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Town of Danville  
Board of Selectmen  
May 27, 2015  
7:00 pm

Selectmen Present: Chairman Shawn O'Neil, Vice-Chair Chris Giordano, Annemarie Inman, Kimberly Farah, Sheila Johannesen

Others present: Janet Denison, Bill Gard, Carol Baird, Bob Meaney, David Drowne, Carsten Springer, Aurie Roy, Josh Horns, George Manos, Alice Teng

Chairman O'Neil opened the meeting with a moment of silence for the troops who put themselves in harms way. All stood for the Pledge of Allegiance.

I. Delegate

No one present at this time.

I. Signature File / Minutes

A letter dated April 7, 2015 from the NH DES regarding Little Cub Pond Dam was discussed. The state has this on their list of dams to inspect.

Barry Hantman has requested to purchase a ceiling mount projector and motorized screen for the Community Center. Vice-Chairman Giordano made and Selectman Farah seconded a **motion to approve up to \$4,000.00 for withdrawal from the cable access fund for this purchase.** The motion **passed** unanimously.

A letter dated May 26, 2015 from Chief Steven Woitkun was discussed. Chief Woitkun recommends Shawn O'Neil be appointed to fill the vacancy left by Selectman Inman with the board of directors for the HazMat district. Vice-Chairman Giordano made and Selectman Johannesen seconded a **motion to appoint Shawn O'Neil as the HazMat district representative.** Chairman O'Neil abstained. The motion **passed.**

There was a question about two recent warrants that appear to pay the same person for the same time period. Vice-Chairman Giordano explained that the employee was paid for their time and their personal vehicle was used at the same time, rented without a driver. Compensation for same was approved by the department head. The private vehicle is larger than the town owned vehicle, making it better suited for certain work. It was also noted a receipt was attached to a warrant from the last check run. The check had been printed, taken to the Post Office, then the receipt was attached to the warrant after the purchase was made.

The minutes of May 11, 2015 were reviewed. Vice-Chairman Giordano made and Selectman Farah seconded a **motion to approve the May 11, 2015 minutes as amended.** The motion **passed** unanimously.

Vice-Chairman Giordano made and Selectman Farah seconded a **motion to approve the non-public May 11, 2015 minutes as written.** The motion **passed** unanimously.

Two administrative abatements were signed by the Board.

II. RSA 674:39-aa for M&L 1-32

David Drowne and Bob Meaney, partners in the KDRM, LLC, explained they have purchased the property located at 97 Sandown Road, which is about 24 acres, and described as having four tracts per the deed. Per RSA 674:39-aa they are requesting that the parcel be unmerged and made into several lots per the four tracts described. Mr. Drowne said the lots were combined by the town for ease in taxation purposes because they were owned by the same person.

One tract is 19 acres, one is about three acres, the other tracts are about one acre each. They said they want to sell these tracts as buildable lots and are willing to apply for lot line adjustments in order to meet current acreage requirements for the smaller lots. They said they do not plan to subdivide the 19-acre lot but sell it as one house lot. Vice-Chairman Giordano asked if they plan to put a conservation easement on that lot and they did not answer.

They have spoken with Fred Smith, the assessor, who recommended to the Board that this request not be granted. Mr. Smith stated in a letter to the Board that a prior owner treated the entire parcel as one lot when a two-lot subdivision was approved by the Planning Board in 1997, recorded as plan #D-25905. The minutes of the appurtenant Planning Board meeting do not mention a lot merger. Mr. Drowne stated the owner in 1997 had no other recourse than to treat the property as a single lot because that's what the town told him he had to do. This recorded plan shows the small corner to be subdivided as a surveyed piece; the remainder of the property is depicted in an overview drawing without internal lot lines and unsurveyed. Mr. Drowne said this information was taken to his attorney, Scott LaPointe, who said the overview drawing is not enough evidence to support Mr. Smith's recommendation. Mr. Drowne indicated the town had illegally merged these lots as there is no evidence of any approval by the Planning Board. It was noted the deed language combining these four tracts is at least 70 years old.

There was a discussion about the interpretation of RSA 674:39-aa. Mr. Smith had spoken with town counsel about this request. The letter from Mr. LaPointe was shared with town counsel. Town counsel concurred with Mr. Smith's opinion and Mr. Smith wrote a second letter to the Board, maintaining his opinion that the request from KDRM, LLC be denied due to a prior owner making an overt action to treat the parcel as one lot.

It was agreed that Chairman O'Neil will speak with town counsel and the assessor regarding this subject.

### III. Resident Complaints

Alice Teng read to Board a letter dated March 10, 2015 in which she described her cat being taken away by dog officer Sheila Johannesen and mistreated. It was suggested she fill out a police report for the incident.

Ms. Teng also explained she had expensive antiques and corresponding paperwork. The location of the paperwork was seen by several police officers, and then the paperwork was missing. She was again advised to go through the proper channels and file a police report.

Ms. Teng explained she has been denied a gun permit. Vice-Chairman Giordano said a permit is not necessary for owning a gun and the Chief of Police has a right to deny a permit. She was told to apply for the permit.

Ms. Teng also explained she placed a call to the Police Department yesterday around 11:00 AM and it took over 30 minutes for someone to respond. It was explained that there may have been other circumstances that delayed an officer.

### IV. Selectman Candidates

Three residents submitted letters of interest for the upcoming vacancy on the Board: George Manos, Josh Horns, and Aurie Roy. Selectman Johannesen said she had queried LGC regarding procedures for a resigning selectperson, including procedures if the selectmen do not reach a decision for filling a vacancy. Some answers from Stephen Buckley were based partly on erroneous information, specifically that Selectman Inman was not residing in Danville. Selectman Inman pointed out this was untrue, that she had no intention of voting for her replacement, and resented the implication that she would behave in an unethical manner.

The candidates were given the opportunity to speak to the Board members. Mr. Manos presented a letter to the members listing his experience and contributions on town boards. Ms. Roy explained she has no experience with town boards. When questioned if she was specifically asked to submit a letter of interest, she said has been asked before about being involved with the town. When questioned if she is friends with anyone on the Board she said she does not socialize with Board members. She has written grants for the town of Sandown, including those for the highway and safety departments, and has worked with the Danville Police Department. Mr. Horns said he was appointed as a Selectman during a vacancy created in 2013; this was during the budget season. He is currently a member of the Planning Board and the School Budget Committee which has given him some experience with municipal law and familiarity with the budgeting process.

The vote to fill the vacancy will be made at the next regularly scheduled public Selectmen's meeting.

#### V. Cy Pres/Old Meeting House

Chairman O'Neil explained the Parsonage Fund was set up in the 1700s and is currently under the purview of the Trustees of the Trust Funds. Recently efforts were made to amend the intent of the fund such that it can be used for the upkeep of the Old Meeting House. Tom Donovan, the new Director of Charitable Trusts, seemed to have some concerns about the proposed intent. This has paused the cy pres process.

There was a discussion about the definition of ministry. It was mentioned that in the early 18<sup>th</sup> century it was common practice to set aside land for the support of the ministry. Selectman Farah explained a breakdown of the distribution of the funds from 1900 to the present. Several entities were paid from the parsonage fund, typically in small amounts, probably in payment for intermittent preachers. Selectman Farah also explained a letter from the Board of Selectmen to Peter Meigs, Trustee of Trust Funds, written several years ago that states the Selectmen feel the interest from the fund should be paid to any other church in town upon recommendation of the Parsonage Committee members.

Selectman Farah asked, if the proceeds from the Parsonage Fund are to be in support of the ministry, why are they not disbursed to the other churches in town? The opinion was offered that other churches evolved into entities unto themselves having their own way of generating financial support. Vice-Chairman Giordano said the funds have been used not just to pay a minister but activities in support of the ministry. As everyone lived off the land back then it was important to maintain all things pertaining to the ministry. The only thing remaining today from that ministry is the building.

Bill Gard explained that the Parsonage Committee was disbanded in 1991. For a few years prior to 1991 Paul Collins had been the only member of the committee. A warrant article was passed allowing the fund to be managed by the Trustees. Mr. Gard said the intention of the warrant article was for the fund to be used for maintenance of the Old Meeting House. Previously, if repairs had to be made, withdrawals had to first be approved via warrant article. This was impractical if a repair was needed more urgently. Mr. Collins' intention behind the 1991 warrant article was to facilitate a process that allowed access to the funds in a timelier manner. Mr. Gard continued that the intention of the funds was for the upkeep of the Old Meeting House. Two major investments have been made in the building since 1991, including a new roof and paint. Selectman Farah had copies of the 1992 warrant and minutes of the annual town meeting. She stated that they did not have any wording to indicate that the intention of the funds was for the upkeep of the Old Meeting House.

There was a short discussion of the Toleration Act enacted in 1819 and that the ministry in Hawke/Danville was not only a church but also a school. Carol Baird expounded on a short history of Hawke. She explained that in the early 18<sup>th</sup> century, a community would set aside a piece of land for the school and another for the church or parsonage. This land had to be procured before a meeting house or town center could be built. There was a disagreement with Kingston over the parsonage lands. Danville wanted land close by, Kingston did not want to grant this, and Danville eventually prevailed. A home was built for the minister Reverend Page; he was given six acres of land, money, and 25 cords of wood per year to heat his home. Reverend Page was hired as not only the preacher but the teacher as well.

Mrs. Baird further explained the meeting house was a government building and used as the town hall before the current town hall was built. It was a gathering for the community for government meetings, church services, as well as the gatherings for the community in general. Additionally, the parsonage land was deeded to the people of Hawke and never owned by the church; the Selectmen oversaw the parsonage land. In 1790 a parsonage committee was formed but it is unclear what the explicit intentions were. There should be records in Concord regarding this. By the time of the Toleration Act in 1819 Reverend Page had died and a permanent replacement was never made.

Mrs. Baird explained that with the Toleration Act communities no longer had to support a ministry unless they had an existing contract, which Danville did not, but the Toleration Act specified that a town may continue to use the fund for ministry support and may continue to pay for preaching if it wished. This Act also allowed the town to use their funds to repair their meeting houses. The Freewill Baptist church and the Union Church did not exist when the Toleration Act was enacted and the town was not required to disburse money to them. It is unknown when the

Parsonage Fund was started but this may be on record in Concord. However, the interest from this fund continued to be used by the various ministries through 1998. It is evident that the community used that fund for stewardship of the land. The town also voted every year whether or not to use the fund to pay preaching. This was not required of the residents.

Mrs. Baird said the Old Meeting House is one of the most important buildings in New Hampshire and the most important building in Danville and it should be that the fund be used for the maintenance of it.

The issues raised by Tom Donovan seem to indicate that he believes the Old Meeting House was a church. The correct history of the building should be explained to Mr. Donovan. The old records are in Concord and Mrs. Baird and another member of the Heritage Commission will be visiting Concord to review them. Selectman Farah volunteered to accompany Mrs. Baird.

Mrs. Baird explained that if at any time there are questions regarding the history of Danville, the Board may ask the Heritage Commission for guidance, as the Commission has many records at its disposal. She supplied each Board member with a packet of information, including a timeline of the Hawke settlement, parsonage land deeds, and the Parsonage Fund. Also, two reports of Old Meeting House written by James Garvin was given to everyone.

It was agreed that a meeting with Mr. Donovan will be set up soon in order to clarify details. This will be scheduled after the records in Concord are researched.

There is possibly a leak in the roof. Vice-Chairman Giordano suggested putting in a snow and ice shield the next time the roof is resingled.

#### VI. Minutes

Vice-Chairman Giordano made and Selectman Farah seconded a **motion to approve the May 11, 2015 minutes as amended**. The motion **passed** unanimously.

Vice-Chairman Giordano made and Selectman Farah seconded a **motion to approve the May 11, 2015 non-public minutes as written**. The motion **passed** unanimously.

#### VII. Old/New Business

Selectman Farah brought to the Board's attention the new draft MS4 permit and that the cost to implement the regulations could be up to \$125,000.00. This will be taken into consideration for future budgeting purposes.

Selectman Farah said the recent ZBA meeting began with the applicant stating the letter from the Selectmen cited the incorrect Zoning Ordinance. A new letter will be issued with the correct article number.

A list of discussion points will be sent to the school board representatives in anticipation of the June 8<sup>th</sup> meeting. A thank you letter was drafted to be sent to the other town representatives who attended a school board meeting. This was in support of Danville's effort to procure the student list for the impact fee study. Chairman O'Neil said the result of that meeting was that at the beginning of the school year each parent will be asked to opt into having this particular data being disbursed per an impact fee study. It was agreed the school board meeting was frustrating. It was suggested that the schools may be able to state how many forms were sent, and comparing this to the number of parents who opt-in, this will provide additional data.

Patty will be asked about the roof repairs.

Selectman Johannesen said the Zoning Board noted sheds within the wetland buffers at a particular address. She also said the sign at the garage on Hampstead Road appears to be of a non-conforming size. These issues can be brought to the attention of the building inspector and letters can be sent to the property owners.

Selectman Johannesen said she was approached by someone unknown to her, who informed her of a town vehicle at a private residence. The vehicle appeared to be unloading material at the home. She also said a police cruiser was seen on Main Street with the spouse of one of the officers standing by the vehicle while the officer was taking

photos of something dumped in the woods. More information can probably be learned by speaking with the department heads or viewing an incident report.

Vice-Chairman Giordano mentioned an email from Selectman Johannesen in which she requested to review, as a selectman, the Police Department SOPs and all contracts involving the police officers and chief. Vice-Chairman Giordano said this can be perceived as her using her position to get back at the chief, whom she has named in a lawsuit she's filed against the town. Selectman Inman stated Selectman Johannesen is a liability to the town. Selectman Johannesen said she will be looking into a lot of things. She was told she can request information via a formal 91-A request and pay for any copies made relevant to that request.

At 9:45pm Vice-chair Giordano made and Selectman Farah seconded a **motion to go into non-public session under RSA 91-A:3 II (a) and (c)**. Roll call vote: O'Neil – yes, Giordano – yes, Inman – yes, Farah – yes, Johannesen – yes. The motion **passed** unanimously.

At 11:10pm Vice-chair Giordano made and Selectman Farah seconded a **motion to return to public session**. Roll call vote: O'Neil – yes, Giordano – yes, Inman – yes, Farah – yes. The motion **passed** unanimously.

Vice-chair Giordano made and Selectman Inman seconded a **motion to seal the minutes for reasons outlined in RSA 91-A:3 II (a) and (c)**. Roll call vote: O'Neil – yes, Giordano – yes, Inman – yes, Farah – yes. The motion **passed** unanimously.

At 11:15pm Vice-chair Giordano made and Selectman Inman seconded a **motion to adjourn**. The motion **passed** unanimously.

Respectfully submitted,

Janet S. Denison  
Land Use/Assessing Clerk