

Supervisor James Schmitt opened the Workshop meeting of the Town Board of the Town of Pawling at 7:00 PM June 5, 2019 at Pawling Town Hall, 160 Charles Colman Blvd., Pawling, New York. Present were Councilmen McCarthy, DeRosa, McGrath, Johnson and approximately 15 interested citizens.

RESOLUTIONS

The Board discussed the proposed resolutions. Following discussion, it was agreed that the resolutions would be placed on the June 12, 2019 Town Board meeting agenda.

The Board took the following action:

Resolution 2019079 Adoption –Procurement Policy

Whereas, Section 104-b of the General Municipal Law (GML) requires every Town to adopt internal policies and procedures governing all procurement of good and services not subject to the bidding requirements of GML 103 or any other law, and

Whereas, comments have been solicited from those officers of the Town involved in Procurement,

Now, Therefore, Be It Resolved, that the Town of Pawling does hereby adopt the 2019 Procurement and Surplus Policy attached hereto.

MOTION: Councilman Johnson

SECOND: Supervisor Schmitt

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilman McGrath “AYE”

Supervisor Schmitt – “AYE”

BOARD MEMBER DISCUSSION

BUILDING INSPECTOR/ZONING ADMINISTRATOR/PLANNER

Supervisor Schmitt said the Town has been without a building inspector for at least a month and this situation has become one of urgency. He has contacted Dutchess County and received their list of building inspector candidates and interviewed several people for the position. He has not found a candidate he felt strongly about. The candidates that he did like came back with very aggressive salary requests. He has reached out to Putnam County to see how many people are on their building inspector list so that he might possibly schedule interviews. Councilman DeRosa has been very involved in this process. He would like input from the Board on this.

Councilman DeRosa said five applicants were interviewed. He felt hiring someone with no experience would be overwhelming. The Town has to answer to Dutchess County as to why they don't want to hire anyone who was on their list of candidates. He suggested hiring a zoning administrator and planner, or a part time building inspector, while looking for a full time building inspector.

Following discussion, the Board agreed that additional information would be gathered and they would enter executive session at the next meeting to discuss this matter.

PARK ENTRANCE

Councilman Johnson said now that Lakeside Park is being used more than it has been in recent years, the entrance intersection is dangerous. Originally there was a plan to put an access road off of Dodge Road but it probably couldn't be done expeditiously. In speaking with Councilman McCarthy, he suggested making the entrance one way and the exit onto Lakeside Drive, across from Grandview Ave.

Following discussion, it was agreed that Wendel Weber, Supervisor of Buildings & Grounds would do research on what would be needed for the proposal of one entrance and exit onto Lakeside Drive and it would be discussed at the next meeting and the Board would continue to explore other options.

WHALEY LAKE DAM SECURITY

Councilman Johnson said Mark Benko, resident of Whaley Lake, has been kind enough to alert him when people are accessing the dam. There have been many occasions of individuals accessing the dam, in one instance at 4:00 AM. He felt there needed to be signage saying, "access absolutely prohibited and violators will be prosecuted".

Councilman DeRosa said last week, the gate to the entrance road was open and no one knows why or who opened it.

Councilman Johnson felt the authorities, sheriff's office, NYS Troopers, and Town Constables would have to be alerted to monitor the dam, and that they be given a key to the gate.

Following discussion, it was agreed that signs would be designed and installed at the dam and the site would be more closely monitored. Also, deed restrictions on the dam property were discussed in order to protect the property for dam rehabilitation, repairs, service and maintenance. These restrictions would be discussed further at a future meeting.

DONATION OF VEHICLE TO CONSTABLES

Councilman Johnson said Ingersoll Automotive has generously donated a 2012 Chevrolet Equinox AWD SUV to be assigned to the Town Constables as a patrol vehicle, which included all future oil changes.

Councilman Johnson made a motion to accept the donation from Ingersoll Automotive of a 2012 Chevrolet Equinox for the sole purpose of being used as a patrol vehicle for the Constable Department, seconded by Supervisor Schmitt, motion passed unanimously.

Chief Constable Mike Kelly said Constable Joe Olenik will look into a light bar and emblem for the new vehicle.

COMMUNITY CLEANUP

Councilman McGrath said JoAnne Daley has organized a community cleanup day to clean the stream behind St. John's church. The event will take place this Saturday from 9:00 AM – 12:00 PM. This is an educational event for the MS4 program. He said the cub scouts would be there and they also helped refurbish an old cemetery off of Dodge Road.

PUBLIC COMMENT

Vinny DiMarco suggested another open house at the Whaley Lake Dam so that people could see it completed and maybe it would satisfy their curiosity. He felt a police presence at the dam is very important and would help deter people from going down to the dam and spillway.

Regarding the need for a building inspector, he suggested the town engineer could help the town if needed.

Mark Benko, resident of Whaley Lake said regarding the level of the lake, the lake level historically varied considerably based on the amount of debris that was in the spillway. He lives next to the spillway and his kids used to clear the spillway when it got too high and he could monitor the lake level because it is right in front of his house. When they undertook the work, he was there when they shot the grade for the new spillway, they took it off of the old spillway, and it was actually surveyed. People asked what that level was going to be so they could design improvements based on that design criteria. Now he is hearing discussion about raising the level of the lake, which he felt would be an enormous mistake. This work was done properly and if the lake is raised, it would impact the people who have done improvements. He also wanted to address the weed issue, which has become significantly worse now that there is a barrier in front of the dam. He felt there should be something from keeping people from going over the spillway, but that could be done with some type of barrier on the spillway itself or some type of pylons which wouldn't be a barrier to things that are flowing through and would normally pass.

Councilman DeRosa felt the Board should address the barrier along the spillway, and change it to allow debris to flow through. Regarding the lake level, the Board has agreed that they would see what the lake level is in the fall and address it at that time.

Bob Reilly, resident of 10 Hurds Corner Road, said he understood that the town received \$700,000.00 for work on Hurds Corner Road and many people are asking when the shovels will be going in the ground.

Supervisor Schmitt said not yet. He is working on it but the grant process is a long, drawn out one and administratively heavy. So he is not sure when the work will begin.

Mr. Reilly asked the Board to raise the netting at the golf course so the golf balls don't hit people at the Kane House.

The motion to adjourn was made by Councilman Johnson at 7:50 PM, seconded by Councilman DeRosa, motion passed unanimously.

Town Clerk

**TOWN OF PAWLING, NEW YORK 2019
PROCUREMENT AND SURPLUS POLICY**

SUBJECT TO OPEN COMPETITIVE BIDDING

Purchases over \$20,000 (Aggregated Annually)
Public Work Contracts over \$35,000

1. Pursuant to New York State General Municipal Law Section 103 (GML 103) all contracts for public work involving an expenditure of more than thirty-five thousand dollars (\$35,000) and all purchase contracts involving an expenditure of more than twenty thousand dollars (\$20,000), shall be awarded through an open competitive bid process by the Town Board to the lowest responsible bidder furnishing the required security after advertisement for sealed bids. Purchases of commodities, services or technology shall not be artificially divided for the purpose of avoiding competitive bidding procedures.

2. Open competitive bidding shall be achieved by publishing advertisements in the Town's official newspaper and on the Town's website. Such advertisement shall contain a statement of the time and place where all bids received pursuant to such notice will be publically opened and read and where the identity of all offerors will be publically disclosed. Whenever a contract is awarded to someone other than the lowest responsible offer, documentation and an explanation are required. This documentation will include an explanation of how the award will receive savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

3. Exceptions to GML 103:
 - a. *Best Value Law (Subdivision 1 – GML 103)*. Best value is defined for this purpose as a basis for awarding contracts to the offeror which optimizes quality, cost and efficiency, among responsive and responsible offerors. To use this exception to GML 103 two requirements must be met:
 - i. The offeror is responsive and responsible.
 - ii. The best value determination must be made on objective and quantifiable standards that the offer optimizes quality, cost and efficiency. Written justification is required if an award is made based on best value instead of the lowest responsible bidder.

 - b. *Emergency Situations*. In the case of a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of the Town, require immediate action which cannot await competitive bidding or competitive offering, contracts for public work or the purchase of supplies, material or equipment may be let with Town Supervisor approval. When at all possible, quotations shall be obtained for the emergency services.

 - c. *Surplus and Second-hand Items*. Surplus and second-hand supplies, material or equipment may be purchased from the federal government, the state of New York or from any other political subdivision, district or public benefit corporation without competitive bidding or competitive offering.

d. *Piggybacking Law (Subdivision 16 – GML 103)*. This addition authorizes the purchase of apparatus, materials, equipment and supplies, and related installation, repair and maintenance of those items through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision or district there in given the contract was made available for use by other governmental entities. To use this exception to GML 103 three prerequisites must be met:

- i. The contract must have been let by the United States or any agency thereof, any state or any other political subdivision or district therein.
- ii. The contract must have been made available for use by other governmental entities.
- iii. The contract must have been let to the lowest responsible bidder or the basis of best value in a manner consistent with this section.

e. *State Contracts*. Service contracts entered into through the New York State Office of General Services. In these instances, the State has already investigated and secured the lowest possible price for the municipality.

f. *Professional Services*. Pursuant to General Municipal Law §104-b(2)(f), the procurement policy may contain circumstances when, or types of procurement for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality. In the following circumstances it may not be in the best interests of the Town of Pawling to solicit quotations or document the basis for not accepting the lowest bid:

- i. Professional services or services requiring special or technical skill, training or expertise. The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures. In determining whether a service fits into this category, the Town Board shall take into consideration the following guidelines: (a) whether the services are subject to State licensing or testing requirements; (b) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and (c) whether the services require a personal relationship between the individual and municipal officials. Professional or technical services shall include, but not be limited to, the following: services of an attorney; services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of municipality owned property; and computer software or programming services for customized programs, or services involved in substantial modifications and customizing of pre-packaged software.

- g. *Sole Source*. When the subject of a contract is controlled by a sole source so that there is no possibility of competition, and the purposes of competitive bidding would not be furthered by inviting bids, competitive bidding is not required. This exception is only applicable in limited circumstances when, in the public interest, particular goods or services are required that uniquely serve the public interest for which there is no substantial equivalent and that are, in fact, available from only one source. The mere likelihood that only one firm will bid, however, is insufficient to justify sole source procurement. Further, the Town may not artificially create a sole

source situation such as by, without proper justification, tailor bid specifications to limit competition to only one bidder or brand.

NOT SUBJECT TO OPEN COMPETITIVE BIDDING

Purchases under \$20,000
Public Work Contracts under \$35,000

1. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

<u>Estimated Amount of Purchase Contract</u>	<u>Method*</u>
\$500.00 - \$4,999.99	Verbal Quotations Written Quotations or Written Request for Proposals
\$5,000.00 - \$19,999.99	Written Quotations or Written Request for Proposals
<u>Estimated Amount of Public Work Contract</u>	<u>Method</u>
\$500.00 - \$4,999.99	Verbal Quotations Written Quotations or Written Request for Proposals
\$5,000.00 - \$34,999.99	Written Quotations or Written Request for Proposals

*Written includes physical paper, faxed or emailed quotes.

A good faith effort shall be made to obtain three (3) proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

Documentation and an explanation are required whenever a contract is awarded to other than the lowest responsible offer. This documentation will include an explanation of how the award will receive savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

Documentation is required for each action taken in connection with the procurement.

2. Energy Performance Contracts (EPC) – The TOWN shall follow all the same evaluation procedures for an energy performance contract that it would for professional services. In addition to those procedures the savings or revenue projections should be evaluated in detail by the TOWN’s fiscal officer (Town Supervisor or Town Comptroller). Once an EPC firm is selected, the EPC shall be evaluated by an independent attorney working on the TOWN’s behalf; this may be internal or external Counsel.

3. Exceptions to TOWN Procurement Method:

a. *Subject to Open Competitive Bidding.* All the same exceptions exist for purchases not subject to open competitive bidding as exist for purchases subject to open competitive bidding.

b. *Large Vehicle and Truck Repairs.* Large vehicle and truck repairs shall be exempt from the requirement to obtain three (3) proposals or quotations. However, a good faith effort shall be made to obtain at least two

(2) proposals or quotations where feasible, taking into consideration the size of the vehicle, the difficulty (if applicable) in transporting the vehicle to obtain a proposal or quotation and the number of service providers within the Town of Pawling and/or Dutchess County.

c. *Goods or Services under \$500.00.* The time and documentation required to purchase through this policy may be more costly than the item itself and would therefore not be in the best interests of the taxpayer. In addition, it is not likely that such diminished contracts would be awarded based on favoritism.

d. *Purchase of Surplus and Second-Hand Goods.* Purchases of surplus and second hand goods may be made after a thorough analysis has been done that the second hand product will serve the Town's needs as well as a comparable new product and after an analysis of that product in the market place to ensure the TOWN is receiving the best value possible.

OTHER:

1. This policy shall conform to all current and future laws enacted by New York State in relation to the procurement of goods and services.
2. This policy shall go into effect immediately upon adoption and shall be reviewed annually.

DISPOSAL OF SURPLUS PERSONAL PROPERTY

Purpose: To ensure the highest financial benefit to the Town when disposing of surplus personal property. Personal property is defined as all property other than real estate.

Policy: When an item is identified as surplus, it is no longer in use in the originating department and cannot be used elsewhere in the Town. A Town department head shall designate the item as surplus and then, in conjunction with the Town's Finance Department, shall determine the most effective means of disposal. This surplus determination and disposal decision shall be subject to Board approval for all items expected to bring at least \$1,000 upon disposal. Items considered scrap are not subject to this policy.

Options for disposal:

- **Auction:** All surplus personal property will be sold by auction unless another method has been determined to have more financial benefit. It is noted that due to auction fees and the nature of certain surplus personal property public auction is not always the best method of disposal.
- **Sale by Broker:** At certain times, surplus personal property is specialized or not in demand all year round and therefore a broker may be used to obtain the highest financial benefit.
- **Trade-in:** If a Town asset is being replaced by a new version of that asset, the department head may determine that it is more beneficial to trade the surplus personal property in on the new version.
- **Internal Sale:** With consideration of auction fees and staff time used to set up external auctions, surplus personal property that is not expected to bring at least \$500 at auction may be auctioned internally if it appears that there may be interest by TOWN employees. All Town employees shall have equal opportunity to bid on the items.

PURCHASING POLICY –QUICK REFERENCE SHEET

PLEASE NOTE: THIS IS A SUMMARY AND IS NOT A COMPLETE

LIST OF PURCHASING POLICIES

COMMODITIES AND SERVICES:

Under \$500:	You do not need quotes. You can purchase items under \$500 with pre-approval of the Director of Purchasing and the Department Head.
Over \$500-\$5,000:	You need a verbal or written quotes or proposals, try to get at least 3.
\$5,000-\$19,999:	At least Three (3) Formal Written Quotes/Proposals
\$20,000 and up:	Competitive Bidding Procedure

PUBLIC WORKS CONTRACTS:

Under \$5,000:	Verbal or written quotes/bids (Try to get at least 3)
\$5,000-\$34,999.99:	Three (3) Formal Written Quotes
\$35,000 and up:	Competitive Sealed Bid Process

Remember, only the Town Board or the Town Supervisor can commit the Town to a Purchase.

EXCEPTIONS:

- Certain professional services
- Services specified in grant awards
- Reimbursement of petty cash funds
- Utility bills
- Interdepartmental charges
- Legal notices
- Postage meter and stamp costs
- Items on state bid, Intermunicipal PiggyBack Contracts or OGS Contract