

Supervisor James Schmitt opened the Regular meeting of the Town Board of the Town of Pawling at 6:30 PM March 11, 2020 at Pawling Town Hall, 160 Charles Colman Blvd., Pawling, New York. Present were Councilmen Johnson, McCarthy, DeRosa, Councilwoman Snow and approximately 25 interested citizens.

EXECUTIVE SESSION

The motion to enter into Executive Session was made by Supervisor Schmitt at 6:35 PM, seconded by Councilman Johnson, motion passed unanimously.

The motion to return to the regular order of business was made by Supervisor Schmitt at 7:20 PM, seconded by Councilman Johnson, motion passed unanimously, with Supervisor Schmitt saying no action was taken in Executive Session.

WENDEL WEBER/SUPERVISOR OF BUILDINGS & GROUNDS

Mr. Weber said he wanted to talk about the 26 street lights the town has. NYSEG has sent a proposal to the town to change all of the bulbs to LED bulbs. There would be a cost savings of \$2,347.00 per year. The cost is approximately \$5,400.00 per year so it would cut the cost in half. The cost to do this would be \$1,161.90. NYSEG would need a letter from the Town Supervisor saying they can move forward with this. He had a conference call with NY Power Authority because he is also wanting to do the parking lot lights at town hall, Lakeside Park, Murrow Park and the HWLCA building. He will keep the Board posted on this. There are a couple of people who wanted to donate some things, one is a Japanese maple tree and the other is a donation of cash for the counter tops in the kitchen remodel at the Lathrop building.

Councilman Johnson said the Board would need a letter stating what the donations were so the Board could accept them.

Mr. Weber said in the building next door, the flooring upstairs is finished, all lights have been changed except the bathrooms, and new fixtures have been installed in the bathrooms. They have begun the teen center project. They are doing painting, floors and windows. Mr. Weber said he is also working on the furnace at the Highway Department. He is getting prices on replacing the entire unit. He will get proposals to the Board and hopefully they can get this done over the summer. He also installed new soap dispensers in all bathrooms in all buildings.

Councilman DeRosa made a motion to authorize the Supervisor to send a letter to change over to LED lighting, seconded by Councilman Johnson, motion passed unanimously.

PUBLIC COMMENT/AGENDA ITEMS

Beth Coursen, said she was pleased with the Board's action to hire someone to take the place of an employee who will be out on maternity leave at the Recreation Department. She expressed concern that the Board did not have the same foresight in ensuring the town has an environmental director, a position she felt was critical for protecting environmental features. This position has been vacant for years. Environmental permits cannot be issued without an environmental director. She gave the Board an update on what happened in the past regarding environmental protection and urged the Board to hire a knowledgeable employee to act as an environmental director. She thanked the Board for their time.

Supervisor Schmitt said Walter Artus is the Town's environmental director and has been for over five years. Mr. Artus reviews and oversees all environmental permits that are issued. He would be happy to meet with Ms. Coursen and show her all of the permits Mr. Artus has been involved in.

Ms. Coursen said she would like to see where Mr. Artus was hired in writing by a Board action.

MINUTES

Councilman Johnson made a motion to accept the minutes of February 5, 2020, seconded by Councilwoman Snow, motion passed unanimously.

Supervisor Schmitt made a motion to accept the minutes of February 12, 2020, seconded by Councilman DeRosa and passed with the following roll call vote:

ROLL CALL VOTE:

Councilman Johnson – “ABSTAINED”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

“Councilwoman Snow – “AYE”

Supervisor Schmitt – “AYE”

CONSENT AGENDA

**Resolution 2020076
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 20191912 through 20192035, 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 \$1,771,681.70.

Resolution 2020080

**Approving Settlement of Tax Certiorari Proceeding
In the Matter of the Application of Jucca Company
v. The Town of Pawling Index No. 2019-52701**

WHEREAS, the Town of Pawling is currently a party respondent in a certain tax certiorari proceeding entitled JUCCA COMPANY V. TOWN OF PAWLING, ET AL, currently pending in the Supreme Court, State of New York, County of Dutchess, in which the total assessed valuation of premises shown on the Pawling Tax Map as grid number 7056-00-695137 as listed on the 2019 Assessment Rolls are being contested; and

WHEREAS, a proposed settlement of said matter has been negotiated by and among the Town Attorney and Counsel to Petitioner the terms of which are set forth in a proposed Consent Judgment, a full and complete copy of which is annexed hereto and hereby made a part hereof; and

WHEREAS, the Assessor of the Town of Pawling and the property owner have agreed to settle the proceeding by reducing the assessed valuation of the subject premises as follows:

<u>Assessment Roll</u>	<u>Original Assessment</u>	<u>Amount of Reduction</u>	<u>Final Assessed Value</u>
2019	\$731,400	167,900	563,500

and,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Pawling hereby approves and ratifies the settlement of the above described; and

BE IT FURTHER RESOLVED, that Jamie Spillane, Esq. of the Firm of Hogan & Rossi, the Pawling Town Attorney, or any other member of said Firm, is hereby authorized and directed to

sign, on behalf of the Town of Pawling, said Consent Judgment in the form annexed hereto or, if hereinafter modified or amended, in such form as may be deemed satisfactory to the Town Attorney.

MOTION: Councilman Johnson

SECOND: Supervisor Schmitt

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

“Councilwoman Snow – “AYE”

Supervisor Schmitt – “AYE”

Supervisor Schmitt made a motion to table Resolution 2020078, seconded by Councilman Johnson, motion passed unanimously.

NON CONSENT AGENDA

**Resolution 2020081
Escrow Release – Ing Chea-YenShing Ng**

Whereas, the Town of Pawling currently holds \$960.03 balance in escrow for Ing Chea-YenShing Ng, and,

Whereas, the Planning Board Secretary has confirmed in a letter dated March 4, 2020 that there are no outstanding bills and that there will be no future bills for review, and,

Whereas, the Planning Board has recommended to the Town Board that these funds be released, therefore, be it

Resolved, that the Town of Pawling hereby releases the \$960.03 balance in escrow and authorizes the Bookkeeper to release such funds.

MOTION: Councilman Johnson

SECOND: Supervisor Schmitt

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

“Councilwoman Snow – “AYE”

Supervisor Schmitt – “AYE”

**Resolution 2020082
Temporary Full Time Appointment – Lori Covell**

Whereas, the Recreation Director has requested additional full time assistance due to increased activity and staffing changes, and

Whereas, Lori Covell was recommended for a 6 month temporary full time appointment that will commence on April 1, 2020 and end on September 30, 2020, therefore, be it

Resolved, that the Pawling Town Board hereby approves the temporary full time appointment of Lori Covell in the Recreation Department from April 1, 2020 to September 30, 2020.

MOTION: Councilman Johnson

SECOND: Supervisor Schmitt

Councilman DeRosa asked if that is at the same rate as she was getting before.

Supervisor Schmitt said Ms. Covell is stepping in to take over for Robyn Priano who is out on maternity leave so she will be getting the salary Ms. Priano was getting.

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

“Councilwoman Snow – “AYE”

Supervisor Schmitt – “AYE”

Resolution 2020083

Pawling Water District #2 Agreement with Environmental Consultants

Whereas, the Town of Pawling wishes to provide centralized and uniform operation, administration and supervision of Pawling Water District #2, and

Whereas, the Town of Pawling has been partnered with Environmental Consultants in the operation of Water District #2, and

Whereas, Environmental Consultants will continue to maintain compliance and regulations of Dutchess County Department of Health and the NY State Department of Health and provide 24/7 emergency service, and

Whereas, the Town of Pawling would like to continue working with Environmental Consultants in the operation of Water District #2 at the rate of \$16,979.40 per year, therefore, be it

Resolved, that the Pawling Town Board hereby authorizes the Town Supervisor to sign the Agreement with Environmental Consultants to operate Pawling Water District #2.

MOTION: Councilman Johnson

SECOND: Supervisor Schmitt

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

“Councilwoman Snow – “AYE”

Supervisor Schmitt – “AYE”

BOARD MEMBER DISCUSSION

Councilman Johnson said regarding the recreation fees, he and Councilwoman Snow have had discussion and emails regarding these fees. The teams are not prepared, nor are they ready financially to be able to pay a fee. It is his opinion that any fee structure change should be part

of the 2021 budget process. A use fee should be discussed because the school doesn't charge and Trinity Pawling doesn't charge. He couldn't see burdening the teams with this fee.

Councilwoman Snow said what she has found is that many of the teams were not prepared and do not have the funding now. She agreed that she would like to wait as well. She said Rotary has offered sponsorships for a sport. She felt it was a good thing to transition and let people do planning if fees are going to be changed. For now, she liked the idea of leaving it as it is.

Councilman DeRosa suggested if everyone is educated, other businesses could offer sponsorships as well.

MCCARTHY

Councilman McCarthy said at the Association of Towns, he attended two grant writing classes and they both emphasized that now is the time to start working on grants for water and sewer lines. There is money in the State budget for grants and he spoke with the Laberge Group and they will begin a proposal for the town. Councilman McCarthy said this past Saturday night was the Fireman's Installation Dinner. New chiefs installed were Everett White, Chris Green, Brendan Gaughran, Tim Higgins and Fran Schmitt. Sharon Boo passed away last year and was honored as Fireman of the Year. Everyone will miss Mrs. Boo.

SNOW

Councilwoman Snow said she reached out to Terry Ariano from the Pawling Resource Center, and they are in need of a lot of items, so anyone who could donate, it would be greatly appreciated. Councilwoman Snow gave credit to the Board for some of the things that have been different over the past few years. She felt there had been a change in the way Board members are responding to the community. She wanted everyone to know that the Board has welcomed her on, many people were concerned about that. The Board is human, they are a work in progress and she appreciated the support they have received and the questions they will get and some of the challenges they will face. It is important that the Board is trying to do things in a different way, which she felt was positive.

DEROSA

Councilman DeRosa said he met with Dan Peters, Village Trustee and Dan Stone, engineer for the Pawling Joint Sewer Commission, to discuss setting up a meeting with all involved parties in April to discuss the map, plan and report for the proposed sewer line down Route 22 south. Councilman DeRosa said on March 31st, Dutchess County Planning Federation will hold a class on, "skills that made a good board member". This class is through the Dutchess County Planning Federation, which he is a Board member of. Regarding the transfer station, 777 first permits have been sold, so we are in good shape.

SCHMITT

Supervisor Schmitt said he has been in touch with The Laberge Group to discuss applying for grants for the sewer project. There have been a lot of updates with the County regarding the coronavirus. It is a serious thing and he has been in touch with the County Executive's team on a daily basis. As of this afternoon, there have been no cases in Dutchess County but Westchester and Putnam counties have a lot of cases. He said there is an agreement in place that could be signed for the Whaley Lake Dam. He would let the Town Attorney address this.

Councilman DeRosa said there is an NDA regarding this agreement, a non-disclosure agreement so the Town Board is not allowed to discuss any part of this agreement.

Councilman Johnson provided Mr. Marotta with a copy of the design plan, explaining that the design consists of three separate weir board sections. It gives the town infinite control over the lake. He apologized for how long this took but the Board held strong and the district came out well.

WHALEY LAKE DAM STIPULATION AGREEMENT

Nancy Tagliaferro, Town Attorney said the town put Fuss & O'Neill on notice and they were told to notify their insurance carrier that the town intended to move forward with litigation due to the lower lake level than we historically had. She said a resolution has been reached. The terms of the agreement are confidential but she hoped to get it signed as soon as possible.

Supervisor Schmitt said the solution is coming up a maximum of 12 inches, to 705.80 on the spillway. What that spillway will consist of is three four-inch weir boards. So, we will have the ability to bring the lake up at four, eight and twelve inches and then see how the lake is and how the properties are reacting. It can also be dropped four, eight or twelve inches. This gives the ability to control the lake level. The nice thing about the solution is the ability to adjust it. Fuss & O'Neill has taken on a lot of this, engineering costs, permitting and he was happy to say they are absorbing all of those costs. As soon as he gets rock solid information and a timeline, he will get it out on the website and social media and inform the residents.

Councilman DeRosa said there is an NDA regarding this agreement, a non-disclosure agreement so the Town Board is not allowed to discuss any parts of this agreement.

Councilman Johnson provided Mr. Marotta with a copy of the design plan, explaining that the design consists of three separate weir board sections. It gives the town infinite control over the lake. He apologized for how long this took but the Board held strong and the district came out well.

Councilman Johnson make a motion authorizing the Supervisor to sign the settlement agreement with Fuss & O'Neill, seconded by Councilman DeRosa, motion passed unanimously.

The Board thanked Ms. Tagilafierro for her hard work on this.

PUBLIC COMMENT

Jay Dickinson, Highway Superintendent said it has not been much of a winter, there have been no major breakdowns and his budget is in good shape. He announced bulk pickup day would be April 4th. He is working with Joe Zarecki on grant projects, one being Hurds Corner Road, saying he may be able to do the entire road. He said the West Main Street Culvert project will be done this year. In April, he will be doing sweeping and catch basin cleaning. He will also be working on Reservoir Road from Prospect Street to Dewey Lane and possibly to the top. He will be doing some sealing also. He submitted an expense report for the backhoe lease. He is in the process of specking out a mower tractor because the current one is thirty years old and in need of replacement.

Mark Chipkin, resident from Hurds Corner Road, said he appreciated seeing positive things from the Board. He suggested last week to have the Planning Board allow public comment during their meetings but the feedback he received was to get on a Planning Board agenda, which he will attempt to do. He felt it would not be a bad thing to shore up environmental support. He said Jay Dickinson has been an excellent listener regarding the work that will be done to Hurds Corner Road and the environment. There used to be a Town of Pawling Conservation Board and they were a big help. He would be willing to put a Conservation Board together, and help with that but the town would have to say yes.

Harvey Matcovsky, resident from Whaley Lake said the LED lighting will save a lot of money, and the lighting is better. He said the dog park is very wet and would benefit from mulch or sand. He asked for an accounting of the expenses for the Whaley Lake Dam.

Councilman Johnson said that is in progress.

Mr. Matcovsky asked the status of the million-dollar grant for the Whaley Lake project.

Supervisor Schmitt said he is working with NYS DEC on the grant every week and to the best of his knowledge, the town is still getting the money.

Mr. Matcovsky said there was a statement made that Fuss & O'Neill will cover all of the incidental expenses. There are attorney's fees, engineers' fees and architect fees. He asked Supervisor Schmitt if he could pretty much guarantee that all of the incidental expenses will be paid for by Fuss & O'Neill and none of the obligations for the incidental expenses will be borne by the homeowners on Whaley Lake.

Supervisor Schmitt said in the agreement the Board is moving forward with, Fuss & O'Neill is handling all of the permitting, drawing, engineering, inspections and everything that goes along with that. The Town is not going to have the burden of those.

Mr. Matcovsky invited everyone to the "Little Shop of Horrors" play at the school on 3/27 through 3/29.

Alfred Greve, resident from Whaley Lake and member of the Whaley Lake Committee said his concern is the elevation of Whaley Lake. He agreed with the redesign of the spillway to raise the lake one foot, to 705.8. He expressed concern about the weed level, saying if the lake is lowered, more weeds will grow. He felt the lake should be raised an additional three inches to hinder weed growth. He also expressed concern that raising the lake will affect some of the construction projects that were done during the time the lake level was lowered. It may leave some of these projects partly under water. He asked if the settlement would deal with property owners with damage by raising the water level.

Town Attorney Nancy Tagliafierro said nothing can be said regarding that at this time.

Joe Marotta, resident from Whaley Lake and member of the Whaley Lake Committee invited the Board to the March 26, 2020 meeting of the Whaley Lake Committee at Murrow Park. Now that the lake is being restored, there is concern about the people who built low, for instance what will the cost be of raising their structures. They would like the lake to be restored, that has to be done. Then they want to make sure that the solution doesn't harm people. That ties in the maintenance of the dam each year, they may not want to lower the lake every year. When the Board meets with the Committee, this can be discussed. They are looking forward to getting financial information on the dam project. It would be better if the Board talks to the Committee and resolves a lot of the issues together. There are people that think the twelve inches is good and there are others that think it should be fifteen. He felt the stacked system was a good one. There is documentation by way of physical evidence of the previous lake level, which could be compared to the paper evidence. He felt the flexibility to raise and lower the lake level would be good. They are happy with the direction this is going.

Mike Kelly, Chief Constable said the vests the constables have will be out of compliance next year. He is looking to get together with Senator Harckham to possibly get a grant for the vests. He would like to hire another constable, who is a retired State trooper and then there would be nine constables. He also would like to get tasers, because they are less lethal. He will also need a safe for court nights.

Rick Wilson, resident of Whaley Lake, thanked everyone for the resolution to the Whaley Lake Dam, he has seen all of the time everyone has put into this. He thanked everyone for the transparency and the ease of getting information. He hoped the Board could work with the Committee moving forward.

Beth Coursen, resident of Quaker Hill said when she took over as Supervisor, she came upon paperwork stating that the Grange was supposed to be paying the town rent, so for fifty years they hadn't paid the town but she didn't call that debt. She understood how difficult it was to move forward with a progressive agenda when you think things were done right in the past when in fact they weren't. Ms. Coursen talked about the fact that procedures are the glue that binds policy. She talked about Public Officer's Law saying that the public is entitled to listen to deliberations, decision making and need to remain informed, this is the climate in which the commonwealth will prosper. She felt the Pawling Town Board consistently ignored the NYS Open Meetings Law and the failure to follow this has created an atmosphere of mistrust. At the February 12th meeting, the Supervisor and Town Attorney said there was a new policy, no comments on Route 22. NYS Open Meetings Law requires that any new policy needs to be adopted by the Board. Prior to the March 3rd meeting the Board posted another new policy on public commenting, which violates the Open Meetings Law. There is no legal procedure adopting this. This is wrong. If the procedures were followed, public trust will be restored. The Board's actions regarding ethics laws has been terribly inconsistent. Leaving the room is not required by GML and it is awkward. The Board consistently following procedures makes sense for many reasons and gaining public trust is one of them.

Gerald McDonald, resident of Whaley Lake said he has lived on the lake for 63 years, and he felt the twelve-inch increase in the spillway level would be dead on. He was opposed to any tax

payer dollars going to anyone who mis-designed. He was sorry for them but they should appeal to their insurance carrier.

Nancy Tagliafierro, Town Attorney wanted to clarify the criticism about the Supervisor leaving the room, she has provided the Board with an Attorney General's opinion that says he should leave the room, as well as recent case law that says he should leave the room. So out of an abundance of caution, that is her advice to him and will continue to be unless the recent decision is reversed on appeal. If that were to happen, she may instruct the Supervisor to step down from the dais and go to the back of the room.

The motion to adjourn was made by Councilman Johnson at 8:25 PM, seconded by Councilman DeRosa, motion passed unanimously.

Town Clerk