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Town of Danville
Board of Selectmen
Monday, September 19, 2022
7:00 PM

6:53 PM

Meeting is Video-Recorded

Selectmen Present: Shawn O’Neil, Chair; Dottie Billbrough, Vice-Chair; Steve Woitkun, Sheila Johannesen, and Dennis Griffiths

Others Present: Kimberly Burnham, Selectmen Administrator; Jim Seaver, Road Agent; Anne Massoth, Colby Memorial Library Director; Residents: Dave Drislane, George Brasil, Brion Heide, Carsten Springer, Chair Conservation Commission, Chair, Forestry Committee; Rob Loree, Vice-Chair, Conservation Commission, member, Forestry Committee. Diana West, NH House candidate; Brenda Oldak, NH Senate Candidate

Shawn called the meeting to order at 6:53 PM and opened the meeting with a moment of silence for the troops who put themselves in harm’s way. All stood for the Pledge of Allegiance

Shawn opens the meeting by stating that something has come to his attention. He explains that he was not at the last BOS meeting on September 6, 2022, and had asked Kim what went on at that meeting. He states that Kim, because of the topic, was uncomfortable telling him that a Non-Public session was held at the September 6, 2022 meeting that discussed him in his capacity (as a Selectman). Shawn states that Dottie (who chaired the September 6, 2022 BOS meetings) should know that the BOS cannot go into a Non-Public session to discuss a member of the BOS. Dottie states that it was a legal matter and the Non-Public session was also held under NH RSA 91-A 3:II (L). Shawn adamantly states that what was brought up at that meeting was himself and how he conducted that issue is to be brought up at the BOS table in public. Shawn asks to have that discussion right now. Sheila asks if there will be a Delegate Session. Shawn confirms that the Delegate Session will take place after this discussion.

Dottie states that it came to her attention that Shawn, on his own, contacted Town Counsel and told Counsel not to do any work on a legal matter that the Heritage Committee had requested. Dottie states that Shawn told Town Counsel not to do any work on that request until he (Shawn) had talked to the Heritage Commission. The Town has a policy that individuals cannot speak on behalf of a board unless authorized. She reads the following:

“No member of a board shall speak on behalf of their respective board unless authorized to do so by that respective board. This is not to suggest that any individual member cannot speak publicly but rather emphasize that they should clearly state they are speaking only on their own behalf and not represent himself or herself as speaking for the board.”ⁱ

Dottie states that it is also written in NH State law that one Selectman cannot do anything on their own.ⁱⁱ

Shawn states that he agrees with Dottie (regarding the law) and that he knows exactly what this is about because he has sat at the BOS table and in his position (as Chair) for so long. He states that he knows how people think and how they will react and he knew “exactly how this was going to play out.” Shawn explains that he specifically asked Carol Baird (Chair, Heritage Commission) what the question was that the Heritage Commission wanted to ask, stating that the BOS had already addressed all her (Heritage Commission’s) issues. Shawn states there was “dead silence.” He states that he knows it was because the Heritage Commission is trying to “unwind what the BOS has done relative to the ATV (access).” Shawn explains that when he asked that question, Ms. Baird “went dark and didn’t say anything; and he said to himself that if he hadn’t been in there, Dottie would have brought it to the table and discussed it because everything the Heritage Commission brought to the table was addressed in that document (ATV permission form).” He paraphrases that “the applicant would adhere to all Town ordinances and regulations” and states that is all warranted and is what Ms. Baird had brought up relative to Heritage.

Shawn states that he was concerned that Ms. Baird “was on a fishing expedition trying to find out... at the Town’s paying for this legal opinion for that to be used against us. Basically, it’s the Selectmen versus the Heritage Commission through Town Counsel at \$300 per hour and he was not going to support that.” Shawn reiterates that he asked Ms. Baird what her question was and she went dead silent until he finds out apparently it was him. Dottie states that Ms. Baird did not go silent but told him to “watch the meeting.” Shawn states that he does not have time to watch the meeting. Dottie states that Shawn could have asked her at any point. Shawn responds that Dottie could have brought the Heritage Commission’s question to the BOS table.

Dennis states that he tried to find the Heritage Commission meeting and it wasn’t recorded. Dottie agrees that it was one of the meetings that were not recorded due to the technical issues that followed the power outage. Shawn states that he didn’t know that was the case and that he wouldn’t be able to watch the meeting because it wasn’t available.

Dottie states that the BOS did not discuss the Heritage Commission’s request. Shawn states that the BOS discussed exactly the part where “we need a decision for the ATV....” Sheila states that Shawn is missing the point. Dottie agrees. She states that Shawn has done something that he shouldn’t have done. He should not have spoken to Town Counsel without BOS permission to try to stop something else.

Shawn asks if the Heritage Commission can ask for all these legal opinions at \$300 per hour and if the Town is just going to pay for it. Dottie states that it was one opinion. Shawn responds that “it doesn’t matter if it was one opinion or ten, it’s just another opinion that goes out and we spend it.” Shawn states that “let’s be honest, I support the Heritage Commission personally on a lot of levels, but their track record isn’t that great looking back 15-20 years around the Town.” Dottie states that she believes Shawn is out of order. Shawn states that “she can say this, but has to say it at the table, not in a back conference room.” Dottie reiterates that it was a legal issue and that’s why (she requested a Non-Public session).

Dennis states that “it doesn’t sound like a legal issue at all. The subject is whether Shawn did something that he could otherwise have consulted the board on and not done on his own. That’s the issue. It doesn’t matter who he talked to; the BOS was not talking about a legal opinion. There was no legal question in and around anything that he’s (Dennis) heard so far. Was there a legal conversation had regarding that question? Shawn responds “no, it didn’t take place because he (Shawn) told Town Counsel that until he hears from Ms. Baird otherwise on what the topic is, he’s not going to have Counsel give a random legal opinion.”

Dennis, speaking to Dottie, states that “the bottom line is you can’t call a Non-Public session against a board member.” He notes it is written in the RSA.ⁱⁱⁱ He explains that Dottie can’t say that it fits NH RSA 91-A 3:II (L) and that it is a legal issue when in fact, there is no legal issue being discussed. Dottie states that it was a legal issue because “one Town board does not agree with another Town board.” Dennis states that he “has followed the thread, the request that started with the request for an opinion from Town Counsel and that Ms. Baird did indeed go dark.” Dennis notes that Shawn asked Ms. Baird a very specific question “you’re asking for the privilege to talk to Town Counsel for \$300 per hour, what does she want to talk about and that Ms. Baird did not want to communicate that.” Dennis states “that’s wrong. We ought to, as a Town, as boards that support each other, work our differences out in public, at the table, with the rest of the Town to see, before you spend \$300 per hour.” Dennis notes that if Ms. Baird came in and felt that she got no satisfaction and felt that she had a very strong legal opinion, she could have made that known and the BOS could have decided that. He states that “it was kind of sneaky” and that he’s “sick of the sneakiness. Why didn’t she just tell the BOS what the subject was about that she was seeking a legal opinion on?” Dottie states that all he (Shawn) had to do was ask her. There is further animated discussion. Dennis states that he was not at the September 6, 2022 BOS meeting to ask and that Dottie, being on both sides (as a Selectman and as the BOS representative to the Heritage Commission) should have known better; that she should have said at the BOS meeting “as a member of the Heritage Commission, I would like to express my dissatisfaction with x,y,z. Ms. Baird is not here to represent herself, so I will speak on her behalf because we’ve had this conversation. This is where we’re at, and this is what I’d like to see, and this is why.” Instead, it went from an e-mail sent to Shawn, then to everyone, that the Heritage Commission wants a legal opinion. Dennis notes that Shawn asked Carol Baird “two or three times what it was about and got no response, no showing up at the BOS meeting, and the next thing a Non-

Public session is called when only three (3) board members are present and the person who is the subject isn't even there, that's chintz." Dennis states that he doesn't believe anyone in Town would think "they did that correctly" and that the BOS didn't and he'll "take the blame for it because he's on the BOS and we're all wrong because of what you (Dottie) did." Sheila states that Dennis was not at the September 6, 2022 BOS meeting. Shawn reiterates that "you can't call a 91-A...." Dottie reiterates that it was a legal issue. Shawn asks then why was his name discussed. He states that they are "discussing him as a Selectman, his handling of the situation, and that's done out in public, not in the guise of a Non-Public session." Dottie motions to release the Non-Public minutes. Second by Sheila. Shawn states that he's fine with that, reminding them that those minutes have not been approved yet. There is more discussion.

Steve states that he doesn't know if how it all went down was legal, but that he does believe "there should be checks and balances and some controls on boards getting legal advice at \$300 per hour." He agrees the Heritage Commission "does not have the best track record," and that he has brought this up before. He explains that he wants to publicly state that "if he was in Shawn's shoes, he would be a little disturbed with Town Counsel for informing the Heritage Commission's Chair about something that Shawn had discussed with Counsel and that he believes that Town Counsel violated confidentiality, and with the relationship that Shawn and Town Counsel has had, that Counsel stabbed Shawn in the back."

Shawn states that he understands Steve's point, but he doesn't take it that way. Town Counsel was conveying.... Shawn states that his statement was that he "had not heard back from Ms. Baird, so he didn't know what this (question) was, so he wasn't going to authorize Town Counsel and asked him to "stay in a holding pattern and if I hear back from Ms. Baird, with a topic, or she wants to come before the BOS...we can all decide that, but at this time he wasn't going to support moving the request forward."

Dottie states there "doesn't appear to be a policy where a land use board, such as the Heritage Commission, as well as the Planning Board and the Zoning Board, where they have to get permission from the BOS and what they're supposed to do, or at least what has been the unwritten policy, was to send their questions to Town Counsel and let the Town Administrator know that a question has been asked to Town Counsel so that she knows how to put it in the budget." Dottie states this is according to Ms. Baird and that she has no reason not to believe that.

Shawn states that he wants to "get to the crux of the issue which is what was the questions that the Heritage Commission wants to ask Town Counsel?" He confirms with Dottie that it was about the ATV access. Dottie explains that it was not just about the ATVs, but undoing Tuckertown Rd. She states that the Heritage Commission wanted to know if the way that the BOS had approved ATV access was done properly. Shawn states that it was, including the RSAs. ^{iv} Dottie states that it's Shawn's opinion on what RSAs cover the decisions and notes that she has requested the documentation that Tuckertown Rd. was opened in 1996. Dennis states that he provided the documentation that in 1996 the Town voted to make Tuckertown Rd a Class A trail, that he provided the RSA of what a Class A trail is, ^v what it is and isn't allowed on it. He notes that within the RSA it states that the Town can vote to create a Class A trail and if it wants to, it can restrict vehicles and other things, but it should be included in the Warrant Article at the time of the vote, or create another Warrant Article with those restrictions. When the Town voted to change Tuckertown Rd. to a Class A trail, it did not include any restrictions ^{vi} Dottie states that it did mention the RSA but not the letter and number that he had read. He asks her to "let him know and he will get it and bring it to the BOS either before the meeting is over or for the next meeting, very succinctly so there is no misunderstanding." He states that he "has no misunderstanding." Shawn agrees the RSA is straightforward and paraphrases that "there were no restrictions when the Warrant Article was presented in 1996, therefore there are no restrictions."

Shawn states that many people have disagreed with (other) people in Town and have taken it upon themselves to get legal opinions. When the BOS gets a legal opinion from someone, it will review it and make sure.... He notes that an opinion is just an opinion based on a person's....

Dottie states that she doesn't understand what Shawn is afraid of. Shawn states that he's not afraid of anything, and "what he wanted to do was save the Town money because we're (the Heritage Commission) is going on a fishing expedition and that is exactly what it is." Dottie disagrees and states that "it's a clear question." Shawn states that

“it’s a clear question on an issue that she (Dottie) and Sheila do not agree with....” There is more animated discussion. Sheila states that “we’re going to agree to disagree.” Shawn agrees and states that “they’re not going to turn around and make him a rogue Selectman, running around, doing all this other stuff....” Dottie states that “as far as she’s concerned, he is, noting that one person can’t call Town Counsel and tell them not to do what they were asked to do.” Shawn states that if Dottie is the Chair next time, she can do that.

Sheila reminds the BOS that there is a motion to release the Non-Public minutes. Shawn explains that the BOS can’t unseal the Non-Public minutes because they haven’t even been read yet. Dottie suggests tabling the motion until the Non-Public minutes are read. Sheila again asks if Shawn is going to open the Delegate Session. The discussion on this issue closes.

I. Delegate Session

Shawn opens the Delegate Session at 7:11 PM and asks if there are any members of the public not on the agenda who wish to address the BOS.

ATV Access Permission forms: Dave Drislane states that he would like to review the “standard operating process of the ATV permission forms.” He explains that at the last BOS meeting (09/06/22) Sheila questioned the permission process, who looks at the forms, etc., and had stated that she believes that a driver’s license is needed to operate an ATV. He explains that he has reviewed the minutes^{vii} and that the permission form was created and reviewed by the BOS and Town Counsel. When a rider reaches out to him and requests a permission form if he’s confident that “they’re a good citizen” he has the rider sign the form. He brings the signed forms to the BOS. Dennis agrees this is how he remembers it. Mr. Drislane explains that after the forms are signed, he picks up copies of them from Kim, noting that Kim has been “awesome” and returns the copies to the rider(s) so they can have a copy of it on them as required. Mr. Drislane asks Sheila if “he’s off base,” noting she was questioning the whole process, that she thought riders needed driver’s licenses, and questioned how the riders would be vetted, etc. Mr. Drislane states that this has already been covered and passed by Town Counsel and that he doesn’t know what Sheila’s question was.

Sheila states that the BOS should have a written policy and that she mentioned this at the September 6, 2022 BOS meeting. She explains that she has drafted a policy which she will read, noting that the BOS needs to have something in writing. Sheila reads the following proposed policy:

Permission for land use regarding ATV Selectmen’s Policy # 15

- 1) Permission for Land slips may be obtained at the Town Of Danville NH Selectmen’s Office.*
- 2) All Permission for Land slips are for Danville Residents only. No slip will be signed, or permission granted without proof of residence.*
- 3) Proof of residence must be provided to the Selectmen’s Administrator and a copy of the proof attached to the town’s retained permission copy. Selectmen’s administrator will maintain the copies and files on all permission slips.*
- 4) Proof of residence is a valid driver's license, non-driver photo ID, or safety course certificate.*
- 5) Anyone between the ages of 12-16 needs to complete an ATV safety course and then needs to have a licensed driver with them while operating their ATV. If a driver is between the ages 16-18 and does not possess a driver’s license, they will need to complete an off-road safety course.*
- 6) Permission for Land use for the Town of Danville, all laws for State of NH, and town pertaining to the use granted must be followed. Failing to obey the off-road vehicle laws of New Hampshire and the local jurisdiction may result in loss of permission by the Town of Danville.*

Sheila expresses her concern that the BOS has no way to confirm the residency of the applicants. This will give the BOS a policy to follow and they will have a copy of the applicant’s certificate or license. That ensures that the BOS knows.... Shawn expresses his concern with her idea of retaining copies of people’s licenses. Sheila states they would at least have to show it to the Town Administrator.

Mr. Drislane reminds the BOS that when they approved the ATV permission form, Shawn had designated him as the point of contact.^{viii} Shawn agrees this was the arrangement and notes that if someone doesn't know him (Mr. Drislane), he also wants them to be able to come to the BOS through the Town Administrator, stating that he "just wants to be able to meet them (the applicant)."

Dennis states that the process was discussed over multiple meetings and evolved over that time and that all agreed that the first year was going to be the hardest year of trial and error. He notes that Mr. Drislane was always going to be the "citizen leader of this process" and that with the forms, without proofs such as driver's licenses, electric bills, etc., the BOS would depend on Mr. Drislane's word that the applicant is a Danville resident. Dennis explains that if someone comes to the BOS and wants a permission form, but doesn't know Mr. Drislane, and the BOS members don't recognize them, the BOS could ask for an ID on an individual basis. Dennis notes that he believes that for 98% of the forms, someone on the BOS will know who they are, where they live, and that they are a resident of the Town. He states that he doesn't believe the BOS "needs to go over the top."

Mr. Drislane notes that last week someone got a permission form from Kim and when he looked at it, the person was supposedly from his neighborhood and he was not familiar with him. Dennis agrees that the BOS can put that application aside and have the necessary conversation with that applicant. He expresses his "great concern" that the Town is collecting all this personal information, storing it, and filing it, noting it is even more concerning now that the Town is digitizing all its paperwork and this information will be stored "out there" creating a permanent digital record.

Dennis agrees that it is important for the BOS to verify that applicants are Town residents, but that Mr. Drislane should be the first person that the BOS goes through, noting that the BOS is trusting Mr. Drislane. Dennis states that the rest of Sheila's draft policy is not the responsibility of either the BOS or Mr. Drislane, but it is the responsibility of Fish and Game to make sure safety certificates, licenses, etc. are all in order and at no point in time should the BOS supersede or compliment that process in any way whatsoever, noting that is a disaster. Mr. Drislane notes that Fish and Game have access to all those records. Dennis states that he feels the policy is absurd.

Mr. Drislane explains that last Sunday he was out (not riding) and saw Officer Crouse sitting near the soccer field by the circular parking lot. Mr. Drislane pulled him over to say hello, noting that Officer Crouse "is a nice guy and does his job." Mr. Drislane states that when he spoke to Officer Crouse on the phone a couple of months ago at the beginning of the access permission process to let him know that it was moving forward, Officer Crouse had told him that he wasn't going to be in Danville anymore. Mr. Drislane states that last Sunday, Officer Crouse was covering Danville and ten (10) other towns and was dealing with hunting and fishing issues. Officer Crouse told him that he wasn't aware that the permission for access had passed and that people had the authorization to ride the trails. Mr. Drislane notes that Sheila speaks with Officer Crouse "quite a bit" and was curious why she never told him that the permission for ATV access had passed and why he's still in Danville. Sheila states that "maybe it was because her conversation with Officer Crouse had nothing to do with ATV stuff." She states that she was "talking to him for a reason." George Brasil asks her what her reason was. Sheila states that it was regarding Animal Control. Mr. Drislane expresses his concern that because the ATV access permission was never mentioned, he believes that it was a waste of Fish and Game time (for Officer Crouse to be in Danville).

Mr. Brasil notes that he has been in Town for twenty (20) years, that he has volunteered for years, and he is asking "what is wrong with riding quads out there with our families." He states that he personally looks at it that Sheila has a problem with it. Sheila and Mr. Brasil have an animated discussion. Mr. Brasil states that he believes the issue of the riders is "a personal thing for her." Mr. Drislane reiterates his concern that it's a waste of time for Fish and Game. Mr. Brasil states that its "families out there on four-wheelers. They're not causing trouble and they're picking up trash." He notes that people came up from MA. He asked them to leave and at first they refused. He then told them that he would call the Police Dept. Mr. Brasil notes that he looks out for things like that. He reiterates that "they're (the riders) not trouble, they are all out there with their families enjoying themselves." Shawn moves the discussion forward.

Shawn states that he agrees with Dennis and does not support having the BOS perform the Fish and Game duties of verification. He notes that some points can be put into the policy, but the remainder either needs to be eliminated or have “drastic wordsmithing.” Mr. Drislane states that Officer Crouse followed him to his house and he showed Officer Crouse a copy of the permission form as well as a map of the areas that the ATVs were authorized to ride on. Dennis thanks Mr. Drislane for his work.

Campaign Sign Issues: Diana West introduces herself as one of the candidates for NH House representing Danville. She also introduces Brenda Oldak as a candidate for NH Senate. Ms. West states that she would like to call attention to the issue of fear, vandalism, and safety in Town, explaining that this has come up specifically this year during the election cycle. Ms. West explains that she has noticed a “bunch of vandalism going on” with regards to signs and “verbally assaultive behavior” that is happening to people who have certain signs. She expresses her concern that it's also happening to kids. She states that a neighborhood kid was verbally assaulted because his parents had certain signs in their yard. The parent had to remove the signs for their child's safety.

Ms. West states that the Constitution allows freedom of speech and for people to put these signs up. She notes that the signs are everywhere and that she wishes there could be something tidier and that people should work and play well together. Ms. West expresses her concern that people don't feel safe and when she calls them, people tell her that they're afraid to put the signs out. They are afraid for their kids, their cars, and their property. Ms. West states that this is not funny, and it “talks about people not being safe in the little town of Danville.”

Ms. West agrees that the Police Dept can be called, but a lot of times the Police can't be called because no one sees who is doing (the damage). She states that she wants to stand up and start talking about it as a Town, noting that “if we're talking about bullying behavior in grade and middle schools and that we're not supposed to do that, why are some adults bullying other adults because they have different ideas?” She states that everyone has a right to their own opinion and she wants everyone to work and play well together and to be able to talk about what they believe. Ms. West states that she wants to bring the issue to everyone's attention because “it's really bad this year and getting worse as the elections approach.” She expresses her concern that things may get worse and that people may get hurt. Sheila states that she agrees. Shawn thanked her for discussing the issue.

As no more members of the public wish to speak, Shawn closes the Delegate session at 7:27 PM.

II. Agenda

Installation of Library Sign: Anne Massoth, Colby Memorial Library Director, reminds the BOS that at the September 6, 2022 BOS meeting they had discussed the possible installation of a Library sign at the end of Colby Rd on the property across the street. That discussion had included discussions of the State's right-of-way on Rte. 111 (Main St.). Shawn explains that the State's line is where they stop paving. Ms. Massoth states that the law is 13' from the center of the road. The BOS also wanted to ensure that the sign was not where the annual Veterans flag display is put. She confirms that the proposed location of the sign is north of that area. Ms. Massoth also states that she had confirmed that the owner of the property is Capri Realty, and the principal is Steve Pascoe. She has spoken with Mr. Pascoe and he is agreeable to allowing the sign to be installed, but wants it in writing that if he wants to develop the property in the future, the Town would remove the sign. Shawn confirms the location of the sign. Ms. Massoth reiterates that the purpose of the sign is to generate foot traffic and awareness (that there is a Town library). She states that she would like BOS approval of the sign based on the fact that they will receive the requested letter. She assures the BOS that the Library will not install the sign until they receive the letter of agreement from Mr. Pascoe. Dottie motions to tentatively approve the Library sign upon getting a written agreement from Mr. Pascoe. Second by Sheila. There is further discussion.

Dennis confirms that Mr. Pascoe will draft the letter of agreement. Ms. Massoth explains that either he will or she will and that the conversation is ongoing. Shawn notes that the BOS and Mr. Pascoe need to come to a mutual agreement. He reiterates that the installation of the sign cannot move forward until the letter of agreement is signed. Shawn calls the question. Vote is unanimous (5-0).

Pulsar Security Camera Quote: Ms. Massoth explains this quote is to add security cameras to the current library security system provided by this company. She notes that the original quote was lower before she knew that the Town wanted the exterior cameras to cover the entire perimeter of the building. This required them to increase the number of cameras which increased the amount of the quote which includes the cameras, switch, wiring, labor, etc. for approximately \$5800. Dennis notes that the bulk of the costs are for labor and wiring and states that while he admits that he is not familiar with the library building, he believes it is a reasonable amount. Sheila motions to accept the Pulsar quote for \$5,765.99. Second by Dottie. Vote is unanimous (5-0). Kim confirms that this project is to be paid for from the ARPA funds.

Shawn suggests that the Library coordinate their purchase with the Town's camera purchase stating that he assumes that would make the project more cost-effective. Dennis explains that the Board separated the Town's cameras and the Library's cameras because the Town may not use the same vendor. Kim states that she has three (3) bids and is waiting for the Police Dept. to provide the sketch of the location of the cameras. Dennis explains that the project would go back out to bid so that everyone is bidding on exactly the same thing. After further discussion, Shawn states that Ms. Massoth can move forward with the Library's camera purchase. Dennis agrees, reiterating that he separated the Library's cameras out of the project and there probably wouldn't be a large enough savings worth holding up the project.

KRT Appraisal Assessing Contract: Shawn explains that he had requested that KRT revise their contract so that it was more desirable to the Town from the cash flow perspective. He states that the "vast majority of the paperwork is in the year of the re-evaluation (2027) and that is where the major costs are." Shawn explains that the Town had leveled payments with their previous assessor and that he had assessed approximately 20% of the Town's inventory each year, collating that information in the fifth year. KRT has adjusted their contract as requested to reflect the cost of office hours, for assessing fieldwork, etc., and has agreed to review 20% of the Town's properties each year. The budget will be more evenly divided over the life of the contract. Shawn states that Kim has been working with the KRT representative to finalize the contract. Shawn notes that he also learned that Kingston uses KRT for its assessing program and that they "have been very happy with them."

Shawn reminds the BOS that the Town "has had it really good with Fred (Smith, the current assessor), noting it was a long relationship with a lot of perks that worked out well for Mr. Smith and the Town." Shawn states that this is coming to an end and the Town will now have more costs (for the assessing process). He explains that he will add a contingency line to the Assessing budget to account for appeals, etc. Dennis asks what the Town has typically dealt with in the past. Shawn explains that these are the numbers that he needs to put together. He reassures the BOS that it's "not an insane amount, approximately \$1000." Shawn asks the BOS to review the revised contract for discussion and a vote in two (2) weeks at the October 3, 2022 BOS meeting. He asks that if the BOS has questions or comments that they get them to him as soon as possible so that he can present a final contract for a vote.

Stage Coach Stop Bids: Dottie reads the following letter from the Heritage Commission:

"Dear Board Members,

At our meeting on September 14, the Heritage Commission members reviewed the bids from Bill Hall and SK Services for work that is needed at the Stage Coach Stop. Bill Hall, a Commission member, recused himself from the discussion and abstained from voting. These are the Commission's comments: To determine who is available soonest and can get the whole job completely done this year. SK Services needs clarification on exactly what work has to be done because it is not quite accurate on the bid. In the alternative, if the Selectmen feel there is not enough time to complete the work this year, they now have the approximate amount that can be put in the 2023 budget for the work to be done next year."

Sheila states that she believes that the work should be done this year. Dottie agrees that if the BOS has the money, that would make sense. Shawn notes that it is not a money issue, the bids are for \$800 and \$1000. Dottie notes that the \$800 bid may be less because there is an error in his estimate. Shawn asks her to explain. Dottie reads the items in question "two coats of tongue oil on milk paint." Dottie clarifies that "you don't put tongue oil on milk paint." Shawn compares the two (2) quotes reading "Apply two coats of red milk paint to the corner boards, scraping and sanding if necessary. #3- Apply two coats of tongue oil to all window frames and sills. Shawn confirms the difference

in Mr. Skinner's quote. Shawn asks if it was a typo error in the estimate. Dottie states that the Heritage Commission is just looking for clarification from the bidder before the BOS decides on a bid. Dennis confirms that the project "shouldn't be more than a two-day job." There is agreement from the BOS that it (the Stage Coach Stop) is a small building. He confirms with Dottie that the issue is just that one sentence and everything else in the bid matches up but one in 20% lower.

Shawn reiterates that he believes the tongue oil line is a typo, but that should be confirmed with the bidder, and then let the Heritage Commission decide which bidder they want to accept. Dottie states that the Heritage Commission had stated that it didn't matter. Shawn agrees that both bids are comparable. He suggests that as long as the issues are clarified with SK Services, to approve Mr. Skinner's bid. Dottie asks Kim to follow up with Mr. Skinner to clarify his bid. Kim confirms that she also needs to confirm that Mr. Skinner's bid is \$800 based on the instructions and to just have him do the work. Shawn suggests that she also check with the Heritage Commission for any scheduling issues.

Revised Employee Handbook: Shawn reviews the BOS' previous discussion regarding the issue of Paid Time Off (PTO). He confirms that all eligible employees are credited their full amount of PTO in January and notes that his question has been that if someone leaves just after that, how much PTO do they really have? Shawn explains that the revision spells out how PTO will be paid out on an accrual basis, noting that is the way he always intended it to be and now that revision reflects that change. He asks for a motion to approve the updated PTO update to amend the Town's Employee Manual. Dottie makes the motion. Second by Steve. Sheila requests that if the motion passes, all the Town's employees are notified of the change. Kim explains that each employee must sign that they have received the notice of the change. Shawn calls for a vote on the motion. Vote is unanimous (5-0).

III. Old/New Business

2023 COLA Increases: Shawn states that he has reviewed the CPI (Consumer Price Index). Kim states that she has also reviewed that information. Shawn states that he has determined the increase is 7.4%. Kim has determined the increase at 8.3%. Dottie states that she also saw 8.3% on the Dept. of Labor's website. Shawn explains that he uses the same website every year; the "Northeast Consumer Price Index" and that it is a "rolling twelve (12) month calendar and he has used August as the determining month for the last fifteen (15) years. On August 22, 2022, all the items were indexed and were not seasonally adjusted at 7.4%. Shawn expresses his concern that if the BOS adds a 7.4% COLA increase to the employee's salaries it will "kill the budget". He notes that he also wants to be fair and reasonable and would support up to a 5% COLA increase and that any additional increase would need to be put to the Town for a vote. Shawn explains that the "CPI includes the costs of living adjustments such as staples and then there is discretionary spending which makes up the whole salary. COLA increases go across the whole salary, but are meant to reflect only a certain segment of expenditures." He expresses his concern that if the BOS approves the full 7.4% there is the risk that the Townspeople will reject the entire budget next March.

Dennis asks if there is a quick way to figure out the dollar impact. Shawn suggests using the amount that the Town pays for FICA, which is currently at 7.625% to do a quick calculation, noting that it would be approximately the same cost as the COLA increase. Shawn reminds Dennis he would then need to add FICA costs to those increased salaries and that all this salary information is now separated into the individual department budgets.

Steve states that in his many years of labor negotiations, the employees "took the hit every year when the BOS was only giving 1% and 2% COLA increases before they began using the CPI." He states that he believes that if the BOS used the CPI in the years that it was low, they also need to use the CPI in the years that it is high. He does not believe that because the COLA increase is higher this year that the BOS can arbitrarily say that the Town's employees don't deserve it, noting that all the employees' costs have gone up dramatically. Steve states that he's sympathetic to the taxpayers, but "fair is fair" and he will vote for a 7.4% COLA increase. Sheila motions to approve a 7.4% COLA increase for the FY2023 budget for the Town employees. Second by Dottie. There is further discussion.

Dennis states that he agrees with Steve, but that he doesn't like making these kinds of decisions unless he has the numbers. He explains that he will do the homework, but he wants to understand and see what that increase is.

Shawn explains that the motion has been made and seconded, so he can't "back it up for more research." Shawn states that the decision doesn't need to be made tonight because the new budgets coming in won't have the employee salaries and that if they do, the BOS can go back and correct those budgets with any changes. Dennis asks if the BOS could take time until the next meeting so he could put those numbers together.

Sheila states that she will not withdraw her motion. She states that Dennis can do all the research he wants. Dottie explains that he can bring the matter up again at the next meeting. Shawn calls the question. The vote is 3-yes, 2-no, 0-abstentions. (3-2-0). Steve, Dottie, and Sheila vote yes. Shawn and Dennis vote no. The motion passes and a 7.4% COLA increase is approved for the Town's employees' salaries for the FY2023 budget.

Shawn reviews the budget schedule that Kim has provided to the BOS and notes that some of the budgets are missing. Kim reminds him that the budget discussions do not begin until the October 3, 2022 BOS meeting.

Signature File: The BOS review and sign the payroll and pay warrants in the Signature File. Shawn notes that the ATV permission forms were not signed by Dottie or Sheila. Dottie confirms that they are refusing to sign them. Shawn motions that only the BOS Chair needs to sign the ATV permission forms. Second by Steve. Vote is 3-yes, 0-no, 2-abstentions. (3-0-2). Shawn, Steve, and Dennis vote yes. Dottie and Sheila abstain from the vote. The motion passes. The BOS Chair will be the only required signature on the ATV permission form. Shawn asks Kim to change the form to reflect this change.

Shawn states that there are many things the BOS has done that he hasn't agreed with but that he has signed because the Town and/or the BOS voted in the majority. He states that Sheila and Dottie need to accept the BOS decision (regarding ATV access permission) and that sometimes they will be out ruled, and that to refuse to sign something that is part of a BOS decision to move an issue forward "is not where people should be." Sheila states that "he has refused to sign things too." Shawn asks her to "show him the document." There is an animated discussion between Shawn and Sheila. Sheila states that Shawn "never reviews the pay warrants." Shawn disagrees. There is further discussion about Shawn looking at the Signature File. Shawn ends the discussion remarking on Sheila's apparent lack of preparation for budget meetings, stating that he "knows the budget inside and out and has been doing it for eighteen (18) years."

Highway Dept Updates: The BOS realize that Jim Seaver, the Road Agent has been waiting for them. He explains that he has the annual MS4 report that needs to be signed. Mr. Seaver notes there are a few changes to this year's report. Shawn states that he will need a motion to sign Year Four (4) of the Annual Report for the MS4 reporting date of July 1, 2021 to June 30, 2022. Sheila asks to review the report. Mr. Seaver notes that the report shows how many catch basins he cleaned, what he removed from them, etc.

Policy Discussion regarding access to Legal Counsel: Steve suggests that the BOS develop a policy change that any department or board that wishes to use Town Counsel needs to come before the BOS for approval to do so. He reminds the BOS that Dottie had stated earlier at tonight's meeting that there is no written policy and he wants to eliminate the problem and the legal expenses. Steve notes that recently the Fire Wards did come to the BOS for permission before contacting Town Counsel and he feels that in order to limit the Town's legal expenses, any board that wants legal advice needs to come before the BOS and ask permission, noting that if it is a sensitive subject, it could be discussed in a Non-Public session, but at least the BOS would be aware of future legal expenses. Shawn notes this is how it usually happens, someone else makes the call and the BOS gets the bill.

Shawn states that the Planning Board and the Zoning Board have always checked with him before speaking to Town Counsel. He states that his personal opinion is that the Heritage Commission was "developing a plan to test the waters to see what would stick." Steve states that if the BOS had a policy, they (the Heritage Commission) would need to contact the BOS Chair or the whole BOS so that the BOS can discuss the request and vote on it. Shawn states that he could support that, but doesn't want to "wordsmith" a policy at tonight's meeting. He notes that he is looking for a policy to put in place and would like to have input from other departments.

Shawn explains that he was “not trying to prevent the question from being asked, but that it was “a fishing expedition to find out what was going to be the reason to go against the BOS decision (regarding the ATV access vote). He notes that “a lot of people have spent their own personal money trying to defend against things the BOS has done.” Shawn expresses his concern that whatever Ms. Baird thought the BOS had done wrong was never brought to the BOS. Steve agrees, noting that if the Heritage Commission had to come before the BOS to get approval to request legal counsel, then the BOS would know (there was an issue.)

Dottie states that the Heritage Commission sat at previous BOS meetings and said to take Tuckertown Rd. off the ATV access list because the Heritage Commission has jurisdiction over Tuckertown Rd.^{ix} Dennis disagrees and states that was not what was said. He states that he specifically asked Ms. Baird if she was thinking about challenging the BOS decision from the legal perspective and her response was “no, I have no problem with this personally, I just wanted to make sure that this section of this was in there so that people understood that this is a sensitive place and that they abide by the rules.”^x Dennis reiterates that he specifically asked Ms. Baird about Counsel and states that the point that Dottie just tried to make “is nonsense.”

Dottie states that Ms. Baird is only one person on a board and one person on a board does not speak for the board. She explains that at the Heritage Commission meeting, the board voted to request clarification because the Heritage Commission has jurisdiction over Tuckertown Rd. because it is in the Historic District. Dottie states that she hopes she is making the request clear and notes that she can’t understand why the Heritage Commission can’t get their answer. Shawn states that they can, that the Heritage Commission can do what everyone else who has disagreed with what the BOS has done previously and obtain a legal opinion, at their own costs. Shawn notes that Mr. Springer and he disagree on many things, but Mr. Springer has gone after different boards over time of doing something and he’s had his answers lined up with legal opinions that he has paid for.

Shawn reiterates that his issue is that he doesn’t even know what question the Heritage Commission is challenging. He states that it’s in the dark and goes on to the point made earlier about it being sneaky. Dottie states that it’s not sneaky, it was done in a public meeting. Shawn asks Dottie why Ms. Baird “went dark” when he asked her what the Heritage Commission wanted to ask Town Counsel. Dottie reiterates that Shawn can ask the Town Clerk for minutes from that meeting.

Dennis states that if it is that important that the Heritage Commission wants the Town’s taxpayers to pay for Counsel, it shouldn’t be relegated to “read the minutes and figure it out.” There is further discussion. Sheila states that she’s had enough of ATV stuff tonight and that it’s an argument back and forth and no one’s winning the battle. Steve explains to Sheila that he sees it as a courtesy, if the Heritage Commission is going to spend taxpayer money, then explain why. There is a further discussion regarding a past issue with the property next to the Olde Meeting House. Dennis agrees with Steve that the BOS needs a policy, but needs to write it and bring it back to the board for a vote. Steve expresses his concern that the issue will “be put on the back burner.” Shawn reassures him that in the next two (2) weeks they will write the policy and have it for the BOS to review. Steve notes it would be fair to the board requesting access to Town Counsel, fair to the BOS, and fair to the taxpayer.

Highway Dept Updates (Cont.): Dennis reminds the BOS that they need to approve the MS4 report that Mr. Seaver presented to them. Shawn confirms that Sheila has completed her review of the report and reiterates that he needs a motion to accept Year Four (4) of the Annual Report of the MS4 for July 1, 2021 to June 30, 2022. Steve makes the motion. Second by Sheila. Vote is unanimous (5-0). Steve and Dennis commend Mr. Seaver on his work and the detail in the report.

Minutes: The BOS review the minutes for the September 6, 2022 BOS public meeting. Dottie notes a correction on line #304. The vote would require the recusal of a member of the Heritage Commission, not the BOS. Steve motions to approve the minutes as amended. Second by Dottie. Vote is 3-yes, 0-no, 2-abstentions (3-0-2). Shawn and Dennis abstain as they were both absent from that meeting.

Non-Public Minutes: The BOS review the minutes for the September 6, 2022 BOS Non-Public session under NH RSA 91-A 3:II (C) and (L). Dottie notes there is a typo and the date that needs to be corrected to September 6. Sheila

motions to approve the minutes as written. Second by Dottie. Vote is 3-yes, 0-no, 2-abstentions (3-0-2). Shawn and Dennis abstain as they were both absent from that meeting. Sheila motions to unseal the Non-Public minutes for September 6, 2022. Second by Steve. Vote is 4 -yes, 1-no, 0 abstentions (4-1-0). Dennis votes no. Shawn clarifies that the Non-Public was held under NH RSA 91-A 3:II (C) and (L) and because (C) was a discussion of him as a BOS member, the Non-Public minutes cannot remain sealed. Dottie agrees that she made a mistake. Dennis states that he doesn't see how section (L) fits the Non-Public rules and in his opinion, the Non-Public meeting should not have been a Non-Public meeting and that the Non-Public meeting should not be a (considered) a legal meeting because it didn't meet the requirements for a Non-Public meeting.

Fire Department Request: Steve states that he's spoken in the past about constructing a water hole in the pond at the Community Center. He would like permission from the BOS to proceed with getting pricing for that project and applying to DES for a dredging permit. The consensus of the BOS is for Steve to move forward. Shawn notes that he remembers this conversation from a long time ago and states that the pond is much deeper than expected and holds a lot of water. Steve agrees that it will be an ideal location and is working with another member of the Fire Dept. and feels that they can complete the project.

Mr. Springer states that he believes the pond was originally established by the previous Fire Chief Dave Kimball Sr. and that Chief Kimball's objective was to have a water source and to be able to skate on the Community Center pond. He notes that the pond was much larger in the 1970s and agrees it would be "awesome to open up the pond again."

Elections: Dennis states that he would like to ask the Town Moderator and the Town Clerk to join the BOS at a "near future" meeting to understand what the "continuity of operations" plan is. He states that at the Primary Election, he "read through the book and focused on the BOS responsibilities and noticed the need for a "continuity of operations" plan. Dennis explains that he is unclear if the Town is required to have it and notes that he imagines that Mr. Hantman (past Town Moderator) had something in place and if so, he (Dennis) would like to review it and if not, he would like to move forward creating one. Dennis states that the book had a nice template and the BOS would need to figure out things like "if something bad happened to the Community Center the day before or the day of elections, the Town would need a backup location that fits all the election requirements. They need to be able to move things, and everything should be prepared ahead of time with some kind of guide so the Town isn't scrambling. Dennis expresses his concern that there has been a huge spotlight on elections over the past few years. He notes that it might be difficult to "shoehorn this in" prior to the November elections, but believes that something could be put together between November and March 2023. Dennis states the template is pretty complete, so it's more of a logistics issue.



Propane Contract: Kim states that she spoke to the new representative at Suburban Propane because, as a town, they are getting a better propane price than that offered to their commercial customers. She explains that if the Town signs a contract with Suburban Propane, it will pay \$1.60 per gallon less for one year if the Town locks in a contract price of \$2.29 per gallon of propane for the Town buildings. Kim confirms that propane is used at the Town Hall, the Community Center, the Fire Dept. and the Highway Garage. Steve clarifies that the Fire Dept. only uses a small bottle for their kitchen stove. Shawn asks Kim what the heating budget was for the Town buildings for FY2022.

Kim confirms that the vendor is paid per delivery and the contract is for one (1) year beginning October 1, 2022 through September 30, 2023. Shawn asks if the Town has to commit to a certain amount of propane. Kim explains that it does, but the Town doesn't have to pay for any unused contracted amount. She notes that the Town has always used Suburban Propane, but has never contracted with them for propane. The last delivery was billed at \$3.36 per gallon, and the Town has been paying whatever the price is on the day of delivery. If the BOS approves the contract, Suburban will hold 1000 gals of propane for the Town at the contracted price. If the Town exceeds that amount, it would pay the market price. Kim explains that she just got the contract today. Shawn asks her to send copies of the contract to the BOS for review and that this be discussed at the next BOS meeting. Dennis expresses his concern that there may be a sense of urgency to sign the contract quickly, noting that next week, the price quoted may have increased.

Town Announcements: The Town Announcements are not read into the minutes and are copied from the agenda of the September 19, 2022 BOS meeting.

IV. Town Announcements

Calendar

-  **Sept 26- Monday:** Board of Selectmen's Annual Meeting @ the Olde Meeting House at 7:00 PM
-  **Oct. 15- Saturday:** Bulk pickup. Sign-up forms can be found on the Town Website or in the foyer at Town Hall. **Sign-up ends on Monday, October 3 at 4:00 PM- No Exceptions.**

As there are no further items to discuss Shawn requests a Non-Public session under NH RSA 91-A 3:II (D) and (C). Steve makes the motion. Second by Dottie. Roll Call vote: Shawn- yes, Steve-yes, Sheila-yes, Dottie-yes, Dennis-yes. The public session of the BOS meeting ends at 8:30 PM

Minutes derived by video provided on the Town of Danville website.

Respectfully Submitted
Deborah A. Christie

ⁱ Town of Danville. **Policy 5-2: Code of Conduct. Code Provisions: C.** Pg. 3. Town of Danville Town Policy. 2017.

ⁱⁱ State of New Hampshire. **NH RSA TITLE III: TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES. CHAPTER 41-CHOICE AND DUTIES OF TOWN OFFICERS. Selectmen Section 41:8 Election and Duties.** – Every town, at the annual meeting, shall choose, by ballot, one selectman to hold office for 3 years. The selectmen shall manage the prudential affairs of the town and perform the duties by law prescribed. A majority of the selectmen shall be competent in all cases. Online at www.gencourt.state.nh.us/rsa/html. September 19, 2022.

NH Municipal Association. Fillmore, Christine C. **Selecting the Rules for the Board of Selectmen.** Two major statutes guide the board in everything it does. The first is RSA 41:8, which says “[a] majority of the selectmen shall be competent in all cases.” In other words, a board of selectmen may take action only by majority vote. As is often said, a single selectman has no authority. Online at [Selecting the Rules for Boards of Selectmen | New Hampshire Municipal Association \(nhmunicipal.org\)](http://Selecting the Rules for Boards of Selectmen | New Hampshire Municipal Association (nhmunicipal.org)). September 29, 2022.

ⁱⁱⁱ State of New Hampshire. **NH RSA CHAPTER 91-A: ACCESS TO GOVERNMENTAL RECORDS AND MEETINGS. Section 91-A:3 Nonpublic Sessions. Paragraph II.** Only the following matters shall be considered or acted upon in nonpublic session: (c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, **other than a member of the public body itself**. Online at www.gencourt.state.nh.us/rsa/html. September 19, 2022.

^{iv} State of New Hampshire. **NH RSA TITLE XX TRANSPORTATION CHAPTER 231-A MUNICIPAL TRAILS Section 231-A:1 Class A and B Trails.** – I. A class A trail shall be a full public right-of-way, of indefinite duration subject to public trail use restrictions. It shall not have the status of a publicly approved street, and shall not be used as a vehicular access for any new building or structure, or for the expansion, enlargement, or increased intensity of use of any existing building or structure. It may, however, be used by the owners of land abutting on such trail, or land served exclusively by such trail, to provide access for such nondevelopment uses as agriculture and forestry, or for access to any building or structure existing prior to its designation as a trail, and such owners' access for such uses shall be exempt from applicable public trail use restrictions, subject only to reasonable time, season and manner regulations imposed by the local governing body. The municipality shall bear no responsibility for maintaining the trail for such uses by abutting owners. Such owners shall, prior to excavation, construction or disturbance of a class A trail, obtain permission from the municipal officers, in the same manner prescribed for highways in RSA 236:9-11. Online at www.gencourt.state.nh.us/rsa/html. September 19, 2022.

^v IBID

^{vi} Danville, New Hampshire. **Annual Reports Danville New Hampshire 1995. Town Warrants: 37.** To see if the Town will vote to designate all sections and branches of Tuckertown Road as a Class A Trail, as authorized by RSA 231-A:I. (BY PETITION) Pg. j. (warrant passed)

vii **Delegate Session. Town of Danville NH Board of Selectmen's Minutes August 8, 2022.** Online at www.townofdanville.org. September 29, 2022.

viii **Audubon and Conservation Easement Update:** Shawn explains to Mr. Drislane that he will be the point of contact for the BOS and asks him to submit the names of the group who want to receive the permits. If someone wants permission, they will need to come in with a member of the group or bring in a letter of endorsement. Shawn notes that this is the group's responsibility to move the process forward and to self-regulate. **Town of Danville NH Board of Selectmen's Minutes June 27, 2022.** Online at www.townofdanville.org. September 19, 2022.

ix **Heritage Commission/ATV Access Permission. Town of Danville NH Board of Selectmen's Minutes July 25, 2022.** Online at www.townofdanville.org. September 19, 2022.

x **IBID**