

**Danby Town Board**  
**Minutes of Public Hearing and Meeting**  
**August 9, 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  
Water Comm. Carl Seamon  
County Legislator Frank Proto

**Members of the Public:**

Joel Gagnon, Ronda Roaring, Ted Crane, Gene Beavers, Ames Brown, Marge Seamon, John Shepardson Sr., Rick Dobson, Robert Roe, Liz Owens Roe, James Reagan, Randy Ingell, Linda Bryan.

**Highway Superintendent Referendum Public Hearing**

A Public Hearing on proposed Local Law #5, *Changing from an Elected Town Highway Superintendent to an Appointed Town Highway Superintendent* was opened at 6:30pm. The published notice, published in the Ithaca Journal on 7/27/2010, was read by the Town Clerk.

*PLEASE TAKE NOTICE, that the Town of Danby Town Board will hold the following Public Hearing on August 9, 2010 at the Danby Town Hall, 1830 Danby Road, Ithaca, NY:*

*6:30 p.m. - PUBLIC HEARING to consider adoption of Local Law - Changing from an Elected Town Highway Superintendent to an Appointed Town Highway Superintendent. A Local Law providing for the abolition of the elective office of Town Highway Superintendent and the creation of the appointive office of the Town Highway Superintendent of the Town of Danby. This local law would be subject to mandatory referendum according to the provisions of Section 23 of the Municipal Home Rule Law. A copy of the proposed law is available for public review at the Town of Danby Website [<http://town.danby.ny.us/>] and at the Town Clerk's Office. All persons will be heard either in writing or in person.*

Written communication from 21 Danby residents, received prior to the hearing, was read into the record. Twenty were in favor of sending the proposed law to referendum and one was opposed. (The day following the Town Board meeting, three more letters were received, two in favor and one opposed.)

*John Shepardson* asked questions about the process and the pros and cons of this change. He asked what the advantages would be for an appointed Highway Superintendent vs. an elected one. Klein responded that the hearing was a time to hear from the public rather than a time for discussion. Shepardson asked how the public was expected to make a decision without more information. The Board responded that this change would open up a broader pool of applicants for the position.

*Sally Gagnon* spoke in favor of the referendum, appreciating the range of skills needed for the job. *Joel Gagnon* spoke in favor of the referendum in order to have a broader pool of applicants.

*Liz Owens Roe* spoke in opposition of the process by which this is proceeding. She recommended a hearing on the issue at a time when more citizens were likely to attend. She also suggested that the issues, pro and con, be laid out in a format or publication available to all residents, so that the voters can be informed. Owens also expressed her concern about a balance of power in government.

*Ted Crane* spoke in favor of this question going to referendum. He pointed out the Board's existing management of the Highway Department, particularly in the distribution of funds for major projects and the approval of the highway budget. While not in favor of change without a clear advantage, in his opinion, the choice of elected or appointed should be decided by the voters.

*Gene Beavers* spoke in opposition. In Beavers opinion, the current situation serves Danby well and that there are qualified personal among Danby voters. He didn't think that the Town Board would necessarily make a better choice than the public. Beavers charged the Town Board to have faith in the voters and to be more diligent in choices for people to endorse. *John Shepardson* said, "If it isn't broke, don't fix it." In his opinion, this important decision should not be left to a five member Board. He is in favor of the choice of Highway Superintendent being left to the voters. He finished by saying that he thought the question should go to referendum.

*Ronda Roaring* read written comments in favor of the change; these are filed with the other written communication. She cited the technical knowledge needed for the position and the need for the most qualified person for the job. She noted the difficulty in finding a qualified person who was also willing to run for office. In her opinion, qualification should be based on more than residency.

*Rick Dobson* spoke in opposition. He noted the well-organized letter writing campaign, but thought that the choice of Highway Superintendent should be the people's choice by vote. He is opposed to anything that takes away the people's right to vote on a Town position. Dobson also didn't think that this change would save the Town money.

*Ames Brown* spoke in opposition. He cited the importance of the Highway Superintendent being familiar with the roads and people of Danby.

*Supervisor Dietrich* made some comments, stating that it's important for the Board to bring issues to the public. In his opinion, sending this to referendum is an important way to have a town dialogue about the issue. If the Board decides to go with this local law, Dietrich suggested that a public information/Q&A forum be organized. He also pointed out that having this position appointed does not preclude a local person from getting the job. Dietrich said that some qualified persons did not want to go through the hassle of an election.

Dan Klein clarified that the law as written makes this a two year position, not a lifetime position.

Ted Crane suggested that the "no political opinion" policy for content of the Danby Area News might be waived for this case, allowing short pro and con opinion statements to be made available for Danby voter review.

Liz Owens Roe suggested holding off to move this issue in 2011, so that the people had more time to learn about the issue. She thought that the timeframe for this year was too short.

Hearing no further comments, **the Public Hearing was closed at 7:12pm**

### **Call to Order**

Supervisor Dietrich asked Deputy Supervisor Klein to chair the meeting.  
Klein led the pledge and called the meeting to order at 7:13 pm.

### **Resolution No. 98 of 2010 - APPROVAL OF MINUTES**

**Resolved**, That the Town Board of the Town of Danby approves the minutes of Town Board meeting on 7/6/2010.

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

### **Resolution No. 99 of 2010 - APPROVAL OF MINUTES**

**Resolved**, That the Town Board of the Town of Danby approves the minutes of Town Board meeting on 7/12/2010.

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

### **County Legislator Report:**

Frank Proto gave an update on the Health Insurance Consortium, which passed a major hurdle. The County has put in money and the Consortium does not need to raise as much backup money as once thought. The County has pledged a half million dollars to this effort. It is hoped that this will be operational by the first of the year 2011.

Proto also updated the Town Board on the County budget process. The County continues to be concerned about fallout from the State budget. County budget hearings are set to begin in September. He informed the Board of the County's support for the EPA Hydrofracking study, with particular concerns about water withdrawal and water disposal. The County is now listed as an interested agency in this process.

**Privilege of the Floor:**

**Alcohol Fuel:** Ames Brown expressed his opinion on the matter. He has serious concerns about the agricultural practices related to this proposed initiative.

**Opinion Pieces in the Danby Area News:** Gene Beavers expressed his opposition to this suggestion.

**Oasis Dance Club:**

Neighbors related code violations at the Oasis Dance Club that took place during the weekend of August 7/8, 2010. Specific charges and evidence was given for violations in presentation of outside amplified music and consumption of alcohol in the parking lot and bandstand areas. Neighbors reminded the Town Board of the history of their concerns. Minutes of the July 28 BZA hearing and determination were distributed to the TB. In light of the events and violations of the previous weekend, there was doubt that Oasis owner Kaminsky is negotiating in good faith. High sound levels—during live music inside the Club, several times a week, every week—are resulting in a disturbed quality of life for the neighbors. The neighbors asked the TB to be proactive in its communication on this issue. They also asked what other agencies should be brought in to address this problem.

Roaring suggested that the issue of outdoor amplified music be addressed Town-wide, citing an event with amplified music near her house over the weekend. She suggested that there be a permit system for large events with amplified music. This suggestion provoked a negative reaction from at least one resident.

Al Becker spoke on behalf of the BZA determination, noting that nothing in the current variance question was to be construed to allow other than this one-time event. The BZA did not condone any other event. Any other assumption on the part of Oasis is incorrect.

Beeners reported on actions being taken through the Code Enforcement Office and the Town Attorney, specifically about the use of outside amplified music and alcohol consumption on August 7 and 8. They are working on the most effective way of addressing those violations as promptly as they can. She noted the complaints of an increase in interior music levels as a major issue. Beeners asked Bryan to send photos and other materials to her.

Dietrich asked the neighbors, “Is the Town doing enough?” There was a discussion of ways to address the specific needs of the neighbors. A letter, clarifying all of the concerns and steps being taken to address them, will be drafted by Dietrich and sent to Bryan, Ingall, and Reagan with a copy to Kaminsky.

**Highway Superintendent Referendum:**

There was a discussion of the procedure for making a decision based on the Public Hearing. Clerk Goddard clarified for the public that, if passed, the resolution will appear to pass a local law. This law includes the requirement that there be a public vote/referendum. The law does not become official until it is approved by the voters and does not take effect until January 1, 2012.

There was a discussion of methods for present pros and cons of this proposed law to the public. Members of the board suggested a public information and discussion session and some method of getting information to voters in writing.

**Resolution No. 100 of 2010 – CONSIDER ADOPTION - PROPOSED LOCAL LAW NO. 5 OF 2010  
CHANGING FROM AN ELECTED TOWN HIGHWAY SUPERINTENDENT TO AN APPOINTED TOWN  
HIGHWAY SUPERINTENDENT**

**WHEREAS**, the Town Board of the Town of Danby is considering adoption of proposed Town of Danby Local Law Number 5 of 2010 Changing from an Elected Town Highway Superintendent to an Appointed Town Highway Superintendent; and

**WHEREAS**, the Town Board on August 2, 2010, that the Town Board of the Town of Danby, acting as Lead Agency in SEQRA environmental review of this action, finds that it is a Type II action under 6 NYCRR 617.5 (20) and (27) and needs no further environmental review; and

**WHEREAS**, the Town Board on August 9, 2010 has held Public Hearing on this proposed local laws, which Public Hearing was duly noticed in the Ithaca Journal;

**NOW, THEREFORE, IT IS**

**RESOLVED**, that the Town Board of the Town of Danby hereby adopts Town of Danby Local Law Number 5 of 2010 Changing from an Elected Town Highway Superintendent to an Appointed Town Highway Superintendent, which Local Law is incorporated into this Resolution; and it is

**FURTHER RESOLVED**, that the Town Board schedules a public referendum with respect to adoption of said local law for November 2, 2010.

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

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

**TOWN OF DANBY LOCAL LAW #5 OF 2010  
Changing from an Elected Town Highway Superintendent  
to an Appointed Town Highway Superintendent**

A Local Law providing for the abolition of the elective office of Town Highway Superintendent and the creation of the appointive office of the Town Highway Superintendent of the Town of Danby.

**Be it enacted by the Town of Danby as follows:**

- Section 1.** Pursuant to Municipal Home Rule Law, §10, the Town of Danby hereby abolishes the Elective Office of Town Highway Superintendent; the abolition of said office to take effect at the expiration of the term of office of the present incumbent on December 31, 2011.
- Section 2.** The elective office of Town Highway Superintendent of the Town of Danby is hereby abolished as of January 1, 2012.
- Section 3.** The appointive office of Town Highway Superintendent of the Town of Danby is hereby created as of January 1, 2012.
- Section 4.** At the biennial Town election succeeding the effective date of this local law, no Town Highway Superintendent shall be elected, and upon the expiration of the term of the Town Highway Superintendent for whom no successor shall be elected, the Town Board shall appoint a Town Highway Superintendent who shall hold office for a term of two years, commencing with the first day of January succeeding the expiration of the term of office of the elective Town Highway Superintendent, January 1, 2012.
- Section 5.** If a Town Highway Superintendent cannot or does not complete the appointed term, the Town Board will appoint someone to fill the remainder of the Town Highway Superintendent's term.
- Section 6.** This Local Law shall supersede the provisions of Town Law, §24 relating to the terms of office for the Town Superintendent of Highways of the Town of Danby.
- Section 7.** This Local Law is subject to mandatory referendum according to the provisions of Municipal Home Rule Law, §23.
- Section 8.** This local law shall take effect immediately upon filing with the Secretary of State and after approval of a majority of the electors voting thereon in accordance with the requirements of Municipal Home Rule Law, §23.

Following the vote there was further discussion about how to compile a balanced informational mailing directed to Danby voters. The Board set a public information meeting on the issue for the September 20 TB meeting at the West Danby Fire Hall. This special informational Q&A session will start at 6:30pm, prior to the regular Town Board meeting, to allow for sufficient time for public questions and comment. At the same meeting, Mark Whitmore will make a presentation (at approximately 7:30pm) about the Emerald Ash Borer and forestry issues.

Input will be gathered for a special mailing outlining the issues in question and the pros and cons expressed at the Public Hearing and in writing. The Town Board will use the most current voter rolls as a mailing list and will look into the services of Mailboxes for bulk mailing. The deadline for compiling comments to be used in the informational mailing is August 23 so that it can be mailed around Labor Day. Funds for this mailing will be taken from the “elections” section of the Town budget.

**Resolution No. 101 of 2010 – AUTHORIZE FUNDS FOR MAILING**

**RESOLVED**, That the Town Board of the Town of Danby authorizes the expenditure not to exceed \$1,000 for mailing informational material related to the Local Law passed in Resolution #100 of 2010 to all registered voters in Danby.

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

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

**Town Budget Process:**

Board members were asked to bring their calendars to the September 13 agenda meeting in order to schedule upcoming budget hearings. These will most likely be scheduled for Mondays in September and October.

**Salt Barn Construction:**

Shawley gave an update about the bid process for construction of the salt barn. The project will be broken into segments. The State Comptroller advised that, while bids for sections of the project would come under the limit needed for a formal bid process, the whole project must go out to bid. The entire project is estimated to cost \$89,000, not more than \$110,000. \$80,000 of 2010 CHIPS money will be used for the project. The remainder will come from the surplus funds in Highway budget.

**Resolution No. 102 of 2010 – AUTHORIZING THE TOWN OF DANBY HIGHWAY DEPARTMENT TO SEEK BIDS FOR THE CONSTRUCTION OF A SALT STORAGE FACILITY**

**RESOLVED**, That the Town Board of the Town of Danby authorizes the Town Highway Department to seek bids for the construction of a 42' by 100' membrane structure to be used as a salt storage facility.

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

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

**Conservation Advisory Council:**

Three letters of interest have been received. There are seven seats on the board, at least one of which can be a member of the Town Board. The TB agreed to extend the application period by at least another month. Klein will write an article for the Danby Area News seeking interested people.

**Town Hall Repairs:**

The contract for painting and repairs was awarded to Blue Spruce Painters. Painting and restoration of the front edifice and tower is scheduled to start the day after Labor Day.

**NYSERDA Grants:**

Beeners gave an update on the status of various NYSERDA energy projects. The insulation and boiler projects for the town highway barn are undergoing further research. A meeting is set to happen, but has not yet been scheduled.

**Gas Drilling Task Force:**

Halton reported that there will be two special presentations this fall. Todd Miller will give a presentation on the Danby aquifer study on Wednesday, September 22. Halton will write a notice about this event for the DAN. This could be of broad interest to Danby residents. Beeners advised the Board that this will be an important presentation in regards the potential of a public water system in the far future.

**Cemeteries:**

Beeners informed the Board of a request for a family interment on Curtis or Hill Road. There are no provisions in law which give Danby the authority to either approve or deny a family cemetery. The family must make their application to the County Health Department. Beeners informed the resident that Danby would not now or in the future assume maintenance of any family cemetery there.

**Water District Report:**

Beavers and Seamon gave an update on needed improvements and repairs to the existing water system storage tank. This work is scheduled to be done during the Summer and Fall of 2010. The Water District hopes to do this without needing a bond to cover costs. They are putting out a rough proposal for bids with a final proposal to be finished at the next WD meeting (August 10, 2010).

Other reports were distributed from the Justices, the Danby Community Library, and the Code Enforcement Office.

**Warrants:**

General Fund 2010, vouchers #304-349 for \$20,193.97

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

In Favor: Halton, Klein, Race, Dietrich

Abstain: Connors

Highway Fund 2010, voucher #82-98 for \$28,361.32

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

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

Water District Fund 2010, vouchers #41-44 for \$580.78

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

In Favor: Halton, Klein, Race, Dietrich

Abstain: Connors

**Town Clerk's Report.**

For July 2010, total disbursements of \$612.00.

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

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

**Adjournment**

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

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Pamela S Goddard, Town Clerk