

DATE OF MEETING: December 15, 2022

PLACE OF MEETING: Village Hall

KIND OF MEETING: Business

MEMBERS PRESENT: Chairman Daniel Peters
Lauri Taylor
James Schmitt
John Burweger
Jerry Locascio

MEMBERS ABSENT: Tom Meyer

CONSULTANTS PRESENT: David E. Daniels, Daniels, Porco & Lusardi
Dan Stone, LaBella Associates via phone conference

At 7:12 p.m. the Business Meeting of the Pawling Joint Sewer Commission was called to order by Chairman Dan Peters

- Chairman Peters made a **MOTION** to approve the November 7, 2022 Special Meeting Minutes as presented;
- Chairman Peters made a **MOTION** to approve the November 10, 2022 Business Meeting Minutes as presented;
- Chairman Peters made a **MOTION** to approve the November 2022 Treasurer's Report as presented;
- Chairman Peters made a **MOTION** to approve the November 2022 Voucher's Report as presented.

SECONDED by Commissioner Locascio, Chairman Peters asked all in favor to signify by saying aye, all responded aye except for Commissioner Schmitt who remained silent.
MOTION CARRIED.

- Chairman Peters made a **MOTION** to approve payment of \$180.00 from ASPCA Escrow Acct. ending in 8380 to pay LaBella Invoice; **SECONDED** by Commissioner Burweger, Chairman Peters asked all in favor to signify by saying aye. All responded aye except for Commissioner Schmitt who remained silent. **MOTION CARRIED.**
- Chairman Peters made a **MOTION** for the transfer of \$2,000.65 from Castagna Escrow Acct. ending in 0160 to Checking Acct. ending in 0190 to pay Daniels, Porco & Lusardi Invoice; **SECONDED** by Commissioner Taylor, Chairman Peters asked all in favor to signify by saying aye. All responded aye except Commissioner Schmitt who remained silent.
MOTION CARRIED
- Chairman Peters made a **MOTION** to make a payment of \$2,690.00 from Project #2, WWTP Acct. ending in 0500 to pay Kulk's Plumbing &

Heating Invoice. **SECONDED** by Commissioner Burweger, all were in favor, **MOTION CARRIED.**

- Chairman Peters made a **MOTION** to transfer \$3,511.00 from Capital Acct. ending in 0000 to Checking Acct. ending in 0190 to pay LaBella Invoices. **SECONDED** by Commissioner Taylor, all were in favor, **MOTION CARRIED.**
- Chairman Peters made a **MOTION** to transfer \$101,682.04 from O&M Acct. ending in 0030 to Checking Acct. ending in 0190 to pay November invoices. **SECONDED** by Commissioner Burweger, all were in favor, **MOTION CARRIED.**
- Chairman Peters made a **MOTION** to move \$200.00 from Security Line # 13041.1 to Equipment Line 81104.7. **SECONDED** by Commissioner Burweger, all were in favor, **MOTION CARRIED.**
- Chairman Peters made a **MOTION** to Move \$6,000.00 from Legal Line # 13042.2 to Personnel Line # 81101.1. **SECONDED** by Commissioner Taylor. All were in favor, **MOTION CARRIED.**
- Chairman Peters made a **MOTION** to move \$7,670.00 from Engineering Line # 13042.3 to Electric Line # 13041.2. **SECONDED** by Commissioner Locascio, all were in favor, **MOTION CARRIED.**
- Chairman Peters made a **MOTION** to move \$6,500.000 from Repairs/Maintenance of Pump Stations Line #13043.3 to Accounting Line # 13042.5. **SECONDED** by Commissioner Burweger. All were in favor, **MOTION CARRIED.**
- Chairman Peters made a **MOTION** to move \$1,000.00 from Copier/Computer Line # 81104.1 to Collection System Maintenance/Repairs Line # 13043.4. **SECONDED** by Commissioner Burweger, all were in favor, **MOTION CARRIED.**
- Chairman Peters made a **MOTION** to move \$161.03 from SPDES Line # 13042.6 to Collection System Maintenance Line # 13043.4. **SECONDED** by Commissioner Burweger, all were in favor, **MOTION CARRIED.**

Chairman Peters said he forgot two things from the Organizational meeting and asked if he could close the regular business meeting and re-open the Organizational Meeting. Mr. Daniels responded that he could do that.

Chairman Peters made a **MOTION** to close the regular business meeting and re-open the Organizational Meeting. **SECONDED** by Commissioner Locascio, all were in favor except Commissioner Schmitt who remained silent. **MOTION CARRIED.** Time 7:16 p.m.

Chairman Peters made a **MOTION** to re-open the Regular Business Meeting, **SECONDED** by Commissioner Burweger, all were in favor, **MOTION CARRIED.** Time 7:20 pm

Chairman Peters asked Dan Stone if he had anything to add, Dan Stone who was on the conference call responded that he did not have anything to report or add at this time.

Chairman Peters asked Rich Kane of h2o Innovations if he had anything he would like to add or report, Rich responded that he was just getting himself up to speed and would come to the next meeting with a full report.

Chairman Peters asked Commissioner Schmitt if he had anything to report on Castagna. Commissioner Schmitt responded no, and went on to say they have started construction, they have all of their permits in place and the clearing has begun. Last he spoke with them, they should have the first phase completed within 15-18 months from now. Chairman Peters asked if they were still facing any challenges, Commissioner Schmitt responded that he believes they have until February 2023 to appeal and they feel pretty confident that they will be OK. Commissioner Schmitt also reported that Hannaford was speaking with the same blasting company that Castagna was using so that was a good sign and they (the Town) was hoping that Hannaford will begin moving forward. Commissioner Schmitt also reported that ASPCA was moving along as well and should be getting online by the end of the 2023 year. Chairman Peters asked Dan Stone if he had anything to add on any of those projects, Mr. Stone said he has worked with both of the engineers on The Castagna project & the ASPCA and they were moving along.

Chairman Peters asked the Commission if anyone had anything they would like to add, the Commission declined.

Chairman Peters then addressed the Town Board who was in attendance with the exception of Councilwoman Snow. Chairman Peters started by saying he was sure that they were all at the meeting regarding discussions they had at their last Town Board meeting and he had just a couple of thoughts and then he would pass it over to Dave Daniels to give everyone an overview of the IMA and the history as to how that all came about. Chairman Peters then said there were some discrepancies about the budget and he believes that the format for the Budget has been basically the same for the last 40 years. Chairman Peters told the Town Board that the Commission welcomes any input and or discussion that they have to bring. Chairman Peters said Supervisor Schmitt had a copy of the Budget since October 15, 2022 and the public hearing was set for November 11, 2022 and Commissioner Schmitt voted for the Budget, so if there were questions we could have resolved them before the Budget was even approved. So in the future that should always be a normal part of the procedure. Chairman Peters then asked Mr. Daniels if he would give an overview of the IMA.

Mr. Daniels said the original agreement was in 1983 and it has gone through a series of Amendments, most recently in connection with the upgrades to the sewer plant. Mr. Daniels said he believes there was a request for by-laws, but there actually are no by-laws. The Agreement is what controls the article 5G Municipal Cooperation Agreement so it runs through the agreement that's in place. It's a forty year agreement. The Amendments that have happened over time, it started in 1983 so the forty year agreement was extended during the time when the Village went through the bonding process and some of those Agreements changed the composition slightly, at one point there was an extra Village Representative and then that went away. Mr. Daniels said that was before his time, so he didn't really know why that happened, so then in terms of the process any Amendment would require mutual consent. Mr. Daniels said the Agreement is pretty simple in terms of the structure of it and having been involved with this for quite some time, the Village has been working for 40 years

with representation from the Town and it is located in the Village so it's not as simple as the flow, it's not a legal issue it's more of a business or legislative one. Mr. Daniels said he wanted to be clear that there is no tie-in in this Agreement that could have been negotiated back in 2014 or 2015 whenever it was, but that never came up and there was a lot of discussion with the whole Castagna thing going on. Commissioner Schmitt said to Mr. Daniels, 2014, 2015 was obviously before his time and perhaps the majority of the Town Board. Commissioner Schmitt asked how in all of the discussion no one ever said if a district is formed down on 22 and the Town has 70% of the flows that the Town would still only have one person on the Commission. He continued that it seemed to be such a major detail to not be part of those discussions. Mr. Daniels responded that if there were discussions, he wasn't privy to them. Commissioner Locascio asked when can changes be made to the Amendments, Mr. Daniels said changes could be made at any time. Commissioner Schmitt asked if it is a forty year agreement, how can changes be made. Mr. Daniels responded that revisions can be made at any time provided it's a mutual agreement between the Village and the Town. Commissioner Schmitt said he didn't realize that when first discussed. Chairman Peters said the Agreement was changed back in 2018. Mr. Daniels responded that he was probably wrong with the dates he gave earlier and that it probably was back in 2018, but that was quite a major Amendment that had to be done with the sewer upgrades. Mr. Daniels added he was getting confused with the Castagna Project back in 2014. Chairman Peters said the Castagna thing was them purchasing the last 26,000 gallons that was available in the old plant so in order for them to do that they had to pay what everyone else had paid in debt reduction up until that point but in reality they are only using 5,000 of that 26,000 gallons. Chairman Peters continued, by asking what the role of the Village was as far as the finance of the sewer plant. Mr. Daniels responded saying that the Village took out the bonds in full faith in credit and the Village was pledged to secure the bonds and the Town is obligated to pay their share which they have to raise through taxes, so as a practical matter they are both on the hook to pay their fair share of the amount of the bonds. Commissioner Schmitt then asked Mr. Daniels, when you say the Village isn't that just a district – Mr. Daniels responded that they are co-terminus. Commissioner Schmitt then said that the whole Village is not part of that, Mr. Daniels responded that yes it is. Commissioner Schmitt asked if that was true even where there is no service – Mr. Daniels responded yes, that was changed several years ago. Commissioner Schmitt asked even folks without sewer are in to that, Mr. Daniels responded yes, although the payment is modest for those who don't have access, but yes, that was done as a part of the whole bonding process – Commissioner Schmitt asked if that was for the debt payment of the plant – Mr. Daniels said yes.

Chairman Peters then asked if anyone had any thoughts, comments or questions. Councilman Phil DeRosa from the Town Board was in attendance & he said he remembered in 1983 one of his first concrete union jobs was up at that plant stripping the forms on the 18' diameter round tank in August and it was hot and we were sweating like heck. Councilman DeRosa continued saying he understands and most of the Town Board understands that back when that was created forty some years ago that the Town had very little usage, not like it has been creating over the last 20 years, like the Castagna group coming in and taking the 26,000 gallons from the old plant, but now they are at about 34% usage of the plant and now the Town has been working on the possible expansion of Route 22 all the way to the Patterson line and the increased usage that may bring if the Town goes forward with that with a vote come February he believes they might be voting on that since the Town has

closed its public hearing, the Towns percentages there & if Castagna gets built out, and now there is a big parcel on the west side of Route 22 that's up for sale, about 500 acres in there, the Town could be up to 70% flow. Councilman DeRosa continued that he knows there isn't a formula legally for that, but as a representation from the Town, for the residents that are going to pay for it he feels it's very important that the Town gets more representation on the Board. Councilman DeRosa said as you know I have been coming to these meetings & speaking about this for a couple of years, as the Town's oldest Board member he guesses he is the Grandfather that remembers some of the history. Councilman DeRosa said this is what their concern is, it's not that the Town feels anyone is doing a bad job, but they like to have a couple of people from the Town at the meetings so everyone hears the same thing, or God forbid if something happened to Commissioner Schmitt, which one of the Town Board members would really know what's going on at the Sewer Commission and these are all practical reasons, it's not just the legal reasons and he is glad to know that there is an opportunity to adjust the Agreement. Chairman Peters said as a Commission he believes everyone is more than open to discussion – Councilman DeRosa interjected saying that they (the Town) would like to have that discussion and go forward with this and make this thing pay for itself, that's the Town's whole goal. Chairman Peters said it's a service to the community and that was the whole idea from the inception, it has gradually taken on more and more of a role in providing a service to the community and the Commission is more than aware of that and the Commission is open to discussion and the Town's proposal and Amendment if that – Commissioner Schmitt interjected that with all due respect Mr. Chairman, it didn't seem like Chairman Peters was open to that, at least that's how it seemed to him. He continued to say, that the Chairman claims to be open to discussion, but the reality was that the Chairman just voted the only Town representative out of his seat and that he (Chairman Peters) had voted all of his Village Trustee's into every available elected seat just tonight. Commissioner Schmitt said he supports John & Jerry in a lot of capacities, but quite frankly, he (Commissioner Schmitt) has better attendance to the meetings than they do and has had more involvement, so for Chairman Peters to say he is open to discussion, Commissioner Schmitt doesn't feel he really is. Commissioner Schmitt continued saying to be honest, Chairman Peters had just taken the Town out of any available seat & voted all of his own colleagues in. Commissioner Schmitt then asked Chairman Peters to ask everyone else how many times they had been to the sewer plant since he had asked him that question. Chairman Peters said he has been to the plant with these folks, so he knows how many times they have been there, and he was just asking Commissioner Schmitt that because he was pushing him. Chairman Peters continued that he knows Lauri's involvement every single day and he had expressed that to Commissioner Schmitt and to the Board and he expressed that to anyone who was there. Commissioner Schmitt said given the votes that just happened 20 minutes ago, made him feel that Chairman Peters was not open to any discussion – the Town has no additional seats on the Commission at this time and any ability to put a Town member in as Deputy Chair, Secretary, or Treasurer, all those were filled with Village Trustees, so it doesn't make myself, and I am sure it doesn't make the rest of his Board feel like you are open to this discussion. Chairman Peters said we can set up a time, or we could set up a time at our next meeting – Councilman DeRosa interjected saying let's do that especially before the Town goes forward with this thing down Route 22 so the Town knows how the Commission really feels.

Councilwoman Corinne Musella-Pitt, who was in attendance, interjected, asking what was the time frame for making Amendments to the Agreement, I know all of us in this room are familiar with contracts and how contracts over time can and indeed be amended right, and you know I feel it's kind of unfortunate it took having a conversation at a Town Board meeting for us to realize and connect that yeah, we need Amendments to a forty year agreement, although I'm not even sure when the last Amendment was made, does anyone know when the last Amendment was made and what the Amendment was for? Chairman Peters responded that it was in 2018. Chairman Peters also said it is all on file. Mr. Daniels then spoke and said it was done, as part of, and I was just going to say to Phil, and this has nothing to do with what the decision is, but the historical context, I mean, yes forty years ago is when that decision was made and I'm sure you're right with very little Town participation but, when this, the forty year extension was put in place, everyone was talking about Route 22 everybody was talking about Castagna, but there was no discussion and the Town didn't come up. Mr. Daniels then said maybe Dave Kelly did mention it at some point, but in terms of what you're saying, nobody did it, it's not like a process like what's happening now because it's being expressed and everyone is trying to work this out so it isn't anyone should have been doing or could have been doing, this is just something that's coming up now and it's got to be recommended by the Commission and agreed to by the Commission and then the two Boards would vote on it. Councilman DeRosa asked Mr. Daniels if he was saying that the Sewer Commission would have to recommend it – Mr. Daniels responded yes. Chairman Peters then said we as a Commission could recommend tonight and send it to the two Boards if the Commission is so inclined. Commissioner Locascio said he had no problem in doing that, but he would prefer to have a conversation first. Chairman Peters acknowledged Commissioner Locascio's comment and ask if we should have the conversation at our next meeting? Councilman DeRosa said that would be fine. Chairman Peters said we will make it as an Agenda item for the next meeting which would be the second Thursday of January. Councilwoman Pitt asked if there was a way for that Document and the Amendments to be circulated, Chairman Peters & Commissioner Taylor responded that the Town has all of it. Councilman DeRosa said Cathy must have it. Mr. Daniels said of course we would provide it if they need it, Chairman Peters said we would provide it, but they should have copies of all of it as it's jointly signed. Councilwoman Pitt said I am just saying before we enter into further conversations of what we want to do – Commissioner Locascio interjected that this was the only reason he didn't want to have the conversation tonight, and that we are all in agreement that something needs to be adjusted here, so let's all have a chance and we will discuss that at the next meeting. Chairman Peters said OK. Councilman McCarthy asked Chairman Peters if the Commission would ever consider adding another person and doing like they do in the fire district where they have seven members, four that are from the Village and three from the Town – Chairman Peters responded saying I don't know, let's talk about it. Councilman McCarthy said having been the Commissioner for the fire district for twelve years, it does work very well because the residents on the Board of Commissioners that live in the Village have been very outspoken about the concerns of the Village and it has worked very well for many years for the Commissioners of the fire district and having an odd number has worked very well. Mr. Daniels said I just want to read this, I found the Amendments section – The parties from time to time may amend or supplement this agreement in the future to the extent required to comply with applicable laws, regulations & with the public agency & authorities with any jurisdiction over any part of the construction, expansion, operation or maintenance of the sewer system, to

meet the requirements of any funding source for the sewer system and or to provide the necessary financing, construction, reconstruction & supervision of the sewer system. Any determination as to whether such an amendment is required shall be made by the Commission. So it's pretty simple and any amendments can be done and you're right, it is a discussion.

Chairman Peters then opened the floor to public comment. Mr. Steven Goldberg of 63 Oak Shadow Lane, Pawling, NY. addressed Chairman Peters saying it was heartwarming to see everyone working together and he was sure that he will take it up and reach a wonderful resolution, nor am I here to say anything about that the ex-officio appointee statutorily is now taking on the Vice Chairmanship for some unknown reason although I assume there is some big reason, I am here because of the other issue, which is you mentioned earlier correctly that there was a public hearing for this budget and that is true, however the open meetings law, section 6 is relatively clear that one can't comment on something that's not disclosed at the same time, Village Law Section 5-520 says that the form of every budget each and every budget and that includes budgets for Commissions has to very clearly state what the compensation is and side by side to that say the number of people who receive that compensation and the amount. Now in this budget when this budget was up for public hearing you did not disclose that. You didn't disclose there was compensation, you have never disclosed in any former budget that there is compensation for members of the sewer Board. The reason I bring this up is because you know, it's shocking to me as a person who is pretty involved with Village matters and as a customer of any mandatory payment you have, that at no point in time did anybody see it necessary to follow the statutory form of budget. Now the reason I am bringing this up, my Dad used to say are we doing something here or are we just screwing around, and I love that because you know when people are just screwing around, they ignore the State Constitution and the Village Law that says the only way to remove an officer or any kind of Board member is to appeal to State Supreme Court. It's not to have some crazy un empowered investigation, you have to go to the State Supreme Court or the Supreme Court of the County and you have to level those charges, you can't just throw words at people – Chairman Peters then interrupted and asked Mr. Goldberg where he was going with all of this, Mr. Goldberg responded that he was almost done and went on to say like malversion – again Chairman Peters interrupted and said but I don't know what you're talking about. Mr. Goldberg continued, I'm doing you a courtesy, so this morning I contacted the Clerk of the Court and I wanted to tell you what amateurs do is they create little smears and things like that. What people who are serious do, like what my father said, are we doing something, I have contacted the Court and as a courtesy to your attorney I am informing you that that is an actual example of malversion and mis-administration, your ex-parte communication do not need to be investigated, they simply need to be claimed they are ex-parte communications are entirely inappropriate in nature. Second of all the budget officer of this Village has willingly and negligently hidden this compensation from the people of this Village; that is maladministration, it is also not carrying out their duties by statute, and unlike some silly investigation where we are going to investigate whether something happened, happened, but what we are going to do here is explore and probably bring this to the Supreme Court of New York State to make sure there is actual damages explored. So I just wanted to inform you and you know, your attorney that that's what's going to happen because your activities hiding 40% of your compensation especially when an ex-officio member hides their

compensation because their presence on this Board is statutorily is not only negligent, it is an actual example of maladministration and malfeasance, so it's just a courtesy, thank you so very much for you know the last five years you know that you have been Chairman obscuring your compensation on this Board. I will allow you to uh, Dave, you can come up with whatever cockamamie excuse you have, but statutes are statutes thank you. Chairman Peters thanked Mr. Goldberg.

Chairman Peters asked if anyone else had anything, there was no further comment.

Chairman Peters made a **MOTION** to adjourn the regular business meeting. Commissioner Locascio **SECONDED** the motion, all were in favor for the exception of Commissioner Schmitt who remained silent. **MOTION CARRIED.**
Time 7:41 pm

Jerry Locascio, Secretary