

**TOWN OF PENDLETON**  
**WORK SESSION AND PUBLIC HEARING**  
September 23, 2019

A work session of the Town Board of the Town of Pendleton was held at the Town Hall, 6570 Campbell Blvd., Pendleton, NY, on September 23, 2019. The meeting was scheduled for 7:00 p.m. A Public Hearing was scheduled for 6:55 p.m.

**PUBLIC HEARING**

**PROPOSED ABOLISHMENT OF LOCAL LAW NO. 2-2017 AND ADOPTION OF NEW LOCAL LAW RELATED TO SOLAR PANEL INSTALLATIONS**

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on September 18, 2019 and on the Town's website.

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

The purpose of the hearing is to receive public input for the proposed abolishment of Local Law No. 2-2017 and adoption of a new Local Law related to Solar Panel installations.

Attorney Joerg questioned the section regarding "Minor Solar Energy Systems". A lengthy discussion took place regarding this section and all questions seemed to be answered. There were no other public questions or comments on this matter.

A motion was made by Councilman Leible, and seconded by Councilman Fischer, to close the Public Hearing at 7:09 p.m. Motion carried.

**WORK SESSION**

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

Also present:

Deborah Maurer – Town Clerk  
Claude Joerg – Town Attorney  
Jeff Stowell – Highway and Water/Sewer Superintendent  
Dave Britton – Town Engineer  
Ron Diedrich – Building Inspector/Code Enforcement Officer  
Don Bergman – Budget Officer

There were three residents in attendance.

RESOLUTION 236-19

**AUTHORIZE PAYMENT OF ABSTRACT #18**

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 Voucher Abstract #18, Vouchers #11125-11184, to be paid on September 25, 2019

General Fund	\$	9,717.68
Highway	\$	8,140.55
Refuse	\$	38,990.64
Sewer	\$	7,087.64
Water	\$	3,328.60
Total	\$	67,265.11

Cypress Creek Renewables Presentation

Supervisor Maerten invited Kevin Kohlstedt, from Cypress Creek Renewables, to come before the Board to give an update on the Bear Ridge Solar Project and the Article 10 proceedings. He presented the Board with a slide presentation outlining the steps they have taken so far

and what is expected over the next year. Several questions arose during the Payment in Lieu of Taxes (PILOT) section of the presentation. There were also questions pertaining to special equipment the fire company may need. Mr. Kohlstedt stated that the fire companies will receive specialized training that will be paid for by Cypress Creek Renewables. Town Clerk Maurer asked for an electronic version of the presentation so she can post it on the Town's website for public viewing.

#### Water Tower Advertising

Councilman Graham asked Engineer Britton for an update on the water tower painting project. Engineer Britton stated that they will be soliciting quotes soon. There was discussion about the possibility of selling advertising or sponsorship to help fund this project.

#### KidsPlay Soccer Nets

Councilman Graham explained that KidsPlay will be moving its soccer program from Wendelville to Starpoint next year. He was contacted by the coordinator of the program who mentioned that they are interested in buying the soccer nets that we have provided for them in the past. Councilman Graham inquired as to whether or not the Town could sell these nets or if they can be donated to Starpoint for KidsPlay to use. He will contact Starpoint to see if they have a need for them. No further action was taken.

#### ATV Trails

A lengthy discussion occurred regarding the riding of all-terrain vehicles (ATVs) in the Town. Town Clerk Maurer explained that her office often receives calls asking if ATV riding was allowable and where it is permissible. She asked if the Recreation Committee could put something together that could be shared on the website to inform residents of the rules and options for ATV riding. Supervisor Maerten recommended that a response to callers could be that the Town's trails are open to ATVs and any other questions about private property should be asked of the property owner. Town Clerk Maurer stated that they could also be directed to the local ATV club, Tri-County Trail Riders, that meets at Brauer's Restaurant near the bike path. Superintendent Stowell remarked that the riders have been driving on the blacktop and it has been out of control. The conversation continued and it was determined that they would continue discussion about this later in the year.

#### 5084 Tonawanda Creek Road Culvert Replacement Project Bids

The bid opening for the 5084 Tonawanda Creek Road Culvert Project was held on September 18, 2019. The Town received seven bids as follows:

Concrete Applied Technologies Corp., dba CATCO	\$	97,400.00
Scott Lawn Yard, Inc.	\$	107,590.00
Occhino Corp.	\$	150,400.00
Mark Cerrone, Inc.	\$	157,800.00
Edbauer Construction	\$	159,980.00
4 <sup>th</sup> Generation Construction, Inc.	\$	174,500.00
Zoldaz Construction Company, Inc.	\$	336,452.97

#### RESOLUTION 237-19

##### **5084 TONAWANDA CREEK ROAD CULVERT REPLACEMENT PROJECT**

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 low bid of \$97,400.00 from Concrete Applied Technologies Corp., dba CATCO, to complete the culvert replacement work at 5084 Tonawanda Creek Road.

#### RESOLUTION 238-19

##### **RESCIND RESOLUTIONS 191-19 AND 192-19**

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

Resolved to rescind and declare null and void RESOLUTION 191-19: Repeal Local Law No. 2-2017 - Article VIIC: Solar Energy Systems and RESOLUTION 192-19: Chapter 247 Zoning, Article VIIC: Solar Energy Systems.

RESOLUTION 239-19

**ADOPT LOCAL LAW No. 03-2019**

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

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

Nays 0

Resolved to adopt Local Law No. 03-2019 as follows:

**TOWN OF PENDLETON LOCAL LAW NO. 03 OF THE YEAR, 2019**

**A LOCAL LAW ENTITLED:  
REPEAL LOCAL LAW NO. 02-2017**

The sole purpose of Local Law No. 03-2019 is to provide Local Law Authority to repeal Local Law No. 02-2017: Adding Solar Energy Systems Article to the Code of the Town of Pendleton, Chapter 247 Article VIIC Solar Energy Systems, in its entirety.

RESOLUTION 240-19

**REPEAL LOCAL LAW NO. 02-2017**

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

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

Nays 0

Resolved to repeal Local Law No. 02-2017: Adding Solar Energy Systems Article to the Code of the Town of Pendleton, Chapter 247 Article VIIC Solar Energy Systems, in its entirety under authority of Local Law No. 03-2019.

RESOLUTION 241-19

**ADOPT TOWN CODE § 247 ARTICLE VIIC**

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

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

Nays 0

Resolved to adopt § 247 Article VIIC Solar Energy System Regulations.

RESOLUTION 242-19

**ADOPT ORDINANCE § 247-68.14**

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 in its entirety as an ordinance, § 247-68.14, formally known as Solar Energy Systems, now to be considered a section of Article VIIC Solar Energy System Regulations.

RESOLUTION 243-19

**DECLARE PRINTER SURPLUS**

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

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

Nays 0

Resolved to declare Brother MFC9460CDN printer from Supervisor's Office as surplus.

Pendleton Farm & Home Days Discussion

Joanne Zimmerman, co-chair of the Pendleton Farm & Home Days approached the Board requesting permission to designate the dates for next year's event to be August 14 – 15, 2019. She is also asking, on behalf of the committee, for additional financial support.

RESOLUTION 244-19

**2020 PENDLETON FARM & HOME DAYS**

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 the Pendleton Farm & Home Days organization to use the Town Park on August 14<sup>th</sup> and August 15<sup>th</sup>, 2020.

No commitment was made on financial support for the event. It will be decided upon once the 2020 budget is adopted.

#### Business Licensing Discussion

A conversation took place regarding the lack of business licensing or registration in the Town and whether it was necessary. Town Clerk presented the Board with code from the Town of Niagara as an example. Building Inspector/Code Enforcement Officer Diedrich added to the discussion and brought up the requirement of fire inspections in the Town. Several questions and concerns were discussed. Supervisor Maerten asked Mrs. Maurer and Mr. Diedrich to try to find out what other municipalities required and report back to him.

#### Additional Discussion

Supervisor Maerten informed the Board members of a Ribbon Cutting Ceremony that will be held on Friday, September 27, 2019 at 1:30 p.m. for the Erie Canalway Trail – Pendleton Connection Dedication. It will be held at the Feigle Road Trailhead Parking Lot between East Canal Road and Bear Ridge Road. All are welcome to attend.

Supervisor Maerten also informed the Board that he received the Town's fiscal stress score from the State Comptroller's Office. The Town's Fiscal Stress Score for 2018 is 3.3. The Environmental Stress Score for 2018 is 0.0. Both of these were determined as "No Designation" which indicates no financial stress. More information can be found at <https://www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm>.

#### RESOLUTION 245-19

##### **TOWN HALL VEHICLE USE 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 adopt the Town Hall Vehicle Use Policy as presented.

Supervisor Maerten brought up a discussion about refuse and recycling. The Town of Pendleton is part of a consortium with the towns of Cambria, Newfane and Somerset. The towns are no longer receiving credit for recyclables and now have to pay to have it collected. A consideration is being made to change to a tote based collection system. Another item to consider is to change the schedule for large trash pickup from weekly to once a month. He will continue meeting with the consortium and with Dawn Timm, from the Niagara County Refuse Disposal District, on this as they prepare for a new contract in the next couple of years.

#### RESOLUTION 246-19

##### **DECLARE VEHICLE SURPLUS**

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

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

Nays 0

Resolved to declare the Building Department's 2008 Ford Ranger Pick-Up (VIN# 1FTYR10D88PA85125) as surplus.

Motion made by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Work Session at 9:00 p.m. Motion carried.

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Deborah K. Maurer, Town Clerk