

TOWN OF PENDLETON
PUBLIC HEARING and REGULAR MEETING
December 13, 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 13th day of December 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.

PUBLIC HEARING

PUBLIC HEARING – PROPOSED LOCAL LAW NO. 01 OF THE YEAR 2021

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

Supervisor Maerten opened the Public Hearing at 7:00 p.m.

The purpose of the hearing is to allow public input for the proposed adoption of LOCAL LAW NO. 01 OF THE YEAR 2021. Said Local Law to opt-out of the licensure and establishment of a retail dispensary license and/or on-site consumption license in the Town of Pendleton.

A copy of the proposed Local Law was made available at the Pendleton Town Hall and the Town of Pendleton website at www.pendletonny.us.

Supervisor Maerten began by explaining that the Board's original intention was to follow the Planning Board's recommendation of allowing this in areas zoned as light industrial. Attorney Joerg gave a brief overview of the law passed in March of 2021 legalizing recreational marijuana in New York State and how the towns were afforded the opportunity to opt out of the statute of allowing its use in public places. The towns must opt out no later than December 31, 2021 but have the option to opt back in at any time if they so choose. He explained that presently the Town of Pendleton does not have zoning in place that will allow the sale of marijuana. The Town will need another public hearing to change the zoning and then propose a new local law to allow it in specific areas such as those zoned as light industrial. His recommendation at this time is to opt out before the December 31st deadline and until more information is provided by NYS regarding the specific regulations that will be put in place under this new law.

Councilman Graham expressed concerns about opting out and the potential to lose tax revenue. He provided information about the national average of revenue reported for a dispensary and worries that we might miss out on opportunities for revenue if potential businesses choose to open in neighboring towns that have decided not to opt out. This discussion continued with various questions and comments from the Board members. Supervisor Maerten recommended tabling this decision until a Work Session that will be scheduled for December 22, 2021. All Board members agreed to table it until that time.

One resident stated that he is concerned that it could potentially take the town extended time to get the zoning in place and does not want us to miss the opportunity for possible revenue.

There were no other questions or public comments during the hearing.

Motion made by Councilman Leible, seconded by Councilman Fischer, to close the Public Hearing at 7:16 p.m. Motion carried.

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. A moment of silence was observed in memory of past Town Councilman Robert Kramer and longtime resident and former Town employee, Richard Wagner, who recently passed away.

Roll Call:

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

Also present:

Deborah Maurer – Town Clerk
Ron Diedrich – Building Inspector/Code Enforcement Officer
Dave Britton – Town Engineer
Craig Walter – Highway/Water & Sewer Superintendent
Mark Walter – Deputy Town Supervisor
Tom Matuski – Budget Officer

There were nine residents in attendance. There was one caller on the line.

ADDITIONS OR DELETIONS TO THE AGENDA

The following revision was made to the agenda:

- Remove – Agenda Item #1 – Proposed Local Law No. 01 of 2021
- Add – Revision to Agenda Item #2 – Cell Phone Stipends
- Add – Acceptance of Retirement Letter

COMMUNICATIONS

Supervisor Maerten introduced Wendelville Fire Company officers Matthew Berry and Rich Mitzal who came to speak about agenda item #5, Wendelville Fire Company Equipment Funding. Mr. Maerten explained that the Board passed a resolution in September 2021 to encumber \$200,000.00 of the American Rescue Plan Act (ARPA) funding for fire company equipment. Mr. Berry gave a brief presentation on the procurement of the new equipment. They are asking for a down payment of \$40,000.00 towards the total cost of \$192,000.00.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

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

ROUTINE BUSINESS

RESOLUTION 222-21

APPROVAL OF MINUTES – NOVEMBER 8, 2021

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

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

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021, that the meeting minutes for the Regular Meeting held on November 8, 2021, are approved as presented by Town Clerk Maurer.

RESOLUTION 223-21

ABSTRACT # 22

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

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

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021, to authorize payment of Voucher Abstract #22, Vouchers # 21-01118 to 21-01158, paid on November 24, 2021:

General Fund	\$	92,086.27
Highway	\$	53,086.05
Fire Protection	\$	3,450.00
Refuse	\$	41,612.98
Sewer	\$	14,254.14
Water	\$	18,837.05

Trust & Agency	\$	774.07
Total	\$	224,100.56

RESOLUTION 224-21

ABSTRACT # 23

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

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

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021, to authorize payment of Voucher Abstract #23, Vouchers # 21-01159 to 21-01240 to be paid on December 15, 2021 as amended:

General Fund	\$	34,112.33
Highway	\$	18,765.49
Fire Protection	\$	5,069.00
Refuse	\$	43,733.37
Sewer	\$	29,079.19
Water	\$	5,632.00
Total	\$	136,391.38

OTHER REPORTS

Supervisor Maerten reported that tax collected for October 2021 was \$142,003.58. This is an increase of \$17,136.84 when compared with October 2020. The year to date received is \$1,605,444.01 which is an increase of \$227,807.06 from 2020.

Supervisor Maerten stated that he recently met with Deputy Supervisor Walter, Niagara County Sheriff Michael Filicetti, Chief Deputy Sheriff Aaron Schultz, and Deputy Sheriff Darryl Kroening. He reported that Deputy Kroening will begin his assignment in the Town of Pendleton on December 26, 2021. Mr. Maerten noted that Deputy Kroening's patrols will be in addition to the Niagara County Sheriff's and New York State Police Department's regular shifts. Additionally, Supervisor Maerten mentioned that he received a call from an individual who is interested in taking over the Town baseball league. He is very interested in running the league but stated that the town would have to enter into an agreement with the group to improve the town's fields, drainage, etc. Supervisor Maerten asked that someone from the Board follow up with this if they feel it is worth pursuing.

Councilman Leible read the Water/Sewer monthly report from November. He reported that the Sewer Department completed 21 regular and three overtime sewer calls, repaired two sewer breaks, and installed a new home service tap. They also completed their bi-weekly duplex checks, completed 17 Inflow and Infiltration (I & I) repairs, completed two grinder tank updates and rebuilt pumps. The Water Department completed hydrant flushing and winterization, installed a new home water tap, and repaired a water break on Campbell Boulevard. The Water Department also completed a flow-test on Creekbend, installed a new meter and reader, and completed 93 stakeouts. Councilman Leible also stated that Armored Access will be installing the new cellular fire communicator at Town Hall and begin monitoring our fire alarm system in 2022. He also wished Highway/Water & Sewer Superintendent Craig Walter and Deputy Highway Superintendent Carl Gross best wishes on their retirement and thanked them for their lengthy service to the Town of Pendleton.

Councilman Fischer read the Highway Report for the month of November stating that they installed the salters and worked on the plow trucks, cleaned out the old garage, installed signs, continued roadside mowing, chipped brush and salted as needed. They also completed other tasks including repairing barricades, installing plow stakes, and installing culvert pipes. He also commended the Highway Department staff for the job they did cleaning up after the recent wind storm.

Councilman Graham reported that that airport on Transit and Dunnigan Roads has been sold. He stated that he is hoping for some new development at that location. He also asked if the Town's telephone system is set up to send out automatic messages to Town residents that are affected by utility emergencies such as those that happened during the last storm. Town Clerk Maurer indicated that the system does have the capability of doing that and she will provide him with additional details. Highway/Water & Sewer Superintendent also commented that the

Department of Public Works typically calls residents directly when they are aware of issues such as those mentioned. Councilman Graham also reminded the audience that the Town is currently looking for letters of interest for appointments to various boards and committees. Those appointments will take place at the January meeting. He also asked the Town Board if there was a possibility of changing the day of the regular board meetings as they conflict with the school board meetings.

Councilman Evchich had nothing specific to report.

Town Attorney Joerg had nothing additional to report.

Engineer Britton provided an updated on the Salt Barn/Portable Generator project. He stated that we are getting closer to obtaining the DEC permit. He also reported that NYSDEC Notice of Complete Application regarding the Salt Barn will be published in the newspaper on December 21, 2021. This notice will indicate that the State Environmental Quality Review (SEQR) is considered a negative declaration and a coordinated review is not required. Additionally, Mr. Britton informed the Board of a case currently in front of the Planning Board regarding a proposed small 8 lot subdivision in the Bear Ridge Estates area. He also stated that he will be soliciting bids for the Highway and Playground security system. Supervisor Maerten also added that Engineer Britton is working with the architect for the community center and hopes that it will be put out for public bidding soon.

Budget Officer Maturski had nothing to report.

DEPARTMENT HEADS

Town Clerk Maurer stated that all monthly departmental reports that were provided were published online for viewing and provided an update on the additional refuse tote service renewals. Mrs. Maurer thanked the Pendleton Veterans Association (PVA) for taking care of the Town Hall flag throughout the year. Tom Burns and Gordon Bellinger from the PVA take care of lowering our flag to half-staff when directed by the President. She also provided information regarding upcoming “newly elected” training and the annual NYS Association of Towns training in February.

Supervisor Maerten commented on the Veterans’ Day ceremony that was held in November saying that it was a nice event with a good turnout.

Highway/Water & Sewer Superintendent Walter had nothing additional to report.

Building Inspector Diedrich stated that he and Code Enforcement Officer Joe Follendorf took a trip around the town to assess the damage from the weekend storm. They noticed many trees down including one resident with a tree that fell down on top of her house. She stated that she was already in the process of having it removed.

NEW BUSINESS

Local Law No. 01-2021

This agenda item was tabled until the December 22nd Work Session.

A motion was then made by Councilman Leible to amend the posted version of the Cell Phone Stipends Resolution to include Town Councilmen. The motion was not seconded.

RESOLUTION 225-21

TOWN OFFICIAL CELL PHONE STIPENDS – AS POSTED

Motion by Councilman Evchich, seconded by Supervisor Maerten, the following resolution was

REJECTED: Ayes 2 Maerten, Evchich
 Nays 3 Fischer, Graham, Leible

WHEREAS, the Town of Pendleton has provided a stipend for multiple elected officials and employees who have opted to use a personal cell phone for Town-related business, forgoing issuance of a Town-owned and maintained device; and

WHEREAS, this practice has decreased the cost of cell phone services charged to the Town of Pendleton; and

WHEREAS, continuing the payment of a cell phone stipend to select individuals in place of issuance of a Town-owned device will continue to decrease the cost of such services billed to the Town of Pendleton.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021 that a monthly stipend of \$28.00 shall be paid to the Town Clerk and full-time Building Inspector for the period January 1, 2022 through December 31, 2022.

RESOLUTION 226-21

TOWN OFFICIAL CELL PHONE STIPENDS - REVISED

Motion by Councilman Evchich, seconded by Supervisor Maerten, the following resolution was

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

Nays 0

WHEREAS, the Town of Pendleton has provided a stipend for multiple elected officials and employees who have opted to use a personal cell phone for Town-related business, forgoing issuance of a Town-owned and maintained device; and

WHEREAS, this practice has decreased the cost of cell phone services charged to the Town of Pendleton; and

WHEREAS, continuing the payment of a cell phone stipend to select individuals in place of issuance of a Town-owned device will continue to decrease the cost of such services billed to the Town of Pendleton.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021 that a monthly stipend of \$28.00 shall be paid to the full-time Building Inspector for the period January 1, 2022 through December 31, 2022.

RESOLUTION 227-21

MOTOR EQUIPMENT OPERATOR APPOINTMENT

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

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

Nays 0

WHEREAS, certain employees of the Highway, Water, and Sewer Departments are collectively represented by Teamsters Local 264; and

WHEREAS, the current collective Bargaining Agreement between the Town of Pendleton and Teamsters Local 264 delineates the positions of Truck Driver and Motor Equipment Operator, including pay scales for each employment title; and

WHEREAS, Dylan Richardson is an employee hired after January 1, 2008 and is currently in the role of Truck Driver; and

WHEREAS, the Highway Superintendent has recommended to the Town Board that Dylan Richardson be moved to the employment title of Motor Equipment Operator.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021 that Dylan Richardson shall be assigned to the position of Motor Equipment Operator. Further be it resolved that this resolution shall take effect immediately and Dylan Richardson shall be compensated at the pay rate of Motor Equipment Operator, Step 5, effective for any hours worked beginning on the date of adoption of this resolution.

RESOLUTION 228-21

WENDELVILLE FIRE COMPANY EQUIPMENT DOWN PAYMENT

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

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

Nays 0

WHEREAS, the Wendelville Fire Company, Inc. is a volunteer organization which provides fire, rescue, and emergency medical services to the residents and visitors to the Town of Pendleton; and

WHEREAS, at the September 13, 2021 regular meeting of the Town Board of the Town of Pendleton \$200,000 of funding was encumbered for the acquisition of equipment for the Wendelville Fire Company, Inc.; and

WHEREAS, the leadership of the Wendelville Fire Company has created and advertised specifications for the needed equipment and has received at least three (3) written proposals from reputable vendors; and

WHEREAS, the Wendelville Fire Company has presented the proposals to the Town Board and has formally requested partial funding for a down payment to execute a contract to order and begin production of the new equipment.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021 that \$40,000 shall be paid to Churchville Fire Equipment as a down payment for equipment to be purchased for the Wendelville Fire Company, Inc.

RESOLUTION 229-21

WENDELVILLE FIRE COMPANY EQUIPMENT FUNDING

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 a volunteer organization which provides fire, rescue, and emergency medical services to the residents and visitors to the Town of Pendleton; and

WHEREAS, the Town of Pendleton annually budgets funding for all operations of the Wendelville Fire Company, ensuring a reliable and appropriate response to requests for fire, rescue, and emergency medical services within the Town; and

WHEREAS, the approved Town of Pendleton budget for 2021 includes funding explicitly designated for the cost of the acquisition of equipment incurred by the Wendelville Fire Company; and

WHEREAS, the Wendelville Fire Company has acquired apparatus during 2021 and expended funds for additional equipment for this new apparatus.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021 that \$10,000 shall be paid to the Wendelville Fire Company, Inc. for the cost of equipment acquired and placed in service by the Wendelville Fire Company. This resolution shall take effect immediately.

RESOLUTION 230-21

SCHEDULE PUBLIC HEARING – TOWN CODE OF ETHICS

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

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

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021 that a public hearing is scheduled for January 10, 2022 at 6:50 p.m. for adoption of the Town Code of Ethics.

RESOLUTION 231-21

SCHEDULE PUBLIC HEARING – REZONING REQUEST

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

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

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021 that a public hearing is scheduled for January 10, 2022 at 6:55 p.m. for a rezoning request of the property located at 6255 Campbell Boulevard.

RESOLUTION 232-21

NYS ASSOCIATION OF TOWNS ANNUAL MEETING

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

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

Nays 0

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021 that the Town Clerk is approved to attend the New York State Association of Town's Annual Meeting and Training School, February 20, 2022 through February 23, 2022, in New York City.

FURTHER, BE IT RESOLVED, that the Town Clerk shall be reimbursed all expenses for per diem travel expenses as prescribed by the U.S. General Services Administration. This resolution shall take effect immediately.

RESOLUTION 233-21

TEAMSTERS CONTRACT EXTENSION

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

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

Nays 0

WHEREAS, certain employees of the Highway, Water, and Sewer Departments are collectively represented by Teamsters Local 264; and

WHEREAS, the current collective bargaining agreement approved by Town employee membership of Teamsters Local 264 and the Town Board of the Town of Pendleton expires on December 31, 2021; and

WHEREAS, representatives of the Town of Pendleton and Teamsters Local 264 negotiated in good faith to draft a contract extension acceptable to all parties; and

WHEREAS, the local membership of Teamsters Local 264 did approve the proposed contract extension prior to the December regular meeting of the Town Board.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021 that the contract extension, as amended on pages 14 and 17, between Teamsters Local 264 and the Town of Pendleton, in effect from January 1, 2022 through December 31, 2023 is approved. This resolution shall take effect immediately.

RESOLUTION 234-21

NIAGARA COUNTY IT MUNICIPAL AGREEMENT RENEWAL

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 and Niagara County entered into a Municipal Cooperation Agreement for Niagara County to provide certain information technology services and assistance for the period on or about November 5, 2018 through December 21, 2019; and

WHEREAS, this specific Municipal Cooperation Agreement was renewed each successive year from inception through December 31, 2021; and

WHEREAS, it is prudent and necessary to renew this agreement between the Town of Pendleton and Niagara County for the calendar year 2022.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021 that the Municipal Cooperation Agreement between the Town of Pendleton and Niagara County for certain information technology services and assistance shall be approved for one (1) year commencing on January 1, 2022 and continuing through December 31, 2022.

RESOLUTION 235-21

ACCEPT RETIREMENT LETTER

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

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

Nays 0

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of December 2021, to accept a letter of retirement from Highway/Water & Sewer Superintendent Craig Walter effective December 31, 2021.

BOARD MEMBERS DISCUSSION

Supervisor Maerten announced that the following meetings have been scheduled:

- Work Session – December 22, 2021 at 7:00 p.m.
- Public Hearings – January 10, 2022 beginning at 6:50 p.m.
- Regular and Organizational Meeting – January 10, 2022 at 7:00 p.m.

PUBLIC REMARKS/COMMENTS

There were no public remarks or comments.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Regular Meeting at 8:16 p.m. Motion carried.

Deborah K. Maurer, Town Clerk

PENDING APPROVAL