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Town of Danville  
Board of Selectmen  
Monday, July 11 , 2022  
7:00 PM

6:56 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; Residents: Jeff Stone, Don Martine, John and Elizabeth Mileti, Josh Manning, John Cooper, Robert Descoteaux, Lisa Stith, George Brasil

Shawn called the meeting to order at 6:56 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. Delegate Session**

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

**ATV Trail Permit Update:** Josh Manning provides paperwork that the group of ATV riders had put together as requested at the last meeting. He explains that Dave Drislane is on vacation. The group had invited Fish and Game Sgt. Richard Crouse to the meeting, but he was unable to come due to scheduling conflicts.

The paperwork that Mr. Manning provided is a draft of a list and map of Town-owned properties that the group had consolidated into a permission slip. Shawn invites Mr. Manning to the BOS table for further discussion. Shawn confirms that the paperwork identifies the lots that are Town-owned under the power lines. He notes that he wants to double-check Parcel #143 because he believes that was part of the 599 Main St. acreage that was not included in the recent sale of that property. Mr. Manning confirms that he also believes it is not part of the Audubon easement yet. Mr. Manning confirms the discussion at the previous meeting regarding the exemptions listed in the Audubon easement for the corridor under the power lines. Mr. Manning also notes that south of the power lines are the ballfields and Colby Pond and there are no easements on those lots. Shawn thanks Mr. Manning and the group for their work. He explains that the BOS will need to verify the information as part of its due diligence process. He states that he believes the BOS is trying something new that will be beneficial to a lot of the Town's residents.

Mr. Manning explains that the draft of the permission slip that he presented is the one the group has used to get permission from other landowners along the trail. He clarifies that one label on the map did not print and that was for Parcel #147-A which is a sliver of land that is adjacent to the ballfields.

As no more members of the public wish to speak, Shawn closes the Delegate session at 7:02 PM

**599 Main St. Update:** Shawn explains that the Town has recently closed on the sale of this property. The property was purchased minus the seventy-five (75) acres that the Town had retained. The property included the house, stables, and other outbuildings all part of a ten (10)-acre parcel. Shawn breaks down the following information:

- ✚ The selling price was \$1,005M
- ✚ The proceeds of the sale that will go to the Town of Danville are \$420,350.15
- ✚ The proceeds of the sale that will go to the United States of America/DOJ per the agreement with the DOJ is \$420,350.14
- ✚ The Town of Danville will be paid for out-of-pocket expenses related to 599 Main St a total of \$74,049.71

- ✚ The United States of America will receive \$40,000 for Carol Eskel
- ✚ There are two (2) Real Estate commissions to be paid. The buyer's agent commission is \$25,125 and the seller's agent commission is also \$25,125 for a total commission cost of \$50,250.
- ✚ The transfer tax charged by the Rockingham County Registrar of Deeds is \$7538.

Shawn explains that the funds that were paid to the Town totaled \$494,399.86 and have been deposited into the Town's General Fund. He notes this is a "windfall" of just under \$500,000 and explains that unless the BOS designates how these funds will be spent, they will be accounted for as "unspent budget money," returned as "surplus" and added to the unreserved fund balance. When the Town's tax rate is set, the BOS can determine how much to keep in the unreserved fund balance and use the rest to reduce the tax rate.

Shawn states that the typical guidelines from the DRA (Department of Revenue and Accounting) are to keep 5%-17% of the Town's total budget (including the school budget) in unreserved funds. At 17%, this would mean keeping \$1.7M in unreserved funds. Shawn explains that the Town has never approached having that much money in unreserved funds, and has historically been conservative staying near the 5% level. The Town usually keeps around \$650,000 in the unreserved fund and returns the rest of the money to offset taxes. If the BOS follows that pattern, the Town's residents would get a large, one (1)-year savings on their taxes.

Shawn recommends that the BOS look at using this one (1)-time windfall in four (4) ways: to fund the Capital Reserve fund for the new Police Station, for the Fire Dept., for the Highway Dept., and for the taxpayers. He explains the BOS would need to put forward Warrant Articles to designate the funds. He notes that he has seen many comments regarding putting the funds towards the new Police Station and can support that as well. Shawn expresses his concern that if the BOS puts all the funds in a Warrant Article for the new Police Station and it fails, all that money would be required to go back to the taxpayers.

Shawn explains that the BOS does not need to make a decision right now, but that he wants to start the discussion and that he is trying to explain to the Town what the BOS is looking to do with the money.

Sheila states that she's also been part of the process of handling 599 Main St. for many years. She notes that the Townspeople have supported taking care of that property and paid their taxes and that she believes the money should go back to the taxpayers.

Jeff Stone states that he believes the Town needs a new Police Station because the Town has grown and both the Police Dept. and the Fire Dept. need the money. He states that "no matter which way you look at it, the Town will be paying for a new Police (Station) one way or another and the taxes will go up for that. If you put the money in the Police Station Capital Reserve Fund, that will mean less money that will need to come from the taxpayers, so the money comes back to the taxpayer that way." Mr. Stone reiterates that he would recommend that the Police Dept. and the Fire Dept. be at the top of the unreserved fund list.

Dennis agrees and states that he likes Shawn's recommendation of dividing the funds four (4) ways and that it is fair. Dennis states that the BOS needs to communicate with the Town as much as possible regarding this money so that there are no surprises. He expresses his concern that if all the money is returned to the taxpayers, the windfall will be all gone and the same issues facing the Town will still exist.

Steve states he agrees with the discussion and that when the Police Dept. gets their new station, he will gain 800 square feet of office space which will free up the second floor of the Firehouse for future Fire Dept. growth to 24-hour coverage. He notes that this will give the Fire Dept. 10-15 years before it will need to ask the taxpayers for new upgrades. Steve explains that he can't just "turn over any additional funds (the Fire Dept. may receive) because that request needs to go through the Fire Wards. He reminds the BOS that the Fire Dept. already has a new fire truck and he will be asking for another one in the next 2-3 years. The ARPA funds have paid for new radios and the GOFERR grant has allowed him to update the ambulance. He states that he feels the Fire Dept. is doing "pretty well." Steve reiterates the Fire Wards would need to decide if the money should be returned for the new Police Station.

Shawn notes that the Highway Dept. has been revamped over the past couple of years. There was so much neglect over many years and now they are on stable footing and may not need extra money at this time, but he included them as part of his initial thoughts. Sheila states that the BOS should also add an addition to the Town Hall as another designation for the funds.

Shawn explains the negotiations and agreement reached with the DOJ (Department of Justice) for 599 Main St. He states that the Town had taken the property for tax issues and there were significant amounts of tax liens on the property. He states that he and others who had worked on the issue believe the Town did everything correctly and that the Town owned 100% of 599 Main St. after the vesting (redemption) period expired for the prior owner. He believes that the IRS and DOJ did not do what they needed to do to retain their rights to the property. The IRS was trying to claim that the Trust the property was in was illegally created as a tax shelter. Shawn states he argued that it didn't matter, the taxes weren't paid on the property. The amount the Town received from the sale was a compromise. The Town would have risked getting nothing if it had continued to fight the IRS and would have incurred considerable legal costs as well. He notes the other value to the Town is the seventy-five (75) acres that the Town took out of the parcel, which will probably be added to the Town Forest over time. The BOS oversees that parcel as Town-owned land right now, but it will probably be given to the Conservation Commission and Forestry Committee for management.

The DOJ originally felt that once the Town took those seventy-five (75) acres, any expenses that the Town had incurred maintaining 599 Main St. were no longer applicable. Shawn explains that after that parcel of seventy-five (75) acres was taken by the Town, there were other expenses incurred including getting the remainder of the property ready to be put on the market and all the other preparations that incurred reasonable, but substantial costs to the Town, and they needed the DOJ to approve and confirm that they would repay the Town for that process. Shawn notes that he had commented to the DOJ that Danville was their "best collection agent and should get a commission." He found out later that the DOJ does have such a program. The BOS has agreed to ask its attorney to inquire into this and pursue the issue because the DOJ and IRS did nothing when the Town had taken over the property. Shawn gives the example that when the Town took over the property there were 30+ horses and the Town had to pay for equestrian insurance until the horses were removed. The Town maintained the property and kept it up so that it could be sold for a good price.

Mr. Manning asks what was the value of the tax lien when the Town took the property. Shawn explains that the process took eleven (11) years and included back taxes, a redemption period, and penalties. He notes the State changed the penalty structure during the process so the back taxes were approximately \$250,000. Mr. Manning states that he feels the Town should move forward and do something positive with the money. There is some discussion. Kim explains the Town took 599 Main St. for back taxes in 2014 for an unpaid tax lien from 2011 that were the unpaid property taxes from 2010.

Lisa Stith states that the Townspeople want to know who purchased the property and how they plan to use it. Shawn explains that while that is all public record, he does not feel the BOS should broadcast that information. He does note that the BOS feels the sale is a "good match." Ms. Stith states that she understands. There are no further questions or comments and the discussion on the sale of 599 Main St. ends.

## **II. Agenda**

**Timberlane School District Impact Fees:** Shawn explains this is the annual task of the BOS to evaluate the amount of money it will withdraw from the School Impact Fee Fund to offset the school district taxes. He states that in 2021 the School Impact Fee Fund had \$265,775.55 at the beginning of 2021 and deposited \$125,664.00 during the FY2021. The BOS withdrew \$200,000<sup>i</sup> to offset Danville's portion of the school taxes for Capital Improvement. The starting balance in the School Impact Fee Fund on January 1, 2022 was \$191,724.51 which includes \$282.96 in interest. Shawn states that approximately \$77,000 has been added to the fund so far in 2022. Upon further review, Shawn notes that some of the information in the document is not clear. He states that he is certain the beginning balance is \$191,724.51 and recommends the BOS withdraw \$150,000 to be paid to the Timberlane School District Capital Reserve Fund to offset Danville's school taxes. Shawn reiterates the importance of completing this task as it is

necessary in order to set the Town's tax rate in the Fall. He explains that it is a multi-step process that involves the BOS, the Timberlane School District, and the DRA and takes time to complete.

Kim provides Shawn with the paperwork that breaks down the amounts in the Town's Impact Fee Funds. She confirms that the School Impact Fee Fund has received \$77,000 so far in 2022. There is a discussion that follows. Shawn questions the mathematics used in the spreadsheet and wants to ensure that the BOS is looking at the correct amounts before determining how much it will withdraw. Dennis confirms there are mathematical issues with the totals reflected in the spreadsheet. There is more discussion of how the impact fees are broken out. Steve notes that the Public Safety Impact Fee Fund did not go into effect until September 2017. Shawn reiterates that the BOS needs to clarify the account balances and asks to move the discussion to the next meeting's agenda.

**Security Cameras (ARPA Grant):** The BOS has received updated quotes for the cameras. They will review them for discussion at the next meeting.

**Assessing Services RFP:** Shawn explains that during the previous discussion of the RFP, several BOS members had agreed to work with Kim and Fred Smith to ensure the RFP would meet all the Town's needs for these services. The final draft has been submitted to the BOS and reviewed. He states that he sees no issues with what has been presented. Dennis agrees. Shawn suggests that the bids on the RFP be due in four (4) weeks. Sheila states that she feels that four (4) weeks is too short. Kim agrees and notes that with posting requirements and other legal rules that need to be followed it would be a very short timeframe for the bidding process. Dennis suggests that the bids be due in six (6) weeks, at the end of August. Shawn agrees. The bids will be opened at a public BOS meeting and the totals will be read into the minutes. Shawn reiterates that Mr. Smith will retire on January 1, 2023, and that he is concerned that the BOS will have the new assessing service in place before then.

**Little Red Schoolhouse Inspection Report:** Dottie, as the BOS representative to the Heritage Commission, explains that the most recent inspection identified the biggest issue as the exterior paint. She states that it needs to be checked yearly. Dottie notes that for the past two years a member of the Heritage Commission scraped and removed a lot of the blistered paint and then repainted those areas. The inspection also noted that there are additional cracks in the interior plaster walls. She suggests this may be due to the road traffic and the Schoolhouse being so close to the road. Dennis asks if there were any issues with the wooden roof shingles. Dottie explains that some of them are cupping. The roof was replaced in 2013, so it is nine (9) years old. She states it is unknown if this is a natural occurrence due to the weather or if the roof needs some repairs. The Heritage Commission will continue to check the roof annually. There is no apparent leaking at this time. Shawn reminds Dottie that the Heritage Commission needs to determine what repairs need to be done this year so that they can be included in the upcoming budget season. He notes that they will need to use specialists for painting the heritage buildings, etc., and encourages the Heritage Commission to get some bids for the BOS to review.

Kim states that she spoke with Karen regarding this issue and the Olde Meeting House Association will be asking the BOS to look at their bids for painting the Olde Meeting House. She notes the Olde Meeting House Association has already been through the process of getting qualified specialists that paint historical buildings. Shawn suggests that it would make sense for the Heritage Commission to use the same vendors. Dottie states that she will relay that information to the Heritage Commission. Shawn motions to accept the 2022 annual inspection report from the Heritage Commission. Second by Sheila. Vote is unanimous (5-0).

### **III. Old/New Business**

**Signature File:** Shawn states that the BOS has received an Irrevocable Standard Letter of Credit issued by Pawtucket Bank regarding a project in town by Lewis Builders. He states that he has an issue with the expiration date of the letter and that he wants the BOS to have a written, certified letter to the Town when that Irrevocable Standard Letter of Credit is close to expiring. He explains that if the BOS does not "keep on top of it the expiration date will come and go and the Town will have no recourse."

Shawn explains that in the past, people have put that line of credit money into a special account in the Town's control and would then have to request that the Town release the funds at the end of the project. With an Irrevocable Standard Letter of Credit, the town loses its ability to receive acknowledgment of when those funds are removed or when that line of credit is used. It then becomes the Town's responsibility to keep track of the expiration dates of this line of credit and it is very easy to lose track of this, leaving the Town "in a very bad situation." Shawn notes that he has had this discussion before with Pawtucket Bank. Shawn states that the BOS should make it a policy that when using an Irrevocable Line of Credit, one of the conditions is that the Town must receive a certified letter thirty (30) days prior to the expiration date of that line of credit so the BOS can address this issue immediately. Dennis confirms this would require that the bank, developer, or owner would have to inform the BOS so that "it doesn't fall through the cracks." Shawn states that if a certified letter is not received, then the expectation is that the expiration of that line of credit is not valid. Shawn asks for BOS approval to return the letter from Pawtucket Bank until they address the notification issue. The consensus of the BOS is to move forward as discussed.

**Agreement with Recordsforce:** Shawn explains that Town Counsel has reviewed the contract, which is very lengthy. Kim states that Town Counsel made a few recommendations that Recordsforce has already addressed. Dennis confirms that Recordsforce accepted and changed all the recommendations from Town Counsel.

Sheila expresses her concern that the Police Dept. is doing their scanning project separately, noting the that whole project is being paid through the ARPA grant. She notes the BOS has gone through the required three (3) bid process and is concerned that if the Police Dept. is doing their project separately, they will also need to go through the three (3) bid process and have a separate contract.

Shawn suggests that the Police Dept. may need a separate contract due to their legal record requirements. He states that the process is the same, but the data must be handled differently. He understands that the Police Dept. would need its own contract to address their specific needs which are different from the Town Hall record requirements. Shawn states that he believes both contracts would be "under the same ARPA umbrella and that they can use the same bids." Dennis suggests that it would fall under the "change management process" noting that happens often during projects. Sheila asks if the bids they received included the Police Dept. Kim states that the bids quoted the Police Dept. project separately. She reiterates that the Town Hall and the Police Dept projects were priced out separately and the service agreement for the Police Dept has specific privacy clauses outlined. Recordsforce will have to take a class and be certified to handle the Police Dept. data. Kim reiterates that the Police Dept. contract is a separate contract from the Town Hall contract and that what the BOS approved at the last meeting was only the contract for the Town Hall. The service agreement with the Police Dept. still needs to be worked out, put in writing, and signed. Sheila asks what the costs of the Police Dept. project are. Kim explains the BOS has already received those costs and confirms the original quote for the Police Dept remained the same.

Shawn explains the BOS can't move forward with the Police Dept.'s portion of the project, that is on the Police Dept. to work out their contract. Kim confirms the Police Dept. and Recordsforce have already had several meetings and discussions. Sheila reiterates her concern that the Police Dept. will continue moving forward with the project so that it won't hold up the ARPA funds. Dennis confirms that the Town Hall project can continue to move forward regardless of the status of the Police Dept. contract. Sheila states that she believes the issue is with the two separate contracts. Sheila motions that the BOS Chair signs the Records Master Service Agreement effective June 21, 2022. Second by Dottie. Vote is unanimous (4-0). Steve was absent from the vote.

**Minutes:** The BOS review the minutes for the June 27, 2022 public BOS meeting. There are no corrections or amendments. Sheila motions to approve the minutes as written. Second by Dottie. Vote is unanimous (5-0).

**Non-Public Minutes:** The BOS review the minutes for the June 27, 2022 Non-Public BOS session under NH RSA 91-A 3:II (a). There are no corrections or amendments. Steve motions to approve the minutes as written. Second by Dottie. Vote is unanimous (5-0).

Shawn reads the Town Announcements listed below.

**Social Media Issue:** Dennis reads to the BOS the following letter:

*Following our meeting two weeks ago, Ms Sheila Johannesen went on Facebook and started a discussion regarding the vote that was taken for ATV access to the town forest property. In this post Ms Johannesen called out a specific citizen, Dave Drislane by name. Dave, who would otherwise be notified automatically through FB that he was named, was not notified. Soon after it was learned that Ms. Johannesen had used the “blocking” feature to not allow Dave to see or reply to the posts. Soon after that, it was found that many other people were blocked, including myself.*

*FB has long been a thorn in the side of our small community here in Danville. For many years there has been discussion and derision at all levels from all sorts of community members towards one another. I am not so naïve to think that this will stop, however, I think as a Board we have the ability and responsibility to reign in our own negative contributions.*

*As elected members of this board, and other elected positions, we ought to hold ourselves to a higher standard given that we serve each and every citizen of this town, regardless of political and personal opinions. In our cases, we collect a paycheck from this town, paid for by each of us, by every citizen. In other cases, generous citizens volunteer their time. Regardless of either, every citizen should be treated equally and fairly when it comes to town business.*

*There have been several cases at the state and federal level in the past several years that have shed more light on social media, public officials, and the 1<sup>st</sup> Amendment. I am not a lawyer, but I have read through a lot of information and some of the cases themselves, and it seems to me that there is now precedent that social media platforms such as Facebook are considered the town square as it relates to the 1<sup>st</sup> Amendment. Additionally, it seems very clear that an elected official who uses these platforms to communicate town business is required to adhere to the free speech guaranteed to us by our Constitutions, both New Hampshire and the U.S. Constitution.*

*If you are an elected official you should not be blocking citizens from being able to read and/or comment on town business that you post. By using the Facebook blocking feature you are preventing a citizen from seeing ANYTHING you post, whether it be on a private page, private group, or public forum. You cannot block topics or threads – it’s all or nothing across every post, group, page, public and private.*

*For example, now that I am blocked by Ms. Johannesen, I no longer have access to see any posts ACO-related posts, such as rabies clinics, lost pets, dangerous animals in the area, etc.... These and more are frequent posts by Ms. Johannesen. As a citizen, I feel as if I am now receiving a different level of service – a service that is substandard to those people who have the ability to communicate with her and take advantage of her knowledge via Facebook. This is not acceptable as a citizen and I demand for myself and all others to be treated fairly.*

*Secondly, as a Board member, Ms. Johannesen began a public discussion about the ATV riding following our last meeting. She has blocked a variety of people, presumably everyone who disagrees with her. Not being able to view the conversation, one is left to assume she is garnering public support for her end goals in a very lopsided, unfair manner. This is akin to having a meeting about changing Gerry Drive into a one-way street, but only inviting those people who live on Gerry Drive that are in favor. Moreover, it’s akin to stopping the dissenters at the door and preventing them from hearing the discussion, much less being able to participate. Again – unacceptable in my opinion.*

*So here’s how I understand a few things according to the ACLU:*

*1. Does the First Amendment prevent government officials from blocking members of the public on social media?*

*Short answer: Yes, but it depends.*

*When public officials use social media to conduct government business, blocking people from seeing their page or posting comments may violate the First Amendment, especially if they are allowing others to post comments.*

*2. When is a social media site used for government business?*

*Short Answer: It depends.*

*There is no bright-line rule to determine if a social media site is used for government business.*

*A social media posting is likely conducting government business if it:*

*Shares information about government services or meetings*

*Asks for input about how government business should be conducted*

*3. Does the First Amendment prevent public officials from “blocking” members of the public from their private social media?*

*Short Answer: No.*

*Just because an individual gained public office doesn’t mean they are banned from having a private life or private social media. For First Amendment restrictions to apply, the social media must be authored by a government actor for the purposes of conducting government business.*

*It is important to remember that people who hold public office can wear two hats: Sometimes, they act as private individuals, and other times they are government actors. While they maintain their First Amendment rights when acting as private individuals, it is my understanding they are subject to the limits the First Amendment places on the government whenever they’re doing government work.*

*The court recognized that when a public official uses a Facebook page as a tool of governance — that is, when it is used to inform the public about government work, solicits input on policy issues through the post, that official is a government actor. And if that post is open to public comment, the interactive space of the Facebook page constitutes a public forum. The fact that the page exists on a website owned by a private company doesn’t change that.*

*So, how do we move forward?*

*Let’s as a Board agree to let any past situations regarding social media stay in the past and begin now to set an example for everyone in this town.*

*I am making the following motion:*

*The Board of Selectmen will establish and adopt a social media policy that does not violate the First Amendment, NH Constitution, or United States Constitution, and that policy adopted must be enforced in a viewpoint-neutral and fair manner for all users. This policy will apply to all elected and appointed officials of the Town of Danville. As a show of good faith and to demonstrate to the citizens of Danville, we will begin with each agreeing to unblock every Danville citizen who is blocked from seeing any content that can be construed as relating to the town business in your elected capacity.*

Shawn states that he agrees with a lot of the points that Dennis makes, noting that he personally does not block anyone. He expresses his concern that adopting a Social Media policy will not mean anything until Sheila is taken to court and gets a judgment and that the BOS “cluttering it with another motion, ethics, etc. won’t cover what Dennis wants.” Shawn states that “bringing the motion to the table and presenting it is a valid part of the conversation, but putting another rule in place for something where the teeth of it are in the court. Let the ACLU address it in the courts.”

Sheila states that Mr. Drislane’s name was quoted because she used sections of the previous BOS meeting. She agrees that Mr. Drislane and “a lot of people” have been blocked. She states that she does not need to go on social

media and be beleaguered, bullied, or anything else by people. Dennis states that the law protects her. Sheila disagrees and reiterates that her family “has been pulled into it and her way of dealing with it has been to block.” She states it’s her way of keeping her sanity when using FaceBook. Sheila states that there is a Danville ATV Club page that Dennis belongs to that gives Fish and Game updates and warnings. She notes that everyone can do what they want to with their own pages and that it has nothing to do with her being a Selectman or the ACO, she will post whatever she wants to post as a resident. Sheila reiterates that she will block people and continue to block people if she feels she’s being bullied and states that she doesn’t want to go to court, she’s tired of fighting with people and her way of stopping it is to block people and that’s the end of the conversation.

Dennis states that he believes he has a solution based on Sheila’s statements. He states that he understands that adopting a policy doesn’t mean a lot from an enforcement standpoint, but he would still like a vote on the motion. He suggests that, if it would change their minds, if the BOS adopts a policy, it can include language stating the (author) cannot be bullied, put down, harassed, and if the author is, they will have the right to block people and case law supports that action. Dennis notes that there are public organizations and the ACLU that provide “boilerplate templates (for such policies).” If the BOS adopts a policy that outlines that and follows case law that if people are unblocked and then make the author uncomfortable, harassed, threatened, etc., as defined in precedent cases, the author then has the right to block those people. Dennis states that he believes this is reasonable and solves Sheila’s problem with being harassed.

Sheila states that Dennis has been blocked “for reasons”. Dennis states the solution is to go to court and he doesn’t want to do that. Shawn states that someone needs to. Dennis notes that if it comes to that, which he feels is ridiculous because the BOS can decide as a board to treat everyone equally and fairly and put down the reasons that someone can be blocked.

Dennis expresses his concern that if the BOS does not have a policy and simply goes to court, the BOS is not doing its job and not putting itself on the record and that is what he wants to do. He wants the BOS on the record as trying to remedy the issue in a civilized way among Town officials who are elected by the Town’s citizens without having to spend Town money. He believes that if the BOS puts together a very simple policy, with standard language, if the policy is not followed, then they can go to court.

Shawn clarifies that it would not be the BOS or the Town bringing the lawsuit, it would be the individual(s) who are blocked. He agrees there is case law around this issue. Shawn explains that a BOS vote is only ratification and that he can support the motion that “elected officials should not be blocking people on social media.” Shawn expresses his concern with “making a rule for the sake of making a rule” and doesn’t feel that a court would find a policy enforceable. He explains that the lawsuit would be that blocking “is disenfranchising a voter and the author is an elected official talking about Town business and posting it in a public square forum.” If an individual is blocked for “no reason” then that person needs to argue they’ve been disenfranchised and it needs to stop and takes the issue to court. Shawn reiterates that until that happens, Sheila can “go rogue and do whatever she wants.” Adding rules and spending time talking about it isn’t going to get (the issue) corrected.”

Shawn states it should be publicly disclosed that this (blocking) is happening and the Townspeople should be aware of it but making another rule.... Dennis asks if there is a previous rule. Shawn confirms there is not. Dennis asks why Shawn doesn’t think it is appropriate to adopt a policy that outlines how public officials in Town should communicate. Shawn notes that Timberlane has an ethics policy.

Dennis notes that his motion is very narrow and is not an ethics policy. It is a policy on how elected and appointed officials should treat the citizens of the Town. Shawn expresses his concern that it is the BOS that is the recourse for violations and calls the policy “symbolic” and the BOS should just do censure. He reiterates that the only thing that will stick is bringing the issue to court.

Dennis disagrees and states the issue could be resolved if there was a policy that Sheila could point to that gives her the ability to block people based on harassment, intimidation, and threats. If there is no policy, she has no recourse



to block anyone for good reason. Shawn discusses that Sheila would have to explain her reasons to a judge and if it doesn't rise to the level that would be an unacceptable excuse.

Dennis states that he is not concerned with past issues, he wants to address the present-day issues. Sheila should unblock people today based on a policy, but also have a recourse to block people if they violate that policy regarding harassment, etc. Without a policy, Sheila can continue to block Dennis for no real reason. Dennis states that he does not know why he is blocked. He states that if and/or when she is taken to court, that policy will be important. Dennis goes on to note that this is a First Amendment issue. He wants to give Sheila a fair opportunity to unblock people and start fresh. If those people she unblocks "come after her" she can point to the policy. Dennis notes that he was blocked last week and that his wife, who is the Assistant Town Clerk, is also blocked.

Sheila states that she's not unblocking anyone. She is posting on her own personal FaceBook page. She states that not everyone is on FaceBook. Her phone number is "out there for the entire world. Anybody that needs to get in touch with me, 24/7, my number, they get in touch with me. Everybody knows where I live, they can get in touch with me. I am accessible if anybody wants me." Shawn and Dennis express their concerns that she is posting regarding her elected position and Town business. Dennis explains that blocking him means that he is not able to see any information and that puts him at a disadvantage. He gives as an example, if a post is about a wild bobcat that is across the street from his house, and he doesn't know about it and he goes out and walks his dog and his dog gets attacked. But other people can see it (the post). And she posted it in her capacity as the ACO because that's the right thing to do. He asks "what then Sheila?" Sheila states she posts under her name. Dennis asks what difference does that make, it doesn't make a difference. He notes that this discussion is on record and that is what he needs. He will work with the (Town's) citizens and move the issue forward.

Dennis updates his motion to read *"That as a show of good faith to the citizens of the Town of Danville that we as elected officials will unblock people who are currently blocked when you are posting anything to do with your elected position."* Steve states he will second the motion with the addition of the phrase *"when you are posting anything to do with your elected position."* Vote is 3-yes (Shawn, Steve, Dennis) and 2-no (Sheila, Dottie) (3-2-0). The motion passes.

Steve expresses his concern that the BOS should not be discussing Town business on social media. Dottie agrees. Steve notes that the BOS offers Delegate Sessions at each meeting and has processes in place if someone has a problem with the BOS. He reiterates that Town business should not be on social media.

Shawn states that he believes discussions "must allow dissenter opinions," that BOS members are public figures and that people's opinions are not always "nice or fair." He states that the points that Dennis brought up about case law are valid but it must be determined by a judge if that threshold was crossed. He reiterates they should not be blocking citizens when discussing issues that the BOS has discussed or Town-related business in a public forum. They just cannot block people, but until a case is brought to court, nothing can be done about it.

Steve states that "we're all adults here, we are all public figures, and when he ran for office, it was to protect the citizens and their tax dollars and if the BOS is taking this issue with FaceBook to Superior Court, he will vote against it." Shawn clarifies that it would be an individual citizen against Sheila as an elected official and that he does not believe the Town would be responsible for defending that official. Steve notes the BOS has many other issues to address other than FaceBook.

Dennis states that the local community is the "only place citizens have a real say in, and that equal justice under the laws does not prevail much anymore, anywhere." If he can make the Town a little better by being civil to one another, it goes a long way. He states that he is a "staunch defender of the Constitution and the First Amendment. The First Amendment is primarily for citizens to redress and petition their government and if that is not being allowed by a government official, in his opinion that is not following the law. He notes that only the Superior Court can decide that.

**Civil Forfeitures Update:** Sheila states that she received the “dog list” last week and it was resolved with certified mailings within an hour. She states that she is tired of this being an issue every June and motions that from this point on, the ACO will do the Civil Forfeitures. Second by Dottie. Discussion follows.

Dennis asks who paid for the certified mailings. Sheila states that it came out of the Town Clerk’s budget because the Town Clerk is responsible for dog licensing. Dennis states that he questions the veracity of that. Shawn states that he is unsure, but wants to retain the BOS’ authority to determine who has the best interest to act on the Civil Forfeitures. He notes that as it was discussed, it was a point of manpower as to why the Police Dept. couldn’t do it. If the circumstances should change and the Police Dept. is willing to do it, the BOS should have that option. Dennis explains there is a disagreement in the Town Clerk’s office that the costs for Civil Forfeitures certified mailings came out of their budget.

Shawn confirms that the Civil Forfeiture letters were mailed as certified mail and those costs should be added to the Civil Forfeiture fines and that the concerns that Sheila expressed about people “affording the extra fines” did not come to pass. Sheila reminds the BOS of Steve’s discussion at the last meeting where he expressed his concern about the safety issues of delivering the Civil Forfeiture letters in person.

Shawn calls the vote. Vote is 4-yes and 1-no (Shawn) (4-1-0). The motion passes.

#### **IV. Town Announcements**

##### **Calendar**

 **July 25- Monday:** Board of Selectmen’s Meeting at 7:00 PM at the Town Hall

As there are no further items to discuss, Shawn adjourns the meeting at 8:40 PM

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

Respectfully Submitted  
Deborah A. Christie

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<sup>i</sup> **Timberlane School District Impact fees:** Shawn explains the school district is being proactive by asking about this now, instead of in September as usual. He notes the school district is “getting its act together under new leadership”. Shawn states that there is currently \$325,000 in the School Impact Fee fund. Approximately \$60,000 are deposits from 2021 so far. He reminds the BOS that these impact fees must be used within seven (7) years from the date of deposit, otherwise, they must be returned to the owner of record at the time the fees were paid. He also notes that the BOS resolved that issue with past withdrawals and ensured that the Town used any residual funds before they expired<sup>i</sup>.

Dr. Farah asks for clarification, noting that at the end of 2019 the fund balance was \$185,000. The BOS withdrew \$150,000<sup>i</sup> and applied it to the Town’s school bill, leaving only \$35,000 in the account. She notes any impact fees paid prior to 2019 would have been expended with that withdrawal.

Shawn suggests the BOS use \$150,000 from the current balance towards this year’s (2021) Town’s school bill. That would leave \$175,000 in the fund. Dr. Farah disagrees with taking so little and suggests the BOS withdraw \$275,000. Shawn explains that he tries to keep enough funds available to ensure a level-funded withdrawal each year. He notes that in some years, there may not be as much construction and therefore a lower amount of impact fees would be available. He gives the example that in the first half of 2021, the Town has only collected \$60,000 in impact fees. He reiterates that he would like to be able to have the same amount of money available to put towards the school taxes for at least a couple more years.

Dr. Farah explains that her thought process is that the money is intended to offset the impact that building is having on the Town. She notes that people have suffered through COVID and that the interest rate on the fund is low. Given these circumstances, she suggests the BOS may want to pull out as much as possible to offset the taxes. Shawn states the BOS could even liquidate the fund, but then they would only have the School Impact Fees collected from the last half of 2021 to use against the taxes next year. He reiterates his suggestion to have enough left in the fund to withdraw a level amount each year to reduce

*the Town's portion of the school taxes. Dr. Farah responds that she could follow Shawn's line of reasoning, but that it is a new line of reasoning and historically that is not what has been done (with the School Impact fee fund). Shawn notes there is no policy per se, the decision on the amount to withdraw is "basically what the BOS felt at that time". He reiterates that he hopes the BOS will leave some money in the fund this year that can be used against the taxes in 2022. Dr. Farah also expresses her concern that school funding revenue is down this year and the Town will have a substantial increase in the school taxes even though the school budget was level-funded.*

*Steve asks if the School Impact Fees are used for the school's operating budget. Shawn explains the impact fees go to capital projects only. Dr. Farah reiterates her suggestion that the BOS withdraw at least \$200,000. Shawn states this will leave \$125,000 in the fund for next year. Dr. Farah motions to authorize the Treasurer to disperse \$200,000 from the School Impact Fee fund to be put towards the Town's payment to the Timberlane School District. Second by Sheila. Vote is unanimous (5-0).*

**Town of Danville NH Board of Selectmen's Minutes July 12, 2021. Online at [www.townofdanville.org](http://www.townofdanville.org). July 11, 2022.**