

TOWN OF PENDLETON
February 9, 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 9th day February 2015 at 7:00 P.M.

REGULAR MEETING

Supervisor Riester called the meeting to order at 7:04 P.M.

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

Also present were:

Terry Pienta	Town Clerk
Kelli Coughlin	Assessor
Town Attorney	Claude Joerg
Dave Gerber	Building Dept.
James Argo	Water-Sewer Superintendent

There were approximately 6 residents in attendance.

ROUTINE BUSINESS

RESOLUTION 37 - 15

APPROVAL OF MINUTES

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

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

Resolved that the minutes for the Work Session held on December 29th 2014 be approved as submitted by the Town Clerk.

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

General Fund	\$	85,182.38
Highway	\$	28,297.04
Water	\$	38,615.10
Sewer	\$	9,885.59
Refuse	\$	34,251.25
Trust & Agency	\$	1,142.78
Fire Protection District	\$	290,801.00

OTHER REPORTS

Supervisor Riester reported that the sales tax collected for the month of December was \$162,666.52, this is compared to \$154,747.76, an increase of \$7,918.76 from December 2013. The year to date received is \$1,642,808.53 which is an increase of \$25,681.43 from 2013. He also reported that the accountants from Lumsdon & McCormick will be preparing the annual audit to be filed with the state.

Councilman Leible reported that the Building Department issued 6 permits; fees received were \$1,185.00. There were 3 violations issued in the month of January, 2 remain outstanding. A total of 11 violations remain outstanding for the year. He also requested to have all newsletter articles to him by the 25th of February.

Councilman Morrison

Reported that the ice rink is open and a pathway has been plowed to reach the rink. Timers for the lights have been set to turn off about 9:30 P.M.

Councilman Fischer reported that he has received several compliments about the Town's Ice Rink.

Councilwoman Jarvis reminded everyone that a representative from Advanced Storage Technology will be at the next work session to discuss wooden structure salt sheds.

Engineer Dave Britton reported that the Town's updated zoning maps should be ready in a few weeks.

Attorney Claude Joerg – nothing to report

NEW BUSINESS

RESOLUTION 38 - 15

PARK SHELTER RESERVATIONS

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

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

Resolved to move the scheduling of the Park's shelters back to the Highway Department beginning April 1st, a notice will be placed in the Town's spring newsletter.

RESOLUTION 39 - 15

STATE GUIDELINE FOR THE WENDELVILLE LOSAP PROGRAM

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

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

Resolved to adopt New York General Municipal Law §217 General Requirements of a service award program with the following points earned for the following positions: President and Chief 25 pts; Vice President, Assistant Chief, Treasurer, Secretary, Trustee,

Financial Secretary, and First Aid Captain, 15 pts; Captain and Lieutenant, 10 pts; and Sergeant-at-arms, 5 pts. (Reference iv below)

New York General Municipal Law §217 General

No volunteer fire department, volunteer fire company, fire district, fire protection district, village, town or city, shall be required under this article to provide service award benefits for its active volunteer firefighters. Any service awards provided to an active volunteer firefighter under this article shall be governed by the provisions of section two hundred eighteen in the case of defined contribution plans, section two hundred nineteen in the case of defined benefit plans and in either case by the provisions of sections two hundred fourteen, two hundred fifteen, two hundred sixteen and two hundred nineteen-a of this article. No service award program may be provided under this article unless the following requirements are met:

(a) An active volunteer firefighter must be eligible to participate in any service award program provided under this article if the active volunteer firefighter has reached the age of eighteen and has completed at least one year of firefighting service. The sponsor of the service award program may impose younger age or shorter length of service requirements for participation in the service award program.

(b) A participant shall have a nonforfeitable right to a percentage of a service award that is not less than the percentage determined under the following table: Years of Nonforfeitable Firefighting Service Percentage Less than 5 years receive 0%, 5 years or more 100% Notwithstanding the preceding table, a participant shall have a one hundred percent nonforfeitable right to his service award upon his attainment of the entitlement age under the program. Each sponsor may establish a percentage table that provides for a faster rate of becoming nonforfeitable. Any amounts attributable to forfeiture of a participant's service award shall be used to reduce contributions for other service award program participants and shall not in any case be used to increase benefits for other participants. The preceding shall not preclude amendment of a service award program to provide for an increase in benefits.

(c) A year of firefighting service shall be credited under a service award program for each calendar year after establishment of the program in which an active volunteer firefighter accumulates at least fifty points. Points shall be granted in accordance with a system adopted by the program sponsor. Such system shall provide that points shall be granted for activities designated by the program sponsor, which activities shall be selected from the following:

(i) Training courses -- twenty-five points maximum. (A) Courses under twenty hours duration -- one point per hour, with a maximum of five points. (B) Courses of twenty to forty-five hours duration -- one point per hour for each hour over initial twenty hours, with a maximum of ten points. (C) Courses over forty-five hours to

one hundred hours duration -- fifteen points per course. (D) Courses over one hundred hours duration -- twenty-five points per course.

(ii) Drills -- twenty points maximum. One point per drill (minimum two hour drill).

(iii) Sleep-in or stand-by -- twenty points maximum. (A) Sleep-in -- one point each full night. (B) Stand-by -- one point each. A stand-by is defined as line of duty activity of the volunteer fire company, lasting for four hours, not falling under one of the other categories.

(iv) Elected or appointed position (see definition) -- twenty-five points maximum. (A) Completion of one year term in an elected or appointed position. If the term of office for a firefighter who has been elected or appointed to a position in a fire company or fire department commences during the month of May, the participant shall receive credit for the full year notwithstanding the fact that the participant has not completed one year in the elected or appointed position at the end of the calendar year in which he or she was elected or appointed. (B) An active volunteer firefighter elected to serve as a delegate to a firefighters' convention shall also be eligible to receive one point per meeting.

(v) Attendance at meetings -- twenty points maximum. Attendance at any official meetings of the volunteer fire company -- one point per meeting.

(vi) Participation in department responses -- twenty-five points for responding on the minimum number of calls, as outlined below: (A) Total number of calls 0 500 1000 1500 volunteer fire company responds to annually other 500 1000 1500 up than emergency rescue and first aid squad calls (ambulance calls) Minimum number of calls volunteer 10% 7.5% 5% 2.5% firefighter must run annually in order to receive twenty-five points credit (B) Total number of calls 0-500-1000-1500 emergency rescue and first aid squad (ambulance) 500-1000-1500 up Minimum number of calls volunteer - 10%-7.5%-5%-2.5% firefighter must run annually in order to receive twenty-five points credit

(vii) Miscellaneous activities -- maximum fifteen points. Participation in inspections and other activities covered by the volunteer firefighters' benefit law and not otherwise listed -- one point per activity

(viii) In the event that any active volunteer firefighter is either totally and temporarily disabled, or partially and permanently disabled, as certified by the workers' compensation board or other competent authority approved by the sponsor of the service award program, and the disability occurs during the course of service as a volunteer, while actively engaged in providing line of duty services, as defined in subdivision one of section five of the volunteer firefighters' benefit law, the firefighter shall receive five points for each full month of such disability.

(ix) Teaching fire prevention classes--five points maximum. An active volunteer firefighter who at the direction of his company, district or department, and for no remuneration, presents a public education class on fire prevention to a school, not-for-profit corporation, or civic organization organized and existing under the laws of this state or authorized to conduct activities in this state--one point per class. The program sponsor may designate less than all the activities specified in this subdivision as activities for which points may be earned.

(d) An active volunteer firefighter's service award program may provide for the crediting of years of active firefighting service for periods prior to the establishment of such program to a maximum of five years of active firefighting service per participant but only to the extent authorized pursuant to section two hundred sixteen of this article.

(e) In order to provide credit for service prior to the establishment of the service award program, each sponsor shall review its prior membership rosters to determine the number of years credit for each participant who is entitled to credit. In making the analysis, the standards for active service set forth in subdivision (c) of this section and adopted by the sponsor shall be used. Approval for such prior service shall require certification by the president, secretary and chief of the volunteer fire company. In the event an active volunteer firefighter requests credit for service in more than one volunteer fire company, each such company shall provide a certification for the appropriate number of years.

(f) In computing credit for those active volunteer firefighters who also serve as paid employees within a political subdivision of the state, credit shall not be given for activities performed during the individual's regularly assigned work periods.

(g) An active volunteer firefighter whose name does not appear on the approved certified list or who is denied credit for service prior to the establishment of the service award program shall have the right to appeal within thirty days of posting of the list or within thirty days of denial of past service credit. The appeal shall be in writing and mailed to the clerk or secretary of the governing board of such political subdivision, which shall investigate the appeal. The decision of the authorities in control of each volunteer fire company shall be subject to appropriate judicial review.

(h) An active volunteer firefighter's service award program may designate that benefits thereunder may be paid in the form of a lump sum, a life annuity with or without survivor benefits, period certain annuities, or any other form provided under the program. All forms of benefit payments shall be actuarially equivalent to each other. The sponsor may limit the forms of benefit payment under a service award program or impose conditions concerning the availability of such benefits. Nothing in this subdivision shall require a sponsor of a service award program to purchase annuity contracts from an insurance company.

(i) A participant whose volunteer fire service is interrupted by full-time extended obligatory military service or by a single voluntary enlistment not to exceed four years in

the armed forces of the United States shall be considered on military leave. During such period of military leave, the participant shall receive active volunteer service credit of fifty points for each full year, prorated for service of less than a year.

(j) All program assets shall be held in trust for the exclusive purpose of providing benefits to participants and their beneficiaries or for the purpose of defraying the reasonable expenses of the operation and administration of the program. If the service award program and the related trust are not tax qualified within the meaning of sections 401 and 501 of the Internal Revenue Code of 1954 (68A Stat 3, 26 U.S.C. 401 and 501), the trust referred to in this subdivision may provide that the assets held thereunder may be subject to the claims of general creditors, if any, of the sponsor or may contain such other terms and provisions as are necessary to insure that the participation by an active volunteer firefighter in the service award program does not result in taxable income to such volunteer firefighter under any provision of the Internal Revenue Code of 1986, as amended.

(k) Every fiduciary of a service award program will be required to act solely in the interest of the program's participants and beneficiaries. Subject only to the provisions of the program document, a fiduciary may accept, hold, invest in and retain any investment if purchased or retained in the exercise of the degree of judgment and care, under the circumstances then prevailing, which persons of prudence and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to permanent disposition of their funds, considering the probable income to be derived therefrom as well as the probable safety of their capital.

(l) No service award provided under the program may be assigned or alienated except to provide for the legally obligated support of minor children or spouse.

(m) A participant who is convicted of the crime of arson in any degree as defined in the penal law shall not be eligible to receive benefits from a service award program and shall forfeit any and all rights he or she may have had to past or future benefits pursuant to a service award program.

(n) An active volunteer firefighters' service award program may provide for the crediting of years of active firefighting service for periods after an active volunteer firefighter has reached the entitlement age and is receiving a service award.

(o) In the case of a state-administered service award program, the state comptroller may promulgate rules and regulations prescribing procedures and forms for the compilation and maintenance of records of the points accumulated by each volunteer firefighter. Each fire company participating in the state-administered program shall compile and maintain such records in the manner prescribed.

Amending Town Code §220-20

A Public Hearing that was held on June 9th 2014 to amend the Town Code authorizing the Highway Superintendent to present to the developer the number of proposed speed limit and traffic control signs needed within the subdivision and for the fees to be included in the Public Improvement Permit (PIP) payment . Questions and concerns for the changes were addressed at the January 26th Work Session.

Amending Town Code §220-24

A Public Hearing that was held on June 9th 2014 to amend the Town Code to allow the Planning Board to require (whenever possible) that underground utilities be placed in the indirect right of way between the paved road and street line to simplify the location and repair of such lines when they require attention . Questions and concerns were addressed at the January 26th Work Session.

RESOLUTION 40 - 15

SUBDIVISION LANDS OF §220-20 & §220- 24

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

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

Resolved to amend the Town Code §220 Subdivision of Lands #20 & #24, per Public Hearings held on June 9th 2014. Amendment to read as follows:

§ 220-20 Major subdivision final plat and accompanying data.

A. 8. The Highway Superintendent shall present the number of proposed speed limit and traffic control signs needed within the subdivision with the anticipated cost for the procurement and installation of said signs. The developer shall pay this fee at the same time that Public Improvement Permit fees are due by Phases, which will be placed in a Fund for this specific use.

§220-24 Street Design

C. Utilities in streets.

The Planning Board shall, wherever possible, require that underground utilities be placed in the indirect right-of-way between the paved roadway and street line to simplify location and repair of lines when they require attention. Utilities shall include natural gas, electricity, waterlines, public sanitary sewers, public drainage and stormwater sewers, telephone and cable lines. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities prior to dedication of the road to the Town.

Amending Town Code §247-12 and §247-14 ZONING

A Public Hearing held June 9th 2014 amending the Town Code allowing for multifamily dwellings in the Light Commercial and Light Industrial Zones in the Town. Questions and concerns were addressed at the January 26th Work Session.

Regular Meeting
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RESOLUTION 41 - 15

ZONING §247-12 LIGHT COMMERCIAL and §220-14 LIGHT INDUSTRIAL for (MULTI FAMILY DWELLINGS)

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 to allow for multifamily dwellings in the Town of Pendleton and within the Light Industrial and Light Commercial Zones...

Amending Town Code §222-1 SWIMMING POOLS

Motion by Councilman Leible, seconded by Councilwoman Jarvis to postpone a decision regarding §222-1 Swimming Pools for clarification from the Town's Code Enforcer, Jack Striegel. Motion carried.

Amending Town Code §191 PARKS

A Public Hearing held June 9th 2014 making reference to the Town of Pendleton Park Policies which the Town Board has not adopted when it was proposed in 2012.

Motion by Councilman Leible, seconded by Councilman Fischer to postpone a decision regarding the amendment until Attorney Claude Joerg reviews the Park Policy and recommends whether it is acceptable as written. Motion carried.

PUBLIC REMARKS/COMMENTS

Question regarding a change in the collection of recycling. Modern will not be collecting colored glass according to the recent mailing from Modern. There is also a possibility of an additional charge of \$30.00 per mattress. Attorney Claude Joerg will review the Town's current contract with Modern regarding changes.

Question regarding the Town's appeal to the DEC requesting the property locations of the additional sites for the product Equate to be spread on farm land within the Town's borders. Attorney Claude Joerg said that those properties were withdrawn for the list.

BOARD MEMBERS DISCUSSION

Motion by Councilman Morrison, seconded by Councilman Fischer to schedule a Work Session for February 23rd at 7:00 P.M. Motion carried.

Motion by Councilman Leible, seconded by Councilman Fischer to adjourn at 8:08 P.M. Motion carried.

Terry J. Pienta, Town Clerk