

**TOWN OF PENDLETON  
REGULAR MEETING  
October 12, 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 12th day of October 2020 at 7:00 p.m. The meeting was open to the public. The meeting was also conducted as a live GoToMeeting and a conference call line was provided to the public allowing access to live audio. The agenda and related documents were posted online and public remarks and comments were accepted until 6:30 p.m. on the night of the meeting.

**WORK SESSION**

Supervisor Maerten opened the Work Session at 7:08 p.m.

Councilman Leible reported that he spoke with Pyrotechnico regarding the fireworks for the 2021 Independence Day celebration. Pyrotechnico indicated that they would provide us with 10% additional fireworks for the same price if we pay a 50% deposit by the end of October. The company also guaranteed that they would carry that deposit over to 2022 if our event is cancelled again due to COVID. A discussion continued on this subject and a decision on this matter was voted on later in the meeting.

Councilman Graham asked Building Inspector Diedrich if he expects any homes to be built this year at The Meadows at Pendleton North. Mr. Diedrich said there will not be any built this year.

Supervisor Maerten provided the Board with a draft copy of a Frequently Asked Questions (FAQs) document regarding the cart based refuse collection contract that will be in effect beginning in January 2021. He stated that the new refuse carts will be delivered as soon as November. He also reported that Modern Corporation is responsible for sending notices to all residents regarding the change in services. It was also noted that this contract pertains to residential customers only.

**REGULAR MEETING**

Supervisor Maerten called the meeting to order at 7:16 p.m.

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

Roll Call:

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

Also present:

Deborah Maurer – Town Clerk  
Claude Joerg – Town Attorney  
Mark Walter – Deputy Supervisor  
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  
Margit Denning – Public Works Clerk

There were no residents in attendance. There was one caller on the line.

**ADDITIONS OR DELETIONS TO THE AGENDA**

The following revisions were made to the agenda:

- Add – Independence Day 2021 Fireworks
- Add – Executive Session to discuss litigation related to National Fuel

## COMMUNICATIONS

There were no items to report.

## PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

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

## ROUTINE BUSINESS

### RESOLUTION 162-20

#### 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 Work Session held on September 28, 2020, as presented by Town Clerk Maurer.

### RESOLUTION 163-20

#### APPROVAL OF MINUTES

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

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

Resolved to approve the meeting minutes for the Budget Meeting held on October 5, 2020, as presented by Town Clerk Maurer.

### RESOLUTION 164-20

#### ABSTRACT #19

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 #19, Vouchers #20-00545 to #20-00598, to be paid on October 14, 2020:

General Fund	\$	19,498.52
Highway	\$	8,380.75
Sewer	\$	9,071.47
Water	\$	72,019.83
Trust & Agency	\$	5,022.50
Total	\$	113,993.07

## OTHER REPORTS

**Supervisor Maerten** reported that tax collected for August 2020 was \$131,288.91. This is a decrease of \$12,580.10 when compared with August 2019. The year to date received was \$1,026,946.54 which is a decrease of \$69,382.58 from 2019.

Supervisor Maerten also informed the Board that he received the annual fiscal stress score from the Office of the State Comptroller for New York State. The Town was given a score of "No Designation" which is the lowest designation allowed. He also met with a representative from Penflex, Inc. regarding the fire company's Length of Service Award Program (LOSAP). A resolution will also need to be passed by the end of this year regarding LOSAP points received during the COVID response.

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

**Councilman Fischer** read the Highway Department's report for the month of September. The report, that is published online, states that the crew chipped brush, cleaned and mowed ditches, milled a section of Dunnigan Road and maintained equipment and Town property.

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

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

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

**Engineer Britton** spoke regarding the salt shed and generator SEQR. He stated that the Town has received clearance from New York's State Historic Preservation Office (SHPO) and hopes to receive clearance from the New York State Department of Environmental Conservation (NYSDEC) soon.

**Budget Officer Bergman** stated that he will wait and speak during the Budget Meeting.

## DEPARTMENT HEADS

**Town Clerk Maurer** mentioned that the Town Hall has been busy with visitors now that we are open to the public. She wanted to remind staff that with the increase in visitors it is important to remember to wear masks, clean and sanitize areas used by the public, complete the health care screenings, etc., to protect the employees and the public. She is concerned that if even one employee tests positive for the virus that the entire office could be shut down. Mrs. Maurer also reported on the Town Clerk and Water Billing monthly reports and stated that all departmental reports were posted online with the agenda for the public to review.

**Highway and Water/Sewer Superintendent** reported that the milling on Dunnigan Road is going well. They have been repairing driveways after pump repair work was completed. He said that he hopes to pave under the pavilion at Depeau Park before the end of the year and reported that work has begun on the bocce court. Superintendent Stowell asked Town Clerk Maurer to advertise the upcoming changes to the bulk pick-up schedule for residents. It was noted that Modern Corporation will communicate with all residents outlining the specifics of the program, including the bulk pick-up schedule. Mrs. Maurer stated that she will post information on the Town's website and Facebook page as well as soon as it is received from Modern.

**Building Inspector Diedrich** had nothing additional to report.

**Assessor Chisholm** informed the Board that he recently "attended" the New York State Assessors' Association (NYSAA) Fall Conference at his dining room table. He stated that he participated in continuing education classes during the conference and felt that it went well.

## NEW BUSINESS

Motion by Councilman Leible, seconded by Councilman Fischer, to enter into an Executive Session with the Town Attorney and Deputy Town Supervisor to discuss litigation related to National Fuel at 7:35 p.m. Motion carried.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Executive Session at 7:50 p.m. Motion carried.

RESOLUTION 165-20 [AMENDED by RESOLUTION 157-21 on August 9, 2021]

### ADOPT LOCAL LAW NO. 01-2020

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

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

Nays 0

Resolved to adopt Local Law No. 01-2020 as follows:

## TOWN OF PENDLETON LOCAL LAW NO. 01 OF THE YEAR 2020

### A LOCAL LAW ENTITLED: REPEAL LOCAL LAW NO. 04-2017

The sole purpose of Local Law No. 01-2020 is to provide Local Law Authority to repeal Local Law No. 04-2017: Providing for the Appointment of Alternate Members of the Planning Board and Alternate Members of the Zoning Board of Appeals, in its entirety.

RESOLUTION 166-20 [AMENDED by RESOLUTION 157-21 on August 9, 2021]

### REPEAL LOCAL LAW NO. 04-2017

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

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

Nays 0

Resolved to repeal Local Law No. 04-2017: Providing for the Appointment of Alternate Members of the Planning Board and Alternate Members of the Zoning Board of Appeals, in its entirety, under authority of Local Law No. 01-2020.

**RESOLUTION 167-20 [AMENDED by RESOLUTION 157-21 on August 9, 2021]  
ADOPT LOCAL LAW NO. 02-2020**

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

Resolved to adopt Local Law No. 02-2020 as follows:

**TOWN OF PENDLETON LOCAL LAW NO. 02 OF THE YEAR 2020**

**A LOCAL LAW ENTITLED:  
REPEAL LOCAL LAW NO. 03-2006**

The sole purpose of Local Law No. 02-2020 is to provide Local Law Authority to repeal Local Law No. 03-2006: Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code, in its entirety.

**RESOLUTION 168-20 [AMENDED by RESOLUTION 157-21 on August 9, 2021]  
REPEAL LOCAL LAW NO. 03-2006**

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

Resolved to repeal Local Law No. 03-2006: Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code, in its entirety, under authority of Local Law No. 02-2020.

**RESOLUTION 169-20 [AMENDED by RESOLUTION 157-21 on August 9, 2021]  
ADOPT LOCAL LAW NO. 03-2020**

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

Resolved to adopt Local Law No. 03-2020 as follows:

**TOWN OF PENDLETON LOCAL LAW NO. 03 OF THE YEAR 2020**

**A LOCAL LAW ENTITLED:  
REPEAL LOCAL LAW NO. 08-2017**

The sole purpose of Local Law No. 03-2020 is to provide Local Law Authority to repeal Local Law No. 08-2017: Fire Prevention and Building Code Administration, in its entirety.

**RESOLUTION 170-20 [AMENDED by RESOLUTION 157-21 on August 9, 2021]  
REPEAL LOCAL LAW NO. 08-2017**

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

Resolved to repeal Local Law No. 08-2017: Fire Prevention and Building Code Administration, in its entirety, under authority of Local Law No. 03-2020.

**RESOLUTION 171-20 [AMENDED by RESOLUTION 157-21 on August 9, 2021]  
ADOPT LOCAL LAW NO. 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 adopt Local Law No. 04-2020 as follows:

**TOWN OF PENDLETON LOCAL LAW NO. 04 OF THE YEAR 2020**

**A LOCAL LAW ENTITLED:  
REPEAL LOCAL LAW NO. 02-2007**

The sole purpose of Local Law No. 04-2020 is to provide Local Law Authority to repeal Local Law No. 02-2007: Stormwater Management, in its entirety.

RESOLUTION 172-20 [AMENDED by RESOLUTION 157-21 on August 9, 2021]

**REPEAL LOCAL LAW NO. 02-2007**

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

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

Resolved to repeal Local Law No. 02-2007: Stormwater Management, in its entirety, under authority of Local Law No. 04-2020.

Ordinance Updates – Red 1 (Multiple Resolutions)

This agenda item was tabled until the next meeting.

RESOLUTION 173-20

**SCHEDULE PUBLIC HEARING FOR SEQR – LAST FRONTIER REZONING**

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

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

Resolved to schedule a Public Hearing, to consider a rezoning request from Last Frontier for property located on the north side of Tonawanda Creek Road at the intersection of Transit Road, on November 9, 2020 at 6:55 p.m.

RESOLUTION 174-20

**SCHEDULE PUBLIC HEARING FOR NEW LOCAL LAW – TAX BILL SECOND NOTICE FEE**

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

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

Resolved to schedule a Public Hearing, to allow public input on a proposed Local Law to set a Second Notice fee on Town/County tax bills, on November 9, 2020 at 6:50 p.m.

RESOLUTION 175-20

**SCHEDULE PUBLIC HEARING FOR 2021 PRELIMINARY BUDGET**

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

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

Resolved to schedule a Public Hearing, for the presentation to the public of the Preliminary Budget for 2021, on November 2, 2020 at 7:00 p.m.

RESOLUTION 176-20

**ATLANTIC PAVEMENT MARKING INVOICE**

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

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

WHEREAS, the budget approved by the Town Board of the Town of Pendleton for 2020 includes budget line Traffic Control (A3310.0400) - Contractual Expense, and

WHEREAS, road maintenance activities, such as roadway striping are appropriately charged to the Traffic Control - Contractual budget line, and

WHEREAS, the Town of Pendleton adopted procurement policy Guideline #3B stipulates that all estimated public works contracts less than or equal to \$35,000 but greater than \$10,000 require a written RFP, proposals from three (3) contractors, and Town Board approval, and

WHEREAS, Atlantic Pavement Marking, Inc. submitted the lowest bid as published in *Results of Highway Material Bids for Letting of March 12, 2020 Also Painting Traffic Lines on County Road and Control and Maintenance of Roadside Vegetation for Letting March 12, 2020* by Niagara County Public Works, listed as Bid No. 2020-11 Painting of Traffic Lines of Niagara County, and

WHEREAS, work as specified by the Highway Superintendent has been completed by Atlantic Pavement Marking, Inc. and the associated invoice does indicate pricing in accordance with the results of the referenced bid publication provided by Niagara County Public Works,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12<sup>th</sup> day of October 2020 that the invoice submitted by Atlantic Pavement Marking, Inc. for \$10,529.00 shall be paid.

RESOLUTION 177-20

**REFUSE AND RECYCLING TOTES**

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 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,

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12<sup>th</sup> day of October 2020:

- 1) Effective immediately, all new buildings with occupancy categorized as such that the parcel is eligible for recycling collection shall purchase a recycling tote issued or approved by the Town of Pendleton, following any such procedure or procedures stipulated by the Building Department, prior to issuance of a certificate of occupancy.
- 2) Effective January 1, 2021, all new buildings with occupancy categorized as such that the parcel is eligible for refuse collection shall purchase a refuse tote issued or approved by the Town of Pendleton, following any such procedure or procedures stipulated by the Building Department, prior to issuance of a certificate of occupancy.

RESOLUTION 178-20

**WENDELVILLE FIRE COMPANY – NEW MEMBERS**

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 names of prospective new members who were accepted by a majority vote of the fire company membership at their regular meeting on October 1, 2020;

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12<sup>th</sup> day of October 2020 that Andrew Mattina and Chase Moeller shall be accepted as new members of the Wendelville Fire Company, Inc. effective immediately.

**RESOLUTION 179-20**

**INDEPENDENCE DAY 2021 - FIREWORKS**

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 sign a contract with Pyrotechnico for the 2021 Independence Day fireworks celebration and payment of the down payment as specified in the contract.

**PUBLIC REMARKS/COMMENTS**

There were no public remarks or comments.

**BOARD MEMBERS DISCUSSION**

Supervisor Maerten announced that the following meetings have been scheduled:

- Budget Meeting, October 19, 2020 7:00 p.m.
- Work Session, October 26, 2020, 7:00 p.m.
- Budget Meeting, October 26, 2020, immediately following the Work Session
- Public Hearing for Preliminary 2021 Budget, November 2, 2020, 7:00 p.m.
- Regular Meeting, November 9, 2020, 7:00 p.m.

Motion by Councilman Leible, seconded by Councilman Evchich, to close the Regular Meeting at 8:10 p.m. Motion carried.

A Budget Session immediately followed the Regular Meeting.

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Deborah K. Maurer, Town Clerk