

**Danby Town Board
Minutes of Regular Meeting
May 19, 2014
DRAFT**

Present:

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

Others Present:

Town Clerk Pamela Goddard
Code Officer Sue Beeners
Bookkeeper Laura Shawley
Town Attorney Guy Krogh
Public Ted Crane, Ronda Roaring, Deanne DeMark, Erick Palmer, Craig Palmer, Judith Palmer, Dan Klein, Ted Melchen, Henrike Burton, Henrik Spoon, Warren Cross, Todd Rose, Nancy Medsker, Tom Seaney, Carol Bushberg, Tomo Shibata, and several others.

The Danby Town Board held a financial workshop with bookkeeper Shawley at 6:00pm

The Danby Town Board Meeting was opened at 7:06pm

Privilege of the Floor

Warren Cross spoke in opposition to a preliminary request from Tomo Shibata (360 East Miller Road) regarding a potential zoning redesignation from low to medium density. He spoke of the inherent value of undeveloped green space and open land for wildlife habitat.

Carol Bushberg spoke in opposition of this request and noted the correspondence on this matter that she had sent to the Board. Additional correspondence in opposition to this request was received from Jamie Sorrentino (595 Nelson Road), Eric and Cathleen Banford (401 East Miller Road), Kizer Walker and Carmi Orenstein (338 East Miller), and Kevin and Annette Ernste (corner, East Miller and Nelson Road).

Ted Crane reminded those in attendance of the School Board and budget vote, being held in the Danby and West Danby Fire Halls on May 20, Noon—9:00pm.

Correspondence

The Town Board held a discussion related to correspondence responding to Tomo Shibata's informal request that the Town Board consider a zoning change in the locality of East Miller and Nelson Roads. Supervisor Dietrich voiced the opinion that the request has no merit and will not benefit the area. He further stated that the applicant has the legal right to make a formal request to the Planning Board. Connors suggested that the Board pass a motion discouraging the applicant and informing the applicant that the Town Board is not interested in changing the zoning.

MOTION OF INTENT - REQUEST WITHOUT MERIT

Moved, that the Town Board of Town of Danby has considered a request for the locality of 360 East Miller Road to be rezoned from low to medium density. Based on an informal review of the request, the Town Board finds that the application does not have merit and may not be successful.

**Moved by Connors, Second by Dietrich. The motion passed.
In Favor: Brenner, Connors, Holahan, Miller, Dietrich**

Approve Minutes

Brenner noted one correction for the draft April 21 minutes: that the word “salary” be corrected to “stipend” in the section regarding appointments to Pond Supervisor. There were no other corrections or changes.

RESOLUTION NO. 59 OF 2014 - APPROVE MINUTES

Resolved, that the Town Board of Town of Danby approves the minutes of April 21, 2014, as amended.

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

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

Marsh Road Extension Request - Q&A with Town Attorney

Supervisor Dietrich opened a public “question and answer” session regarding the TB decision to move forward with a reclassification of a section of Marsh Road from seasonal to year-round use. He invited anyone to ask any questions related to legal considerations of this matter.

There were several questions from Dan Klein for the Attorney and for the Board. He noted that he was speaking as an individual resident and not in any other capacity. He asked whether the Danby Road Classification law is valid. This was affirmed. Klein asked if this is setting precedent for future requests to reclassify a section of road? The Town Attorney responded, “no,” in that this decision is fact- and site-specific. In response to a question, Attorney Krogh advised that a seasonal road is a public highway and that there is no prohibition, in State road law, to building a house on a public highway. Krogh went into some detail on this matter.

Supervisor Dietrich clarified the intent of the Road Classification Law as being a control against high costs for improving sections of minimum maintenance roads. Dietrich asserted that the law was never intended to be a unilateral prohibition on development in these areas. Following information from the Town Attorney in previous meetings, members of the Town Board came to the understanding that the Road Classification Law is not a land use regulation. Zoning regulations may need to be reviewed and revised to regulate land use. Dietrich and others presented the view that the agreements (eg: Conservation Easements and the applicant paying for road improvements) related to this road reclassification request are a public benefit and a net gain for the Town.

There were several questions related to a presumed protection against development already in place through the Danby road classification law. The view of the Supervisor and some members of the Town Board was that the restrictions in a Conservation Easement are stronger and longer lasting than those of a local law. The benefit of promised Conservation Easements on 100 acres (+/-) are a strong, non-regulatory method of meeting the Town’s goal of preserving open space and the rural character of Danby. Easements will protect the land in perpetuity, while local laws can be changed by the Town Board at any time.

There was extensive discussion clarifying the intents and protections of Conservation Easements through the Town of Danby. The limitations of use/development placed on a Conservation Easement are negotiated between the land owner and the Conservation Advisory Council and approved by the Town Board. The specifics of the Conservation Easements being negotiated on the Marsh Road properties limit development building to one residence. Attorney Krogh noted that, while Conservation Easements are a stronger protection than anything else devised, the limitations on allowed uses in a Conservation Easement may be overturned through an act by a Supreme Court judge.

There was a question regarding a possible wetlands delineation on the Norkus property across the road from Palmer. Supervisor Dietrich referred the question to Code Officer Beeners, who responded that this does not appear to be necessary under the current review. In response to Klein’s assertion that the decision to reclassify Marsh Road opens between three and six building lots, Beeners noted that this would be very difficult and costly. In addition, the 90-acre Wimsatt property has only 50 feet of road frontage and the Wimsatt family is also considering a Conservation Easement on their land. The approval of up to three Boards, and the possible review of the Conservation Advisory Council, would be required to build on these lands.

There was a question regarding the need for an improved emergency vehicle turn around. Klein asked for documentation that the current plow/emergency vehicle turn around is inadequate. Fire Code requires that two emergency vehicles are able to pass each other. Connors responded that the Highway and Fire Departments have found that the existing turnaround is acceptable. Making the turnaround larger would be beneficial and would make their jobs easier. This would allow leaving the road a single lane, two-way road. There was further question and answer regarding the Marsh Road turnaround without additional substantial information.

There was a question regarding whether the Town Board will actively participate in the Conservation Easement negotiation. The answer was yes, and any Easement must be approved by the Town Board. Brenner reported on a CAC visit to the property and a meeting between Palmer and CAC representatives. The goal is to move forward with open dialogue. Palmer and Melchen informed those in attendance that close to 100 acres is “on the table.” Forty two acres was proposed at the time of the April 21 reclassification resolution. The acreage being considered for easement has increased. This led to an extensive discussion regarding potential Conservation Easements in this area.

Holahan stated that the promise to put a substantial amount of land into Conservation Easements was pivotal in the TB decision to move ahead with consideration of the road reclassification request.

Medsker asked the Board and Attorney whether it was possible to add wording to the final resolution, that would protect against this case being a precedent for reclassification of additional sections of this road. Attorney Krogh advised that language as a defense against challenge and precedent can be put in the “whereas” clauses.

Beeners informed the Board that the short form SEQR review and half page local law changing the road designation on a portion of Marsh Road will be transmitted to them well in advance of the next TB meeting. The Board agreed to have a work session during the week prior to its June 9 meeting, to review the SEQR form. A date will be arranged.

Solar Tompkins Presentation

Danby Resident, Guillermo Metz made a presentation on behalf of Tompkins County Cooperative Extension. The new “Solar Tompkins” program is an expanded project to bring less expensive solar energy to homes, similar to last summer’s “Solarize Tompkins SE” but covering the entire county. The installers will be chosen soon. Community information sessions to be held in Danby on June 5 at Danby Town Hall and on June 24 at the West Danby Fire Hall. Other Towns will also have at least two meetings.

Community solar tours are also happening in each town. One was held in Danby on May 10 with two homes, on Durfee Hill and Marsh Roads. Another solar tour will be held in West Danby. Metz informed the board that Solarize Tompkins had approximately 100 contracts for solar installations signed last year. That group hopes to complete those installations this summer.

Metz invited the Town Board to a media conference, at 10am on Tuesday May 27 at the Sustainability Center. The installers will be announced at that time. He also informed the Board that the Cooperative Extension “Solar Tompkins” program will be a one time boost for solar installations. They do not want to obstruct normal business competition.

Email Research Report

Holahan made a request that a resolution be considered, authorizing expenditure of funds for the creation and maintenance of a Town-government-wide Email system. He answered questions about the same. The proposed expenditure is dedicated to an Email system. This will be hosted by Microsoft Exchange and set up through SCT Computing. He believes that the system will meet the Town's requirements.

There was clarification that the Email records created and captured by this system are those which are regarding Town business, not personal messages.

RESOLUTION NO. 60 OF 2014 - AUTHORIZE EXPENDITURE OF FUNDS FOR TOWN EMAIL SYSTEM

Whereas the NYS Archives and Records Administration (NYSARA) system has found that Email messages regarding municipal business are official records and must be retained as evidence of official policies, actions, decisions, or transactions, and

Whereas NYSARA recommends that municipal email systems be created and maintained in order to be identified, accessible, and retained, and

Whereas the Town Board has researched several Email systems for effectiveness and cost, and

Whereas the Town of Danby currently has a three year Computer Maintenance Agreement with SCT Computers Inc., and

Whereas a proposal for for an email system set up through SCT Computers meets Danby's retention needs and cost parameters,

Now therefore be it

Resolved, that the Town Board of the Town of Danby authorizes the expenditure of up to \$1,500 for up to 30 municipal email addresses (at \$4/user/month) and \$520 up to eight hours of set up time by SCT Computers, Inc., and

Further Resolved, that expenditures for 2014 shall be paid from the General Fund Fund Balance and the Town Board approves the increase of the computer service account directly from Fund Balance, and

Further Resolved, that in future years the cost will be budgeted in the normal budget process.

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

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

Code Office Report

The April Code Enforcement report was distributed to the Board. Beeners drew attention to the "year to date" income from building permits. These represent not only new construction but renovations and the installation of solar systems. Beeners noted that this is a major increase over recent years.

There was a related discussion of zoning review and addressing land use issues. There seems to be benefit in new non-regulatory measures, such as Conservation Easements.

Conservation Advisory Council Liaison

Brenner made a suggestion that a member of the current TB be appointed liaison to the CAC. Miller agreed to be liaison to this council.

Adjourn

The meeting was adjourned at 9:00pm.

Pamela Goddard, Town Clerk