

**Town of Danby Town Board**  
Regular First Monthly Board Meeting  
+ Public Hearing  
Monday 12 April , 2021 at 7:00 PM  
via Zoom Video Conferencing

**Meeting Minutes**

**Roll Call :**

<b>Town Board</b>	Joel Gagnon, Supervisor Leslie Connors Jim Holahan Sarah Schnabel Matt Ulinski
<b>County Legislator</b>	Dan Klein
<b>Town Justices</b>	Garry Huddle Theresa Klinger
<b>Town Planner</b>	David West
<b>Town Code Enforcement Officer</b>	Steve Cortright
<b>Town Bookkeeper</b>	Laura Shawley
<b>Recording Secretary</b>	Janice R. Adelman, Town Clerk

1. Call to Order at 19:01 by Town Supervisor Joel Gagnon
  - 1.1. Additions/Deletions to Agenda
    - 1.1.1. Jennings Pond Operating Permit to put under new business
    - 1.1.2. Off-Road Vehicle Noise to put under new business
    - 1.1.3. Schedule Public Hearing on ODA
    - 1.1.4. Delete 9.1. Appoint Ric Dietrich to County Broadband Committee
2. Public Hearing on [Proposed Law Adopting West Danby Water District Operating Policy](#)
  - 2.1. Hearing opened at 19:04
  - 2.2. Ronda Roaring voiced her support with thanks to whoever put in the time to create the policy.
  - 2.3. Bruce Richards (Water District Chair) voiced appreciation to the Board for taking the time to put this framework together to have standard operating procedures in place going forward.
  - 2.4. Hearing closed at 19:06
3. Privilege of the Floor
  - 3.1. Danby Resident Ronda Roaring brought forward the issue of zoning related to the Board of Zoning Appeals granting use variances and read the following from the NY State planning and zoning guide: “The Board of Appeals in granting a use variance shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time, **preserve and protect the character of the neighborhood and the health and safety and welfare of the community**” (emphasis added). Roaring stated that this has been misinterpreted in such that the Town Board and Supervisor favors the homebuilder’s request for frontage over the preservation and protection of the character of the neighborhood and the health and safety and welfare of the community.
  - 3.2. Danby Resident Ted Crane brought forward several topics:
    - 3.2.1. Errors he found in the three March meeting minutes that he passed on to Clerk Adelman.

- 3.2.2. Crane voiced his support of the proposed amendment to the subdivision moratorium to allow for larger lots to be exempted from the moratorium.
- 3.2.3. He is uncertain whether or not there is an official map of the Town of Danby highways. [Supervisor Gagnon replied that there is one in existence.]
- 3.2.4. Regarding the Open Development Area as discussed at the last Planning Board (PB) meeting, Crane pointed out to the PB that Section 280 gives the PB an authority to take certain actions with regard to policies about ODAs. He stated that after the meeting at least one Planning Board member might have realized that they had more authority than they thought they had which would have resulted in different advice to the Town Board than was given.
4. Correspondence - none
5. Announcements
  - 5.1. Resident Ronda Roaring announced hearing on TV that COVID vaccination appointments are available in Broome County for anyone who cannot get one in Tompkins County.
  - 5.2. Resident Ted Crane announced that he and Pamela Goddard are organizing an Earth Day roadside clean-up event on Saturday 24 April 2021. For more information contact Ted or Pamela.
6. Reports
  - 6.1. [Code Enforcement Officer](#)
    - 6.1.1. Supervisor Gagnon asked for clarification regarding the building permits that did not incur a charge. Code Enforcement Officer Cortright stated that any renewable energy source—be it solar, wind, or geothermal—has no charge on the fee schedule.
  - 6.2. Town Planner
    - 6.2.1. Planning Board's first meeting approved three subdivision applications:
      - 6.2.1.1. Preliminary plat approval for a 3-lot subdivision on Hornbrook Road to become one 14-acre parcel, one 4-acre parcel, and one 11-acre parcel.
      - 6.2.1.2. Final plat approval for minor subdivision at 319 Bald Hill Road.
      - 6.2.1.3. Final plat approval for subdividing an historic farmhouse from the rest of the farm at 88 E Miller Road.
    - 6.2.2. Planning Board's second meeting was a special meeting focused on the Open Development Area under consideration  
Well-attended; PB reviewing feedback; well attended.
    - 6.2.3. Met with the Conservation Working Group (CWG) and tomorrow will send out the first draft of zones for the low-density residential area that was worked up with CWG involvement.
    - 6.2.4. The Hamlet Working Group (HWG) met and drilled down on hamlet zoning.
    - 6.2.5. April 6 was the kick-off meeting for the zoning update process with the Planning Group
      - 6.2.5.1. The kick-off meeting was well attended.
      - 6.2.5.2. Regular updates are being sent out through the town website. If you do not receive those updates, you may sign-up using the Google form linked on the [townofdanbyny.org](http://townofdanbyny.org) homepage.
    - 6.2.6. Other ongoing topics include
      - 6.2.6.1. Conversations about the Howland Road facility and the stop work order that was issued for work being done without a stormwater permit.
      - 6.2.6.2. Noise complaints; Planner West can speak to that later in tonight's agenda.
  - 6.3. [Town Clerk](#)
  - 6.4. County Legislator Dan Klein

- 6.4.1. Klein reported that Tompkins County (TC) is doing very well in its vaccination effort with the second-highest vaccination rate in NY State of any county; the highest-rated county is Hamilton which only has about 4,500 residents.
- 6.4.2. TC has also just completed its 1 millionth COVID test which may be more than some entire states have accomplished.
- 6.4.3. The County Highway projects list came out with two roads in Danby tentatively included to be paved:
  - 6.4.3.1. Coddington Road; most of the planned paving will be in the Town of Caroline.
  - 6.4.3.2. Jersey Hill Road.
- 6.4.4. The Stream Stabilization Project on Station Road has again been postponed. Klein does not have a lot of details but it seems to be very complicated. This is funded by a grant from the NY State Department of Environmental Conservation, who has a lot of oversight while the Highway Department generally doesn't spend a lot of time working with the DEC agency.
- 6.4.5. Every five years TC does an update on its land inventory and decides whether to keep or get rid of any particular land holdings. One .1 acre piece of land is being recommended to be let go that is in the Town of Danby, on the corner of Hillview Road and Rte 3496.
  - 6.4.5.1. This is an extra lane on the paved road that is called an acceleration lane that was created when the Hillview Road landfill was in operation for trucks to have a little more room to negotiate the turn off of and onto Rte 3496.
  - 6.4.5.2. Since it is not needed anymore, TC is recommending to give it either to NYS DOT or if the adjacent landowner is interested in it.
  - 6.4.5.3. Supervisor Gagnon noted that the lane, since it is paved, does serve a purpose of being a place to pause before pulling out onto the highway where it is a rather steep approach to that corner if you don't use the flat spot at the top. In wintertime it is potentially problematic when coming to a full stop on an incline.

7. Consent Agenda

7.1. Approval of Minutes

- 7.1.1. [March 1, 2021 \(Special Meeting\)](#)
- 7.1.2. [March 8, 2021](#)
- 7.1.3. [March 17, 2021](#)

7.2. Warrants

- 7.2.1. [General Fund No 7: Vouchers 98–120 for \\$19,799.25](#)
- 7.2.2. [Highway Fund No 7: Vouchers 70–85 for \\$57,569.00](#)
- 7.2.3. [Water District No 7: Vouchers 14–16 for \\$921.00](#)

**Resolution 69 of 2021 To Approve Consent Agenda**

**Moved By:** Connors                      **Seconded By:** Schnabel

Vote:

<b>Councilperson</b>	<b>Aye</b>	<b>No</b>	<b>Absent</b>
Connors	X		
Holahan	X		
Schnabel	X		

Ulinski X  
Gagnon X

*Resolution 69 approved.*

8. Old Business

8.1. [Public Health Emergency Plan Approval](#)

The local Union responded with no objections.

**Resolution 70 of 2021 To Approve Public Health Emergency Plan**

**Moved By:** Gagnon      **Seconded By:** Schnabel

Discussion: Councilperson Ulinski gave credit to Steve Cortright for putting this together.

Vote:

<b>Councilperson</b>	<b>Aye</b>	<b>No</b>	<b>Absent</b>
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon	X		

*Resolution 70 approved.*

8.2. In-Person Public Meetings — Authorize video-conference participation expenditure

8.2.1. Supervisor Gagnon updated the Board that he, Councilperson Schnabel, and Clerk Adelman met with Rene Carver a few weeks ago to discuss what would be needed to enable hybrid-zoom and in-person meetings once the pandemic ban has been lifted.

8.2.2. Carver provided a quote for a TV mounted on a cart to have Zoom in the meeting room with mics and other equipment to enable two-way communication with Zoom participants. The quote is on the order of \$3-4k.

8.2.3. Councilperson Schnabel felt that the price seemed too high, particularly for the web cam and the mic, in her opinion.

8.2.4. Some question about economical value versus good equipment.

8.2.5. The Board was not in a place to finalize this at this meeting.

8.2.6. Supervisor Gagnon was inclined to authorize an amount up to a certain number; Schnabel wondered what budget line this might come from.

8.2.6.1. Gagnon suggested the building capital reserves fund.

8.2.6.2. Shawley said that we can take a look at the budget line-by-line.

8.2.6.3. This is also something that we could use the COVID money for.

8.2.7. Ted Crane asked if we had considered a low-tech version using multiple web cams to cover the entire room along with a low-end Mac computer to hook up to a TV that would amount to less than \$1k.

8.2.8. Tabled until next Wednesday's meeting.

8.3. [Local Law 3 of 2021](#) to Adopt [West Danby Water District Operating Policy](#)

**Resolution 71 Passing Local Law 3 of 2021 Which Approves the Operating Policy for the West Danby Water District.**

Be it resolved that the Town of Danby Approves the Operating Policy for the West Danby Water District.

**Moved By:** Gagnon                      **Seconded By:** Holahan

Vote:

<u>Councilperson</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon	X		

*Resolution 71 approved.*

8.4. Review [Planning Board Advice](#) re Open Development Area Wimsatt Property and Consider Adoption

8.4.1. Planner West gave an overview of the Environmental Review:

8.4.1.1. The Planning Board heard significant concern from the public around the concept of an open development area; likely because it is a new approach that might open up options that people haven't known about before. The Planning Board reported that it is important to get more public feedback and make sure that people really understand the ODA concept as it moves forward.

8.4.1.2. The Planning Board also heard feedback about considering different options

and recommendations as to different ways that the development could be done with the hope that the Town Board has the chance to hear some of that conversation and consider it while reviewing the idea of approving the ODA.

8.4.1.3. Lastly, the Planning Board noted that this ODA is wrapped up with a lot of changes that need to happen in the town related to the mismatch between the Town's zoning ordinances and the comprehensive plan. To this end, the Planning Board would like to see the Town adopt a range of private road specifications that would allow someone to build a private road similar to what's happening with this ODA.

8.4.2. The Planning Board listed five specific items for the Town Board to consider in adopting an ODA for this parcel:

8.4.2.1. Ensure that there is a dedication of a conservation easement that limits the future development potential as proposed in the subdivision application.

8.4.2.2. That it be required that access to the parcels is provided on the abandoned portion of the future Deputron Hollow Road on the narrow driveway and that the access way be preserved at its current width as much as possible so as not to cut down any trees to widen the road.

8.4.2.3. To limit future development of residential structures to a specific development area outlined in the subdivision application with no new residential structures allowed anywhere else.

8.4.2.4. To conform to the Town of Danby's comprehensive plan in protecting the rural character, and requiring a mutual access and maintenance agreement between the property owners who will share the access rights to prevent any future issues.

8.4.2.5. Having a standard requirement on the limitations on the amount of development requirements for access in this and future ODA considerations.

8.4.3. Councilperson Holahan asked what the other options to consider that were referred to in the report.

8.4.3.1. Ted Crane's proposal

8.4.3.2. Nancy Medsker's proposal

8.4.3.3. Both proposals offered other ways that an applicant could build a private road onto the property and meet the frontage requirements and redraw lot lines rather than adopt the ODA.

8.4.4. Resident Ted Crane requested to add two sentences to Planner West's update.

8.4.4.1. Crane indicated that he had presented the same plan a month ago that West drew on the map tonight, and understands now that the applicant is amenable to creating a lot line right in the old road.

8.4.4.2. Crane also noted that approving the use of the old road through an NDA without making it 50 feet wide is contradictory to then not allow the same thing to be done as a private road—it is the same road.

8.4.4.3. Planner West responded that this is a common confusion that many residents have voiced. The ODA allows one to not have a road but rather an access driveway that does not have to meet road standards.

8.4.5. Councilperson Ulinski asked if the public will still have the right to access Deputron Hollow Road; Councilperson Holahan followed with a question about ownership of the road should one of these options be enforced.

8.4.5.1. Planner West noted that this is a complicated question since he is not sure that technically the access right exists. Currently ownership is shared by the Wimsatts' and the other properties that are accessed by the road. However, there is not an inherent right of the public to access it.

8.4.5.2. Attorney Hayden Brainard noted that it is private property.

8.4.5.3. It is private property now and would remain private property with the ODA.

8.5. [SEQR review](#) of Open Development Area Proposal - [Full Planning Board Application; Draft Part 2&3](#) by Planner David West

8.5.1. Several questions arose about what an ODA on this property would mean for the parcel as well as for neighboring parcels.

8.5.1.1. Adopting the ODA would approve the parcel's subdivision and construction of the proposed home along with the possibility of an accessory dwelling unit at some point in the future. However, it does not change anything about any neighboring parcel. On the other hand, not doing an ODA and instead putting a private road there would enable development potential for those other neighboring parcels.

**Resolution 72 of 2021 To Finding that there is no significant environmental impact based on the SEQR submitted**

Moved By: Gagnon

Seconded By: Connors

Vote:

Councilperson	Aye	No	Absent
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon	X		

*Resolution 72 approved.*

8.5.2. Scheduling the Public Hearing

8.5.2.1. Councilperson Schnabel asked if we should be setting a public hearing on something that we don't have in final form.

8.5.2.2. The key components are already outlined (e.g., the property subdivision be limited to three lots with three dwellings and one accessory dwelling unit). The details of the conservation easement will need to be run by the lawyer beforehand,

8.5.2.3. We can hold the public hearing, with the approval of the ODA being contingent upon having the conservation easement in place that would include the restrictions that make the Town Board willing to approve it.

**Resolution 73 of 2021 to schedule a public hearing for April 21 at 7pm**

**Moved By:** Gagnon                      **Seconded By:** Connors

Vote:

Councilperson	Aye	No	Absent
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon	X		

*Resolution 73 approved.*

8.6. [Consider Follow-up Letter to Tompkins County Legislature Planning, Energy, and Environmental Quality Committee re Howland Rd Ag district Addition](#)

8.6.1. The Tompkins County Ag & Farmland Protection Board recommended the addition of the Howland Road property to the Ag District. It now goes to the Tompkins County Legislature's Planning, Energy, Environmental Quality (PEEQ) Committee.

8.6.2. County Legislator Dan Klein serves on the PEEQ committee and noted that the next meeting is two weeks from today. Klein believes that all of the information discussed here will be presented at the meeting in its entirety.

**Resolution 74 Reaffirming Opposition to the Addition of Howland Road Property 29.-1-4.22 to Ag. District 1**

Resolved, that the Danby town Board reaffirms its opposition to the addition of Howland Road property 29.-1-4.22 to Agriculture District 1 in year 2021 for reasons previously set forth in a letter to the County Agriculture and Farmland Protection Board and reiterated and expanded upon in a letter to the County Planning, Energy, and Environmental Quality Committee by Town Planner David West.

**Moved By:** Connors                      **Seconded By:** Holahan

Vote:

<b>Councilperson</b>	<b>Aye</b>	<b>No</b>	<b>Absent</b>
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon	X		

*Resolution 74 approved.*

9. New Business

9.1. Jennings Pond Operating Permit

**Resolution 75 of 2021 to Renew Jennings Pond Operating Permit**

**Moved By:** Connors                      **Seconded By:** Ulinski

Discussion revolved around the budget. The budget line was reduced some, but left enough to operate the program this summer.

Vote:

<b>Councilperson</b>	<b>Aye</b>	<b>No</b>	<b>Absent</b>
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon	X		

*Resolution 75 approved.*

9.2. Off-Road Vehicle Noise to put under new business

9.2.1. A Committee will be formed to look at the options for dealing with noise that are currently in place. The committee will be chaired by Betsy Keokosky.

9.2.2. The committee meetings will be put on the calendar.

9.2.3. Councilperson Ulinski asked for Keokosky to put something together so that the board can formalize it.

9.3. Ric Dietrich has considered joining the County Broadband Committee - Tabled until next meeting to give Dietrich more time to consider.

9.4. [Proposed Local Law Amendment re Real Property Maintenance to Name Code Enforcement Officer as the Enforcing Official](#)



**Resolution 76 of 2021 to Schedule Public Hearing on Proposed Local Law 4 of 2021: Amendment to LL1 of 1987**

**Whereas,** The Town Board finds that the Code Enforcement Officer is the appropriate Town employee to enforce the Town’s Property Maintenance Law as such responsibility substantially overlaps with enforcement of the NYS Building and fire Code; and

**Whereas,** Amending a Local Law regarding staff assignments for Property Maintenance is a Type II action involving routine or continuing agency administration and management requiring no further environmental review (N.Y. Comp. Codes R. & Regs. tit. 6 § 617.5 c.26,33,); and

**Whereas,** The Town Board desires feedback from the community on the proposed Amendment to LL1 of 1987.

**Resolved,** that a public hearing on Proposed *Local Law 4 of 2021: Amendment to LL1 of 1987* is scheduled for the next Town Board meeting on April 21, 2021 at 7pm.

**Moved By:** Gagnon                      **Seconded By:** Schnabel

Vote:

<b>Councilperson</b>	<b>Aye</b>	<b>No</b>	<b>Absent</b>
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon	X		

*Resolution 76 approved.*

9.5. [Proposed Local Law Amendment of Moratorium to add Large Lot Exemption Draft Resolution scheduling public hearing](#)

**Resolution XX of 2021: Schedule Public Hearing on Amendment to Moratorium on Subdivision in the Low Density Residential Zone**

**Moved By:** Gagnon                      **Seconded By:** Ulinski

9.5.1. Councilperson Connors has mixed feelings about this proposed amendment insofar as anyone can come to the Board and ask for an exception to be made; yet it feels strange saying that it’s ok if you have a lot of land to subdivide, but having less land you still have to come beg to us for approval.

- 9.5.2. Supervisor Gagnon responded that for someone to receive a waiver from the Town Board, they must show extreme hardship; some individuals would rather not share a lot of personal information in the process.
  - 9.5.3. Councilperson Schnabel agreed with most of what Connors said—she doesn't think we should amend this simply because one person doesn't want to go through the process that was put into place.
  - 9.5.4. Supervisor Gagnon noted that exempting someone from the moratorium does not exempt them from the subdivision process.
  - 9.5.5. Councilperson Holahan reiterated that we put the moratorium in place for a reason and amending it in this way would undo that effort. Since there are multiple reasons besides the size of the property, to be fair we need to leave it as is.
  - 9.5.6. Councilperson Ulinski noted that it is a very complicated situation in that the Board all went into the moratorium for different reasons. Yet this amendment definitely smacks of unfairness. Ulinski felt the same way about the tax law that we passed.
  - 9.5.7. Supervisor Gagnon withdrew the motion.
10. Discussion of Next Meeting Agenda and Date
    - 10.1. Do we need to hold the additional Monday 4/19 meeting? Yes, we will meet on the 19th and discuss this issue to nail it down. Bring up to PB and CAC that they may be excluded from the review process we had offered them and vote on that.....
    - 10.2. Agenda items for the 21st
      - 2 Public Hearings - CEO and ODA
      - Petition?
  11. Adjourn at 21:21

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Submitted by Janice R. Adelman  
Town Clerk