

Supervisor James Schmitt opened the Regular Meeting of the Town Board of the Town of Pawling at 7:00 PM October 10, 2018 at Pawling Town Hall, 160 Charles Colman Blvd., Pawling, New York. Present were Councilmen Johnson, McCarthy, DeRosa, Kelly and approximately 45 interested citizens.

### **2019 COMMUNITY DEVELOPMENT BLOCK GRANT PUBLIC HEARING**

Supervisor Schmitt made a motion to open the public hearing on the 2019 CDBG Program, seconded by Councilman Johnson, motion passed unanimously.

Councilman Johnson said the proposed project is a continuation of last year's program, which was sidewalks to Murrow Park and bathrooms.

There were no comments from the audience.

Councilman Kelly made a motion to close the public hearing, seconded by Councilman Johnson, motion passed unanimously.

### **PRESENTATION/TEMPORARY EVENT LAW/LIZ AXELSON**

Ms. Liz Axelson, Planner from Morris Associates said she has been working on the proposed Temporary Event Law. The Board received the proposed Temporary Event Law with her revisions, along with her comments and questions in July. She reviewed the proposed law in detail with the Board. Following lengthy discussion, the Board agreed that the law was very involved and they wished to see similar laws from other towns so that they could review, compare and discuss at a future time.

Ms. Axelson agreed, saying she would send the Board ordinances from Hyde Park and the Town of Clinton for their review.

### **CONSENT AGENDA**

#### **Resolution 2018102 Payment of Bills for the Town of Pawling**

Whereas, the Town of Pawling Bookkeeper has reviewed and prepared the vouchers 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 20182249 through 20182399, now therefore, be it

Resolved, that the Pawling Town Board hereby accepts the vouchers as prepared and on the recommendation of the Bookkeeper and hereby authorizes payment of said vouchers for the Town of Pawling on this date in the amount of \$2,707,137.45 which includes the BAN payment for the Whaley Lake Dam in the amount of \$1,973,723.92.

#### **Resolution 2018103 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 \$14,015.35 for the period of July 1, 2018 through September 30, 2018 by the Water District Clerk, now therefore, be it

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

**Resolution 2018104**  
**Facility Use Requests - Waiver / Fees**

Whereas, the Town of Pawling operates facilities that from time to time will be used by the public for events other than the Town’s own usage, and

Whereas, the Director of Recreation will periodically receive requests to waive the fees, and

Whereas, the Town Board sets the fees for the use of facilities, now, therefore, be it

Resolved, that the following fee waiver(s) have been authorized by the Town Board:

Friends of Colleen Snow	Holmes Whaley Lake	October 21, 2018
Drew Montgomery	Civic Association	3:00pm to 6:30pm

**Resolution 2018105**  
**Authorizing the Settlement of the Tax Certiorari**  
**Proceeding Regarding 12 Point Realty, LLC**

Whereas, there is now pending in the Dutchess County Supreme Court a tax certiorari proceeding commenced in 2017 and 2018 by 12 Point Realty, LLC regarding real property located at 66 Burgess Road, Grid # 7156-00-630434, seeking a reduction in the 2017 and 2018 tax assessments for those respective tax rolls, and

Whereas, the Town Assessor and Special Counsel have recommended a settlement of this tax review proceedings, now, therefore, be it

Resolved, that the Town Board of the Town of Pawling hereby approves a settlement on behalf of the Town of Pawling of the tax review proceedings for the years 2017 and 2018 as it pertains to:

Grid # 7156-00-630434

<u>Year</u>	<u>Original Total Assessment</u>	<u>Revised Total Assessment</u>	<u>Reduction</u>
2017	\$988,000.00	\$925,000.00	\$63,000.00
2018	\$988,000.00	\$988,000.00	\$0

And be it further

Resolved, that the Town Supervisor, Town Assessor, and Scott L. Volkman, Esq., Special Counsel to the Town of Pawling, are hereby authorized to take all action necessary and appropriate to effectuate the terms of this Resolution.

**Resolution 2018106**  
**Posted Speed Limits - Town of Pawling**

Whereas, the Town of Pawling has received many complaints concerning the speed of travel on many of the roadways within the Town on both Town and County roadways, and

Whereas, the Town Board has discussed and researched the method and procedure for having all of the roadways reviewed for potential speed evaluation, and

Whereas, Dutchess County Department of Public Works (County) along with New York State Department of Transportation (State) will review and make suggested corrections to each roadway within the Town of Pawling upon passage of a resolution by the Town Board, and

Whereas, a non-scientific review of the roadway was conducted by certain board members and the Highway Superintendent to help advise the Town Board on making a recommendation to the County & State for a proper and scientific review of the speed limits of each road within the Town, now, therefore, be it

Resolved, that the Town Board hereby requests the Dutchess County Department of Public Works and New York State Department of Transportation to conduct a proper investigation & review using the attached document and to make any and all suggestions to the appropriate posted speed limits for each roadway (both Town & County) within the Town of Pawling borders.

**Resolution 2018107**  
**Settlement Agreement with International Brotherhood of Teamsters Local 456**

Whereas, the Pawling Town Board has determined that it is in the best interests of the Town of Pawling to enter into a Settlement Agreement with Local 456, International Brotherhood of Teamsters (Local 456), and

Whereas, the Town of Pawling and Local 456 wish to enter into a Settlement Agreement consistent with the terms set forth in the Settlement Agreement annexed hereto; and

Whereas, the Settlement Agreement shall provide that the job duties of the Working Foreman are established by Dutchess County Civil Service and Local 456 shall not challenge those duties, and

Whereas, the Highway Superintendent may perform duties within the Town Highway Department yard provided all Local 456 members are present at work, and

Whereas, the Highway Superintendent may perform necessary duties for the operation of the Highway Department provided it does not result in loss of work or benefits, therefore, be it

Resolved, that the Town Board of the Town of Pawling hereby authorizes and approves the Settlement Agreement between the Town of Pawling and Local 456 on the terms set forth in the Agreement annexed hereto and in a form deemed satisfactory to the Town Supervisor and the Town Attorney, and

Be it further Resolved, that the Town Board of the Town of Pawling hereby authorizes and directs the Supervisor to execute any and all documents necessary to give effect to this Resolution.

**Resolution 2018108**  
**Performance Bond Approval – Green Mountain Lumber**

Whereas, Green Mountain Lumber has submitted an application for an Environmental permit regarding timber harvesting at the Heller property on South White Rock Road, Grid #6856-00-424122, and

Whereas, on December 4, 2017, the Planning Board conditionally approved the Environmental Permit subject to the posting of a performance bond in the amount of Five Thousand (\$5,000 Dollars) in a form approved and accepted by the Town Board; and

Whereas, due to the applicant’s failure to comply with the condition, the Code Enforcement Officer issued as stop work order; and

Whereas, Green Mountain Lumber has now submitted the required Performance Bond in the amount of \$5,000 for the Town Board’s approval and acceptance; Now, therefore, be it

Resolved, that the Town Board hereby approves the performance bond of \$5,000 submitted by Green Mountain Lumber for work at the Heller property Grid # 6856-00-424122.

**MOTION:** Councilman Kelly  
**SECOND:** Councilman Johnson

Councilman Johnson – “AYE”                      Councilman DeRosa – “AYE”  
Councilman McCarthy – “AYE”                  Councilman Kelly – “AYE”  
Supervisor Schmitt – “AYE”

**ROUTE 22 REZONE**

Councilman Johnson said Councilman Kelly and Supervisor Schmitt have recused themselves from this discussion. He met today with Mark Chipkin and had a lengthy discussion. He said he was asked about the fact that his son works for Supervisor Schmitt and asked if he should recuse himself because of this. He said his son is 31 years old, he is his own man, he does not influence any of Councilman Johnson’s decisions, he speaks for himself and he has no intentions of recusing himself. He went on to answer questions asked by Mr. Chipkin. The questions and answers are as follows:

1. You had mentioned that there were now three petitions to the Town Board requesting a change from our current residential zone to a commercial zone along Route 22. Would you be able to name those applicants?

The Maurice Henry Trust, Francis and Mary Schmitt and Allen Thompson.

2. Can you tell us what type of businesses each applicant is proposing?

There is no proposal, only petitions for rezoning.

3. In our review of Town Code 215-53(B), would we be correct in saying that only a public hearing was required in response to the petitions and that the taxpayers funding of a planner and review of all of Route 22 was not a required action by the Town Board?

It is not required by the Town Code section you cite, however, it is a responsible planning action and necessary to properly review the issues. The Town Board must do its due diligence in analyzing the petitions, and the assistance of a planner is essential.

4. Is it true that the Town Board could have just held a public hearing separately for each petition and then made decisions about each of the three petitions independently of each other?

Yes, but this would have created additional expense and a redundant review of identical issues.

5. Based on the quotes received, what are planner costs estimated to be so far? Are there any additional costs to the taxpayer besides the planner for this extensive research of Route 22?

There is no estimate of costs as yet.

6. Is the taxpayer required to fund the expenses that will be incurred for the Route 22 investigation? Does the Town Board have the right to task those who have filed a petition to contribute to the costs to fund the research needed to pursue their personal residential to commercial zone change requests?

The Town Board has no authority to have the analysis funded by the petitioners. As to the rest of this question, please see the answer to question no. 3.

7. Is the Town Board aware that some residents are very upset and would not have purchased a home in a residential area, if they knew the current Town Board members would consider changing the zoning of property near or on their borders to commercial?

All concerned parties will have an opportunity to have their opinions and concerns heard through the public hearing process.

8. Is it correct that the current properties on both sides of North Quaker Hill where it intersects Route 22 are zoned for residential and that these properties could be developed as residential homes without any claim of a hardship by the owner?

Please refer to the Town's zoning map for a precise answer to this question.

9. The Town Board has indicated its desire to go beyond the legal minimum requirements to communicate with our community. Would the Town Board consider an additional public hearing now, before the Route 22 Review Committee and planner begin their work, so that we can express our concerns to you?

Without input from a planner, such a hearing would be based upon speculation, without the benefit of a proper analysis, and would not be appropriate at this time.

10. Can you confirm that one of the planner's tasks will be to look at all the vacant and available commercial space on all of Route 22 before suggesting that any new commercial space is added by changing the zoning North of the Village?

Of course.

11. Can you explain what you are asking the planner to do regarding incorporating feeder roads into this project? Does this mean adding another road parallel to route 22 possibly in the residential area to connect the new commercial developments?

Your question is premature and speculative. We have only requested proposals from planners for the analysis.

12. You stated that, “There are members of our Town Planning and Zoning Boards that are members of organizations that have already expressed their negative feelings towards changes. I cannot allow them to be involved in any phase of the review.” Would you consider that the feelings of your own Board members are not “Negative” but demonstrate a “Positive” and thoughtful concern for the people, environments, plants and animals of the Pawling Community?

My statement was meant to express that Board members have to be unbiased and be willing to consider all factors that have to be considered in this important decision and make decisions that are best for the Town as a whole, and not in their personal interests. Your question makes a very unfair presumption about my motivations.

13. Would you consider resurrecting the Town Conservation Advisory Board to avoid ending up with a Town Board biased towards development without environmental balance?

See the answer to question no. 12.

Councilman Johnson said Mr. Philip van Buren asked questions at the last meeting, which were of a legal nature. He would send Mr. van Buren Town Attorney Nancy Tagliaferro’s email address so that he could deal directly with her.

Councilman DeRosa presented a map showing Route 22 south, which he created in 2008. The map identifies parcels on Route 22 and whether or not they are built out. He explained the map to the Board and audience.

### **RFP FOR PLANNER**

Councilman Johnson said the Town put out the RFP for a Planner and one response was received from AKRF, which did not include a projected total number of hours or total cost and based on that, he made a motion to reject the proposal and to rebid the RFP for a Planner, to include the questions of total hours and total estimated cost for the potential Route 22 rezone, seconded by Councilman DeRosa and passed with the following roll call vote:

Councilman Johnson – “AYE”	Councilman DeRosa – “AYE”
Councilman McCarthy – “AYE”	Councilman Kelly – “RECUSED”
Supervisor Schmitt – “RECUSED”	

### **DISCUSSION ON LOCAL LAW ESTABLISHING CHAPTER 67 OF THE TOWN CODE OF THE TOWN OF PAWLING ENTITLED “APPLICATION PROCESSING RESTRICTIVE LAW”**

Councilman DeRosa said this proposed local law would prohibit applicants who have violations from going forward with different things like applications before the Planning and Zoning Boards and building permits. If the Board is in favor of this, he would like to schedule a public hearing.

Councilman DeRosa made a motion to schedule a public hearing on the proposed local law for the November workshop meeting, seconded by Councilman Johnson, motion passed unanimously.

### **KIRBY HILL FARM**

Supervisor Schmitt said this past weekend he and Councilman Johnson received phone calls that Kirby Hill Farm was indeed holding a wedding. Kirby Hill Farm has a Cease and Desist Order in place, which the Town is working on getting resolved but it is not resolved. He felt that the Code Enforcement Officer should handle this issue and take the proper steps.

The Board agreed.

## **TRANSFER STATION**

Councilman DeRosa said he spoke with Board members since the last meeting regarding the policy issues to be changed for the transfer station. He said some of the changes being considered are not accepting construction debris, only individual household debris, no landscaping debris including brush and no paint will be accepted. Only brush less than 4" wide by 10' long will be accepted. Transfer station permits will be available for use by individuals who reside in the Town of Pawling and no annual transfer station permit will be issued to an applicant in the name of a corporation, Limited Liability Company, d/b/a or other commercial or business entity. A vehicle registration is required to be submitted with an application reflecting an address within the Town of Pawling. The proposal also includes the transfer station to be open Mondays, Thursdays and Saturdays. There has been discussion on a process for exemptions to these rules, which would be considered by the Town Board. He suggested sending a mailing to the individuals who have obtained commercial permits in the past so that they would know about these changes ahead of time.

Following further discussion, Councilman DeRosa said he would continue to work on the transfer station and will discuss further at the workshop meeting.

## **WHALEY LAKE DAM**

Councilman Kelly said the project is moving along, and there is now water in the spillway, which is exciting. There is a proposed change order, change order #9, which is the extension of the length of the contract. The estimated cost is \$56,000.00, which he sent an email to the Board about. He had a lengthy conversation with Kevin Flood from Fuss & O'Neill today and they are in negotiations with Winn Construction regarding the contract extension but asked that the contract be extended in good faith by the Board.

Councilman Johnson asked if additional costs would be incurred from Fuss & O'Neill.

Councilman Kelly said yes, he believed so.

Councilman Johnson said he did not want to vote until he had an opportunity to speak with representatives of Winn Construction and Fuss & O'Neill.

Following further discussion, Councilman Kelly made a motion to authorize the Supervisor to enter into an agreement with Winn Construction for an extension on the contract and to continue to negotiate an acceptable amount, seconded by Councilman Johnson.

Councilman Johnson said he would not vote for anything that would increase costs.

Councilman Kelly introduced an amendment to extend the Fuss & O'Neill contract and Winn Construction contract without incurring any additional expense, seconded by Councilman Johnson, motion on the amendment passed unanimously.

The motion passed unanimously.

Vinny DiMarco said there is a proposal to change the material behind the buttress toe. They will need to use sand material for this sand filter. Mr. DiMarco felt that this change was recommended by the design engineer and there would be an additional cost. He felt this change should be considered by the Board.

Councilman Johnson did not feel that additional monies needed to be spent at this time.

Mr. DiMarco updated the Board on the project, saying this system is well designed and works well. He thanked the Board and everyone involved with the project. He suggested an open house soon so the public can see the progress of the project.

## **PUBLIC COMMENT**

Rick O'Rourke, attorney from the firm of Keane & Beane, PC, was present representing Castagna Realty/Jucca Company. He respectfully requested that the formation of Pawling Sewer District #3 be placed on the next agenda for action. He said the map, plan and report is over three years old, and was prepared by the Town Consulting Engineer. The Town Board adopted a Negative Declaration on August 5, 2009 and they are in full SEQRA compliance. This has been reviewed, the report is done, and the pipes are in. The pipes not only service the Castagna parcel

but also an additional pipe has been placed for whatever the Town wants. He needs to get this done. He was hoping it could be on the November work session 11/7/18 and the Town Board meeting on 11/14/18. If the Board has any questions or needs any information, they should feel free to call him.

Mark Chipkin from 60 Hurds Corner Road, thanked the Board for all they do. He met with Councilman Johnson today and explained that the questions he has asked are not only from him but also from many community members. He said they are watching the Route 22 rezoning project closely, the more eyes on the project, the better. He expressed concern about the aquifer, water quality and the water quality in the area. He is concerned about the uglification of Route 22. He asked the Board and the three applicants to consider postponing the Route 22 rezoning project until the Castagna project is proven successful.

Peter Cris, President of the Chamber of Commerce, said he hoped the Board could support Mr. O'Rourke's proposal. He said some years ago, he worked with Councilman Kelly to create a map of Route 22 south, showing all of the commercial parcels, identifying the lots and zones, which parcels were built out and which were not, and it included many other items which would allow one to see what commercial parcels were available at a glance. He felt a map of this nature would be helpful to everyone as a shortcut for businesses wanting to come into town.

Lori Johnson invited everyone to attend the Rotary Fall Festival on this Saturday from 11:00 AM to 3:00 PM. This event is free to the public.

Janet Couch from 111 Lakeside Drive asked the status of the new cell tower.

Councilman DeRosa said the new cell tower is under construction.

Mr. Roy Carter from 17 Hurds Corner Road commended Councilman DeRosa on his site plan of Route 22. He was a planner by trade and felt that Route 22 south was a wonderful area for commercial development. He offered to help in any way he could.

Supervisor Schmitt made a motion to adjourn at 8:55 PM, seconded by Councilman Johnson, motion passed unanimously.

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Town Clerk

Road/Street Name	Start of Section	End Of Section	Length	Requested Miles Per Hour
AKINDALE RD	NY 22	CR 67	1.47	35
ALANA LA	CR 30	CUL DE SAC	0.22	35
ANDERSON DR	CUNNINGHAM DR	CUL DE SAC	0.09	25
ANDERSON RD	CR 66	FINLAND RD	0.12	20
BANKS HILL RD	CR 69	S HARMONY HILL	0.4	30
BIRCH HILL RD	CR 66	N BIRCH HILL RD	0.52	30
BLUE BIRD INN RD	HURDS COR RD	DEAD END	0.13	25
BRADYY LA	GAME FARM RD	DEAD END	0.22	25
BUNDY HILL RD	NY 292	S HARMONY HILL	2.02	30
BURGESS RD	CR 66	DEAD ENDS	0.29	30
BYRDS HILL RD	CR 66	DOVER LINE	0.51	25
CHURCH RD	CR 67	CR 66	0.48	25
COX RD	AKINDALE RD	END LOOP	0.63	25
CUNNINGHAM LA	HARMONY HILL	CUL DE SAC	0.35	25
CUSHMAN RD	CR 69	PATTERSON LINE	1.53	30
DALEY RD	PEAR TREE RD	DEAD END	0.08	30
DENTON LAKE RD	PUTNAM CO/L	CR 30	0.81	30
DEWEY LA	RESERVOIR RD	CR 68	0.79	30
DI PIETRO LA	NY 55	CUL DE SAC	0.31	30
DODGE RD	CR 20	OLD NY 55	1.57	30
FENWOOD DR	NY 22	FENWOOD DR	1.03	30
FINLAND RD	ANDERSON RD	DEAD END	0.13	20
GAME FARM RD	CR 6	MEETING HOUSE RD	1.28	30
GLEN ARDEN LA	QUAKER HILL RD	DEAD END	0.28	30
GLEN CT	CR 20	CUL DE SAC	0.04	30
GRAPE HOLLOW RD	NY 292	BEEKMAN LINE	0.21	30
GREAT BEAR RD	SOUTH WHITE ROCK	CUL DE SAC	0.27	30
HARMONY HILL RD	OLD NY 55	NY 55	1.24	30

HIGHLANDS DR	NY 55	HIGHLANDS DR	1.18	30
HOLIDAY ST	CR 20	DEAD ENDS	0.11	30
HOLM RUN	EAST MAIN ST	DEAD END	0.14	20
HURDS CORNER RD	CR 68	NY 22	1.55	40
JANSEN RD	CR 30	EAST FISHKILL	0.34	30
KINGS WAY	DODGE RD	W. DOVER ROAD	0.54	15
KITCHEN CNRS RD	NY 22	DOVER LINE	0.21	30
LITTLE POND RD	NY 55	DEAD ENDS	0.82	25
MALLOW CT	RIVER RD	CUL DE SAC	0.11	30
Maria Drive			?	30
MCKENNA RD	OLD RT 55	OLD RT 55	0.18	30
MEETING HOUSE R	CR 66	CT BORDER	1.14	30
MILLSTREAM CT	HARMONY HILL	CUL DE SAC	0.23	25
MOUNT TOM RD	HARMONYHILL RD	CUL DE SAC	0.43	25
Mountain View Dr.			?	30
N WHITE ROCK RD	NY 292	BEEKMAN LINE	0.41	30
NOEL CT	SAGE RD	CUL DE SAC	0.09	30
OLD PAWLING RD	NY 22	DOVER T/L	0.31	30
OLD PENNY RD	PENNY RD	DEAD ENDS	0.21	25
OLD ROUTE 55	NY 292	BEEKMAN LINE	0.28	35
OLD ROUTE 55	ROUTE 55	V / PAWLING LINE	0.49	40
OLD RTE 22	NY 22	NY 22	0.5	30
OLD RTE 55	W DEAD END	E DEAD END	0.18	40
OVERLOOK DR	NY 55	HARMONY HILL RD	0.7	30
PEAR TREE HILL RD	NY 292	SANITA RD	0.33	30
PECKS STORE RD	OLD RT 55	OLD RT 55	0.11	15
PENNY RD	OLD RT 55	DEAD END	1.14	20
PINE DR	PAWLING V/L	CUL DE SAC	0.09	20
POPPYS LANE	SANS SOUCI DR	DEAD END	0.07	20
PROSPECT ST	RESERVOIR RD	OLD RT 22	0.36	30

QUAKER LAKE RD	CR 68	DOVER LINE	2.14	30
RAVINE RD	AKINDALE RD	S QUAKER HILL R	0.77	30
REBECCA DR	CR 20	DODGE RD	0.26	30
RESERVOIR RD	VILLAGE LINE	CR 67	1.84	30
RIVER RD	NY 22	CR 20	0.8	30
S HARMONY HILL	NY 55	CR 69	0.9	30
S QUAKER HILL R	PATTERSON LINE	CT BORDER	2.88	30
S WHITE ROCK RD	CR 30	BEEKMAN LINE	1.65	30
SAGE RD	OLD RT 55	END	0.31	30
SANITA RD	NY 292	MOUNTAIN VIEW D	0.4	30
SANS SOUCI DR	CR 67	CR 67	1.29	30
SOUTH RD	NY 292	CR 30	1.82	30
STONEWALL DR	CR 30	CUL DE SAC	0.22	25
STRAWBERRY HILL RD	CR 68	CUL DE SAC	0.59	25
TOWER HILL RD	SO QUAKER H RD	PUTNAM CO/L	0.72	25
TRACY RD	CR 68	CR 67	1.86	25
Theresa Court			?	30
WEST WIND RD	FENWOOD DR	CUL DE SAC	0.46	25
WESTMOUNT AVE	PROSPECT	RESERVOIR	0.25	30
WILKENSON HOLLOW RD	OLD RT 55	DEAD ENDS	0.53	25
Unknown Road	Route 22	Putnam Co.Line	?	?
<b>Dutchess County</b>				
Dutcher Ave	NY 55	Pawling T/Line	0.12	30
Harmony Rd	Putnam County Line	Pawling T/ Line	2.49	35
Holmes Rd	Pawling T/Line	NY 292	1.91	40
Kirby Hill Rd	Ct. Line	CR 66	1.2	40
N Quaker Hill Rd	NY 22	Ct. Line	5	45
Old Quaker Hill Rd	South Quaker Hill Rd.	North Quaker Hill Rd.	4.71	45

Quaker Hill Rd.	Pawling V/ Line	CR 66 Old Quaker Hill Rd.	2.69	45
W. Dover Rd.	Lakeside Dr.	Dover T/ Line	2.68	45

STATE OF NEW YORK  
PUBLIC EMPLOYMENT RELATIONS BOARD

-----X  
LOCAL 456, I.B.T.,

Charging Party,

CASE NO. U-36337

- against -

TOWN OF PAWLING,

Respondent.  
-----X

**SETTLEMENT AGREEMENT**

In settlement of the above captioned matter, the Town of Pawling, (the "Town"), and Local 456, International Brotherhood of Teamsters, ("Local 456") collectively known as the "Parties"), hereby agree as follows:

1. The job duties and work for the job title of Working Foreman are established by the Dutchess County Civil Service Agency and Local 456 shall not challenge the performance of such duties and work by the employee in the title, Working Foreman.
2. Provided all bargaining unit members who are present at work (i.e., not out on sick, vacation and/or personal time), are working, the Highway Superintendent may perform duties within the Town's Highway Department yard.
3. In the event of an emergency, and provided there is no loss of benefits to a bargaining unit member (i.e. overtime, call-in pay), the Highway Superintendent may perform such duties as necessary for the operations of the Highway Department. The Parties agree that the Highway Superintendent's performance of such work does not constitute a past practice of contracting out the unit work of Local 456.
4. This Agreement is subject to the approval of the Town Board.
5. Local 456 shall withdraw improper practice charge number U-36337 with prejudice and notify PERB upon the full execution of this Settlement Agreement and approval of the Town Board.

TOWN OF PAWLING:

LOCAL 456, I.B.T.:

\_\_\_\_\_  
James Schmitt  
Town Supervisor

\_\_\_\_\_  
Louis A. Picani  
President/Principal Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

TOWN OF PAWLING HIGHWAY

\_\_\_\_\_  
Jay Dickinson  
Highway Superintendent

Date: \_\_\_\_\_

**A Local Law Establishing Chapter 67 of the  
Town Code of The Town of Pawling Entitled  
“Application Processing Restrictive Law”**

**BE IT ENACTED** by the Town Board of the Town of Pawling, County of Dutchess, as follows:

Section 1: A new Chapter 67 shall be added to the Pawling Town Code regarding the prohibition of processing of applications related to properties upon which a violation exists, or upon which there are unpaid fees, as follows:

§ 67-1. Purpose.

The purpose of this chapter is to prohibit the processing and approval of any and all applications by any board or official of the Town of Pawling for any property owner who has outstanding fees under the Standard Schedule of Fees of the Town of Pawling or where outstanding violations of any local laws or ordinances of the Town of Pawling exist on the property for which the approval is being requested.

§ 67-2. Short title.

This chapter shall be known as "Application Processing Restrictive Law of the Town of Pawling."

§ 67-3. Applicability.

This chapter shall apply to the provisions of all the local laws and ordinances adopted by the Town of Pawling for any and all applications submitted on or after the effective date of this chapter.

§ 67-4. Submission of proof; processing and approval.

A. Simultaneously with the filing of an application to any board or official of the Town of Pawling, including but not limited to those listed below, an applicant must submit proof, using the affidavit attached hereto, that no fees are due under the Standard Schedule of Fees of the Town of Pawling and that no outstanding violations of any local law or ordinance of the Town of Pawling exist on the property:

- (1) Applications to the Town Board for:
  - (a) Petitions to amend the Zoning Ordinance.
  - (b) Special permits.
  - (c) Planned unit developments.
  
- (2) Applications to the Planning Board for:
  - (a) Subdivision approvals.
  - (b) Site plan approvals.
  - (c) Conditional/Special use permits.
  - (d) Boundary adjustments.
  - (e) Signage approvals.
  - (f) Environmental Permits
  
- (3) Applications to the Board of Appeals for:
  - (a) Variances.
  - (b) Appeals/Interpretations.
  
- (4) Applications to the Building Inspector for:
  - (a) Building permits.
  - (b) Extension of expired building permits.
  - (c) Certificates of occupancy.

- (d) Flood damage prevention permits.
- (e) Environmental permits.
- (f) Blasting permits.

- B. The processing and approval of any and all applications for approval and issuance of any permit or certificate of occupancy or use by any board or official of the Town of Pawling for any property owner who has fees outstanding under the Standard Schedule of Fees of the Town of Pawling or outstanding violations of any local laws or ordinances of the Town of Pawling on the property for which the approval is being requested is hereby prohibited.
- C. In the event that an application is in process before any of the boards or officials as listed above and a violation of this chapter occurs, processing of the application shall cease upon presentation of proof of the violation by the Zoning Enforcement Officer of the Town of Pawling. Once the applicant submits proof that the violation of this chapter has been corrected, the application process shall be allowed to continue.
- D. For purposes of this chapter only, a violation of any local law or ordinance of the Town of Pawling shall be deemed to have occurred when one of the following events occurs: (1) When a property owner has exhausted his or her administrative remedies to cure a specific violation or has waived his or her right to do so; (2) When a property owner has failed to seek a variance or appeal within 30 days after the issuance of an order to remedy violation; or (3) Upon the issuance of a criminal summons by the Code Enforcement Officer.

§ 67-5. Waivers.

The Town Board, when appropriate, may, upon submission of a written request by a property owner, temporarily waive specific provisions of this chapter where necessary to prevent undue hardship or an inequitable result.

Section 2. Severability.

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstance, and the Town Board of the Town of Pawling hereby declares that it would have passed this local law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 3: Effective Date.

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.