

Supervisor James Schmitt opened the regular meeting of the town board of the Town of Pawling at 6:00 PM June 14, 2023 at Pawling Town Hall, 160 Charles Colman Blvd., Pawling, New York. Present were councilwoman Snow, councilmen DeRosa and McCarthy, Nancy Tagliaferro, town attorney and approximately 12 interested citizens. Councilwoman Pitt was absent.

**MINUTES**

Supervisor Schmitt made a motion to acknowledge the minutes of May 3, 2023, seconded by Councilman McCarthy motion passed unanimously.

Councilman McCarthy made a motion to acknowledge the minutes of May 10, 2023, seconded by Councilwoman Snow motion passed unanimously.

**PUBLIC COMMENT ON AGENDA ITEMS**

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

**RESOLUTIONS**

**RESOLUTION 2023-096  
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 20230595 through 20230745, and

NOW THEREFORE BE IT RESOLVED, that the town board of the Town of Pawling 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 \$772,101.34.

**MOTION:** Supervisor Schmitt  
**SECOND:** Councilman McCarthy

**ROLL CALL VOTE:**

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

**RESOLUTION 2023-097  
Authorizing the Town Supervisor to Execute Contracts Allowing the Acceptance of Credit and Debit Cards in the Building Department and Recreation Department**

WHEREAS, the town board of the Town of Pawling believes that accepting various methods of payment for Town services is in the best interest of the residents of the Town, and

NOW THEREFORE BE IT RESOLVED, that the town board of the Town of Pawling does hereby authorize the town supervisor to execute any and all contracts to allow for the acceptance of credit and debit cards in the building department and recreation department.

**MOTION:** Supervisor Schmitt  
**SECOND:** Councilman McCarthy

**ROLL CALL VOTE:**

Councilwoman Pitt – “ABSENT”                      Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**RESOLUTION 2023-098  
Appointment to the Zoning Board of Appeals**

NOW THEREFORE BE IT RESOLVED, that Margaux Miller is hereby retroactively appointed as a member of the Zoning Board of Appeals for a three-year term commencing on one January 1, 2023 and ending on December 31, 2025 and shall be compensated at a rate set within the adopted 2023 Town of Pawling budget.

**MOTION:** Supervisor Schmitt

**SECOND:** Councilman DeRosa

**ROLL CALL VOTE:**

Councilwoman Pitt – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**RESOLUTION 2023-099  
Appointment of a Legislative Aide**

NOW THEREFORE BE IT RESOLVED, that Stephanie Giordano is hereby retroactively appointed as an aide to the Town Board with a start date of June 7, 2023 and shall be compensated at the annual salary of \$48,500.00.

**MOTION:** Supervisor Schmitt

**SECOND:** Councilwoman Snow

**ROLL CALL VOTE:**

Councilwoman Pitt – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**RESOLUTION 2023-100  
Appointment to the Joint Board of Ethics**

NOW THEREFORE BE IT RESOLVED, that Emma Carlson is hereby appointed as a delegate from the Town of Pawling to the Joint Board of Ethics and shall receive no compensation for said appointment.

**MOTION:** Supervisor Schmitt

**SECOND:** Councilwoman Snow

**ROLL CALL VOTE:**

Councilwoman Pitt – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**RESOLUTION 2023-101**  
**Appointment of a Part-Time Clerk in the Finance Office**

NOW THEREFORE BE IT RESOLVED, that Jade McSpedon is hereby retroactively appointed as part-time clerk in the Finance Office with a start date of May 30, 2023 and shall be compensated at a rate of \$20.00 per hour.

**MOTION:** Supervisor Schmitt  
**SECOND:** Councilman McCarthy

**ROLL CALL VOTE:**

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

**RESOLUTION 2023-102**  
**Appointment of a Part-Time Temporary Justice Court Clerk**

WHEREAS, due to a personal leave of absence in the Justice Court, Justice Gayle Zelazny and Justice Terrance Wansley have elected to appoint a part-time temporary Justice Court Clerk, and NOW THEREFORE BE IT RESOLVED, that Carol Pasalides is hereby retroactively appointed as a part-time temporary Clerk to the Justice with a start date of May 30, 2023 and shall be compensated at a rate of \$25.00.

**MOTION:** Supervisor Schmitt  
**SECOND:** Councilman McCarthy

**ROLL CALL VOTE:**

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

**RESOLUTION 2023-103**  
**Authorization of Compensation for the Fire Marshal**

WHEREAS, due to an unforeseen circumstance, Fire Marshal Jessica Peterson was asked to perform New York State Building Code Inspections in the Building Department, and WHEREAS, this is outside the normal scope of work for the Fire Marshal, and WHEREAS, Jessica Peterson is qualified and certified to perform such duties, and NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Pawling does here by authorize the compensation of the Fire Marshal Jessica Peterson for work performed in the Building Department to be compensated at a rate of \$45.00 per hour.

**MOTION:** Supervisor Schmitt  
**SECOND:** Councilman DeRosa

**ROLL CALL VOTE:**

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

**RESOLUTION 2023-104**  
**Escrow Release**

WHEREAS, the Town of Pawling currently holds balance in escrow for several escrow accounts, and

WHEREAS, the Planning Board has confirmed that there are no outstanding bills and that there will be no future bills for review and recommended that these funds be released, and

NOW THEREFORE BE IT RESOLVED, that the Town of Pawling hereby releases the following balances in escrow and authorizes the Bookkeeper to release such funds:

Peter Muller	\$956.31
Sharon Muller	\$956.31
Robert Natal	\$200.00
John and Rebecca Watson	\$197.50
Kirby Hill Farm	\$1,232.56
Kathy Hartshorn	\$837.21
Kathy Rohan	\$350.00

**MOTION:** Supervisor Schmitt

**SECOND:** Councilman DeRosa

**ROLL CALL VOTE:**

Councilwoman Pitt – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**RESOLUTION 2023-105**  
**Facilities Use Request**

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 Recreation Director will periodically receive request for special considerations once all application and insurance requirements are met, and

WHEREAS, the Town Board of the Town of Pawling sets the fees for the use of facilities, and

NOW THEREFORE BE IT RESOLVED, that the following waiver(s) have been authorized by the Town

Board: Rivas Family – Alcohol Waiver, Alcohol Control Plan.

**MOTION:** Supervisor Schmitt

**SECOND:** Councilman McCarthy

**ROLL CALL VOTE:**

Councilwoman Pitt – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**RESOLUTION 2023 – 106**

**Authorizing the Supervisor to Submit an Application to the NYS Environmental Facilities Corporation (NYSEFC) Water Infrastructure Improvement Act (NYWIIA) Grant Program**

WHEREAS, the Town of Pawling provides water service to 58 users inside the Water District No. 2 boundary, and

WHEREAS, in order to maintain the service provided by the water system, improvements are required to correct current deficiencies and continue reliable service in the future, and

WHEREAS, the Town of Pawling has commissioned the development of a Preliminary Engineering Report (PER) to identify the deficiencies in the water system and the requisite improvements that are required to rectify same, and

WHEREAS, Phase I of the proposed project includes gate valve installation, customer meter replacements, installation of a new treated water storage tank, security fencing, sand filter bed for backwash, and treated water meter replacement with a Preliminary Opinion of Cost of \$740,000, and

WHEREAS, the Town Board has authorized the Supervisor to develop and submit an application for funding for up to 60% of the project cost through the New York State Water Infrastructure Improvement Act (NYWIIA), and

WHEREAS, the program requests that the application contain and/or show evidence of project readiness including of a plan of finance and bond resolution, engineering report, engineering contract and legal contract for services, and

WHEREAS, the Town Board has authorized a bond resolution in the amount of \$750,000 to ensure all Phase I project costs can be incurred, and

NOW THEREFORE BE IT RESOLVED, that the Supervisor is hereby authorized to submit an application to the NYSEFC WIIA Grant Program for the Phase I Water District No. 2 Water System Improvements as identified in the Preliminary Engineering Report (PER), and

NOW THEREFORE BE IT FURTHER RESOLVED, that the Supervisor is hereby authorized as the designated representative to enter into and execute any resulting NYSEFC WIIA funding agreement(s) and/or all associated documents related thereto, and

NOW THEREFORE BE IT FURTHER RESOLVED that the Supervisor is authorized to enter into separate agreements with the Laberge Group and legal counsel for the provision of engineering and legal services associated with the Phase I Water District No. 2 Water System Improvements project upon award of the NYSEFC WIIA grant, and

NOW THEREFORE BE IT FURTHER RESOLVED, that a copy of the separate engineering and legal contract be submitted with the WIIA grant application as to provide evidence of project readiness and Town of Pawling support.

**MOTION:** Supervisor Schmitt

**SECOND:** Councilman DeRosa

**ROLL CALL VOTE:**

Councilwoman Pitt – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**Resolution 2023-107**  
**Standard Work Day & Reporting Resolution for**  
**Elected & Appointed Officials RS 2417-A**

**BE IT RESOLVED**, that the Town of Pawling (30350) hereby establishes the following standard work days for these titles and will report the officials to the New York State and Local Retirement System based on their record of activities:

Title	Standard Work Day (Hrs/day) Min. 6 hrs Max. 8 hrs	Name (First and Last)	Tier 1 (Check only if member is in Tier 1)	Current Term Begin & End Dates	Record of Activities Result	Not Submitted
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**Elected Officials**

Town Justice	6	Gayle Zelazny		01/01/2023-12/31/2026	4.14	
Town Justice	6	Terrance Wansley		11/09/2022-12/31/2023	4.28	
Zoning Board Member	6	Margaux Miller		01/01/2023-12/31/2025	.41	
Planning Board Member	6	Aaron Cioppa		01/04/2023-12/31/2025	1.62	

**MOTION:** Supervisor Schmitt  
**SECOND:** Councilman McCarthy

**ROLL CALL VOTE:**

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

**RESOLUTION 2023-108**  
**Town-Wide Speed Limit Study**

WHEREAS, the Town of Pawling wishes for the New York State Department of Transportation (hereinafter referred to as the “NYSDOT”) to conduct a speed study on all Town roads within the Town of Pawling, and

WHEREAS, for the NYSDOT to conduct a speed study on a Town, State or County highway, the NYSDOT requires an official request in the form of a Resolution from the Town of Pawling, and

WHEREAS, for the NYSDOT to conduct a speed study of local or county/state highways, the Town of Pawling must send a request in the form of a Resolution, along with a form TE-9a, to the Commissioner of the Dutchess County Department of Public Works for his concurrence with the speed limit study request, and

WHEREAS, the boundaries of the Town of Pawling area speed limit study will be the boundaries of the Town of Pawling, and

WHEREAS, the Town of Pawling wishes for all Town roadways (excluding state, county, and village highways) found within the boundaries of the Town of Pawling to be a part of the town-wide speed limit study, and

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Pawling hereby officially requests that the NYSDOT conducts a speed study on all Town Roadways (excluding State, County, and Village Highways/Roadways) within the boundaries of the Town of Pawling, and that the Commissioner of the Dutchess County Department of Public Works concurs with this request.

**MOTION:** Supervisor Schmitt

**SECOND:** Councilman DeRosa

**ROLL CALL VOTE:**

Councilwoman Pitt – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**RESOLUTION 2023-109**  
**Authorization of Inter-Fund Loan**

WHEREAS, the Town Board of the Town of Pawling from time to time authorizes loans from funds to fund the initial cost of a project prior to grant funding being received, and NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Pawling does hereby authorize the following inter-fund loan:

1. \$70,000.00 from the General (A) Fund to the Dewey Lane Capital Project (HDL).
2. This loan shall be paid in full with an interest rate of 2.28% per annum.

**MOTION:** Supervisor Schmitt

**SECOND:** Councilman McCarthy

**ROLL CALL VOTE:**

Councilwoman Pitt – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**RESOLUTION 2023-110**

**In the Matter of The Increase and Improvement of the Facilities of Water District No. 2, in the Town of Pawling, Dutchess County, New York ORDER CALLING PUBLIC HEARING**

WHEREAS, the Town Board of the Town of Pawling, Dutchess County, New York, has caused to be prepared a map, plan and report, including an estimate of cost, pursuant to Section 202-b of the Town Law, relating to the increase and improvement of the facilities of Water District No. 2, in the Town of Pawling, Dutchess County, New York (the “Water District”), being costs related to connection to improvements to the existing water treatment plant, including an update of controls, piping, metering, backwash disposal, as well as actual building improvements, with all of this work anticipated to be within, on or adjacent to the

existing building; improvements to existing water supply wells; installation of valves on existing water mains in the District; replacement of portions of the water distribution system in the same location as existing; replacement of two 25,000 gallon finished water storage tanks with a single above ground, low-risk tank on the treatment plant property adjacent to the treatment building;

and replacement individual water service meters, incidental improvements and expenses in connection therewith, at a maximum estimated cost of \$750,000; and

WHEREAS, the capital project hereinafter described, as proposed, has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, which regulations state that Type II Actions will not have any significant adverse impact on the environment; and

WHEREAS, it is now desired to call a public hearing on the question of the increase and improvement of the facilities of said Water District, in the matter described above, and to hear all persons interested in the subject thereof, concerning the same, in accordance with the provisions of Section 202-b of the Town Law; NOW, THEREFORE, IT IS HEREBY

ORDERED, by the Town Board of the Town of Pawling, Dutchess County, New York, as follows:

Section 1. A public hearing will be held in the Town Hall, in Pawling, New York, in said Town, on July 12, 2023, at six o'clock P.M., Prevailing Time, on the question of the increase and improvement of the facilities of Water District No. 2, in the Town of Pawling, Dutchess County, New York, in the manner described in the preambles hereof, and to hear all persons interested in the subject thereof, concerning the same, and to take such action thereon as is required or authorized by law.

Section 2. The Town Clerk is hereby authorized and directed to cause a copy of the Notice of Public Hearing hereinafter provided to be published once in the official newspaper, and also to cause a copy thereof to be posted on the sign board of the Town, such publication and posting to be made not less than ten, nor more than twenty, days before the date designated for the hearing.

Section 3. The notice of public hearing shall be in substantially the form attached hereto as Exhibit A and hereby made a part hereof.

Section 4. This Order shall take effect immediately.

**MOTION:** Supervisor Schmitt  
**SECOND:** Councilman DeRosa

**ROLL CALL VOTE:**

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

**RESOLUTION 2023-111**  
**Budget Amendments for Fiscal Year 2023**

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

WHEREAS, normal course of business activity throughout 2023 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, and

NOW THEREFORE BE IT RESOLVED, that the bookkeeper has requested the following budget amendments:

A Fund						
ACCOUNT	ACCOUNT	CURRENT			REVISED	
DESCRIPTION	NUMBER	BUDGET	INCREASE	DECREASE	BUDGET	DESCRIPTION
<b>Expenditures</b>						



Garage Equipment	A.5132.2	12,500	<b>9,500</b>		22,000	Increase budget for waste oil burning furnace at Highway Garage
Assessment	A.1355.4	100,000		<b>-9,500</b>	90,500	
Teen Center Cont.	A.7145.4	1,500	<b>2,000</b>		3,500	Increase for Comcast usage
Teen Center Wgs.	A.7145.1	7,200		<b>-2,000</b>	5,200	
Building Equip	A.1620.200	68,883	<b>1,500</b>		70,383	Septic Pump for
Building Travel	A.1620.402	700		<b>-700</b>	0	Legion Bldg
Building Telephone	A.1620.404	4,000		<b>-800</b>	3,200	
ARPA FUNDS Allocated	A.9950.9	200,000	<b>18,600</b>		218,600	\$16,600 website, \$2,000 Great Lawn
Highway Admin Wgs	A5010.100	107,205	<b>2,000</b>		109,205	Increase for Additional 5 hours/wk Highway Secretary
Highway Contractual	A.5132.4	10,000		<b>-2,000</b>	8,000	
Town Board	A.1010.1	55,395	<b>3,210</b>			PJSC Commissioner stipend 7 months
Genera Insurance	A.1910.400	120,000	<b>30,000</b>		150,000	Increase to insurance costs
Employee HRA cost	A.9089.81	40,000		<b>-30,000</b>	10,000	
		<b>727,383</b>	<b>66,810</b>	<b>-45,000</b>	<b>690,588</b>	

A Fund

ACCOUNT DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE	DECREASE	REVISED BUDGET	DESCRIPTION
<b>Revenue</b>						
ARPA FUND Revenue Rec.	A.4089	200,000	<b>18,600</b>		218,600	\$16,600 website, \$2,000 Great Lawn
Share of Joint Activities	A.2390	5,000	<b>3,210</b>		8,210	Revenue increase for 2 PJSC Commissioner
		<b>205,000</b>	<b>21,810</b>	<b>0</b>	<b>226,810</b>	

B Fund

ACCOUNT DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE	DECREASE	REVISED BUDGET	DESCRIPTION
<b>Expenditures</b>						
Building Dept. Contractual	B.3620.4	7,725	<b>1,050</b>		8,775	Inc to cover cost of fee reimbursement
		<b>7,725</b>	<b>1,050</b>	<b>0</b>	<b>8,775</b>	

B Fund

ACCOUNT DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE	DECREASE	REVISED BUDGET	DESCRIPTION
<b>Revenues</b>						
Building Permits	B.2555	216,500	<b>1,050</b>		217,550	Revised Estimate
		<b>216,500</b>	<b>1,050</b>	<b>0</b>	<b>217,550</b>	

H Fund Capital Projects ARPA

ACCOUNT DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE	DECREASE	REVISED BUDGET	DESCRIPTION
<b>Approved 4/12/23 ARPA USES</b>						
Fire/Co2 Alarms& Keypad for Town Hall	H.1620.21		30,000		30,000	To establish budget for APRA
Speed Limit Signs	H.1620.21		20,000		20,000	Projects Approved 4/12/23
Overage Lathrop Generator	H.1620.21		20,000		20,000	
Generator Town Hall	H.1620.21		25,000		25,000	
Lake Accessible Wheelchair	H.1620.21		2,500		2,500	
ADA Compliant Beach Mat	H.1620.21		2,500		2,500	
Approved 5/10/23						
Website Design	H.1680.2		16,600		16,600	To establish budget for APRA Projects Approved 5/10/23

Great Lawn ARPA Use	H.7110.2	80,000	2,000		82,000
		80,000	118,600		198,600

H Fund Capital Projects ARPA

ACCOUNT DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE	DECREASE	REVISED BUDGET	DESCRIPTION
Revenue ARPA items Approved 4/12/23 & 5/10/23	H.5031	80,000	118,600		198,600	
		80,000	118,600	0	198,600	

H Fund Capital Proj 2023 Bond

ACCOUNT DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE	DECREASE	REVISED BUDGET	DESCRIPTION
Expenditures						
Golf Irrigation	H.7250.200	0	50,000		50,000	Golf Irrigation Project
Equipment/Autos	HT.5130.23	0	545,000		545,000	\$300k International, \$145k Backhoe,
		0	595,000	0	595,000	\$50k F250, \$50k Fairway Mower

H Fund Capital Proj 2023 Bond

ACCOUNT DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE	DECREASE	REVISED BUDGET	DESCRIPTION
Revenues						
Serial Bond	H5710	0	50,000			Golf Irrigation Project
Serial Bond	HT5710	0	545,000			\$300k International, \$145k Backhoe,
		0	595,000	0	0	\$50k F250, \$50k Fairway Mower

Pavilion Cap Project increase

ACCOUNT DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE	DECREASE	REVISED BUDGET	DESCRIPTION
Expenditures						
Demolition	HPP.1620.21	230,065	164,675		394,740	
Bathroom/Pavilion	HPP.1620.22	930,550	35,325		965,875	
		1,160,615	200,000		1,360,615	

Pavilion Cap Project increase

ACCOUNT DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE	DECREASE	REVISED BUDGET	DESCRIPTION
Revenue						
Serial Bond	HPP.5710	700,000	200,000		900,000	
		700,000	200,000	0	900,000	

**MOTION:** Supervisor Schmitt  
**SECOND:** Councilman McCarthy

**ROLL CALL VOTE:**

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

**RESOLUTION 2023-086**  
**Adopting a Local Law to Amend Chapter 28 of the Town Code to Authorize a Joint Ethics Board**

TOWN OF PAWLING LOCAL LAW NO. 4 of 2023  
A LOCAL LAW TO AMEND CHAPTER 28 OF THE

TOWN CODE TO AUTHORIZE A JOINT ETHICS BOARD

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

**Section 1:** Chapter 28 of the Pawling Town Code regarding “Ethics, Board of” is hereby amended to authorize the Town to participate in a Joint Ethics Board, as follows: to authorize the establishment of a Joint Ethics Board, as follows:

*§ 28-1 Establishment; organization; membership; appointments; terms of office; vacancies.*

- A. The **Joint** Board of Ethics is established pursuant to § 808 of Article 18 of the General Municipal Law and shall be known as the "Town of Pawling Board of Ethics." **as a Joint Board of Ethics between Pawling and other municipalities in accordance with a certain Intermunicipal Agreement entered into by the Town of Pawling on \_\_\_\_\_, as may be amended from time to time (the “Intermunicipal Agreement”.**
- B. The Board of Ethics shall consist of five members, **including one member, who shall be a resident of the Town of Pawling** shall be ~~to be nominated by a Nominating Committee and~~ appointed by the Town Board. ~~All such members of the Board of Ethics shall be electors of the Town of Pawling and shall serve without compensation. All members of the Joint Board of Ethics shall be initially appointed for terms~~ **as set forth in the Intermunicipal Agreement.** ~~Of from one to five years as determined by the Town Board. No member of the Board of Ethics shall serve an initial term the duration of which is the same as that of any other member of the Board of Ethics. The term of any Ethics Board member, after the initial convening of the Board, shall be three years.~~
- C. The Joint Board of Ethics shall designate one of its members as Chairperson ~~and another member as its Vice Chairperson at its first meeting each year.~~ **in the manner described in the Intermunicipal Agreement.**
- D. Vacancies on the Board of Ethics shall be filled ~~from nominations of the Nominating Committee~~ by the Town Board, which shall make the appointment for the balance of the unexpired term, or reappoint or make the appointment upon completion of a Board member's term.
- E. No members of the Board of Ethics shall be persons who are officers or employees of the Town. No Ethics Board member shall hold office concurrently in a political party or be employed or act as a lobbyist or hold elective office in any local, state or federal government. ~~No more than two members of the Ethics Board may be registered in any one political party.~~
- F. An Ethics Board member may make campaign contributions and may participate in any election campaign.
- G. Members are authorized to incur any and all expenses necessary to effectuate the purposes of the **Joint** Ethics Board within amounts which are appropriated by the Town Board annually.
- H. ~~One person may be selected from the Nominating Committee to serve on the Ethics Board.~~
- I. ~~H~~ A Board of Ethics member may be removed by the Town Board after a finding of substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of the office or violation of this chapter after written notice of the charges and an opportunity for reply.
- J. ~~The Town Clerk shall be the Clerk of the Board of Ethics, and all documents filed with the Town Clerk shall be deemed, for the purposes of this chapter, to be filings with the Board of Ethics.~~
- K. ~~H~~ The Board of Ethics, in addition to the powers and duties prescribed herein, shall have all the powers and duties as prescribed by Article 18 of the General Municipal Law.

L.[K]No **Joint** Ethics Board member may serve more than eight consecutive years.

~~§ 28-2 Establishment of Nominating Committee; organization; membership.~~

~~A. The Nominating Committee is established and shall be known as the "Town of Pawling Board of Ethics Nominating Committee."~~

~~B. The Nominating Committee will be selected by the Town Board and will consist of five citizens at large. No more than two of the members of the Nominating Committee may be registered in any one political party. Members of the Nominating Committee will serve only until all current openings on the Ethics Board have been filled, and then the Nominating Committee will be disbanded until it needs to be reconstituted.~~

~~§ 28-3 Meetings.~~

~~The Chairman, or a majority of its members, may call a meeting of the Ethics Board. The Ethics Board shall hold at least one meeting annually, in March of each year, regardless of whether there are any matters pending before the Ethics Board. Three members of the Board shall constitute a quorum, and a majority vote of the entire Board shall be required to take any action.~~

~~§ 28-4 Recommendations for revisions to Code of Ethics.~~

~~The Board of Ethics may at any time recommend to the Town Board amendments to this chapter and Chapter 27 of the Pawling Town Code. Upon its formation it will immediately undertake the responsibility to propose revisions to the Pawling Code of Ethics (Chapter 27).~~

~~§ 28-25 Rules and regulations.~~

A. The **Joint** Board of Ethics, upon its formation, shall promulgate its own rules and regulations as to procedures ~~subject to Town Board approval~~ and shall maintain appropriate records of its opinions and proceedings.

B. The **Joint** Board of Ethics may adopt and amend such rules or procedures as are appropriate.

~~§ 28-[3]6 Jurisdiction; powers and duties.~~

A. The Ethics Board may only act with respect to officers and employees of the ~~Town~~ **municipalities which have entered into the Intermunicipal Agreement.**

B. The termination of the term of office or employment of a Town officer or employee with the Town shall not affect the jurisdiction of the **Joint** Ethics Board with respect to the requirements imposed on him or her by the Town of Pawling Code of Ethics.

C. The **Joint** Ethics Board shall have the following powers and duties:

(1) To prescribe, promulgate, amend and rescind rules and regulations governing its own internal organization and procedures in a manner consistent with ~~this chapter as so authorized by the Town Board.~~ the **Intermunicipal Agreement.**

(2) To receive complaints alleging a violation of Chapter 27 or any Code of Ethics of the Town of Pawling, local law, ordinance or resolution.

(3) To review, index, maintain on file, and dispose of sworn complaints alleging a violation of the Town of Pawling Code of Ethics.

(4) To advise and assist any local official in establishing rules and regulations relating to possible conflicts between private interests and official duties of present or former elected officials, local party officials, and local officers and employees.

~~(5) To retain or hire legal counsel to advise it on any matter arising under this chapter, within amounts which are appropriated by the Town Board.~~

~~(6) To prepare an annual report to the Supervisor and the Town Board recommending changes in the laws governing the conduct of local elected officials and officers and employees of the Town covered by the Town of Pawling Code of Ethics.~~

~~(7)~~**(5)**To conduct hearings, recommend disciplinary action, make referrals, and initiate appropriate actions and proceedings pursuant to § 28-11.

- ~~(8)~~**(6)**To render, index, and maintain on file advisory opinions pursuant to § 28-8.
  - ~~(9)~~**(7)**To prepare reports and recommend changes to this chapter pursuant to § 28-12.
  - ~~(10)~~**(8)**To otherwise enforce and administer all of the provisions of this chapter and Chapter 27.
  - ~~(11)~~**(9)**To conduct any investigation necessary to carry out the provisions of this chapter.  
Pursuant to this power and duty, the Board may administer oaths or affirmations, subpoena witnesses and compel their attendance, and require the production of any books or records which it may deem relevant or material.
- D. Nothing in this section shall be construed to permit the **Joint** Ethics Board to conduct an investigation of itself or of any of its members or staff. If the **Joint** Ethics Board receives a complaint alleging that the **Joint** Ethics Board or any of its members or staff has violated any provision of the Town of Pawling Code of Ethics, or any other law, the **Joint** Ethics Board shall promptly transmit to the Town Board a copy of the complaint. The **Joint** Ethics Board may request the Dutchess County Ethics Committee to conduct an investigation of the **Joint** Ethics Board or of any of its members or staff.

*§ 28-7 [4]Staff.*

The **Joint** Board of Ethics shall be empowered to request support staff and assistance from the Town Board or Supervisor in furtherance of its duties and responsibilities **as they pertain to matters before the Joint Ethics Board which relate to Town of Pawling officers, officials or employees.**

*§ 28-8 (5)Advisory opinions.*

~~Upon written request, the **The Joint** Board of Ethics established hereunder shall render advisory opinions to officers and employees of the Town of Pawling. **municipalities which are parties to the Intermunicipal Agreement and in the manner set forth in the Intermunicipal Agreement and procedures adopted by the Joint Board of Ethics.** Such written requests may be made to any member of the Board of Ethics. Such advisory opinions shall be rendered pursuant to the written request of any officer or employee under such rules and regulations as the Board may prescribe.~~

- A. Upon the written request of any Town officer or employee, the **Joint** Ethics Board shall render a written advisory opinion with respect to the interpretation or application of Chapter 27 or of Article 18 of the General Municipal Law of the State of New York.
- B. In rendering advisory opinions, the **Joint** Ethics Board may request the advice and counsel of the attorney employed by the ~~Ethics Board or, if none, the Town Attorney~~ **municipality which is the subject of a matter before the Joint Board of Ethics.**
- C. An advisory opinion rendered by the Ethics Board, until and unless amended or revoked, shall be binding on the Ethics Board in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such requests shall be confidential, but the Ethics Board may publish such opinions, provided that the name of the requesting person and other identifying details shall not be included in the publication.
- ~~D. Advisory opinions and requests for advisory opinions shall be indexed and maintained on file by the Ethics Board.~~
- E. Any person aggrieved by an advisory opinion of the **Joint** Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.
- ~~F. Any person who has submitted to the **Joint** Ethics Board a written request for an advisory opinion may bring a special proceeding pursuant to Article 78 of the Civil Practice Law and Rules for an order compelling the Ethics Board to issue the advisory opinion. In addition to, or in lieu of, such injunctive relief, the person may seek a judgment in accordance with § 3001 of the Civil Practice Law and Rules determining the question posed in the request for the advisory opinion. No action or special proceeding shall be prosecuted or maintained pursuant to this subsection unless:~~

~~(1) It shall appear by, and as an allegation in, the petition or complaint that at least six months have elapsed since the filing of the request and that the Ethics Board has failed to file any determination in the matter; and~~

~~(2) The action or special proceeding shall be commenced within 10 months after the submission of the request for the advisory opinion.~~

~~§ 28-9 [6]Judicial review.~~

~~Any person aggrieved by a decision of the Ethics Board may seek judicial review and relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.~~

~~§ 28-10 [7]Confidentiality of opinions.~~

~~The advisory opinions of the **Joint** Board of Ethics shall not be made public or disclosed unless required by the Freedom of Information Law (Public officers Law Article 6) or required for use in a disciplinary proceeding. Whenever a request for access to an advisory opinion herein is received, the officer, employee or appointed official who requested the opinion shall be notified of the request within 48 hours of the receipt of the request.~~

~~§ 28-11 [8]Complaints.~~

~~The procedure for receipt and investigation of complaints shall be as follows: **as set forth in the Procedures adopted by the Joint Ethics Board.**~~

~~A. The written complaint must be signed, must include the individual complainant's address, and set forth reasonable detail and documentation, if any, of the facts alleged to constitute the violation(s).~~

~~B. The written complaint shall be filed with the Board of Ethics. Upon receipt of said complaint, the Board of Ethics shall acknowledge receipt to the complainant and forward the complaint simultaneously to the officer or employee who is the subject of the complaint and the Town Attorney or other attorney employed by the Board of Ethics.~~

~~C. The Board of Ethics shall then conduct a preliminary analysis of the complaint and determine, in writing, whether there is probable cause for the complaint. In the event that the Board of Ethics should find no probable cause for the complaint, the complaint shall be dismissed by the Board of Ethics sua sponte. The Board of Ethics shall then notify the complainant, the officer or the employee who is the subject of the complaint and the Town Board of the disposition of the complaint.~~

~~D. In the event that the Board of Ethics should find probable cause for the complaint, the Board of Ethics shall forward to the Town Board a copy of its probable cause decision together with any information and documentation acquired by the Board of Ethics regarding the complaint.~~

~~E. The Board of Ethics shall then conduct an investigation and hearing on said complaint.~~

~~F. Upon the request of a majority vote of the total voting membership of the Board of Ethics, the Board may issue subpoenas to compel the attendance of necessary witnesses and the production of documents and other materials pertinent to the investigation. The Town Attorney or other attorney employed by the Board of Ethics will assist the Board in the preparation and issuance of subpoenas.~~

~~G. The officer or employee who is the subject of the complaint shall have the right to be represented by counsel at any required appearance before the Board of Ethics.~~

~~H. A copy of the transcript of the testimony of the officer or employee who is the subject of the complaint shall be provided at no cost to the officer or employee.~~

~~I. The Board of Ethics may require a written, sworn response from the officer or employee who is the subject of the complaint in lieu of an appearance before the Board of Ethics.~~

~~J. After the complaint has been filed and prior to any investigation undertaken of a complaint before the Board of Ethics, no member of the Board of Ethics or any of the Board's authorized agents may communicate directly or indirectly with any party or other persons about any issue of fact or law regarding the complaint, except that:~~



- ~~(1) The members of the Board of Ethics may obtain legal advice from the Town Attorney or special counsel as the case may be; and~~
  - ~~(2) The members of the Board of Ethics may discuss the complaint among themselves; and~~
  - ~~(3) If any person attempts to influence a Board of Ethics member regarding the pending complaint, the Board member shall report the substance of the communication to the Board of Ethics at the next regular meeting of the Board of Ethics.~~
- ~~K. At the conclusion of its investigation and hearing on said complaint, the Board of Ethics shall then advise the complainant, the officer or the employee who is the subject of the complaint and the Town Board of the disposition of the complaint and its recommendation for action made to the Town Board. The Town Board shall take official action by public vote on such recommendation received from the Board of Ethics in regard to a complaint within 30 days of receipt and shall, immediately following the taking of such action, make it, including the recommendation of the Board of Ethics, public.~~

~~§ 28-12 Annual reports; review of Code of Ethics.~~

- ~~A. The Ethics Board shall prepare and submit an annual report to the Town Board, summarizing the activities of the Ethics Board, by April 15 for the previous calendar year.~~
- ~~B. The Ethics Board shall periodically review this chapter and the Ethics Board's rules, regulations, and administrative procedures and Chapter 27 to determine whether they promote integrity, public confidence, and participation in Town government and whether they set forth clear, enforceable, common-sense standards of conduct. At any time, the Ethics Board may recommend changes to the text or administration of this chapter and Chapter 27 to the Town Board.~~

~~§ 28-13 Distribution of provisions; posting.~~

- ~~A. Within 30 days after the effective date of this chapter, and thereafter as appropriate, the Ethics Board shall transmit to the Town Board and Town Clerk, in a form suitable for posting, a copy of this chapter. Within 10 days after receipt of the copy, the Town Clerk shall cause the copy to be posted conspicuously in a place designated for the posting of public notices.~~
- ~~B. Within 30 days after the effective date of this chapter, and thereafter as appropriate, the Ethics Board shall transmit to the Town Board, in a form suitable for distribution, copies of this chapter and Chapter 27 for distribution to Town officers and employees. Within 10 days after receipt of those copies, the Supervisor, or his or her designee, shall cause the copies to be distributed to every Town officer and employee and made readily available to the public. Every Town officer or employee elected or appointed thereafter shall be furnished a copy of those provisions prior to entering upon the duties of his or her position.~~
- ~~C. Failure of the Town to comply with the provisions of this section or failure of any Town officer or employee to receive a copy of the provisions of this chapter and Chapter 27 shall have no effect on the duty of compliance with this chapter and Chapter 27 or on the enforcement of their provisions.~~

~~§ 28-14 [9] Penalties for offenses.~~

- ~~A. Disciplinary action. Any Town officer or employee who engages in any action that violates any provision of Chapter 27 may be warned, reprimanded, suspended or removed from office or employment, or may be subject to any other sanction authorized by law or collective bargaining agreement, by the person or body authorized by law to impose such sanctions. A warning, reprimand, suspension, removal, or other authorized sanction may be imposed in addition to any other penalty contained in this chapter or in any other provision of law.~~
- ~~B. Civil fine. Any Town officer or employee who violates any provision of Chapter 27 may be subject to a civil fine of up to \$1,500 for each violation. A civil fine may be imposed in addition to any other penalty contained in any other provision of law or in this chapter.~~
- ~~C. Damages. Any person, whether or not a Town officer or employee, who violates any~~

provision of Chapter 27 shall be liable in damages to the Town for any losses or increased costs incurred by the Town as a result of the violation. Such damages may be imposed in addition to any other penalty contained in any other provision of law or in this chapter.

*§ 28-15 [10] Severability.*

The provisions of this chapter are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or parts of this chapter.

*§ 28-16 [11] When effective.*

This Local Law shall take effect upon its adoption and filing with the Secretary of State in accordance with the provisions of §27 of the Municipal Home Rule Law.

**MOTION:** Supervisor Schmitt  
**SECOND:** Councilwoman Snow

**ROLL CALL VOTE:**

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

**TOWN BOARD DISCUSSION**

**DEROSA**

**PROPOSED SEWER DISTRICT #4 NEW MAP, PLAN & REPORT**

Councilman DeRosa said he and supervisor Schmitt met with Ron Laberge of the Laberge Group to discuss proposed sewer district #4 running south along Route 22. In order to move forward with this, the map, plan and report needs to be done over because the new sewer rates that the PJSC is proposing will increase the cost to the people in the district by well over \$70,000.00 per year, which the first map, plan and report would not reflect. The attorney general would not approve it if it is not done over with the proper rates. In order to move the project forward, he felt the map, plan and report should be revised and reintroduced to the residents. There is a grant in place with congressman Mike Lawler for this project, which he did not want to be lost.

Councilman DeRosa made a motion to authorize Ron Laberge from The Laberge Group to modify the existing map, plan and report for proposed sewer district #4 to reflect the new proposed water rates, amount not to exceed \$5,000.00, seconded by supervisor Schmitt, motion passed unanimously.

**PWD #2 VALVES**

Councilman DeRosa said the board needs to decide on the valves for PWD #2 because Bob Brill, highway superintendent will be paving the roads soon. He did not feel confident that the water operator could complete the job that needs to be completed. Ron Laberge is talking to the board of health because this project needs to be approved by the board of health and they have some concerns as to how the project will be completed. They don’t want the residents to be out of water too long. And they don’t want them to be under a boil water notice for any period of time. He did not feel confident that the water operator will do the job, they have not been responsive. He suggested the board go out to bid for this work, but if that is done, it will take a couple of months, and Mr. Brill will be paving the roads in August. He believed this project will be over \$30,000.00 and the health department has recommended different valves, which are more expensive. The board needs to work through this problem.



Councilman DeRosa said the water is just over the second weir board at the Whaley Lake dam. The water is running over the spillway and collects in the distribution pond. The water is not running out because the swamp, which is part of the Oblong, has been dammed up by beavers. He will attempt to contact someone from the Oblong and let them know this needs to be addressed, because algae is building up in the pond.

### **SNOW**

Councilwoman Snow said she would like to follow up at the next meeting on a conservation advisory council. A conservation advisory board would advise the board regarding matters of the environment, natural resources of the town and this would include open spaces, woodlands, wetlands, recreational, historical and agricultural uses. She would like to move forward and talk to other towns that have this and discuss it with the board at the July meeting.

### **MCCARTHY**

Councilman McCarthy said there have been two solar committee meetings and they should have a rough draft by the end of the month for the board to look at. They can then decide how to proceed in order to protect Pawling's farm land and open land.

### **SCHMITT**

Supervisor Schmitt said "The Inn" at Lakeside Park is down now and they are almost finished loading up the debris. He, councilman McCarthy and the building inspector will meet with someone from New York State tomorrow to go over the whole procedure there. He is excited to see the project continue. He said the town has gone through a bond rating recently and he was excited to say that through Christine Mitchell, town bookkeeper's hard work, the Town of Pawling got the second highest rating that you can get in New York State, an AA+ rating. He thanked Ms. Mitchell for her work.

### **PUBLIC COMMENT**

Helen Grosso, resident from Tracy Road, asked if the businesses in proposed sewer district #4 have any idea that this is going on?

Councilman DeRosa said yes, the residents in the district were notified of the public hearings that were held in the past. The public hearings were for the residents in the district to find out what is in the map, plan and report and give feedback to the board as to whether they want to move forward with it or not.

Supervisor Schmitt said the public hearing would be to update what the numbers would be now with the rate increase compared to what they were projected to be when the first public hearings were done. He said the town's engineers are working with the sewer commission and village engineers and they will talk with residents. Dan Stone, engineer for the PJSC has been in contact with Hannaford to discuss the proposed sewer district.

Mrs. Grosso said she is in favor of the proposed sewer district and looked forward to that expansion. She asked the status of the Dewey Lane Bridge.

Supervisor Schmitt said the Dewey Lane Bridge project is not going to start this year, so the board has transferred the money to stop paying interest on it right now.

Marty Mygan, resident from One Aspen Court, said the PJSC stipends include an extra person.

Councilman DeRosa said the PJSC has to change the IMA to reflect the change in the members of the commission, so the village has to vote on it and the town has to vote on it. One seat has been added.

Mr. Mygan said the town has a new legislative aide. He asked if Joey Cavaccini is still on the payroll? He asked how many people applied to be on the ethics board?

Supervisor Schmitt said Mr. Cavaccini is still with the town, in a part time capacity, two days per week.

Councilwoman Snow said four individuals were originally interested in the ethics board position, but two declined so there were two interviewed.

Pete Bissonnette, resident from Route 292, said regarding the Whaley Lake Dam, because of the errors in design, the new spillway was designed to be a foot lower than the original spillway. This causes low tide and you get leaves, dead frogs, dead turtles, and this is a problem. The old spillway was twenty eight foot long and insufficient. The new one was made smaller at eighteen and a half feet and the water can't get over it. People have had to put sandbags around so the water doesn't get into their homes. They had insurance on this, why can't this situation be corrected. He didn't understand why a house was allowed to be built in the right of way to get to the dam and the dam district then had to buy a piece of property to access the dam and then build a road. These costs are to the residents, all because of an error from the town.

Councilman DeRosa said the house is not in the right of way.

Mr. Bissonnette said the residents are bearing the burden of these costs.

Supervisor Schmitt made a motion to adjourn the meeting at 6:45 PM, seconded by councilman McCarthy, motion passed unanimously.

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Town Clerk