

Supervisor James Schmitt opened the regular meeting of the town board of the Town of Pawling at 6:00 PM April 14, 2021 at the Pawling Town Hall, 160 Charles Colman Blvd., Pawling, New York. Present were Councilmen McCarthy, Johnson, DeRosa, Councilwoman Snow, town attorney Nancy Tagliafierro, town attorney Jamie Spillane and approximately eleven citizens. Due to Covid 19 restrictions, there was a limited capacity of 12 persons maximum allowed in the building. Social distancing and masks were required. Registration to attend the meeting was required.

AG LAW/PUBLIC HEARING

Supervisor Schmitt made a motion to open the public hearing, seconded by Councilman DeRosa, motion passed unanimously.

Councilman Johnson asked if the Board needed to open the public hearing or just continue it.

Supervisor Schmitt felt it would be safer to open it.

Mr. Randy Levine, resident from 826 Old Quaker Hill Road, Pawling, NY said he is here because he was watching the town board meeting a few weeks ago and heard the board was preparing to revisit amending the town code as far as it's agriculture uses. He looked on the town website but nothing was on it, except the draft of the proposed revisions. He then sent a letter and a FOIL request to the town. He did so to try and understand why this was occurring. As a taxpayer, as well as other taxpayers in this town, we relied on the code in investing in Pawling. If the code changes, we as taxpayers have a right and need to know and understand in depth why the changes are required, who they will benefit, who they will harm and why are they happening now. In his letter, which is available to everyone, he asked for detailed information as to how and why the regulations are being changed and who is involved in making those decisions. In the town board meeting he watched, the board itself said that changing the code was a substantial event. Instead of receiving any real information yesterday, he received a letter from the town attorney, which contained virtually no information as to why this code change is occurring or who is involved, and it states a completely erroneous response claiming the State Department of Agriculture is threatening an enforcement action against the town. The letters that were sent to him do not state that the State Department of Agriculture is commencing an enforcement action against the town. It's public, it's been public for years, everyone should read it. The letters from the State, which are included in the town attorney's response, arise from a case that he was involved in about a year and a half ago and has been public for years. It involved a single case, as the State likes to call it a 305 case, involving one regulation, not the entire agricultural regulations of the town code. The state decision, it should be put on line so everyone can read it for themselves, does not threaten any enforcement action. In fact, it states that New York State says it will work with the town to modify the one regulation that is in question, and that is what happened in the case, the State Agriculture, when there was intervention from the New York State Department of Environmental Conservation required a remedial act. It's right in the letter, it is attached to the exhibit. The landowner in order to comply had to take a remedial act and the town and the state worked together on that one regulation. No one called for a total revision of the entire agricultural code. So, if the State is not asking for a total revision of the agricultural code, how did we get here. That question has not been answered, nor has his FOIL request, which if answered, would provide those answers but it wasn't responded to. Moreover, the State Department of Agriculture only deals with changes within an agricultural district. Yet in your regulations, the changes are also for properties not in agricultural districts. The question is why. This area in this town is surrounded by watersheds and protected lands. Everybody in the State and DEC understands that. Yet he saw no environmental impact documents in the file before any of this action is taken. All he has been given are two letters relating to the individual 305(a) case, which he mentioned, which did not threaten State enforcement action on the whole code and a draft of comments from State Agricultural bureaucrats, not the commissioner, not the deputy commissioner, not the general counsel, and a general form from Cornell Cooperative Extension of Orange County, whoever they may be, nothing else, just a general form. There is nothing else in this record. If there is more, it needs to be produced and needs to be made public before any decision is made. If not, we need to be told why it is not being made public, he needs to be told under the law why he is not receiving it. With all due respect, you guys are elected officers and no one here is an autocrat, there can be no secrets, we need to know the how and why of your governing decisions. We need facts, we need evidence, we don't need defensive letters from the town attorney. He and his counsel have studied these regs, the law, the facts as you have described them to us, that the town has put forth. There simply is not enough information to go forward. He personally

has not made any decision whether these should be supported or not, there is simply not enough information. That would be unless the town is surrendering all of its autonomy to the State. And if that's the case, he would like to know why and he felt people in the town would like to know why. If the case is that people don't think they can match up, he would volunteer and represent the town for nothing to take this on. He has had a lot of experience doing that and he means that. He respectfully requested that this matter thus be tabled until all of the information, including his FOIL request be made public. He needed an answer, if the letter he received from the town attorney is their final response, is it not relating to his FOIL request. We need a pause so that all of the taxpayers, including the citizens of Pawling can fairly evaluate the merits of this proposed change before it is done. He thanked the board for their time.

Supervisor Schmitt asked for additional comments from the audience, there were none. He said the board would be leaving the public hearing open, saying Dutchess County Planning & Development has submitted recommendations that the board would review.

Mr. Levine requested that information be put on line so the public can see it.

Councilman Johnson said he was glad the board is keeping this hearing open. He felt Mr. Levine brought up good points and he would like to see Mr. Levine's questions answered so Councilman Johnson felt Mr. Levine was satisfied.

Councilman DeRosa said in the current master plan, there is a review process of laws and zoning constantly, which is constantly updated, of things that weren't updated in the original master plan. It's not like this was done just for the ag and farming, we have done this for every one and he was the chair of the committee that looked at the zoning to implement changes. The committee is listed in the master plan.

Mr. Levine felt that was great, he just thought the information needed to be made public.

PUBLIC COMMENT ON AGENDA ITEMS ONLY

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

MINUTES

Supervisor Schmitt made a motion to accept the minutes of March 3, 2021, seconded by Councilman Johnson, and passed with the following roll call vote:

ROLL CALL VOTE:

Councilman Johnson – "AYE"

Councilman DeRosa – "AYE"

Councilman McCarthy – "AYE"

Councilwoman Snow - "AYE"

Supervisor Schmitt – "AYE"

Supervisor Schmitt made a motion to accept the minutes of March 10, 2021, seconded by Councilman Johnson, and passed with the following roll call vote:

ROLL CALL VOTE:

Councilman Johnson – "AYE"

Councilman DeRosa – "AYE"

Councilman McCarthy – "AYE"

Councilwoman Snow - "AYE"

Supervisor Schmitt – "AYE"

CONSENT AGENDA

**Resolution 2021068
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 2020168 through 20210380, 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 \$300,332.22.

MOTION: Supervisor Schmitt
SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – “AYE” Councilman DeRosa – “AYE”
Councilman McCarthy – “AYE” Councilwoman Snow - “AYE”
Supervisor Schmitt – “AYE”

**Resolution 2021069
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 \$14,084.70 for the period of January 1, 2021 through March 31, 2021 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.

MOTION: Supervisor Schmitt
SECOND: Councilwoman Snow

ROLL CALL VOTE:

Councilman Johnson – “AYE” Councilman DeRosa – “AYE”
Councilman McCarthy – “AYE” Councilwoman Snow - “AYE”
Supervisor Schmitt – “AYE”

**Resolution 2021072
Approval of Emergency Plan**

Whereas, in the event of public health emergency New York State has required through legislation that public employers create and implement an Emergency Plan, and

Whereas, the Town of Pawling has created an Emergency Plan that meets standards set by New York State, and

Whereas, the Town of Pawling has collaborated with emergency professionals, employees and Local 456 to ensure the Emergency Plan is realistic to the Town's functional needs while being able to best serve Pawling's residents, therefore, be it,

Resolved, that the Town of Pawling town board hereby approves the Emergency Plan as required by New York State legislation in S8617B and A10832.

MOTION: Supervisor Schmitt

SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

Resolution 2021073
Approval of Compact Tractor with Backhoe Purchase

Whereas, the supervisor of buildings & grounds has requested to purchase a compact tractor with backhoe in order to adequately maintain Town grounds, and

Whereas, the need for such equipment is supported by Capital Projects Bond Resolution 2021057, and

Whereas, the supervisor of buildings & grounds requests approval to order a new John Deere Compact Utility Tractor on Sourcewell # 062117-DAC for \$24,963.92 Therefore, be it

Resolved, that the town board hereby authorizes the supervisor of buildings & grounds to purchase a John Deere on Sourcewell bid # 062117-DAC for \$24,963.92.

MOTION: Supervisor Schmitt

SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

Resolution 2021074
Approval of Kubota Purchase

Whereas, the supervisor of buildings & grounds has requested to purchase a Kubota tractor in order to adequately maintain town grounds, and

Whereas, the need for such equipment is supported by Capital Projects Bond Resolution 2021057, and

Whereas, the supervisor of buildings & grounds requests approval to order a Kubota Utility Cab Tractor on Sourcewell bid # 062117 for \$40,446.86, therefore, be it

Resolved, that the town board hereby authorizes the supervisor of buildings & grounds to purchase a Kubota Utility Cab Tractor on Sourcewell Bid #062117 for \$40,446.86.

MOTION: Supervisor Schmitt
SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – “AYE” Councilman DeRosa – “AYE”
Councilman McCarthy – “AYE” Councilwoman Snow - “AYE”
Supervisor Schmitt – “AYE”

Resolution 2021075
Approval of Caterpillar Backhoe Loader Purchase

Whereas, the highway superintendent has requested to purchase a Caterpillar Backhoe Loader for the highway department, and

Whereas, the need for such equipment is supported by Capital Projects Bond Resolution 2021057, and

Whereas, the highway superintendent seeks approval to order a Caterpillar Backhoe Loader Model 420 XE on Sourcewell Bid # 032119-CAT for \$117,510.00, therefore, be it

Resolved, that the town board hereby authorizes the highway superintendent to purchase a Caterpillar Backhoe Loader Model 420 XE on Sourcewell Bid # 032119-CAT for \$117,510.00.

MOTION: Supervisor Schmitt
SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – “AYE” Councilman DeRosa – “AYE”
Councilman McCarthy – “AYE” Councilwoman Snow - “AYE”
Supervisor Schmitt – “AYE”

Resolution 2021076
Approval of John Deere Tractor Purchase

Whereas, the highway superintendent has requested to purchase a John Deere Tractor for the highway department, and

Whereas, the need for such equipment is supported by Capital Projects Bond Resolution 2021057, and

Whereas, the highway superintendent seeks approval to order a John Deere 6110M (2020) Cab on Sourcewell Pricing Contract # 052417-DMM for \$166,920.00, therefore, be it

Resolved, that the town board hereby authorizes the highway superintendent to purchase a John Deere 6110M (2020) Cab on Sourcewell Pricing Contract # 052417-DMM for \$166,920.00.

MOTION: Supervisor Schmitt
SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – “AYE” Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**Resolution 2021077
Escrow Release – Schober-Fels**

Whereas, the Town of Pawling currently holds \$700.00 balance in escrow for Anne Schober and Brad Fels, and,

Whereas, the planning board secretary has confirmed in a letter dated April 6, 2021 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 \$700.00 balance in escrow and authorizes the bookkeeper to release such funds.

MOTION: Supervisor Schmitt
SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**Resolution 2021079
Acceptance of Street Name – Fawn Ridge Drive**

Whereas, a new road name has been proposed directly north west of the intersection of South Harmony Hill Rd and Harmony Hill Rd in the Town of Pawling, and

Whereas, said road can be found on South Harmony Rd beginning at parcel #6956-00-504358 and ending at parcel #6956-00-497453 and,

Whereas, the proposed road name is Fawn Ridge Drive, and

Whereas, Dutchess County 911 has reviewed the proposal and has found no conflict, therefore, be it

Resolved, that the Pawling town board hereby approves the road name Fawn Ridge Drive found off of South Harmony Rd beginning at parcel #6956-00-504358 in the Town of Pawling.

MOTION: Supervisor Schmitt
SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**Resolution 2021082
Budget Amendments for Fiscal Year 2021**

Whereas, a request for budget amendments has been received from the bookkeeper, and

Whereas, normal course of business activity throughout 2021 has prompted the bookkeeper to determine that various budget items should be amended to allow for the Town of Pawling to continue conducting business as usual; therefore, be it

Resolved, that the bookkeeper has requested the following budget amendments:

A FUND						
ACCOUNT DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE	DECREASE	REVISED BUDGET	DESCRIPTION
Parks Equipment	A.7110.2	7,000	2,100	0	9,100	Shelter for Tractor
Parks Equipment	A.7110.2	9,100	1,000	0	10,100	Ballfield Sand
Park Permits	A.7110.45	9,000		-2,100	6,900	
Park Permits	A.7110.45	6,900		-1,000	5,900	
		<u>32,000</u>	<u>3,100</u>	<u>-3,100</u>	<u>32,000</u>	

MOTION: Supervisor Schmitt
SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – “AYE” Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE” Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**Resolution 2021083
Authorizing Town Clerk to Advertise for the Paving of Hurds Corner Road Federal Aid Project PIN 8762.36**

Whereas, the Town of Pawling wishes to advertise for bids for the paving of Hurds Corner Road, Federal Aid Project PIN 8762.36 as set out by New York State Department of Transportation Standard Specifications, and

Whereas, the town board of the Town of Pawling wishes to authorize its town clerk, Catherine Giordano, to advertise for bids for the paving of Hurds Corner Road, therefore, be it

Resolved, that the town board of the Town of Pawling hereby authorizes its town clerk, Catherine Giordano, to advertise for bids for the paving of Hurds Corner Road, Federal Aid Project PIN 8762.36.

MOTION: Supervisor Schmitt
SECOND: Councilman Johnson

ROLL CALL VOTE:

Councilman Johnson – “AYE” Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE” Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

TOWN BOARD DISCUSSION

JOHNSON

Councilman Johnson said he is pressing ahead with Pawling Water District #2, he is going to try to accomplish getting bids out for the well.

MCCARTHY

Councilman McCarthy reminded everyone that bulk pickup is this weekend.

SNOW

Councilwoman Snow announced that April is national volunteer month and she thanked all community members who volunteer, saying it was much appreciated. She said she was asked by a community member about putting a porta potty on the rail trail. She suggested using the stimulus money for that if possible. She said the Pawling Community Foundation (PCF) has finished the map of the trails at Murrow Park and Lakeside Park. The map is available free to the community at the Annex Florist, the Book Cove and the Recreation Department. Councilwoman Snow said she reached out to County Executive Marcus Molinaro regarding diversity training, and she would be sending the board information on that. She suggested offering a trade fair for students in the fall.

DEROSA

Councilman DeRosa said he was at the Whaley Lake Dam this morning checking the water level, which is about eleven inches above the concrete spillway now. Councilman DeRosa said he would be attending a Dutchess County planning board meeting Thursday, which he sits on.

MURROW PARK/LIONS CLUB ROOF BID

Supervisor Schmitt said the Murrow Park/Lions Club roof was put out to bid and he understood today that one of the bids was not complete and was missing some of the paperwork that was required in the bid documents.

Supervisor Schmitt made a motion to reject the two bids received on the Murrow Park roof and put the project back out to bid immediately, seconded by Councilman Johnson, motion passed unanimously.

CREW BINETTE COMMUNITY SERVICE AWARD/CHRISTINE MERSAND

Supervisor Schmitt said he has been working with Councilwoman Snow on this and every month the Board nominates someone within the community who is going above and beyond and lending a hand. This month, the award is going to Christine Mersand from the Pawling Resource Center. Supervisor Schmitt read the following:

Crew Binette Community Service Award in recognition of Christine Mersand

Whereas, Christine Mersand is a shining example of what true community service means, and **Whereas**, Christine Mersand volunteered her time, energy and heart to the Pawling Resource Center during the COVID-19 pandemic when the community needed it the most, and

Whereas, Christine Mersand went far above and beyond helping others by working tirelessly to ensure our friends and neighbors in Pawling had the essentials they needed during this very difficult time, and

Whereas, the selfless service and spirit of giving displayed by Christine Mersand is applauded and immensely appreciated by Pawling Resource Center Director Terry Ariano and the members of the community she has impacted, therefore, be it

Resolved, that the Town of Pawling, by its elected Town Board, hereby recognizes the exceptional community service displayed by **Christine Mersand** presented this 14th day of April, 2021.

PUBLIC COMMENT

Wendel Weber, supervisor of buildings & grounds said he received bids for doing the fire alarm at the Lathrop building at Lakeside Park. The low bid was from Night Security for \$16,325.00, he had budgeted \$18,000.00 so it is under what was proposed. He wanted to get approval from the board to get this done. He said the RFP is ready for the relocation of the entranceway at Lakeside Park. He wondered if he needed approval from the board to go ahead and put that out to bid. He said the Holmes Civic Center representatives spoke to him about putting a pavilion over near the Holmes Pond. The Holmes Civic would purchase it from Costco and he would assemble it there. They would also like to plant some trees in that area.

Councilman Johnson said the Holmes Civic would need to provide the board with a written proposal they could accept as a donation.

Supervisor Schmitt said he has been working with the Holmes Civic group and they want to put a gazebo in the location where the trees were taken down, along with small trees being planted.

Councilman Johnson made a motion to allow Wendel Weber, supervisor of buildings & grounds to exceed his spending cap for the purchase and installation of the fire alarm at the Lathrop building, not to exceed \$17,000.00, seconded by Councilman DeRosa, motion passed unanimously.

Following discussion, the board agreed that the RFP for the relocation of the entranceway at Lakeside Park could be put out for bid.

Harvey Matcovsky, resident of Holmes said properties are selling well above their assessed valuations. He asked if the assessor forwards the numbers to the school board so they know there is an increase in assessed valuation. When the total evaluation of the Town of Pawling goes up, the obligations of each homeowner becomes less. He said now that the Town of Pawling has received the million dollars from NYS for the Whaley Lake Dam, when will the final bonding be commenced.

Christine Mitchell, town bookkeeper said Tuesday.

Mr. Matcovsky said he would hope that a committee would be formed to discuss what would be best for the community when Lakeside Park is paid off.

Supervisor Schmitt said he just began talking about that and he felt a committee would be formed later this year or early next year to start working on a plan.

Mr. Matcovsky said there are a lot of large projects before the town planning board and he would like it if they met in public, not by zoom. He appreciated Councilwoman Snow's comments regarding diversity training. He felt it would help in the town's relations with the community.

Supervisor Schmitt made a motion to adjourn the meeting at 6:30 PM, seconded by Councilman Johnson, motion passed unanimously.

Town Clerk