

**PENDING APPROVAL**

**TOWN OF PENDLETON**

June 8th, 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 8th day of June 2020 at 7:00 p.m. Pursuant to Governor Cuomo's Executive Order 202.1, temporarily modifying the Open Meetings Law due to the COVID-19 pandemic and in the interest of public safety, the meeting was not open to the public. The meeting was conducted as a live GoToMeeting and a conference call line was provided to the public allowing access to live audio. The agenda and related documents were posted online and public remarks and comments were accepted until 6:30 p.m. on the night of the meeting. The audio recording of the meeting is posted on the town's website.

**PUBLIC HEARING**

**PUBLIC HEARING - PROPOSED AMENDMENTS TO TOWN CODE (SEQR)**

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on May 18, 2020 and on the Town's website.

Supervisor Maerten opened the Public Hearing at 7:04 p.m.

The purpose of the hearing was to allow public input on the proposed amendments to the existing Town Code that are subject to SEQR, according to 6 NYCRR Section 617.4(b)(2) which states that the adoption of changes in allowable uses within any zoning district, affecting 25 or more acres of the district is a Type 1 action. The proposed action includes amendments to update and make current local land use regulations. Amendments and updates include changes to Sections; 247-16 Special Use, 247-86 Drainage, 247-87 Excavation and Fill, 247-92 Property Maintenances and Safety - Residential Construction, 247-12(M) Small Retail Business/Businesses in Conjunction with Small Contractor Shop, 247-10(E) Driveway Side Yard Setback, and 247-11(E) Driveway Side Yard Setback of the Town Code. A draft version of the proposed amendments is available for review on the Town's website at [www.pendletonny.us](http://www.pendletonny.us).

Supervisor Maerten asked for motion to cancel the Public Hearing due to the restrictions currently in place per Governor Cuomo's Executive Order 202.1 restricting attendance of the public.

Motion made by Councilman Leible, seconded by Councilman Fischer, to cancel the Public Hearing at 7:04 p.m. Motion carried.

**REGULAR MEETING**

Supervisor Maerten called the meeting to order at 7:05 p.m.

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

**Roll Call:**

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

**Also present:**

Deborah Maurer – Town Clerk  
Claude Joerg – Town Attorney  
Mark Walter – Deputy Supervisor

There were no residents in attendance pursuant to Governor Cuomo's Executive Order 202.1.

**ADDITIONS OR DELETIONS TO THE AGENDA**

There were no revisions made to the agenda.

**COMMUNICATIONS**

There were no items to report.

**PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS**

There were no public remarks or comments on the agenda items submitted prior to the meeting.

**ROUTINE BUSINESS**

**RESOLUTION 103-20**

**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 Regular Meeting held on May 11, 2020, as presented by Town Clerk Maurer.

**RESOLUTION 104-20**

**ABSTRACT #10**

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

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

Resolved to authorize payment of Voucher Abstract #10, Vouchers #20-00053 to #20-00098 that was paid on May 27, 2020:

General Fund	\$	4,778.87
Highway	\$	16,954.82
Refuse	\$	39,260.06
Sewer	\$	469.61
Water	\$	823.18
Total	\$	62,286.54

**RESOLUTION 105-20**

**ABSTRACT #11**

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 payment of Voucher Abstract #11, Vouchers #20-00099 to #20-00140 to be paid on June 10, 2020:

General Fund	\$	24,182.33
Highway	\$	10,835.81
Sewer	\$	4,329.24
Water	\$	4,292.05
Total	\$	43,639.43

**OTHER REPORTS**

**Supervisor Maerten** reported that tax collected for April 2020 was \$85,786.99. This is a decrease of \$35,090.40 when compared with April 2019. The year to date received was \$498,529.29 which is a decrease of \$2,559.31 from 2019. Supervisor Maerten reiterated the fact that we need to keep an eye on the decrease of revenue in the coming months.

**Councilman Leible** reported that he has been working on the plastic barriers for the court room and anticipates that they will be installed by next week.

**Councilman Fischer** spoke about the Boy Scout sponsored food drive that was held on June 6<sup>th</sup> to benefit the Pendleton Food Pantry.

**Councilman Graham** reported that the Tonawanda Creek Road construction project is nearing its end. He expects the paving to begin by the end of this month.

**Councilman Evchich** stated that he has been working on the addendum to the Recreation Master Plan. He thanked Sandy Guzzetti, James Sobczyk and Beatrice Mattina for their help. He noted there are several volunteers who would like to create a new committee to address the needs of our trails.

**Town Attorney Joerg** provided an update on information he received at an earlier Niagara County Legislature meeting regarding the work being done on the Robinson Road Bridge. He also reported that Niagara County approved the Distribution of Mortgage Tax for the October 2019 – March 2020 collection period. He mentioned that the County Treasurer stated that this was a “very robust period” for the area.

#### **DEPARTMENT HEADS**

**Town Clerk Maurer** reported that monthly reports were submitted and posted online from the following departments:

- Town Engineer
- Assessor
- Building
- Highway
- Water Billing Clerk
- Town Clerk

She stated that all reports submitted to her prior to the meeting are posted online with the agenda for the public to review.

#### **RESOLUTION 106-20**

##### **RESCHEDULE PUBLIC HEARING – AMENDMENTS TO TOWN CODE (SEQR)**

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

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

WHEREAS, the Town Board of the Town of Pendleton passed a resolution on April 27, 2020 designating the Town’s intention to serve as Lead Agency for a proposed Type 1 action; and

WHEREAS, a public hearing is necessary related to the Town’s intention to serve as Lead Agency for this proposed Type 1 action; and

WHEREAS, the required public hearing was scheduled and announced for June 8, 2020; and

WHEREAS, Executive Orders of the Governor of the State of New York have prevented an open meeting for the scheduled public hearing date, resulting in the public hearing being cancelled by the Town Board;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 8th day of June 2020 that a public hearing is set for 6:55 p.m. on July 13, 2020 at the Town Hall, located at 6570 Campbell Boulevard in the Town of Pendleton. Furthermore, the scheduled public hearing details shall be publicized as required by the Town Clerk.

This resolution shall take effect immediately.

**UPDATE:** Per NYS [Executive Order No. 202.38](#), Governor Andrew M. Cuomo extended the suspension of in-person meeting requirements until July 6, 2020. The above Public Hearing will not be scheduled at this time. A determination will be made to reschedule once further clarification is made by Governor Cuomo after July 6<sup>th</sup>. DM 6.11.20

#### **RESOLUTION 107-20**

##### **SPEDS MS4 ANNUAL REPORT**

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

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

WHEREAS, the Town of Pendleton has been identified as a Municipal Separate Storm Sewer System (MS4) under the EPA's Phase II Stormwater Regulations under the Clean Water Act of 1999, and

WHEREAS, the Phase II Program requires each MS4 to prepare a Draft Annual Report on the Town's efforts to protect and improve the water quality of our streams and water bodies, and

WHEREAS, the public is invited to review the Draft Annual Report and provide input, and

WHEREAS, a Draft Annual Report has been prepared in conformance with the Phase II Regulations, and

WHEREAS, as part of, and required per, the Town's MS4 Permit, the Stormwater annual report has been finalized and reviewed by the Town's engineer and is ready to be submitted to the New York State Department of Environmental Conservation;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 8<sup>th</sup> day of June 2020 that the Town Board accepts said Draft Annual Report and is available for public review at the Town's website and authorizes the Supervisor to sign the annual report.

A lengthy discussion occurred regarding the potential to decrease budget lines from various departments due to the loss of revenue resulting from the COVID-19 pandemic. There are

**RESOLUTION 108-20**

**BUDGET LINE DECREASE – HIGHWAY CONTRACTUAL**

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

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

WHEREAS, the Town Board of the Town of Pendleton adopted the 2020 budget on November 7, 2019; and

WHEREAS, the approved budget includes a conservative prediction of revenue based on the best information available at the time of adoption; and

WHEREAS, the COVID-19 pandemic continues to have a profound effect on all and will continue to negatively affect Town of Pendleton revenues through at least the end of the 2020 calendar year; and

WHEREAS, immediate action is necessary to adjust expenses to reflect the anticipated continued decrease in revenue;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 8<sup>th</sup> day of June 2020 that the following action shall be taken:

- 1) Budget line Highway Repairs - Contractual (DA5110.0400) of the Highway budget shall be decreased from \$250,000 to \$125,000.
- 2) The Highway Superintendent is directed to present to the Town Board for consideration the required 284 Agreement reflecting the modified budget line, as such an agreement has not been approved by the Town Board for 2020.
- 3) This resolution shall take place immediately.

**RESOLUTION 109-20**

**TERMINATION OF EMPLOYMENT OF PART-TIME EMPLOYEE**

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton, on this 8<sup>th</sup> day of June 2020, that the employment of Christa Hayes in the position of part-time Personnel Records Clerk shall be terminated immediately.

**RESOLUTION 110-20**

**HIRING OF PART-TIME EMPLOYEE**

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 8th day of June 2020 that Alisha Jauch shall be appointed to the position of part-time Typist, effective immediately, with the rate of compensation of \$13.00 per hour.

RESOLUTION 111-30

**HIRING OF TEMPORARY SUMMER HELP**

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

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

WHEREAS, the Town of Pendleton traditionally hires one or more individuals each year as temporary summer help to assist with a variety of tasks, including but not limited to parks maintenance, and

WHEREAS, the Highway Superintendent has interviewed an individual for the position of temporary summer help and has asked the Town Board to appoint this individual;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 8th day of June 2020 that the Town Board appoints Jared Ott as temporary summer help effective immediately with a set rate of compensation of \$12.50 per hour.

RESOLUTION 112-30

**ACCEPTANCE OF AGREEMENT FOR EXPENDITURE OF HIGHWAY MONEYS (284 AGREEMENT)**

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

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

WHEREAS, the Superintendent of Highways and the Town Board of the Town of Pendleton desire to enter into an agreement for the expenditure of Highway funds for the maintenance of highways within the Town in accordance with the provisions of Highway Law §284; and

WHEREAS, pursuant to the provisions of Highway Law §284, the Town Highway Superintendent and the Town Board agree that the funds levied and collected in the Town for repair and improvement of highways, and received from New York State for State Aid for the repair and improvement of Highways, shall be expended in accordance with the Agreement for the Expenditure of Highway Moneys, and

WHEREAS, the Highway Superintendent has prepared an Agreement to spend Town Highway funds for the fiscal year commencing January 1, 2020, for maintenance, repair, and permanent improvements subject to the limitations of adopted budget lines for such activities;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 8th day of June 2020 that the Town Board accepts the Agreement for Expenditure of Highway Moneys presented on this day by Highway Superintendent Jeff Stowell.

RESOLUTION 113-30

**HIRING OF TEMPORARY SUMMER HELP - PENDING POSITION**

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

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

WHEREAS, the Town of Pendleton traditionally hires one or more individuals each year as temporary summer help to assist with a variety of tasks, including but not limited to parks maintenance, and

WHEREAS, the Highway Superintendent has advertised for the position of temporary summer help and has asked the Town Board to appoint an individual once proper screening has been completed;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 8th day of June 2020 that the Town Board approves the future appointment of an individual,

name to be supplied by the Highway Superintendent at a future date, as temporary summer help effective immediately with a set rate of compensation of \$12.50 per hour.

Motion by Councilman Leible, seconded by Councilman Fischer, to enter into an Executive Session with the Highway and Water/Sewer Superintendent, Town Attorney and Deputy Town Supervisor, to discuss a personnel issue in the Water/Sewer Department, at 7:30 p.m. Motion carried.

Town Clerk Maurer reported that she was informed during the meeting that the conference call was difficult to hear. She stated that a recording of the audio would be posted on the Town's website immediately following the meeting.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Executive Session at 8:28 p.m. Motion carried.

**PUBLIC REMARKS/COMMENTS**

There were no public remarks or comments.

**BOARD MEMBERS DISCUSSION**

Supervisor Maerten announced that a Work Session is tentatively scheduled for June 22, 2020 at 7:00 p.m.

Motion by Councilman Leible, seconded by Councilman Evchich, to adjourn from the Regular Meeting at 8:29 p.m. Motion carried.

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Deborah K. Maurer, Town Clerk

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