

Town of Danby Conservation Advisory Council (CAC)

Minutes of Video Conference (Zoom) Meeting on
Tuesday, May 12, 2020
Danby, New York

Council Members present: Clare Fewtrell (chair), Joel Gagnon, Don Schaufler, Mary Woodsen, Ruth Sherman, Katharine Hunter, George Adams

Council Members absent: Jonathan Zisk

Others present: Jason Haremza (Town Planner), Ronda Roaring (Danby resident),

Zoom Meeting was called to order at 7:04

Deletions or Additions to Agenda

Fewtrell moved Agenda items 1 (Easement Signs) and 3 (CAC Column in Danby Area News) to later in the meeting since Hunter (DAN article) and Adams (his partner, Camille, was working on sign design) were not present at the start of the meeting.

Privilege of the Floor - None

Approve Minutes MOTION for April 14, 2020

Gagnon moved to approve

Sherman seconded

Unanimous approval, no abstentions

REPORTS AND UPDATES

- 1) Management Plans for the Town-Owned Properties - Water District (from now on referred to as Sylvan Lane property) and Deputron Hollow Rd.**

Plan writing came to a temporary standstill since Roaring, who had volunteered to write them, felt there were issues still needing to be resolved (that she had previously listed in an email) before she could continue. Fewtrell directed her to write a draft and Roaring backed off since she did not want to redo it if CAC didn't approve. Schaufler advised her just to proceed with a description pulled from material they had gotten before under previous chair, Matt Ulinski, as a starting point, which Roaring said she had done, but still wanted some assurance CAC members approved of her ideas in her previous email.

Haremza asked if there was a management template being used, and Schaufler replied there was one from Soil and Water, another from the DEC. He agreed with Roaring, saying that there were still management questions about invasive species and deer issues that needed to be resolved. Haremza said we need to fill in the missing gaps, and he would get Roaring the info on slope maps that she had requested.

Fewtrell concluded by saying management actions would be discussed at June meeting and asked Roaring to send CAC members description of Danby properties and outline of what needs to be discussed.

2) Logging Ordinance – George Adams (not present at this point yet) and Don Schaufler

Fewtrell asked Schaufler to resurrect and chair the old logging ordinance committee (it used to consist of Don Schaufler, Matt Ulinski, Scott Davis, and George Adams) to bring to a resolution a discussion begun last year on municipal preparedness and response to poor logging practices (after-note: prompted from the Deputron Hollow Rd logging shambles affecting road and water ways during a thaw of early 2019)

3) Planning Group and sub-Working Groups – Joel Gagnon – see meeting notes on P.G. website (finding out what this is from Joel)

Conservation Working Group

Using 3 maps to set conservation priorities. Looking for what was not identified by previous canvassing, what was not identified by the current maps (i.e. agricultural land was not identified on the basis of their suitability for agriculture; geography/topography was not identified on basis of connectivity or riparian habitat; aquifer protection areas were left out - recharge areas in particular, such as wellhead for Danby water district). A new round of maps that Haremza is building will include these.

What is it about these things that we are trying to conserve?
What tools are needed to do it? Which are best suited to particular areas?

Tax abatement working group.

The group came to an agreement on a way to approach the difficulty that large landholders are having paying their rapidly-rising taxes. Being forced to sell is not in the interest of open space. Using the example of several other towns in NY, the group came up with a proposal for the Town Board to go to the State Legislature for permission to make a new local law allowing property tax abatement when conservation easements are granted. This would contain options for both permanent and temporary easements (with decreasing tax deductions for shorter easement periods). Although some people in the CAC felt this would defeat the long-term purpose of an easement the rationale is to overcome the reluctance people felt with a permanent commitment of their land to being undeveloped.

In addition to the classes already in the model, the tax group added another class of 5 to 15 years and also an additional 9% decrease in taxes for various forms of public access. This proposal was endorsed by the Planning Group and went to Town Board for consideration.

Fewtrell wanted the CAC to talk about it at our next meeting. She is not happy about the 5 year class. Gagnon said that there was no rush. Barbara Lifton is not sure the State Assembly will be convening at all this summer. The proposal can be thoroughly vetted and the Planning Board will be looking at it next. Gagnon will be writing about the proposal for the Danby Area News.

4) Review of Danby Easement Process – Joel Gagnon presented a history and an explanation of Easement document

Danby's most recent Comprehensive Plan was a standout model for its time – written in 2003 Sarah Newman, head of Planning Board at the time, produced document

- Following its passage, an Implementation Task Force was put together (which Gagnon chaired)
- Crystal Buck – Tompkins County Planning Department Circuit Rider helped support this group
- An early focus was on identifying tools for preserving undeveloped land
- Town held a charrette – 60-80 people attended and one conclusion was that, though there were existing regulatory options, such as zoning, there were no voluntary options for preserving open space.
- As a result the Conservation Advisory Council was created in 2010 as the main avenue for addressing voluntary ways to preserve space. (see Danby Resolution 82 authorized creation of Conservation Advisory Council (CAC)
http://danbyny.org/Documents/TOWNBOARD_RESOLUTION_2010082.pdf)
- NY Law Sec 239 states that the town can create CAC by town resolution – Key was that, in addition to statutory minimum requirements, town board could write in its own goals. So in the resolution the town added the identified ways of promoting conservation preservation by voluntary means. a.-f. are all the standard things; the next page “In addition” list these extra options.

(g) focus its preservation efforts on land it deems to be at risk of development located in areas zoned for low density or conservation;

(h) develop a list of scenic or historic sites to protect as opportunities allow; lobby on issues relating to the council's duties and goals;

(j) actively support open space protection by facilitating the transfer of land from sellers to buyers sympathetic to open space preservation;

(k) accept by gift, grant, bequest, or otherwise, money or other personal property in the name of the Town of Danby, for its use in furtherance of the objectives of this resolution;

(l) propose, subject to Town Board action, the acceptance by gift, conditional or unconditional, grant, devise or otherwise, the fee or any lesser interest, development right, easement, covenant or other contractual right, including conveyance with limitations or reversions, land, in furtherance of natural resource protection within the Town of Danby;

(m) recommend acquisition by the Town Board by purchase in fee or any lesser interest, development right, easement, covenant or other contractual right, including conveyance with limitations or reversions, by negotiation or condemnation, such real or personal property as may be needed in furtherance of the purposes of the Council;

(n) pursuant to (l) and (m), administer a conservation easement program on behalf of the Town, to include the crafting, acquisition, and monitoring of easements, both purchased and donated, with the acquisition being subject to Town Board approval of each proposed easement.

(o) develop and implement management plans for Town-owned conservation land. At a minimum, the plan for each parcel or group of contiguous parcels shall identify and set forth the features of the property to be preserved and/or enhanced, the features that can be compatibly exploited for public benefit, and the actions needed or desired in order to do so, complete with a schedule of steps to be taken.

For conservation properties owned by the Town at the time of creation of the Council, the Council shall create management plans within three years. For newly-acquired properties, the Council shall create management plans within two years. For each management unit, an opportunity for public comment shall precede adoption of the unit's management plan by the Town Board, with adoption required before implementation by the CAC.

The management plans for every management unit, once adopted by the Town Board, shall be reviewed by the council every five years. Progress, via the specified implementation steps, toward the adopted goals, shall be carefully scrutinized.

The public, particularly the neighbors of the management unit, should be encouraged to participate in the review.

The Council may propose changes to a management plan, subsequent to its periodic review; these changes must be approved by the Town Board before the Council can implement them.

(p) for land acquired by the Town for conservation not protected by conservation easement at the time of acquisition, prepare an easement for Town Board review and possible adoption.

Gagnon went on to explain some of Danby conservation easement history and goals, and gave a step-by-step review of conservation easement template created in response to n) charge above.

He noted that acceptance of easement is a town board action; CAC is only advisory to town board.

- It took the CAC 2 years to define scope and framework of Easement. The group looked at several templates, including that of the Finger Lakes Land Trust (FLLT), ultimately deciding that our template could provide for just 3 possible land use zones.
- The goal was to acquire development rights to help minimize open space development. To accomplish this the CAC produced a “plain vanilla” easement, which is minimally restrictive. The restrictions are primarily to prevent permanent degradation of the land resource, since unlike the FLLT, the town lacks the resources to enforce additional restrictions. Since the main purpose of Danby easements is to protect open space they are well positioned to stand the test of time and

less difficult to monitor and enforce. Danby's easements are oriented differently from the FLLT's – and more inclusive of ordinary places.

- Since an easement can be eliminated by court action if the purpose of the easement no longer exists, a more basic and minimal easement approach avoids that hazard. The CAC worked with the town attorney, Guy Krogh, who produced the original draft.
- CAC outreach – 1st pass – sent letter to 30 largest landowners: not effective. Probably a good thing since it could have precipitated more work than fledgling committee could have handled.
- 1st Easement was with Art Hanson, for a property on Sandbank Rd., which was subsequently sold to Steve Selin and became South Hill Cidery.

Conservation Easement comments and summary (see <https://towndanby.digitaltowpath.org:10768/content/Boards/View/4:field=documents;/content/Documents/File/87.pdf> for a copy of easement template)

- The process of creating an easement begins with a site visit to the property for baseline documentation. One reason for this is to avoid acquiring liabilities (e.g. buried tanks of toxic waste)
- A legal description of the property is needed – the “metes and bounds”. Then, take stock of what's there of conservation value. Look for natural values of the property, as well as rare or exceptional values
- This “baseline” serves as basis for monitoring and compliance
- Next step is to determine which of the “zones” within the template apply to the property (“residential and active use”, “agriculture and forest management”, and “environmental protection”) – negotiating with owner as to which parts of

property s(he) wants to put in each zone category. These zones are from least to most restrictive.

Generally

- Owner can retain some rights to develop (provision can be made for a building envelope – for a future new building), or a section of land could be left out of the easement entirely.
 - Easement can't be subdivided – although the ownership can change – but provision can be made when the easement is being drafted to divide property, but monitoring becomes more complicated. Such a provision for subdivision can be worded so that the right will expire after a set time if the right is not used.
 - No public access allowed by default – could destroy or impair conservation values previously identified.
 - Prohibits vehicles except those used for access
 - In “residential and active use” zone there is a house limitation -- it can only be made 50% larger (though there is an escape clause for exigencies – such as necessity to house parents). Can do usual things that happen around a residence
 - In “agriculture and forest management” zone – advises use of best management practices – for instance avoid actions that alter the topography, but can't enforce specific practices, such as use only organic methods.
 - In “environmental protection” zone – strictest rules apply that do not allow degradation by any user
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- “Article I: Conservation Purposes and Property Description” and “Article II: Allowed and Prohibited Uses and Rules for Use Zones” are the “meat” of the easement agreement; the rest of the template is how easement is enforced and other legal “boilerplate”, such as how the town is compensated should the easement be removed by a court, no guarantee of tax benefits, etc.
 - Legal review: Two attorneys (donor's and town's) generally review it, and a title search is done. A survey might be needed. Any mortgage needs to be subordinated to the easement.

- The value of the gift of the development rights needs to be appraised if the owner is interested in claiming a federal income tax deduction (which deduction has recently been disallowed by the IRS for New York State conservation easements). The appraisal needs to be done within a 60-day window on either side of the signing of the easement by the donor and the town.
- The CAC refers the completed easement to Town Board, which has a public hearing. If approved, the Town Supervisor signs it. It is filed with the DEC and the County Clerk's office, (as well as kept in Danby Town Hall files).
- Note on Schedules – meant to elaborate on basic easement wording:
 - Schedule A property description
 - Schedule B baseline documentation
 - Schedule C use zones
- Annual monitoring uses baseline documentation,

5) New Easements

- Woodsen reported on her progress (or lack thereof in the Covid-19 world of masks and social distancing) with easements
- Fewtrell and Sherman establishing a time line with theirs

Fewtrell raised questions on how to structure next meeting

Topics to be discussed include:

- Tax abatement discussion
- Management plans
 - What do we need to decide before to proceed on that
 - Jason wants an example of Management plans for town-owned property
 - Invasive species and hunting questions decided
- Easement on Clare's property

There was no Executive session

Next Meeting is through Zoom on June 9 at 7p.m.

Adjournment

The meeting ended at 9:02 p.m.

Submitted by Elizabeth Keokosky (Secretary)