

TOWN OF PENDLETON

April 12, 2021

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 12th day of April 2021 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.

PUBLIC HEARING

PUBLIC HEARING - LINEAR MULTIPLE USE TRAIL

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on March 30, 2021 and on the Town's website.

Supervisor Maerten opened the Public Hearing at 6:55 p.m.

The purpose of the hearing is to receive public input for the proposed amendment of the Town Code and the adoption of an ordinance to be included in such Code concerning the operation of limited use vehicles as more fully set forth in the provisions of New York Vehicle and Traffic Law § 2286 on any and all properties owned by the Town of Pendleton:

- 1) Pursuant to New York Vehicle and Traffic Law § 2403 (2) Nonresidents of the Town of Pendleton are **prohibited** from use of an "all-terrain vehicle" or "ATV" (i.e. any self-propelled vehicle which is manufactured for sale for operation primarily on off-highway trails or off-highway competitions and only incidentally operated on public highways providing that such vehicle does not exceed seventy inches in width, or one thousand pounds dry weight) on any and all Town of Pendleton properties. This definition shall not include and/or prohibit Nonresidents of the Town of Pendleton from the use of a "snowmobile" or other self-propelled vehicle manufactured for off-highway use exclusively designed for travel on snow or ice, steered by skis or runners and supported in whole or in part by one or more skis, belts or cleats which utilize an endless belt tread on any and all Town of Pendleton properties.
- 2) Except as hereinafter provided, no resident of the Town of Pendleton shall operate an "all-terrain vehicle" or "ATV" on **any** of the Town of Pendleton owned properties unless the following requirements have been satisfied and are in all respects current and in full force and effect:
 - a) In accordance with New York Vehicle and Traffic Law § 2282 (1) "all-terrain vehicle" or "ATV" must have a current registration and number and the registration number for such ATV must be in full force and effect and displayed as provided under such article and regulations promulgated thereunder.
 - b) In accordance with New York Vehicle and Traffic Law § 2286. "**Licensing by municipalities**" such "all-terrain vehicle" or "ATV" must obtain a permit from the Clerk of the Town of Pendleton and pay an annual use fee of zero and 00/100 dollars (\$0.00) at the time of the issuance of the Town of Pendleton permit.
 - c) Proof of insurance of such "all-terrain vehicle" or "ATV" must be provided to the Clerk of the Town of Pendleton at the time of the issuance of such permit by the Clerk of the Town of Pendleton (the amount of the required insurance coverages shall be established annually by the Town of Pendleton).
 - d) In accordance with New York Vehicle and Traffic Law § 2411 "Negligence in the use of operation of an ATV shall be attributable to the owner. Every owner of an ATV used or operated in this state shall be liable and responsible for death or injury to person or damage to property resulting from negligence in

the use or operation of such ATV by any person using or operating the same with the permission, express or implied, of such owner, provided, however, that such operator's negligence shall not be attributed to the owner as to any claim or cause of action accruing to the operator or his legal representative for such injuries or death.”

- e) A waiver and release of liability of the Town of Pendleton together with an agreement to indemnify the Town of Pendleton from any and all liability shall be signed and filed with the Clerk of the Town of Pendleton at the time of such annual permit.
 - f) The use by residents of “all-terrain vehicles” or “ATVs” shall be in all respect limited to the non-paved portions of the “Linear Multiple Use Trail”, and any additional areas that are designated for Vehicular Traffic and Vehicular Parking.
- 3) Any violation of this ordinance shall be punishable by a minimum fine of not less than \$100.00 and a maximum fine not to exceed \$500.00.
- 4) This Ordinance shall take effect immediately.

Supervisor Maerten opened up the floor for public comment allowing each person three minutes to speak to allow all speakers a fair chance to address the Board. Twelve individuals addressed the Board with their concerns regarding the proposed amendment. Varying opinions were presented both for and against the proposed ordinance.

Motion made by Councilman Graham, seconded by Councilman Fischer, to close the Public Hearing at 7:27 p.m. Motion carried.

REGULAR MEETING

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

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

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
Ron Diedrich – Building Inspector/Code Enforcement Officer
Jim Chisholm - Assessor
Dave Britton – Town Engineer
Craig Walter – Highway and Water/Sewer Superintendent

There were 18 residents in attendance. There were eight callers on the line.

ADDITIONS OR DELETIONS TO THE AGENDA

The following revision was made to the agenda:

- Add Speed Limit Evaluation – Campbell Boulevard

COMMUNICATIONS

Town Clerk Maurer reported that a letter of interest for appointment to the Recreation Committee was received from Lorraine Kochanoski.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

There were no public remarks or comments on the agenda items.

ROUTINE BUSINESS

RESOLUTION 95-21

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 March 8, 2021, as presented by Deputy Town Clerk Lemma.

RESOLUTION 96-21

ABSTRACT #7

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 #7, to be paid on April 14, 2021 as follows:

- Voucher #20-00982 for year ending 2020

Sewer	\$	10,028.20
Total	\$	10,028.20
- Vouchers #21-00245 to #21-00321 for 2021

General Fund	\$	30,558.25
Highway	\$	19,984.81
Refuse	\$	43,097.71
Sewer	\$	13,722.14
Water	\$	49,151.99
Trust & Agency	\$	16,067.00
Total	\$	172,631.90

OTHER REPORTS

Supervisor Maerten reported that tax collected for February 2021 was \$113,779.53. This is a decrease of \$2,765.95 when compared with February 2020. The year to date received was \$236,888.23 which is a decrease of \$20,838.09 from 2020.

Councilman Leible read the Water/Sewer Department monthly report for March. He reported that the Sewer Department had 14 regular and two overtime sewer calls, repaired four pressure sewer breaks and updated two grinder pumps. They also rebuilt pumps, delivered refuse and recycle totes, completed a new build sewer tap and two open trench inspections. The Water Department repaired one water break, installed a new build water tap and repaired a water box. Additionally, they completed sold home compliance inspections, quarterly meter readings and 41 stakeouts. Councilman Leible also stated that the new cleaning company has started working at the Highway Garage. Additionally, he reported that interviews have been conducted for the posted Water & Sewer Department Laborer position and that Recreation Committee Chairwoman Bea Mattina has not yet heard from the Health Department or Starpoint regarding the Summer Recreation program.

Councilman Fischer spoke briefly about the “Niagara County by the Numbers” Mural Project and the potential location for the mural. After a short discussion, the Board had no objection of locating this mural at Uncle G’s Ice Cream. The Town will not be responsible for any costs related to this project. He also reported that he has been working with C. J. Krantz Organics regarding disposal of yard waste and potential options that may be available to Town residents.

Councilman Graham also spoke about the interviews recently conducted for the open position in the Water & Sewer Department noting that a recommendation was made to hire two laborers. He explained that there are currently two vacancies and there is a potential for retirements in the future. He also talked about a call from a concerned Devonshire Lane

resident regarding speeding on Campbell Boulevard, especially through the “center of town” area. He asked that the Board consider a speed evaluation in this area. Lastly, he asked for an update on the status of the Community Center. Supervisor Maerten reported that an architect is currently working on a concept drawing to present to the Town.

Supervisor Maerten added “Speed Evaluation for Campbell Boulevard” as a New Business item to discuss later in the meeting. A discussion also occurred regarding traffic issues at the Bear Ridge Road Bridge (at Bear Ridge and Tonawanda Creek Roads).

Engineer Britton provided an update on the State and Municipal (SAM) Facilities Grant for the Salt Storage and Emergency Generator stating that updated cost project estimates and preliminary design development are underway.

DEPARTMENT HEADS

Town Clerk Maurer reported that the Town Clerk, Tax Collector and Water/Sewer Billing monthly reports are posted on the website as well as the other departmental reports. She stated that her office has been busy processing vendor applications for the upcoming Pendleton Station Market and accepting registrations for the Town sponsored baseball league. Mrs. Maurer also informed the Board that the “additional refuse service” requests are still coming in at a steady rate. Her office processed 24 requests in March. She also reported that tax collection in the Town is now complete and all monies have been turned over to the Town Supervisor and the Niagara County Treasurer’s Office. She reported that 97% of the taxes were paid before the deadline.

Building Inspector Diedrich informed the Board that Tan Tara Golf Course has a new owner and is now the Pendleton Creek Golf Club. The new owners have completed numerous renovations to the kitchen and will be opening the restaurant and club house to the public.

Assessor Chisholm stated that everything is good in the Assessor’s Office.

NEW BUSINESS

Linear Multiple Use Trail

Councilman Graham suggested that this agenda item be tabled until the Work Session scheduled for April 26, 2021 to allow the Board to consider the comments that were made at the Public Hearing. All Board members were in agreement. The Board will invite Mr. Bill Park from the Tri-County Trail Riders and Mr. Jeff Binga from the New York State Off-Highway Recreational Vehicle Association (NYSORVA) to that meeting for further discussion.

RESOLUTION 97-21

HIGHWAY GARAGE – FIRE ALARM

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 owns and maintains a Public Works Facility located at 6640 Campbell Boulevard, and

WHEREAS, ensuring the safety of the occupants of the Public Works Facility is a top priority, as well as protecting this important Town investment and the asset contained within this facility, and

WHEREAS, the Town’s insurance agent has recommended installation of an appropriate fire alarm monitoring and communication system to aid in the prevention and mitigation of incidents that could potentially damage or destroy the Public Works Facility and its contents, and

WHEREAS, solicitation of multiple proposals resulted in the submission of three (3) such proposals from reputable service providers,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of April 2021 that the following proposal be declared acceptable and responsible as summarized:

Armored Access
Installation, Equipment, and Materials: \$8,270.00
Cellular Communicator Installation, Equipment, and Materials: \$700.00
Monthly Monitoring: \$37.00

Amherst Alarm
Installation, Equipment, and Materials: \$8,339.00
Cellular Communicator Installation, Equipment, and Materials: \$1,127.00
Monthly Monitoring: \$245.00

Kepeco Alarm, Inc.
Installation, Equipment, and Materials: \$23,026.00
Cellular Communicator Installation, Equipment, and Materials: Included
Monthly Monitoring: Unknown

Further be it resolved that the proposal from Armored Access be accepted for installation and monitoring. This resolution shall take effect immediately.

RESOLUTION 98-21

FACILITIES USE AGREEMENTS

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 Facilities Use Agreements submitted by the following organizations pending final approval of the Town's insurance agent:

- ANJO Bombers
- Central Niagara 11U Thunder
- Lockport NY Church Softball League

RESOLUTION 99-21

SALT STORAGE FACILITY & GENERATOR PROJECT

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 located at 6640 Campbell Boulevard, and

WHEREAS, the Town of Pendleton has received a grant funding award through the Dormitory Authority of the State of New York (DASNY) for construction of a salt storage building to be located adjacent to the Public Works Facility as well as installation of a stand-by generator system for the Public Works Facility, and

WHEREAS, costs associated with planning, design, installation, and construction of the salt storage building and stand-by generator is estimated to exceed the grant award amount.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of April 2021 that the Town of Pendleton commits the funds necessary for the Salt Storage Facility and Stand-By Generator Project and such funds are available in account DA0-912-0 as verified by the Budget Officer.

RESOLUTION 100-21

LUCAS FREW APPOINTMENT

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 funds and operates public works operations that include the Highway Department and the Water & Sewer Department; and

WHEREAS, proper staffing is necessary to ensure that these departments are able to efficiently and effectively perform all functions within each department's respective scope of operation; and

WHEREAS, temporary assignment of employees of the Highway Department and Water & Sewer Department have created employment vacancies; and

WHEREAS, such employment openings have been publicly posted and multiple candidates have been interviewed for these positions,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of April 2021 that Lucas Frew be appointed as Laborer Class I at a rate of compensation stated in the current Collective Bargaining Agreement for this position at Step 1 and shall move to successive steps on April 12th of each year beginning with April 12, 2022 in accordance with all provisions of the Collective Bargaining Agreement. Further be it resolved that a six (6) month probationary period shall commence, beginning the first full day of the individual's appointment, during which period of time the employee is to acquire a New York State Class A or B Commercial Driver's License Permit.

This resolution shall take effect immediately.

RESOLUTION 101-21

DANIEL GOCHER APPOINTMENT

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 funds and operates public works operations that include the Highway Department and the Water & Sewer Department; and

WHEREAS, proper staffing is necessary to ensure that these departments are able to efficiently and effectively perform all functions within each department's respective scope of operation; and

WHEREAS, temporary assignment of employees of the Highway Department and Water & Sewer Department have created employment vacancies; and

WHEREAS, such employment openings have been publicly posted and multiple candidates have been interviewed for these positions,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of April 2021 that Daniel Gocher be appointed as Laborer Class I at a rate of compensation stated in the current Collective Bargaining Agreement for this position at Step 1 and shall move to successive steps on April 12th of each year beginning with April 12, 2022 in accordance with all provisions of the Collective Bargaining Agreement. Further be it resolved that a six (6) month probationary period shall commence, beginning the first full day of the individual's appointment, during which period of time the employee is to acquire a New York State Class A or B Commercial Driver's License Permit.

This resolution shall take effect immediately.

RESOLUTION 102-21

TANDEM AXLE DUMP TRUCK WITH PLOW PACKAGE

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 owns and maintains a wide-variety of specialized equipment which is operated by employees of the Highway, Water, and Sewer Departments, and

WHEREAS, the Town of Pendleton owns and maintains multiple on-road vehicles, commonly known as dump trucks, which are used for purposes such as snow removal and road repair, and

WHEREAS, due to age and use it is prudent and necessary to replace a dump truck with a suitable new model, and

WHEREAS, representatives of the Highway Department directed great time and effort to researching information related to replacement of this dump truck, and

WHEREAS, purchase of a 2023 Mack Granite 64FR M-Drive Transmission chassis with body and plow equipment is recommended and is available through the Onondaga County Heavy Truck Class B Statewide Contract #8996,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of April 2021 that purchase of the specified Mack truck with body and plow is authorized from Beam Mack Sales & Service for an amount not to exceed \$238,492.00. Furthermore, be it resolved that purchase of an extended warranty for 84 months and up to 250,000 miles is authorized for a price not to exceed \$5,700.00. This resolution shall take effect immediately.

Sandblast and Paint Trucks 9 And 18 Dump Bodies

This item was tabled until the Work Session on April 26, 2021.

RESOLUTION 103-21

PRESSURE WASHER

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 purchase of a pressure washer unit from Admar Construction Equipment & Supplies at the low bid price of \$4,754.00.

RESOLUTION 104-21

96' LANDSCAPE RAKE AND WHEEL PACKAGE

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 purchase of a 96' Landscape Rake and Wheel Package from Niagara Frontier Equipment Sales Inc. at the low bid price of \$1,810.00.

RESOLUTION 105-21

MEMORANDUM OF AGREEMENT FOR CELL PHONE STIPEND

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 a cell phone stipend for the Highway Superintendent, equivalent to the stipend given to other Town employees, for the balance of the 2021 calendar year.

Town Clerk Maurer explained to the Board that an error was made on the Standard Workday and Reporting Resolution for Elected and Appointed Officials (RESOLUTION 213-20) that was approved on December 14, 2020. Councilman Leible's Record of Activities Results amount was incorrectly entered as 7.44 when it should have been 2.48. She stated that a new resolution is required to correct this information with the New York State and Local Retirement System (NYSLRS).

RESOLUTION 106-21

STANDARD WORKDAY RESOLUTION – ELECTED AND APPOINTED OFFICIALS - CORRECTION

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

Resolved to accept the corrected Standard Workday and Reporting Resolution for Elected and Appointed Officials as presented by 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	2.48		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 107-21

PANDEMIC OPERATIONS PLAN

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

Resolved to adopt the Pandemic Operations Plan as presented.

RESOLUTION 108-21

SPEED EVALUATION REQUEST - CAMPBELL BOULEVARD

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

Resolved to authorize the Town Supervisor to submit a TE-9 to the appropriate governmental agencies for a speed evaluation of Campbell Boulevard, between the intersection of Meyer Road and the intersection of Feigle Road, also authorizing the Town Supervisor to send a letter to the NYSDOT requesting evaluation of all roadway signage for possible modifications or additions related to safety in that vicinity.

BOARD MEMBERS DISCUSSION

Supervisor Maerten announced that the following meetings have been scheduled:

- Work Session, April 26, 2021 at 7:00 p.m.
- Regular Meeting, May 10, 2021 at 7:00 p.m.

PUBLIC REMARKS/COMMENTS

A resident addressed the Board regarding ordinance violations against two properties on Killian Road that have been an ongoing problem and have not yet been resolved. He requested that the Town Board, Town Engineer, Town Attorney and the Zoning Board of Appeals work with the Building Inspector to address these ongoing violations. He stated that these are public safety issues that need to be corrected.

A resident thanked the Board for broadcasting the audio for meetings again and suggested putting a notice in the newsletter regarding this.

Another resident spoke about the issues on Killian Road asking the Board to help resolve these matters. Supervisor Maerten explained that the Town Board cannot and would not influence the Zoning Board of Appeals nor the enforcement or court process. He indicated though that they will circle back with Building Inspector Diedrich and the Town prosecutors

to see where they are with this process. Councilman Graham also asked Mr. Diedrich to put together a summary of the violations for the Board to review.

Motion by Councilman Leible, seconded by Councilman Fischer, to enter into an Executive Session with the Town Attorney for contract negotiations at 8:29 p.m. Motion carried.

Motion by Councilman Leible, seconded by Councilman Fischer, to close the Executive Session and the Regular Meeting at 8:45 p.m. Motion carried.

Deborah K. Maurer, Town Clerk