

**Danby Town Board
Minutes of Regular Meeting
January 16, 2012**

Present:

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

Others Present:

Town Clerk Pamela Goddard
Code Office Sue Beeners
Bookkeeper Laura Shawley
Public Ronda Roaring, Ted Crane

The Meeting of the Danby Town Board was opened at 7:02pm.

Privilege of the Floor

Ronda Roaring cautioned Board members about extensive “discussions via Email” and raised the concern that this removed discussion from the public view. She reminded Board members that Email discussions need to be included in the public record under the Open Meetings Law. She asked whether a system was in place to capture those Emails, should they be requested under FOIL.

This led to a general discussion about best practices for Email systems related to town government. This would require that Town business be done via a Town Email address, which then could be captured and saved through a centralized system. This system is not currently in place.

Solar, Wind, Geothermal Installation Fees

The Board continued its discussion of a suggested fee schedule for solar, wind, and geothermal installations and general building permits. Code Officer Beeners answered questions regarding the work required to inspect energy installations. Beeners posed the option to offer an incentive to renewable energy by waiving all fees for these installations.

There was a discussion whether passive solar designs should be included in this resolution. There was concern that such designs are difficult to quantify, and so would be better left to the standard building permit process.

RESOLUTION NO. 27 OF 2012 - WAIVING BUILDING PERMIT FEES FOR SOLAR, WIND AND GEOTHERMAL INSTALLATIONS AND CHANGING THE MINIMUM FEES FOR OTHER BUILDING PERMITS

Whereas, the Town Board of the Town of Danby by Resolution No. 72 of 1991, amended by Resolution No. 18 of 2009 and by Resolution No. 52 of 2010, has established fees for building permits; and

Whereas, the Town wishes to encourage the use of solar energy, wind energy and geothermal installations;

Now, Therefore, it is

Resolved, that the fees set forth below shall supersede any other fees established by any prior resolutions of this Board for the activities described herein; and it is further

Resolved that the fees set forth shall take effect immediately; and it is further

Resolved, that building permit fees for all domestic scale solar photovoltaic installations, solar hot water installations, wind-power-generating installations, and geothermal heat-generating installations on residential properties shall be waived; and it is

Further Resolved, that for all other building permits, in general, the minimum fee shall be \$50.

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

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

Appoint Board of Zoning Appeals Member

The Board continued its consideration of an appointment to the Board of Zoning Appeals. Clerk Goddard reported that applicant Garrison failed to submit a specific application for the position. She also expressed the concern, as BZA secretary, that Garrison's frequent travels may make it difficult to convene a BZA hearing with the full review board. This could impact decisions for the applicants.

Halton reported that she had a recent confusing and disturbing conversation about the position with Allen Becker. Dietrich reported that Becker had informed him that he would be willing to serve on the BZA until such point that someone else expressed a desire to serve. Klein expressed strong reservations about Becker's previous actions. Supervisor Dietrich expressed the view that, while Becker had previously been removed from the BZA due to inappropriate behavior, these problems seemed to be under control. Connors suggested that if concerns arise, people should speak with Becker about them.

RESOLUTION NO. 28 OF 2012 - APPOINTMENT TO BOARD OF ZONING APPEALS

Resolved, That the Town Board of the Town of Danby appoints Al Becker to a five term on the Town of Danby Board of Zoning Appeals. Term of office begins January 1, 2012 and expires December 31, 2016.

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

In Favor: Connors, Race, Dietrich

Opposed: Klein

Abstained: Halton

Appoint Health Insurance Consortium Representative

Dietrich and Shawley explained the need for resolutions making these appointments. Shawley explained the difference between them.

RESOLUTION NO. 29 OF 2012 - APPOINTMENT FOR VOTING SEAT ON THE GREATER TOMPKINS COUNTY MUNICIPAL HEALTH INSURANCE CONSORTIUM BOARD OF DIRECTORS

Whereas, the Greater Tompkins County Municipal Health Insurance Consortium has been in operations since January 1, 2011 and serves the Town of Danby as the main source of health insurance for its employees; and

Whereas, the Greater Tompkins County Municipal Health Insurance Consortium Board of Directors is made up of a representative from each municipality as well as two union representatives; **Now, Therefore**, it is

Resolved, that the Town Board of the Town of Danby reappoints Laura Shawley to represent the Town of Danby on the Board of Directors for the Greater Tompkins County Municipal Health Insurance Consortium for the year 2012.

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

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

RESOLUTION NO. 30 OF 2012 - APPOINTMENT FOR MEMBER ON THE JOINT COMMITTEE ON PLAN STRUCTURE AND DESIGN FOR THE GREATER TOMPKINS COUNTY MUNICIPAL HEALTH INSURANCE CONSORTIUM

Whereas, the Greater Tompkins County Municipal Health Insurance Consortium has formed a Joint Committee on Plan Structure and Design, which committee has been active since January 1, 2011 and has taken part in recognizing the needs of the insured and the implementation of new insurance packages for municipalities; and

Whereas, it is required that each municipality appoint a representative from their town to be a part of this committee;

Now, Therefore, it is

Resolved, that the Town Board of the Town of Danby appoints Laura Shawley to represent the Town of Danby on the Joint Committee on Plan Structure and Design for the Greater Tompkins County Municipal Health Insurance Consortium for the year 2012.

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

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

Amicus Brief

The Board continued its discussion regarding Danby joining with the Town of Ulysses *amicus* brief. This brief emphasizes municipal home rule powers to determine local land uses. The brief may not be useful until the time of an appeal in the Dryden or Middlefield suits. There is no cost to the Town. The Town Attorney has already expressed an opinion that this is a suitable action for Danby.

RESOLUTION NO. 31 OF 2012—TO APPROVE BECOMING AN AMICUS CURIAE IN ACTIONS INVOLVING MUNICIPAL HOME RULE PENDING BEFORE NEW YORK STATE APPELLATE COURTS

Whereas, the Towns of Middlefield and Dryden have recently revised their zoning laws to prohibit heavy industrial uses (including natural gas drilling) in their communities and such laws have been challenged in court by opponents claiming that the Towns do not have the power to regulate natural gas drilling as a land use; and

Whereas, the Town of Ulysses has filed an *amicus curiae* or “friend of the court” brief in both lawsuits in support of its sister Towns in order to reassert the right of municipalities throughout New York State to determine what land uses are appropriate through the municipal home rule powers granted by the New York State Constitution and the New York Municipal Home Rule Law; and

Whereas, the Town of Ulysses will file another amicus brief when these lawsuits are appealed to New York appellate courts and has requested that other municipalities in New York State consider joining the Town of Ulysses’ brief as a powerful statement to the appellate courts, the New York State Department of Environmental Conservation, and the New York State Legislature about the importance of protecting municipal home rule in New York State and a municipality’s right to decide, for itself, whether natural gas drilling—or any other land use for that matter—is appropriate for its citizens.

Now, Therefore, it is

Resolved that: The Town of Danby Town Board hereby determines that it is in the public interest of the citizens of the Danby to support municipal home rule by joining in the Town of Ulysses’ amicus brief to the appellate courts, and it is

Further Resolved, The Danby Town Board does hereby authorize and direct the Supervisor to complete or cause to be completed any and all such further documents and papers in the name of and on behalf of the Town of Danby as the Supervisor deems necessary or appropriate to carry into effect the foregoing resolution, and it is

Further Resolved, The Town Clerk will send a certified copy of this adopted resolution to the Town of Ulysses, 10 Elm St., Trumansburg, NY 14886.

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

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

Update on Joint Defense Fund

Dietrich gave a brief update on the status of setting up a municipal joint defense fund. It appears that a depository has been found to accept funds for joint defense. The Clerk was directed to forward recent Email correspondence on this subject.

Corporate Personhood Question

The Board continued its discussion of the question of Town response to “Corporate Personhood.” There was interest in passing a resolution related to this issue, similar to a resolution passed by the City of New York. There is concern that one of the last “Whereas” clauses should be worded in such a way that the importance as a local issue, particularly related to industrial activity and gas drilling, is clear.

There was a short discussion regarding addressing previous laws which include “corporation” in the definition of “person” by replacing the term “corporation” with alternative language. This goal should be somewhat easy to reach, as only a few of Danby’s local laws contain this wording.

The Board hopes to move on this in February.

Nelson Road Speed Limit

The Board was informed that the NYS Dept. of Transportation had reviewed the Town's request to have the speed limit reduced on Route 96B, on the section between Buttermilk Lane to Comfort Road and on Nelson Road itself from Route 96B to Ridgecrest Road. The NYS DOT found that the existing speed limit was justified on Route 96B from Buttermilk Lane to Comfort Road and that reduction would not be appropriate at this time.

However, the Nelson Road review showed that a speed limit of 40mph would be appropriate and further determined that this speed limit would be appropriate all the way up to Troy Road. The Town may install signs setting this limit upon receipt of the official letter from the NYS DOT. The Highway Superintendent was directed to do so.

The Board discussed resubmitting the request for a reduction on Route 96B after the Waldorf School is established and in operation on Nelson Road.

Short Reports

Various short reports were distributed to the TB, including recent minutes of from the Fire District, Justice reports from Huddle and Klinger, a Highway Department report, the Code Enforcement Office report, and the Supervisor's reports for June, July, August, September, and October 2011.

The Town Clerk distributed a monthly report for December 2011 and the Annual Report for 2011. The Clerk processed 1 marriage license, 62 dog licenses, and 8 building permits in December. The American Legion "Games of Chance" license was renewed in December. 595 dog licenses and 14 marriage licenses were processed during 2011.

The Clerk also distributed a Records Management Report for 2011, written by Records Management Assistant Mary Ann Barr. The report outlines some of the accomplishments achieved in 2011, including the freeing up of 12 linear feet of storage space for future documents. Barr made some suggestions for improved storage conditions related to mold and mildew and light damage prevention. Suggested remediation should be low cost and easy to achieve.

Training in Delta Road Program

The Board was informed about upcoming training in the Delta Road Protection Program, scheduled for Thursday, February 23. This training will be held at the Dryden Town Hall. This is primarily an informational session. The Highway Superintendent, Assistant to the Supervisor/Highway Superintendent, and Town Clerk all plan to attend. Laura Shawley confirmed that the Program and Technical Manuals have already been delivered by Delta.

Warrants - Abstract #13 of 2011

GENERAL FUND

#558-580 for a total \$82,984.38

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

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

HIGHWAY FUND

#194-206 for a total \$16,588.16

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

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

General Work Planning

There was a continued discussion of the vision for scoping work in 2012. The Board discussed details of the work to be done, such as finishing legislative projects which were begun in 2011. Supervisor Dietrich presented a suggestion for the process of setting priorities for 2012. He noted that groups tasked with different projects need to be self-actualizing. Staff time and energy is limited. Dietrich noted that prioritizing may take a few months.

Beeners added her perspective as Code Officer/Municipal Planner. Beeners sees great potential in the Danby Energy Group and Danby Gas Drilling Task Force. She expressed some concern about the ability of some members of the Planning Board to research and write needed proposals and document reviews. She encouraged working on tangible projects, using the example of wind energy.

Beeners asked whether the Board sees energy, climate change, and community sustainability as critical areas of concern. Race expressed his support for this directive, and said that the Board held the responsibility to set the list of priority tasks. Halton reported that the DGDTF has reaffirmed that its main purpose is community education and legislative lobbying. Klein reported the Conservation Advisory Council is pretty clear about what it's working on during 2012. Dietrich expressed his concern that all the groups working for the Town be this focused. Race again raised the suggestion that subcommittees might be formed, across Boards, to best work on specific projects. He expressed a hope that this might happen during prioritizing conversations, yet to take place.

Connors proposed that it might be useful to have another joint meeting between the Planning Board and Town Board. Other members of the Board agreed that this would be a good idea. It was suggested that this might be done during a Planning Board meeting, so those individuals are not asked to attend an additional meeting. Beeners advocated for feedback and/or participation of members from the DGDTF and Danby Energy Group.

Ronda Roaring made a request that minutes from these different groups be posted on the Town web site. She said that this would be useful for the information of those members of the public who are not able to attend meetings from these groups. It was agreed that this should be useful. The Clerk agreed to assist with this.

Adjournment

The Meeting was adjourned at 8:44pm.

Pamela S. Goddard, Town Clerk