

Danby Town Board
Minutes of Public Hearing and Regular Meeting
July 10, 2017

Present:

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

Others Present:

Town Clerk Pamela Goddard
Code and Planning CJ Randall, Paul Hansen
Public Ted Crane, Ellen Walsh, Dawn Parks, Alexandra Pfeiffer, Tod Sukontarak, Matt Ulinski, Katharine Hunter, Scott Davis

Regular Meeting Opened at 7:03pm

West Danby Water District Report

Tod Sukontarak reported on activities by the West Danby Water District. Bids have been received for periodic cleaning and maintenance of the Water District water tanks. This is in keeping with the recommended maintenance schedule of inspection and cleaning every three years. It has been three years since the new tank was installed. Based on what is found in the maintenance and cleaning, the tank may be able to be on a five -year maintenance schedule.

Bid estimates are under \$5,000 for this work. Sukontarak is compiling all the the required prevailing wage and required contract data. There was a question as to whether this contract would need Supervisor's review and signature. Confirmation was given that, at this cost level, the bid contracts do not need approval by the Town Board. The Water Commissioners may award the bid. Sukontarak hopes to have a contract in place in time for maintenance work in September.

Privilege of the Floor

Ted Crane expressed support for passage of the Solar Zoning Local Law. He also voiced support for achievable goals that Danby has made or can work toward to support the Paris Climate Agreement. Crane then expressed concern about the loss of seating space in the most recent Town Hall renovation design. The estimated seating for 30-50 people is far less than the customary attendance of 50-70 at Community Council concerts and other programming.

Scott Davis gave an update on his offer to volunteer to power wash and paint the Town Hall gazebo. He will work with Code Officer Hansen to arrange a time for this work.

Town Hall Access Improvements - Update

Paul Hansen made a presentation on a proposed remodeling of the Town Hall front (East) entrance and meeting hall. The entrance facing Route 96B will undergo a major renovation in order to create an ADA compliant entrance. The two existing doors will be replaced with one handicap accessible central door. Those doors will have windows in them and there will also be square windows on each side of the doors. The vestibule area between the central doors and the meeting room will be open from floor to ceiling.

The balcony area will have a railing for appearance and safety. Access to the balcony will be through pull-down stairs in each of the storage areas. For safety reasons, no storage is anticipated in the balcony. The two storage areas will be expanded somewhat, but are in the same locations as the current rooms. An additional storage closet, for cleaning supplies and other materials, will be built against the West wall of the meeting room. This combination of storage areas should be adequate for the needs of the cleaning staff, Community Council, and Library uses.

There was a lengthy discussion regarding the possible construction of an interior wall separating the portion of the Meeting Room currently used by the Community Library. Hansen proposed that the Board meeting table be realigned to face north towards the Library wall. He advocated for creating visual clarity between the meeting room and library. As drawn the meeting room would have seating for 36 members of the public. The room can currently seat upwards of 60 people. Town Board members expressed interest and support for this idea, while also expressing some concerns regarding the proposal as currently drafted.

Several concerns were expressed by members of the Danby Community Council. There were concerns about the loss of seating for popular DCC events, and the loss of a sense of open space and light. Community Council events serve a wide audience and have high public participation. Since some public meetings of the various Town boards have been, “standing room only,” similar concerns were voiced about limitations on the primary use of the Meeting Room. Hansen responded that Code concerns, including fire code, need to be considered for this space. Hansen and Dietrich stated that, “It’s all about priorities.” In response to various concerns, the library/meeting room renovation will be redrafted.

Any remodeling of the library/meeting room would be a “second stage” of the project, not to take place until sometime in 2018. Further consideration of this proposal may take place at a later time.

The Town Board expressed approval to move forward with the front entrance renovation and handicap access construction. Bids are beginning to come in for this work. It is anticipated that construction work will begin sometime in the Fall and be completed during the winter of 2017/2018.

8:13pm - Reopen Public Hearing, Solar Zoning Local Law

CJ Randall explained changes to the draft Local Law made in response to suggestions from Tompkins County Planning. The phrase “primarily used for agriculture” is now more clearly defined, in keeping with Danby’s “Right to Farm” law. A farm that wants to add a commercial solar facility will still be required to undergo site plan review. This site plan review will include recommendations related to avoidance of installation in ten acres or more of actively farmed prime agricultural soils.

The new draft clarifies some ambiguities regarding the maximum height for solar arrays. Ground mounted systems are limited to 20 feet in height. This is a standard measurement. Ground mounted systems are not permitted in a front yard.

Danby has chosen not to agree with County requests for permitting smaller setbacks and requirements for fencing to enclose facilities. Danby would prefer more flexibility in site plan review for site specific situations.

There are now clear guidelines for the Planning Board regarding appearance and buffering of solar facilities in order to mitigate the visual effect of large solar arrays. In keeping with the Town’s stormwater management regulations, solar areas must also avoid clearing large areas of forests.

Brenner asked whether the requirement related to “complete applications” was too heavy a responsibility for the Planning Board? Randall responded that the application checklist makes this a clear and streamlined process. Applications do not go to the PB for review until they are complete in the Planning Office. This is the responsibility of the applicant.

Ted Crane expressed support for the Local Law. He asked for further clarification of where the measurement of the 20 foot height restriction begins when the array is mounted on top of another structure—from the ground or from the lowest level of the array? This is measured from ground level. Randall noted that this LL is not a stand-alone document and builds on existing zoning law in the Town of Danby.

Katharine Hunter asked what level of neighbor notification will be required for solar installations. Small installations are incentivized with a no-cost building permit and no neighbor notification. Site Plan for Solar Facilities require a public hearing with legal publication and neighbor notification.

8:37pm - Close Public Hearing, Solar Zoning Local Law

Warrants

ABSTRACT #7 OF 2017:

GENERAL FUND

#264-309 for a total of \$24,480.15

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

HIGHWAY FUND

#121-142 for a total \$31,568.34

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

WEST DANBY WATER DISTRICT

#25-28 for a total of \$703.87

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

Bookkeeper Shawley informed the Board that Abstract #6 of 2017 needed to be amended. There is an increase of \$9.05 in insurance cost for Code Officer Paul Hansen.

GENERAL FUND, ABSTRACT #6 OF 2017

Amend voucher #255 with an increase of \$9.05 for an amended total for the General Fund warrant of \$28,675.41

Moved by Brenner, 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 12 and 19, 2017.

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

Brown Road Lead Agency

Planner Randall presented several resolutions to the Town Board for consideration. These were passed with minimal discussion.

RESOLUTION NO. 50 OF 2017 - DECLARATION OF LEAD AGENCY, BROWN ROAD EMBANKMENT STABILIZATION AND WATER QUALITY IMPROVEMENT PROJECT

Whereas, the embankment adjacent to Brown Road in the Town of Danby experienced severe bank erosion during high rainfall events in April of 2005 which left 50' of eroded bank, and at a height of between 8' and 12'; and

Whereas, the embankment adjacent to Brown Road in the Town of Danby again experienced severe bank erosion during high rainfall events in June of 2015; and

Whereas, the Town has aggressively pursued grant funding for the Brown Road to support both water quality improvement and hazard mitigation, with cooperation from the Town of Newfield; and

Whereas, the Town of Danby, with support and funding from the Tompkins County Stream Corridor and Flood Hazard Mitigation Program retained T.G. Miller Engineers, P.C. in 2016 to undertake the Brown Road Feasibility Analysis for the purpose of determining the technical and financial feasibility of designing an erosion control measure for the drainage adjacent to Brown Road in the Town of Danby, including grade controls; and

Whereas, the intent is that the design effort will help to reduce adverse impacts to Brown Road and equip the Town with information it needs to minimize the amount of additional fill in the floodplain, while stabilizing the stream, which feeds into the Cayuga Inlet; and

Whereas, the proposed Brown Road Embankment Stabilization and Water Quality Improvement Project has several water quality and flood mitigation components; and

Whereas, the New York State Department of Environmental Conservation Water Quality Improvement Program (WQIP) is a competitive, statewide reimbursement grant program open to local governments for projects that directly address documented water quality impairments; 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, this is a Type I Action under the Town of Danby Environmental Review of Actions and the State Environmental Quality Review Act and is subject to environmental review; 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 Action is subject to review and approvals from other involved agencies that include the New York State Department of Environmental Conservation, the U.S. Army Corps of Engineers, and the Town of Newfield; and

Whereas, the Town Board is the local agency with primary responsibility for approving the action;

Now Therefore, be it

Resolved, that the Town Board of the Town of Danby does hereby declare its intent to be Lead Agency for the environmental review for the Brown Road Embankment Stabilization and Water Quality Improvement Project and directs staff to transmit an application through the New York State Consolidated Funding Application for funding from the New York State Department of Environmental Conservation Water Quality Improvement Program.

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

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

Climate Smart Community Appointment

There was no discussion regarding this action.

RESOLUTION NO. 51 OF 2017 – APPOINTING TOWN OF DANBY PLANNER AS TOWN'S CLIMATE SMART COMMUNITIES COORDINATOR

Whereas, the Danby Town Board passed a resolution No. 81 of 2016 to participate in the New York State Department of Environmental Conservation's Climate Smart Communities initiative on September 14, 2016; and

Whereas, the Town of Danby has a Planner position to support all sustainability efforts for the Town; and; **Whereas**, the Planner is currently pursuing Climate Smart Communities certification for the Town of Danby in cooperation with Cornell Cooperative Extension; and

Whereas, achieving Climate Smart Communities certification would help to make the Town eligible for funding through the New York State Energy Research and Development Authority's (NYSERDA) Clean Energy Communities program, make other state funding applications more attractive, and would provide good public relations opportunities for the Town; and

Whereas, to become a Certified Climate Smart Community, one of the actions the Town of Danby must take is to appoint a Climate Smart Communities Coordinator; and

Whereas, the Planner's duties include, among other things, many of the items from the Climate Smart Communities Pledge, such as: promoting the reduction of greenhouse gas emissions, encouraging the use of renewable energy sources, climate adaptation, and educating the public; and

Whereas, the job duties of the Planner align with the goals of the Climate Smart Communities program, and would therefore remain the same;

Now Therefore, be it

Resolved, that the Planner of the Town of Danby is hereby appointed as the Town's Climate Smart Communities Coordinator for the New York State Department of Conservation's Climate Smart Communities Initiative.

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

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

Energy Benchmark Resolution

Randall explained the background and purpose of this action. This action gains points for the municipality in various Climate incentive programs and brings Danby a step closer to being able to apply for a sizable project grant.

RESOLUTION NO. 52 OF 2017 – ESTABLISHING ENERGY BENCHMARKING REQUIREMENTS FOR CERTAIN MUNICIPAL BUILDINGS

Whereas, buildings are the single largest user of energy in the State of New York and the poorest performing buildings typically use several times the energy of the highest performing buildings—for the exact same building use; and

Whereas, collecting, reporting, and sharing building energy data on a regular basis allows municipal officials and the public to understand the energy performance of municipal buildings relative to similar buildings nationwide, and equipped with this information the Town is able to make smarter, more cost-effective operational and capital investment decisions, reward efficiency, and drive widespread, continuous improvement; and

Whereas, the Town Board desires to use Building Energy Benchmarking - a process of measuring a building's energy use, tracking that use over time, and comparing performance to similar buildings - to promote the public health, safety, and welfare by making available good, actionable information on municipal building energy use to help identify opportunities to cut costs and reduce pollution in the Town of Danby; and

Whereas, the Town of Danby currently collects energy use data for buildings and facilities over 1,000 square feet or larger in size on an annual basis, and enters energy benchmarking data for certain Town facilities into the ENERGY STAR Portfolio Manager, the internet-based tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative Energy performance of buildings nationwide, or its successor; and

Whereas, the Town of Danby Town Board desires to establish a more formal procedure or guideline for Town staff to conduct such Building Energy Benchmarking;

Now Therefore, be it

Resolved, that the Town Board hereby adopts a Building Energy Benchmarking Policy that no later than June 1, 2017, and no later than June 1 every year thereafter, the Town Planner or Code Enforcement Officer or his or her designee shall enter into Portfolio Manager the total Energy consumed by each applicable municipal building or facility, along with all other descriptive information required by Portfolio Manager for the previous calendar year.

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

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

Adopt Local Law - Solar Zoning

There was minimal discussion of this action, as discussion had taken place during the completion of the public hearing.

RESOLUTION NO. 53 OF 2017 - SEQRA DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE – LOCAL LAW TO AMEND THE ZONING ORDINANCE RELATED TO SOLAR ENERGY SYSTEMS

Whereas, the Town Board of the Town of Danby determined that the Town of Danby Zoning Ordinance did not directly address the construction of solar energy systems in the Town and directed that a draft local law, entitled “Local Law to Amend the Zoning Ordinance Related to Solar Energy Systems,” be prepared for the Town Board's consideration; 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, this is a Type I Action under the Town of Danby Environmental Review of Actions Section V 1(a) and a Type I Action under the State Environmental Quality Review Act Section 617.4(b)(2), both of which require environmental review; and

Whereas, the Tompkins County Planning Department have 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 July 10, 2017 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 Miller. The motion passed.

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

RESOLUTION NO. 54 OF 2017 - TOWN OF DANBY LOCAL LAW NO. XYZ OF 2017 – LOCAL LAW TO AMEND THE ZONING ORDINANCE RELATED TO SOLAR ENERGY SYSTEMS

Whereas, the Town Board of the Town of Danby determined that the Town of Danby Zoning Ordinance did not directly address the construction of solar energy systems in the Town and directed that a draft local law, entitled “Local Law to Amend the Zoning Ordinance Related to Solar Energy Systems,” be prepared for the Town Board's consideration; 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, this is a Type I Action under the Town of Danby Environmental Review of Actions Section V 1(a) and a Type I Action under the State Environmental Quality Review Act Section 617.4(b)(2), both of which require environmental review; and

Whereas, this Board, acting as Lead Agency in environmental review, has on July 10, 2017 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 Planning Department has been given the opportunity to comment on the proposed local law; and

Whereas, in an June 19, 2017 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:

- “In terms of natural resource impacts, we recommend that Large-Scale Solar Energy Systems avoid clearing extensive areas of forest. Any systems located in any of these areas should be required to take appropriate mitigation measures.

- The list of "potential environmental sensitivity" factors referenced in Section 714 4(k)(ii) should not include reference to conservation easements as some easements may allow for this use.

- For wetlands, NYS DEC regulated wetlands should be avoided. Development in federally-identified wetlands should also be avoided, but could be considered where wetland hydrological function can be maintained and no endangered or threatened species would be impacted. Furthermore, the reference to Tompkins County Wetland Mapping Assessment in Section 714 4(k)(ii) should be eliminated since we do not know of a document entitled "Tompkins County Wetland Mapping Assessment."

- To protect water quality, Section 4(k)(ii) should be expanded to include 100-foot buffers of perennial streams and 50-foot buffers of intermittent streams.

- For impacts of Large-Scale Solar Energy Systems to viewsheds throughout the regulation, we recommend including a required visual assessment limited only to previously-identified Distinctive viewsheds in the Tompkins County Scenic Resources Inventory."

- We noted the requirement in the proposed law that prohibits Solar Energy Systems in the areas with Prime farmland soils. Due to the high likelihood that some small pockets of Prime soils could be located within the area of potential projects we recommend that these systems avoid large extents (10 acres or more) of actively- farmed prime agricultural soils. Land underneath solar panels within agricultural areas should be maintained as vegetative cover. For any proposed disturbance often acres or more of prime agricultural soils, communities should consider the value of a soil reclamation plan and related financial guarantee of plan implementation.

- We recommend that Ground-Mounted Solar Energy Systems should be required to meet the same height restrictions as any other accessory building or structure.

- We recommend that Large-Scale Solar Energy Systems and Solar Energy Facilities should be required to meet the same setback requirements as any other principal building, but no more than 30 foot rear or side yard setbacks.

- Sections 714 3(a)(iii) and 4(c) which include solar collection devices in the calculation of total lot coverage may unnecessarily limit solar development. We recommend the Town replace those sections with those noted in sections 714 3(a)(iv) an 4(d) which consider solar collection devices to be pervious.

- Section 714 4(f), which requires landscaping around the entire perimeter fence, seems unnecessarily restrictive. We recommend that screening should only be required to address site-specific conditions identified during local municipal review."

Whereas, the comments were carefully considered by the Town Board;

Whereas, a duly noticed public hearing was opened on June 19, 2017, adjourned and continued on July 10, 2017, and any public comments were carefully considered by the Town Board; and

Whereas, that the Town Board of the Town of Danby on July 10, 2017 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 does adopt this Local Law, and

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

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

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

Water Quality Funding Application

Randall reported on a meeting with Tompkins County Soil and Water regarding steps to be taken related to water quality improvement applications. Additional data needs to be collected from project engineers and regarding a labor match/in-kind services through the Highway Department. Randall will continue this report at the next TB meeting.

Paris Agreement Consideration

Councilperson Brenner made a preliminary proposal regarding local municipal participation in the Paris Climate Agreement, for consideration by the TB. Brenner reported that other municipalities have taken this step. She will forward resolutions adopted by two other Towns to the Board, as samples of what Danby might consider.

Justices' Report

A Report from Justice Huddle was circulated among the Board. Klinger's report will be available at the next TB meeting.

Town Clerk's Report

Clerk Goddard reported June activity: \$1,184.60 was received with \$24 disbursed to the NYS animal population control program, \$107.72 to NYS DEC for fishing licenses, and \$1,052.88 disbursed to the Town Supervisor. This reflects one BZA appeal, 22 dog licenses, and seven building permits.

Goddard informed the Board that the work order for a speed limit reduction on Station Road in West Danby has been received. A copy of this work order has been forwarded to the Highway Department.

Adjournment

The meeting was adjourned at 8:55 pm.

Pamela Goddard, Town Clerk