

**Danby Town Board  
Minutes of Public Hearing and Regular Meeting  
October 16, 2017**

**Present:**

Councilpersons: Rebecca Brenner, Jim Holahan, Jack Miller, Ric Dietrich (Supervisor)

**Excused:**

Councilperson: Leslie Connors

**Others Present:**

Town Clerk	Pamela Goddard
Bookkeeper	Laura Shawley
Planning	CJ Randall
Public	Ted Crane, Ronda Roaring, Matt Ulinski, Katharine Hunter, Pat Woodworth, Charles Tilton, David Hall, Bruce and Joan Hunter, Brooke Greenhouse.

**Public Hearing Opened at 7:06 pm**

**Public Hearing - Planned Development Zoning Amendment Local Law**

To hear all comments of interested persons related to considering adoption of Town of Danby Local Law 3 of 2017 “**A Local Law to Amend Planned Development Zones in the Town of Danby, New York.**” Planned Development Zone regulations are intended to provide for residential, commercial, industrial or other land uses, or a mix thereof, in which economies of scale, creative architectural or planning concepts and open space preservation may be achieved by a developer in furtherance of the Town’s Comprehensive Plan and zoning ordinance. This Zoning Amendment is to Repeal and Replace zones as appropriate with the Comprehensive Plan and Zoning Ordinance.

David Hall (property owner of PDZ #10) spoke in general support of repealing and replacing many of the existing PDZs. Hall expressed concerns about the notification process for stakeholders for this LL amendment. He stated that operations through the Blue Sky Learning Center constitute an “going concern with the existing PDZ” and that PDZ #10 is, “being used the way it was used.” He, therefore, asked that PDZ #10 be on the “survivor list” rather than on the repeal list.

Clerk Goddard spoke to the notification process for consideration of Local Laws, noting that there is no obligation to notify individual property owners in the case of a Town-wide zoning law. She noted ways that LL adoption notification are different from public hearings for special permits or variance requests.

Pat Woodworth spoke in favor of the amendment to Planned Development Zones, noting that spot zoning may have been considered a useful tool at one time but that it is not currently encouraged by most planners. Woodworth noted that there are other, more appropriate measures for variance requests.

Charles Tilton spoke in favor of the Planned Development Zones Local Law amendment.

Ted Crane spoke in favor of passage of the Planned Development Zones Local Law amendment. He noted that most of the existing PDZs are an artifact of an earlier time and that these may have a negative impact on neighborhoods.

Supervisor Dietrich asked Planner Randall to comment on Planned Development Zones, the consideration and review process used in this case, and the public information over the past ten or eleven months. Randall did this for those attending the Public Hearing. Randall provided the rationale for the five PDZs being slated to remain as they are. These are several housing development zones, most of which are at full buildout, and PDZ #5—the Stork complex—which is fully built out.

Councilperson Miller asked what the process would be if a property owner wants to retain their PDZ? Randall responded that non-conforming uses, which continue without ceasing for a period of more than a year, would continue with the land. She gave the example of Highland Kennel, which was concerned

about the continuance of their operation. As long as there is no expanded use, the existing use will continue with the land. Randall stated that the protection for an existing continued use actually becomes more established. Or, there could be an amendment to the proposed PDZ amendment Local Law.

Dietrich spoke to the process of Planning Board review and its positive recommendation as part of the development of this Zoning Amendment LL.

Miller asked Hall directly whether he wished to retain his “perceived value” in having a Planned Development Zone on his property. Hall answered in the affirmative. Hall was asked to define what that perceived value is, in the context of information that existing uses will continue if not expanded or ceasing. Hall stated his understanding of perceived value in terms of “structure” regarding what would be allowed by right.

Brenner expressed concern that consistent logic be used in repealing or retaining individual PDZs. She made a case for an even playing field across the Town, based on the lengthy process of review and consideration. Brenner noted that review of existing PDZs has been supported by all of the formal boards in Danby government as a zoning priority. She further noted that this was not directed at any one property owner, but reflected the needs of the Town as a whole.

Ronda Roaring spoke in favor of passage of the Planned Development Zones Local Law amendment.

Randall discussed specific concerns regarding the process of establishing PDZ #10, including a multi-layered and confused adoption process and multiple site plan maps. These have created ambiguity and confusion. Randall stated that this ambiguity does not serve either the Town or the property owner.

Miller questioned the urgency of passing a LL to repeal and replace PDZs at this time, stating that there could be benefit to spending more time in consideration of PDZs that have active business concerns or where the property owner wishes to preserve their “perceived value.” Brenner responded by addressing a need for clarity and equity in zoning, noting that, during the Town Scoping Meeting in November 2016, three Boards (Town Board, Planning Board, and Board of Zoning Appeals) all agreed that addressing Planned Development Zones was an important priority for 2017. Miller again debated the urgency of passage, stating his view that spending some more time on the matter, with the intention to clarify any confusion, could be time well spent.

Katharine Hunter spoke in favor of passage of the Planned Development Zones Local Law amendment and expressed distress in hearing a request to delay the adoption consideration. She stated that the matter had been thoroughly discussed.

Holahan asked Hall whether he had an intention to present a formal Protest Petition to the Town Board? Hall stated that he had not come to the meeting planning to do so. Brenner noted that the letter which had gone out in August 2017 to all property owners of Planned Development Zones clearly spells out what was being considered. Hall affirmed that he had received the letter, but was not clear that further meetings were being held. After further questioning, with Holahan noting that consideration of a possible Protest Petition might impact consideration of whether to adoption of the LL at this time, Hall said, “I suppose, if that’s where we are.”

**Public Hearing Closed at 7:53 pm**

## **Regular Meeting Opened at 7:55 pm**

### **Privilege of the Floor**

Ted Crane informed the Board and residents of a Community Council concert, Turkish/Middle Eastern music on Sunday November 12.

### **Highway Request to Purchase Truck from Fire District**

Laura Shawley information on behalf of the Highway Superintendent regarding a surplus vehicle available from the Fire District. The vehicle in question is a 1991 truck with 14,000 miles. The truck would be used to facilitate emergency repairs of other Highway vehicles, on the road, especially during winter road maintenance. A water pump comes with the vehicle. The Highway Department was looking to buy such a pump for wetting down dirt roads. A brand new water pump costs approx. \$3,500 brand new. The asking price for this used vehicle is \$3,500. Having this vehicle would reduce any costs related to hiring a suitable tow-truck when vehicles break down on the road.

#### **RESOLUTION NO. 65 OF 2017 - APPROVAL FROM THE TOWN BOARD FOR THE HIGHWAY DEPARTMENT TO PURCHASE A TRUCK FROM THE TOWN OF DANBY FIRE DISTRICT**

**Whereas**, it is necessary, at times, for the Highway Department's mechanic to on on-site to repair equipment that has broken down on the road, and

**Whereas**, the winter months cause a great deal of emergencies with equipment and many times a tow truck needs to be called to bring a truck back to the shop for a fix that could be done on-site, and,

**Whereas**, the Highway Superintendent has been looking for a vehicle that could be used as an emergency repair truck that can carry all necessary tools and parts to the site, and,

**Whereas**, the Town of Danby Fire District has offered to sell the Town of Danby Highway Department a truck that could be used for this purpose at a fair price which is affordable and has the necessary options for the truck to be used as a repair vehicle,

#### **Therefore be it**

**Resolved**, that the Town Board of the Town of Danby authorizes the Highway Department to purchase a 1991 one ton service truck, Ford F350 with 14,000 miles, from the Town of Danby Fire District. The price of the truck is \$3,500.00 and will be paid for out of the equipment reserve in the Highway Fund.

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

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

## Consideration of Planned Development Zone Amendment Local Law Adoption

The Board passed a resolution of Negative Declaration in SEQRA related to this Local Law.

### **RESOLUTION NO. 66 OF 2017 - SEQRA DECLARATION OF NEGATIVE DECLARATION, LOCAL LAW NO. 3 TO AMEND PLANNED DEVELOPMENT ZONES IN THE TOWN OF DANBY, NEW YORK**

**Whereas** the Town Board of the Town of Danby determined that modification of selected Planned Development Zones, as enumerated by the Town of Danby Zoning Ordinance, would bring equity and consistency to the treatment of each of the parcels within those subject areas and directed that a draft local law, entitled "A Local Law to Amend Planned Development Zones," be prepared for the Town Board's consideration; 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**, the Town Board, being the local agency which has primary responsibility for approving the action, did on October 9, 2017 declare itself the Lead Agency for the environmental review; and

**Whereas** this action was determined to be a Type I Action under the Town of Danby Environmental Review of Actions Section V 1(a) and a Type I Action under the State Environmental Quality Review Act Section 617.4(b)(2), both of which require environmental review; and

**Whereas**, the Tompkins County Planning Department, pursuant to §239-l, -m, and -n of the New York State General Municipal Law determined the proposal has no negative inter-community, or county-wide impacts; and

**Whereas** this Board, acting as Lead Agency in environmental review, has on October 16, 2017 reviewed and accepted as adequate: a Full Environmental Assessment Form, Part 1 and Part 2, respectively, prepared by Lead Agency and Town Planning staff;

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

**Resolved**, that the Town Board finds pursuant to the criteria in Part 617.7 that the proposed action will not have a significant adverse environmental impact and hereby issues a negative declaration.

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

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

Jack Miller asked whether there would be any discussion regarding postponing passage of this Law? Clerk Goddard noted that no formal Protest Petition has been filed. A vote taken at this time will not need a super majority. A simple majority can pass and adopt this LL at this time. Miller asked whether the Board was inclined to honor a resident's intention to present a Protest Petition? Supervisor Dietrich stated that this would have been an interesting question some months ago, but that Board has already spent quite a bit of time and money with several opportunities for public information and property owner concerns and requests. For whatever reason, this property owner had not done that.

Miller asked whether there was an option to amend the LL at this time to address this property owner's concerns. Planner Randall noted that, while the LL could be amended, there would be a minimum ten day notification requirement of substantive change and another public hearing would be required. Therefore, the LL could not be considered until sometime in November. Randall further advised the Board that the LL has a broader scope of work than one parcel. The Board would need to define what the specific concern is regarding a possible amendment.

Randall again went over what would be allowed at the various currently existing PDZs, specifically that PDZ #10 would be limited to Blue Sky Center for Learning and "clothing design." Existing uses for various PDZs which continue will remain as allowed, in the event that Board adopts the LL at this time.

Reading from the Planning Board minutes of April 2017, Crane reminded the Board that, during the discussion preceding the issuance of a Special Permit for Blue Sky Center for Learning, Hall stated several times that textile manufacturing was not a permitted use in PDZ #10. Crane noted that that restriction was included in the Special Permit. Therefore, PDZ #10 no longer has objective value.

Randall went over various options for further study and review, including soliciting formal opinions from the Town Attorney, should the Board wish to go in this direction. Such study and review would take some time. Randall described extensive ambiguity and some irregularity in the adoption process, with two

separate site plans, for PDZ #10. The Town Attorney has given an informal opinion that this ambiguity is highly problematic. Some of the ambiguity relates to possible expansion of buildings at PDZ#10.

Randall stated that she is of the strong opinion that PDZ #10 should be included with those to be rescinded, for reasons previously articulated. She stated that she did not want to single out any particular property. She could prepare additional data, if requested by the Board.

Brenner stated again a desire for Town-wide equity, without calling out any individual Zone for special treatment. She felt that it would inappropriate to make an exception for one property owner.

#### **RESOLUTION NO. 67 OF 2017 - TOWN OF DANBY LOCAL LAW NO. 3 OF 2017 – A LOCAL LAW TO AMEND PLANNED DEVELOPMENT ZONES IN THE TOWN OF DANBY, NEW YORK**

**Whereas** the Town Board of the Town of Danby determined that modification of selected Planned Development Zones, as enumerated by the Town of Danby Zoning Ordinance, would bring equity and consistency to the treatment of each of the parcels within those subject areas and directed that a draft local law, entitled “A Local Law to Amend Planned Development Zones,” be prepared for the Town Board’s consideration; 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**, the Town Board, being the local agency which has primary responsibility for approving the action, did on October 9, 2017 declare itself the Lead Agency for the environmental review; and

**Whereas** this action was determined to be a Type I Action under the Town of Danby Environmental Review of Actions Section V 1(a) and a Type I Action under the State Environmental Quality Review Act Section 617.4(b)(2), both of which require environmental review; and

**Whereas**, the Tompkins County Planning Department, pursuant to §239-l, -m, and -n of the New York State General Municipal Law determined the proposal has no negative inter-community, or county-wide impacts; and

**Whereas** this Board, acting as Lead Agency in environmental review, has on October 16, 2017 reviewed and accepted as adequate: a Full Environmental Assessment Form, Part 1 and Part 2, respectively, prepared by Lead Agency and Town Planning staff; and

**Whereas** the Town Board conducted a well-attended public information session on August 31, 2017, regarding the proposed Local Law, the rezoning and the rescinding of PDZs, and has duly considered comments received; and

**Whereas** a duly noticed public hearing was held on October 16, 2017 and any public comments were carefully considered by the Town Board;

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

**Resolved** the Town Board adopts this local law and this Local Law shall take effect immediately upon adoption by the Town Board of the Town of Danby and filing with the Secretary of State.

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

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

**Opposed: Miller.**

Immediately following the vote, Hall announced that he had, “sent a protest petition.” Clerk Goddard informed the property owner and Board that this may not be valid, as it was verbally described as having been sent by Email during the time when the resolution was being considered. Further legal determination would be gathered, as to whether a protest petition could be considered to have an impact on this action.

#### **Discussion of Projected 2018 Budget**

There was further discussion of two separate versions of the 2018 Preliminary budget. Bookkeeper Shawley noted that the some changes were the same in each budget: an additional \$200 for the Danby Community Council, an increase of \$3,000 in Information Technology to cover the cost of an upgrade in the Town’s server computer, and an increase in the Deputy Supervisor line to bring this in line with Town Council stipends. The higher amount in IT was balanced by a reduction in the amount needed to cover Workmen’s Compensation in the General Fund. The primary difference between the two budgets: one tax levy increase of 3.199%, the other a 0% levy increase, made possible by drawing down the Town’s cash fund balances.

There was additional discussion of whether and how to add funds to the salary lines for the Town Supervisor and Town Clerk. Brenner proposed taking the \$10,000 budgeted for “contingency” and splitting this \$5,000 each to the Supervisor and Clerk. Brenner noted that these two salaries are low compared to other staff and elected officials. Bookkeeper Shawley made a counter suggestion that \$5,000 remain in Contingency, \$5,000 of that line be used to boost these salaries and the other \$5,000 come from elsewhere. This shift would be done in which ever budget the Board agreed to present at Public Hearing and would not impact the tax levy rate in either budget.

Bookkeeper Shawley urged the Board to come to an agreement as to which version of the 2018 is to be presented to the public at the scheduled Public Hearing on Monday November 6. Legal notice, with the salary lines for elected officials, needs to be published 5-10 days ahead of the hearing. In addition, the Preliminary Budget must be available for public review at least 10 days prior to the hearing. There is not a scheduled meeting between this meeting and the Public Hearing.

Brenner supported the idea to present a 0% tax levy increase, and also expressed concern about using cash reserves in case of a budget impact of a natural disaster. She suggested that the Board consider establishing a special reserve account for natural disasters.

Holahan and Dietrich both expressed support for the 0% increase budget. Dietrich noted that the level of increases over 10 years amounts to a substantial amount. He supported being able to “give something back” to the residents of Danby. Shawley noted that the amount of cash in the Fund Balances are substantial and need to be explained to State Auditors. Due to consistent planning over the past decade or more, the Town is in a position where cash flow is very stable. Adopting a 0% increase budget should not have a negative impact on future years, even if there are high cost unexpected or emergency expenditures in 2018.

There was a discussion as to whether an additional meeting was needed. This discussion included considerable attention to some way to include comments and concerns from Leslie Connors. After discussion, and difficulty finding a date which would be good for all Board members, there was a decision to vote on the two proposed budgets at this meeting rather than holding an additional special meeting.

There was final discussion and agreement to add \$5,000 to each of the salary lines for the Town Supervisor and Town Clerk. This would be moving \$5,000 from the contingency and \$5,000 the unallocated insurance budget lines. The total budget amount will not change.

#### **MOTION - TOWN OF DANDY BUDGET**

**Resolved**, that the Town Board of the Town of Danby agrees to present the Budget with a 0 tax rate increase.

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

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

**Abstain: Miller.**

#### **Brown Road Pocket Neighborhood Sketch Plan**

The Board agreed to extend the meeting, in order to have a planned presentation about a proposal for a “Pocket Neighborhood” cluster development on Brown Road. Brooke Greenhouse (co-owner of Cayuga Country Homes) made a Sketch Plan presentation. Planner Randall stated that the Planning Board has received information as well. Randall has received a professional scope of work related to an extension of the West Danby Water District system, adding a loop to support this proposed development.

Greenhouse’s company will close on the property in the near future. Greenhouse made a presentation to the Planning Board in August. Following public input at that meeting, Greenhouse stated that he wants to meet the neighborhood desire for a small park on the property. This could be made possible with cluster development. Greenhouse stated that the WDWD is, “excited to have more rate payers” in the system with the potential to make the water management system more sustainable through expansion via a loop system. He made a case that the cluster development proposal meets both Town and County planning zoning and desires as set out in their Comprehensive Plans. Greenhouse highlighted the element of design to meet the needs of affordable housing for an aging population.

There was some Q&A discussion regarding how this proposal relates to the Danby Comprehensive Plan. Brenner noted that the Comp. Plan does note the need for senior and “universal access” housing. It would be preferable that such development was on a bus line. Greenhouse and Dietrich each noted that there is nothing in current zoning that would prevent this proposed development. Greenhouse contended that the development is not out of character for the rest of that neighborhood.

Brenner posed a question of equity and precedent regarding future development. If the Town gives philosophical and financial support to this particular development, does this set a precedent? Greenhouse characterized exploring this development process, particularly for a cluster development and sewer system, as a tool in the planning tool box. He noted that buildout costs for water and sewer are generally paid by the developer. Management of the system is paid by the rate payers.

Dietrich expressed his concern that buildout of a water system loop has been determined to be feasible by the water commissioners. Concern was expressed over the potential costs to taxpayers for a for-profit venture. Planner Randall clarified that a pro-rated share of expenditures for water district improvement would be billed to the developer. An expense of approx. \$1,700 has been authorized to engage a feasibility study of the water system buildout. Randall reported that creation of a Sewer District is a discretionary action by the Town and that the opinion of the Town Attorney that development of a sewer district would be done at developer expense.

### **Potential Water District Improvement Buildout**

Related discussion regarding a potential buildout of the West Danby Water District system. Randall noted that an engineering study of this section of the Water District was timely and served multiple purposes. While the initial impetus for the study is as a result of proposed development, this area of the water district is closed line. This study could indicate ways to build resiliency and needed improvements. The idea is to add a section of pipe connecting the Brown Road and Valley View Road water lines, creating a loop that could better serve that area of the District.

### **Potential Sewer District Buildout**

As part of the Sketch Plan presentation for a cluster development pocket neighborhood, Greenhouse expressed concern with “red tape” related to design and construction of a shared septic system for single family homes. He asked the Board to consider the need for a sewer system as part of this development. This would help reduce costs for the homes. The land used for shared septic could be used for a public park area. Greenhouse suggested that it might be possible for the municipality to secure funding sources from the County and State for a sewer system. Additionally, the Town could create a process by which sewer systems could be replicated in other locations where development would be encouraged.

Randall presented a draft resolution authorizing preparation of a map, plan, and report for wastewater management serving properties in the West Danby Hamlet. This would be the first step in determining feasibility for further consideration of a potential sewer district. Effluent disposals from this particular property would also have to be reviewed by the County Health Department and the NYS DEC.

**RESOLUTION NO. 68 OF 2017 - RESOLUTION AUTHORIZING PREPARATION OF MAP, PLAN, AND REPORT FOR WASTEWATER MANAGEMENT TO SERVE PROPERTIES IN WEST DANBY HAMLET VICINITY**

**Whereas**, the Town Board of the Town of Danby recognizes that the performance of onsite and clustered wastewater treatment systems is a concern and integral part of regional and state initiatives to protect and preserve the water quality and natural resources of Cayuga Lake; and

**Whereas**, there are recognized potential benefits to be accrued by the community as well as individual property owners through the establishment of effective wastewater treatment management programs that include protection of public health and local water resources; protection of property values; groundwater conservation; preservation of local tax base; and onsite system life-cycle cost savings; and

**Whereas**, the Town Board, by recognizing input in the form of resolutions of the Conservation Advisory Council and Planning Board, passed on Sept. 25 and September 21 respectively has determined there exists a significant level of public interest in progressing the concept of ensuring the effective management of onsite wastewater disposal systems in the West Danby Hamlet area of the Town;

**Now Therefore, be it**

**Resolved**, that the Danby Town Board hereby authorizes the preparation of a Map, Plan, Report at a cost not to exceed \$5,000, including, without limitation a survey map of the proposed District with a metes and bounds description of the proposed District, and a list of the owners of real property within such proposed District along with their addresses and each property's tax map number for the purpose of the establishment of an On-Site Wastewater Management District in the West Danby Hamlet area of the Town of Danby; and

**Further Resolved**, that after the Map, Plan and Report is finalized and approved, the Town Board further authorizes the preparation of a Petition for property owners within the proposed District formally seeking the establishment of such District; and be it

**Further Resolved**, the Town Board authorizes and directs the Town Supervisor, Town Planner, Town Clerk, Town Attorney and/or Bookkeeper to take all such actions necessary to effectuate the terms of this Resolution; and be it

**Further Resolved**, that this Resolution is subject to a permissive referendum in accordance with the provisions of Town Law Article 7 and the Town Board hereby authorizes and directs the Town Clerk to publish and post such notices and take such other actions as may be required by law.

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

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

**Adjournment**

The meeting was adjourned at 9:50 pm.

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Pamela Goddard, Town Clerk