

## **Planning Board Nov. 14, 2013**

Members Present: Barry Hantman-Chairman, Chip Current, Haeyoon Jacobus, George Manos, John Russo, Chris Giordano-Selectmen's Representative, Janet Denison-clerk

Others present: Sherrie Trefry, Sandra Gagnon, Walt Lewinski, David LaPlume, Carsten Springer, Dave Caillouette, Christiann Caillouette, Wanda Cote, Isaac Denison, Phil Emilio

### Correspondence

- Upcoming meetings announcement for RPC commissioners

### Minutes

Minutes of October 24, 2013 were reviewed. Chip made and Chris seconded a **motion to approve the October 24, 2013 minutes as written**. John abstained. The motion **passed**.

### Discussion with Sherrie Trefry, GZA consultant for PSNH ROW widening

Ms. Trefry introduced herself as a consultant hired by PSNH. She introduced Sandra Gagnon and Walt Lewinski. She explained the scope of the R193 extension project as a six mile line in the existing right-of-way from Kingston to the Exeter River. A swath on the western portion of the ROW will be clear cut. This portion has not been cut before. This is designed to accommodate load growth.

Mr. Trefry explained the wetland impact and said two protected species have been identified as present in Danville in areas they plan to disturb: Blanding's turtle and the vesper sparrow. Tree cutting and scrub clearing will be done under frozen conditions to protect hibernating species.

She explained they use best management practices as outlined by NH Fish and Game which is different and more in-depth than timbering bmp. The seasonal avoidance time frame is November 1 – April 15. If cutting or clearing goes beyond those dates, GZA will monitor erosion and have a certified wildlife biologist on site. Clearing will begin this winter and construction is slated to begin in 2014. Ms. Trefry stated their written schedule is within the seasonal avoidance time frame.

GZA is paid by PSNH. Barry pointed out the town is able to require an independent monitor to oversee the work.

The amount of temporary wetland impact is estimated to be 48,120 square feet. Ms. Trefry explained the matting used which disperses the weight of the vehicles and reduces the need for restoration. It was noted on the plans that every wetland crossing has stump grinding. Ms. Trefry said the grindings will be left in place to decompose. She said the matting is unnecessary when the ground is frozen. She estimated the mats will be set and taken up twice during this project.

There was a discussion of placing permanent crossings in town.

Chip asked about access to the site, specifically I-5 on the plan. Ms. Trefry said they have to be permitted by the landowners to access the corridor. What is shown on the plan is a guess and the driver will determine the best access point when they arrive, which may not be in exactly the spot shown on the plan. It was suggested that a note be added on the plans stating the access points are potential only.

Chip also asked about I-8 on the plans, stating the structure appears to be in the wetlands. The pole is a permanent disturbance while the construction for it will be temporary. Chip said he'd like to see the topography of the area because of the dewatering that will occur. He said he'd like to see a swale. Ms. Trefry said they may use containers; she was asked if this can be noted on the plans.

Chip also noted that pole #44 seems to be in the driveway access to the storage facility. Ms. Trefry said the size of the pole icon is not to scale.

Barry mentioned they will need to work with the town engineer regarding a bond amount.

Comments from the Planning Board to be sent to the Board of Selectmen include:

1. Continue to work with the Conservation Commission, Forestry Committee, and Board of Selectmen regarding the use of permanent crossings, especially on crossing #8
2. The PB recommends independent oversight relative to compliance
3. Recommend that PSNH reconsider the mitigation plan to focus more on Danville than presently planned
4. Mark on the plans temporary items as such
5. Provide topography information on the plan runoff and have the town engineer review this plan
6. Note there is no information regarding safety precautions on the plan
7. The PB recommends setting a bond for completion of the project
8. Set up an account with the town engineer for his review fees
9. The Planning Board advised that if grant money is available, to fill out the paperwork and see how this can be applied toward mitigation

Chip made and George seconded a **motion to send the eight aforementioned comments to the Board of Selectmen**. The motion **passed** unanimously.

Ms. Trefry also spoke to the Board about thermal upgrades to be done and provided plans for review. Three poles will be replaced in Danville. She explained the wires produce more heat with more usage and this makes the lines sag. These poles were last worked on seven years ago. The poles are numbered 252, 261, and 263. Current heights to proposed heights are 50'-60', 55'-65', and 50'-65' respectively. Access to each will be off of Sandown Road. The landowners have not been spoken to yet. There is no mitigation for these sites. Chip made a motion that the Board has no comments. After discussion the motion was withdrawn.

It was agreed that the comments from the PB to submit to the Board of Selectmen will be:

1. Have the Conservation Commission review the plans
2. The PB recommends independent oversight relative to compliance

3. The PB recommends setting a bond for completion of the project
4. Note there is no information regarding safety precautions on the plan
5. Set up an account with the town engineer for his review fees

Chris made and George seconded a **motion to send the eight aforementioned comments to the Board of Selectmen**. The motion **passed** unanimously.

After discussion, Chip made and George seconded a **motion to add a sixth item to the list as follows**:

6. **Notify the Town when the landowners have been notified.**

The motion **passed** unanimously.

#### Warrant Article review

The Board reviewed the following amendments to the Zoning Ordinance for inclusion in the 2014 ballot.

#### **Zoning Article #1**

To see if the Town of Danville will vote to amend the Town of Danville Zoning Ordinance to indicate that fences and stone walls in the Residential/Agricultural Zone are not considered permanent structures. Specifically, this will modify Article II.AA to read:

Article II.AA A combination of materials that form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water with the intention of maintaining said structure indefinitely. Class I through Class V roadways and driveways shall not be considered permanent structures. Commercial paved parking areas shall be considered permanent structures. Fences and stone walls in the Residential/Agricultural Zone shall not be considered permanent structures.

David LaPlume asked about stone walls along property lines. He was told these are protected. It was explained that currently the zoning does not allow permanent structures within 15' of a property line which technically does not allow stone walls to be on the line.

Chris made and Chip seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chip made and Chris seconded a **motion to include in the 2014 town warrant zoning amendment #1**. The motion **passed** unanimously.

Chris made and John seconded a **motion to add recommended by the Planning Board with a 6-0 tally vote to the warrant**. The motion **passed** unanimously.

#### **Zoning Article #2**

To see if the Town of Danville will vote to amend the Town of Danville Zoning to clarify the intent of the regulations regarding building size. Specifically, this will reword Article VII.G to read:

Article VII.G Every residential unit, mobile home and park model shall have a minimum of one hundred fifty square feet (150 sq ft) of living space per occupant provided that each:  
a. Single family residential unit, excluding additions, shall have a ground floor area of not

- less than seven hundred twenty square feet (720 sq ft).
- b. Multiple-unit dwelling, built in the traditional construction method (side by side), excluding additions - Each unit within the multiple-unit dwelling shall have a ground floor area of not less than seven hundred twenty square feet (720 sq ft).
  - c. Multiple-unit dwelling, built in the garden style construction method (over and under), excluding additions - Each unit within the multiple-unit dwelling (first floor unit and second floor unit) shall have a floor area of not less than seven hundred twenty square feet (720 sq ft). No third floor units are allowed.
  - d. Mobile home, (including so-called park models) excluding additions, shall have a floor area of not less than three hundred twenty square feet (320 sq ft).

Chris made and Chip seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chip made and Chris seconded a **motion to include in the 2014 town warrant zoning amendment #2**. The motion **passed** unanimously.

Chris made and Chip seconded a **motion to add recommended by the Planning Board with a 6-0 tally vote to the warrant**. The motion **passed** unanimously.

### **Zoning Article #3**

To see if the Town of Danville will vote to amend the Town of Danville Zoning to modify the number of units allowed in a multi-unit structure for developments that are 60% workforce housing per RSA 674:58. Specifically, this will modify Article IV.A.1.d.1).a to read:

Article IV.A.1.d.1).a Each dwelling will require a minimum lot or site size of two (2) acres per residential unit. In no case shall any structure contain more than four (4) residential units unless 60% of the residential units in the structure are workforce housing per RSA 674:58, in which case, five (5) residential unit structures shall be permitted unless stated otherwise elsewhere in this ordinance. In the case of workforce housing structures with five residential units, these units must remain as workforce housing per RSA 674:58 for a minimum of ten (10) years after receipt of an occupancy permit.

The definition of workforce housing was explained to the audience, adding that Danville had a study done recently which found Danville has its fair share of workforce housing.

Chris made and John seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chris made and Chip seconded a **motion to include in the 2014 town warrant zoning amendment #3**. The motion **passed** unanimously.

Chris made and Chip seconded a **motion to add recommended by the Planning Board with a 6-0 tally vote to the warrant**. The motion **passed** unanimously.

### **Zoning Article #4**

To see if the Town of Danville will vote to amend the Town of Danville Zoning to clarify that HIGHWAY COMMERCIAL AND LIGHT INDUSTRIAL ZONE permits Continuing Care Retirement Communities. Specifically, this will modify Article IV.C.1.a and to read:

Article IV.C.1.a. Any business use such as: retail sales establishments, professional offices and studios, hospitals, medical and dental offices and related health care facilities, Continuing Care Retirement Communities (CCRCs), banks and other financial institutions, personal service establishments, restaurants with or without drive-through windows, bakeries and cafes, funeral homes, fraternal membership clubs, Inns and Bed & Breakfast establishments, governmental uses of land and buildings, automotive filling – service stations, automotive repair shops, and animal hospital and boarding and breeding kennels.

Chris made and Chip seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chris made and Chip seconded a **motion to include in the 2014 town warrant zoning amendment #4**. The motion **passed** unanimously.

Chris made and John seconded a **motion to add recommended by the Planning Board with a 6-0 tally vote to the warrant**. The motion **passed** unanimously.

#### **Zoning Article #5**

To see if the Town of Danville will vote to amend the Town of Danville Zoning to clarify that HIGHWAY COMMERCIAL AND LIGHT INDUSTRIAL ZONE does not permit residential structures. Specifically, this will add Article IV.C.2.e and to read:

IV.C.2.e Residential structures are not permitted in this zone.

Chris made and John seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chris made and John seconded a **motion to include in the 2014 town warrant zoning amendment #5**. The motion **passed** unanimously.

Chris made and John seconded a **motion to add recommended by the Planning Board with a 6-0 tally vote to the warrant**. The motion **passed** unanimously.

#### **Zoning Article #6**

To see if the Town of Danville will vote to amend the Town of Danville Zoning to clarify the roadway setback for multi-unit dwellings along private roads. Specifically, this will modify Article IV.A.1.d.1).c to read:

Article IV.A.1.d.1).c No dwelling unit shall be located within fifty feet (50') of abutting property lines nor closer than thirty feet (30') to existing or proposed roadways. The setback from the roadway shall be measured from the edge of the right-of-way or, in the case of private roads without a right-of-way, the setback shall be measured from a point twenty five feet (25') from and perpendicular to the roadway centerline.

Mr. LaPlume asked what this article is changing. It was explained that if someone puts in a road, there is no right-of-way. This clarifies from where to measure the right-of-way.

Chris made and John seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chris made and John seconded a **motion to include in the 2014 town warrant zoning amendment #6**. The motion **passed** unanimously.

Chris made and John seconded a **motion to add recommended by the Planning Board with a 6-0 tally vote to the warrant**. The motion **passed** unanimously.

### **Zoning Article #7**

To see if the Town of Danville will vote to amend the Town of Danville Zoning to clarify the points for measurement of building height. Specifically, this will modify Article IV.A.1.e, IV.A.1.d.2 and IV.B.3.d.2) to read:

Article IV.A.1.e            Single family dwellings shall not exceed thirty feet (30') in height. The height shall be measured as the distance between the following points:

- i.            The lowest point of junction between foundation and ground level
- ii.           The highest point excluding chimneys

Article IV.A.1.d.2)        Multiple-unit dwellings shall not exceed thirty feet (30') in height. The height shall be measured as the distance between the following points:

- i.            The lowest point of junction between foundation and ground level
- ii.           The highest point excluding chimneys

Article IV.B.3.d.2)        No building height shall exceed 2.5 stories or thirty-five feet (35'). The height shall be measured as the distance between the following points:

- iii.           The lowest point of junction between foundation and ground level
- iv.           The highest point excluding chimneys

Mr. LaPlume asked what is changing in this article. It was explained this clarifies how to measure the height of a building. Barry said this excludes the chimney height and clarifies where to start measuring.

Chris made and John seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chris made and John seconded a **motion to include in the 2014 town warrant zoning amendment #7**. The motion **passed** unanimously.

Chris made and John seconded a **motion to add recommended by the Planning Board with a 6-0 tally vote to the warrant**. The motion **passed** unanimously.

### **Zoning Article #8**

To see if the Town of Danville will vote to amend Article IX.C of the Danville Zoning Ordinance to add the following sentence regarding remedies for violations:

### C. REMEDIES FOR VIOLATIONS

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation hereof, or any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies may institute any appropriate action or proceedings to prevent such unlawful action to restrain, correct, or abate such violation, to prevent the occupancy of the building, structure or land, or any illegal act or use in or about such premises. This shall include the commencement of work requiring a permit and/or approval prior to obtaining that permit and/or approval.

Chris made and John seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chris made and John seconded a **motion to include in the 2014 town warrant zoning amendment #8 with the one non-substantive change**. The motion **passed** unanimously.

Chris made and John seconded a **motion to add recommended by the Planning Board with a 6-0 tally vote to the warrant**. The motion **passed** unanimously.

#### **Zoning Article #9**

To see if the Town of Danville will vote to approve a change to the Danville Zoning Ordinance regarding building code standards. Specifically, this will modify Article VII.F as follows:

Article VII.F The minimum standards for all construction within the Town of Danville shall be in accordance with the State of NH building, energy, mechanical, plumbing, residential, electrical, fire and amendments of these codes as set by the New Hampshire State Building Code Review Board and documented in the State Building Code Manuals Rules, Bcr 300 through Bcr 308. Minimum construction standards for Manufactured Housing shall conform to the United States Department of Housing and Urban Development Regulation Part 3280-Manufactured Home Construction and Safety Standards latest edition.

Chris made and John seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chris made and John seconded a **motion to include in the 2014 town warrant zoning amendment #9**. The motion **passed** unanimously.

Chris made and John seconded a **motion to add recommended by the Planning Board with a 6-0 tally vote to the warrant**. The motion **passed** unanimously.

#### **Zoning Article #10**

To see if the Town of Danville will vote to approve a change to Article XIV of the Danville Zoning Ordinance which would expand the list of public facilities for which impact fees associated with new development can be assessed to include: municipal office facilities; public school facilities; public safety facilities; public road systems and rights-of-way; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; public recreation facilities, not including public open space; water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary

sewers; and storm water, drainage and flood control facilities. Specifically, this would replace Article XIV, *Impact Fee Ordinance*, with the following:

## **ARTICLE XIV**

### **Impact Fee Ordinance**

#### **A. APPLICABILITY AND PURPOSE**

The following regulations shall govern the assessment of impact fees to new development for their proportionate demand on public capital facilities. These regulations are authorized by RSA 674:21, V, and other pertinent state law, as an innovative land use control.

The public facilities for which impact fees may be assessed in Danville include municipal office facilities; public school facilities; public safety facilities; public road systems and rights-of-way; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; public recreation facilities, not including public open space; water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; and storm water, drainage and flood control facilities.

The purpose of this Article is to:

1. Assist in the implementation of the Master Plan and Capital Improvements Program;
2. Enable the Town of Danville to assess an equitable share of the cost of public capital facilities to new development in proportion to its demand on capital facilities; and
3. Provide authority to the Planning Board to adopt appropriate methods to support proportionate impact fee assessments, and to provide for the administration thereof.

#### **B. DEFINITIONS**

1. Assessed property means any land or buildings comprising new development that are subject to an impact fee assessment under this article.
2. Assessment with respect to an impact fee means a notification issued by the Town of Danville, its Board of Selectmen, its Planning Board, or its Building Inspector, stating the amount of the impact fees due for an assessed property, and the schedule for its collection. Such notification may come as part of planning board approval in accordance with Section XIV.C.4 of this ordinance and do not require separate, written notification.
3. Collection with respect to an impact fee means the actual delivery of payment of the fee to the Town of Danville on behalf of an assessed property.

4. School District means the Timberlane Regional School District, of which Danville is a member municipality.
5. Fee payer means the applicant for the issuance of a building permit which could create new development.
6. New development, for the purpose of impact fee assessment, includes the following land use changes:
  - a. The construction of any new dwelling unit; or
  - b. Changes to an existing structure that would result in a net increase in the number of dwelling units; or
  - c. Construction of a new commercial/industrial building or any net increase in the gross floor area of an existing commercial/industrial building; or
  - d. The conversion of an existing use to another use that is determined by the Planning Board to result in a measurable net increase in the demand on the public capital facilities that are the subject of impact fee assessment; however,
  - e. New development shall not include the replacement of an existing manufactured housing unit or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in size, density, or type of use that would increase the demand on capital facilities for which impact fees are assessed.
7. Off-site improvements means highway, drainage, sewer and water upgrades or improvements that are necessitated by a development but which are located outside the boundaries of the property, as determined by the Planning Board during the course of subdivision plat or site plan approval.

C. IMPOSITION OF IMPACT FEES

1. The Planning Board is hereby authorized to assess impact fees in accordance with the standards set forth in this Article. The Planning Board shall have the authority to adopt regulations to implement the provisions of this Article and to delegate the administrative functions of impact fee assessment, collection and disbursement as necessary.
2. Impact fees may be assessed to new development to compensate the Town of Danville or the School District for the proportional share of capital facility costs associated with new development in Danville.
3. Any person or commercial entity who seeks a building permit for new development is hereby required to pay impact fees in accordance with the specific impact fee schedules adopted by the Planning Board, subject to the procedures and conditions established in this article.

4. Impact Fees are assessed at the time of Planning Board approval of a subdivision plat or site plan. Unless specifically state otherwise at time of approval, the assessed amount shall be in accordance with the impact fee schedule in force at the time of approval.

D. COMPUTATION OF IMPACT FEE

1. The amount of each impact fee shall be assessed in accordance with written procedures or methodologies adopted and amended by the Planning Board for the purpose of capital facility impact fee assessment in Danville. These methodologies shall set forth the assumptions and formulas comprising the basis for impact fee assessment, and shall include documentation of the procedures and calculations used to establish impact fee schedules. Such documentation shall be available for public inspection in the municipal office of the Town of Danville.
2. Impact fees will not exceed the costs of:
  - a. A share of the cost of planned public capital facilities, based on the proportionate demand on such facilities from new development; and/or
  - b. Compensating the Town of Danville and/or the School District for a proportionate share of facility capacity that was provided in anticipation of new development.
3. The Planning Board may prepare, adopt, or amend studies, reports, or cost allocation procedures that are consistent with the above standards, and which define a basis for impact fee assessment for public capital facilities, and the impact fee assessment schedules thereof.
4. No methodology, cost allocation procedure, or other basis of assessment, nor related impact fee schedules, or changes in the basis of assessment or the fee schedules, shall become effective until it shall have been the subject of a public hearing before the Planning Board.
5. In the case of new development created by conversion or modification of an existing use, the impact fee shall be based upon the net increase in the impact fee assessed for the new use as compared to the highest impact fee that was or would have been assessed for the previous use in existence on or after the effective date of this Ordinance.

E. WAIVER OF IMPACT FEES

1. A person or commercial entity may request a full or partial waiver of school facility impact fees for residential uses in which all or a portion of the units will be lawfully restricted to persons age 55 and over, and where such restriction will be maintained for a period of at least 20 years. School impact fees may, in the discretion of the Planning Board, be waived for those units within a

development that are so restricted in a lawful manner that is satisfactory to the Planning Board.

2. A person commercial entity may request from the Planning Board a full or partial waiver of impact fees for development approved for construction prior to the effective date of an impact fee schedule adopted under this article if such development is entitled to the five year exemption provided by RSA 674:39. This waiver shall not be applicable to phases of a development in which active and substantial development, building and construction has not yet occurred in the phase in the development is be constructed.
3. The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that involves a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the Board of Selectmen for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. Full or partial waivers of impact fees may not be based on the value of exactions for off-site improvements required by the Planning Board as a result of subdivision or site plan review, and which would be required of the developer regardless of the impact fee assessments authorized by this Article.
4. For development approved for construction (including conditional approval) prior to 1 April 2013 for which an agreement was reached in writing between the applicant and the Town of Danville regarding payment of fees associated with the impact of the development, said agreement shall remain in force and no additional impact fees shall be due unless permitted by the agreement.

#### F. APPEALS OF IMPACT FEE ASSESSMENT

1. If a fee payer elects to appeal the amount of the impact fee, the appeal shall be made to the Zoning Board of Adjustment. In support of such appeal, the fee payer shall prepare and submit to the Zoning Board of Adjustment an independent fee calculation or other relevant study for the new development activity which is proposed, if applicable. The independent study by the fee payer shall set forth the specific reasons for departing from the adopted schedules and methodologies of the Town. The Zoning Board of Adjustment shall review such study and render its decision. All costs incurred by the Town for the review of such study, including consultant and counsel fees, shall be paid by the fee payer unless the Zoning Board of Adjustment determines a different allocation of costs.
2. The decision of the Zoning Board of Adjustment may be appealed to the Superior Court as provided by RSA 677:2-14.

G. ASSESSMENT AND COLLECTION OF IMPACT FEES

The administrative process of assessment and collection of impact fees is delegated to the Building Inspector, subject to oversight by the Planning Board. Assessment and collection of impact fees shall be governed by the following procedures:

1. Where subdivision or site plan approval is required for new development, impact fees shall be assessed at the time of Planning Board approval of a subdivision plat or site plan based on the impact fee schedules then in effect. The amount of such assessment shall be applicable to subsequent building construction within the approved subdivision or site plan for a period of five years from the date of Planning Board approval. Once this five-year period has expired, remaining construction for which no certificate of occupancy has been obtained shall be subject to the adopted fee schedule in force at the time of the certificate of occupancy application.
2. With the exception of those plats and site plans meeting the conditions in (1) above, and when no other Planning Board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a certificate of occupancy. The impact fee schedule in force at the time of the certificate of occupancy application shall apply.
3. Unless an impact fee is inapplicable to a particular development, or where the fee has been waived by the Planning Board, no certificate of occupancy shall be issued for new development until the applicable impact fees have been assessed.
4. The Planning Board and fee payer may agree to another mutually acceptable schedule for payment. If an alternate schedule of payment is established, the Planning Board shall require the deposit of an irrevocable letter of credit or other acceptable performance and payment guarantee with the Town of Danville.
5. Impact Fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use.

H. ADMINISTRATION OF FUNDS COLLECTED

1. All funds collected shall be properly identified and promptly transferred for deposit into a separate impact fee accounts for each category of impact fee assessment. This impact fee accounts shall be non-lapsing special revenue fund accounts and under no circumstances shall such revenues accrue to the General Fund.

2. The Town Treasurer shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership, tax map and lot reference number of properties for which fees have been paid under this Article for each building permit so affected for a period of at least nine (9) years from the date of receipt of the impact fee payment associated with the issuance of each permit.
3. Impact fees collected may be spent from time to time by order of the Board of Selectmen and shall be used solely for the reimbursement of the Town of Danville or the School District for the cost of the capital improvements for which they were collected, or to recoup the cost of capital improvements made in anticipation of the needs for which the impact fee was collected.
4. In the event that bonds or similar debt instruments have been or will be issued by the Town of Danville or the School District for capital improvements which are the subject of assessment, impact fees may be transferred for the payment of debt service on such bonds or similar debt instruments.
5. No later than sixty (60) days following the end of each fiscal year, the Town Treasurer shall make a report to the selectmen in accordance with RSA 674:21 paragraph V.I accounting for all impact fee transactions.

I. REFUND OF FEES PAID

1. The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where:
  - a. The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee; or
  - b. The Town of Danville, or the School District, has failed, within the period of six (6) years from the date of the full and final payment of such fee, to appropriate any of the non-impact fee share of related capital improvement costs thereby permitting the capital improvement of capital improvement plan for which the impact fee was collected to be commenced. If any capital improvement or capital improvement program for which an impact fee is collected has been commenced either prior to, or within six years from the date of the final collection of an impact fee, that impact fee payment shall be deemed to be encumbered and legally bound to be spent for said capital improvement or capital improvement program and shall not be refunded, even if it is not fully expended within the six year period.
2. The Board of Selectmen shall provide all owners of record who are due a refund written notice of the amount due, including accrued interest, if any, and shall promptly cause said refund to be made.

3. Impact fees will be refunded to a party other than the current owner if, ninety (90) days prior to the date that an impact fee is due to be refunded, the Town of Danville is provided with documentation to prove that a party other than the current owner is the appropriate party to receive said refund and that the impact fee was specifically excluded from the sale and/or transfer to the current owner.

J. ADDITIONAL ASSESSMENTS

Payment of the impact fee under this article does not restrict the Town of Danville or the Planning Board to require the payment of exactions for off-site improvements for highway, drainage, sewer and water upgrades necessitated by the development, in accordance with the provisions of RSA 674:21, V (j), or other infrastructure and public capital facilities specifically benefiting the development as required by the subdivision or site plan review regulations, or as otherwise authorized by law.

K. PREMATURE AND SCATTERED DEVELOPMENT

Nothing in this article shall be construed so as to limit the existing authority of the Danville Planning Board to deny new proposed development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Danville Zoning Ordinance, or the Danville Planning Board Site Plan Review Regulations or Subdivision Regulations, or which may otherwise be lawfully denied.

L. REVIEW OF FEE SCHEDULE AND BASIS OF ASSESSMENT

The Impact Fee Assessment Schedules and the underlying methodologies establishing those schedules shall be reviewed annually by the Planning Board. Such review may result in recommended adjustments in one or more of the fees based on the most recent data as may be available for the variables comprising the calculation of the fee. No change in the methodology or in the impact fee schedule shall become effective until it shall have been the subject of a public hearing before the Planning Board noticed in accordance with RSA 675:7, and approved by the Board of Selectmen. The methodology and the impact fee schedule shall not be modified more frequently than annually.

It was clarified that there is no impact fee for a parcel on which already exists a residential dwelling. The ordinance that is in effect today is applicable to Mr. LaPlume.

The Board reviewed the proposed impact fee ordinance. Edits were suggested, including some grammatical corrections. Added to the list of public facilities was, “the municipality’s proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member.” A sentence in B.2 was added as clarification and a sentence in G was removed due to redundancy. The Board discussed using the words “building permit” versus “certificate of occupancy” in subsection I.2. “Building permit” will be used to be in line with RSA 674:21.

Chris made and John seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chris made and John seconded a **motion to put to a second public hearing zoning amendment warrant article #10**. The motion **passed** unanimously.

**Zoning Article #11**

To see if the Town of Danville will vote to amend the Town of Danville Zoning Ordinance so specify the requirements for smoke and carbon monoxide detectors. Specifically this will change Article VII.L to read:

ARTICLE VII.L Fire and Smoke Detectors

All new residential construction and mobile homes shall have smoke and carbon monoxide detectors that conform to State of NH Fire code Standards.

Chris made and John seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chris made and John seconded a **motion to include in the 2014 town warrant zoning amendment #11 with one grammatical error correction**. The motion **passed** unanimously.

Chris made and John seconded a **motion to add recommended by the Planning Board with a 6-0 tally vote to the warrant**. The motion **passed** unanimously.

**Zoning Article #12**

To see if the Town of Danville will vote to amend the Town of Danville Zoning Ordinance so specify sprinkler system requirements for commercial buildings. Specifically this will change Article VII.S.4.a.9 to read:

ARTICLE VII.S.4.a.9

Sprinkler Systems for Commercial Buildings

- i. All commercial development with square footage over 2000 sq ft, even if subdivided to smaller units, must be protected throughout by an approved automatic sprinkler system in compliance with the requirements of NFPA-13 and maintained according to NFPA-25.
- ii. All commercial development with square footage over 2000 sq ft, even if subdivided to smaller units, will be protected with a monitored Fire Alarm system in compliance with the requirements of NFPA-72.
- iii. All commercial occupancies shall have a Knox High Security Master Key Retention System approved by the Fire Chief or his designee.

Chris made and John seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chris made and John seconded a **motion to include in the 2014 town warrant zoning amendment #6 with one non-substantive change**. The motion **passed** unanimously.

Chris made and John seconded a **motion to add recommended by the Planning Board with a 6-0 tally vote to the warrant**. The motion **passed** unanimously.

**Zoning Article #13**

To see if the Town of Danville will vote to amend Article IV and Article VII to exempt duplex residences from requiring site plan review. Specifically, this would modify the Zoning Ordinance as follows:

1. To modify Article IV.A.1.d.4 to read "Site Plan Review and approval shall be required for all multi-unit (also referred to as multi-family) development, excluding duplex units, as stated in Article VII, T."
2. To modify Article IV.B.2.f. to read "Multiple-unit dwellings excluding duplex units, subject to the provisions of Article IV – Section A.1.d"
3. To modify Article VII.T.1. to read "All applicants for multi-unit/multi-family residential development (excluding duplex units) and all applicants for commercial/retail/industrial development (including expansion of existing commercial/retail/industrial development or multi-unit/multi-family, excluding duplex units) shall apply to the Planning Board for Site Plan Review in accordance with the requirements as provided for in the Town of Danville Site Plan Review Regulations, as amended.

Mr. LaPlume asked why the town proposes to not have site plan review for duplexes. He was told there is an RSA forbidding this. There was a short discussion about not have site plan review for triplexes or quad units. It was suggested that zoning covers all aspects of what is needed for these smaller multi-family units. Barry said most would be covered in zoning but not all.

Chris made and John seconded a **motion to close the public hearing**. The motion **passed** unanimously.

Chris made and John seconded a **motion to include in the 2014 town warrant zoning amendment #13**. The motion **passed** unanimously.

Chris made and John seconded a **motion to add recommended by the Planning Board with a 6-0 tally vote to the warrant**. The motion **passed** unanimously.

#### Discussion with Wanda Cote regarding the duplex on 11 Cote Drive

Ms. Cote discussed the duplex being built on property abutting her own. She showed pictures of the subject property taken from her property. She said the new building is being built too close to the wetlands. It was explained that the builder is bound by the Zoning Ordinance and the building inspector will inspect the placement of the foundation when a permit is discussed.

Ms. Cote said there is a drainage pipe under her driveway and the new construction will become a drainage problem. She was told any enforcement issues due to prior issues should be discussed with the Board of Selectmen.

Ms. Cote said there is not enough contiguous upland soil to support this structure according to the Zoning Ordinance. She was told it did not seem that way according to the plans.

A right-of-way issue and a fence issue were brought up by Ms. Cote. These are either civil issues or enforcement issues; the latter may be discussed with the Selectmen. She was advised that if she thinks he is creating a health issue to discuss this with the health inspector.

The Board discussed the recent discovery of a discrepancy in the Zoning Ordinance versus RSA 674:43 which states site plan reviews are for multi-unit development, which is defined as three or

more units per structure. The Board agreed that no site plan review was necessary and a letter will be written within two business days telling the building inspector that the review was unnecessary and he may proceed with discussing a building permit. It is expected Mr. Daley, the building inspector, will ensure conformance with the Zoning Ordinance. As a good faith gesture, Chip made and George seconded a **motion to waive the impact fee for the proposed duplex on map and lot 4-2-1, located at 10 Cote Drive**. The motion **passed** unanimously. It was also noted that any fees not yet expended that were paid to the town by Mr. LaPlume associated with this site plan review will be returned to him.

Mr. LaPlume stated he told the Board at the very beginning the site review was unnecessary. He was told if he had pointed out the RSA at the beginning, the subsequent actions may have been different.

#### 2014 Planning Board Budget

The Board reviewed the proposed 2014 budget. It was agreed to remove the board clerk salary amount due to a possibility of the clerk being paid through the Selectmen's budget.

Carsten discussed the 2014 dues for RPC. He expressed his opinion that this organization has good intentions but their focus does not seem to be relevant to issues that are pertinent to Danville. He explained the random sampling for the Granite State Future project is flawed and designed for predetermined outcomes. He also explained that RPC is lobbying the legislature to create enabling legislation; this is a circle of funding not in Danville's favor.

There was a discussion about the benefits obtained from membership. Barry pointed out we did receive help from them with the workforce housing validation and help with the growth management chapter of the Master Plan. The opinion was expressed that RPC focuses more on the seacoast and that, as funding sources dry up, looks for other ways to survive and therefore takes positions not in the best interest of Danville.

It was posited that if Danville does not attend the meetings, Danville has no voice in the proceedings. Carsten said if the accuracy of the studies is suspect, it may not be worthwhile to attend the meetings.

Barry said this Board has discussed before possibly not renewing membership. He suggested leaving the dollar amount in the budget; there is nothing that states the money has to go to RPC. It was mentioned that other town boards use RPC for consulting services.

George suggested inviting a representative from RPC to a Board meeting, possibly to a Selectmen's meeting. It was mentioned the dues include a circuit rider and RPC should be visiting every few months.

Chris made and Chip seconded a **motion to approve the budget in the amount of \$6,938.00 and forward this to the Board of Selectmen and to the Budget Committee**. The motion **passed** unanimously.

#### Snack Shack review

Chip excused himself from the table and the discussion and said he will answer comments as a member of the Danville Youth League. There was a short discussion of the donation of the snack shack to the town. It was explained the snack shack is next to the Community Center and Day Field. It is used primarily by the town during movie nights and Old Home days. The DYL has been paying the electric bill, which had been about \$80 per year. With the increase in use by the town, the cost has risen to about \$80 per month.

The building is used to prepare food. It is not close to wetlands or too close to the road. It was agreed it is not fair to the DYL for the town to use it and not pay for it.

The following items will be forwarded to the Board of Selectmen for their consideration:

1. Does acceptance of the building change the town's liability?
2. What is its proposed use or is there a specific plan for it?
3. Has the building been inspected recently? Perhaps Jim Daley should inspect it.
4. Are there federal or state health regulations to consider?
5. Regarding handicap access, when the town acquires a new building, what does the law say about ADA compliance?

These comments will be forwarded to the Board of Selectmen with the Planning Board's recommendation that the building be accepted on behalf of the town.

#### Warrant Article discussion

An additional zoning amendment was discussed.

#### **Zoning Article #14**

To see if the Town of Danville will vote to amend the Town of Danville Zoning Ordinance to specify that front lot line setbacks should be either 30' or the average depth of existing properties for 500' in either direction on the same side of the street. Specifically this will change Article VI.B to read:

##### B. LOCATION OF BUILDING ON LOT

Except as provided elsewhere in this ordinance, no building, mobile home or permanent structure shall be located nearer than fifteen feet (15') to an abutter's property line and thirty feet (30') from the edge of the right of way, or a distance no nearer the front property line than the average distance of existing properties for five hundred feet (500') in either direction along, and on the same side of said street, whichever is lesser. The setback from the roadway shall be measured from the edge of the right-of-way.

Chip made and George seconded a **motion to put forward Zoning amendment #14 to a first public hearing on December 12<sup>th</sup>**. The motion **passed** unanimously.

Chip made and George seconded a **motion to hold the second public hearing for the Warrant Article Zoning Amendments December 12<sup>th</sup>**. The motion **passed** unanimously.

This will be posted at the town hall, post office, and in the newspaper. A copy will be sent to Peter Loughlin seeking his comments.

At 11:20pm Chip made and Chris seconded a **motion to adjourn**. The motion **passed** unanimously.

Respectfully submitted

Janet S. Denison

Agendas:

- Dec. 12, 2013

7:30pm Correspondence and minutes

7:45pm second public hearing for proposed zoning ordinance warrant article

8:15pm first public hearing for proposed zoning ordinance warrant article

9:15pm discussion with Cliff Sinnott of RPC