

**TOWN OF PENDLETON
REGULAR MEETING
November 9, 2020**

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 9th day of November 2020 at 7:00 p.m. The meeting was open to the public.

PUBLIC HEARINGS

PUBLIC HEARING # 1 – PROPOSED LOCAL LAW TO IMPOSE SECOND NOTICE FEE FOR UNPAID TAX BILLS

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on October 30, 2020 and on the Town's website.

Supervisor Maerten opened the Public Hearing at 7:01 p.m.

The purpose of the hearing is to receive public input for a proposed Local Law to impose a fee of up to \$2.00 to be added to unpaid taxes, to cover the cost of mailing such notice, permissible per Real Property Tax Law § 987.

There were no comments or questions.

Motion made by Councilman Leible, seconded by Councilman Fischer, to close the Public Hearing at 7:02 p.m. Motion carried.

PUBLIC HEARING # 2 – LAST FRONTIER REZONING REQUEST

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on October 30, 2020 and on the Town's website.

Supervisor Maerten opened the Public Hearing at 7:02 p.m.

The purpose of the hearing is to consider a request by Last Frontier LLC, to rezone the property (SBL 166.00-1-16.13) from R-1 Residential to CO-2 Medium Commercial. The property is located on the north side of Tonawanda Creek Road at the intersection of Transit Road.

Mr. Tim Arlington, from Apex Consulting, gave a brief presentation on the construction project proposed for this property. The aforementioned property is currently zoned R-1 Residential and CO-2 Medium Commercial. Mr. Arlington explained that the owner is requesting rezoning of the rear portion of the property, approximately 100'–150', for the development of five 8-unit apartment buildings. He provided details of the project noting that the initial review process has been completed and approved by both the Town's Planning Board as well as the Niagara County Planning Board. Supervisor Maerten clarified that the purpose of this public hearing is only for the approval of the rezoning of the property. Several questions were asked by the Board and members of the audience. Mr. Arlington provided answers to the questions and additional information on the project. It was noted that a SEQR will be completed during the next steps of this project which will require a traffic study.

Motion made by Councilman Leible, seconded by Councilman Fischer, to close the Public Hearing at 7:19 p.m. Motion carried.

WORK SESSION

Supervisor Maerten opened the Work Session at 7:19 p.m.

Town Clerk Maurer reported that she has been working with Dawn Timm, Niagara County Refuse Disposal District Director, on the extra capacity bag tags. The Town will need to decide to either purchase tags from Modern Corporation or independently purchase through a different vendor. She is researching the costs of the tags for both situations and will keep the Board informed of the results. Mrs. Maurer also informed the Board that the new refuse totes will be delivered to residents on Monday, November 23rd.

REGULAR MEETING

Supervisor Maerten called the meeting to order at 7:28 p.m.

Supervisor Maerten read the invocation and the salute to the flag. A moment of silence was observed recognizing the passing of long time Wendelville Fire Company member and past president Glenn Christman.

Roll Call:

Supervisor Maerten	Present
Councilman Evchich	Present
Councilman Fischer	Present
Councilman Graham	Present
Councilman Leible	Present

Also present:

Deborah Maurer – Town Clerk
Ron Diedrich – Building Inspector/Code Enforcement Officer
Jim Chisholm - Assessor
Dave Britton – Town Engineer
Don Bergman – Budget Officer
Jeff Stowell – Highway and Water/Sewer Superintendent
Wolfgang Buechler – Zoning Board of Appeals Chairman
Margit Denning – Public Works Clerk

There were six residents in attendance.

ADDITIONS OR DELETIONS TO THE AGENDA

The following revisions were made to the agenda:

- Add - Easement
- Add - Water/Sewer Department Laborer Appointment
- Add - Proclamation

COMMUNICATIONS

There were no items to report.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

A resident and representative from Hunters Creek Condominiums addressed the Board asking for assistance with locating a water leak at their private development. He presented information detailing all of the steps they have taken so far to resolve this problem but have yet to locate the leak. A discussion occurred between the resident, the Town Board, the Town Engineer, and the Highway and Water/Sewer Superintendent. Supervisor Maerten recommended that he follow up with Engineer Britton and the Water/Sewer Department for recommendations on how Hunters Creek can proceed.

ROUTINE BUSINESS

RESOLUTION 188-20

APPROVAL OF MINUTES

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

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

Resolved to approve the meeting minutes for the Budget Meeting held on October 12, 2020, as presented by Town Clerk Maurer.

RESOLUTION 189-20

APPROVAL OF MINUTES

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

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

Resolved to approve the meeting minutes for the Work Session held on October 26, 2020, as presented by Town Clerk Maurer.

RESOLUTION 190-20

ABSTRACT #21

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

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

Resolved to authorize payment of Voucher Abstract #21, Vouchers #20-006495 to #20-00705, to be paid on November 12, 2020:

General Fund	\$	24,993.66
Highway	\$	33,598.95
Sewer	\$	3,733.28
Water	\$	3,696.40
Trust & Agency	\$	2,504.50
Total	\$	68,526.79

OTHER REPORTS

Supervisor Maerten reported that tax collected for September 2020 was \$225,823.67. This is an increase of \$43,118.30 when compared with September 2019. The year to date received was \$1,252,770.21 which is a decrease of \$26,264.28 from 2019.

Supervisor Maerten also reported on the ongoing traffic safety concerns near Starpoint. He stated that he is continuing to work with Senator Ortt, Assemblymember McMahon, the NYS Department of Transportation (DOT) and the Niagara County Sheriff's Office on this issue. They have been meeting on this subject and the NYS DOT is conducting a traffic evaluation in the area.

Additionally, Supervisor Maerten provided clarification regarding information reported in the previous month's meeting minutes concerning the settlement offer related to the ongoing litigation with National Fuel Gas (NFG). He explained that NFG sued the Town of Pendleton and the decision made by the federal court was not in the Town's favor. The Town filed a Notice of Appeal but was faced with additional attorney's fees and potential damages claimed by NFG. The attorney representing the Town was presented with an offer from NFG stating that they would drop all claims for attorney's fees and damages if the Town withdrew its Notice of Appeal. The Board voted to approve and accept the settlement offer based on the recommendation of the attorney handling this case for the Town. He stated that NFG is still facing much larger opposition than the Town of Pendleton and reported that a case between NFG and NYS Department of Conservation is currently in federal court.

Councilman Leible reminded the Board members and department heads that the newsletter articles are due earlier this month because of the holidays. He requested that they are turned in by November 18th. Councilman Leible also read the Water/Sewer Department monthly report from October. The report, that was posted online, states that the Sewer Department had 12 regular and five overtime sewer calls, five sewer breaks were repaired and the park bathrooms were winterized. The Water Department was also very busy during the month of October completing 14 sold home inspections, six final reads, three meter installations and 59 stakeouts. The Water Department also reported that the quarterly meter readings were completed in October.

Councilman Fischer read the Highway monthly report that was also posted online. During the month of October, the Highway Department chipped brush, cleaned ditches, completed paving work on Dunnigan Road, and completed maintenance in the parks including prepping the new bocce ball courts. They also repaired equipment and prepped trucks for the winter season. Councilman Fischer commented that he saw the work done on Dunnigan Road and said that it looks really good. He also reported that he completed the Length of Service Award Program (LOSAP) audit with the Wendelville Fire Company for the months of January – September 2020 and that he attended a Pendleton Action Committee meeting.

Councilman Graham reported that interviews were completed for the Water/Sewer Department Laborer position. He stated that the interviews went well and they found a good candidate for the position. He also wanted to acknowledge the fine work done by the Election Day volunteers this year. He recognized the hard work that they do, especially this year with the changes that were made to the process. Many of the Board members echoed his sentiments as well.

Councilman Evchich mentioned that a section of Mason’s Mission playground was temporarily closed for repairs.

Engineer Britton provided highlights from his monthly Engineer’s report stating that John Lavrich is working diligently on the Town Code updates. He is hoping that the next passage, “Red #2”, will be approved by the Board in December. He also reported that the SEQR comment period for the salt storage shed and emergency generator SAM Grant has been closed. The Board will need to take action on the SEQR at the next meeting. Engineer Britton also stated that the sanitary sewer smoke testing is now complete and the manhole repairs will begin soon.

Budget Officer Bergman reported that the 2021 Budget and amendments will be voted on later in the meeting. He thanked everyone for their support and help during the budget process. He also wanted to thank everyone that has assisted him throughout his years on the job. Mr. Bergman announced that he is now a married man having recently wed a very special lady, Mary Wilson from the Town of Lockport. Everyone congratulated Mr. Bergman on his wedding and thanked him for his service to the Town. He will be missed.

DEPARTMENT HEADS

Town Clerk Maurer reported on the monthly Town Clerk and Water/Sewer Billing reports. She also reminded everyone that the Town Clerk’s office sells E-ZPass tags which are becoming more popular due to the fact that New York State has moved to cashless tolling.

Highway and Water/Sewer Superintendent Stowell mentioned that the auction on some of the surplus items is going well. Bids have come in for some of the trucks. He also reported that the Town of Royalton is scheduled to come pave the pavilion at Depeau Park.

Building Inspector Diedrich stated that all is in order in the Building Department at this time and reminded everyone that he is always available for questions or concerns.

Assessor Chisholm reported that things are going well in the Assessor’s Office and mentioned that he has recently taken 300 pictures of houses to update his files.

NEW BUSINESS

RESOLUTION 191-20

SECOND NOTICE FEE FOR UNPAID TAX BILLS

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

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

Resolved to impose a \$2.00 fee to be added to unpaid taxes, to cover the cost of mailing such notices, permissible per Real Property Tax Law § 987, effective immediately.

SEQR Determination – Last Frontier LLC Rezoning Request

This item was removed from the agenda.

RESOLUTION 192-20

REZONING APPLICATION – LAST FRONTIER LLC

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

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

Resolved to deem the entire parcel SBL 166.00-1-16.13 to CO-2 Medium Commercial.

RESOLUTION 193-20

SUBSTITUTE COURT CLERK APPOINTMENT

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

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

Resolved to approve Barbara Ricotta as a court clerk substitute, at the rate of \$17.00 per hour, up to the normal hours scheduled for the current court clerk, for the period of November 2, 2020 – May 1, 2021.

RESOLUTION 194-20

2021 BUDGET AMENDMENTS TO PRELIMINARY BUDGET

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

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

Resolved to amend the following:

General Fund

- Supervisor - Personal Services Secretary (A1220.011) from \$16,746.00 to \$17,239.00
- Assessor – Personal Services Clerical (A1355.011) from \$12,039.00 to \$12,397.00
- Town Clerk – Personal Services Clerical (A1410.012) from \$55,922.00 to \$57,578.00
- Town Hall – Personal Services Clerical (A1620.010) from \$10,423.00 to \$10,800.00
- Safety Inspection – Secretarial Assistance (A3620.015) from \$12,039.00 to \$12,397.00
- Superintendent of Highway – Personal Services Clerical (A5010.011) from \$16,000.00 to \$16,400.00
- Budget – Personal Services (A1340.010) from \$2,600.00 to \$8,000.00
- Social Security/Medicare (A9030.080) from \$52,000.00 to \$52,700.00
- Ind. Audit & Accounting (A1320.040) from \$19,000.00 to \$15,000.00

Water Maintenance Fund

- Administration - Personal Services Clerical (SW8310.010) from \$30,300.00 to \$30,534.00
- Employee Benefits – Social Security/Medicare (SW.9030.080) from \$5,800.00 to \$5,820.00

Sewer Improvement Fund

- Administration - Personal Services Clerical (SS.8110.010) from \$30,300.00 to \$30,534.00
- Employee Benefits – Social Security/Medicare (SS.9030.080) from \$10,300.00 to \$10,320.00

RESOLUTION 195-20

APPROVAL OF 2021 PRELIMINARY BUDGET WITH AMENDMENTS

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

ADOPTED: Ayes 4 Maerten, Evchich, Fischer, Graham
Nays 1 Leible

Resolved to adopt the 2021 Preliminary Budget as proposed with amendments [RESOLUTION 194-20].

RESOLUTION 196-20

DRAINAGE EASEMENT

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

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

Resolved to authorize the Town Supervisor to sign the drainage easement for the property on the corner of Bear Ridge Road and West Canal Road.

RESOLUTION 197-20

WATER/SEWER DEPARTMENT APPOINTMENT

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

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

Resolved to appoint resident Kevin Johnson as a Laborer in the Water/Sewer Department, at Step 1 under the contract, moving to successive steps upon the anniversary of the appointment date, dependent upon successful completion of all pre-employment requirements and a six-month probation.

RESOLUTION 198-20

PROCLAMATION HONORING DONALD BERGMAN

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

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

**Proclamation Honoring
Donald Bergman**

WHEREAS, Donald Bergman is a life-long resident of the Town of Pendleton; and

WHEREAS, our community has benefited from Mr. Bergman's dedication of many hours of service, selflessly volunteering his talents and energy for the betterment of the Town of Pendleton; and

WHEREAS, Mr. Bergman has served as Budget Officer for over twenty years, dedicating many hours to fiscal oversight and attending to all aspects of the yearly budgeting process; and

WHEREAS, Donald is retiring from service to the Town of Pendleton effective December 31, 2020 and is committing to a well-earned retirement;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton, on behalf of the citizens of this great town that Donald Bergman is hereby recognized for his dedication and contributions to the Town of Pendleton and we thank him for his service to our community.

Congratulations and gratitude to Mr. Bergman was given by all.

PUBLIC REMARKS/COMMENTS

Margit Denning, a Public Works employee, asked if the Board had discussed the email she had sent regarding a salary increase. Supervisor Maerten responded that the salaries have been discussed at numerous budget meetings. He explained that initially the Board felt that pay increases would not be possible due to the loss of revenue from COVID but they eventually worked out some numbers that they felt were fair which were included in the adopted budget. She had additional questions about potential benefits for part-time employees. Supervisor Maerten stated that those items could be discussed further at the beginning of the year.

A resident stated that she was very excited about the new bocce ball courts and the paving at Depeau Park. She also stated her displeasure that Town Code § 247.16 Special Exceptions was approved by the Town Board at the September meeting because the text does not include anything allowing residents go to the Town Board thereby relinquishing the Board's power.

BOARD MEMBERS DISCUSSION

Supervisor Maerten announced that the next Regular Meeting is scheduled for December 14th at 7:00 p.m. A Work Session was not scheduled for November.

Motion by Councilman Leible, seconded by Councilman Fischer, to close the Regular Meeting at 8:27 p.m. Motion carried.

Deborah K. Maurer, Town Clerk