

**Danby Town Board  
Minutes of Regular Meeting  
April 9, 2018**

**Present:**

Councilpersons: Leslie Connors, Ric Dietrich (Supervisor), Jim Holahan, Matt Ulinski

**Absent:**

Councilperson: Jack Miller

**Others Present:**

Town Clerk	Pamela Goddard
Planning	CJ Randall
Bookkeeper	Laura Shawley
Highway	Jack Shawley
Public	Ted Crane, Ronda Roaring, Pat Woodworth, Charles Tilton, Katharine Hunter, Don Schaufler, Scott Davis, Nancy Medsker, Tom Seaney, Camille Doucet, Sally Quick, Ted Melchen, Rick Dobson, Santo Oliver (the logger), Joe Petricola, Robert Bartholf, and many more.

**Regular Meeting Opened at 7:05pm**

**Statements/Information regarding Deputron Hollow Logging**

Supervisor Dietrich opened the meeting with statements and information on the situation at Deputron Hollow Road related to logging on private property.

A status report on road conditions, on behalf of the Highway Department, was made by Deputy Supervisor Jack Shawley. The Highway Department has been aware of the activity since winter 2017. They have been reviewing the situation weekly. Due to several factors, the situation became much worse over the Easter weekend at the end of March. Highway shut the road at this point. Shawley reported that the logger has been cooperative and responsive. Road repair has begun and water diversion measures are working. Shawley noted that the road needs to dry up from this seasonal wet time. The Highway Department will continue to monitor the road's condition, evaluation problems and what progress is made.

Information related to land use issues was provided by Planner CJ Randall. She referenced the intersection of several local laws, including storm water protection and road use. Randall informed those present that NYS does not have a logging notification system. Additionally, logging/timber harvesting is commonly included, under agriculture, as an allowed use on private property. The DEC has been contacted and has begun review of the conditions at the property. The DEC does not generally consider timber harvest as a land use disturbance. The DEC is, however, reviewing any stream impacts which may have resulted from the logging operation.

Supervisor Dietrich invited the public to express their concerns during Privilege of the Floor, with the constraint that comments be kept under three minutes. He noted that there are changes and updates to various regulatory Local Laws, particularly the Road Use Law, which are being considered and will be drafted in the near future. H admitted that the destruction to the land is sad. The DEC has offered to present information and workshops on best practices for forest management for land owners. Dietrich informed the residents that the Town is considering hiring a drone for aerial photography of the area.

## Privilege of the Floor

Privilege of the Floor lasted over one hour, with several comments about the damage done to the road and environment as a result of logging on a property on Deputron Hollow Road.

Katharine Hunter expressed concern, stating that she has hiked and “adored” that area for several years and is disturbed by the damage. She also informed people of a classical music concert being presented by the Community Council.

Don Schaufler expressed concerns about the methods used by the person or team doing logging on a property on Deputron Hollow Road. From his experience in the timber business, he characterized logging on steep slopes and at this time of year as “stupid.” He expressed concern that this activity puts the timber industry in a negative light. He stated that, in his experience, the forest is resilient and will re-grow but that it will take decades.

Rick Dobson stated that he was unhappy that the Danby Area News would not publish an article he wrote. He was also unhappy with zoning changes which have been made over the past ten years. He was unhappy with the “stop work” order on his “mountain.” He further stated his intention to develop his property with housing units for the elderly.

Ted Melchen gave some background on the logging operation on Deputron Hollow Road. He reported that he had given permission for his land (which is adjacent to the land actually being logged) to be used as a staging area for the operation. Melchen stated that the logging developed into a bigger project than originally anticipated. He had concerns about his property being a “mud hole,” and was concerned about the erosion and potential damage in the rainy season. He hoped that it might be possible to “make lemonade from this lemon.” Melchen welcomed creative input on how to do better in the future.

Santo Oliver, the logger in question, made a lengthy statement. He has been working on the St. John and Melchen properties on Deputron Hollow Road. Oliver stated that the timber on these two properties had been overgrown and needed management. He circulated photographs and gave a detailed description of steps being taken to mitigate run-off, siltation, and damage to the road. He stated that he’s been working with the town on problems with road erosion, including installing culvert pipe. He intends to re-seed the logged properties. Water bars will be installed to divert water run off. Oliver answered various questions from residents. Among other information, Oliver estimated that his work will be complete and he will be out of the area in two to three weeks (depending on the weather). He stated that he has signed a “Soil and Water Agreement” with the Town of Danby, which outlines remediation measures for area.

George Adams, asked whether the Town Clerk or anyone in the Town had been notified that logging was taking place. Oliver stated that he had never had to do this in the past. The Town Clerk added that while logging has happened in other areas and by other timber harvesters, in the eight years she’s been Clerk no logging notifications have been submitted by any property owners or timber harvesters. While the DEC website states this as a best practice, this has never actually taken place. Oliver confirmed that this has not been part of the logging process in other towns either.

Tom Seaney asked for clarification as to whether the DEC supersedes the Town in land use related to stream impacts. Dietrich confirmed that this is true. The Town has authority for the road, but the DEC regulates land disturbances. Dietrich stated that the Town and DEC are looking at triggers for disturbance. Connors noted that the DEC is concerned about classified streams and designated wetlands, and that the DEC has visited the site and suggested best practices for remediation. She supported the need for further protection of steep slopes.

Nancy Medsker expressed sadness for what has been lost on this property. She supported Schaufler’s assertion that the forest will recover. Medsker announced a music event coming up at the “Old Danby Market.”

Sally Quick, expressed concern about the damage of endangered plants and protected species in this location. Supervisor Dietrich noted that protection of these on private property is not in the control of state and local governments. She further expressed concern about the way that the bank has been undercut along the road, with exposed tree roots.

Ronda Roaring expressed concerns about the lack of town response to the sensitive nature of this area. She sees this as a major problem in the town. She believes that the town should have protected the area many years ago through being put in a Conservation Zone.

CJ Randall responded to questions about levels of land protection and the roles of the DEC and the Town. There is an exemption for timber harvesting in the Clean Air and Water Act, even if the disturbance results in “non-point run off results in discharge.” That the only control available to a municipality is through zoning. Danby does not currently have such zoning in place. Barring and stream crossing which may have been inappropriate, the DEC has minimal enforcement in this area. In other words, there is a crack big enough for a location such as Deputron Hollow to fall through. Ulinski noted that the town does have 50 acres of protected land, in a combination of town owned property and property with a conservation easement. Randall clarified the difference between a Conservation Easement and a Conservation Zone. An Easement may include agricultural activity including timber harvest. A Conservation Zone can have very strong restrictions.

Scott Davis asked whether a well crafted zoning ordinance could be protective without being too onerous? Randall confirmed that this is possible.

Camille Doucet expressed concern that the road damage will be a multi-year problem. She asked whether the road needs to remain open or whether it can be abandoned? Can the seasonal road be closed? She further asked who would bear the cost of on-going damage to the road. Dietrich responded that roads have been abandoned in the town, but this is a long process. Doucet was concerned that this cost will fall on the tax-payers. Dietrich noted that the repair of the road is being negotiated between the Highway Department and the logger.

Jack Shawley responded on behalf of the Highway Department. This section of Deputron Hollow Road was already on summer work schedule for the Highway Department. The Danby Road Use Law does offer a process for the town to recover road damage costs due to truck damage. However, there is an exemption for logging. In this case, the Highway Department has been in communication with the logger and has verbal assurances that he will pay for repairs to the road related to this timber harvest activity. There is a signed agreement that the road will be brought back to the satisfaction of the Highway Superintendent. The Road Use Law will be reviewed to address these concerns.

Ted Crane had various questions about the Deputron Hollow situation, which were addressed. He then announced an upcoming concert from DCC. Crane encouraged the Board to install electric vehicle charging stations at the Town Hall and stated that he looked forward to hearing information from “Electric Vehicle Tompkins.”

### **Electric Vehicle Tompkins - Presentation on EV Charging Stations**

Victoria McGarril made a presentation on behalf of “Electric Vehicle Tompkins.” This is a community initiative collaboration between Tompkins County, and the Town and City of Ithaca. The initiative is supported by NYSERD as an effort to encourage residents of Tompkins County to adopt EV technology. About 50 electric vehicle charging stations have been installed across the county. EV Tompkins is actively working with municipalities to help with installation of EV charging stations and the creation of EV friendly policies. McGarril brought written information to share with the Board.

McGarril informed the Board that installation of charging stations is easy to do. There are three different levels of charging stations to choose from, at a wide range of price points. She provided information on grants and funding to help off-set the cost and installation of charging stations. Dietrich asked whether there are any time constraints for these grants and incentives? There are several programs. The DEC has funds which will off-set 50% of the cost of units. These will be available until the funds run out. Ulinski asked for information about the number of EV ownership by jurisdiction. McGarril said that 310 EV vehicles were registered in Tompkins County as of January 2018. This is the highest per capita in NYS. That number is expected to double by 2020. EV Tompkins will be providing education related to EV technology over the next year in an effort to increase the rate of EV ownership.

## **Warrants**

### **ABSTRACT #4 OF 2018:**

#### **GENERAL FUND**

#129-177 for a total of \$37,746.68

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

#### **HIGHWAY FUND**

#60-84 for a total \$41,120.74

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

## **Approve Minutes**

### **MOTION - APPROVE MINUTES**

**Moved,** That the Town Board of the Town of Danby approves the minutes of March 12, 2018.

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

There was a requested addition, from Connors. One sentence in discussion of Townline Road on page 5. (Insert "Carl Seamon stated that he would have a conversation with the Newfield Highway Department regarding maintenance on TownLine Road.") Clerk Goddard agreed to this addition.

### **MOTION - APPROVE MINUTES**

**Moved,** That the Town Board of the Town of Danby approves the minutes of March 19, 2018, as amended.

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

## **Declare Lead Agency - Minor Subdivision and Special Permit, 129 Hornbrook Road**

Planner Randall reported on a recommendation from the Planning Board regarding a request for rezoning, which must be considered by the Town Board. The request also includes a minor subdivision and special permit. Those actions will be considered by the Planning Board. Randall explained that the combination of all three actions under one lead agency is to avoid fragmentation of environmental review. The Town Board would be accepting Lead Agency of Environmental Review with the Planning Board as an involved agency.

### **RESOLUTION NO. 39 OF 2018 - DECLARATION OF LEAD AGENCY, REZONING, MINOR SUBDIVISION, AND SPECIAL PERMIT, 129 HORN BROOK ROAD, TAX PARCEL NO. 10.-1-82.2**

**Whereas** an Application has submitted for proposed rezoning of 2.237 acres of the total 108.89-acre tax parcel 10.-1-82.2 to zone Commercial "C," located at 129 Hornbrook Road, from the current zoning as Low Density Residential, by Petricola-Bartholf Partnership, Owner, Robert Bartholf, Applicant; and

**Whereas** this is a rezoning action under Section 800 of the Zoning Ordinance of the Town of Danby, for which the completed application was received January 17, 2018; and

**Whereas** an Application has been submitted for concurrent review and approval by the Town of Danby Planning Board for a Minor Subdivision of Town of Danby Tax Parcel No. 10.-1-82.2, by Petricola-Bartholf Partnership, Owner, Robert Bartholf, Applicant; and

**Whereas** the Applicant proposes to subdivide the existing 108.89-acre property into two parcels: Parcel A, measuring 2.237 acres with existing 8,800 sq. ft. warehouse; and Parcel B, measuring 106.653 acres and formerly operated as vehicle dismantler Auto-salvage of Ithaca, Inc.; and

**Whereas** the Applicant is additionally requesting a Special Permit to utilize the existing 8,800 sq. ft. building as a Warehouse; and

**Whereas** the Applicant is proposing adaptive reuse of the existing 8,800 sq. ft. warehouse and no new construction

is required to facilitate private capital investment required to renovate and reuse the existing building within this area, which is in proximity to the Central Hamlet; and

**Whereas** 6 NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA) requires that a Lead Agency be established for conducting environmental review of projects in accordance with local and state environmental law; and the Lead Agency shall be that local agency which has primary responsibility for approving and funding or carrying out the action; and

**Whereas** this is a Type I Action under the Town of Danby Environmental Review of Actions and an Unlisted Action under the State Environmental Quality Review Act and is subject to environmental review; and

**Now Therefore, be it**

**Resolved** that the Town of Danby Town Board does hereby declare itself Lead Agency for the environmental review for the action of Rezoning, Minor Subdivision, and Special Permit approval for Town of Danby Tax Parcel No. 10.-1-82.2 for Petricola-Bartholf Partnership, Owner, Robert Bartholf, Applicant.

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

**In Favor: Connors, Holahan, Ulinski, Dietrich**

### **Authorization for Conservation Advisory Council to Spend Money**

Ulinski brought two short resolutions on behalf of the Conservation Advisory Council. Ulinski explained the need to spend a small amount of money for office supplies and printing.

#### **RESOLUTION NO. 40 OF 2018 - AUTHORIZATION FOR DANBY CONSERVATION ADVISORY COUNCIL TO SPEND MONEY**

**Resolved**, That the Town Board of the Town of Danby authorizes the Town of Danby Conservation Advisory Council to spend money related to its functions for printing, office supplies, etc. The amount of purchasing not to exceed \$500 in the year 2018. Any additional or special circumstances will require further approval from the Town Board.

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

**In Favor: Connors, Holahan, Ulinski, Dietrich**

### **Authorization for Conservation Advisory Council to Explore a Land Gift**

There was a short discussion regarding a potential conservation easement which may result in an acquisition of land to the town through an living estate gift. Ulinski provided information and context. If this progresses and there is an agreement, the property owner would live on their land for their life-time and that property would revert to the Town at the time of their death and there would be a perpetual easement on the property.

Ulinski explained that this is in the exploratory stages. The proposal and agreement would need attorney review and would further come to the Town Board for authorization and acceptance. This resolution is permission to explore, prior to negotiation.

#### **RESOLUTION NO. 41 OF 2018 - AUTHORIZATION FOR DANBY CONSERVATION ADVISORY COUNCIL TO EXPLORE A LAND GIFT**

**Resolved**, That the Town Board of the Town of Danby authorizes the Town of Danby Conservation Advisory Council to engage in negotiations for a proposed conservation easement and gift of property with reserved life estate to the Town of Danby. The CAC will examine the needed contracts and terms for such a gift, including discussions with the Town Attorney, the Landowner and the CAC. The CAC believes this is an additional way for the Town to preserve land and this negotiation would provide a template for further land gifts – and clarify the benefits and risks for the Town.

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

**In Favor: Connors, Holahan, Ulinski, Dietrich**

## Planning Report

A Planning report was made by CJ Randall. She attended two conferences in the past month. Each of these conferences provided information which will be useful during her audit of Danby zoning, currently underway. This information will also be useful for applications related to water/waste-water infrastructure grants.

The CAC has been reviewing draft maps for the Natural Resources Inventory.

The BZA heard a matter in March - continuation of a variance request hearing first held in November, 2017. Subdivision of property on Curtis Road, with no road frontage on a publicly maintained road. This was approved with the condition that no permanent structure can be built at this location.

The Town was able to meet a March 29 grant execution deadline for the Brown Road project. The Town has not heard back on this project yet.

Code/Planning is reviewing a streamlined Building Permit system in Laserfiche. Randall and Hansen will have training with Tompkins County Deputy Clerk Alana Congdon in the next month. This may allow property owners to apply for a building permit on-line. It is hoped that the system will allow both Code and Planning to review all required zoning components. There is a plan to tie this system into the Tompkins County Dept. of Health, so that they can review well, waste-water, and related permits.

Randall will attend an area-wide April 18 FEMA flood risk review. This is part of a major flood review in the area, particularly in the City of Ithaca and Cayuga Lake basin.

Randall and Dietrich will be attending the Cayuga Lake Watershed summit, to be held in Seneca Falls this spring on April 19. Randall will give a presentation on the projects underway in Danby.

Applicants have been interviewed for the Planning Board/BZA secretary and a candidate will be chosen soon. The previous secretary, Kelly Cecala, will cover the April PB meeting.

Three different Bridge NY grant applications are in the works: Durfee Hill Road, West Jersey Hill Road, and Gunderman Road. TG Miller Engineering is assisting with these applications. The West Jersey Hill Road has the most traffic, and is likely to be funded.

Connors asked for a review of the next steps in the Petricola-Bartholf Hornbrook Road property re-zoning project. Randall out-lined the aspects of the project. The Planning Board will continue review of the project and will develop language for a proposed zoning amendment. This action is subject to County Planning Review. If the Town Board is agreeable, the property could be re-zoned this Spring/Summer. There will need to be the full Public Hearing procedure for a zoning amendment. Clerk Goddard noted that the timing would necessitate this taking place at either the second meeting in May or the first meeting in June. The project would then go back to the Planning Board for consideration of the minor subdivision.

Ulinski thanked Randall for her work on the Danby Natural Resources Inventory. He said that this will be a very useful tool for planning in the future.

There was further discussion and information from EV Connects regarding funding available through NYSERDA for electric vehicle charging stations. CJ reported an estimate of \$5,260 for a set of three, which includes the discounts through NYSERDA with four years of managed service. Full price would be closer to \$14,250. \$2,000+ of the estimated price is the cost of an extended four warranty. Installation would be covered through EV Tompkins. There was further discussion of this proposal. Dietrich noted that installation at the Community Park bus stop would need to include running electric to the site. Crane urged the Town to follow through with this as a service to the community, stating that the cost to the Town is "negligible." Dietrich encouraged CJ to move forward with this. Ulinski suggested that the Town explore installing a charging station at the Fire Station. He further commented that this was an investment for small number of drivers of electric cars (at this time), but agreed that the "price is right."

### **Short Reports - Justices, Water District, Town Clerk**

The March Town Clerk's Report; \$1,488 was received in the month of January for one planning fee, 53 dog licenses, two building permit, and one impoundment fee. \$1,421 was disbursed to the Town Supervisor and \$67 to the NYS Animal Population Control Program.

Copies of the Justices' monthly reports were circulated to the TB.

### **Adjournment**

The meeting adjourned at 9:00 pm.

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Pamela Goddard, Town Clerk