

TOWN OF PENDLETON
February 11, 2019

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 11th day of February, 2019 at 7:00 p.m. A Public Hearing was scheduled for 6:55 p.m.

PUBLIC HEARING

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on February 6, 2019 and on the Town's website.

PUBLIC HEARING – CHAPTER 247 ZONING, ARTICLE VIIC: SOLAR ENERGY SYSTEMS §247-68.18

Supervisor Maerten opened the Public Hearing at 7:03 p.m.

The purpose of the hearing is to receive public input for the proposed amendments to Chapter 247 Zoning, Article VIIC: Solar Energy Systems, § 247-68.18. Use districts where allowed. Supervisor Maerten explained that the proposed revision will read as follows:

“Subject to the provisions of this article, solar energy systems shall be permitted in light commercial, medium commercial, light industrial, and special light industrial.”

Wolfgang Buechler, Chairman of the Zoning Board of Appeals, inquired about how this change would affect residential districts specifically rooftop solar systems. Supervisor Maerten explained that the revision proposed tonight was specifically related to large scale installations in the special use permit section of the code.

There were no other public questions or comments.

Motion made by Councilman Leible, seconded by Councilman Fischer, to close the Public Hearing at 7:07 p.m. Motion carried.

REGULAR MEETING

Supervisor Maerten called the meeting to order at 7:07 p.m.

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

A moment of silence was observed in remembrance of Pendleton resident David Borner and the other passengers of Flight 3407 as we near the tenth anniversary of the crash, as well as remembrance of long time Wendelville Fire Company volunteer firefighters Jack Short and Father Paul Belzer who passed away recently.

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
Kelli Coughlin – Assessor
Jason Thompson – Building Inspector
Jeff Stowell – Highway and Water/Sewer Superintendent
Craig Walter – Deputy Highway Superintendent
David Britton – Engineer
Don Bergman – Budget Officer
Wolfgang Buechler – ZBA Chairman
John Higgins – Planning Board Administrative Assistant

There were 23 residents in attendance, 9 of which were Starpoint students.

ADDITIONS OR DELETIONS TO THE AGENDA

The following changes were made to the agenda:

- Added item #8 – Town Board Appointments
- Added item #9 – Executive Session: Litigation with Town Assessor, Highway Personnel Issues and Teamsters' Contract Negotiations

COMMUNICATIONS

There were no items to report.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

There were no public remarks or comments.

ROUTINE BUSINESS

RESOLUTION 64-19

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 26, 2018 Work Session, December 10, 2018 Regular Meeting and December 27, 2018 Work Session as amended be approved as submitted by the Town Clerk.

RESOLUTION 65-19

AUTHORIZE PAYMENT OF ABSTRACT #3A

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

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

Nays 0

Resolved to approve payment of Abstract #3A, to be paid on February 13, 2019, for the following expenditures:

General Fund	\$ 2,079.25
Highway	\$ 60.90
Sewer	\$ 17.40
Water District	<u>\$ 2,251.74</u>
Total	\$ 4,409.29

RESOLUTION 66-19

AUTHORIZE PAYMENT OF ABSTRACT #3B

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

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

Nays 0

Resolved to approve payment of Abstract #3B, to be paid on February 13, 2019, for the following expenditures:

General Fund	\$ 36,448.16
Highway	\$ 44,336.19
Fire Protection	\$ 10.15
Refuse & Garbage District	\$ 379.40
Sewer	\$ 2,521.57
Water District	<u>\$ 6,016.11</u>
Total	\$ 89,711.58

OTHER REPORTS

Supervisor Maerten reported that the tax collected for December 2018 was \$204,850.31. This is an increase of \$52,492.79 when compared with December 2017. The 2018 year to date received was \$1,698,301.15 which is an increase of \$131,421.59 from 2017.

Supervisor Maerten thanked the Highway and Water/Sewer Department employees who kept the roads clear during the recent storm. They also faced a large water main break. Supervisor Maerten also gave an update about the ongoing litigation between the NYS DEC and National Fuel Gas related to the Northern Access Project and the potential building of a compressor station in the Town of Pendleton. The town is actively involved in litigation on this matter and is on top of things and currently communicating with the town's attorney to continue the efforts started several years ago to protect the town's interest as this fight continues. He also reported that as of this day the Deputy Town Supervisor will now be Mark Walter.

Councilman Leible also thanked the Highway Department for the hard work and long hours that they put in recently. He also reported that he completed the audit for Justice Kevin Mack and that all of the records are in good order.

Councilman Fischer read the Highway Department's report for the month of January. They plowed, salted and hauled snow for the cul-de-sacs, repaired a guide rail on Aiken Road and a bubbler on Creekview Drive and started filling pot holes. They continued to brush hog the path by Killian Road with an excavator and installed bases for new speed limit signs. The Highway Department also repaired equipment as needed and continued training the Sewer and Water employees so they can multi task in each department. Superintendent Stowell, Driver Jeff Jarvis and Building Inspector Thompson also attended a Stormwater Meeting. He also read the Water/Sewer Department's report from January. The Sewer Department had 18 regular and eight overtime sewer calls. They worked on a jammed pump at the Key Bank lift station, rebuilt E-one pumps and hooded up a new build grinder pump. In addition, they emptied the electronics recycling trailer, completed lift station and duplex checks and assisted the Highway Department when needed. The Water Department completed four final reads, five sold home water/sewer inspections and repaired two water breaks. They also installed a new meter, turned on water at a previously vacant home, investigated two frozen water pipes and changed a pit reader. Lastly, they added water to the ice rink and installed a snow fence around it. Councilman Fischer also reported that he will be meeting with the Town of Amherst Supervisor Brian Kulpa to discuss their potential involvement with Nine Mile Island.

Councilman Ostrowski provided an update on the Recreation Committee. The Central Niagara Baseball and Softball Association (CNBSA) will begin holding registration events for baseball on February 12, 2019. He also reported that the Pendleton Athletic Booster Association (PABA) is starting a modified lacrosse league at Starpoint this year. The Recreation Committee has been discussing the ongoing topic of putting up a pavilion at Depeau Park near the new bike trail. There is a potential donor of the pavilion. He stated that even though it was budgeted for, it would be nice to save the taxpayers some money if it is donated.

Councilman Graham reported that the Pendleton Lions Club is hosting a Meat Raffle on February 22, 2019 at Wendelville Fire Company to benefit the Pendleton Veterans' Association. He also mentioned that Mason's Mission is holding a fundraiser on March 9, 2019 at Brad Angelo Lanes on South Transit Road. Councilman Graham also spoke about a water main break that had occurred recently on Tonawanda Creek Road. He wanted to commend both the Highway and Water/Sewer employees on how well they worked together during this crisis. He felt it was a good collaboration between both groups.

Engineer Britton provided an update on Fisk Road. The NYS DOT has approved the preliminary engineers report and the project is moving on to its final design. This project should be put out to bid hopefully in April. It is expected to be a four-month construction period. Supervisor Maerten asked Engineer Britton to come up with a ball park figure for the cost of a stand by generator system for the Highway Garage. The town can pursue grant funding for this.

Supervisor Maerten commented on how the town has received approval for all of the speed limit requests for the town's subdivisions. Highway, Water and Sewer Superintendent Stowell stated that the bases for the signs are already installed and the signs should be up soon.

Budget Officer Bergman reported that he is preparing the files for the accountants that will be coming next month to complete the year-end financial audit.

DEPARTMENT HEADS

Town Clerk Maurer reported that she received the year-end reports for both Justice Maziarz and Justice Mack. She also reported on the year-end report submitted by Water Billing Clerk Rita

Dispenza. Clerk Maurer then reported on the current status of the 2019 tax collection. The percentage of taxes collected to date is 85%. All payments due to the Town of Pendleton per the tax warrant have been paid as well as the first installment to the Niagara County Treasurer. She also reported that the Real Property Tax Interest Free Deadline was extended until February 21, 2019 per an Executive Order issued by Governor Cuomo and requested by Supervisor Maerten. This was due to the statewide state of emergency that was declared for January 30 – February 1, 2019. This extension applies to all taxpayers in the Town of Pendleton. Individuals that have already paid the penalty will be due refunds.

Supervisor Maerten reported that there is a Bear Ridge Solar Project update on the town's website. Cypress Creek Renewables will be hosting an informational meeting on Wednesday, February 13, 2019 at Cambria Volunteer Fire Company. There is more information on the website. This is part of the ongoing Article 10 proceedings. He has admonished the solar company more than once for not holding an informational meeting in the Town of Pendleton.

Highway, Water and Sewer Superintendent Stowell reported that it has been a busy month for both the Highway and the Water/Sewer Departments. They had a water main break on Tonawanda Creek Road that they are still watching. It was tough to patch because of the zero-degree temperature that night.

Assessor Coughlin explained that this is a busy time of the year because of the exemptions. There is a new exemption with the State and residents are finding it very confusing. Her office has been sitting down with many people to help with this process. She has also been putting values on new build houses in town and is getting ready to go look at the building permits to start putting values on those properties for the March 1st taxable status date. She is also working on tax bill apportionments with the Town Clerk.

Building Inspector Thompson reported that in the month of January his department issued 11 building permits and 14 contractor licenses. They also completed 27 visual inspections on site for various projects. Two violations were sent and there are eight outstanding violations. Two residents were in court for various infractions. He stated that he and his secretary, Kim Frey, have made significant strides in completing the organization of the department. He also reported that both he and Building Inspector Jack Striegel attended a mandatory educational conference in January.

NEW BUSINESS

RESOLUTION 67-19

ADJUSTMENT TO ABSTRACT #2A

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

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

Resolved to adjust Abstract #2A, that was approved on January 28, 2019, by removing a payment to Modern Portable Inc., in the amount of \$164.50, resulting in an adjusted total of \$414,353.00.

RESOLUTION 68-19

CNBSA CONTRACT RENEWAL

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

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

Resolved to roll over the Central Niagara Baseball Softball Association (CNBSA) contract for 2019.

RESOLUTION 69-19

SHERIFF'S DEPARTMENT SPEED PATROLS

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

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

Resolved to schedule speed patrols by the Niagara County Sheriff's Department using the funds that are budgeted.

RESOLUTION 70-19

WENDELVILLE FIRE COMPANY MEMBER

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

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

Resolved to reinstate Mike Confer to active member status with the Wendelville Fire Company.

RESOLUTION 71-19

PLANNING BOARD ADMINISTRATIVE ASSISTANT CONTRACT

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

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

Resolved to compensate retired Planning Board Administrative Assistant John Lavrich, at a rate of \$40.00 per hour, for work he will do to assist during the ongoing transition of the Planning Board, not to exceed \$1,500.00.

RESOLUTION 72-19

CNBSA – WAIVE PAVILION RENTAL FEE

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

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

Resolved to waive the pavilion fee for the CNBSA Challenger League on August 2, 2019.

RESOLUTION 73-19

PERMIT TOWN CLERK TO ATTEND ANNUAL CONFERENCE

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

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

Resolved to allow Town Clerk Maurer to attend the New York State Town Clerk’s Association (NYSTCA) annual conference from May 5 – 8, 2019.

Supervisor Maerten explained that he would like to start a trial phase for two new uncompensated part-time positions. The first position will be “Town Coordinator” and the second will be “Emergency Services Coordinator”. He provided Town Clerk Maurer with the job descriptions for both positions. They are as follows:

Position Title: Town Coordinator

Work Schedule: Part-time

Compensation: None

Term: Appointed yearly by the Town Board.

Minimum Qualifications: Experience with coordinating projects, demonstrate effective communication skills and the ability to facilitate meetings.

Description: The Town Coordinator reports directly to the Town Board and is responsible for coordinating a wide-variety of activities and projects at the direction and discretion of the Town Board. Anticipated actions include, but are not limited to:

- Coordination of projects that involve interaction with the Planning Board, Zoning Board, and Building Inspector’s Office.
- Coordination of information related to potential code changes, working with the Town Board, Planning Board, Zoning Board of Appeals, Building Inspector’s Office, and/or any other town department impacted by proposed changes and updates.
- Communicating with outside entities on behalf of the Town of Pendleton, including Niagara Military Affairs Council (NIMAC), Niagara County Planning Board, and Niagara County Center for Economic Development.
- Any other activities involving interaction, coordination, and collaboration with groups, organizations, entities, or individuals on matters of importance to the Town of Pendleton on behalf of the Town Board.

Position Title: Emergency Services Coordinator

Work Schedule: Part-time

Compensation: None

Term: Appointed yearly by the Town Board.

Minimum Qualifications: At least five (5) years of emergency services experience from the areas of law enforcement, fire/rescue, or emergency medical services, at the executive or high-leadership level.

Description: The Emergency Services Coordinator (ESC) reports directly to the Town Board and is responsible for coordinating a wide-variety of activities and projects related to emergency services in the Town of Pendleton. This ESC will:

- Communication and coordination between the Town Board and the leadership of the Wendelville Fire Company, Inc., on all initiatives and issues related to fire, rescue and emergency medical services in the Town of Pendleton.
- Communication and collaboration with the Niagara County Sheriff's Office (NCSO), Niagara County Emergency Services, and Fire Coordinator's Office on initiatives and issues that affect the Town of Pendleton.
- Addressing concerns, questions, and various issues communicated to the Town of Pendleton by residents, property owners, and others. The ESC will facilitate meetings and coordinate communication between all involved with each issue or project.
- Plan, coordinate, and implement community outreach programs focused on providing educational opportunities for Town residents to learn about various topics related to emergency services.
- Coordinate budgetary and contract requests between the Wendelville Fire Company and the Town of Pendleton.
- Maintain open communication between Advanced Life Support (ALS) providers who serve the Town of Pendleton and the Town Board.
- Report monthly to the Town Board on all emergency service activities, including quantitative data outlining the monthly and year-to-date responses of the Wendelville Fire Company.
- Coordinate communication between the Planning Board, Building Inspector's Office, and the Wendelville Fire Company on any projects requiring collaboration and interaction.

RESOLUTION 74-19

CREATION OF POSITIONS – TOWN COORDINATOR AND EMERGENCY SERVICES COORDINATOR

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

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

Nays 0

Resolved to create the positions of Town Coordinator and Emergency Services Coordinator as outlined in the job descriptions.

RESOLUTION 75-19

APPOINT POSITIONS – TOWN COORDINATOR AND EMERGENCY SERVICES COORDINATOR

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

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

Nays 0

Resolved to appoint John Higgins as the Town Coordinator and Mark Walter as the Emergency Services Coordinator.

PUBLIC REMARKS/COMMENTS

Budget Officer Bergman asked if the town will receive a rebate for the trash and recyclables that weren't picked up due to the storm. Supervisor Maerten had already asked the Deputy Town Clerk to notify him when the next bill arrives so he can follow up on this. Mr. Bergman also commented on the confusion that arose during the storm regarding the rescheduling of the trash

pick-up. Supervisor Maerten plans on addressing that with Modern Disposal when our representative returns from an out of town trip. Clerk Maurer informed the Board that Modern was very forthcoming with their announcements as the conditions changed. She stated that every time a change was made to the pick-up schedule Modern Disposal contacted her with the updated information. She immediately posted the information on the Town's website and the electronic board in front of the Town Hall.

A resident congratulated the Town Board for getting the grant money to complete the bike trail between Town Line and Killion Roads. He thinks it looks great and has seen a lot of people using it already. He mentioned that this trail has sparked interest from the City of Lockport and Town of Lockport as well as the Town of Wheatfield. They have all expressed interest in extending their trails.

Another resident from Creekview Drive was in attendance with her family. She came to discuss her concern over the increased traffic flow at the intersection of Tonawanda Creek and East Canal Roads. She spoke regarding the issues associated with the intersection and the new bike path stating that it is a dangerous situation that needs to be addressed. She was representing other concerned citizens in the area as well and is asking that a 4-way stop sign and pedestrian crosswalks be installed. Supervisor Maerten explained that he, Superintendent Stowell and others from the Town Board have been in communication with the Canal Corporation and Niagara County about that intersection specifically asking for them to evaluate it. He also stated that he has spoken with the Town of Amherst regarding their side of the intersection. He indicated he would reach out to Niagara County Legislator Nemi, Senator Ortt, Assemblymember McMahon, the Niagara County Sheriff's Office (NCSO) and the Canal Corporation to see if there is more that can be done. The Town of Pendleton does not own either road and cannot make the suggested changes. The resident also mentioned that there is a petition online at change.org asking the town to add a traffic light at that intersection. Other residents also brought up parking problems in the area of that intersection. Supervisor Maerten encouraged those in attendance to reach out to their elected representatives to express their concerns as well. A lengthy discussion continued on this subject with numerous residents speaking. Supervisor Maerten asked Emergency Services Coordinator Walter if he could communicate the concerns discussed to NCSO Chief Dunn. He also reiterated that he would be contacting those that were mentioned earlier to find some short term and eventually long term solutions to this problem.

RESOLUTION 76-19

NYS DOT SPEED LIMIT EVALUATION REQUEST – EAST CANAL AND TONAWANDA CREEK ROADS

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

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

Resolved to authorize Supervisor Maerten to submit a Request for Speed Limit Evaluation (Form TE9) to the NYS DOT asking for a traffic evaluation within the vicinity of the intersection of Tonawanda Creek Road and East Canal Road to address safety issues.

BOARD MEMBERS DISCUSSION

Supervisor Maerten announced that the next Work Session will be held on Monday, February 25, 2019 at 7:00 p.m.

A motion was made by Councilman Leible and seconded by Councilman Fischer, to enter into Executive Session with Assessor Coughlin to discuss litigation in the Assessor's Office, to be followed by a discussion of personnel issues in the Highway Department with the Highway, Water and Sewer Superintendent, and lastly to discuss the Teamsters' Contract Negotiations. Town Attorney Joerg will be included on all discussions. Motion carried.

Motion by Councilman Leible seconded by Councilman Fischer, to adjourn from the Executive Session and Regular Meeting at 9:10 p.m.

Deborah K. Maurer

Deborah K. Maurer, Town Clerk