

TOWN OF PENDLETON
December 10, 2018

A regular meeting of the Town Board of the Town of Pendleton was held at the Town Hall, 6570 Campbell Blvd., Pendleton, NY, on the 10th day of December 2018 at 7:00 p.m. Public Hearings were scheduled for 6:50 p.m. and 6:55 p.m.

PUBLIC HEARINGS

The notices for the Public Hearings were published in the Lockport Union Sun & Journal on December 3, 2018 and on the Town's website.

PUBLIC HEARING #1 – PROPOSED AMENDMENT TO PART II – GENERAL LEGISLATION, ARTICLE VIIC: SOLAR ENERGY SYSTEMS §247-68.22 LARGE-SCALE SOLAR ENERGY SYSTEMS DESIGN CRITERIA

Supervisor Maerten opened the Public Hearing #1 at 6:52 p.m.

The purpose of this hearing was to receive public input for the proposed amendment to Part II – General Legislation, Article VIIC: Solar Energy Systems, §247-68.22 Large-Scale Solar Energy Systems Design Criteria. Supervisor Maerten explained that the proposed revision to Section A.(3)(c) is as follows:

“The solar energy system, when located in CO1, CO2, L1, or SL1, shall be included and be subject to the maximum lot coverage allowable under the zoning district where it is located. Large scale solar energy systems are not allowed in R1 and R2.”

There were no public questions or comments.

Motion made by Councilman Leible, seconded by Councilman Fischer, to close the Public Hearing #1 at 6:54 p.m. Motion carried.

PUBLIC HEARING #2 – PROPOSED AMENDMENT TO TOWN CODE CHAPTER 13 – CONSERVATION BOARD AMENDED TO A CONSERVATION ADVISORY COUNCIL PURSUANT TO THE PROVISIONS OF NEW YORK GENERAL MUNICIPAL LAW SECTION 239 X

Supervisor Maerten opened Public Hearing #2 at 6:55 p.m.

The purpose of this public hearing was to receive public input for the proposed amendment to Chapter 13 of Town Code. The Town Board intends to amend Chapter 13 of the Town Code for the Town of Pendleton to provide that the Conservation Board shall be amended to a Conservation Advisory Council pursuant to the provisions of New York General Municipal Law Section 239 X.

Conservation Board Chairperson, Sara Siracuse, presented the Town Board with a thank you letter for addressing the discrepancies between the Conservation Board and Advisory Council and stated that she agrees with their decision. She asked the Town Board to review the additional correspondence she has provided addressing suggestions and concerns put forth by her and the Conservation Board before they vote on the current proposal. Town Attorney Joerg addressed Chairperson Siracuse's concerns and a lengthy discussion took place. Supervisor Maerten addressed Chairperson Siracuse's request that the Conservation Board finishes 2018 as a board. The proposal to amend Chapter 13 of Town Code was tabled until the January 2019 meeting.

There were no other public comments.

Motion made by Councilman Leible, seconded by Councilman Ostrowski, to close the Public Hearing #2 at 7:03 p.m. Motion carried

REGULAR MEETING

Supervisor Maerten called the meeting to order at 7:04 p.m.

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

A moment of silence was observed in honor of the passing of President George H.W. Bush.

Roll Call:

Supervisor Maerten	Present
Councilman Fischer	Present
Councilman Graham	Present
Councilman Leible	Present
Councilman Ostrowski	Present

Also present:

Deborah Maurer – Town Clerk
Claude Joerg – Town Attorney
Jeff Stowell – Highway Superintendent
Craig Walter – Deputy Highway Superintendent
Jason Thompson – Building Inspector
Don Bergman – Budget Officer

There were 27 residents in attendance, 12 of which were Starpoint students.

ADDITIONS OR DELETIONS TO THE AGENDA

The following changes were made to the agenda:

- Added item #13 – Adoption of proposed amendment to Part II – General Legislation, Article VIII C: Solar Energy Systems, §247-68.22 Large-Scale Solar Energy Systems Design Criteria (from Public Hearing #1)
- Added item #14 - Executive Session: Teamsters' Contract Negotiations

COMMUNICATIONS

Town Clerk Maurer announced that the Town is hosting a Unyts Holiday Heroes Blood Drive at the Town Hall on Friday, December 28, 2018. She also commented on the Tree Lighting Ceremony stating that it was a very nice time and that there were many more families in attendance than from the previous year. This event is growing and she is hoping for more involvement from the Town Board next year. She thanked Kelli Coughlin for her hard work in preparing for this event.

NEW YORK STATE DEPARTMENT OF TRANSPORTATION (NYSDOT) CULVERT REPLACEMENT AND REHABILITATION PROJECT PRESENTATION (Originally Agenda Item #2)

Representatives from the NYSDOT gave a short presentation on the Culvert Replacement and Rehabilitation Project (PIN 5812.31). This project will replace or rehabilitate 10 culverts, five of which are in Niagara County. The bid opening for this project is March 28, 2019 and work is expected to begin in the spring of 2019. They expect the work to be completed by the fall of 2020. Project Location C550088 in the Town of Wheatfield is located on Shawnee Road (NY Rte. 425) between Mapleton and Slusaric Roads. NYSDOT anticipates that the culvert replacement and detour will last approximately three to four weeks. Traffic will be detoured via Mapleton Road to Townline Road then back to Slusaric Road. The length of the detour is 2.4 miles. A temporary traffic signal will be installed at the intersection of Townline Road and Mapleton Road. Truck traffic will be detoured along Lockport Road to NYS Rte. 429 then to US Rte. 62. The length of this detour is 8.4 miles.

There were many questions and concerns brought up by the Board and Highway Superintendent Stowell including making sure the residents, schools, law enforcement and emergency agencies are notified in advance, considering limiting the work to the summer months while school is out of session and ensuring that any damage caused by DOT vehicles will be covered by NYSDOT. There was also a discussion about other concerns related to the detour such as damage caused by dump trucks traveling on Slusaric Road, unexpected volume of traffic in the event of an accident, and accessibility for emergency vehicles. Supervisor Maerten requested that NYSDOT submit a written plan from the DOT engineer addressing how law enforcement will be contacted in the event of an emergency. Supervisor Maerten stated that the resolution NYSDOT is requesting will be put on the agenda for the January meeting once the follow up correspondence is received.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

There were no public remarks or comments.

ROUTINE BUSINESS

RESOLUTION 223-18

APPROVAL OF MINUTES

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

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

Resolved that the minutes of the November 2, 2018 Special Meeting, November 5, 2018 Regular Meeting and November 16, 2018 Special Meeting be approved as submitted by the Town Clerk.

RESOLUTION 224-18

AUTHORIZE PAYMENT OF ABSTRACT #23

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

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

Resolved to approve payment of Abstract #23, to be paid on December 14, 2018, for the following expenditures:

General Fund	\$ 324,167.09
Highway	\$ 86,049.87
Refuse & Garbage District	\$ 89.98
Sewer	\$ 15,079.34
Water District	\$ 25,250.90
Trust & Agency	\$ 11,014.00
Total	\$ 461,651.18

OTHER REPORTS

Supervisor Maerten reported that the tax collected for October 2018 was \$129,356.92. This is an increase of \$9,633.48 when compared with October 2017. The year to date received is \$1,368,912.89 which is an increase of \$75,920.16 from 2017.

Supervisor Maerten also reported that he recently met with Jim Sobczyk and the Town of Amherst Supervisor Brian Kulpa to discuss a possible collaboration with Nine-Mile Island. The Town of Amherst is very interested in working together with the Town of Pendleton. The Town of Amherst is very interested in committing resources to this project. He will share more information as it becomes available. Supervisor Maerten is also looking for feedback from the Recreation Committee and the Board Members assigned to this committee for possible uses of the island such as biking, hiking, pavilion rentals, kayak launches, etc. Supervisor Maerten stated that he will work with Attorney Joerg on a legal agreement for this collaboration. Supervisor Maerten also thanked Assessor Coughlin, Town Clerk Maurer, Deputy Clerk Stephanie Chase, the Wendelville Fire Company, the Pendleton Lions' Club and the Historical Society for the hard work done for the Tree Lighting Ceremony. He is looking for it to be even bigger and better next year.

Councilman Leible also thanked the entire crew for a great job on the Tree Lighting event. He announced that Wendelville Fire Company will be driving Santa Clause on the fire truck on December 23rd. Councilman Leible mentioned that some departments are sending in their newsletter articles late then making additional revisions to them after the deadline. He reminded everyone that all of the articles must go to him directly and they will not be put in the newsletter if they are late.

Councilman Fischer read the Highway Department's report for the month of November. The Highway Department chipped brush, continued painting and installing stakes to guide the snow plows, cut up and removed three trees on Monroe Street that National Grid dropped for us, prepped all of the equipment for the plow season and decorated the Town Hall. They also plowed and salted, replaced and repaired broken equipment, helped with the Veterans monument, repaired road signs and shot grades for playground equipment. Councilman Fischer thanked everyone for the hard work on the Tree Lighting Ceremony and stated that the Board should decorate a door next year for the event.

Supervisor Maerten introduced Jason Thompson as the town's new Building Inspector.

RESOLUTION 225-18

THANK YOU LETTER TO TOWN OF CAMBRIA

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 send a letter to the Town of Cambria Board thanking them for the assistance of their Building Inspector James McCann.

Councilman Ostrowski welcomed Building Inspector Thompson and the new Deputy Clerk, Kim Frey, who is working in the Building Department. He told the Board that he recently attended Mason's Mission's merry-go-round and sensory music station installation. He thanked Mason's Mission for the collaboration between the foundation and the town and said that they are doing great work for a great cause. He reported that he noticed the new trail heads on Meyer Road and said they look great. Councilman Ostrowski wished everyone a safe and happy holiday. Supervisor Maerten mentioned that the trail from Killian Road to Townline Road is now open and stated that there is a grant application to finish the trail between Killian Road and Meyer Road. Councilman Ostrowski reported that a resident contacted him regarding a traffic issue near New Road. He asked if it was possible to consider a "stop ahead" sign for that area. A discussion took place with Highway Superintendent Stowell regarding this and he stated that he would follow up with the county regarding this matter. Superintendent Stowell also mentioned that a resident contacted him about providing trash cans on the trails. He asked if Modern Disposal can collect the trash if the town provides the cans. Supervisor Maerten said that he would look into this.

Councilman Graham read the Water/Sewer Report for the month of November. The Sewer Department had 13 regular and four overtime calls last month. They repaired four pressure sewer breaks, raised a sewer manhole to grade and completed 27 underground utility stakeouts. The Water Department had one new home water service tap, repaired four fire hydrants, completed five water reads, performed eight sold home compliance inspections and completed winterizing fire hydrants. Councilman Graham also reported that Water/Sewer Superintendent Jim Argo is retiring at the end of the month. He thanked him for his service to the town. Councilman Graham has been in touch with the Highway Superintendent Stowell who will be taking over the Water/Sewer Department responsibilities to make sure there will be a smooth transition. He also informed the audience that the Town Board is looking for members to fill some openings in the boards and committees. Interested parties can submit a letter of interest to the Board.

Attorney Joerg stated that Conservation Board Chairperson Siracuse did a great job working on the Conservation Board/Conservation Advisory Council issue.

Engineer Britton was not in attendance.

Supervisor Maerten added item 12B – Budget Line Transfers to the Agenda.

Budget Officer Bergman stated that a resolution must be made for the budget line transfers. He also reported that the staff has been working with the new Business Automation Services (BAS) accounting software and he thanked everyone for getting their 2019 budgets in.

Supervisor Maerten spoke about many of the changes that have occurred this year such as the contract with the Niagara County IT Department, the new BAS accounting software and consolidating of bank accounts and thanked Budget Officer Bergman for his help throughout this process. He also reminded Superintendent Stowell that it isn't too early to start advertising for summer help. Town Clerk Maurer will post this on the town's website and the sign in front of the Town Hall.

DEPARTMENT HEADS

Water/Sewer Superintendent Argo was not in attendance.

Highway Superintendent Stowell reported that there was some plow damage to the trail head at Meyer Road and suggested removing it during the winter to help them maintain the bike path. They still have more drainage work to do in the park. He anticipates that they will be installing the new bathrooms in the park in 2019. The Fisk Road project is still on track for summer 2019. He also reported that the ice rink is ready to be used.

Assessor Coughlin was not in attendance.

Building Inspector Thompson reported that he is trying to get things caught up in his department.

NEW BUSINESS

RESOLUTION 226-18

PLANNING BOARD RESIGNATION

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

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

Resolved to accept the resignation of Planning Board member Joseph Killion effective December 31, 2018.

RESOLUTION 227-18

UPDATED CODE OF ETHICS

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

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

Resolved to accept the Town of Pendleton's updated Code of Ethics.

RESOLUTION 228-18

SEXUAL HARASSMENT POLICY

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

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

Resolved to accept the Town of Pendleton's Sexual Harassment Policy.

Town Clerk Maurer informed the Board that she has spoken to Michael Venuti, the vendor that Niagara County is working with to provide Sexual Harassment training, to obtain a quote for training for town employees. Supervisor Maerten requested that Town Clerk Maurer also inquire about mandatory Workplace Violence Training from this vendor.

RESOLUTION 229-18

HIGHWAY DEPARTMENT PROMOTION

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

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

Resolved promote Dylan Richardson to Highway Department Truck Driver effective January 1, 2019.

Supervisor Maerten reported that the town is mandated by NYS to provide cancer insurance for firefighters. Councilman Ostrowski asked about the cost of this insurance. Supervisor Maerten reported that there are 25 firefighters eligible for the coverage at a cost of approximately \$130.00-\$150.00 per firefighter.

RESOLUTION 230-18

FIREFIGHTER INSURANCE MANDATE

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

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

Resolved to purchase the mandated firefighter cancer insurance through Evans Insurance, the town's insurance agency.

RESOLUTION 231-18

TOWN HALL VEHICLE ACQUISITION

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

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

Resolved to give Councilman Leible permission to acquire prices for a Town Hall vehicle.

A discussion took place about the Highway Department getting pricing for a new tandem axle dump truck with salting and snowplowing equipment. Numerous bids were obtained and will be included on the procurement purchasing sheet. This purchase was budgeted for 2019.

RESOLUTION 232-18

HIGHWAY DEPARTMENT TRUCK ACQUISITION

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 purchase of a Western Star tandem dump truck, from Tracey Road Equipment, at the price of approximately \$212,700.00.

RESOLUTION 233-18

APPOINTMENT OF PART-TIME LABORER – HIGHWAY DEPARTMENT

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

ADOPTED: Ayes 4 Fischer, Graham, Leible, Ostrowski
Nays 0
Abstained 1 Maerten

Resolved to appoint Wyatt Maerten as a part-time Highway Department Laborer effective January 1, 2019.

Supervisor Maerten explained that the upcoming Fisk Road rehabilitation project will have \$2.8 million in funding but will cost approximately \$3.4 million to complete. The town will need to pursue additional funding to cover the balance. The town has vetted bond council services to work on a Bond Anticipation Note to do a complete project for 2019. The town will be working with Evans Bank on the Bond Anticipation Note.

RESOLUTION 234-18

PROPOSAL FOR BOND COUNCIL SERVICES

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

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

Resolved to accept the proposal from Harris Beach Attorneys at Law.

RESOLUTION 235-18

DRUG/ALCOHOL PROGRAM FOR PENDLETON FAMILIES

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

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

Resolved to allow Councilman Leible to explore opportunities for a drug and alcohol program available to Pendleton families.

Councilman Leible explained that the State already has a program for kids that are sentenced from court that meets on a quarterly basis. He is proposing that the town offers a program on a monthly basis for both the kids and their parents. He would work with Councilman Ostrowski, Town Constable Pat Williams and the court system to help the children in the town who are facing drug issues and overdoses.

RESOLUTION 236-18

BUILDING INSPECTOR RESIDENCY REQUIREMENT

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

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

**RESOLVED TO “AMEND THE TOWN LAW AND THE PUBLIC OFFICERS LAW, IN
RELATION TO AUTHORIZING THE BUILDING INSPECTOR IN THE TOWN OF
PENDLETON, COUNTY OF NIAGARA, TO RESIDE OUTSIDE SUCH TOWN”**

WHEREAS, the Building Inspector for the Town of Pendleton resigned his position and took employment with a different Town. This vacancy has created an emergency situation due to the ongoing needs of the office of the Building Inspector for the Town of Pendleton; and

WHEREAS, the outgoing and prior Building Inspector resided outside of the Town of Pendleton and relocated his residence into the Town of Pendleton so that he would be a Town of Pendleton

resident and would thereby fulfill the statutory residency requirements for Town of Pendleton Building Inspector ; and

WHEREAS, the Town of Pendleton contacted the Niagara County Civil Service Commission in order to obtain a list of eligible candidates that could be hired for the position of the Town of Pendleton Building Inspector; and

WHEREAS, once again, the list of candidates for the position of Building Inspector that was provided to the Town of Pendleton by the Niagara County Civil Service Commission did not contain any individuals who resided in the Town of Pendleton; and

WHEREAS, during the interviews that were conducted by the Town of Pendleton, none of the qualified candidates were willing to relocate and reside in the Town of Pendleton, although one candidate resided in Niagara County and in the adjoining town of the Town of Lockport and

WHEREAS, due to the qualifications of the candidate that resides in the Town of Lockport, the Town of Pendleton determined to hire such individual despite his residency in the Town of Lockport; and

WHEREAS, the Town of Pendleton hereby requests that the New York State Senate and the New York State Assembly pass legislation amending the town law and the public officers law, in relation to authorizing the building inspector for the town of Pendleton, County of Niagara, to reside outside the Town of Pendleton; now therefore be it

RESOLVED, that the Town of Pendleton hereby requests that the New York State Legislature enact all necessary legislation to amend the town law and the public officers law, in relation to authorizing the building inspector in the town of Wilson, county of Niagara, to reside outside the Town of Pendleton. As follows:

Section 1. Section 23 of the town law shall be amended by adding a new subdivision to read as follows:

NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, IN THE TOWN OF PENDLETON, NIAGARA COUNTY, THE PERSON PERFORMING THE FUNCTIONS OF BUILDING INSPECTOR NEED NOT BE AN ELECTOR OF SUCH TOWN. PROVIDED, HOWEVER, THE PERSON PERFORMING THE FUNCTIONS OF BUILDING INSPECTOR IN ANY OTHER TOWN SHALL BE AN ELECTOR OF SUCH TOWN, UNLESS OTHERWISE PROVIDED BY AN ACT OF THE STATE LEGISLATURE.

Section 2. Section 3 of the public officers law shall be amended by adding a new subdivision to read as follows:

IN THE TOWN OF PENDLETON, IN THE COUNTY OF NIAGARA, THE PROVISIONS OF THIS SECTION REQUIRING A PERSON TO BE A RESIDENT OF THE POLITICAL SUBDIVISION OR MUNICIPAL CORPORATION OF THE STATE FOR WHICH HE OR SHE SHALL BE CHOSEN, OR WITHIN WHICH HIS OR HER OFFICIAL FUNCTION IS REQUIRED TO BE EXERCISED, SHALL NOT PREVENT A PERSON FROM HOLDING THE OFFICE OF BUILDING INSPECTOR OF THE TOWN OF PENDLETON; PROVIDED THAT SAID PERSON RESIDES IN THE COUNTY IN WHICH SUCH TOWN IS LOCATED OR AN ADJOINING COUNTY WITHIN THE STATE OF NEW YORK.

S 3. This act shall take effect immediately.

RESOLVED, that the Town of Pendleton hereby submits this request to its New York State Senator, Robert G. Ortt and New York State Assemblyman, Raymond Walter of the New York State Legislature for its enactment.

RESOLUTION 237-18

BUDGET LINE TRANSFERS

Motion by Councilman Leible, seconded by Councilman Graham, the following resolution was ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski

Nays 0

Resolved to give the Budget Officer permission to make budget line transfers, as necessary, for the 2018 year.

RESOLUTION 238-18

PROPOSED AMENDMENT TO PART II – GENERAL LEGISLATION, ARTICLE VIIIIC: SOLAR ENERGY SYSTEMS §247-68.22 LARGE-SCALE SOLAR ENERGY SYSTEMS DESIGN CRITERIA

Motion by Councilman Leible, seconded by Councilman Fischer, the following resolution was ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski

Nays 0

Resolved to adopt the amendment to Part II – General Legislation, Article VIIIIC: Solar Energy Systems, §247-68.22 Large-Scale Solar Energy Systems Design Criteria as proposed during Public Hearing #1.

PUBLIC REMARKS/COMMENTS

A resident asked about the resolution made for the Building Inspector's residency requirement. Attorney Joerg explained that the Town of Cambria, Town of Wheatfield and Town of Wilson have all had to request the same changes to the residency requirement because there were no residents on the active Civil Service list.

Another resident commented on the paving of Tonawanda Creek Road. He said that the road has now become a speed zone since the paving has been completed. He asked about when it would be striped and if a "No Passing" sign can be installed. Highway Superintendent Stowell said that he would talk with Dean Lapp from the Niagara County Highway Department about this issue.

BOARD MEMBERS DISCUSSION

Motion by Councilman Leible, seconded by Councilman Fischer, to enter into Executive Session with Town Attorney Joerg to discuss the Teamsters' Contract Negotiations. Motion carried.

Motion by Councilman Leible seconded by Councilman Fischer, to adjourn from the Executive Session and Regular Meeting at 8:53 p.m.

Deborah K. Maurer, Town Clerk