

**Danby Town Board  
Minutes of Public Hearing and Meeting  
January 20, 2014**

**Present:**

Supervisor: Ric Dietrich  
Councilpersons: Rebecca Brenner, Leslie Connors, Jim Holahan

**Others Present:**

Town Clerk Pamela Goddard  
Code Officer Sue Beeners  
Highway Dept. Carl Seamon, Jack Shawley Jr.  
Town Attorney Guy Krogh  
Public Ted Crane, Ronda Roaring, Jack Miller, Ted Jones, Deanne DeMark, Erick Palmer, Ted Melchen, Dan Klein, Kathleen Norkus, Gergory Norkus, Clair Borch, Anthony Augustine, Butch Miller, Kelly Morris, Nancy Medsker, Tom Seaney, Anne Klingensmith, and several others, up to 21 people.

**The Town Board held interviews for the Town Board Vacancy from 5:45-7:00**

Jack Miller Jr., Ted Jones, and Ted Crane were interviewed for the vacant position on the Danby Town Board. Each applicant was given the opportunity to discuss their interest in and experience related to the position. Town Board members asked similar questions of each applicant.

**The Danby Town Board Public Hearing was opened at 7:05pm**

PUBLIC HEARING to Consider a Petition requesting the discontinuance of a 620+/- portion of Marsh Road as a minimum maintenance/seasonal road, and its change to a year-round road. Erick C. Palmer, petitioner.

**Public Hearing**

Four pieces of written correspondence were received and read into the record: Camille Duecet, 30 Marsh Road, wrote in opposition to the proposal on the grounds that the land in this area of Marsh Road should be protected as wild land and protected from building. She also noted that the existing year round road is in poor repair. She was also concerned about potential financial burden on the Town.

Katherine Hunter wrote with concerns about the potential development of this area should the year round section of Marsh Road be extended. She was also concerned financial burden to the Town.

Henrike Burton, 38 Marsh Road, wrote in opposition to the proposal and expressed concerns that the change in road status would change the character of the area and impact the natural environment. She strongly felt that this area should be protected.

Diane Olden, 56 Durfee Hill Road, wrote in opposition to the proposal with concerns about costs to the town, increased traffic, and that this "paves the way" for development in Deputron Hollow.

People heard: Ted Melchen spoke in favor of the request, stating that he was exploring putting his 42 acres of land into a conservation easement.

Greg Norkus, 108 Marsh Road, expressed several concerns about the environmental impacts of widening and improving the road. His property is adjacent to the section of road in question. He would prefer to not have the road extension. More access might mean more illegal dumping and trespass. He is concern about the loss of sugar maples along that section of road. Wetlands anchor the ends of the section of road in question.

Dan Klein, 56 Durfee Hill Road, expressed several concerns about the cost of upgrading the road. He was concerned that this would open up more building lots which would require even additional improvements. He was concerned about precedent and future liability.

Butch Miller, East Miller Road, spoke in favor of the request.

Tony Augustine spoke in favor of the request. In his view, the cost of improving the road would be covered by an increased tax base from new houses.

Ronda Roaring spoke in opposition to the request. She disagreed with the assertion that more houses would balance costs to the Town. She promotes preservation of Deputron Hollow as important habitat for wild life.

Melchen and Palmer spoke about intent to put land into a conservation easement. Palmer asserted that he did not want more development along that section of Marsh Road. He stated that he is only interested in building one house, that he did not want to see the road widened. Dietrich notes that this is new information.

Code Officer Beeners responded to cost estimates for the design concept, as reviewed by fire/rescue emergency response. There were two cost estimates: one with minimal impact with no ditching, additional stone, 10 foot width, and a turnaround near the pole barn driveway. Beeners noted that, due to condition of the existing year round turnround, there are special considerations for emergency vehicles. At this time, two vehicles can not pass on that section of road. This estimate, in the range of \$25,000-\$30,000 includes all of the above. The second estimate, making this a two lane road, is more in the range of \$40,000. The trigger for upgrading from a single to two lane road is traffic which exceeds 49 trips per day average. In Beeners opinion, this was unlikely under current circumstances.

Anne Klingensmith spoke in opposition, stating her concern that higher density in this special area not be enabled. She cautioned the Board that this needs careful deliberation of unintended consequences. Klingensmith recommended that deed restrictions and limits should be written, legal terms.

Ted Crane, 605 West King Road, spoke his concerns about cost to the Town, but noted that there are other options, such as Palmer creating access to a pole barn via a driveway from his existing property. A compromise might be possible. A conservation easement might add to that compromise.

Tom Seaney, Marsh Road, expressed concerns about Town money being used for private benefit. He expressed the view that the owner should pay for that improvement. The applicants responded that they are not asking Town to pay. They were willing to share expense, but not \$30,000. Palmer believes that the road already up to standard, and had heard from the Highway Superintendent that there only needed to be some ditching work. There was discussion of how cost estimate was provided.

There was a suggestion from the floor that a vote on this request be tabled until further action, including movement on a conservation easement and management plan for Deputron Hollow can be put in place.

Nancy Medsker, Marsh Road, expressed confusion as to the details of the plan for this requested improvement. She stated that Palmer had good intentions, that she had no problem with a pole barn for horses, but had concerns about the impacts on the road from a potential new house lot. She was concerned about adding roads to the Town's maintenance, that Marsh Road in is poor condition and that the existing section of year round road needs to be addressed.

Beeners attempted to clarify the local law regarding road delineation on this specific part of Marsh Road, how many residences are served by the road, and standards related to traffic volume and road width.

Dietrich asked for some comments from Town Attorney, Guy Krogh. He advised the Board that they need to make a determination of use of public funds. The Board needs to determine whether there is a public purpose to that expenditure. On the other hand, Towns exist to do what private property owners can not. There is a need to balance these needs.

### **The Danby Town Board Public Hearing was closed at 7:55pm**

The Town Supervisor called for a short recess, prior to opening the regular meeting.

## **The Danby Town Board meeting was opened at 8:05pm**

### **Executive Session**

Ric Dietrich moved that the Town Board enter executive session to discuss the personnel matter of appointing a Town Board member to the current vacancy. The Motion to Enter Executive Session was seconded by Leslie Connors and was voted AYE unanimously.

The Town Board entered Executive Session at 8:10pm. Executive session was closed at 8:48pm.

### **Appoint Delegate to the Annual Association of Towns Meeting**

There was brief discussion regarding appointment of a voting representative to the 2014 annual Association of Towns meeting in New York City.

#### **RESOLUTION NO. 22 OF 2013 - APPOINTMENT OF TOWN DELEGATE TO ASSOCIATION OF TOWNS MEETING**

**Resolved**, That the Town Board of the Town of Danby appoints Leslie Connors as its voting representative to the annual meeting of the New York State Association of Towns.

**Moved by Brenner, Second by Holahan. The motion passed.**

**In Favor: Brenner, Connors, Holahan, Dietrich**

### **Appoint to Town Board Vacancy**

#### **RESOLUTION NO. 23 OF 2013 - APPOINTMENT OF TOWN BOARD VACANCY**

**Resolved**, That the Town Board of the Town of Danby appoints Jack Miller Jr. to fill a current vacancy on the Danby Town Board for the year 2014.

**Moved by Holahan, Second by Connors. The motion passed.**

**In Favor: Brenner, Connors, Holahan, Dietrich**

### **Appoint to Planning Board Chair**

#### **RESOLUTION NO. 24 OF 2013 - APPOINTMENT OF PLANNING BOARD CHAIR**

**Resolved**, That the Town Board of the Town of Danby appoints Frank Kruppa to Chair of the Danby Planning Board for the year 2014.

**Moved by Connors, Second by Brenner. The motion passed.**

**In Favor: Brenner, Connors, Holahan, Dietrich**

### **Set Town Board Meetings**

There was further discussion of whether to alter the regular schedule of Town Board meetings from second and third Mondays to second Monday and third Tuesdays. The Fire District meets on Tuesdays, the Fire Department meets on Mondays. There was discussion as to whether third Tuesdays would be a conflict with Court schedule. Tuesday evenings were problematic for Jack Miller.

#### **RESOLUTION NO. 25 OF 2014 - TOWN BOARD MEETINGS**

**Resolved**, That the Town Board of the Town of Danby regular monthly board meetings be scheduled at 7:00pm on the second and third Monday of each month for the year 2014.

**Moved by Connors, Second by Holahan. The motion passed.**

**In Favor: Brenner, Connors, Holahan, Dietrich**

### **Set Public Hearing - Conservation Easement**

There was a discussion regarding a scheduling a hearing for a proposed Deed of Conservation Easement on 26 acres +/- of property at the intersection of West King and Sand Bank Roads. Dan Klein gave an overview of the proposal, on behalf of the Conservation Advisory Council. Clarification was given regarding the status of the draft Deed and review of the same by the Town Attorney on

behalf of the Conservation Advisory Council. There was related discussion to the SEQR classification related to this matter. All materials relevant to setting a public hearing were in order.

Brenner had questions about whether the Town would be in a position of liability through holding Conservation Easements on property. Her concern was regarding financial liability in legal defense of such easements far in the future. Klein argued that defense and security of an easement was strengthened by being held by a municipality, on the grounds that a municipality will also be in existence in perpetuity. Brenner noted that, as a citizen, she is strongly in favor of conservation easements. Her concern, as a Councilperson, is for the long term financial responsibility for these agreements. Beeners noted that the Town Attorney has added a strong indemnity clause to the proposed Deed. It is also hoped that private donations will help support long term easement protection. An account has already been established for this use.

Dietrich and Klein spoke in favor of Conservation Easements as a way to preserve land from development and encourage preservation of open space through voluntary measures.

Holahan raised a question about the construction of agricultural related buildings, including product marketing and sales buildings, as part of the permitted uses. He questioned whether a beverage tasting room, such as a wine tasting room, would be allowed. Klein noted that structures which would support agriculture and support the goals of the easement would most likely be allowed. Beeners noted that such structures would fall under "customary uses" as defined in the current Zoning Ordinance and all other regulations. Farm buildings exempt from the Ag and Markets law are extremely limited.

Brenner had a question as to whether deeds of conservation easement would impact the tax rolls. Currently, a deed of conservation easement does not affect assessment for property tax. Those whose property is held in a conservation easement receive a credit on their state and federal income tax.

#### **RESOLUTION NO. 26 OF 2014 - SET PUBLIC HEARING - CONSERVATION EASEMENT**

**Resolved**, That the Town Board of the Town of Danby sets a public hearing to consider a Deed of Conservation Easement on property tax parcel 1.-1-3.32 at the intersection of West King and Sand Bank Roads as described in schedule A of the Conservation Easement package, for February 10 at 7:00pm.

**Moved by Dietrich, Second by Connors. The motion passed.**

**In Favor: Brenner, Connors, Holahan, Dietrich**

### **February Meetings**

Reviewing the schedule for a Conservation Easement hearing raised the need to shift meetings in February. Due to attendance at the Association of Towns meeting and the President's Holiday weekend, the Board would not have a quorum on February 17.

#### **RESOLUTION NO. 27 OF 2014 - FEBRUARY TOWN BOARD MEETINGS**

**Resolved**, That the Town Board of the Town of Danby will hold its 2014 February meetings on February 3 at 7:30 and February 10 at 7:00pm.

**Moved by Connors, Second by Holahan. The motion passed.**

**In Favor: Brenner, Connors, Holahan, Dietrich**

### **Alarm System**

Beeners provided more information regarding a proposal for a new alarm system for the Town Hall. The new system would include new panels and five "panic" buttons. Prevailing wage estimates have been collected from Pleasant Valley Electric and Westfire, local companies. Additional estimates/quotes are being gathered. Both systems come with a warranty.

Beeners asked the Board to move on authorization of expenditure, even though a final agreement has not been reached, as the building is presently under served by the alarm system. The connection with the monitoring system is not consistent. This problem has developed due to the system being

upgraded by different firms over the 10 years since its initial installation. The devices are at the end of their expected life time.

#### **RESOLUTION NO. 28 OF 2014 - AUTHORIZATION TO EXPEND FUNDS - ALARM SYSTEM**

**Resolved**, that the Town Board of Town of Danby authorizes the expenditure of up to \$6,000, to be a transfer from the Town Buildings Fund, for the purpose of replacing the town hall alarm system, including up to five "panic buttons" for staff and court offices.

**Moved by Brenner, Second by Connors. The motion passed.**

**In Favor: Brenner, Connors, Holahan, Dietrich**

#### **Marsh Road Consideration**

There was a discussion regarding how to proceed with the Marsh Road expansion request. Topics of consideration included whether granting this request would be in the greater public good particularly in relation to new information regarding the potential for large amounts of land from Palmer and Melchen being put into conservation easements. If the Town Board denies the request, the applicant may not reapply for two years.

Dietrich suggested that any decision be tabled pending more details on new aspects of the Palmer proposal. He reported that Palmer was urged to draft a revised proposal, gain neighbor support, and bring the new information to the Board. The Board asked for specific information as to how many building lots would be opened up if the road were improved. The Board also requires clarity from the applicant regarding covering the cost of the potential improvements.

Beeners noted that the Melchen property lacks sufficient frontage for building lots and should not be included in the equation of potential development. She also informed the Board that a lengthy procedure would be necessary, even if the Board agrees to approve the request. That procedure includes drafting a long form SEQR review, a possible wet lands delineation, environmental review, further road evaluation and a traffic study. There was also discussion regarding the option for the applicant to construct a shared driveway, on his current property, to the proposed pole barn/second dwelling. This would require a variance through the Board of Zoning Appeals.

The Board agreed to table this item until its February 3 meeting, with receipt of additional information.

#### **Interview Planning Board Candidates**

The Town Board agreed to schedule interviews applicants to the current Planning Board vacancy on January 27, from 5:45 to 6:45 prior to the Conservation Advisory Council meeting.

#### **Adjournment**

The Meeting was adjourned at 9:55pm.

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Pamela Goddard, Town Clerk