

Supervisor David P. Kelly opened the Regular Meeting of the Town Board of the Town of Pawling at 7:00 PM April 11, 2012 at Pawling Town Hall, 160 Charles Colman Blvd., Pawling, New York. Present were Councilmen Johnson, Upham, Montemarano, DeRosa and approximately 25 interested citizens.

APRIL 11, 2012

Supervisor Kelly opened the public hearing on Local Law #1 of 2012 entitled "Flood Damage Prevention".

**PUBLIC HEARING  
ON LOCAL LAW #1  
OF 2012 – FLOOD  
DAMAGE  
PREVENTION**

There were no comments from the audience.

Supervisor Kelly closed the public hearing.

Supervisor Kelly opened the public hearing on the Comprehensive Plan Update & Zoning. The transcript of the public comment and Town Board discussion on the Comprehensive Plan Update are below.

**COMPREHENSIVE  
PLAN UPDATE &  
ZONING PUBLIC  
HEARING**

-----X

TOWN OF PAWLING  
COMPREHENSIVE PLAN UPDATE  
PUBLIC HEARING

-----X

DATED: April 11, 2012

Pawling, New York

7:01 p.m. - 7:36 p.m.

Donna M. Wells, Court Reporter

MINUTES

OF

PUBLIC HEARING

Mary T. Babiarz Court Reporting Service, Inc.

(845) 471-2511

APPEARANCES:

TOWN OF PAWLING TOWN BOARD:

David P. Kelly, Supervisor

Philip DeRosa

William B. Johnson

Michael J. Montemarano

Paul Upham

Catherine Giordano, Town Clerk

Liz Axelson, Town Planner

Morris Associates

**COMPREHENSIVE  
PLAN UPDATE &  
ZONING PUBLIC  
HEARING CONTINUED**

**SPEAKERS:**

Elizabeth Allen

Donna Pagliaro

Harvey Matcovsky

Mark Chipkin

Comprehensive Plan Update

**THE SUPERVISOR:**

I will open the public hearing on the Comprehensive Plan Update. At this point is there any member of the public that would like to speak on the Comprehensive Plan Update?

**BY MS. AXELSON:**

It's on the Comprehensive Plan Update and the Zoning.

**THE SUPERVISOR:**

And the Zoning. Any member of the public that would like to speak on the COP and the Zoning this is your time to speak, three minute limit.

**BY MS. ALLEN:**

Elizabeth Allen.

**THE SUPERVISOR:**

Yes, Miss Allen. Please come up to the podium.

**BY MS. ALLEN:**

Other members of my family are public speakers, but I'm not. Elizabeth Allen, 665 Old Quaker Hill Road. I only couldn't bring it up on the website. That could be my problem, that I'm not capable enough bringing Comprehensive Plan Update it up on the website. I went to the library at 1:30 this afternoon and asked to see the document and they didn't know about it at the desk, went to the office in the back and said it had just been delivered, so I did spend an hour with the document which is all I had for the afternoon. So there's two comments. Those two comments are it wasn't that easy to actually be able to look at the document. Thank you.

**THE SUPERVISOR:**

Thank you. I do understand this is a large document for everybody's view. This is the document. This is the entire document that Miss Allen was speaking about. It's at the library. The clerk has a copy in her office. It is online. I know it's a large

document. We've expressed in the past that it takes a while for the document to download because it is a very large document and it's a separate file also and it takes sometime. Again, it's at the library and it's here at the clerk's office. If you want a copy of it it's \$.25 a page, so you're talking about 700 pages.

BY MS. AXELSON:

I have the disk if someone wants to borrow it.

THE CLERK:

I do to.

THE SUPERVISOR:

So if someone does have a problem downloading it we can let you borrow a disk and let you download it that way. Further comments on this Comprehensive Plan and Zoning changes? Seeing none, I will close the public hearing.

BY MS. PAGLIARO:

Wait. I'm sorry I'm late. May I speak?

THE SUPERVISOR:

Yes. I will allow it.

BY MS. PAGLIARO:

That door is locked. I don't know if that door is supposed to be locked. My name is Donna Pagliaro. I'm sorry for being late, so I hope that whatever I say is the appropriate timing. I was happy to see that the Comp Plan allows for some economic development on the Route 22 corridor, particularly that of retail, office, and lodging. I tried getting a few folks out tonight to come to speak their Comprehensive Plan Update piece about, in particular, retail. I think that people are very, very disgruntled of having to schlep to Danbury, having to schlep to Poughkeepsie, and the overwhelming response was, uh, nothing's ever going to change in this Town. I don't have time to waste which I think is really unfortunate that that's the overwhelming, but I can't also say that I, myself, don't feel somewhat of the same way. A million and one things going on here. I am going to come. I'm going to talk. I'm going to listen to this. I'm going to listen to that and after ten years time of living here I've seen very little change. I hope that you will really consider passing this quickly, and I hope that we will give the two developers that are looking at the two pieces of property, big pieces of property, an opportunity to do what they say they were going to do. I know there's no guarantees, but I think that it's very important to know that there is a big population in Pawling that doesn't want to shop in Danbury and doesn't

want to go to Poughkeepsie. I want to be able to buy a pair of socks. I want to be able to purchase a birthday present. I love the Book Cove. I shop there all the time. I love Good Tidings. I love the shops that we have in Town, but I really think that it is important that we have a little bit more. I did a little bit of research. I also own a local business, so I was doing a little bit of research. If you spend \$100 in a local establishment \$68 goes back into our local economy. If it's a national chain like a CVS \$43 will go back into the local economy. If we are forced to shop in Danbury or forced to shop in Poughkeepsie zero percent -- or online, like, a lot of people now don't want to go to Danbury so they'll shop online, so I very much just want to reiterate that part of it. On a sidebar or side dish, I don't know why we devalue the potential tax revenue that can come from developing those areas. I don't know why we think that our schools don't need this money. So I just hope that you will strongly consider going forth with this and giving us Pawling people an opportunity to shop Pawling. Thank you.

THE SUPERVISOR:

Thank you for your comments. Further comments on the Comprehensive Plan and Zoning changes? Yes. Please make sure you state your name and address for the record as this is being taped.

BY MR. MATCOVSKY:

Harvey Matcovsky, resident, Holmes. I'm going to use the Yogi Berra -- and it seems like deja vu all over again. I haven't been here for quite a while, and I thought it was pretty much a settled issue regarding the set backs of the small parcels, and I am to live on one of them in Holmes. I attended more than one Planning Board meeting and it was my understanding that the Planning Board was pretty much unanimous on making an exception, and now it seems that the Board either is about to or has not made a decision to make an exception for the small parcels in Holmes. That is going to cause an undo expense to the small homeowners there and, of course, they're to spend \$500 or \$600 to fill out forms just to put a little stairway in or maybe to put a deck up that they've always been able to do, and I don't understand why we have a Planning Board and the Board appoints a Planning Board and the Planning Board comes to a decision on a small matter like this and then the Board, and, hopefully, I'm mistaken, but I've been told that the Board has not decided to make the exception on the set backs and it just seems illogical and seems an undo burden on the small homeowners.

THE SUPERVISOR:

Thank you for the comments. Further comments on the Comprehensive Plan and Zoning matters? Mr. Chipkin.

**COMPREHENSIVE  
PLAN UPDATE &  
ZONING PUBLIC  
HEARING  
CONTINUED**

BY MR. CHIPKIN:

Mark Chipkin, Pawling, New York, Hurds Corner Road. I want to thank you all for the work that you did in making the Comprehensive Plan more sensitive to the historical and national resources that Pawling deserves to keep for a long time, and I appreciate all the work that Liz has done, and my only thought on this is just like when I used to set up lessons for my class when I set up a Science experiment and I didn't try it out it didn't always work the way I expected, and my hope is that whatever you've done that it has the teeth and it has the ability to actually help the Boards to really work, that the intention is amazing and perfect in terms of preservation, but what I really hope, and this is the part that I don't know about, is that you people have made the efforts to get it so that the Boards can say hold it, before you do this project let's take a look at this. You have the stuff to do it, so thank you.

THE SUPERVISOR:

Thank you for your comments. Further comments? Seeing none, we will close the public hearing. We're going to open up for a Board discussion. We have Mrs. Axelson here who is our Board planner. Do the Board members have any questions on the Comprehensive Plan or anything you would like to bring up to discuss while we have Liz here?

BY MR. DeROSA:

Liz, we had some discussions today. Last couple of days I've had some lively discussions with the members and members of the public. Been involved in this for a long time and there was a couple of things that I found that I didn't like. Some of them were carried over from the original Master Plan update that was prepared by Pat Cleary, and then that was the protected open space that we talked about and the language we talked about that you thought could be changed, and the reason why I didn't like that is a fundamental issue, actually, page ten of the CPU, and what it said there, maybe I should read it. It's a fundamental thing because we've strived here in Pawling with the work of the Planning Board and the '91 plan that's been in effect to try when developers come in no matter if it's residential or commercial to protect our natural resources, our water courses, our hillsides, our view sheds and all this stuff and we develop land and we put conservation easements on it and in the Master

Plan they talk about, on page ten and I'll read it, "While a portion of this land is constrained environmentally or burdened by various development restrictions the situation is by one of the most important land use issues facing the Town today. The Town's 11,652 acres remain potentially available for future development." And the areas that we worked so hard to protect over the years is lumped up into that number that they could be developed. Like on my personal property it's a four and a third acre building lot. Of that building lot two acres of it is encumbered by a conservation easement because of the steep slopes and the wetlands, but that number isn't figured out of the developer land, it's figured in it. So that I thought though was a fundamental thing and that was picked up from the Pat Cleary study. That wasn't the wording that Liz actually put in there.

BY MS. AXELSON:

Yes. That was from the Pat Cleary plan and when Phil and I spoke earlier today -- you know -- there's definitely a way to add language in there that acknowledges the fact that much of the land is restricted or easements or whatever. Going into the specific study I know we discussed it would be costly, and it also occurred to me that that may, some of that may have come from the Ground Water Shed Study that was done.

BY MR. DeROSA:

I don't know where it came from, but I didn't like it from the beginning.

BY MS. AXELSON:

It's all right. We can modify it.

BY MR. DeROSA:

Because even PDD Zone that has 100 or so acres of open dedicated space that was figured back in as it couldn't have been developable, and I just thought it was a fundamental flaw. The other issue that we talked about, and, Harvey, it will be put in, possibly put in there. It's just a mistake that it wasn't put in there, but the set backs in the Whaley Lake area, we talked about that, Liz, and that's being looked at.

BY MS. AXELSON:

And, actually, that was discussed at the last Town Board meeting that I appeared at and the Board did direct me to get some of that language. Just so the Board knows, that language will be applicable, I think, generally throughout the Town -- I don't know-- because there are undersized lots everywhere and it creates hardship.

BY MR. DeROSA:

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And at that meeting you had a very good explanation of the increase in the FAR, and I know that's been a lot of the discussion I've had even with some other Board members understanding that the increase in the FAR from 20 to 70 percent, and I'm not against that. I just would like to understand that a little bit more, and I think some of the Board members had mentioned to me that they would like to understand that a little more, and just to continue on that, on the Highway Business Zone where we -- a lot of the -- the basic philosophy from the '91 Plan it was to try to save the Village because the Village was going through some hard times and that's why some of the provisions were put in there like the five acres that you needed for the multiple uses and Highway Business and that was put in there to try to protect Route 22 from looking like Route 22 down from Brewster north where they have the gas stations every 50 feet. We didn't want that. We didn't want it to look like Route 9 where they have shopping centers every one acre or two acre pieces. That's why that five acres was put in there. That's why the 3,500 square foot that was struck down by the court was put in there to try to control -- you know -- that type of development in there. Now, we have a Village that's thriving, it's beautiful. The businesses are good and I'm not against changing from five acres to two acres or increasing the FAR once we understand it a little more, but that coupled with the reducing of the 3,500 square foot, I'm concerned about the MBI Zone and the all-inclusive stuff that we have in there for the retail with all the other mixed business. On the accumulated effect of the Village in everything becoming retail because we only have 300 acres of retail space and do we want all retail, and I've talked to some property owners that are up and down the Highway Business and their eyes opened up when I told them that we were looking at reducing it from five acres to two acres for mixed business and shopping centers and increasing the FAR from 20 to 70 percent. So I'm just a little -- you know -- nervous about opening up the flood gates and changing the whole philosophy from the '91 Plan to this Plan, and I just think people should understand that I'm not against changing a lot of these things and that the discussions I've had in the last two or three days I'm not against totally maybe some of the retail allowed in the MBI zone, but there should be some restrictions, some like we did with the PDD Zone that so much percentage of the development had to be retail, and so much office space, and so much open space, and the two different parcels are different because one is so big and one is so small; 40 acres and 500 acres. So all those restrictions wouldn't be the

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CONTINUED

same, but I think if we do allow the business of retail in there it should come with some additional restrictions.

THE SUPERVISOR:

I understand, and you and I had a great conversation yesterday, but I look at this as the MBI, it's three zones. It's just not one zone. It's not one property that's being looked at all. In the Holmes area we'll be able to bring a mixed business into that area where the people in the Whaley Lake area could take a quick run to Poughquag to spend their money. We could offer something in that area that's a mixed business, so if we have multiple businesses in there it would allow someone to open up a convenience store in that area where they over to Holmes Deli where there's a significant amount of traffic. The lot that's behind the Esposito mall on 22 that would allow for the same thing for mixed business, so I don't look at it as one property. I looked at the three properties that are in the books. My feeling has always been we need to move forward, have the Town progressively move forward in the future and it doesn't say that I wouldn't be amenable to having discussions of some type of restriction, but I think mixed business is what it means, if someone wanted to, in that section, to put a hospitality in there if someone that stays there forgets -- and I've done it many times as we've all done -- we either forgot a tie, we forgot a belt, we forget socks or something. To have something where we can get something. Miss Pagliaro said something about buying socks in the Town. I don't know where we can do it now. I just think that my feeling is that being progressive and getting the Town ready for something in the future, we need to look at it, but under what you talked about having some controls is what we need to have is controls, so we need to have a discussion of the Board.

BY MR. JOHNSON:

Phil, adopting the laws the way they are with retail space doesn't mean if you pass it today tomorrow you're going to have 100 stores in the Town.

BY MR. DeROSA:

I know that.

BY MR. JOHNSON:

I'm a firm believer in economic restraints. People are not going to build a ten unit store front when we have available store fronts already in the community. No different when we passed the moratorium several years ago. We were in an economic mode. I'm not sure we really stopped any building by doing that. I think we need to

have the opportunity available to people that have an idea and a thought that want to invest in our community and the trickle down effect that just will help reduce the burden that's placed on the taxpayers, so I'm kind of -- I'm excited to see some change and offers of different options to people that are looking to develop in our community.

THE SUPERVISOR:

And the other thing is this is a living document. This is not a sealed document. We're going to have steps in the future. We're going to have a committee set up to review this and go through some overlays and some other things, so if there's something that we see that needs to be tweaked again we're going to be looking at this every year, so we can further discuss this.

BY MR. MONTEMARANO:

Is there any level of supplemental regulations in the MBI proposed language at this point?

BY MS. AXELSON:

Yes. You didn't have any supplemental regulation in the Industry District before this. You had supplemental regulations in HB, the Highway Business District, so when I drafted supplemental requirements for the Mixed Business Industry Zone I looked at your existing HB supplemental requirements, and I also looked at the PDD and came up with what I thought would be appropriate for the MBI Zone, but in the process -- there were some specific comments from the public -- but in the process I also did some changes to the HB Zone as well, so there are I think it's a page and a half of supplemental requirements for the MBI. They're in Appendix C, the proposed zones, so take a look at those.

BY MR. MONTEMARANO:

I guess my concern would be is there any caution against one very large piece of mixed business just dominating the whole site that might not fit the general scheme. The PDD had a balance of miscellaneous uses over the whole size of the --

BY MS. AXELSON:

There isn't any proportion -- there isn't anything in the supplemental requirements that says you may only have such and such a proportion of your total square gross floor area be retail, so there's nothing in there like that.

BY MR. DeROSA:

We did have that when we established the PDD and there was other supplemental

regulations to create the PDD and the mixed business.

BY MS. AXELSON:

Right.

BY MR. DeROSA:

Like they had to donate so many dollars per square footage and commercial space to buy a property north of the Village Highway District to preserve it and different things. They had to have so much open space, percentage of open space.

BY MS. AXELSON:

There's a percentage of open space.

BY MR. DeROSA:

There was other -- I don't know. I don't remember more, but there was others that they gave up so that the Town Board would approve the Mixed Business District. So that's the only thing. I just want to make sure we look at that because being that we have so little commercial space here that's developable I don't want to see it all built out as retail. I want to see some other different types of services that we could have whether they be restaurants, movie theatres, bowling alleys, other types of services because in different economic times retail goes up and down. You don't want to put all your eggs in one basket and that type of thing, so that's what I'm concerned and if there was maybe supplemental -- you know -- where it would have to be linked to the Village somehow by maybe a bridge or a tunnel underneath 55 or a stop light at the corner of Dutcher Road where they could have a pathway to the Village, some kind of thing where we could link everything together could be a possibility or something, but the conversations I've had in the last 24 hours has made me think a little differently as hard as I was against actually building no retail there. I'm just afraid of opening up the flood gates and changing everything too fast.

THE SUPERVISOR:

Right, Phil, and I appreciate your comments. The other thing is that, and Liz and I have had this conversation many times, is that the jobs of the retail, we need a blend. If everything is retail it promotes one criteria of jobs. We need a mix of jobs brought to the area and we need to promote a little wider range. That's the culture that we have in Pawling is a wider range of people and we don't want to put our eggs in one basket, but we need to look globally. Any further questions or comments while Liz is here?

BY MR. MONTEMARANO:

I just have a couple. We spoke about this briefly, Liz. In the interest of limiting bureaucracy like I shared with you before that I would prefer that rather than creating a new Architectural Review Board, and you made a good case for it, I would prefer that it's handled at the Planning Board level. I think we have sufficient capability at that level already, and if something larger comes up the Planning Board always has the opportunity to bring in a specialist or an engineer on an as-needed basis rather than having an ongoing review, and my other second comment not being, by any means, a planning expert, I would most certainly welcome the review, and comments, and advice of the Planning Board on the updated CPU and Zoning that are in front of us.

THE SUPERVISOR:

My understanding is that the Planning Board is holding two separate meetings to review this document and get comments back to us.

BY MS. AXELSON:

Is there any reason for me to attend their meeting?

THE SUPERVISOR:

We can talk to the Chair and see.

BY MS. AXELSON:

Okay.

BY MR. DeROSA:

Can we just have Liz go over again the increase from the 20/70 on the FAR and what was the train of thought just to better understand that for myself, and I know Mike has asked me to explain it to him, and I think it would be better coming from Liz.

THE SUPERVISOR:

I agree. I think everybody knows that they are the floor to area ratio.

BY MS. AXELSON:

Just a quick zoning lesson. Basically in most zoning ordinances you have building coverage. In other words, where does that building land on the ground. So if you have 35 percent building coverage that means about a third of the site can be covered with the building on the ground floor, and if you're only allowed to have one story in that zone whatever the building height would be 20, 15 or 20 feet for one story maybe less, then your FAR would be the same. In other words, 35 percent building coverage. If you're only allowed one story then your floor area ratio is all the gross

floor area over the acreage so it will be the same. It would be 35 percent. In a zoning district where you're allowed 35 feet height, building height, that typically translates to two to two and a half stories, so then if you have a second floor that's the same square footage as your first floor, your ground floor, that means you have two floor areas equivalent to 35 percent. So 35 percent on the ground, the ground floor, and another second floor it would be equivalent. That would translate into a gross floor area that would be basically 70 percent or .7 FAR, floor area ratio, the total square footage on the ground. So I did have a conversation with the Building Department about this to kind of say -- you know -- the zoning says you can have, I think, 35 percent building coverage, but it says .2 FAR which means you would have less FAR than you could actually have on the ground floor. It just didn't make sense. So I looked at it and I thought let's see if that makes any sense. But second floors are allowed all through the Town. Every single zoning district is 35 feet maximum building height. So basically changing the FAR from .2 in the Highway Business District, I think that's what we're talking about.

BY MR. DeROSA:

Yes.

BY MS. AXELSON:

The Highway Business District allows 35 percent on the ground floor, and so I looked at changing the FAR to .7 as just an adjustment to reflect what is kind of done in practice. Now, I know that along the Highway Business District you don't always have two story buildings. Sometimes you just have a one story building, a big commercial building, but there really isn't any reason to prohibit second floors in the business zone, and, in fact, a lot of sort of smart growth standards encourage you to have a situation where you can allow office use or a residential use over a business. So that was the logic there was just to bring it in keeping with the building height that you already have in your zoning district. And also in general, and this is explained in the CPU, when you allow a property owner to have, say, retail on the first floor and office or something else on the second floor that increases the leasable area on the whole property and increases the likelihood that they're going to succeed in developing and making a fair return on their property. So that was the reasoning there, and you'll see in the Draft Final Generic EIS, which we'll be discussing in future meetings, that I explained in detail how that works. So I hope that helps and I'm not rambling on.

THE SUPERVISOR:

Thank you.

BY MR. DeROSA:

Just to pick up on that, and just because all these things are allowed in our Code they still all have to be proved out to our Zoning and to our Planning Board and isn't one of the major checks on that, on the size of the building in that commercial zone, is the amount of parking that's going to have to be developed?

BY MS. AXELSON:

Yes.

BY MR. DeROSA:

Because for every square footage of whatever kind of business they're going to build there's a requirement of how many parking spaces and that's a big problem in the wetlands area, so there is natural built in restrictions against that and that's one of the only ways we can expand our commercial base because we can't go off an acreage wise.

BY MS. AXELSON:

In fact, in your HB Zone the coverage -- parking and having a second story on some level really isn't achievable. In other words, it's extremely unlikely that somebody could own a piece of land and get anywhere near the maximum coverage because they have to have a certain number of parking spaces. The ratio of building on the ground to parking is typically one-third building and two-thirds parking, and what ends up happening is you end up shaving off the gross square footage that you would have the building to be able to have your access to the parking area.

THE SUPERVISOR:

Thank you. Any further questions for Liz over here or any questions?

BY MR. UPHAM:

To Phil's first question, how do we tweak that developable land? We don't have good information apparently on that.

THE SUPERVISOR:

Are you talking about the MBI?

BY MR. UPHAM:

The total.

BY MS. AXELSON:

The thing about page ten in the developable land.

BY MR. UPHAM:

Yes.

BY MS. AXELSON:

I think we can put some general language in that reflects the fact that some of that land is considered open for development is also encumbered by conservation easements, natural features that would result in constraints to development, deed restrictions.

BY MR. UPHAM:

Is that a kind of standard practice to do that?

BY MS. AXELSON:

I'm not sure how those numbers were achieved.

BY MR. UPHAM:

Way back when.

BY MS. AXELSON:

Yes. And the other thing, having done a land use study lot by lot it's tremendously time consuming and the County has provided you with some GIS information, so typically what happens is probably Patrick Cleary made that estimation that he could based on GIS information.

BY MR. UPHAM:

So you would recommend we include new language to address that.

BY MS. AXELSON:

To acknowledge that as a matter of practice the Town has done what they can to retain open space, protect wetlands, have deed restricted land where it's appropriate. So I think we can put that language in without doing a whole study.

BY MR. DeROSA:

Just to illustrate that. It could be 1,000 to 2,000 acres off of that total.

BY MR. JOHNSON:

Or 30 percent.

BY MR. DeROSA:

You don't know. Just to reflect it in the verbiage, and Liz and I had an in-depth conversation about that. She had some ideas how to straighten it out because, like I said, it wasn't her numbers that she came up with to get that. She just used those numbers from Pat Cleary and trying to save money of course.

THE SUPERVISOR:

Phil, from the start we always said that it was a good document.

BY MR. DeROSA:

I complained about that issue with Pat Cleary, but now I have a little more juice.

BY MR. UPHAM:

That would be good because it could potentially become a problem down the road as people start really doing planning on an individual basis.

BY MR. DeROSA:

And it does complement our great Planning Board in our '91 Master Plan that worked so hard to get these areas protected and the developers that gave them up too because they spent a lot of money developing these pieces also, and if it's for naught then what good is their effort also.

BY MR. UPHAM:

Okay. Thank you.

THE SUPERVISOR:

Liz, thank you very much.

BY MS. AXELSON:

You have a resolution later, and I think I'm going to see you again on May 2nd.

THE SUPERVISOR:

Correct. Thank you very much.

STATE OF NEW YORK )

) ss:

COUNTY OF DUTCHESS )

I, DONNA M. WELLS, a stenotype reporter and Notary Public within and for the State of New York, do hereby certify that the foregoing is a true and correct transcript of the minutes recorded by me and reduced to typewriting under my supervision to the best of my knowledge and ability.

DONNA M. WELLS

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**APPROVAL OF  
MINUTES**

Supervisor Kelly made the motion to approve the minutes of February 1, 2012, February 8, 2012, March 7, 2012 and March 14, 2012, seconded by Councilman Johnson, motion passed unanimously.

**PUBLIC HEARING  
ON AGENDA  
ITEMS**

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

**CONSENT  
AGENDA**

Supervisor Kelly moved to the consent agenda, and following discussion, resolution 2012067 was moved to the non-consent agenda.

**Resolution 2012052  
Consultant – Town of Pawling Website Redesign**

Whereas, the Town of Pawling operates an official Town of Pawling web site located at [www.pawling.org](http://www.pawling.org) hosted through the services of Virtual Town Halls, and

Whereas, the web site is in need of updating to offer the users additional benefits by the services supported by the adoption of the annual operating budget, and

Whereas, additionally, New York State has placed requirements on the Towns throughout New York to post certain information on their web site, and

Whereas, the Town of Pawling web site must have additional pages /sections added to the site, now, therefore, be it

Resolved, that the Town Board hereby authorize the Supervisor to enter into a contract of services as attached to this resolution with Mr. Robert Reilly to redesign, add additional pages /sections and incorporate E-Commerce practices to the town Web Site, and, be it, further

Resolved, that the cost for such improvements will be charged to the B Budget Contingency Line of the 2012 operating budget.

**Resolution 2012064  
Payment of Bills for the Town of Pawling**

Whereas, The Town of Pawling Bookkeeper has reviewed and prepared the vouchers for the month of March 2012 and has offered them for review, and

Whereas, the vouchers have been approved in accordance with the Town of Pawling policy, and

Whereas, the vouchers have been numbered 20120318 to 20120431, now therefore, be it

Resolved that the Pawling Town Board hereby accepts the vouchers as prepared on the recommendation of the Bookkeeper, and, be it, further

Resolved, that the Town Board hereby authorizes payment of said vouchers for the Town of Pawling on this date in the amount of \$164,340.07.

**Resolution 2012065  
Authorizing Billing for Pawling Water District #2**

Whereas, Pawling Water District #2 Bills need to be approved by the Pawling Town Board, and

Whereas, the bills have been prepared and submitted in the amount of \$13,911.80 for the period of January 2012 through March 2012 by the Water District Clerk, now therefore, be it

Resolved, that the Pawling Town Board hereby accepts the Billing as recommendation for Pawling Water District #2.

**Resolution 2012066**  
**Release - Planning Board Performance Bond**

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CONSENT  
AGENDA  
CONTINUED

Whereas, at the March 19, 2012 meeting the Town of Pawling Planning Board took action on matters of the Tocci Realty LLC, and

Whereas, the Planning Board recommends to the Town Board to accept the release of the Performance Bond in the amount of \$2,000, and acknowledges the acceptance of Town Engineers inspection memorandum dated January 13, 2012.

Resolved, that the Town Board of the Town of Pawling hereby accepts the recommendation of Pawling Planning Board on matters pertaining to Tocci Realty LLC property and releases the Performances Bond in the amount of \$2,000 and authorizes the Bookkeeper to refund the said amount.

MOTION: Councilman Johnson  
SECOND: Councilman Montemarano

ROLL CALL VOTE:

Councilman Johnson- "AYE"                      Councilman Montemarano – "AYE"  
Councilman DeRosa – "AYE"                      Councilman Upham – "AYE"  
Supervisor Kelly – "AYE"

Supervisor Kelly moved to the non-consent agenda

NON-CONSENT  
AGENDA

**Resolution 2012067**  
**Dutcher Golf Course**

Whereas, the Pawling Central School District and Trinity Pawling School have requested the use of the Dutcher Golf Course for the season of 2012 for the purpose of holding golf meets, and

Whereas, the Town of Pawling has donated the green fees to the school(s) in previous years for such purpose, now, therefore, be it

Resolved, that the Town Board hereby authorizes the use of the Dutcher Golf Course to the golf teams of Pawling Central School District and Trinity Pawling School for the 2012 season, and be it further,

Resolved, that the scheduling of matches at the Dutcher Golf Course shall be coordinated through the liaison of the Town Board and the Club House Contractor for the season of 2012 and each organization shall comply with the rules and regulation of the Town of Pawling and that of golf etiquette.

MOTION: Councilman Johnson  
SECOND: Supervisor Kelly

Supervisor Kelly offered an amendment under the first resolved, adding "pending receipt of letters from either entity for the 2012 season", seconded by Councilman Johnson, motion passed unanimously.

ROLL CALL VOTE ON THE RESOLUTION:

Councilman Johnson- "AYE"                      Councilman Montemarano – "AYE"  
Councilman DeRosa – "AYE"                      Councilman Upham – "AYE"  
Supervisor Kelly – "AYE"

**Resolution 2012068**  
**Waiver Request - Planning Board Performance Bond**

NON-CONSENT  
AGENDA  
CONTINUED

Whereas, the Town of Pawling Planning Board has made a recommendation on setting a Performance Bonds on applications which come before the Planning Board for review, and

Whereas, the Planning Board recommends to the Town Board to accept the amount of \$14,000.00 for a the Performance Bond on a property owned by Mr. Jay Maxwell on Route 22, and

Whereas, the Applicant has requested through a phone conversion with the Town Supervisor that the Performance Bond amount to be waived on side project, now therefore be it

Resolved, that the Town Board of the Town of Pawling hereby accepts the request for waiver made by Mr. Jay Maxwell in the amount of \$14,000.

MOTION: Supervisor Kelly  
SECOND: Councilman Upham

Councilman DeRosa said he has begun an investigation into this issue but asked for more time and made a motion to table resolution 2012068, seconded by Supervisor Kelly, motion passed unanimously.

**RESOLUTION 2012069**  
**ADOPTING NEGATIVE DECLARATION**  
**“Flood Damage Prevention, Chapter 107 Local Law No. 1 of 2012”**

WHEREAS, the Town Board of Pawling has reviewed a proposed amendment to Chapter 107 of the Code of the Town of Pawling to replace said chapter entitled “Flood Damage Prevention”; and

WHEREAS, proposed Local Law No. 1 of 2012 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, now, therefore, be it

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

MOTION: Supervisor Kelly

SECOND: Councilman Johnson

ROLL CALL VOTE:

NON-CONSENT  
AGENDA  
CONTINUED

Councilman Johnson- “AYE”                      Councilman Montemarano – “AYE”  
Councilman DeRosa – “AYE”                      Councilman Upham – “AYE”  
Supervisor Kelly – “AYE”

**Resolution 2012070  
Flood Damage Prevention Local Law No. 1 of 2012**

**ADOPTION OF  
LOCAL LAW #1 OF  
2012 – FLOOD  
DAMAGE  
PREVENTION LAW**

WHEREAS, the following Local Law was introduced as Local Law No. 1 of 2012, and

WHEREAS, Local Law Number 1 of 2012 was properly noticed and a public hearing was held during the meeting of the Town Board on April 11, 2012; and, now, therefore, be it

RESOLVED, the Town Board of the Town of Pawling authorizes the following:

**Section 1.** Declaration of intent. The Town Board concludes that in order for the Town of Pawling to remain eligible for participation in the National Flood Insurance Program (NFIP), a new Flood Damage Prevention law must be adopted which meets the standards of Section 60.3(d) of the NFIP regulations. Specifically, Section 60.3(d) requires the adoption of the Flood Insurance Study and Flood Insurance Rate Maps recently completed by the Federal Emergency Management Agency (FEMA). The Town Board further concludes that the current “Flood Damage Prevention” (Chapter 107) does not meet these standards and must be replaced. If the current law is not replaced it may cause the Town of Pawling to be suspended from the NFIP, which in turn may prevent residents of the Town of Pawling from purchasing or renewing flood insurance policies. This will place an undue financial burden on the Town’s citizens should their property be damaged during a flood. It will also negatively impact their security and sense of well being, knowing their property is exposed and uninsured against potential flood damage. Consequently, suspension from the NFIP will have a detrimental impact on the ability of the Town government to meet its obligations to the public in an effective and efficient manner. Accordingly, the Town Board concludes that in order to ensure continued eligibility for NFIP, a new comprehensive set of regulations, which incorporates all the standards of the above referenced Section 60.3(d), must be adopted to replace the current Flood Damage Prevention law (Chapter 107).

**Section 2.** Chapter 107, of the Code of the Town of Pawling, entitled “Flood Damage Prevention”, is amended by repealing it in its entirety and adopting a new Chapter 107, entitled “Flood Damage Prevention”, annexed hereto as Attachment A.

**Section 3.** This local law shall take effect immediately upon filing with the New York State Department of State.

MOTION: Supervisor Kelly  
SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson- “AYE”                      Councilman Montemarano – “AYE”  
Councilman DeRosa – “AYE”                      Councilman Upham – “AYE”  
Supervisor Kelly – “AYE”

**A local law for Flood Damage Prevention as authorized by the New York State Constitution, Article IX, Section 2, and Environmental Conservation Law, Article 36**

**SECTION 1.0 STATUTORY AUTHORIZATION AND PURPOSE**

## 1.1 FINDINGS

The Town Board of the Town of Pawling finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Pawling and that such damages may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

## 1.2 STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

## 1.3 OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

## SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

**"Appeal"** means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

**"Area of shallow flooding"** means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**"Area of special flood hazard"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

**"Base flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means that portion of a building having its floor subgrade (below ground level) on all sides.

**"Building"** see "Structure"

**"Cellar"** has the same meaning as "Basement".

**"Crawl Space"** means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

**"Elevated building"** means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

**"Federal Emergency Management Agency"** means the Federal agency that administers the National Flood Insurance Program.

**"Flood"** or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;

- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

**ADOPTION OF  
LOCAL LAW #1 OF  
2012 – FLOOD  
DAMAGE  
PREVENTION LAW  
CONTINUED**

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

**"Flood Boundary and Floodway Map (FBFM)"** means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

**"Flood Elevation Study"** means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**"Flood Insurance Study"** see "flood elevation study".

**"Floodplain" or "Flood-prone area"** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

**"Floodproofing"** means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**"Floodway"** - has the same meaning as "Regulatory Floodway".

**"Functionally dependent use"** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

**"Highest adjacent grade"** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**"Historic structure"** means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (i) by an approved state program as determined by the Secretary of the Interior or
  - (ii) directly by the Secretary of the Interior in states without approved programs.

**"Local Administrator"** is the person appointed by the community to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

**"Lowest floor"** means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

**"Manufactured home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

**"Manufactured home park or subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Mean sea level"** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**"Mobile home"** - has the same meaning as "Manufactured home".

**"New construction"** means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

**"One hundred year flood"** or **"100-year flood"** has the same meaning as "Base Flood".

**"Principally above ground"** means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

**"Recreational vehicle"** means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Regulatory Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 4.4-2 of this Law.

**"Start of construction"** means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"Structure"** means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**"Substantial damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

**"Variance"** means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

## **SECTION 3.0 GENERAL PROVISIONS**

### **3.1 LANDS TO WHICH THIS LOCAL LAW APPLIES**

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Pawling, Dutchess County.

### **3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard for the Town of Pawling, Community Number 361341, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Numbers:

36027C0507E, 36027C0508E, 36027C0509E, 36027C0517E,  
36027C0519E,

36027C0520E, 36027C0526E, 36027C0527E, 36027C0528E,  
36027C0529E,

36027C0535E, 36027C0536E, 36027C0537E, 36027C0538E,  
36027C0539E, 36027C0545E

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FLOOD DAMAGE  
PREVENTION LAW  
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whose effective date is May 2, 2012, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

- (2) A scientific and engineering report entitled "Flood Insurance Study, Dutchess County, New York, All Jurisdictions@ dated May 2, 2012.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at the Office of the Town Supervisor, Town of Pawling Town Hall, 160 Charles Colman Boulevard, Pawling, NY 12564.

### **3.3 INTERPRETATION AND CONFLICT WITH OTHER LAWS**

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

### **3.4 SEVERABILITY**

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

### **3.5 PENALTIES FOR NON-COMPLIANCE**

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Pawling from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Section 6.0 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

### **3.6 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Pawling, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

## SECTION 4.0 ADMINISTRATION

### 4.1 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Town of Pawling Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

### 4.2 THE FLOODPLAIN DEVELOPMENT PERMIT

#### 4.2-1 PURPOSE

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 3.2, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

#### 4.2-2 FEES

All applications for a floodplain development permit shall be accompanied by an application fee of \$ 250.00. In addition, the applicant shall be responsible for reimbursing the Town of Pawling for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

### 4.3 APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 5.2-3, UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 5.4, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in

Section 3.2, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.

- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

#### **4.4 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR**

Duties of the Local Administrator shall include, but not be limited to the following.

##### **4.4-1 PERMIT APPLICATION REVIEW**

The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:

- (1) Review all applications for completeness, particularly with the requirements of subsection 4.3, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
- (2) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 5.0, CONSTRUCTION STANDARDS and, in particular, sub-section 5.1-1 SUBDIVISION PROPOSALS.
- (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 5.0, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

##### **4.4-2 USE OF OTHER FLOOD DATA**

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 4.3(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.

- (2) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

#### **4.4-3 ALTERATION OF WATERCOURSES**

- (1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

#### **4.4-4 CONSTRUCTION STAGE**

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

#### **4.4-5 INSPECTIONS**

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

#### **4.4-6 STOP WORK ORDERS**

- (1) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.
- (2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 3.5 of this local law.

#### **4.4-7 CERTIFICATE OF COMPLIANCE**

- (1) In areas of special flood hazard, as determined by documents enumerated in Section 3.2, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or

part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

- (2) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 4.4-5, INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

#### **4.4-8 INFORMATION TO BE RETAINED**

The Local Administrator shall retain and make available for inspection, copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 4.4-4(1) and 4.4-4(2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to sub-section 4.4-4(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Section 6.0, VARIANCE PROCEDURES; and,
- (4) Notices required under sub-section 4.4-3, ALTERATION OF WATERCOURSES.

### **SECTION 5.0 CONSTRUCTION STANDARDS**

#### **5.1 GENERAL STANDARDS**

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

##### **5.1-1 SUBDIVISION PROPOSALS**

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

##### **5.1-2 ENCROACHMENTS**

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
  - (i) the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other

existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

(ii) the Town of Pawling agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Pawling for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Pawling for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 3.2, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

(i) a technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

(ii) the Town of Pawling agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Pawling for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Pawling for all costs related to the final map revisions.

## 5.2 STANDARDS FOR ALL STRUCTURES

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 3.2.

### 5.2-1 ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

### 5.2-2 CONSTRUCTION MATERIALS AND METHODS

- (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (3) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for

meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

- (i) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
- (ii) the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

### **5.2-3 UTILITIES**

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall also be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

## **5.3 RESIDENTIAL STRUCTURES**

### **5.3-1 ELEVATION**

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (2) Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth

number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

#### 5.4 NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 5.1-1, SUBDIVISION PROPOSALS, and 5.1-2, ENCROACHMENTS, and Section 5.2, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:
  - (i) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
  - (ii) be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
  - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
  - (ii) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 5.4(1)(ii)
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 5.4(1)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

#### 5.5 MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 5.1, GENERAL STANDARDS, and Section 5.2, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
  - (i) be on site fewer than 180 consecutive days,
  - (ii) be fully licensed and ready for highway use, or
  - (iii) meet the requirements for manufactured homes in paragraphs 5.5(2), (3) and (4).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as two feet above the depth number specified on the Flood Insurance Rate Map enumerated in Section 3.2 (at least two feet if no depth number is specified).

## **SECTION 6.0 VARIANCE PROCEDURE**

### **6.1 APPEALS BOARD**

- (1) The Zoning Board of Appeals as established by the Town of Pawling shall hear and decide appeals and requests for variances from the requirements of this local law.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Zoning Board of Appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
  - (i) the danger that materials may be swept onto other lands to the injury of others;
  - (ii) the danger to life and property due to flooding or erosion damage;
  - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;

(xi) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(xii) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

- (5) Upon consideration of the factors of Section 6.1(4) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

## 6.2 CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xii) in Section 6.1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
  - (i) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
  - (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - (i) the criteria of subparagraphs 1, 4, 5, and 6 of this Section are met; and
  - (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
- (i) a showing of good and sufficient cause;
  - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
- (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
  - (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 4.4-8 of this Local Law.

**Resolution 2012071 Release  
Planning Board Escrow**

CONSENT  
AGENDA  
CONTINUED

Whereas, at the March 19, 2012 the Town of Pawling Planning Board took action on matters of the Tocci Realty LLC, and

Whereas, the Planning Board recommends to the Town Board to accept the release of the Escrow account in the amount of \$534.75, and acknowledges the acceptance of Town Engineers inspection memorandum dated January 13, 2012.

Resolved, that the Town Board of the Town of Pawling hereby accepts the recommendation of Pawling Planning Board on matters pertaining to Tocci Realty LLC property and releases the Escrow Account in the amount of \$534.75 and authorizes the Bookkeeper to refund the said amount.

MOTION: Supervisor Kelly  
SECOND: Councilman Upham

ROLL CALL VOTE:

Councilman Johnson – “AYE”                      Councilman Montemarano – “AYE”  
Councilman Upham – “AYE”                      Councilman DeRosa – “AYE”  
Supervisor Kelly – “AYE”

**Resolution 2012072**

**REGARDING EXTENSION OF PREPARATION AND FILING TIME  
FORSEQR FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT  
(FGEIS) AND PREPARATION AND FILING TIME FOR SEQR FINDINGS**

**WHEREAS**, the Town Board of the Town of Pawling is considering the Draft Comprehensive Plan Update (CPU) based upon previous studies, reports and plans prepared for the Town of Pawling; and

**WHEREAS**, by identifying the vision, goals and strategies by which the Town intends to achieve sustainable development; high quality of life; and to direct actions and resources in response to the needs of its residents, businesses and visitors; this CPU will act as a design for the future of Pawling; and

**WHEREAS**, the Town Board is also considering Draft zoning amendments to the uses, bulk and supplemental requirements related to the HA (Hamlet), HB (Highway Business) and I (Industry) zoning districts to include more uses; emphasized mixed uses; and provide supplementary requirements; and

**WHEREAS**, the zoning amendments, attached to the CPU as Appendix C, are proposed for adoption with the adoption of the CPU; and

**WHEREAS**, the Town Board has followed the necessary procedures in the planning, zoning and environmental review, in accordance with the Town Law of the State of New York, the Town's local laws and pursuant to 6 NYCRR Part 617, New York State Environmental Quality Review Act (SEQRA) regulations. The extended review process from July through October 2011 is memorialized in the Revised CPU and in prior Town Board resolutions in this process;

**WHEREAS**, the CPU and zoning amendment documents have been revised extensively to respond to the commentary received; and a Final Generic Environmental Impact Statement (Final GEIS or FGEIS) is being prepared for the Town Board's continuation of its SEQRA review; and

**WHEREAS**, at the March 14, 2012 meeting the Town Board took the following actions to continue the SEQRA and planning review of the CPU and Proposed Zoning Amendments:

- Extended the date by which a Final Generic EIS (FGEIS) must be prepared and filed;
- Set combined public hearings on the CPU and zoning for April 11, 2012 and May 9, 2012; and
- Authorized circulation of the Revised CPU and Zoning; now, therefore, be it

**RESOLVED**, that the Town Board of the Town of Pawling hereby extends the date by which a Final GEIS must be prepared and filed to May 4, 2012; and, be it, further

**RESOLVED**, that the Town Board of the Town of Pawling hereby extends the date by which SEQRA Findings must be prepared and filed to June 15, 2012.

MOTION: Supervisor Kelly  
SECOND: Councilman Johnson

Councilman DeRosa said the extension here is to May 4<sup>th</sup> which is before the closing of the second public hearing the Board will have. He asked if the Board should complete something like that, the GEIS before all comments are received. He asked if this could be legally challenged later. He asked if the final period should be extended to after the final public comment period.

Liz Axelson explained in detail the required time lines and said there is no requirement for a public hearing on the SEQRA GEIS. The combined public hearings on the CPU and Zoning, tonight and on May 9<sup>th</sup>, are additional hearings. She explained that the Board is exceeding all time lines.

ROLL CALL VOTE ON THE RESOLUTION:

Councilman Johnson – "AYE"

Councilman Montemarano – "AYE"

Councilman Upham – "AYE"

Councilman DeRosa – "AYE"

Supervisor Kelly – "AYE"

**DUTCHER  
AVENUE TOWN  
OWNED  
PROPERTY**

Supervisor Kelly said the Dutcher Avenue town owned property is becoming a dump site. He suggested putting in a guiderail and seed so it looks nice until the plan is complete for a parking area. He would like to talk to Mayor Liffland about this.  
The Board agreed.

**ROLLER HOCKEY  
RINK**

Supervisor Kelly said there are people at the roller hockey rink trying to scarp metal. He suggested Councilmen Montemarano and DeRosa working on a patrol schedule with the Town Constables and a lock on the gate.

Supervisor Kelly said regarding the ambulance service and offering a letter to the Board saying the ambulance would stay in our district if there is no reciprocation of like product under the Mutual Aid Agreement, he has spoken to the Chief and he is in favor of it. There will be a meeting with Dutchess County Emergency Response and he will speak with the Village Board about this also.

**APRIL 11, 2012  
PAGE 37**

**AMBULANCE  
SERVICE**

Councilman Montemarano said regarding the Girl Scout trail marking project, the Board looked at trail markers and trail head markers and there is a little bit that has to be sorted out yet. If the Board agreed, he would like to complete this project and meet with them later in the week.

**GIRL SCOUT TRAIL  
MARKER PROJECT  
COMPLETION**

The motion to allow Councilman Montemarano to work with the Girl Scouts and Trail Committee to come up with a suitable trail marking program that is in compliance with the master plan and other signage around the park was made by Supervisor Kelly, seconded by Councilman Upham, motion passed unanimously.

Councilman Montemarano said regarding economic development, he felt there was a case to be made for the Town to try and come up with some initiative to get better use out of the Town's property and some economic development for the Town. He suggested the Town needed to spend effort and time to make Pawling a destination. He suggested Lakeside Park, saying there were discussions with the County a couple of years back with tourism and economic development and he suggested getting a number of Chamber of Commerce Board members to give the Town some advice on how they might market the park.

**MONTEMARANO**

Supervisor Kelly said he spoke to the attorney for H.G. Fairfield the other day and they are anxious to do something with the Town and they may have something ready to present to the Board at the May meeting. H.G. Fairfield was looking to bring a theatre into Lakeside Park with continuous productions.

Councilman Upham said he would attend the Lyons Club Meeting and the Library meeting and report back to the Board.

**UPHAM**

Councilman DeRosa said regarding the amnesty program for expired building permits and no certificate of occupancy's, he has presented a letter to the Board for their review. The letter will be reviewed by the Town Attorney and he would like to get it approved to go out at the next meeting.

**DEROSA**

Supervisor Kelly said the letter could be discussed at the Town Board meeting in May.

Councilman DeRosa said regarding the Whaley Lake Dam access through the Adams property, Mr. Adams has received many extensions on the approval and the paperwork has not been filed for the access. He felt it was time for the Town to do what is legally required to gain that access because the Whaley Lake Dam project cannot go forward without the access issue settled. He felt the Town Attorney should get involved, begin the Eminent Domain process if need be and get this done.

Supervisor Kelly announced that the Interact Club was holding a pancake breakfast on Sunday at Lakeside Park and the Hazardous Waste Removal Day is May 5<sup>th</sup>.

Supervisor Kelly opened the meeting for public comment.

**PUBLIC COMMENT**

Mr. Bill Crane from Gardener Hollow Road said from over the hill where he lives he constantly hears the gun shots from the Pawling Mountain Club. It is not only annoying but it bothers him greatly that killing is going on and birds are dying. He has driven by and has seen on one Saturday evening 40 to 50 large garbage bags filled with dead birds. The birds are stored in boxes and when they are released, they are confused and very easy to kill. Some escape and they come over to his neighborhood and they are bewildered and most die. These birds like humans are capable of socialized families and they have individual personalities. Like all of us humans, these birds are human beings. He understood that the hunting club extends favors to the Town but he did not believe that any town should sacrifice its soul for any favors. He urged the Town to shut down this horrible place. It is a nightmare, it is a killing field.

Stephen Sollazzo said the Pawling Little League Board of Directors wants to thank the Town for the scoreboard and Mr. DeMarco for all of his help. Regarding Lakeside Park and the discussions about it last week, he felt the majority of it was that the Skate Park is really not used that much. If it was taken out and made into a field which would open up onto the great lawn, it would be great for Lacrosse and Soccer and the Town would be giving something back to the stakeholders, who are the children. He felt this would be good for the Recreation Department and Maintenance Department and he hoped the Board would consider it. Also, his belief was that The Inn should be restored to its former glory. He felt The Inn could be restored and could be a selling point for whatever is done at Lakeside Park.

The motion to adjourn was made by Supervisor Kelly at 8:10 PM, seconded by Councilman Johnson, motion passed unanimously.

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Town Clerk