

**Danby Town Board  
Minutes of Regular Meeting  
May 16, 2016  
DRAFT**

**Present:**

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

**Others Present:**

Town Clerk Pamela Goddard  
Bookkeeper Laura Shawley  
Planner CJ Randall  
Public Ted Crane, Ronda Roaring, David Hall, Pat Woodworth, Charles Tilton, Lew and Pam Billington, Katharine Hunter, Scott Davis, Frank Darrow.

**Regular Meeting Opened at 7:00pm**

**Board of Zoning Appeals Vacancies—Appointments**

There was a discussion regarding the applicants for a one-year vacancy on the Board of Zoning Appeals, Esther Greenhouse and Scott Davis. Greenhouse had stated that she wanted time to think about whether a BZA appointment was a good match for her at this time. Neither the Town Clerk nor any Board members had heard from Greenhouse in the past week on this matter. Dietrich suggested that the Board postpone making the one year appointment until the first June TB meeting, in order to hear more from Esther Greenhouse. Other Board members were in agreement with this.

The Board discussed this appointment in relation to training which will be given to all of the BZA members. Planner Randall informed the Board that this training will take place as soon as possible. She added that she could provide training for this last appointee at a later time, if needed. Scott Davis volunteered to attend training in the next few weeks, whether he was appointed at this time or not.

The Board discussed appointment of a BZA Chair. Connors reported that Gary Bortz is not interested in serving as Chair. She suggested that either David Hall or Norbert Nolte be appointed BZA Chair. Dietrich supported the suggestion that Nolte be appointed Chair, based on Nolte's previous service on the Town Board for eight years. Miller asked whether Hall (who was in attendance) had an opinion. Hall spoke in support of Nolte.

**RESOLUTION NO. 50 OF 2016 - APPOINT BOARD OF ZONING APPEALS CHAIR**

**Resolved**, that the Town Board of the Town of Danby appoints Norbert Nolte as Board of Zoning Appeals Chair for the year-2016.

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

## **Financial Report - Budget Adjustment**

Laura Shawley reported on required budget modifications for the fiscal year 2015. The proposed transfers between budget lines are needed to balance the books for the 2015 Year End Financial Report.

The full list of approved budget transfers is attached in Appendix A.

### **RESOLUTION NO. 51 OF 2016 - APPROVAL FROM THE TOWN BOARD TO MAKE THE APPROPRIATE BUDGET TRANSFERS NEEDED FOR THE YEAR END ACCOUNTING PROCESS**

**Whereas**, it is necessary to modify the budget between accounts when there have been expenditures that exceed the budget in some accounts and are under the budget in others,

**Therefore be it**

**Resolved**, that the Town Board of the Town of Danby authorizes the attached budget transfers to be made the the 2015 budget year.

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

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

### **Award Preferred Provider—Solar Power Purchase Agreement**

There was a discussion of two proposals received for Preferred Providers for a planned Solar Power Purchase Agreement. Proposals were received from Renovus Solar Inc., and Taitem Engineering. The proposed power purchase price is similar.

The installation will be subject to a permissive referendum, as this is a lease of municipal land. The action will be posted for 30 days. If no petition in opposition of the action is presented, the project can go forward. If a petition is received, then the project must go to a referendum ballot vote.

Dietrich noted that further contract details for the project are to be worked out with the Preferred Provider, once one has been selected.

Dietrich commented that the Town has had a negative experience with one of these providers on a previous energy project. Based on that experience, Dietrich stated that he could not recommend that company being awarded another project with the Town of Danby. Connors asked whether there was any recommendation regarding the other company? Dietrich reported that Paul Hansen had researched the background of both companies. Renovus had lowered their rate from an earlier proposal. Brenner reported positive reports of Renovus.

Holahan, as an employee of Taitem Engineering, was required to recuse himself from this vote.

### **RESOLUTION NO. 52 OF 2016 - SELECT A PREFERRED PROVIDER, HORN BROOK ROAD SOLAR INSTALLATION**

**Whereas**, The Town of Danby is seeking to procure an approx.. 170 kW DC, grid connected, nonresidential Solar Photovoltaic array generating system to be placed on the Town of Danby Highway Department property, tax parcel #10.-1-82.1, 93 Hornbrook Road through a long term (minimum 15 and up to 35 years) energy performance agreement or power purchase agreement ("PPA") pursuant to Article 9 of the New York Energy Law, and

**Whereas**, the Town of Danby has advertised according to law to solicit proposals for a turnkey generating system, grid interconnection and all ancillary equipment and services for a solar generating system to be designed, installed, owned, and operated by the proposer and/or third party investors; and

**Whereas**, the Town of Danby has reviewed the proposals received through that RFP process in accordance with the elements requested and the evaluation process outlined in the RFP,

**Therefore be it**

**Resolved**, The Town of Danby hereby does select Renovus Solar Inc. as the most qualified firm and Preferred Provider and wishes to engage the services of Renovus Solar Inc. to procure the above stipulated Solar Photovoltaic array through an energy performance agreement or PPA.

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

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

**Abstain: Holahan.**

## **Solar Installation SEQRA Negative Declaration Resolution**

Randall presented the Environmental Quality Review sheets for the Hornbrook Road Solar Installation. The proposed site of the solar installation is adjacent to a delineated wetland. Therefore, the NYS DEC assisted in preparing a site map for the installation. Randall reported that the DEC finds the installation a minor action, in environmental review. The proposal needs to be reviewed by the Army Corps of Engineers under the Clean Water Act and the DEC needs to issue a freshwater wetlands permit.

Randall explained that once this SEQRA resolution was passed, she could send the materials to the involved agencies.

### **RESOLUTION NO. 53 OF 2016 - SEQRA DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE – HORN BROOK ROAD SOLAR INSTALLATION**

**Whereas**, The Town of Danby is installing a 170 kW DC, grid connected, non-residential Solar Photovoltaic array generating system to be located at the Town of Danby Highway Department, tax parcel #10.-1-82.1 (93 Hornbrook Road) through a long-term power purchase agreement pursuant to Article 9 of the New York Energy Law; and

**Whereas**, 6 NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA) and Section IX of Local Law 2 of 1991 Environmental Review of Actions in the Town of Danby, require that a Lead Agency be established for conducting environmental review of projects in accordance with local and state environmental law; and

**Whereas**, State Law specifies that for actions governed by local environmental review, the Lead Agency shall be that local agency which has primary responsibility for approving and carrying out the action; and

**Whereas**, the Town Board declared itself lead agency with primary responsibility for approving the action on May 9, 2016;

**Whereas**, this is an Unlisted Action under the Town of Danby Environmental Review of Actions and an Unlisted Action under the State Environmental Quality Review Act, both of which require environmental review; and

**Whereas**, a freshwater wetlands joint application is under review by the US Army Corps of Engineers and NYS Department of Environmental Conservation;

**Whereas**, pursuant to §617.6(b)(3) of the State Environmental Quality Review Act (SEQRA), the aforementioned information was mailed to all involved agencies notifying them that a Lead Agency must be agreed upon within thirty (30) calendar days of the date that the aforementioned information is mailed to involved agencies; and

**Whereas**, the US Army Corps of Engineers and NYS Department of Environmental Conservation have all been identified as involved agencies and it has been requested that these involved agencies consent to the Town Board being Lead Agency for this project and have consented, and

**Whereas**, this Board, acting as Lead Agency in environmental review, has on May 16, 2016 reviewed and accepted as adequate: a Short Environmental Assessment Form, Part 1 and Part 2, prepared by Lead Agency and Town Planning staff;

#### **Now Therefore, be it**

**Resolved**, that the Town Board of the Town of Danby determines the proposed project will result in no significant impact on the environment and that a Negative Declaration for purposes of Article 8 of the Environmental Conservation Law be filed in accordance with the provisions of Part 617 of the State Environmental Quality Review Act.

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

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

## **Groundwater Protection Law - SEQRA Intent to Declare Lead Agency**

The final draft of the proposed Groundwater Protection Law was presented to the Board. This draft is the result of consultation between the Town and Planning Boards and Steve Winkley (NY Rural Water Association). Randall also presented an associated map of water protection overlay zones.

Randall offered a draft resolution to Declaration of Lead Agency on this project. After adoption of the resolution, the information will be shared with Tompkins County agencies and adjacent municipalities for their review.

There was a discussion of related subdivision overlays. Randall and the Planning Board are also working on a revision of the Subdivision Ordinance, to remove the currently allowed subdivision by permit. Revisions to subdivision regulations related to the Groundwater Protection Law will be combined with those related to subdivision by permit for one amendment action. These revisions have been recommended by the Town Attorney. The Subdivision Amendments will be considered separately from the Groundwater Protection Law. Review of these subdivision amendments should be ready for Board review by June.

There was a question from a resident regarding the level of protection afforded the Town by this Local Law. This person was concerned that the entire Town be protected. Councilperson Brenner and Planner Randall clarified that the Law will cover the entire Town, with additional protection in overlay zones which have particularly fragile conditions. While there are specific subdivision regulations recommended for a small part of the Town, other aspects of the Groundwater Protection Law will impact nearly every property. Information about the impact on specific properties is available through the Code/Planning office.

It is anticipated that, in June, the Town Board will set a public hearing regarding this law for July.

#### **RESOLUTION NO. 54 OF 2016 - SEQRA INTENT TO DECLARE LEAD AGENCY – GROUNDWATER PROTECTION LAW**

**Whereas**, In order to preserve vulnerable unconsolidated aquifer recharge areas and wellhead protection areas for community water systems, this action is the enactment of a local law amending the Town of Danby Zoning Ordinance to include an Aquifer High Vulnerability (AHV) Overlay Zone in the Zoning Ordinance, overlaying approximately 4.9 percent of the land area of the Town of Danby; and

**Whereas**, 6 NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA) and Section IX of Local Law 2 of 1991 Environmental Review of Actions in the Town of Danby, require that a Lead Agency be established for conducting environmental review of projects in accordance with local and state environmental law; and

**Whereas**, State Law specifies that for actions governed by local environmental review, the Lead Agency shall be that local agency which has primary responsibility for approving and carrying out the action; and

**Whereas**, the Town Board is the local agency with primary responsibility for approving the action;

**Whereas**, this is an Unlisted Action under the Town of Danby Environmental Review of Actions and an Unlisted Action under the State Environmental Quality Review Act, both of which require environmental review; and

**Whereas**, pursuant to §617.6(b)(3) of the State Environmental Quality Review Act (SEQRA), the aforementioned information must be mailed to all involved agencies notifying them that a Lead Agency must be agreed upon within thirty (30) calendar days of the date that the aforementioned information is mailed to involved agencies; and

#### **Now Therefore, be it**

**Resolved**, that the Town Board of the Town of Danby hereby authorizes the mailing to all Involved Agencies of the aforementioned information, together with Notice that the Town Board intends to declare itself Lead Agency for purposes of SEQRA for this Type I and Unlisted Action, unless objection to such designation is received within thirty (30) days.

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

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

#### **1987 Real Property Maintenance Law—Fines Amendment**

Randall gave an update on revisions to the fee structure of the 1987 Real Property Maintenance Law (sometimes referred to as the “junk car” law). The current fines are less than scrap storage rental fees at other locations. As a result, it is less costly for residents to illegally store cars and scrap metal on their property than to rent space to store it. In January, the Town Board had given informal approval for an update of fines and fees, between \$1,000 a week to \$1,000 a day.

Randall reported concerns and recommendations from the Town Attorney, Guy Krogh. Krogh was concerned that a fee of up to \$1,000 per day would cross the threshold of misdemeanor violations; this would result in additional court costs and people in violation would have the right to a jury trial with free legal council. Krogh recommends a fine of up to \$1,000 per week as being more reasonable. Randall is working on the language for an amendment to this law.

Justice Huddle asked whether there could be a minimum–maximum fine range. He reported that this system is in place for other violations and that this helps the court levy appropriate penalties for violations. Dietrich suggested that the Justices have a discretionary range of \$250 to \$1,000 per week per violation and that this be written into the Law.

Connors asked whether there was to be any revision to the prohibited acts section of this law? Randall reported that the intent was for that to remain the same, as the list of prohibitions is already rather extensive. Connors and Holahan noted that they had suggestions for minor changes to this section of the law. These will be forwarded to Randall for review.

Clerk Goddard summarized the standard procedure for passing an amendment to any local law, including a public hearing.

### **1840 Danby Road - Update**

Randall informed the Board that the purchase offer on 1840 Danby Road was rejected by the owner. The ongoing process regarding a demolition/restoration order and violations to the Real Property Maintenance Law will continue. The asbestos inspector did visit, but was unable to access the house at the time of that visit. An engineering firm has been retained by the owner to devise a remediation plan. According to the timeline for demolition/remediation, work to demolish or remove materials is to start in the next two weeks. Hansen will be able to provide further information as the process unfolds.

### **Code Report**

Randall gave a preliminary report of activities in the Code Office during April. The Hornbrook Road land swap is being sorted out by the lawyers. There is a pending application with NYS Ag & Markets for a Farmland Protection Easement on a property in Danby. More information will be available on this soon.

The environmental quality review of proposed changes to PDZ10 has been completed. A further revised draft, based on feedback from the applicant, should be sent to County Planning soon.

Verizon Wireless has proposed a monopole communications facility (cell tower) on the American Legion property on Danby Road. Randall has been corresponding with Verizon attorneys regarding project submittals. Planning Board review is anticipated for June.

A proposal for the Danby Market, for site plan review, should be before the Planning Board in June. Randall will conduct SEQRA training for the Planning Board at its May meeting.

### **Broadband Buildout - Update**

Dietrich gave a report on the status at the Broadband Buildout. While progress has been made, there several remaining coverage gaps in Danby, generally due to topography and vegetation obstacles. Research has begun to see how these underserved areas will be covered. Dietrich reported that the County Broadband committee is still in place, and may be able to assist with putting pressure on service providers.

### **Adjourn**

The meeting was adjourned at 8:03 pm.

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Pamela Goddard, Town Clerk

## Appendix A—Budget Transfers

2015 BUDGET TRANSFERS						
GENERAL FUND			WATER FUND			
FROM	TO	AMOUNT	FROM	TO	AMOUNT	
A1110.400	A1110.100	0.20	SW8320.400	SW8320.200	268.37	
A1110.400	A1010.400	821.11	SW9010.800	SW9040.800	36.67	
A1220.112	A1220.100	0.12	SW9030.800	SW9040.800	238.92	
A1220.112	A1220.110	0.12	SW8340.101	SW8340.102	0.28	
A1410.400	A1345.400	675.14				
A1410.110	A1410.100	0.08				
A1110.100	A1420.400	1,085.50				
A1110.110	A1420.400	209.10				
A1110.200	A1420.400	1,000.00				
A1110.400	A1420.400	1,659.33				
A1220.200	A1420.400	500.00				
A1220.400	A1420.400	333.42	DA5130.100	DA5130.200	60.39	
A1320.400	A1420.400	6,000.00	DA5110.100	DA5142.400	3,648.08	
A1410.110	A1420.400	493.39	DA5140.400	DA5142.400	4,948.00	
A1410.113	A1420.400	161.23	DA5142.100	DA5142.400	16,393.83	
A1410.400	A1420.400	2,890.87	DA5130.400	DA9040.800	652.90	
A1410.480	A1420.400	915.25	DA9010.800	DA9040.800	996.75	
A1990.400	A1420.400	9,679.30	DA9010.800	DA9030.800	425.01	
A1910.400	A1420.400	4,248.05	DA5110.100	DA9060.800	6,481.52	
A1620.100	A1620.410	2,664.15				
A1620.100	A1620.420	480.00				
A1910.400	A5132.400	4,004.20				
A1989.400	A5132.400	1,792.21				
A5010.200	A5132.400	1,000.00				
A5010.400	A5132.400	304.24				
A7150.100	A5132.400	6,576.09				
A7310.400	A5132.400	6,310.59				
A7150.100	A7150.400	164.91				
A7310.100	A5182.400	773.18				
A7330.100	A7410.400	78.73				
A7330.100	A7620.400	196.30				
A8010.130	A8010.110	8,084.96				
A8020.100	A8020.400	1,963.37				
A8160.400	A8810.400	103.00				
A9030.800	A9040.800	1,051.76				
A8010.130	A9060.800	4,047.26				
A1220.112	A1410.400	0.27				
A7330.400	A1110.400	821.31				
A7330.400	A7310.100	773.18				