

# Denning Town Board Meeting Agenda

December 14, 2021



Pledge of Allegiance.

Motion to Accept and Approve last month's Minutes.

Correspondence

Committee Reports:

- Highway- Supt. Of Highways Dan Van Sadars.
- Planning Board – Liaison Councilman Kevin Smith

## **Order of Business:**

- Proposed Resolution No. 54 of 2021 Approval of Payment for Hwy. & General Vouchers
- Proposed Resolution No. 55 of 2021 Authorization for Highway Fiscal Transfer
- Proposed Resolution No. 56 of 2021 Authorization for General Fiscal Transfer
- Proposed Resolution No. 57 of 2021 Town of Denning Resolution in Support of the Land Acquisition Reduction Recommendations in the 2020 August National Academies ("NAS") Expert Panel Report

SUPERVISOR COMMENTS

BOARD COMMENTS

PUBLIC COMMENTS

ADJOURNMENT

Next Meeting:

Town of Denning 2022 Organizational Meeting at the Denning Town Hall  
Monday, January 3<sup>rd</sup>, 2022 scheduled to begin at 10 am.

Town Board & Town Business Meeting at the Denning Town Hall  
Tuesday, January 11th, 2022 scheduled to begin at 6pm.

The website is: [www.denning.us](http://www.denning.us)

The public may now correspond with the Town of Denning at any of these e-mail addresses:

[supervisor@denning.us](mailto:supervisor@denning.us)

[highway@denning.us](mailto:highway@denning.us)

[townclerk@denning.us](mailto:townclerk@denning.us)

[townhall@denning.us](mailto:townhall@denning.us)

Denning Town Board & Business Meeting  
December 14, 2021  
Resolution No. 54 of 2021

**WHEREAS** New York State General Municipal Law Sections 103 and 104-4 permit the pre-audit function of vouchers, as a form of internal controls in the checking of claims and supporting documentation. And

**WHEREAS** the Sections 118 and 119 of New York State Municipal Law also authorize the auditing authority to approve of Said vouchers. AND

**WHEREAS** the Office of the New York State Comptroller Division of Local Governments and Accountability: Budgets and Finances also approves of this method.

**NOW THEREFORE BE IT RESOLVED** that the Town of Denning Town Board **HEREBY** approves of and authorizes payment of the following Warrants:

Highway Fund Pre-Pay Warrant No. 12 Vouchers 38 - 43.

Highway Vouchers Warrant No. 12, Vouchers 175-192.

General Fund Pre-Pay Warrant No.12 Vouchers 83 - 90.

General Fund Warrant No. 12 Vouchers 162 - 180.

Capital Fund Sewage Disposal Vouchers Warrant No. 12 – None.

December 14, 2021  
Resolution No. 55 of 2021

**WHEREAS** New York State Law §141 and Highway Law 285-a authorizes the Town Board by resolution to transfer surplus monies, contingent appropriations and unexpended fund balances.

**And WHEREAS** the Town of Denning is in need of a budgetary transfers for the 2021 Budget.

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Denning Town Board authorizes the Supervisor to do the following transfers in the Highway Fund: Increase DA5140.4 Brush and Weeds Contractual Expense in the amount of \$640.00 and increase DA9010.8 New York State Retirement System in the amount of \$10,310.00 .

And to decrease DA599 Highway Fund Balance in the amount \$10,950.00.

Denning Town Board-Business Meeting  
December 14, 2021  
Resolution No. 56 of 2021

**WHEREAS** New York State Law §113 authorizes the Town Board by resolution to transfer surplus monies, contingent appropriations and unexpended fund balances.

**And WHEREAS** the Town of Denning is in need of a budgetary transfers for the 2021 Budget.

**NOW, THEREFORE, BE IT RESOLVED** that the Town of Denning Town Board authorizes the Supervisor to do the following transfers in the General Fund, and to increase A1460.4 Records Management Contractual Expense in the amount of \$1,260.00, and to increase A1910.4 Unallocated Insurance in the amount of \$530.00, and to increase A9010.8 New York State Retirement system in the amount of \$3,190.00 and

To decrease A1990.4 Contingency Account in the amount of \$4,980.00.

**RESOLUTION NO.**

**THE TOWN OF DENNING RESOLUTION IN SUPPORT OF THE LAND ACQUISITION REDUCTION RECOMMENDATIONS IN THE 2020 AUGUST NATIONAL ACADEMIES (“NAS”) EXPERT PANEL REPORT**

**WHEREAS**, in August, 2020, the National Academies (“NAS”) Expert Panel published its report entitled, *Review of the New York City Watershed Protection Program*, which recommended that expenditures in the land acquisition program be reduced to fund other programs that will lead to more direct improvements to water quality. NAS Report, p.385. NAS recommended that **the City be provided flexibility to implement an optimal variety of programs that would focus watershed management actions on the most valuable lands for water quality protection and that it shift funding and emphasis from acquiring large parcels in the fee-simple and conservation easement programs to the protection of riparian lands on critical areas of tributary streams through programs that provide an opportunity to simultaneously address community needs and watershed protection. Programs which provide a “financial mechanism” to promote community well-being and economic vitality in the watershed while promoting the protection of high potential water quality impact areas were specifically encouraged.** See NAS Report p. 215-216 [discussing the NYC Flood Buyout Program]

**WHEREAS**, the fundamental principle of the 1997 New York City Watershed Memorandum of Agreement (the “**MOA Watershed Objective**”) is the following: “[T]he parties recognize that the goals of drinking water protection and economic vitality within the watershed communities are not inconsistent and it is the intention of the parties to enter into a new era of partnership to cooperate in the development and implementation of a watershed protection program that **maintains and enhances** the quality of New York City drinking water supply and **the economic vitality and social character of the watershed communities**”; and

**WHEREAS**, the 1997 New York City Watershed Memorandum of Agreement (“MOA”) also defined the MOA Land Acquisition Objectives as follows: “the parties agree that the City’s Land Acquisition Program, the City’s watershed regulations, and the other programs and conditions contained in this agreement, when implemented in conjunction with one another, **would allow existing development to continue and future growth to occur in a manner that is consistent with the existing community character** and planning goals of each of the watershed communities; and that the City’s land acquisition goals **ensure that the availability of developable land in the watershed will remain sufficient to accommodate projected growth** without anticipated adverse effect on water quality **and without substantially changing future population patterns** in the watershed communities” (hereinafter “**Land Acquisition Objectives**”); and

**WHEREAS**, the City’s Land Acquisition Program is premised on the principal that surface runoff from impervious surfaces and concentrated human activity poses a contamination threat to the City’s water supply. In developing the City Land Acquisition Program, the parties were concerned that the vast amount of open space within the West of Hudson Watershed created the

potential for new significant adverse development in an unfiltered watershed. The City's Land Acquisition Program was a tool to prevent and control such development; and

**WHEREAS**, in 1997 when the parties executed the MOA, a small percentage of the watershed lands within Greene County were under New York City control. Twenty years later, according to the October 12, 2017 Catskill Watershed Corporation Developable Land Analysis Report ("*CWC 2017 Report*"), a significant majority of the watershed land within Greene County are protected from development. Table 1 from the CWC 2017 Report indicated that the average percent of available developable land town wide in Denning was 0.8 %.

Town	A. Total Area (Acres)	B. Protected Land	C. Percent Land Protected	D. Non- Protected Land	E. Undevelopable Land	F. Percent Undevelopable	G. Developable Land (1)	H. Acres of Available Developable Land		I. Percent of Total Land Area (1)
								(1)	(2)	
Denning	64,960	54,646	84%	10,314	9,072	88%	1,242	620	515	0.8%

Notes:  
 (1) Town-wide  
 (2) Watershed only

**WHEREAS**, the 2017 City of New York Filtration Avoidance Determination ("FAD") requires that an application for new Water Supply Permit to succeed the 2010 WSP be filed by June 2022. The City of New York must also develop a new Long-Term Land Acquisition Plan, which will cover the period 2023-2033 and consider the findings and recommendations of the National Academies ("NAS") Expert Panel review; and

**WHEREAS**, with the assistance of the Coalition of Watershed Towns and CWC, Delaware County has developed an Alternative Land Acquisition Program Option (the "Alternative Option") that provides an opportunity for impacted communities to provide robust/enhanced protection of environmentally sensitive lands in a manner that does not rely on one-time payments for fee title acquisitions of large parcels or conservation easements that burden land in perpetuity. The Alternative Option focuses on environmentally sensitive lands (such as riparian or stream buffers) which directly contribute to water quality and provides for a fixed-term annual rental payment to the landowner; a model that has proven to be effective in Delaware County; and

**WHEREAS**, the Alternative Option would allow landowners to retain ownership of their property while receiving periodic payments that reflect the water quality protection value their property provides. The Alternative Option provides a financial mechanism to promote community well-being and economic vitality while promoting water quality, thereby achieving the balance of interests required by the MOA and recommended in the NAS Report. The County envisions an impacted municipality would make a determination and a commitment to participate in the Alternative Option program as a way to provide enhanced protection of sensitive lands in lieu and as a substitute for the continuation of the traditional DEP Land Acquisition Program. The

municipal commitment would be for a period of years (e.g., 10 years) during which time, Land Acquisition Program would be suspended within that community; and

**WHEREAS**, DEC recently announced it will make a determination to expand the Stream Corridor Acquisition Program (“SAP”) beyond the Schoharie Basin to the entire watershed, that this determination is not subject to review under the State Environmental Quality Review Act (“SEQRA”) and does not require due process or a modification to the 2010 Water Supply Permit. According to DEC, homeowners will have the ability to request that SAP acquisitions of individual parcels in excluded hamlet areas and hamlet expansion areas be approved on a case-by-case basis by making direct appeals to the Town/Village Board. This may include both vacant lots and improved lots, both of which are eligible for SAP acquisition under the 2010 Water Supply Permit (although DEC states that the purchase of improved lots is not intended); and

**WHEREAS**, the Town maintains the potential impacts that could result from the continuation and potential expansion of SAP must be reviewed under SEQRA. There has been a significant change in circumstances since the SAP program was first envisioned and implemented under the 2010 Water Supply Permit. This change in circumstances requires the preparation of a supplemental Environmental Impact Statement (EIS) in order to identify and take a “hard look” at the impact this expansion of the land acquisition program would have on the environment and the sustainability of our community; and

**WHEREAS**, fee acquisitions under SAP are subject to Section 82 of the MOA which requires the City to grant to NYSDEC a conservation easement to ensure that such land is “held in perpetuity in an undeveloped state in order to protect the watershed and New York City’s drinking water supply.” The Conservation Easement required by DEC under Section 82 of the MOA prohibits in perpetuity the following activities on the acquired property:

- “construction of any new ... structures normally requiring a building code permit”;
- “storage of petroleum ..., hazardous materials”
- “excavating, extraction, grading, or removal of soil, sand and gravel”
- “use of snowmobiles, dune buggies, motorcycles, all-terrain vehicles or other motorized vehicles recreation purposes”
- “the expansion of any existing or construction of any new paved driveways, roads, and parking lots”
- “the commercial, residential or industrial use”
- “except in accordance with Article 49 of the ECL, the siting or routing of any facilities required for ... the transmission, or distribution of **gas, electricity, water, telephone, or cable television services** on, *over* or under the Protected Property”
- “the commercial, residential or industrial use of the Protected Property(ies) in such a manner that: (i) causes the introduction of sediments, ... or other pollutants to any watercourse or wetland on the Protected Property(ies) that may adversely effect the quality of such watercourse or wetland; (ii) interferes with or disturbs open space, vegetated areas or steep slopes on the Protected Property(ies); or (iii) is otherwise inconsistent with the purposes of this Easement.”

**WHEREAS**, the Town requests that the DEC, the Catskill Center and DEP identify and evaluate the potential adverse impacts on municipal and private functions if the City encumbers large sections of stream buffer/ corridors with restrictive conservation easements in perpetuity. Specific areas of concern include impacts on the following:

- Installation and upgrade of electrical, water, gas, telephone, broadband/cable lines as needed to provide basic utilities
- Maintenance, upgrade, expansion, widening, safety improvements to existing roads and extension of existing roads.
- Installation, expansion, and replacement of communication towers (including the necessary utilities)
- The siting, maintenance, and expansion of stream crossings
- Flood mitigation projects
- Renewable Energy Projects

**WHEREAS**, on October 27, 2021, the Delaware County Board of Supervisor passed Resolution No. 162 entitled: **DELAWARE COUNTY REQUESTS THAT A MORATORIUM ON NEW PURCHASE CONTRACTS FOR FEE TITLE AND DEP CONSERVATION EASEMENTS, BE IMPLIMENTED IN DELAWARE COUNTY PENDING A COMPREHENSIVE REVIEW OF THE LAND ACQUISITION PROGRAM TO IDENTIFY THE NEED FOR THE CONTINUATION OF LAND ACQUISITION, THE BENEFITS OF LAND ACQUISITION, THE IMPACT OF LAND ACQUISITION ON COMMUNITY SUSTAINABILITY AND THE OTHER TOOLS AVAILABLE TO ACHIEVE MOA LAND ACQUISITION OBJECTIVES.** That resolution identifies and describes the “Change in Circumstances” since the SAP was first envisioned in the 2007 FAD. The Town supports Delaware County Resolution No. 162.

**NOW, THEREFORE, BE IT RESOLVED** the Town of Denning Town Board joins in the Delaware County Board of Supervisors petition to DEC, DOH and DEP requesting the following relief:

- (1) The FAD requires application for a WSP to succeed the 2010 WSP is required by June 2022 and that the City develop a new Long-Term Land Acquisition Plan, which will cover the period 2023-2033 and which will consider the findings of the National Academies Expert Panel review. Given the uncertainties created by the change in circumstances, effective January 1, 2022 and extending through completion of the permitting process, the City refrain from entering into new contracts to purchase fee title and/or conservation easements under the Land Acquisition Program within the Town of Denning.
- (2) In developing the Long-term Land Acquisition Plan for the period 2023-2033 and the WSP renewal application due June, 2022, that DEP limit its land and conservation easement acquisition within the Town to WAC Conservation Easements, flood mitigation projects, stream protection/management, the Delaware County Alternative Pilot Land Acquisition Proposal and a voluntary municipally approved SAP Program.

**BE IT FURTHER RESOLVED** that this resolution be sent to New York Governor Kathy Hochul, US Congressman Antonio Delgado, NYS Senator Mike Martucci, NYS Assemblymen Brian D. Miller, NYS Assemblymen Chris Tague, NYS Assemblymen Joe Angelino, EPA Region 2 Administrator Lisa Garcia, NYSDEC Commissioner Basil Seggos, NYCDEP Commissioner Vincent Sapienza and NYSDOH Commissioner Mary Bassett

State of New York  
County of Ulster

I, \_\_\_\_\_, Clerk of the Town of Denning, do hereby certify that the above is a true and correct copy of a resolution adopted by the Town Board on the \_\_\_\_ day of \_\_\_\_\_, 2021 and the whole thereof.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of said Town Board at \_\_\_\_\_, New York this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

