

**Danby Town Board  
Minutes of Public Hearing and Regular Meeting  
November 12, 2018, 7pm, Danby Town Hall**

**Present:**

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

**Not Present:**

Councilperson: Jack Miller

**Others Present:**

Town Clerk	Pamela Goddard
Code	Paul Hansen
Bookkeeper	Laura Shawley
Highway	Jack Shawley
Public	Ted Crane, Ronda Roaring, Pat Woodworth, Garry Huddle, Bruce Richards, Don Schaufler, Clare Fewtrell, Ann Klingensmith

**Public Hearing Opened at 7:10 pm**

Notice is hereby given that a Public Hearing will be held pursuant to General Municipal Law § 247, Environmental Conservation Law Article 49 before the Town Board for the Town of Danby, New York at 1830 Danby Road, Ithaca, New York on the 12th day of November, 2018 at 7:00 PM concerning the acquisition of a conservation easement of property located at 2275 Danby Road, Ithaca, New York. All persons interested will be heard at this time and date. A copy of the draft proposed easement can be viewed at the Town Clerk's office and on the Conservation Advisory Council page of the Danby, NY website [townofdanby.org](http://townofdanby.org). Questions regarding the conservation easement may be directed to Town Planner C.J. Randall at [cjrandall@townofdanby.org](mailto:cjrandall@townofdanby.org) or 607-277-2400.

**Public Comments**

Ted Crane asked for an overview of the Conservation Easement in question, as the document had not been available prior to the hearing. Matt Ulinski responded. The current easement is for 40 acres of mostly prime agricultural land. The property also includes a fairly restrictive EPA protected wetland easement. The Danby easement is subordinate to the prior easement. There is 1700 feet of road easement, which will help protect rural road views in the Town. The location is also an important watershed.

Crane asked if there was any particular reason why the property owner preferred to not have a public hearing. Ulinski reported that the landowner is a private person who prefers a less public process. The landowner is very dedicated to preserving land. Over the course of two years of negotiations, additional properties were added, each of which had some complexities. This increased both the size of the property (from 20 acres to 40 acres) in Conservation Easement and the length of time for arrangements. Ulinski noted that this is a very generous easement.

Ronda Roaring noted that she sent comments about the Conservation Easement prior to the public hearing being set. She made further comments during the hearing. Roaring expressed concern that the house be included in the easement. Ulinski responded with information from the Town Attorney, regarding a property owner's right to build a dwelling. The parcel with the house is two acres. The attorney has recommended that a residential zone be marked on pending easements, if there is not an existing dwelling, as landowners have this right in property law.

Roaring stated that she supports the deed of conservation easement, but was concerned about some issues included in this case. Roaring expressed concern that the included agricultural structures could be interpreted as permitting large scale agriculture, such as a CAFO. Lastly, she asserted that the historical name of the Unique Natural Area wetland is the “Danby Fir Swamp” and that “Danby Fir Tree Swamp” was incorrect. The area is designated “Danby Fir Tree Swamp” in the Tompkins County UNA.

Crane noted that a second dwelling could be permitted on this property. He asked whether there is anything in the Deed of Conservation Easement that overrides or bypasses the standard process of Planning Board and/or Zoning Appeals Board review and permitting. Ulinski responded that any development would be subject to Danby Planning and Zoning regulations and processes. Crane congratulated the Town on this easement.

## **Public Hearing Closed at 7:23 pm**

### **Privilege of the Floor**

Ronda Roaring spoke on three separate items. A) She asked what mailing list was used for the informational flyer regarding the Highway Superintendent referendum, as the address used for her was incorrect. Ulinski responded that the Town used a mailing list from the Board of Elections. B) Roaring drew the Board’s attention to a recent article in the Finger Lakes Land Steward regarding a Town that provides financial support for easements. She suggested that research be made as to how this is done, as a possible model for Danby. C) HUD ruling regarding mobile homes, requiring Towns to consider them as structures. Roaring asserted that Planner Randall had recently provided incorrect information regarding this matter. Supervisor Dietrich urged Roaring to present her concerns during a meeting in which Randall would be able to hear Roaring’s concern and respond.

Ted Crane asked permission to be able to comment on agenda items after information about them had been brought out during discussion.

## **Environmental Management Council report**

Anne Klingensmith reported on some topics related to the Environmental Management Committee. She let the Board know that the UNA committee is working on updates of all the county unique natural areas. A complete round of updates should be complete in 2019.

The Waste Reduction Committee of the EMC is proposing a Countywide “bag ban”. The proposal is that plastic “T-shirt bags” will be banned by retail stores and restaurants. Paper bags could be used but a 10-cent fee would be changed. Retailers would retain the bag fee. This would not be a ban on vegetable bags, dry-cleaning bags, or small drug store medicine bags. The main goal of this proposed legislation is to encourage the use of reusable shopping bags and reduce overall waste, especially plastic waste, in Tompkins County. Tompkins County would join other municipalities that have enacted similar bans. In communities with a plastic bag ban, the use of reusable bags has gone up substantially.

Klingensmith asked the Town Board to consider supporting this legislation. It is believed that there are enough votes in the Tompkins County Legislature to pass this measure. The proposed ordinance is currently being reviewed by attorneys. A draft resolution regarding the plastic bag ban proposal and supporting information will be distributed via Email through the Town Clerk. There is time for the TB to review this over the next few months.

## **Warrants**

### **ABSTRACT #11 OF 2018:**

#### **GENERAL FUND**

#465-509 for a total of \$26,344.61

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

#### **HIGHWAY FUND**

#268-297 for a total of \$54,787.39

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

#### **WEST DANBY WATER DISTRICT FUND**

#28-33 for a total \$1,791.35

**Moved by Ulinski, Second by Holahan. 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 October 8 and 15, 2018.

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

## **Conservation Easement - Resolution**

There was a brief discussion regarding whether to delay the vote on a resolution of acceptance of Deed, as the related materials had not been made public prior to the meeting. Dietrich suggested moving on this action, as the CE agreement was “solid” and as this is of benefit to the Town.

Ulinski thanked those who had been involved in the process of negotiation and preparation; the members of the Conservation Advisory Council, especially Joel Gagnon and Mary Woodsen, Planner Randall, Clerk Goddard, Supervisor Dietrich, and Town Attorney Guy Krogh.

**RESOLUTION NO. 66 OF 2018 - CONSIDER ACCEPTANCE OF A DEED OF CONSERVATION EASEMENT FROM KATHERINE O'NEAL, 2275 DANBY ROAD**

**Whereas**, this action is to consider acceptance of a Deed of Conservation Easement and its conditions from Katherine O'Neal to the Town of Danby, where said Easement would establish a Residential and Active Use Zone on a 2 +/- acre portion of Town of Danby Tax Parcel 14.-1-27.222, located at 2275 Danby 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 of low-impact recreation, and similar activities that do not impair the Conservation Values of this Easement; and

**Whereas**, a portion of said Easement is subordinate to US Department of Agriculture Wetland Reserve Program (WRP) Agreement No. 66-2C31-9-000702; and

**Whereas**, the Town has the authority to acquire an interest in land (including an easement) for the purpose of preserving open space, pursuant to General Municipal Law § 247, and may acquire such interest by gift, subject to a public hearing and due notice; and

**Whereas**, a public hearing on the proposed acquisition of the Easement was held on November 12, 2018 at 7:00 p.m. at the Town Hall of the Town of Danby, 1830 Danby Road, Ithaca, New York 14850, and notice of such public hearing was duly posted; and

**Whereas**, this action was determined to be a Type II Action under the Town of Danby Environmental Review of Actions and no further environmental review is required;

**Now Therefore, be it**

**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 approves and accepts the Deed of Conservation Easement and its conditions from Katherine O'Neal to the Town of Danby, where said Easement would establish a Residential and Active Use Zone on a 2 +/- acre portion of Town of Danby Tax Parcel 14.-1-27.222, located on Danby Road, as such Zone is described in and depicted in Schedule C of said easement; and it is

**Further Resolved**, that the Town Board authorizes the Town Supervisor to execute the Deed of Conservation Easement and all other necessary documents to complete the grant of the Easement to the Town and the recording thereof with the Tompkins County Clerk, subject to title review and approval of the documents of closing by the Town Attorney.

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

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

**Highway Department Requests - Review Quotes, new Truck**

Jack Shawley informed the Board that the Highway Department would like to trade in a 2013 pickup truck for a newer model. The Highway Department is trying to maintain a level of safety in its truck/equipment fleet. The current truck has approximately 97,000 miles and the Town could still get a decent trade-in deal. The Highway Department has received three quotes for a new truck, from Maguire Ford, Scoville Meno, and Mathews dealerships. The best offer is for a 2019 Chevy from Mathews Chevrolet in Vestal, NY.

The current 2013 truck is one that is used extensively by Highway Superintendent Carl Seamon. He uses this for early morning inspections of the roads in Danby. There is currently approximately \$35,000 in the Highway equipment reserve.

**RESOLUTION NO. 67 OF 2018 - APPROVAL FROM THE TOWN BOARD TO GIVE PERMISSION TO THE HIGHWAY SUPERINTENDENT TO PURCHASE A NEW PICKUP TRUCK**

**Whereas**, the current pickup truck that is owned by the town is a 2013 GMC with close to 100,000 miles accumulated, and

**Whereas**, if the vehicle is traded in now there is still a substantial value that can be used for a trade-in, and

**Whereas**, it is in the highway maintenance plan to keep maintenance costs as low as possible, and

**Whereas**, the Highway Superintendent and the Deputy Highway Superintendent have gathered three quotes from three different vendors and have test drove many trucks to make certain that the needs of the town are being met,

**Now, Therefore it is**

**Resolved** the Town Board of the Town of Danby gives permission to the Highway Superintendent to purchase a 2019 Chevy Silverado from Mathews Chevrolet located in Vestal, New York. The trade-in amount is \$16,500 and the total for the new truck after trade-in is \$18,448. This amount will be paid out of the equipment reserve.

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

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

**Highway Department Requests - Review Quotes, Fuel Tank cover**

Jack Shawley presented a proposal, with three construction quotes, for a cover over the fuel tanks at the highway barns. This was presented as an employee and environmental safety matter. The uncovered tanks present a hazardous situation for highway staff and fuel delivery people. The exposed catwalk is slippery in rain, freezing rain, snow, and ice. Water can get into the tanks, and the unprotected fuel can gel making truck fueling difficult and slow. Protective anti-gel additives are included in the fuel in winter. The three sided cover would cover the whole system and protect the fuel tank area from the wind and rain or snow. Dietrich noted that this is expensive, but a good idea.

Question about whether there is any fire risk to the cover structure over the tanks? The structure will have metal sides and ventilation at the bottom. Connors asked whether it is common for fuel tanks to be covered at municipal highway barns? Jack Shawley responded that Danby will be somewhat “ahead of the curve” in taking this action. Dietrich noted that some Towns still have uncovered salt piles.

Laura Shawley noted that some of this expense will be covered by accrued CHIPS money. Three quotes were received, all based on the same project specifications.

**RESOLUTION NO. 68 OF 2018 - APPROVAL FROM THE TOWN BOARD TO ACCEPT THE PROPOSAL FOR THE CONSTRUCTION OF A ROOF OVER THE FUEL TANKS AT THE HIGHWAY FACILITY**

**Whereas**, the fuel tanks for both diesel and gasoline are completely out in the open with no protection from the weather, and

**Whereas**, it is difficult for the fuel vendor to fill the tanks in the snow, rain, and ice storm conditions without a cover, and

**Whereas**, it is difficult for the highway employees to fill their trucks, especially during a storm where there is a lot of wind and precipitation. The pumps also run slower because of freezing, and

**Whereas**, without a cover the Highway Department is constantly having to drain the required spill containment container, and

**Whereas**, the Highway Department has followed the procurement policy set by the Town, by gathering three quotes for the construction of the roof and have followed all rules related to prevailing wage, and

**Whereas**, the Highway has examined all quotes and compared services and cost,

**Now, Therefore it is**

**Resolved** the Town Board of the Town of Danby has selected the company Woodworkers, owned by Jeff Rockwell, to construct the cover for the fuel tanks. The quoted amount is \$32,356. The project will not exceed \$35,000 without prior approval from the Board.

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

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

## **Highway Report**

Members of the Board asked for an update on the condition of logging damage to Deputron Hollow and Travor Roads. Jack Shawley reported that, while further work could be done, Deputron Hollow Road is passable by car traffic. The NYS DEC has permitted the logging operation to complete its work via the access at Travor Road.

Connors asked about the process for getting signs alerting drivers to the presence of horse riders along some roads in Danby. Residents on the east hill of Danby, in the area of Troy and Nelson Roads, have asked for signage alerting drivers that the road is shared by horseback riders. This is hazardous situation for the horses and their owners/riders. The Highway Department has had recent requests for “children at play” signs, and has learned that the NYS DoT has changed its recommendations regarding permitted signage for such situations. Jack Shawley reported that such signs are no longer “in the book” of signs available from the Dept. of Transportation. They are working on possible alternate “share the road” signs for pedestrians and horses.

## **Code Office Report**

Information was presented by Code Officer Paul Hansen, regarding work being done at the main entrance of the Town Hall. Stone work is complete. Hansen thanked the Highway Department for its assistance. Plantings will be done in the spring.

Work is to begin on the bus shelter in the Danby Community Park. Work should be complete sometime before the end of the year.

The number of building permits increased during the Fall season. Fire inspections, including of the Town Hall, will take place before the end of the year. These need to be done annually, for all public buildings.

## **Minutes posting procedure**

Leslie Connors asked that “draft” be marked on minutes distributed prior to their approval by the Town Board. Clerk Goddard noted that this had only been done for a short time, in 2015. Goddard noted that the minutes are, in fact, complete once she has proofread them and posted them on the Danby web site. If amendments are made, these are noted in the next set of minutes. This is the recommended practice outlined in the Town Clerk’s manual from the Association of Towns. Goddard thought that marking them “draft” could be confusing for residents.

Connors noted that, although complete, they have not been approved by the Board, and that the Board may vote to have minutes marked “draft” or “provisional” or “pending approval.” If marked this way, residents may know that they may be changed. Connors noted that this had been the process for County committees. Goddard noted that there is a difference in procedure between minutes for the Town Board and other boards and committees. Connors felt that it was important for residents to know that there was some time between the when minutes need to be available to the public (no later than two weeks following a meeting) during which they have not been approved by the Board. Goddard noted that, while it is best practice for the Board to approve the minutes, it is not a requirement by law.

Ulinski asked whether this was a burden of additional work for the Clerk. Goddard responded that it would add a layer of tasks, to replace the “draft” minutes with the final/approved minutes. She further noted that changes to the minutes prior to approval are rare.

Holahan stated that he thought it would be clearer to have minutes marked “draft.” He thought that this was similar to marking the “Preliminary Budget” as such, prior to the budget hearing.

Goddard expressed her view that “draft” would, rather, would potentially be less clear for the public. Goddard’s view was that the minutes are a different case than the preliminary budget.

Ted Crane made comments related to this, first noting that Town Board minutes are not equivalent to Planning Board or corporate minutes, which are controlled by the boards. He continued that this is a matter of “checks and balances” in municipal government, and that the one of duties of a Town Clerk is to keep an independent record of Town Board meetings. As such, he thought that the procedure described by Goddard is sensible and reasonable.

Connors noted that Robert Freeman, with the Committee on Open Government, has expressed the opinion that marking minutes “draft” or “pending approval” prior to Board action is reasonable. Crane responded that COOG opinions repeatedly state that it *may* be done, but is not required.

It was suggested that the Board continue the discussion, with possible action, at the next TB meeting when all five Board members were present. This was agreed to.

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

A copy of Huddle’s Justice’s monthly report was circulated to the TB. Huddle reported that the increase in evictions in Danby in recent months continues, with two in the same day. There may have been six in the past month or so. Huddle could not report a particular reason for this.

The October Town Clerk’s Report; \$2,464.20 was received in the month of October reflecting 7 days of DECALS license sales, 38 dog licenses, 9 building permits, one marriage license, and two Board of Zoning Appeals variance requests. \$1,794.97 was disbursed to the Town Supervisor, \$604.73 to NY DEC, \$22.50 to the NYS Dept. of Health, and \$42 to the NYS Animal Population Control Program.

Ulinski announced that the CAC presentation on the Danby Natural Resources Inventory will take place at the Danby Gathery on Tuesday, Nov. 13.

### **Adjournment**

The meeting adjourned at 8:40 pm.

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Pamela Goddard, Town Clerk