

**Danby Town Board  
Minutes of Regular Meeting  
August 20, 2012**

**Present:**

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

**Absent/Excused:** Leslie Connors

**Others Present:**

Town Clerk Pamela Goddard  
Code Office Sue Beeners  
Bookkeeper Laura Shawley  
Public Ted Crane, James Reagan

**The Meeting of the Danby Town Board was opened at 6:38pm.**

**Presentation/Q&A with Sheriff Ken Lansing**

The Town Board had a discussion with Sheriff Lansing about various enforcement issues. The question was raised, “What is the procedure for enforcement of violations such as fireworks discharge” Lansing advised the Board to inform residents to call the Sheriff’s office *immediately* in the case of any problem or potential violation. The sooner the Sheriff’s office is contacted the better the chance that action can be taken. Lansing informed the Board that there is the potential for delay in response as there are a limited number of patrol officers and cars for the county. If a sheriff’s car is not available, the state police may respond.

Dietrich asked a question about reviewing local laws, such as the Road Use Law, for practical issues of realistic enforcement. Lansing stated that his office would be willing to review such local laws with an eye toward law enforcement.

There was an extended discussion regarding particular violations at the Oasis Bar and Dance Club. Lansing stated that he was aware of the problem and was keeping up to date with conversations between the Danby Code Enforcement Office, the State Liquor Authority, and the Sheriff’s office. Lansing again stated the importance of timely and open communication between those who are experiencing a problem and the Sheriff’s office.

There was a question as to what responsibility a business has for drunken or disorderly customers in the parking lot. Lansing stated that the responsibility for patron conduct generally ends at the establishment confines. Once a patron walks out the door, the bar is not responsible for their conduct. However, the Oasis is facing heavy fines for serving underage patrons and not monitoring the amount of liquor served to intoxicated patrons.

Halton asked what options are available to the Town to help remedy the situation. This led to a general discussion about the relative merits of different municipal noise ordinances. There were several questions about how effectively such ordinances are enforced. The Noise Ordinance for the Village of Dryden was held up as a model. (The Town of Dryden’s Noise Ordinance is for industrial noise. Lansing said that enforcement of industrial noise would be a Code Office responsibility.) The specific details of the Village of Dryden law helps limit the scope of individual interpretation.

Lansing explained that enforcement of residential and/or commercial noise is often a matter of interpretation. Noise levels can change and it’s up to the investigating officer to interpret “excessive” noise. Lansing held up the enforceability of the existing Penal Law for disorderly conduct which includes, “the intent to cause public inconvenience, noise, or alarm.” Beeners added the phrase, “inten-

tional unreasonable noise.” There is then the need to interpret what is “unreasonable noise.” The final decision will then be made by the presiding judge.

Questions were discussed regarding decibel meters as an aid to enforcement of noise laws. The Sheriff’s Department does not currently have the metering equipment. This may be more of an issue for industrial noise than residential noise. Ted Crane asked whether the use of a decibel meter would support an officer’s testimony in front of a judge? Would the use of “hard data,” rather than individual interpretation, be useful? Lansing said that the equipment would help. He compared the potential use of a decibel meter to the use of “breathalizers” when making a DWI arrest.

James Reagan expressed his concern and frustration with the enforcement process.

### **Legislator’s Report - Frank Proto**

Legislator Proto provided information about various issues. Work has begun on the County Budget, with an effort to keep within the 1-3% tax cap. There is a need to increase funds for “Food-Net” as the County has seen an increase in the use of food banks. The County was able to advance the Office of the Aging funds to get the program through to the end of the year. Proto noted that the problem is made worse as the Farm Bill not being passed at the Federal Level. A major part of the Farm Bill is for food stamps.

Proto informed the TB about the “Pro-Act” prescription drug card program, intended to support those who are not insured or under insured for prescription drug coverage. He asked for help in getting the word out to residents.

Proto informed the TB that he is bringing a resolution, passed by the health committee, to the County Legislature urging local efforts to deal with “bath salts” drug abuse. The County legislation should piggyback on a State ban, should one be passed, in order to access state funding. A Federal Ban is already in place. There was a short discussion of what “bath salts” synthetic drugs are and why they are a problem. Violent behavior from users has been a problem at the local emergency ward.

There was a short discussion about the West Danby Water District project funding sources. Beeners clarified the status of various grant and loan applications. Dietrich raised the issue of sales tax revenue to Town or County (which option is best for Danby?). Danby is considering revising its option regarding sales tax revenue during its upcoming budget planning sessions. Sales tax revenue to the Town may help balance the 2% tax cap mandate. Proto suggested that the Town consult with the County Comptroller.

Dietrich asked Proto why the County hired a consultant to review the future of youth services? Proto was unaware of this. A meeting with an outside consultant, paid for with county funds, is set for September 27.

### **Broadband Update**

Proto asked for an update on the progress with plans for broadband build out in Danby. Dietrich said that asking the County for funding support and hiring a consultant was premature. He provided information about a local citizens advisory to be formed in order to determine what residents need and want. He said that government has done all that it can do to research the issue. Dietrich intends that this local committee express a preference for how to proceed.

There are several options for bringing high speed internet to Danby, including collaboration with other Towns. If the County’s public safety towers could be used as a backbone for broadband distribution, costs could be greatly reduced. Dietrich informed Proto that the municipalities can use his help with convincing those in charge to allow this usage of the County towers. The public safety towers cover the same “dead zones” that is a problem for current broadband coverage in Tompkins County.

## **Consider Appointing Code/Fire Enforcement Officer**

Code Officer Sue Beeners provided background and history of Matt Cooper's employment. In August, 2011 the Town Board created the position of "Zoning Officer" on the advice of Civil Service, as Cooper had not yet taken the Civil Service exam for "Code/Fire Enforcement Officer" and so could not be appointed to that title. He has now taken and passed the Civil Service exam, earning a #1 rating, and could be appointed to the original code assistant job description. This same job description and title was held by previous code assistants. Beeners asked the TB to reinstate the position of Code/Fire Enforcement Officer and hire Cooper to that position.

There was a question of how many hours Cooper was hired for when he was appointed last August. Beeners stated, "up to 30." This was the same number of hours as had been worked the previous two Code/Fire Enforcement Officers. There was a question as to whether his hours would change/increase as part of this Civil Service title change. At what point does he become a full-time employee with full benefits? Cooper is not currently receiving benefits from the Town.

The Town Board had a lengthy discussion about employee hours, benefits, and the impact of these on future budget considerations. This was related to negotiations with other staff/employees regarding employee contributions for benefits. Halton expressed some concern about the long term impacts of employee benefits as a part of the Town budget. In considering new projects and proposals for the town, she expressed the concern that more thought should be given to long term town priorities, rather than reacting to events as they come up. These priorities should be appropriate for Danby. This discussion may continue during budget workshops in October.

There was a question as to whether there is an ongoing need for two code officers. The view was expressed that there was an increased work load in 2011 due to the passing of various local laws. Beeners informed the Board that the work load and the level of special activities has remained steady since she was hired. She offered to provide additional background information about the history of Code Office activities as needed.

Beeners emphasized that there would be no change in hours or benefits with changing Cooper's position title. Beeners further informed the Board that neither of the two previous Code/Fire Enforcement Officers received benefits. Benefits are not automatically given to the person holding this position. Klein asked whether the vote on this title change included a civil service requirement that the position be 30 hours. Could the hours for this position be reduced at a future date? Beeners and Shawley assured the Board that there is no civil service requirement related to salary rate, hours or benefits for this position. Klein stated his preference for giving Cooper benefits but thought there may need to be reduction in hours in order for the Town to afford this offer.

Race expressed the view that Cooper was encouraged to take the Civil Service test with the understanding that when he passed that test he would be appointed to the Code/Fire Enforcement Officer position and that the Board should follow through with that appointment. Shawley informed the Board that this title change would make Cooper a part-time permanent employee. He is currently a part-time provisional employee. She further informed the board that Civil Service encourages the Town to make this change, as he passed the exam and is qualified for the position.

### **RESOLUTION NO. 85 OF 2012 -APPOINTMENT OF CODE/FIRE ENFORCEMENT OFFICER**

**Resolved**, that the Town Board of the Town of Danby appoints Zoning Officer Matt Cooper to the position of Code/Fire Enforcement Officer (a.k.a. Assistant Code Enforcement Officer) with the source of funding for that position to be A8010.130.

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

## **Solar Liberty Project**

Dietrich gave an update and expressed some concerns. A second contract agreement, for electric interconnection with NYSEG, has been presented to the Town. Dietrich explained concern regarding a provision in the contract which seems to say that the Town may be held responsible if there is a reduction in efficiency below a certain rate. Dietrich informed the Board that he has sent this contract to the Town Attorney for review. This may be covered by the Town's insurance policy.

## **Request for Increase in Insulation Expenditure**

Beeners gave an update on the insulation project for the historic portion of the Town Hall building and informed the TB of increased costs. This would be used for several items including fans, a fire rated hatch opening in the wall, and a needed fix to a space between the west wall of the meeting room and the wall of the Town Hall addition. Beeners explained that this space is currently only partly insulated. Air flow in this dead space creates a chimney effect, creating a problem for fire safety and heat loss. The juncture of the old and new buildings will be sealed off and insulated. Fire retardant paint will be put on the west wall of the meeting room. This should improve the payback for the insulation project.

## **RESOLUTION NO. 86 OF 2012 -APPOINTMENT OF CODE/FIRE ENFORCEMENT OFFICER**

**Resolved**, that the Town Board of the Town of Danby approves the expenditure of \$4,720 for insulation improvements with the source of these funds to come from the Building Reserve.

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

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

## **Wind Tower Legislation Project**

Klein gave a report on the first stages of a project to review wind tower legislation from nearby Towns and draft a local law for Danby. He has scheduled a preliminary meeting for those citizens who may be interested in working on the project. The first meeting of this group will be held September 13. Klein has reached out to members of the Danby Energy Group and will have an article in the September Danby Area News informing residents of this project.

Klein has begun reviewing wind tower legislation from the Towns of Ithaca and Enfield. The map of potential commercial wind power locations in Tompkins County includes an area in the northeast corner of the Town of Danby. Klein hopes that the Ithaca and Enfield models will be useful so that Danby does not have to "reinvent the wheel." This might incur minimal legal fees, as the laws have already had attorney review.

## **Short Reports and Correspondence**

The Code Enforcement Report was distributed to the board.

## **Adjournment**

The Meeting was adjourned at 9:07pm.

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Pamela S. Goddard, Town Clerk