

**Danby Planning Board
Minutes of Meeting
June 23, 2011**

Present:

Joel Gagnon
Anne Klingensmith
Ted Melchen
Robert Roe
Naomi Strichartz
Steve Selin

Absent:

Ray VandeBogart

Others Present:

Secretary	Pamela Goddard
Town Board	Leslie Connors
Code Officer	Sue Beeners
Public	Gay Garrison, Cynthia Bowman

Planning Board Chair, Robert Roe opened the Planning Board meeting at 7:04pm.

Gas Drilling Task Force Report

Sue Beeners gave a report on behalf of the Danby GDTF. The Task Force has recommended that a joint committee be formed with Planning Board members (and Town Board members if desired). Five Task Force members have volunteered. The main intent is to offer help in drafting regulations banning fracking and regulating land use.

Beeners suggested that the PB consider what needs to be done and generate a “works plan” for this group. She outlined some of the needs and tasks which the Task Force volunteers could take on.

Gas Drilling Legislation

Selin gave some background and a timeline of activities by some members of the Planning Board and the formation of “Concerned Citizens of Danby.” Information and assistance was received from the chair of the Ulysses Planning Board. Selin gave a perspective on the attorney relationship between various Town Attorneys and the Community Environmental Defense Council (aka Helen and David Slottje). Selin reported that he had hoped that the Slottjes might work with the Town on this issue, but was aware of what seemed to be hostility to this idea from members of the Town Board. Selin asked the TB to pass a resolution charging the PB with drafting amendments to the zoning law, related to this issue. This was done June 6.

There was a discussion about the different approaches of Dryden, Ulysses, and the Town of Ithaca. Information from additional New York municipalities was made available to the PB. Otsego and Middlefield have already passed prohibiting legislation. The PB was particularly interested in the Middlefield ordinance and Greenplan study. The main approaches seem to be to either to specifically address the gas industry or to have a generic ban on heavy industry or high impact land use. The Slottje approach is viewed by some Towns as being too broad with many loose ends which would take a lot of research. This would be time consuming.

Dryden and Ulysses have crafted zoning amendments which are more succinct. Beeners expressed strong appreciation of the resolution which accompanies the Dryden zoning amendment. She suggested a coordinated effort on the various pieces of legislation being drafted in Danby at this time.

Beeners gave the opinion that wording and findings in the proposed Comprehensive Plan amendment and Aquifer Protection Ordinance might be mutually supportive with a ban ordinance.

There was some discussion about home rule provisions. Selin spoke about concerns with the pre-emption issue, stating that the Slottjes, “have little time to work with Towns which are still stuck on this issue.” Selin reported that the Slottjes do not have time to help Danby until the Town Attorney is, “beyond this issue,” as to whether current state law allows municipalities to prohibit certain industries and activities. Clerk Goddard read part of a communication received from Krogh earlier that day. This communication cleared up some concerns expressed by members of the Planning Board. Selin responded to this communication with the opinion that if Krogh will draft legislation for the Town the assistance of the Slottjes may not be necessary.

Beeners and Selin shared information indicating that members of the Town Board were supportive of prohibition legislation and that Krogh may already be working on a draft. This draft may be presented at the June 27 TB meeting. There was discussion about what recommendation the PB should make to the TB. A timeline of needed actions prior to the adoption of a prohibition amendment to zoning was outlined. Beeners offered to transmit this resolution of recommendation to Krogh and the TB so that they can work on this over the weekend. The PB agreed that it will need an additional meeting in July for amendment review.

RESOLUTION NO. 19 OF 2011 - ADDITIONAL MEETING

Resolved, that the Planning Board of the Town of Danby schedules an additional meeting for July 14, 2011 to review draft legislation banning high-impact industrial activity, including gas hydrofracking in the Town of Danby.

Moved by Roe, Second by Selin. The motion passed.

In Favor: Gagnon, Klingensmith, Melchen, Selin, Strichartz, Roe

RESOLUTION NO. 20 OF 2011 - HEAVY INDUSTRY BAN

Whereas, the Town of Danby Town Board charged the Planning Board with the drafting of local laws to prohibit high-impact industrial activity, including gas hydrofracking; and

Whereas, it is now apparent that three Towns in Tompkins County are in process of adopting workable laws for that purpose; and

Whereas, it appears that the Town Attorney has indicated a willingness to draft similar legislation;

Now Therefor it is

Resolved, that the Planning Board recommends and requests that the Town Board direct the Town Attorney to draft an amendment to the Zoning Ordinance to clarify and to further prohibit high-impact land uses including natural gas exploration and extraction with all deliberate speed in time for Planning Board review at its July 14, 2011 meeting; and it is

Further Resolved, that the Planning Board reports that said request is made without prejudice to having the Town Attorney consult with the Community Environmental Defense Council.

Moved by Gagnon, Second by Selin. The motion passed.

In Favor: Gagnon, Klingensmith, Melchen, Selin, Strichartz, Roe

Town Board Report

Leslie Connors gave a short report. She also took part in discussions about heavy industry legislation. Connors initiated discussion about a timeline for the various legislative efforts underway, including the Road Use Laws, amendment to the Comprehensive Plan, further zoning review and updates, Aquifer Protection Ordinance, and designation of Critical Environmental Areas. Connors suggested devising a chart to map processes such as the public hearings which will need to be held.

Questions about the Road Use Law were answered by Connors and Goddard to the best of their ability. There were particular concerns about “industrializing” Danby’s roads. Why not simply post the roads for weight limits which would exclude heavy truck usage? It was explained that these laws help protect against thresholds beyond weight limits, regulate pass-through traffic (even if drilling is banned in Danby), and set haul routes, letting truckers know where they are permitted and were not.

Critical Environmental Areas Update

Anne Klingensmith gave an update. She also took part in discussions about heavy industry legislation. A draft of the most complicated CEA designee has been written and circulated to the Town Clerk and Code Officer for review. Six more CEAs need to be written. Boundaries for these areas have been described. Descriptive material and evidence has been compiled, but needs to be refined in the text. Klingensmith asked for additional readers to review the material which has already been prepared.

Beeners advised that these be prepared and moved as the material is developed. She updated the PB on the status of CEA mapping. Beeners hopes that the intern working with the Conservation Advisory Council can work on this project this summer. The intern's advisor is enthusiastic about the project. Other CAC members may be willing to help vet the drafts. Klingensmith will meet with this intern and CAC advisor in July and expressed eagerness to be trained in GIS mapping.

Proposed Aquifer Protection Ordinance

Cynthia Bowman gave an update draft of the proposed Aquifer Protection Ordinance. The PB chair noted that most of the concerns previously expressed were addressed in the current draft. Bowman explained changes which resulted from consultation with CEO Beeners. Appropriate standards need to be set for various permitted businesses including photography operations, furniture stripping, and dyeing.

Bowman explained that the final version of the Aquifer Protection Ordinance can not be completed until appropriate mapping is included. An estimate of mapping costs is in the \$10-14,000 range, after deducting the USGS matching funds. This cost could be spread over two fiscal years. Beeners has contacted the County for financial support. It is expected that maps will be prepared by winter 2011.

There were several suggestions for removing ambiguities in the definitions. The PB asked additional questions regarding potential unintended consequences. Such issues as the size of an oil tank for a multiple unit property, definition of fracking fluid hazardous waste, thresholds for sub-divisions, language which would permit composting toilets, commercial composting, and other concerns. Suggestions were made for ways to address these concerns, including specific language and suggestions for operations which might have permitted uses.

Klingensmith requested that the record show that the Planning Board thanks Cynthia Bowman for all of the work she has done and is doing on this ordinance.

RESOLUTION NO. 21 OF 2011 - AQUIFER STUDY MAPPING

Resolved, that the Planning Board appreciates the work being done on the proposed Aquifer and Stream Corridor Protection Overlay Zone Amendment; and it is

Further Resolved, that the Planning Board recommends that the Town Board provide the funding needed for related mapping.

Moved by Gagnon, Second by Selin. The motion passed.

In Favor: Gagnon, Klingensmith, Melchen, Selin, Strichartz, Roe

Adjournment

Chairman Roe directed the PB to read the Middlefield material prior to the July 14 meeting.

The Meeting was adjourned at 9:25pm.

Pamela S Goddard, Planning Board Secretary