

**Danby Town Board
Minutes of Meeting
May 10, 2010**

Present:

Supervisor: Ric Dietrich
Councilpersons: Leslie Connors, Dan Klein, Kathy Halton, Dylan Race

Others Present:

Town Clerk Pamela Goddard
Code Enforcement Susan Beeners
Bookkeeper Laura Shawley

Members of the Public:

Joel Gagnon, Ronda Roaring, Ted Crane, Lisa Turner, Lucy Roberts, Erin Fitzgerald, Kristin Bartholomew, David Hessler, Tanya Kingsley, Theresa Souchet, Kirsten Hascup, Emily Butler, Lisa Bushlow, Mary Lauppe, John Gephart, Pam Kaminsky, Katheryn Caldwell, Mike Finn, Barry Craddock, Linda Bryan, and others.

Call to Order

Supervisor Dietrich called the meeting to order at 6:55pm.

Warrants:

Water District Fund 2010, vouchers #22-25 for \$712.22

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

In Favor: Connors, Halton, Klein, Race, Dietrich

Highway Fund 2010, voucher #47-58 for \$8,729.43

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

In Favor: Connors, Halton, Klein, Race, Dietrich

General Fund 2010, vouchers #189-232 for \$18,965.41

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

In Favor: Connors, Halton, Klein, Race, Dietrich

Resolution No. 63 of 2010 - APPROVAL OF MINUTES

Resolved, That the Town Board of the Town of Danby approve minutes of Town Board meetings from 4/5/201 and 4/12/2010.

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

In Favor: Connors, Halton, Klein, Race, Dietrich

Guest Speakers:

Waldorf School: David Hessler, Waldorf School planning chair and member of the school board made a case for the Ithaca Waldorf School and Danby being a "good fit." The Waldorf School addressed the TB with the hope that the board will eventually approve a use variance for a property on Gunderman Road (the old Angelheart location, which has a PD zoning) so that the school may use it as its "new home." While they have been making plans for a location on Nelson Road for some years, cost estimates for the Angelheart facility show a significant cost savings even with renovations. A plan has been submitted to the Town Board electronically.

Hessler noted the fact that Danby used to have a school and that activities at the Waldorf School

could bring an added sense of community involvement to Danby. He then made himself available for questions from the board. A Public Hearing on this issue will be held during the May 19 Planning Board meeting. Following a recommendation from the Planning Board, there will be a second public hearing before the Town Board and the TB will then make a decision on the zoning variance. Any additional site plan issues would then be returned to the Planning Board.

Town Board members asked questions of Hessler and other Waldorf School representatives. There was a question about well testing, how far draw down tests would extend through the neighborhood, and whether the person doing that testing could be made available at the PB hearing in order to answer questions from the neighborhood. Tompkins County Health department will require yield testing. Draw down testing on the three wells located on the property has been recommended to demonstrate draw down influence between these wells. If an influence is demonstrated at these distances, the school will offer to do draw down tests on other sites.

Oasis: Pam Kaminsky requesting a special use variance for a one time event with outdoor amplified music at the Oasis Dance Club courtyard. This would take place on September 8, 5-8pm for the Chamber of Commerce “Business After Hours” event. Kaminsky hopes to showcase her business to its fullest potential that evening. A eight page packet of information was distributed to the board, including a petition in favor signed by 15 neighbors. The current request was reduced from four events to one.

Linda Bryan, 35 Comfort Road, a neighbor with many years of close experience, spoke against amplified music at the Oasis Club. Barry Craddock spoke on behalf of Heidi Bennet, who lives next door to Oasis at 31 Comfort Road. Craddock stated that Bennet has had recent problems with music inside the club. He expressed concern that this request could be the start of future problems. Kaminsky responded to what she characterized as misinformation regarding noise complaints.

Beeners clarified the process for amplified sound to be permitted at Oasis, requiring both a variance from the BZA and a special permit from the Town Board and subject to public hearing. Beeners had suggested to Kaminsky that, if she could poll her neighbors and get unanimous approval from them, perhaps a public hearing might be waived for a trial event to see the impact of f music in the courtyard. There was a session of questions and answers between the TB and Kaminsky. This included the question of precedent (Oasis would have to renew this variance every year) and of whether presenting amplified music for the Chamber of Commerce accurately represents the business, since amplified outdoor music is not usually allowed. Kaminsky replied that this would represent the potential of the business.

There was wide-spread opinion on the Board that amplified music during the hours in question, as a one time event, was not a major concern and to learn whether there would be neighborhood impacts. The Town Board discussed whether the process of public hearing and two Board meetings on the issue should be waived in this case. Craddock made a counter case that the neighbors, especially those in closest proximity, should have an opportunity to voice their opinions on this use. Hearing neighbor concerns, the TB advocated for holding one public hearing, rather than two, delegating the authority of this decision to the BZA. In doing so, the Town Board is expressing the opinion that the BZA is the proper body to hear this request for a variance and that the residents in the area are important and have a right to be heard on the record.

Resolution No. 64 of 2010 – BZA HEARING—OASIS SPECIAL USE VARIANCE

Resolved, That the Town Board of the Town of Danby delegates a public hearing on the request for a special use variance related to outdoor amplified music at the Oasis Dance Club for a one time event on September 8 from 5-8pm, to the Board of Zoning Appeals, . Comments will be accepted in writing. The decision of the BZA on this matter will be considered the official determination of the Town.

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

In Favor: Connors, Halton, Klein, Race, Dietrich

The BZA will be directed to set a public hearing on this issue.

Privilege of the Floor:

Asher Hockett was expected to make a presentation about the Youth Board and the Danby Community Council, but was not in attendance.

Mary Lauppe, a Danby resident and a parent of Waldorf School students and a graduate of Waldorf Schools, spoke in support of the Waldorf School. She expressed the opinion that the Gunderman Road site is perfect for the school. Mike Finn, a former teacher at the Waldorf School and Danby resident also spoke in favor. Kirsten Hascup, a teacher at the school and resident of Nelson Road stated that the Gunderman property “already looks like a Waldorf School.” She believes that there could be no better neighbors than a Waldorf School. A Waldorf board member thanked the TB for considering this application, stating that the site calls out for gardening, farming, and respect for neighbors which are all part of the Waldorf curriculum.

Board of Zoning Appeals Chair:

Dan Klein moved that Alan Wagner be appointed Chair of the Board of Zoning Appeals. There was a discussion regarding whether Wagner was willing to be chair. Halton expressed the concern that some of his neighbors had a very difficult time with a development undertaken by Wagner. Others reported being impressed with Wagner’s conduct at the Marsh Road hearing in terms of being prepared, knowing the zoning ordinance, and basing his findings in fact.

Resolution No. 65 of 2010 – BZA CHAIR

Resolved, That the Town Board of the Town of Danby appoints Alan Wager as Chairperson of the Board of Zoning Appeals.

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

In Favor: Connors, Klein, Race, Dietrich

Abstain: Halton

Planning Board Chair:

There was a brief discussion of options for a Standing PB Chair. During its April 21 meeting, the Planning Board recommended Ray Van de Bogart for Standing Chair. He declined. The PB has discussed having a Standing Chair as a point person and legal representative, and sharing responsibilities for chairing meetings and setting agendas between the members. Some PB members had expressed that they were not available to be Chair. The TB discussed concerns about levels of experience and forthrightness regarding different PB members. It was thought perhaps new direction was needed on that board. Dylan Race move that Steve Selin be appointed Chair of the Planning Board. There was speculation that the Planning Board would support this appointment.

Resolution No. 66 of 2010 – PLANNING BOARD CHAIR

Resolved, That the Town Board of the Town of Danby appoints Steve Selin as Chairperson of the Planning Board.

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

In Favor: Connors, Halton, Klein, Race, Dietrich

Mowing Contract:

Bookkeeper Shawley distributed an analysis of the two bids received for mowing Town properties and explained the figures. In 2009, thanks to the extra mowing required by a wet year, mowing expenses went over budget by \$1,100. The 2010 budget includes the same amount as in the 2009 budget. Shawley recommended that the contractor be advised as to the budget so as not to go over this year.

There was concern regarding a potentially unrealistic bid and the possibility of sub-contracting by Prestigious Property Management. Tony Catlin has been a trusted contractor with the Town for several years. Supervisor Dietrich deals directly with Catlin and would direct him as to the number of cuttings to be done.

Resolution No. 67 of 2010 – MOWING CONTRACT

Resolved, That the Town Board of the Town of Danby authorizes the Town Supervisor to contract with Tony Catlin for mowing Town properties, including lawns around the Town Hall and in cemeteries under Town stewardship, for the budgeted amount during the mowing season of 2010.

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

In Favor: Connors, Halton, Klein, Race, Dietrich

Official Undertaking for Town Clerk:

Bookkeeper Shawley distributed an insurance Report of Execution, showing that the Town Clerk/Tax Collector, Town Supervisor, Town Bookkeeper, and Deputy Town Clerk are each bonded at a rate of \$150,000 and so are covered for the resolution to be passed.

Resolution No. 68 of 2010 – OFFICIAL UNDERTAKING

Pamela Goddard, Clerk of the Town of Danby, New York, for a term of two years, commencing on the 1st day of January 2010 and terminating on the 31st day of December 2012,

WHEREAS, under Town Law 25, such Town Clerk is required to execute and file an official undertaking, and the amount of such undertaking having been fixed by the Town Board in the manner provided for by law in the sum of \$150,000, for the faithful performance of the duties of the office;

NOW, THEREFORE, we the Town Board of the Town of Danby as principal and the National Grange Insurance Company located at 220 Salina Meadows Parkway, Suite 200, Syracuse, NY, do hereby jointly undertake that the above-bonded Pamela Goddard will faithfully perform the duties of the office of Town Clerk, and all trusts imposed by law by virtue of the office, including the duty of promptly accounting for and paying over all monies or property received as such officer, and that if the said as Town Clerk fails to perform any of the above-mentioned conditions or is in default thereof, that the parties hereto will pay to the Town, all damages, costs and expenses resulting from such default, not exceeding the sum specified above.

Moved by Klein, Second by Connors. The undertaking passed.

In Favor: Connors, Halton, Klein, Race, Dietrich

Copier Replacement:

Information was presented regarding cost estimate for replacing the Town Hall copier including a service contract.

Resolution No. 69 of 2010 – COPIER REPLACEMENT

Resolved, That the Town Board of the Town of Danby authorizes the Bookkeeper and Town Clerk to proceed with replacing the Town copier for an amount not to exceed \$5,500.

Moved by Klein, Second by Halton. The motion passed.

In Favor: Connors, Halton, Klein, Race, Dietrich

Delta Engineering Contract:

Copies of the proposed Road Engineering contract with Delta Engineering were distributed to the board for review. The staff had met with a Delta representative during the previous week to review this contract. Shawley, as assistant to the Highway Supervisor, clarified some elements of the contract. Halton reported that all four references gave glowing reports of the company, saying that Delta went out of its way to adapt to each town. This contract covers phase one and two of the proposal. Phase three is paid for by the industrial companies through permit fees. Dietrich will have the Town attorney review the contract.

Resolution No. 70 of 2010 – DELTA ENGINEERING CONTRACT

Resolved, That the Town Board of the Town of Danby authorizes the Town Supervisor to sign a contract for up to \$7,500 with Delta Engineering and up to \$1,000 as a retainer for the collaborating attorney.

Moved by Klein, Second by Connors. The motion passed.
In Favor: Connors, Halton, Klein, Race, Dietrich

Records Management/ Second Deputy:

Clerk Goddard informed the board of Suzanne Etherington's presentation to the Town staff and department heads, held on May 5, regarding departmental responsibility for records management. Etherington has offered to make a presentation to the Town Board at its agenda meeting on July 5, regarding the Board's role in records management and what the Town should be doing legally and ethically.

Mary Ann Barr and Goddard drafted a work plan for Barr's role as a second Deputy Clerk, with a special focus on records management/archival assistance. Goddard made a proposal for this position, recommending that Barr be paid at the same rate as the current Deputy. Funding for this position is not in the current budget. Bookkeeper Shawley reported that money to cover this position could be found in the unallocated insurance line. This amounts to approximately \$300 a month. While this is a special project, there is a massive amount of work to be done. This position will need to be continued in the future and the Town Clerk budget re-evaluated for 2011.

Resolution No. 71 of 2010 – SECOND DEPUTY CLERK

Resolved, That the Town Board of the Town of Danby provides the salary for a Second Deputy Clerk at the rate of \$12 an hour for approximately six hours per week to come from the budget line unallocated insurance.

Moved by Klein, Second by Race. The motion passed.
In Favor: Connors, Halton, Klein, Race, Dietrich

Credit Card Policy:

This policy and enabling resolution will be proofed and returned to the Town Board for review and action at its June meeting. Recommended card holders include Carl Seamon, Laura Shawley, Kent McNeil, and James Seeley at the Highway Department and Ric Dietrich, Pamela Goddard, and Sue Beeners in Town Hall. Each card at the Highway Department has a \$5,000 credit limit. The credit limit at the Town Hall are \$2,000. Shawley polled the mood of the TB as to whether these names and credit limits are appropriate. Two resolutions will be presented in June. One for the general credit card policy and a second naming the specific people to be issued cards.

Conservation Advisory Council:

Klein answered additional questions about the CAC proposal. He wanted to ensure that the TB has enough time to think about and discuss this proposal. The CAC will work in collaboration with other committees and groups in the town, such as the committee on Critical Environmental Areas and the Danby Land Bank. This Council may incorporate the Comprehensive Planning Task Force. The question was raised as to whether the proposal needs review by the town lawyer. Dietrich sees this as part of a larger group of issues related to land use, such as cell-tower and wind power regulations, that may need legal opinion. Klein explained some of the financial aspects of this proposal.

There was a discussion about the rights, mechanisms, and conditions by which a Conservation Advisory Council could accept donations of land. Each land donation would be considered on a case by case basis, including questions of cost of maintenance and the impact on the tax rolls. Possible land acquisition is just one part of the CAC proposal.

In general, there was a sense of approval and excitement about this proposal. Following legal review, the proposal will come before the board for a vote at its June meeting.

Dog Ordinance:

The Town Board needs more time to read through the proposal. Roaring made a few comments on her proposal related to the Right to Farm Law. Some sections are based on the Lansing Dog Ordinance.

Short reports from the Fire District, the EMC, the Farmer's Market, TCAC (the elimination of dog database at the state level), and Highway Department (whether CHIPS money will be received and an update on the Salt Barn) were distributed to the Board. Responses are still coming in. Reminders were given for a plant exchange and a flax presentation, both to be held on May 16.

Adjournment

A motion to adjourn the Meeting was made at 9:17 pm.

Pamela S Goddard, Town Clerk