

DATE OF MEETING: August 15, 2022
PLACE OF MEETING: Village Hall, Pawling, New York
MEMBERS PRESENT: Mayor Lauri Taylor
Trustee Dan Peters
Trustee John Burweger
Trustee Jerry Locascio

The meeting was called to order at 7:00 P.M. with the Pledge of Allegiance.

MOTION by Trustee Burweger to open the Public Hearing on a local law to Reduce the Maximum Height Applicable to Type I Shopfront Buildings in the B-1 Zone from 4 Floors to 3.5 Floors at 7:00 P.M. **SECONDED** by Trustee Peters. There was no discussion; all were in favor and the motion carried.

There was no public comment.

MOTION by Trustee Peters to close the Public Hearing on a local law to Reduce the Maximum Height Applicable to Type I Shopfront Buildings in the B-1 Zone from 4 Floors to 3.5 Floors at 7:01 P.M. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

Mr. David Daniels, a village attorney, went over the SEQR documents.

MOTION by Trustee Locascio to approve the Resolution of SEQR Determination for Local Law No 7 of 2022 – Amending Chapter 98 of the Village Code entitled “Zoning” to reduce maximum building height for Type I – Shopfront/Mixed Use buildings in the B-1 District. (see attached). **SECONDED** by Trustee Burweger. There was no discussion; all present were in favor and the motion carried.

MOTION by Trustee Peters to adopt the Resolution to Enact Local Law No. 7 for the year 2022 amending Chapter 98 of the Village Code entitled “Zoning” to reduce maximum building height for Type I – Shopfront/Mixed Use buildings in the B-1 District (see attached). **SECONDED** by Trustee Burweger. There was no discussion; all present were in favor and the motion carried.

Mayor Taylor stated she assumed that most of the public in attendance were probably there for the public hearings on the next two items. She said since COVID the Board has seen a higher

use of the public spaces, which made them take a look at the local laws regarding the use so the Board can manage it to protect the village and public safety. Mayor Taylor said the Peddler's Permit has been on the books since 1978 and there had been some concerns and complaints regarding the companies that go door to door soliciting. She reported the Peddler's Permit was on the books to allow the Board to vet the company to make sure it was a true business with all its necessary documents so the residents could feel comfortable with that company coming to their door. Mayor Taylor said that law needed to be brought up to today's standards regarding insurance and state law requirements.

Mayor Taylor said as far as the Assembly Permit that the Board had some instances where two different people wanted to use the green or the bandstand and the Board wanted a way to monitor the use in order to protect the village and public safety, determine whether or not the highway department would need to do a road closure or whether the Sheriff's Department would need to do traffic control to basically prevent the disruption of traffic on the roads or sidewalks. She explained the Assembly Permit would be tripped when there were going to be 25 or more people it would be a permit process. Mr. Daniels said that would apply only if it was going to obstruct something. Mayor Taylor said she knew there were some feelings regarding the two proposed local laws shared on Facebook so the Board was not going to close those Public Hearings that evening to allow people to have more time to thoroughly vet them and bring their concerns forward.

Mr. Daniels stated the backdrop of the law was to make sure the public has the right to use the public space, it is actually held in trust for the public, which is a fundamental first amendment right that cannot be infringed upon by the government which includes the Village of Pawling. He stated it was for speech and religious activities and political activities and the like however those rights were not absolute and there are limitations on time, place and manner that the village can regulate with a reason – such as preventing violence or ensuring public safety or avoiding disruption of traffic and keeping street and sidewalks open and clear and avoiding interference with the rights of others to enjoy historical and cultural significant landmarks and regulating competing uses. He said another important thing to keep in mind is the recognition that when people are involved in exercising their first amendment rights as opposed to having a parade or a farmer's market that is not commercial because if you are going to use the public space it has to be for a public purpose and that doesn't mean that people can't go and speak and picket and do whatever they are going to do but when they put something in the ground – a tent or a fence

or something that is potentially going to have an interference – that is one of the things that triggers the need for a permit. He said if it was just a parade or an assembly situation where there could be an issue of disruption of traffic and making sure there is enough police protection if there is going to be two or more competing groups – everybody has the right to speak their peace but it may be in certain cases prudent to have designated areas for the two groups so the public peace is not jeopardized.

MOTION by Trustee Peters to open the Public Hearing on a local law to repeal Chapter 58-A of the Code of the Village of Pawling entitled “Peddling and Soliciting” and enact a new Chapter 58-A entitled “Peddling and Soliciting” at 7:08 P.M. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

Brian Klingerman, one of the local ministers of the Kingdom Hall of Jehovah’s Witnesses on Route 22, said they set up in the park to the right of McKinney & Doyle for the purpose of a doing a community service to bring the good news and hope to the community. He was concerned how the proposal might affect them so they can do the right thing moving forward. Mayor Taylor said that was not village property it was private property. Mr. Klingerman asked if they need to see anybody else about that. Mr. Daniels said they were not subject to the law because they are on private property and again if they were going around and doing their thing they are allowed to do that and nobody wants to stop it and shouldn’t. Mayor Taylor said they could not block a sidewalk where people could not pass... Mr. Klingerman said they are given good training not to do that and not to be any kind of problem to the community. Mayor Taylor said there has not been a problem she is aware of.

Drew Montgomery, 13 Quaker Hill Road, asked if the Board is vetting people who may be soliciting business door to door how do they know they were vetted. Mayor Taylor said he could ask them if they have a permit because people had concerns about people going door to door in the neighborhoods that have no vehicles or anything to identify who they are. Mr. Montgomery asked if the Board was going to post who was vetted and approved. Mayor Taylor said that could certainly be out on the website. Mr. Daniels said they should have the permit on them and they could be asked to produce it. He said it was not for someone who was acting for religious purposes. Trustee Peters said typically these people soliciting would come into the community and don’t announce who they are and prey, particularly on elderly people, to try to get them to sign up for things they don’t need and if the Board becomes aware of that they let

the authorities know and it stops. Trustee Peters said any peddler going into any community to solicit knows that they have to have a permit to do that but they don't go through the process because what they are doing is not necessarily... Mr. Montgomery said a lot of the organizations don't know they need permits. Trustee Peters said a lot of these quote companies and organizations that do this sort of thing – try to solicit and come to your door to try to sell you something, a new roof or windows or oil or an alarm system, they know they need a permit.

Carol Compton, 5 Spruce Street, asked if the soliciting would include demonstrations – the giving out of palm cards or political literature at any place in the village. Mr. Daniels responded it would not unless they were set up in a public area as a dedicated...if there was some kind of equipment/tent/gazebo but no if they were just going around and handing out leaflets that is a constitutionally protected activity.

There was no further comment. Mayor Taylor said the public hearing would remain open.

MOTION by Trustee Peters to open the Public Hearing on a Local Law to enact a new Chapter 59 entitled "Parades, Public Assemblies and Use of Public Areas" at 7:13 P.M. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

Mayor Taylor said this is an amendment to the current Village Green and Assembly Permit. Mr. Daniels said they covered some of this earlier before opening the public hearing on the peddler's permit amendment. Trustee Locascio said he was confused as to the permit of public assemblies is 25 or more... Mr. Daniels said if it was going to interfere with traffic or some other kind of public safety concern so it was not necessarily...it was kind of a facts and circumstances thing - there could be a situation where 25 people are walking down the street and it wouldn't make sense to have a permit for that but if it is in a specific area where it is tightly occupied...Trustee Locascio said if they were going to set up. He said the other one is the use of a public facility that the number is over 10. Mr. Daniels said the 10 requirement is only the gazebo and the war memorial otherwise it was 25 because the thought on that was that those areas are small and people are there whether to give a speech or do something from a religious perspective or something political that becomes an issue that the Board would want to weigh in on that in terms of whether to give a permit for that use in those areas.

Mayor Taylor asked for any public comment.

Mr. Tom Rose, a resident of Sunset Avenue, said he stands opposed to this version of the law. He said the proposed law, while purporting to support free speech, seems to do the opposite by creating a mechanism where free assembly and therefore free speech can be denied. He said taken as a whole it asserts that in the village what's known elsewhere as the right of assembly is reduced to a mere privilege to be granted or withheld by the village government. He said it appears to completely ban spontaneous demonstrations in public areas, imposing severe punishment by making the exercise of a constitutional right subject to fine and/or imprisonment unless an application is approved by the Mayor or the Board, giving those entities the right of rejection. Mr. Rose said this doesn't fit the definition of spontaneity. He said by requiring the special permit the village limits the unrestricted use of the most appropriate location for assembly – the gazebo – to 10 persons and the permit would require a 60 day notification. He said many local municipalities defer on state law of assembly and he saw no reason why Pawling should be different and encumber itself with the law's maintenance and risk the possible legal expense of defense. Mr. Rose said residents that he discussed the issue with believed the Village Board is determined to enact the proposal and while he believes that is unwise he said if it is truly the case he believes certain provisions should be reviewed and amended and there are questions he believed they were unable to answer at the time. He asked who is accountable when there is no applicant. Who determines when the threshold of public assembly is reached? - Who gets to count to 10 or 25? - And who gets to call the police when the count gets to 11 or 26? - Is the 11th person arrested or all 11? He said the threshold at which the proposed law would be enforced seems too low compared to other localities in the area which do have laws. He said in his opinion the threshold of 50 would not be burdensome to the village and to that end he proposed the term of public assembly be defined as 50 persons and the definition of "other assemblies" be removed in its entirety. He stated the high minimum fine provides insufficient discretion to judges to provide leniency in case of an accidental infraction, further discouraging spontaneous expressions of speech. He proposed the minimum fine be set at \$100 and judges may increase the fine at their discretion should the need arise. He said the Board has been given carte blanche to subsequently establish fees – fees should be codified before their adoption. Mr. Rose strongly urged the Board to reject the adoption of this proposed law but if they are determined to enact it he would like them to listen seriously to all public comments presented that evening and consider appropriate adjustments. He thanked the Board.

Mr. Daniels responded that Mr. Rose's comments were very thoughtful and he knew the law and looked at some of the criteria and that was why the Board was keeping the Public Hearing open because the intent of the law is not to do what Mr. Rose is afraid of. Mr. Daniels said he agreed with Mr. Rose that it is not worth it to enact a law that is going to end up being challenged and the Board wants to be well on the right side of constitutionality. He said the fee thing was something they had been talking about and when it is first amendment stuff it's not a bad idea not to have a fee and the number 50 was one that the Supreme Court talked about in cases and he was sure the Board would take all of Mr. Rose's comments under consideration. Mr. Rose said he appreciated the fact that the Hearing would remain open as he suggested to make appropriate adjustments and take another look at it. Mayor Taylor concurred and thanked Mr. Rose.

Ms. Joan Roberts, a resident of 33 Elm Street, stated within the last the year we had a car/truck convoy that came through the village and stopped in the village and then had a rally. She said they took up at least every parking space in the village. She said she did not know if they blocked traffic because she didn't go because as soon as she heard about it she didn't want to get in the middle of that. She said she would like to know if somewhere in the ordinance if there was something about cars and trucks as opposed to people because that is something that has been going on in Dutchess County so she would like that to be taken into consideration – what happens when that happens. Mr. Daniels replied that disruption of traffic and disruption of people and if people are creating a nuisance by honking horns or blocking traffic – that is exactly what he was talking about with the time, place and manner and the public safety and order piece of it. He said that was one of the reasons why the Board was considering the regulation – he said they were absolutely right about the spontaneity and not squelching that because that is not something that should be done, but on the other hand if it is spontaneity that is creating the nuisance for the people that should be regulated and can be regulated. Ms. Roberts stated she wondered if that could be included, not just people but vehicles. Mr. Daniels responded it is – traffic safety is one of the criteria. Mayor Taylor said that was what was meant by parade. Mr. Daniels said one of the criteria is if you are interfering with traffic, they don't allow bullhorns and that kind of thing. Ms. Roberts said that would be great. She thanked the Board.

Ms. Susan Raymond, a resident of Sunset Avenue, thanked the Board for deciding to not ram this through. She stated she watched the zoom meeting 2 weeks ago and it was apparent that the Board was going to put it through that night come hell or high water so she was glad they were listening to them. She said she read the proposed Chapter 59 and had serious misgivings and a slew of questions – and she would only touch on a few. She stated the definition of a public area leaves wide open the possibility that the Board can expand that definition at their discretion further limiting venues for people to assemble if the Mayor and/or Board disagree with them. She stated the application for an assembly permit has a list of onerous requirements, including one requiring that the applicant submit an estimate for the number of spectators. She stated “really” – how is anyone going to know beforehand. She said that one felt incredibly disingenuous with a potential for big fines for major miscalculations. She stated if the assembly permit is denied there is no provision for a review, a discussion - no allowance for the petitioner to request a path to seek a reversal of said decision. She asked why does the request process for the UFP come with an application window of not less than 60 days and to no more than 6 months. She asked why the Board is demanding at least 60 days to make a determination. Ms. Raymond said it feels like a cushion of time to find someone else to fill that time and venue so the Board can deny someone if they don't like what they have to say. She said the Board reserves the right to add impediments like an additional insurance or indemnification requirement randomly to make an application too pricey. She said the proposal states that Board would have the right to determine whether an assembly promotes a public purpose meaning they can use a nebulous undefined reason to refuse the request if they disagree with the purpose or the message. She said this proposal would codify the Board's right to deny a person or group their lawful constitutional right to free speech and peaceful assembly at any time that they do not like or agree with them. She said Article 59.14 states that the Village Green and Public Assembly Events Policy adopted by the Board on June 2, 2014 is repealed but there is no copy of or link to said document and it has not proven discoverable by many people. She asked why that has not been made available so they know what went before. She stated she has more questions and objections but in the interest of allowing others to express their thoughts and opinions she would leave the Board with this – we deserve better, this village demands better, the Bill of Rights and the First Amendment mandate better. She thanked the Board.

Mr. Daniels responded that the insurance requirement is something that...the only time that insurance can be required is if the organization sponsoring the event already has insurance and

the reason for that is that it is not permissible to require that – it was unconstitutional to the point that it might chill free speech. He said that the public purpose provision only applies to the use of things like the gazebo and the war memorial – it was not intended to apply where there is just a general people speaking and exercising the right of religion and the like. He said Ms. Raymond's points were all worthy of consideration. Ms. Raymond said the gazebo is a very convenient and central place that does not impede traffic and there have been assemblies there... Mr. Daniels stated what if 2 assemblies show up at the same time – that is a very limited space and a very prominent part of the village. He said the intent was not to pick favorites or to exclude people – it was to make sure there was a process. He said spontaneity was important and there needs to be a mechanism in the law that they work harder to address that, which is something he is sure the board will look at. He said everything she was saying was spot on – the Board cannot pick favorites or choose who they like or don't like because that wouldn't be right but it would also be stupid because they would end up with a lawsuit. Mayor Taylor said with the new website, if the Board continued with this path, once someone has a permit approved it would go on the community page of the website so that people would know when events are happening and where they are happening so that if someone else is looking to use the bandstand or the green they will see that on such and such day there is already a group using it. She said it was just like the Farmer's Market that has the block out of Saturdays from 9 – 1 and the Board certainly would not be allowing someone else to get a permit for the green and it would be under the Farmer's Market control as to whether or not they allow another group to join them – once they have a permit it is under their control as to who also utilizes the green if they choose to. Trustee Peters said the Board's intent was not to prevent anyone from using the green – he said he did not think that anyone who ever applied for a permit to use the green for any purpose was ever denied and that was not the Board's intent. Mayor Taylor agreed and said that was not the Board's intent – it is simply to manage the use so that there would not be 2 groups wanting to use it and to make sure they are protecting the village and the village residents so they are not blocking traffic or that there is not something happening that is going to impede...

Ms. Jennifer Tiso-Garvey, a resident of 15 Fairway Drive, said just to be clear that there are 2 permits the Board is talking about – the UPF which is the use of the gazebo and the assembly permit which is the 25 persons. Mr. Daniels said it was not just the use of...the use of the public facilities includes the green and the gazebo...Ms. Tiso-Garvey asked what was the 10 and the 25 thing. Mr. Daniels said the 10 only applies for a group that wants to have a dedicated use of

the war memorial or the gazebo. Ms. Tiso-Garvey stated right so if you were to have an event that was including the gazebo and the green on side you would be filling out 2 permits essentially. Mayor Taylor replied no it would be the green and would encompass the... Ms. Tiso-Garvey said ok because she wasn't sure if there were 2 separate ones. She said the second thing that came up was they were saying about insurance that it would only be required of a group if the group had insurance. Mr. Daniels said for the public assemblies... Ms. Tiso-Garvey said they had Pride back in June and they were charged insurance and they had to go through another way to get insurance – she said off line she would love to know why they were charged for insurance. Mayor Taylor said the application currently does require insurance. Mr. Daniels asked if they were using the green. Ms. Tiso-Garvey said that was correct. Mr. Daniels said the green is a dedicated place and if they have exclusive use of it then there can be insurance required. He said if people just want to come and speak and march and exercise their rights you can't stop people from doing that under the guise of insurance. Ms. Tiso-Garvey said right but if you were having an event... Mr. Daniels responded yeah and you are basically taking over the green so that other people were going to be excluded that's where it's a different... Ms. Tiso-Garvey said that was a weird gray area and she felt like do they require insurance or they don't so it's at the discretion of the... Mayor Taylor said that was something they could look into. Ms. Tiso-Garvey said that would be great. She said a big thing that she found when she read through the document was that her first kind of reaction was what other towns do. She stated she did research and looked into other areas near us in Dutchess County and a couple of friends live in Putnam County and she got some numbers there. She stated it seems that the number 25 is incredibly low when you compare it to other towns and villages so she was kind of curious how that number came up. Mayor Taylor said she looked at a couple of villages in Dutchess County and they both had the 25. Ms. Tiso-Garvey said she hadn't found any so... Mayor Taylor said the Village of Fishkill and Millbrook have... Ms. Tiso-Garvey said Millbrook has 50 before they require a permit and they have a much smaller population than us but... then Amenia allows up to 350 people before requiring a permit – Dover allows up to 2,500 people – Patterson allows up to 500 people and they were towns nearby that allow a lot more wiggle room she guesses she was saying before you would need to require a permit. Mayor Taylor responded the other thing when you are comparing a town to what we have here – and let's use the Town of Pawling they have a big huge park with large pavilions with the grass area around it and the village does not have that. She said we just have our little green so that was a difference and Dover has a huge park with a huge pavilion and the Town of Lagrange, same thing, big huge park and big huge pavilion so they can absorb large numbers – the village is a

little small. Mayor Taylor said she heard her about the numbers...Mr. Daniels said it was a good point and was something they thought about because it is a gray area and she raised valid concerns. Ms. Tiso-Garvey asked why there is insurance and bond - there was language that made it seem that those were two separate things. Mr. Daniels said some of the things that wouldn't be covered by insurance would be by a bond. Ms. Tiso-Garvey said right so there is two... Mr. Daniels said not for a public assembly - that would not apply. Ms. Tiso-Garvey asked what would apply - what would trigger needing both. Mr. Daniels responded if someone was using the gazebo and there was a cleanup or something happens where there are expenses being incurred by the village, and again, it has to be tailored to what the situation is. Ms. Tiso-Garvey said but insurance would not be sufficient enough - a bond is needed as well. Mr. Daniels said the Board can waive...those are things that fact and circumstances...but they would look at that as well. Ms. Tiso-Garvey said as they are talking about this she feels that a lot of the responses are "maybe we wouldn't need it" and it feels very up to the discretion of folks and so for people of the public...Mr. Daniels said it can't be. Ms. Tiso-Garvey said that was what was coming across...Mr. Daniels said it can't be...Ms. Tiso-Garvey said she wasn't trying to be accusatory she was saying you need insurance if you hold something but only if your group has insurance already - ok but your group doesn't have insurance but we are still going to charge you insurance to use the green. Mr. Daniels said that comes right from a Supreme Court case and that was where the line was drawn by the court so it seemed like a reasonable...because you already have the insurance and it's not going to cost you anything, why not. He said that means you are a group that is probably doing things on a bigger scale on the other hand if you are a small organization you can't require insurance because to do so would chill first amendment rights. He said he didn't think that's subjective he thought...Mayor Taylor said maybe they had to clarify where and when they apply and how they apply. Ms. Tiso-Garvey said it was necessary because they want the public to trust you then you need to be super clear about how these things are decided, what triggers certain things and who's counting and at what point are they going to be "this is the eleventh person" - it felt like when she was reading it there were things/times when the language was incredibly vague and she thinks that makes people feel like what are they trying to pull the wool over our eyes - that was what she was getting from that so she was just trying to be honest and tell you guys like it feels very wishy washy to her and it feels not clear enough. She said she knows what they are saying that we can't do that, right - we can't do that, that is a first amendment thing - we can't do that as the Board but maybe the next person that gets voted in would. Mr. Daniels said there has to be a reason and someone was talking about a truck rally and if there was one that was going to

block traffic and the Board could say you need a permit because you are blocking traffic and disrupting the public with your noise and on the other hand if a group comes in and they are not doing any of that there would be no legitimate basis – the ordinance requires a reason – the idea was not to do what she was afraid the Board might do. Mayor Taylor said they can't have the Sheriff enforce or control something if they don't have the local law on the books for them to enforce. She said yes it needs to be massaged but it was a work in progress and she was thankful that they were there to point out the deficiencies or the question marks so that they can get a place where, hopefully, everybody is comfortable.

Mr. Harvey Matcovsky, a resident of Crescent Drive in Holmes, stated it seemed to him that the law was rushed through. He said there were comments such as there is too much discretion, vagueness of the law and the amount. He asked what the genesis of the law – who sat down and thought there was a need for this law in addition to the constitutional guarantees in the state constitution and the U.S. constitution. He said it seems it was a solution looking for a problem. He asked if somebody was aware or if sometime in the past there was a demonstration or a group that came in that caused a...blocked the sidewalk or caused traffic congestion. Mayor Taylor said he just heard about one. Mr. Matcovsky said that seemed to be spontaneous...(Crowd was cross talking). Mayor Taylor said it wasn't being rushed – the way a local law works is the Board introduced it at the last meeting and then the Board opens a Public Hearing to hear the public. She said it is a draft the Board is working with and it was definitely going to be massaged with all of the comments. She stated this is how the Board works and as she said before there is already a Village Green and Assembly Permit. She said she understands that people weren't able to see it but there is one that the Board has had since 2014 and when you amend a local law it creates a new law. Mr. Matcovsky said at the last meeting, that law, he assumed all Village Board members had copies of it so it didn't come from heaven all of a sudden and was dropped down, there had to be thought that preceded the last meeting and it seemed to him that there wasn't enough thought and enough debate. He stated he still did not understand the genesis and she gave her explanation but with all due respect he did not buy it, maybe he was a conspiratorial mind but there are times when someone is out to get you. Mr. Matcovsky said let him talk about an issue that has been bandied about – the St. Patrick's Day parade – he assumed they had a permit. Mayor Taylor responded in the affirmative. Mr. Matcovsky asked if they had insurance. Mayor Taylor responded yes. Mr. Matcovsky asked who sponsored it. Mayor Taylor said it was the Chamber of Commerce. Mr. Matcovsky said there had been questions about that. He said his main problems were the

vagueness and too much discretion on the part of the Mayor and the Village Board. Mayor Taylor said that had been heard. Mr. Matcovsky said that was unacceptable.

Mr. Drew Montgomery, a resident of Quaker Hill Road, asked if you fill out the application would it be voted on by the Board. Mayor Taylor responded yes – that was their process and had always been their process. Mr. Montgomery asked why it should be voted on by the Board – if you fill out the proper forms and the time is available why should it be a decision of the Board whether one group should come and another group shouldn't. Mr. Daniels stated because if you have a single person making the decision there is less chance for discussion and consideration of the issue. He said it was intended to address, partly, and mitigate the possibility of a single person responsible for making any kind of subjective decision. Mr. Montgomery said it wouldn't be a decision if the form was filled out...Mr. Daniels said it was a decision because let say it was going to cause a riot with 2 groups...Mr. Montgomery asked how you would know if something would cause a riot. Mr. Daniels said he was using extreme examples to...Mr. Montgomery said if he applied to the Building Department to get a roof nobody votes on whether he should get a roof or not get a roof. Trustee Peters said for instance when you come before the Board to present the idea for a farmer's market which will consume that area of the village for the summer it is presented as an idea, as a thought, is this a good idea, how is it going to work, what are the vendors going to be like, this and that and the other thing. He said that was presented to the Village Board as a concept and Mr. Montgomery was present when that was done and there are other similar situations where somebody has an idea for an event like the farmer's market which consumes the green for the whole summer and it is absolutely a wonderful event and we all enjoy it and love it but that comes before the Village Board as a concept. Mr. Montgomery said that was a very different event, the farmer's market is not a freedom of speech issue. Mayor Taylor said it is an assembly. Mr. Montgomery said it was not...Mr. Daniels said it was a use...Mayor Taylor said it was a use. Mr. Montgomery said it has insurance. Trustee Peters said if somebody wants to come from 9-1 on some Saturday during the summer, and there have been these conflicts, and use the space or use another space in the village that may affect the space that you already...Mr. Montgomery asked if takes the whole Board to decide whether...Mayor Taylor said if it was just her he would accuse her of making...Mr. Montgomery said it wouldn't be the Mayor it would be the Clerk. The Clerk stated she would not be comfortable making that decision. Mr. Daniels said it was not a ministerial decision. Mr. Montgomery asked if it was a decision. Mr. Daniels stated, as Trustee Peters said, there was a situation where a group was already using the space and another group

wanted to come in and use that space or use the space right next door he thought there needed to be some judgement and the Board...Mr. Montgomery said wouldn't it be first come first serve. Mr. Daniels said if you don't have a permit...Mr. Montgomery said he meant getting the permit. Mr. Daniels stated it may not be so clear...Mayor Taylor said somebody now sets up on the green on a Saturday morning at 8:00...Mr. Montgomery said if somebody wants to be in compliance...Mayor Taylor said there can be somebody setting up at 8:00 on a Saturday morning – set up a couple of tents wanting to be vendors and you as the farmer's market have the permit for 9-1. Mr. Montgomery said that was a very different kind of permit or should be – this is public assembly. Mayor Taylor said and use. Mr. Daniels said if it is public assembly it is different, he agreed with Mr. Montgomery, he said one thing is a charitable activity and it is not free speech and this law has a lot of safeguards for the free speech/religion kind of thing that are not in place for the commercial activities and a lot of the comments that were made tonight would be discussed and if it gets passed there would be more. Mr. Montgomery said many of these were gatherings of people are on events that occur and are reacted to very quickly within a day or two or maybe on the same day so how do you put it to a vote. Mr. Daniels said that's why they had the Mayor decide that – if there is good cause because of spontaneity, and there is a reference to that in the ordinance, so they can move quickly. Mayor Taylor said that would allow the event to happen. Mr. Montgomery said he doesn't see an assembly of people trying to apply for the right to assemble as any different if it is all about freedom of speech not about a commercial...Mr. Daniels said again in order to trigger the permit when it involves free speech there has to be some risk of disruption to the public order. He said you can't just require a permit for a bunch of people who are going to walk through the village and exercise their right to speak or whatever – you can't. Mr. Daniels said he wouldn't recommend it and that was why the ordinance specifically says there has to be some...Mr. Montgomery said it was a dangerous path...Mr. Daniels said he did not disagree with him that it is a slippery slope and it has to be done very carefully and it has to be clear there are real reasons – again there are constitutional rights involved – you have to have a compelling interest to shut somebody down. Trustee Peters said that never happened and he did not think it ever would. Mr. Matcovsky said the fact that it never happened was no excuse to have a law. Mayor Taylor said to Mr. Matcovsky that there were other people with their hands up and they needed to be respectful.

Mr. Steve Goldberg, a resident of Oak Shadow Drive, said he thought the issue was solvable and the Board made a commitment to look at it and they pointed out some really dangerous areas and agreed that they were dangerous. He stated when he first came there he was

suspicious and he thought – Oh I hope this doesn't evolve into a Democrat thing, a political thing – and he was happy to see that his good friend Coleen Snow, who is not a Democrat, told him in writing that she was against this law and she told all of us – which was great. He said he thought the reason that people have this reticence is because of some of the broadness that is easily fixed and he would turn their attention to a couple of things as examples of what can be fixed when you push through this. He said the first was the definition of fixture for example – he said the definition of fixture was extraordinarily broad and what it basically means is there is the opportunity for his friend, Mr. Musella or Mr. Bernard to be walking with a placard that says blue lives matter or the NRA and be shut down and so it is easy for us to take a quick look at these things and see what can we do to avoid the slippery slope. Mr. Goldberg said another example was – and these scenarios of well it could cause violence don't come into question – permits can be denied based on someone's previous history. He said there was at least one person he knows in the room who pled guilty to a misdemeanor charge of trespassing because they protested the war a war that maybe wasn't so popular even back then with people here and that's not what we want. He said we don't know what can happen. Mr. Goldberg said Trustee Peters was a fine man who he does business with and he knows he has a personal like for him but things that have never happened before happen and what we need to do when creating our laws, he believed, is to make sure that no harm can happen first and that doesn't just mean safety. He urged the Board to look at the exemption clause itself, a clause that doesn't exist in other local laws even though other villages have it. He urged them to look at the appeals section and the definition of things like fixture and even the definition of public spaces because they have taken one public street Albermore Road and said that is not a place you can congregate but that will in fact be the very front of our Village Hall once they are done with their fine work of rearticulating how the village hall is spent. He urged for people in the room to send their comments to the Clerk or the Mayor and to take a serious and hard look at these and at the end of them take a look and say in the aggregate do we actually need this at all or can we be like Millerton and Red Hook and Tivoli and many other villages who choose not to have this law. He thanked the Board for the opportunity to speak.

Ms. Joan Argren, a resident of Bundy Hill, wondered if there was a survey of what the different towns had done with respect to the issue. She said they also found out to whom applications are made and who makes the decision – is it common to have an elected Board or individual make the final decision except when it is some extremely contentious or whether is it more common to have an administrative staff member be the person to receive the permit and then

grant it. Mayor Taylor said the ones she looked at – Village of Pawling and Village of Fishkill both had where it was the Board and/or the Mayor. Ms. Argren said ok – and asked if she doesn't know about the others. Mayor Taylor responded in the negative. Ms. Argren thanked her. Mr. Daniels said under Village Law the Mayor is invested with the authority to issue permits, so that is the norm and the Mayor can delegate to the Board.

Mr. Rob Pfister, a resident of San Souci, that some of the points being made about just one person allowing a certain event to happen...let's say I want to show up with his buddies and have axe throwing on a Wednesday night and he has 20 people and Trustee Locascio loves axe throwing – is it a good idea – no and he probably would get denied if he applied for a permit because the rest of the Board would say that is a terrible idea and he realizes that is a crazy example – or someone wants a knife and gun show and somebody who is on the Board loves knives and guns who is on the Board should that one person make the decision. He said the fact that they all get to weigh in on certain things... Mr. Montgomery said he was sorry but that was like the farmer's market or the car show that is not a freedom of speech...Mayor Taylor asked Mr. Montgomery to please let the person speaking speak. Mr. Pfister said just on that note it makes sense to let the Board review at least the application – freedom of speech, or whatever Mr. Montgomery is speaking about, within reason as long as it's not contentious or incites violence, because he doesn't want a Nazi rally in the village, but then yeah of course freedom of speech should be allowed.

Ms. Roberts asked when the car/truck rally – convoy rally thing came to Pawling – did they have a permit to assemble in the village. Mayor Taylor replied they did not. Ms. Roberts asked if they were fined or was anyone arrested. Mr. Daniels replied we don't have a law. Ms. Roberts said they didn't have a permit and aren't they supposed to have a permit. Mayor Taylor said the current law is for the village green and assembly so that was why they were broadening it hopefully capture those scenarios. Ms. Roberts said they were on the green. Mr. Daniels stated right now unless you could establish a legal nuisance or disorderly conduct or disturbing the peace you can't do anything about somebody who did that. He said if you have a bunch of people coming down and locking arms and blocking traffic there is nothing you can do about it. Ms. Roberts said we have a permit but we don't require a permit right now. Mayor Taylor said no we don't have a permit that addresses that. Mr. Daniels said we only have a permit for the green. Ms. Roberts responded oh – ok. Ms. Tiso-Garvey asked if they could get a copy of that or could it be put up so they can see the one from 2014. Mayor Taylor responded affirmatively.

Mr. Marty Migan, a resident of 1 Aspen Court, asked if he heard correctly that he can block traffic out here – he can pull his car sideways into the road and nothing would happen to him. Mayor Taylor said no, not necessarily, we can still call the Sheriff's and the Sheriff can make him unblock the road. Mr. Migan said to Ms. Robert's point did anyone call on that day. Mayor Taylor responded she did not know. Mr. Migan said he was not going to do it but it doesn't make any common sense – just because we don't have a law that somebody can just block traffic. He said it makes no sense.

Mr. Greg Bernard said as a point of clarification he was a councilman in Yorktown for eleven years and they never saw permits in front of their Board because the Police Chief took care of it. He said in a lot of municipalities that have a police force the Police Chief is in charge of that so in this case the top official of the municipality would be charged with that. He said they choose to use the Board instead of the Mayor as arbiter of that but most of the municipalities would use the Police Chief to do that and the Board would never see those permits. He said he thought that was good because they don't want to seem political if the Board approves, like Mr. Goldberg said, a Blue Lives Matter or an NRA or a Black Lives Matter so people can point a finger at them and say well you denied it or you approved it based on political purposes. Mayor Taylors said to be fair we also had Black Lives Matter parade through the village twice and they did not have a permit either so there are events that have been happening and the Board was trying to figure out a way through it,

Mayor Taylor said the Board is leaving the Public Hearing open and everyone should feel free to email their comments.

Ms. Carol Compton, a resident of Spruce Street, said one point was she personally would have no problem if on a given day, the end of June was the time that was right, after Roe V. Wade was overturned for Pro-Choice and Pro-Life. She said she personally would have no problem with a Pro-Choice being on one side of the gazebo and a Pro-Life being on the other side of the gazebo as long as it was orderly and she believed we can behave in an orderly fashion. She said she did not think we should dismiss out of hand what if two groups want to assemble on a given day. She said number two was how can we be assured that there will be some transparency in the way the decisions are made – she said some decisions are just going to be obvious – stupid things are not going to get approved, dangerous things are not going to get

approved but how can some transparency be presented. Mayor Taylor responded for the village green and assembly permit that the village currently has on the books, those applications are put in writing in the packets that go out on the website before the meeting and everybody can see it and it is discussed at the Board meeting and voted on. She stated she thinks that is pretty transparent. Mr. Daniels said also if somebody gets turned down for the wrong reasons that would be very transparent and the Board would hear about it. He said bad decisions are to be avoided. He stated he did not think there shouldn't be standards but that also is a check and balance.

Ms. Amy Farrell, a resident of 22 Sheridan Drive, asked the Board to clarify if she gathers with 10 people and wants to use the gazebo to express her views and a couple more people join them do they need to move onto the green where there is more space or is all that space considered the same space. Mr. Daniels said the idea was, and again the numbers were up for discussion, that if somebody was basically taking over that space, it's a very small gazebo, 10 was a number that was introduced as a possibility because it started to get to a point where it probably would have interfered with anybody else who might want to use the gazebo. He said it doesn't have to be 10 but if somebody wanted to do the same thing on the grass next to it they can. Ms. Farrell said they could just move off of the gazebo and...Mr. Daniels said if 25 people are just standing there talking or having a speech and not hurting anybody you don't need a permit. Mayor Taylor said as long as everybody is getting along and there isn't a friction or a problem nobody is going to be out there and be the green police and say you are now 12 instead of 10 – it is just a way to manage things and that number again, as Mr. Daniels said, it is a fluid number but the Board would figure out what works and maybe it doesn't work but it is, again, just a way to manage the situation if all of sudden it turns into Roe Vs. Wade comes together at the bandstand and a fight breaks out it needs to be broken up and that is when the Board falls back to who has permit and for how many. Mayor Taylor said it is a draft, the Board is working on it and the Board will keep it going and keep the discussions going. She said, again, they were going to keep the Public Hearing open and if anyone had any more comments please email them in.

Ms. Tiso-Garvey said 50 people – for example let's use a horrible tragedy that happened 2 years ago in 2020 of George Floyd and we decide people are enraged and want to take to the green and go and express that and shout and not cause any damage but maybe hold a sign, yada yada, and what is to distinguish that they are an entire group and thus they need a permit.

She said what if just everybody flocked there – for example after the Supreme Court leaked that they were going to be possibly overturning Roe V. Wade, people, herself included, went to the gazebo to be around like minded people and get our frustration and do some chanting for an hour and then they went home and she made dinner for her two kids and she went to sleep. She said she felt the concern was like when they are talking about an event, right, like the farmer's market or pride – pride was an event – absolutely – they had tents, they had slime making, they had all these things – and she gets that – that needs a permit – 100%. She said she feels that the law, and she knows she is pushing it, the law is a slippery slope when they are talking about first amendment rights. Mayor Taylor responded they already identified and acknowledged that and they would be regrouping and looking at it. She said they appreciate the comments.

Mayor Taylor said the Board needed to move on to the rest of the agenda. She said she appreciated everyone coming out and letting them know and the story is to be continued.

Mr. Matcovsky asked if there would be another public hearing. Mayor Taylor responded the public hearing is remaining open. Mr. Matcovsky said he understood that but would there be another official public hearing. Mayor Taylor said probably but the Board would have to see what transpires...Mr. Matcovsky said they haven't decided so there is a possibility that they are keeping it open in order to...Mayor Taylor said that was not a possibility. Mr. Matcovsky replied ok. Mr. Daniels said the law cannot be passed without another public hearing. Mr. Matcovsky said he was not talking about the law being passed he was talking about public comment being allowed. Mayor Taylor said yes that is what a public hearing is. Mr. Matcovsky said that was fine – that was ok.

MOTION by Trustee Locascio to open the Public Hearing on a local law regarding reimbursement of expenses incurred by the Pawling Joint Sewer Commission in connection with Sewer Connections at 8:07 P.M. **SECONDED** by Trustee Peters. There was no discussion; all were in favor and the motion carried.

There was no public comment.

MOTION by Trustee Peters to close the Public Hearing on a local law regarding reimbursement of expenses incurred by the Pawling Joint Sewer Commission in connection with Sewer

Connections at 8:07 P.M. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

See attached Resolution of SEQR Determination for Local Law No. 8 of 2022.

See attached Resolution Enacting Local Law No. 8 for the year 2022 regarding reimbursement of expenses incurred by the Pawling Joint Sewer Commission in connection with Sewer Connections.

See attached Resolution Authorizing Application to Environmental Facilities Corp Water Infrastructure Improvement Act – Village of Pawling Water Supply Project – Lower Baxter Wellfield Development and Construction.

Mayor Taylor said the Board received a letter from the Town of Pawling asking if the Village Board would consider shared services for the Sheriff's and the Building Inspector. Mayor Taylor said she would speak to the Building Inspector situation in that when she became Mayor the village Building Inspector was stepping away and she felt she put something good together. She stated the village uses LaBella and they work within the permit fees for someone doing work on their property so it does not cost the village residents. She explained there are occasions, and they are very minimal, when their expertise has to be applied to other places where there is a small fee to the village residents but on the whole, for the most part, there is no cost to the village residents. Mayor Taylor said that by using LaBella the village has a Building Inspector and a Code Enforcement Officer who is also a licensed PE which also comes with other staff as needed. She said it is a great system and they are all pleased with how it is working out. She stated the village is always interested in shared services to reduce the costs for 2 municipalities however this is a scenario where it is not going to show any cost savings. The Board agreed. She said regarding the Building Inspector they were going to pass on that shared service request. Trustee Peters addressed the shared services request for the Sheriff's coverage. He said the Village of Pawling for at least the last 60 years has either had its own police force or contracted with the Dutchess County Sheriff's Department to cover portions of every day with absolute and direct coverage within the village. He said the Board likes the service and feels it is needed in the populated area of the village and there does not appear to be any benefit to the village in sharing the service because we don't want to lose the service we have. He said the only way for the town to engage in their own Sheriff's coverage is to pay for

it. He said there is no advantage whatsoever for the village to enter into this shared service. Trustee Locascio agreed – he said the village has the dedicated patrol for the village, they get paid per hour and they are within the village. Mayor Taylor said when she drove into the meeting she saw the Lieutenant walking down the sidewalk – they are visible, they are driving the village, they are walking the village, they have relationships with the merchants and know the community. She stated it is a presence that the community sees and she thinks it is important and does not want to lose that.

MOTION by Mayor Taylor to let the town know that where the Board is more than happy to entertain shared services these two are not the ones that fit for the village. **SECONDED** by Trustee Peters. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Peters to approve the Municipal Solutions amendment to contract dated March 8, 2022 regarding the Water Rates Study. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Burweger to approve the Municipal Solutions proposal for application for funding to the Drinking Water State Revolving Fund and Fiscal Services for Lower Baxter Well. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

Mr. Daniels said regarding the parking enforcement process that the last thing that remains is to come up with a finalized list of violations that will go on the ticket.

MOTION by Trustee Peters to approve the changes the attorney and Clerk will make to the parking violations list so it can be sent out to so it can be sent out and the Board will ratify it at the next meeting. **SECONDED** by Trustee Burweger. 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 July 2022. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

Mr. Dan Stone, a village engineer, said 2 bids were received for the last contract for Umscheid. He said one was improperly completed and the other was 4 times higher than the estimated cost. He recommended that the Board reject both bids and to also consider authorizing LaBella to go back out to bid after he clarifies with the two contractors the actual work the village is asking for.

MOTION by Trustee Peters to reject the 2 bids received for Pawling Water Supply Project, Contract 3 – Well Field Installation and to authorize LaBella to rebid the project. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

Mr. Stone updated the Board on the Umscheid wells, the horizontal directional drilling contract with Roehrs to connect the two pipes under the wetland, the water rates, the Lower Baxter project and WIIA grant.

MOTION by Trustee Burweger to close the regular meeting and go into Public Comment at 8:26 P.M. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Burweger to return to regular session, close and go into Executive Session for Litigation and Contract Negotiations at 8:27 P.M. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Locascio to close Executive Session at 8:38 P.M. – there were no votes or decisions. **SECONDED** by Trustee Burweger. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Burweger to open regular session at 8:38 P.M. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.

MOTION by Trustee Burweger to close the meeting at 8:38 P.M. **SECONDED** by Trustee Locascio. There was no discussion; all were in favor and the motion carried.



Village Clerk

**RESOLUTION OF SEQR DETERMINATION
FOR LOCAL LAW NO. 7 OF 2022**

At a meeting of the Village Board of Trustees of the Village of Pawling (“Village Board”), held at the Village of Pawling Village Hall on the 15th day of August, 2022, at 7:00 p.m., Village Mayor, Lauri Taylor called the meeting to order, and Trustee Locascio, seconded by Trustee Burweger, moved the following resolution, containing the findings and determination under the New York State Environmental Quality Review Act (“SEQRA”).

WHEREAS, the Village of Pawling Village Board (“Village Board”) has introduced and is considering the enactment of a Local Law which would amend the Village of Pawling Zoning Law to reduce maximum building height for Type I - Shopfront/Mixed Use buildings in the B-1 District from 4 floors to 3.5 floors; and

WHEREAS, the Village Board has prepared Part 1 of a Short Environmental Assessment Form (“EAF”), pursuant to the requirements of 6 NYCRR Part 617; and

WHEREAS, the Village has determined that enactment of this Local Law is an Unlisted Action under SEQRA; and

WHEREAS, the proposed Local Law has been referred to the Dutchess County Department of Planning and Development pursuant to New York General Municipal Law §239-m; and

WHEREAS, the Village Board has thoroughly reviewed and considered the Local Law; and

WHEREAS, the Village Board duly advertised, held and closed the public hearing on the Local Law during its meeting on August 15, 2022; and

WHEREAS, the Village Board, after the close of the public hearing during the meeting on August 15, 2022, conducted its SEQRA review by (1) considering the criteria contained in subdivision (c) of 6 NYCRR §617.7 to identify any relevant areas of environmental concern,

(2) thoroughly analyzing the identified relevant areas of environmental concern to determine if the action may have a significant adverse environmental impact and (3) completing Part 2 of the EAF and adopting Part 3 of the EAF, which included a narrative articulating the reasons supporting the Village Board's SEQRA determination; and

NOW, THEREFORE, BE IT RESOLVED that the Village Board hereby determines that the enactment of Local Law No. of 2022 is an Unlisted Action under SEQRA; and

BE IT FURTHER RESOLVED, that the Village Board shall serve as Lead Agency; and

BE IT FURTHER RESOLVED, that for the reasons set forth in Part 3 of the EAF, the enactment of the Local Law will result in no significant adverse impacts on the environment and, therefore, that an Environmental Impact Statement need not be prepared and a Negative Declaration therefore be issued.

The foregoing resolution was duly put to a vote which resulted as follows:

Mayor Lauri Taylor	Aye
Trustee Daniel Peters	Aye
Trustee John Burweger	Aye
Trustee Gerald Locascio	Aye
Trustee Tom Meyer	Absent

The resolution was thereupon duly adopted on August 15, 2022.

DATED: Pawling, New York
Jennifer Osborn, Village Clerk
Village of Pawling

Short Environmental Assessment Form

Part 1 - Project Information

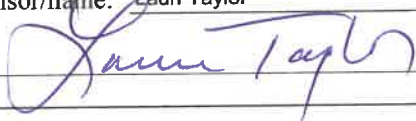
Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Village of Pawling Board of Trustees adoption of Local Law No. 7 for the year 2022			
Name of Action or Project: Adopt Local Law No. 7 for the year 2022			
Project Location (describe, and attach a location map): Village of Pawling New York			
Brief Description of Proposed Action: Adopt Local Law No. 7 for the year 2022 amending Chapter 98 of the Village Code entitled "Zoning" to reduce maximum building height for Type I - Shopfront/Mixed Use buildings in the B-1 District.			
Name of Applicant or Sponsor: Board of Trustees, Village of Pawling, New York		Telephone: 845-855-1122 E-Mail: josborn@villageofpawling.org	
Address: 9 Memorial Avenue			
City/PO: Pawling		State: New York	Zip Code: 12564
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:		NO <input type="checkbox"/>	YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed? c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		n/a acres n/a acres n/a acres	
4. Check all land uses that occur on, are adjoining or near the proposed action: <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): n/a <input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	N/A <input type="checkbox"/> <input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input type="checkbox"/>	YES <input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO <input type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, <div style="margin-left: 20px;"> a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? </div> If Yes, briefly describe: <div style="border-bottom: 1px solid black; height: 20px; margin-top: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-top: 5px;"></div>	NO <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: <div style="border-bottom: 1px solid black; height: 20px; margin-top: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-top: 5px;"></div>	NO <input type="checkbox"/>	YES <input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: <div style="border-bottom: 1px solid black; height: 20px; margin-top: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-top: 5px;"></div>	NO <input type="checkbox"/>	YES <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: <div style="border-bottom: 1px solid black; height: 20px; margin-top: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-top: 5px;"></div>	NO <input type="checkbox"/>	YES <input type="checkbox"/>
<p>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor/name: <u>Lauri Taylor</u> Date: <u>11/16/2022</u></p> <p>Signature: <u></u> Title: <u>Mayor</u></p>		

Addendum to Question 1 of Short Environmental Assessment Form Part 1

The purpose of this Local Law No. 7 for the year 2022 is to amend Chapter 98 of the Village Code entitled “Zoning” (“Chapter 98”) to reduce maximum building height for Type I - Shopfront/Mixed Use buildings in the B-1 District from 4 floors to 3.5 floors.

In 1994, the Village adopted a comprehensive plan pursuant to NY Village Law § 7-722 by enacting local law no 4 for the year 1994 (the “Adopted Plan”). One of the key objectives of the Adopted Plan is to reinforce and revitalize the Village Center as the central business district for the Village, the Town of Pawling and the Southeast Sector of Dutchess County with the downtown being the retail center for the Village. The Adopted Plan advocates that new buildings in the B-1 should be architecturally compatible with the best of the village center model, including the Dutcher House and some of the modest, older two-story retail buildings on Main Street.

As one means of achieving the above-described objective of architectural compatibility, the Adopted Plan advocates that the Village Zoning Law limit the height of Type I Shopfront Buildings in the B-1 Zone (“Type I Buildings”) to 3.5 floors. Local Law No. 1 for the year 2018 amended the Village Zoning Law to increase the maximum height of Type I Buildings from 3.5 to 4 floors. The Board finds that the objectives of the Adopted Plan will be best served by undoing such change in height and reverting to 3.5 floors as a maximum height for Type I Buildings.

The nature of this amendment is such that it will not affect any environmental resources.

Project: _____

Date: _____

Short Environmental Assessment Form

Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

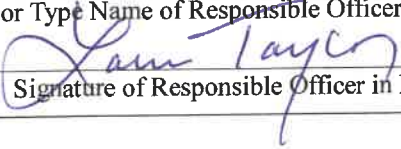
Project: _____

Date: _____

Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.	
Board of Trustees of the Village of Pawling _____ Name of Lead Agency	11/16/2022 _____ Date
Lauri Taylor _____ Print or Type Name of Responsible Officer in Lead Agency	Mayor _____ Title of Responsible Officer
 _____ Signature of Responsible Officer in Lead Agency	_____ Signature of Preparer (if different from Responsible Officer)

**RESOLUTION OF SEQR
DETERMINATION FOR LOCAL LAW
NO. 8 OF 2022**

At a meeting of the Village Board of Trustees of the Village of Pawling (“Village Board”), held at the Village of Pawling Village Hall on the 15th day of August, 2022, at 7:00 p.m., Village Mayor, Lauri Taylor called the meeting to order, and Trustee Burweger, seconded by Trustee Peters, moved the following resolution, containing the findings and determination under the New York State Environmental Quality Review Act (“SEQRA”).

WHEREAS, the Village of Pawling Village Board (“Village Board”) has introduced and is considering the enactment of a resolution to enact a Local Law regarding reimbursement of expenses incurred by the Pawling Joint Sewer Commission in connection with tapping into and laying of lateral line and other appurtenances from the sewer main to the boundary line of a given property which is eligible for connection with the Village’s sewer system;

WHEREAS, the Village has determined that enactment of this Local Law is a Type II action under SEQRA because it involves provision of necessary utility connections and extension of sewer distribution facilities to existing properties in the Village. See 6 NYCRR Part 617.5 (11) and (13);

WHEREAS, pursuant to 6 NYCRR 617.3(f) no SEQR determination of significance, EIS or findings statement is required for actions which are Type II.

NOW, THEREFORE, BE IT RESOLVED that the Village Board hereby determines that the enactment of Local Law No. 8 of 2022 is a Type II Action under SEQRA and thus no further action is required under SEQR in order to enact such local law.

The foregoing resolution was duly put to a vote which resulted as follows:

Mayor Lauri Taylor	Aye
Trustee Daniel Peters	Aye
Trustee John Burweger	Aye

Trustee Gerald Locascio


Aye

Trustee Tom Meyer

Absent

The resolution was thereupon duly adopted on August 15, 2022.

DATED: Pawling, New York
August 15, 2022



JENNIFER OSBORN, VILLAGE CLERK
Village of Pawling

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the 15th day of August, 2022, at 7:00 PM

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Enacting Local Law No. 8 for the year 2022 regarding reimbursement of expenses incurred by the Pawling Joint Sewer Commission in connection with Sewer Connections

The meeting was called to order by Mayor Lauri Taylor and the following were:

P R E S E N T:

Mayor Lauri Taylor
Trustee Daniel Peters
Trustee John Burweger
Trustee Gerald Locascio

ABSENT:

Trustee Thomas Meyer

Trustee Peters moved the following resolution, seconded by Trustee Burweger, to adopt Local Law No. 8 of 2022, regarding reimbursement of expenses incurred by the Pawling Joint Sewer Commission in connection with Sewer Connections (“Local Law”):

WHEREAS, at the Board of Trustees meeting held on August 1, 2022, the Local Law was introduced and the Board set the public hearing for August 15, 2022;

WHEREAS, a duly noticed public hearing was held on August 15, 2022 and interested parties were provided an opportunity to be heard;

WHEREAS, the Board of Trustees has determined that the enactment of this Local Law is a Type II action under SEQRA;

NOW THEREFORE, BE IT ENACTED that the Board of Trustees of the Village of Pawling hereby adopts the following Local Law:

Local Law No. 8 for the year 2022 “Procedures for Reimbursement of Sewer Connection Costs” (“Local Law”).

Purpose

The purpose of this Local Law is to ensure that any applicant seeking to connect an eligible

property to the Village's sewer system will reimburse the Pawling Joint Sewer Commission and the Village, as the case may be, for its reasonable and necessary costs and expenses incurred in connection therewith.

Local Law #2 of 1989 entitled "Village of Pawling Sewer District No. One Sewer Use Regulations" is amended to add a new Article XIII which reads as follows:

XIII Escrow Procedure for Funding of Sewer Connection Expenses.

A. Purpose.

The purpose of this Article XIII is to ensure that any Applicant seeking to connect an Eligible Property to the Sewer System will reimburse the Pawling Joint Sewer Commission and the Village, as the case may be, for its reasonable and necessary costs and expenses incurred in connection therewith.

B. Certain Definitions.

As used in this Article,

1. "**Affiliate**" means, with respect to an Applicant, (i) any person or entity owning or controlling such Applicant in whole or in part or (ii) any person or entity owned or controlled by such Applicant in whole or in part.
2. "**Applicant**" means an owner of an Eligible Property who submits or has submitted an Application.
3. "**Application**" means an application submitted by an Applicant to the Pawling Joint Sewer Commission seeking a Sewer Connection.
4. "**Chair**" means the Chairman or Chairwoman of the Pawling Joint Sewer Commission, as the case may be.
5. "**Connection Expenses**" means all reasonable and necessary costs and expenses incurred by the Pawling Joint Sewer Commission or the Village in connection with the construction and completion of a given Sewer Connection, including without limitation:

- a) uncovering any portion of the Sewer System or connections thereto;
- b) opening any manhole or appurtenances of the Sewer System;
- c) opening any street or highway or public ground;
- d) cutting, removing and replacing of pipe or lines;
- e) excavation and filling;
- f) traffic control;
- g) engineering, surveying, legal and other professional fees and costs and expenses for materials;
- h) labor and equipment, including labor provided by personnel employed or engaged by the Pawling Joint Sewer Commission and/or the Village of Pawling;
- i) any testing and other fees charged by Dutchess County or other governmental agencies associated with the Sewer Connection; and
- j) any costs and expenses, including reasonable attorney's fees, incurred by the Pawling Joint Sewer Commission or the Village in connection with an action to enforce any violation by the Applicant or an Applicant's Affiliate of the provisions of this Article.

6. **"Eligible Property"** means a parcel of real estate located in the Village (i) which has frontage on a street in the Village under which a Sewer Main has been laid or (ii) which the PJSC has by resolution authorized to be served by the Sewer System.

7. **"Escrow Amount"** has the meaning set forth in Section XIII.E.2.

8. **"Pawling Joint Sewer Commission"** or **"PJSC"** means the executive body created pursuant to the Municipal Cooperation Agreement for Construction Financing and Operation of an Inter-Municipal Sewer Interceptor, Treatment and Disposal System ("Sewer System") which was entered into in 1983 by and between the Village of Pawling and the Town of Pawling, as has been amended from time to time, to administer the Sewer System and to exercise certain powers specified in such agreement.

9. **"Sewer Connection"** means, with respect to a given Applicant, the tapping into and laying of lateral line and other appurtenances from the Sewer Main to the boundary line of a given Eligible Property.

10. **"Sewer Main"** means the main sewer line of the Sewer System, which either (i) lies in the Village street adjacent to a given Eligible Property or (ii) is located adjacent or in proximity to the Eligible Property.

11. **"Sewer System"** has the meaning set forth in Section XIII.B.8.

12. **"Village"** means the Village of Pawling.

C. **Applicability.**

This Article shall apply to any Application submitted any Applications submitted at any time after

the effective date of this local law.

D. Reimbursement of expenses for Sewer Connection.

Each Applicant for a Sewer Connection shall be responsible for reimbursing the Pawling Joint Sewer Commission for all Connection Expenses.

E. When and how Escrow Amount is required.

1. Each Applicant shall pay the Pawling Joint Sewer Commission an application fee of \$500 at the time the Application is submitted. This fee is non-refundable. In the event that the Application is approved and the given Sewer Connection is completed, such application fee will be credited towards the total amount that the Applicant must pay to reimburse the Pawling Joint Sewer Commission and the Village for the Connection Expenses.

2. Following receipt of the Application fee and Application, the Chairperson shall establish a preliminary escrow amount ("Escrow Amount") and the Applicant shall pay the Escrow Amount to the Pawling Joint Sewer Commission. Such Escrow Amount shall be determined by the Chairperson based upon his or her estimate of the Connection Expenses for the given Sewer Connection. In arriving at such estimate, the Chairperson shall consult with and obtain advice from the Village engineer and/or other persons with applicable knowledge and/or experience related to construction work on municipal sewer systems. Without limiting the generality of the foregoing, the Chairperson may consider, the diameter of the sewer pipe, the surface features which are to be removed and replaced, elevation differences between original and termination point of the sewer lateral, the distance between the sewer pipes and the Applicant's property and any other factors that reasonably relate to the Connection Expenses.

3. The Pawling Joint Sewer Commission shall deposit the Escrow Amount in a non-interest-bearing account maintained by the Pawling Joint Sewer Commission for custody of such funds.

4. Prior to payment of the Escrow Amount, the Pawling Joint Sewer Commission shall not be required to review or process the Application or commence work on the Sewer Connection.

F. Use of Escrow Amount to pay Connection Expenses.

1. The Chairperson shall review all bills and/or vouchers associated with the Sewer Connection and shall approve payment from the Escrow Amount of only such costs and expenses as he or she deem to be reasonable and necessary in connection therewith. Upon such review and approval by the Chairperson, the Pawling Joint Sewer Commission shall cause such bills or vouchers, as the case may be, to be paid out of the Escrow Amount and shall debit the separate record of such account accordingly. The vouchers shall be available on request to the Applicant.

2. If at any time prior to or after the completion of the Sewer Connection, the Chairperson determines that an addition to the Escrow Amount is required in order to fully cover

the Connection Expenses, the Applicant shall be required to pay such additional amount within ten (10) days and such additional amount shall become part of the Escrow Amount.

3. Within thirty (30) days after later of (i) completion of the Sewer Connection and (ii) payment in full of all Connection Expenses from the Escrow Account, the balance remaining in the Escrow Account, if any, shall be refunded to the Applicant.

G. Appeals.

The Applicant may appeal to the Pawling Joint Sewer Commission any determination of the Chairperson with respect to (i) establishment of the Escrow Amount or (ii) approval and/or payment of any Connection Expenses. The Chairperson shall not vote on any decision made by the PJSC with respect to such appeal. With respect to a determination of the Chairperson with respect to the Escrow Amount, such appeal right shall be waived and null and void unless it is submitted on or before the 30th day after the Applicant is notified of the Escrow Amount. With respect to a determination of the Chairperson with respect to the approval and payment of any Connection Expense from the Escrow Amount, such appeal right shall be waived and null and void unless it is submitted on or before the 30th day after the completion of the Sewer Connection. A timely appeal to the Pawling Joint Sewer Commission pursuant to this Section XIII.G is a prerequisite to any challenge in any court of law.

H. Failure to make deposit or replenishment.

In the event the Applicant fails to pay any Escrow Amount or any addition thereto as provided in this Article, without limiting any other rights and remedies of the Village and/or the PJSC at law or in equity, the PJSC and/or the Village shall have the right, at the PJSC's or the Village's option, as the case may be, to exercise any one or more of the following remedies in whole or in part:

1. Refuse to accept and/or cease to process the Application and/or any other application submitted by the Applicant or an Affiliate of the Applicant to the Pawling Joint Sewer Commission for any permit, approval, certificate or entitlement of any kind;

2. Cease work on the Sewer Connection;

3. Refuse to turn on or suspend sewer service to the Applicant's property;

and/or

4. Exercise any other remedy provided by law or in equity;

I. Charge Against Real Property.

Without limiting any other remedies of the Village and/or the PJSC, any unpaid Connection Fees shall be a charge against the Eligible 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.

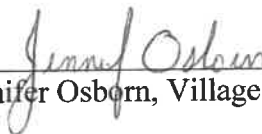
In accord with Municipal Home Rule Law §27(3), this amendment shall be effective as of the date that it is filed with the Secretary of State."

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 Gerald Locascio	Aye
Trustee Thomas Meyer	Absent

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Board of Trustees at a meeting held on August 15, 2022.

Date: August 15, 2022



Jennifer Osborn, Village Clerk

Village of Pawling
BOARD RESOLUTION
Authorizing Application to
Environmental Facilities Corporation Water Infrastructure Improvement Act
Village of Pawling Water Supply Project - Lower Baxter Wellfield Development and Construction

WHEREAS, the Village of Pawling is proposing to develop five water supply wells, a water treatment facility, and related utility line infrastructure on the Village's Water Supply lands. Five new water wells will be put into operation and a treatment facility with an EMC generator will be constructed at 50 Tyrell Road on Tax Parcel No. 6957-20-904187-0000. The remaining utility line infrastructure will be constructed at 50 Tyrell Road to make a connection through two parcels (134001-6957-16-937250-0000 and 134001-6957-16-868317-0000) and the New York State Electric and Gas Corporation (NYSEG) transmission corridor (by easement) to Grandview Avenue;

WHEREAS, the 50 Tyrell Road parcel is currently occupied by three existing and operational bedrock wells (known as the Baxter wells), existing test wells (whose permanent operation is part of this environmental analysis), existing Baxter Green Water Treatment Plant and associated structures, successional forest and wetland area. This parcel abuts the Baxter Road residential subdivision to the west, NYS Electric and Gas (NYSEG) right-of-way (ROW) to the northwest, Village water supply land (134001-6957-16-937250-0000) to the northeast (through which the water line will connect), residential development to the east and south, with some undeveloped area;

WHEREAS, the proposed wells will be added to the Village's water supply system for which additional ground water supply is urgently needed pursuant to the terms of the Consent Order between the Dutchess County Department of Community and Behavioral Health and the Village. These wells will increase source capacity to enable the water supply system to sufficiently meet maximum daily demand. The new wells are proposed to operate in conjunction with the Umscheid water wells (located northwest of the site on parcel 134001-6957-16-868317-0000). With the Lower Baxter wells operational in conjunction with the Umscheid water wells, the maximum daily flow from the water treatment plant will be 432,000 gallons per day;

WHEREAS, the Village is seeking funding for the Village of Pawling Water Supply Project – Lower Baxter Wellfield Development and Construction, through the 2022 Environmental Facilities Corporation Water Infrastructure Improvement (WIIA) Grant;

WHEREAS, the Village attests to the validity and veracity of the statements and representations contained in the Village of Pawling Water Supply Project – Lower Baxter Wellfield Development and Construction 2022 WIIA Grant application; and

NOW, THEREFORE, BE IT RESOLVED that, that the Village of Pawling will meet the financial obligations necessary to fully and satisfactorily complete the project and hereby authorizes and

empowers the Village Mayor, Lauri Taylor to sign and submit a grant application and enter into a grant agreement with Environmental Facilities Corporation; and

IT IS FURTHER RESOLVED, that the Village will comply with all local, state and federal rules, regulations and ordinances relating to this project and the grant agreement.

On a motion by Trustee Peters, seconded by Trustee Burweger, the foregoing resolution was adopted on a roll call vote of 4 Ayes, 0 Nays, 1 Absent.