

**TOWN OF PENDLETON**  
**Work Session**  
March 24, 2014

A work session of the Town Board of the Town of Pendleton was held at the Town Hall, 6570 Campbell Blvd., Pendleton, N.Y. on the 24<sup>th</sup> day of March 2014 at 7:00 P.M. Supervisor Riester, Councilman Leible, Councilman Morrison, Councilman Fischer, Councilwoman Jarvis, Clerk Pienta, Highway Superintendent Stowell were in attendance.

Amy Fisk from the Niagara County Department of Economic Development gave a presentation for the Town Board explaining the process for a Phase I and Phase II Environmental Site Assessment. Phase I process includes a site inspection, a review of historical records of the property and research of records available at government agencies. A Phase I Environmental Site Assessment Report, and an opinion is made as to whether past or present activities may have caused a release of hazardous substances or petroleum products at the property. A Phase II Environmental Site Assessment is conducted by collecting soil samples for chemical or metal contamination. If the result of the testing shows a significant problem then a remediation or clean-up would be required. Remediation would depend on the proposed use of the property. There is grant money available to conduct both phases, under certain circumstances grant money (and/or a low interest loan) is available for the remediation.

Supervisor Riester called the meeting to order at 7:40 P.M.

The Board and Highway Superintendent Stowell discussed the revised §284 Agreement that was submitted. The revised agreement had a list of roads but there was not a dollar amount attached to the proposed projects as had been done in the past. Attorney Joerg provided the Board with the New York State Law Highway Law which does not state that the Highway Superintendent must allocate specific dollar amounts for the projects. Supervisor Riester was concerned that there is a possibility of over running the budget. State law dictates that the Highway Superintendent can be personally held liable for going over budget unless he has Board approval to do so. Superintendent Stowell has agreed he will stay within his budget or be held personally responsible for any overages unless there was Town Board approval first.

RESOLUTION 51 - 14

**HIGHWAY §284 AGREEMENT**

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

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

Resolved to sign the agreement as submitted as required by Highway Law §284 the expenditure of monies levied and collected, and received from the state and such other monies as the Town Board shall have transferred and budgeted for the repair and improvements of highways, sluices and culverts shall be expended for the purpose set forth as follows:

- Fisk Rd. – pipe deep ditch
- Meyer Rd. – crack seal

- Dunnigan Rd. – crack seal
- Irish Rd. - crack seal
- Main Rd. – mill and pave
- Mapleton Rd. – repairs
- Pendale – repair catch basins
- Aiken Rd. - crack seal
- Oakwood Dr. – microseal
- Old Tonawanda Creek Rd. - pave

Newsletter contract - Councilman Leible reported that KAX Printing that publishes the Town's newsletter has requested that the Town cover the cost of the postage. The past quarter cost totaled approximately \$624.00. Councilman Leible will ask KAX to write a new contract and forward it to Supervisor Riester and Attorney Joerg for approval.

Trail Grant – The Board discussed a recent Supreme Court decision regarding some trails in another area of the country and there were questions as to the ownership or easements of the old railroad beds. Town Attorney Joerg does not believe that the decision by the Supreme Court would affect the Town's Trails but suggested the Town get clarification on the rights of ownership before the Town invests the money on the final portion of the Town's Trails.

RESOLUTION 52 - 14

**AUTHORIZATION TO SPEND \$250.00 FOR INQUIRY**

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

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

Resolved to authorize Town Attorney Joerg to get information regarding the original ownership or easement of the railroad bed.

Electronic sign – Councilman Morrison reported that he checked with the Town's insurance company regarding the Board's decision at the previous work session to have the Town employees install the posts for the new sign. They suggested that the Town have the company dig and install the posts as to not jeopardize the warranty that the company provides.

RESOLUTION 53 - 14

**AUTHORIZATION FOR ULRICH SIGNS TO INSTALL THE POSTS FOR THE ELECTRONIC SIGN**

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

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

Resolved to authorize the Ulrich Signs to dig and install the posts for the electronic sign.

Councilman Morrison recommended to the Board that Charles Langlois be appointed as a part-time Recreation Director. He has been a member of the Recreation Committee for 6 years. The money was put into the 2014 Budget to cover the cost. He would be in charge of the entire Recreation program. He will still report to the council person in charge who will then report to the Town Board.

RESOLUTION 54 - 14

**RECREATION DIRECTOR**

Motion by Councilman Morrison, seconded by Councilwoman Jarvis the following resolution was ADOPTED: Ayes 5 Riester, Leible, Morrison, Fischer, Jarvis

Nays 0

Resolved to appoint Charles Langlois as Recreation Director for an annual stipend of \$4,000.00.

Other discussions:

- Attorney Joerg to review the Town's current handbook and provide guidance for any updates needed
- Councilman Morrison to verify again the insurance coverage for of a small bounce house for the Farmer's Market
- Previous request to consider "honoring" families - discussed if it should be done as historical properties, families, what criteria to use

Vacant Land Use – The Board discussed the lease agreements for the Town's property on Feigle Rd. and Beach Ridge Rd. The Town has been leasing the land to farm. Attorney Joerg had numerous questions concerning the details of the leasing. If it has been designated as "parkland" he said that the Town cannot lease the land out to be farmed without the state legislature approval and getting a Municipal Home Rule message allowing the Town to sell or lease the property. He also told the Board that the state required a corrective action plan and reviewing the records he does not see if the Town filed one or not. The Board decided not to renew the leases at this time.

Conservation Board – James Sobczyk from the Conservation Board asked if the Town's current code gives the Town the power to regulate the use of a fertilizer being spread on farmland. The product is called Equate (liquid manure). The DEC approves the applications but there are a lot of restrictions and monitoring required. Attorney Joerg will look into our current code to see if the Town does have the power to restrict or refuse the application of the product.

Highway Budget –discussion about the Highway Reserve Fund and what it can be spent on.

Dog ordinance – discussion regarding the current Town Code that states that a dog owner must be charged \$50.00 when their dog has been impounded and brought to the SPCA. The Code will be amended to allow for a one time warning and charge for the second offense and thereafter. A Public Hearing will be scheduled at the next meeting.

RESOLUTION 55 - 14

**USE OF MEETING ROOM**

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

ADOPTED: Ayes 5 Riester, Leible, Morrison, Fischer, Jarvis

Nays 0

Resolved to authorize the use of the meeting room for the Niagara County Health Department for a 6 week Chronic Disease Self-Management workshop, dates are yet to be determined.

Clerk Pienta reported to the Town Board that a resident has requested that the penalty for one of his property tax bills to be waived. He purchased two parcels of property and requested that they be joined. When he received his 2014 Town/County tax bill he questioned if the properties were joined since he felt the taxes were a bit low for the size of the parcel. The records in the Assessor's Office show that it had been joined, however it was later determined that it was joined after the date of March 1<sup>st</sup>. Since the penalties for late tax bills are paid to the Town, it was determined that the Board could authorize the waiving of the penalty.

**RESOLUTION 56 - 14**

**AUTHORIZATION TO WAIVE PENALTY**

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

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

Resolved to authorize Town Clerk Pienta to waive the penalty (\$5.25) for SBL # 149.00-3-4.24.

Motion by Councilman Fischer, seconded by Councilwoman Jarvis to adjourn to Executive Session for personnel reasons at 9:50 P.M. Motion carried.

Motion by Councilman Fischer, seconded by Councilwoman Jarvis to adjourn from Executive Session at 11:05 P.M. Motion carried.

**RESOLUTION 57 - 14**

**AUTHORIZATION TO SIGN ACCOUNTANT AGREEMENT**

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 Supervisor Riester to sign the agreement with Lumdsen and McCormick to prepare the Annual Financial Report for the year end of December 31, 2013.

**RESOLUTION 58 - 14**

**AUTHORIZATION FOR PROPERTY APPRAISAL**

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

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

Resolved to authorize Girasole-Penale Appraisal, LLC to appraise a property on Aiken Rd. that is currently owned by MJ Peterson Co. who is disputing their assessment.

**RESOLUTION 59 - 14**

**CREATE TOWN ATTORNEY POSITION**

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

ADOPTED: Ayes 4 Leible, Morrison, Fischer, Jarvis  
Nays 1 Riester

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Whereas, Town Law §20(2) authorizes the Town Board of the Town of Pendleton, New York (“the Town”) to create the office of Town Attorney,

Whereas, the Town Board of the Town of Pendleton, New York deemed it necessary and proper for said town to establish the office of Town Attorney,

Whereas, Town Law §24 provides that the town attorney, whenever appointed, shall hold such office until the first day of January next succeeding the first biennial town election held after the time of appointment.

Whereas, Claude A. Joerg is a resident of the Town of Pendleton and is an attorney duly licensed to practice law in the State of New York,

Whereas, the Town Board of the Town of Pendleton, New York (“the Town”) at its February 10, 2014 Town Board Meeting appointed Claude A. Joerg to the position of Town Attorney of the Town of Pendleton,

Now, therefore Be it resolved, that pursuant to the authority granted by Town Law §20(2), the office of Town Attorney is hereby established for the Town of Pendleton, and be it

Further Resolved, that the salary of such office is hereby fixed at \$36,300.00 per anum, and be it

Further Resolved, that Claude A. Joerg is hereby appointed Town Attorney of the Town of Pendleton, to serve for a term commencing on February 10, 2014 through and including January 1, 2016.

Motion by Councilman Leible, seconded by Councilman Fischer to adjourn from the Work Session at 11:11 P.M. Motion carried.

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Terry J. Pienta, Town Clerk