

**TOWN OF PENDLETON**  
**Work Session**  
December 27, 2018

A work session of the Town Board of the Town of Pendleton was held at the Town Hall, 6570 Campbell Blvd., Pendleton, NY, on December 27, 2018. The meeting was scheduled for 4:00 p.m.

Supervisor Maerten opened the meeting at 4:10 p.m.

Supervisor Maerten, Councilman Leible, Councilman Fischer, Councilman Ostrowski and Councilman Graham were present.

Also present:

Deborah Maurer – Town Clerk  
Claude Joerg – Town Attorney  
Kelli Coughlin – Town Assessor  
Jason Thompson – Town Building Inspector  
Jeff Stowell - Highway Superintendent  
Craig Walter – Deputy Highway Superintendent  
Donald Bergman – Budget Officer

There were 6 other residents in attendance.

RESOLUTION 239-18

**AUTHORIZE PAYMENT OF ABSTRACT #24**

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 #24, to be paid on December 31, 2018, for the following expenditures:

General Fund	\$ 27,682.22
Highway	\$ 31,673.92
Fire Protection District	\$167,948.00
Refuse & Garbage District	\$ 35,158.12
Sewer	\$ 23,401.28
Water District	\$ 11,686.48
Total	\$297,550.02

RESOLUTION 240-18

**PROCLAMATION FOR JOHN LAVRICH**

Motion by Councilman Leible, seconded by Councilman Fischer, the following resolution was ADOPTED: Ayes 5 Maerten, Fischer, Graham, Leible, Ostrowski  
Nays 0

Resolve to recognize the service of retired Planning Board Member and Administrative Assistant John Lavrich 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  
John Lavrich**

***Whereas, John Lavrich has dedicated his life to public service, through many decades of community service in the Town of Pendleton and military service in defense of our great county; and***

***Whereas, Mr. Lavrich began his duties as a member of the Town of Pendleton Planning Board and dutifully and conscientiously carried out his charge starting in 1990; and***

**Whereas, John has also served as a strong guiding hand to the Planning Board, serving as Administrative Assistant since 1995; and**

**Whereas, Mr. Lavrich has also served as Recording Secretary for the Planning Board, diligently and meticulously providing great attention to detail and dedication to his duties in service of the Town of Pendleton. Therefore:**

**The Town Board of the Town of Pendleton, on behalf of the citizens of this great town, hereby recognizes John Lavrich and thanks Mr. Lavrich for his dedication and contributions to our community.**

RESOLUTION 241-18

**PROCLAMATION FOR JIM ARGO**

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

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

Resolved to recognize the service of retired Water/Sewer Superintendent James Argo 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  
James Argo**

**Whereas, James “Jim” Argo has dedicated many years of service to the Town of Pendleton, having been employed in various positions within the Highway, Water, and Sewer Departments; and**

**Whereas, Mr. Argo began his service to the Town of Pendleton, in 1982, with his first assignment to the Highway Department in the position of laborer; and**

**Whereas, Jim has filled multiple roles since 1982, including Deputy Highway Superintendent, Acting Highway Superintendent, and Water & Sewer Superintendent; and**

**Whereas, Mr. Argo has consistently and tirelessly exhibited great dedication to each role in which he has served, always ensuring that each resident’s needs are met to the best of his ability. Therefore:**

**The Town Board of the Town of Pendleton, on behalf of the citizens of this great town, hereby recognizes James Argo and thanks Mr. Argo for his dedication and contributions to our community.**

RESOLUTION 242-18

**NYS POSITIVE YOUTH DEVELOPMENT/RUNAWAY AND HOMELESS YOUTH STATE AID FUNDING**

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

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

Resolved to submit the application for New York State Positive Youth Development/Runaway and Homeless Youth State Aid funding.

RESOLUTION 243-18

**INTERIM APPOINTMENT – WATER/SEWER SUPERINTENDENT**

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

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

Resolved to appoint Jeff Stowell as Water/Sewer Superintendent for the interim period of January 1 – January 14, 2019.

RESOLUTION 244-18

**INTERIM APPOINTMENT – STORMWATER MANAGEMENT OFFICER**

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

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

Resolved to appoint Jason Thompson as Stormwater Management Officer for the interim period of January 1 – January 14, 2019 with a stipend pro-rated as budgeted.

RESOLUTION 245-18

**PLANNING BOARD ALTERNATE APPOINTMENT**

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

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

Resolved to appoint John Higgins of Pendale Circle as an alternate member to the Planning Board.

RESOLUTION 246-18

**INTERIM APPOINTMENT - PLANNING BOARD ADMINISTRATIVE ASSISTANT**

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

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

Resolved to appoint John Higgins as interim Planning Board Administrative Assistant for the period of January 1 – January 15, 2019. Councilman Leible amended the motion to state that the salary for this position will be based on a 2.7% increase of the 2018 rate.

Monthly Activity Reports

Councilman Ostrowski introduced the idea of having monthly departmental activity reports. In addition to monthly reports he suggested having the departments submit an annual report outlining goals for the upcoming year, accomplishments, etc. Supervisor Maerten suggested including this in the January Organizational Meeting once the Board members are assigned to the various departments. It was also stated that it would be a good idea to hold meetings with the department heads prior to the regular Board meetings. Councilman Ostrowski volunteered to design a template and guidelines for the reports and meetings. It was decided that this discussion would continue at the January meeting.

RESOLUTION 247-18 [Amended May 15, 2019]

**BOND RESOLUTION FOR FISK ROAD**

~~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 bond resolution for the Fisk Road Rehabilitation Project from Harris Beach. Replace with the following resolution:~~

The following resolution was offered by Councilman Leible, who moved its adoption, seconded by Councilman Fischer, to-wit:

**BOND RESOLUTION OF THE TOWN BOARD OF THE TOWN OF PENDLETON, NIAGARA COUNTY, NEW YORK (THE “TOWN”), AUTHORIZING THE TOWN TO UNDERTAKE THE FISK ROAD REHABILITATION PROJECT; STATING THE MAXIMUM ESTIMATED COST THEREOF IS \$3,400,000; APPROPRIATING SAID AMOUNT THEREFOR; AND AUTHORIZING THE ISSUANCE OF UP TO \$900,000 IN SERIAL BONDS OF THE TOWN TO FINANCE SAID APPROPRIATION**

**WHEREAS**, the Town Board (the “Town Board”) of the Town of Pendleton, Niagara County, New York (the “Issuer” or the “Town”) proposes to authorize the issuance of up to

\$900,000 in serial bonds of the Town to finance a portion of the cost of the Fisk Road Rehabilitation Project, at an estimated maximum cost of \$3,400,000; and

**WHEREAS**, the Town Board of the Town, acting as lead agency under the State Environmental Quality Review Act and the regulations of the New York State Department of Environmental Conservation adopted thereunder (6 NYCRR 617.5(c)(4)) (collectively, "SEQRA") on October 23, 2017, determined that the improvements described as part of the Project (as described below) constitute a "Type II" action within the meaning of SEQRA, and that no further action under SEQRA are required to be undertaken with respect to the Project; and

**WHEREAS**, the Town Board now wishes to appropriate funds for the Project and to authorize the issuance of the Town's serial bonds and bond anticipation notes to be issued to finance the aforementioned specific object or purpose.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of the Town (by the favorable vote of not less than two-thirds of all the members of such body), as follows:

SECTION 1. The Town is hereby authorized to undertake the Fisk Road Rehabilitation Project consisting of the reconstruction and repaving of approximately 1.99 miles along Fisk Road commencing approximately from the intersection with East Canal Road to the intersection with Transit Road (State Route 78), including as applicable, the construction or reconstruction of sidewalks, curbs, gutters, landscaping, grading and other related and incidental costs and expenses (collectively, the "Project"). It is hereby determined that the maximum estimated cost of the aforementioned specific object or purpose is \$3,400,000, said amount is hereby appropriated therefor and the plan for the financing thereof shall consist of (i) the issuance of up to \$900,000 in serial bonds of the Town authorized to be issued pursuant to this resolution, or bond anticipation notes issued in anticipation of such serial bonds, (ii) the expenditure of \$2,600,000 in grant monies expected to be received by the Town from the State Department of Transportation, and (iii) unless paid from other sources, the levy and collection of taxes on all the taxable real property in the Town to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 2. Serial bonds of the Town (including, without limitation, statutory installment bonds) in the principal amount of \$900,000 are hereby authorized to be issued pursuant to provisions of Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (the "Law") to finance the aforementioned object or purpose.

SECTION 3. It is hereby determined that the period of probable usefulness of the aforementioned specific class of object or purpose is fifteen (15) years, pursuant to subdivision 20(c). of paragraph a. of Section 11.00 of the Law.

SECTION 4. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Law, for the capital purposes described in this resolution. The Town shall reimburse such expenditures with the proceeds of the bonds or bond anticipation notes authorized by this resolution. This resolution shall constitute a declaration of "official intent" to reimburse the expenditures authorized herein with the proceeds of the bonds and bond anticipation notes authorized herein, as required by United States Treasury Regulations Section 1.150-2.

SECTION 5. The final maturity of the bonds herein authorized to be issued shall be in excess of five (5) years measured from the date of issuance of the first serial bond or bond anticipation note issued pursuant to this resolution.

SECTION 6. Each of the serial bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds shall contain the recital of validity prescribed by Section 52.00 of the Law and said serial bonds and any bond anticipation notes issued in anticipation of said bonds shall be general obligations of the Town, payable as to both principal and interest by a general tax upon all the real property within the Town subject to applicable statutory limits, if any. The faith and credit of the Town are hereby irrevocably pledged to the punctual payment of the principal and interest on said serial bonds and bond

anticipation notes and provisions shall be made annually in the budget of the Town by appropriation for (a) the amortization and redemption of the bonds and bond anticipation notes to mature in such year and (b) the payment of interest to be due and payable in such year.

SECTION 7. Subject to the provisions of this resolution and of the Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of serial bonds and bond anticipation notes or the renewals of said obligations and of Sections 21.00, 50.00, 54.90, 56.00 through 60.00, 62.10 and 63.00 of the Law, the powers and duties of the Town Board relative to authorizing serial bonds and bond anticipation notes and prescribing terms, form and contents as to the sale and issuance of bonds herein authorized, including without limitation the determination of whether to issue bonds having substantially level or declining debt service and all matters related thereto, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, are hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town (the "Town Supervisor"). Such notes shall be of such terms, form and contents as may be prescribed by said Town Supervisor consistent with the provisions of the Law. Further, pursuant to paragraph b. of Section 11.00 of the Law, in the event that bonds to be issued for any of the class of objects or purposes authorized by this resolution are combined for sale, pursuant to paragraph c. of Section 57.00 of the Law, with bonds to be issued for one or more objects or purposes authorized by other resolutions of the Town Board, then the power of the Town Board to determine the "weighted average period of probable usefulness" (within the meaning of paragraph a. of Section 11.00 of the Law) for such combined objects or purposes is hereby delegated to the Town Supervisor, as the chief fiscal officer of the Town.

SECTION 8. The Town Supervisor is hereby further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution and any notes issued in anticipation thereof, if applicable, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3)(B)(i) of the Code.

SECTION 9. The Town Supervisor is further authorized to enter into a continuing disclosure undertaking with or for the benefit of the initial purchasers of the bonds or notes in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 10. The intent of this resolution is to give the Town Supervisor sufficient authority to execute those applications, agreements and instruments, or to do any similar acts necessary to affect the issuance of the aforesaid serial bonds or bond anticipation notes without resorting to further action of the Town Board.

SECTION 11. Pursuant to subdivision b. of Section 35.00 of the Law, this resolution is subject to a permissive referendum in the manner prescribed by Article Seven of the Town Law of the State of New York (the "Town Law"). The Town Clerk is hereby authorized and directed, within ten (10) days after the date of adoption of this resolution, to post and publish a notice satisfying the requirements of Section 90 of the Town Law, which shall set forth the date of adoption of this resolution, shall contain an abstract hereof, and shall specify that this resolution was adopted subject to a permissive referendum. Such notice shall be published in the official newspaper(s) of the Town for such purpose.

SECTION 12. This resolution shall take effect thirty (30) days after the date of its adoption or, if within such thirty (30) day period there is filed with the Town Clerk a petition subscribed and acknowledged by the number of qualified electors of the Town required by Section 91 of the Town Law and in the manner specified in such Section, until approved by the affirmative vote of a majority of such qualified electors voting on a proposition for its approval.

SECTION 13. The validity of the bonds authorized by this resolution and of any bond anticipation notes issued in anticipation of said bonds may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the Town is not authorized to expend money; or



(b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or

(c) such obligations are authorized in violation of the provisions of the constitution.

SECTION 14. Upon this resolution becoming effective, the Town Clerk is hereby authorized and directed to cause a copy of this resolution, or a summary thereof, to be published, together with a notice attached in substantially the form as prescribed in Section 81.00 of the Law, in the official newspaper(s) of the Town for such purpose, together with a notice of the Town Clerk substantially the form provided in Section 81.00 of the Law.

The following vote was taken and recorded in the public or open session of said meeting:

	<u>AYE</u>	<u>NAY</u>
Supervisor Joel Maerten	X	
Councilman David Leible	X	
Councilman Todd Ostrowski	X	
Councilman David Fischer	X	
Councilman Justin Graham	X	

Town Hall Door Repairs

Councilman Leible explained that there have been numerous issues with the electronic door access. Armored Access Security had to be called in to provide emergency door repairs to the rear parking lot door, the rear court entry door and the front entry door for a cost of approximately \$4,400. A discussion took place about the quality of work completed by the previous contractor and whether anything could be done to recoup the monies paid for this project. It was also noted that the court exterior door will need to be replaced in the future due to the damage caused by individuals pulling on the door to open it. Councilman Leible requested that the Town Attorney send a letter to the previous contractor to request a copy of his NYS license number. Councilman Leible will meet with Town Clerk Maurer and Tom Grimmer from Armored Access Security to discuss the requirements needed to enter into a maintenance contract. The town will also need to pursue at least two other quotes.

RESOLUTION 248-18

**BUDGET LINE TRANSFERS**

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

**General Fund**

A1410.04	Town Clerk, Contractual	\$	9,200.00
A 917	Unassigned Fund Balance	\$	-9,200.00
	To adjust for BAS System		
A2115.04	Engineering Planning Board Fees	\$	22,000.00
A 917	Unassigned Fund Balance	\$	-22,000.00
A3010.04	Contractual Expenses – Sheriffs	\$	4,500.00
A 917	Unassigned Fund Balance	\$	-4,500.00
A7110.0200.3502	Playground	\$	53,250.00
A 917	Unassigned Fund Balance	\$	-53,250.00
	To adjust for the Mason's Mission amount over the grant		
A7550.04	Celebrations	\$	21,800.00
A 917	Unassigned Fund Balance	\$	-21,800.00
	To adjust for Pendleton Farm & Home Days expenses		

**Highway**

DA5130.04	Machinery, Contractual	\$	13,149.41
DA 915	Assigned Unappropriated Funds To adjust for machinery repairs	\$	-13,149.41
DA5110.045	Fuel	\$	10,000.00
DA 915	Assigned Unappropriated Funds	\$	-10,000.00
<b>Water</b>			
SW8320.04	Water Purchases	\$	38,000.00
SW 915	Assigned Unappropriated Funds To adjust for the heavy usage over the summer	\$	-38,000.00

Nine Mile Island

Councilman Fischer and resident Jim Sobczyk had a brief discussion about Nine Mile Island. The Town of Amherst is requesting a letter from the Town of Pendleton stating interest in working together.

RESOLUTION 249-18

**SUPPORT FOR EXPLORATION OF JOINT USE OF NINE MILE ISLAND**

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

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

Resolved to give the Town Board's support for exploring possible joint management and development of Nine Mile Island with the Town of Amherst as a recreational use area.

2019 Speed Enforcement Controls

Supervisor Maerten reported that he has received more complaints regarding speeding in the town. A discussion took place to determine if the Board wants to schedule more speed patrols and if it was cost effective to do so. Councilmen Fischer and Leible recommended waiting until after winter to schedule more. Supervisor Maerten will contact the chief deputy to start collecting data.

Additional Discussion

Councilman Ostrowski spoke regarding a letter he received from a resident on Bear Ridge Road regarding a curb cut. The resident went through the county because it is a county road and they did not charge him for the curb cut. The resident sent the letter to file a complaint because the town charged him a curb cut fee of \$150.00. The resident is requesting that the town rescind the charge. Highway Superintendent Stowell explained the process of charging for curb cuts, how the fee is determined, whether the resident supplies their own pipe, etc. Supervisor Maerten also participated in the discussion giving more details of this particular issue. Per Highway Superintendent Stowell, the town did not complete any work for this specific property. Supervisor Maerten suggested that the town follow "regular procedures" for this type of situation. Superintendent Stowell stated that the county gave the permit and this particular situation is one in which the town would not charge a resident. It is one of those rare situations when the town took no action on the curb cut.

Councilman Leible reminded Town Clerk Maurer that Mr. Higgins and Mr. Thompson will need to be sworn in.

Assessor Coughlin stated that she would like builders to provide digital copies of blueprints. She asked the Board if she could work with Building Inspector Thompson and require that builders provide these blueprints in a pdf formatted file. Attorney Joerg suggested that they be charged extra if they do not provide the blueprints in the required format.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Work Session and enter into an Executive Session with the Town Attorney and Highway Superintendent to discuss union negotiations at 4:56 p.m. Motion carried.

Work Session  
December 27, 2018 [Amended May 15, 2019]

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Work Session and Executive Session at 5:45 p.m. Motion carried.

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Deborah K. Maurer, Town Clerk