

DATE OF MEETING: June 7, 2021
PLACE OF MEETING: Village Hall, Pawling, New York
MEMBERS PRESENT: Mayor Lauri Taylor
Trustee Dan Peters
Trustee Earl Slocum
Trustee John Burweger
Trustee Gerald Locascio

The meeting was called to order at 7:03 P.M. with the Pledge of Allegiance.

MOTION by Trustee Peters to open the Public Hearing on Local Law # 2 of 2021 – “Regarding Reimbursement of Professional Fees Incurred by the Village in Connection with Land Use Applications” at 7:04 P.M. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

There were no public comments made.

MOTION by Trustee Slocum to close the Public Hearing on Local Law # 2 of 2021 – “Regarding Reimbursement of Professional Fees Incurred by the Village in Connection with Land Use Applications” at 7:05 P.M. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

Trustee Peters moved the following resolution, seconded by Trustee Burweger, to adopt Local Law 2 of 2021, to be known as a local law regarding reimbursement of professional fees incurred by the Village in connection with land use applications.

WHEREAS, the Village wishes to update its rules regarding reimbursement of professional fees incurred by the Village in connection with land use applications and to codify the audit procedures already applicable to said fees set forth in New York Village Law §5-524.

BE IT ENACTED by the Board of Trustees of the Village of Pawling as follows:

Article X of the Code of the Village of Pawling is hereby repealed and replaced by the following:

Section 98-53. Payment prerequisite to issuance of permit or certificate

No permit or certificate shall be issued by the Building Inspector until the applicant has paid to the Village of Pawling the appropriate fee pursuant to the fee schedule for permits which shall be reviewed and updated periodically to ensure that such fees are reasonable and necessary in accordance with the procedures set forth in this Article.

Section 98-54 Payment of expenses of professional review services.

(a) As used in this article, the following terms shall have the following meanings:

Land Use Permit: Any governmental permit or approval required by this Code or other applicable law, rule or regulation concerning the use of real property, including but not limited to site plan approval, site development plan approval, subdivision approval, zoning amendment, other local law change, special permit, use variance, area variance, interpretation, change of use permit, special use permit certificate of legal nonconformity, building permit, SEQRA review, architectural conformance or other land use permit application or appeal.

Reviewer: Any governmental Board, or other body or any official which has the jurisdiction, authority, or duty to make a determination as to the approval or disapproval of an application for a land use permit.

(b) This article shall apply to a) all fees for which a dispute is pending on the date this Local Law is enacted and b) all land use permit applications pending before any Reviewer at the time that this Local Law is filed with the Secretary of State and all applications submitted thereafter.

(c) An applicant for a land use permit may be required by the Reviewer to bear the expenses incurred in obtaining the services of professional consultants required by the reviewer during the consideration of such land use permit application.

(d) The review expenses provided for herein are in addition to application or administrative fees required pursuant to any other provisions of this chapter or Code or any other law, rule or regulation, including SEQRA fees imposed pursuant to 6 NYCRR 617.13 (except that the professional fees imposed hereunder in connection with SEQRA review shall be credited against the fees imposed under 6 NYCRR 617.13). Money deposited by applicants pursuant to this section shall not be used to offset the Village's general expenses of professional services for the several boards of the Village or its general administrative expenses.

Section 98-55 When and how deposit required.

(a) In connection with any Land Use Permit application, the Reviewer to whom such application is made may, at any time during the pendency of such application, require an applicant to deposit an initial sum of money into an escrow account in advance of the review or continuation of the review of the application. No application shall be deemed to be complete unless and until such deposit is made.

(b) The applicant shall be required to deliver such amount as is determined appropriate by the Reviewer, as provided herein, to the Village for deposit by the Planning Board and Zoning Board Secretary in a non-interest-bearing escrow account maintained by the Village of Pawling for custody of funds collected pursuant to this section. Said escrow deposit must be paid prior to the consideration of the application by the Reviewer, or prior to the continuation of such consideration.

(c) Upon completion of the review of an application or upon the withdrawal of an application, and after all fees already incurred by the Village have been paid and deducted from the escrow account, any balance remaining in the escrow account shall be refunded within 30 days after the applicant's request.

Section 98-56 Escrow

(a) Amount

The escrow fund amount shall be based on the estimated cost to the Village of professional review of the particular type of application before it. The Reviewer may consider the professional review expenses incurred by neighboring municipalities in reviewing similar applications. The Reviewer may also consider available surveys of professional review expenses in determining the initial sum of money to be deposited in an escrow account by the applicant. For the purpose of this article, professional review services shall be defined as, but not limited to, those services provided by stenographers, engineers, lawyers, architects, landscape designers, certified surveyors, property appraisers, planners and related professionals.

(b) Replenishment of escrow.

If at any time during the processing of a land use permit application there shall be insufficient funds on hand to the credit of an applicant to pay the professional review expenses in full, or if it shall reasonably appear to the Reviewer that such funds will be insufficient to meet professional review expenses yet to be incurred, the Reviewer shall require the applicant to deposit such additional sums as the Reviewer deems necessary or advisable in order to meet such expenses or anticipated expenses. Until such payment is made by the applicant, the Reviewer shall not continue to consider or review said application. No application shall be deemed to be complete unless and until such additional deposit is made.

(c) Payment of expenses.

1. Said escrow fund shall be used to pay the reasonable and necessary costs of a proper and thorough professional review of the application.
2. The Chairperson of the Reviewer shall review all such vouchers and shall approve payment of only such consultant charges as are reasonable in amount and necessarily incurred in connection with the review and consideration of applications. A charge or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by consultants to the Village for services performed in connection with the review of a similar application. In auditing the vouchers, the Village may take into consideration the size, type and number of buildings to be constructed, the topography of the site at issue, environmental conditions at such site, the infrastructure proposed in the application and any special conditions the Village may deem relevant. A charge or part thereof is necessarily incurred if it was charged by the consultant for services rendered in order to protect or promote the health, safety, or other vital interests of the residents of the Village, and protect public or private property from damage. In no event shall any applicant make direct payment to any Village consultant.
3. Upon review and approval as provided herein of itemized vouchers from professional consultants for services rendered on behalf of the Village regarding a particular application, the Village shall cause such vouchers to be paid out of the monies so deposited, and shall debit the separate record of such account accordingly. The professional consultant shall make copies of such vouchers available on request to the applicant at the same time the vouchers are submitted to the Village.
4. The Applicant may appeal the determination of the Chairperson of the Reviewer with respect to the review or expenses charged to the applicant hereunder to the Village Board within 30 days of receipt of any statement of expenses received from the Village by written notice to the Village Board delivered within the said 30 day period. The appeal to the Village Board is a prerequisite to any challenge in any court of law. An appeal not

submitted within the 30 day period is waived. Notwithstanding same any dispute pending on the date the Local Law is enacted shall be treated as an appeal and shall be reviewed by the Village Board in accordance with the standards set forth herein.

(d) Failure to make deposit or replenishment.

In the event the applicant fails to deposit the required sum into an escrow account or to replenish said escrow as required, any land use permit application or approval shall be withheld or suspended by the Reviewer until such sum is deposited. No Reviewer shall give any approval conditioned on future payments to be made. Any costs incurred by the Village for professional services in processing a certificate of occupancy shall be recovered as a fee before said certificate shall be issued. No future application to any Village board, body or official shall be accepted, nor shall any Village permit or certificate be issued, if said applicant has outstanding any fees due the Village from any previous land use permit applications.

(e) Charge Against Real Property

Any expenses for professional review fees incurred by the Village in connection with a Land Use Permit application shall be a charge against the real property which was the subject of the application and shall be a lien against such real property and shall be collected in the same manner as real property taxes in accordance with the provisions the Real Property Tax Law.

Section 98-57 In the event of either a site plan, site development plan, special use permit, subdivision plat, or other application approved by the Planning Board pursuant to NYS Village Law, or the Code of the Village of Pawling, the Planning Board Chairman shall not affix his or her signature to such site plan, special use permit or subdivision plan until all outstanding professional review expenses have been paid by the applicant.

This local law shall take effect immediately upon filing with the New York State Department of State.

The question of the foregoing Resolution was duly put to a vote, the Board of Trustees voting as follows:

Mayor Lauri Taylor	Aye
Trustee Daniel Peters	Aye
Trustee John Burweger	Aye
Trustee Earl Slocum	Aye
Trustee Gerald Locascio	Aye.

Mr. Dan Stone, a representative of Chazen Engineering, went over the Bond Resolution authorizing preliminary costs in connection with developing a new water source in and for the Village of Pawling at a total maximum estimated cost of \$350,000 and authorizing the issuance of \$350,000 bonds of said Village of Pawling to pay costs thereof.

The following resolution was offered by Trustee Peters, who moved its adoption, seconded by Trustee Burweger, to-wit:

BOND RESOLUTION DATED JUNE 7, 2021.

A RESOLUTION AUTHORIZING PRELIMINARY COSTS IN CONNECTION WITH DEVELOPING A NEW WATER SOURCE IN AND FOR THE VILLAGE OF PAWLING, DUTCHESS COUNTY, NEW YORK, AT A TOTAL MAXIMUM ESTIMATED COST OF \$350,000, AND AUTHORIZING THE ISSUANCE OF \$350,000 BONDS OF SAID VILLAGE TO PAY COSTS THEREOF.

BE IT RESOLVED by the affirmative vote of not less than two-thirds of the total voting strength of the Board of Trustees of the Village of Pawling, Dutchess County, New York, as follows:

Section 1. Preliminary costs in connection with developing a new water source in and for the Village of Pawling, Dutchess County, New York, including incidental expenses, is hereby authorized at a total maximum estimated cost of \$350,000 and the plan of financing thereof is by the issuance of \$350,000 bonds of said Village hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law.

Section 2. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is five years pursuant to subdivision 62 of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will not exceed five years.

Section 3. 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 bonds herein authorized, including renewals of such notes, is hereby delegated to the Village Treasurer, 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 Village Treasurer, consistent with the provisions of the Local Finance Law.

Section 4. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Village Treasurer, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as she shall deem best for the interests of said Village, provided, however, that in the exercise of these delegated powers, she 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 Village Treasurer 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 5. All other matters except as provided herein relating to the 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 bonds with substantially level or declining annual debt service, shall be determined by the Village Treasurer, the chief fiscal officer of such Village. 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 form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as the Village Treasurer shall determine consistent with the provisions of the Local Finance Law.

Section 6. The faith and credit of said Village 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 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. There shall annually be levied on all the taxable real property of said Village, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 7. 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 Village is not authorized to expend money, or
- 2) The provisions of law which should be complied with as 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 8. 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 9. This resolution, which takes effect immediately, shall be published in summary form in the official newspaper of said Village designated for such purpose, together with a notice of the Village Clerk in substantially the form set forth in paragraph a of Section 81.00 of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll, which resulted as follows:

Mayor Taylor	Aye
Trustee Peters	Aye
Trustee Burweger	Aye
Trustee Slocum	Aye
Trustee Locascio	Aye

The resolution was thereupon declared duly adopted.

MOTION by Trustee Peters to approve the Fairway Drive Sidewalk Project in the amount of \$24,300 with Woodland Manor LLC. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Burweger to approve the Village Green and Public Assembly Events Permit Application for the Pawling Merchant's Committee/Chamber of Commerce for all their proposed events for the rest of the year and the Town of Pawling for the Pawling Triathlon. **SECONDED** by Trustee Peters. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Peters to approve the Village Green clock repairs in the amount of \$2,895.00. **SECONDED** by Trustee Slocum. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Burweger to approve the repairs to the Chamber of Commerce public bathrooms (manual flush valve assembly - \$865.04 & sewer exploratory work - \$3,150). **SECONDED** by Trustee Slocum. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Burweger to approve the Metro North Treasurer's Report for April 2021. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

Mayor Taylor stated they had a pretty good conversation with the NYSDEC that afternoon – the village is working on language for the draft permit which will give the village up to 200 gallons at a variable rate at Umscheid. She said the village is finally getting to a positive situation with it and hopes to have a draft permit in short order. She stated it was a big hurdle to get to this point and it was close now.

MOTION by Trustee Peters to authorize going out to bid for the Umscheid electrical work. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

Mr. Dan Stone gave an update on the status of the water system. Items discussed were:
Installation of 2 test wells at the lower Baxter site
The flushing program and a valve exercising machine.

MOTION by Trustee Peters to approve payment of the May bills in the amount of \$77,933.49. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Peters to approve payment of the May 25, 2021 prepaids in the amount of \$13,442.68. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Burweger to close the meeting and go into Public Comment at 7:26 P.M. **SECONDED** by Trustee Peters. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Slocum to close open comment and return to regular session at 7:27 P.M. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Burweger to go into Executive Session at 7:28 P.M. to discuss Litigation. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Peters to close Executive Session and return to regular session at 7:55 P.M. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Peters to close the meeting at 7:55 P.M. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

Village Clerk