

**TOWN OF PENDLETON**  
December 14, 2015

A regular meeting of the Town Board of the Town of Pendleton was held at the Town Hall, 6570 Campbell Blvd. Pendleton, N.Y. on the 14<sup>th</sup> day December 2015 at 7:00 P.M. A Public Hearing was scheduled at 6:55 P.M. for a proposed amendment to the Town Code, §222 Swimming Pools.

**PUBLIC HEARING**

Supervisor Riester opened the Public Hearing at 6:55 P.M.

Clerk Pienta read the notice of Public Hearing that was published in the Union Sun and Journal on December 2<sup>nd</sup> 2015. The purpose of the Public Hearing was for public input regarding the proposed change to the Town Code §222 Swimming Pools.

A resident asked if a fence was required for a hot tub. Supervisor Riester said that the hot tubs that have covers were not included because the covers are considered a barrier.

Someone asked for clarification for when a fence is required. Any body of water or receptacle for water that can measure 24 inches to 48 inches will require a fence.

Motion by Councilman Leible, seconded by Councilman Morrison to close the Public Hearing at 7:05 P.M.

**REGULAR MEETING**

Supervisor Riester called the meeting to order at 7:05 P.M.

Supervisor Riester read the invocation.

Logan and Peyton Lemieux led the salute to the flag.

ROLL CALL:	Supervisor Riester	present
	Councilman Leible	present
	Councilman Morrison	present
	Councilman Fischer	present
	Councilwoman Jarvis	present

Also present were:

Terry Pienta	Town Clerk
Don Bergman	Budget Director
Kelli Coughlin	Assessor
Claude Joerg	Town Attorney
Jeff Stowell	Highway Superintendent
Jim Argo	Water-Sewer Superintendent

There were approximately 35 residents in attendance.

## COMMUNICATIONS

Clerk Pienta read a letter from Justice Murphy thanking the Town Board and the citizens of the Town for the honor to serve as Town Justice for the past eight years.

## ROUTINE BUSINESS

RESOLUTION 154 - 15

### APPROVAL OF MINUTES

Motion by Councilman Leible, seconded by Councilman Morrison, the following resolution was

ADOPTED      Ayes 5      Riester, Leible, Morrison, Fischer, Jarvis  
                         Nays 0

Resolved that the minutes of the Regular Meeting held on November 9<sup>th</sup> be approved as submitted by the Town Clerk.

**Supervisor Riester** reported the total expenditures that were authorized and paid in the month of October:

General Fund	\$	101,449.50
Highway	\$	67,400.56
Water	\$	33,278.42
Sewer	\$	48,983.06
Refuse	\$	35,509.64
Trust and Agency	\$	9,219.11

## OTHER REPORTS

**Supervisor Riester** reported that the sales tax collected for the month of October was \$129,278.05 this is compared to \$125,950.89 in 2014. This is an increase of \$3,327.16 from October 2014. The year to date received is \$1,353,004.96 which is an increase of \$390.84 from 2014. He also reported that he has spent time consulting with the Attorneys and consultants regarding the proposed National Fuel Compressors.

**Councilman Leible** reported that the Highway Department chipped brush, patched pot holes on Fisk, Donner, Hidden Oak and Killian Roads, replaced several rotted culvert pipes, installed pipe at a new home on Fisk Road, painted and installed stakes along the road for snow plowing. He also reported that the Building Department issued three violations for the month of November, two remain outstanding. The total outstanding violations for the year are ten. He reported that the Building Department issued sixteen permits for a total of \$1,830.00 in fees. He thanked Supervisor Riester and Councilman Morrison for their dedication and service to the Town and the residents.

RESOLUTION 155 - 15

### SET ASIDE A PAGE IN THE MINUTES FOR SUPERVISOR RIESTER AND COUNCILMAN MORRISON

Motion by Councilman Leible, seconded by Councilwoman Jarvis, the following resolution was

ADOPTED      Ayes 5      Riester, Leible, Morrison, Fischer, Jarvis  
                     Nays 0

Resolved to set aside a page in the minutes for Supervisor Riester's total of 20 years of service on the Town Board as Councilman (8 years) and as Supervisor (12 Years) and Councilman Morrison's 7 years of service as Councilman.

**Councilman Morrison** reported that he received the invoice from C & S Engineer's for the various meetings from June 12<sup>th</sup> through December 4, 2015. They were the Engineer's selected for the Trail design from Meyer Road to Townline Road. There have been several meetings during that time period. The Building Department has had their rug installed and he thanked all the employees that came and moved all of the furniture and filing cabinets for the installation. He also reported that the new phone system has been postponed until after the 1<sup>st</sup> of the year. Supervisor Riester praised Councilman Morrison for all the work that he has done for the Town and told him that it has been a pleasure working with him.

**Councilman Fischer** reported that the Sewer Department had eight regular time sewer calls and two overtime calls, three pressure sewer break repairs, four sold home compliance inspections, one grinder pump update, 53 underground stakeout requests completed, delivered recycling totes as needed, rebuilt 10 grinder pumps in the garage, and welcomed Dylan Richardson, a new employee as of December 7<sup>th</sup>. The Water Department has installed 972 Orion readers to date, completed fire hydrant maintenance, 4 hydrant repairs, shut off water and winterized the bathrooms in the Town Park, installed a new sump pump line for the water tower, 2 meters installed in new homes, 8 final water reads, and 1 water tap for a new home on Bear Ridge Road. He also reported that he attended a meeting in the Town of Wheatfield regarding the proposed compressor. He commended the Pendleton Action group and how well they have communicated to the Pendleton residents and kept them informed about the compressor. The people in Wheatfield have not been so well informed and were making their complaints loud and clear to their Town Board. He did explain to the residents of Wheatfield that the Pendleton Action Group is responsible for much of the information distributed throughout the Town of Pendleton. He also reported that Pack 47 and Troop 98 the Scouts had their food drive and the residents of Pendleton were most generous as usual. They collected over 3300 pieces of food. He also thanked Supervisor Riester and Councilman Morrison for their help to him and their dedication to the Town.

**Councilwoman Jarvis** reported that the Wendelville's Ladies Auxiliary adopted two families from Starpoint School and provide for Christmas for them.

Water-Sewer Superintendent Argo requested that the Board authorize Supervisor Riester to sign a letter requesting to connect to the Niagara County Sewer District Manhole No. 12-18 for property on Beach Ridge Road.

RESOLUTION 156 - 15

**NIAGARA COUNTY SEWER DISTRICT CONNECTION REQUEST**

Motion by Councilman Leible, seconded by Councilman Morrison, the following resolution was

ADOPTED      Ayes 5      Riester, Leible, Morrison, Fischer, Jarvis  
                    Nays 0

Resolved to authorize the Supervisor to sign the request to connect to the Niagara County Sewer District Manhole No. 12-18 for property (SBL#164.000-3-2) on Beach Ridge Road.

**Attorney Claude Joerg** also commended the job that Supervisor Riester has done for the Town and his representation of the Town at the Niagara County Sewer District. He also commended the job that Councilman Morrison has done at the Town Garage and trying to get everyone to work together. He thanked them both for their service to the Town. He also reported that he recently received a phone call from the company that represents National fuel and they alleged he had a conflict of interest because he represents D'Angelo Home Builders. He wanted it known that he does not represent them and does not believe he has ever met Mr. D'Angelo. He also mentioned that he does not represent individuals regarding the pipe line; he represents the Town and their concern, not individuals. He did announce that the FERC deadline was coming up and he has talked with Gary Abraham. He explained that Gary Abraham is working on details for submission for the state to require an environmental impact statement as opposed to an environmental assessment. He stressed that that is what they are working toward. They are working on air quality, noise and the wetlands issue. He gave various details about their submission to their scoping comments to FERC. They have also provided alternative locations to build their compressors.

## **NEW BUSINESS**

RESOLUTION 157 - 15

### **AMEND TOWN CODE §222 – SWIMMING POOLS, SPAS AND HOT TUBS**

Motion by Councilman Leible, seconded by Councilman Fischer, the following resolution was

ADOPTED      Ayes 5      Riester, Leible, Morrison, Fischer, Jarvis  
                    Nays 0

Resolved to amend the Town Code, §222 – Swimming Pools, Spas and Hot Tubs as proposed at the Public Hearing.

Amendment to read as follows:

#### **222-1 Definitions**

##### **SWIMMING POOL**

Any body of water (excluding natural bodies of water fed by rivers, streams or brooks) or receptacle for water that is capable of having a depth at any point greater than two feet used or intended to be used for swimming or bathing and constructed, installed or maintained in or above the ground outside or inside any building. This also includes hot tubs and spas.

#### **222-2 Requirements**

B. Safety measures. Any such pool shall be completely enclosed by a barrier not less than four feet in height, with all gates or doors opening through such enclosure equipped with self-closing and self-latching devices designed to keep and capable of keeping such gates or doors securely closed at all times when not in actual use, of a type approved by the Code Enforcement Officer. The barrier shall consist of a fence, a wall, a building, or any combination thereof.

§ 247-47 Swimming pools, spas and hot tubs (remove entire section)

§ 247-47 To be in reserved.

RESOLUTION 158 - 15

**AUTHORIZE THE SUPERVISOR TO MAKE LEGAL TRANSFERS**

Motion by Councilman Leible, seconded by Councilman Morrison, the following resolution was

ADOPTED      Ayes 5      Riester, Leible, Morrison, Fischer, Jarvis  
                     Nays 0

Resolved to authorize the Supervisor to make all legal and lawful transfers of unexpended balances from accounts from the 2015 budget to the 2016 budget with specific amounts to be posted in the minutes when finalized.

Highway Superintendent requested that the Board support the request for more money for the maintenance of the roads.

RESOLUTION 159 - 15

**REQUEST FOR FUNDING**

Whereas, a reliable transportation infrastructure is vital for the safety of New York's travelling public and its economy; and

Whereas, 85 percent of New York's roads and bridges are maintained by local governments; and

Whereas, despite well-timed and targeted preventative maintenance treatments, the age and condition of many of our locally-owned transportation assets means that they are beyond preservation and in need of much more costly rehabilitation and reconstruction; and

Whereas, estimates by the State Comptroller, DOT and independent studies show a large portion of road mileage is deteriorating and many bridges in the state are rated structurally deficient and functionally obsolete; and

Whereas, the State Comptroller estimates that there will be \$89 billion unmet local infrastructure needs over the next 20 years; and

Whereas, the New York State Association of Town Superintendents of Highways commissioned its own fifteen year analysis that indicates an annual funding gap of \$1.3 billion for the local system (excluding NYC) alone; and

Whereas, funding for our local system has been far short of what is needed and we've fallen further and further behind in maintaining the vast and aging transportation infrastructure over this long period with severe consequences for conditions ratings; and

Whereas, the New York State Consolidated Local Street and Highway Program (CHIPS) provides essential funding for every municipality in the state and is part of the New York State Department of Transportation (NYSDOT) capital program; and

Whereas, in the early 1990's the Governor and Legislature created the Dedicated Highway and Bridge Trust Fund (DHBTF) to pay for the NYSDOT capital program and the Dedicated Mass Transit Trust Fund (DMTTF) to assist with the Metropolitan Transportation Authority (MTA) and other transit systems' capital programs; and

Whereas, when the DHBTF was created, it was agreed that the NYSDOT and MTA five-year capital programs would be similar in size and would be negotiated concurrently; and

Whereas, through 2005-09, both five-year capital programs were similar in size and adopted within months of each other; and

Whereas, in 2010 the Executive and Legislature broke traditional parity and enacted a five-year capital program for the MTA but not the DOT; NOW THEREFORE BE IT

RESOLVED, that the Town of Pendleton calls upon the Governor and the state Legislature to make additional state funding and resources available at levels that accurately reflect the critical needs of local roads and bridges; and increase CHIPS funding in the 2016 - 17 state budget; and BE IT FURTHER

RESOLVED, that the Town of Pendleton calls upon the Governor, and members of the state Legislature to fully fund and submit a new NYSDOT five-year transportation capital plan; and BE IT FURTHER

RESOLVED, that the Town of Pendleton calls upon the Governor and members of the state Legislature to recognize the equality of roads, bridges and transit by restoring funding equality between the MT A and NYSDOT five-year programs and by voting on the plans simultaneously.

RESOLUTION 160 – 15

**SCHEDULE PUBLIC HEARING FOR TOWN CODE §247-32 GLARE, NOISE, ODOR AND OTHER NUISANCES**

Motion by Councilman Leible, seconded by Councilwoman Jarvis, the following resolution was

ADOPTED      Ayes 5      Riester, Leible, Morrison, Fischer, Jarvis  
                     Nays 0

Resolved to schedule a Public Hearing for January 11, 2016 AT 6:30 P.M. for a proposed amendment to the Town Code §247-32 Glare, noise, odor and other nuisances.

Budget Director Bergman reported that 2 lines were inverted. He reported that Town's Budget Tax Levi for 2016, Water Capital #1 needs to be amended from .091800 to .086022 and the Water Maintenance rate from .284200 to .303292.

RESOLUTION 161 - 15

**AMEND WATER CAPITAL 1 AND WATER MAINTENANCE LINE**

Motion by Councilman Leible, seconded by Councilman Morrison, the following resolution was

ADOPTED      Ayes 5      Riester, Leible, Morrison, Fischer, Jarvis  
                     Nays 0

Resolved to amend the tax rate located on page 16 of the Town's Budget (Tax Levi 2016) Water Capital #1 from .091800 to .086022 and the Water Maintenance rate from .284200 to .303292.

The Board had a brief discussion regarding the (2015) §284 Agreement. It was determined to postpone the decision until the next meeting.

**BOARD MEMBERS DISCUSSION**

No Work Session was scheduled for December. The next Town Board meeting will be January 11, 2016. Supervisor Riester took a moment to express his appreciation and pleasure for the past 20 years getting to know the residents working with them. The people are what he will miss most about the job. He thanked them for their support.

## **PUBLIC REMARKS/COMMENTS**

Sara Siracuse reflected how long she has known Jim as Councilman and Supervisor and said he was very dedicated. She also said she appreciated the work that Councilman Morrison has done.

A resident requested that the Town Board consider a leash law for dogs. He is having problems with his neighbor's dogs. They have several children that come and go at his house and he is concerned for their safety. Supervisor Riester will talk with the Town's Dog Control Officer to see what is being done regarding the complaint.

AnnMarie Reeb thanked Supervisor Riester for his years of service. She said she always felt welcome and felt she had a voice during the Town Board's meeting.

Kim Lemieux, spoke on behalf of the Pendleton Action Group for his help regarding the compressor issue that the Town is facing. She thanked the entire Board for their support. She also thanked Councilman Morrison for his work as a Councilman.

Budget Director Don Bergman said he appreciated working with Supervisor Riester and thanked Councilman Morrison for his work too.

Motion by Councilman Leible, seconded by Councilman Fischer to adjourn to Executive Session at 7:56 P.M. for personnel reason. Motion carried.

Motion by Councilman Leible, seconded by Councilman Morrison to adjourn from Executive Session and the Regular Meeting at 8:15 P.M.

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Terry J. Pienta, Town Clerk