

TOWN OF PENDLETON
REGULAR MEETING
August 9, 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 9th day of August 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 7:03 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 Town Supervisor
Ron Diedrich – Building Inspector/Code Enforcement Officer
Jim Chisholm - Assessor
Dave Britton – Town Engineer
Craig Walter – Highway/Water & Sewer Superintendent
Tom Matuski – Budget Officer

There were 14 residents in attendance. There were no callers on the line.

ADDITIONS OR DELETIONS TO THE AGENDA

The following revision was made to the agenda:

- Remove – Armored Access Proposal – Fire Communicator Upgrade
- Remove – Resolution for Fill
- Add – Park Security
- Add – Town Code
- Add – Executive Session – Contract Negotiations

COMMUNICATIONS

Town Clerk Maurer read a letter of interest for reappointment to the Board of Assessment Review from Mrs. Mary Ann Welka.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

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

Supervisor Maerten explained that the Town has received new drawings for the historical building/proposed community center. Members of the Pendleton Historical Society as well as the Pendleton Veterans Association were in attendance. Supervisor Maerten presented the drawings as a conceptual design with a goal to have a future informal meeting with both groups. Councilmen Leible and Evchich both volunteered to meet with them in the very near future to continue discussion on this project. Supervisor Maerten asked that one of them contact Mrs. Joyce Lane from the Pendleton Seniors to invite her to attend.

ROUTINE BUSINESS

RESOLUTION 154-21

APPROVAL OF MINUTES

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

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

Resolved to approve the meeting minutes for the Regular Meeting held on July 12, 2021, as presented by Town Clerk Maurer.

RESOLUTION 155-21

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 # 21-00653 to 21-00697 that was paid on July 28, 2021:

General Fund	\$	14,894.24
Highway	\$	22,900.79
Refuse	\$	44,327.40
Sewer	\$	2,711.61
Water	\$	4,847.82
Total	\$	89,681.86

RESOLUTION 156-21

ABSTRACT #15

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 #15, Vouchers # 21-00698 to 21-00741 to be paid on August 11, 2021:

General Fund	\$	6,175.32
Highway	\$	24,866.19
Sewer	\$	1,877.02
Water	\$	1,158.02
Trust & Agency	\$	1,246.00
Total	\$	35,322.55

OTHER REPORTS

Supervisor Maerten reported that tax collected for June 2021 was \$235,373.64. This is an increase of \$60,101.60 when compared with June 2020. The year to date received is \$929,574.21 which is an increase of \$159,997.21 from 2020.

Next, Supervisor Maerten reported that he received a response from the New York State Department of Transportation (NYS DOT) to his recent speed study request for Campbell Boulevard. The DOT declined to reduce the speed limit on Campbell Boulevard but stated that it will restrict passing in the vicinity of the recently built subdivisions. The letter also stated that they will install intersection warning signs along Route 270 to alert traffic of the new subdivisions.

Councilman Leible reminded everyone that the fall newsletter articles are due by August 25th.

Councilman Fischer had nothing to report.

Councilman Graham stated that he received a call from a resident concerned about potential traffic issues at Tonawanda Creek and Transit Roads once the new development is built. He noted that a letter to the NYSDOT regarding this concern has already been added to the agenda for this meeting. He also reported that he researched the option of having a handicap access button added to both doors at the back of Town Hall and was told that the cost would be approximately \$17,000.00. A suggestion was made to see if any grant money was available for this type of project and Mr. Graham stated that he would look into that option. He also thanked Dore

Landscaping for spraying the weeds and Wendelville Fire Company for bringing their new ladder truck to the Pendleton Station Market for a showing.

Councilman Evchich had nothing to report.

Attorney Joerg reported that he is working on a couple pending lawsuits against the Town as well as an Article 7 case with the Assessor.

Engineer Britton stated that he has been working with the New York State Department of Environmental Conservation (NYSDEC) to secure permits for the Salt Barn. He also reported that the construction at The Meadows at Pendleton North is continuing now that additional fill was brought in.

Budget Officer Matuski provided a detailed budget performance report for the second quarter of 2021. His report included a revenue budget summary and an expense budget summary. Mr. Matuski also stated that he will be working with the department heads on preparing their budget requests for 2022. Supervisor Maerten indicated that the Town has received one half of the American Rescue Plan Act (ARPA) funding and expects to receive the second half in 2022. Mr. Matuski said that more will be discussed on this at the upcoming budget meetings.

DEPARTMENT HEADS

Town Clerk Maurer reported that the Town Clerk and Water/Sewer Collection monthly reports are posted on the website as well as the other departmental reports. Mrs. Maurer also commented on the water payment collection process stating that she is working on additional enhancements to the payment process including offering automatic withdrawals. She also reported that the Town is now an official Passport Acceptance Facility. Customers may contact the Town Clerk's office to schedule an appointment.

Highway/Water & Sewer Superintendent Walter reported that paving was completed on part of Meyer Road and milling has started on Cortland and Macintosh. He also mentioned that they have refurbished some of the Town trucks and that they are working on a few "bugs" with the new water billing system but expects it to be in pretty good shape soon.

Building Inspector Diedrich had nothing new to report.

Assessor Chisholm had nothing to report.

NEW BUSINESS

RESOLUTION 157-21

OCTOBER 12, 2020 MEETING MINUTES AMENDMENT

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

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

Resolved to approve the amendments to the Town Board meeting minutes from October 12, 2020, as presented by Town Clerk Maurer.

Supervisor Maerten gave a brief summary about the Wendelville Fire Company, Inc. groundbreaking and ceremony that was held at the site of the new fire hall. He mentioned that the ceremony was well attended including Senator Robert Ort, Assemblymember Karen McMahon, Niagara County Legislator Tony Nemi, Niagara County Sheriff Mike Fillicetti along with members of the Town Board.

RESOLUTION 158-21

WENDELVILLE FIRE COMPANY, INC. PROCLAMATION

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

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

**Proclamation Honoring
Wendelville Fire Company, Inc.**

WHEREAS, the Town of Pendleton, a township in Niagara County, New York, was founded in 1827; and

WHEREAS, the residents of this great town volunteer in many ways, ensuring a high quality of life for all who live in the Town of Pendleton and visit our community; and

WHEREAS, the Wendelville Fire Company, Inc. was formally established in 1921 and over the past 100 years many have dedicated great time and effort volunteering to provide fire, rescue, and emergency medical response for the Town of Pendleton; and

WHEREAS, the members of the Wendelville Fire Company are proud of the reputation they have earned as great community servants and all are thankful for the services our friends and neighbors provide.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton, on behalf of the citizens of this great town, that we recognize Wendelville Fire Company, Inc.'s centennial and thank all volunteers, past and present, for their dedication to our great community.

RESOLUTION 159-21

WAIVER OF BUILDING PERMIT FEES FOR WFC

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

Resolved to waive any and all building permit fees for the construction of the Wendelville Fire Company's new Hall #2.

RESOLUTION 160-21

ACCEPTANCE OF NOTICE OF RETIREMENT – CARL GROSS

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

Resolved to accept the letter of retirement for Carl Gross as of December 30, 2021.

RESOLUTION 161-21

ACCEPTANCE OF NOTICE OF RETIREMENT – PATRICIA DICKINSON

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

Resolved to accept the letter of retirement for Patricia Dickinson as of August 17, 2021.

RESOLUTION 162-21

APPOINT JUSTICE CLERK

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

WHEREAS, the position of Justice Clerk for the Honorable Justice Edmund Maziarz has been declared vacant by the acceptance of a letter of retirement from the position's previous incumbent; and

WHEREAS, Justice Maziarz is solely responsible for recruiting, interviewing, and vetting applicants to fill the vacant position of Justice Clerk; and

WHEREAS, the Honorable Justice Edmund Maziarz has communicated with the Town Board a recommendation to fill the vacant position.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of August 2021:

- 1) Barbara Ricotta shall be appointed Justice Clerk for the Honorable Justice Edmund Maziarz.
- 2) The compensation rate for Barbara Ricotta shall be set separately by resolution of the Town Board on this date and will be paid biweekly as per the Town's payroll processing schedule.

- 3) The position of Justice Clerk is a part-time position and the incumbent is not entitled to any form of benefits beyond the accepted hourly compensation rate.
- 4) This resolution shall take effect immediately.

RESOLUTION 163-21

MODIFY JUSTICE CLERK COMPENSATION

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 appreciates the dedication and effort of all employees who serve the residents of this great town; and

WHEREAS, Barbara Ricotta and James Rotella are appointed and serve as Justice Clerks for the Town Justices; and

WHEREAS, the duties of a Justice Clerk are many, as each works to support all operations of the Town Court through a commitment to efficiency, accuracy, and confidentiality; and

WHEREAS, the duties assigned to Town Courts and all who support these operations has increased substantially in recent years, requiring greater effort and training, and

WHEREAS, it is the Town Boards responsibility to ensure that compensation and recognition of the Town's employees is commensurate with the changing responsibilities of each position, and

WHEREAS, upon recommendation of the Honorable Justices Maziarz and Mack, based upon the observations of Mrs. Ricotta and Mr. Rotella's performance and assigned duties, it is requested that the hourly rate of compensation of both Justice Clerks be modified to reflect each individual's performance and ability.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of August 2021 that Barbara Ricotta and James Rotella hourly rate shall be \$18.95 per hour. This resolution shall take effect immediately.

Armored Access Proposal – Fire Communicator Upgrade

This item was removed from the agenda.

RESOLUTION 164-21

REQUEST TO NYSDOT

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

Resolved to direct the Supervisor to send a letter to the New York State Department of Transportation (NYSDOT) for a traffic evaluation of the intersection of Tonawanda Creek and Transit Roads.

RESOLUTION 165-21

DECLARE SURPLUS – CHIP READER

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

Resolved to declare surplus one non-functioning dog microchip reader.

RESOLUTION 166-21

4930 BEACH RIDGE ROAD SEWER EXTENSION (SEQR)

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 Supervisor to sign a negative declaration for the State Environmental Quality Review (SEQR) for the 4930 Beach Ridge Road Sewer Extension.

RESOLUTION 167-21

6595 AIKEN ROAD SEWER EXTENSION (SEQR)

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 Supervisor to sign a negative declaration for the State Environmental Quality Review (SEQR) for the 6595 Aiken Road Sewer Extension.

RESOLUTION 168-21

6595 AIKEN ROAD SEWER EXTENSION PUBLIC IMPROVEMENT PERMIT (PIP)

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

Resolved to approve the Public Improvement Permit (PIP) application for the 6595 Aiken Road Sewer Extension.

Highway/Water & Sewer Superintendent Walter presented the following quotes for directional bore work:

Directional Bore – 7463 Bear Ridge Road

Zima Underground, Inc.	\$1,700.00
Custom Crews, Inc.	\$2,200.00
R.I.C. Plumbing, Inc.	\$2,200.00

Directional Bore – 6889 Campbell Boulevard

Zima Underground, Inc.	\$1,600.00
Custom Crews, Inc.	\$1,800.00
R.I.C. Plumbing, Inc.	\$2,200.00

RESOLUTION 169-21

DIRECTIONAL BORE QUOTES

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 low bid of \$1,700.00 from Zima Underground, Inc. for directional bore work at 7463 Bear Ridge Road and 6889 Campbell Boulevard.

RESOLUTION 170-21

SEWER REPAIR PARTS

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 quote for sewer repair parts from Siewert Equipment, a sole source provider, in the amount of \$5,317.85.

RESOLUTION 171-21

WATER AND SEWER MAP UPDATES

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 GHD to prepare water and sewer mapping updates and provide four copies of each map upon completion of work for a total not to exceed \$2,400.00.

Highway/Water & Sewer Superintendent Walter presented the following quotes for gravity sewer infiltration repairs in the Pendale subdivision:

R.I.C. Plumbing, Inc.	17 at \$1,450.00 each	\$24,650.00
S. M. Pynn & Sons, Inc.	17 at \$1,550.00 each	\$26,350.00
Towson Plumbing	quote not returned	

Supervisor Maerten stated that this is part of the continuing backflow repair project and is reimbursable up to \$20,000.00 through the county's Inflow and Infiltration program.

RESOLUTION 172-21

NIAGARA COUNTY I/I REPAIRS

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 quote for Inflow and Infiltration repairs from R.I.C Plumbing, Inc., up to the total amount of \$24,650.00.

Stockpiled Fill

This item was removed from the agenda.

RESOLUTION 173-21

MEMORIAL TREE AND PARK BENCH

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

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

Resolved to approve the placement of a donated tree and park bench on Town property on the recommendation of the Recreation Committee.

RESOLUTION 174-21

PARK SECURITY

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

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

Resolved to hire Jeff Bruce, for seasonal park security, at a pay rate of \$18.18 per hour effective immediately.

A lengthy discussion occurred regarding previous revisions made to the Town Code in the Fall of 2020. Town Attorney Joerg and Supervisor Maerten explained the steps that were taken at that time, the unintended consequences of some of those steps and some solutions on how to correct the code.

RESOLUTION 175-21

TOWN CODE – REPEAL LOCAL LAW 04-2020

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 Local Law 04-2020, that was acted on October 12, 2020 to repeal Local Law 02-2007, as null and void.

RESOLUTION 176-21

TOWN CODE – BUILDING DEPARTMENT ENFORCEMENT

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

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

Resolved to direct the Building Department to enforce the Town Code as it existed prior to October 12, 2020.

BOARD MEMBERS DISCUSSION

Supervisor Maerten announced that the following meetings have been scheduled:

- Regular Meeting, September 13, 2021 at 7:00 p.m.

PUBLIC REMARKS/COMMENTS

A resident had questions for the Town Attorney regarding the passing of local laws and the requirement of public hearings. Her questions were specific to the passing of the Ethics Code and

the Multi-Use Trail Ordinance. She also commented about some issues at the Town playground regarding individuals not using the equipment properly.

Another resident questioned the placement of a 5G cell tower near Wendelville Fire Company. Supervisor Maerten explained that the installation of that tower was approved by the Planning Board and any questions could be directed to Mr. Higgins, the Administrative Assistant to the Planning Board.

Lastly, a third resident asked Supervisor Maerten to announce in his newsletter article that live audio of the Board meetings is available to residents. She also asked the Board to reconsider relinquishing their power to the Planning Board on “special use” when they reevaluate the proposed amendments to the Town Code.

Motion by Councilman Leible, seconded by Councilman Fischer, to enter into an Executive Session with the Town Attorney and the Deputy Town Supervisor to discuss contract negotiations at 8:39 p.m. Motion carried.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Executive Session and Regular Meeting at 8:59 p.m. Motion carried.

Deborah K. Maurer, Town Clerk

PENDING APPROVAL