

**TOWN OF PENDLETON**  
February 13, 2017

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 13<sup>th</sup> day February 2017 at 7:00 P.M. There were 2 Public Hearings scheduled.

**PUBLIC HEARING #1**

The first Public Hearing was scheduled for 6:50 P.M. The Public Hearing Notice was published in the Lockport Union Sun and Journal on February 6, 2017. The purpose of the hearing was to receive public input on a proposed rezoning of a portion of vacant land (5.85 acres) on Campbell Blvd. (SBL #150.00-1-25). The front portion of the existing 53 acres is zoned Light Commercial. The request is to rezone the 5.85 acres to residential (R2) to correspond the rest of the parcel.

Supervisor Maerten opened the Public Hearing at 6:58 P.M.

Sean Hopkins, representing the developer, explained to the Board that the front portion will also include the properties at 6635 and 6643 that have been “nonconforming”. The Planning Board also had given their positive recommendation for this change.

No one wished to be heard.

Motion by Councilman Leible, seconded by Councilwoman Jarvis, to close the Public Hearing at 7:04 P.M. Motion carried.

**PUBLIC HEARING #2**

The second Public Hearing was scheduled for 6:55 P.M. The Public Hearing Notice was published in the Lockport Union Sun and Journal on February 6, 2017. The purpose of the hearing was for the transfer of \$240,524.08 from the Water Tower Repair Account (SW0882) to the Water Fixed Asset Account (SW8340.02) for the work that was completed on the inside of the Water Tower. This amount represents the balance of what is due to the contractor.

A correction was made to the notice in the paper. Account SW8340.02 was incorrectly published as a “Sewer” Fixed Asset Account. It is a Fixed Asset Account for Water.

Motion by Councilman Leible, seconded by Councilwoman Jarvis, to close the Public Hearing at 7:06 P.M. Motion carried.

**REGULAR MEETING**

Supervisor Maerten called the meeting to order at 7:07 P.M.

Supervisor Maerten read the invocation.

The Penpoint Girl Scout Troop led the salute to the flag.

Supervisor Maerten presented a proclamation for the Girl Scouts 100 Anniversary of Girl Scout Cookie Sales.

**RESOLUTION 42 – 17**

**PROCLAMATION CELEBRATION THE 100<sup>TH</sup> ANNIVERSARY OF GIRL SCOUT COOKIE SALE**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

WHEREAS, the Penpoint Girl Scouts of Western New York, includes over 100 girls, Shaping them into future leaders of society by developing their courage, confidence and character; and

WHEREAS, the Girl Scout Cookie Program affords Girl Scouts the opportunity to become entrepreneurs, learn ethical decision making, financial management, goal setting, and teamwork; and

WHEREAS, this year marks the 100<sup>th</sup> anniversary of the Girl Scout Cookie Sale program; and

WHEREAS, the Girl Scout organization not only teaches girls proficiency in business but in life as well. Members of the Penpoint Girl Scouts are taught about leadership, environmental awareness, healthy living, science, technology, engineering and math; and

WHEREAS, the County of Niagara and the Town of Pendleton commends the Penpoint Girl Scouts of superior leadership development program and recognizes their many accomplishments.

NOW, THEREFORE, Niagara County and the Town of Pendleton, do hereby proclaim this thirteenth day of February, Two thousand and seventeen as

**THE PENPOINT GIRL SCOUTS OF WESTERN NEW YORK  
"GIRL SCOUT COOKIE SALE" APPRECIATION DAY**

in Niagara County and the Town of Pendleton.

ROLL CALL:	Supervisor Maerten	present
	Councilman Leible	present
	Councilman Ostrowski	present
	Councilman Fischer	present
	Councilwoman Jarvis	present

Also present were:

Terry Pienta	Town Clerk
Kelli Coughlin	Assessor
Claude Joerg	Town Attorney
Jim Argo	Water-Sewer Superintendent
Tim Masters	Building Inspector
Dave Kantor	Planning Board
Wolfgang Buechler	Board of Appeals

There were approximately 15 residents in attendance.

**AMENDMENTS, ADDITIONS, DELETIONS**

NJPA Adoption, Wendelville LOSAP Action, schedule Public Hearings, Security Grant

Clerk Pienta reported that all of the "ends of year reports" from the various departments have been filed.

**ROUTINE BUSINESS**

RESOLUTION 43 - 17

**APPROVAL OF MINUTES**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

Resolved that the minutes of the Regular Meeting held on January 9<sup>th</sup> and Work Session on January 23<sup>rd</sup> be approved as submitted by the Town Clerk.

**Supervisor Maerten** reported the total expenditures that were authorized and paid in the month of January:

General Fund	\$	73,932.25
Highway	\$	92,595.32
Water	\$	13,445.02
Sewer	\$	21,668.82
Refuse	\$	35,357.51
Trust and Agency	\$	7,713.00
Fire Protection District	\$	309,120.00

## OTHER REPORTS

**Supervisor Maerten** reported that the sales tax collected for the month of December was \$151,817.54. This is an increase of \$9,262.89 from December 2015. The year to date received is \$1,596,805.30 which is a decrease of \$30,051.57 from 2015. He also reported that he attended (along with Councilman Fischer and Councilman Ostrowski) the DEC Public Meeting regarding National Fuel air and water permits which was held at Niagara Community College. There is an open comment period until February 24<sup>th</sup>. The information is on the website.

**Councilman Leible** reported that the Recreation Committee is looking to increase the fee for the Summer Recreation Program. The proposed increases are as follows:

	Previous charge	Recreation	Previous Charge	Swimming
Resident	\$25.00	\$30.00	\$10.00	\$20.00
Non resident	\$160.00	\$190.00	\$10.00	\$20.00
Field Trips	\$5.00	\$10.00		

He also reminded everyone that he would like to have the articles for the newsletter by February 25<sup>th</sup>.

**Councilman Fischer** reported that the Water Department had 13 regular time sewer calls, 2 overtime calls, repaired 4 pressure sewer line breaks, repaired 1 gravity sewer 4 inch service plugged in Pendale, 2 new home grinder pump installations, 21 underground utility stakeout requests were completed, shoveled and salted the Town Hall sidewalks as needed, helped out the Highway Department with snow when needed, and completed bi-weekly inspections and maintenance on 3 pump stations. The Water Department completed quarterly meter readings, had 4 final water readings, completed 1 sold home water and sewer compliance inspection, inspected 1 new home water meter inspection, repaired 1 water main break under Creekview Drive, serviced a fire hydrant that was hit by a car on Bear Ridge Road, stacked and sorted electronic recyclables on pallets, and worked on miscellaneous jobs in the garage. He also reported that the Highway Department plowed and salted as needed, continued cleaning up the ditch project at TanTara, replaced and repaired signs as needed, patched potholes on Town Roads, chipped brush for 5 days, continued clearing ditch south of Fisk Road, installed signs in "The Meadows" subdivision, and helped the Water Department with the water main break on Creekview Drive. He also reported that he attended the Wendelville installation dinner on February 4<sup>th</sup>. He said that it is great to see the years that so many of the volunteers have given to the Town of Pendleton. He also announced that in August Ray Beiter will have 75 years as a volunteer for Wendelville Fire Company.

**Councilwoman Jarvis** reported that the fund raising for Mason's Mission has reach \$174,000.00 towards their goal. She also announced that the Country Store that is located at 5 corners will have their grand opening on February 25<sup>th</sup>.

**Councilman Ostrowski** introduced and welcomed Tim Masters as the new Building Inspector who will be replacing Dave Gerber upon his retirement in March. He reported that there were 4 violations issued in January and 13 remain outstanding. The building permits issued in January totaled 9 and \$5,140.00 was received in fees, the largest fee received was for Dollar General that is being built on Transit Road. He also reported that the Board will be authorizing the installation of additional cameras and the installation of a key fob system in the place of the keys for access to the Town Hall to authorized users. This is from the Court Security grant discussed at earlier meetings.

**Attorney Claude Joerg** said that if there were any comments on the proposed Public Hearings for the Local Laws he will comment at that time.

## DEPARTMENT HEADS

**Water-Sewer Superintendent Argo** – he reported that a fire hydrant was hit over the weekend. It is not leaking at this time but he will continue to monitor it.

**Assessor Coughlin** reported that her office is busy receiving exemptions and they will begin calling residents to remind them that the deadline date is March 1<sup>st</sup>.

**NEW BUSINESS**

RESOLUTION 44 - 17

**REZONING FOR 5.85 ACRES ON CAMPBELL BOULEVARD**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

Resolved to approve the rezoning request of the front portion (5.85 acres) on Campbell Boulevard (SBL #150.00-1-25) from Light Commercial to R-2 Residential.

RESOLUTION 45 - 17

**TRANSFER OF FUNDS**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

Resolved to transfer \$240,524.08 from the Water Tower Repair Account (SW0882) to the Fixed Asset Account (SW8340.02) for the balance due for the interior work completed on the Water Tower.

Supervisor Maerten requested a motion for an Executive Session for Personnel reasons inviting the Town Attorney to join them. Motion by Councilman Leible, seconded by Councilman Fischer to adjourn to Executive Session at 7:24 P.M. Motion carried.

Motion by Councilman Leible, seconded by Councilman Fischer to adjourn from Executive Session and resume the regular meeting at 7:40 P.M. Motion carried.

RESOLUTION 46 - 17

**PLANNING BOARD APPOINTMENTS**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

Resolved to appoint Nicholas Kwasniak to the seven year term and David Naus to the opened one year term on the Planning Board.

Supervisor Maerten scheduled a Public Hearing for 6:45 P.M. on March 13<sup>th</sup> for a proposed \$100.00 permit fee for the installation of Solar Systems.

RESOLUTION 47 - 17

**INCREASE SUMMER RECREATION FEES**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

Resolved to increase the following fees for the Summer Recreation program:

	Previous charge	Recreation	Previous Charge	Swimming
Resident	\$25.00	\$30.00	\$10.00	\$20.00
Non resident	\$160.00	\$190.00	\$10.00	\$20.00
Field Trips	\$5.00	\$10.00		

The Building Department had budgeted money for computers for their office. The final determination was to update the software on the existing computer and purchase a new computer system for the Department Heads desk. The money was included at Budget time.

RESOLUTION 48 - 17

**AUTHORIZE THE PURCHASE AND INSTALLATION OF NEW COMPUTER SYSTEMS FOR THE BUILDING DEPARTMENT**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

Resolved to approve the purchase of one complete computer system and one partial system for the Building Department.

Assessor Coughlin's computer is old and has been considered obsolete by Phil Samuel's from Your Image Graphics. His recommendation is to purchase a laptop computer that can be also be used like a tablet for portability when going out in the field. This system will also be compatible for her recently purchased Apex program that allows her to "draw" the layout of homes on the computer instead of drawing on cardstock that was previously used. \$1500.00 was budgeted for the purchase of a tablet, this computer will serve a dual purpose. She briefly explained what she does when she is "out in the field" compiling information that can be input into the computer while on site.

RESOLUTION 49 - 17

**AUTHORIZATION TO PURCHASE A LAPTOP/TABLET FOR THE ASSESSORS OFFICE**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

Resolved to authorize the purchase of a laptop computer for \$1,125.00 for the Assessor's Office.

Supervisor Maerten explained that the following resolution was needed in order for Senator Ortt to introduce legislation authorizing the Town to lower the speed limit along Mapleton Road not less than 45 MPH. Previous requests directed to the Department of Transportation have been denied. Senator Ortt will introduce this bill on the Senate floor.

RESOLUTION 50 - 17

**AUTHORIZATION FOR THE SUPERVISOR TO SIGN THE REQUEST FOR HOME RULE BILL #1480**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

Resolved to authorize the Supervisor to fill out a Home Rule request form and provide copies to Senate Home Rule Council.

RESOLUTION 51 - 17

**FORMAL EVANS BANK RESOLUTION**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

RESOLVED, that Evans Bank, NA headquartered in Western New York is designated an authorized depository of this corporation; and

FURTHER RESOLVED, that all drafts, checks, or other instruments or orders for the payment of money drawn against the account or accounts of this corporation with said depository shall be signed by any one of the following (title & name):

Joel Maerten	Supervisor
Marian Maziarz	Supervisor's Assistant
Terry Pienta	Town Clerk-Tax Collector

FURTHER RESOLVED, that said depository is authorized to place to the credit of the account, or any of the accounts, of this corporation, funds, drafts, checks or other property by whomever delivered to said depository or agent thereof for deposit to the accounts of this corporation, endorsed with the name of this corporation, by rubber stamp, facsimile, mechanical, manual, or other signature (and any such endorsement by whomever affixed shall be the endorsement of this corporation), or otherwise endorsed, or unendorsed, provided that if any such item shall bear, or be accompanied by, directions (by whomever made) for deposit to specific account, then such deposit shall be to the credit of such specific account: and FURTHER RESOLVED, that said depository is hereby directed to accept, and/or pay and/or apply any draft, check, instrument or order for the payment of money, or any proceeds thereof, drawn on such account or accounts when signed as required by these resolutions by manual, rubber stamp, facsimile, or other mechanical

signature (by whomever affixed) without limit as to amount, without inquiry, and without regard to the disposition of any such item or any proceeds thereof. Further, said depository shall not be liable in connection therewith notwithstanding that such item may be payable to the order of a person whose signature appears thereon or of any other officer or officers, agent or agents of this corporation, or such items or any proceeds thereof may be used or disposed of for the personal credit or account of any such person or persons, officer or officers, agent or agents with the depository or otherwise.

**RESOLUTION 52 - 17**

**§284 AGREEMENT**

Motion by Councilman Fischer, seconded by Councilman Leible, the following resolution was ADOPTED Ayes 5 Maerten, Leible, Ostrowski, Fischer, Jarvis  
Nays 0

WHEREAS, the Town Board and the Superintendent of Highways are required by Highway Law § 284 to enter into a written agreement stating the places and manner in which the Highway Fund appropriations for repairs and improvements are to be expended; and

WHEREAS, in conjunction with the estimate submitted by the Highway Superintendent, the Highway Superintendent has submitted a proposed Highway Law § 284 Agreement to spend Town Highway Funds; and

WHEREAS, the Highway Superintendent has prepared an Agreement to spend Town Highway Funds for the fiscal year commencing January 1, 2017, for general repairs and primary work, and permanent improvements subject to limitations set by NYS Capital Highway Improvement Program (CHIPS) funding; now, therefore, be it

RESOLVED, that the Town Board hereby approves said Agreement to spend Town Highway Funds therefore, the Town Supervisor and at least two other Town Board Members are authorized and directed to execute said Agreement as required by law.

**RESOLUTION 53 - 17**

**AUTHORIZATION TO HIRE NEW EMPLOYEE FOR THE WATER-SEWER DEPARTMENT**

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

ADOPTED Ayes 5 Maerten, Leible, Ostrowski, Fischer, Jarvis  
Nays 0

Resolved to hire Jonathan Berry for the Water-Sewer Department to start March 1<sup>st</sup>.

**RESOLUTION 54 - 17**

**NATIONAL JOINT POWERS ALLIANCE**

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

ADOPTED Ayes 5 Maerten, Leible, Ostrowski, Fischer, Jarvis  
Nays 0

WHEREAS, N.J.P.A. authorizes contracting units to make purchases and contract for services through the use of nationally recognized and accepted cooperative purchasing agreements that have been developed utilizing a competitive bidding process by another contracting unit within the State of New Jersey or within any other state; and

WHEREAS, the Town of Pendleton has determined that the use of cooperative purchasing agreements may result in significant cost savings and is desirous of joining and participating in a national cooperative called the National Joint Powers Alliance ("NJPA"); and

WHEREAS, NJPA is established as a public agency and serves agencies across the United States and Canada as a municipal contracting agency;

WHEREAS, the Town of Pendleton desires to become a member of the NJPA for the purposes of purchasing goods and or services through a procurement process that is more efficient and provides a cost savings to the Town;

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby has authorized to join and become a member of the National Joint Powers Alliance.

Supervisor Maerten reported that a few of the older volunteer members of the Wendelville Fire Company were denied service credits for their retirement through the LOSAP program due to their age. The company that administers the LOSAP program, Penflex will have their actuaries do the calculations for a cost of \$1,500.00.

RESOLUTION 55 – 17

**AUTHORIZATION FOR PENFLEX ACTUARIES**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

Resolve to authorize the expenditure of \$1,500.00 to Penflex to determine the amount each member is entitled to receive that were denied benefits previously due to their age.

Supervisor Maerten scheduled a Public Hearing to propose a Local Law to establish a position for alternate members for the Planning Board and Zoning Board on March 13<sup>th</sup> at 6:50 P.M.

Supervisor Maerten scheduled a Public Hearing to propose a Local Law to establish a position of Constable on March 13<sup>th</sup> at 6:55 P.M. This position is mandated by the State for the Courts Security personnel.

Councilman Ostrowski reported that the purchase proposal for the installation of four additional cameras and 21 computerized door access in place of the traditional keys used now. The computerized card systems can be set up individually allowing access to a limited number of areas. The proposal is for \$7,040.95 which is under budget. There is a 2% discount if 50% is paid in advance (\$6,900.13). The funds will be reimbursed 100% from New York State Court Grants. Supervisor Maerten requested the lunch room to be included in the doors.

RESOLUTION 56 – 17

**AUTHORIZATION FOR SECURITY GRANT**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

Resolved to expend \$6,900.13 for the installation of four cameras and a computerized door access system.

RESOLUTION 57 – 17

**CREATE AN ADDITIONAL POSITION ON THE RECREATION COMMITTEE**

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

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

Resolved to create an additional one year term to the Recreation Committee.

RESOLUTION 58 – 17

**APPOINTMENT FOR A ONE YEAR MEMBER TO THE RECREATION COMMITTEE**

ADOPTED      Ayes 5      Maerten, Leible, Ostrowski, Fischer, Jarvis  
                     Nays 0

Resolved to appoint Craig Burns to a one year term to the Recreation Committee.

**PUBLIC REMARKS/COMMENTS**

Wolfgang Buechler asked about the \$250,000.00 for the paving in the Pendale subdivision. Supervisor Maerten said that the money has been in reserve for a couple of years for this project. At some point the Highway Superintendent will ask for the money to be transferred. He also questioned the computerized key system regarding evening meetings or meetings that were not planned for or if existing scheduled meetings run longer than anticipated. Councilman Ostrowski will get details regarding those situations.

**BOARD MEMBERS DISCUSSION**

A work session was scheduled for February 27<sup>th</sup> at 7:00 P.M.

Regular Meeting  
February 13, 2017

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn to Executive Session for litigation purposes inviting the Town Attorney and Attorney Gary Abraham at 8:03 P.M. Motion carried.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from Executive Session and the Regular Meeting at 9:04 P.M. Motion carried.

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Terry J. Pienta, Town Clerk