

**Danby Planning Board
Minutes of Meeting
January 19, 2012**

Present:

Joel Gagnon
Anne Klingensmith
Frank Kruppa
Ted Melchen
Robert Roe

Excused:

Steve Selin
Naomi Strichartz

Others Present:

Secretary	Pamela Goddard
Code Officer	Sue Beeners
Town Board	Leslie Connors
Public	Ted Crane

Planning Board Chair, Robert Roe opened the Planning Board meeting at 7:05pm.

RESOLUTION NO. 1 OF 2012 - ELECT CHAIR PRO-TEM

Resolved, that the Planning Board of the Town of Danby appoints Robert Roe to chair this meeting.

Moved by Klingensmith, Second by Gagnon.

In Favor: Gagnon, Klingensmith, Kruppa, Melchen, Roe

Consider Setting Regular Meeting Date

There was a discussion about meeting dates for 2012. The Board agreed to keep the date and time unchanged from the 2011 time. It was agreed that dates could be changed, as need to avoid holidays and other conflicts.

RESOLUTION NO. 2 OF 2012 - SET MEETING DATES

Resolved, that the Planning Board of the Town of Danby shall meet on the fourth Thursday of each month, 7:00pm, at the Danby Town Hall.

Moved by Klingensmith, Second by Kruppa.

In Favor: Gagnon, Klingensmith, Kruppa, Melchen, Roe

The Planning Board agreed to hold all other actions (recommendation to Town Board for selection of chair, appointment of Planning Board Secretary, approval of November minutes) until the February meeting when there should be a full Board.

Progress Report on 2011 Projects

Beeners presented a list of old business and pending legislation that needs attention. The Aquifer Protection Ordinance is waiting on GPS mapping of culverts and other drainage features. Beeners suggested that the Town investigate wind power legislation and home business enhancements as additions to the miscellaneous projects being considered this year.

Beeners and Klingensmith reported on the status of Critical Environmental Area designations. There was a discussion of the next steps needed to write up the proposed designation areas. The information is compiled. Klingensmith expressed concern about the review process of these areas and

requested assistance in drafting the proposals. The CEA proposed for the Lindsay Parsons area has undergone a first draft. A proposed CEA for Michigan Hollow/State Forest should also be easy to draft and prepare.

Beeners gave a status report on “Zoning Round Two” projects. The TCCOG Natural Gas advisory committee had its first meeting on Jan. 19. This group is looking for help, and has invited municipal planners to join their effort. The group will be looking at the impacts on assessments and needed pipeline regulations for smaller gathering lines. Similar research needs to be done on noise and light impacts of heavy industrial activities. Students from the Cornell Law Clinic may assist with regulations of industrial impacts such as pipelines, noise, and light.

Beeners reported that the Gas Drilling Task Force seems to be focused on public education and legislative lobbying related to heavy industrial natural gas extraction. She hopes that the Planning Board will be involved in the review of regulations and local laws as described above. In addition, the Planning Board will be involved in the review of the Comprehensive Plan over the next year. The new Danby Energy Group may be able to assist with this task.

Beeners distributed a copy of a document “What is a Sustainability Plan?” which might help give a framework for review of planning documents. Community Sustainability Planning toolkits are available from the ICLEI web site. [icleiusa.org]

Town Board Report

Connors gave a report of recent actions of the Town Board, particularly related to the communication requesting that all boards and committees set their priorities and goals for 2012.

Connors also reported on recent appointments to the BZA and the county EMC. She informed the PB that the TB passed a resolution to waive Code Enforcement fees for installation of solar, wind, and geothermal energy projects. Danby has received approval to lower the speed limit on Nelson Road, between Route 96B and Troy Road, to 40 mph. There will be training for the Delta Road Protection Program on Thursday Feb. 23, in Dryden, 9am-2pm.

2012 Project Tasking and Comprehensive Plan Review

There was a discussion about setting priorities for projects in 2012. It was suggested that “Sustainability/Self-Reliance/Climate Change/Energy Use” be used as a focus for review of the Danby Comprehensive Plan and other actions. Beeners offered a proposal for scoping vision related to these critical concerns.

Hamlet Zoning was raised as a project to complete in 2012. Beeners encouraged networking with other groups, such as the Danby Energy Group, in order to develop an overall town vision related to sustainability. Several PB members suggested that this be done concurrently with review of the Comprehensive Plan. It might be possible to create a ‘stand alone’ sustainable planning addendum to the Comprehensive Plan.

There was a discussion of creating framework for a possible “floating zone” within a target area to enable the nucleus of a hamlet or cluster multi-use development. It was suggested that the PB gets “conceptual approval” prior to putting energy into a finished project. Public input will be needed prior to the drafting of specific details. The goal might be to create a densified zone for sustainable growth while maintaining the rural character of the town. Research would need to be done to learn how to accomplish this. Gagnon agreed that he would have preliminary information for the Board at its next meeting.

There was a discussion about creating the goals and methodology document requested by the Town Board. Zoning changes and Comp Plan review in the light of energy use, climate change and community sustainability/self-reliance are the top priorities of the Town Board. A more detailed report will be drafted at the Feb. 23 meeting.

The PB asked the Code Officer to propose a framework to be used in review of both zoning and the Comprehensive Plan. Beeners expressed her willingness to create an outline but was concerned

about her lack of time. Town Board representative Connors suggested that members of the PB do this on their own, possibly through a subcommittee. She stated that the PB was capable of doing this. A computer search of this could be done quickly. Members of the PB thought that Beeners' vision might be a good "jumping off point." Beeners is willing to highlight some resources for the board. The PB was encouraged to read through the Comp Plan prior to the Feb. 23 meeting.

Open Meetings Law Regarding Telephone/Email Polling

Roe and Goddard initiated a discussion of open meetings law requirements regarding recommendations from the Planning Board based on an Email/phone poll.

Roe distributed the letter he presented to the TB, reporting on the December PB recommendation to fill a vacancy. Roe reported that the letter had been directed to the Town Attorney for non-compliance with the NYS Open Meetings Law. Goddard corrected this misunderstanding and reported that she had informed the Town Board of previous opinions released by Robert Freeman, Executive Director of the NYS Committee on Open Government, regarding the general non-compliance of telephone or Email polls or votes by a municipal board.

Goddard provided the PB with the following opinion from 1998, which has been backed up by more recent decisions:

Open Meetings Law: "It is essential to the maintenance of democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy."

Quote from Robert Freeman of the Committee on Open Government in a 1998 decision on this issue: "There is nothing in the Open Meetings Law that would preclude members of a public body from conferring individually, by telephone or via (e)mail. However, a series of communications between individual members or telephone calls among members which results in a collective decision, a meeting held by means of a telephone conference, or a vote taken by mail would in my opinion be inconsistent with law. From my perspective, voting and action by a public body may only be carried out at a meeting during which a quorum has physically convened"

Roe and others expressed the opinion that a "poll" is different from a vote, and that the PB was offering an opinion rather than making a decision. This was seen as "insubstantial decision" and not a poll "that counted." Goddard took responsibility for not clarifying what could be seen as a grey area, and suggested that the Boards avoid the appearance of evading the Open Meetings Law by not undertaking a telephone or Email poll in the future. In this case, there was no intent to circumvent an open meeting. The PB recognized that this could be seen as a "slippery slope."

Adjournment

The Meeting was adjourned at 8:53pm.

Pamela S Goddard, Planning Board Secretary