

**Danby Town Board  
Minutes of Regular Meeting and Public Hearing  
October 13, 2014  
Draft**

**Present:**

Supervisor: Ric Dietrich  
Councilpersons: Rebecca Brenner, Leslie Connors, Jim Holahan, Jack Miller

**Others Present:**

Town Clerk Pamela Goddard  
Bookkeeper Laura Shawley  
Town Attorney Guy Krogh  
Legislator Dan Klein  
Public Ted Crane, Ronda Roaring, Erick Palmer, Garry Huddle,  
Judith and Craig Palmer

**The Danby Town Board met at 6pm for a Budget Workshop**

Bookkeeper Shawley and Supervisor Dietrich reviewed several budget areas with the rest of the Town Board. Shawley answered specific questions regarding projected revenues and proposed expenditures. Continued Budget Review will be held on October 20, prior to the regular Town Board meeting.

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

**Privilege of the Floor**

Ronda Roaring asked the Town Board to consider her “Cassandra Prophecies” during its consideration of the Deputron Hollow area Conservation Easements. Roaring was specifically concerned about allowed agricultural uses in this area, given that a “management plan” has not been drafted for Town property and adjacent areas in Deputron Hollow.

**Palmer/Melchen Conservation Easements**

The Board made a final review of proposed Conservation Easements on Marsh Road.

Members of the Board had a few questions for the Town Attorney. These questions were generally in the area of clarifications regarding non-substantive changes made to the Palmer Easement. Some allowed uses are strictly limited so as not to cause significant impacts. These include uses allowed in Agricultural Districts.

Attorney Krogh advised the Board that any Conservation Easement must find a balance between public cost and public good. In these cases, there are more benefits than costs related to long term development. He had no concerns, from a legal standpoint.

**RESOLUTION NO. 100 OF 2014 - DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE - CONSIDER ACCEPTANCE OF A DEED OF CONSERVATION EASEMENT FROM ERICK PALMER, MARSH ROAD AND DEPUTRON HOLLOW ROAD**

**Whereas**, this action is to consider acceptance of a Deed of Conservation Easement and its conditions from Erick Palmer to the Town of Danby, where said Easement would establish a Residential and Active Use Zone on a 14.271 +/- acre (13.31 +/- acres net) portion of Town of Danby Tax Parcel 12.-1-6.1, located on the east side of Marsh Road and the north side of Deputron Hollow Road; as such Zone is described in said easement; and

**Whereas**, the purposes of said Easement are to limit activities to defined compatible activities and reasonable uses such as maintaining private residences, the pursuit of agriculture and forestry best practices, wildlife

management activities, the pursuit if low-impact recreation, and similar activities that do not impair the Conservation Values of this Easement; and

**Whereas**, this is an Unlisted Action under the State Environmental Quality Review Act and under Town of Danby Local Law 2 of 1991, for which action the Town Board of the Town of Danby is acting as Lead Agency in environmental review, with no other involved agencies identified; and

**Whereas**, the Town Board has reviewed the draft Short Environmental Assessment Form for this action and the recommendation by the Code Enforcement Officer that a negative determination of environmental significance be made;

**Now, Therefore, it is**

**Resolved** that the Town Board of the Town of Danby, acting a Lead Agency in the environmental review of this Unlisted action, makes a negative determination of environmental significance.

**Moved by Holahan, Second by Brenner. The motion passed.**

**In Favor: Brenner, Connors, Holahan, Miller, Dietrich**

#### **RESOLUTION NO. 101 OF 2014 - CONSIDER ACCEPTANCE OF A DEED OF CONSERVATION EASEMENT FROM ERICK PALMER, MARSH ROAD AND DEPUTRON HOLLOW ROAD**

**Whereas**, this action is to consider acceptance of a Deed of Conservation Easement and its conditions from Erick Palmer to the Town of Danby, where said Easement would establish a Residential and Active Use Zone on a 14.271 +/- acre (13.31 +/- acres net) portion of Town of Danby Tax Parcel 12.-1-6.1, located on the east side of Marsh Road and the north side of Deputron Hollow Road; as such Zone is described in said easement; and

**Whereas**, the purposes of said Easement are to limit activities to defined compatible activities and reasonable uses such as maintaining private residences, the pursuit of agriculture and forestry best practices, wildlife management activities, the pursuit if low-impact recreation, and similar activities that do not impair the Conservation Values of this Easement; and

**Whereas**, this is an Unlisted Action under the State Environmental Quality Review Act and under Town of Danby Local Law 2 of 1991, for which action the Town Board of the Town of Danby, acting as Lead Agency in environmental review, has on October 13, 2014 made a negative determination of environmental significance;

**Now, Therefore, it is**

**Resolved** that the Town Board of the Town of Danby determines that the acceptance of this Conservation Easement is consistent with the goals and objectives of the Town's Comprehensive Plan, and, further, that it is in the public interest to limit the development and use of said property in order to protect and maintain its Conservation Values; and it is

**Further Resolved** that the Town Board hereby accepts the Deed of Conservation Easement and its conditions from Erick Palmer to the Town of Danby, where said Easement would establish a Residential and Active Use Zone on a 14.271 +/- acre (13.31 +/- acres net) portion of Town of Danby Tax Parcel 12.-1-6.1, located on the east side of Marsh Road and the north side of Deputron Hollow Road; as such Zone is described in said easement; and it is

**Further Resolved**, that the Town Board authorizes the Town Supervisor to so sign the easement, subject to title review and approval of the documents of closing by the Town Attorney.

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

**In Favor: Brenner, Connors, Holahan, Miller, Dietrich**

#### **RESOLUTION NO. 102 OF 2014 - DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE - CONSIDER ACCEPTANCE OF A DEED OF CONSERVATION EASEMENT FROM TMELCHEN, LLC, DEPUTRON HOLLOW ROAD**

**Whereas**, this action is to consider acceptance of a Deed of Conservation Easement and its conditions from TMELCHEN, LLC to the Town of Danby, where said Easement would establish Agriculture and Forest Management Zone and an Environmental Protection Zone on a 42.09 +/- acre (net) portion of Town of Danby Tax Parcel 12.-1-6.22, located on the south side of Deputron Hollow Road; as such Zones are described in said easement; and

**Whereas**, the purposes of said Easement are to limit activities to defined compatible activities and reasonable uses such the pursuit of agriculture and forestry best practices, wildlife management activities, the pursuit of low-

impact recreation (including private recreational facilities), and similar activities that do not impair the Conservation Values of this Easement; and

**Whereas**, this is an Unlisted Action under the State Environmental Quality Review Act and under Town of Danby Local Law 2 of 1991, for which action the Town Board of the Town of Danby is acting as Lead Agency in environmental review, with no other involved agencies identified; and

**Whereas**, the Town Board has reviewed the draft Short Environmental Assessment Form for this action and the recommendation by the Code Enforcement Officer that a negative determination of environmental significance be made;

**Now, Therefore, it is**

**Resolved** that the Town Board of the Town of Danby, acting a Lead Agency in the environmental review of this Unlisted action, makes a negative determination of environmental significance.

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

**In Favor: Brenner, Connors, Holahan, Miller, Dietrich**

#### **RESOLUTION NO. 103 OF 2014 - CONSIDER ACCEPTANCE OF A DEED OF CONSERVATION EASEMENT FROM TMELCHEN, LLC, DEPUTRON HOLLOW ROAD**

**Whereas**, this action is to consider acceptance of a Deed of Conservation Easement and its conditions from TMELCHEN, LLC to the Town of Danby, where said Easement would establish an Agriculture and Forest Management Zone and an Environmental Protection Zone on a 42.09 +/- acre (net) portion of Town of Danby Tax Parcel 12.-1-6.22, located on the south side of Deputron Hollow Road; as such Zones are described in said easement; and

**Whereas**, the purposes of said Easement are to limit activities to defined compatible activities and reasonable uses such as the pursuit of agriculture and forestry best practices, wildlife management activities, the pursuit of low-impact recreation (including private recreational facilities), and similar activities that do not impair the Conservation Values of this Easement; and

**Whereas**, this is an Unlisted Action under the State Environmental Quality Review Act and under Town of Danby Local Law 2 of 1991, for which action the Town Board of the Town of Danby, acting as Lead Agency in environmental review, has on October 13, 2014 made a negative determination of environmental significance;

**Now, Therefore, it is**

**Resolved** that the Town Board of the Town of Danby determines that the acceptance of this Conservation Easement is consistent with the goals and objectives of the Town's Comprehensive Plan, and, further, that it is in the public interest to limit the development and use of said property in order to protect and maintain its Conservation Values; and it is

**Further Resolved**, that the Town Board hereby accepts the Deed of Conservation Easement and its conditions from TMELCHEN, LLC to the Town of Danby, where said Easement would establish an Agriculture and Forest Management Zone and an Environmental Protection Zone on a 42.09 +/- acre (net) portion of Town of Danby Tax Parcel 12.-1-6.22, located on the south side of Deputron Hollow Road; as such Zones are described in said easement; and it is

**Further Resolved**, that the Town Board authorizes the Town Supervisor to so sign the easement, subject to title review and approval of the documents of closing by the Town Attorney.

**Moved by Miller, Second by Brenner. The motion passed.**

**In Favor: Brenner, Connors, Holahan, Miller, Dietrich**

#### **Warrants**

##### **ABSTRACT #9 OF 2014: GENERAL FUND**

#418-463 for a total of \$22,986.65

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

**In Favor: Brenner, Connors, Holahan, Miller, Dietrich**

##### **HIGHWAY FUND**

#191-213 for a total \$158,621.66

Moved by Brenner, Second by Dietrich. The motion passed.  
In Favor: Brenner, Connors, Holahan, Miller, Dietrich

#### **WATER DISTRICT**

#050-057 for a total of \$4,425.78

Moved by Miller, Second by Holahan. The motion passed.  
In Favor: Brenner, Connors, Holahan, Miller, Dietrich

#### **West Danby Water District Grant Vouchers**

Clerk Goddard presented four vouchers related to the West Danby Water District improvement project.

#### **RESOLUTION NO. 104 OF 2014 - AUTHORIZATION TO PAY - WATER DISTRICT GRANT**

**Resolved**, that the Town Board of Town of Danby approves special payment of FOUR invoices related to the OCR WDWD Improvement Grant: a) Professional Engineering Services to T. G. Miller, P.C. totaling \$2,362.90, b) Westbrook Enterprises electric installation totaling \$8,295.55, c) Blair Supply meter reading equipment and training totaling \$11,250.00 and d) Contractor's Application by Statewide Aquastore, Inc. totaling \$45,920.62. The total of these FOUR invoices, \$67,829.07, to be paid out of a dedicated checking account for this purpose.

Moved by Connors, Second by Holahan. The motion passed.  
In Favor: Brenner, Connors, Holahan, Miller, Dietrich

#### **Approve Minutes**

#### **RESOLUTION NO. 105 OF 2014 - APPROVE MINUTES**

**Resolved**, that the Town Board of Town of Danby approves the minutes of September 8 and 22, 2014.

Moved by Connors, Second by Brenner. The motion passed.  
In Favor: Brenner, Connors, Holahan, Miller, Dietrich

#### **Legislator's Report**

Dan Klein gave an update on planning/progress for a proposed "vanpool" public transportation system to replace the soon-to-be-discontinued Tioga Transit system through West Danby. As of December 2014, West Danby will be without a public transportation system. Klein is asking for \$15,000 to be included in the County Budget to fund a one year lease on a vehicle for this vanpool effort. Two such van-pools are already in existence in the county, partially funded by Cornell. Members of the vanpool would be the drivers. There are requests to TCAT and Cornell to contribute \$1,000 or 2,000 towards the project. Klein is also researching small grants for this purpose.

Klein asked the Town Board to consider including \$1,000 in the 2015 budget as a one-time request to help establish the vanpool as a one year pilot project. This request had been made in writing prior to the TB meeting. Bookkeeper Shawley informed the Board that this amount has been included in the 1990.400 "Contingent Account" line of the current draft 2015 budget.

#### **Adjourn Town Board Meeting: 7:34pm**

#### **Open Public Hearing: 7:34pm**

**Please Take Notice** that a public hearing will be held by the Town Board of the Town of Danby on Monday, October 13, 2014 at 7:30 p.m., at the Danby Town Hall, 1830 Danby Road, Ithaca, NY, 14850 to hear all comments of interested persons related to considering adoption of Town of Danby Local Law Number 1 of 2014 "Discontinuing the Designation of a Portion of Marsh Road as Minimum Maintenance (Seasonal), and Amending Local Law No. 3 of 2002 by Changing the Length of the Minimum Maintenance (Seasonal) Portion of Marsh Road."

No written communication was received. No comments were made.

**Close Public Hearing: 7:37pm**

**Reconvene Town Board Meeting: 7:37pm**

**Local Law #1 of 2014**

**RESOLUTION NO. 106 OF 2014 - DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE, PROPOSED LOCAL LAW DISCONTINUING THE DESIGNATION OF A PORTION OF MARSH ROAD AS MINIMUM MAINTENANCE (SEASONAL), AND AMENDING LOCAL LAW NO. 3 OF 2002 BY CHANGING THE LENGTH OF THE MINIMUM MAINTENANCE (SEASONAL) PORTION OF MARSH ROAD**

**Whereas**, the Town Board of the Town of Danby is considering adoption of a Local Law “Discontinuing the Designation of a Portion of Marsh Road as Minimum Maintenance (Seasonal), and Amending Local Law No. 3 of 2002 by Changing the Length of the Minimum Maintenance (Seasonal) Portion of Marsh Road”; and

**Whereas**, such consideration of adoption is being treated as an Unlisted action under 6NYCRR Part 617.6 of the implementing regulations for the New York State Environmental Quality Review Act (Environmental Conservation Law Article 8); with the Town Board of the Town of Danby acting as lead agency, and with no involved agencies having been identified, as such was determined by resolution on June 9, 2014; and

**Whereas**, the Town Board has received and reviewed an updated draft Short Environmental Assessment Form for this action by the Town Code Enforcement Officer, as updated from previous drafts reviewed by the Town Board;

**Now, Therefore, it is**

**Resolved**, that the Town Board acting as Lead Agency, accepts the draft Short Environmental Assessment Form and recommendation of the Code Enforcement Officer that a negative determination of environmental significance be made for this Unlisted action; and it is

**Further Resolved**, that the Town Board makes the following determinations:

1. Using information from Part 1 of the Short Environmental Assessment Form, it is expected that there will be no impact (or small impact) to the environmental resources evaluated in Part 2, Questions 1, and 3 through 11. However, Question 2, “Will the proposed action result in a change in the use or intensity of use of land?” needed further evaluation in Part 3 as the Lead Agency saw issues that, without proper analysis, could contribute towards a view that there was a potential moderate impact.
2. SEQR provides that the significance of an impact be decided by evaluating the magnitude, duration, and likelihood of an impact occurring within the context (geographic scope, setting, and scale) of the project and project area.
3. After further evaluation, it is determined that a future change in land use from undeveloped land to residential use, a secondary impact of reclassification of portions of this road, is possible, but its likelihood is unknown. If it did occur, that change to residential use would be irreversible. However, it would be controllable. Given physical constraints, development review processes, and conservation easements proposed, the area would most likely remain rural and primarily undeveloped.
4. Conservation easements will permanently restrict development along around ½ mile of the seasonal part of Deputron Hollow Road, so that the geographic scope of potential long range future development would be limited. It should be noted that residential development was already allowed for the area, including under existing zoning, and that such land could have been improved, subdivided, the roadway improved, the area declared a § 280-a development area, or otherwise be developed, and thus, as result of the conservation easements, the potential impact of denser or more significant development has actually been reduced such that there is indeed found to be no or a very small potential impact.
5. Thus, the impact of change in land use over time as a secondary impact of road reclassification is small in magnitude. Potential significant adverse impacts are expected to be avoided during the process of further review and existing physical conditions. Taking all considerations together in context of the neighborhood, it is determined that the impact would not be significant; and it is

**Further Resolved**, that the Town Board hereby makes a negative determination of environmental significance for this Unlisted Action; and it is

**Further Resolved**, that a Responsible Officer of the Town Board of the Town of Danby is hereby authorized and directed to complete and sign, as required, the determination of significance, confirming the foregoing Negative Declaration, which fully completed and signed Short Environmental Assessment Form and determination of significance shall be incorporated by reference in this Resolution.

**Moved by Connors, Second by Holahan. The motion passed.**  
**In Favor: Brenner, Connors, Holahan, Miller, Dietrich**

**RESOLUTION NO. 107 OF 2014 –CONSIDER ADOPTION, PROPOSED LOCAL LAW DISCONTINUING THE DESIGNATION OF A PORTION OF MARSH ROAD AS MINIMUM MAINTENANCE (SEASONAL), AND AMENDING LOCAL LAW NO. 3 OF 2002 BY CHANGING THE LENGTH OF THE MINIMUM MAINTENANCE (SEASONAL) PORTION OF MARSH ROAD**

**Whereas**, the Town Board of the Town of Danby is considering adoption of a Local Law “Discontinuing the Designation of a Portion of Marsh Road as Minimum Maintenance (Seasonal), and Amending Local Law No. 3 of 2002 by Changing the Length of the Minimum Maintenance (Seasonal) Portion of Marsh Road”; and

**Whereas**, Erick Palmer, 127 Marsh Road, petitioned the Town Board by letter dated November 4, 2013 to discontinue the Minimum Maintenance designation of a portion of Marsh Road south of Hornbrook Road, beginning where Marsh Road ends as a year-round road and continuing southerly approximately 620 feet; and thereby to change the classification of said portion from minimum maintenance to year-round single lane two way road; and

**Whereas**, the reason for said petition was to allow Mr. Palmer to build a pole barn in the near future and potentially a residence on land south of his current residence at 127 Marsh Road; where such land currently has no frontage on a year-round road; and

**Whereas**, said petition was submitted pursuant to the provisions of Local Law 2 of 2002 (A Local Law in Relation to the Classification of Low Volume Rural Town Roads: The Establishment of Maintenance and Rehabilitation Guidelines for Such Roads and the Procedure to be Followed to Designated Particular Roads According to Classification); and was subject to a Town Board public hearing on January 20, 2014; and

**Whereas**, the petitioner has proposed to pay all costs of improving said road portion and constructing a turnaround to be conveyed by easement to the Town; and

**Whereas**, the Town Board, acting as Lead Agency in environmental review of this Unlisted Action, has on October 13, 2014 made a negative determination of environmental significance; and

**Whereas**, the Town Board has on October 13, 2014 held a public hearing, duly advertised, to hear all persons in relation to the proposed adoption of said local law;

**Now, Therefore, it is**

**Resolved**, that the Town Board finds the following:

1. The proposed turnaround would be an improvement over the one currently used on the Rose property, and thus be beneficial to the public interest;
2. Future costs to the Town for normal maintenance would be potentially offset by additional CHIPS revenue from the road classification change;
3. As a feature intended to mitigate potential environmental impacts, the applicant proposes to place his 13 +/- acre lot in conservation easement and to restrict residential use to one new dwelling; and an abutting property owner has proposed to place a 42 +/- acre parcel adjacent to the Palmer parcel in conservation easement as part of this project; and with open space preservation being fundamental to the maintenance, enhancement, and improvement of quality of life, pursuant to NYS Environmental Conservation Law, Conservation Easements (ECL 49-0301), the proposed conservation easements are indeed public benefits.

**Resolved**, that the Town Board of the Town of Danby hereby adopts Local Law Number 1 of 2014, “Discontinuing the Designation of a Portion of Marsh Road as Minimum Maintenance (Seasonal), and Amending Local Law No. 3 of 2002 by Changing the Length of the Minimum Maintenance (Seasonal) Portion of Marsh Road”; which local law is incorporated by reference in this resolution; and it is

**Further Resolved**, that the Town Clerk is directed to publish a notice of adoption of said local law in the official newspaper of the Town; and it is

**Further Resolved**, that the Town Clerk shall file a certified copy of this resolution and a copy of the adopted amendment in the office of the Town Clerk.

**Moved by Connors, Second by Dietrich. The motion passed.  
In Favor: Brenner, Connors, Holahan, Miller, Dietrich**

Erick Palmer thanked the Board for all of its effort in this process.

### **Municipal Web Site and Email System**

Holahan gave an update on the process of setting up the new townofdanbyny.org web site through DigitalTowpath. The first “pages” of the web site are being filled in through the DigitalTowpath templates and a list of Email addresses to be assigned is being crafted. Holahan said that there will be more information at the next TB meeting.

There was a preliminary discussion regarding a draft Email Policies and Procedures document drafted by Connors. She will distribute an electronic version of the document for review and discussion at the next TB meeting.

### **Emergency Management**

Dietrich reported that there was no update on emergency management training at this time.

### **Meeting Room Drapes**

Matt Cooper will attend the next TB meeting to provide information related to a set of proposals for replacing the Town hall Meeting room drapes.

### **Short Reports**

Several municipal reports were distributed to the Board including the September Town Clerk’s report, Justices’ reports, and September Code Office report.

Connors gave a short report of actions at recent Board of Zoning Appeals hearings and Planning Board meeting. In order to better review BZA actions, the TB requested to be notified of hearings.

### **Correspondence**

Connors made a request regarding the transmittal of correspondence of a political nature. A letter addressed to the Town Board was distributed during the September 22 Town Board meeting. The letter pertained to a political event, held by and attended by members of a local political party. Connors requested that, in the future, any letter of a political nature be mailed to Town Board members at their homes rather than being distributed at the Town Hall.

### **Adjourn**

The meeting was adjourned at 8:00 pm

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Pamela Goddard, Town Clerk

**Exhibit A**  
**Town of Danby**  
**Local Law No. 1 of 2014**  
**A Local Law Discontinuing The Designation of a**  
**Portion of Marsh Road as Minimum Maintenance (Seasonal),**  
**And Amending Local Law No. 3 of 2002 By Changing the Length of the**  
**Minimum Maintenance (Seasonal) Portion of Marsh Road**

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

**Section 1.**

This local law hereby discontinues the designation of a portion of Marsh Road as Minimum Maintenance (seasonal), with that portion of Marsh Road being described as commencing 1100+/- feet south of the intersection of Marsh Road with Hornbrook Road, and thence running south a distance of 742+/- feet. Said portion of Marsh Road shall be classified as a Rural Low Volume Residential Access Road, Rehabilitation Design Type C, Area Service, One Lane Road, pursuant to the terms and provisions of Local Law No. 2 of 2002, "A Local Law in Relation to the Classification of Low Volume Rural Town Roads: the Establishment of Maintenance and Rehabilitation Guidelines for Such Roads and the Procedure to be Followed to Designate Particular Roads According to Classification."

**Section 2.**

This local law also amends Local Law No. 3 of 2002, "A Local Law Classifying Certain Roads or Portions Thereof as Minimum Maintenance Roads" adopted by the Town Board on December 30, 2002, and subsequently amended by Local Law No. 1 of 2003, "A Local Law Amending Local Law No. 3 of 2002 by Designating Smiley Hill Road and the Seasonal Maintenance Portions of Durfee Hill Road, Howard Road, Marsh Road, and Deputron Hollow Road as Minimum Maintenance Roads" adopted by the Town Board on May 12, 2003 by modifying the portion of Marsh Road designated as a minimum maintenance road by replacing the present Section 2, Paragraph (f) in said amended Local Law No. 3 of 2002 with a new Section 2, Paragraph (f) reading as follows:

"f. The seasonal-maintenance portion of Marsh Road, commencing at a point 1842 +/- feet south of the intersection of Marsh Road with Hornbrook Road, and thence running south 248 +/- feet to its intersection with Deputron Hollow Road."

**Section 3.**

In accordance with the provisions of Section 8 of Local Law No. 2 of 2002, such discontinuance shall take place six months after the commencement of the next succeeding fiscal year after the date of adoption of this Local Law No. 1 of 2014.

**Section 4.**

Partial Invalidity. If any provision of this local law is found to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other provisions of this local law.

**Section 5: Effective Date**

This local law shall take effect 10 (ten) days after its publication in the official newspaper of the Town or on the date it is filed in the Office of the Secretary of State of the State of New York, whichever is later.