

**DRAFT**

**MONDAY, NOVEMBER 29, 2004  
DURHAM TOWN HALL -- COUNCIL CHAMBERS  
TOWN COUNCIL MINUTES  
7:00 PM**

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

**MEMBERS ABSENT:** Gerald Needell

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

**I. Call to Order**

Chair Sandberg explained that the agenda for the meeting was a continued discussion on the proposed 2005 Budget and 2005-2015 CIP.

***Councilor Kraus MOVED to approve the Agenda as submitted. The motion was SECONDED by Councilor Grant, and PASSED unanimously 8-0.***

Chair Sandberg asked if anyone had additional questions, before moving on from the CIP to discussion of the proposed 2005 Budget. He said the basic plan was ultimately to vote on the whole package, and said there was nothing to say the Council could not come back and visit the CIP again in another week.

Councilor Grant questioned Administrator Selig about the **Spruce Hole Aquifer study**, noting his concern was the impact of the \$64,000 study on the water fund.

Mr. Beaudoin said that based on continuing discussions, it would be pro-rated based on water consumption, with about \$24,000 coming from the Town, and \$42,000 coming from the University.

Councilor Grant asked if Town staff had anyone in mind to do the study. Administrator Selig said this would be put out to bid, and noted the Town worked with Dufresne Henry on the Town's water system. He said the dollar amount would require it be put out to bid unless the Council was asked to waive that process.

Councilor Grant asked how the Town staff knew \$64,000 was the right amount, and Administrator Selig said the Public Works Department got an estimate for it.

Councilor Kraus asked if the reason this study was needed was because the Town was going to run out of water.

Administrator Selig explained that the Town's water capacity was limited, and said it was projected that additional supplies would be needed in the future to allow for additional development. He also said that in low water periods, especially during the summer, the Town did run into water shortages. He said the aquifer would greatly enhance water sources for the community, for the long-term, and said this was one of the main focuses of the overall water study that had been done.

Councilor Harris noted that the Town's population was not growing really significantly, while the University population was growing significantly, and said it didn't seem fair that the Town should have to foot the bill for this expansion.

Administrator Selig said long-term projections showed that the Town would also grow, and said that even at present there were shortages. He also said as they talked to the University, they were trying to look at the water and wastewater systems comprehensively, and for ways to partner together to meet long-term needs. He said one issue being looked at in discussions concerning cost sharing was that as demand for water changed over time, the allocation of costs for water resource development would change.

Chair Sandberg noted that with the current budget, the University would be paying 2/3 of the 64,000.

Councilor Smith said he believed Councilor Harris's comments were directed at the fact that future increase in the need for water was going to be accelerating at the University considerably faster than for the Town. He stated he had always viewed Spruce Hole as a substantial increase to the Town's future water supply. He asked whether, given the fact that the Town was looking at this as a future water supply, and if acceleration of the University's population were to continue at a typical rate or at greater acceleration, if the distribution between the University and the Town was correct. He asked whether, if the percentage used by the University was going to increase, if the distribution of the cost of the study made equitable sense. He noted he would have pushed this issue harder if a million dollar study was planned.

Administrator Selig said the percentage of usage was in fact 2/3 and 1/3 at present, and said the water agreement was based on allocating new exploration, sharing new infrastructure, etc, at that rate. He said they were trying to explore Spruce Hole under the current agreement, to get a better sense of the amount of water available as well as the cost of fully developing it as a water source and connecting it to the rest of the system. He said he felt the split was reasonable given that the system was integrated.

Business Manager Paul Beaudoin said the current water agreement said the ownership of Spruce Hole would be 50/50, and said the agreement said the cost of developing the aquifer would be shared 50/50. He said there had been discussion about it being fairer to break this down according to the 2/3 to 1/3 split, and noted the actual cost of the study would be bonded over 10 years. He said the University had agreed to pay their proportional share each year on everything, including bonding costs for various water related projects.

Chair Sandberg said that in other words, although the split might be 2/3 to 1/3 this year, these percentages could shift over time to reflect actual water usage.

Councilor Kraus asked when the Town and University might be drawing from the Spruce Hole aquifer. He said there might be other things the Town could do first, including digging out the Oyster River reservoir behind the dam, and drawing down the Lamprey River a bit more than had previously been allowed.

Chair Sandberg summarized that the purpose of the study was to get a greater level of understanding of what the Spruce Hole aquifer resource was, and what the costs for developing it would be, going forward, as a basis for making better decisions.

Councilor Smith said the costs might get much higher in the future, and said it was important that the Town track the rates of acceleration of usage, because at some point, looking at them became highly relevant in talking about how much the University should be contributing for the development of a long-term resource.

Councilor Grant noted on page 82, regarding the **Wiswall Dam study**, that there didn't appear to be a contribution from the University for this. He asked if there should be, given the fact that it was the backup for the Lamprey River. Administrator Selig said that presently, the dam belonged to the Town of Durham. He said that in discussions with the University, there were challenges in talking about the existing infrastructure, and provided details on this. He noted that if the Town contended that the Wiswall Dam should be improved using both entities, then the University claimed the Town should contribute to improvements to the wastewater treatment plant. He said he had maintained that the Town should not be contributing to the wastewater treatment plant because it was a much more complex, costly facility. He said if the Town was willing to contribute based on actual water usage, the University was very willing to contribute toward improvements for the Dam, the Lee Well and other existing Town owned infrastructure. He said this was still an area of discussion, and provided more details on this. He said they were working toward a better way to meld the two entities into a single system.

Chair Sandberg asked if the Town was looking at the possibility of co-ownership of the dams, the water treatment plant, the wastewater treatment plant, etc. Administrator Selig said they hadn't looked at co-ownership, but had looked at the idea of creating a water and sewer district ownership that would be administered by an impartial board. He said he was uncomfortable with this idea, and noted the history of a similar type of entity in Durham that hadn't work too well. He also said it was important for the Town to have a very meaningful say in whatever happened to the water and sewer infrastructure. He also said was concerned about the Town paying more than it should for University improvements, given the fact that its population was growing. He said discussions had moved away from that idea, and had moved to looking at the various components as a single system, and dividing up the costs.

Mr. Beaudoin said they were trying to come up with a way to manage the Town's water resources properly. He gave as an example that the Town, instead of draining from the Lee

Well so it didn't have to pay the University, should be drawing out of the Lamprey River for most of the month, so the well could recharge so that when the Town needed it, it would be able to draw off water in a sustainable manner. He said this way of thinking was a key part of negotiations, and said as part of this, they tried to break out the components of the system. He provided additional details on this.

Administrator Selig said this unified system concept was also important in order to provide a hedge against contamination of one or more of the Town's water sources.

Chair Sandberg asked how Administrator Selig wanted to approach the discussion on the proposed 2005 Budget. Administrator Selig suggested the Council go through the list of major items in the Budget, and encouraged Councilors to ask broad as well as more specific line item questions.

Councilor Niman said he would like to suggest some major changes to the Budget that were not on the Town Administrator's list, and would like the opportunity to discuss these. He noted he did not have any formal proposals in writing.

Chair Sandberg suggested that if Councilor Niman had handouts relating to his recommended changes, he could provide them to Councilors that evening, and they could be focused on at the next Council meeting.

Councilor Niman said he would just need some time to explain the information being handed out.

Councilor Kraus noted that the next Council meeting was a regular meeting, and said the budget discussion could possibly be co-opted by pressure groups, such as the Packers Fall Bridge people or the Library people, so that public comments would go on for a long time.

Councilor Harris raised a point of order, and Chair Sandberg called the point of order. Councilor Harris said she found it unfortunate that there were derogatory comments that the Council wouldn't get anything done at the regular meeting.

Chair Sandberg said he would think the Council would welcome having members of the public come to regularly scheduled meetings to voice their concerns. He said the Council had the option of working 7 days a week, and said if the evening's meeting reached 10:00 pm, the Council had the option to continue the meeting past that hour, or could meet more frequently.

He said that at that moment, he was not particularly concerned the Council would have enough time to complete the budget. He asked Councilor Niman how much time he would need that evening, and it was agreed that Councilor Niman would have 15-20 minutes at the end of the evening's meeting to discuss the handout.

The Council next went over projected increases in spending on Page 2 of the Budget.

Concerning the proposed **increase of \$68,509 to fully support the ongoing operations of the Durham Public Library**, Councilor Smith asked Administrator Selig if he felt this was an appropriate amount, and if he was not including in the appropriations any incentive moneys for raising funds. Administrator Selig said the answer to the first question was yes. He explained that one of the supporting points in the proposal was to challenge the Library Trustees to do the groundwork needed to begin to raise money as part of a capital campaign for a new facility. But he said there was no match.

Councilor Smith said he would favor full support of this budgeted amount, because it was a reasonably minimal amount for a lean operation. But he said he was not doing this because it provided the opportunity for the Trustees to raise funds. He said that in his view, the Trustees should have had the misery of raising capital funds before now. He said when it came to how much money the Town should contribute to the library, he was fully expecting a very different approach from the Trustees, and therefore did not view this current line item as a reward.

Councilor Van Asselt said a few weeks ago, he had said he would like the Town Administrator involved in day-to-day operations of the library. He noted he was taken to task by the Trustees for saying this, and said he would like to explain what he had meant in saying this, and what he would like to see them work toward. He said if the Council was going to provide the operating funds for the Library, the overall management responsibility for those operations belonged with the Town Administrator. He said he didn't think the present system was good management practice, and provided details on this. He said he was not interested in the Town Administrator managing the books, but said he would like him to manage the library as he did the other Town departments. Councilor Van Asselt said this wouldn't eliminate the role for the Trustees, noting that they played the ongoing programming role. He said he realized this wouldn't happen that night, but said he would feel better knowing Administrator Selig had the management responsibility, especially given the new building planned within the next few years.

Chair Sandberg asked if there was a standard operating procedure in Towns among Boards of Trustees and town administrators with respect to the operation of a library, vs. programming functions. Administrator Selig said this varied greatly, but said that in most smaller communities the library trustees were very autonomous. He provided additional details about how towns of various sizes handled responsibilities. He said the new library would warrant more focus from him and his office in terms of manage funds, staying within budget parameters, and personnel management. He said this operational work would still be lawfully under the auspices of the Trustees, and said he would not interfere with daily operations. But he said he would have more concern over how they were spending their money as the Town came to support more and more of their operations, and said he could address some of Councilor Van Asselt's concerns at that time.

Chair Sandberg asked if there were other models in New Hampshire that allowed the Town Administrator and Business Manager to be in charge of structural/operational components of the library, while daily library program activities in the building would

fall under the management of the Trustees. He asked if there was a clear demarcation between these responsibilities and if not, if there needed to be.

Administrator Selig said they would have to work through these specifics. He said that for the new library building, they would develop a budget for the building, and that part of the budget would be covered under general operations. He noted that utilities would be covered under the Public Works department.

Chair Sandberg said that in other words, Councilor Van Asselt's concerns would be addressed over time. Administrator Selig said up to a point, but said not to the extent that the Town Administrator would interfere with the functioning of the library, for example, the hours of operation. He said personnel procedures would be within their jurisdiction but said there was quite a bit of influence that he could bring to bear if needed, especially through the budget process.

Councilor Smith said the Town had to start with the reality that there was a State law that created the library board of trustees, but there were no analogous powers in other Town departments. But he said that when all was said and done, it was the Council that would have to say what a reasonable amount of support for the library was.

Councilor Kraus asked if the Council knew how the Trustees would spend the proposed increase in money. Administrator Selig explained that page 197 of the Budget contained line items for this. He noted that although there was a proposed increase in the amount the Town would be paying for the operation of the library, the library budget itself was only increasing by a few thousand dollars.

Councilor Niman asked Administrator Selig if there was a reason why the rent and associated costs for the library space had not been moved into the Public Works budget, instead of waiting until a new library building was built. He asked if there might be a problem in the future when it appeared in the budget under the Public Works Department, and it looked like the Library budget had been cut.

Mr. Beaudoin provided details on why the Trustees would be happy to have that happen, and said this would just mean a transfer of costs from their budget to another budget.

Councilor Niman said if the numbers were moved over to the Public Works Department at present, then it would be clear that the responsibility for providing the space rested with the Town Council. He said if the library stayed at the shopping mall because of a decision made by the Council regarding the Town's budget he wondered if this would give the Council more incentive to work with the Trustees to come up with a permanent space.

Chair Sandberg asked what Councilor Niman's thoughts were on this.

Councilor Niman said he would like to see this line item moved out of the library's budget, because he said it then became the Council's responsibility to address the library issue.

Administrator Selig provided details on why shifting some costs of maintaining the library over to the Public Works Department could be a problem, including the possibility of losing track of some funding. He also said he believed it was better to leave the budget as it was at present, and said if the Council felt staying at the present location was the best course to take, this would be clear from whatever decisions the it made, going forward.

Councilor Grant said he didn't have an objection to the **additional \$10,000 added to the contingency line, bringing the total recommended appropriation from 50,000 to 60,000**. But he said the Council ought to reconsider whether the leftover funds at the end of the year should be transferred into land conservation purchase funding. He said he was not against purchasing land that needed to be conserved, but said the Town had a fairly large contribution already, in comparative terms, for this. He said that at time when the budget was increasing by \$500,000, the Council should try to return to the taxpayers whatever savings it could achieve. He said he didn't see much incentive to save this contingency money when the money would simply be turned over to another agency if it were not spent.

Councilor Smith pointed out that all of the evidence demonstrated that the best way to keep taxes down was through non development, with the exception of certain unusual commercial facilities, such as those in Newington where very little support needed to be provided by local government to get an economic return.

He said he didn't see the transfer of this money as a way of putting a drain on the taxpayers. He said he thought this was perhaps the only thing the Town could spend money on where the inherent effect was to, in the long run, lessen the tax burden. He noted a presentation by the North Hampton Group that provided detailed evidence that the tipping point occurred a few years out, where a town began to make more and more money. He said this line item therefore needed to be viewed in a different light than any other item in the budget.

Councilor Van Asselt asked if a policy decision had been made at some point that the funds went into land conservation. Administrator Selig provided some history on how this process evolved three years ago. He explained that because the Town was concerned at that time about putting funds away for conservation, before bond was approved, he thought this was a way to fund conservation at the back end of the budget, which would be a rather painless approach. He said this process was actually starting to work, and noted that the Town had also changed the land use change penalty so 100% of the penalty now went to land conservation.

Chair Sandberg asked what the balance was in this fund, and Mr. Beaudoin said it was somewhere over \$400,000, including the 2004 land use change tax penalties.

Chair Sandberg said the issue was that the Council had been given the authority through the bond to make a substantial land purchase and bond it. But he said that by gradually salting money away, this was money the Town wouldn't have to bond down the road, and could buy land with money saved, and not with credit. He said the citizens had said they wanted the Council to spend up to \$2.5 million if land became available, but do so wisely. He said the Council was putting money away for this purpose so it wouldn't have to borrow it later.

Councilor Van Asselt asked how the Council could determine not to put this \$60,000 into land conservation, going forward, and Chair Sandberg said a Councilor would need to make a motion to delete the \$60,000, and discontinue this policy.

Mr. Beaudoin and Administrator Selig provided details on how deleting the part of the policy where the contingency money was transferred to land conservation could be accomplished, and there was additional discussion about this.

Councilor Morong noted, concerning the \$400,000 the Town had salted away for land conservation, that someone who had paid taxes toward this and who left Town wouldn't reap any benefit from this. He said for this type of item, it would therefore be better to bond the land conservation money so the people who would benefit down the road would help to pay for it.

Councilor Kraus said he believed he understood members of the Conservation Commission said to the Council that they were giving away money for Packers Falls Bridge, and asked where this money came from.

Administrator Selig said that the 2004 contingency line item of \$50,000 would lapse into the \$400,000 land conservation fund account, if it were not spent by the end of the year. He said what the Conservation Commission recommended was that the Town use this contingency money, which was not yet land conservation money, on the bridge repairs before the end of the year, even though it wasn't quite their money yet.

Councilor Morong said that when members of the Conservation Commission came before the Council, he didn't actually hear them say they looked at this as donating money, but said they appeared to look at this as a land conservation project that was as valid as buying a piece of land. He noted that when others came before the Council concerning the Packers Falls Bridge funding, they spoke about making a donation.

Administrator Selig gave examples of how this contingency money could be spent, and said it was there to be used for anything the Council agreed it should be used for.

Councilor Grant asked how this contingency money differed from the contingency general fund of \$43,450 listed on page 35. Administrator Selig explained that second contingency line item was money for non-union employee wage increases, and Councilor Grant suggested this could be called wage increases.



Councilor Van Asselt said there were a whole lot of other things this money could be used for other than land conservation, when a land conservation bond had already been approved. He said he would argue that the Town could take the \$50,000 and spend it on a number of things, and said he did not agree with Councilor Smith that the Town would lessen the tax burden by putting land into conservation. He said if \$500,00 were invested over the next 10 years in economic development, there would be a higher return than from just buying land. He noted this was an especially worthwhile thing to consider given that there was \$400,000 in the land conservation fund, as well as the land conservation bond.

Chair Sandberg said they didn't actually have the bond, but had the authority to sell a bond, and said it was only a device to allow the Town to perform in a more timely fashion. He said it might never be used.

Councilor Smith said the bond represented that the voters had expressed a policy decision, which the Council recognized, but the Council then had to express its authority to spend the money. He said he would concede that there were forms of economic development that would be more profitable than anything else, but said there was much evidence to say that economic development per se was not better at keeping taxes down than land conservation.

Chair Sandberg said he had noted this in his book for further discussion, and said the Council could discuss this issue further toward the end of the Budget process.

Chair Sandberg noted the **Durham MainStreet Program** was being sunsetted, and the Town would provide \$3,500 instead to the *Durham: It's Where U Live Program*.

Councilor Van Asselt said he would like further information on this, and noted that he disagreed about the dismantling of the MainStreet Program. He said he had read the materials on the new program, and was not interested in putting \$3,500 into it, explaining that he didn't think it made sense to make a token contribution like this to something that could only be successful if it had adequate staffing. He said it had been proven over and over again that these programs only worked if they had adequate staffing.

Mr. Beaudoin provided background on the Durham: It's Where U Live Program and said he sat on the Committee for the program in place of Administrator Selig. He said the program was the brainchild of the University, and was developed after the riots to find a way to bring a sense of community to the students, and create more of a two-way relationship between residents and the students.

He said it was a good concept, but was still in its infancy. He said the Committee was looking to make it work in place of the MainStreet program, and noted that some of the program events that the MainStreet Program had run were being continued through the new program. He said the work would be done basically with volunteer help, and noted that the people involved were very charged, including local business people.

Mr. Beaudon provided details of additional funding for the program.

Councilor Kraus said he disagreed with Councilor Van Asselt about staffing, and said his observation was that the problem had been that the entire MainStreet Program budget was spent on one person, which might not have worked out so well. He said the new program seemed like an excellent initiative, with a lot of energy.

Councilor Smith asked what the President's Fund was, and also asked where the University was going to be putting the money it had budgeted for the MainStreet Program. In addition, he asked what the total budget was for this new organization, and what the major use of the moneys was. Mr. Beaudoin said the total budget for the new program was \$20,000 and the major use of the money was to put the word out, bring in volunteers, and get students, families, businesses, etc. involved with the program. He said no one really knew what the program was about yet, and said a variety of methods were being used to get the word out.

Councilor Smith said this was essentially good faith money, but said he would be watching to see what happened.

Administrator Selig said this money was authorized because he thought the program had a lot of merit, and wanted the Town have a place at the table as to how it was developed. He said the Town could spend the money and see what happened by the next year.

Chair Sandberg said this program was part of a major effort to help the students feel they were with the Town rather than against it, and said from what he had seen in the past several weeks, something seemed to be working. He said anything the Town could do to share a sense of community with the students was all to the good.

Councilor Morong said he felt the need to come to the defense of the MainStreet program. He said there had been a lot of good programs, and a lot of initiatives happened because they had the director. He said he tended to support Councilor Van Asselt in that a program like this would need a director, and said he would like to have seen the University contribute the \$30,000 toward having a director, having the Town contribute, and having the businesses contribute. But he said he didn't object to the \$3,500 in funding.

Chair Sandberg noted there was a planned reduction of **\$10,000 in the Legal Budget**.

Administrator Selig explained that the budget for this had been increased by \$10,000 from 2003 to 2004 based on anticipated legal challenges because of the zoning rewrite process. He said this had not occurred, so the funding was being reduced.

Regarding the line item for **\$10,000 allocated for the Master Plan**, Councilor Van Asselt said he felt the Town still had a Planning Office that was not equipped to deal with development, stressing that this was not an indictment of the office. He noted that surrounding communities had hired consultants to look at development, and passed the

cost on to developers. He said as they looked to coming year, he hoped they could revisit this idea. He said when a major developer came in with a large project, this outside expertise was needed.

Councilor Grant said for the years he had been on the Planning Board, increasingly the Planning Board was requiring developers to finance independent appraisals and analyses for traffic, lighting, etc. He said the only problem was the membership of the Board saying this was what they wanted. He noted that in at least two recent projects, the Planning Board required a number of studies, and in each case, the developer challenged the need for these studies. He said the Board stuck by the request, and required the studies. He said he believed the method/ process was there but the Board and the planner had to be smart enough to require the studies. He said the provision was there, and it was a matter of insisting that it be followed.

Administrator Selig provided clarification that the proposed \$10,000 for the Master Plan was prep work for the 2010 Master Plan.

Councilor Harris said she believe that professional staff needed to have an agreement with Board members that the policy of the Board was to require outside expertise, and that it should be initiated by professional staff that members of the Board consider having outside consultants, as compared to having this initiated by individual members of the Planning Board.

Chair Sandberg notes these were matters outside the Budget process, and there was additional discussion.

Councilor Smith asked what the \$10,000 budgeted for the Master Plan bought the Town in terms of consultant time, and Administrator Selig said he would check with Mr. Campbell on this.

Concerning **proposed funding of \$4,500 for the Historic District Commission Budget**, Councilor Smith received clarification that the survey that part of this money would be used for was not just for houses in the Historic District, but also for historic properties throughout the Town.

Chair Sandberg said there had been discussion that individual parcels could be designated as historic properties, and said his understanding was that this survey would be part of this process.

Councilor Van Asselt explained that in January a recommendation would be coming to the Council from the Historic District Commission to create a Heritage Commission, where all kinds of properties outside the existing Historic District could be designated as historic buildings.

Mr. Beaudoin noted that the Town had just received word that health insurance rates would not go up greater than 9% for 2005, when 20% had been projected, and dental

insurance would go up no greater than 3%, when 10% had been projected, for a total savings of approximately \$50,000 for the general fund.

Councilor Kraus asked if the \$80,000 for engineering for Main Street was a capital item, and was told it was, and was in the CIP.

Councilor Van Asselt noted that even with all the discussions about rental housing, the position to work with the Rental Housing Commission and Code Enforcement Office Johnson had been eliminated.

Administrator Selig noted that a year ago, he had talked about a rental registry ordinance requiring the hiring of an additional code officer. He said a half-year position had been budgeted for this, and said the idea was that fees from the ordinance would pay for this new position. He said when it was decided the Town would not move ahead with the ordinance, the position was eliminated.

Councilor Van Asselt said he didn't agree with this decision, and said this was an area they should think about putting money into, in order to provide the staff Mr. Johnson needed. He said he didn't believe Mr. Johnson by himself could deal with all the problems that were being talked about, and said if they waited for an ordinance to generate fees to pay for the position, they might never get it. He said the rental housing problems were caused by a lack of UNH student housing, and said the Town should let the University pay for this second person. He said he would like to talk about putting money back in the budget for this.

Chair Sandberg asked Administrator Selig if he believed there was a need for Mr. Johnson to have an assistant. Administrator Selig said without adding new ordinances to the books, he didn't feel there was a need for an additional person. He said the Town had developed a reputation as a stringent town already, to ensure that people played by the rules. He said he heard about this regularly, and said it was clear when he assumed his position in Durham that this was not the case. He said to get at the things Councilor Van Asselt was talking about, the Town would need an ordinance such as a rental registry for every rental unit in the community, where there would be inspection of these units by Town staff on a regular basis. He said this would provide a number of benefits, but said the Town was trying to address the challenges without developing these additional layers of regulation.

Councilor Morong noted there was presently not enough room in Mr. Johnson's office for another person.

Councilor Niman said he had a discussion with students recently that indicated they clearly knew ways around the three unrelated provisions. He said that without a rental registry or some other kind of ordinance, this would continue to be a problem, and said he hoped that in the coming year, the Council would do something to address the problem.

Councilor Harris noted rental offerings each week published by UNH for properties that rented to more than three unrelated persons.

Administrator Selig noted that Mr. Johnson had seen these listings. He said this was an issue where members of the Council should bring forward a proposal if they felt strongly about it.

Chair Sandberg said from a procedural perspective, the Council had had a discussion on this, and had voted not to go ahead. He said in order to bring the idea of an ordinance back, it would be a Councilor who voted on the prevailing side not to pursue the ordinance that could do so.

Councilor Grant said had read an article in the Concord Monitor that morning where three communities joined together to hire one assessor who would serve all three communities that had frontage on Lake Sunapee. He said when there was talk about regionalization, people tended to think more broadly. But he said it might be helpful to think about sharing personnel with Newmarket, Lee, Madbury in order to address issues confronting each of the communities, but where no one community could afford to bear the total expense.

Councilor Grant also noted regarding the \$80,000 Main Street design expense, that only \$8,000 was required to be paid for by the Town, and the rest came from the University and from a federal grant.

Administrator Selig discussed major increases in funding listed on page 12 and 13 for the Water fund and Sewer Fund.

*Chairman Sandberg declared a recess at 8:50 PM. The meeting reconvened at 9:00 PM.*

Chair Sandberg said Councilor Niman would next provide background information on issues he wished to address concerning the proposed 2005 Budget.

Councilor Niman noted that the previous year, he had voted against the Budget because he thought the Town was spending too much money, but said he didn't at that time have enough background information and specifics on what he would like to cut. He said over the course of the past year, he had nudged the Town Administrator to find things to cut, but was told the Council seemed happy with the way things were. He said he was not happy with the way things were, property taxes were too high, and said this was his opportunity to do something about it.

He said he would only focus on one issue that evening, the Fire Department Budget, which he said he believed was too high. He said the Towns' percentage was 54%, and said he didn't think there was the property tax base to support it. He said he had a number of concerns with the state of negotiations with UNH, and said his understanding was that the split would become 50/50, which he also said he did not think the Town could afford.

He said he had asked some pointed questions about the Fire Department budget earlier this year, and said one of his concerns was that he was still waiting for many of his questions to Town staff to be answered. He said this had caused him to do research on his own, and said he hoped the information he had gathered would open questions from other Councilors, and prompt them to consider reducing spending for the Fire Department.

He said he had asked Town staff why overtime was so large, noting it was 27% of personnel costs. He said he thought this was rather high, and discussed this with the Town Administrator and Fire Chief. But he said he didn't get clear answers to this question and the statistics he had found, and continued to do research. He said he had suggested ways to restructure things to save money as a result of his research, although noting he had no specific experience in this area.

Councilor Niman said he became increasingly frustrated that some basic questions that needed answers were not being answered. He noted that a report he was presented with from the Fire Chief as to why a 5-person shift was needed had caused concern in his mind, so he decided he would investigate this subject. He said the handout was the results of the research he had done.

Councilor Niman reviewed the materials he had provided. He noted he had picked an article that discussed the Portsmouth Fire Department holding down spending, and said one way this was done was by reducing the number of people on a shift. He noted the article said "...the National Fire Protection Association has set standards that four firefighters should be on an engine or ladder truck during calls. LeClaire said that when he cuts back, some trucks will only have three on board." Councilor Niman noted that Durham insisted the only safe number was 5 people per fire truck.

He then discussed another handout, a table from "A Needs Assessment of the Fire Service, for NH" which allowed a comparison of what the Town paid for fire service in relation to other NH towns. He said the table indicated that in towns of Durham's size, most of the fire departments were comprised of all or mostly volunteers, and said Durham was getting more services than other towns of its size.

He said the question he wanted to raise was what level of additional services the people of Durham needed or required. He discussed another table, which evaluated career fire departments in NH, and the number of personnel assigned to engines. He said the table indicated there were very few fire departments in NH who had 5 or more people on a shift. He said this caused him to ask what it was that made Durham so unique that would require this.

Chair Sandberg noted the tables discussed the number of people assigned to a particular engine, and Durham had five people per shift, and asked him if he was equating the number of people per shift with the number of people riding on an engine. He also asked if towns sending out 2-3 people on an engine were perhaps sending out more than one engine.

Councilor Niman said he didn't have the answer to this, and said he didn't know if these numbers were valid or not.

Councilor Kraus said this had been a theme of interest to him since he had been on the Council, and said he had quite a file on this subject. He quoted from an article from Feb. 2003 regarding the Newington fire department budget, which said the Town's minimum staffing level was being changed from 2 to 3 for a shift.

Councilor Niman said he had also looked at the national report to see if New Hampshire was somehow different from other states concerning this issue. He said that once again, he found that very few career fire departments assigned five people to an engine. He said he was raising this because he wanted to know what this data meant. He said he was in no way a fire expert, but had been unsatisfied with the answers to his questions, so his basic research and observation had made him question what the Town was doing.

Councilor Niman next spoke about the NFPA standards mandating the number of people assigned to a truck, noting it was these regulations and OSHA regulations that had provided the justification for the five-person shift in Durham. He said these regulations indicated that a minimum of four personnel should be assigned in typical fire situations, whereas five personnel should be assigned for jurisdictions with a variety of pertinent factors such as tactical hazards, high hazard occupancies, geographical restrictions, etc.

Councilor Niman said he was assuming the reason the Town had five members was because these factors existed in Durham. He said he did not know what these things were, but said nationally and in NH, very few other towns identified these kinds of hazards, since they didn't have five people on an engine.

Councilor Niman also spoke about a handout on the OSHA standards relating to safety of fire fighters, and stressed that he was concerned about the safety of firefighters and residents. He noted he had suggested to the Fire Chief that the Town could perhaps cut back on a shift on a Tuesday. He also said it might make sense to reduce shifts when half of the Town's population left town, 4 months out of the year. He said the Chief had interpreted his comments in terms of days of the week, and had said the Department was busy, responding to approximately 4 calls per day.

He referred to various OSHA standards, and said the Town was putting five people on a shift to maintain the safety of firefighters, which he was in favor of, for something that rarely occurred in Durham. Councilor Niman provided additional detailed discussion on the data he had obtained from OSHA. He asked whether, if these standards were being used to justify the five person shift, why some residents living in houses in his part of Town, or on Durham Point Road, weren't being as well served as residents who lived within a 2.5 mile radius of the University.

He noted a map in his handout which showed the value of properties in the Durham CDP, (which roughly coincided with the part of Town on water and sewer, with the Fire Department roughly in the center), as compared to those outside the CDP. He said he

found it peculiar that over half of the property in Town, which was outside of the 2.5-mile radius, didn't appear to be protected based on an OSHA standard. He said that when the Town Administrator talked to him about people demanding services, he wondered if they were getting what they were paying for. He noted that the Chief had said the Town had two different fire ratings, and provided details on this. He said for those outside the Durham CDP, they were marginally above having no protection.

Councilor Niman said his last question was who conducted fire code inspections, and why the Town needed to spend as much on fire prevention as the Town of Newmarket spent on its entire department. He referenced a table in his handout, which noted that in other towns, volunteers, and staff other than fire department personnel did many of these inspections. He said he also wondered why two people were needed in order to perform 600 inspections.

Councilor Niman said at some point, the Council needed to begin to question the way it did things, and not just in the Fire Department. He said the Town needed to grapple with the fact that it could not afford the level of services, or expenses associated with these services. He said at some point he would like to see a discussion about how to cut the budget, or reorganize departments to reduce spending, in order to bring the budget more in line with something he thought the Town could afford.

Chair Sandberg asked if there was a particular line in the Budget that Councilor Niman was targeting for reduction.

Councilor Niman suggested someone from the outside should come in to construct a fire department for the Town, and determine how expensive it would be to operate that department. He provided details on this idea, and said if it was approached from a zero based budgeting perspective, a budget for \$800-900,000 per year could be put together for the Fire Department, as a basis for successful negotiations with UNH. He said the University could then be asked what services it would want to see added on over and above this, and could be told it would pay for these services. He said if UNH then said take a hike, the Town would have an \$800,000 fire department for the Town. He said he didn't see how the Town got from \$1.6 million to \$2.5 million.

He said that alternatively, they could shrink the Fire Department down to something the Town could afford, and said he didn't think the Town could afford to pay 50/50 of a \$2.5-3 million fire department. He said under this scenario he would look for cuts in the existing fire department budget. But he said he would like to know if he was the only Councilor who thought there was a problem.

Chair Sandberg asked Administrator Selig if he would like to respond to any of the ideas Councilor Niman had presented, and if he had any insights into the documents the Council had been given.

Administrator Selig said he would like to have the opportunity to sit down with the Fire Department with this information. He also said a question he had was that for the past



three years there had been discussion by the Council about reducing staffing at the Fire Department, but each year the Council had recommended the proposal before them now. But he said if the Council desired to explore this issue again, this would be done.

Councilor Kraus said this had been an issue to him for some time, noting an email from him from 2003, and said he had never been satisfied that the answers he got were sufficient. He said when he read the requirements for five or six on duty personnel because of tactical hazards, higher hazard occupancies, high incident frequencies, or geographical restrictions, he didn't believe the Town generally had these. He said he would like to know specifically and precisely why Durham required the number of on-duty personnel it had. He said at the time he was concerned about this, it took some effort to get this information, and said he needed to see specifics that proved the Town needed the level of staffing it had. He said the documents he received didn't really prove the case, but the Council went along with it at the time.

Councilor Smith said he was not sure he would want to start the inquiry based on whether the Town could afford it, and said he would like to start it based on what the Town needed. He said there was previously a substantial discussion on whether the Town should cut back from the five-person shift, and said he believed he was the only Council member to vote against the five-person shift. (Councilor Harris noted that she too voted against this).

Councilor Smith said focusing on need, he had concluded that the memorandum submitted by the Chief on this issue was wholly unconvincing. He noted at that time, he had borrowed the national regulations from the fire department and looked through them.

He said if Councilor Niman wished to make a motion to reduce the shift from five to four, he would vote in favor of this. He noted it must be frustrating for the Town Administrator, and said the Council could not just talk and not make motions. He said he had seen no materials that convinced him on the issue of the five-person shift, and said he would be prepared to vote that evening.

Councilor Smith said he remained convinced that there were aspects of the Fire Department, in terms of equipment, etc, that were substantially influenced - more than any other department - by the presence of the University. He said he had always wanted to know, if they looked at various aspects of buildings, how many of those things related to the University substantially more than to the Town. He noted he had raised this issue several years back, although noting it was difficult to get this information.

Councilor Harris said she would like to go forward with at least further consideration of Councilor Niman's concerns, and said she wouldn't be opposed to taking a vote that evening.

Chair Sandberg said a motion could be put on the table, but said he questioned whether they were prepared to make a definitive vote. He noted the Council had voted for the previous three years to support a five-man shift. He said it would be of some importance

to allow Town staff to mull over what Councilor Niman had presented. But he said he agreed with Councilor Smith that when the Council reconvened to discuss the Budget, a motion should be made on this issue.

Administrator Selig said the Council's own goals were to maintain services as the same level as 2004, and said if there was a desire to change this, they would go back to the drawing board to develop a budget that reflected that.

Chair Sandberg said Councilor Niman's proposal might be to add to the budget to hire a consultant to do a detailed study of the design of the fire department. He said it would fall to Councilor Niman to put something on the table regarding this.

Councilor Van Asselt said he would encourage Councilor Niman to do the latter for another meeting. He said he would abstain if a specific cut were requested because he didn't know enough to make a decision. He said the questions that had been raised, especially regarding UNH were important. He asked Councilor Niman to come back to the next meeting with a hard proposal concerning these issues, and see if the Council could figure them out before pulling pieces out of the Budget.

Chair Sandberg said it would be useful to give advance notice so Town staff would be prepared to discuss these issues as well. He noted the next meeting was the first Council meeting in December, and said his sense was that the Council was pretty well through with the operations budgets. He noted Councilor Niman had only brought up one of several items, and asked him what other items he might be bringing up.

Councilor Grant said he recalled the last time the Council considered this issue, he became convinced of the necessity and value of having the five-man department. He said he would like to see the Town Administrator and Fire Chief prepare a document of what the cost of the fifth fire fighter was, and what it gained the Town. He said he was under the impression that this person was required.

He also said what was difficult for him was to talk about the Town with and without the University. He noted that when the University was in session, the population could potentially reach 20,000, and said he didn't know what kind of standard to use in order to protect a range of 7,000 people and a certain number of buildings, all the way up to 20,000 people and a larger number of buildings. He said that to him, that was the crux of the problem, and said he didn't see how they could compare themselves to Newmarket.

Councilor Grant noted he had objected when the fire department used a 20,000 population as the figure on which the Town had to base fire services, but admitted they also couldn't base it on a population of 7,000. He said Councilor Niman's points about overtime had always concerned him, and said he had always felt an additional standby firefighter could be hired to fill in when there was a vacancy on a shift. He said he believed the least effective money was spent on overtime, and also noted it weakened the person serving the extra shift.

Councilor Kraus said he would be the fourth vote to change the shift from five to four. He said the Council was given some gross generalizations, and was led to believe the Town had to have this level. He said the specifics didn't support this, and said he really needed to see a response such as in Durham, a tactical hazard was...; in Durham, a high hazard occupancy was..., and so on for the other items in NFPA 1710. He said he did not believe this would stand up to scrutiny.

Councilor Harris said she would really appreciate it if the Town's professional staff would give them honest answers to those questions rather than trying to convince them of something that perhaps was a stretch. She said this was the way she had felt about this in the past.

Councilor Niman said his objective that evening had not been to get a vote to get rid of the five-person shift, but instead was to say that he did not think the fire department was being run in a cost effective manner, where the Town was getting real value for its dollars. He said he was trying to motivate a discussion on this, and to begin to think creatively about doing things in a more cost effective way. He said the thought that they needed to maintain five people on a shift when the students were not around didn't make sense, and said reconsidering this wasn't considering cutting services. He said this was an attempt to get value for the Town's dollars.

He also said there were many other things in Durham that were called services that had very little value, yet the Town worked very hard to preserve them. He said he didn't understand why, and said he thought there were serious diminishing marginal returns. He said he would come forward with a proposal.

Councilor Niman noted that the Town spent half the budget of Lee for administration of the police, fire and public works departments. He asked why the Town couldn't go to the Liquor Commission for real dollars to help solve the Town's alcohol problem. He said he thought the police department worked hard, but asked why they couldn't get money, including grants, for these kinds of things. He said it was time to think creatively about new revenues, cutting administrative overhead, and redesigning departments to provide high value service at a significantly lower cost.

Chair Sandberg said if the Council were to consider a vote to reduce the five man shift, that would be making a policy statement, but said on other hand, if the Council considered a motion that said to cut the budget by a certain amount, that left it to staff to determine how to accomplish this.

Councilor Smith said if the Council was going to go on about how the Town was spending too much money, it was incumbent upon them to get into the nitty-gritty of how the Town was run, and to vote on this. He said maybe they would be wrong, and would be thrown out of office. But he said it was totally unrealistic to simply say figure out how to spend a certain lesser amount of money.

Councilor Van Asselt said he would like information on the \$3,500 for the *Durham: It's Where U Live* program, said he had real problems throwing this money at something that actually required more money. He also said he had real concerns about the water and sewer rate issue, noting the significant rate increases planned for the coming year. He said the Council needed a good explanation of why this was needed.

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

The meeting adjourned at 10:10 pm

Victoria Parmele, minutes taker