

**Danby Town Board
Minutes of Public Hearing and Regular Meeting
August 8, 2016**

Present:

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

Others Present:

Town Clerk Pamela Goddard
Planner CJ Randall
Public Ted Crane, Ronda Roaring, Pat Woodworth, Charles Tilton, Katharine Hunter,
Garry Huddle.

Regular Meeting Opened at 7:02pm

7:03 - Reconvene 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 2 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."

Communication was received from Tompkins County Planning with the following recommendation for modification: "The Town's proposed Groundwater Protection Law as the potential to provide substantial water quality benefits, though some of the Town-Wide Groundwater Protections (Section 713) may have adverse impacts to energy use in the county. In particular, the proposed prohibition of "open-loop geothermal heating and cooling systems" (Section 713.1.i) and "installation of pipeline facilities" (Section 713.1.j) could limit the community's long-term energy options. We are also uncertain whether a Town has the authority to prohibit all types of pipelines that might fall within the language in the law. We recommend that instead of prohibiting these uses outright the Town should require them to be subject to an added level of scrutiny."

There was related communication from the Danby Town Attorney advising the Town Board that adoption of this Local Law will require a supermajority vote of at least four (4) members, an explanation of this vote be provided to the County as to why its suggestions were not implemented and that such explanation may be as simple as the advice from a professional geologist concerning the dangers of open loop systems given the nature of the Town's mapped aquifers. Limiting energy options in the future seems nebulous given that: (i) the law does not preclude closed-loop systems; and (ii) rightly or wrongly, the County itself has proposed phasing out pipelines and gas and oil distribution as part of the "energy highway.

Supervisory Dietrich commented on the communications noted above. He stated that there are legitimate reasons to move forward on this law at this time. Members of the Board agreed and supported Dietrich's rationale to move forward.

Anne Klingensmith spoke in support of the Groundwater Protection Law. She recounted her long involvement with this law during the past five years. She urged the Board to pass this, and have a law on the books which shows that Danby cares about water and takes its protection seriously. She stated that this law should work together with the Local Law banning fracking. Klingensmith gave credit to several people who worked on this over time, including Ben Altman, Cynthia Bowman, Sue Beeners, and others.

Ted Crane noted a typo confusing *insure* and *ensure*. He was otherwise in support of the law. He asked a question regarding when the law takes effect. The Clerk clarified this process.

7:11 - Close Public Hearing

Privilege of the Floor

None.

Consider Adoption of Groundwater Protection Law

RESOLUTION NO. 69 OF 2016 - SEQRA DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE – AMENDMENTS TO THE TOWN OF DANBY ZONING ORDINANCE RELATING TO THE PROTECTION OF GROUNDWATER RESOURCES

Whereas, In order to preserve vulnerable unconsolidated aquifer recharge areas and wellhead protection areas for community water systems, this action is the enactment of a local law amending the Town of Danby Zoning Ordinance to include an Aquifer High Vulnerability (AHV) Overlay Zone in the Zoning Ordinance, overlaying approximately 4.9 percent of the land area of the Town of Danby; and

Whereas, 6 NYCRR Part 617 of the State Environmental Quality Review Act (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, State Law specifies that for actions governed by local environmental review, the Lead Agency shall be that local agency which has primary responsibility for approving and carrying out the action; and

Whereas, the Town Board declared itself Lead Agency with primary responsibility for approving the action on May 16, 2016; and

Whereas, this is an Unlisted Action under the Town of Danby Environmental Review of Actions and an Unlisted Action under the State Environmental Quality Review Act, both of which require environmental review; and

Whereas, pursuant to §617.6(b)(3) of the State Environmental Quality Review Act (SEQRA), the aforementioned information must be mailed to all involved agencies notifying them that a Lead Agency must be agreed upon within thirty (30) calendar days of the date that the aforementioned information is mailed to involved agencies; and

Whereas, the Tompkins County Department of Health, Tompkins County Planning Department, and NYS Department of Environmental Conservation have all been identified as involved agencies and have been given opportunity to comment, and

Whereas, this Board, acting as Lead Agency in environmental review, has on May 16, 2016 and August 8, 2016, reviewed and accepted as adequate: a Full Environmental Assessment Form, Part 1 and Part 2, respectively, prepared by Lead Agency and Town Planning staff;

Now Therefore, be it

Resolved, that the Town Board of the Town of Danby determines the proposed project will result in no significant impact on the environment and that a Negative Declaration for purposes of Article 8 of the Environmental Conservation Law be filed in accordance with the provisions of Part 617 of the State Environmental Quality Review Act.

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

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

There was a brief discussion of the Tompkins County Planning recommendation for a modification and comments from Town Attorney Guy Krogh. Randall noted that communication will be sent to Tompkins County Planning regarding the rationale for adoption at this time.

Clerk Goddard personally thanked the Town Board for this action. She stated that seeing this law passed has been a professional goal for the past several years.

RESOLUTION NO. 70 OF 2016 - TOWN OF DANBY LOCAL LAW NO. 2 OF 2016 – AMENDMENTS TO THE TOWN OF DANBY ZONING ORDINANCE RELATING TO THE PROTECTION OF GROUNDWATER RESOURCES

Whereas, In order to preserve vulnerable unconsolidated aquifer recharge areas and wellhead protection areas for community water systems, this action is the enactment of a local law amending the Town of Danby Zoning Ordinance to include an Aquifer High Vulnerability (AHV) Overlay Zone in the Zoning Ordinance; and

Whereas, this local law also amends the Town of Danby Zoning Ordinance to prohibit specific uses and activities town-wide; and

Whereas, 6 NYCRR Part 617 of the State Environmental Quality Review Act (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, State Law specifies that for actions governed by local environmental review, the Lead Agency shall be that local agency which has primary responsibility for approving and carrying out the action; and

Whereas, the Town Board declared itself Lead Agency with primary responsibility for approving the action on May 16, 2016; and

Whereas, this is an Unlisted Action under the Town of Danby Environmental Review of Actions and an Unlisted Action under the State Environmental Quality Review Act, both of which require environmental review; and

Whereas, this Board, acting as Lead Agency in environmental review, has on May 16, 2016 and August 8, 2016, reviewed and accepted as adequate: a Full Environmental Assessment Form, Part 1 and Part 2, respectively, prepared by Lead Agency and Town Planning staff; and

Whereas, the Tompkins County Health Department, Tompkins County Planning Department, and NYS Department of Environmental Conservation have been given the opportunity to comment on the proposed local law, and all comments received have been considered; and

Whereas, in an August 8, 2016 letter from Ed Marx, Tompkins County Commissioner of Planning, to C.J. Randall, Town Planner, pursuant to §239 -l, -m, and -n of the New York State General Municipal Law determined the local law may have negative inter-community, or county-wide impacts, and recommended the following modification of the local law:

“The Town's proposed Groundwater Protection Law has the potential to provide substantial water quality benefits, though some of Town-Wide Groundwater Protections (Section 713) may have adverse impacts to energy use in the county. In particular, the proposed prohibition of "open-loop geothermal heating and cooling systems" (Section 713 . 1.i) and "installation of pipeline facilities" (Section 713. l.j) could limit the community's long-term energy options. We are also uncertain whether a town has the authority to prohibit all types of pipelines that might fall within the language in the law. We recommend that instead of prohibiting these uses outright the Town should require them to be subject to an added level of scrutiny” and

Whereas, the Town of Board of the Town of Danby held the required Public Hearing opened on July 11, 2016, adjourned and continued on August 8, 2016; and

Whereas, that the Town Board of the Town of Danby on August 8, 2016 determined the proposal will result in no significant impact on the environment and that a Negative Declaration for purposes of Article 8 of the Environmental Conservation Law be filed in accordance with the provisions of Part 617 of the State Environmental Quality Review Act;

Now Therefore, be it

Resolved, that the Town Board of the Town of Danby hereby adopts Town of Danby Local Law Number 2 of 2016 to be known as “Town of Danby Groundwater Protection Law”; and it is

Further Resolved, this Local Law shall take effect immediately upon filing with the New York State Secretary of State.

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

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

Warrants

ABSTRACT #8 OF 2016:

GENERAL FUND

#305-339 for a total of \$13,618.21

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

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

HIGHWAY FUND

#174-191 for a total \$16,269.60

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

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

Supervisor Dietrich advised the Board that the Highway Department will be coming with requests for adjustments to its budget lines. This will be addressed at the August 15 meeting.

WEST DANBY WATER DISTRICT

#40-41 for a total of \$265.00

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

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

Supervisor Dietrich advised the Board that The WDWD will be changing its billing software. This additional cost will appear in a future warrant.

Approve Town Board Minutes

MOTION - APPROVE MINUTES

Resolved, That the Town Board of the Town of Danby approves the minutes of July 11 and 18, 2016.

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

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

Planned Development Zone #10 - Termination of Review

Dietrich noted that this issue had been in process for a long time. Clerk Goddard suggested that additional information be provided to the public. On July 28, applicant David Hall sent correspondence stating that, "After considerable thought, in recognition of the fact that our Gunderman Road proposal cannot secure four or more positive votes from the current Board, we are suspending our work on this proposal... Just to be sure we are on the same page, this means that we will not be submitting a scoping document for the EIS as required by the end of this month." Therefore, this action is based on the applicant's intent, stated above.

RESOLUTION NO. 71 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 FEA 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 Connors, Second by Brenner. The motion passed.

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

Speed Limit Reduction Request - Lieb and Gunderman Roads

Clerk Goddard noted that a resolution regarding this request had been moved and seconded at the previous meeting, but not acted on. Brenner noted that residents on other road, specifically Gunderman and East Miller, had also expressed interest in circulating petitions for speed reductions on those roads. No additional petitions had been received. Brenner reported that a petition is being circulated on Gunderman Road. She supported having the same speed limit on adjacent and connecting roads.

There was discussion regarding the best process to review roads in sections for speed reduction review. Options were to review each request individually or to review areas of the Town as blocks. Dietrich reported that the Highway Department is in favor of reducing speed limits on Town roads, as this reduces wear and tear on the roads. Connors suggested that Cornell Roads may be able to help Danby create an overall plan. There was general support for reviewing the road network as a whole.

There was concern regarding creating areas where roads with lower speed limits intersect with those with higher speed limits. Petitioner Crane noted that this is precisely the problem with the current situation at Lieb Road. Lieb is a short road connecting two larger roads, both of which are limited to 35mph. Absent specific posting, Lieb Road has the NYS default 55mph limit. He further reported that the NYS DoT reviews each road separately and that the queue for review has an extensive backlog. Therefore time is of the essence. A petition is not required, on behalf of the NYS DoT. It is, however, a useful measure of resident support, and every residence on Lieb Road supported the petition. Crane urged the Board to not delay on action regarding this request. Dietrich replied that a delay of one week should not be a problem.

Brenner stated that she will be able to bring the Gunderman Road speed limit petition to the next TB meeting. The Highway Superintendent and Deputy Superintendent will be attending that meeting and available for a discussion regarding a plan for speed control on Town roads. Supervisory Dietrich suggested that action be taken on Lieb and Gunderman at the next TB meeting.

Power Purchase Agreement

Dietrich made a short report on the progress of the Hornbrook Road solar installation. Signed letters of agreement, for use of the power generated through this project, have not been received from the Fire District and West Danby Water District. This gap is being addressed. Paul Hansen is attending meetings with the Fire Commissioners to assure that they are in agreement with this proposal. A final contract will not be available until September. Hansen will make a further report at the next TB meeting.

Scoping Meeting - Town Board, Planning Board, Conservation Advisory Council

There was a brief discussion regarding timing and topics for a joint municipal board scoping meeting. This will most likely take place as part of the September 15 Planning Board meeting. Dietrich stated that he has requested that the board chairs prepare their members for this discussion. He saw this scoping meeting as a good time to review current projects before the Town for needs and priorities. Dietrich suggested that an agenda for this meeting be drafted in early September.

Code Planning Report

CJ Randall provided additional information on selected items from monthly code report. The report included information on preparation for the Danby Stream conference, the "Restore New York Communities Initiative" (through which funds may be available for the mitigation of condemned or abandoned properties in or adjacent to the Danby Central Hamlet), culvert replacement through the Water Quality Improvement Project (applied for funding to replace the aging culvert at Michigan Hollow Road adjacent to Smiley Hill Road in the Danby State Forest with an open box culvert), and development proposals reviewed by the Planning Board.

Randall gave a substantial report of upcoming projects for consideration through the Code/Planning office. These were listed as "Easy, medium, hard." Seven topics listed under the "easy" category included: revise fee schedule for development review, revisit free permitting for renewable projects (particularly large scale projects), solar and wind energy zoning, address tourist homes and temporary rentals, amend definitions in zoning, amend sign regulations, revise local SEQRA regulations. In the "medium" category were: hamlet rezoning with form and materials standards, establish stream setbacks based on stream order, rescind selected Planned Development Zones. In the "hard" category were: Implement conservation subdivision standards, density bonuses to encourage development in selected locations, substantially increase minimum lot size in low density residential areas.

Short Reports and Correspondence

The Town Clerk's report included information regarding \$2,440.70 received for one marriage license, 34 dog licenses, and seven building permits. \$2,378.20 was distributed to the Town Supervisor with the remainder of the funds distributed to relevant NYS agencies.

The Justice's report included several traffic violations and one violation of unlawfully growing cannabis. There was a discussion with Justice Huddle regarding building improvements that could be included in the next court grant proposal.

Adjournment

The meeting was adjourned at 8:20 pm.

Pamela Goddard, Town Clerk