

**Danby Town Board
Minutes of Public Hearing and Regular Meeting
April 4, 2011**

Present:

Supervisor: Ric Dietrich
Councilpersons: Leslie Connors, Kathy Halton, Dan Klein, Dylan Race

Others Present:

Town Clerk Pamela Goddard
Code Enforcement Sue Beeners
Public Asher Hockett, Julie Kulik, Bob Strichartz, Joel Gagnon
Ronda Roaring, Sarah Elbert, Ted Crane

The Town Board meeting was preceded by a meeting of persons involved in Youth Services programming in Danby.

A discussion was held regarding the most effective ways to manage reduced funding for Youth Services and youth recreation. Another meeting, to prioritize the most effective use of funding, has been scheduled for 6:30pm, prior to the Town Board meeting on May 2, 2011.

A Public Hearing was called to order at 7:05pm.

Public Hearing: Local Law #2 of 2011:

Amending the Zoning Ordinance of the Town of Danby Related to Enforcement, Building Permits, Certificate of Occupancy, Temporary Certificate, Operating Permit, Planning Board, and Violations and Penalties. This amendment corrects numbering inconsistencies and changes Section 4, Subsection 3(a) from "shall additionally appoint" to "The Town may additionally appoint alternate members".

Public Comment and Questions

Correspondence was read from Edward Marx, Commissioner of Planning and Community Sustainability. The Commissioner reported that, "The Department has reviewed the proposal, as submitted, and has determined that it has no negative inter-community or county-wide impacts."

Sarah Elbert asked questions regarding the general zoning ordinance, particularly in regards the process of issuing permits and certificates of occupancy. She was concerned about rental units targeting college students being built in low density areas. This led to a general discussion about updating the Zoning Ordinance.

Ted Crane read a statement in favor of proposed the amendment. However, he did not think that the changes to wording related to appointing Alternates was necessarily in the best interest of the Town. He urged the Board to better define when Planning Board terms begin and end. He further urged the Board to appoint Alternates to the PB when possible.

Joel Gagnon expressed regretful support for the amendments. He made comments about the potential usefulness of Planning Board Alternates and expressed hope that Alternates would be appointed in the future. Passing this Amendment does not preclude appointing alternates.

Ronda Roaring also expressed support for the use of Alternates.

Beeners encouraged the Board to conduct a more complete review of the Zoning Ordinance in the near future. She stated that the Ordinance has not been updated since 2005 and is overdue for review.

The Public Hearing was closed at 7:33pm.

The Regular Meeting of the Danby Town Board was opened at 7:33pm.

Vote on Local Law #2 of 2011

The full text of this law is included in appendix A.

RESOLUTION NO. 44 OF 2011 - PROPOSED LOCAL LAW AMENDING ZONING ORDINANCE RELATED TO ENFORCEMENT, BUILDING PERMITS, CERTIFICATE OF OCCUPANCY, TEMPORARY CERTIFICATE, OPERATING PERMIT, PLANNING BOARD, AND VIOLATIONS AND PENALTIES – CONSIDER SEQRA DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE

WHEREAS, the Town Board of the Town of Danby is considering adoption of a Local Law Amending the Zoning Ordinance of the Town of Danby Related to Enforcement, Building Permits, Certificate of Occupancy, Temporary Certificate, Operating Permit, Planning Board, and Violations and Penalties; and

WHEREAS, the Town Board has classified the adoption of said Local Law as an Unlisted Action under 6NYCRR Part 617.6 of the implementing regulations for the New York State Environmental Quality Review Act (Environmental Conservation Law Article 8); and

WHEREAS, the Town Board has determined that it should be Lead Agency in environmental review of this action; and has so notified the involved agencies identified for this action, being the Town of Danby Planning Board and the Tompkins County Dept. of Planning; and

WHEREAS, the Town of Danby Planning Board by resolution on March 24, 2011 indicated its concurrence with said Lead Agency designation, and recommended that a negative determination of environmental significance be made for this action; and

WHEREAS, the Town Board has reviewed the Environmental Assessment Form for this action, and the recommendation of the Town's Code Enforcement Officer that a negative determination of environmental significance be made for this action;

NOW, THEREFORE, IT IS

RESOLVED, that the Town Board of the Town of Danby, acting as Lead Agency in environmental review of this Unlisted action, being the adoption of Town of Danby Local Law No. 2 of 2011, "A Local Law Amending the Zoning Ordinance of the Town of Danby Related to Enforcement, Building Permits, Certificate of Occupancy, Temporary Certificate, Operating Permit, Planning Board, and Violations and Penalties" declares that the Town Board is Lead Agency in environmental review of this Type I action; and it is

FURTHER RESOLVED, that the Town Board finds that this action will have no significant adverse impact on the environment; and it is

FURTHER RESOLVED, that the Town Board makes a negative determination of environmental significance for this action; and it is

FURTHER RESOLVED, that the Town Supervisor is hereby authorized and directed to complete and sign, as required, the determination of significance, confirming the foregoing negative determination, which fully completed and signed Environmental Assessment Form and determination of significance shall be incorporated by reference in this Resolution; and it is

FURTHER RESOLVED, that the Town Clerk deliver and/or file a copy of this Resolution with the following persons and agencies:

1. The Town Clerk of the Town of Danby.
2. The Town Supervisor of the Town of Danby.
3. The Town of Danby Planning Board and the Tompkins County Dept. of Planning; and it is

FURTHER RESOLVED, that this Resolution be posted and published in accord with law.

Moved by Klein, Second by Halton. The motion passed.

In Favor: Connors, Halton, Klein, Race, Dietrich

RESOLUTION NO. 45 OF 2011 - PROPOSED LOCAL LAW AMENDING ZONING ORDINANCE RELATED TO ENFORCEMENT, BUILDING PERMITS, CERTIFICATE OF OCCUPANCY, TEMPORARY CERTIFICATE, OPERATING PERMIT, PLANNING BOARD, AND VIOLATIONS AND PENALTIES – CONSIDER ADOPTION

WHEREAS, the Town Board of the Town of Danby is considering adoption of a Local Law Amending the Zoning Ordinance of the Town of Danby Related to Enforcement, Building Permits, Certificate of Occupancy, Temporary Certificate, Operating Permit, Planning Board, and Violations and Penalties; and

WHEREAS, the Town Board on April 4, 2011, acting as Lead Agency in environmental review of this Unlisted action, has made a negative determination of environmental significance; and

WHEREAS, the Town of Danby Planning Board by resolution on March 24, 2011 recommended adoption of this proposed local law; and

WHEREAS, the Tompkins County Planning Department on March 3, 2011 responded, pursuant to NYS General Municipal Law 239-l and -m that the Department had reviewed the proposal and had determined that it has no negative inter-community or county-wide impacts; and

WHEREAS, due notification to adjacent municipalities, county legislatures, and the N.Y. State Office of Parks, Recreation, and Historic Preservation has been made pursuant to Town Law 264; and

WHEREAS, the Town Board on April 4, 2011 has held a Public Hearings on this proposed local law, which Public Hearing was duly noticed in the Ithaca Journal;

NOW, THEREFORE, IT IS

RESOLVED, that the Town Board of the Town of Danby hereby adopts Local Law No. 2 of 2011 Amending the Zoning Ordinance of the Town of Danby Related to Enforcement, Building Permits, Certificate of Occupancy, Temporary Certificate, Operating Permit, Planning Board, and Violations and Penalties; and

FURTHER RESOLVED, that in accord with Section 21 of the Municipal Home Rule Law, the final adopted copy of this Local Law shall be presented to the Town Supervisor for approval; and it is

FURTHER RESOLVED, that upon such approval by the Supervisor (or other approval occurring pursuant to said Section 21 of the Municipal Home Rule Law), and within 20 days after the final adoption of this Local Law, the Town Clerk shall file a certified copy of this Local Law, together with the required Certifications, in the Office of the Town Clerk and with the New York State Secretary of State as required by Municipal Home Rule Law Section 27.

Moved by Klein, Second by Race. The motion passed.

In Favor: Connors, Halton, Klein, Race, Dietrich

Property Owner Hearing - 704 East Miller Road

Beeners recommended that the hearing be adjourned for a week. Notice to the owner, living in Florida, was not delivered until April 1, 2011. This would extend the opportunity for the owner or his agent to comment on the proposed remediation.

RESOLUTION NO. 46 OF 2011 - ADJOURN PROPERTY HEARING

Resolved, that the Town Board of the Town of Danby adjourns this hearing until April 11, 2011.

Moved by Dietrich, Second by Klein. The motion passed.

In Favor: Connors, Halton, Klein, Race, Dietrich

Privilege of the Floor

Ted Crane reported on Dryden Public Hearing for proposed “Sound Performance Ordinance.” He informed the board of some changes which have been made to this ordinance and the fact that there will be a second public hearing on April 20 at the Dryden Town Hall. Crane supports similar legislation but supports sound definitions which would better mitigate the effect of commercial and industrial noise.

The Town Clerk added that a copy of the revised proposed Ordinance has been received and copies will be distributed to the Danby Planning Board and Gas Drilling Task Force for review. Dietrich

encouraged the TB to review these materials and consider the efficacy of such an Ordinance for Danby.

Board of Assessment Review

Discussion of Assessment Review board appointments. Klein informed the board that Tom Seaney and Gould Coleman were willing to serve on this Board this year. The Assessment Review date is scheduled for May 16, 2011 from 3-6pm. Training will be held on May 4, 2011. Ted Crane stated that he was able and willing to serve, in the event that one of these appointees was unable to do so.

RESOLUTION NO. 47 OF 2011 - APPOINT ASSESSMENT REVIEW BOARD

RESOLVED, that the Town Board of the Town of Danby appoints Gould Coleman and Tom Seaney to the Danby Board of Assessment Review.

Moved by Klein, Second by Dietrich. The motion passed.

In Favor: Connors, Halton, Klein, Race, Dietrich

Computer/Internet Access

Dietrich requested that \$400 be allocated for this project. This money would be used for startup costs related to creating a wireless "hot spot" in the Danby Town Hall for public internet access. While Dietrich thought that less money might be used, this amount would cover unforeseen circumstances. A wireless router has recently been donated.

The Danby Library internet connection is available for this use. A set of rules and procedures has been drafted, based on those used by the Tompkins County Library. Crane and Dietrich will meet with the Danby Library volunteers during their meeting on April 6. There is general support from the Danby Library for this project.

Questions regarding the possible use of printers, cost of paper and ink cartridges, and available computer software were addressed. Free software and standard operating systems will be available.

RESOLUTION NO. 48 OF 2011 - FUNDING FOR TOWN HALL INTERNET ACCESS

RESOLVED, that the Town Board of the Town of Danby authorizes the expenditure of \$400 for public internet access in the Danby Town Hall.

Moved by Dietrich, Second by Klein. The motion passed.

In Favor: Connors, Halton, Klein, Race, Dietrich

Mapping Intern

Beeners presented a request on behalf of the Conservation Advisory Council for the expenditure of funds to hire an intern to help with developing a required open space inventory. This intern would work for ten weeks, twenty hours a week. Beeners distributed a job description, drafted by IC Professor Jake Brenner.

If this intern is from Cornell, the money would be matched by the University. If this is an Ithaca College intern they would, "have to live cheaply." This intern would also look at educational and outreach programming. There is no individual in mind. This will expand on what is being done for the Critical Environmental Areas committee.

RESOLUTION NO. 49 OF 2011 - CAC MAPPING INTERN

RESOLVED, that the Town Board of the Town of Danby approves the expenditure of \$1,875.00 from account 8020.401 to hire a GIS mapping intern for ten weeks work with the Conservation Advisory Council.

Moved by Halton, Second by Klein. The motion passed.

In Favor: Connors, Halton, Klein, Race, Dietrich

Town Wide Meeting:

Halton explained the general agenda for this meeting. Statements have been received for handout packets. Some presenters will present verbal reports. Elizabeth Owens Roe has agreed to act as facilitator. Owens Roe and Halton have drafted an agenda with "clumps" of presenters. Short, informal presentations will be encouraged. There will be a mid-meeting break for refreshments and informal questions and answers. Preliminary feedback is positive.

Road Laws:

Dietrich and Halton reported on efforts, county wide, regarding Road Use Agreements and Laws. They state that progress is being made. Intermunicipal meetings will be held on April 15 and 18. The County is revising the proposed law which recently went to public hearing.

It is hoped that Danby's proposed law will soon be provided by Delta Engineering. A deadline of April 4, 2011 has not been met. Supervisor Dietrich is investigating the procedure for possible Breach of Contract action.

Halton and Dietrich additionally described disagreements as to whether Road Use Laws or Road Use Agreements are of most benefit to municipalities. Some legal opinions prefer Road Use Agreement Contracts as being more binding.

Gas Drilling Task Force: Survey Resolution #43 of 2011

Dietrich explain some concerns and a the desire to pull back from an official resolution. There is a concern that information gathered in a Town-sponsored survey would be subject to FOIL laws. Dietrich suggested replacing this with a strong statement from the Board that high impact industrial activity (such as high impact gas drilling) is inconsistent with the Town Comprehensive Plan and all attempts by the Town to regulate land use. He stated that such industrial activity could be a catastrophic event for the Town, and that it is important to assess where residents of the Town stand on the issue. Connors viewed such a survey as a method of gathering information about what people think about the issue. Other Towns are doing this through private citizens groups.

Halton informed the Board that any survey may not be done officially by the Danby Gas Drilling Task Force but rather by a citizen subset of that committee. Halton offered to present the concerns of the TB to the Gas Drilling Task Force at its next meeting.

There was a lengthy discussion about a proposal put forward by Dan Klein and some response by the Town Attorney Guy Krogh. The Clerk will forward Krogh's legal opinion on this proposal to the Board. This led to a discussion about the need to slightly amend the Danby Comprehensive Plan and to review the current zoning ordinance. Halton encouraged the Board to re-read the Comp Plan with an eye toward industrial development and gas drilling. The Board will follow up on this issue in May.

Rapid Waters Strategic Plan Meeting

Beeners initiated a discussion about the Town Board response to the Unit Management Plan for the "Rapid Waters" Danby State Forest. Several Danby representatives will attend the April 14 public hearing in Candor. There is a May 14 deadline for submitting written comments. The Town Board will attend this meeting and submit written comments following the public hearing.

Adjournment

The Meeting was adjourned at 9:07pm.

Pamela S Goddard, Town Clerk

Appendix A

**Town of Danby
Local Law No. 2 of 2011
A LOCAL LAW AMENDING THE
ZONING ORDINANCE OF THE TOWN OF DANBY
RELATED TO ENFORCEMENT, BUILDING PERMITS,
CERTIFICATE OF OCCUPANCY, TEMPORARY CERTIFICATE,
OPERATING PERMIT, PLANNING BOARD,
AND VIOLATIONS AND PENALTIES
Passed 04-April-2011**

Be it enacted by the Town Board of the Town of Danby as follows:

Section 1.

The Zoning Ordinance of the Town of Danby, adopted by the Town Board of the Town of Danby on December 11, 1991, and subsequently amended through February 8, 2010 is hereby further amended as set forth herein.

Section 2.

Article XI, Section 1100 –ENFORCEMENT is hereby amended to read as follows:

“Section 1100 – ENFORCEMENT. This ordinance shall be enforced by a person designated by the Town Board (herein referred to as the Code Enforcement Officer) who shall not grant any Building Permit, Certificate of Occupancy, Temporary Certificate, Certificate of Compliance, or Operating Permit (as such permits and certificates are defined and provided for in Town of Danby Local Law No. 1 of 2007, “A Local Law Amending Local Law No. 3 of 1984, Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code”) which would be in violation of any provision of this ordinance, except under a written order of the Board of Zoning Appeals.”

Section 3.

Article XI, Section 1101 – PERMIT TO BUILD is hereby deleted in its entirety, and replaced with a new Section 1101 to read as follows:

“Section 1101 - BUILDING PERMIT, CERTIFICATE OF OCCUPANCY, TEMPORARY CERTIFICATE, CERTIFICATE OF COMPLIANCE, OPERATING PERMIT.

1. Notwithstanding various additional requirements of this ordinance, (including but not necessarily limited to Site Plans and Special Permits) the definitions of Building Permit, Certificate of Occupancy, Temporary Certificate, Certificate of Compliance, and Operating Permit, and the provisions and requirements for same, are provided in Town of Danby Local Law No. 1 of 2007, “A Local Law Amending Local Law No. 3 of 1984, Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code,” hereafter referred to as the “Town’s Code Enforcement Law.”
2. Each property owner shall, with respect to his or her property, be responsible for compliance with all terms of this Zoning Ordinance, the Town’s Code Enforcement Law, and the Town’s Stormwater Local Law, each and all as now exist or as hereafter amended.”

Section 4.

Article XI, Section 1105 – PLANNING BOARD, Subsection 3 (a) is hereby amended to read as follows:

“3. Alternate Members.

a. The Town Board may additionally appoint two (2) alternate members of the Planning Board to substitute, on an alternating basis, for a regular member of the Planning Board, in the event that such regular member is unable to participate in a particular Planning Board meeting because of a conflict of interest, illness, extended (longer than one month) absence from the Town, or is otherwise disqualified.”

Section 5.

Article XI, Section 1107 – VIOLATIONS AND PENALTIES (which was erroneously renumbered from Section 1106 to Section 1107 in Local Law No. 2 of 2007) is hereby renumbered as Section 1106.

Section 6. Partial Invalidity.

If any provision of this local law is found to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other provisions of this local law.

Section 7. Effective Date.

This local law shall take effect 10 (ten) days after its publication in the official newspaper of the Town or on the date it is filed in the Office of the Secretary of State of the State of New York, whichever is later.