



Town of Shandaken Town Board
Regular Monthly Meeting Agenda
Monday, December 6, 2021

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of previous T/B Meeting minutes**
- 5. Supervisor's Financial Report**
- 6. Communications -**
- 7. Committee Reports:**
 - a. Ambulance*
 - b. Building/Zoning*
 - c. Police*
 - d. Phoenicia Water*
 - e. Pine Hill Water*
 - f. Museum*
 - g. Recreation*
 - h. Shandaken Septic*
- 8. Public Comments on Resolutions**
- 9. Motions:**
- 10. Resolutions:**
 - 121. Pay All Bills**
 - 122. Town Board – Set Year End and Reorganizational Meetings**
 - a. Monday, December 27, 2021 @ 1pm (Year -End)*
 - b. Monday, January 3, 2022 @ 5:30pm (ReOrganizational)*
 - 123. Town Board – Support of Land Acquisition**
 - 124. Town Board Opposing Creation of County Wide Landfill**
 - 125. Town Board – Covid-19 Mask Mandate**

Open Public Comment

Meeting Adjournment -IN MEMORY OF: Peter Jung, Nathan VanLeuvan, Josh Luborsky

RESOLUTION #121-21

OFFERED BY:

RESOLUTION TO PAY ALL BILLS

WHEREAS, The Department of Audit and Control require Town Boards to sign and inspect all vouchers coming into the town for payment, to number and total amounts from each fund.

THEREFORE BE IT RESOLVED, that the Town Board authorize the following vouchers paid:

General	\$ 101,490.53
Highway	227,726.48
Phoenicia Water	8,564.79
Pine Hill Water	17,624.66
Phoenicia Lights	1,747.58
Chichester Lights	252.39
Pine Hill Lights	10,740.40

	\$ 369,159.09

AND MOVES ITS ADOPTION

Seconded by:

ROLL CALL
AYES NAYS

BOARD MEMBER DISCLAFANI	_____	_____
BOARD MEMBER STEEN	_____	_____
BOARD MEMBER STORMS	_____	_____
BOARD MEMBER VANBLARCUM	_____	_____
SUPERVISOR STANLEY	_____	_____

RESOLUTION #122-21

OFFERED BY

RESOLUTION ESTABLISHING TOWN BOARD ANNUAL YEAR-END MEETING & REORGANIZATIONAL MEETING

WHEREAS, the Town of Shandaken needs to conduct certain business before the close of the 2020 Fiscal Year;

THEREFORE BE IT RESOLVED, that the Town of Shandaken Town Board, will conduct their annual Year-End meeting at **1pm on Monday December 27, 2021**, for the purpose of conducting related business.

BE IT FURTHER RESOLVED, that the Town of Shandaken Town Board hereby schedules their 2021 Reorganization Meeting For **Monday January, 3rd, 2021 at 5:30 pm.**

AND MOVES ITS ADOPTION

Seconded by:

	ROLL CALL	
	AYES	NAYS

BOARD MEMBER DISCLAFANI _____

BOARD MEMBER STEEN _____

BOARD MEMBER STORMS _____

BOARD MEMBER VANBLARCUM_____

SUPERVISOR STANLEY _____

THE TOWN OF SHANDAKEN 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 the New York City Watershed was under New York City control. Twenty years later, according to the October 12, 2017 Catskill Watershed Corporation Developable Land Analysis Report (“*CWC 2017 Report*”), 80% of the land within the Town of Shandaken is land protected from development.

94% of the land within the Town of Shandaken is not suitable for development. The *CWC 2017 Report* indicates that there only 331 acres of available developable land within the Town of Shandaken (less than .4% of the total land area).

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)	
Shandaker	79,710	63,849	80%	15,861	14,862	94%	999	331		0.4%

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 ACQUISTION PROGRAM TO IDENTIFY THE NEED FOR THE CONTINUATION OF LAND ACQUISTION, THE BENEFITS OF LAND ACQUISTION, THE IMPACT OF LAND ACQUISTION ON COMMUNITY SUSTAINABILITY AND THE OTHER TOOLS AVAILABLE TO ACHIEVE MOA LAND ACQUISTION 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 Shandaken 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 Shandaken.
- (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

AND MOVES ITS ADOPTION

Seconded by:

	ROLL CALL	
	AYES	NAYS

BOARD MEMBER DISCLAFANI	_____	_____
BOARD MEMBER STEEN	_____	_____
BOARD MEMBER STORMS	_____	_____
BOARD MEMBER VANBLARCUM	_____	_____
SUPERVISOR STANLEY	_____	_____

Resolution Opposing the Creation of a County-Wide Landfill in the Town of Ulster

WHEREAS, it has been reported in the *Daily Freeman* (Oct. 5, 2021) that the head of the Ulster County Resource Recovery Agency (hereinafter the “Agency”) board expects a list of potential county-wide landfill sites to be ready before the end of the year; and

WHEREAS, the Agency allegedly wants to keep the list of potential county-wide landfill sites “under wraps to avoid public controversy;” and

WHEREAS, it appears that the Agency is creating such a list of potential county-wide landfill sites at the direction of the Environmental Committee of the Ulster County Legislature; and

WHEREAS, the Town of Ulster already contains within its borders the site of the Ulster County Resource Recovery Agency facility, which has increased truck traffic on Routes 32 and 199, and has created noxious odors which have harmed the quality of life for residents of the Town of Ulster; and

WHEREAS, the creation of a county-wide landfill inside the borders of the Town of Ulster will harm economic development in the Town of Ulster, have a negative impact on quality of life of Town residents, and runs counter to the Town’s duly adopted Comprehensive Plan dated July 2, 2007; now, therefore, be it

RESOLVED, that the Town Board of the Town of Ulster hereby establishes as a policy of the Town of Ulster that a county-wide landfill site should not be located anywhere in the Town of Ulster; and be it further

RESOLVED, that the Town Clerk is directed to send certified copies of this resolution to the Chairman of the Ulster County Legislature, the Ulster County Executive, and the Chairwoman of the Ulster County Ulster County Resource Recovery Agency Board of Directors.

AND MOVES ITS ADOPTION

Seconded by:

	ROLL CALL	
	AYES	NAYS

BOARD MEMBER DISCLAFANI _____

BOARD MEMBER STEEN _____

BOARD MEMBER STORMS _____

BOARD MEMBER VANBLARCUM_____

SUPERVISOR STANLEY _____

TOWN COVID-19 MASK MANDATE

WHEREAS, Ulster county department of health has deemed it prudent to reinstate a mandatory mask mandate due to a rise in positive cases of the Covid-19 virus, and

Whereas, per Ulster County Health Commissioner Dr. Carol Smith, "All individuals, regardless of vaccination status or past COVID-19 infection, should wear a mask at all times when indoors and in a public setting, including at groceries, building lobbies, offices, stores, and other common or shared spaces where individuals may interact. All employers in Ulster County should require their employees to wear a mask while working indoors, and while in close contact with the public or co-workers."

Therefore be it resolved, That the town board of the town of Shandaken institutes a mandatory mask mandate for all town buildings.

AND MOVE ITS ADOPTION

Seconded by:

ROLL CALL

AYES

NAYS

BOARD MEMBER DISCLAFANI

BOARD MEMBER STEEN

BOARD MEMBER STORMS

BOARD MEMBER VAN BLARCUM

SUPERVISOR STANLEY
