

## TOWN OF PENDLETON

October 14, 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 14<sup>th</sup> day of October 2019 at 7:00 p.m.

### REGULAR MEETING

Supervisor Maerten called the meeting to order at 7:09 p.m.

Supervisor Maerten read the invocation and the salute to the flag. A moment of silence was observed in honor of James Kieffer, a longtime member of the Wendelville Fire Company, who recently passed away.

#### Roll Call:

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

#### Also present:

Deborah Maurer – Town Clerk  
Claude Joerg – Town Attorney  
David Britton – Engineer  
Don Bergman – Budget Officer  
Kelli Coughlin – Town Assessor  
Wolfgang Buechler – Zoning Board of Appeals Chairman  
Mark Walter – Emergency Services Coordinator

There were 14 residents in attendance, five of which were Starpoint students.

### ADDITIONS OR DELETIONS TO THE AGENDA

The following additions were made to the agenda:

- Shared Assessor Services Agreement with Town of Wheatfield
- Inter-fund Borrowing for Fisk Road Highway Rehabilitation Project
- Drainage Easement

### COMMUNICATIONS

Town Clerk Maurer read a letter written by a Creekview Drive resident complimenting the Town officials on the job they are doing.

She also reported the following upcoming events:

#### **Niagara County Household Hazardous Waste Event**

Saturday, October 26<sup>th</sup>, 10:00 a.m. - 2:00 p.m.

North Tonawanda DPW, 753 Erie Avenue, North Tonawanda, NY

#### **NYS Citizen Preparedness Training Event**

Tuesday, October 29<sup>th</sup>, 7:00 p.m. – 9:00 p.m.

Pendleton Town Hall

#### **Pendleton Veterans' Association Monument Dedication and Veterans Day Ceremony**

Monday, November 11<sup>th</sup>, 11:00 a.m.

Pendleton Town Hall

Mrs. Maurer also stated that the Town Hall will be closed on the following dates:

- Tuesday, November 5<sup>th</sup> – Election Day
- Monday, November 11<sup>th</sup> – Veterans Day
- Thursday, November 28<sup>th</sup> and Friday, November 29<sup>th</sup> – Thanksgiving Holiday

**PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS**

There were no public remarks or comments on the agenda items.

**ROUTINE BUSINESS**

RESOLUTION 247-19

**APPROVAL OF MINUTES**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible  
Nays 0  
Absent 2 Fischer, Ostrowski

Resolved that the minutes of the Regular Meeting on September 9, 2019 be approved as submitted by the Town Clerk.

RESOLUTION 248-19

**APPROVAL OF MINUTES**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible  
Nays 0  
Absent 2 Fischer, Ostrowski

Resolved that the minutes of the Budget Session on September 16, 2019 be approved as submitted by the Town Clerk.

RESOLUTION 249-19

**APPROVAL OF MINUTES**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible  
Nays 0  
Absent 2 Fischer, Ostrowski

Resolved that the minutes of the Work Session on September 23, 2019 be approved as submitted by the Town Clerk.

RESOLUTION 250-19

**APPROVAL OF MINUTES**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible  
Nays 0  
Absent 2 Fischer, Ostrowski

Resolved that the minutes of the Budget Session on September 23, 2019 be approved as submitted by the Town Clerk.

RESOLUTION 251-19

**APPROVAL OF MINUTES**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible  
Nays 0  
Absent 2 Fischer, Ostrowski

Resolved that the minutes of the Budget Session on October 7, 2019 be approved as submitted by the Town Clerk.

RESOLUTION 252-19

**AUTHORIZE PAYMENT OF ABSTRACT #19**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible  
Nays 0  
Absent 2 Fischer, Ostrowski

Resolved to authorize payment of Voucher Abstract #19, Vouchers #11185 – 11295, to be paid on October 16, 2019

General Fund	\$	80,194.24
Highway	\$	702,532.43
Refuse	\$	38,465.64

Sewer	\$	3,452.10
Water	\$	75,033.79
Trust & Agency	\$	9,936.00
Total	\$	909,614.20

## OTHER REPORTS

**Supervisor Maerten** reported that tax collected in August 2019 was \$143,869.01. This is an increase of \$18,677.90 when compared with August 2018. The year to date received is \$1,096,329.12 which is an increase of \$41,665.02 from 2018.

Supervisor Maerten also commented on the completion of the Fisk Road Rehabilitation Project.

**Councilman Leible** reported that the new Town Hall vehicles are now in use. He also reported that the Pendleton Veterans Association liability insurance is all set now and in effect.

**Councilman Graham** read the Building Department Monthly report for Building Inspector/Code Enforcement Officer Diedrich who was absent. He reported that in the month of September the Building Department issued 28 building permits and nine contractor licenses. Twenty-six building permits have been completed. They conducted 44 visual inspections and issued seven violations. Currently there are seven outstanding violations, 14 open complaints and two residents in court for various infractions. The Building Department is also working on a revised permit fee schedule.

**Attorney Joerg** reported that he and Engineer Britton received a description and survey for a drainage easement between Bear Ridge Road and West Canal Road and find them to be acceptable. He also informed the Board that Borrego Solar Systems, Inc. submitted a Decommissioning Agreement and a Decommissioning Bond for the proposed solar project on Bear Ridge Road. He asked the Board to review it. Once approved by the Board he will forward it to Borrego for their approval.

**Engineer Britton** updated the Board on the status of various projects including The Meadows at Pendleton North Subdivision, Fisk Road Rehabilitation Project, the Water Tank Painting Project, Bear Ridge Solar and the Tonawanda Creek Culvert Replacement Project. A discussion also took place regarding the proposed new Stormwater District and establishment of the Sewer Improvement Area for The Meadows at Pendleton North Subdivision. Both of these items will be discussed at upcoming Public Hearings.

**Budget Officer Bergman** reported that he is continuing work on the 2020 Budget. He is also working on closing out some of the projects recently completed including the Fisk Road and Bike Path projects. Supervisor Maerten reported that payments and reimbursements for these projects are pending. Budget Officer Bergman explained that Highway Department will borrow funds from the Town's General Account to make these payments. The Highway Department will pay back the loans plus 2% interest.

## DEPARTMENT HEADS

**Town Clerk Maurer** provided the Board with the monthly report from the Town Clerk's office. Most of the fees paid for the month of September were the result of new homes being built in the town and water/sewer bills. She also read the Water/Sewer collection monthly report for September.

**Assessor Coughlin** reviewed the Assessor's Office monthly report from September. She accompanied the Building Inspector on a couple final inspections, added new houses to the 2020 Tax Roll, made sketches from blueprints and valued homes. Assessor Coughlin reviewed the building permits that were recently closed out, answered 80+ calls and addressed 30 walk-ins from residents that were confused about the Enhanced and Aged Exemptions. She also prepared the water and sewer charges for the tax levy and worked on preparing exemption forms for the annual renewals.

**Supervisor Maerten** read the Water/Sewer Department report for Superintendent Stowell who was absent. The Sewer Department had five regular and two overtime calls. They installed two

new build sewer taps, repaired two sewer breaks, delivered recycle totes and unplugged a gravity sewer service on Killian Road. The Water Department completed four new build taps, one water push, seven sold home compliance inspections and nine final reads. They repaired a water break on Lakeview Court, installed a new meter, replaced an old trace reader, repaired a frozen meter and completed 84 stakeouts. He also reported that the Highway Department has been busy with ditch mowing, road work repairs and culvert replacements.

A motion was made by Councilman Leible, seconded by Councilman Graham, to enter into an Executive Session with the Town Attorney to discuss negotiations at 7:40 p.m. Motion carried.

A motion was made by Councilman Leible, seconded by Councilman Graham, to return from the Executive Session and return to the Regular Meeting at 7:53 p.m. Motion carried.

## **NEW BUSINESS**

### **RESOLUTION 253-19**

#### **ASSESSOR APPOINTMENT**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible

Nays 0

Absent 2 Fischer, Ostrowski

Resolved to re-appoint Kelli Coughlin as the Town Assessor for a six-year term effective October 1, 2019 to September 30, 2025.

### **RESOLUTION 254-19**

#### **BOARD OF ASSESSMENT REVIEW APPOINTMENT**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible

Nays 0

Absent 2 Fischer, Ostrowski

Resolved to appoint Donna Wyant to the Board of Assessment Review for a five-year term effective October 1, 2019.

### **RESOLUTION 255-19**

#### **MARRIAGE LICENSE LOCAL FEE WAIVED – ACTIVE DUTY MEMBERS**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible

Nays 0

Absent 2 Fischer, Ostrowski

Resolved to allow the Town Clerk to waive the local fee of \$17.50 for a marriage license, when either of the parties making application for such certificate is a member of the armed forces of the United States on active duty, pursuant to New York State Senate Bill S3756.

### **RESOLUTION 256-19**

#### **NIMAC RESOLUTION**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible

Nays 0

Absent 2 Fischer, Ostrowski

WHEREAS, the Niagara Falls Air Reserve Station (NFARS) is Niagara County's largest employer with over 3,000 full time and part time employees and is responsible for generating over \$88 million in annual payroll, \$168 million in annual economic impact and plays a critical role in our national security, and

WHEREAS, in the past, NFARS has found itself at risk of closure through the Base Realignment and Closure process (BRAC), and

WHEREAS, through an intense and concentrated community effort, locally and in Washington, supporting NFARS, these closure proposals were reversed, and

WHEREAS, a persistent threat to any U.S. Air Force installation is "encroachment" from land uses in surrounding areas that interfere with flight operations, and

WHEREAS, the presence of encroachments has led to U.S. Air Force bases being closed, and

WHEREAS, local governments play a crucial role in evaluating and approving land uses and projects, and

WHEREAS, the municipalities of Wheatfield, Lewiston, Niagara, Pendleton, Cambria and Niagara Falls have all explored the Office of Economic Adjustment (OEA) program to fund the development of a “Compatible Use Plan” (CUP) to protect military installations from encroachment uses, and

WHEREAS, NFARS and Niagara Military Affairs Council (NIMAC) leadership have stated that a CUP designed by these communities would be a strong statement to the U.S. Air Force that the community is invested in the long-term viability of NFARS:

NOW THEREFORE BE IT RESOLVED that the Town of Pendleton supports pursuing funding for a “Compatible Use Plan” through the Office of Economic Adjustment, in conjunction with the NFTA, Niagara County and NFARS for the purposes of coordinating local land use planning to prevent encroachment uses from interfering with operations at NFARS, and,

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Niagara County Legislature, NFARS, NIMAC, Senators Charles Schumer and Kirsten Gillibrand and the Clerk of the House of Representatives of the Twenty-Seventh Congressional District of New York.

RESOLUTION 257-19

**TEAMSTERS AGREEMENT**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible

Nays 0

Absent 2 Fischer, Ostrowski

Resolved to accept the final edition of the Collective Bargaining Agreement between the Town of Pendleton and Teamsters Local 264, effective January 1, 2020 to December 31, 2021.

RESOLUTION 258-19

**RECREATIONAL PATHWAYS SUPPLEMENT AGREEMENT**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible

Nays 0

Absent 2 Fischer, Ostrowski

Resolved to accept the Recreational Pathways Expansion Project (NYSDOT Project No. 5760.85) Supplement Consultant Agreement No. 3 as written.

RESOLUTION 259-19

**SCHEDULE PUBLIC HEARING – SEWER IMPROVEMENT AREA**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible

Nays 0

Absent 2 Fischer, Ostrowski

Resolved to schedule a Public Hearing for the establishment of a Sewer Improvement Area for The Meadows at Pendleton North Subdivision on November 11, 2019 at 6:50 p.m.

RESOLUTION 260-19

**SCHEDULE PUBLIC HEARING – NEW STORMWATER DISTRICT**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible

Nays 0

Absent 2 Fischer, Ostrowski

Resolved to schedule a Public Hearing for the proposed new Stormwater District for the Meadows at Pendleton North Subdivision on November 11, 2019 at 6:55 p.m.

The Town received bids for the repair of approximately 15 gravity sewer infiltration leaks from the following vendors:

<b>Vendor</b>	<b>Quantity</b>	<b>Individual Price</b>	<b>Total Bid</b>
R.I.C. Plumbing, Inc.	15	\$1,125.00	\$16,875.00
Mulla Plumbing Co.	15	\$1,275.00	\$19,125.00
S.M. Pynn & Sons, Inc.	15	\$1,290.00	\$19,350.00

RESOLUTION 261-19

**GRAVITY SEWER INFILTRATION REPAIRS – PENDALE SUBDIVISION**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible  
Nays 0  
Absent 2 Fischer, Ostrowski

Resolved to approve up to \$26,000.00 to R.I.C Plumbing, Inc., at a cost of \$1,125.00 per unit, for the repair of various infiltration leaks.

RESOLUTION 262-19

**WENDELVILLE FIRE MEMBER REINSTATEMENT**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible  
Nays 0  
Absent 2 Fischer, Ostrowski

Resolved to accept the reinstatement of Wendelville Fire Company member Harold Braunscheidel.

RESOLUTION 263-19

**TOWN OF WHEATFIELD SHARED ASSESSING SERVICES AGREEMENT**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible  
Nays 0  
Absent 2 Fischer, Ostrowski

Resolved to accept the final Shared Assessing Services Agreement with the Town of Wheatfield to commence on January 1, 2020.

RESOLUTION 264-19

**INTER-FUND BORROWING**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible  
Nays 0  
Absent 2 Fischer, Ostrowski

Resolved to authorize inter-fund borrowing up to \$610,000.00, from the General Fund, for Highway expenses from Fisk Road to be reimbursed when the Town is reimbursed.

RESOLUTION 265-19

**DRAINAGE EASEMENT**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible  
Nays 0  
Absent 2 Fischer, Ostrowski

Resolved to accept the drainage easement for the property at the intersection of West Canal Road and Bear Ridge Road as presented at tonight's meeting.

RESOLUTION 266-19

**SCHEDULE PUBLIC HEARING FOR THE 2020 BUDGET**

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

ADOPTED: Ayes 3 Maerten, Graham, Leible  
Nays 0  
Absent 2 Fischer, Ostrowski

Resolved to schedule a Public Hearing for the presentation to the public of the Preliminary Budget for 2020 on November 7, 2019 at 7:00 p.m.

## **BOARD MEMBERS DISCUSSION**

Supervisor Maerten announced that the following meetings have been scheduled:

- Budget Session, October 21, 2019, 7:00 p.m.
- Work Session, October 28, 2019, 7:00 p.m., followed by a Budget Session
- Budget Session, November 4, 2019, 7:00 p.m.
- Budget Public Hearing, November 7, 2019, 7:00 p.m.
- Regular Meeting, November 11, 2019, 7:00 p.m.

## **PUBLIC REMARKS/COMMENTS**

A member of the Board of Assessment Review (BAR) asked questions about the appointment of the new member of the BAR and the agreement made with the Town of Wheatfield for the shared assessing services. A resident from Mapleton Road asked questions about the Decommissioning Bond that was discussed earlier in the meeting thinking that it was regarding the Bear Ridge Solar Project proposed for Lockport Road. It was actually regarding the Borrego Solar Project that will be located on Bear Ridge Road. Supervisor Maerten explained that there is often confusion between the two solar projects because of the similarity between the name of one project and the location of the other. The resident expressed her concerns of the environmental dangers of this project. She also commented about new homes not appearing on “Real Info” which is used for real estate and insurance research. Supervisor Maerten asked for her to leave contact information so he could look into this. He also informed the resident that the Town of Pendleton, the Town of Cambria and the Niagara County Legislature have joined forces to pass resolutions in opposition to the Bear Ridge Solar Project.

Motion by Councilman Leible, seconded by Councilman Graham, to adjourn from the Regular Meeting at 8:17 p.m. Motion carried.

A Budget Session immediately followed the Regular Meeting.

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Deborah K. Maurer, Town Clerk