

**TOWN OF PENDLETON**  
February 12, 2018

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 12<sup>th</sup> day of February, 2018 at 7:00 P.M. Public Hearings were scheduled to begin at 6:35 P.M.

**PUBLIC HEARING**

Supervisor Maerten opened the Public Hearings at 6:41 P.M.

The notices for the Public Hearings were published in the Lockport Union Sun & Journal on February 5, 2018 and were posted on the Town's website.

**PUBLIC HEARING #1**

The purpose of the Public Hearing was to give the town residents the opportunity to voice their concerns/suggestions to the proposed transfer of \$56,975.00 from Reserve for Equipment (DA0889) to Machinery Fixed Assets (DA5130.02), for the purchase of a US Jetting Sewer Jet.

A resident asked what the Highway Department was going to use the sewer jet for. Deputy Highway Superintendent Walter explained that even though it is called a sewer jet it is actually a water jet that is used for culvert pipes. He also explained that, in the past, the Town borrowed the Town of Wheatfield's sewer jet but that it is no longer usable. The resident also asked if the Town has a complete inventory of all equipment that is available and in working order to refer to before making purchases for new equipment. Supervisor Maerten assured him that the Town does have this inventory and that it is kept up to date. Councilman Ostrowski asked how often this machinery is used. Deputy Highway Superintendent Walter explained that it depends on how many culverts need repair and how intense each job is. He also stated that it can be used for shared services with the Town of Wheatfield now that theirs is no longer functional. This item was included in the planning for this year's budget.

There were no other public questions or comments.

Supervisor Maerten closed Public Hearing #1.

**PUBLIC HEARING #2**

The purpose of the Public Hearing was to give the town residents the opportunity to voice their concerns/suggestions to the proposed transfer of \$33,800.00 from Reserve for Capital Projects (SW0878) to Fixed Assets (SW.8340.0200), for the purchase of a Bobcat Compact Excavator. This item was included in the planning for this year's budget.

There were no questions or comments.

Supervisor Maerten closed Public Hearing #2.

**PUBLIC HEARING #3**

The purpose of the Public Hearing was to give the town residents the opportunity to voice their concerns/suggestions to the proposed transfer of \$47,560.00 from Reserve for Capital Projects (SS0878) to Operating Equipment (SS.8120.0200), for the purchase of a 2018 F-450 Pick-up.

There were no questions or comments.

Supervisor Maerten closed Public Hearing #3.

**PUBLIC HEARING #4**

The purpose of the Public Hearing was to give the town residents the opportunity to voice their concerns/suggestions to the proposed water rate and levy fee increase. The proposed changes are as follows:

- Water rate for zero gallons up to 6,000 gallons will increase from \$11.00 to \$15.00. The current rates above that will remain the same.
- Non-Sufficient Funds Fee for returned checks will increase from \$15.00 to \$25.00.
- Final Inspection Fee will increase from \$25.00 to \$50.00.
- A new \$100.00 levy fee for unpaid water/sewer charges will be added to the Niagara County tax bill.

A resident asked a question about the \$100.00 levy fee. He wanted to know how the Town expects to get the \$100.00 from the residents if they already did not pay their water/sewer bill. Supervisor Maerten explained that the levy fee will have to be paid as a part of the County taxes and that many towns already have this type of fee to deter residents from purposely not paying their water/sewer bills. There were no other public questions or comments.

Supervisor Maerten closed Public Hearing #4 at 6:54 P.M.

### **REGULAR MEETING**

Supervisor Maerten called the meeting to order at 7:05 P.M.

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

ROLL CALL:	Supervisor Maerten	Present
	Councilman Leible	Present
	Councilman Fischer	Present
	Councilman Ostrowski	Present
	Councilman Graham	Present

Also present were:

Deborah Maurer	Town Clerk
Claude Joerg	Town Attorney
Dave Britton	Town Engineer
Kelli Coughlin	Assessor
Timothy Masters	Building Inspector
Jim Argo	Water/Sewer Superintendent
Jeff Stowell	Highway Superintendent
Don Bergman	Budget Director
Wolfgang Buechler	Board of Appeals
Craig Walter	Deputy Highway Superintendent

There were approximately 10 residents in attendance, 2 of which were Starpoint students.

### **ADDITIONS OR DELETIONS TO THE AGENDA**

Supervisor Maerten added to the agenda item #10 "Addition to Payroll" and item #11 "Executive Session".

### **COMMUNICATIONS**

Town Clerk Maurer stated that David and Paula Hargreaves submitted their resignations from the Conservation Board because they are currently overseas and unable to communicate with the Board in an effective and timely manner. The Conservation Board now consists of five members.

Town Clerk Maurer also read a letter submitted by Jacob Pytlik who is asking the Board for suggestions for his Eagle Scout project.

### **PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS**

There were no public remarks or comments.

## **ROUTINE BUSINESS**

### **RESOLUTION 38-18**

#### **APPROVAL OF MINUTES**

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

ADOPTED: Ayes 5 Maerten, Leible, Fischer, Graham, Ostrowski

Nays 0

Resolved that the minutes of the Regular Meeting on December 11, 2017, be approved as submitted by Town Clerk Pienta.

### **RESOLUTION 39-18**

#### **APPROVAL OF MINUTES**

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

ADOPTED: Ayes 5 Maerten, Leible, Fischer, Graham, Ostrowski

Nays 0

Resolved that the minutes of the Regular Meeting on January 8, 2018, be approved as submitted by Town Clerk Maurer.

**Supervisor Maerten** reported the total expenditures that were authorized and paid in the month of December.

General Fund	\$	53,415.92
Highway Fund	\$	122,809.28
Water	\$	38,602.48
Sewer	\$	10,357.52
Refuse	\$	35,158.12
Fire Protection Dist	\$	317,000.00

## **OTHER REPORTS**

**Supervisor Maerten** reported that the sales tax collected for the month of December 2017 was \$152,357.52. This is an increase of \$539.98 when compared with December 2016. The year-to-date received is \$1,566,879.56 which is a decrease of \$29,925.40 from 2016.

Supervisor Maerten commended the Highway Department workers for the many long hours put in due to the weather this winter.

He also mentioned that the Pendleton's canal way trail's annual estimated usage from 2017, as reported from the Canal Authority, is 52,454.

## **OTHER REPORTS**

**Councilman Leible** stated that newsletter articles are due February 26, 2018. He also completed Judge Maziarz's annual audit and attended a meeting at the County regarding the Base Closure and Realignment Commission (BRAC) for the air base which talked about land use in the pathway of the landing strip, cell phone towers and retention ponds. John Lavrich from the Planning Board also attended this meeting.

**Councilman Fischer** read the Highway report submitted from Superintendent Stowell. He reported that in the past month the Highway Department plowed and salted as necessary, loaded tires out twice, cleaned the roadside ditch on Townline Road between Slusaric Road and Mapleton Road, repaired Drop Inlet at the old fire hall, straightened plow stakes, repaired lawn damage, mailboxes, pot holes, chipped Christmas trees and brush piles, started cleaning up yard-dirt, stone, debris piles around the Town, took down the Christmas decorations at Town Hall, searched for a deer on Irish Road, trained two Water/Sewer drivers in the plow trucks, and inventoried tarps for the dugouts. Shared services included using a tandem dump truck with a plow, wing and salter, from the Town of Newfane. Councilman Fischer also thanked the Wendelville Fire Company for inviting him to the annual installation dinner and congratulated them on a fabulous event.

**Councilman Ostrowski** also thanked the Wendelville Fire Company and commended them on all of their hard work. He reported that he has been meeting with both the Central

Niagara Baseball and Softball Association (CNBSA) and the Recreation committee to finalize the contract for spring baseball. CNBSA has started the registration process. He stated that agenda items at these meetings included lowering the fees, repayment for the field use, CNBSA has agreed to purchase a field groomer to cut costs of the maintenance of the fields. He appreciates Superintendent Stowell and the Highway Department for their cooperation and collaboration with this project. The CNBSA contract should be finalized soon.

**Councilman Graham** reported that he is happy that the CNBSA contract is underway. He will be meeting with Justice Mack tomorrow [2/13/18] to complete the annual audit. Councilman Graham also reported about building improvements stating that the stairway by the Town Hall entrance needed a repair and that an exit door from the meeting room also needs to be repaired. He is looking for a resolution to this because it is a safety hazard.

**Attorney Joerg** stated that he would like feedback/suggestions from the public on how to make the baseball in Pendleton better. He has spoken with Superintendent Stowell on improving the drainage on the baseball fields. He is also working on three big assessment equalization projects; KeyBank on Transit Road, MAC's Auto Parts on Donner Road, and the hotel [Hampton Inn] on Transit Road.

**Supervisor Maerten** thanked everyone who has been working on the CNBSA contract.

**Engineer Britton** expanded on what Attorney Joerg spoke about saying that he is working with Superintendent Stowell on the issue of the baseball fields. He reported that he met with the Army Corps in mid-January in regards to the Fisk Road Project. They are putting together some preliminary plans. There will be a meeting on 2/14/18 to discuss drainage. There are two major projects in front of the Planning Board related to Heitzenrater/Heritage Landing. They are dividing their plot map to reduce the number of lots. They will need to come in front of the Town Board for amendments to the storm water district and sanitary district. He will work with the Town Attorney on this. Supervisor Maerten asked if we are putting off the water tower painting for another year. Engineer Britton stated that the plans and specs are ready to go but the quotes came in higher than anticipated. The plan is to hold off and advertise in the fall of 2018.

## DEPARTMENT HEADS

**Building Inspector Masters** reported that January has been a transition period in the department. The new software has been installed and they have been training on this. There were no permits or contractor's licenses issued in the past month due to the software change. There were three violations issued and there are currently eight outstanding to date. Building Inspector Masters and Building Inspector Striegel have both completed their training and are certified as Code Enforcement Officers for another year.

**Water-Sewer Superintendent Argo** reported that in January the Sewer Department had 20 regular time sewer call, seven overtime sewer calls, one grinder pump was updated, two grinder pumps had partial updates, six sold home compliance inspections were completed, 16 duplex grinder pumps were cleaned and inspected, the ice rink was cleared of snow when needed, and there were three sewer and water open trench inspections completed. The Water Department completed the quarterly water meter readings, repaired two fire hydrants, completed seven final water reads, three new home water meters were installed and recycle totes were delivered, two Orion water readers were replaced, snow around fire hydrants was cleared when needed, the Cyber Security Assessment was completed and sent to the Niagara County Health Department for review, and 11 underground utility stakeout requests were completed. They also cleared the Town Hall of snow when needed, emptied the garbage and set up and removed the tables and chairs for the seniors' lunches. Superintendent Argo also spoke about the auction for the mini-excavator. The auction closed at 7:05 P.M. tonight and the final bid was \$21,200.00. He needs to reply with an answer within 24 hours. He answered questions about the trade-in value of the mini-excavator compared to the auction price.

**Highway Superintendent Stowell** reported that the Town needs to make an adjustment to the tractor tire disposal fee. It currently costs the Town \$175.00 to dispose of a tractor tire. This is not what the Town is currently charging. He asked Attorney Joerg if he can increase the price or if it has to go in front of the Board for approval. Supervisor Maerten said that

they could vote on this under New Business. Superintendent Stowell also reported that he is going to be traveling to Albany on March 6, 2018 to lobby for Consolidated Local Street and Highway Improvement Program (CHIPS) funding. Also, there is no new information regarding the salt shed. New York State is potentially going to help the towns with the worst salt sheds first. The Highway Department is currently repairing the shed while waiting to see if the State will help.

**Assessor Coughlin** reported that during the month of January there were 14 sales, six of which were arm's length. The average price was \$56,000.00 over the assessed value. She completed three final home inspections with Building Inspector Masters. Assessor Coughlin has sketched out 25 sets of blueprints of the 57 new builds for this year, has assisted 15 seniors with filling out their assessment forms, turned in the correction of errors for Dublin Road to [Niagara County Real Property Director] John Shoemaker. She also reported that they have been having problems with the computers in the Assessor's Office.

**Budget Officer Bergman** had nothing to report.

## **NEW BUSINESS**

### **RESOLUTION 40-18**

#### **AUTHORIZATION OF FUNDS TRANSFER FOR PURCHASE OF US JETTING SEWER JET**

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

ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski  
Nays 0

Resolved to authorize the transfer of \$56,975.00 from Reserve for Equipment (DA0889) to Machinery Fixed Assets (DA5130.02), for the purchase of a US Jetting Sewer Jet.

### **RESOLUTION 41-18**

#### **AUTHORIZATION OF FUNDS TRANSFER FOR PURCHASE OF BOBCAT EXCAVATOR**

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

ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski  
Nays 0

Resolved to authorize the transfer of \$33,800.00 from Water Reserve for Capital Projects (SW0878) to Fixed Assets (SW.8340.0200), for the purchase of a E-35 Bobcat Compact Excavator, approve the purchase of the E-35 Bobcat Excavator, approve the auction sale of the mini-excavator at any price between \$19,500.00 and \$21,200.00 and if there is no confirmed bidder above \$19,500.00, authorize the trade-in to Bobcat of Buffalo for \$19,500.00.

### **RESOLUTION 42-18**

#### **AUTHORIZATION OF FUNDS TRANSFER FOR PURCHASE OF 2018 F-450 PICK-UP**

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

ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski  
Nays 0

Resolved to authorize the transfer of \$47,560.00 from Sewer Reserve for Capital Projects (SS0878) to Operating Equipment (SS.8120.0200), for the purchase of a 2018 F-450 Pick-up truck.

### **RESOLUTION 43-18**

#### **AUTHORIZATION OF WATER RATE AND LEVY FEE INCREASES**

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

ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski  
Nays 0

Resolved to increase the water rate minimum usage charge up to 6,000 gallons from \$11.00 to \$15.00, increase the Non-Sufficient Funds Fee for returned checks from \$15.00 to \$25.00,

increase the Final Inspection Fee from \$25.00 to \$50.00, and add a new fee of \$100.00 to levy unpaid water/sewer charges to the Niagara County tax bill.

RESOLUTION 44-18

**WENDELVILLE FIRE COMPANY NEW MEMBERS**

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

ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski  
Nays 0

Resolved to add two new members, Wyatt Maerten and Alexander Fischer, to the roll of the Wendelville Fire Company.

RESOLUTION 45-18

**AUTHORIZATION FOR THE SUPERVISOR TO SIGN THE ADDENDUM FOR THE FISK ROAD PROJECT (NYS DOT P.I.N. 5761.70) FOR CULTURAL RESOURCE SURVEY**

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

ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski  
Nays 0

Resolved to authorize the Supervisor to sign the addendum to the Fisk Road project for an additional \$5,030.61 to be paid to Clark Patterson Lee (CPL) to cover services provided by CPL and Powers Archaeology LLC for the required Cultural Resource Survey.

RESOLUTION 46-18

**OBSELETE EQUIPMENT – COMPUTER MONITORS**

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

ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski  
Nays 0

WHEREAS, the Town of Pendleton is in possession of two computer monitors that are obsolete, WHEREAS, the Town wishes to dispose of the computer monitors in accordance with State and local requirements, so be it,

RESOLVED, that the Town Board authorizes the disposal of the two obsolete computer monitors from the Town Hall.

RESOLUTION 47-18

**§284 AGREEMENT**

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

ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski  
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:

- Ridgeview Drive South – mill and pave
- Ridgeview Drive West – mill and pave
- Lakeview Court – mill and pave
- Edgewater Circle – mill and pave
- Maintain all other roads as needed

RESOLUTION 48-18

**SCHEDULE PUBLIC HEARING FOR AND APPROVE PRE-ORDER OF HIGHWAY DEPARTMENT PICK-UP TRUCK**

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

ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski  
Nays 0

Resolved to set Public Hearing on March 12, 2018 at 6:55 P.M. for the transfer of funds from (DA 889) Reserve for Equipment to (DA 51302) Equipment for the purchase of a pick-up

truck and plow for the Highway Department and to authorize Superintendent Stowell to order the vehicle, at a purchase price of \$35, 013.75, prior to the Public Hearing.

**RESOLUTION 49-18**

**ADDITION OF TOWN ATTORNEY TO BI-WEEKLY PAYROLL**

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

ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski  
Nays 0

Resolved to add to RESOLUTION 10-18 , passed in January, that the Town Attorney will be paid on a bi-weekly basis.

**RESOLUTION 50-18**

**AUTHORIZATION FOR HIGHWAY SUPERINTENDENT TO INCREASE TIRE DISPOSAL FEE**

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

ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski  
Nays 0

Resolved to allow the Highway Superintendent to set the disposal fee for tires turned in at the Highway garage to reflect the cost the Town incurs disposing of those tires.

A work session was scheduled for February 26, 2018 at 7:00 P.M.

**PUBLIC REMARKS/COMMENTS**

Sara Siracuse from the Conservation Board asked if there were any updates from National Fuel Gas (NFG). Supervisor Maerten explained that he has recently received correspondence from the Law Office of Gary Abraham that itemizes time expended on NFG matters. Supervisor Maerten read the letter to the audience. The Town is still in litigation with NFG in federal. Wolfgang Buechler from the Board of Appeals asked for clarification on what NYSDEC said in the letter. Supervisor Maerten read a quote from the letter, "NYS DEC denied a Clean Water Act Water Quality Certification for both companies' pipeline projects. FERC's decision upholds NYSDEC's right to block pipeline projects this way." Town Attorney Joerg commented that NFG keeps petitioning the court to allow FERC to accept it without DEC approval.

Conservation Board member Annemarie Reeb questioned the location of the Fisk Road project. Engineer Britton explained that it is the section close to Sheetram.

Supervisor Maerten reported that Justice Maziarz informed him that the Town got approval for the Justice Court Assistance Program (JCAP) grant.

**BOARD MEMBERS DISCUSSION**

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn to Executive Session with the Highway Superintendent and the Town Attorney at 8:45 P.M. Motion Carried.

Motion by Councilman Leible, seconded by Councilman Fischer, to amend the motion to adjourn to Executive Session, to include the Deputy Highway Superintendent. Motion Carried.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from Executive Session and the Regular Meeting at 9:50 P.M. Motion carried.

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Deborah K. Maurer, Town Clerk