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Town of Danville
Board of Selectmen
Monday, October 3, 2022
7:00 PM

6:52 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; Chris Tracy, Town Clerk; John Chandler, Town Moderator; Carsten Springer, Chair, Conservation Commission, Chair, Forestry Committee; Chip Current, Forestry Committee; Kathy Beattie, Town Treasurer; Visitors: Jay Carlson, Huntsville, AL; Joseph Ravida, Woodbridge, VA.

Important Note: Due to a technical issue, there is a video of the start of the meeting, but no audio for the first five minutes of the meeting. Minutes are derived from the video only until the issue is corrected.

Shawn called the meeting to order at 6:52 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. Old/New Business

Continuity of Operations Discussion: Chris Tracy, the Town Clerk and John Chandler, the Town Moderator join the BOS at the table. The audio of the conversation begins at 6:57 PM. Shawn states that he always thought that he would be the one with the negative thoughts because he is usually viewed as a pessimist like that, trying to think of what could happen. He notes that he told Kim when she accepted the job as the BOS Administrative Assistant that “you don’t know what’s going to walk through that door and you learn as you go along how to do it. It will depend on the catch-stop nature of what happens.” Shawn continues; “ Imagine trying to hold these elections if the Town was in Fort Meyers, Florida. (It’s) a different scenario than if the power went out or if something happened at the Community Center. You could move the voting to the Town Hall and that could be one contingency plan.” Shawn explains that (election officials) would need to “hurry up” pulling out the fire trucks and setting up the polling stations. Shawn asks what the criteria would be if the whole electronic mechanism of ballot counting was knocked down. He notes “the list is endless and the permutations make it even more difficult to solve.

Shawn suggests asking the “what if” questions for major things that could happen, noting that having to move into the Safety Complex is a sound decision. He explains that it often looks like “we’re the people who make that decision,(we) make it, (but) thinking that the people at this table might not be the people that will have to make those decisions, sort of knowing what the contingency plans are. Shawn states that he would just go back to the simplest form “what you did at the end of that- you say to a judge- this is what I was faced with, this is what we did, the Town came together and decided this would be the best way to do it. If the courts see how we could have done it better in hindsight, the Town will take that suggestion, but the best effort put forward at that time is this, and the Town will stand behind that decision, provided it was sound to begin with.”

Shawn notes that a lot of things like processes, rules, etc. are dictated by the RSAs and so the Town was getting redundant. As those laws changed, then the policies would become outdated and the BOS/Town would have to stay on top of them. They got to the point that Town kept it simple and referenced the RSAs.

Sheila states that there is an (Emergency) Mitigation plan put in force because of FEMA because if the Town doesn't have certain things in place, it won't receive any FEMA money. She notes that all the different departments participated in the planning for the Mitigation plan. Dennis confirms this is a "Town business type of FEMA plan, not elections per se" that Sheila is referring to. Shawn explains that "it's all around a Town catastrophe that might (also) be around an election aspect." Dennis notes that his point is that the election aspect falls under the FEMA Mitigation plan. Sheila clarifies the plan discusses flooding, major catastrophes, and things like that which could happen, so the Town is well versed in its Mitigation plan.

Shawn states that "you really have to think about all kinds of things." He notes that when he first became a Selectman, one of the things he read that was required by RSA was that the Town has to have a place set aside for mass burials. There is a brief discussion of this requirement, noting it was probably for something like a smallpox infection. Dennis agrees it is "important to have some kind of straw plan... and that (the Town) can't prepare for every scenario, but should have a good level-headed plan of who should be thinking about what and when." He explains that he's thinking about "in the middle of an election, when there could be some kind of 'oof' getting the chain of custody of ballots that have been already cast, the ones at the inspector's desk, etc. Just things to think about." Dennis notes the BOS/Town has never had to deal with this, but it's always when you least expect it."

Dennis explains that "more than anything, just being new at it, he was standing at the polling during the last hour and was wondering what happens...." He states that he knows there are guidelines, but he thinks this is something you generally come back on a yearly basis to talk about it; what happened before, did anything happen, and can we think of something else?" He states that outside of that, he's comfortable that the Town has a FEMA-based plan and asks Kim for a copy of that. Kim explains that she talked to "June" who is preparing the Mitigation plan updated report. June has a draft done and the final copy should be done in a couple of months. Kim notes that there is a deadline for this report. Shawn suggests that Dennis look at the Town's current FEMA plan, noting it has only been updated and is not a drastic rewrite. He reiterates that there were just some small updates made in the new plan.

Dennis asks if Ms. Tracy and Mr. Chandler have anything they would like to share or have any feedback, needs, etc. for the BOS as they prepare for the next election that may help them. He notes that Ms. Tracy is "a seasoned pro," but if they need some help, or there is somewhere the BOS can assist (to let the BOS know). Dennis states he feels it's important for the BOS, the boards, and the department heads "to get together and figure out where we can help each other every once in a while."

Ms. Tracy, referencing the discussion, reminds the BOS of a blizzard a few years ago during the March elections. She notes that while it was not a catastrophe, it required a lot of planning. Sheila and Ms. Tracy recall that they never closed the polls and worked through the storm. Dennis notes there were a lot of things that went with that such as making sure the roads were clear enough for the poll workers to get to the polls, etc.

Dennis asks if the polling was down for several hours, would the Town be able to extend the election hours, or was that not an option because there is an RSA that locks the Town down to the time of night it needs to report the voting results. Mr. Chandler explains that if the polls had to close, for example, 9:00 AM-Noon, that would have less of an impact on voter turnout than if that happened from 5:00 PM-8:00 PM. That would result in a serious issue of residents being able to vote. Ms. Tracy recalls a time when the polls had to close for about an hour because of a medical emergency with one of the poll workers.

Mr. Chandler notes that his first thought regarding the "continuity of operations" was to use the Safety Complex. He explains that if the Fire Dept. moves the fire trucks out of the bays there is enough space to have the necessary separate areas for check-in, supervisors, the ballot person, and voting space. Mr. Chandler states that there has to be a minimum of 6' between the voting booths and any public areas so he can't imagine a good flow like that being possible at the Town Hall. Sheila suggests that they could also use the parking lot by the Church for polling, and reiterates that the Safety Complex is a good idea and that there is also space available at the school gym and cafeteria. Mr. Chandler explains that they couldn't use Timberlane School as a polling place because the law states that the polling place must be within the boundaries of the Town. Sheila notes that the Town would also have to get permission to use the school. Mr. Chandler agrees that they would need to get permission to use a "non-public"

space. Shawn explains that the BOS and the School Board are two separate, legal entities, but he believes they would be accommodating. Dennis asks if it would make sense to “just get that conversation lined up if anything ever happened who to contact, and would they have at least tacit permission now to use the school in an emergency,” or does this conversation happen in the middle of an emergency?” Shawn notes that Plaistow uses their School District (buildings as polling locations) and those election days are scheduled as professional development days (so there is no school.)

Dennis reiterates that he doesn’t believe there would be any “pushback” (from the school), but is wondering if the Town should be proactive in knowing who the contact people are so the Town could have immediate contact. Mr. Chandler agrees it “would be perfectly appropriate to approach the School and explain (the Town) is creating a contingency plan, and while the Town would prefer to use the Safety Complex, it would also like to have the Elementary School as Plan B in case of a catastrophe.” Sheila notes that depending on the catastrophe, the Fire Dept. may not be able to allow the Town to use the Safety Complex as Plan A. Mr. Chandler notes that is a really good point, and there may be a situation where the elections could not tie up the Safety Building and/or interfere with public safety. Steve agrees. Dennis notes that maybe the Safety Complex is not the best Plan B, perhaps it is a better Plan C. Shawn states that it goes back to his discussion regarding the nature of the emergency. He notes if the Town plans ahead, it could ask the School, but if the emergency was “a last-ditch effort”, there could be issues with the outside temperature and having the pumpers sitting out in the cold. They would need to be idled and maintained, and there would need to be Fire Staff and Fire Fighters activated to move the trucks off-site and re-station them. Shawn notes there are a lot of logistics with using the Safety Complex as well. Sheila notes that with the school, there is the issue of personnel frequently changing and the BOS might need an MOU (Memorandum of Understanding) with the school. Dennis agrees, and notes that it may even be necessary to “have a yearly review and have that conversation all over again.” Shawn notes that even with an MOU, the Town would need to reiterate it repeatedly because of the frequent personnel changes.

Dennis states that he believes the BOS is responsible for the election facilities and that they should move forward either as a board or designate someone to reach out and just start this conversation. He notes it is better to have this conversation now and not need it than it is to need it and not have it. He notes this is the conversation he wanted to have so that everyone is thinking about the issue (of continuity of operations). Dennis reiterates his offer of BOS assistance to Mr. Chandler and Ms. Tracy if there is anything the board can do to make elections easier for them.

Mr. Chandler states that he can’t think of anything immediately. He states that he believes the Primary ran smoothly and thanks everyone who worked the polls and those who voted. He notes it was reasonably stress-free and he appreciated that. Regarding the issue of continuity of operations, he explains that the ballots and voter rolls are brought to the polling location, so they would just need to replace the voter booths for wherever they end up. He notes that if there is a catastrophe and they couldn’t get into the Community Center, they should have a few cardboard voting booths stored perhaps upstairs at Town Hall. This would allow them to provide a few “reasonably secure and private” voting booths. Mr. Chandler acknowledges that Chief Woitkun would need to assess this issue within fire code regulations.

Shawn states that he believes most of the Townspeople would be understanding and regardless of the set-up would appreciate being able to vote in an emergency. Mr. Chandler expresses his concern with those “extremely dedicated people concerned with things going exactly according to plan.” He notes that he had more than he could count of people walking out questioning if their ballots had been checked, carefully putting them in the machines so no one could know how they voted. Mr. Chandler states that he “worries about these extreme voters, not the folks who are flexible and understanding as the BOS would be.” Shawn agrees, noting that this is an emergency, the ballot machines may not be available and each ballot would need to be hand-counted individually. He notes that the “contingency plan” needs to look at the problem and solution in the context of what the emergency is, and the Town has probably gone above and beyond what is required.

Dennis explains that he thinks “it’s not the same as it was before, from the moderator’s standpoint to the pure focus on the elections since 2020. The citizens, the media, there are people just waiting for somebody to trip up and make a big deal out of it.” He believes that “as long as the BOS, Ms. Tracy and Mr. Chandler are thinking about it differently

and have some ideas of how they can attack it on that day, noting that everything is going to be circumstance dependent. But as long as everyone is in that mindset, that's the first thing as opposed to being (caught) off-guard with who's making the decisions."

Mr. Chandler asks the BOS what their contingency Plan A is just so he knows where to go next. Dennis explains this was his opening point. The FEMA plan is to use the Safety Complex. The Elementary School is Plan B. Dennis notes that he's not sure that the BOS can flip that plan, noting again that it would depend on the timing of the emergency and what might be going on with the Safety Complex. Shawn agrees and adds that it would also depend if the school was in session, and what else might be going on there. He notes that they would need to segregate the student population from the voting population due to other issues and feels that this would need to be something that is planned ahead of time, depending on the timing of the emergency.

Dennis reiterates that he believes the BOS needs to reach out to the appropriate people at the Danville Elementary School/ School Board to open this conversation. He notes that he's sure they would be able to give the BOS the limits, protocols, and procedures to be referenced in an emergency and this information needs to be in place. He again states that regardless if the Safety Complex is Plan A, and the Town would definitely go there if it was the easier plan, however, if there was cold weather and the trucks had to be outside, they certainly can't compromise public safety. Sheila notes that the Elementary School may also be used as a "shelter-in-place" and there are a whole lot of "what ifs" that can't be anticipated until an actual catastrophe happens. Dennis suggests that the contingency plans could cover the most common emergencies and if the situation is outside of that planning, the Town would need to "adjust on the fly."

Mr. Chandler asks if the BOS would also contact the Library, noting that fundamentally, the building is under the BOS purview even though it is governed by a separate board. He explains that they could use the Library because of its "geography layout." They could "funnel" voters through the upstairs and downstairs and it would be easier to find spaces for everyone and preserve the integrity of the election. Dennis refers the question to Dottie. Dottie states that she sees no problem with that idea but notes if there was no power, the Library does not have a generator. She also notes that she does not know if there is a generator at the school, but there is one for the Town Hall and the Safety Complex. Dennis notes that Mr. Chandler's idea could work logistically and could be added to the plan.

Dennis explains that it is not likely that the Town will have the whole plan in place by the November 8, 2022 elections and notes that (hopefully) elections are ongoing and there will be time to make these plans. Dennis thanked Ms. Tracy and Mr. Chandler for coming in and sharing their viewpoints and questions.

Compensation Adjustment for Employees and Elected Officials: Dennis apologizes in advance, noting this may be a lengthy discussion. He states that he is referring to the BOS discussion and vote for the FY23 COLA increase at the September 19, 2022 BOS meeting and that he needs to ask a question that he does not know the answers to. He asks where the 7.4% COLA increase that was approved at that meeting will be reflected in the budget. He asks if the BOS intends to include this in the FY23 Default budget or do they intend to ask BudCom to consider (it). He reiterates his question of where and when that 7.4% COLA increase is added to the FY23 budget.

Dottie explains that the increase will be reflected in the personnel lines of each department's budget. Shawn adds that each salary/hourly rate would increase by 7.4% and this would be reflected across the entire salary/hourly matrix that includes standard increases such as steps, etc. Each entry in that matrix would need to be increased by 7.4% so that if an employee is scheduled to move up a (salary) tier (such as for longevity, etc.) that tier will have already been increased by the 7.4%. Dennis confirms his understanding that the COLA increase would "be lined on a department basis under the proposed budget, but not in the (FY23) Default budget." He clarifies his understanding is that "when BudCom's proposed (FY23) Operating budget goes on the Warrant, that if it fails and the Town must use the Default budget, that 7.4% increase is not in the Default budget and is only in the proposed (Operating) budget."

Dottie, Shawn, and Sheila state that hasn't been determined yet because the BOS "hasn't had that discussion yet." Shawn notes that Dennis has seen "how some people vote at the BOS table." Dennis agrees that was last year and

“that is where his sticking point is.” He states that he will close his conversation on this by disseminating some information that the BOS can read through “in preparation for when that conversation comes up and that based on a ton of research, he believes that the BOS does not have the authority to take any of those percentages and put them, from an employee compensation standpoint, into the Town’s (FY23) Default budget.” Dennis continues that it’s his understanding that “the BOS can provide compensation increases to employees, but not to the BOS because they are elected officials functioning in the ‘elected official’ capacity, and as elected officials, the BOS cannot give themselves raises.” He explains that “as far as compensation goes, elected officials are slaves to the Town Meeting voters as all the RSAs show, which is included in his information.”ⁱ Dennis continues explaining that the BOS “can increase the Town’s employee compensation any time throughout the year provided the BOS is smart about funds that have already been voted on and approved, as long as the BOS does not overspend the budget approved at the last Town Meeting.” He notes that under NH RSA 32:10 the BOS has “transfer authority” and is allowed to give compensation adjustments to employees.”ⁱⁱ Dennis reiterates that the big difference is that elected officials are not Town employees so they cannot provide raises (to themselves) from that standpoint, the Town has to vote on that. Dennis explains that is why he “doesn’t have a problem with it (COLA increases) going into the proposed Operating budget because that is what the Town Meeting is for. If the Townspeople do not want the employees to get a 7.4% raise, they can show up at Town Meeting and when that line comes up, it can be talked about and that line can be modified, adjusted, changed, or eliminated based on the vote at that time. If it passes Town Meeting and makes it onto the Warrant, it is what it is. We have to do our part as citizens and show up to make that happen.” Dennis reiterates that the BOS “can do regular employee raises at any given time, that is within the BOS’ ability.”

Dennis provides the BOS with copies of his research that he prepared and asks the board to “take it to heart, read through it, it’s excerpted and they’ll find more details within the General Court and more importantly, he states, that he believes the second document has a lot of detail and good stuff but does leave things a little open to interpretation.” Dennis explains to the public that he has passed out a handful of RSAs and Q & As that he put together that revolve around public employee labor relations, definitions of public employees, conflict of interest, Q & As relative to (board) members voting on something in which they have a pecuniary interest (conflict of interest).” Sheila confirms that the questions asked in Dennis’ handout are his own questions to go along with the RSAs he’s cited. Dennis notes that the questions are from an article on NHMA (NH Municipal Association) website.ⁱⁱⁱ

Dennis starts to explain that there is a more important document, Sheila interrupts and reads question #1 from his handout “No more than.... She confirms this question was already in the article on the NHMA website. Dennis explains that the question is from NHRSA 273-A:2-a Conflict of Interest and reads from NHRSA 273-A:2-a paragraph (I).^{iv}

TITLE XXIII. LABOR. CHAPTER 273-A PUBLIC EMPLOYEE LABOR RELATIONS. Section 273-A:2-a Conflict of Interest.

I. No board member shall participate in any case or issue before the board in which he has a potential conflict of interest. A conflict of interest shall include any case or action in which a member has a personal or professional interest and any case or action in which a member is personally or professionally associated with any of the parties involved.

Dennis notes that the article on the NHMA website repeats the RSA in more “plain language.” Dennis states that he has no issue with “people getting compensation increases and no ax to grind with anyone on the BOS or in Town,” noting that “his wife works for the Town and she benefits from this conversation.” He states that he has a problem putting it (employee compensation) into the Default budget when it hasn’t been voted on by the Town.

Sheila reiterates that the BOS has not discussed (the Default budget) yet. Dennis explains that when that discussion comes up, again, for the benefit of the public, he has a document regarding a case that was decided in the Hillsborough Superior Court- Northern District on February 20, 2018. Neil Kurk vs. Thomas Clow, et al. Case #216-2018-CV-00086.^v Sheila asks him to explain the case to the BOS.

Dennis provides the following overview: The BOS for the town of Weare, NH recently published a document entitled 2018 Budget Worksheet which purports to represent the Default budget for FY2018. The Plaintiff (Mr. Kurk) identified approximately \$60,000 of budget increases that he alleges were improperly included in the Default budget. These increases are the results of contracts entered into by the BOS after the last Town Meeting. While the contracts were not approved by the legislative process, the Plaintiff does not contest their validity, rather he asserts that they do not qualify as “contracts previously incurred” based on NH RSA 40:13 IX (b). Sheila states that this is about contracts and that is different from COLA (increases). Dennis disagrees and explains that an employee

agreement, like the agreement he signed as an elected official, says that “I will perform X duties and receive X stipend” and that agreement is a contract. The contract that an employee may sign is very similar. They are hired to “do A job and in that job, you will be paid X amount of dollars per hour or X amount of salary per year.” Under the State of NH, that is an employment agreement, it is a contract, so it is a contract when the BOS is discussing adjusting compensation.

Sheila disagrees with the case stating that the BOS signed a contract. Dennis explains the issue is “contracts that are previously incurred.” Shawn gives an example of a vendor contract where there is an agreed-upon increase. The BOS has executed that (contract) and when they do the budgeting process, they are able to use those new numbers for that year when developing the budget. If there is no contract in place, and the BOS is trying to start a new contract with another vendor, the contract is in a null state because there is no prior contract and the only dollar amount the BOS has is what was the prior amount of the old contract. Shawn confirms this information with Dennis. Sheila reiterates that this is what the case is about.

Dennis disagrees, noting that in his opinion, “and he’s not a lawyer, he totally agrees with what he hears and has done as his due diligence.” He states that he will end with this for the benefit of the public, that the declaratory judgment that the judge arrived at states that:

“Here’s the practical effect that including the challenged contracts in the Default budget is the appropriation of money by the governing body without any meaningful input by the voters of the town. None of the safeguards set forth in NH RSA 32 have any enforcement effect if the BOS is capable of unilaterally increasing the Default budget by an unchecked amount. The Court does find the defendants interpretation of RSA 40:13 IX(b) undermines the overall purpose of the statutory scheme governing municipal bodies and is therefore unreasonable. On the other hand, the Court finds the Plaintiff’s interpretation- requiring contracts included in the default budget to have been previously voted on at a Town Meeting- to be in line with the legislature’s intent and ensures the proper enforcement of the safeguard on unlawful or excessive spending by the Town. In light of the foregoing, the Town shall remove the contracts identified by Plaintiff from the Default budget before presenting the budget at the upcoming Deliberative Session.”^{vi}

Dennis states that this is how he reads it and notes that the NHMA website also cites some of this information in some of their opinions and their opinions are the same opinions that he arrived at. Sheila states that the BOS also has a legal opinion that was attached to the January 31, 2022 BOS minutes.^{vii} Dottie agrees. Sheila asks if Dennis has read that. He states that he has not and notes that Steve wants to add something but he would like to finish his discussion.

Dennis states that he has “no intention of bringing this to a court or asking for a declaratory judgment by a judge or anything should the BOS at some time vote to include those percentages, those compensation increases in the Default budget.” He states that he hopes “that if the BOS does their due diligence that they arrive at the same information that he did, and if they don’t, he’s sure he’ll be outvoted and it will be added to the Default budget and he will be a minority and so be it.” He states that he thinks that “at that point, legal opinion or not, opinions are opinions and there was a Selectman that used to be on the board that had a saying that ‘everything is an opinion unless it’s been litigated in a court, then there’s case law behind it,’ and he’s right. So, if anybody in Town wanted to seek a declaratory judgment after a possible vote of that nature, he would hope that they would.” He notes that he’s “not going to do it as part of the BOS, but has a ton of information if anybody wants to go down that path.” He states that he really doesn’t think that “based on the information that he is providing, that the BOS could really arrive at any other conclusion and outside of that he hasn’t even touched upon the conflict of interest of elected officials giving out compensation increases without the entire public....

Shawn acknowledges Steve’s request to speak. Steve confirms that the BOS voted to give all the Town employees a raise at the end of 2021 and that was included in the Default budget. Shawn explains that when the BOS issued those raises, they updated the Town’s payroll and therefore those would be the new pay rates and an already contracted update that would be moved forward and could be moved into the Default budget because the BOS did it that way. Town Counsel’s opinion stated that the BOS could do that and they can do the exact thing. Shawn also notes that two people, specifically Dottie and Sheila voted against those raises.^{viii} Sheila states that she voted against the motion because of the way it was worded as the “BOS previously approved budget” so people who did not have their budgets approved by the BOS did not get their raises put in the Default budget.

Steve explains that when he made the motion at the September 19, 2022 BOS meeting to approve the 7.4% COLA increase,^{ix} it was in the thoughts of the Fire Dept. employees and the Town's employees. He states that for every one of them, "when times are lean and hard, we (the Town employees) always bear the brunt of it on our shoulders." He states that he was willing to come to tonight's BOS meeting to discuss and negotiate the increase and if allowed would like to remove his motions from the September 19, 2022 BOS meeting for a couple of reasons: 1) in part because of the public outcry that he's seen. He notes that "they (the Townspeople) are suffering as much as the Town employees are and 2) after reading some of Dennis' information, and in an effort of transparency and honesty on his own behalf, he's not going to vote on anything that gives a raise to a Town employee because he is a Town employee and he doesn't think it's right and that, as staunch as he is as an advocate for all Town employees, it doesn't pass the smell test." Steve states that in the future, he is not going to vote and reiterates that he would like to rescind his motion from the September 19, 2022 BOS meeting if allowed. Steve states that he will abstain from any compensation raises for Town employees. He would like to voice his opinion, but will not vote on that issue.

Sheila asks if this means that anything that comes to the BOS, anything that they vote on, that at some point benefits the Town and the Town's residents, and because the board members are also Town residents, no matter what they vote on, they do benefit. Steve disagrees and states that "after reading the information that Dennis presented, he feels he does have a conflict of interest because he is the Town's Fire Chief and he gets paid a decent wage, and that for him to propose and vote on a 7.4% COLA, he doesn't feel that it's right, so he's not going to vote on it and that's why he wants to rescind his motion from the September 19, 2022 BOS meeting." Steve explains that he "was passionate about it for the Town's employees." He notes that the BOS still hasn't rewarded the Town employees through the ARPA grant. Sheila states that the BOS is still spending that money. Steve states that the BOS is talking about retention bonuses for the Police Dept., but what about the rest of the Town?" Steve notes that the Highway, Fire Dept., Library, etc. all have dedicated employees. He states that he will bring up another subject regarding the Fire Dept. employees in the near future, but on this issue, he will abstain from the vote and reiterates that if Shawn allows it, he will rescind his motion.

Shawn explains that Steve's motion was made at that meeting, voted on, and is the legally binding word of the BOS. There would need to be a motion to undo that vote, or a motion made for a different amount of COLA increase, or however Steve wants to approach it. That new motion would need to pass and that would then be the "new rule."

Steve states that he would like to motion to withdraw his original motion to approve a 7.4% COLA increase for all the Town's employees that he made at the September 19, 2022 BOS meeting. Second by Dennis. Shawn explains that if the motion passes, the BOS is "back to square one." Dennis agrees the BOS would be right where they were before they voted (on Steve's original motion for the 7.4% COLA increase). There is no further discussion. Shawn calls the vote. Vote is 4-yes, 0-no, 1- abstention (4-0-1). Steve abstains due to a conflict of interest.

Shawn explains that the outcome doesn't change because the Bureau of Labor of Statistics has forwarded another list. He notes that he gave the BOS his opinion two weeks ago and it hasn't changed. He reminds the BOS that "they jumped on the 7.4% increase." Sheila notes that it is also a conflict of interest for her, so Shawn needs to figure it out. Dennis clarifies that it is not a conflict of interest for her if the BOS is talking about the Town's employees. He explains that Sheila has no conflict of interest because she is not a Town employee, but he does have a conflict of interest and suggests that Dottie may have one also. Dottie disagrees because while she does have a relative that works at the Library, he doesn't turn his paycheck over to her. She states that she does not benefit from it because she gets none of that compensation. Dennis notes that the rules of conflict of interest extend to her family. Dennis states that, separately from that, not from a conflict-of-interest standpoint, but more from the Library standpoint, according to NHLTA (NH Library Trustees Association). The Library Board of Trustees appoints all other employees on the recommendation of the Director according to NH RSA 202:A-11^x and determines all the compensation in terms of employment, including job descriptions for every position...only Trustees make decisions regarding salaries, benefits, technology, and collection development. Dottie notes that she would not have any conflict of interest in this case because (employee compensation) is determined by a separate board. Dennis suggests that Library employees can be open to interpretation in some way, but according to the law, the BOS has no authority, regardless of any conflict of interest to adjust the wages and salaries of anyone working at the Library because (that authority)

falls strictly under the Library's Trustees. Dottie agrees that is correct. Dennis agrees that this would also remove her conflict of interest.

Shawn asks who on the BOS will be able to vote on the issue. Dennis explains that Shawn, Sheila, and Dottie can vote on employee compensation. He reiterates that Sheila is not a Town employee, but that she also can't vote on her own compensation. Dennis reiterates that if the BOS is looking to add a percentage increase to the proposed budget down the line, someone, one of those three BOS members, will have to make that motion and vote on it. Shawn reiterates that he made his comments (about employee wage increases) at the September 19, 2022 BOS meeting. Sheila suggests that he may want to refresh the BOS of what he said. Shawn states that he would support up to a 5% COLA increase. Sheila and Dottie have a brief discussion.

Steve confirms with Dennis that the Library Trustees will determine what the COLA will be for the Library's employees. He asks if that also holds true for the Fire Wards. Dennis states that "based on his reading of the Fire Ward RSAs" that he included in his information, he reads it that way." He notes that he's not sure if the BOS has to vote on the COLA increase tonight. Dottie agrees the BOS can postpone the vote for further review. Sheila also agrees.

Shawn summarizes that the current standing is there is now a 0% COLA increase on the table and the BOS will determine that at a subsequent future meeting. Steve notes that some budgets will be affected by this during the budget presentations. Shawn agrees and states that is why the decision needs to be made, noting this issue was discussed several weeks ago and that is why it was done that way, so if the BOS continues to delay this decision, it will also be delaying the budget discussions that much more. He asks Kim what budgets are scheduled to be reviewed at the October 10, 2022 BOS meeting. Kim states that the budgets include the Board of Registration, Town Clerk, Trustees of the Trust Funds, General Assistance, Vendor payments, Direct Assistance, and Patriotic Purposes. Shawn confirms that some of these budgets do have salary lines in them. Kim reminds him that some of the budgets scheduled to be reviewed at tonight's meeting do as well. Shawn notes that those salaries in tonight's budgets are "a simple math recalculation" afterward that can be confirmed at a future BOS meeting, but that the decision affects the budget presentations for various departments. Shawn confirms with Sheila and Dottie that they still wish to postpone the discussion and vote on the COLA increase. He notes that they can, but he just brought up the issues the delay will cause. Sheila states that "what just transpired (the vote to rescind the 7.4% COLA increase) caused the problem, so what's another week to think about it." Dottie states that it (the COLA) can certainly be adjusted at any point before the end of the year.

Shawn expresses his concern that sometimes the BOS creates undue work for other departments because then these other departments have to turn around and can't just take a normal line item and increase it by a certain percentage. With salaries, other things are affected like the salary tiers, etc. that require more detail. Sheila asks how many tiers are there this year. Shawn explains that it is the same salary matrix of approximately nine (9) steps. Dottie states that the matrix has not been updated and was last used 8-10 years ago. Shawn disagrees, noting the Auditors had brought it to the BOS' attention that it needed updating a couple of years ago, he believes it was the last year that Patty Hess was the Town Administrator. Shawn asks Kim to put the COLA discussion and vote on the October 10, 2022 BOS meeting agenda.

Northern Utilities and Forestry Wetlands Crossing: Carsten Springer, Chair of the Conservation Commission and the Forestry Committee, and Chip Current, member of the Forestry Committee explain that they would like to request ARPA funds for a wetlands project they are working on in the Town Forest. Mr. Current explains that the project has multiple benefits for multiple purposes including Forestry purposes, Eversource access, Fire, and Rescue purposes to get through a pretty major wetland. He notes that some of the work has already been completed and that they have solid budget numbers for the remainder of the project.

Mr. Springer explains that the Conservation Commission/Forestry Committee came to the BOS with this proposed project 5-6 months ago and had estimated the costs to be approximately \$20,000, but probably would not exceed \$25,000. The current cost of the project, based on invoices is \$15,100.55. He would like to request ARPA funds up to but not to exceed \$20,000 to finish the project. Mr. Springer notes that he has two invoices to date. One (which

may have gone to the Highway Dept.) is for the concrete pipe and the other is for the survey work that was done. Shawn asks if these are actual invoices or only quotes. Mr. Springer confirms that they are the actual invoices and that the concrete pipe has been delivered, the survey work by Jones and Beach has been completed, and the silt pads have been installed.

Shawn expresses his concern about where the money for the project would come from if ARPA funds are not used. Mr. Springer explains that the funds would come from the FY22 Conservation and Forestry budgets. Shawn confirms that the two committees had originally budgeted for this project and are now asking to use ARPA funds to pay for it. Mr. Springer explains that they didn't have "the hard numbers" during their previous discussion with the BOS, so they didn't feel it was appropriate to ask to use ARPA funds at that time. Mr. Current states that the survey work by Jones and Beach was being done regardless of the source of funds; and the lead time for the concrete pipes was 6-8 weeks, so they had to be ordered so that they could be installed before the frost. Mr. Springer notes the importance of getting the work done during this dry summer.

Sheila asks Mr. Springer what ARPA guidelines he is proposing to use for the request. Mr. Springer suggests that the project could fall under infrastructure or stormwater management. He notes that it also provides emergency access for the Fire Dept, the Police Dept., and for utility work. There is a discussion regarding the best way to reflect the project in the ARPA grant. Mr. Springer reiterates that they already have two invoices for the concrete pipe and the survey work. He notes again that he has not personally seen the invoice for the concrete pipe, but was told that it matched the quote they had received and there was only one supplier for that pipe.

Shawn notes that "this is the scenario, and he's getting into the semantics of budgeting law," as he explains that "if the Town takes the money for the project from the ARPA funds, which gives the Town the most flexibility, and if the Conservation/Forestry committees have already spent their budgets on the project and have covered those costs..." Mr. Springer notes that the Conservation/Forestry committees haven't spent their budget money on the project yet. He clarifies that if the BOS decides not to use ARPA funds to pay the invoices, then those costs will be covered by their budgets. If ARPA funds are used for the project, those budget dollars would then be able to be used for other ongoing and proposed projects. Shawn clarifies that these projects would be using budget funds for FY22. He notes that the ARPA funds can be expended over the next couple of years. He explains that if the project is paid for by the ARPA grant, the Conservation/Forestry committees would have that \$20,000 left in their FY22 budget, which, if not expended, would go back into the General Fund. They would lose that flexibility of timing by using the ARPA funds because of the longer duration of the grant, but the FY22 budget closes in three (3) months.

Mr. Springer explains that the Conservation/Forestry committees looked at the permanent, long-term nature of the project. Shawn agrees the scope of the project is important but reiterates that the issue is the flexibility of the timing unless the Conservation/Forestry committees have already earmarked those budget dollars to be expended in the next 2-3 months Mr. Current states that they have done that. Mr. Springer explains that they didn't want to over-commit to these other projects until the BOS decides what it will do regarding the ARPA request, because then the Conservation/Forestry committees would be over budget.

Sheila confirms that "if ARPA was not around, the project would be paid for from the budget." Mr. Current explains that the costs of the project are actually coming from three (3) budgets: Highway, Conservation, and Forestry. The Highway budget is being used because that department is providing the labor and equipment. Conservation and Forestry would be paying for the rest of the project. Mr. Springer notes that the project "will drain both those budgets." Mr. Current explains that they decided to postpone the other projects they planned because this particular project was important and the Conservation/Forestry committees were assuming that they would be able to use ARPA funds to cover the costs. Mr. Springer states that Conservation and Forestry did this project in tandem last fall when they knew that ARPA funds were available, but they didn't know what the dollar amount for the project would be so they simply "put it on the BOS' radar" and he believes that the project was "very much in line with the estimates."

Shawn states that he supports the project and asks about the damage that Eversource did last year. Mr. Springer explains that DES never returned their calls and that Eversource used their equipment in the wetlands and he

believes they damaged some existing pipes in other crossings Shawn notes that was the point and Eversource should be the ones fixing it. Mr. Springer agrees. Shawn expresses his concern that the Town spent money to make these crossings permanent and Eversource overloaded them and destroyed them and that “they should be on the hook for that.” Mr. Springer notes this was why they went for the heaviest pipe available for this wetland crossing project so that they should not have to put mats in there again. Mr. Springer suggests that the BOS petition Eversource for paying for the damages, stating that Conservation would certainly back them, but that Conservation can’t do that on their own.

Shawn notes that he was wondering if the BOS would get an update because Eversource was supposed to correct the damage. Mr. Current explains that the majority of the issues were vegetation control and Eversource did rectify some of the issues around the ponds off GH Carter. He notes that most of the damage was not permanent, but they were disappointed in how Eversource was in the wetlands. Mr. Current states that most of the crossing damage was done by the crews that did the pole maintenance. Mr. Springer agrees the BOS did what they could last year and Eversource did return to take care of the vegetation issues, however, the Conservation/Forestry committees are trying to prevent additional damage in the same area and give the Police Dept, Fire Dept., and the Forestry Committee permanent access. Mr. Current clarifies for Sheila that the new wetland crossing can be used by Eversource, explaining that in the past, Eversource has had to come in from the north to access anything in North Danville, but has to come in from the south to access everything else because they couldn’t get across this crossing. This project makes it easier for Eversource to get to everything from the north, all the way down their right-of-way.

Mr. Springer apologizes to Sheila regarding his reference to the crossing, noting that there are multiple crossings out there and there are 400+ acres of Town Forest that Eversource powerlines go through. He explains that the new crossing is the furthest northern crossing in the Town Forest and that it is a major wetland that cannot be accessed without this type of installation. He explains that they also did three (3) other crossings under DES “minimum impact permits” and these must have maintenance done as well. This is part of what Conservation/Forestry will use those FY22 budget dollars on unless they have to spend it on this particular project.

Sheila confirms the costs of this wetlands crossing project will stay within \$20,000. Mr. Springer reiterates that the current expenditures are \$15,100.55 and that he doesn’t see it going beyond \$16,000. He notes that they don’t have the costs of the Envirotec fabric yet because Conservation already had some in inventory from previous projects and is using the remainder for this new project.

Steve asks Mr. Springer if there is any way to limit Eversource’s access and use of the crossing. Mr. Springer states he believes that would be a question for Town Counsel, but his understanding is that the two (2) Eversource easements; one is 225’ wide, the other over 300’ wide, and the language in those easements, allows Eversource to pass through for maintenance. He notes that Eversource does not own the land, but can go on it anytime they want to. Mr. Current notes that they could put gates at either side of the crossing to prevent Eversource from using it. Steve expresses his concern that the Town is fixing these crossings to “make Eversource’s life easier....” Mr. Current explains that at the beginning of the project, the engineering permit that was used was paid for by Eversource, so Conservation owes them \$3371, and the scope of the work would have cost \$10,000-\$12,000 five years ago just for the engineering fees. Eversource let Conservation/Forestry use their surveys, and there was a lot of material that Eversource let them use from their surveyors Jones and Beach of Stratham, NH. Mr. Current notes that this was a real benefit from Eversource. Mr. Springer explains that the project began five (5) years ago when Conservation, the Planning Board, and the BOS pushed back so hard on Eversource from a previous situation that Eversource helped get the engineering work done. The permit was issued to the Town of Danville and the BOS. Mr. Current clarifies that they are discussing the DES wetlands permits. Mr. Springer notes that Eversource “started behaving this way in 2010 and has been going on since.” He suggests that the next time Eversource comes in that the Town bond them, noting that it’s Town property. Shawn states that the next time Eversource comes in “there will be a new process in place.” Mr. Springer agrees that Eversource can use the land, but should have to post a bond because “they’ve not done anything close to right.” He notes there are “good people in the organization, but Eversource keeps moving them around.”

Sheila states that Eversource needs to be out there maintaining their wires because if something happens, “who’s going to fix it and the Town is stuck because they need Eversource to maintain those lines.” Shawn agrees that Eversource does get “a perk” out of the situation, but there are “extra perks” in the form of Fire services, Rescue, and future Forestry operations and that Forestry is better off having well-done staging areas. Mr. Springer notes that with this summer’s drought there was no way to get out there if there was a problem and that could have been a serious issue.

Sheila confirms that the expenditures for the project would be coming from three (3) departments; Highway, Conservation, and Forestry, and that the Fire Dept and the Police Dept will also benefit from the project. She motions to approve the Forestry Committee to expend up to \$20,000 of ARPA funds for the Northern Forestry and Utility Wetland Crossing. Second by Dottie. Vote is unanimous (5-0). Mr. Springer thanks the BOS.

FY23 Budget Review: Shawn confirms that the BOS has received the corrected and updated FY22 budget worksheets and proposed FY23 budgets. Dennis requests permission to make the worksheet available to the public and works with the camera operator to post the worksheet on the projection screen. After a brief review of several of the budgets included for tonight’s review, Shawn expresses his concern with the amount proposed for the Street Light budget.

Kim explains that the Town’s provider, Unitil, will change its supply rates in December and July. Kim reiterates that Unitil will not be changing their “delivery/ electric services” charges, only their “supply” rates. They are projecting that December’s supply rates will increase to .25/KWH. She also notes that she has included what street lights are included in that budget line: Government Buildings (210 Main St.) Main St. Master, Ballfield, Park Lights. There is a discussion of other street lights and how Kim has categorized them in the budget. Shawn explains that the Town pays a “fixed rate” to whoever is the electric provider and wants to be sure that line was “budgeted appropriately enough to account for the increased rate in December.” The current proposed FY23 budget only reflects a 20% increase. Kim notes the year-to-date expenditures are \$9320.59 (through Sept. 6, 2022). Shawn expresses his concern that based on the current year-to-date expenditures, that budget line is on track to reach \$12,000 in FY22, almost the same amount budgeted for FY23.

Shawn also expresses his concern with tonight’s meeting vote to rescind the COLA increases and recommends that any of the budgets scheduled for review that include personnel or salary lines be postponed until the amount of the COLA is discussed and approved. He confirms with Kathy Beattie that her budget is level-funded with the exception of any pending COLA increase. He reviews what budgets the BOS can review tonight that have no salary components in them.

Dottie asks what the budget for Town Meeting includes. Shawn explains the majority of that budget is for the mailings that are done prior to the meeting. Kim states that she received an estimate of those costs from RAM Printing based on what the Town spent last year, including quantity, etc. She notes there are increases in costs for paper, folding, and labor as well as any mailing charges and estimated postage.

#4130.30- Town Meeting. The proposed FY23 budget is \$2336. Dottie notes that her questions have been answered and motions to approve this budget as presented. Second by Sheila. Shawn states the vote is unanimous (5-0).

✚ **#4130.39- Town Meeting is approved for \$2336.**

#4150.20- Auditing Contract. The proposed FY23 budget is \$16,250. This is a contracted service and has been level-funded. Kim confirms that the contract is for a fixed amount. Dottie moves to approve this budget as presented. Second by Sheila. Shawn states the vote is unanimous (5-0).

✚ **#4150.20- Auditing Contract is approved for \$16,250.**

#4150.50- Treasury. The proposed FY23 budget is \$18,926. As discussed previously, this budget has been level-funded with the exception of the proposed/now rescinded COLA increase in the personnel lines. Shawn postpones any discussion of this budget until the COLA issue has been resolved.

#4152.10- Assessing and the Re-evaluation of Property. The proposed FY23 budget is \$45,650. Kim reminds the BOS that they have just signed the contract for these services. The actual cost of the contract is \$43,150 per year, but there is an additional \$2510 fee for the BTOA reduction which increases the budgeted amount to \$45,650. Dottie motions to approve this budget as presented. Second by Sheila. Shawn states the vote is unanimous (5-0).

✚ **#4152.10 – Assessing and the Re-evaluation of Property is approved for \$45,650**

#4191.30- ZBA (Zoning Appeals). The proposed FY23 budget is \$945. Shawn confirms there is no salary line reflected in this budget. Dottie confirms that the correct budget line number is reflected. She motions to approve this budget as presented. Second by Steve. *(Note: There is no video due to the projection of the budget on the screen. There is no audio record of the vote.)*

✚ **#4191.30- ZBA (Zoning Appeals) is approved for \$945.**

4290.10- Emergency Management. The proposed FY23 budget is \$8229. Shawn notes there is a “labor component in the budget, but it’s a fixed amount and hasn’t been adjusted in years and he would support keeping that as it is.” Shawn notes this budget is level-funded. Dottie moves to approve this budget as presented. Second by Sheila. There is further discussion. Sheila asks if this is the account that is used for the costs of updating the Town’s emergency (Mitigation) plan. Shawn explains that the Mitigation plan update is funded through a grant. Sheila explains that she thinks there is another Emergency plan that includes things like sanitizing, etc. Shawn explains that this is what Emergency Management is about. Sheila states she believes that is a separate plan from the Mitigation plan. Steve states that he would need to research that. Sheila confirms the Emergency Plan has to do with sheltering, etc. Shawn agrees. Steve states that he does not believe the BOS has updated the Emergency Plan “in a while.” Sheila reiterates her belief that this plan is different than the Mitigation plan. Shawn agrees, stating that “(the plan) was on ‘that cycle’ and that is what June is updating.” Sheila disagrees, stating she believes “June is updating the Mitigation plan” and that’s separate. She expresses her concern there are two (2) different plans and the BOS will need to clarify that because there may need to be more funding in that budget. Shawn calls the question and calls for a vote. No vote count is given. Shawn states that he is abstaining, but does not read the vote out loud. He states the budget passes. *(Note: There is no video due to the projection of the budget on the screen and no audio record of the vote.)*

✚ **#4290.10- Emergency Management is approved for \$8229.**

#4316.10- Street Lighting. The proposed FY23 budget is \$12,500. Shawn states the BOS will revisit this budget based on his concerns noted previously.

#4319.40- Dams (Dam dues and Membership). The proposed FY23 budget is \$134. Shawn explains that years ago this budget line paid for the yearly inspection of the dam at Long Pond until Christy O’Donnell researched the issue and found out the Town did not own that dam. The BOS has kept that line in the budget in case something happened. Shawn notes that nothing has changed and any dealings regarding the dam will be dealt with separately outside the budget. Dennis confirms that this amount is a “placeholder” to maintain the line in the budget. Shawn further explains the history of the this budget. Dottie motions to approve this budget as presented. Second by Sheila. Shawn states the vote is unanimous (5-0).

✚ **#4319.40- Dams (Dam dues and Membership) is approved for \$134.**

#4411.20- Health Lab. The proposed FY23 budget is \$120. Shawn explains this budget is for any state-required health testing. Dottie motions to approve this budget as presented. Second by Sheila. *(Note: There is no video due to the projection of the budget on the screen and no audio record of the vote.)*

✚ **#4411.20- Health Lab is approved for \$120.**

#4411.30- Mosquito Control. The proposed FY23 budget is \$29,000. Kim states this is the amount of the updated quote from Dragon for 2023 Mosquito control. Dottie motions to approve this budget as presented. Second by Sheila. *(Note: There is no video due to the projection of the budget on the screen and no audio record of the vote.)* Shawn states the vote passes.

✚ **#4411.30- Mosquito Control is approved for \$29,000.**

#4723.00- TAN Interest. The proposed FY23 budget is \$1500. Shawn states that the amount is a “placeholder” for a Tax Anticipation Note. He explains that if the Town’s cash flow fell short of the budgeted amount, the Town has the ability to borrow those necessary funds against its anticipated tax revenues. He notes that Danville has had to do this only once in the many years that he has been on the BOS and that with good fiscal management, and watching the Town’s funds and cash flow, the Town has not had to do that again. Dennis clarifies his understanding. Shawn explains that a TAN loan is only an annual loan and that some towns operate with TAN loans all the time. He notes that he likes to plan for it, but is glad that the Town doesn’t have to use it. Dottie motions to approve this budget as presented. Second by Sheila. Shawn states that the vote is unanimous (5-0).

 **#4723.00- Tan Interest is approved for \$1500.**

Shawn reminds the board that the budgets with salary lines will need to be revisited in two weeks. The board will need to make a decision on the COLA increases at next week’s meeting. The budgets originally scheduled for review at the October 10, 2022 BOS meeting will also have to be postponed. Shawn asks Kim to check for other budgets that have no salary lines that could be reviewed instead.

Kim asks for clarification on her budget for the Street Lights. She states that she did her research on the Unitil costs. Kim explains that she has reviewed the current year-to-date expenditures for the street lights listed on that budget line and those expenditures currently are \$9400. She notes that if she uses the projected increase of .25/KHW and applies it to the entire bill's expenditures of \$9400, that would result in a 123.46% increase in the budget projections. She confirms that this is what Shawn is asking for.

Shawn explains that he believes the \$12,500 budgeted for FY23 “seemed very low,” noting the Town has already spent \$9400 through the end of September. Based on that, he believes the FY22 budget will actually come in at \$12,000, \$2000 over the FY22 budget, and that her proposed FY23 budget won’t even cover the actual costs for FY22, even without any further increases and that is what he is asking Kim to find out. He notes that the increases in Unitil electric costs have been estimated to be 77% and he feels that is what should be added to any anticipated expenses in the FY22 budget for the FY23 budget. Kim reminds him that only the Supply costs are increasing on the electric bills, not the Delivery costs. Dennis agrees.

Shawn explains that street lights are billed differently. They usually use off-hour rates and they are not metered. They are billed at a flat rate based on the technology on each street light. Sheila reminds the board that the Town upgraded all its street lights to LED lights in the summer of 2021. Shawn reiterates that he just wants to be sure that the board budgets enough for FY23 because he can see that with the current expenditures of \$9400, \$12,000 isn’t enough, even with the new technology on the lights. He reiterates that he is just asking Kim to re-evaluate the FY23 budget for that line and that he will help her figure that out.

Signature File: The BOS review and sign the documents in the Signature File. Shawn explains that he has received a letter from the bank representing Lewis Builders. Shawn reminds the BOS that Lewis Builders originally bonded their project with a cash deposit, but later stated they wanted to move that cash into a line of credit. In the previous discussion, the BOS had stated that they wanted to ensure they would receive a letter of expiration of that line of credit no later than thirty (30) days before that line of credit expired so that the BOS could address any issues. ^{xii} Shawn states that ultimately, Lewis Builders decided to keep the cash bond at status quo, but the bank thought the BOS had revoked the line of credit and had requested a letter from the BOS confirming that they (the BOS) had not done that. Shawn reads the Town’s letter of response to the bank emphasizing that the Town (BOS) had never accepted the letter for a line of credit from the bank, the BOS had never executed that letter of credit from the bank, and it was never binding for the Town of Danville. Dottie motions to authorize the Chair to sign the letter as read. Second by Sheila. Vote is unanimous (5-0).

Minutes: The BOS review the minutes from the September 26, 2022 BOS Annual Meeting at the Olde Meeting House. There are no comments, corrections, or amendments. Dottie motions to approve the minutes as written. Second by Sheila. The vote is unanimous (5-0).

Town Announcements: Shawn reads the Town Announcements listed below. Sheila asks that the residents that are participating in the Bulk Pickup on Saturday, October 15 please cover their items in case it rains. She notes the Town is billed based on the total weight of the pickup. Rain-soaked items can add significant costs to the program.

Heritage Commission/Town Counsel Update: Dennis asks to respond to the discussion from the September 19, 2022 meeting regarding the Heritage Commission’s request to ask a question of Town Counsel.^{xiii} He states that he does not believe the BOS intended to disparage the Heritage Commission and that if he did, he apologizes. He notes that he has only met Ms. Baird and another Heritage Commission member once and has only spoken to them three (3) times. He explains that Ms. Baird “was not very happy with the way the BOS had spoken on the subject.” Dennis states that he wants to clarify for himself that the subject of discussion was the e-mail and the lack of transparency between trying to get to Town Counsel. He states that it wasn’t about if the Heritage Commission was valued, noting that “a lot of people thank them for the work that they do.” Dennis states that “he did use the word “sneaky” and it was too much of a pejorative to use and he would like to take that back.” He explains that “it was a little bit of lack of transparency and that was in direct reference to not being able to get a straight answer on what was the question (that the Heritage Commission) needed to ask.” He states that he “wants to put that out there and he thinks the BOS, and he knows that he has, a high regard for the Heritage Commission and he wants to say that publicly out loud because it may have sounded a little harsh at the last meeting.”

Dottie asks to respond. She states that since the issue with the Heritage Commission keeps coming up, and there were disparaging words said about them, (she has done some research) and passed out copies of the minutes of the September 20, 2021 BOS meeting, highlighting page 11. She notes that this was last year when Scott Borucki was on the BOS and reads the following:

“Scott states that he stands by the Town’s decision to do a quiet title and to pursue what the BOS had authorized. He agrees it cost the Town a lot of money and the judge did not agree with the Town’s position. The judge made his decision and the BOS decided not to pursue the matter any further.... Scott agrees that the Chair of the Heritage Commission did not approve of spending the \$180K for the court case. That approval was a BOS decision.”^{xiv}

Dottie notes that it was also noted at that (same) meeting that the “Heritage Commission did not have a good track record” and the Heritage Commission was not even involved. She reiterates that Mr. Borucki told the BOS that the Heritage Commission was not involved and that Ms. Baird was asked by the BOS to go to court on that issue and she was not on the Heritage Commission, so it had nothing to do with the Heritage Commission. Dottie states that the BOS can’t disparage that person for doing what they were asked to do. She reiterates that she wants to make it clear that the issue had nothing to do with the Heritage Commission.

Voting Clarification: Dottie states that she would also like to clarify an earlier statement made at tonight’s meeting regarding her vote for the COLA increase last year to be included in the FY22 Default budget. It was stated that she did not vote for that increase, but she did. The vote was 4- yes, 1-no. Shawn, Steve, Scott, and Dottie voted yes. Sheila voted no.^{xv} Dottie explains that Sheila voted against the motion because it was worded that only the budgets that had been approved by the BOS would be included in the Default budget, not all the (salaries) from all the budgets. Shawn explains that it was the “adjustments that BudCom made on top of what the BOS approved.” Dottie clarifies that “it was things that hadn’t been approved by the BOS yet, but had been approved by BudCom.” Shawn states that the motion was made “taking BudCom out of the equation and the BOS’ viewpoint on the dollar amount of the salaries would be adjusted by the COLA amounts.” Sheila explains that everyone ended up with their increases because the Town approved the FY22 Operating Budget in March, but if it did not pass, there were a few (employees) that would not have received the COLA in the Default budget because of the way the motion was worded. Sheila notes that she questioned the wording of the motion. Shawn states that he remembers the vote was not unanimous. Dottie notes that she had made the original motion and it was seconded by Steve. After further discussion, she and Steve agreed to rescind their original motion and the new motion changed the wording.

II. Town Announcements

Calendar

-  **October 10- Monday:** Board of Selectmen’s Meeting – Town Hall at 7:00 PM. ***Please note: After the 10/3/22 BOS meeting, the October 10 BOS meeting has been postponed to Tuesday, October 11 at 7:00 PM at the Town Hall.***
-  **October 15- Saturday:** Fall Bulk Pick-Up. The trucks start at 7:00 AM

- ✚ **October 23- Sunday:** Trunk or Treat @ the Community Center 12:00- 2:00PM. Hosted by the Recreation Committee. Rain date is Sunday, October 30. 12:00-2:00PM
- ✚ **October 29- Saturday:** Household Hazardous Waste Collection: Hosted by Kingston: 12 Main St. Kingston, NH- 9:00 AM- 12 Noon. See the Town’s website for more information

As there are no further items to discuss, Shawn states that the BOS needs to go into a Non-Public session under NH RSA 91-A 3:II (C). Dottie makes that motion. Second by Sheila. Roll call vote: Shawn-yes, Steve-yes, Sheila-yes, Dottie-yes, Dennis-yes.

The public session of the BOS meeting ends at 8:51 PM.

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

Respectfully Submitted
Deborah A. Christie

ⁱ See Attached. Full content and context of the cited NHRSA’s can be found online at www.gencourt.state.nh.us/rsa/html. October 3, 2022.

ⁱⁱ **State of NH. TITLE III TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES. CHAPTER 32. MUNICIPAL BUDGET LAW. Expenditures: Section 32:10 Transfer of Appropriations. –**
I. If changes arise during the year following the annual meeting that make it necessary to expend more than the amount appropriated for a specific purpose, the governing body may transfer to that appropriation an unexpended balance remaining in some other appropriation, provided, however, that:
(a) The total amount spent shall not exceed the total amount appropriated at the town or district meeting.
Online at www.gencourt.state.nh.us/rsa/html. October 3, 2022.

ⁱⁱⁱ See previous attachment of document Dennis shared w/BOS. No citation or link to the NHMA website article was provided.

^{iv} State of NH. NH RSAs Online. Online at www.gencourt.state.nh.us/rsa/html. October 3, 2022.

^v State of NH Judicial Branch. Superior Court. Hillsborough Superior Court- Northern Division. **Neil Kurk vs. Thomas Clow, et al. Case #216-2018-CV-00086.** February 20, 2018.

^{vi} **IBID**

^{vii} See Attached opinion from Town Counsel. **Town of Danville, NH Board of Selectmen’s Minutes. January 31, 2022.** Online at www.townofdanville.org. October 3, 2022.

^{viii} COLA/Salary increases. **Town of Danville NH Board of Selectmen’s Minutes.** December 6, 2021. P.10. Online at www.townofdanville.org. October 3, 2022.

^{ix} 2023 COLA Increases. **Town of Danville NH Board of Selectmen’s Minutes. September 19, 2022.** P.8. Online at www.townofdanville.org. October 3, 2022.

^x State of NH. **TITLE XVI-LIBRARIES. CHAPTER 202-A PUBLIC LIBRARIES. Section 202-A:11 Powers and Duties. –**
Except in those cities where other provision has been made by general or special act of the legislature, the library trustees of every public library in the state shall: V. Appoint a librarian who shall not be a trustee and, in consultation with the librarian, all other employees of the library and determine their compensation and other terms of employment unless, in the cities, other provision is made in the city charter or ordinances. Online at www.gencourt.state.nh.us/rsa/html. October 3, 2022.

^{xi} See Dennis’ attached document he shared with the BOS

^{xii} *Signature File. **Town of Danville NH Board of Selectmen's Minutes. July 11, 2022.** Pgs. 4-5. Online at www.townofdanville.org. October 3, 2022.*

^{xiii} *Opening Discussion. Town of Danville NH Board of Selectmen's Minutes. September 19, 2022. P.1. Online at www.townofdanville.org. October 3, 2022.*

*Policy Discussion regarding access to Legal Counsel: **Town of Danville NH Board of Selectmen's Minutes. September 19, 2022.** Pgs. 9-10. Online at www.townofdanville.org. October 3, 2022.*

^{xiv} *E-Mail Discussion. **Town of Danville, NH Board of Selectmen's Minutes. September 20, 2021.** Pg.11. Online at www.townofdanville.org. October 3, 2022.*

^{xv} *Year-End Payroll, Budget, and Warrant Articles. **Town of Danville NH Board of Selectmen's Minutes. December 20, 2021.** P.4. Online at www.townofdanville.org. October 3, 2022.*