

**This set of minutes was approved at the March 7, 2005, Town Council meeting.**

**DURHAM TOWN COUNCIL  
MONDAY, FEBRUARY 14, 2005  
TOWN COUNCIL CHAMBERS, DURHAM TOWN HALL  
7:00 P.M.**

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

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Todd Selig, Town Administrator

**I. Call to Order**

Chair Sandberg called the meeting to order at 7:00 PM and noted there was a limited agenda for the meeting.

**II. Approval of Agenda**

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

*Councilor Needell MOVED to amend the Agenda to allow a brief amount of time for Public Comments immediately following the approval of the Agenda. The motion was SECONDED by Councilor Smith, and PASSED unanimously 9-0.*

*Councilor Kraus MOVED to amend the Agenda to allow a brief explanation by Councilors Sandberg and Smith of the purpose of their discussion at the School Board meeting the previous week.*

Councilor Kraus said there was confusion on the part of constituents as to whether they were representing the Council, or were speaking as citizens.

*The motion was SECONDED by Councilor Niman, and PASSED 8-1, with Councilor Grant voting against it.*

*The Agenda, as amended, PASSED unanimously 9-0.*

### III. Public Comments

**Diana Carroll, Canney Road**, of the Integrated Waste Management Advisory Committee, spoke about the gathering held the previous evening in the Council Chambers to thank the volunteers at the Swap Shop. She said there were 33 volunteers who did this work, which was wonderful, and said it had been her pleasure to serve as Chair of the Committee when the Swap Shop was introduced to the Town.

She noted the work of Jesse McKone and the Council, as well as the generous support of the Public Works Department in making the Swap Shop a reality. She said there were currently two openings on the Committee, and that anyone interested in reusing, repairing, recycling, etc. was welcome to step forward to promote these ideas on the Committee.

Administrator Selig noted that the meeting was being taped for future broadcast.

### IV. Council Comments regarding School Board Meeting

Chair Sandberg said there were approximately forty-five people from all three towns at the meeting. He said there were four Durham Councilors there, and that he had spoken in his capacity as a citizen of the Town of Durham.

Councilor Smith said the fact that there were about forty-five people at the meeting was very distressing, considering the fact that what would be on the warrant represented 2/3 of tax payers' money. He said that in addition to himself and Councilor Sandberg, Councilor Needell had spoken at the meeting, and said to the extent that anyone was confused about this, they had spoken as citizens of Durham.

### V. Annual Evaluation of Town Administrator

Councilor Grant said he would prefer to do the evaluation in non-public session, and then report the summary of this discussion to the public afterwards, and also to discuss recommendations for improvements to the Town Council, as suggested by the Town Administrator.

***Councilor Grant MOVED that the Town Council go into nonpublic session in accordance with RSA 91-A:3 II (a) "the dismissal, promotion or compensation of any public employee, or the disciplining of such employee, or the investigation of any charges against him, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted". Councilor Morong SECONDED the motion.***

Councilor Needell received clarification that if the Council did this, it could still go into public session at any time later in the meeting.

Chair Sandberg said that was correct, and said when Councilors had completed their comments, they would move into public session. He noted that under the law, discussion and comments about members of the Council were required to take place under public session.

Councilor Van Asselt asked if Administrator Selig had a preference concerning what should be covered in nonpublic, and public session.

Administrator Selig said he would like to begin the discussion in nonpublic session.

***The motion PASSED unanimously, 9-0, on a roll call vote as follows: Smith, AYE; Kraus, AYE; Morong, Van Asselt, AYE; Grant, AYE; Sandberg, AYE; Harris, AYE; Needell, AYE; Niman, AYE.***

***The Council entered nonpublic session at 7:20 PM.***

***The Council came out of nonpublic session at 9:10 PM to continue discussions on the Town Administrator's annual evaluation.***

***Councilor Kraus MOVED to seal the minutes. The motion was SECONDED by Councilor Smith, and PASSED unanimously 9-0.***

#### **CONTINUED DELIBERATION ON TOWN ADMINISTRATOR'S ANNUAL EVALUATION**

Chair Sandberg explained that the Council had before it a first draft of a memorandum addressed to Administrator Selig regarding the annual performance review and recommendations. He noted that he had asked Council members to come to the meeting with specific editorial comments, and said this document would be subject to editing.

Councilor Needell suggested that the first paragraph of Section 4 of the document be stricken in its entirety, for simplification, and provided details on this, noting among other things that an error had been made in the consolidation of comments on page 10.

He said his previous comments had indicated that operational efficiency was not an area that needed a lot of work. He also said that in looking at the comments from other Councilors and his own on this, he didn't sense there was a consensus that Administrator Selig should change the amount of information being distributed to Councilors. He said he himself was quite adamant that the amount and type of information Councilors received was good.

Chair Sandberg asked if there was therefore a proposal to remove that one paragraph.

Councilor Van Asselt said he realized there were mixed feelings about this around the table, and noted he had handed out some different language that left this issue on the table. He said he would still argue that communication was a huge piece of

Administrator Selig's job, and that he needed to assess what was really required in this area. He said he believed this was an issue of interest to Councilors other than just himself.

He said he would like to leave this issue in the document as part of the consensus, but with different language – to ask Administrator Selig to take a look at the amount of time devoted to communication, compared to what the Council really needed in this area. He provided details on this, and suggested this issue could be addressed further at the work session in March.

Councilor Smith said he took a different perspective on this issue. He said Administrator Selig obviously spent an enormous amount of time on communications, but said he felt that the emails and letters sent to the Council, or to citizens at large, represented one of the greatest things that had happened in the Town - the opening up of Town government to the public. He commended Administrator Selig for doing this. But he also asked if engaging in these communications was creating a drag such that carrying out other duties was made more difficult. Councilor Smith asked Administrator Selig how much he thought could be cut back in this area, in a way that would be most beneficial to the Town.

Councilor Kraus said Administrator Selig should keep on doing what he was doing, because he was "dammed if he did" and "dammed if he didn't". He provided details on this, and said Councilors simply had to work out their own systems for dealing with the flow of information. He said he agreed with Councilor Smith that the openness this communication had created was important.

Administrator Selig said his experience concerning the issue of getting email from a particular individual, and forwarding his response to that individual to other Councilors, was that if he didn't do this, the person would often call a Councilor, who would then call him. He said that phone call took more time than sending out the FYI to Councilors about a particular issue.

He also explained that the weekly Administrative Notes at one point had become a real drag on his time, but said he had solved this problem by getting departments heads to send him their own formatted updates each week, which Jennie Berry could then simply incorporate into the Administrative Notes. He said he now simply dictated his own Update information, which Jennie typed up, and said he would then do a final edit of the document.

Councilor Van Asselt said he had heard what other Councilors were saying, but said it still took Administrator time to send information to him. He said his perception was that time spent on communication was something that was taking the Town Administrator away from other work. But he said if that wasn't really the case, then he would drop the issue.

Chair Sandberg said having read Councilors' responses, his summary had noted that Administrator Selig should carefully evaluate the time value of all communications. He said he agreed with Councilor Smith that the more the better, in terms of the amount of communication sent out. He also said that if Administrator Selig had to decide whom to send what to, this was not efficient, but said it was very efficient for the Town Administrator to send everything to everybody, and then Councilors could decide for themselves whether to delete the communications or not.

Administrator Selig said the challenge in this was that the volume of email was a new phenomenon, and was growing exponentially. He said in the past, someone had to have a serious issue in order to write a letter to the Town, but he said that now, people sent off emails quickly on many different things, and they all expect a response.

Chair Sandberg asked what Administrator Selig thought would help improve the efficiency of communications.

Administrator Selig said that copying the Council on the various communications he received could be a drag on his time. He also said consideration of the implications of this information, and then tracking it as others received it and responded to it, took considerable time.

Councilor Harris said she trusted Todd's judgment to decide what was important enough to send to Councilors.

Councilor Needell said he agreed with Councilor Harris, and also said he realized the amount of information he had to deal with was a dilemma.

Administrator Selig said another challenge was that the Town's listserver was growing, noting it presently contained over 400 people. He said the people on the listserver were informed and had opinions, and he said this created more work in terms of follow-up.

Chair Sandberg asked what the consensus of the Council was on this issue.

Councilor Van Asselt said he would be happy to withdraw his recommended wording changes, and said he realized there was enough interest in this issue to keep it in on the table, regardless.

Councilor Needell said what he essentially was trying to convey was that Administrator Selig didn't have to do something in this area in order to satisfy the Council, and that what he chose to respond to was up to him.

Councilor Van Asselt said what Section I said was that essentially life was good. He asked if this was a statement of the Council, or a majority of the Council. There was discussion about this. He said his point here was that if some Council members felt strongly that they would not be a part of this document, it should say a majority voted on

it. There was discussion about this. Councilor Van Asselt said he was not a firm believer in heaping praise, in evaluations, and provided details on how he would word Section I.

Councilor Kraus noted he had not contributed to this document, and said the document as developed was hard to get a grip on.

Chair Sandberg suggested that Councilors go through the rest of the document, and make specific comments as to what could be improved.

Councilor Smith noted an addition that should be made under Section II. He said the most essential and extraordinary quality of the Town Administrator was his incredible integrity and honesty. He said his straightforwardness was the most fundamental of all qualities, and was central to what made him so valuable to the Town. He said he would like to see some wording to this effect in the document, and provided details on what this wording might be.

Councilor Van Asselt said concerning Section III that he couldn't ask the Town Administrator to make improvements unless the Council changed the environment in which he worked. He provided details on this, and said the Council needed to set some parameters. He gave the example of the Fire agreements, and said the Council should have given parameters before the agreements were developed, and not after, when he came back with the agreement. He said councilors were saying they wanted his opinions, and had to create the priorities for him to work within. He said the Work Plan had too many priorities, so the Council needed to refine this before expecting him to improve.

Councilor Smith said he didn't disagree with most of what Councilor Van Asselt had said, but said much of it should be written after the evaluation of the Town Council. He said he doubted seriously that a year ago, the Council could have responsibly said to the Town Administrator that it wanted him to come back with a fire agreement that achieved certain goals. He said that had to be a product of the Administrator gaining a lot of detail on the issues, and on the flow of negotiations.

Councilor Niman said he supported what Councilor Van Asselt had said. He said it was true that Councilors didn't know the details of negotiations, but he said it appeared that the University had basically decided what it wanted to spend, and was negotiating the agreements as a package. He said perhaps what Councilor Van Asselt was saying was that the Town needed to approach the negotiations in a similar way, and consider what it thought it could afford for fire services, for water, etc, and then with those parameters, say to the Town Administrator, go and try and negotiate something with the University that fits with these parameters.

Chair Sandberg asked if Councilors wished to change the language of Section III., as suggested by Councilor Van Asselt.

Councilor Kraus said the paragraph on time management wasn't needed, since it was covered elsewhere. He also said the fact that Administrator Selig was diverted to lower

priority tasks happened right at the Council table, so the paragraph didn't mean anything. He provided additional details of how the wording could be changed.

There was discussion about how the Council, and Administrator Selig, could be more succinct. Chair Sandberg noted that the Council communication packages were vastly superior to what they had been in the past, and said this also related to efficiency, including efficiency in making decisions at the table. There was discussion among Councilors about how to possibly reword the language of that section.

Councilor Smith said concerning the next to last paragraph in Section III, this issue was something that was more of a question for him than a conclusion. He said he would prefer that the wording say something like "...encourage the Town Administrator, where appropriate, to demand more". There was additional discussion about this.

Councilor Van Asselt said he was not totally satisfied with this. He said he wanted Administrator Selig to present him with an issue, what the options were for addressing it, which to vote for, and the consequences of voting for each option. He said what he didn't want to hear was that an issue was challenging, that a lot of time had been spent on it, and that Administrator Selig wanted a conversation on it. He said he felt strongly about this, and said he would like Administrator Selig to be a much stronger presence on issues that Councilors didn't understand.

Chair Sandberg noted the existing language on this, and there was discussion on whether this wording should be changed

Councilor Van Asselt also noted that Administrator Selig had to spend an enormous amount of time with special interest groups, and said he was encouraging him to say no to these interest groups. He also said he was encouraging other Councilors to not make Administrator Selig a party to these groups, but said he realized this was a very difficult task.

Councilor Harris said Administrator Selig tried hard to delegate that job to the appropriate Town department, but said they didn't do the job until demands were made.

Administrator Selig said he was not sure he agreed with Councilor Harris' statement. He said he didn't have a problem outlining ways to proceed, but said that the vast majority of issues coming before the Council were there because a specific Councilor, or Councilors had brought it to the table. He said when this happened, he was put in an unfair position, but the Council obviously thought it was an important enough issue to give to him. He said that dynamic happened frequently, and he said he could do a better job of being more direct with the Council.

Councilor Van Asselt said that telling the Councilors when their ideas were not a high priority was important, and provided details on this. He said he believed that other Councilors as well were looking for this kind of leadership from Administrator Selig.

Chair Sandberg said this was a two edged sword. He also said a goal was to have every voice heard, but said sometimes, every voice was being heard to a greater extent than was needed.

He said he would like to take the suggestions, and revise the document, and then would email it out to Councilors. He said he would bring it up for Councilors again the following week, when there could be a resolution on this.

Councilor Needell noted that there was another Agenda Item scheduled, self evaluation, as well as Administrator Selig's evaluation of the Council.

There was discussion among Councilors as to how to handle this.

Chair Sandberg said he appreciated the amount of work that Administrator Selig had put into his evaluation of the Council.

***Councilor Kraus MOVED to adjourn the meeting. The motion was SECONDED by Councilor Smith, and PASSED unanimously 9-0.***

The meeting ADJOURNED at 10:00 PM.

Victoria Parmele, Minute Taker