

**Danby Town Board
Minutes of Regular Meeting
November 18, 2013
Draft**

Present:

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

Others Present:

Town Clerk Pamela Goddard
Bookkeeper Laura Shawley
Code Officer Sue Beeners
Legislator Frank Proto
Public Garry Huddle, Rebecca M Brenner, Ted Jones, Jack Miller Jr, Erick Palmer,
Deanna DeMark, Sue Willcox, Steve Willcox, Brett Willcox,
Ronda Roaring, Greg Nelson

The Danby Town Board meeting was opened at 7:00pm

Ice Cream Stand Request

Sue and Steve Willcox presented their request for a small Ice Cream Stand on Route 96B (roughly opposite Muzzy Road). They propose putting in a portable 14x18 building, in keeping with surrounding architectural styles, north of the existing barn. They intend to operate the business seasonally (Memorial Day through Labor Day) with a primary product of soft and hard ice cream. There would be a parking area for up to ten cars. The Willcoxes have held on-site meetings with the NYS DOT and have preliminary approval to proceed. The property is currently zoned agricultural and would need a zoning change for this use. They approached the Town Board for input and to answer any questions about the proposal.

There was a question and answer discussion between the Willcoxes and the Town Board. The current plan is that this would be a "carry out" facility. The Board suggested that the plan be expanded to include possible outside picnic tables. The Willcox preference is that the boundaries for a commercial zone for this purpose be limited to the area of the business itself, so as not to negatively impact the agricultural zone.

Klein expressed a concern that, if a zoning change is made, the property be zoned for this particular purpose as opposed with a general commercial zone. He also was concerned that property neighbor notification be made through the steps of this consideration.

Code Officer Beeners noted that the next step would be for the Willcoxes to go to the Planning Board with a more detailed site plan. The Planning Board would have a site plan review and public hearing. The Planning Board would then make a recommendation to the Town Board. A second public hearing would be held for any possible zoning change.

There was general Board support for this project.

MOTION - RECOMMEND REVIEW TO PLANNING BOARD

Resolved, that the Town Board of Town of Danby recommends that the Danby Planning Board review a proposal for a seasonal ice cream stand on Route 96B.

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

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

Marsh Road Seasonal to Year Round Maintenance Request

There was a continued discussion of Erick Palmer's request to extend year round maintenance to a 600+/- section of March Road. Beeners reported that Highway and Fire Department reviews of the project are still underway. If the road is improved for the stated purpose of building a pole barn, a pull off area for truck access may need to be created in addition to a turn around area. These would be required for fire protection access.

The installation of a culvert in that area may trigger wet land mediation. There are very soggy, wet soils in this entire length of this section of road. Beeners reported that, in the opinion of the neighbors, the Norkuses, the only area for limited development on their property would be coming off Hornbrook Road. The owner believes that it would be virtually impossible to build off of Marsh Road. The only place to build a house would be on the Palmer property. Palmer has stated the intention to keep this as a single dwelling lot.

There was an extensive discussion of whether the area is categorized as a wetland. The property was alternately described as having, "a forest growing there," and, "too wet to walk there." Beeners distributed a soil quality map which shows hydrated soils and seasonal streams on the Norkus property. She believes that this is a jurisdictional wetland. She also distributed an aerial map showing the boundaries of the nearby Unique Natural Area.

This little wetland is a headwater to Buttermilk Creek. Because it's attached to Buttermilk Creek, it may be within the jurisdiction of the US Army Corps of Engineers. A US Army Corps of Engineers wetlands permit, related highway department work for drainage, adding a pull-off area, and installing a culvert, might be needed. If this work covers less than a tenth of an acre, wetlands mitigation may not be needed. Beeners is seeking assistance from County Soil and Water regarding the specifics of this case.

Klein expressed continuing concern that the road improvement may open up four or more new building sites on what is now an undeveloped road and near a unique natural area. He would like verification of the wetland status.

Dietrich asked for clarification of future steps in this consideration. Beeners reported that research will continue in order to develop a recommendation from the Highway Department. This research includes delineation of wet areas in the land, fire department review, and cost estimates from the highway department for the proposed work. It is hoped that this research will be completed by early December. A public hearing would be held prior to any change in the road maintenance status.

Legislator's Report

Frank Proto reported on several matters: County Budget, funding for Emergency Services Training, Youth Services, Community Health Assessment, Water Resources Council. There was a discussion of the review and release of the Danby Aquifer Study (still in process) and a County Arsenic study. One well in Danby has elevated levels of arsenic. Code officer Beeners presented an estimate of \$1,600 to cap this well. The Town may ask the County to share in the cost of this project.

The County voted to extend an offer of interest in use of old library building. There is concern about a shared retaining wall and related garden area between the old library building and the historic home Bed and Breakfast being operated by Tom Seaney and Nancy Medsker. Care and review of this matter will be included in any proposals of interest for reuse of the old library building.

Proto asked that the Town send out a reminder for those who receive Basic STAR exemption to reapply before the end of the year. A reminder to this effect will go in the December Danby Area News. The extended deadline is the end of this year.

Highway Department - Loader Contract

Shawley gave report and explanation, on behalf of Superintendent Seamon, of proposal for annual replacement contract for loader. This proposal is part of a long range equipment maintenance and replacement plan. The loader is a high priority piece of equipment. The current loader is one year old and has been covered by an unlimited warranty. The proposal is to trade in the loader for a new one annually. The trade in price for the existing loader will cover most of the cost of the new loader. The total out of pocket cost of the price with a 2013 loader (including the trade in amount) would be \$7,029.00.

Maintenance costs will be covered by the new equipment warranty. Annual maintenance service cost close to \$1,500.00. A renewal warranty on the 2012 loader would cost \$2,000.00. Replacement tires (needed every 7-8 years) cost \$13,000.00. The Town would own the equipment outright and would have the option to decide whether to continue this trade-in package on an annual basis. The Highway Department sees this as an immediate cost saving measure and as a step toward its goal of reducing maintenance costs while maintaining relatively new equipment. Shawley recommended that the Town continue to put funds in a highway equipment reserve for the replacement of other vehicles (such as snow plows).

The Board asked several questions about the Milton Cat trade in agreement proposal. Shawley answered those questions to their satisfaction.

RESOLUTION NO. 101 OF 2013 - AUTHORIZE HIGHWAY CONTRACT/UPGRADE TO LOADER

Resolved, that the Town Board of Town of Danby authorizes the Danby Highway Department to enter into an agreement with Milton Cat to trade in the 2012 Loader for a new product with a one year unlimited warranty for a cost difference of \$7,029.00.

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

Highway Report

Dietrich reported on appointment of Jack Shawley as Assistant Highway Superintendent. This action was taken following several interviews and much consideration. This is a step which has been desired for over a year. Jack Shawley will be working closely with Carl Seamon to make some fundamental changes in staff training and safety.

Upcoming Meetings

There was a preliminary discussion of the December meetings. The first two December meetings (Dec. 9 and 16) will include presentations on year end Financial review for eventual additions to reserves and the fund balance. The year end financial meeting is set for Monday December 30 at 7pm. Incoming Board members will be encouraged to attend all of these meetings.

Halton encouraged the Board to make a gesture of thanks to Frank Proto for his years of service.

Dietrich suggested that interviews of candidates to fill the upcoming vacancy in Dan Klein's seat take place in December with both current and future Board members.

Code Enforcement Report

Beeners reported that the White Hawk/Seven Circles Co-housing development has received a \$90,000 Community Trust Grant to help support the construction of three new homes. The development has also applied for a second housing grant. The funds for this grant come with the condition that flood hazard mitigation measures be assured for the entrance to White Hawk EcoVillage. An engineer must provide approval that access to White Hawk village not be impeded due to flooding. White Hawk is asking that this condition be suspended or modified. Beeners reported that several mitigation measures have been taken which reduce the likelihood of flooding. She was willing to write a letter to that effect, in order to facilitate a draw-down of funds for the first home construction. An owner is ready to build.

There was an extensive discussion about the White Hawk/Seven Circles housing grant flood control clause. Board members asked about the role of the Town in this concern or whether it was a matter between Seven Circles, its road engineers, and the granting agency? Would the Town have any liability if the Code Officer makes a recommendation to release funds for home construction and the road floods and there is no access to emergency services? Greg Nelson and Sue Beeners attempted to further explain the situation. Seven Circles is attempting to get the initial design report and documents from the original engineer. They are working on getting the design certified without having to rebuild the road to new specifications.

No action was required of the Board at this time.

Code Officer Beeners made a short report of several building permits being issued for solar installations.

Ronda Roaring asked the Town Board to consider a moratorium on new building in low density zones in the next year.

Zoning Ordinance Consideration

The Town Board and Code Officer continued a discussion of this zoning predicament (see details in November 11 minutes). After some extensive Q&A between Klein and Beeners, Dietrich asked that this discussion be postponed after further review so that all Board members might have a better understanding of the issue.

CSEA Contract

Dietrich informed the Board of communication received this night from the Town Attorney, Guy Krogh, regarding the status of the CSEA contract. The Union has not signed the negotiated contract.

Other Short Reports

Justices' reports were distributed.

Klein described the very well attended Community Council concert on Nov. 17.

Adjournment

The Meeting was adjourned at 9:19pm.

Pamela Goddard, Town Clerk