

**Danby Town Board  
Minutes of Public Hearing and Regular Meeting  
June 10, 2013  
Draft**

**Present:**

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

**Others Present:**

Town Clerk Pamela Goddard  
Code Officer Susan Beeners, Matt Cooper  
Bookkeeper Laura Shawley  
Public Ronda Roaring, Robert Roe, Rebecca M Brenner, Jim Holahan

**Public Hearing Regarding LL #2 of 2013 Reconvened at 7:03**

PUBLIC HEARING to consider adoption of a Local Law No. 2 of 2013, Amendments To Town of Danby Zoning Ordinance, A Local Law Making Various Amendments To Article V, "General Provisions", of The Town of Danby Zoning Ordinance. The purpose of this Local Law is to make clarifying amendments to Section 515 [Excavations, Abandoned Construction, and Destroyed Buildings] and to make corrections to numbering of some subsections in Article V, "General Provisions", of the Town of Danby Zoning Ordinance.

Code Officer, Susan Beeners confirmed that the Planning Board unanimously recommended to adopt the proposed amendments to the Zoning Ordinance. In its recommendation, the PB made a few grammatical corrections to the final section of the amendment. These corrections have been incorporated into the final draft of the proposed Local Law.

**The Hearing was adjourned at 7:05**

**The Danby Town Board meeting was opened at 7:05 pm**

**Town Hall Floor Refinishing Proposal**

Cooper provided additional information regarding a proposal to repair and refinish the floor in the entrance and meeting room area of the Town Hall. Three quotes for work were received. The highest quote has been disregarded, as it is twice the cost of the others. Superior Reflections bid \$3,300, including furniture moving. Edgewater Hardwood Flooring bid \$5,338, with an additional \$1,786 in moving costs. Both companies have good references. Cooper expressed concern and doubt about the reliability of the lowest quote, as not being completely realistic. Edgewater is based in Ithaca and Superior is based in Rochester. There was support for going with a local contractor.

These quotes may increase if water-based sealant is used, rather than oil-based sealant. Both contractors recommend oil-based sealer for durability. There is concern about the fumes during the refinishing process. Cooper thought that the area could be sealed off from the rest of the building during this work.

These initial quotes included labor and storage costs for moving all of the furniture and items in the Danby Library and meeting room. Cooper explained a new plan, to rent a "POD" at \$486 for up to a month and store the Town Hall items in this manner during the estimated week of work time to repair and refinish the floors. This would allow the project to be done all at once. The hall would be closed for approximately a week.

The TB had questions about the wide range of quote amounts between the three contractors. There were differences of opinion regarding making a choice between the quotes. Suggestions were made that moving furniture and other items could be done in-house. There was a further suggestion

that formal contracts be requested from the contractors, including price guarantees and warranty on work. Shawley offered to contact floor refinishers in Candor to review the project for additional perspective or a possible mid-level bid. Cooper was open to this additional project review. Cooper suggests that the work be done in the Fall, when the weather is less humid but before the cold weather. A time will also need to be coordinated with the Town Hall schedule.

### **Additions to Agenda**

Klein and Goddard gave a short report on beautification report work around the Town Hall entrance and around the gazebo/bandstand. Dave Mastroberti done weeding, mulching, and planting in these areas. All labor and materials will be reimbursed by the Community Beautification Program. Dave has provided flowering native shrubs to fill in the beds near the entrance. Additional flowering annuals will be acquired to fill out these areas and perhaps the beds around the gazebo. Mastroberti will also do some tree pruning and other maintenance work. The same Beautification Program will reimburse labor and materials for replanting the entrance signs to the Danby hamlet.

Shawley made a presentation/recommendation regarding a consultant for financial review. On the advice of the State Comptroller, a periodic review, in concert with Town Board members making check-list reviews, of Town financial functions is as satisfactory as a complete audit. The proposed consultant was the comptroller and budget officer for the Town of Ithaca. This person would be able to provide an outside perspective as to cash flow analysis and other financial aspects of Town business. Funds to pay for this consultant (\$65 per hour capped at perhaps 30 hours) would be taken from a reserve set aside for municipal audits. The consultant's letter of interest and resume were distributed to the board for further consideration.

### **Privilege of the Floor**

Ronda Roaring expressed concern about side setbacks in the zoning particularly in relation to the newly installed photovoltaic solar panels on Town Hall property.

### **Consider Adopting LL #2 of 2013**

Beeners suggested that a "whereas" be added to the draft resolution to the effect that the Planning Board unanimously recommended adoption of these proposed amendments during its May 23 meeting. The full text of this local law is found in Appendix A at the end of these minutes.

#### **RESOLUTION NO. 64 OF 2013 - PROPOSED LOCAL LAW AMENDING ZONING ORDINANCE MAKING VARIOUS AMENDMENTS TO ARTICLE V, "GENERAL PROVISIONS," OF THE TOWN OF DANBY ZONING ORDINANCE – CONSIDER ADOPTION**

**WHEREAS**, the Town Board of the Town of Danby is considering adoption of A Local Law Amending the Zoning Ordinance of the Town of Danby Making Various Amendments to Article V, "General Provisions," of the Town of Danby Zoning Ordinance; and

**WHEREAS**, this is a Type II action for which no further environmental review is required; and

**WHEREAS**, the Tompkins County Planning Department on April 10, 2013 responded, pursuant to NYS General Municipal Law 239-I and -m that the Department had reviewed the proposal and had determined that it has no negative inter-community or county-wide impacts; and

**WHEREAS**, due notification to adjacent municipalities, county legislatures, and the N.Y. State Office of Parks, Recreation, and Historic Preservation has been made pursuant to Town Law 264; and

**WHEREAS**, the Town Board on May 13, 2013 has held a Public Hearings on this proposed local law, which Public Hearing was duly noticed in the Ithaca Journal; and

**WHEREAS**, the Danby Planning Board unanimously recommended adoption of this proposed local law at its May 23 meeting;

**NOW, THEREFORE, IT IS**

**RESOLVED**, that the Town Board of the Town of Danby hereby adopts Local Law No. 2 of 2013 A Local Law Amending the Zoning Ordinance of the Town of Danby Making Various Amendments to Article V, "General Provisions," of the Town of Danby Zoning Ordinance; and

**FURTHER RESOLVED**, that in accord with Section 21 of the Municipal Home Rule Law, the final adopted copy of this Local Law shall be presented to the Town Supervisor for approval; and it is

**FURTHER RESOLVED**, that upon such approval by the Supervisor (or other approval occurring pursuant to said Section 21 of the Municipal Home Rule Law), and within 20 days after the final adoption of this Local Law, the Town Clerk shall file a certified copy of this Local Law, together with the required Certifications, in the Office of the Town Clerk and with the New York State Secretary of State as required by Municipal Home Rule Law Section 27.

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

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

## **Fun Day Parade**

There was a brief discussion regarding the purpose of this resolution.

### **RESOLUTION NO. 65 OF 2013 - CLOSING OF NY STATE ROUTE 96B FOR PARADE ON JULY 13, 2013**

**Resolved**, that the Town Board of the Town of Danby, in compliance with Section 1604, Paragraph 2, of the Vehicle and Traffic Law, which authorizes a Town to close a road for a parade, is officially closing New York State Route 96B on Saturday July 13, 2013 from 10:30am to 11:55am, from the intersection of East Miller and West Miller Roads to the intersection of Bald Hill Road; and it is

**Further Resolved**, that the Town Board approves the extension of this time period, from 10:15 am to 12:15pm, if the Danby Fire Department deems such extension necessary to facilitate the safe movement of the Parade participants; and it is

**Further Resolved**, that there will be a detour route from the West Miller Road intersection with Route 96B to Comfort Road, to Lieb Road, to the Bald Hill Road intersection with Route 96B.

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

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

## **Warrants - Abstract #6 of 2013:**

### **HIGHWAY FUND**

#087-107 for a total \$35,688.67

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

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

### **GENERAL FUND**

Connors noted an addition error in voucher # 269. Shawley commended her for her close attention and corrected the total.

#232-274 for a total of \$21,715.94

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

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

## **Approve Minutes**

Halton asked that the minutes of May 8, 13, and 20 be done in two parts, allowing her time to review the May 20 minutes.

### **RESOLUTION NO. 66 OF 2013 - APPROVE MINUTES**

**Resolved**, that the Town Board of the Town of Danby approves the minutes of May 8 and 13, 2013.

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

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

## **RESOLUTION NO. 67 OF 2013 - APPROVE MINUTES**

**Resolved**, that the Town Board of the Town of Danby approves the minutes of May 20, 2013.

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

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

### **Aquifer Protection Ordinance**

Dietrich opened the discussion with a description of efforts to gather reliable data on contaminants, such as arsenic, which may be found in Danby water. The Town is gathering information from USGS scientist Todd Miller and other sources. Water quality testing of new private wells (in the last ten years) may provide some general information. Miller's full report is now being sent out for peer review. He expects that the full, reviewed report will be ready for the Town at the end of 2013. The question of naturally occurring contaminants is being investigated and no direct action should be taken until the results are presented. Beeners shared information from a 2012 Water Resources Council report; it states that perhaps 10% of Central New York wells have arsenic presence. There is a question as to where Danby wells fall in that norm.

Halton raised the issue that owners of private wells that may have problems may not want that information to be public. She would like more detailed information about the effects of arsenic at different levels prior to making a recommendation to residents. Water testing can be as low as \$25 and a list of testing labs can be obtained from the County Health Department.

Halton gave an update on review of the draft Aquifer Protection Ordinance in relation to other municipal Aquifer Protection Ordinances such as those of the Town of Virgil and Town of Dryden. She reported that the Town of Dryden stopped work on its APO from a concern that it would not prevent the negative impacts of greatest concern. In her view, the present draft of the Danby APO may be too focused on impacts from high volume hydraulic fracturing and may not have enough response to other negative impacts.

Halton made a recommendation to review simpler municipal laws, such as that in Alfred, NY. Copies of that municipal ordinance and others will be forwarded to members of the Town and Planning Boards. Keith Porter co-authored a paper on water protection. This information will also be shared with the boards. Planning Board Chair, Robert Roe informed the TB that the PB will have an extensive review of this proposed ordinance during its June 27 meeting.

Beeners made a suggestion that the Town step back and consider a comprehensive water protection plan for Danby. Cornell Lake Source Cooling will be funding a regional "Total Daily Maximum Level" study of the Southern end of Cayuga Lake. Due to a high level of phosphorus, the lake is a "threatened water body" with respect to drinking water standards. There may be a way for Danby to piggyback on this study for water testing. A subcommittee of the Planning Board or dedicated water resources committee might be formed to look into this.

There was further discussion of how much, or little, work may still be needed on a Aquifer Protection Ordinance. This was followed by a discussion of concerns related to enforcement of local regulations. The Town Attorney has not yet given a full response to enforcement questions.

**Short Reports**

Clerk Goddard gave a short report of activities in the Town Clerk's office. This included a report of fishing license sales, dog license renewals, building permit funds received, and a marriage license issued in May. \$1,183.83 was disbursed to the Town Supervisor.

Monthly reports from the town justices was distributed among the board.

**Adjournment**

The Meeting was adjourned at 8:35 pm.

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Pamela Goddard, Town Clerk

## Appendix A - Local Law

### Town of Danby Local Law No. 2 of 2013 Amendments To Town of Danby Zoning Ordinance A Local Law Making Various Amendments To Article V, “General Provisions”, of The Town of Danby Zoning Ordinance

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

#### **Section 1. Title and Applicability**

The Town of Danby hereby adopts this local law, to be known as the Town of Danby Local Law Number 2 of 2013 (the “Local Law”).

#### **Section 2. Purpose**

The purpose of this Local Law is to make clarifying amendments to Section 515 and to make corrections to numbering of some subsections in Article V, “General Provisions”, of the Town of Danby Zoning Ordinance.

#### **Section 3. Specific Zoning Ordinance Amendments.**

The following amendments are hereby made to the Town of Danby Zoning Ordinance:

A: Section 515 is amended to read as follows:

**“Section 515 - Excavations, Abandoned Construction and Destroyed Buildings.** The following rules, in addition to any other local, state, or federal laws or regulations shall govern excavations in the Town:

1. No excavations shall remain open or uncovered for more than one year after work has ceased on a construction project or such excavation has been abandoned. Any excavation or cellar hole remaining after the demolition or destruction of a building from any cause shall be covered or filled by the owner within one year.
2. Fencing or other similar safety measures shall be provided around abandoned excavations, damaged buildings and other potentially hazardous conditions.
3. If a property owner fails to comply with any of the provisions contained herein, he or she shall be subject to the procedures and remedies available to the Town.”

B: Section 517 – **Stormwater Requirements** remains numbered as Section 517.

C: The section entitled **Prohibition Against The Exploration For or Extraction of Natural Gas and/or Petroleum** (which was erroneously numbered as a duplicate Section 517) is renumbered to be Section 518.

D: Section 518 – **Invalidity of Other Governmental Permits** is renumbered to be Section 519.

#### **Section 4: Construction and Supersession**

In their interpretation and application, the provisions and requirements of this Local Law (and of related provisions of the Zoning Ordinance) shall be held to be the minimum requirements so adopted for the promotion of the public health, safety, and welfare.

#### **Section 5: Partial Invalidity and Savings**

If any part, clause, requirement, standard, or other provision of this Local Law, or the application thereof to any person or entity, or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in each such event, such judgment or declaration shall be confined in its interpretation and operation only to the part, clause, requirement, standard, or other provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment, declaration, invalidity, or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons, entities, or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed and the Town Board of the Town of Danby hereby declares that it would have enacted this Local Law and its Zoning Ordinance(s), or the remainders thereof, even if, as to such particular provisions, persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

#### **Section 6: Limitation of Town Liability**

The Town of Danby, and its employees, officers, and agents shall not be liable to or responsible for any injuries to any persons or entities for injuries, losses, or damages arising from or related to persons, property, or other rights in property due, in whole or in any part, to the Town's actions or failures to act under or pursuant to this Local Law or the Zoning Ordinance, unless it is proven to a reasonable degree of certainty that such injury or damage was solely caused by a willful or intentional act of the Town or its officers and agents. This Section 6, and its provisions, shall be construed and applied to the maximum extent permitted by law, and does not create any theory or claim of liability where none exists at law or in equity.

#### **Section 7: Effective Date**

This Local Law shall be and become effective immediately upon filing with the Secretary of State of the State of New York in accordance with the provisions of, inter alia, §27 of the Municipal Home Rule Law.