

## **TOWN OF PENDLETON**

July 13, 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 13th day of July 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.

### **WORK SESSION**

Supervisor Maerten opened the Work Session at 7:09 p.m.

#### Town Trails

Councilman Evchich provided an update regarding recent conversations with the Trail Keepers. The Trail Keepers maintain the Erie Canal trails in the area which are the responsibility of the NYS Canal Corporation. He would like to have five or six Pendleton residents make up a local committee to help maintain our town trails. Councilman Evchich explained that his goal is to have our local committee perform the same kind of maintenance that the Trail Keepers do on the canal trails and assist them in this process. He also asked the others to be on the lookout for any funding opportunities that might be available.

Supervisor Maerten mentioned that the next round of funding for "Rails to Trails" should be opening this fall. He stated that our grant writers will continue to pursue funding for this.

#### Frontier Chemical Site on Townline Road

This discussion item was removed from the agenda and postponed.

#### Additional Discussions

Supervisor Maerten stated that his goal is to have the August Regular Meeting open to the public. He asked Councilman Leible to check in to getting a constable to assist with the mandatory health screenings, etc. that will be required if we are open to the public.

Councilman Fischer reported that he recently spoke with a Cortland Drive resident who had concerns about the rash of illegal fireworks in the town over the recent months. Councilman Fischer asked if there was anything that could be done regarding this. Some of the other Board members remarked that this was a Statewide issue as well. The same resident also expressed concern over the use of golf carts and all-terrain vehicles (ATVs) in his subdivision and on the local trails. It was decided that the Niagara County Sheriff's Office should be notified of these issues for follow-up.

Councilman Fischer also mentioned that another resident contacted him with questions about the use of the park and pavilions. Supervisor Maerten explained that, due to a substantial loss of sales tax revenue as a result of the COVID-19 pandemic, the town does not have enough resources to be compliant with sanitizing protocol. He also remarked that other county and town parks are in the same situation.

Lastly, Mr. Fischer informed the Board that he is currently working with Bruce Culligan on the fire hydrant testing procedures for the fire company's Insurance Services Office (ISO) rating.

Councilman Evchich stated that Deputy Clerk Lemma brought up an idea to install hand sanitizer stations in the park. He felt it was a great idea and that Mason's Mission Foundation will be donating a hand sanitizer station.

Supervisor Maerten said that he sent information about bocce courts to Councilmen Graham and Evchich recommending that they share it with Recreation Director, Beatrice Mattina. He mentioned that this might be a good Eagle Scout project.

Councilman Graham reported that the tennis court and hockey area in Depeau Park is in need of repairs. The Recreation Committee had previously attempted to get quotes for resurfacing of these courts but that the repairs needed are much more than “blacktop sealing” of the surface. Money was allocated in the Parks and Recreation Fund of the 2020 budget for this project. He noted that Recreation Director Mattina is working on getting current quotes for this.

Councilman Graham also noted that the Tonawanda Creek Road construction project should be wrapping up soon.

Councilman Leible informed the Board that Justices Maziarz and Mack applied for a grant to cover the expenses of installing the barrier that was put in place in the court [COVID-19 protection].

The Work Session was called to an end at 7:30 p.m.

### **REGULAR MEETING**

Supervisor Maerten called the meeting to order at 7:30 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**

The following revision was made to the agenda:

- Add – Request for Linear Speed Evaluation

### **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 114-20

### **APPROVAL OF MINUTES**

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 the meeting minutes for the Regular Meeting held on June 8, 2020, as presented by Town Clerk Maurer.

**RESOLUTION 115-20**

**ABSTRACT #12**

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 #12, Vouchers #20-00140 to #20-00174 that was paid on June 24, 2020:

General Fund	\$	9,009.43
Highway	\$	2,001.99
Refuse	\$	39,578.50
Sewer	\$	23,075.90
Water	\$	290.00
Total	\$	73,955.82

**RESOLUTION 116-20**

**ABSTRACT #12A**

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 #12A, Voucher #20-00196, that was paid on June 30, 2020:

Highway	\$	23.20
Total	\$	23.20

**RESOLUTION 117-20**

**ABSTRACT #13**

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 #13, Vouchers #20-00175 to #20-00195 and #20-00197 to #20-00271 to be paid on July 15, 2020

General Fund	\$	31,038.99
Highway	\$	13,951.17
Sewer	\$	3,786.72
Water	\$	54,297.13
Trust & Agency	\$	897.49
Total	\$	103,971.50

**OTHER REPORTS**

**Supervisor Maerten** reported that tax collected for May 2020 was \$95,775.67. This is a decrease of \$43,502.65 when compared with May 2019. The year to date received was \$594,304.96 which is a decrease of \$51,827.53 from 2019.

**Councilman Leible, Councilman Fischer, Councilman Graham, Councilman Evchich, and Town Attorney Joerg** had nothing additional to report.

**DEPARTMENT HEADS**

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

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

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

RESOLUTION 118-20

**SCHEDULE PUBLIC HEARING – TOWN CODE § 235-4 GENERAL PROVISIONS**

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 Board of the Town of Pendleton desires to modify Town Code § 235-4 General Provisions; and

WHEREAS, a public hearing is necessary to enact the desired Town Code modifications;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13<sup>th</sup> day of July 2020 that a public hearing is set for 6:50 p.m. on August 10, 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.

RESOLUTION 119-20

**RESCHEDULE PUBLIC HEARING – LEAD AGENCY TYPE 1 ACTION**

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 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 July 13, 2020; and

WHEREAS, the country's collective response to the current pandemic and 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 13<sup>th</sup> day of July 2020 that a public hearing is set for 6:55 p.m. on August 10, 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.

Pendleton Multiuse Community Center – Greenway Letter

This item was removed from the agenda by Supervisor Maerten.

RESOLUTION 120-20

**REFUSE AND RECYCLING BID**

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

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

WHEREAS, the Town of Pendleton's current Refuse and Recycling collection and disposal contract expires on December 31, 2020 and a contract extension is not possible, and

WHEREAS, the Town has previously contracted refuse and recycling collection and disposal services jointly with other Niagara County municipalities to pursue costs savings possible through such collaboration; and

WHEREAS, the Towns of Cambria, Newfane, Pendleton and Somerset and the Villages of Barker and Middleport desire and believe it is in the best interest to jointly bid a refuse and recycling collection, disposal, and marketing contract successor as a whole; and

NOW, THEREFORE BE IT RESOLVED, that the Town of Pendleton does hereby authorize a joint bid for its refuse and recycling collection, disposal, and marketing contract in

conjunction with the Towns of Cambria, Newfane, Pendleton and Somerset and Villages of Barker and Middleport; and be it further

RESOLVED, that the Town Supervisor is hereby authorized to sign any joint municipal agreements to facilitate the same.

RESOLUTION 121-20

**NETWORK REPAIR AND UPGRADE**

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

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

Nays 0

WHEREAS, all departments and operations of the Town of Pendleton are reliant upon the Town's data network for the efficient, timely, and lawful performance of all duties and functions; and

WHEREAS, the Town of Pendleton continues to identify and remedy data network components that are not secure, improperly installed, or otherwise nonconforming with accepted standards of operation; and

WHEREAS, it was determined that the Town's data network contains components that are in immediate need of replacement, repair, or upgrade as identified by the Town's information technology contractor, Niagara County Information Technology Department, during continued work being performed on the Town's data network; and

WHEREAS, it was deemed that knowingly operating a data network with compromised components posed a danger to Town operations and the residents served by the Town, therefore presenting an emergency situation; and

WHEREAS, such an emergency situation is outlined within the Town's adopted Procurement Policy, whereby the solicitation of multiple requests for proposals is not possible in a timely manner nor required;

NOW, THEREFORE BE IT RESOLVED by the Town Board of the Town of Pendleton on this 13<sup>th</sup> day of July 2020 that work performed by Armored Access Inc. was performed in an emergency situation to rectify network security issues and the payment of \$3,680.00 without solicitation of multiple requests for proposal was prudent and the amount shall be paid under the outlined circumstances.

RESOLUTION 122-20

**MULTIUSE TRAIL SYSTEM GRANT APPLICATIONS**

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

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

Nays 0

WHEREAS, the Town of Pendleton has established and maintains a multi-use trail system that traverses the Town from the southeast trailhead on Townline Road to the northeast terminus on Lockport Road, and

WHEREAS, construction of the Town's trail system has been substantially funded by governmental grant programs dedicated to the establishment of such trail systems, and

WHEREAS, the section of trail from Meyer Road to Killian Road remains unimproved and it is in the best interest of all current and future trail users to commence construction activities to improve this section of trail, as has been completed on all other trail sections, and

WHEREAS, the Town Board desires to identify and pursue all possible funding opportunities to improve the section of trail between Meyer Road and Killian Road,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13<sup>th</sup> day of July 2020 that the Town Board is committed to completion of the Town's multiuse trail system and the Town's grant writing and management consultant is hereby directed to commence work on grant applications from any source that may provide full or partial funding for this project.

RESOLUTION 123-20

**SPEED LIMIT EVALUATION – DONNER ROAD**

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 Board of the Town of Pendleton has received multiple communications from residents voicing a safety concern related to the speed at which traffic travels on Donner Road; and

WHEREAS, posted speed limits are solely determined by the New York State Department of Transportation; and

WHEREAS, a request for speed limit evaluation may be made jointly by the Town of Pendleton and Niagara County; and

WHEREAS, a request for speed limit evaluation must be made through submission of NYSDOT Form TE 9, Town – County Resolution for Linear Speed; and

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13<sup>th</sup> day of July 2020 that the Supervisor is authorized to submit a completed NYSDOT Form TE 9 to Niagara County Public Works for joint submission to the New York State Department of Transportation requesting evaluation of the posted linear speed limit on Donner Road.

This resolution shall take effect immediately.

Motion by Councilman Leible, seconded by Councilman Fischer, to enter into an Executive Session with the Town Attorney and Deputy Town Supervisor, to discuss a personnel issue in the Water/Sewer Department, at 7:45 p.m. Motion carried.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Executive Session at 8:10 p.m. Motion carried.

RESOLUTION 124-20

**HIGHWAY DEPARTMENT RESIGNATION LETTER**

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

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

Resolved to accept the resignation letter from Highway Department employee Michael J. Ball effective June 17, 2020.

**PUBLIC REMARKS/COMMENTS**

There were no public remarks or comments.

**BOARD MEMBERS DISCUSSION**

Supervisor Maerten announced that a Regular Meeting is scheduled for August 10, 2020 at 7:00 p.m. There will also be two Public Hearings on that date beginning at 6:50 p.m.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Regular Meeting at 8:12 p.m. Motion carried.

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Deborah K. Maurer, Town Clerk