

**Danby Town Board  
Minutes of Regular Meeting  
July 8, 2013  
Draft**

**Present:**

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

**Others Present:**

Town Clerk Pamela Goddard  
Code Office Susan Beeners, Matt Cooper  
Bookkeeper Laura Shawley  
Public Irene Weiser (Town of Caroline Board), Rebecca M Brenner, Jim Holahan,  
Ted Crane

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

**Additions to Agenda**

Goddard provided information about an article in the most recent Association of Towns newsletter, regarding a suggested resolution related to receiving funds received by the New York Secretary of State for Claims filing. The requirement to file such a resolution, in order to be eligible to receive funds collected on behalf of a suit filed against a municipality, involved a very short turn-around time (July 15). The Board discussed the probability of such funds being collected against a suit, and the small amount of money involved. No action was taken.

Beeners asked to have an item about new NYSERDA grant opportunities be added to the agenda.

Matt Cooper informed the board that NYSEG completed the connection of the solar array to the power grid at 9:56 that morning. The system is now feeding back to the grid.

**Town Hall Floor Refinishing Proposal**

Cooper informed the Town Board that he had done additional research regarding refinishing and repairing the Town Hall meeting room/library floor. He has received two additional bids—Bumblebee (\$9,900, includes all furniture moving excluding the piano) and Ron Donahue/3D Flooring (\$3,880, not including moving)—and spoke with an additional reference for Superior Flooring. Cooper got three very good references for Donahue. His price is competitive, and is based in Candor as compared to Rochester. Cooper recommends using Ron Donahue/3D Flooring for this project.

Donahue only recommends an oil-based finish for the floor, as being more durable in a high traffic area. Cooper agreed with this assessment. Some Town employees had expressed concern about fumes. The Town Hall meeting room can be sealed off during this process and the work will be scheduled for a time with minimal Town Hall use. Town offices can work around this, closing for a short time during the refinishing process.

There was a discussion of moving all items out of the library/meeting room. Highway department staff will be tasked with assisting in the move. Furniture and other items can be stored in a trailer at the Highway Barns, eliminating the need for a rental “pod.” There was an extensive discussion about library concerns and what the library might need to be comfortable with moving all books and shelving out of the room for the time of the refinishing. Library volunteers had asked that some of the book shelving and books remain in place during the refinishing. Cooper recommends removing everything so that the floor can be fully refinished. Town Board members supported this recommendation. This can be done with a team of volunteers. There will be further discussion about this between Town Hall staff and library volunteers prior to the work being scheduled.

The Board had a brief discussion of the related topic of bathroom painting. There was a general discussion of baseboard and wall color choices. Bathroom doors will be installed by the end of July.

#### **RESOLUTION NO. 71 OF 2013 - APPROVAL TO EXPEND FUNDS FOR TOWN HALL FLOOR REPAIRS**

**Resolved**, that the Town Board of the Town of Danby awards a job bid to Ron Donahue, 3D Floors, for Town Hall Floor repair, not to exceed \$4,000.

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

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

#### **Consider Support for Broadband Internet Build-out in the Town of Caroline**

There was an extensive discussion of a proposal and request from the Town of Caroline for financial support related to the installation of broadband internet access poles in the Town of Caroline. Town of Caroline Councilperson, Irene Weiser, explained how and why the Town of Caroline got dropped from the Broadband build-out grant with Clarity Connect. The NYS funding agency reduced the amount of the grant award and disallowed implementing the reduction by taking a few pole installations from each Town. Caroline was dropped because the expense of installing enough poles to cover its hilly geography was significantly greater than any other municipal build-out. The Town of Enfield has made up that support through funding from the Black Oak Wind Farm project.

A suggestion was made at a Tompkins County Council of Governments meeting that adjacent Towns pledge financial support for installing poles. Dietrich explained that this is part of a plan by which municipalities could cooperate for the greater good. The intent of this intermunicipal support is to have broadband coverage throughout Tompkins County. Dietrich is working on getting an accurate number of how many Danby households would be served by poles located in Caroline. The State has already granted permission to install 2-4 poles on Middaugh and White Church Roads in the Town of Caroline. These transmission and relay poles will greatly benefit Danby residents in the Coddington Road area. They may serve more Danby residents than those in Caroline.

Weiser provided information about the number of poles, the cost of installation, and the rationale for making this investment at this time. Clarity Connect will be getting a "bulk price" on poles, and will hire a crew and install all of the poles at the same time. Installing poles in the Town of Caroline at this time, if possible, would be most cost effective way to go. The current estimate is for fourteen poles for an estimated installation cost of \$42,000. There is no final information about where these poles will be placed. A further grant will be applied for to cover the cost of installation of the wireless broadband mechanisms.

Caroline is asking Towns to consider pledge funds for one or two poles at \$3,000 each. These funds will be payable a year from now (July 2014). Weiser added that, in the same way that Towns pledged financial support for the intermunicipal Amicus Brief, it is legal for municipalities to direct funds to other municipalities for mutual good.

Danby has already committed \$15,000 as its 20% grant match, for running electricity to seven broadband poles located in Danby. An original cost estimate of \$1,000 per pole has grown to \$2,000 per pole due to more difficult installation than originally planned. The money committed is still enough for the Danby electric requirements. Any pledge to Caroline would be in addition to this original commitment.

Members of the Danby Town Board asked several questions. What if the Town of Caroline does not get awarded a second grant? Weiser informed the Board that the Town of Caroline's Board will be considering a resolution of commitment to the project with a pledge of \$42,000 (whether the grant is awarded or not, and whether support is forthcoming from other municipalities) at its next meeting (July 9). She will inform the Danby Town Board of the results of that discussion. The Town of Caroline is also looking at other sources of funding (the private sector and local colleges/universities) for this project. If needed, the Town of Caroline will take out a bond to fund the project. If Caroline is going to be part of the initial pole installation, Caroline needs to pledge to Clarity Connect by mid-July. Close to a quarter of a million dollars would be needed to complete the project for Caroline, raised either through a grant or through contributions.

Weiser was asked whether Caroline is asking the same amount (\$6,000 for two poles) from each Town? Yes, each Town is being asked for the same. There were questions about what would happen if only one or two Towns pledge support, and also what would happen if all Towns and several private sector contributors pledge support? Would the amount requested from each municipality be lowered? Weiser was not able to address that scenario at this time. There was further discussion about the Town of Caroline's financial commitment to this broadband build-out. There was further discussion about the estimated impact of Caroline poles on Danby residents.

Consideration of this question will continue at the July 15 Danby Town Board meeting. Additional information about pole placement and financial commitments should be available at that time.

### **Dryden/Middlefield Amicus Curiae**

There was a brief discussion about support for Amicus Curiae related the Dryden/Middlefield municipal home rule court decisions, "to send a powerful statement to the Court of Appeals, the NYS Department of Environmental Conservation and the NYS 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—is appropriate for its citizens."

#### **RESOLUTION NO. 72 OF 2013 - TO APPROVE BECOMING AN AMICUS CURIAE IN ACTIONS INVOLVING MUNICIPAL HOME RULE IN THE COURT OF APPEALS OF THE STATE OF NEW YORK**

**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 were challenged in court by opponents claims that the Towns did not have the power to regulate natural gas drilling as a land use through zoning; and

**Whereas**, the Town of Ulysses 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 each municipality throughout New York State to determine what land uses are appropriate in its community through municipal home rule law powers granted by the NYS Constitution and the NYS Municipal Home Rule Law; and

**Whereas**, the Town of Danby joined with the Town of Ulysses and a coalition of over 50 other municipalities from across the State to file these amicus curiae briefs in the Appellate Division, Third Department in 2012; and

**Whereas**, the Appellate Division, Third Department, ruled in favor of the Towns of Dryden and Middlefield in the matters of Norse Energy Corporation USA v. Town of Dryden et al., and Cooperstown Holstein Association v. Town of Middlefield; and

**Whereas**, the Norse Energy Corporation and the Cooperstown Holstein Association ("Appellants") recently filed motions for leave to appeal each decision to the Court of Appeals – the State's highest court; and

**Whereas**, if the Appellants are granted leave to appeal to the Court of Appeals, the Town of Ulysses will seek leave to file amicus curiae brief(s) with the Court and will file such brief(s) if leave is granted; and

**Whereas**, the Town of Ulysses has requested that other municipalities in the State consider joining the municipal coalition supporting the Ulysses' amicus brief(s) to send a powerful statement to the Court of Appeals, the NYS Department of Environmental Conservation and the NYS 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 - is appropriate for its citizens, Now, Therefore, be it

**Resolved**, that the Town Board of the Town of Danby hereby determines that it is in the public interest of the citizens of the Town to support municipal home rule by joining in the amicus brief(s) being filed in the Court of Appeals by the Town of Ulysses and a coalition of municipalities from across the State, and

**Further Resolved**, that the Town Board of the Town of Danby hereby authorizes and directs the Supervisor to complete or cause to be completed any and all such further documents and papers in the name and on behalf of the Town of Danby as the Supervisor deems necessary or appropriate to carry into effect the foregoing resolution, and

**Further Resolved**, that the Town of Danby Town Clerk will promptly send a certified copy of this adopted resolution to the Town of Ulysses, 10 Elm Street, Trumansburg, NY 14886

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

### **Community Council Contract**

There was an extensive discussion of contract language in a contract between the Danby Community Council and the Town of Danby. Ted Crane explained the minimal changes between the last DCC contract (from 2009) and the currently proposed contract. Connors had several requests for changes in the contract language in different sections. There was a discussion of language in the section related to editorial decisions for the Danby Area News. The Board discussed whether to revise the guidelines at this time or to separate out the DAN guidelines from the DCC contract at address revisions at a different time.

No action was taken. The Board asked Connors to finish her review and recommendations for edits to the proposed Town of Danby/Danby Community Council contract. This discussion will continue at the July 15 TB meeting.

### **Records Management Report and Request**

Goddard presented information and two draft resolutions from the Tompkins Shared Services Electronic Records Repository (TSSERR) group. The Town of Danby's permanent records will become fully integrated into the system in the second phase of this project. Some Danby records, from the Town of Danby and from County repositories, have already been added to the electronic records repository. There will be an annual fee of \$250 to cover software licensing.

#### **RESOLUTION NO. 73 OF 2013 - Authorization for the Town Clerk to Enter into a 5-Year Agreement with Tompkins County for the Tompkins Shared Services Electronic Records Repository (TSSERR)**

**Whereas** Tompkins County has initiated and secured grants for the Tompkins County Shared Services Electronic Records Repository (TSSERR) which is a shared service hosted by the County and made available to all municipalities within the County and

**Whereas** the Town Board supported the grant application for TSSERR in 2013 and

**Whereas** the participating members of the TSSERR have drafted a set of By-Laws and a Group Agreement which have been presented to its members and the Tompkins County Operations Committee and

**Whereas** the Town Clerk has presented and discussed the TSSERR agreement and by-laws with the Town Board, **Now therefore be it**

**Resolved**, that the Town Board of the Town of Danby does hereby authorize the Town Clerk to enter into the Tompkins County Shared Services Electronic Records Repository Group Agreement on behalf of the Town subject to the approval of the Attorney for the Town.

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

#### **RESOLUTION NO. 74 OF 2013 - Support for the Tompkins County Clerk's Application for Funding from the New York State Consolidated Funding Application for Shared Services Under the Local Government Efficiency Grant**

**Whereas the** Tompkins County Clerk's Office intends to apply for funding through the New York State Consolidated Funding Application (CFA) for monies to continue its efforts to increase efficiencies in local services delivery of services and through shared services and support related to records management systems and

**Whereas** the Town Board has supported the County Clerk's Office in previous funding applications and looks forward to future opportunities for shared services and intermunicipal cooperation which result in savings for its constituents and

**Whereas** the Town anticipates cooperating with and joining in future shared services offered and/or supported by the County whenever feasible, **Now therefore be it**

**Resolved** that the Town Board of the Town of Danby does hereby fully support the Tompkins County Clerk's Office in its pursuit and application for funding for shared services through a Local Government Efficiency Grant.

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

## **Warrants - Abstract #7 of 2013:**

### **GENERAL FUND**

#275-315 for a total of \$11,552.30

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

### **HIGHWAY FUND**

#108-115 for a total \$16,984.24

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

### **WEST DANBY WATER DISTRICT FUND**

#025-027 for a total \$575.09

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

## **Approve Minutes**

Goddard confirmed several small changes to the minutes, requested by town board members.

### **RESOLUTION NO. 75 OF 2013 - APPROVE MINUTES**

**Resolved**, that the Town Board of the Town of Danby approves the minutes of June 10 and 17, 2013.

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

## **Library Shelves Request**

Shawley presented a request for shelving, on behalf of the Danby Community Library. This shelving, possibly to be installed in the front (east) entrance area, would solve a problem experienced during storage and set up for the annual library book sale. Books are currently stored in the library balcony. Access to this area is through a pull-down stair. There are concerns about volunteer safety while moving books. The cost estimate for this project is \$500-800. There is currently money in the Library section of the budget to cover this expense. The Library would like the option, if needed at the end of the year, to have some or all of this amount repaid out of the library budget fund balance from 2012.

There was a discussion of how this project fits in with other renovations in the Town Hall. Cooper is working on a draft plan to replace the pull-down stairs with permanent stairs.

### **RESOLUTION NO. 76 OF 2013 - LIBRARY STORAGE SHELIVING**

**Resolved**, that the Town Board of the Town of Danby approves the installation of storage shelving for the Danby Community Library, subject to design approval by the Town Board, to be used for current budget funds. Should the library require additional funding later in the year the amount of funding used for this project will be taken from unallocated funds.

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

## **NYSERDA Grant Opportunities**

Beeners provided information about a new NYSERDA grant program through the “Cleaner Greener Sustainability Plan.” As many as six or more Towns may jointly participate in a grant for as much as \$50,000 with a 25% match of \$12,000 with a cost per Town of approximately \$2,000. During recent meetings of Tompkins County municipal planners there has been discussion of a possible project related to LEEDS certification for sustainable neighborhoods/sustainable codes. The planners group is investigating having a consultant look at enhanced energy codes to supplement the updated energy code related to new construction coming from the state in early 2014. The regional planners are interested in an energy code to improve older housing stock and/or local codes for renewable energy (including hydro power and “mini-hydro”) and site development.

The grant project will need a pledge of match funding for a grant submission deadline of August 12, 2013. The planners will meet again and Beeners will report additional information at the next TB meeting. The Board may need to call a special meeting in late July or early August to consider the pledge match.

Beeners informed the Board of a \$2,500 NYSERDA rebate/award for using a particular building permit form for roof mounted solar arrays. Beeners and Cooper are moving on this.

## **Adjournment**

The Meeting was adjourned at 9:12pm.

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Pamela Goddard, Town Clerk