

**TOWN OF PENDLETON**  
August 10, 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 10th day of August 2020 at 7:00 p.m. The meeting was open to the public. The meeting was also 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 HEARINGS**

**PUBLIC HEARING #1 – PROPOSED AMENDMENTS TO TOWN CODE CHAPTER 235: VEHICLES AND TRAFFIC, ARTICLE III PARKING, § 235-4 GENERAL PROVISIONS**

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on July 31, 2020 and on the Town's website.

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

The purpose of the hearing was to receive public input for the proposed amendments to Town Code Chapter 235: Vehicles and Traffic, Article III Parking, § 235-4 General Provisions. Supervisor Maerten explained that, if approved, Town Code § 235-4 General Provisions shall include the following subsections to be added to Section A:

- 4) North and south sides of Tonawanda Creek Road for a distance of 375 feet west and 200 feet east from the approximate intersection of Tonawanda Creek Road and East Canal Road.
- 5) West and east sides of East Canal Road for a distance of 200 feet north from the approximate intersection of East Canal Road and Tonawanda Creek Road and south from the intersection to the southern Niagara County border.

An East Canal Road resident spoke to the Board about her concerns regarding this matter. She stated that she understood the need for the improvements but is concerned about the negative impact for those that live on the roads near this intersection. She asked the Town Board to consider, in addition to restricting parking in this area, reducing the speed limit on East Canal Road to 35 mph in that section. She stated that prohibiting parking in one area will increase parking down the road making it unsafe for residents to back out of their driveways. Reducing the speed limit could help protect them somewhat. The resident also asked the Board to consider allowing special accommodations to the local residents by allowing street parking if they are having a special event at their home.

Supervisor Maerten informed the resident that the Town had sent the NYS Department of Transportation (DOT) a request for a speed limit reduction near the intersection of Tonawanda Creek and East Canal Roads back in the spring of 2019. After conducting a traffic evaluation, the NYS DOT determined that they would not reduce the current 45 mph speed limit in that area.

Supervisor Maerten also explained that the Board would not be voting on this amendment this evening as Niagara County has contacted him requesting additional information on this matter.

Other residents commented on this issue as well. A Monroe Street resident asked that the Board also consider extending the "no parking" area more than 200 feet and adding Lauren Street to the ordinance amendment. She has asked the Board to take notice that this is still an issue in this neighborhood.

Supervisor Maerten remarked that the entire Board shares in the frustration around this issue and they will follow up with the county and NYS DOT regarding this matter.

Motion made by Councilman Leible, seconded by Councilman Fischer, to close the Public Hearing at 7:11 p.m. Motion carried.

## **PUBLIC HEARING #2 – PROPOSED AMENDMENTS TO TOWN CODE (SEQR)**

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on July 31, 2020 and on the Town's website.

Supervisor Maerten opened the Public Hearing at 7:11 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 was available for review on the Town's website at [www.pendletonny.us](http://www.pendletonny.us).

A resident mentioned that she had previously commented on the proposed revisions to Article V Section 247 Special Use, specifically stating that she doesn't like the idea that it removes power from the Town Board and gives it to the Planning Board to decide who is entitled to these types of permits. She would like clarification on the procedures explained in this section and also asked if the definitions for "Special Exception" and "Special Permit" will be changed or combined into one definition.

Supervisor Maerten responded that both he and the Town Attorney have questions on the noted changes in this section as well. The Town Engineer will be following up with the Planning Board regarding these questions. A lengthy discussion also took place regarding the proposed amendments to the Driveway Side Yard Setbacks.

Motion made by Councilman Leible, seconded by Councilman Fischer, to close the Public Hearing at 7:21 p.m. Motion carried.

## **WORK SESSION**

Supervisor Maerten opened the Work Session at 7:21 p.m.

Supervisor Maerten, Councilman Evchich and Superintendent Stowell discussed the installation of bocce courts and horseshoe pits. Councilman Evchich indicated that some local Boy Scouts have committed to helping with this project.

Councilman Fischer informed the audience about a gentleman that contacted him about a potential project in the town and county. The project would entail 12 murals, to be painted by 12 individual artists, to be located throughout Niagara County. If approved, the mural project is scheduled to begin in the spring of 2021. Councilman Fischer stated that he will continue to follow up on this and keep the Board informed.

Councilman Graham provided an update on the Tonawanda Creek Road construction project indicating that the top coat is done and the paving should be completed by the end of the week. He also spoke about a recent boating accident in the canal that claimed the life of a local man. He stated that residents along the canal have previously complained about the speed of the boats on the canal. He requested that the town's Emergency Service Coordinator contact the Niagara County Sheriff's Office (NCSO) to look into this situation. Emergency Service Coordinator Mark Walter responded saying that he would contact NCSO Chief Dunn. Councilman Graham also asked for an update on the quotes requested for the repaving of the tennis courts at Depeau Park.

Councilman Leible mentioned that he received a call from a resident requesting more pickle ball courts at Depeau Park. He said that he has been working with the Highway Department on this matter. Councilman Leible also reported that the Town has received approval for a Greenway grant of \$200,000.00 for the Pendleton Park Community Center multi-use building.

Highway and Water/Sewer Superintendent Stowell spoke briefly about having to temporarily allow truck traffic down Irish Road in order for the construction on Tonawanda Creek Road to be completed. Other items brought up by Mr. Stowell were related to potential paving on Dunnigan Road and the drainage and ditching situation in the Town.

A brief discussion took place between Supervisor Maerten and Town Engineer Britton about an easement on Kriston Lane.

Building Inspector/Code Enforcement Officer Diedrich commented on how busy his office has been these last few months despite the fact that we are closed to the public because of COVID-19.

Supervisor Maerten thanked both Mr. Diedrich and Building Inspector/Code Enforcement Officer Follendorf for their continued efforts in keeping the department going.

The Work Session was called to an end at 7:45 p.m.

### **REGULAR MEETING**

Supervisor Maerten called the meeting to order at 7:45 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  
Jeff Stowell – Highway and Water/Sewer Superintendent  
Ron Diedrich – Building Inspector/Code Enforcement Officer  
Joe Follendorf – Building Inspector/Code Enforcement Officer  
Jim Chisholm - Assessor  
Dave Britton – Town Engineer  
Wolfgang Buechler – Zoning Board of Appeals Chairman

There were five residents in attendance and one caller on the line.

### **ADDITIONS OR DELETIONS TO THE AGENDA**

The following revision was made to the agenda:

- Delete - Agenda Item # 1 - Amendments to Town Code Chapter 235: Vehicles and Traffic, Article III Parking, § 235-4 General Provisions
- Add – Drainage Easement Release
- Add – Executive Session to Discuss Litigation

### **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 125-20

**APPROVAL OF MINUTES**

Motion by Councilman Leible, seconded by Councilman Graham, 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 July 13, 2020 and the Special Meeting on July 27, 2020, as presented by Town Clerk Maurer.

RESOLUTION 126-20

**ABSTRACT #14**

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 #14, Vouchers #20-00272 to #20-00319, that was paid on July 29, 2020:

General Fund	\$	69,370.23
Highway	\$	6,298.32
Refuse	\$	39,294.64
Sewer	\$	26.70
Water	\$	687.34
Total	\$	115,677.23

RESOLUTION 127-20

**ABSTRACT #15**

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 #15, Vouchers #20-00320 to #20-00376 to be paid on August 12, 2020:

General Fund	\$	17,432.90
Highway	\$	20,842.90
Sewer	\$	3,810.51
Water	\$	3,749.31
Trust & Agency	\$	5,247.00
Total	\$	51,082.62

**OTHER REPORTS**

**Supervisor Maerten** reported that tax collected for June 2020 was \$175,272.04. This is an increase of \$4,207.50 when compared with June 2019. The year to date received was \$769,577.00 which is a decrease of \$47,620.03 from 2019.

Supervisor Maerten commented that this was better news than he had expected but he is still disappointed with the comparison to previous years. He also reminded the Board and the Department Heads that Budget Officer Bergman has delivered the budget letters. He encouraged all to work with the Town Board members who head the various departments and asked all for cooperation in completing their budget requests by August 31, 2020.

**Councilman Leible** reminded everyone that the Fall newsletter articles are due to him by August 25<sup>th</sup>.

**Councilman Fischer** read the monthly Highway Department Report highlighting various tasks that were accomplished over the past month.

**Councilman Graham** had nothing additional to report.

**Councilman Evchich** had nothing additional to report.

**Town Attorney Joerg** had nothing additional to report.

**Engineer Britton** stated that he has been working with the town departments on various issues. He had nothing specific to report at this time.

## **DEPARTMENT HEADS**

**Town Clerk Maurer** reported on the Town Clerk and Water Billing monthly reports. She also stated that all departmental reports were posted online with the agenda for the public to review.

Supervisor Maerten added a comment stating that final approval was given by the Dormitory Authority of the State of New York (DASNY) to move forward with the \$250,000.00 grant for the salt shed and emergency standby generator for the Public Works building.

**Building Inspector Diedrich** had nothing else to add at this time.

**Assessor Chisholm** stated that things have been slow in his department. He had just completed the sales from June which arrived later than usual.

Supervisor Maerten thanked Assessor Chisholm for his continued efforts in the Assessor's office since starting earlier this year.

### Amendments to Town Code Chapter 235: Vehicles and Traffic, Article III Parking, § 235-4 General Provisions

This agenda item was tabled pending further review.

#### RESOLUTION 128-20

#### **SCHEDULE PUBLIC HEARING – PROPOSED CELL TOWER**

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

Nays 0

WHEREAS, Bell Atlantic Mobile Systems, LLC d/b/a Verizon Wireless and Horvath Communications desire to construct and operate a 140 ft. wireless telecommunications tower on land owned by the Wendelville Fire Company, Inc. located at 7340 Campbell Boulevard in the Town of Pendleton; and

WHEREAS, as stated in Town Code §247-68.5 permits for telecommunication towers are subject to approval by the Town; and

WHEREAS, such action by the Town Board shall be preceded by a public hearing for public comment;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of August 2020 that a public hearing is set for 6:55 p.m. on September 14, 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.

#### SEQR – Proposed Cell Tower

Supervisor Maerten postponed this item until the September meeting.

#### RESOLUTION 129-20

#### **SEQR – SAM GRANT AWARD**

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

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

Nays 0

WHEREAS, the Town of Pendleton is the recipient of New York State funding for the construction of a salt shed and installation of a standby emergency generator system for the Public Works Facility; and

WHEREAS, all work will commence on property owned by the Town of Pendleton located at 6640 Campbell Boulevard; and

WHEREAS, State Environmental Quality Review (SEQR) is required for this proposed project;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of August 2020 that

- a) The Town's engineer, GHD, is authorized to initiate the SEQR process with Coordinated Review and is authorized to send coordination and review letters to interested and involved agencies.
- b) The Town of Pendleton will work to establish Lead Agency for the review and include DASNY as an involved agency, and the NYS Office of Parks, Recreation and Historic Preservation's (OPRHP's) State Historic Preservation Office (SHPO) as an interested party.

This resolution shall take effect immediately.

RESOLUTION 130-20

**ADOPTION OF LGS-1 RETENTION SCHEDULE**

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

WHEREAS, the State Archives is revising and consolidating its local government records retention and disposition schedules and is issuing a single, comprehensive retention schedule for all types of local governments; and

WHEREAS, the Retention and Disposition Schedule for New York Local Government Records (LGS-1) will supersede and replace CO-2, MU-1, MI-1, and ED-1; and

WHEREAS, local governments must adopt LGS-1 prior to utilizing it and such adoption must be made by resolution of the local governing body between August 1, 2020 and January 1, 2021;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10<sup>th</sup> day of August 2020 that Retention and Disposition Schedule for New York Local Government Records (LGS-1), issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods for local government records, is hereby adopted for use by all officers in legally disposing of valueless records listed therein; and

FURTHER BE IT RESOLVED, that in accordance with Article 57-A:

- (a) Only those records will be disposed of that are described in Retention and Disposition Schedule for New York Local Government Records (LGS-1), after they have met the minimum retention periods described therein;
- (b) Only those records will be disposed of that do not have sufficient administrative, fiscal, legal, or historical value to merit retention beyond established legal minimum periods.

This resolution shall take effect immediately.

RESOLUTION 131-20

**EDMUNDS UTILITY BILLING**

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

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

WHEREAS, the Town of Pendleton uses proprietary software for a wide-variety of record keeping duties across all departments; and

WHEREAS, software licensed and supported by Edmunds GovTech is currently used for accounting of financial activity within the Town Clerk's Office, Supervisor's Office, and Highway, Water, and Sewer Departments; and

WHEREAS, dated software currently used for utility billing has been found to be incompatible with contemporary software licensed from Edmunds GovTech; and

WHEREAS, licensing software from a sole source for tasks such as financial accounting and utility billing will streamline operations resulting in operational efficiencies; and

WHEREAS, the Town of Pendleton Procurement Policy Guideline #6 states that no solicitation of multiple proposals or quotations is necessary for acquisition of professional services or sole source vendors;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10<sup>th</sup> day of August 2020 that the proposal received from Edmunds GovTech for licensing, installation, data conversion, and annual maintenance of utility billing components compatible with currently licensed Edmunds GovTech software shall be accepted on the condition that all components of Edmunds GovTech software licensed by the Town of Pendleton shall be operational by January 1, 2021.

This resolution shall take effect immediately.

RESOLUTION 132-20

**SURPLUS – BROTHER PRINTER**

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

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

Resolved to declare one Brother Printer as surplus.

RESOLUTION 133-20

**SURPLUS – BROKEN OFFICE CHAIR**

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

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

Resolved to declare one broken office chair as surplus.

RESOLUTION 134-20

**SEASONAL PUBLIC WORKS EMPLOYEE**

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 hires temporary seasonal employees each year to assist public works crews with a variety of tasks, and

WHEREAS, openings exist for seasonal employees as budgeted for the current budget year; and

WHEREAS, the Highway Superintendent has interviewed a candidate for an open seasonal position and has requested approval by the Town Board;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10<sup>th</sup> day of August 2020 that Seth Morgan shall be appointed to the position of seasonal laborer, reporting to the Highway Superintendent, compensated at a rate of pay of \$12.50 per hour, and he may report to work as soon as the Town Supervisor is in receipt of a favorable drug and alcohol screening.

This resolution shall take effect immediately.

RESOLUTION 135-20

**AUTO MECHANIC APPOINTMENT**

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

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

WHEREAS, Jonathan Berry is employed as a full-time Laborer assigned to the Town of Pendleton Water & Sewer Department; and

WHEREAS, the position of Auto Mechanic is currently open as established by vote of the Town Board at the July 13, 2020 monthly meeting; and

WHEREAS, Article 24 of the Collective Bargaining Agreement between the Town of Pendleton and Teamsters Local 264 states that a current full-time employee will have the first opportunity to fill an open position if he/she qualifies subject to governing Civil Service Rules and Regulations and Town Board approval; and

WHEREAS, Niagara County Civil Service has reviewed Mr. Berry's qualifications and has positively agreed that he is qualified for appointment to the position of Auto Mechanic;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10<sup>th</sup> day of August 2020 that Jonathan Berry shall assume the position of Auto Mechanic at a rate of compensation stated in the current Collective Bargaining Agreement for Auto Mechanic Step 1 and shall move to successive steps on January 1<sup>st</sup> of each year beginning with January 1<sup>st</sup>, 2021 in accordance with all provisions of the Collective Bargaining Agreement.

This resolution shall take effect immediately.

RESOLUTION 136-20

**ADVERTISE FOR FULL-TIME LABORER**

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 Highway and Water/Sewer Superintendent to advertise and interview for the open position of full-time laborer in the Water/Sewer Department providing a name to the Town Board for approval as soon as practical.

RESOLUTION 137-20

**WENDELVILLE FIRE COMPANY – NEW MEMBER**

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

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

WHEREAS, the Wendelville Fire Company, Inc. is the sole provider of fire, rescue, and emergency medical first response in the Town of Pendleton; and

WHEREAS, the Wendelville Fire Company has established procedures for the recruitment, application, and vetting of prospective new members; and

WHEREAS, the Secretary of the Wendelville Fire Company communicated to the Town Clerk of the Town of Pendleton the names of prospective new members who were accepted by a majority vote of the fire company membership at their regular meeting on August 10, 2020;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10<sup>th</sup> day of August 2020 that Julius C. Moore shall be accepted as a new member of the Wendelville Fire Company, Inc. effective immediately.

RESOLUTION 138-20

**DRAINAGE EASEMENT – 6991 ARROWHEAD DRIVE**

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

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

WHEREAS, a Town of Pendleton drainage easement exists at 6991 Arrowhead Drive; and

WHEREAS, the drainage easement at this property address contains a culvert covered by soil and the general area is maintained by the property owners; and



WHEREAS, the property owners have requested a release from the drainage easement to place a pre-constructed storage building on the drainage easement; and

WHEREAS, the Highway Superintendent has deemed that placement of the structure on the easement is acceptable provided a permanent foundation is not constructed for the storage building and no part of the storage building is located above the existing culvert pipe; and

WHEREAS, the owners of 6991 Arrowhead Drive have agreed to have any necessary documentation of full or partial release from the drainage easement drafted by their attorney and accept responsibility for any and all fees that may be associated with properly establishing and memorializing any drainage easement release or modification;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of August 2020 that the owners of 6991 Arrowhead Drive may place a storage building on the existing drainage easement provided:

- a) Construction details and placement location are acceptable to the Highway Superintendent.
- b) Any necessary documentation requested by the Town Attorney shall be provided at the owner's expense.
- c) This resolution is provisional upon final review and agreement by the Town Attorney of all details and documentation of the partial or full release from the existing drainage easement.

This resolution shall take effect immediately.

#### **BOARD MEMBERS DISCUSSION**

Supervisor Maerten announced that a Regular Meeting is scheduled for September 14, 2020 at 7:00 p.m. This meeting will be preceded by a previously approved Public Hearing. He also stated budget meetings will tentatively begin on Monday, September 21, 2020. A Work Session was not scheduled for the month of August at this time.

#### **PUBLIC REMARKS/COMMENTS**

A resident stated that she loves the idea of installing the bocce courts and asked if the playground at Depeau Park is open. Councilman Evchich informed her that the restrooms are currently closed and that the hand sanitizer stations should be installed at the parks soon.

Another resident wanted to recognize the fact that a lifelong resident, Joyce Kindt, recently passed away. Ms. Kindt was the designer of the Town of Pendleton's logo. He also informed the Board that we are still on board to receive the NYS canal boat that was approved last year.

Motion by Councilman Leible, seconded by Councilman Fischer, to enter into an Executive Session with the Town Attorney, Deputy Town Supervisor, Building Inspector/Code Enforcement Officer Diedrich and Building Inspector/Code Enforcement Officer Follendorf, at 8:10 p.m. Motion carried.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Executive Session and Regular Meeting at 9:05 p.m. Motion carried.

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Deborah K. Maurer, Town Clerk