

TOWN OF PENDLETON
March 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 March 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 March 4, 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 7:04 p.m. The purpose of the hearing was 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 all zoning districts for minor installations and limited to light commercial, medium commercial, light industrial and special light industrial for major installations.”

Dennis Welka, member of the Zoning Board of Appeals, voiced some concerns regarding the use of the word “minor”. He stated that the Planning Board may need to re-define some of the code. He asked that the Building Department revoke the current permit issued for Borrego Solar and let them challenge it with the Zoning Board of Appeals. Supervisor Maerten will discuss this with the Town's Attorney.

There were no other public questions or comments.

Motion made by Councilman Leible, seconded by Councilman Fischer, to close the Public Hearing at 7:08 p.m. Motion carried.

REGULAR MEETING

Supervisor Maerten called the meeting to order at 7:08 p.m.

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

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
Craig Walter – Deputy Highway Superintendent
David Britton – Engineer
Don Bergman – Budget Officer
Wolfgang Buechler – Zoning Board of Appeals Chairman
Dennis Welka – Zoning Board of Appeals Member
Nicholas Graves – Planning Board Member
Mark Walter – Emergency Services Coordinator

There were 8 residents in attendance, 2 of which were Starpoint students.

ADDITIONS OR DELETIONS TO THE AGENDA

The following changes were made to the agenda:

- Add #11 – Schedule Public Hearing
- Add #12 – Business Development Grant
- Add #13 – Executive Session

COMMUNICATIONS

Town Clerk Maurer reported to the Board that she received a phone call from a resident on Meyer Road. The resident called to say that she was very pleased with how quickly the Highway Department replaced her mailbox that was knocked down by a snow plow. She said that the mailbox was beautiful and that the service she received was very prompt and efficient.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

There were no public remarks or comments.

ROUTINE BUSINESS

RESOLUTION 85-19

APPROVAL OF MINUTES

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

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

Resolved that the minutes of the Regular and Organizational Meeting on January 14, 2019 be approved as submitted by the Town Clerk.

RESOLUTION 86-19

APPROVAL OF MINUTES

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

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

Resolved that the minutes of the Work Session on January 28, 2019 be approved as submitted by the Town Clerk.

RESOLUTION 87-19

AUTHORIZE PAYMENT OF ABSTRACT #5

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 #5, to be paid on March 13, 2019, for the following expenditures:

General Fund	\$ 65,333.76
Highway	\$ 33,502.96
Fire Protection	\$ 10,090.42
Sewer	\$ 2,868.62
Water District	\$ <u>5,136.48</u>
Total	\$116,932.24

OTHER REPORTS

Supervisor Maerten reported that tax collected for January 2019 was \$124,358.48. This is a decrease of \$2,054.21 when compared with January 2018. The year to date received was \$124,358.48 which is a decrease of \$2,054.21 from 2018.

Councilman Leible thanked the Highway Department for the good job they have been doing and all of the long hours they have put in recently. He also read the Highway Department's report. In February, the Highway Department chipped brush, cleaned up and compacted stone on Tonawanda Creek Road after the water break, dumped salt and cleaned out trucks. They also salted and plowed as needed, repaired a wheel on Truck #14, washed trucks, trained crew on the use of generators in preparation for the wind storm and cleaned up the town after the storm.

Councilman Fischer reported that he and Councilman Ostrowski attended the meeting regarding the Tonawanda Creek Road traffic safety issues that was held on March 1st. He stated that the New York State Department of Transportation (NYSDOT) provided some proposals for this issue. He also stated that he went to the Buffalo Niagara Heritage Village and spoke with a carpenter who will be building a shelter in the future that will be placed near the Old Highway Garage.

Councilman Ostrowski also spoke about the March 1st meeting. He commented on the fact that many people were in attendance from various agencies and that this issue affects multiple jurisdictions. The meeting resulted in the NYSDOT suggesting specific recommendations and the need for traffic studies for this intersection. He presented the Board with the recommendations from NYSDOT and read a letter that he wrote to Christopher Schregel, Traffic Safety Coordinator of the Amherst Traffic Safety Board, regarding these safety concerns. Another major concern from the NYS Canal Corporation was that the bike path is very close to the intersection. They will make sure that the bike trail is properly marked. There was also a suggestion to install beacon flashing lights near the intersection. Councilman Ostrowski also reported that he recently attended the “Bowl for Play” fundraiser for Mason’s Mission. He said it was a good opportunity for a good cause. Lastly, Councilman Ostrowski read the Building Department Report for February because Building Inspector Thompson was not in attendance. The Building Department issued 11 building permits and nine contractor’s licenses in February. He stated that 19 building permits and 33 visual inspections were conducted. There were five violations sent with seven still outstanding. Two residents were in court for various infractions.

Councilman Graham reported that he contacted Senator Ortt and Assemblymember McMahon regarding a recent request from a Fisk Road resident to have New York State Electric and Gas (NYSEG) offer natural gas to the residents of Fisk Road. The last survey that NYSEG completed was in 2016 and showed that there was not enough interest from the residents at that time. NYSEG has agreed to repeat the survey again this year. Councilman Graham also asked the Board to send a letter to the Conservation Advisory Council regarding the Bear Ridge Solar Project and its potential impact on farm land.

Attorney Joerg spoke briefly about the Borrego Solar project and Payment in Lieu of Tax (PILOT).

Engineer Britton reported that the Meadows North Subdivision Final Plat submission is currently under review and the Heritage Landing Subdivision Final Plat has been approved. He also stated that there will be a Planning Board Public Hearing on the Borrego Solar Project on March 19, 2019. The State Environmental Quality Review Act (SEQR) for the Holiday Inn is complete and the Site Plan determination is set for review on March 19, 2019 as well. Engineer Britton also updated the Board on the status of the current Town projects including the Grant for the Portable Generator at the Highway Garage, the Fisk Road project, the painting of the Water Tank, the Bear Ridge Solar project, the MS4 SPDES Annual Report and the Town Code Update for Sewer Usage.

Budget Officer Bergman stated that the accountants are in the office conducting the field work needed for the 2018 year-end reports.

DEPARTMENT HEADS

Town Clerk Maurer reported that tax season has been very busy. Taxes have been collected for 94% of the properties. Her office has been busy returning overpayments that were the result of the “Extension of Real Property Tax Deadline for Winter Weather” that was offered by Governor Cuomo due to the January storm. She also reported that the new voucher process is going smoothly and that some of the new server equipment has arrived. The Niagara County IT Department has begun installing the new hardware.

Assessor Coughlin reported that the Taxable Status Date was Friday, March 1st. She stated that during the month of February there were 11 sales, six of which were arm’s length sales. They averaged \$104,244 over the assessed value. Her office processed 146 Enhanced Star, 97 Aged and 107 Agricultural exemptions in February. She has completed 20 of the 146 building permit reviews and 8 new build values. Assessor Coughlin also reported that she attended the Bear Ridge Solar Project meeting that was held at Cambria Fire Hall. She has also met with Niagara County Real Property Tax Services Director, John Shoemaker, and the Town of Cambria’s Assessor to discuss what they learned at the meeting. Supervisor Maerten thanked Assessor Coughlin and the Assessor’s Clerk, Stephanie Chase, for the hard work and effort they put in helping residents during the exemption process.

NEW BUSINESS

RESOLUTION 88-19

LIONS CLUB PROCLAMATION

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

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

Resolved to recognize the service of the Pendleton Lions Club with the following proclamation:

On behalf of the Citizens of the Town of Pendleton, we hereby issue this proclamation honoring commitment and service to the community.

**Proclamation Honoring
The Pendleton Lions Club
50th Anniversary**

Whereas, the Pendleton Lions Club has been in continuous existence since 1969, with membership of multiple generations of dedicated Town of Pendleton and area residents;

Whereas, the Lions Club motto is “We Serve” and the Pendleton Lions Club stays true to this motto through numerous community service projects over the past fifty years in the Town of Pendleton; and

Whereas, the dedicated men and women of our town’s esteemed club have extended the reach of its service, both nationally and internationally, through support of the National Lions Club organization and its mission; and

Whereas, the membership of the Pendleton Lions Club has made an indelible mark on our community, making contributions for which we are all appreciative and grateful. Therefore:

The Town Board of the Town of Pendleton, on behalf of the citizens of this great town, hereby recognizes the Pendleton Lions Club and thanks its membership for fifty years of community service.

RESOLUTION 89-19

SOLAR CODE CHANGE

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 code change to *Chapter 247 Zoning, Article VIIC: Solar Energy Systems, § 247-68.18. Use districts where allowed.*, as amended, to “Subject to the provisions of this article, solar energy systems shall be permitted in all zoning districts for minor installations and limited to light commercial, medium commercial, light industrial and special light industrial for large scale installations.”

RESOLUTION 90-19

DOT RECOMMENDATION FOR TRAFFIC CONTROL – TONAWANDA CREEK ROAD AND EAST CANAL ROAD

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 Town Board of the Town of Pendleton ask Niagara County to adopt the NYSDOT recommendations for Tonawanda Creek Road and East Canal Road intersection.

RESOLUTION 91-19

SUPPORT LETTER TO AMHERST TRAFFIC SAFETY BOARD

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

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

Resolved to send a letter to Christopher Schregel, Traffic Safety Coordinator of the Amherst Traffic Safety Board, regarding safety concerns at the intersection of Tonawanda Creek and New Roads.

RESOLUTION 92-19

FINAL BUDGET LINE TRANSFERS FROM 2018

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 the Budget Officer's final budget line transfers for General Fund, Highway Fund and Water Fund for the end of the year, 2018 as follows:

General Fund

A1110.012	Personal Services – Constables	\$	1400.00
A1110.011	Personal Services – Justice Clerks	\$	-1400.00
A1110.02	Fixed Assets – Justices	\$	241.00
A1990.04	Contingent Account	\$	-241.00
A1220.04	Supervisor Contractual	\$	600.00
A1990.04	Contingent Account	\$	-600.00
A1420.0400	Attorney Litigation	\$	2500.00
A1420.0400.0113	Attorney Contractual Comp	\$	-2500.00
A1620.0110	Personal Services – Cleaner	\$	125.00
A1620.0120	Personal Services – Work at Town Hall	\$	-125.00
A1620.02	Town Hall Fixed Assets	\$	11,000.00
A .909	Unassigned Fund Balance	\$	-11,000.00
A1620.04	Town Hall Contractual	\$	11,000.00
A1990.04	Contingent Account	\$	-11,000.00
A1640.02	Central Garage Fixed Assets	\$	3,875.00
A1990.04	Contingent Account	\$	-3,875.00
A1640.04	Central Garage Contractual	\$	3,600.00
A1990.04	Contingent Account	\$	-3,600.00
A1910.04	Unallocated Insurance	\$	7,850.00
A1990 .04	Contingent Account	\$	-7,850.00
A1710.04	Professional Fees	\$	1,150.00
A1990.04	Contingent Account	\$	-1,150.00
A1989.04	Business Develop Contractual	\$	500.00
A1990.04	Contingent Account	\$	-500.00
A2115.04	Engineering Planning Board Fees	\$	335.00
A1990.04	Contingent Account	\$	-335.00
A3510.0410	Dog Control	\$	210.00
A1990.04	Contingent Account	\$	-210.00
A3620.015	Personal Services – Assistance	\$	1,850.00
A3620.01	Personal Services – Building	\$	-1,850.00
A3620.04	Building Contractual	\$	550.00
A3620.02	Building Fixed Assets	\$	-550.00
A5010.011	Personal Services – Highway Clerk	\$	350.00
A1990.04	Contingent Account	\$	-350.00

A5010.04	Highway Contractual	\$	150.00
A1990.04	Contingent Account	\$	-150.00
A7110.01	Personal Services – Parks	\$	3,500.00
A1990.04	Contingent Account	\$	-3,500.00
A7110.04	Parks Contract	\$	800.00
A1990.04	Contingent Account	\$	-800.00
A8020.4100	Planning Board Public Hearing	\$	440.00
A8020.04	Contractual	\$	-440.00
A8090.04	Conservation Board Contractual	\$	2,200.00
A8090.01	Conservation Board – Personal Serv	\$	-2,200.00
A8540.0110.0006	Personal Services – Storm Water	\$	70.00
A8540.01	Personal Services – Drainage	\$	-70.00
A9060.08	Medical Insurance	\$	22,000.00
A909	Unassigned Balance	\$	-22,000.00
Highway			
DA5140.01	Personal Services – Brush and Weed	\$	3,100.00
DA5142.01	Personal Services – Snow Removal	\$	10,700.00
DA5110.01	Personal Services – Repairs	\$	-9,600.00
DA5130.01	Personal Services – Machinery	\$	-1,500.00
DA5148.01	Personal Services – Parks	\$	-700.00
DA1990.04	Contingent Account	\$	-2,000.00
DA5110.0420	Professional Fee	\$	200.00
DA1990.04	Contingent Account	\$	-200.00
DA9030.08	Social Security	\$	250.00
DA1990.04	Contingent Account	\$	-250.00
Fire			
SF9010.08	LOSAP Benefits	\$	8,700.00
SF909	Unassigned Balance	\$	-8,700.00
Refuse			
SR8160.04.1	Contractual Tire Recycling	\$	3,965.00
SR8160.04.2	Contractual Electronic Recycling	\$	2,635.00
SR8160.04	Contractual	\$	-6,600.00
Sewer			
SS8110.011	Personal Services	\$	600.00
SS8110.01	Personal Services – Administration	\$	-600.00
SS8110.02	Fixed Assets	\$	500.00
SS1990.04	Contingent Account	\$	-500.00
SS8120.02	Fixed Assets	\$	96,112.71
SS878	Fund Equipment	\$	-96,112.71
SS8120.45	Sewer Main Maintenance	\$	1,950.00
SS1990.04	Contingent Account	\$	-1,950.00
SS9010.08	State Retirement	\$	4,700.00
SS1990.04	Contingent Account	\$	-4,700.00
SS9060.08	Medical Insurance	\$	2,500.00
SS1990.04	Contingent Account	\$	-2,500.00

Water

SW8310.01	Personal Services – Administration	\$	4,200.00
SW8340.01	Personal Services	\$	-4,200.00
SW8310.02	Fixed Assets	\$	500.00
SW1990.04	Contingent Account	\$	-500.00
SW8310.043	Professional Fee	\$	25.00
SW1990.04	Contingent Account	\$	-25.00
SW8320.04	Water Purchase	\$	4,000.00
SW1990.04	Contingent Account	\$	-4,000.00
SW8340.0490	Fuel	\$	750.00
SW1990.04	Contingent Account	\$	-750.00
SW9060.08	Hospital and Medical	\$	9,750.00
SW909	Unassigned Balance	\$	-9,750.00
SW8320.04	Water Purchase	\$	2,475.00
SW1990.04	Contingent Account	\$	-2,475.00

RESOLUTION 93-19

SEXUAL HARASSMENT/WORKPLACE VIOLENCE TRAINING

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

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

Resolved to engage in services with Enterprise Training Solutions, for the mandated NY State Harassment Training for all Town employees, at a cost of \$11.50 per employee plus a one-time set up fee of \$395.00.

RESOLUTION 94-19

DISPOSAL AND DESTRUCTION OF INACTIVE SERVER HARDWARE

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

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

Resolved to destroy and dispose of all inactive server hardware using a Secure Destruction Service (SDS) through Advanced Technology Recycling.

RESOLUTION 95-19

DECLARE BUILDING DEPARTMENT PRINTER AS SURPLUS

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

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

Resolved to declare the Building Department's printer as surplus.

RESOLUTION 96-19

EMPLOYEE DENTAL COVERAGE

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

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

Resolved to allow the Town to offer dental coverage to full-time employees at 100% cost to the employees.

RESOLUTION 97-19

284 AGREEMENT

Motion by Councilman Leible, seconded by Councilman Ostrowski, 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:

- Mapleton Road between Campbell Road and Bear Ridge Road – chip seal
- Maintain all other 29.21 miles of Town roads as needed – chip seal

RESOLUTION 98-19

SCHEDULE PUBLIC HEARING

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

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

Resolved to schedule a Public Hearing on April 8, 2019 at 6:55 p.m. to establish a Sewer Remediation Trust Fund in support of the Town of Pendleton's Inflow and Infiltration (I & I) reduction program.

RESOLUTION 99-19

AUTHORIZE \$2,000 GRANT TO PENDLETON COMMUNITY & BUSINESS ASSOCIATION

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 annual funding request from Pendleton Community & Business Association in the amount of \$2,000.00 for business promotion activities that will be matched by Niagara County through the William G. Mayne, Jr. Business/Community Enhancement Program.

RESOLUTION 100-19

BEAR RIDGE SOLAR PROJECT LETTER TO CONSERVATION ADVISORY COUNCIL

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 Town Supervisor, on behalf of the Town Board, to ask the members of the Conservation Advisory Council to conduct ongoing review and provide comments on the Bear Ridge Solar Project.

The Board decided it was not necessary to enter into the Executive Session that was added to the Agenda as item #13.

PUBLIC REMARKS/COMMENTS

A resident asked if information can be added to the Town's website indicating that Freedom of Information Law (FOIL) requests can be made via e-mail.

Zoning Board of Appeals Chairman Buechler asked for more information about the mandated NYS Harassment Training. He also asked if the 284 Agreement can be shared online.

Planning Board Member Graves reported that there will be a Public Hearing for the Borrego Solar Project on March 19, 2019.

Zoning Board of Appeals member Welka had additional questions regarding the Borrego Solar Project. A lengthy discussion ensued regarding this project.

Another lengthy discussion took place regarding the intersection at Tonawanda Creek and East Canal Roads as well as the parking issues at Uncle G's. Several residents and the Board were involved in this discussion.

BOARD MEMBERS DISCUSSION

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

Motion by Councilman Leible seconded by Councilman Fischer, to adjourn from the Regular Meeting at 8:38 p.m.