

**TOWN OF PENDLETON  
REGULAR MEETING  
May 8, 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 8<sup>th</sup> day of May 2017 at 7:00 P.M. A Public Hearing was scheduled.

**PUBLIC HEARING**

Supervisor Maerten opened the Public Hearing at 7:04 P.M.

A Public Hearing was scheduled for 6:55 P.M. Supervisor Maerten read the notice of Public Hearing that was published in the Lockport Union Sun and Journal on April 27<sup>th</sup>. The purpose of the hearing was to received public input on a proposed change to §192-7 Vendor Permit Fees and §247-26 Corner Lot Setbacks for accessory structures or detached garages. Both amendments were published on the website and were available in the Town Clerk's Office.

There were no comments regarding the Vendor Permit Fees.

Wolfgang Buechler commented on §247-26 Corner Lot Setbacks that he felt if section D was added he felt that section A was not necessary.

Supervisor Maerten closed the Public Hearing at 7:07 P.M.

**REGULAR MEETING**

Supervisor Maerten opened the Regular Meeting at 7:07 P.M.

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

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

Also present were:

Terry Pienta	Town Clerk
Kelli Coughlin	Assessor
Claude Joerg	Town Attorney
Jim Argo	Water-Sewer Superintendent
Tim Masters	Building Inspector
Wolfgang Buechler	Board of Appeals
Dave Britton	GHD Engineers
Don Bergman	Budget Officer

There were approximately 18 residents in attendance.

**COMMUNICATIONS**

The Pendleton Veteran's Association announced that the Association will be holding a memorial ceremony on Monday, May 29<sup>th</sup> at 11:00 A.M. The public is invited.

**COMMENTS ON AGENDA ITEMS**

No comments were made.

**ROUTINE BUSINESS**

RESOLUTION 92 - 17

**APPROVAL OF MINUTES**

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

ADOPTED      Ayes 3      Maerten, Ostrowski, Fischer  
                     Nays 0

Resolved that the minutes of the Regular Meeting held on April 10<sup>th</sup> be approved as submitted by the Town Clerk.

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

General Fund	\$	53,758.06
Highway	\$	25,079.22
Water	\$	36,665.79
Sewer	\$	2,301.36
Refuse	\$	35,450.85
Fire Protection District	\$	1,500.00

**Supervisor Maerten** reported that the tax collected for the month of March 2017 was \$146,311.23 which is an increase of \$6,213.33 from February 2016. Year to date received is \$383,367.77 which is an increase of \$2,516.05 from 2016. Recently, an Eagle Scout from Troup #4 chose the Wendelville Fire Departments Memorial for his project. It was very much appreciated. He offered his thanks and appreciation to the scouts for the projects they choose to do for their local communities. He also reported that he has been working on trying to find financing to help with a needs assessment to help with direction on the community center project. Several months ago a question was asked if the Town would consider instituting a bed tax now that there was a hotel in Town. He had been in contact with Senator Ortt's Office regarding that suggestion but has been told that the Town does not have the power to institute a bed tax on their own. He also wanted to thank the Lion's Club for replacing the roof in the Town Park. The amount of people volunteering their time was great to see. They completed the majority of work done in one day. They saved the Town a considerable amount of money by volunteering their time.

## OTHER REPORTS

**Councilman Fischer** reported that the Highway Department chipped brush 10 days last month, repaired signs as needed, continue to work on the parking lot at the soccer field, mowed and striped the soccer fields and anything that was dry enough to cut, used the street sweeper to clean sub divisions, cleared ditches and culverts of debris and checked areas for flooding with the rains received this past month, continue to patch pot holes and bad spots where it's needed, and cleaned and stored most of the equipment for plowing. He reported that the Sewer Department responded to 14 regular time sewer calls, 7 overtime calls, 2 pressure sewer break repairs, built 6 inside grinder pumps to put into service, 2 open water and sewer inspections for new homes, 3 sold homes compliance inspections, 2 men wired Town Hall for keyless entry installation and cameras to be installed, completed safety meeting, flushed wet well at the pump located at Key Bank, and trimmed trees and cleaned up around the Pendale pump station. The Water Department completed water meter readings, repaired a 6 inch water main service at Starpoint School, 1 fire hydrant repaired, had to raise a fire hydrant with an 18 inch extension, had 7 final water meter reads, 2 new home water meters installed, 1 water curb stop at road repaired, 46 underground utility stake outs completed, turned water on at the Town Park bathrooms, started restoration on previous water and sewer repairs, and had several miscellaneous jobs at the Town Hall. He reported that he has been attending the meetings for the Pendleton Farm and Home Days for August 18<sup>th</sup> and 19<sup>th</sup>. He said there will be a lot of activities going on. He didn't divulge everything but asked everyone to spread the word about the event.

**Councilman Ostrowski** updated everyone on the security project of cameras and keyless entry system. The money is from the JCAP grant. He noted that some of the door mechanism have been installed with the additional ones to be installed during the month. The signups for the CPR AED training is complete. The training is scheduled for Tuesday the 16<sup>th</sup> at 5:00 P.M. He also reported that the Pendleton Athletic Booster Association has started a Lacrosse League. He sees a lot of positive things happening in Town and different groups helping to make a difference in Town. A couple of examples he noted was the Lions Club and the

donation of their time to reroof the shelter in the Park, the community support for a recent fund raiser for a Wendelville Fireman that had a house fire, and Masson's Mission Foundation Golf Tournament that is scheduled for May 27<sup>th</sup> to raise funds for the Special Needs Playground at the Town Park.

**Engineer Britton** reported that the Town has received the letter from FEMA stating that on November 3<sup>rd</sup> the flood plain maps will become effective and the Town can officially adopt the maps. There is a 6 month process, a letter/postcard will be mailed out to notify the residents that the change will impact and what the changes mean for them.

**Claude Joerg** reported that National Fuel has filed proceedings with the Board of Appeals challenging the denial of a building permit. The proceeding will continue in Federal Court for the denial of the building permit. They are also proceeding with the purchase of the property in spite of the fact that that FERC did not issue a certificate for construction.

## DEPARTMENT HEADS

**Assessor Kelli Coughlin** reported that the Tentative Final Assessment Role has been turned into the County. There were 185 "change of assessment" notices mailed out. She will be holding several informal hearings with residents regarding their change of assessment. For those that are not satisfied with the informal meeting they will be able to meet with the Board of Assessment Review on Grievance Day which will be held on May 23<sup>rd</sup>.

**Water-Sewer Superintendent Jim Argo** reported that the Annual Stormwater Report has been completed and will be available for public review for the next two weeks in the Town Clerk's Office.

**Building Inspector Tim Masters** reported that 38 permits were issued in the month of April and 17 Contractor Licenses. There are 81 active permits in Town. There are 189 licensed contractors in Town. He did 26 onsite inspections during the month of April. He issued 10 single family home permits which brings the total of 27 new homes being constructed. There are 12 outstanding violations that are unresolved. He also reported that he completed 3 days of training which he found very informative.

## NEW BUSINESS

RESOLUTION 93 - 17

### AMEND TOWN CODE LOCAL LAW 02-2006, VENDORS PERMIT §192-7 and §192-8

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

ADOPTED      Ayes 3      Maerten, Ostrowski, Fischer  
                     Nays 0

*To be amended as follows:*

§ 192-7 Fees.

The following shall be paid to the Town Clerk for an application for a permit:

- A. Peddler's or solicitor's permit: \$25.
- B. Transient business: \$100 per year or \$25 per event.
- C. Junk dealer's permit (annually): \$500.

§ 192-8 Permit regulations.

- A. After receipt of the application(s), the Town Clerk shall issue the permit requested unless the applicant has been convicted of a felony at any time or a misdemeanor involving moral turpitude within five years prior to the application, and has not been granted relief from the civil disabilities, or otherwise is found not to be a person of good moral character and reputation.
- B. All permits issued for a single event shall expire at the conclusion of said event. All yearly permits issued shall expire on the 31st of December following the date of issuance.
- C. Permits issued under this chapter shall not be transferable.
- D. A permit issued pursuant to this chapter may be revoked if, following its issuance, the Town determines that the applicant was convicted of any crime not reported in the application or is otherwise not a person of good moral character and reputation. A permit may also be revoked for any violation of this chapter committed after its issuance.

RESOLUTION 94 - 17

**ANNUAL MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) REPORT AUTHORIZATION**

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

ADOPTED      Ayes 3      Maerten, Ostrowski, Fischer  
                     Nays 0

WHEREAS, the Town of Pendleton has been identified as a Municipal Separate Storm Sewer System (MS4) under the EPA's Phase II Stormwater Regulations under the Clean Water Act of 1999, and

WHEREAS, the Phase II Program requires each MS4 to prepare a Draft Annual Report on the Town's efforts to protect and improve the water quality of our streams and water bodies, and

WHEREAS, the public is invited to review the Draft Annual Report and provide input, and

WHEREAS, a Draft Annual Report has been prepared in conformance with the Phase II Regulations by the Highway Department, and

WHEREAS, the Annual Report must be submitted to the New York State Department of Environmental Conservation offices in Albany, NY, by June 1, 2017.

NOW, THEREFORE BE IT RESOLVED, that the Town Board accepts said Draft Annual Report and is available for public review at the Town of Pendleton Clerks Office and at the Highway Department.

Last month the Board received a proposal from National Grid to review. The project will replace and dispose of properly all existing lamps the ballasts. The company hired by National Grid is Lime Energy. The Town had previously enrolled in the program in 2012. Currently the bulbs are 32 watts with a 20,000 hour life. The new bulbs would be 14 watts with a 150,000 hour life and a 5 year warranty. The annual savings for both buildings is estimated to be \$5,900.00 combined.

RESOLUTION 95 - 17

**NATIONAL GRID INCENTIVE AGREEMENT**

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

ADOPTED      Ayes 3      Maerten, Ostrowski, Fischer  
                     Nays 0

Resolved to authorize the Supervisor to sign the incentive agreement with Lime Energy, contractor working on behalf of National Grid, for replacement of more efficient lighting at the Town Hall for the one time cost of \$5,870.88 and the Town Garage for a one time cost of \$4,879.96 which includes a 5% discount for paying the amount in full.

CNBSA Central Niagara Baseball and Softball Association asked for permission to install a small plaque on the fence of one of the baseball fields in honor of Ben Wasik who passed away in a tragic accident during the past winter.

RESOLUTION 96 - 17

**MEMORIAL PLAQUE FOR BEN WASIK**

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

ADOPTED      Ayes 3      Maerten, Ostrowski, Fischer  
                     Nays 0

Resolved to allow for the installation of a memorial plaque in memory of young Ben Wasik who loved baseball and died tragically this past winter.

RESOLUTION 97 - 17

**FISK ROAD PROJECT**

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

ADOPTED      Ayes 3      Maerten, Ostrowski, Fischer  
                     Nays 0

WHEREAS, a Project for the Town of Pendleton, Niagara County to rehabilitate the Paving Surface of Fisk Road from Transit Road to East Canal Road, P.I.N. 5761.70 (the Project) is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% federal funds and 20% non-federal state funds; and

WHEREAS, the Town of Pendleton desired to advance the Project by making a commitment to pay in the first instance 100% of the federal and non-federal share of the costs of Preliminary Engineering Phase (Design 2 – VI), with the understanding that the New York State Department of Transportation will reimburse the Town of Pendleton as the Project progresses.

WHEREAS, prior to execution of the required contract documents, the Town Attorney will review them for approval as to legal form, language, and compliance, therefore, be it

RESOLVED, that the Town Board hereby approves the above-subject Project and it is hereby further

RESOLVED, that the Town Board hereby authorizes the Town of Pendleton to pay in the first instance 100% of the federal and non-federal share of the cost of Preliminary Design Phase of the Project or portions thereof; and it is further

RESOLVED, that in the event the amount required to pay the full federal and non-federal share of the cost of the Project Preliminary Design Phase exceeds the amount appropriated above, the Town of Pendleton shall convene its Board as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Department of Transportation thereof, and be it further

RESOLVED, that the Supervisor of the Town of Pendleton be, and hereby is authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid on behalf of the Town Board with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of Project costs of federal-aid and state-aid eligible Project costs and all Project costs within appropriations; therefore that are not so eligible, and be further

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project, and it is further

RESOLVED, that following the Town Attorney's review, the Supervisor of the Town Board be, and hereby is authorized to execute the required documents, and be it further

RESOLVED, that this Resolution shall take effect immediately.

Water-Sewer Superintendent Argo previously reported that the insurance company that covered the driver that hit the fire hydrant on Transit Road last January has determined that the amount of the payment by the insurance company will be \$4,304.52. The Town's cost was \$4,669.00. He is asking for authorization to sign the release to accept the money.

#### RESOLUTION 98 - 17

#### **ACCEPT SETTLEMENT PAYMENT FOR FIRE HYDRANT ON TRANSIT ROAD**

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

ADOPTED      Ayes 3      Maerten, Ostrowski, Fischer  
                     Nays 0

Resolved to authorize Water-Sewer Superintendent Argo to accept the settlement and to sign the release for Geico Insurance Company for payment for the replacement of the Fire Hydrant on Transit Road on January 4<sup>th</sup> 2017.

A Work Session was scheduled for May 31<sup>st</sup> at 7:00 P.M. The first part of the meeting will be to receive public input or suggestions regarding the final phase of the Town's Trail.

Motion by Councilman Fischer, seconded by Councilman Ostrowski, to adjourn to Executive Session for litigation inviting the Town Attorney at 7:45 P.M. Motion carried.

Motion by Councilman Ostrowski, seconded by Councilman Fischer, to adjourn from Executive Session and the Regular Meeting at 9:45 P.M. Motion carried.

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Terry J. Pienta, Town Clerk