

TOWN OF PENDLETON
REGULAR MEETING
December 14, 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 14th day of December 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.

REGULAR MEETING

Supervisor Maerten called the meeting to order at 7:00 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 (WFC) member and past president Glenn Christman.

Supervisor Maerten allowed two Beach Ridge Road residents to address the Town Board. The residents were invited to the meeting before the COVID-19 precautions were put into place. The residents spoke about the continuous speeding and reckless driving on Beach Ridge Road and cited the recent fatal accident to bring attention to this matter once again. The residents, on behalf of all of the residents, asked the Board to find a way to provide additional safety patrols in the area. Supervisor Maerten explained that Emergency Services Coordinator Mark Walter has been in contact with the NYS Police and the Niagara County Sheriff's Office (NCSO) regarding commercial traffic in the area. He is also working collaboratively with the NCSO on speed control. Councilman Leible requested that Mr. Walter check with the NYS Department of Transportation (NYSDOT) regarding tractor trailer restrictions in the town. The residents left the meeting once they finished addressing the Board.

Roll Call:

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

Also present:

Deborah Maurer – Town Clerk
Claude Joerg – Town Attorney
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 (virtually)
Craig Walter – Deputy Highway Superintendent
Mark Walter – Deputy Town Supervisor

There were two residents in attendance and four callers on the line.

ADDITIONS OR DELETIONS TO THE AGENDA

There were no additions or deletions to the agenda.

COMMUNICATIONS

Town Clerk Maurer stated that she received communication for the following items:

- Letter of interest submitted for a Summer Recreation Program position
- NYS Association of Towns 2021 Annual Meeting & Training School – changed to virtual learning

- NYS Department of Environmental Conservation’s Environmental Informational Virtual Update meeting scheduled for December 15, 2020
- Letter received from the NYS Department of Transportation regarding approval of the speed limit adjustments for Mapleton Road:
 - Townline Road to Campbell Boulevard will change to 45 mph
 - School Zone will change to 35 mph

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 199-20

APPROVAL OF MINUTES

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

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

Nays 0

Resolved to approve the following meeting minutes as presented by Town Clerk Maurer:

- Budget Meeting – October 19, 2020
- Budget Meeting – October 26, 2020
- Public Hearing – November 2, 2020
- Regular Meeting – November 9, 2020

RESOLUTION 200-20

ABSTRACT #22

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 #22, Vouchers #20-00706 to #20-00757, that was paid on November 25, 2020:

General Fund	\$	88,498.39
Highway	\$	71,668.04
Fire Protection	\$	3,450.00
Refuse	\$	167,868.62
Sewer	\$	12,202.24
Water	\$	28,577.43
Total	\$	372,264.72

RESOLUTION 201-20

ABSTRACT #23

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

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

Nays 0

Resolved to authorize payment of Voucher Abstract #23, Vouchers #20-00758 to #20-00842, to be paid on December 16, 2020:

General Fund	\$	33,229.49
Highway	\$	18,259.92
Sewer	\$	59,987.28
Water	\$	5,447.61
Trust & Agency	\$	3,879.85
Total	\$	120,804.15

OTHER REPORTS

Supervisor Maerten reported that sales tax collected for October 2020 was \$124,866.74. This is a decrease of \$11,269.96 when compared with October 2019. The year to date received was \$1,377,636.95 which is a decrease of \$37,534.24 from 2019.

Supervisor Maerten remarked that this was good news because the sales tax revenue for the year was not as low as what was anticipated. He also provided additional information regarding traffic safety stating that Emergency Services Coordinator Walter has been working with the NYS Police and the NCSO regarding ongoing concerns with commercial vehicles and general traffic control.

Supervisor Maerten spoke about the previously mentioned speed limit adjustments for Mapleton Road. These adjustments were the result of numerous meetings over the past five years, traffic studies and evaluations, and assistance and support from Niagara County Sheriff Filicetti, Senator Robert Ort, and Assemblymember Karen McMahon. He also stated that the Town Hall is currently open by appointment only in an effort to prevent the spread of COVID-19. All operations are still moving along at this time. He thanked the staff for doing everything they can to keep the services going throughout this year. Mr. Maerten reported that the new refuse totes have been delivered and thanked everyone who has helped with the minor issues and bumps in the road that have come about as we roll out this new procedure. He mentioned that the staff in all departments numerous calls regarding the upcoming changes and appreciates their efforts. The Supervisor also informed the Board that he has a draft resolution related to the WFC Length of Service Award Program (LOSAP) and the COVID response. He will have the final draft ready for the January meeting. He also spoke about a recent fatal accident that occurred on Campbell Boulevard near Tonawanda Creek Road. He is compiling a letter to the NYSDOT regarding concerns about that intersection. Finally, Supervisor Maerten thanked all Town employees, appointed officials, and board/committee members for their effort, flexibility, dedication and hard work during the past year.

Councilman Leible mentioned that the Pendleton Veterans' Association (PVA) recently lost members Carl Brown and Daniel Gafus along with local resident and vocalist Barbara Usiak who performed at many of the PVA ceremonies over the years. He also thanked those that turned in their newsletter articles on time. Lastly, he read the Water/Sewer Report which was posted online. In November, the Sewer Department had 12 regular and 16 overtime calls, repaired one sewer line and put two new home grinder pumps on line. The Water Department completed the quarterly water samples, one new build service push, a sold home compliance inspection and 44 location requests. They also completed final water readings and repaired a broken hydrant.

Councilman Fischer thanked the Town employees for their hard work during these tough times. He also thanked the WFC volunteers for all that they do, noting that the recent fatal accidents must have been very difficult for them to deal with. He also wished everyone a Merry Christmas.

Councilman Graham echoed Councilman Fischer's comments about thanking the WFC response to the recent accidents. His thoughts and prayers go out to the victims' families as well as the volunteers who responded to the accidents. He appreciates everything that the WFC volunteers do and said that it is a tremendous asset to have the WFC here in our town. He continued by reminding people to shop locally to help increase local sales tax revenue and pointed out the new Craft Coffee House that reopened in the old Brauer's Restaurant. He also stated that a commercial building was sold near the Ship N' Shore Restaurant that will hopefully bring more commercial activity to the Town. Lastly, he reported that he has checked with the contractor of the property on Transit Road which has had some activity lately and there is no confirmation that the new hospital will be built there. He is continuing to stay in touch with Lockport Memorial Hospital and will keep everyone updated.

Councilman Evchich stated that he has also received calls regarding traffic safety patrols in the Town. He mentioned that, in the new year, he would like to address the issues with all-terrain vehicles (ATVs) and motor vehicles on the bike path. He thinks the "residents only" proposal which has been mentioned would be an ideal situation for our residents. Councilman Evchich also thanked the staff, the Town Supervisor and the WFC volunteers for the amazing job they have done during this difficult year.

Supervisor Maerten provided additional information on the ATV/bike path topic. He stated that the Town Board, following customary procedures, sent a letter to the Planning Board asking for a review of the Town Code to see where something might fit to address the ATVs. The Planning Board has reported back and he is working with the Town Attorney on a draft resolution to hopefully present at January's meeting.

Attorney Joerg updated the Board and attendees on the National Fuel Gas (NFG) and Empire Pipeline. He stated that NFG applied to the Federal Energy Regulatory Commission (FERC) for an extension to commence the construction of their project. FERC denied the application for extension. NFG has the ability to reapply for the extension in the future. Additionally, the construction of the project has been stopped pending approval from the NYS Department of Environmental Conservation (NYSDEC) regarding the water quality permits needed to continue the construction. This matter has been on appeal with the NYS Second Circuit Court of Appeals for an extensive period of time. The project cannot go forward until NFG gets an affirmative

determination from the Second Circuit Court. We should watch for determination in the upcoming weeks from the Second Circuit Court because it will be very significant as to whether or not the project can go forward.

Engineer Britton provided updates on current Public Improvement Permits (PIP) stating that construction is underway at the Meadows North Subdivision and that the sanitary sewer system installation has begun. The water and sewer service extensions for the Tonawanda Creek PIP have been installed, testing has been completed and certifications were submitted to the NYS Department of Health. He also reported on the Inflow and Infiltration (I & I) reduction program items stating that the smoke testing went well and that the manhole repairs were put on hold due to a small COVID outbreak.

Budget Officer Bergman stated that he would like to hold off on the budget line transfers until after the last payments of the year are made. He noted that he will be working with the new Budget Officer to help him ease into his position and thanked the Town Board, Town Clerk and all those whom he has worked with over the past 20 years. He appreciated all of their help over the years. Councilman Leible thanked Mr. Bergman for the great job he has done as Budget Officer for the Town.

DEPARTMENT HEADS

Town Clerk Maurer thanked her Deputy Clerks, Noreen Lemma and Stephanie Chase, as well as all of the other Town Hall and Highway Department staff, for handling the large volume of calls related to the new refuse and recycling contract changes. The offices have been inundated with callers who have questions about the changes and everyone has been working very hard to provide accurate information to the residents. She also stated that the Town Clerk's monthly report and the Water/Sewer monthly report were both posted online for viewing. Lastly, Mrs. Maurer informed the Board that a bill was passed in May of 2020 by the NYS Senate and NYS Assembly to allow an option to defer payment due dates and installment payment arrangements for tax collection due to the COVID-19 emergency, however, it has not yet been delivered to Governor Cuomo's office for approval. As the Tax Collector, neither she, nor the Town Board, have authority to defer tax collection due dates or offer payment arrangements. Authority must be granted by the Governor so she will keep all updated on this matter. The 2021 County/Town tax bills will be mailed out the last week in December.

Highway and Water/Sewer Superintendent Stowell stated that the Highway Report is posted online. He said that they have dealt with several black ice events which have been keeping them busy. He also reported that the new Water/Sewer employee will not start until the week of Christmas.

Building Inspector Diedrich commented that he has also received several phone calls about the land on Transit Road [mentioned earlier by Councilman Graham]. He spoke to the contractor and said that the land is being converted back to farm land.

Assessor Chisholm reported that he has been working with the Town Clerk on owner updates for the 2021 tax bills.

NEW BUSINESS

RESOLUTION 202-20

SEQR TYPE II DETERMINATION - ORDINANCE UPDATES RED #2

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

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

Nays 0

WHEREAS, 6 NYCRR Section 617.5 (Title 6 of the New York Code of Rules and Regulations) under the State Environmental Quality Review Act (SEQR) provides that certain actions identified in subdivision (c) of that section are not subject to environmental review under the Environmental Conversation Law;

NOW, THEREFORE BE IT RESOLVED, that the Town of Pendleton hereby determines that the proposed updates to the Town Code is a Type II action in accordance with 6NYCRR Section 617.5 (C) 33 and 26 which constitutes adoption of regulations, policies, procedures and local

legislative decisions in connection with routine or continuing agency administration and management; and is therefore not subject to review under 6 NYCRR part 617.

FURTHERMORE, BE IT RESOLVED it has been determined that the Administrative Town Code Updates, presently before the Town Board, are Type II actions and not subject to review under SEQR. That being the case, there is also no requirement or necessity to hold a Public Hearing on those Administrative Town Code Updates.

RESOLUTION 203-20

TOWN CODE - ORDINANCE UPDATES RED #2

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

WHEREAS, the Planning Board has dedicated great time and effort focused on an endeavor identifying needed updates to the Town Code of the Town of Pendleton, and

WHEREAS, identified updates have been communicated to the Town Board for review and adoption,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of December 2020 that the following additions, deletions, and modifications to the Town Code are accepted in its entirety by resolution of the Town Board, effective immediately:

RESOLUTION SECTION A) REPEAL TOWN CODE ARTICLE VI GENERAL LEGISLATION - §247-37 GOLF COURSES IN ITS ENTIRETY.

RESOLUTION SECTION B) ADOPT TOWN CODE ARTICLE VI GENERAL LEGISLATION - §247-37 GOLF COURSES IN ITS ENTIRETY.

§ 247-37 Golf courses.

The Planning Board may grant a Special Use Permit for a public golf course, private golf course, nonprofit golf course, commercial golf course or country club on a site of not less than 50 acres in any district, subject to the following conditions and such other conditions as shall be found necessary or desirable:

- A. Provisions for sanitary facilities shall have prior approval from the Town and County Health Departments.
- B. All buildings, parking areas, greens, tees, swimming pools and similar sources of noise shall be sufficiently removed from all property lines to assure the quiet enjoyment of adjacent properties and shall not be less than 100 feet from an adjacent property line.
- C. Any artificial lighting shall be shielded so as not to create conditions harmful or annoying to neighbors.
- D. Any signs shall be limited to identifying the use and shall be expressly approved by the Board.
- E. Suitable provision shall be made that any sales or services shall be incidental to the recreation use.
- F. Appropriate control of hours of operation shall be taken where considered necessary.
- G. Not more than 5% of the site shall be covered by buildings.
- H. Location and design of entrance drives shall be such as to minimize traffic hazard and nuisance factors.
- I. All Golf Course Applications shall be subject to Planning Board Site Plan Review per Section 247-54.
 - 1) Environmental Review (SEQR) is required.
 - 2) Public Hearing is required.

a. 400 feet notification is required.

- 3) A Special Use Permit issued by the Planning Board is required upon approval of the Site Plan and is subject to an annual review by the Planning Board. Planning Board Review will be undertaken to insure that all above listed provisions are being adhered to. The Planning Board will have discretion to revoke the Special Use Permit due to noncompliance and establish a time frame to correct the violation/violations.

RESOLUTION SECTION C) REPEAL TOWN CODE PART II: GENERAL LEGISLATION, CHAPTER 104 BED-AND-BREAKFASTS IN ITS ENTIRETY.

RESOLUTION SECTION D) ADOPT PROPOSED TOWN CODE PART II: GENERAL LEGISLATION, §247-47, BED-AND-BREAKFASTS IN ITS ENTIRETY.

§247-47 Bed-and-Breakfasts

A. Purpose.

The Town Board recognizes that popularity has risen with regard to the rental of rooms on a temporary basis and on occasion providing breakfast to the renter, which has become known as a "bed-and-breakfast residence or inn." The Town Board has determined that the permission for such incidental use of an existing residence should not create a detriment to the surrounding residences, provided the same is properly regulated.

B. Definitions; regulations.

Definitions. As used in this chapter, the following terms shall have the meanings indicated:

BED-AND-BREAKFAST RESIDENCE

A residence with living quarters within the principal building for the temporary use of guests of the occupants of the premises, which living quarters shall not be a dwelling unit and which are not rented or otherwise leased as separate dwelling units.

C. Regulations.

- (1) Bed-and-breakfast permits shall only be granted for residences in an R2 Zone and for existing residences (at the time this chapter is adopted) in a commercial zone which are used solely for residential purposes. Any property in a commercial zone which has any commercial activity shall not be allowed to operate a bed-and-breakfast.
- (2) No building permit for an addition to the principal structure may be issued within three (3) years of any granting of a bed-and-breakfast permit. No bed-and-breakfast Special Use Permits may be granted within three (3) years of the issuance of a building permit for an addition to the principal structure.
- (3) The quarters to be utilized by the guests or the occupants of the premises shall not be permitted in any accessory structure.
- (4) The principal building in which the use is permitted shall be occupied by the owners as their principal residence.
- (5) The use by guests shall be temporary only and limited to a maximum of fourteen (14) days for any one (1) guest.
- (6) A maximum of three (3) bedrooms and nine (9) guests shall be allowed.
- (7) At least one (1) bathroom shall be provided for each six (6) guests.
- (8) At least one (1) smoke detecting device shall be located in each bedroom.
- (9) At least one (1) fire extinguisher shall be located in every hallway.
- (10) Emergency lighting shall be provided in every hallway leading to an exit.

- (11) The serving or providing of meals to paying guests shall be limited to breakfast.
- (12) One (1) off-street parking space shall be provided for each room or rooms designated as a living quarter, in addition to the off-street parking spaces for the residence.
- (13) Signs shall be limited by Chapter 247, Zoning.

D. Special Use Permit.

- (1) The structure to be used must comply with all state, county and local health and building codes and permits.
- (2) The standards and regulations governing this use shall not be construed to exclude the requirement for further conditions and standards as determined as necessary for granting a Special Use Permit.
- (3) Such use shall be considered as a Special Use and shall require a Special Use Permit granted by the Planning Board.

E. All Bed-and-Breakfast Applications shall be subject to Planning Board Site Plan Review per Section 247-54.

- (1) Environmental Review (SEQR) is required.
- (2) Public Hearing is required.
 - a) 400 feet notification is required.

F. A Special Use Permit issued by the Planning Board is required upon approval of the Site Plan and is subject to an annual review by the Planning Board. Planning Board Review will be undertaken to insure that all above listed provisions are being adhered to. The Planning Board will have discretion to revoke the Special Use Permit due to noncompliance and establish a time frame to correct the violation/violations.

G. Application for a Special Use Permit shall be accompanied by a fee of two hundred fifty dollars (\$250). The Town Building Inspector/Code Enforcement Officer shall inspect the premises for compliance with all applicable codes before any permit is granted.

H. Fees.

- (1) Once a Special Use Permit is granted, the Bed-and-Breakfast will be subject to an annual inspection by the Building Inspector/Code Enforcement Officer. An annual inspection fee of fifty dollars (\$50) payable prior to inspection is required.
- (2) See Chapter 131 to verify current fees.

I. Penalties for offenses.

Every person, firm, or corporation convicted of a violation of any provision of this chapter shall be punished by a fine of not more than two hundred fifty dollars (\$250) or imprisonment for not more than fifteen (15) days, or both. Each and every day that a violation of this chapter is permitted to exist by an owner of a bed-and-breakfast residence shall constitute a separate offense.

RESOLUTION SECTION E) ADOPT ALL APPROPRIATE BED-AND-BREAKFAST FEES AS DETAILED IN NEWLY ADOPTED TOWN CODE PART II: GENERAL REGULATIONS, §247-47, BED-AND-BREAKFASTS AND ADD SUCH FEES TO TOWN CODE PART II: GENERAL LEGISLATION, CHAPTER 131 FEES.

RESOLUTION SECTION F) REPEAL TOWN CODE ARTICLE VII: SUPPLEMENTAL REGULATIONS, §247-55 OIL AND GAS WELLS.

**RESOLUTION SECTION G) ADOPT NEW TOWN CODE ARTICLE VII:
SUPPLEMENTAL REGULATIONS, §247-55 OIL AND GAS WELL IN ITS ENTIRETY.**

§ 247-55 Oil and gas wells.

- A. All oil or gas wells and gas and oil storage facilities shall be located in accordance with the yard requirements of this chapter. They shall not be nearer than 150 feet to any public building or area which may be used as a place of assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic or occupancy by the public. They should not be nearer than 75 feet to the traveled part of any public street, road or highway and/or closer than 100 feet to any public stream, river or other body of water. In addition, all laws and regulations enforced by the Oil and Gas Division of the New York State Department of Environmental Conservation shall be observed.
- B. All Oil and Gas Well Applications shall be subject to Planning Board Site Plan Review per Section 247-54.
 - 1) Environmental Review (SEQR) is required.
 - 2) Public Hearing is required.
 - a. 400 feet notification
- C. A Special Use Permit issued by the Planning Board is required upon approval of the Site Plan and is subject to an annual review by the Planning Board. Planning Board Review will be undertaken to insure that all above listed provisions are being adhered to. The Planning Board will have discretion to revoke the Special Use Permit due to noncompliance and establish a time frame to correct the violation(s).
- D. See Chapter 131 for appropriate fees.

**RESOLUTION SECTION H) REPEAL TOWN CODE ARTICLE VII:
SUPPLEMENTAL REGULATIONS, §247-56 AIRPORTS AND AIRSTRIPS IN ITS ENTIRETY.**

**RESOLUTION SECTION I) ADOPT NEW TOWN CODE ARTICLE VII:
SUPPLEMENTAL REGULATIONS, §247-56 AIRPORTS AND AIRSTRIPS IN ITS ENTIRETY.**

§ 247-56 Airports and Airstrips.

- A. It shall be unlawful for any person to construct, maintain or operate, within the limits of the Town of Pendleton, any airport unless such person shall first obtain a Special Use Permit from the Planning Board.
- B. The Special Use Permit shall be valid for a period of three years. Application for a renewal shall be filed with the Planning Board not less than 60 days before expiration of the current permit. Any Special Use Permit not renewed within 60 days after the expiration date shall become null and void. A renewal shall not require a public hearing. A change of ownership and/or operating personnel shall require a new Special Use Permit.
- C. Application for a Special Use Permit for an airstrip shall be accompanied by a fee (see Chapter 131 for fee schedule) and also any engineering costs. A renewal fee (see Chapter 131 for fee schedule) shall be collected every three years.
- D. Applications for Special Use Permits shall be accompanied by a plan of the airport showing the size of the field, position and size of buildings or structures, runways, number of planes permanently stationed or housed thereon, etc. It shall show the location of the airport from two intersecting streets. Any alteration or changes in the length or direction of runways shall require a new permit.
- E. All Airport Airfield Applications shall be subject to Planning Board Site Plan Review per Section 247-54.

(1) Environmental Review (SEQR) is required.

(2) Public Hearing is required.

(a) 400 feet notification

F. A Special Use Permit issued by the Planning Board is required upon approval of the Site Plan and is subject to an annual review by the Planning Board. Planning Board Review will be undertaken to insure that all above listed provisions are being adhered to. The Planning Board will have discretion to revoke the Special Use Permit due to noncompliance and establish a time frame to correct the violation/violations.

G. No plane other than the applicant's may be based permanently at a private airstrip.

H. Spacing requirements between existing and proposed airports shall be the sum of the following radii prescribed for each airport, in accordance with its size classification as defined in this section.

Class	Radius (miles)
I or smaller	1
II	2
III	3
IV or larger	4

I. The size classification of airports under this section shall be in accordance with the standards as established by the Federal Aviation Administration or its successor.

RESOLUTION 204-20

SEQR DECLARATION FOR SAM GRANT APPLICATION - SALT STORAGE / EMERGENCY GENERATOR

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

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

RESOLUTION OF THE TOWN OF PENDLETON OF DETERMINATION OF NON-SIGNIFICANCE PURSANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT IN CONNECTION WITH THE CONSTRUCTION OF A NEW SALT STORAGE FACILITY AND INSTALLATION OF EMERGENCY GENERATOR AT THE HIGHWAY GARAGE LOCATED AT 6640 CAMBELL BOULEVARD, PENDLETON NY.

WHEREAS, The Town of Pendleton Town Board, as Lead Agency, has considered the Environmental Record prepared for this action to include any comments received from the public and Involved Agencies, along with the Part 1, Part 2, and Part 3 of the Short Environmental Assessment Form as prepared by GHD as the Town Engineer; and

WHEREAS, the Town of Pendleton Town Board, as lead agency, has reviewed the proposed action consisting of constructing a new salt storage facility and installation of an emergency generator at the Highway Garage is consistent with an unlisted SEQR action and furthermore, that the proposed action will not have a significant adverse impact on the environment and that a negative declaration should be issued;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Pendleton Town Board, as lead agency, for the SEQRA review of the proposed action hereby issues a negative declaration in connection with this unlisted activity; and

BE IT FURTHER RESOLVED, that the Town Supervisor is authorized to execute any necessary documents relating to an issuance of a negative declaration.

RESOLUTION 205-20

EVANS BANK TAX COLLECTION LOCKBOX AGREEMENT

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 Clerk of the Town of Pendleton lawfully has been granted the duties of Tax Collector and is duly authorized to perform such duties, and

WHEREAS, the Real Property Tax Law §996 authorizes the Town Board to contract with a bank for a period up to five years for the collection of real property taxes and/or special assessments that are collected with taxes,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of December 2020 that the Supervisor and the Town Clerk are authorized to sign the presented agreement between the Town of Pendleton and Evans Bank.

Supervisor Maerten and Town Clerk Maurer explained that Resolution 191-20, that was adopted on November 9, 2020, regarding the fee for unpaid tax bills, needs to be amended. Due to changes being made to the tax collection process, it is too late to implement the fee for the upcoming tax year.

RESOLUTION 206-20

AMEND 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 suspend adding the \$2.00 second notice fee for unpaid taxes until June 1, 2020.

RESOLUTION 207-20

RESIDENTIAL REFUSE COLLECTION –ADDITIONAL TOTE REQUESTS

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 contracted with Modern Corporation for refuse and recycling collection and the current contract expires on December 31, 2020, and

WHEREAS, the Town Board of the Town of Pendleton has approved a successor contract with Modern Corporation that commences on January 1, 2021 with terms outlined in a resolution passed on September 14, 2020, and

WHEREAS, an essential and mandatory component of the current and successor refuse and recycling collection contracts requires all parcels eligible for recycling collection must exclusively use a recycling tote issued or approved by the Town of Pendleton, and

WHEREAS, an essential and mandatory component of the refuse and recycling contract which commences on January 1, 2021 requires all parcels eligible for refuse collection must exclusively use a refuse tote issued or approved by the Town of Pendleton, and

WHEREAS, all existing parcels eligible for recycling collection have been issued a Town-owned recycling tote to be used exclusively for recycling collection on a schedule stipulated in each refuse and recycling contract, and

WHEREAS, all parcels eligible for refuse collection will receive a Town-owned refuse tote for weekly refuse collection commencing on January 1, 2021, and

WHEREAS, the approved refuse and recycling contract allows the Town to grant permission for eligible parcels to place up to a total of four (4) refuse totes for collection on a weekly basis under conditions set forth by the Town of Pendleton,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of December 2020:

- A) Property owners of eligible parcels may request up to three (3) additional refuse totes, for a maximum of four (4) totes per eligible parcel, through procedures set forth by the Town Board.
- B) Requests for additional refuse totes may be made through the Town Clerk's Office by completion of an appropriate form which must be signed and authorized by the parcel's owner(s).

- C) The Town Clerk's Office shall maintain records of all requests for additional refuse totes and notification for addition or cancellation of such service shall be made to the Highway Superintendent and Modern Disposal Services. Issuance, return, and maintenance of refuse and recycling totes shall be the responsibility of the Highway Superintendent.
- D) The annual fee for each additional tote is \$55.00 and shall be prepaid prior to delivery of additional refuse totes and commencement of collection. Such request shall be prorated from the date of request through the end of the current calendar year. Subsequent renewals will be charged the full rate from January 1st through December 31st of each calendar year.
- E) The Town Clerk's Office shall notify owners of parcels currently paying for one or more additional refuse totes of the need to prepay for renewal of service prior to December 1st of the current year of service. All fees paid for renewal of the collection of additional refuse totes for a parcel shall be payable to the Town Clerk's Office. The Town will not guarantee continuous collection of additional refuse totes should payment not be received prior to the posted renewal deadline.
- F) Cancellation of collection services for any or all additional refuse totes shall be made in writing. All cancellations shall take effect with the beginning of the next calendar year and no requests for refunds related to cancellations will be accepted.
- G) The Town of Pendleton retains ownership of all refuse totes and should a parcel owner cancel collection of additional refuse totes or fail to pay for renewal of such service, all additional totes are to be returned to the Town of Pendleton. The replacement cost of all refuse totes not returned to the Town of Pendleton will be assessed on the parcels next property tax bill.
- H) This resolution in its entirety shall take effect immediately.

RESOLUTION 208-20 [NOTE: This resolution will be rescinded at January 11, 2021 meeting. DM 12.29.20]

COMMERCIAL REFUSE COLLECTION

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

WHEREAS, the Town of Pendleton has contracted with Modern Disposal Services for refuse and recycling collection and the current contract expires on December 31, 2020, and

WHEREAS, the Town Board of the Town of Pendleton has approved a successor contract with Modern Disposal Services that commences on January 1, 2021 with terms outlined in a resolution passed on September 14, 2020, and

WHEREAS, the contract for refuse and recycling collection between the Town of Pendleton and Modern Disposal Services allows the Town the option to allow refuse collection for ineligible parcels with conditions specified by the Town, and

WHEREAS, a need to extend the option for refuse collection for ineligible parcels in accordance with the current contract has been established,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of December 2020:

- A) Property owners, lessees, or renters of parcels currently ineligible for refuse collection may request up to four (4) refuse totes for collection coinciding with the established refuse collection schedule.
- B) Requests for additional refuse totes may be made through the Town Clerk's Office by completion of an appropriate application which must be signed by the parcel owner, lessee, or renter.
- C) The Town Clerk's Office shall maintain records of all requests for refuse collection for ineligible parcels and notification for addition or cancellation of such service shall be made to the Highway Superintendent and Modern Disposal Services. Issuance of refuse totes shall be the responsibility of the Highway Superintendent.

- D) Property owners, lessees, or renters approved for refuse collection must pay in advance for the full cost of each refuse tote including processing and delivery of such requests. The fee per refuse tote shall be no less than \$80 and upon delivery, each tote becomes the property of the purchaser. The Town assumes no responsibility to repair or replace damaged or missing refuse totes. Return of unneeded totes is at the discretion of the Town and no refund of any fees or costs paid for refuse totes or collection services shall be made.
- E) The annual fee for collection of the first refuse tote shall be no less than \$220.00 and each additional tote shall be no less than \$70.00 and shall be prepaid prior to delivery of any refuse totes and commencement of collection services. Such request shall be prorated from the date of request through the end of the current calendar year. Subsequent renewals will be charged the full rate from January 1st through December 31st of each calendar year.
- F) Renewal of the annual fee for collection of refuse tote(s) for ineligible parcels shall be made to the Town Clerk's Office by December 1st of the year preceding the next renewal cycle to prevent interruption of service. All cancellations shall take effect with the beginning of the next calendar year and no requests for refunds related to cancellations will be accepted.
- G) Ineligible parcels opting for refuse collection as stipulated herein are exempt from bulk garbage collection stipulated in the contract between Town of Pendleton and Modern Disposal Service for eligible parcels.
- H) This resolution in its entirety shall take effect January 1, 2021.

RESOLUTION 209-20

MEMORANDUM OF AGREEMENT FOR CELL PHONE STIPEND

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

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

Resolved to renew the Memorandum of Agreement for a cell phone stipend for the Deputy Highway Superintendent for the 2021 calendar year.

RESOLUTION 210-20

RENEW TOWN HALL CELL PHONE STIPENDS

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

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

Resolved to continue the cell phone stipend for the Building Inspector and Town Supervisor for the 2021 calendar year at a rate of \$28.00 per month, paid quarterly.

RESOLUTION 211-20

AUTHORIZE ADDITIONAL CELL PHONE STIPEND

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

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

Resolved to authorize a cell phone stipend for the Town Clerk for the 2021 calendar year at a rate of \$28.00 per month, paid quarterly.

RESOLUTION 212-20

NIAGARA COUNTY IT AGREEMENT RENEWAL

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

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

Resolved to renew the Municipal Cooperation Agreement with the Niagara County Information Technology Department for 2021.

Budget Line Transfers -

This agenda item was postponed until further notice by the Budget Officer.

RESOLUTION 213-20

STANDARD WORKDAY RESOLUTION – ELECTED AND APPOINTED OFFICIALS

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, that the Town Board of the Town of Pendleton hereby establishes the following as standard workdays for elected and appointed officials and will report the following days worked to the New York State and Local Retirement System (NYSLRS) based on the record of activities maintained and submitted by these officials to the Town Clerk:

NAME	TITLE	CURRENT TERM	STANDARD WORK DAY	RECORD OF ACTIVIES RESULTS	NOT SUBMITTED	PAY FREQUENCY	TIER 1
Elected Officials:							
Jason Evchich	Councilman	01/01/20-12/31/23	8	.78		Quarterly	No
David Fischer	Councilman	01/01/18-12/31/21	8		X	Quarterly	No
David Leible	Councilman	01/01/20-12/31/23	8	7.44		Quarterly	No
Joel Maerten	Supervisor	01/01/20-12/31/21	8	8.44		Bi-Weekly	No
Deborah Maurer	Town Clerk	01/01/20-12/31/23	8	22.67		Bi-Weekly	No
Jeffrey Stowell	Highway Superintendent	01/01/20-12/31/21	8	22.59		Bi-Weekly	No
Appointed Officials:							
Lee Daigler	Board of Appeals Member	01/01/16-12/31/20	8	1.24		Annually	No
Ronald Diedrich	Building Inspector	08/12/19-12/31/21	8	21.67		Bi-Weekly	No
Claude Joerg	Town Attorney	01/01/20-12/31/21	8	7.75		Bi-Weekly	No
Wyatt Maerten	Dog Control Officer	07/10/18-12/31/21	8	.49		Quarterly	No

RESOLUTION 214-20

WENDELVILLE FIRE COMPANY – NEW MEMBER

Motion by Councilman Fischer, seconded by Councilman Leible, 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 name of a prospective new member who was accepted by a majority vote of the fire company membership at their regular meeting on December 3rd, 2020;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of December 2020, that Lester M. Spoth, Jr. shall be accepted as a new member of the Wendelville Fire Company, Inc. effective immediately.

RESOLUTION 215-20

APPOINT TOWN CONSTABLE

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

Resolved to appoint Michael Kloch Jr. as a Town Constable, at current rate of pay, effective immediately.

RESOLUTION 216-20

MEYERS PUMP PURCHASE

Motion by Councilman Fischer, 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 by resolution named Fluid Kinetics as a sole source supplier for Meyers Pumps, and

WHEREAS, the Town of Pendleton Water and Sewer Department has deemed it necessary to acquire one (1) 3 hp Meyers Pump at a cost of \$4,260.00,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of December 2020 that acquisition of one (1) Meyers Pump from Fluid Kinetics is authorized at a cost not to exceed \$4,260.00 and this resolution shall take effect immediately.

RESOLUTION 217-20

PUBLIC WORKS HVAC REPLACEMENT

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 owns and maintains a public works facility housing Highway, Water, and Sewer Department operations, and

WHEREAS, the public works facility is known as the Highway Garage and Public Works Garage, and

WHEREAS, the heating, ventilation, and air condition system for the office space contained within the public works facility is now obsolete due to age and condition, and

WHEREAS, the Town's adopted Procurement Policy Guideline #3B states that for all estimated public works contracts less than or equal to \$35,000 but greater than \$10,000 that a written Request for Proposal (RFP), written/fax proposals from three (3) contractors, and Town Board approval is required, and

WHEREAS, replacement of the heating, ventilation, and air conditioning system for the office space in the public works facility is estimated to exceed \$10,000 and not to exceed \$35,000, and

WHEREAS, the Town Board authorized solicitation of request for proposals at the October 26, 2020 work session meeting and four such proposals have been received,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of December 2020 that the low bid of \$11,350.00 submitted by AC Heating & Cooling shall be accepted and this resolution shall take effect immediately.

PUBLIC REMARKS/COMMENTS

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

BOARD MEMBERS DISCUSSION

Supervisor Maerten announced that there is no Work Session currently scheduled for December. The annual Town Board Regular and Organizational Meeting will be held on January 11, 2021 at 7:00 p.m.

Motion by Councilman Fischer, seconded by Councilman Leible, to close the Regular Meeting at 8:26 p.m. Motion carried.

Deborah K. Maurer, Town Clerk