

Supervisor David P. Kelly opened a Special Meeting of the Town Board of the Town of Pawling at 9:00 AM May 20, 2011 at Pawling Town Hall, 160 Charles Colman Blvd., Pawling, New York. Present were Councilmen Johnson, Upham, Montemarano, Mayer and 2 interested citizens.

**MAY 20, 2011  
SPECIAL  
MEETING**

Supervisor Kelly opened the public hearing on proposed Local Law #4 titled "Maintenance of Subsurface Disposal Systems".

**PUBLIC HEARING  
– PROPOSED  
LOCAL LAW #4**

There were no comments and Supervisor Kelly closed the public hearing.

Supervisor Kelly opened the meeting for public comment on agenda items and there were none.

**PUBLIC  
COMMENT ON  
AGENDA ITEMS**

**Resolution 2011077**

**Rescind Resolution 2011076 Part-Time Record Clerk, Town Clerk's Office**

**RESOLUTIONS**

Whereas, it has been determined by the Dutchess County Department of Human Resources pursuant to Section 22 of the New York State Civil Service Law that the title of Temporary Part-Time Clerk is a more appropriate classification for the position that the Town is desirous of creating, now, therefore, be it

Resolved, that the Town Board hereby rescinds Resolution No. 2011076, from its meeting of May 11, 2011, regarding the creation of a Part-Time Record Clerk position.

MOTION: Supervisor Kelly  
SECOND: Councilman Upham

ROLL CALL VOTE:

Councilman Johnson – "AYE"      Councilman Upham – "AYE"

Councilman Montemarano – "AYE"      Councilman Mayer – "AYE"

Supervisor Kelly – "AYE"

**Resolution 2011078**

**Temporary Part-Time Clerk, Town Clerk's Office**

Whereas, the Town Clerk's Office within Town of Pawling has requested that a temporary Part-Time Clerk position be created and filled as part of the implementation process for the Laserfiche Digital Document Storage Program that was supported as part of the 2011 budget adoption process; and

Whereas, the position of Part-Time Clerk is a job title that exists within Dutchess County Personnel Department, now, therefore, be it

Resolved, that the Town Board hereby authorizes the Town Supervisor to complete the paperwork with the Dutchess County Department of Human Resources that is necessary to create a temporary Part-Time Clerk position, a position within the non-competitive class of the civil service; and, be it, further

Resolved, that the Town Clerk is hereby authorized to fill such position after all the necessary paperwork has been completed and said position has been certified by the Dutchess County Department of Human Resources, with a work week not to exceed 17.5 hours, for a maximum budgeted amount of \$5,500.00 during the 2011 fiscal year.

MOTION: Supervisor Kelly  
SECOND: Councilman Upham

ROLL CALL VOTE:

Councilman Johnson – "AYE"      Councilman Upham – "AYE"

Councilman Montemarano – "AYE"      Councilman Mayer – "NAY"

Supervisor Kelly – "AYE"

**Resolution 2011079  
Acceptance MS4 Annual Report**

**RESOLUTIONS  
CONTINUED**

Whereas, the Town of Pawling is required to submit each year the Stormwater Management Program Annual Report, and

Whereas, the Stormwater Management Program 2010 Annual Report covers a data collection period of March 10, 2010 to March 9, 2011, and

Whereas, MS4 Coordinator has presented such report to the Town Board at a meeting dated May 11, 2011, now, therefore, be it

Resolved, that the Town Board hereby accepts the Stormwater Management Program 2010 Annual Report and hereby authorizes the Town Supervisor to sign said report and mail to New York State Department of Environmental Conservation.

MOTION: Supervisor Kelly  
SECOND: Councilman Mayer

ROLL CALL VOTE:

Councilman Johnson – “AYE”      Councilman Upham – “AYE”

Councilman Montemarano – “AYE”      Councilman Mayer – “AYE”

Supervisor Kelly – “AYE”

**Resolution 2011080  
Adopting Negative Declaration – “Maintenance of Subsurface Disposal Systems  
in the East of Hudson area of the Town of Pawling”**

**NEGATIVE  
DECLARATION –  
PROPOSED LOCAL  
LAW #4**

WHEREAS, the Town Board of Pawling has reviewed a proposed addition of a new Chapter 172 titled, “Maintenance of Subsurface Disposal Systems”, of the Code of the Town of Pawling, and

WHEREAS, proposed Local Law No. 4 of 2011 of the Town of Pawling has been drafted; and

WHEREAS, an Environmental Assessment Form identifying and analyzing the potential environmental impacts of the proposed Local Law has been prepared; and

WHEREAS, the Town Board has considered and reviewed the proposed Local Law as an “action” subject to SEQR pursuant to 6 NYCRR §617.2(b) and §617.3(g); and

WHEREAS, to determine whether the action may have a significant adverse impact on the environment, the Town Board has compared the impacts that may be reasonably expected to result from the action and compared them against the criteria for determining significance set forth in SEQR, 6 NYCRR §617.7(c); and

WHEREAS, the Town Board has thoroughly analyzed and identified the relevant areas of environmental concern to determine if the action may have significant adverse impact on the environment, and has taken the requisite “hard look” at the potential environmental impacts of the Action; and

WHEREAS, the Town Board concludes that the proposed Local Law will not have any significant adverse environmental impacts; and

IT IS HEREBY RESOLVED, that, pursuant to 6 NYCRR §617.6(a)(1)(iv), the Town Board classifies the action as an Unlisted action; and

IT IS HEREBY FURTHER RESOLVED, that, pursuant to 6 NYCRR §617.6(b), the Town Board concludes that the action shall be subject to an uncoordinated SEQR review; and

IT IS HEREBY FURTHER RESOLVED, that pursuant to 6 NYCRR §617.7(a), the Town Board issues and adopts a negative declaration for the proposed Local Law, based upon its determination that the action will not have any significant adverse environmental impacts.

RESOLUTIONS  
CONTINUED

MOTION: Supervisor Kelly  
SECOND: Councilman Johnson

The Board reviewed the Negative Declaration pursuant to SEQRA and following review, it was the consensus of the Board that passing proposed Local Law #4 would have no adverse impacts.

ROLL CALL VOTE:

Councilman Johnson – “AYE”      Councilman Upham – “AYE”

Councilman Montemarano – “AYE”      Councilman Mayer – “AYE”

Supervisor Kelly – “AYE”

**Resolution 2011081**  
**Maintenance of Subsurface Disposal Systems**

ADOPTION OF  
LOCAL LAW #4 OF  
2011 –  
MAINTENANCE OF  
SUBSURFACE  
DISPOSAL  
SYSTEMS

LOCAL LAW # \_\_\_\_\_ of 2011  
MAINTENANCE OF SUBSURFACE SEWAGE DISPOSAL SYSTEMS

RESOLVED, that the Town Board adopt the Negative Declaration pursuant to SEQRA in regard to adding a new Chapter 172 to the Town Code of the Town of Pawling, Local Law # \_\_\_\_\_, MAINTENANCE OF SUBSURFACE SEWAGE DISPOSAL SYSTEMS, and;

BE IT FURTHER RESOLVED, that the Town Board adopt Local Law # \_\_\_\_\_ adding a new Chapter 172 to the Town Code of the Town of Pawling, entitled, “Maintenance of Individual Subsurface Sewage Disposal Systems”, A Local Law adding a new Chapter 172 to the Town Code of the Town of Pawling requiring all property owners whose properties lie within the New York City East of Hudson Watershed in the Town of Pawling to pump their septic systems at least once every five (5) years. BE IT ENACTED by the Town Board of the Town of Pawling (“Town”) as follows:

A new Chapter 172 is hereby added to the Town Code, reading as follows: “Maintenance of Subsurface Sewage Disposal Systems”,

MOTION: Supervisor Kelly  
SECOND: Councilman Johnson

Supervisor Kelly offered an amendment to insert Local Law #4 in any blanks of the above resolution, seconded by Councilman Johnson, motion passed unanimously.

ROLL CALL VOTE ON THE RESOLUTION:

Councilman Johnson – “AYE”      Councilman Upham – “AYE”

Councilman Montemarano – “AYE”      Councilman Mayer – “AYE”

Supervisor Kelly – “AYE”

**LOCAL LAW #4 of 2011**  
**MAINTENANCE OF SUBSURFACE SEWAGE DISPOSAL**  
**SYSTEMS**

**Article I. General Provisions**

**Section I. Statement of Purpose**

This chapter’s purpose is described as follows:

**ADOPTION OF  
LOCAL LAW #4 OF  
2011 –  
MAINTENANCE OF  
SUBSURFACE  
DISPOSAL  
SYSTEMS  
CONTINUED**

- A. This ordinance is intended to implement the provisions of Part IX.A.3.b of the New York State Department of Environmental Conservation, SPDES General Permit GP-0-08-002 for Stormwater Discharges from Municipal Separate Storm Sewage Systems (MS4), effective May 1, 2008, which require that the Town implement, through the enactment of the necessary legal authority, and enforce a program to ensure that separate sewage disposals systems/onsite wastewater treatment systems are inspected and, where necessary, maintained or rehabilitated as required by Part IX.A.3.b of the Permit and/or similar provisions in successor Permits.
- B. To protect from further degradation those waterbodies located in the “New York City East of Hudson Watershed” by the New York State Department of Environmental Conservation (NYSDEC), by reducing phosphorus loading in the East of Hudson Watershed through the required periodic pumpout and visual inspection of all individual subsurface sewage disposal systems (SSDS) located on properties which are located within the New York City East of Hudson Watershed.
- C. The maintenance of septic systems on a regular basis will benefit residents by establishing a record of maintenance performed on each septic system. The maintenance will tend to provide a septic system that remains adequately functional for a longer period of time as opposed to a septic system with no maintenance.
- D. To identify failing septic systems, or the prevention thereof before they become a significant threat to the public health and/or the environment.
- E. This Chapter in no means is to replace the regulatory requirements of the Dutchess County Department of Health and/or the Dutchess County Sanitary Code.

**Section II. Definitions and Acronyms**

- A. As used herein, the following terms shall have the following meanings:
  1. “Facility” All buildings, other structures, grounds and contiguous property at any locations related to or connected with a user at the user's location.
  2. “Individual Subsurface Sewage Disposal System” – means a system of piping, tanks or other subsurface facilities serving any premises or having a flow rate of less than one thousand (1,000) gallons per day. The system generally includes a septic tank and absorption fields but may also include any system permitted under the Dutchess County Sanitary Code and Part 75A of the New York State Sanitary Code.
  3. “Industrial” Meaning or pertaining to industry, manufacturing, commerce, trade, business, or institution, and is distinguished from domestic or residential.
  4. “Lot” – a parcel of land bearing a tax grid designation on the Town of Pawling Tax Map. Said tax maps are prepared and maintained by the Dutchess County Real Property Tax Service Agency. Said tax maps include all residential, commercial and industrial parcels.
  5. “New York City East of Hudson Watershed” – A watershed serving as a public water supply for New York City. Its limits are generally shown on the map provided within Municipal Separate Storm Sewage System (MS4) NYSDEC State Pollutant Discharge Elimination System (SPDES) General Permit No. GP-0-10-002. The limits are more specifically provided on maps located in the Town of Pawling Planning and Building Departments.
  6. “Owner” means any person who has legal or equitable title to a property or facility.

7. "Person" means any individual, public or Private Corporation, political entity, agency, municipality, industry, co-partnership, association, firm, trust, estate or other legal entity whatsoever.
8. "Records" shall include, but not be limited to, any printed, typewritten, handwritten or otherwise recorded matter of whatever character (including paper or electronic media), including but not limited to, letters, files, memoranda, directives, notes and notebooks, correspondence, descriptions, telephone call slips, photographs, permits, applications, reports, compilations, films, photographs and inspection reports. For the purposes of this law, records shall mean records of and relating to waste generation, reuse and disposal, and shall include records of usage of raw materials.
9. Septage – The contents of a septic tank or other separate sewage disposal system/onsite wastewater treatment system which receives sanitary sewage waste.
10. "Septic Contractor" – A contractor registered with the NYSDEC to haul residential septage, a.k.a "Registered Waste Transporter".
11. "Septic System" – The common name for an individual subsurface sewage disposal system (SSDS), a.k.a. individual subsurface treatment system (SSTS).
12. "Septic Tank" is an underground receptacle (typically concrete) for wastewater from a residential or commercial properties. The bacteria in the sewage decompose the organic wastes, and the sludge settles to the bottom of the tank. The effluent flows out of the tank into the ground through drains.
13. "State" - State of New York.
14. "Town" The Town of Pawling as incorporated on (date).

B. As used herein, the following acronyms shall have the following meanings:

- 1) CEO – Code Enforcement Officer
- 2) CO – Certificate of Occupancy
- 3) EOH – New York City East of Hudson Watershed
- 4) DCDH – Dutchess County Department of Health
- 5) MS4 – Municipal Separate Storm Sewage System
- 6) NYSDEC – New York State Department of Environmental Conservation
- 7) NYCDEP – New York City Department of Environmental Protection
- 8) SMO – Stormwater Management Officer
- 9) SPDES – State Pollutant Discharge Elimination System
- 10) SSDS – Subsurface Sewage Disposal System

## **Article II. Specific Requirements**

### **Section I. Required Maintenance**

- A. The owner of each lot located within the EOH watershed which contains one or more septic systems, shall have the system(s) pumped, cleaned and visually inspected by a "Registered Waste Transporter" in a manner sufficient to enable the "Registered Waste Transporter" to furnish the information as required in Article II. Section III.A. of this Chapter.
- B. The septic system is required to be pumped, cleaned and visually inspected at least once every five (5) years.

**Section II. Implementation**

- A. Beginning on May 1, 2011, the owner or any parcel located within the Town of Pawling which relies upon a separate sewage disposal system/onsite wastewater treatment system for the treatment or modification or ultimate disposal of waterborne sewage or domestic wastes or trade wastes or offensive material, with respect to any building or structure thereon, shall cause an inspection to be performed on said separate sewage disposal system/onsite wastewater treatment system at a frequency as required by the Permit and/or successor Permits.
  
- B. Within sixty (60) days following the adoption of this Local Law, the Town shall identify each lot to which this law shall apply on the date of its adoption, and shall in writing notify the owner of each such lot by registered mail to include a copy of the “Town of Pawling Septic System Data and Inspection Form”. Said inspection form will also be available at the Town of Pawling Town Hall upon request.
  
- C. Those lot owners now or hereafter subject to this Local Law, whose septic systems have been pumped within twelve (12) months prior to the date upon which this Local Law shall take effect in respect to said lots, shall be exempt from this Local Laws initial application to said lots pursuant to Article III Section III.A. To qualify for said initial exception said lot owners must provide to the Town of Pawling SMO or CEO, within ninety (90) days following the date upon which this Local Law shall take effect in respect to said owners lot, a copy of a paid receipt containing the information specified in Article II. Section III.A hereof (except tax lot grid number, which the owner may enter upon said receipt), which receipt shall confirm the pumpout of the septic tank of said owners septic system within the preceding twelve (12) month period.

**Section III. Compliance Confirmation**

- A. Upon completion of a septic system pumpout and visual inspection performed by a “Registered Waste Transporter” each lot owner shall, within 30 days following said pumpout and visual inspection, provide the Town of Pawling SMO or CEO with a copy of a paid receipt and a completed “Town of Pawling Septic System Data and Inspection Form” endorsed by said “Registered Waste Transporter”. Said “Town of Pawling Septic System Data and Inspection Form” shall contain the following:
  - 1) The property owners name; and
  - 2) The property owners street address; and
  - 3) The property owners tax grid I.D. number; and
  - 4) Property type; and
  - 5) The pumpout and inspection date; and
  - 6) The components serviced; and
  - 7) The type of component; and
  - 8) The septic tank capacity; and
  - 9) The type of septic tank; and
  - 10) The approximate amount of gallons of septage pumped from the system; and

- 11) The approximate percentage of sludge layer; and
  - 12) A documented visual inspection of the inlet and outlet; and
  - 13) The structural integrity of the septic tank; and
  - 14) A documented visual inspection of the ground condition in the area of the absorption fields; and
  - 15) Any other information or comments as provided on the “Town of Pawling Septic System Data and Inspection Form”. Said Inspection form may be revised by action of the Town of Pawling Town Board at their discretion.
- B. Duplicate copies of the receipts and “Town of Pawling Septic System Data and Inspection Form” as specified above shall be retained by the lot owner for a period of five (5) years, and a copy shall be provided to the Town of Pawling SMO or CEO upon request.
- C. Duplicate copies should be retained and reviewed by the Town of Pawling SMO or CEO.

### **Article III. Enforcement**

#### **Section I. Septic System Failure**

- A. If a pumpout and visual inspection concludes that the septic system deems a “detailed investigation needed”, and therefore cannot meet the requirements of Section 19.7 of the Dutchess County Sanitary Code, upon notification by the Town of Pawling SMO or CEO, then the owner shall meet the requirements of Section 19.8 of the Dutchess County Sanitary Code by causing an investigation of the septic system failure to be undertaken with the cooperation of the DCDH within sixty (60) days of the date of the notification. Evidence of said investigation in the form of a letter from a contractor or a New York State licensed Professional Engineer (P.E) and a completed Town of Pawling Subsurface Sewage Disposal System Investigation and Remediation Form must be submitted to the Town of Pawling SMO or CEO.
- B. If the Town of Pawling finds that no investigation has begun if the septic system is deemed “detailed investigation needed”, the Town of Pawling SMO or CEO will further notify the DCDH that a failing septic system condition may exist and request that the DCDH perform an investigation for possible further action as specified in the Dutchess County Sanitary Code.
- C. If the Town of Pawling finds that an investigation has begun and has been completed in accordance with Article III. Section I.A. above, and remediation or repair of said SSDS is recommended, said lot owner shall commence remediation or repair of said SSDS within sixty (60) days, proof of which shall be provided to the Town of Pawling SMO and CEO. If the Town of Pawling finds that no remediation or repair has begun, the Town of Pawling SMO or CEO will further notify the DCDH that a failing septic system condition may exist and request that the DCDH perform an investigation for possible further action as specified in the Dutchess County Sanitary Code.

#### **Section II. Penalties**

- A. Failure to timely perform the inspection and maintenance required by this law.

**ADOPTION OF LOCAL  
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MAINTENANCE OF  
SUBSURFACE  
DISPOSAL SYSTEMS  
CONTINUED**

- B. Failure to timely submit evidence of timely inspection and maintenance as required by this law.
- C. Failure to timely notify DCDOH and/or to request an investigation by DCDOH when the results of an inspection indicate that the requirements of the Dutchess Sanitary Code cannot be met by the septic systems.
- D. In addition to, or as an alternative to, any penalty provided herein or by law, any person who violates the provisions of this law shall be guilty of a violation punishable by a fine not exceeding \$100 annually; for conviction of a first offense; for conviction of a second offense; a fine not exceeding \$200 annually, for conviction of a third offense; a fine not exceeding \$300 annually; for a fourth offense; a fine not exceeding \$400 annually; for a fifth offense; a fine not exceeding \$500 which were committed within a period of five years, punishable by a fine not less than \$100 nor more than \$1,500.00. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each year's continued violation shall constitute a separate additional violation.

**Section III. Excluded Properties**

- A. If only a portion of a lot is located within the EOH watershed, then the owner of the lot may be exempted from this regulation if the existing SSDS is located outside the EOH watershed. If an "as-built" plan of the SSDS exists, said plan shall be provided to the Town of Pawling SMO or CEO for a determination. If no "as-built" plan of the SSDS exists, the owner of the lot shall contact the Town of Pawling SMO or CEO to conduct an investigation for a determination if said SSDS is located within, or outside of the EOH watershed.
- B. A letter for exemption from this regulation must be submitted to the Town of Pawling SMO or CEO. If an owner receives notice that their property must have an inspection performed and the owner feels that the notice is in error, the owner may submit information to the SMO or CEO to show that no Septic Systems is present.
- C. The Town of Pawling SMO or CEO will prepare a written acknowledgement that the location of the SSDS on the lot is exempted from this regulation.

**Section IV. New Septic Systems**

- A. If a septic is installed on a lot, the system must be maintained as describe in this Chapter at least once within 5-years from the date that the DCDOH issue a permit to discharge in compliance with the requirements of this Chapter.

**Section V. Severability**

- A. Should any portion of this Chapter be declared illegal, the remaining portion shall remain in full force and effect and be enforceable as such.

**Section VI. Effective Date**

This ordinance shall take effect immediately upon filing with the Department of State.



The motion to proceed with Lakeside Park special projects including construction and reclamation and resurfacing of the roadways and parking areas and installation of traffic control gates and signs for an expenditure not to exceed \$70,000.00 and funded through the Hoffman Trust was made by Councilman Montemarano, seconded by Councilman Johnson.

Councilman Montemarano said a number of new signs and traffic control gates are being added in efforts to limit traffic to the parking areas in the outside perimeter of the park. He stated that reclamation is underway. He suggested the parking area next to the Lathrop building be reclaimed for a handicapped parking lot. He also suggested another small parking area be claimed along the road that runs along Lakeside Drive.

Following discussion, it was the consensus of the Board that the areas discussed should be reclaimed for parking areas.

The motion passed unanimously.

Councilman Upham said he could not attend the scheduled Shorehaven meeting and asked if Wendel Weber, Supervisor of Buildings & Grounds would attend the meeting and give a report to the Board at the next meeting.

Supervisor Kelly agreed, saying he would ask Mr. Weber to attend the meeting and give a report to the Board at the next meeting.

Supervisor Kelly reported that the program to help Tuscaloosa, Alabama was very successful. A large box truck was sent there with donations and monetary donations total approximately \$500.00. He thanked everyone who helped with this project.

The motion to enter executive session to discuss a personnel matter including one individual and also to discuss a legal matter was made by Supervisor Kelly at 9:45 AM, seconded by Councilman Upham, motion passed unanimously.

The motion to return from executive session was made by Supervisor Kelly at 9:55 AM, seconded by Councilman Johnson, motion passed unanimously.

Supervisor Kelly opened the meeting for public comment and there were none.

The motion to adjourn was made by Councilman Mayer at 9:56 AM, seconded by Supervisor Kelly, motion passed unanimously.

**ADOPTION OF  
LOCAL LAW #4  
OF 2011 –  
MAINTENANCE  
OF SUBSURFACE  
DISPOSAL  
SYSTEMS  
CONTINUED**

**LAKESIDE PARK  
SPECIAL  
PROJECTS**

**UPHAM**

**TUSCALOOSA  
ALABAMA  
PROGRAM**

**EXECUTIVE  
SESSION**

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Town Clerk