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Town of Danville
Board of Selectmen
Tuesday, February 22, 2022
7:00 PM

7:00 PM

Meeting is Video-Recorded

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

Others Present: Kimberly Burnham, Selectmen Administrator; Dr. Kim Farah, Vice Commander of the American Legion, Resident: Will Dennis

Shawn called the meeting to order at 7:00 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

I. Public Hearing

Shawn states that the first order of business will be the Public Hearing that was posted regarding the increases in the Health Inspection fees. Sheila motions to open the Public Hearing. Second by Dottie. Vote is unanimous (5-0). The Public Hearing opens at 7:00 PM. Shawn states that the increases in the Health Inspection fees have been outlined in the notice. He asks if there are any public comments. There are no public comments. Sheila motions to close the Public Hearing. Second by Dottie. Vote is unanimous (5-0). The Public Hearing is closed at 7:01 PM.

Shawn asks for any comments from the BOS regarding the fee increases as outlined. There are no comments from the BOS. Dottie motions to approve the Health Inspection Fees increases as outlined. Second by Sheila. Vote is unanimous (5-0).

II. Delegate Session

Shawn opens the Delegate Session at 7:01 PM and asks if there are any members of the public not on the agenda who wish to address the BOS.

American Legion: Dr. Kim Farah states that as the American Legion Vice Commander, she is there on the behalf of the American Legion to make sure the Town has granted approval for the Memorial Day Parade so that the American Legion can begin planning for it. Shawn states that he believes there is no issue with the American Legion planning for this, noting that has always been the tradition. The consensus of the BOS is to approve the Memorial Day Parade. Dr. Farah states that she just wanted to confirm that it was okay for the American Legion to move forward with the planning. Kim asks for the date of the parade. That is not clarified during the discussion.

Zoning Protest Petition: Dr. Farah provides the BOS with a copy of a Zoning Protest Petition in regards to Warrant Article 2022-5ⁱ stating the petition is pursuant to NHRSA 675:5ⁱⁱ. Shawn asks Dr. Farah to clarify the petition, stating that he does not know the RSA that she has referenced. Shawn reads the petition aloud and asks Dr. Farah to explain the petition.

“We, the undersigned landowners in the municipality, in order to promote stability and continuity of zoning legislation, do hereby object to the zoning amendment described below and respectfully petition that a two-thirds vote of the legislative body be required to enact the proposed amendment. The proposed amendment to the zoning ordinance is listed as question number five on the official ballot for the town meeting scheduled on March 8th, 2022.”

Dr. Farah explains that the landowners of Beach Plain Rd are permitted to petition the BOS to “move towards a 2/3 vote in order for that zoning amendment to pass. In order to do that, the BOS must know what the parcels are, the

total acreage of the parcels, and 20% of those landowners must petition that the article pass by a 2/3 vote instead of a simple majority.

Shawn notes that the Planning Board held multiple public hearings on the zoning changes contained in the 2022 Town Warrant and asks if there were any comments and/or discussions made during those public hearings. He states that this petition is “out of the blue, it’s the eleventh hour and in two weeks the Town will be voting.” Dr. Farah states that this is a statutory requirement. She also states that she did attend the Planning Board public hearings as well as other residents and they had voiced their concerns. The Planning Board still moved it to the Warrant. It is still within the citizens’ purview to request a petition through the BOS to require a 2/3 majority vote on that article. Dr. Farah states that she is unsure what is unclear to the BOS.

Sheila explains that this is “not like a regular petition.” Dr. Farah clarifies it is not a “citizens’ petition”. Shawn explains that he understands this, but this is the first time that he has encountered this particular issue and he doesn’t know exactly what this is. He expresses his concern that there are only fourteen (14) days until this Warrant Article is voted on and that he figured that “most of this stuff would have happened early on in the process.”

Dr. Farah states that per RSA 675:5, the petition is to be submitted to the BOS. Sheila notes that Dottie has brought the RSA up on her phone if the BOS wants to read it. Steve makes an inaudible comment. Dr. Farah asks him to repeat his comment. Shawn notes the petition is signed by four (4) unique individuals who own multiple properties on Beach Plain Rd. Sheila also asks Steve to repeat his comment. Steve states that he had noted there were four (4) signatures for nine(9) parcels of land. Dottie reads from NHRSA 675:5: (that the petition must be signed by) “owners of 20% of the area of the lots” and that (the petition that Dr. Farah has submitted) appears to cover that (requirement). Shawn states that the petition still must go through the process of having the signatures verified by the Town Clerk to ensure that the properties are owned by the signers. The petition needs to be vetted first before the BOS can make a determination on it.

Dr. Farah states that this is not correct. The BOS won’t make any determination on the petition until after the voting. She notes that if the Warrant Article does not pass, the petition is a moot point. Shawn agrees. Dr. Farah explains that the only time the BOS needs to address the petition is if the Warrant Article passes with a vote between 50%-67%. If the Warrant Article passes with a vote over 67%, the petition is again a moot point. Shawn states that he will put the petition in the BOS Correspondence folder and address it after the voting. He asks Kim to send the petition to Town Counsel for review because he (Shawn) has never encountered this before and he wants to “make sure it is right.”

Letter to the BOS: Dr. Farah explains that she had submitted a letter to the BOS Correspondence File at the last BOS meeting and that it was not addressed. She states that she would like to

“publicly state that she is disappointed at the BOS’ behavior at the Deliberative Session. As per NH RSA 40:4,ⁱⁱⁱ the Deliberative Session is run by the Moderator. The Moderator had requested that all people be masked, however, several members of the BOS failed to do so. As leaders of the community, (this) sets a poor example when you (BOS) don’t adhere to the RSAs. Further, regardless of the RSAs, the Moderator mentioned his health and others in attendance as a rationale for masking. This should have been enough for the BOS to set the example for the community and wear masks. All the BOS members have worn masks at other meetings and as such, clearly could have been masked for this meeting for (the) community. It’s really a shame that (the) BOS members don’t respect their fellow elected officials and other community members.”

Shawn thanks her for her comments.

Home Occupation Application: Steve notes that Will Dennis is present for a Home Occupation Application. Shawn reviews the application, signs it, and passes it to the BOS for their signatures. Sheila asks Mr. Dennis why, according to the attached Business Information sheet, he has a mailing address and the principal office address is in Plaistow. Mr. Dennis explains that is where his office was and that the mailing address will continue to be in Plaistow. He states that he simply needs a physical address for all the legal stuff for his business. There will not be any vehicles coming or staying at his house. Mr. Dennis further explains that he has a “shared yard” in Plaistow and the Town of

Plaistow will only allow one address to be applied to that shared yard. That address goes to the owner, so he (Mr. Dennis) can't use that address as the legal address for his business. Sheila confirms that Mr. Dennis owns his home in Danville. After the application is signed, Shawn explains that Mr. Dennis can return tomorrow and pick up his copy of the application and that he will then be all set.

As no more members of the public wish to speak, Shawn closes the Delegate session at 7:13 PM.

III. Agenda

Computer Software Upgrade: Kim has provided the BOS with a breakdown of the Microsoft licensing software renewals. She notes that RMON has separated the renewals into what the Town now has, and their recommendations for upgrading that software. Kim explains that RMON has stated the standard Microsoft 365 license that the Town is currently using is more appropriate for home computers, not for the Town's computers and the Town should be upgrading that software. Kim states that she believes that RMON proposed the MS Business Premium as the second-best option for the Town. Sheila asks Kim what computers these licenses are for. Kim confirms the licenses are for all the Town Hall computers. Sheila asks if these costs were included in the budget. Kim states that the costs for the current licensing were included in the proposed budget. She reiterates that the licenses need to be upgraded because Microsoft is changing the way the license plans run and those changes will now cost the Town \$4,382.40 per year.

Shawn states that he understands the Town is currently paying \$4,382.40 and it will increase to \$6,333. Kim clarifies that RMON is recommending the Town upgrade to the Government Tenant licenses for \$6,333 and that they had discussed this in their (RMON's) proposed budget.

Kim again explains that the first level of Microsoft licenses is better used for home computers and is not appropriate for the Town's computers. RMON has recommended that the Town upgrades their licenses at least to the Business Premium level for \$5,310 which is \$1000 more than the current licenses. She again states that the current license the Town is using will **not** continue to work for the Town's computers. Kim again explains that RMON recommends the Town upgrade to the Government Tenant license, which is 5G compliant and the Centennial One anti-virus program comes with that license. She notes that she believes a lot of these upgrades can be covered through the ARPA grant.

Shawn states that he needs more information on this issue and that he does not understand why the Town needs to move to another tier. He states that he believes the Microsoft 365 Business Standard license the Town is currently using should continue to be suitable for what the Town does. He expresses his concern that RMON wants the Town to upgrade to the Microsoft G3 (Government Tenant) license. Shawn states that he wants to know what that is and what it includes. Kim explains the Microsoft Business Standard licenses are increasing to \$15.00 per person and the current cost is only \$6.00 per person. The Town needs to renew all the licenses as they will expire on March 1, 2022. She emphasizes that for the Town's protection, RMON does not want to keep the Town at the current license level.

Shawn states that he can understand the license increases, but is concerned with the different levels of service and not understanding what those levels are. He notes he is especially concerned as he feels that what the Town is currently using is meeting the Town's needs adequately, and if it is not, he would like to know why not. Kim states that she will have someone come in and explain the differences in the licenses.

Sheila states that the BOS just went through the budget process. Scott notes that when RMON explained some of this during the budget discussions, he believes that some of it had to do with cyber security issues and the liability for the Town if they were hacked and personal information was compromised. Shawn states that he understands this, but wants to find out exactly what the Town is getting for a 50% increase. Sheila notes that she also remembers the discussion regarding cyber security issues and asks if these upgrades were part of RMON's proposed budget. Kim notes that she does not have RMON's budget in front of her and that in her discussions with RMON she had only requested the breakdown of the different licenses. She reiterates the increases in the current licensing costs and that all the Town's licenses will be expiring on March 1, 2022. Sheila again asks if the upgrades were included in RMON's FY2022 proposed budget. There is a brief discussion of what was proposed as no one had a copy of the

RMON's proposed budget with them. Steve asks if these renewals are part of the \$70,000 approved for IT. The BOS state that it is not, it's part of the Town Budget. Scott reiterates that he can't recall what the BOS approved for RMON's budget for software at the current licensing level. Kim explains that she asked RMON to extend the licenses on a month-by-month basis until the BOS makes a decision.

Shawn states that the BOS needs more information and requests that an RMON representative comes in to discuss their recommendations with the BOS. Scott suggests that a one (1) month extension should be enough as the BOS will know what their budget is after the voting on March 8, 2022. Shawn asks Kim to put this on a future agenda.

Election Coverage: Kim explains that Mr. Hantman has asked who will be available from the BOS for coverage on Election Day. Dottie states that she can be available all day. Sheila states that she will find someone to cover for her. Shawn states that BOS members will show up noting that both he and Sheila are on the ballot. He states that "it is what it is."

Cable Committee RFP: The Cable Committee's RFP for the Town Hall technology upgrades closed on February 15, 2022. Kim explains that the BOS will open the bids and refer them back to the Cable Committee for review and recommendation. There is only one bid from Steve Brooks of Access Audio/Video. Shawn confirms the bid includes the insurance information. The total of the bid is \$17,214. Sheila confirms that the money for the project will come out of the Cable fund. Shawn agrees that some of it will, but that he doesn't know the specifics of it. Kim explains this could be part of the infrastructure for Cable.

Scott notes that it's been a few years since he was on the Cable Committee, but he doesn't believe that much has been spent from the Cable fund. Sheila notes there was an accounting error that has since been corrected. Kim explains that it was only ten (10) months of website expenses. Shawn confirms with Kim there were no other bids submitted.

IV. Old/New Business

Signature File: The BOS review and sign the payroll warrants. There is a discussion regarding employee notifications for their salary increases. Shawn states there is a contract extension for Fred Smith, the Town Assessor. Shawn notes the contract has been level-funded. Kim explains that one copy of the contract is for the BOS, and one has to be returned to the DRA to confirm that Mr. Smith is still contracted with the Town of Danville.

Minutes: The BOS review the minutes for the January 31, 2022 BOS public meeting. Scott motions to accept the January 31, 2022 minutes as written. Second by Dottie. Vote is unanimous (5-0).

Shawn states there have been several 91-A requests for the minutes where the BOS had disclosed they were going to put the legal opinion at the end of the document. He notes that he had read that opinion into the minutes at the meeting. The minutes were only in draft form when the 91-A requests were made. Town Counsel approved the release of the draft minutes and told the BOS to provide them to anyone who had requested them and that was done. There was a follow-up 91-A request for the original question that was asked of Town Counsel. Shawn explains that the person who requested that additional information could petition the BOS to release it (the original question) and that is what this individual has done. Shawn states that he believes that information was protected under attorney-client privilege because the BOS had not discussed the original question. The part that the BOS had discussed was only the e-mail response and that was the only part that was released for the 91-A request. The original e-mail was never read or disclosed; therefore, it would still fall under the attorney-client privilege unless the BOS decides to release that original e-mail. Shawn states that while he "has no problem releasing that information, he was not going to make that call." He states that the BOS needs to make that decision as a board.

Sheila states that "was what she was looking for at the beginning when she asked 'where is the question' and got the runaround." Shawn explains that it was not a "runaround". Town Counsel had responded with a new message and that was the response that he read at the January 31, 2022 meeting. Sheila states that "how you ask a question is how you get an answer back and she would like to see it (the original question)." Shawn notes the issue was

brought up in an accusatory manner and reiterates that the original question is protected just like any other question to Town Counsel unless the BOS releases it or does something to publicly disclose that information. The subsequent 91-A request was not for what had been read at the January 31, 2022 meeting because the original question had not been read.






Shawn states that he is not trying to hide anything, but the BOS needs to release that information, and even as the BOS Chair, he is not going to do that without the board's approval, which is why they are discussing this issue now. Dottie states that she has no problem releasing the original e-mail/question to Town Counsel. Sheila and Steve agree. Scott also agrees, noting that he doesn't believe it changes the outcome. Shawn states that he also agrees. The consensus of the BOS is that Kim can release the original e-mail/question to Town Counsel and that information to fulfill the 91-A request.

Sheila states that the full conversation with Town Counsel should be attached to the January 31, 2022 minutes, including the original e-mail/question. She motions that the entire e-mail conversation with Town Counsel is attached to the January 31, 2022 BOS minutes. Second by Dottie. Vote is 4-yes, 0-no, 1-abstention. (4-0-1). Shawn abstains. The motion passes.

Shawn reads the Town Announcements listed below. Sheila notes that if anyone can't attend Candidates Night, it will be live-streamed and recorded as the Deliberative Session was.

V. Town Announcements

Calendar

-  **February 23- Wednesday:** Candidates Night at 7:00 PM at the Community Center
-  **March 7- Monday:** Board of Selectmen's Meeting at 7:00 PM at the Town Hall
-  **March 8- Tuesday:** Town and School Elections at the Community Center 8:00 AM- 8:00 PM
-  **April 9- Saturday:** Rabies Clinic hosted by the Danville Police Dept. 10:00AM-1:00PM at the Kimball Safety Complex
-  **April 23- Saturday:** Bulk Pick-up. Start time 7:00 AM

As there are no further items to discuss, Sheila motions to go into a Non-Public session under NH RSA 91-A 3:II(d). Second by Dottie. Roll Call vote: Shawn-yes, Steve-yes, Sheila-yes, Dottie-yes, Scott-yes.

The public session of the BOS meeting ends at 7:36 PM

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

Respectfully Submitted
Deborah A. Christie

ⁱ Town of Danville. **Article 2022-05 Adding properties to the Danville Village District- Beach Plain Rd.** *To see if the Town of Danville will vote to amend the Danville Zoning Ordinance to include properties along Beach Plain Road added to the Danville Village District, thereby allowing additional types of businesses in these areas. This would amend the official zoning map, Town of Danville, to reflect the following parcels as being included in the Danville Village District.* Town of Danville, New Hampshire. FY2022 Warrant Articles. Online at www.townofdanville.org.

ⁱⁱState of NH. **NH RSA TITLE LXIV-PLANNING AND ZONING. CHAPTER 675-ENACTMENT AND ADOPTION PROCEDURES. Zoning Ordinance, Historic District Ordinance and Building Code Enactment Procedures-Section 675:5 Zoning Ordinance Protest Petition.** – I. Zoning regulations, restrictions and boundaries may from time to time be amended or repealed.

I-a. A favorable vote of 2/3 of all the members of the legislative body present and voting shall be required to act upon any amendment or repeal in the case of a protest against such zoning change signed by either:

(a) The owners of 20 percent of the area of the lots included in such proposed change; or

(b) The owners of 20 percent of the area within 100 feet immediately adjacent to the area affected by the change or across a street from such area.

I-b. Paragraph I-a shall apply only to amendments which alter the boundary locations separating previously defined zoning districts, or to amendments which alter the regulations or restrictions of an area not larger than 1/3 of the land area within the municipality.

I-c. The area of streets, commons, or land owned by a governmental entity shall not be included in any calculation under this section.

II. In order to have any protest considered pursuant to paragraph I-a:

(a) The owners signing the petition shall identify themselves on the petition by name and address, and by address of the property involved, or by lot and map number, or by whatever other means is used within the town or village district to identify the land in question, so that the selectmen or commissioners may identify such owners as interested and affected parties; and

(b) The signed protest petition shall be submitted to the selectmen or village district commissioners at least 7 days prior to the town or village district meeting; provided, however, that each protest petition shall apply to only one article on the warrant. A notice of receipt of the protest petition shall be posted at the polling place, and the moderator shall announce at the opening of the town meeting that a protest petition has been received. Online at www.gencourt.state.nh.us/rsa/html. February 22, 2022.

ⁱⁱⁱ State of NH. **NH RSA TITLE III-TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES**
CHAPTER 40-GOVERNMENT OF TOWN MEETING-Moderator Section 40:4 Duties.

I. The moderator shall preside in the town meetings, regulate the business thereof, decide questions of order, and make a public declaration of every vote passed, and may prescribe rules of proceeding; but such rules may be altered by the town. Paragraph I. Online at www.gencourt.state.nh.us/rsa/html. February 22, 2022.