

DRAFT
MONDAY, APRIL 18, 2005
DURHAM TOWN HALL -- COUNCIL CHAMBERS
TOWN COUNCIL MINUTES
7:00 PM

MEMBERS PRESENT: Chair Malcolm Sandberg; Neil Niman; John Kraus; Karl Van Asselt; Peter Smith; Mark Morong; Julian Smith; Councilor Gerald Needell; Councilor Diana Carroll

MEMBERS ABSENT: None

OTHERS PRESENT: Todd Selig, Town Administrator

I. Call to Order

II. Approval of Agenda

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

III. Special Announcements

There were no special announcements

IV. Approval of Minutes

March 21st minutes

Councilor Kraus MOVED to approve the March 21st. 2005 minutes as submitted. The motion was SECONDED by Councilor Van Asselt.

Page 5, 5th paragraph, should read "She noted as well..."

Page 6, 3rd paragraph, should read "...there were no fire lane issues..."

Page 9, whole section should read "Parent Teacher Organization" and "PTO"

Page 11, 3rd paragraph, should read "...schedule a first reading..."

Page 13, 2nd paragraph, should read "Chair Sandberg..."

Page 25, top of page, should read "...Councilor Sandberg, Councilor Peter Smith and Councilor Needell;"

Councilor Kraus MOVED to approve the amendments to the minutes. The motion was SECONDED by Councilor Carroll and PASSED unanimously 9-0.

The minutes as amended PASSED unanimously 9-0.

March 28th minutes

Councilor Kraus MOVED to approve the March 28th, 2005 minutes as submitted. The motion was SECONDED by Councilor Van Asselt.

Page 3, 4th full paragraph should read “...there may be times when as a member of the Board, he would vote for what was...”

Page 7, bottom paragraph, should read “...it was when a Councilor indicated this only several weeks after the fact.”

Page 8, 8th paragraph, should read “Councilor Peter Smith said he disagreed with...”

Also “PTA” should read “PTO” in several places on that page.

Page 9, 2nd paragraph from bottom, a second paragraph should be included: “He noted that if a typical Council meeting was three hours, or 180 minutes, divided by ten (for nine Councilors and the Town Administrator), then any person’s appropriate time was 18 minutes in total.

Page 12, 6th paragraph, should read “Chair Sandberg...”

Councilor Julian Smith MOVED to approve the amendments to the minutes. The motion was SECONDED by Councilor Kraus and PASSED unanimously 9-0.

The minutes as amended PASSED unanimously.

V. Report of Administrator

- Administrator Selig noted that the Business Office was in the process of rewriting the Town’s personnel plan, plan, Last written in 1989 and said this would be a major project it would be working on this summer. Said Council would have chance to see before put into effect, and if had any questions concerning it, could be brought up at meeting.
- Administrator Selig noted that Ron O’Keefe had submitted his resignation from the Fire Department. He said he was retiring, and would be working at the NH Municipal Association Local Government Center office. He said he was in the process of developing a selection process for the new Fire Chief, and asked if there were two Councilors who were interested in being part of the process.

Chair Sandberg and Councilor Kraus said they were interested in serving in this capacity.

- Administrator Selig said there had been a bear siting in Durham, in the Wood Road/Hampshire Ave neighborhood, and recommended that residents take in their bird feeders since these attracted bears.
- Administrator Selig said the Durham Police Department would soon be going through its three-year CALEA accreditation process. He said 3 examiners would be coming from other parts of the country to review policies and practices of the Department, beginning April 23rd, and said this would culminate with a full review in the summer. He said he greatly valued this process, and explained that in assured him and the Council that Durham was doing things right.
- Administrator Selig said he was continuing to look at the merits of moving dispatch services from the UNH dispatch center to the Strafford County dispatch center. He noted that it cost \$600,000 per year to operate they UNH facility, and said Durham contributed 40% of this cost. He said it would cost about \$30,000 per year for the Town if dispatch

services were moved to the County center, and said there most likely would also be savings for the University, if the technical requirements could be met.

He noted he had met with a series of administrators and public safety officials on this issue, and said another meeting was planned with representatives from the County to work through concerns raised by the University police department about the potential transition.

Administrator Selig said he hoped the transition could be done effective January, 1st, but said in order to accomplish this, the decisions needed to be made quickly. He said he was endeavoring to move things along so the decision could be made.

- Administrator Selig reminded citizens that in order to access the transfer station, they needed to have a annual permit, which cost \$ 25 and was available at the Town Hall. He said the Town was also looking to provide a limited number of permits at the transfer station, and provided details on this. He asked that residents not be offended by being asked to show their permit sticker when they came to the transfer station.
- Administrator Selig said Representative Marjorie Smith had asked him to remind people in Town that applications for statewide property tax relief were available. He said the application period was between May 1 and June 30th of this year, and said applications were available from the Town Clerk or the Assessors office. He said the previous year, 44 residents qualified for relief, for a total of \$13,375 in property tax relief.
- Administrator Selig said the Council had met the previous week to work through goals and objectives for the next year. He said goals had been listed by each Councilor on several different category sheets, and said he was in the process of transferring this information into a readable document that could be worked with further as group, and used to develop goals for the coming year.

VI. Reports and Comments of Councilors

Councilor Needell said the Planning Board meeting on Wednesday would review the proposed changes to the Shoreland Overlay, Wetland Overlay, and Aquifer Protection Overlay provisions of the Zoning Ordinance. He said the Board would also discuss possible changes to the calculation of useable area in the main body of the Ordinance, an issue which had already been heard at a public hearing in January of 2005. He said the public hearing on the overlays was scheduled for May 4th, and said the Council would be getting pieces of the Zoning Rewrite to deal with in the near future.

Councilor Needell also noted, concerning Unanimous Consent Agenda Item C, the work of Erika Mantz and Paul Gasowski as part of DCAT, and said he appreciated their willingness to serve again.

Councilor Carroll said she had attended the Planning Board meeting the previous week. She noted that the application for the Irving station was accepted by the Board, and said there was a fairly thorough presentation and discussion concerning this application. She said one of the subjects that came up over and over again was the proposed design of the facility.

Councilor Carroll also said Doug Bencks had been at the Board meeting to talk about the Gables buildings and southern connector that were planned. She said he had presented maps which showed the northern connector, and which indicated that it didn't interfere with the Gables development.

Councilor Carroll also said the Board had approved a change of age restriction from age 62 to 55 for Spruce Wood, after going through the materials very carefully.

Councilor Julian Smith said he had received an email that morning from Monica Smith, a constituent, and he read this letter. In the letter, Ms. Smith said that maintenance problems in Town should not have to be reported by citizens, who had more important things to do. She said formal complaints made by citizens usually represented several weeks of frustration that obvious problems hadn't been corrected by the Town. She said if citizens had to waste their time on this because their taxes were not being well spent, at least they should get an immediate apology, followed by a time certain when the problem would be taken care of.

Chair Sandberg asked if the Council was prepared to meet the following Monday to pursue goal setting issues. He said Councilors could consider this under Other Business.

VII. Public Comments

Sharon Baker Kelly, 63 Canney Road said she was one of many Durham residents in favor of permit parking on Dennison Road. She said she had a child at the Middle School, and said she had experienced much frustration concerning parking problems. She encouraged the Council to approve the Ordinance on first reading and to allow a public hearing on this issue.

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

- A. **Resolution #2005-08** establishing the compensation for non bargaining unit employees for FY 2005
- B. **Resolution #2005-09** authorizing the issuance of nine million nine hundred fifty thousand dollars (\$9,950,000) in Tax Anticipation Notes (TANs)
- C. Shall the Town Council reappoint Erika Mantz and Paul Gasowski as the UNH representative and ORCSD representative respectively to the DCAT Governance Committee as recommended by the UNH Office of the President and ORCSD Office of the Superintendent?

Councilor Niman asked that Item A be removed from the Unanimous Consent Agenda.
Councilor Julian Smith MOVED to approve Unanimous Consent Agenda Item B and C. The motion was SECONDED by Councilor Kraus, and PASSED unanimously.

Councilor Niman noted that the memo to Councilors on Item A talked about a 1% increase in salary to compensate for the increase in the insurance co-pay for these employees, and asked if this would be a one time thing.

Administrator Selig said it was a one-time thing, and said this had been made clear to employees.

Councilor Niman also asked if the pay increase of 4% was simply 4% over the year before.

Administrator Selig said it was not, and provide details on this. He explained that each year, he did a market analysis of where Town employees fell relative to pay scales in other towns. He said with many of the positions, they kept up with changes to the midpoint, but said for a few positions, as the midpoint changed, what the Town was paying dropped off the chart. He said the market adjustment was made at the beginning of the year and created the new base. He said on top of that was put the 3% pay increase, as long as the employee received a satisfactory rating, with the additional 1% increase given because of the phase in of the co-pay.

He noted the adjustment for the Assessor position was the most dramatic, and explained that this was because the pay scale for assessors had increased steeply over the last 4 years, as many communities had been forced as part of the State property tax system to do a more professional job of assessing. He also noted that the pay scales for various administrative assistant positions had been skewed, and said the current adjustments were working to address this.

Councilor Kraus MOVED to approve Unanimous Consent Agenda Item A. The motion was SECONDED by Councilor Needell.

Councilor Julian Smith asked Administrator Selig if was a realistic problem that if the Town didn't keep the pay scale competitive with changing labor market, that some of these personnel would leave Town.

Administrator Selig said it was his opinion that unless the pay scale was kept competitive with the market, staff members would begin to look for other positions. He said he was pleased to say there had been very little turnover in the past few years, since this approach had been initiated. He noted he had plotted the pay scales relative to the market, and had found this year that the Town was not overpaying or underpaying employees.

He said these one-time adjustments were designed to make sure these employees didn't drop off the bottom of the pay scale, not designed to move people further along toward the top. He said the pay scale had been effective, and said the Town was paying people competitively. He said as the Town looked to hire a new Fire Chief, they would see if the scale was a meaningful indicator.

Councilor Peter Smith asked if there was an increase in pay as a result of any of the non-unionized employees receiving a better than satisfactory rating.

Administrator Selig said he had found that this approach was counterproductive, because when comparisons were made, this had result in de-motivating employees in many cases. He provided details on this. He said he had found that showing appreciation of good work was having a more beneficial effect on performance than a pay increase.

Councilor Julian Smith asked if any of these employees had not received a satisfactory rating or better, and Administrator Selig said no. Councilor Smith said in other words, everyone was getting a 3% performance increase.

Administrator Selig said that was correct. He said he did not go into the process assuming everyone would get a 3% increase, but said since as everyone did receive a satisfactory rating, they were eligible for this.

The motion PASSED 8-1, with Councilor Julian Smith voting against the motion.

IX. Presentation Item

Southern Strafford Community Health Coalition – Kate Koko

Administrator Selig noted Ms. Koko was a former president of the UNH student body. He said he was pleased she had taken the job with the Southern Strafford Community Health Coalition, and said she had done a great job in this role.

Ms. Koko explained that the Coalition was one of 14 health networks across the State. She said the purpose of the Coalition was to begin to build the capacity for public healthcare at the local level, noting that there was essentially no infrastructure in New Hampshire for this at present. She said networking was done with a variety of healthcare resources already in place in the area, and said about 50% of the Coalition's work focused on emergency response, while 50% addressed more general health issues.

Mrs. Koko said an assessment had been done which looked at infrastructure and capacity already in place in the region, and said four key health care issues had been chosen as local priorities:

Monitoring health status to identify community health programs – Ms. Koko said there wasn't a lot of information available on the health of residents in the region, and said community health profiles would be developed for each community. She said these profiles could be used by local communities to prioritize health issues.

Investigating Health Problems and Health Hazards in the Community – She said the Coalition had chosen to focus on planning for, and responding to, public health emergencies. She said in the next few years, the Coalition would be working with local law enforcement, fire departments, healthcare providers and others to create and implement emergency response plans and procedures related to public health. She noted that many towns had out of date plans, but said Durham's plan was up to date.

Ms. Koko said one of the greatest needs identified by members of the Coalition was the need for individual communities to collaborate and coordinate their local emergency planning efforts.

Health Education and Promotion - Ms. Koko said two key areas had been identified:

- Information and referral sources - she said there were a lot of healthcare resources out there, but people didn't always know where to go. She said an update of a resource guide was planned, and said the Coalition was also looking at creating a county-wide web site that would provide information.
- Physical activity - Ms. Koko said the Coalition's Health Education and Promotion Action Team was committed to promoting healthy lifestyles for residents of the region, and planned to highlight and participate in various initiatives. She noted that an expanded walking guide was being developed, and also said they were partnering with Dover concerning development of a walking tour.

Ms. Koko said she and Administrator Selig were great sources of information on the Coalition's work, and also said that if Councilors had any feedback for her on these initiatives, to please let them know.

Councilor Peter Smith asked if Ms. Koko was aware that there were maps of Town trails on the Town's website.

Ms. Koko said she did know about this, and also noted she had spoken with Ken Anderson regarding the distribution of that information.

Chair Sandberg thanked Ms. Koko for taking the time to inform the Council of the Coalition's work.

X. Unfinished Business

- A. **First Reading on Ordinance #2005-02** amending Chapter 153 "Vehicles and Traffic", Sections 153-28 and 153-49 by restricting parking on Dennison Road from September 1st through June 30th between the hours of 7:00 AM and 4:00 PM, except by permit only for Oyster River Middle School staff

Chair Sandberg noted the Parent Teacher Organization (PTO) for the Oyster River Middle School had made a presentation before the Council a few weeks back. He said the Council had raised a number of questions and concerns, and said the group had prepared a response to them. He said the Council would need to decide whether to schedule a public hearing on the proposed ordinance.

He said the proponents would provide this updated information, and then the Council would have the opportunity to ask additional questions. He said it then would consider whether to schedule the public hearing.

Administrator Selig introduced Shauna Shields and Laura Bahl, co-chairs of the PTO. He also noted he had provided the Council with a detailed analysis of parking along Dennison Road, and provided details on how this analysis was done, and what the results were. He said he had asked Chief Kurz to have police drive by the school early in the day, in order to get a sense of how many renters parked their cars on Dennison Road overnight. He said it was found there were 5 cars at 6:00 - 6:45 am, and 83 cars by 8:00

am. He said if the proposed ordinance moved on to public hearing, he would ask the Police Department to continue to monitor this.

Shaun Shields said she would read through the PTO's response to Councilors' questions and concerns.

She said there were a total of 61 parking spaces at ORMS, with 2 designated as handicapped. She said these spaces were located in the lot the District owned in front of the building; behind the school by the basketball court; and the area behind the gym. She said for the proposed 81 parking spaces, 3 spaces would need to be designated as handicapped.

She said there were 153 staff members, and an average of 35 visitors per day to the school, including parents, visitors and volunteers. She said people might be at the school from 5 minutes to 7 hours, but said many visitors and volunteers stayed for one or two hours. She said that based on these numbers, the PTO felt the school would need all 81 spaces on Dennison Road for ORMS parking.

Concerning the issue of enforcement, Ms. Shields said the Durham Police Department already monitored Dennison Road routinely for illegal parking, and said there would therefore be no additional expense to enforce permit parking there. She said any revenue obtained from parking violations would result in a positive cash flow.

Ms. Shields spoke about the student population at UNH, noting it had increased steadily over the past five years, and she provided details on commuter parking permits that were issued to students. She said as of March 5, 2005, there were 1,538 fewer parking spaces than UNH permit parking holders. She said students who for one reason or another didn't get parking spaces on campus parked in available spaces in the Town. She provided photographs that she said clearly showed the effect of UNH commuter parking.

Ms. Shields said the PTO felt college-age drivers in general were not as safer as parent-aged drivers, and noted that they had been driving fast down Dennison Road, and had even driven the wrong way down this road. She provided accident data for 16-20 and 21-24 age groups, and said these groups had significantly higher injury and fatality rates than other age groups.

She said the PTO was asked to meet with the Traffic Safety Committee to develop a common statement with relation to safety. She said the TSC confirmed by email that there was a consensus that the implementation of a parking permit system would eliminate from the Dennison parking area those persons not associated with the Middle School, thereby making those using the parking areas more sensitive, aware and cautious of the environment of young people in this area.

Ms. Shields noted that Section 49 of Chapter 153 of the Town Code listed 25 Durham streets or lots where parking was restricted, and said 19 of these area had restricted parking due to UNH traffic. She said the parking issue on Dennison Road represented the

same kind of problem. She also noted that 183 Durham residents had signed a statement supporting ORMS permit parking on Dennison Road.

Ms. Shields summarized the PTO's main concerns:

- The primary issue is the need for dependable parking for ORMS parents to allow them to be involved in their child's school life and meet their parental responsibilities.
- With Dennison Road open for parking to anyone, the Town of Durham is actually providing parking for UNH students. She said the PTO was asking that the Council put the needs of the community's parents first.
- This issue has nothing to do with the fact that we have a cooperative school district
- Durham children attend elementary school in Lee and Madbury, and both towns provide dependable parking for parents, and a safe area for children to be dropped off and picked up.
- This issue should not be confused with frustration from education funding formulas. The PTO believes this is not an issue for raising revenue by the Town.
- This is not an issue of providing parking for ORMS staff. School starts at 7:40 am and there is parking available at that time of day.

Councilor Needell noted that the PTO representatives had said several times that they were not asking for parking for staff, but said they were asking for the entire 81 spaces. He said far fewer than this number of spaces was needed, to deal with visiting parents.

Administrator Selig noted that the Ordinance only said that parking would be by permit only. He said it would then be up to the Police Department and School staff to determine how many parking spaces would go to the School.

Councilor Needell said he would be very happy to work with the PTO to fix the parking problem for visitors coming to the school. He said this was an important issue, but he said he didn't think the Ordinance addressed this, but instead addressed other issues.

Chair Sandberg suggested that Councilors should focus on the questions for the PTO first, and save comments for deliberation later.

Ms. Shields said the secondary issue was college age drivers.

Councilor Needell said he understood this, but said that by making parking on the entire road ORMS permit parking, he felt they were addressing staff parking.

Councilor Van Asselt whether, if there were 81 parking spots at 7:45 am, if there was data on how many of those spaces were being used by the Oyster Middle School staff, as compared to non-staff.

Ms. Bahl said there was no way of knowing this, noting that people who didn't come into the school therefore didn't check in there.

Administrator Selig said trying to determine this was very challenging. He provided details on this, and said the data simply wasn't available.

Ms. Shield noted the photos that had been provided, showing the parking situation when UNH was in session and was not in session. She said they saw a difference of about 15 spaces when UNH was not in session.

Police Chief Kurz said he and Administrator Selig had discussed trying to get this kind of data. He said it would take significant personnel time, and said he didn't think it would be time well spent.

Councilor Van Asselt noted the duplex being built on the lot adjacent to the School, and asked if occupants of this building would be able to park on the street.

Administrator Selig said there should be sufficient on-site parking for those people, but he noted that visitors to the building would put more pressure on the roadway.

Councilor Peter Smith noted Administrator Selig's statement to Councilors on this issue in a recent memorandum. And asked Ms. Shield for her perspective on this.

Ms. Shields said she had not seen the memorandum, but said she and Laura had a different view than the Traffic Safety Committee. She said they came up with the statement of consensus, that it would be a safer area if college age drivers were not going down that road. She said she had witnessed college students driving behavior in this area, and said the reason the PTO wanted the whole road to be ORMS permit parking only was to take away the need for college age drivers to go down that road. Councilor Peter Smith noted the safety issue would have to be discussed by the Council, but said he wanted to be clear as to whether or not the PTO agreed that safety should not be a driving motivation for the proposed ordinance.

Ms. Bahl said the first motivation was access to the school for parents, and the second factor was safety.

Councilor Peter Smith asked if the PTO had discussed this issue with the Oyster River School Board.

Ms. Shields said the initiative was PTO driven. She said they had met with Superintendent Tom Carroll in November, and said she had met with administrators at the Middle School to see if any other options were available. She said it was clear the School had worked with town officials on this issue, but that the School had outgrown its location, and needed to do the best it could to manage the situation.

Councilor Peter Smith asked if the PTO planned to speak with the School Board about solving the problem.

Ms. Bahl said it was the PTO's goal to deal with the Town at present, but she said she could see discussing this with School Board down the road.

Councilor Kraus MOVED Ordinance #2005-02 on First Reading as presented amending Chapter 153 "Vehicles and Traffic", Sections 153-28 and 153-49 by

restricting parking on Dennison Road from September 1st through June 30th between the hours of 7:00 AM and 4:00 PM, except by permit only for Oyster River Middle School staff and scheduling a public hearing on Ordinance #2005-02 for Monday, May 2nd. The motion was SECONDED by Councilor Van Asselt.

Councilor Needell said he wanted to make it clear that he had had concerns about this proposed ordinance when the first presentation on it was made before the Council. But he said the consensus at that time was that the Council would move on to a first reading of the proposed ordinance, and then would have a discussion on it.

He said he agreed there was a problem concerning access to parking for visitors to the Middle School, and that this needed to be fixed. But he said he was not comfortable addressing the problem in this manner. He said the issue of staff parking should be addressed separately, noting it didn't involve the PTO, and was only peripherally related to the problem the PTO wanted to solve. He said the PTO request was attempting to stop all non-school access to the road. He said while it was probably true that the more access to the road was limited, the safer it would be, the question was where the Council could draw the line on this. He asked if there had been any safety related incidents on this road.

Administrator Selig said the record showed there had not been any such incidents.

Councilor Needell said he was not saying that because there had not been incidents, there was not a safety issue, but said he thought this could be addressed differently. He said he agreed college aged drivers clearly did not drive as safely as other age groups, but said he had seen non-college age people driving the wrong way down that street. He said the safety issue was addressed improperly with this proposed ordinance, and said if there was an enforcement issue, it could be done in a different way.

He said it was true that there were other areas in Town where neighborhoods had been protected from student parking encroachment, and said parking for parents should be protected. But he noted there also were residents living on Dennison Ave, and said this ordinance would not allow them to park on the road during the day, so would be unfairly singling them out.

Councilor Kraus said he would agree that the key issue was sufficiency of parking for the school, not safety. He asked if any thought had been given to putting in meters for some of the parking spaces in order to insure a certain turnover of these spaces, assigning some of the parking spaces, and leaving some as they were at present.

Chair Sandberg asked if Councilor Kraus was in favor of scheduling the public hearing, and Councilor Kraus said he was.

Councilor Van Asselt said he also was in favor of scheduling the hearing. He said his unscientific observation walking down Dennison Road at 7:15 am was that approximately 61 of the spaces were being used all day by teachers, the other 21 by students. He said they got there well before the students.

Administrator. Selig said he and Chief Kurz had spoken to Marcia Ross, principal of the Middle School, on the challenges of the parking situation. He said the motivation of the PTO was to provide access to parking for parents, and noted it was not the Middle School that was coming forward with proposal.

Administrator Selig said the figure the PTO had provided on staff was the number of full time staff, but he said there were other professional people who came to the School during the day. He said Ms. Ross told him it was not infrequent that outside professionals coming to the school had to walk into meetings late because they couldn't find parking spaces. But he noted again that the Town didn't have a firm number on exactly who parked on Dennison Road.

Councilor Morong said he was looking specifically at the question before the Council, whether to have a public hearing. He said it seemed that the public had made enough of an effort so that it was only right to have a hearing on this issue.

Councilor Peter Smith said he differed from Councilor Morong, and said it was premature to have the public hearing. He said the hearing would not be a public forum, but instead would be a hearing on a proposed piece of legislation. He said he thought this issue was at a stage where people were trying to define more precisely what the nature of the problem was. He said it had to do with parking, and had to do with safety, but he noted that to say this didn't get the issue to the stage of shaping legislation to address the problem. He said it was at the stage of evidence gathering, and said he was not at all confident that the specific piece of legislation before the Council was what should be before it.

Councilor Smith said his second concern was that although the Middle School was in Durham, Durham was involved with the School in a different way than would be the case if the School were wholly disconnected from School District. He said the Town of Durham didn't run the school system, and he said he would think that the fundamental first step would be for the School Board to define factually some of the issues – whether it involved staff parking, visitor parking, inadequate handicap access, etc.

He said there was a central School Board responsibility here, and said perhaps the Superintendent would have to sit down with the Council or Town Administrator at some point. He said for that reason as well, it was premature to move the proposed ordinance on to public hearing.

Councilor Carroll said she had empathy with the PTO concerning this issue, noting her experience trying to find parking at the Oyster River Elementary School had been similar. She also said she had driven down Dennison Road that day, and had been struck by the poor design of that road. She provided details on this, and said the road design needed to be looked at for safety reasons.

Councilor Carroll noted the duplex currently being built, in that area, and said as a resident of Durham, she was disappointed that the schools were not looking at acquiring properties next to them. She said this had been a prime piece of property that could have

been kept as a buffer or parking lot for the School, and said she would like the School Board and administration to follow this kind of thing more carefully.

She also said that when she had been on the other side of the table, as a citizen, citizen groups were sometimes asked to come back to the Council with different options for solving a problem.

Chair Sandberg described the options for the Council – to go forward with the draft, to not go forward with it, or to amend it, and he noted that once the document went to public hearing, it could only be changed in minor ways. He said the question before the Council was whether the language in the proposed Ordinance was acceptable, or if it was felt that the PTO or the School Board needed to do more work on it.

Councilor Carroll asked if a committee could be put together to work on the language.

Chair Sandberg said this could be done, and noted a Councilor could be a member of such a committee.

Councilor Niman said he agreed with Councilor Smith that in the best of all possible worlds, the School Board would have made this proposal, but he said unfortunately the School Board had chosen to be silent on this issue. He said he agreed with Councilor Needell that the Town should do what it could concerning providing spaces for volunteering parents at the School, but he said 81 spaces was too much. He said the Council could talk about safety issues, staff parking, etc. with the School Board later.

He said he valued the fact that parents were willing to take the time to come to the School and give of themselves. He said if that problem could be solved at present instead of waiting for the School Board, he would be in favor of amending the ordinance to designate a certain number of parking spaces to be permit parking, to be administered by the Middle School for visitors. He said 20 spaces was a number that could probably meet the needs of parents volunteering at the School. He said if there was support for this, he would be willing to edit the document so it could move forward to public hearing.

Councilor Niman MOVED to amend the motion to move Ordinance #2005-02 on First Reading as presented amending Chapter 153 “Vehicles and Traffic”, Sections 153-28 and 153-49 by restricting parking for 20 parking spaces on Dennison Road from September 1st through June 30th between the hours of 7:00 AM and 4:00 PM, except by permit only for Oyster River Middle School staff and scheduling a public hearing on Ordinance #2005-02 for Monday, May 2nd. Councilor Van Asselt SECONDED the motion.

Chair Sandberg said another appropriate motion might also be to get more background information as to whether the Council should support the number of 20 parking spaces.

Councilor Peter Smith asked whether the proper way to describe the School Board in this issue was that it had not chosen to address the problem. He said this was fundamentally an issue of running the school system, and said it was almost disrespectful of the Board that the Town would move forward without the Board playing a central role in the process.

Councilor Niman said the only information on this he had was that the Superintendent discussed this issue in 2001 and nothing had happened after that.

Councilor Needell said although this motion was a step in the right direction, he believed the better course was to postpone action, and to get things right. He stated that the School Board had the ability to solve the problem immediately, with no action needed by the Council, because the lot on the corner of Dennison and Coe could be designated for visitor parking, and staff could park on Dennison Road.

Councilor Morong said this amended motion was a step in the right direction, and said he would like to see if this would provide sufficient spaces for visitors. But he said he was swayed by other Councilors that the Council should postpone action on this, and said he would like to see the motion tabled.

Councilor Julian Smith asked if part of the problem was that because there was no control on parking on Dennison Road that staff members routinely parked there in the morning if they got there in time. He said the issue seemed to be whether to provide permit parking for visitors, and not for staff.

He said he would tend to support the language in the amended motion, and suggested that the Council go forward with the hearing on this. He said if the Ordinance passed, the Town could then see how it worked, and in the meantime could get the School Board involved.

Councilor Carroll suggested that 20 spaces would not be sufficient for visitors. She noted that many spaces could be filled all day when there were field trips.

Chair Sandberg said there appeared to be no basis for the number of spaces that were needed, and said he would therefore vote against the amendment, and the scheduling of the public hearing. He said there simply wasn't enough information, and said the Council should ask the PTO to seek the involvement of the School Board. He said this was not saying he didn't support the need for parking for parents, etc. but he said it would be irresponsible to pretend to have a solution when there was insufficient background information.

Councilor Kraus asked if the Council could change the Ordinance after the public hearing.

Chair Sandberg said yes, but said there would then need to be another public hearing.

Councilor Kraus noted that during the analyses of the problems with the Packers Falls Bridge, there were several public hearings, and asked why that couldn't be done for this situation.

Chair Sandberg said there was a difference between hearings to seek input, and those dealing with ordinances. He said modifications that could be made in the latter instance

were minor, but said if the broad intent of an ordinance was changed, there would need to be another public hearing. He provided additional details on the public hearing process.

Councilor Van Asselt said he saw nothing wrong with having a hearing on an ordinance that allowed 20 spaces, instead of studying this issue for another 10 years, and said it could then be observed whether this number was adequate. He also noted that the problem here was a result of the University's commuter permit policy.

Councilor Needell asked whether, if this number changed, another public hearing would be required. There was discussion about this.

Councilor Peter Smith said he believed that if the number were changed substantially, this would require another hearing. He then spoke about the different times when hearings were held. He noted he was not suggesting that there shouldn't be a lot more public input on this issue, and said the Council could allow that at any time.

But he said the question was whether the Council was at the stage of moving forward with this specific piece of legislation. He said he didn't think it was efficient to move forward without the information needed to solve this problem. He said he hadn't heard anything that explained why it was appropriate to read the School Board out of this matter, and he said he intended to vote against the amendment and the underlying motion.

Councilor Carroll asked what the next step would be, if the public hearing were voted down.

Chair Sandberg said it would be up to the PTO, but said the organization had now had the benefit of hearing the Council's concerns, and said he guessed it would take the issue to the School Board, with or without involvement from the Council.

The motion PASSED 5-4, with Councilor Carroll, Councilor Peter Smith, Councilor Morong, and Chair Sandberg voting against the motion.

Councilor Needell said he would vote against the original motion to schedule the public hearing, because he was not convinced this legislation was necessary. He also said he thought it needed a lot more work in terms of wording changes, etc.

Councilor Julian Smith asked if he could suggest some additional changes to the language of the proposed ordinance.

Chair Sandberg said he could, if he proposed another amendment to the original motion.

Councilor Niman said he agreed with Councilor Needell that in order to want to move the ordinance forward, he would like to make some wording changes. He said other Councilors probably wished to do this as well, and said he therefore agreed this was not the appropriate time to move on to the public hearing.

Chair Sandberg noted that there was no mention of 81 spaces in the proposed ordinance, and said this was indicative of what the Council had recognized that evening; that the ordinance needed more work.

The motion FAILED 1-8, with Councilor Julian Smith voting in favor of it.

Chair Sandberg stated that the vote meant that more work needed to be done on this issue, and did not mean the Council was not sympathetic to the problem.

B. Report of Fire Department Statistical Analysis – Councilor Niman

Councilor Niman said he had done an analysis of data related to the cost of operating the Durham Fire Department, and said he was now ready to present the results of this analysis. He said that he thought the Town had a great Fire Department, and said the disagreement he had was the amount of money being spent to run the Department. He then went through the analysis he had done.

He said his first analysis compared the Durham Fire Department budget with that of UNH, and of average comparable towns in the area. He said as part of this analysis, he did of a comparison 5 towns higher, and 5 towns lower than Durham in terms of valuation, with their respective fire department budgets. He said he also did a similar comparison of Durham against 5 towns higher, and 5 towns lower in terms of population (not including UNH students living in dorms), with their respective fire department budgets. Councilor Niman noted a similar comparison was done with the police and highway budgets.

He said what was seen from this analysis was that other towns comparable to Durham spent substantially less for their fire departments. He said he had then calculated incremental cost over the average, noting the University loved to talk about incremental cost, especially when it came to students in the School District. He noted that the incremental cost for Durham over the average comparable town, based on valuation, was \$766,361, and the incremental cost based on population was \$714,384. He said the incremental cost amounted to roughly 2 million dollars, if all three Town departments were considered.

Councilor Niman said one of several things could be determined from this analysis: 1) that the Town had a higher need for services; 2) that the Town had a poorly managed town government; or 3) that something else was going on (i.e. the cost of hosting UNH). He said \$2 million was about \$2.50 on the tax rate.

Councilor Morong noted UNH students in rental buildings were considered a part of the Town population, because they lived in tax paying properties, and Councilor Niman agreed.

Councilor Peter Smith asked if 6,946 was the population of Durham residents including students living off campus, and Councilor Niman said it was.

Councilor Smith asked if he was confident about that number, and Councilor Niman said he was using NH Office of Energy and Planning data, which was the number the NH Municipal Association used.

Councilor Smith asked if Councilor Niman had a rough estimate of how many of those people were UNH students living off campus.

Councilor Niman said he couldn't say that, but that he could try to determine who was driving calls for service.

Councilor Peter Smith said he thought the figure, if it includes students living off campus, was higher than 6946. He also asked if the Fire Budget of \$1,250,140 was the Town's share of the budget, based on paying 54%, and Councilor Niman said yes.

Councilor Niman said concerning students living in taxpayer properties, the question the Council had to ask itself was whether these students generated \$2 million in tax revenue. He said he believed the answer to this was no.

Councilor Needell said there was no doubt there was a cost to hosting the University, and said Councilor Niman was demonstrating this very clearly. He said there was a cost, but there were also benefits.

Councilor Niman agreed there were benefits, but said he was trying to determine what was fair.

Councilor Niman continued to explain his analysis. He said he had talked to Assessor Robb Dix concerning taxable rental properties, and how much of the assessment represented the value of the house and how much represented the value of the accessory apartment. He said he wouldn't live or die by the numbers, but said he had tried to take the properties that were strictly rentals, were large, and saw a lot of police and fire activity, and then looked at how much tax these properties paid. He said their share of taxes was \$74,000, which when added to the local School tax rate, came to \$537,625, which didn't add up to 2 million dollars.

He said that as an economist teaching microeconomic theory, was interested in the average cost of a call to the Fire Department. He discussed an analysis he had done of this, and said the average call cost \$1,000 in the year 2000, and was \$1,322 in 2004. He said the number of calls had fluctuated over the time period, but noted that keeping the call volume constant, the cost per call went up 42% between 2000 and 2004.

There was discussion about why Niman had done the analysis in this way.

Councilor Smith said the key question was why the budget increased - because there was an increase in the amount of work to do, or because the staffing arrangement changed.

Councilor Niman said Smith was correct, and noted that the big changes in cost per call from 2001 to 2002 reflected staffing changes. He said the goal at that time was not that the Fire Department needed to handle more calls, but that it wanted to handle calls to meet more goals, regulations, etc.

Councilor Kraus noted the Fire Department theoretically might be called to help him if he was locked out of his house, and said this would cost \$1,322.

Councilor Niman next showed an analysis he had done of the number of different kinds of calls the Fire Department received for the years 2000 through 2004. He provided details on coding differences between the data from 2000-2002 as compared to 2003 and 2004, and said he had had to standardize the data so he could construct the picture of 5 years of data. He said he could therefore say with confidence that nobody else had this data.

He said he was trying to determine with this data how Fire Department activity had changed over time, and said although fluctuations could be found in the variables, there was no strong trend in terms of the kinds of calls received. He said the only thing the data showed was a trend of increasing EMS calls, noting these calls had consistently increased over the five-year period.

He said a difficulty in Town was that people liked to tell anecdotes about why costs were what they were, but he said he suspected that reason the Town paid 55% of the Fire budget was because of expansion of the EMS calls. But he said he couldn't say this for a fact, because he didn't have the locations for these calls.

Councilor Julian Smith asked if Councilor Niman had gotten any explanation as to why there had been a steady increase in EMS calls.

Councilor Niman said he had not, noting the data had only recently been generated.

Councilor Peter Smith asked how he accounted for the dramatic drop in Overpressure/Explosion service calls during this period.

Councilor Niman said his guess was that UNH had made dramatic changes in its physical plant during this period.

Councilor Niman said fire calls averaged about 5% of calls over the five-year period, and also provided percentages for the other types of calls. He said although fire work as a percentage was very little, this data did not mean that the Department was not busy. He said the policy question was whether it was busy doing the things the Town wanted it to do.

Councilor Niman said he had tried to find out the location where calls to the Fire Department came from. He said he had obtained call location data from Council Harris, and noted Councilor Kraus had suggested that he try to figure out where calls came from.

He said what was interesting to note was that 90% of the calls being generated were located downtown, but said this did not mean they were all students.

Councilor Peter Smith asked what this showed in terms of percentage of calls generated by students.

Councilor Niman said 91 percent of 90 percent of the call volume came from 38 downtown/UNH call locations. He said the other 9% came from 11 locations. He said the 38 locations over two years accounted for almost 2,700 calls, and said the other 11 locations represented 254 calls.

There were questions and discussion from Councilors and Administrator Selig as to how Councilor Niman had determined these locations.

Councilor Niman described the process he used, and said was trying to see geographically where the Fire Department spent time. He said the next job was to figure out who generated the calls, and said he could at least get close to what Councilor Peter Smith was trying to get at.

He said he had developed a ballpark estimate concerning 100% of calls, within 5% accuracy. He provided details on the process he used to determine this, and had determined that 75% of the calls were UNH related, and 25% were Town calls.

Councilor Peter Smith asked how reliable the 75/25 numbers were.

Councilor Niman said he was confident they were within 5%. He said if one was interested in figuring out how much of the Fire Department budget was University driven and how much was Town driven, he felt this was the appropriate ratio. He said if funding was apportioned by these percentages, the UNH share should be \$1.7 million, and the Town's share should be a bit less than \$600,000.

Councilor Needell asked how the percentages broke down if one simply said people living off campus were Durham residents and people living on campus were University residents.

Councilor Niman said that was where the current 54/46 split came from. He also noted if the 75/25 apportionment were used, the Town's cost would be \$578,769, a figure which was similar to fire department budgets for other towns of comparable population and valuation.

Councilor Peter Smith asked whether, if ruling out the student population on campus, if Council Niman could demonstrate the relationship between the student population off campus and its total real estate valuation, as a ratio to the civilian population and its total real estate valuation.

Councilor Niman said if the University could provide a database of addresses where students lived, and the Town could use its database of all taxable properties, one could see exactly where students lived, and how many students lived in town properties.

Councilor Peter Smith said one would need to do that in order to make a meaning statement of the true impact the University presently had on the use of services. He said his intuitive sense was that while off campus University housing was tax supported, it was used vastly more, and was supported tax-wise much less, creating ratios that looked very different.

Councilor Niman said this could be done if the Town Administrator could get the addresses.

Councilor Kraus said there was no systematic, coherent updating of student addresses as they moved from apartment to apartment, so this analysis could not be done.

Councilor Niman said if he was correct, the true division was 75/25, so this was the way the Fire budget should be divided. He said at some point, people had to stop saying, we have all these student apartments, and they pay all these taxes. He said this was not enough to cover all the costs, and said the Town needed to start thinking what it wanted to do about this.

Councilor Needell said Councilor Niman made a very strong case for hosting the University, and said he appreciated the way he treated the data. But he said the last piece was what should be done with this information. He said it was not fair to say that because of that breakdown, the UNH should pay 75%, and the Town should pay 25%, and he said there should be an open and fair discussion as to what this data did mean.

Chair Sandberg said Councilor Niman had presented some fascinating information, and said the key was to try to understand it, and seek input and comment from the Town Administrator on it. He suggested that because of the evening's agenda, this topic should put this on an upcoming agenda, in order to contemplate possible next steps.

Councilor Niman agreed this was a good idea. He also said he didn't mean to imply that the split should be 75/25, but said he did mean to imply 50/50 was not a good deal for the Town. He said he didn't think the Town could afford what it was currently spending, and said he would like to look at innovative ways to reduce the cost. He said he looked forward to having a conversation on this.

Councilor Kraus said Councilor Niman had recoded a substantial amount of data as part of this analysis, and said that kind of information had opened the door to a better understanding of what was going on. He said there was no question that the Council had the material to really unwrap some of the issues it was confronting.

Chair Sandberg said it would also be beneficial for the Town Administrator and the Fire Department to take a look at these numbers and issues in way that had not been possible previously. He said this data raised some very provocative questions, and thanked Councilor Niman for his work.

XI. New Business

- A. **First Reading on Ordinance #2005-03** amending Chapter 175 “Zoning Ordinance” of the Durham Town Code, Sections 175-7, 175-25, and Article XV “Flood Hazard Overly District”

Mr. Campbell noted this was before the Planning Board at its March 30th meeting, and said there were no members of the public to speak on it that evening. He said the suggested changes resulted from a meeting with the water resources person from the NH Office of Energy and Planning, as well as correspondence from the Federal Emergency Management Agency (FEMA). He said the proposed changes would bring the Town into line with the new standards of the Flood Insurance program.

He said he had received an updated flood insurance study for Strafford County (now done on county basis instead of town basis), and also noted that the Town would be adopting revised flood maps with the updated ordinance. He said these maps were now very user friendly, because the regular maps had been overlaid with aerial photography, making it easy to see properties in relationship to the different flood zones.

Mr. Campbell noted that if the Ordinance wasn’t adopted by May 17th, this would put in jeopardy Durham residents’ flood insurance.

Councilor Kraus MOVED to approve on First Reading Ordinance #2005-03 amending Chapter 175 “Zoning Ordinance” of the Durham Town Code, Sections 175-7, 175-25, and Article XV “Flood Hazard Overly District” and to schedule for public hearing on May 8th. The motion was SECONDED by Councilor Carroll and PASSED unanimously 9-0.

- B. **First Reading on Ordinance #2005-04** amending the Durham Town Code by adding a new chapter, Chapter 75, and sections 75-1 through 75-13, entitled “Impact Fees”

Mr. Campbell said this had been on the work plan for the Council for a few years, and would involve a fee to be placed on developers for specific services provided by the Town, possibly including school, water, sewer, public safety, and stormwater.

He explained that he had at hired an intern in the fall of 2003-2004 to draft an impact fee ordinance, and to get it in good enough shape to pass it on to an excellent consultant, Bruce Mayberry, who had done further work on the ordinance. He said it was important to note that in order to collect fees, an impact fee ordinance needed to be in place.

He said the next step was to develop methodologies for how much the fees would be. He said there was a draft methodology for school related fees, and said the next methodologies that would be worked on after that were for water, sewer and stormwater.

Chair Sandberg explained that if the public hearing on this were scheduled, and public input was received, the Council could act on the ordinance that same evening, or could do so at a later date if necessary.

Councilor Peter Smith asked if Town Counsel had gone over the draft ordinance, and Mr. Campbell said he had, and was agreeable to it.

Councilor Smith noted that the definition in Section, 75-4, subparagraph B had unusual phrasing “and limited to”. He said he assumed there were some legal ramifications that required that this be a restrictive list, or otherwise this language didn’t make sense.

He also said he was struck by the fact that public open space as defined was something not included, and was explicitly excluded as one of the features that could be assessed. He said he was curious about that, because there was a cost to obtaining and maintaining such facilities, although they didn’t contain structures, etc. He asked if there was some legal requirement for excluding them, and said if not, he would suggest that they shouldn’t be excluded.

Councilor Smith noted concerning page 5 that he was interested in whether the Town was bound to take the position of the last line of A “over a period of at least 20 years”. He asked if this language meant that after 20 years, there was an out, and if the Town had to allow this out after 20 years.

Chair Sandberg questioned if these were issues that should be resolved before the public hearing.

Mr. Campbell said the only issue that gave him pause was Councilor Smith’s last comment.

Councilor Peter Smith noted there was wording in State statute that precluded charging impact fees for open space.

Councilor Kraus MOVED to amend the adjournment rule and to go not later than 10:15 pm. The motion was SECONDED by Councilor Morong and PASSED unanimously 9-0.

Chair Sandberg said this Ordinance was not as time sensitive as the previous one discussed. He asked whether, if the draft document was moved to public hearing, if it would be the one presently being discussed, or something that was changed as a result of Councilor Smith’s comments.

Councilor Peter Smith said in his view, the changes to the document based on his comments would need to be very minor, in comparison to the statute as a whole.

Councilor Carroll said she was also concerned about the language “ limited to” under 75-4, and also said she had thought of other things that should be listed there, such as parking, and public transportation.

Councilor Needell said the wording in that section came directly from State statute, and said he didn’t think something could be added to it without violating the statute.

Councilor Carroll noted that information Councilors got on impact fees said Portsmouth did include parking in its impact fee ordinance. She said she didn't see anyone else include public transportation.

- C. ***Councilor Peter Smith MOVED to approve on First Reading on Ordinance #2005-04 amending the Durham Town Code by adding a new chapter, Chapter 75, and sections 75-1 through 75-13, entitled "Impact Fees" and schedule a public hearing for Monday, May 2, 2005. Councilor Julian Smith SECONDED the motion.***

Chair Sandberg said there was the question as to whether parking and public transportation could be added to the Ordinance.

Mr. Campbell said he would be reluctant to do this because it was not in State Statute.

The motion PASSED 8-1, with Councilor Van Asselt voting against it.

Chair Sandberg asked when the Council should meet next for a goal setting session.

Administrator Selig said he could develop a draft of the goals and forward this to Councilors. He said the Council could then discuss a more developed version of the goals at the next regular Council meeting.

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

Adjournment time - 10:10 pm

Victoria Parmele, minutes taker