

Supervisor James Schmitt opened the regular meeting of the town board of the Town of Pawling at 6:00 PM July 12, 2023 at Pawling Town Hall, 160 Charles Colman Blvd., Pawling, New York. Present were councilwomen Snow and Pitt, councilman DeRosa, Nancy Tagliaferro, town attorney and approximately 25 interested citizens. Councilman McCarthy was absent.

MINUTES

Supervisor Schmitt made a motion to acknowledge the minutes of June 14, 2023, seconded by Councilwoman Snow motion passed unanimously.

PUBLIC HEARING & ADOPTION OF WATER DISTRICT NO. 2 IMPROVEMENTS \$750,000 BORROWING

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

Harvey Matcovsky, resident of Holmes, said Pawling water district #2 is a mess. It has been neglected for years. A substantial amount of taxpayer money has gone to make some temporary repairs. If the bonds are issued, he as a taxpayer has little assurance or confidence that this will finally solve the problems. The people in the district will actually be paying the interest and maintenance of these bonds, he wanted to make that clear, there are only sixty people in the district. This will be a lot of money for the residents in the district.

Supervisor Schmitt said this board has made substantial headway with the district recently, and the roads are being paved in that area.

Councilman DeRosa said the town may have to replace the storage tanks per the health department. This may not be the only bond depending on what other improvements the Dutchess County Board of Health will mandate for the water system.

Supervisor Schmitt said before any of the money is spent, there will be a resolution and it will be spoken about at a town board meeting. The town will also be applying for grant funding for all parts of this project.

Mr. Matcovsky asked if the town has tried to minimize the impact to residents and consulted with the Dutchess County Water Wastewater Authority.

Supervisor Schmitt said yes, the board consults with the health department and prioritizes what they want to see upgraded and repaired in the district. The health department has been involved from the beginning and they oversee all private districts.

Mr. Matcovsky asked for documentation that the board has consulted with the county and what they have done.

Supervisor Schmitt said the health department are the entity requiring the updates to PWD #2.

Mr. Matcovsky said he hoped that the town board makes sure that the people in the Shorehaven water district are not overpaying.

Supervisor Schmitt said Mr. Matcovsky should speak with county legislator Ed Hauser regarding the Shorehaven water district, the Town of Pawling has nothing to do with that district.

Mr. Matcovsky said he had a problem with putting an excessive debt burden on the sixty members of PWD #2. He is fearful that at some point, the obligations will be shifted onto the taxpayers of the Town of Pawling.

Supervisor Schmitt said private district money cannot be shifted onto the taxpayers. The board applies for grants for all of these projects. This will be a very thorough process. Clean healthy water is important.

There were no more comments from the audience.

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

PUBLIC COMMENT ON AGENDA ITEMS

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

RESOLUTIONS

**RESOLUTION 2023-112
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 20230746 through 20230902, 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 \$595,528.00.

MOTION: Supervisor Schmitt

SECOND: Councilwoman Snow

ROLL CALL VOTE:

Councilwoman Pitt – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “ABSENT”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**RESOLUTION 2023-113
Billing for Pawling Water District No. 2**

WHEREAS, Pawling water district no. 2 bills need to be approved by the Pawling town board, and

WHEREAS, the bills have been prepared and submitted in the amount of \$14,062.80 for the period of April 1, 2023 through June 30, 2023 by the clerk to the water district, Catherine Giordano, and

NOW THEREFORE BE IT RESOLVED, that the town board of the Town of Pawling hereby accepts the billing as recommended for Pawling water district no. 2.

MOTION: Supervisor Schmitt

SECOND: Councilwoman Pitt

ROLL CALL VOTE:

Councilwoman Pitt – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “ABSENT”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

RESOLUTION 2023-114

Authorizing the Supervisor to Submit an Application (CFA) for the NYS Department of State (DOS) - Smart Growth Comprehensive Planning Grant

WHEREAS, the Town of Pawling, after due consideration, has determined it is desirable and in the public interest to undertake the necessary activities for the submittal of a Consolidated Funding Application under the 2023 NYS DOS Smart Growth Community Planning & Zoning Grant program; and

WHEREAS, the Town will seek grant funding for the development of a Town of Pawling Smart Growth Comprehensive Plan to replace the Town’s current 2012 Plan; and

WHEREAS, the Town intends to establish a Comprehensive Plan Committee (CPC) to guide preparation of the new Comprehensive Plan; and

WHEREAS, the 2023 NYS DOS Smart Growth Community Planning & Zoning Grant program requires a minimum local match of 10% of the total project costs.

NOW THEREFORE BE IT RESOLVED, that the Town of Pawling Town Board authorizes and directs Supervisor Schmitt to submit an application for the “Town of Pawling Smart Growth Comprehensive Planning Project” under the Smart Growth Planning Grant through NYS DOS and to execute all documents necessary for the implementation of this work relating to the financial and/or administrative processes of the grant program.

BE IT FURTHER RESOLVED, the Town of Pawling commits the required matching funds of a minimum of 10% as required by the grant program.

MOTION: Supervisor Schmitt

SECOND: Councilman DeRosa

Councilman DeRosa said he did not know what the intentions were here but the board needed to be very careful because a full master plan review could be very expensive. He felt the 2012 master plan could be incorporated into one master plan with the previous master plan. Just because the town applies for a grant doesn’t mean they have to use it. The previous master plan review was very, very expensive.

Supervisor Schmitt felt updating the master plan, involving committees and the community was very important.

Councilwoman Pitt felt it was important to update the master plan, and the town seriously needed to take a hard look at it. It needs to be revamped with professionals involved. The town obviously has to be budget conscious, but with proper planning through the bookkeeping department, this could be done.

ROLL CALL VOTE:

Councilwoman Pitt – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “ABSENT”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**RESOLUTION 2023-115
Establishing a Budget for the MS4 Grant**

WHEREAS, the Town of Pawling wishes to establish a budget for the MS4 mapping project, primarily funded by a NYS WQIP MS4 grant.

NOW THEREFORE BE IT RESOLVED, that the Town Board of the Town of Pawling adopts the following budget:

To Establish a
Budget for the MS4
Grant Project

ACCOUNT DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE	DECREASE	REVISED BUDGET
Revenues					
NYS WQIP MS4	HMS.3097	0	60,000		60,000
Town Share	HMS.5031	0	6,000		6,000

0	66,000	0	66,000
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ACCOUNT DESCRIPTION	ACCOUNT NUMBER	CURRENT BUDGET	INCREASE	DECREASE	REVISED BUDGET
Expenditure					
Mapping Etc.	HMS.1440.20	0	61,000		61,000
Grant Administration	HMS.1440.22	0	5,000		5,000
		0	66,000	0	66,000

MOTION: Supervisor Schmitt
SECOND: Councilwoman Pitt

ROLL CALL VOTE:

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

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

Supervisor Schmitt – “AYE”

RESOLUTION 2023-116
Approval to Borrow \$60,000 from B Fund to Pay Costs of MS4 Grant Reimbursement

WHEREAS, the Town of Pawling is required to pay expenditures prior to receiving reimbursement from the NYS WQIP MS4 grant.

NOW THEREFORE BE IT RESOLVED, that the town board of the Town of Pawling authorizes the transfer of \$60,000 from the General Fund, Outside Village (B) to the Capital Projects Fund or the MS4 grant project. Funds will be reimbursed with 3.5% interest.

MOTION: Supervisor Schmitt
SECOND: Councilwoman Pitt

ROLL CALL VOTE:

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

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

Supervisor Schmitt – “AYE”

RESOLUTION 2023-117
Authorization of Town Clerk to Advertise for Bids for Water District No. 2 Water Meter Replacement

WHEREAS, Sealed bids for WATER DISTRICT 2- WATER METER REPLACEMENT will be received by the Town of Pawling until 10:30 A.M. local time on August 8, 2023 and then at said office, publicly opened and read aloud.

NOW THEREFORE BE IT RESOLVED, that the town clerk is authorized to advertise for Water Meter Replacement bids and will be received by the Town of Pawling until 10:30 A.M. local time on August 8, 2023 at 160 Charles Colman Blvd, Pawling, NY 12564 in the Office of the town clerk of the Town of Pawling.

MOTION: Supervisor Schmitt
SECOND: Councilman DeRosa

ROLL CALL VOTE:

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

RESOLUTION 2023-118

In the Matter of The Increase and Improvement of Facilities of Water District No. 2 in the Town of Pawling Public Interest Order

WHEREAS, the Town Board of the Town of Pawling, Dutchess County, New York, has duly caused to be prepared a map, plan and report including an estimate of cost, pursuant to Section 202-b of the Town Law, 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 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, at a meeting of said Town Board duly called and held on June 14, 2023, an Order was duly adopted by it and entered in the minutes specifying the said Town Board would meet to consider the increase and improvement of facilities of Water District No. 2 in said Town at a maximum estimated cost of \$750,000, and to hear all persons interested in the subject thereof concerning the same at the Town Hall, in Pawling, New York, in said Town, on July 12, 2023, at 6:00 o’clock P.M., Prevailing Time; and

WHEREAS, said Order duly certified by the Town Clerk was duly published and posted as required by law; and

WHEREAS, a public hearing was duly held at the time and place set forth in said notice, at which all persons desiring to be heard were duly heard; NOW, THEREFORE, BE IT

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

Section 1. Upon the evidence given at the aforesaid public hearing, it is hereby found and determined that it is in the public interest to make 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 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.

Section 2. This Order shall take effect immediately.

MOTION: Supervisor Schmitt

SECOND: Councilman DeRosa

ROLL CALL VOTE:

Councilwoman Pitt – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “ABSENT”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

RESOLUTION 2023-119

A Resolution Authorizing the Issuance of \$750,000 Bonds of the Town of Pawling to Pay the Cost of the Increase and Improvement of the Facilities of Water District No. 2

WHEREAS, pursuant to the provisions heretofore duly had and taken in accordance with the provisions of Section 202-b of the Town Law, and more particularly an Order dated the date hereof, said Town Board has determined it to be in the public interest to improve the facilities of Water District No. 2, in the Town of Pawling, Dutchess County, New York, 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; NOW, THEREFORE, BE IT

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

Section 1. For the class of objects or purposes of paying the cost of the increase and improvement of Water District No. 2, in the Town of Pawling, Dutchess County, New York, 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, there are hereby authorized to be issued \$750,000 bonds of said Town.

Section 2. It is hereby determined that the maximum estimated cost of the aforesaid class of objects or purposes is \$750,000, which class of objects or purposes is hereby authorized at said maximum estimated cost, and that the plan for the financing thereof is by the issuance of the \$750,000 bonds of said Town authorized to be issued pursuant to this bond resolution.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is forty years pursuant to subdivision 1 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will exceed five years.

Section 4. The faith and credit of said Town of Pawling, Dutchess County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. To the extent not paid from monies raised from said Water District No. 2 as applicable in the manner provided by law, there shall annually be levied on all the taxable real property of said Town, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable; PROVIDED, HOWEVER, that to the extent that any grants-in-aid are received for such class of objects or purposes or the Town Board shall appropriate other monies of the Town

therefor, the amount of bonds to be issued pursuant to this resolution shall be reduced dollar for dollar.

Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Supervisor, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Supervisor, consistent with the provisions of the Local Finance Law.

Section 6. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Supervisor, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as he shall deem best for the interests of said Town, including, but not limited to, the power to sell said bonds to the New York State Environmental Facilities Corporation; provided, however, that in the exercise of these delegated powers, the Supervisor shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Supervisor shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 7. All other matters except as provided herein relating to the serial bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same, including the consolidation with other issues, and also the ability to issue serial bonds with substantially level or declining annual debt service, shall be determined by the Supervisor, the chief fiscal officer of such Town. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such for recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Supervisor shall determine consistent with the provisions of the Local Finance Law.

Section 8. The Supervisor is hereby further authorized, at his sole discretion, to execute a project finance and/or loan agreement, and any other agreements with the New York State Department of Health and/or the New York State Environmental Facilities Corporation, including amendments thereto, and including any instruments (or amendments thereto) in the effectuation thereof, in order to effect the financing or refinancing of the class of objects or purposes described in Section 1 hereof, or a portion thereof, by a bond, and/or note issue of said Town in the event of the sale of same to the New York State Environmental Facilities Corporation.

Section 9. The power to issue and sell notes to the New York State Environmental Facilities corporation pursuant to Section 169.00 of the Local Finance Law is hereby delegated to the Supervisor. Such notes shall be of such terms, form and contents as may be prescribed by said Supervisor consistent with the provisions of the Local Finance Law.

Section 10. The validity of such bonds and bond anticipation notes may be contested only if:

1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or

2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 11. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 12. This resolution, which takes effect immediately, shall be published in summary form in the official newspaper, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

MOTION: Supervisor Schmitt
SECOND: Councilman DeRosa

ROLL CALL VOTE:

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

RESOLUTION 2023-120
Approval of the Purchase of Shed

WHEREAS, the supervisor of buildings and grounds has requested to purchase a 40’W x 80’L x 14’6”H shed for \$34,136 from Alpine Building Supply.

NOW THEREFORE BE IT RESOLVED, that the town board hereby authorizes the supervisor of buildings and grounds to purchase shed for \$34,136.

MOTION: Supervisor Schmitt
SECOND: Councilman DeRosa

ROLL CALL VOTE:

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

RESOLUTION 2023-121
Authorization of Town Clerk to Advertise for Bids for Construction of Shed

WHEREAS, sealed bids for the construction of new shed will be received by the Town of Pawling until 12:00 P.M. local time on August 8, 2023 and then at said office, publicly opened and read aloud.

NOW THEREFORE BE IT RESOLVED, that the town clerk is authorized to advertise for shed construction bids and will be received by the Town of Pawling until 12:00 P.M. local time on August 8, 2023 at 160 Charles Colman Blvd, Pawling, NY 12564 in the Office of the town clerk of the Town of Pawling.

MOTION: Supervisor Schmitt
SECOND: Councilwoman Pitt

ROLL CALL VOTE:

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

RESOLUTION 2023-122
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	CURREN T			REVISED	
DESCRIPTION	NUMBER	BUDGET	INCREA SE	DECREA SE	BUDGET	DESCRIPTION
Expenditures						
Supt of Highways Contractual	A.5010.400	2,500	1,000		3,500	Revised Budget
Traffic Control	A.3310.400	10,000		-1,000	9,000	Revised Budget
Fiscal Agent Fees	A.1380.4	0	4,050			S&P Bond Rating
Supervisor Wages	A.1220.1	87,760	2,200		89,960	Health Buyout Legislative Aide
Clerk	A.1410.1	137,305	2,370		139,675	Revised Budget
Supt of Highways	A.5010.1	109,205	8,750		117,955	Health Buyout & increased hours Inc Summer help to \$24k from \$19,500
Golf Course Clubhouse	A.7260.1	68,180	4,500		72,680	
Transfer Station	A.8160.1	89,225	12,000		101,225	Revise budget for fillin help
Justice Court	A.1110.1	95,695		-4,000	91,695	Revised Budget
Budget	A.1340.1	120,410		-5,000	115,410	Revised Budget
Buildings	A.1620.1	271,485		-5,500	265,985	Need \$4,500
Parks	A.7110.1	107,985		-2,120	105,865	Revised Budget
Teen Center	A.7145.1	5,200		-5,200	0	Revised Budget
Transfer Station OT	A.8160.106	15,000		-4,000	11,000	Revised Budget
Town Board	A.1010.4	3,800	200		4,000	Revised Budget
EAP Program	A.9060.81	0	1,950		1,950	Revised Budget
Health Insurance	A.9060.80	583,220		-25,700	557,520	Revised Budget
		1,706,970	37,020	-52,520	1,687,420	

A Fund						
ACCOUNT	ACCOUNT	CURREN T			REVISED	
DESCRIPTION	NUMBER	BUDGET	INCREA SE	DECREA SE	BUDGET	DESCRIPTION
Revenue						
Facilities Use Charges	A.2001.103	50,000		-10000	40,000	Revised Budget
Employee Contributions	A.2704	54,000		-10000	44,000	Revised Budget
Golf Revenue	A.2050	315,000	4,500		319,500	Offset for Golf Wge Inc
		419,000	4,500	-20000	403,500	

DB Fund					
ACCOUNT	ACCOUNT	CURREN T			REVISED

DESCRIPTION	NUMBER	BUDGET	INCREA SE	DECREA SE	BUDGET	DESCRIPTION
Fiscal Agent Fees	DB.1380.4	5,000	4,450		9,450	s&P Bond Rating
EAP Program	DB.9060.81	0	600		600	Revised Budget
Health Insurance	DB.9060.8	293,630		-5,050	288,580	Revised Budget
		<u>298,630</u>	<u>5,050</u>	<u>-5,050</u>	<u>298,630</u>	

SW2 Fund

ACCOUNT	ACCOUNT	CURREN T	INCREA SE	DECREA SE	REVISED BUDGET	DESCRIPTION
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Expenses

Engineering	SW2.1440.4 00	0	3000		3000	Budget for Grant Application
Source of Supply, Power & Pump	SW2.8320.4 00	15000		-3000	12000	Revised Budget
		<u>15000</u>	<u>3000</u>	<u>-3000</u>	<u>15000</u>	

DA Fund

ACCOUNT	ACCOUNT	CURREN T	INCREA SE	DECREA SE	REVISED BUDGET	DESCRIPTION
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Expenditures

BAN Principal	DA.9730.6	47820	670040		717860	Increase for Prepayment of
BAN Interest	DA.9730.7	16355	4500		20855	Dewey Lane Capital Project BAN
		<u>64,175</u>	<u>674,540</u>	<u>0</u>	<u>738,715</u>	

DA Fund

ACCOUNT	ACCOUNT	CURREN T	INCREA SE	DECREA SE	REVISED BUDGET	DESCRIPTION
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Revenues	DA.5031	0	674540		674540	Increase for Prepayment of Dewey Lane Capital Project BAN
		<u>0</u>	<u>674,540</u>	<u>0</u>	<u>674,540</u>	

B Fund

ACCOUNT	ACCOUNT	CURREN T	INCREA SE	DECREA SE	REVISED BUDGET	DESCRIPTION
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EAP Program	B.9060.81	0	100		100	Inc to cover cost of fee reimbursement
Health Insurance	B.9060.80	52,925		-100	52,825	Revised Budget
		<u>52,925</u>	<u>100</u>	<u>-100</u>	<u>52,925</u>	

HDL Dewey Lane Capital Project

ACCOUNT	ACCOUNT	CURREN T	INCREA SE	DECREA SE	REVISED BUDGET	DESCRIPTION
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Expenditure	HDL.9901.0					Transfer to DA to payoff HDL
Transfers	09	0	674540		674540	BAN

HDL Dewey Lane Capital Project

ACCOUNT	ACCOUNT	CURRENT	INCREASE	DECREASE	REVISED	DESCRIPTION
DESCRIPTION	NUMBER	BUDGET	SE	SE	BUDGET	
Revenues						
BAN Redeemed for Approp.	HDL.5731	0	674,540		674,540	To recognize revenue for HDL BAN Payoff
		0	674,540	0	674,540	

MOTION: Supervisor Schmitt
SECOND: Councilwoman Pitt

ROLL CALL VOTE:

Councilwoman Pitt – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “ABSENT”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**RESOLUTION 2023-123
2023 AMENDMENT TO AGREEMENT OF MUNICIPAL COOPERATION FOR
CONSTRUCTION, FINANCING AND OPERATION OF AN INTER-MUNICIPAL
SEWER INTERCEPTOR, TREATMENT AND DISPOSAL SYSTEM**

THIS AMENDMENT TO AGREEMENT is made this ____ day of _____, 2023 (“Effective Date”), by and between the Village of Pawling, Dutchess County, New York (“Village”) and the Town of Pawling, Dutchess County, New York (“Town”)

WITNESSETH:

WHEREAS, the Village and Town entered into an Agreement of Municipal Cooperation for Construction, Financing and Operation of an Inter-Municipal Sewer Interceptor Treatment and Disposal System (“Agreement”) dated February 16, 1983; and

WHEREAS, the Agreement was amended by amendments dated October 19, 1985, February 20, 1986, January 11, 1994 (which voided a July 12, 1991 amendment), October 12, 1999, July 28, 2014, December 14, 2017 and February 20, 2018, and

WHEREAS, the Parties wish to further amend the agreement as provided below;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Definitions.** Except as otherwise expressly defined in this amendment, each capitalized term which is used in this amendment and defined in the Original Agreement shall have the meaning set forth in the Original Agreement. The following terms shall have the meaning ascribed to such term herein:
 - 1.1 “Effective Date” shall have the meaning set forth in the first paragraph of this amendment.
 - 1.2 “Original Agreement” means the Original Agreement as amended by amendments dated October 29, 1985; February 20, 1986; January 11, 1994 (which voided a

July 12, 1991 amendment); October 12, 1999; July 28, 2014; December 14, 2017 and February 20, 2018.

2. The first full paragraph of Section 1 of the Original Agreement is deleted and the following is inserted in its place:

“1. Creation of Commission. The Commission shall consist of seven (7) members, five (5) members consisting of the Mayor and the four (4) members of the Village of Pawling Board of Trustees (“Village Commissioners”) and two (2) members from the Town of Pawling to be appointed by the Town Supervisor of the Town of Pawling (“Town Commissioners”). The Town Supervisor may appoint an alternate Commissioner (“Alternate Commissioner”). Whenever either one of the Town Commissioners is unable to attend a meeting of the Commission, the Alternate Commissioner may attend such meeting in place of such absent Town Commissioner and at that meeting that Alternate Commissioner shall have the same powers, duties and responsibilities as the absent Town Commissioner, including without limitation to power to vote on any matter presented to the Commissioners at such meeting. For the sake of clarification, in the event that both Town Commissioners are unable to attend a given meeting of the Commission and the Alternative Commissioner attends such meeting, the Alternate Commissioner shall only have one (1) vote at such meeting. Voting by proxy shall not be permitted. The Commission shall meet annually on the 2nd Thursday in April at 7:00 PM at the Village offices for the annual reorganization meeting. At such annual meeting, the Commission shall elect its own chairman, vice-chairman, secretary and treasurer and shall establish the time and place of regular meetings of the Commission. Robert’s Rules of Order will apply to the conduct of all meetings.”

The balance of paragraph 1 of the Original Agreement shall remain as originally written.

3. The Parties hereto represent and warrant: (a) that this amendment has been presented to the governing bodies of such Party; (b) that such governing body has approved this amendment by a majority vote of the entire voting strength of its governing body; and (c) that the Original Agreement as amended by this amendment is the valid and legally binding obligation of such Party and is enforceable in accord with its terms except as enforcement may be limited by bankruptcy, insolvency, reorganization or other laws relating to the enforcement of creditors’ rights generally and by the discretionary nature of equitable remedies.
4. The Original Agreement as amended by this amendment is hereby ratified and confirmed and shall remain in full force and effect in accord with its terms.
5. This amendment is effective on the Effective Date.

IN WITNESS WHEREOF, the Parties have executed this agreement on the date set forth below.

VILLAGE OF PAWLING

TOWN OF PAWLING

BY: _____
Lauri Taylor, Mayor

BY: _____
James Schmitt, Town Supervisor

MOTION: Supervisor Schmitt

SECOND: Councilman DeRosa

ROLL CALL VOTE:

Councilwoman Pitt – “AYE”

Councilman DeRosa – “AYE”

Councilman McCarthy – “ABSENT”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

DISCUSSION

THANK YOU TO CHIEF WHITE AND THE PAWLING FIRE DEPARTMENT

Councilman DeRosa thanked Fire Chief Everett White, and the fire department, Bob Brill, highway superintendent and the highway guys, Wendel Weber, supervisor of buildings & grounds and his maintenance guys, and Tom Basile, the building inspector for all of their work during the storm and after. The town is quite a mess and he did not know where the town would find the money to fix all of the roads, which are devastated. It was a terrible storm, with nine inches of rain falling in twenty four hours. The supervisor has been involved with politicians and the county to try to get funds to help with the damage. Councilman DeRosa said the Whaley Lake dam held well during the storm.

Councilwoman Snow echoed councilman DeRosa's comments, and she thanked everyone for helping and continuing to do what they could for the community. Councilwoman Snow said the Pawling rotary was honored for their outstanding service and they received an award, relating to the naturalization ceremony.

Councilwoman Pitt echoed councilman DeRosa's and councilwoman Snow's comments, saying the storm was severe and it was the worst devastating damage she has seen in local townships in her twenty plus years of service. She thanked the men and women of the Pawling volunteer fire department, the men, women of law enforcement, and men and women of the highway department.

Supervisor Schmitt said he has been on the phone with elected officials to try to get help with the damage from the storm. He will be touring the damage with these officials to try to get financial help. Letters of support have been sent up to the governor's office and he said there is a threshold that would have to be met before FEMA would get involved.

PUBLIC COMMENT

Nicholas Cienti, resident from 29 Old Route 55, said his access bridge was completely washed away in the storm so his cars are stranded. The community was really helpful during the storm, and he was grateful for that. He thanked the board for some of the information on FEMA. He understood there was not a lot the town could do in a situation like this. He asked what the board would suggest as next steps. He has filed his claim to repair the bridge. He asked that the board keep him informed on a time frame for the repair of Old Route 55. He wasn't sure how to proceed. He heard from the neighbors that there were some things that could have helped prevent this, such as keeping tree trimmings clear from the road side, reinforcement at certain parts of the stream and sufficient drainage for the pond along Old Route 55, which always floods.

Bob Brill, highway superintendent, said a lot of roads have been closed, and some have been reopened already. Old Route 55 is still closed from Dodge Road into the village because of major washouts. He is working on rebuilding and reopening the roads. River Road is also closed but the dump can be accessed from Route 22. Bundy Hill is still in very bad shape but they are working on that road. The tree debris Mr. Cienti is speaking about is typically what the power company trims. When he trims trees, they are chipped and removed, never left there. He said Old Route 55 is in terrible condition and it will cost a lot of money to rehabilitate. The entire road needs to be redone. He said all roads need work and it will cost hundreds of thousands of dollars to repair/redo and it will take months. Over the past couple of days, his concern was to open the roads for emergency services to be able to get in, in case of an emergency and have residents be able to get in and out. In his entire life living here, he has never seen this kind of damage. This will completely change his scope of work in following the town's road plan, doing road work and paving, and what he had planned for the next several years. This completely changes everything.

Ellen Meagher, resident from 15 Old Route 55, expressed concern about emergency services and school busses having access to Old Route 55. She said all workers were very nice and very professional.

Mr. Brill said he will have Old Route 55 passable within a couple of weeks. He will communicate with the school as to what the busses can do on a daily or weekly basis, whatever is necessary. He is also in contact, on a daily basis, with the fire chief and emergency services on what roads are open and closed and where they have to travel.

Mr. Cienti asked if the utility company could be fined for not cleaning up tree trimmings.

Supervisor Schmitt said the town could not fine them but he will discuss this with the politicians he meets with tomorrow.

Rick Wilson, resident from 64 Lakeview Drive, Whaley Lake, thanked Mr. Brill and Mr. Schmitt for all of the help they have given Shorehaven. They were very happy with the little bit of damage they got this storm, and feel bad for the people who did get a lot of damage. They are also appreciative of the one million dollar grant they received for the dam. He said there are seven major culverts that run into Shorehaven, along with the Grape Hollow Stream. He has spoken with a representative from senator Rob Rolison's office and asked that he come and look at these culverts, they are NYS's responsibility. He hoped someone could look at these seven culverts.

Supervisor Schmitt said he would be looking at the culverts tomorrow with the elected officials he would be meeting with.

Russell Smith, resident from 1544 Route 292, said he is not happy with the situation and he does not get responses from the town supervisor. Many neighbors have called and his wife wrote an email regarding the level of the lake to the board. The water runs off of Route 292 and right across his driveway. He spent \$7,200 a couple of weeks ago on landscaping, which was all washed away. He understood that this is a state road, but he is asking the town for help.

Supervisor Schmitt said Route 292 is a NYS road and this can be looked at tomorrow during the meeting with elected officials to assess the storm damage.

Pete Bissonette, resident from 1606 Route 292, Whaley Lake said there were errors when the dam was built. The things people are experiencing now lake residents are getting all of the time because of the errors in the dam. The dam was built too low and too narrow. Some residents have flooding now, which they never had before.

Supervisor Schmitt said the draw down valve was opened the day before the storm in preparation for the storm, and the lake was monitored during the storm. He said the engineers who designed this dam have assured the town that the spillway met all of the hydraulics studies necessary from NYS DEC to withstand a five hundred year storm. The town has people monitoring houses during this storm, and they did not take on water during this storm.

Mr. Bissonette said there should have been two spillways, because that would have been better.

Russell Smith presented photographs of his property to the board to show the damage. He felt the lake was too high. He read an email his wife, Daan Van Alderwerelt, wrote to the board on June 30, 2023 expressing concern about the high water level of the lake. The right of way across Route 292 needs to be addressed because the water flows right across his property.

Councilman DeRosa said when he was president of Shorehaven, he spoke to the engineers and warned them about the amount of water they were putting down on Shorehaven roads. The engineers argued and said they weren't adding any water to Shorehaven roads. It is New York State and Route 292 is a state road.

Paul Malichuk, resident from 70 Lakeview Drive, Whaley Lake said the dam was 705.8 before any work was done. The spillway is not wide enough and it is not working properly. If the spillway was wide enough, this would not happen and the lake would not pool. The lake is going to be killed if this is not corrected. He has been coming up here over thirty years, and he has not seen this ever happen before. There is also green slime in the lake, which was never there before. They are asking the board to help them. It is well documented that the dam was at 705.8.

Joe Marotta, resident from 1680 Route 292, said pool level is 705.8. You cannot have a 704.8 spillway and a water level at 705.8. Everyone has seen the emails, Zarecki says in the emails they made a mistake, the height was a foot too low. The spillway needs to be wider, the old spillway was 28 feet wide, now the spillway is eighteen and a half feet wide and it is not

shedding the water quick enough and boards need to be taken on and off. It was never meant to have boards be taken on and off, and that is so stated in NYS DEC documentation. The valve should only be for emergencies. Taking boards in and out is a lot of human intervention. NYS DEC only cares that the dam will not break and flood anyone downhill. They don't care if people die taking the boards on and off. They don't care about the height. The dam is supposed to be at 705.7 or 705.8, that's the difference and the pool level at 705.8. No one ever got flooded before unless there was debris clogging the spillway. 705.8 is the solution. The water level affects algae and weeds and it could kill the lake. He suggested getting an engineer and professionals out to the lake.

Nancy Tagliaferro said that would cost everyone in the dam district money.

Supervisor Schmitt said this has gone on for many years and many professionals have been involved.

Rick Wilson, resident from 64 Lakeview Drive, Whaley Lake, said he has done a lot of research on this. From the 2000 and 2006 reports Zarecki put out, it states, "the invert of the spillway is at 704.8". But it references appendix B, which he FOILED and received, which had the 1999 survey, which stated very clearly 705.8 as the normal pond elevation. He has the 2009 Fuss & O'Neil engineering drawings stamped January 2009, with a professional engineer's report that 705.8 elevation with the spillway clearly there marked at 704.8 in 2009. The town's not responsible for those errors. The 705.8 normal pond elevation is correct. The 704.8 invert of the spillway in the 2000 and 2006 Zarecki report is wrong. They knew it was wrong and they were negligent because they should have known or they did know and went ahead anyway. There was an email including Dustin Winn from Winn Construction, Dave Kelly and Kevin Flood from Fuss & O'Neill on October 4, 2017 which states, "the spillway elevation on the plans 704.8 was off and is actually 705.8". He read the January 1985 guidelines for design of dam's New dams, which state that flash boards shall not be installed on any new dams. The dam owner shall determine the normal pool elevation for the proposed impoundment and provide a permanently fixed spillway crest at the selected elevation. There was a town meeting at the Whaley Lake Civic Center on September 14, 2019, where councilman Johnson stated, one of the gentlemen that was at the dam meeting from NYS DEC said that a possibility also exists to widen the initial spillway. There are a lot of options but a study would have to be done" This is documented in the Town of Pawling meeting minutes. Also, at the September 14, 2019 meeting, supervisor Schmitt said, "he has never seen the weir boards in any design plans. The way to do this is to pick an elevation and build the spillway to the right elevation. The draw down valve is to be able to lower the lake when you need to". He thanked the board for lowering the lake when they did before this storm. The board should consider what councilman Johnson and supervisor Schmitt discussed in 2019. The town board is the determining entity according to the DEC guidelines because the dam owner shall determine the normal pool elevation for the proposed impoundment and provide a permanently fixed spillway crest at the selected elevation. There were many professional engineers on this project since the 1990's and the NYS DEC was overseeing this. The town should consider what Mr. Bissonnette said, which is that this is bonded and these instances should be discussed with the professional engineers and the NYS DEC should be consulted. He has lived on the lake since 1986, and no one ever opened a valve, until now. He hoped the board would look into the facts and liability of this.

Russell Smith, resident from 1544 Route 292, Whaley Lake said his wife's parents bought the property 1968, and he felt the lake was better now. Previously there had been a lot of weeds and slime. If the lake is raised, it will affect his dock.

The motion to adjourn was made by supervisor Schmitt at 7:50 PM, seconded by councilman DeRosa, motion passed unanimously.

Town Clerk