

**Danby Town Board
Minutes of Regular Meeting
July 11, 2016
DRAFT**

Present:

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

Others Present:

Town Clerk Pamela Goddard
Bookkeeper Laura Shawley
Planner CJ Randall
Public Ted Crane, Ronda Roaring, David Hall, Pat Woodworth, Charles Tilton, Dan Klein, Katharine Hunter, Scott Davis, Kelly Makosch, Kenny Makosch, Kizes Wlaker, Carmi Neustein, Pam & Lew Billington, Susan Franklin.

Regular Meeting Opened at 7:02pm

7:03 - Open Public Hearing, Groundwater Protection Law

Please take notice, the Town Board of the Town of Danby holds a public hearing to hear all comments of interested persons related to considering adoption of Town of Danby Local Law 1 of 2016 "Town of Danby Groundwater Protection Law." The intent of this local law is to comprehensively protect and preserve the quality and quantity of the Town's groundwater resources. This proposed local law has been formulated to protect groundwater resources that serve as the sole source of drinking water for residents and businesses in Danby. The law amends the Town's existing Zoning Ordinance to afford adequate protection of groundwater resources.

Scott Davis spoke in support of the Groundwater Protection Law. He expressed appreciation for information and clarification from Planner Randall.

Correspondence had been received from Ronda Roaring. In that correspondence, Roaring expressed concern that the law, "has no teeth," and questioned why it should be passed if there is not adequate enforcement. Roaring asked what protections there would be for already existing private wells. Dietrich noted that the water resources situation in Danby is complicated. It is hoped that additional research and mapping will improve safeguards for property owners.

Joel Gagnon spoke in support of the process of drafting proposed law and support for passage of the law. In his view, this addresses many water resource concerns and is an important law to pass.

Ted Crane spoke in support of the proposed law. He urged the Board to fund additional test wells for more research in sensitive areas, particularly the "Danby Highlands" in the Comfort/Bald Hill Road and Durfee Hill/Marsh/Deputron Hollow Road areas.

Katharine Hunter spoke in support of water protection and zoning for protection. She expressed concern regarding development through subdivisions and the need to bring in, and then dispose of, supplemental water.

Charles Tilton spoke in support of this proposed law. He expressed appreciation for the level of study that has gone into this zoning addition and noted the presence of rare species that depend on water sources.

Planner CJ Randall provided information regarding an expected revision to the draft Groundwater Protection Law, related to bulk/commercial extraction. This is as a result of some recent case law finding that municipalities may prohibit the commercial bulk extraction of water through zoning. Thanks to this finding, the Danby Groundwater Protection Law is being revised to prohibit this extraction throughout the Town, not just in the overlay zones. A final version of this law will be available to the Town Board and

available for public review by the last week of July. Public comments are welcome through that time, as the public hearing will remain open.

7:24 - Adjourn Public Hearing

Clerk Goddard announced that the Public Hearing will reconvene at the Danby Town Hall on Monday August 8, 7pm

Subdivision Presentation

CJ Randall made a presentation regarding amendments to the Town of Danby Subdivision Regulations. Randall provided a brief history of the adoption and revisions to the Town of Danby Subdivision and Land Division Regulations. She described the current amendment as a fairly minor revision that replaces land division by permit with a review process before the Planning Board. Randall noted that, as reflected by NYS Law, it is not appropriate for the Planner to have authority to approve land divisions by simple permit. Planning Boards are given this authority by NYS Planning Law. In Randall's view, having "more eyes" on the subdivision process will result in better projects for both the applicant and the Town.

Randall advised the Board and residents that this is not a change in zoning, lot sizes, or potential development. Rather, this will result in a more clearly defined process. She further asserted that the amendment to the Subdivision approval process is more in keeping with the vision statement in the Danby Comprehensive Plan; to preserve rural character - open space and agricultural land, enhancement of natural environment, orderly growth, not disrupting neighborhoods. Randall described this as an "incremental step" toward a larger vision in the Comprehensive Plan.

Q&A with residents. A resident asked whether open space would include woodlands? Randall answered that, yes, open space would include woodlots and forestry. She referenced open space in relation to the natural resources inventory, including fields, parks, wetlands, woodlands, and agricultural lands. Another resident asked whether it is possible to have open space with structures on it? Randall answered that it depends on the structure.

Randall described "big picture goals" to preserve open space and encourage "sustainable development." She gave examples of "smart growth" in agricultural lands and "user-friendly zoning." There was a related discussion of "revenue positive smart development," traditional subdivision vs. conservation subdivision, and "sustainable development."

There was a question/discussion regarding whether there will there be changes to the underlying zoning to fix areas that have "gone wrong"? Randall noted that previous subdivisions, which may not meet the goals of the comprehensive plan, were signed off administratively in the Code Office. The new procedure will increase public review of subdivision requests. She noted that the proposed amendment is a small step and that changes to zoning are an on-going conversation.

7:42 Public Hearing, Subdivision Amendments

Please take notice, the Town Board of the Town of Danby holds a public hearing to hear all comments of interested persons related to considering adoption of Town of Danby Local Law 2 of 2016 "A Local Law Amending the Subdivision and Land Division Regulations of the Town of Danby," The intent of this local law is that, "The power to approve, approve with conditions, or deny subdivision plat applications is vested in the Planning Board as provided by these regulations. Land annexations are not subject to Subdivision Review, as defined herein, but rather are subject to a more limited land division review process, as set forth in these regulations. The Code Enforcement Officer shall be responsible for enforcement of the regulations related to land annexations."

Joel Gagnon spoke, as a Planning Board member, in support of the amendments to the Subdivision Regulations. He reported that the current process of land division by permit—the result of aggressive lobbying by residents at some time in the past—subverts the original intention of the PB's zoning recommendations. On behalf of the Planning Board, Gagnon urged the Board to pass these amendments as a, "small step in the right direction."

Ted Crane spoke in support of the concept of these amendments. Crane expressed concern as to whether the amount of paperwork involved for the subdivision process would be a burden for "legacy lots" that are being created within families. Randall responded to this concern. She stated that the PB may waive some paperwork if it chooses. She stated that she was happy to help applicants with the process, if needed.

Ronda Roaring asked for clarification regarding "Development Review Application" forms and the Town's general intention towards development. Roaring asked why the Town would assume that land division equates development? Randall responded with general information about the application language and process. She noted that it is not a Planner's role to determine what a landowner wants to do with their property. The question of development on suitable lots is appropriate for Planning Board. Randall further spoke regarding "sustainable development" and measures to meet various goals for a more sustainable community.

Pat Woodworth spoke in support of the proposed amendments. She agreed that was more appropriate to have such review before a board, rather than a lone employee out of the public eye.

Katharine Hunter spoke in support, with the suggestion of providing increased information about basic subdivision and zoning regulations to potential property buyers.

8:00 - Adjourn Public Hearing

Randall explained the need for a brief delay in action on this proposed amendment, as the Town was waiting to receive comments from Tompkins County Planning.

Clerk Goddard announced that the Public Hearing on Subdivision Amendments will recommence at the Danby Town Hall on Monday July 18, 7pm.

Brenner noted that she is unable to attend the Town Board meeting on July 18, when a vote this will likely take place. She publicly stated her support of the Amendment to the Subdivision Regulations.

Privilege of the Floor

Kenny Makosch spoke regarding the speed limit reduction on Comfort Road, and stated his desire to have a similar speed limit for Gunderman Road, particularly the section between Comfort and Route 96B. He spoke to reasons why Gunderman Road is a good location for a lower speed limit. Supervisor Dietrich supported citizen action on such efforts. Clerk Goddard responded that the Town can provide copies of previous speed limit petitions as an example of the process.

Dan Klein reported on an effort by 14 households on Steam Mill and Durfee Hill Roads to receive improved high speed internet. They are negotiating an arrangement with Time Warner Cable to split the cost of buildout—approximately \$20,000—between the participating households. Klein sounded encouraged. Klein answered questions from residents and Board members.

Pat Woodworth spoke regarding the appointment procedure. She objected to the removal of “the most” from criteria for qualified applicants. She asserted that, in recent months, the Board has opted not to appoint the “clearly most qualified” applicant for volunteer board positions. Woodworth urged the Board to define what qualified candidates mean. Connors responded to this complaint, stating that determining “the most qualified” is subjective.

Charles Tilton spoke regarding edits to the appointment procedure. He also objected to the removal of “the most” from this criteria.

David Hall responded to comments from Woodworth and Tilton. He objected to being characterized as “not the most qualified” applicant. Dietrich attempted to correct a misunderstanding, saying that it was not certain that objections referred to him. Dietrich further addressed the subject, stating that when the Board rejects a viable candidate it should publicly and clearly why that candidate was rejected. He agreed that the process should be held more accountable and that revisions to the procedure need more work.

Ted Crane spoke regarding recent process for appointments and the measures for evaluating candidates. He cautioned that the current process is flawed in ways that can give the appearance of a lack of transparency, and allows undue weight to be given to subjective criteria and discussions out of the public eye. He suggested that an appointment policy be drafted by a committee that includes Danby residents as well as members of the Town Board.

BZA Vacancies - Interviews

Dale Lewis (Lew) Billington, applicant for a vacancies to the Danby Board of Zoning Appeals was interviewed. He was asked the same list of questions as pervious applicants:

1. What experience do you bring to this position—such as involvement with local government Boards (Danby or other locations) and/or other life experience?
2. Are you aware of the time commitment for training and service and are you able to meet that commitment?
3. What is your vision for Danby?
4. How do you deal with conflict, external (from residents, etc.) or internal (within a committee)? How would you deal with a friend or neighbor who had a variance request?
5. What hobbies or other interests do you have?

Billington responded to each of these questions. Miller asked Billington how long he has lived in Danby. Billington responded, 41 years.

Warrants

ABSTRACT #7 OF 2016:

GENERAL FUND

#267-304 for a total of \$18,578.46

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

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

HIGHWAY FUND

#149-173 for a total \$44,735.63

Moved by Brenner, Second by Miller. The motion passed.

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

WEST DANBY WATER DISTRICT

#34-39 for a total of \$6,489.97

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

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

Approve Town Board Minutes

MOTION - APPROVE MINUTES

Resolved, That the Town Board of the Town of Danby approves the minutes of June 13 and 20, 2016.

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

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

Board Position Appointments—Board of Zoning Appeals Vacancies

Holahan initiated a discussion of pending revisions to the appointment policy and whether that process had any bearing on making an appointment at this time. Dietrich stated that it would be the wrong choice to delay this appointment until the policy revisions were complete. Dietrich expressed a strong need to appoint this qualified candidate to the remaining vacancy at this time. Miller stated that Billington's 41 year residency is an important addition to his qualifications.

RESOLUTION NO. 63 OF 2016 - APPOINT BOARD OF ZONING APPEALS REPRESENTATIVE FOR 2016

Resolved, that the Town Board of the Town of Danby appoints Dale Lewis Billington to fill the remainder of a one year term on the Board of Zoning Appeals, beginning immediately and ending 31-Dec-2016.

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

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

TCAT Resolution of Support

Dietrich presented information regarding a resolution, supplied by the Tompkins County Legislature, in support of public transit services and the need for financial support of these services in order to meet anti-poverty and economic development goals. Shawley provided additional information regarding alternatives to transportation needs as an indication that there are efforts to be as economical as possible.

RESOLUTION NO. 64 OF 2016 - RESOLUTION IN SUPPORT OF TOMPKINS CONSOLIDATED AREA TRANSIT, INC.

Whereas, Tompkins Consolidated Area Transit, Inc. (TCAT) operates an outstanding public transportation service that provides people in the Town of Danby with mobility and access to employment, community resources, medical care, and recreational opportunities, and

Whereas, every day people in the Town of Danby depend on TCAT to provide a basic and essential mobility service that is relied upon, particularly by those without access to a car, and

Whereas, to respond to fiscal pressures and a shortage of drivers, TCAT has been forced to make significant cuts in service, and

Whereas, these potentially permanent cuts in service will disproportionately affect working poor families, immigrants, and students, and

Whereas, in the Town of Danby there is a large number of residents who are members of young families, senior citizens on fixed incomes, immigrants, students, and people who work and earn less than a living wage who regularly depend on the services of TCAT,

Now Therefore be it

Resolved, That the Town of Danby encourages municipalities in Tompkins County to promote and advocate on behalf of TCAT and consider ways to alleviate the burden of meeting transportation needs of the community, such as creating more Park and Ride hubs, creating more trails and greenways for walking and bicycling, supporting more rideshare opportunities in towns, villages, the local mall, shopping centers, parks, and business centers, and

Further Resolved, That the Town of Danby supports promoting creative solutions such as Gadabout and FISH (Friends In Service Helping), and keeping the public transit needs of our residents high on our municipal agendas, and

Further Resolved, That the Town of Danby calls upon Tompkins County's State Representatives to encourage all New York State Legislators to recognize and financially support public transit and its vital role in our battle against poverty and in meeting our economic development goals, and

Further Resolved, That a copy of this resolution be forwarded to all municipalities in Tompkins County, United States Senators Schumer and Gillibrand, United States Congressman Tom Reed; New York State Assemblywoman Lifton, New York State Senators Seward, O'Mara, and Nozzolio, New York State Governor Cuomo, and President Obama.

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

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

Planned Development Zone #10

Dietrich provided an update on the status of David Hall's proposal for rezoning in PDZ10 on Gunderman Road. He reported that no communication had been received from Hall for 90 days. Requirements for the process had been mailed to Hall.

Dietrich stated that the Town has been "more than generous" in spending time and money on this project and that it is time to move on. Dietrich moved a resolution to terminate review of the project for discussion. This action, without prejudice, would not preclude Hall from reapplying for a zoning change.

RESOLUTION NO. XX OF 2016 - TERMINATION OF ENVIRONMENTAL QUALITY REVIEW, SUMMIT ENTERPRISE CENTER

Whereas, the Town Board of the Town of Danby (hereinafter the "Board") has received an application from JLF Holdings, LLC, Owner, David Hall, Applicant (hereinafter the "Applicant") proposing the rezoning of Planned Development Zone 10, formerly known as Angelheart Design, (hereinafter the "Project") located at 279-303 Gunderman Road, from the currently permitted commercial use (clothing manufacturer) on 9.22 acres under Local Law 1 of 1997 to a mixed-use business incubator with a 8,000 +/- sq. ft. future addition; and

Whereas, the proposed Project exceeds the thresholds defined for Type I projects in both the State and Town Environmental Quality Review Law. Type I actions carry with them the presumption that it is likely to have a significant effect on the environment. Specifically, this project exceeds the Type I thresholds as defined in 6 NYCRR § 617.4 (b)(8) and Type I thresholds as defined under the Town of Danby Environmental Review of Actions, Section V. 1., both of which require environmental review; and

Whereas, pursuant to the State Environmental Quality Review Act (hereinafter "SEQRA"), the Applicant submitted to the Board Part 1 of a Full Environmental Assessment Form for the Project (hereinafter the "FEAF"); and

Whereas, 6 NYCRR § 617 of SEQRA and Section IX of Local Law 2 of 1991 Environmental Review of Actions in the Town of Danby, require that a Lead Agency be established for conducting environmental review of projects in accordance with local and state environmental law; and

Whereas, the Town of Danby Planning Board and the Tompkins County Department of Health were identified as interested agencies and it was requested that these interested agencies consent to the Town Board being Lead Agency for this project and all have consented; and

Whereas, the Applicant and the Board as Lead Agency, by mutual agreement, agreed to extend the deadline for determination of environmental significance on March 21, 2016; and

Whereas, after completing the FEAF the Board as Lead Agency made its Determination of Significance with respect to the Project in accordance with the SEQRA regulations at 6 NYCRR § 617.7 and issued a Positive Declaration requiring preparation of a draft Environmental Impact Statement (EIS) on April 12, 2016; and

Whereas, the Determination of Significance required Formal Scoping to be conducted in accordance with 6 NYCRR § 617.8 based on a draft Scoping document to be prepared by the Project sponsor and filed with the Town Board of the Town of Danby; and

Whereas, the Applicant failed to submit to the Board as Lead Agency the required draft Scoping document, resulting in an incomplete application and interpreted as a refusal to complete the EIS; and

Whereas, the Board as Lead Agency is therefore unable to commence public review in accordance with the SEQRA regulations at 6 NYCRR § 617; and

Now Therefore, be it

Resolved, the Town Board as Lead Agency is terminating its review of the Project as Applicant failed to provide a draft scope in accordance with the SEQRA regulations at 6 NYCRR § 617.9(a)(1), and be it

Further Resolved, that this Town Board, as Lead Agency, hereby terminates the review of proposed action of rezoning Planned Development Zone 10 for the proposed Summit Enterprise Center without prejudice.

Moved by Dietrich, There was no Second.

Planner Randall informed the Board that, as stipulated by the Environmental Quality Review Process, the lead agency is forbidden from preparing a draft scope on behalf on an applicant. She stated that a letter was sent on June 7 advising the applicant that certain materials must be prepared and submitted by a deadline. No response, or communication of any sort has been received since April 12.

David Hall made a request for a 30 day extension of deadline. He stated that time “got by me” and maintained that he had not received the June 7 communication regarding a deadline for materials. He stated that, in any case, he didn’t understand how this affects the process and so no reason to “restart the clock.”

There was an extensive discussion, and difference of opinion, between the Supervisor and the applicant regarding this process. Randall described 90 days as a reasonable time frame for an applicant to provide scoping documents for environmental review. She further noted that such projects can not and should not remain open, without action, indefinitely. Having received nothing, it was assumed that the applicant was no longer interested. Dietrich and Brenner each advised the applicant that the SEQR process sets the timeline, that this timeline is well known and available to all applicants, and that the timeline had expired. Brenner stated that the onus of compliance for this timeline is on the applicant, not on the Town. Hall voiced a divergent opinion regarding expectations for the scoping timeline.

Dietrich stated that there are several other projects before the Town through the Planner and that it’s important for this project not to disproportionately impact the available staff resources. Hall stated that he, “works on deadline and this was not the hottest fire.” He questioned what staff time is being taken up if no immediate work is being done. Dietrich stated that there must be a deadline for materials and that this must be received sooner than in 30 days in order to provide time for Planner and Board review. Randall informed the applicant and Board that she had sent Hall a sample draft scope and the timeline via Email.

A resident affirmed that having the process continue for close to two years makes it very difficult for people to stay informed and express opinions, whether they are opposed or in favor of the project. There was related discussion as to the causes that have contributed to the length of this process.

Miller asked whether the mailed communication had been sent certified, return receipt mail. Randall stated that this had not been done in this case. Given the absence of proof of receipt, the Board opted to extend the deadline for submission of materials to the last week of July. This will be a discussion item on the August 8 Town Board agenda. Supervisor Dietrich stated that, if no material is received by that time, the resolution above will be reconsidered.

Recreation Partnership Report/Request

A report on pending budget review of the Recreation Partnership, and request regarding the same, was received from Brenner. She informed the Board that Danby has the largest participation, proportionally, in Rec. Partnership activities and that this is reflected in budget allocations. Brenner stated that this service is very important to Danby families. Costs of staff wages have gone up and are likely to raise the Danby contribution by \$1,000. She asked the Board to support these activities. Dietrich added his support and appreciation for these programs.

MOTION - SUPPORT BUDGET REQUEST FOR RECREATION PARTNERSHIP

Resolved, That the Town Board of the Town of Danby authorizes Rebecca Brenner to negotiate a budget increase request with the Recreation Partnership to be included in the Town of Danby Budget.

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

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

Brenner reported on Danby Fun Day and reported that the Fire Department pavilion was dedicated to Sue Beeners during Fun Day and now has a plaque naming it the “Sue Beeners Pavilion.” Dietrich noted that former Town Clerk, Carol Sczepanski passed away on July 9.

Adjournment

The meeting was adjourned at 9:23 pm.

Pamela Goddard, Town Clerk