

**Danby Town Board  
Minutes of Bid Opening and Special Meeting  
August 22, 2011**

**Present:**

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

**Others Present:**

Town Clerk Pamela Goddard  
Code Office Sue Beeners  
Highway Dept. Laura Shawley, Carl Seamon  
Public Roughly 30 persons, including Ronda Roaring, Elizabeth Owens Roe and Robert Roe, Jennifer Tiffany, Steve Selin, Anne Klingensmith, Naomi Strichartz, Elmer Ewing, Heide and Ross Horowitz, Candace Collmer, Laura Bigler, Linda Beebe, Mark Fowler, Ross and Elaine Cortright, Matt Cooper, Bev Fitzpatrick, John Lotty, Ben Altman, Cynthia Bowman, George Jakubson, Jake Brenner, Earl Hicks, Lamar Herrin, Richard Lazarus.

**The Danby Town Board opened Bid Opening for a Biomass Boiler project for the town highway barns at 6:36pm.**

Clerk Goddard read the following legal notice, as published in the Ithaca Journal on August 12, 2011.

TOWN OF DANBY - NOTICE TO BIDDERS (Issued to correct an error in prior notice)

PLEASE TAKE NOTICE, that the Town of Danby (herein after called "Owner") will receive sealed Bids for a construction project titled Town of Danby Biomass Boiler until 2:00 P.M. Local Time on August 22, 2011, at the Danby Town Hall, 1830 Danby Road Ithaca NY 14850. They will be opened publicly and read aloud at a special meeting of the Town Board that night at 6:30pm. Contracts will be awarded to the lowest RESPONSIBLE BIDDER whose bids meet all contract requirements. The Owner may, at its discretion, waive informalities in bids but it is not obligated to do so, nor does it represent that it will do so. The Owner also reserves the right to reject any and all bids.

There will be a secondary pre-bid walkthrough on Tuesday August 16 10:00am at the job site. Bids may be hand delivered or mailed to the above location and must be received by such time. Actual project will take place at the Town of Danby Highway Building, 93 Hornbrook Road. All bid previously submitted will be carried over to the new bid date.

Five sealed bids were opened by members of the Town Board. The following base bids were received: Climate Control Technologies, \$277,990.00; Daniel J. D'Amico Plumbing and Heating Co, \$298,900.00; King and King Mechanical Inc., \$319,625.00; Kimble Inc., \$321,770.00; J&K Plumbing and Heating Co., \$350,000.00. The total amount of the grant award was \$263,647 for the total project cost. This includes the amount of \$24,993 being paid to Taitem Engineering for managing the project. Therefore, all of these bids are over the amount available.

Dietrich asked for clarification of the next step. A meeting is scheduled for Tuesday, August 23, with a representative of Taitem Engineering. At that time the bids will be further reviewed. It is possible that the bidders may be asked to modify the scope of their bids, in light of budget constraints. On recommendation of the Code Enforcement Officer, the following resolution was proposed.

## **RESOLUTION NO. 92 OF 2011 - TOWN HIGHWAY DEPARTMENT BIOMASS BOILER PROJECT**

WHEREAS, the Town has invited the submission of sealed bids for a NYSERDA funded construction project titled Town of Danby Biomass Boiler and has received and reviewed such bids;

NOW, THEREFORE, IT IS

RESOLVED, that the Town Board of the Town of Danby authorizes the Town Supervisor to award a contract to the lowest RESPONSIBLE BIDDER whose bids meet all contract requirements. The Supervisor may, at his discretion, reject any and all bids.

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

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

**Bid Opening was closed at 6:50.**

**Dylan Race arrived at 7:10pm.**

### **Public Education Information Meeting**

Dan Klein opened the Public Education and Information meeting 7pm. He briefly described the legal process of adopting amendments to the Town Comprehensive Plan and Zoning law regarding industrial activity. Two public hearings for each action, one of which is in regards review of the Planning Board and CEO determination of potential environmental impacts under the State Environmental Quality Review Act (SEQRA). The required four public hearings are scheduled all to take place on September 12, 2011, starting at 6:30pm. Copies of public hearing notice, with brief descriptions of both actions, were made available to those in attendance. People were informed that copies of the Amendments to the Comprehensive Plan and Zoning Ordinance will be available at the Town Clerk's office and have also be posted on the Town web site.

Beeners described the history of zoning in Danby and highlighted some of the details of the proposed actions. The amendment to the Comprehensive Plan is to update and reinforce Danby's long-standing vision of having a rural, small town character, preserve natural resources, and providing for orderly growth. Never, in the Town's 40-50 year history of planning, have high impact industrial uses been permitted. Previous references to industry in Danby's zoning ordinance describe "light" or "cottage" industry. With the advent of unconventional gas drilling, "Industry" has taken on a new and unanticipated meaning. This type of activity is seen as antithetical to the Town.

Beeners noted that that New York State Law provides for local regulations regarding zoning and land use development. State law clearly states that Towns are best suited to regulate local land use and have the power to adopt comprehensive plans to protect their residents against adverse impacts of industrial activity. Danby has done this since 1955, when the Town's first zoning ordinance was adopted. The Town's zoning ordinance and comprehensive plan have both been regularly updated to address changes in regional development.

Water is recognized as a critical resource, as evidenced by an aquifer study undertaken in central Danby, after the 2003 update to the Danby Comprehensive Plan. Some findings show that the sand and gravel aquifers along Route 96B are thin, shallow, and subject to seasonal fluctuations. These aquifers are subject to depletion and contamination. Potential water contamination from uphill water recharge areas is also a concern for Danby's primary and principal aquifers. Additional study is being made of the West Danby aquifers and recharge areas, anticipated to be completed in 2012. In addition, research shows that water from Danby flows into north to the St. Lawrence and south to the Delaware water regions. Therefore, water quality in Danby has an impact on a much wider area. The Comprehensive Plan amendment addresses these concerns.

Similar concerns regarding protection of unique natural areas, particularly in the state forest and working agricultural landscapes are addressed in the proposed amendments to the Comprehensive Plan. There is also language which suggests that resources be best managed so that economic development is in line with Danby's constitutional authority to self-determine its own future.

The Local Law clarifies what uses are permitted and prohibited, particularly gas and petroleum mining and related activities, and declares the Town's constitutional power of suppression. Industry would only be considered permitted light industry if its cumulative impacts on the environment, social issues, and neighboring land uses in the Town are not adverse. These include impacts of noise, light, and odor. There are also size limitations.

Beeners noted that there are positive SEQRA determination of impacts of these legal actions, finding that these actions will protect and enhance the rural character of Danby. There are positive impacts particularly in the area of water quality.

Jennifer Tiffany, of the Gas Drilling Task Force, informed people about the process of review for the most recent revised draft SGEIS regarding hydrofracking. She noted that the current draft available to the public is still considered preliminary and is not yet open to comment. Some pages may yet be further revised. There are places where mitigating concerns have been strengthened and others where mitigation has not been strengthened much. Positive changes have been made in relation to forest protection. The plan for informing local municipalities about pending permits is improved, but only slightly. Local land use laws and comprehensive plans will be considered in the permitting process. The amendments under consideration, "give us a seat at the table."

Beeners and Guy Krogh, the Town Attorney, responded to questions from residents regarding the cost of any potential litigation from this action. They also addressed questions regarding the Town's right of suppression. Any risk of legal claims against the Town is not significantly different than any other zoning regulation. Those who have guided these amendments have determined that the alternatives could be even more costly to the Town. This opinion was repeated by Steve Selin from the Planning Board. In addition, no law suits could be brought by energy companies until permits are issued. There would be no standing until a loss was incurred by a permit being denied. Since the Town is not the permit issuing agency, the suit would need to be brought against the state. There is a balancing act between the cost of doing something or doing nothing. While the question of litigation is open, it is thought that this law is written in a manner that would help defend the Town against potential suits.

There were also questions about pipelines, truck traffic, and water contamination. There was an expression of concern about the impact of these activities on property values. The TB advised the residents that additional regulations are being drafted to address these concerns. A draft Road Use Law and Aquifer Protection Ordinance are both under review for action this Fall. In addition, the Tompkins County Council of Governments has commissioned a study on economic and social impacts of high impact unconventional gas drilling. This study is set to be completed and ready for public presentation in November.

## **Adjournment**

The Public Information Meeting was adjourned at 7:58pm.

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Pamela S Goddard, Town Clerk