonstrate that the Council truly wanted to work with the Trustees.

Councilor Smith said he didn't agree with this approach, but said the figure should speak realistically to the facts the Town Council believed it had been presented with. He

acknowledged this was a sensitive issue, politically, and said he was sensitive to the concerns. He said the way to deal with this was upfront. He said he had a great interest in seeing a library built in Durham, but said he did not think that in this document, the Council should get ahead of things.

He said the key question before the Council continued to be whether the library should be built at the Town Hall site. He said the answer to this had immediate cost implications, including how far away the Council was from saying the figure in the CIP was accurate. He said he believed the Council should make a decision, perhaps that evening, on whether or not this library should be built at the Town Hall site, and under what circumstances. He said it also needed to be decided how much the Town wanted to commit to the project.

Councilor Needell said he agreed that the Council needed to decide if the library should be built at the Town Hall site. He said he agreed with the proposal that the library should be built there, and said he thought the \$2.9 million figure was an attempt to justify the cost for this. He said he did not think that in the course of discussion on the Budget, the library could be planned out. He said the Council had to accept or reject what it had been given as a starting point, and said that he was prepared to accept it.

Chair Sandberg said that regarding the level of confidence in the Beech Hill Road cost figure, and the cost for the future Fire Station in the CIP, he did not have a great deal of confidence in these numbers. But he said he was not especially concerned about this because it was a future number. He said the pivotal message regarding the Library figure was whether the Town Council concurred that the Town needed a new library.

Chair Sandberg said the Council wanted to move the issue forward, and said whatever numbers were put in the CIP, the real questions were where the library was going to be built, and what square footage was needed. He said that Councilor Niman made an excellent point, that it would be a net zero to put the \$1.6 million figure in, because this wouldn't cost the taxpayers any more money. He said it didn't commit the Council to \$1.6 million, but told the Trustees that the Council was interested, and was ready to participate, although it didn't really know how much the library would cost. He suggested it should be put in to start with, and might then go up or down.

Councilor Needell said if the \$1.6 million was included with a note that the library should be built at the Town Hall site, he would think this was a step in the right direction. But he said that if this was not included, simply putting the number in was not an endorsement at all.

Chair Sandberg said they could leave the number as it was for the time being, and then move on to address the real estate part of the issue, which came up on page 21. He said that if the Council decided that there would be no library on this spot unless there was more real estate, this cost issue became moot. He said if they stayed with the square footage the Town presently owned, the library would have to get smaller, or if the library stayed at the same size, the site would have to get bigger. He said he didn't know if there was yet enough information to answer that question.

Councilor Smith said one of problems was which issue came first. He suggested that they postpone further discussion for the moment on the \$2.9 million figure, and first take up the following: 1) whether the library should be built on the Town Hall site, and if so, under what circumstances; and 2) the extent to which capital construction should be born by private vs. public fundraising, and in what proportions. He said he would be more than happy to see a general vote on whether there was positive interest by the Council in building a separate (new) library building, if that was necessary to clear the air.

Councilor Niman asked for clarification on this last point.

Councilor Smith said some members of the Board of Trustees questioned whether the Council wanted to have a new building for the library. He said he was sensitive to these concerns, and would be in favor of being upfront on this.

Chair Sandberg said if the Council tackled the first question, Administrator Selig might have some thoughts he would like to share on this issue.

Administrator Selig said the proposal for the Town Hall location in 2002 contained a 12,500 sq. ft. building and 54 parking spaces, and noted he had had real concerns about the parking. He said he had asked Town engineer Bob Leveque to project the parking needs, and said he determined that there should be 90 spaces in order to accommodate the needs of the three buildings at this location. He said the Planning Department had determined that 117 spaces would be needed, based on the provisions of the Zoning Ordinance.

Administrator Selig said it was clear to him that this proposal, on which the \$2.9 million was based, would not provide sufficient parking. He said that perhaps if a taller structure or a smaller structure was built, or if a deck was built behind the facility, the site could accommodate more parking. He said the Town could also close its eyes to the need for sufficient parking, and move forward, which would mean parking throughout the neighborhood would be displaced.

He said his conclusion was that the Town would either need to find additional land, drastically scale down the size of the library, or find a different location. He said he hated to see the number of parking spaces needed dictate the library design, but said he believed the proposal the Council had seen to date was problematic because of the parking issue.

Administrator Selig said the Library Trustees were anxious for the Council to decide on the location issue. He said he believed the Council could take various perspectives, but said he hoped that if it didn't think the Town Hall location was appropriate, it would say so, and would say the library should go someplace else.

He said if the Council did like this location, this would require coming up with additional land, which would either mean aggressively purchasing the Smittys parcel and finding the money to do so, or buying land up Schoolhouse Lane. He said if they simply picked up the current proposal and put it someplace else, there would be land acquisition costs in addition to construction costs, which were not reflected in the \$2.9 million figure.

Councilor Kraus said he didn't think the library issue should be the tar pit that the Budget discussions got stuck in. He said the Council was spending time thrashing over these issues when there were still too many unanswered questions, including those put forward to the Trustees, and suggested the Council could leave this for the time being, and move forward with other aspects of the Budget and CIP.

Chair Sandberg said the question of whether the Town Hall parcel was adequate was key. He said if it was decided the parcel was not adequate, the questions became whether the consensus of the Council was that another place should be found, or that additional square footage should be found at the Town Hall site.

He asked Councilors if they said this site was ok but needed more land, what information they would need in order to direct the Town Administrator to purchase additional square footage. He also asked if instead there was a sense that additional footage wasn't needed because the Councilor didn't want the library. He said the Trustees really needed an answer to the question of whether the library could be built here.

Councilor Smith said he was sensitive to the tar pit analogy, but said the Council should try not to get stuck in it, and should resolve some questions. He said that in deciding whether the library should be built at the Town Hall site, the Council needed to consider the advantages and disadvantages of the site as well as other possible sites. He said it was not a perfect site, but said he had not heard of one that was clearly better, available, and at least as affordable.

He said he was in favor of putting the library there, but he said that for him, using the Town Hall site was only possible if the Town purchased Smittys land. He said he had felt all along that there was not nearly enough land at this site to build the library properly, looking out to the future. He said he would like to see the Council make the decision to build the library at the Town Hall site, simultaneously with the decision to purchase Smittys. He said he was not prepared to compromise in terms of putting a library at the site without acquiring additional property.

Councilor Niman said he would like to express the opposite view. He said he was not in favor of putting the library at the Town Hall site, and noted he had yet to meet someone who thought it was a good location. He said there were other potentially affordable sites, and said that perhaps the Trustees had been blinded by the idea that this property was free. He said if the Town were going to spend \$1 million, he would rather spend it for property located in the center of Town, which people could walk to, without a busy intersection. He said in this way, the library could begin to serve as the hub for bringing people downtown, and supporting downtown businesses.

Councilor Needell said he was in favor of putting the library at the Town Hall site and doing what was necessary to support this, including purchasing land, whether it was Smittys or another abutting parcel.

Councilor Morong said he could not support putting the library at the Town Hall site because of the parking situation, explaining that he didn't think this was prudent, looking down the road

even 10 years. He also said that as far as contemplating spending \$1 million was concerned, there were a lot of places to look besides next door. He said he would like to look at other options besides purchasing Smittys, and said it would take a lot of convincing to get him to want to purchase that property.

Councilor Smith MOVED that the Town Council approve the building of the library on the Town Hall site, to encompass the land mass the Town owned or would come to own.

Chair Sandberg said the motion the Council had before it was the Budget, and said Councilor Smith's motion should be germane to that process. He noted there was an Item on page 21 of the Budget regarding the purchase of the Route 108 Sunoco property. He said if the Council decided to leave this in the Budget, the implication would be that it was in favor of purchasing the Sunoco property. He said if the Council felt the amount was inadequate, it could amend that aspect of the Budget.

Councilor Smith said he was trying to move forward the substance of the issue, but said he was not sure how this could be accomplished by making the change on page 21. He said he was not sure how much it would cost to purchase that land, but said he was trying to find out if the majority of the Council was in favor of building the library on this site, as described, with the understanding that in doing so, the Town would purchase Smittys property.

He said if the majority of Councilors was not prepared to build there, and purchase the property, the only way to build a library there was if the majority of Councilors were prepared to do this without Smittys. He said he would vote against this last option.

Chair Sandberg suggested that the Council could lay the budget on the table until it resolved this issue.

Councilor Niman asked if Councilor Smith could achieve his objective by amending the item on page 23 to change the dollar amount to include the land acquisition cost.

Councilor Smith said he would prefer to lay the Budget on the table temporarily, and vote on this question.

Councilor Smith MOVED to lay the Budget on the table pending resolution of another question. The motion was SECONDED by Councilor Kraus, and PASSED unanimously 9-0.

Councilor Smith MOVED that the Town Council approve the building of the library on the general site where the Council is located tonight, accompanied by the purchase of the Smittys property, which would be integrated into that entire site. The motion was SECONDED by Councilor Harris.

Councilor Smith said that if this motion passed, the concept would be that there would then be a considerably larger space with which to plan. He said that was the intent of his motion.

Chair Sandberg asked about the implication this would have on the price tag for the library. He asked if Councilor Smith interpreted this as meaning the Town would buy the Smittys property at any price.

Councilor Smith said the property was currently valued at \$750,000, and said they could use that, although noting that this price could go up or down.

Councilor Grant asked Administrator Selig what the most recent price was for the Smittys property, and Chair Sandberg questioned whether it was prudent to be talking about prices in public session.

Councilor Smith said the key question was what price had been put on the property by the seller, which was an appropriate question to ask.

Administrator Selig said that approximately 3 months back, Mr. Mitchell had said the price of the property was \$1 million. He noted that since that time, Mr. Mitchell had said he would prefer not to sell the property.

Councilor Needell said he would reluctantly like to offer an amendment to Councilor Smith's motion.

Councilor Needell MOVED to strike "Sunoco" from the existing motion, and replace it with, "additional property".

He said he didn't see any reason to commit the Council to a particular property, and would feel comfortable simply acknowledging that the property for the library needed to be larger.

Councilor Smith said he had no problem with this, with the understanding that a more explicit decision would have to be made later.

Councilors agreed that this would be a friendly amendment.

Councilor Kraus said that perhaps Councilor Smith's motion should more specifically say the Town Hall site, and it was agreed that the motion would say "the land at 15 Newmarket Road."

It was clarified that the motion now read:

Councilor Smith MOVED that the Town Council approve the building of the library on the land at 15 Newmarket Road, accompanied by the purchase of additional property, which would be integrated into that entire site. The motion was SECONDED by Councilor Harris.

Councilor Van Asselt asked if additional property could include property located behind the public works garage, and didn't have to mean the Sunoco property, and was told it could.

Chair Sandberg said voting no on this motion would tell the Trustees they had to find another piece of land, and would mean the Council would have to find other real estate to purchase.

Councilor Smith noted that if the vote on this motion was no, this did not preclude building the library without acquiring more land.

Councilor Needell said a vote of no on this could be interpreted as saying the Council wanted to build the library on the existing site without acquiring additional land. He said he had heard very little support of this from the Council, and would not pass if a motion to this effect were voted on. He said voting for the current motion would endorse that the Council thought the Town Hall site was appropriate, and wanted to make it work.

Administrator Selig said he would also like to remind the Council that he had talked to Mr. Mitchell about a possible land swap, and said there was a new plan regarding this he was planning to provide to the Council at nonpublic session at the next regular meeting on December 6th.

Chair Sandberg said the implication of this was that if the Council voted in favor of Councilor Smith's motion, this would not preclude anything regarding a land swap.

Councilor Smith said it was not the intent of his motion to end up with the same amount of land, slightly more land, or less land.

Councilor Kraus said he would vote against Councilor Smith's motion because the wording in the motion had become too vague. He said he didn't want there to be any misconception that he was for the Smittys deal, which he said he was not in favor of.

Councilor Morong said \$1 million was a lot of money to spend on a piece of property, and noted that purchasing the Smittys property would also mean the Town would be taking valuable property off the tax rolls. He said he might feel better about spending the money on this property if he felt the Trustees had done their homework in looking for possible properties. He said he had suggested a property within walking distance to the schools that was half the price, and said he had never heard back from the Trustees on this. He said he therefore could not support Councilor Smith's motion.

Councilor Grant said he was opposed to the motion, stating that it added \$1 million to the cost of the library. He said that although he had no cost figures on the property behind them on Schoolhouse Lane he was more comfortable with acquiring that property because he believed it would be much less expensive.

Chair Sandberg said the thrust of Councilor Smith's question was – whether the Council wanted a library at the Town Hall site, with the understanding that more land would be needed in order for this to happen. He said the present motion allowed flexibility in terms of what land would be purchased.

Councilor Grant said the motion was vague in terms of knowing the price of what they were getting into. He said another option was to consider whether the Town needed a library that was so big. He said that the community room would generate most of the traffic, and if this

were taken out, they wouldn't need to have so many parking spaces. He said they were talking about \$1 million plus dollars here, and should be talking directly to that subject.

Councilor Niman said he would vote against any motion to put the library at the Town Hall site, but said the various changes to the present motion had mucked things up. He said that instead of having one, omnibus vote, he preferred to go with the original motion – of whether the Council wanted the library to be built at the Town Hall site, with Smittys. He said that following a vote on this motion, if necessary, the Council could vote on whether it wanted the library to build there, with another parcel, and then if necessary, could vote on whether it perhaps wanted a smaller library that could be accommodated on the existing Town Hall site.

Councilor Niman MOVED to amend the motion, to go back to the original motion, which is that the Town Council endorses the library being located at the land at 15 Newmarket Road, along with the acquisition of the Smittys Sunoco property. Councilor Kraus SECONDED the motion.

Councilor Smith said he was in favor of this, and anticipated quickly voting on additional related motions.

The motion PASSED unanimously 9-0.

Chair Sandberg said he supported Councilor Smith's motion. He said the Trustees were an elected body that had done their job as they saw fit, noting they had told the Council they had looked at more than 20 properties. He said the Trustees had unanimously endorsed this location, and had held a public hearing at which many people said they supported this location. He said that the 2000 Durham Master Plan 2000 had a very strong recommendation for the Town to acquire the Smitty property, and said it listed several good reasons for doing so besides building the library. He said the fact that the Trustees so strongly endorsed this location meant that the Town didn't have to go around looking for other sites, and said it made sense to follow their lead, and the lead put forth by the Master Plan.

With respect to the price, Chair Sandberg said he was not convinced that if there were a serious analysis, the \$1 million price would be the final price. He said he thought a reputable appraisal of the property was needed, and said if the Council found the price was too high, it would then have to look at additional property abutting the Town Hall site. But he said the message for the citizens of Durham should be that the Council did support the decision of the Library Trustees, and saw the advantages of having a municipal campus at this location. He said the opportunity to purchase the property existed now, and said the property might not be available in a few months.

Councilor Niman said that as he read the Master Plan, he didn't see any clear text that said the Town must buy the Smittys property, and must locate the town center there. He said the Master Plan had said the Town should form a committee to see if the Town Hall site would be suitable for a Town center, but said he didn't think this was ever done.

He said that with respect to the Trustees being an elected body, they were elected to look over the interests of the library, while the Council was elected to look after the interests of the Town. He said there were other considerations than merely where one group thought the library should go, and noted Councilor Morong's point that if Smittys was purchased by the Town, a property would be taken off the tax rolls that had considerable potential to generate tax revenue. He said if Mr. Mitchell sold the property to Irving Oil Corporation, he would have to make a number of improvements that would make the property more valuable than \$750,000. Councilor Niman said this would generate tax revenues to finance expenditures in the General Fund, and was an important consideration when there was a Town budget of over \$9 million.

He said in this case, if the property was purchased, the Town would also be taking Mr. Mitchell's business opportunity away, and might have to compensate him for this. He said this could drag on in court, which would be expensive for the Town and would further put delay construction of the library. He said he would vote against the motion.

Councilor Needell said he supported the motion. He said the Master Plan indicated that the Town should take control of the Smittys property by purchasing it. He said although the Town Center idea was left open in the Master Plan, moving ahead with this would take the Town in the direction the Master Plan wanted it to go.

The motion FAILED 4-5, with Councilors Needell, Harris, Sandberg, and Smith voting for the motion.

Councilor Smith MOVED to build the library at the current site without the purchase of additional land. Councilor Needell SECONDED the motion.

Councilor Smith said he would vote against this motion, for the reasons he had stated earlier.

Councilor Needell said he would vote for this motion, explaining that he had concerns about the impact of doing so, but was willing to let the Trustees come forward with their plans.

Chair Sandberg said he would vote in favor of this motion because he realized the Trustees knew there were serious reservations with respect to parking. He said if he voted in favor of this motion, it would be with the presumption that the design presented to the Council would be appropriate.

Councilor Van Asselt said the Council would be putting all kinds of constraints on the Trustees if it said, here is your corner, give us your new design. He said he didn't think that approach was the answer.

Chair Sandberg asked whether, if the Council voted in favor of this motion, this would tie the Trustees hands and say they could only build the library at the Town Hall site.

Councilor Smith said one should vote against this motion if he/she didn't think the library could practically be built on the Town Hall site without additional land, and should not vote in

favor of it, simply because the Trustees might then decide to build someplace else. He said Councilors should vote for the motion if they thought the Trustees could design a library that would work there for the future. He said he personally thought it was totally impractical to build the kind of library the Town wanted to have at this site.

Administrator Selig spoke about another option of demolishing the existing Town Office and building a joint structure, which would free up more land. He said another thing to consider was that the Planning Board might come up with other numbers in terms of parking. He also noted that the parking space numbers presumed the District Court remained at the site in the future, but said if it were not there, there would be more freedom to locate a library at the site.

There was discussion about what the current motion meant. Councilor Smith clarified that the third option was to build a library there and acquire property up Schoolhouse lane, and said the present motion only said the Council was not in favor of building a library at the site without purchasing any more land.

Councilor Morong said he would vote against this, but said he didn't see that it would take a large expenditure to develop a footprint that satisfied the parking needs. He said there was no reason the Trustees couldn't come back to the Council in the future regarding this site if they had a better plan.

Councilor Needell said he agreed, and said that was the reason why he would vote in favor of this motion. He said if the Trustees could make this work that was fine, and said that voting against this was a message to the Trustees that the site wouldn't work. He also suggested that a third motion could come forward, which could be addressed separately.

Councilor Harris said she would vote against this motion, explaining that if the Town couldn't have Smittys, it should consider the Madbury Road property as a better alternative.

The motion FAILED 2-7, with Councilors Needell and Sandberg voting in favor of the motion.

Councilor Smith MOVED that the Town Council favors the building of the library at 15 Newmarket Road, with the understanding that it be conditioned on acquiring an additional amount of land connected to that site. Councilor Needell SECONDED the motion, and it FAILED 4-5, with Councilors Sandberg, Needell, Grant, and Smith voting in favor of it.

Councilor Harris left the meeting at this time.

Chair Sandberg declared a 10-minute recess at 8:40 PM.

The meeting reconvened at 8:50 PM.

Councilor Smith MOVED to remove from the table the Budget and CIP. The motion was SECONDED By Councilor Kraus, and PASSED unanimously 8-0.

CONTINUED DISCUSSION ON THE PROPOSED 2005 BUDGET AND CIP

Councilor Smith MOVED to alter line 4100 – 1000-05 under 200 relating to a new library, to become blank, deleting the number of \$2,966,453 dollars. Councilor Kraus SECONDED the motion.

Councilor Smith said he was recommending that this be deleted because it did not state a realistic figure, and said he was not deleting it because he was not fully supporting the library.

Councilor Needell said the Councilors had clearly said that the Trustees' proposal was not acceptable, so this number needed to be re-thought.

There was discussion among Councilors about the earlier number, \$1.6 million that was provided by Councilor Niman as possibly being more appropriate.

Councilor Van Asselt said leaving this blank for the time being was a good idea, but he said the Council had the responsibility, since it had said it was interested in a new library, to help the Trustees find a location for it. He said he didn't think it was their sole responsibility to do so, and suggested that a joint committee could be appointed to work on this.

Councilor Needell said he fundamentally disagreed with this idea. He said the Trustees had spoken clearly, and would do so again. He said he hoped the Council would participate in discussions, but said it was the Trustees' ultimate request.

Councilor Niman MOVED to amend the motion so that the cell contains \$1.6 million. Councilor Morong SECONDED the motion.

Councilor Niman said the important thing was to make the statement that with the current dollars on the table, that a new library could be constructed at \$1.6 million at any point in time. He also said that if the Town moved forward with the Impact Fee ordinance, the amount would be contingent upon what was in the CIP, and said having this number would support this.

Councilor Needell said he didn't see why this number should be put in. He said using the number \$1.6 million said there would be no additional expenditure by the Town, and that the library could be built without raising taxes.

Councilor Niman said that was not what he was saying with this number, and Councilor Van Asselt said he did not think this was what Councilor Niman was saying, and asked him to provide clarification on this.

Councilor Niman said he was not stepping away from supporting the library, but was trying to be sensitive to Councilor Smith's point that the numbers should bear some resemblance to reality. He said saying the Trustees could have a \$1.6 million library was not saying the Town would not contribute anything.

The motion PASSED 5-3, with Councilors Needell, Smith, and Kraus voting against the motion..

Chair Sandberg asked if there was anything in the 2005 column on page 2 of the CIP that Councilors wanted to discuss.

Councilor Grant asked if the \$100,000 for Land Purchase was intended as bait to attract grant funds, and if the Town didn't get grant money, the money wouldn't be spent.

Administrator Selig said that was correct.

Chair Sandberg noted that the Beech Hill Improvements would be offset by tax incentives, etc. and asked if there was any objection to leaving it in. There was no objection to this

Councilor Van Asselt received clarification that under Main Street Rehabilitation, only \$8,000 of the total \$80,000 had to come from the Town. He also asked if the funding included for the Fire Cistern program for the years 2005, 2006 and 2007 was to catch up for existing subdivisions.

Administrator Selig said the Town didn't have to install these cisterns, but recommended that the Town do so because they were a real benefit to the community.

Councilor Van Asselt agreed this was a good idea, but said he wanted to be sure that developers would be responsible for this in the future.

Chair Sandberg asked whether the \$80,000 on page 2 for the dispatch center meant an endorsement to abandon the UNH dispatch center, and switch over to County dispatch services.

Administrator Selig said this only empowered the Town to do so if the other factors aligned themselves. He said that after hearing discussion on this at the previous Council meeting, it was clear to him that the Council would be briefed to assure them this was in the best interest of the Town.

Chair Sandberg noted that if the amount was under \$25,000, it could be completely implemented by the Administration, and did not have to come back to the Council for approval.

Administrator Selig said he would brief the Council, regardless, because he understood there were concerns. He said the \$80,000 was an estimate, and Town staff was in the process of refining it.

Councilor Grant asked whether the \$80,000 for Main Street rehabilitation was Town dollars.

Administrator Selig noted that page 7 described this clearly, and showed that \$8,000 would come from the Town, \$8,000 would come from UNH, and \$64,000 would come from a Federal grant.

Councilor Smith asked why the Route 4/Route 108 Interchange project was put ahead to 2011.

Administrator Selig said that although he had requested that this be accomplished sooner, this was the soonest that grant funding would be available.

Councilor Smith noted that was still very speculative funding for 2011. He said the reason he was raising this was that there was a crisis with the absence of a traffic light, turning westbound at this location. He said that a study done four years ago already had determined that this area qualified as needing a traffic light. He said this was one of the totally ignored places in Town, and was getting worse and worse.

Chair Sandberg asked if there was any way to move the \$150,000 further forward, and there was discussion about this.

Administrator Selig said he would look into this.

Councilor Needell said he appreciated Administrator Selig's comments concerning the dispatch center, and asked what the \$80,000 would be for.

Administrator Selig said this would be for enhancing the communication capabilities of Town vehicles, and enhance the computer capabilities needed to correspond with the County dispatch system.

Councilor Needell asked whether this money would only be spent in anticipation of the transition, and Administrator Selig said yes.

Councilor Kraus noted the \$100,000 listed for the Conservation Commission, and asked if the \$50,000 for the Packers Falls Bridge repairs would come from this.

Administrator Selig said the \$50,000 from the Conservation Commission was funds currently budgeted as part of the 2004 operational budget. He said this \$100,000 was something that had been developed a few years ago to allow the Council to act swiftly if grants became available. He said if the money was not spent in a given year, it went back to the General Fund as part of the unexpended fund balance, and noted the money had not been spent in any of the previous years.

Councilor Morong asked why the Conservation Commission needed this if it already was authorized to spend \$2.5 million. There was detailed discussion about this.

Administrator Selig said the idea behind this was to allow the use of grant funds if they became available, and simply let the Council move more swiftly. He noted that this option was in place

before the bond was voted on, before the contingency fund, and before the land use change tax went from 50% to 100%.

Councilor Smith noted that the NW/SE linkage project had been in the CIP for years, but nothing ever happened with it. He said he didn't understand why it was still here if the University had not changed its position with respect to this.

Administrator Selig said the Planning Board felt strongly that the study should be done, and recently had recommended that it be moved up to 2005 and paid for with tax dollars. He said the Town's strategy every year had been to try to secure federal funding so there would be no cost to town, or a small fraction of the cost. He said he moved it out to 2006 because he didn't think the Town could afford it for 2005. But he said he would love to have the Council take a definitive position on this.

Councilor Smith noted that the Planning Board had urged this for years, including when he was on the Board. He said he had finally decided that unless there was a change in the University's position, he didn't see the reality of this item.

Administrator Selig said that the State had some easements that could make this come to fruition, but agreed that without the University on board, it wouldn't happen. He said the Planning Board thought that the analysis might convince the University that the project was in their interest, but said they were presently adamantly against it.

Chair Sandberg said when he had sat on the University's Master Plan Steering Committee, the University chose not to put any buildings in the corridor that he was advocating for the connector. He said the Master Plan therefore didn't preclude the connector as a possibility in the future.

Councilor Smith said the University wanted that land preserved as agricultural land in support of their agricultural programs. He said he was in favor of studying the issue if this could lead to something meaningful, but said he was not willing to throw money away if the University was not willing to consider the project.

Chair Sandberg asked if the study could be moved to 2005, and Administrator Selig said he did not feel the Town could afford the impact on the tax rate.

There was additional discussion on whether the number should stay in the CIP.

Councilor Niman asked if the Town owned the rights of way for the southern connector, and why the Town was not moving forward on this.

Administrator Selig said he did not know the history of this.

Councilor Van Asselt noted \$35,000 listed for air conditioning and sprinklers for the Fire Station, and said that in the past, UNH had helped pay for work on this building. He asked if UNH had been approached about this.

Mr. Beaudoin said there was a mistake on page 42, and said the sprinkler was no longer part of the proposal. He said \$38,200 would pay for central air, and said this money would come out of the capital reserve, which was money that both the Town and the University had contributed.

Councilor Grant said the Public Works Department did a nice job with the sidewalks on Madbury Rd., but he said that under the present tight financial circumstance, the Town could defer sidewalk construction another year, by shifting work planned for the years 2005 through 2007 one year ahead.

Councilor Grant MOVED to take the sidewalk reconstruction money on page 3, under Public Works Operation Division, and shift each of the three Items one year to the right. Councilor Niman SECONDED the motion.

Councilor Grant said in a tight financial year, the Town could go another year without repaving the sidewalks in that area. He noted there were already paved sidewalks in this area.

Councilor Van Asselt noted p. 61, thought this had to remain in order to be in compliance with ADA. He said this could become a major issue, since it involved meeting federal requirements.

Administrator Selig said to his knowledge, the ADA requirements were not driving the project. He said it was acceptable to postpone the work.

Councilor Smith asked to what extent noncompliance issues were there at present.

Public Works Director Mike Lynch said a lot of sidewalks in Durham were ADA compliant but didn't have the correct pitch for navigation by wheelchairs, etc. He said this was corrected as the sidewalks were worked on. But he said the lion's share of the cost for reconstruction was for the lighting.

Councilor Morong asked if the amount of lighting there now was sufficient so pedestrians could be seen.

Mr. Lynch said there was adequate lighting in this area, but said the planned work would set the lights back, making it easier for snow removal.

Councilor Needell said he was inclined to leave this in, because he said he had no reason to believe funds would be any less tight the following year.

Councilor Smith said he was not satisfied with the ADA response. He said if the sidewalks were not compliant, this aspect of the work should not be postponed.

Mr. Lynch said the Town was compliant in that the sidewalks were tipped down so wheelchairs could enter them, but said the pitch of some was not in compliance.

Councilor Smith asked how long the sidewalks had been out of compliance.

Mr. Lynch said this had been since the law was passed.

Councilor Smith said that since that was the case, there should not be any backsliding on this. He asked if the asphalt changes had to be done at the same time as the lighting was installed.

Mr. Lynch said the asphalt changes could be made without making any other changes.

Councilor Smith said it was inexcusable to be out of compliance, and said he wanted to know if this could be taken care of without further delay, even if the Council voted to shift the sidewalk funding out for the next three years.

Councilors agreed that they would wait to address the sidewalk compliance issue until they got to the operating budget.

The motion PASSED 7-1, with Councilor Needell voting against it.

Councilor Van Asselt noted that the third item under Public Works on page 50, for \$298,000 for road resurfacing, to be done in 2005. He asked if the breakdown for this included state money.

Administrator Selig provided details on the fact that much of this money came from the State.

Councilor Van Asselt said the reason he asked this was that residents frequently ask why the Town was resurfacing roads every year when there was limited money.

Administrator Selig provided additional details on the past and present Roads program. He said the amount had been increased to \$300,000 because of increasing costs.

Chair Sandberg asked if the replacement of the snow blower could possibly be moved out to 2008.

Mr. Lynch provided details on how the truck became more unreliable with each passing year.

Chair Sandberg noted the Bennett Bridge Railroad Bridge replacement planned for 2012, and Mr. Lynch and Administrator Selig provided details on this. HE said renovations done recently would enhance the life of the bridge.

Chair Sandberg asked if the bridge could carry fire equipment.

Mr. Lynch said the Bridge had not been re-rated since the repairs were done, and currently had a 10-ton limit, which did not sustain a loaded fire truck, snow truck, or garbage truck.

Chair Sandberg asked if this meant the Town would need to upgrade the bridge to address this.

Mr. Lynch said the Town's feeling was that there were a couple of more tons of capacity now that the repairs had been done.

Chair Sandberg asked if Mr. Lynch believed the repairs made to the bridge were adequate to hold the Town's vehicles, why it had to be replaced in 2012, and Mr. Lynch provided details on this.

Administrator Selig said it would make a policy decision that because it did not own the bridge, it should not have any money in the CIP for it, which would be further endorsement that the Town was not willing to accept the bridge at the present time.

Chair noted that if the Town owned it, it would have greater control over rebuilding it. He asked if the Town was vulnerable to eminent domain, and asked additional concerns about what the Town might be required to do.

Councilor Grant MOVED to delete the \$770 750 from the Public Works Operation Division line 4800-1035-13 for the year 2012, and leave it blank. The motion was SECONDED by Councilor Van Asselt.

Councilor Needell asked if there was a safety issue involved in the planned repairs. There was additional discussion about what work was planned, and needed for the bridge.

Councilor Smith asked if down the road the other bridges were raised, there was any law that required the Town or State to alter the Bennett Bridge. There was additional discussion about this.

Chair Sandberg said this Item was 8 years into the future, and the Town didn't own the bridge. He said if in a year, Mr. Lynch felt the work needed to be done, this could come back to the Council.

The motion PASSED 6-2, with Councilors Niman and Needell voting against it

Councilor Grant noted the Spruce Hole aquifer study on page 5, under water funds, and asked if this could be put off for a year, since the consultant had recommended addressing the issues concerning the Lamprey River with the State.

Administrator Selig said a firm idea of the cost of developing the aquifer was needed and said this study would provide this. He said the Town had petitioned the State to allow further drawdown of the Dam, but noted that concern would be expressed by the Conservation Commission about this.

Councilor Kraus noted on page 2, \$54,000 was listed for a car for the Police Department, and asked if this was for a special vehicle.

Chief Kurz said this was for a four-wheel drive vehicle.

Administrator Selig said this had been put off to 2008. He also said he still remained skeptical as to whether the Police Department needed a four wheel drive vehicle.

Councilor Van Asselt said the Wiswall Dam repair listed on page 5 included \$450,000 for 2006. He said page 82 indicated this would be paid for with bonded Town money, if it went forward, and asked if there was federal or State money for this.

Mr. Beuadoin said this would come from the Water Fund.

Administrator Selig said Town staff were trying to identify grant funds to cover part of this, and noted a proposal had been submitted to FEMA. He also said that in negotiations with UNH on the water system, there had been discussion that it might contribute.

Councilor Van Asselt encouraged Town staff to find federal money or other sources for this. He said there would be a great deal of pressure for the Town to spend money on this, and there should be other options available.

Administrator Selig noted that merging this idea with the fishway concept might provide a relief valve for pressure behind the dam.

Chair Sandberg noted that there had been some thought about the Department of Interior being involved in this project. He asked if the money would all come from the Town.

Mr. Lynch said NH Fish and Game had gotten funds from the Interior Dept. (238,000) for the fishway, but not for the repairs to the Dam.

Administrator Selig said the Town had received notice from NHDES that repairs needed to be done in 2005, but said by doing the engineering in 2005, they were confident they could push things off to 2006.

Councilor Van Asselt said there was money in the CIP for dams, dispatch centers, etc. but no money under planning for lands that might be used for economic development. He asked if he would find funding for this in the operating budget.

Administrator said an additional \$10,000 had been added to the Planning Board for consulting services, but no specific money had been budgeted for economic development.

Councilor Van Asselt asked where money for this would be listed if the Town had it.

Administrator Selig said if the Town hired a consultant to focus exclusively on economic development, this would be listed under the operating budget. He said that at present, the

focus was on working through the Economic Development Committee to develop good ideas.

Administrator Selig noted that the Wastewater treatment plant permit expired in 2005, and were taking bit of risk in putting this off a year, but said he believed it was a risk worth taking given the comprehensive view the Town was taking of the water/wastewater system.

Chair Sandberg also noted the upgrades that were recently done.

Councilor Grant MOVED to postpone further deliberation on the proposed 2005 Operating Budget and the CIP until the following Monday. The motion was SECONDED by Councilor Kraus, and PASSED unanimously 8-0.

Councilor Grant MOVED to adjourn. The motion was SECONDED by Councilor Kraus, and PASSED unanimously 8-0.

Adjournment at 10:03 pm

Victoria Parmele, minutes taker