

TOWN OF PENDLETON
July 11, 2016

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 11th day July 2016 at 7:00 P.M. A Public Hearing was scheduled for public input regarding a proposed Local Law 01-2016 for a Six Month Moratorium on Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations within the Town.

PUBLIC HEARING

Supervisor Maerten opened the Public Hearing at 7:02 P.M.

Several residents spoke out against the moratorium. The Public Hearing is for a six month moratorium on roof mounted solar panels, ground mounted solar panels and solar arrays/farm installation within the town. Questions or statements from residents included:

- Paul DuBois from Solar Liberty told the Board that the moratorium would be placing a financial burden to the residents since some of the current incentives available may not be available in six months. He feels the current laws are adequate to address the Boards concerns and encourages the Town Board not to pass the moratorium.
- Asked the Board to consider following the process that the Town of Lockport used by writing their ordinance within a two month time frame and he doesn't feel the moratorium benefits the residents at all. He also mentioned that he could not find a formal request in the Planning Board's minutes requesting the Town Board to allow for the time to write the ordinance.
- A resident said she doesn't understand why the roof of a home couldn't be inspected by the Building Dept. to make the determination whether it is stable enough to support solar panels.
- Several residents spoke against passing the moratorium because it will hurt the residents financially because of the incentives currently offered may not be available in six months
- The moratorium will hurt local business that install solar panels

Motion by Councilman Leible, seconded by Councilman Fischer to close the Public Hearing at 7:10 P.M. Motion carried.

REGULAR MEETING

Supervisor Maerten opened the Regular Meeting at 7:10 P.M.

Supervisor Maerten read the invocation and led the salute to the flag.

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

Also present were:

Terry Pienta	Town Clerk
Don Bergman	Budget Director
Kelli Coughlin	Assessor
Claude Joerg	Town Attorney
Jim Argo	Water-Sewer Superintendent
Jeff Stowell	Highway Superintendent
Wolfgang Buechler	ZBA Chairman
Dave Britton	Engineer
Mark Walter	Fire Chief
Dave Gerber	Building Inspector

There were approximately 42 residents in attendance.

COMMUNICATIONS

Clerk Pienta reported that the owner of one of the vendors (Seas the Day Seafood) at the July 4th celebration donates back to the Town a portion of his profits made for that day. The money was received and deposited.

PUBLIC COMMENTS ON AGENDA ITEMS

A resident asked if the Board will still vote on the moratorium even if there isn't support for it. Supervisor Maerten said he will address any questions when the Board votes whether to pass the moratorium or not.

ROUTINE BUSINESS

RESOLUTION 93 - 16

APPROVAL OF MINUTES

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

ADOPTED Ayes 3 Maerten, Leible, Fischer
 Nays 0

Resolved that the minutes of the Regular Meeting held on June 13th and Work Session held on June 27th be approved as submitted by the Town Clerk.

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

General Fund	\$	38,602.27
Highway	\$	23,994.20
Water	\$	7,542.51
Sewer	\$	6,545.00
Refuse	\$	35,478.86
Trust & Agency	\$	7,533.00

OTHER REPORTS

Supervisor Maerten reported that the sales tax collected for the month of May was \$119,179.37. This is a decrease of \$6,056.89 from May 2015. The year to date received is \$621,554.35 which is a decrease of \$21,590.65 from 2015.

Councilman Leible reported that the Building Department issued 16 violations in the month of June, 6 violations remain outstanding. A total of 8 violations remain outstanding year to date. They also issued 27 permits for a total of \$2,380.00 in fees was collected. He asked everyone to please fill out the recreation survey that was mailed with the recent newsletter. He apologized for the July 4th fireworks, there were a few shells that did not go off the way they should and caused several brush fires. The Town will be credited for the unused fireworks next year. He thanked the Highway Department for all the work they did to get everything in the park ready for the celebration. He also thanked Wendelville for everything they did to help in the celebration. They did take precautions by hosing the field down 2 times but it has been so dry this year that it didn't help.

Councilman Fischer reported that the Water Department replaced 54 Orion water readers, 1 water break repair, 1 new home water push under Beach Ridge Road, 2 new homes same side of the road services completed, 10 sold home sewer and water compliance inspections, 11 final water reads, 1 water shutoff repaired, weed wacked all fire hydrants, replaced 2 noisy water meters, 4 new home water meters and readers installed, 3 hydrant water meters installed for irrigation for farmers or contractors, and Superintendent Argo and Aaron Baer attended 4 hour erosion and sediment training. The Sewer Department answered 18 regular time sewer calls, 5 overtime calls, repaired 3 pressure sewer breaks, 1 existing home pressure sewer service push under Campbell Blvd., 2 grinder pump updates completed, 1 grinder pump partial update completed, 71 underground utility stakeouts completed, installed wire for camera system at the Town Hall and the Public Works building, set tables and chairs for the seniors at the Town Hall and repaired issues with a pump station on Aiken Road. The Highway Department chipped brush for 10 days, shot grades at Town ditch #3 near the outfall, installed pipe on Townline and Meyer Road, installed 20 ft. pipe at Bear Ridge snowmobile crossings that were removed by the County because of the poor condition of the pipe, repaired and replaced traffic signs as needed, finished and installed bike path stop signs and speed limit signs, reviewed safety training for Cambria's chipper, finished mowing roadside ditches and most of the bike path, repaired equipment as needed, prepared the park for the July 4th celebration and cleaned up afterward, maintained the parks, athletic fields, cemeteries, grounds and the bike path, picked up 2 tandems of mulch from Porter and one from Lewiston, and hauled equipment for the summer recreation program. Shared services included using Cambria's chipper for one month and Cambria's one ton dump truck for 2 days, used Lewiston's "shaker" to screen millings and topsoil, hauled for Porter for 1 ½ days with one truck, used Cambria's tractor and tiller for the volley ball courts, one guy hauled for Lockport for one day, one guy hauled for Wheatfield for 3 days, and 2 guys hauled for Cambria for 4 days. The new mid-size cab and chassis and plows were delivered.

Engineer Dave Britton reported to the Board that the contract for the Water Painting Project has been reviewed and is ready for the Town Board to authorize the Supervisor and

the Attorney to sign the contract. A tentative date of August 1st has been set to begin the project. The water tower will be shut down for approximately six weeks.

Attorney Claude Joerg – nothing to report

Water-Sewer Superintendent Argo – reported that the company that was hired to restore the water tower exterior after the removal of the cell towers has not responded to his phone calls. There are a few spots left unpainted. Supervisor Maerten will give them a call.

Kellie Coughlin reported that she has been training Stephanie Chase in her office and she has also been training in the Building Department’s Office. She accompanied Building Inspector Gerber with final inspections for new homes. This helps her place values on them now rather than waiting until the deadline date of March 1st when she is required to file the Final Roll with the County.

Highway Superintendent Stowell reported that the parking signs for the road at Uncle G’s are in, he will try to get them installed as soon as possible. He also reported the County’s sign at Lockport and Aiken Roads has been moved for a better sightline for oncoming traffic.

NEW BUSINESS

Supervisor Maerten spoke briefly about the proposed Local Law explaining it was by the request of the Planning Board to include roof mounted solar panels in the moratorium. They will bring their recommendations to the Board for roof mounts first and a Public Hearing can be scheduled to amend the Local Law at that time. The Planning Board will proceed to review the ground mounted and solar farm installations.

RESOLUTION 94 – 16

AMENDMENT TO THE CODE OF THE TOWN OF PENDLETON PLACING A SIX MONTH MORATORIUM ON ROOF MOUNTED SOLAR PANELS, GROUND MOUNTED SOLAR PANELS AND SOLAR ARRAYS/FARMS INSTALLATIONS WITHIN THE TOWN

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

ADOPTED Ayes 3 Maerten, Leible, Fischer,
 Nays 0

Resolved to pass Local Law 1-2016 as proposed during the Public Hearing.

Such Local Law shall read as follows:

SECTION 1. TITLE

This Law shall be known as Local Law No. 1 of the Year 2016 entitled “Amendment to the Code of the Town of Pendleton Placing a Six Month Moratorium on Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations within the Town”.

SECTION 2. PURPOSE

The purpose of this local law is to amend the Code of the Town of Pendleton to place a six [6] month moratorium on the processing, permitting and/or construction of Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations Within the Town and thereby to allow time for the drafting and adoption of amendments to the Code of the Town of Pendleton affecting these types of uses. These amendment, among other things, will amend the location where Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations may be allowed within the Town; require that solar energy equipment be installed by “qualified solar installers” and regulate the handling and disposal of solar storage batteries; regulate the distance that a solar energy collector can extend above a roof; regulate the percentage of the roof area that can be covered by solar energy collectors; and such other regulations as may be necessary to promote and preserve the health, safety and welfare of the Town of Pendleton and its citizens.

SECTION 3. AMENDMENT OF PRIOR LAW

1. The Code of the Town of Pendleton is further amended as follows:

“For the period commencing on the effective date of this Local Law No. 1 of the Year 2016 and for six [6] months thereafter, there shall be a moratorium on the processing, approval, and/or construction of ground mounted solar panels and solar farms within the Town of Pendleton. During this Moratorium, the Town of Pendleton Planning Board, assisted by the Town Engineer, will draft these new regulations for presentation to the Town of Pendleton Board for potential adoption, and periodic reports on the drafting of these regulations will be given to the Town of Pendleton Board to illustrate progress and to receive input from the Town of Pendleton Board.”

SECTION 4. SEVERABILITY

If any portion, subsection, sentence, clause phrase or portion thereof of this Local Law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

SECTION 5. WHEN EFFECTIVE

This Local Law shall become effective immediately upon its filing in the office of the Secretary of State. On enactment of this Local Law, the Moratorium shall remain in effect for a six [6] month time period commencing with its effective date. This six [6] month time period may be extended by the Town Board by adoption of a resolution for this purpose.

SECTION 6. GRANDFATHER CLAUSE

The enactment of this Moratorium, will affect any new application received on or after June 13, 2016. Any application received prior to this date will be “grandfathered” from this Moratorium and will be processed under the existing regulations. Any application received on or after this date will not be processed and no approvals or permits will be issued.

This Moratorium will not affect or eliminate the requirement for any necessary repairs needed to be made to any existing Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations. However, existing Roof Mounted Solar Panels, Ground Mounted Solar Panels and Solar Arrays/Farms Installations that need to be modified in such a way that would require a permit and/or approval from the Town will be included under this Moratorium.

RESOLUTION 95 – 16

SCHEDULE PUBLIC HEARING FOR TOWN CODE REVISION - §133 FIRE PREVENTION-KNOX BOX

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

ADOPTED Ayes 3 Maerten, Leible, Fischer,
Nays 0

Resolved to schedule a Public Hearing for 7:00 P.M. on August 8, 2016 for a proposed Town Code addition that would require certain commercial and residential buildings to install KNOX BOXES.

RESOLUTION 96 – 16

RESTRICTED USE FOR TONAWANDA CREEK ROAD FOR THE WENDELVILLE HARVEST MOON 5K RUN AND FUN WALK

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

ADOPTED Ayes 3 Maerten, Leible, Fischer
Nays 0

WHEREAS, on September 7, 2016, the Wendelville Fire Co., Inc. will sponsor its 19th Annual 5K race known as the “Harvest Moon Run, Fun Walk & Kid’s Race”;

WHEREAS, as a part of the Harvest Moon Run, Fun Walk & Kid’s Race, participants will run and/or walk on Old Tonawanda Creek Road as a part of the race;

WHEREAS, the Town of Pendleton has no ordinance, rule or regulation which provides for the use of streets, highways by pedestrians and/or vehicles during public assemblages therein [See Town Law Section 130 [7]];

WHEREAS, the Town of Pendleton has no opposition to the Wendelville Fire Co., Inc. restricting the use of Old Tonawanda Creek Road in the Town of Pendleton to **race participants only** during and until the completion of the September 7, 2016, Harvest Moon Run, Fun Walk & Kid’s Race;

NOW THEREFORE BE IT RESOLVED that the Town Board for the Town of Pendleton authorizes the Wendelville Fire Co., Inc. to provide all necessary personnel to restrict the use of Old Tonawanda Creek Road in the Town of Pendleton to **race participants only** and provide all necessary traffic control during and until the completion of the September 7, 2016, Harvest Moon Run, Fun Walk & Kid’s Race; and be it further

RESOLVED that the Town of Pendleton directs that the Wendelville Fire Co., Inc. shall in all full responsibility for planning and conducting a safe and orderly event and providing sufficient personnel to insure that the race participants are in all respects safe from vehicular traffic during and until the completion of the September 7, 2016, Harvest Moon Run, Fun Walk & Kid’s Race, and in no manner is the Town of Pendleton assuming any responsibility for the safety and/or insuring the safety of such participants by this resolution; and be it further

RESOLVED that the Town of Pendleton directs that the Wendelville Fire Co., Inc. shall in all respects be responsible to provide notice, communicate and coordinate with effected residents on Old Tonawanda Creek Road in the Town of Pendleton to provide access to such residents’ homes during and until the completion of the September 7, 2016, Harvest Moon Run, Fun Walk & Kid’s Race and especially in case of any emergency to any of said residents; and be it further

RESOLVED that the Town of Pendleton directs that the Wendelville Fire Co., Inc. provide notice, communicate and coordinate with any other effected municipalities that have roads, streets and/or highways that will be utilized by race participants while competing in the Harvest Moon Run, Fun Walk & Kid’s Race, in no manner does this resolution provide authorization to the Wendelville Fire Co., Inc. to restrict access on any roads, streets and/or highways that are not “Town of Pendleton” roads.

RESOLUTION 97 – 16

AUTHORIZATION FOR ROAD CLOSURE FOR PADDOCK RIDGE BLOCK PARTY ON AUGUST 6

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

ADOPTED Ayes 3 Maerten, Leible, Fischer
 Nays 0

Resolved to authorize the Highway Superintendent to close a portion of Paddock Ridge, allowing for emergency vehicles to pass if necessary, for a block party on August 6th.

RESOLUTION 98 – 16

AUTHORIZATION FOR ROAD CLOSURE AT HEBELER’S SALES AND SERVICE JULY 19TH

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

ADOPTED Ayes 3 Maerten, Leible, Fischer
 Nays 0

Resolved to authorize the Highway Superintendent to close Main Road at Hebler’s Sales and Service at 6476 Main Road, allowing for emergency vehicles to pass if necessary, for the Annual Stunt Show on July 19th from 6 – 9 P.M.

RESOLUTION 99 – 16

AUTHORIZATION FOR ROAD CLOSURE AT THE OLD TONAWANDA CREEK ROAD FOR SAINT PAUL’S ANNUAL FLEA MARKET ON SEPTEMBER 17TH

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

ADOPTED Ayes 3 Maerten, Leible, Fischer
 Nays 0

Resolved to authorize the Highway Superintendent to close the Old Tonawanda Creek Road in front of St. Paul’s United Church of Christ on September 17th from 7:00 AM to 4:00 PM for their annual Flea Market and Chowder Sale.

PUBLIC REMARKS/COMMENTS

Dave Notaro, President of the Tonawanda Sportsman Club spoke briefly regarding the Town of Pendleton’s decision to move forward with the original grant to complete the Town’s Rails to Trails. That portion of the trail will run through the property of the club. He stated that they can legally hunt within 20 feet of the trail. They are concerned with the public’s safety. He also mentioned the Town’s portion of the cost of the Trail being \$200,000.00. Supervisor Maerten pointed out that the funds will be used from the “Green Fee’s” and not tax payer’s money. Green Fees are funds paid for by developers and can only be used for recreational purposes.

Various comments made regarding the trail:

- Town’s liability, TSC liability
- Will the Town post signage along that section of trail
- Patrolling by the Sheriff’s Department

- It was pointed out that there is hunting already going on along the current Town trail.
- Will the Tonawanda Sportsman’s Club post signs inside their club warning their own members of hunting safety by the trail
- Asked if the DOT was aware that the trail goes through the Tonawanda Sportsman’s Club; they are aware of it

Supervisor Maerten explained the process for the trail grant. The engineers used for the trail are currently working on a conceptual design for the trail, it will then be presented for public comment, and the DOT will also review the design. At that time there will be discussions regarding liability, signage and any other areas of concern. The Town has reviewed three other possibilities but is now looking at the original request (the extension of the old railroad bed that does run through the Tonawanda Sportsman’s Club) that was outlined in the original application in 2013.

A resident asked if the Town had intentions of charging a hotel bed tax with the Hampton Inn opening soon. There is nothing under discussion at this time.

Mark Walter, Fire Chief spoke briefly regarding his decision to cancel the remainder of the fireworks. His concerns were the safety of his men, there were numerous spot fires and many were in the 6 foot tall grasses. The homes nearby were also in danger if any of the small fires could not be contained. He felt it was for the safety for everyone involved.

BOARD MEMBERS DISCUSSION

A work session was not scheduled for July. If there is a need for a meeting proper legal notification will be taken.

Motion by Councilman Leible, seconded by Councilman Fischer to adjourn to Executive Session for negotiations with Attorney Claude Joerg, Attorney Jim Schmitt, Highway Superintendent Stowell, and Water-Sewer Superintendent Argo to Executive Session for contractual at 8:11 P.M. Motion carried.

Motion by Councilman Leible, seconded by Councilman Fischer to adjourn from the Executive Session and the Regular Meeting at 9:27 P.M. Motion passed.

Terry J. Pienta, Town Clerk