

**Danby Town Board
Minutes of Public Hearing and Regular Meeting
August 20, 2018**

Present:

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

Others Present:

Town Clerk Pamela Goddard
Code Paul Hansen
Bookkeeper Laura Shawley
Public Ted Crane, Ronda Roaring, Pat Woodworth, Nancy and David Pochily, Bruce Richards, Charlotte and Ray Mayo, Jack Baker, Rosie Perry, Bill Sheffield, Elizabeth and Daniel Saracino, George Adams, Camille Doucet, Dan Klein, Cathy and Frank Darrow, Debbie Benson, Marnie Kirchgessner, Dale and Valerie Burgess, Steve and Marrell Cortright, John Van De Mark, Dan Clements, Rick Dobson, Bill Keokosky, Jim Szczepanski, Mary Woodsen, Sarah Elbert, and many others

Public Hearing Opened at 7:06pm

PLEASE TAKE NOTICE that the Town Board of the Town of Danby will hold the following Public Hearing on Monday, AUGUST 20, 2018 at the Danby Town Hall, 1830 Danby Road (aka Route 96B):

7:00 p.m., to hear all comments of interested persons related to considering adoption of Town of Danby Local Law X of 2018 "Changing from an Elected Town Highway Superintendent to an Appointed Town Highway Superintendent." This Local Law would provide for the abolition of the elective office of Town Highway Superintendent and the creation of the appointive office of the Town Highway Superintendent of the Town of Danby. This Local Law is subject to mandatory referendum according to the provisions of Section 23 of the Municipal Home Rule Law. This local law takes effect immediately upon and after approval of a majority of the electors voting thereon in accordance with the requirements of section twenty-three of the Municipal Home Rule Law and upon subsequent filing with the Secretary of State. Referendum will be on the November general ballot.

The full text of the proposed Local Law is on file in the Office of the Danby Town Clerk, located at 1830 Danby Road, and is available for review during office hours.

The public hearing opened with a statement from the Supervisor Ric Dietrich, explaining what is different about the Highway Superintendent position at this time and why the TB has chosen to raise this question now. Dietrich described technological and personnel changes, as well as changes in the Highway Department related to inter-municipal relationships. Dietrich stated that the Town is trying to be responsive to the needs of its infrastructure.

Public Comments continued for two hours. Not all people identified themselves when they spoke.

Ted Merritt spoke in opposition to making a change in the current elected status of the Danby Highway Superintendent. He expressed his concern about who the TB would appoint, stating that he did not trust them to make this decision. As a resident, he wants "a say" with the understanding that the Highway Superintendent should be responsive to the people.

John Van De Mark asked who makes the budget for Highway, the TB or the Highway Department? Dietrich responded that this is a cooperative effort. Van De Mark expressed concern about roads and bridges that need repair.

Rick Dobson expressed his concern that his right to vote would be taken away by this change.

David Pochily expressed his concern that the Town would be "stuck with" an appointed Highway Superintendent. He asked whether it would be easier to vote out or fire a Highway Superintendent, if needed? He supported the democratic opportunity for citizens to vote.

Nancy Pochily expressed concern over losing the ability to vote for a Highway Superintendent. She wanted to know what qualifications would be required and how the choice would be made. Would the TB be willing to accept fault if there was a poorly appointed Superintendent?

Mary Woodsen spoke in favor of an appointed Highway Superintendent as a way to hire someone with good experience and qualifications. She noted several other positions in other municipalities that were elected at one time and are now appointed.

Henry Fitzgerald stated that the most important consideration should be qualifications and experience. He said that it made sense to advertise the position, with minimum requirements. Fitzgerald suggested a “compromise” solution in which the TB vetted candidates and then the residents would be able to vote. He also suggested that there needed to be better peer review of the person in that position.

Pat Woodworth stated that she is in favor of putting this question on the ballot, so that residents can vote on whether the position should be elected or appointed. She noted that this is the only issue currently in front of the Town at this time. She further noted that there have been bad Highway Superintendents who were voted in, that this is a top level management position and deserves the careful consideration of a diverse search committee.

Dan Klein spoke in favor of having an appointed Highway Superintendent. He noted that several key positions in the Town are already appointed, including bookkeeper, code officer, and planner. In his view, this is not a political but rather a technical position.

Frank Darrow spoke in favor of an appointed Highway Superintendent. Darrow stated that it was important to have a highly qualified person. Rather than a “popularity contest” he would prefer careful review. In his view, the democratic principle and right to vote relates to having an elected Town Board.

Deb Benson expressed several questions about the process for selecting and appointing a Highway Superintendent. What would be the length of term, the salary, etc. She expressed concerns about appointments “in this age of corrupt government.”

Marrell Cortright asked for clarification as to a primary difference between elected and appointed Highway Superintendent: an elected Superintendent must be a resident of Danby and an appointed Superintendent could be from out of town? This was confirmed.

Steve Cortright stated that he could see both sides of the issue. However, he believes in the right to vote and favors this remaining an elected position.

Dale Burgess stated that this “stinks of cronyism” and that he favors having an elected Highway Superintendent.

Valerie Burgess stated that she thought this question should be on the ballot. She asked what the criteria for qualifications would be. “Just because someone has a degree, that doesn’t mean they know the job.”

Elizabeth Saracino stated that she was nervous about whether she could trust the TB to make the appointment. She wanted to know more information about the process and what the choices for qualifications would be. If this were to be appointed, she felt that the Highway Superintendent should be a resident of Danby.

Another resident wanted resident input on the proper qualifications for Highway Superintendent.

Bill Keokosky asked what would happen if there were a split vote on the appointment and asked whether the TB would consider a requirement of there being a unanimous decision for any appointment to Highway Superintendent? He also asked several questions about the proposed appointment process. Dietrich responded that the process had not been determined and is still, “a work in progress.”

Ray Mayo expressed concern that this would be, “opening the door to cronyism,” and that removing the right to vote was a, “slap to veterans.” He expressed concern that the TB does not listen to resident concerns. He was strongly opposed to having an appointed Highway Superintendent.

Bill Sheffield spoke about the importance of on the job experience. He stated that road construction and maintenance is not/should not be done by political consideration but by the needs of the roads. He asked why Carl Seamon was not at the meeting to speak to these concerns?

Rosie Perry asked why this was coming up as an issue now? If things are working well, why make a change?

Camille Doucet asked how long the term of an appointed Highway Superintendent would be? Clerk Goddard read from the proposed Local Law, required to make the change, that the term would be for two years. This is the same as the current elected term for a Highway Superintendent.

Laura Shawley read a letter on behalf current Highway Superintendent Carl Seamon. "I feel that this should be put on the ballot for the people to decide whether or not they want an elected or an appointed Highway Superintendent. We all work for the public, so it would only be right to have a vote so everyone has a say. I would like everyone to know that I would, as of now, like to serve another term. Whether I am elected or appointed should be decided by the people in a special vote. I see positive things on both sides of this subject. The key to being Highway Superintendent is to work closely with the Town Board to help them understand our functions and to always be there for the safety of the public. During my service, I have always had a great Town Board to work with and, because of that, we have been able to accomplish a lot of great things. I fee this is about the people, so I feel that the people should be able to vote on whether or not they want the position to be elected or appointed.

Laura Shawley spoke to finances related to the Highway Department and how those fit in with the general Town budget.

Ronda Roaring stated that she thought the question should be put on the November ballot.

Sarah Elbert stated that she thought the condition of the roads, and the responsiveness of the Danby Highway department, is very good. She supports Carl Seamon and did not want to lose the ability to vote.

Marnie Kirchgessner expressed her concern that it is required that the Highway Superintendent be a resident of Danby. She saw pros and cons with either elected or appointed Superintendents. Kirchgessner was concerned that a residency requirement was not part of the proposed LL to make the change. She had concerns about the process for appointment, similar to those expressed by other residents.

Ted Crane asked whether there had been any analysis as to whether this change would be of benefit to the Town? In his view, there was no obvious benefit of a two year appointed position over a two year elected position. Out of 932 Towns in the state of NY, less than 100 Towns have appointed Highway Superintendents, and the size of many of those, along with NY Cities and Counties makes those a poor comparison to Danby. Crane thought that an appointed Superintendent might be for the best, but that "nothing is proved." He stated that he would like to see more research and information.

Jack Baker stated that he was in favor of having the question on the November ballot, so that any change would be voted on by the public. He expressed concerns that only five people would make a decision on the candidate for Superintendent. In his view, it is better to have more people involved.

Dan Clement stated that he had listened carefully to the comments made by others, and that all seemed to agree on wanting the best person the Town can get for Highway Superintendent. He suggested a compromise solution, by which the TB find candidates and then bring those candidates to a public vote. During his comments, there was clarification and confirmation that, if elected, NYS Law requires the candidates to be residents of the Town. If the preferred candidate is from out of Town they would either have to move (to be elected), or would have to be appointed.

There was a general discussion regarding the need for clarifying the criteria and process for an appointed Highway Superintendent. This discussion included various measures, such as a public information session and an informational mailing, to further inform the public regarding the pros and cons of elected or appointed Highway Superintendent. Members of the public emphasized that there needs to be more details regarding how an appointment would be made.

Public Hearing Closed at 9:05pm

The Town Board took a break of about 10 minutes.

Regular Meeting Opened at 9:16 pm

Privilege of the Floor

Ronda Roaring expressed concern, citing NYS Code of Ethics Law section 74, sections 3 (d) and (f) on “currying favor.” Roaring asserted that, by asking a particular person to apply for the vacancy on the Planning Board, Councilperson Connors was in violation of, “by [them] conduct giving reasonable basis for the impression that any person can improperly influence [them] or unduly enjoy [their] favor in the performance of [their] official duties...” This assertion was based on Bruce Richards’ interview, during which he said that Connors had asked him to apply for the vacancy. Roaring continued that Connors should recuse herself from any vote on appointment to the Planning Board. Both Connors and Dietrich refuted this assertion. Connors stated that she encouraged Richards to consider applying so that there would be a candidate with agricultural experience. She asserted that she has no favors to ask of Richards.

There was some discussion related to Roaring’s comments. Ted Crane supported the practice of TB members approaching residents to apply for volunteer board vacancies. He also noted that, as a large landowner with an agricultural exemption, he also fits the category of an applicant with “agricultural experience,” and that Connors was aware of this. Marnie Kirchgessner noted that it is common practice in small towns for Board members to make such contacts with potential applicants. Nancy Pochily stated that she was concerned, as an applicant not approached by a Board member, when she heard Richards state that he’d been asked to apply for the vacancy. Pochily stated that she felt that the appointment was a “foregone conclusion” due to this recruitment. Connors responded that she is only one person, not always agreed with.

Consider Public Hearing - LL Adoption

The Board had a brief discussion of the Public Hearing and LL adoption consideration. Ulinski reflected that they had received a full and clear response from the public. Although divided in opinion regarding a preference for elected or appointed, there was some consensus that the question should be on the November ballot. The Board also noted that they “have work to do” to provide information and answers to some of the questions raised.

RESOLUTION NO. 55 OF 2018 - CONSIDER ADOPTION - PROPOSED LOCAL LAW NO. X OF 2018 CHANGING FROM AN ELECTED TOWN HIGHWAY SUPERINTENDENT TO AN APPOINTED TOWN HIGHWAY SUPERINTENDENT

Whereas, the Town Board of the Town of Danby is considering adoption of proposed Town of Danby Local Law Number X of 2018 Changing from an Elected Town Highway Superintendent to an Appointed Town Highway Superintendent; and

Whereas, the Town Board on August 20, 2018, that the Town Board of the Town of Danby, acting as Lead Agency in SEQRA environmental review of this action, finds that it is a Type II action under 6 NYCRR 617.5 (20) and (27) and needs no further environmental review; and

Whereas, the Town Board on, August 20 2018 has held Public Hearing on this proposed local laws, which Public Hearing was duly noticed in the Ithaca Journal;

Now, Therefore, it is

Resolved, that the Town Board of the Town of Danby hereby adopts Town of Danby Local Law Number X of 2018 Changing from an Elected Town Highway Superintendent to an Appointed Town Highway Superintendent, which Local Law is incorporated into this Resolution; and it is

Further Resolved, that the Town Board schedules a public referendum with respect to adoption of said local law for November 6, 2018.

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

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

Planning Board Vacancy

There was some discussion regarding the applicants to a partial term vacancy on the Planning Board. Dietrich stated that Ted Crane has extensive knowledge of the issues before the Town and the functions of the Planning Board. He put forth Crane as the most experienced candidate for the seat.

Connors admitted that Crane looked good on paper. She stated that she was more concerned about the ability of an appointee to work well with others in a group, as opposed to experience on paper. In her view, Ted Crane was not that person.

Ulinksi agreed with both Dietrich and Connors. He recognized Crane's experience and involvement with the Town. He had concerns about whether Crane's ability to bring people together. Ulinksi also stated that he had received phone calls discouraging him from voting for Crane.

Miller supported the views of Connors and Ulinksi.

RESOLUTION NO. 56 OF 2018 - APPOINT PLANNING BOARD VACANCY

Resolved, That the Town Board of the Town of Danby appoints Ted Crane as a representative on the Planning Board, to fill a vacancy through December 31, 2018.

Moved by Dietrich, Second by Holahan. The motion failed.

In Favor: Dietrich

Opposed: Connors, Holahan, Miller, Ulinksi

Connors supported Richards to fill the vacancy. She noted that this is only for a few months. Clerk Goddard clarified that this term runs through the end of 2018. This same seat will be up for applicants or reappointment in January 2019.

RESOLUTION NO. 57 OF 2018 - APPOINT PLANNING BOARD VACANCY

Resolved, That the Town Board of the Town of Danby appoints Bruce Richards as a representative on the Planning Board, to fill a vacancy through December 31, 2018.

Moved by Holahan, Second by Ulinksi. The motion passed.

In Favor: Connors Holahan, Miller, Ulinksi

Opposed: Dietrich

Code Report

Code Officer Hansen made a brief report. Work is progressing on the bus shelter and parking in the Danby Community Park. There will be a pad for a bicycle rack at the same location.

Plans are moving forward for the electric vehicle charging station. Set up and installation of the EV station should be less than \$3,000. Building permits are a little less than average for this time of year.

Adjournment

The meeting adjourned at 9:45 pm.

Pamela Goddard, Town Clerk