

TOWN OF PENDLETON
WORK SESSION
April 26, 2021

A Work Session of the Town Board of the Town of Pendleton was held at the Town Hall, 6570 Campbell Blvd., Pendleton, NY, on the 26th 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.

Supervisor Maerten called the meeting to order at 7:02 p.m.

Supervisor Maerten, Councilman Evchich, Councilman Fischer and Councilman Graham were present. Councilman Leible participated virtually.

Also present:

Deborah Maurer – Town Clerk
Claude Joerg – Town Attorney
Craig Walter – Highway/Water & Sewer Superintendent
Mark Walter – Deputy Supervisor
Dave Britton – Town Engineer
Tom Matuski – Budget Officer

There were 11 residents in attendance. There were two callers on the line.

RESOLUTION 109-21

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 meeting minutes for the Work Session held on March 22, 2021, as presented by Town Clerk Maurer.

RESOLUTION 110-21

ABSTRACT #8

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

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

Resolved to authorize payment of Voucher Abstract #8, Vouchers #21-00322 to #21-00362, to be paid on April 28, 2021

General Fund	\$	20,002.87
Highway	\$	3,976.40
Fire Protection	\$	2,659.00
Sewer	\$	2,394.88
Water	\$	425.31
Total	\$	29,458.46

Supervisor Maerten began a discussion by giving a brief summary of the Public Hearing on April 12, 2021 for the proposed ordinance for the Multi-Use Linear Trail. He explained that a vote was not taken on that date in order to give the Board members time to consider the public feedback that was given during that hearing. Councilman Leible asked to allow Tri-County Trail Riders President Bill Park to address the Board. A lengthy discussion took place between Mr. Park, members of the Board, Undersheriff Dunn from the Niagara County Sheriff's Office, and Deputy Town Supervisor Walter addressing many questions and concerns about the proposed ordinance. Mr. Park offered the services of the Tri-County Trail Riders to help with the safety concerns and maintenance of the trails.

RESOLUTION 111-21

MULTI-USE LINEAR TRAIL

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

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

WHEREAS, the Town of Pendleton owns and maintains properties located in multiple locations of the Town, and

WHEREAS, the Town of Pendleton owns and maintains a multiple use trail that traverses the Town from Townline Road to Lockport Road, crossing Killian Road, Meyer Road, Campbell Boulevard, Feigle Road, and Mapleton Road (the "Linear Multiple Use Trail"), and

WHEREAS, historically this Linear Multiple Use Trail has been open to use for activities that include, but are not limited to, walking, bicycling, horseback riding, and operation of all-terrain vehicles (ATV) and snowmobiles, and

WHEREAS, increased use of the Town's Linear Multiple Use Trail has created increased safety concerns, and

WHEREAS, to address such concerns the Town Board has solicited community feedback and review of the Town Code by the Planning Board, and

WHEREAS, it has been determined that the increased activity of motorized vehicles on the Town-owned and maintained Linear Multiple Use Trail is of foremost importance to be addressed, and

WHEREAS, a public hearing was advertised and subsequently held on April 12, 2021 at 6:55 PM and the public was provided the opportunity to provide input,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 26th day of April 2021 upon completion of a public hearing which was scheduled, published, and held on April 12, 2021 at 6:55 PM for the following amendment of the Town Code and the adoption of this Ordinance to be included in such Code concerning the operation of "All-Terrain Vehicle" or "ATV" 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 N.Y. Veh. & Traf. Law § 2403 (2) Nonresidents of the Town of Pendleton are prohibited from use of "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 any "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 N.Y. Veh. & Traf. 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 N.Y. Veh. & Traf. 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 N.Y. Veh. & Traf. 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 Vehicle” or “ATV” 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 June 1, 2021.

Sandblast and Paint Dump Bodies

Supervisor Maerten welcomed Budget Officer Maturski to the meeting. Highway/Water & Sewer Superintendent Walter had specific questions about using funds from the Reserve Fund to pay for the sandblasting and painting of the dump bodies. Mr. Maturski explained that the Board will need to pass a resolution to move the money out of the Reserve account. Supervisor Maerten stated that he will prepare the resolution for this item for the May 10, 2021 meeting.

RESOLUTION 112-21

SURPLUS IT EQUIPMENT

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 as surplus one HP Color Laser Jet Pro MFP M477fdn from the Town Clerk’s office and one Brother MFC-5890CN printer from the Highway Garage.

RESOLUTION 113-21

SURPLUS OBSOLETE E-ONE AMG PUMPS

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 as surplus approximately 50 E-One AMG Pumps that are obsolete.

RESOLUTION 114-21

MASTER PARK PLAN

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

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

WHEREAS, the Town of Pendleton with funding from the New York State Council of the Arts, initiated preparation of the Master Plan for Pendleton Town Parks, which is a master plan for the existing park called Town Park adjacent to Town Hall and a new park called Community Park which is south of Feigle Road and east of Campbell Boulevard; and

WHEREAS, the Master Plan for Pendleton Town Parks adopted in 2007 contains a plan for improvements to Town Park such as new picnic shelters, upgraded picnic shelters, a paved trail, a restroom/concession building and new parking, etc. and a plan for the Community Park that includes a community center, path system, playgrounds, pond, amphitheater, picnic areas; etc., and

WHEREAS, the process of preparing the Master Plan for Pendleton Town Parks involved a steering committee made up of Town residents and included three public input meetings, including a children’s design workshop; and

WHEREAS, an addendum to the original Master Plan for the Town of Pendleton Parks has been prepared, in anticipation of a more thorough review as soon as practical.

NOW, THEREFORE, BE IT RESOLVED, that the Master Plan for Pendleton Town

Parks is hereby readopted and reaffirmed with addendum and that it is the policy of the Town of Pendleton to seek funding for, and implement the general recommendations in the Plan.

[2007 Master Plan for Pendleton Town Parks and 2021 Master Plan Addendum are posted on the Town's website and available in the Town Clerk's office.]

RESOLUTION 115-21

RECREATION COMMITTEE APPOINTMENT

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 Lorraine Kochanowski to the Recreation Committee for a five-year term.

RESOLUTION 116-21

SEASONAL HELP 2021 PAY RATE

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 multiple properties which require seasonal maintenance, and

WHEREAS, the Town annually hires multiple employees as seasonal workers to assist Public Works crews with maintenance of the Town's properties, and

WHEREAS, for the 2021 season the Niagara County Water District and Niagara County Sewer District have set the rate of compensation for seasonal employees at \$14.00 per hour, and

WHEREAS, the observable rate of compensation of comparable seasonal positions in the vicinity of the Town of Pendleton meets or exceeds this rate.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 26th day of April 2021 that the rate of pay for seasonal employees hired for 2021 shall be set at \$14.00 per hour. This resolution shall take effect immediately.

RESOLUTION 117-21

SEASONAL HELP

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

ADOPTED: Ayes 4 Evchich, Fischer, Graham, Leible

Nays 0

Abstain 1 Maerten

Resolved to hire Evelyn Maerten as a seasonal employee effective as soon as she is available.

Supervisor Maerten opened up the floor to the Board for further discussions.

Councilman Graham reported that there are already 17 vendors signed up for the Farmers Market. He also stated that he would set up designated parking spots for elderly or disabled individuals needing to park when using reserved park pavilions. He will also have volunteers available to help with any potential parking issues that may arise.

Councilman Evchich reported that he, Councilman Leible, and Highway/Water & Sewer Superintendent Walter met recently to discuss the bathroom project and the potential water park. A discussion occurred regarding the trash being left in the park and the fact that there have been numerous incidents of graffiti in the park. Mr. Walter reported that the bathrooms cannot be opened until Memorial Day weekend. Supervisor Maerten asked to have garbage cans placed near the basketball court and mentioned that they might want to consider installing cameras in the park.

Town Engineer Britton stated that he met with Highway/Water & Sewer Superintendent Walter regarding the location of the new Salt Shed and explained a few of the various layouts proposed. He also reported that The Meadows at Pendleton North project is going well and that he expects the paving to start in May.

Supervisor Maerten mentioned that Chuck Malcom from Hodgson Russ LLP will be attending the May meeting to talk about the Bear Ridge Solar Project.

Work Session
April 26, 2021

Councilman Graham questioned Mr. Walter about paving or sealing the Town Hall parking lot. He asked if the Town could use the Niagara County “shared paver” and if the Highway employees could do the work. Engineer Britton commented that the lot is already in bad shape and will need to be milled before it can be paved. Supervisor Maerten noted that it was not budgeted for 2021. Engineer Britton will provide updated quotes for this project.

Motion by Councilman Evchich, seconded by Councilman Graham, to enter into an Executive Session with the Town Attorney and the Town Assessor at 8:02 p.m. Motion carried.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Executive Session and the Work Session at 8:26 p.m. Motion carried.

Deborah K. Maurer, Town Clerk