

Town of Danville  
Selectboard Minutes  
August 17, 2017  
Danville Town Hall (6:00 pm)

**Board Members Present:** Doug Pastula, Ken Linsley, Angelo Incerpi, Kellie Merrell and Eric Bach

**Also Present:** Keith Gadapee

**Absent:** Wendy Somers

**Meeting was called to order** by Chairman Doug Pastula at 6:00 pm.

1. Doug Pastula noted **additions to the agenda** from board members and the public.
  - o No additions were added to the agenda.
2. *Motion by Ken Linsley, 2<sup>nd</sup> by Angelo Incerpi to approve minutes of Regular meeting of August 3, 2017 as written. All in favor.*

**3. Visitors**

**Ted Chase – North Shore Road - TH #106** – volunteered to represent the residents of TH# 106. They would like to reclassify a short section of the class 4 road to class 3 status. He wanted to know if they would need a petition and then to have a discussion about the public good aspect. The area in question is approximately 600-700 feet. There are six full time residents, fifteen winterized homes which use the road for year round access out of the 40 houses in that area and one driveway off the road.

Doug Pastula discussed a similar previous request for upgrading another road to a class 4 and serving the public good and the cost associated with upgrades.

Ken Linsley noted the cost was born to the petitioners, not the Town for the upgrade.

Kellie Merrell noted she would have to recuse herself from any decision as her mother is one of the residents who live there.

Keith Gadapee noted the first issue is if the road is for public good and suggested the Select board make a decision pertaining to the public good. He will look at the 600 feet of road and report back to the Selectboard.

Doug Pastula noted the Selectboard needed to determine that by looking at the right of way to make a determination to public good.

Eric Bach inquired about the timeline for completion.

Ted Chase noted the residents were prepared to do as fast as possible.

**Shaun Machia – Rock Farmer Records** - discussed adding Danville as a venue to affording national touring acts making town hall destinations to the arts connecting seven shows. He is looking to invest in a venue and expand to the Danville area which would engage surrounding towns to get them to visit Danville. He would like a reduction in fee from \$200 to \$100 as that is what other towns charge. He is willing to place a \$100 deposit and also pay the additional heat fee for winter months. The charge is \$20 for admission or \$15 if you are on their mailing list. He would like to book Town Hall for the Patrick Ross show on 11/11/17 and the Rock Farmer Roadshow for 1/5/18, 1/12/18, 2/9/18, 2/16/18, 3/16/18, and 3/23/18.

Angelo Incerpi inquired how many people normally attend the shows.

Sean Machia noted somewhere between 60 and 120 but on an average it is 80.

Kellie Merrell inquired if they were a nonprofit.

Sean Machia noted no, but it felt like it sometimes.

Angelo Incerpi wanted to know what the capacity of upstairs was.

Doug Pastula thought it was 120 but suggested Troy Cochran be contacted to find out.

Angelo Incerpi wondered if the town had 120 chairs available to use upstairs.

Eric Bach thought it would give the community something to come together for. He would like the second floor to be use more often and was very much in favor of renting the upstairs.

Ken Linsley noted the elevator for handicap access needed to be checked. He noted there was no alcohol and no smoking on premises and Rock Farmer would need liability insurance.

Angelo Incerpi had concerns for people sneaking in alcohol.

Doug Pastula discussed the possibility of having the Sheriff available for the function.

Kellie Merrell was uncomfortable with the reduction in rate for a for profit organization however the upstairs was virtually never used and it would be a place for residents to come and bring in others to the town who may not necessarily come to Danville otherwise.

*Motion by Eric Bach, 2<sup>nd</sup> by Ken Linsley to accept request for a \$100 charge per show, Rock Farmer not to sell more tickets than the space holds, there will be no smoking and no alcohol on premises, Rock Farmer needs to show proof of liability, and the Town reserves the right to rescind the motion if references come back negative. Vote 4-0. Abstain: Doug Pastula.*

**Attorney Judy Corso – Legal Opinion** – discussed Sheriff's response. Ordinance treating people differently where they are from has to do with ethnicity not where they live. Biased free policing has to do with national, ethics, and religion. Where you live is not protected by nondiscrimination. Is this enforceable, her first reaction was that it was not enforceable however, it can be done, it is a public road and it is not telling people they cannot cross thru Danville. It is not so clear cut because they are public roads but the state prohibits ATVs on roads and town can regulate time, location, and place. There is a very good argument here and enforceable as the town is not interrupting interstate commerce. The town has the power to regulate roads. The town can tailor this as narrowly as possible.

Ken Linsley inquired what the town could do if the Sheriff wouldn't enforce.

Judy Corso noted there were others, such as the town could designate someone from the town who is authorized and trained.

Angelo Incerpi inquired if the Sheriff should enforce or be making this decision of enforcement.

Judy Corso noted the town hired the Sheriff by contract and he can terminate the contract.

Kellie Merrell inquired if the Sheriff could pick and choose what is in the contract.

Judy Corso noted she would have to read the contract. The nature of the Sheriff's office is they are more likely to be sued however he knows the procedure is not rigorous in legislature.

Ken Linsley inquired how the town could take away the concern, should they go to Attorney General.

Judy Corso noted an attorney would need to prepare an argument and description. There is reasonable agreement and a winnable argument.

Kellie Merrell discussed communicating Judy Corso's opinion to the Sheriff to see if it makes him more comfortable.

Angelo Incerpi discussed portion of the ordinance deemed illegal and the rest of the ordinance standing.

Judy Corso recommended calling and speaking with the Sheriff and getting his view. If he does not change his mind, then seek another opinion, or if not the answer you want, then the town can revoke the ordinance or change the ordinance. Use of public roads as for general traffic, the Legislature gives you the right to differentiate on the ATV use and limit.

Doug Pastula noted class 4 roads are open to ATVs per state statute.

Kellie Merrell noted she contacted Sarah Jarvis from VLCT for clarification and her advice to the Selectboard was to get advice from the town attorney.

Judy Corso noted she was asked to give her opinion on enforcing the ATV ordinance which is complicated and restrictive and she did, however if the Selectboard wanted her advice on the entire ordinance, she would give it at another time.

Ken Linsley noted step one was to have Judy Corso talk to the Sheriff and then the Selectboard could invite the Sheriff to a Selectboard meeting and discuss.

**4. Town Clerk** Wendy Somers absent, Audrey DeProspero reported the following:

- The glass door and windows have been installed in the Town Clerk's office. The black wrought iron gate will be added to the glass door by Joe Hollowell. Mayos' has ordered the lock for the glass door to secure the office which should be in sometime next week. Once the lock is installed, all meetings may resume on the first floor of Town Hall.
- Issue in Pope Cemetery where a cremation was buried and no death certificate was given to the Town Clerk. The Town Clerk is working on this issue with the family.

**5. Highway** Foreman Keith Gadapee reported the following:

- Grant for Environmental Mitigation was researched and the application for the grant was found to be more for fixing a problem so it was chosen not to apply.

**6. Issues and Information (All)**

- (a) Town Plan changes** – Kellie Merrell emailed her changes to the Planning Commission and Ken Linsley presented his changes in hard copy to Selectboard.

**Kellie Merrell changes:**

Page 48 Hyperlink at end of paragraph 3 should be

<http://dec.vermont.gov/watershed/lakes-ponds/lakeshores-lake-wise>.

Page 59, part 1.1. Change "all renewable energy projects" to "all energy projects".

Page 59, part 1.1.b. Change "Topography that causes the generation facility" to "Topography that causes the facility"

**Ken Linsley changes:**

Page 15: "Drive alone to work" should read "Drive alone to work"

Page 23: Double period after (CCSD).

Page 50: Morses Mill – Should be Morse's Mill

Page 59: 'either the municipal, legislative body' – Delete comma after municipal.

- (b) Rules of Procedure** – Document was distributed for Selectboard signatures. Motion was made at the August 3, 2017 Selectboard meeting to adopt the Model Rules of Procedure with changes. Selectboard signed the distributed Rules of Procedure document.

- (c) Cemetery Maintenance** –Eric Bach created a request for proposal (RFP) for print in the Caledonian Record. Investigation has determined that the Ward Cemetery is to be prioritized as it is in need of most work.

Motion by Angelo Incerpi, 2<sup>nd</sup> by Kellie Merrell to approve advertising for the Cemetery Maintenance RFP. All in favor.

(d) **Town Highway Curb Cut/Driveway Policy** – Document was distributed for Selectboard signatures. Motion was made at the August 3, 2017 Selectboard meeting to approve and sign the Town Highway Curb Cut/Driveway Policy. The original form had the date of September 1, 2016 which needed removal. The Selectboard signed the distributed Town Highway Curb Cut/Driveway Policy document.

(e) **60 Route 2 W – proposals review** – Ken Linsley reviewed list of submitted proposals from four firms regarding costs associated with analysis of any possible hazardous materials located in the building at 60 Route 2 W.

*Motion by Ken Linsley, 2<sup>nd</sup> by Eric Bach to accept contractor Clay Point as long as work can be completed by November 1, 2017. Vote 4-0. Abstain: Doug Pastula.*

(f) **Windswept Properties** – road name update – Jeremy McMullen has approved the road name of Upper Drive for the Windswept Properties and the Selectboard has previously approved the name at their July 20, 2017 meeting. Jeremy McMullen will add it as a new Class 3 road off of Walden Hill Road.

(g) **Town Hall Repairs** – Ken Linsley is collecting a list of items in need of fixing at Town Hall.

(h) **Bulky Waste Day – September 16 – Need Volunteer for Noon-3 pm** – Ken Linsley and Doug Pastula to work out coverage (Ken Linsley 8-10 & 1-3 and Doug Pastula 10-1).

(i) **DRB training** – Zoning Administrator, Linda Leone wanted the Selectboard to know that training for the DRB will be at Town Hall on Monday, October 23 at 7pm with Garret Baxter from VLCT. The cost of the seminar is \$415 and will be paid for from the DRB budget. (Linda Leone not in attendance, information given to Audrey DeProspero).

Selectboard members favored the training and attending.

(j) **Bandstand Request**– Amanda Chamberlain has requested the use of the gazebo on the Green for her Friday, June 15, 2018 wedding ceremony. There will be about 30-40 people in attendance, 20 vehicles, 25 chairs in front of the gazebo entrance creating an isle that she can walk down, and she will be decorating the gazebo that day and the decorations will be removed that day also. This request is before the Selectboard for permission.

Discussion ensued regarding liability and continuing with how things have been done in the past. No decision was made.

7. **Financials: Orders to review and sign** - Financials signed.

8. **Executive Session – Legal Matters - not needed.**

9. **Adjourn** - *Motion by Ken Linsley, 2<sup>nd</sup> by Angelo Incerpi to adjourn at 7:56 pm. All in favor.*