

**TOWN OF PENDLETON  
REGULAR MEETING  
March 14, 2022**

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 14<sup>th</sup> day of March 2022 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.

Supervisor Maerten called the meeting to order at 7:08 p.m.

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

Roll Call:

Supervisor Maerten	Present
Councilman Evchich	Present
Councilman Graham	Present
Councilman Hickman	Present
Councilman Leible	Present

Also present:

Deborah Maurer – Town Clerk  
Claude Joerg – Town Attorney  
Ron Diedrich – Building Inspector/Code Enforcement Officer  
Dave Fischer – Highway/Water and Sewer Superintendent  
Dave Britton – Town Engineer  
Tom Valentine – Assessor  
Mark Walter – Deputy Town Supervisor  
Craig Walter – Deputy Highway Superintendent  
Wolfgang Buechler – Zoning Board of Appeals Chairman  
Joe McCaffrey – Planning Board Chairman  
Sandra Masterson – Board of Assessment Review Chairwoman  
Deputy Darryl Kroening – Niagara County Deputy Sheriff  
(Pendleton)

There were seven residents in attendance and zero callers on the line.

**ADDITIONS OR DELETIONS TO THE AGENDA**

The following changes were made to the agenda:

- Add #13 – Authorize Application for Business Grant
- Remove #11 – Ball Diamond Fees

**COMMUNICATIONS**

Town Clerk Maurer read a letter that was received from the Honorable Edmund P. Maziarz. Justice Maziarz formally announced his plan to retire as Town Justice on December 31, 2022. His letter thanked multiple people including his wife, Marian Maziarz, his court clerks Patricia Dickinson, Barbara Ricotta and James Rotella, past and present Town Hall staff, Supervisors and Board members as well as retired judges. Justice Maziarz expressed his appreciation for all of their support and assistance throughout the years.

**PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS**

A resident commented about the proposed Local Law 01 of 2022, specifically about changes to Town Code § 247-16. She stated that this section was changed from Special Exception Permit to Special Use Permit noting that they are two different types of permits. She said that the Special Exception language was missing from the new proposed code and would like this addressed before the Public Hearing is held. Supervisor Maerten asked her to provide additional comments to him by email so he can research it further. Zoning Board of Appeals Chairman Wolfgang Beuchler stated that he will also email additional information which could be helpful explaining the difference between the two.

Mr. Buechler also commented on the Water Department training resolution and had a question about the draft ACH Agreement for direct withdrawal of water bills.

Another resident asked for an explanation regarding the newly added agenda item “#13 - Authorize Application for Business Grant”. Supervisor Maerten read the letter from the Pendleton Community & Business Association which was received prior to the meeting and explained the purpose of the request. He stated that in 2019 the Town Board passed a resolution allowing the acceptance of a surplus canal buoy boat from the New York State Canal Corporation. The Town will finally be getting this free boat and this grant is intended to be used to refurbish and prepare it to be displayed near DePeau Park. He also noted that there will be no cost to apply for this grant and the boat will not need additional maintenance.

## ROUTINE BUSINESS

### RESOLUTION 79-22

#### APPROVE MEETING MINUTES

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March 2022, that the meeting minutes for the Work Session held on February 28, 2022, are approved as presented by Town Clerk Maurer.

### RESOLUTION 80-22

#### AUTHORIZE PAYMENT OF ABSTRACT #5a (2021)

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March 2022, to authorize payment of Voucher Abstract #5a, Voucher #21-01378, for year-end 2021, to be paid on March 16, 2022:

Highway	\$	9,990.00
Total	\$	9,990.00

### RESOLUTION 81-22

#### AUTHORIZE PAYMENT OF ABSTRACT #5 (2022)

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March 2022, to authorize payment of Voucher Abstract #5, Vouchers #22-00179 to #22-00234, for year-end 2022, to be paid on March 16, 2022:

General Fund	\$	13,867.18
Highway	\$	37,398.31
Refuse	\$	40,758.94
Sewer	\$	4,432.40
Water	\$	2,050.35
Trust & Agency	\$	1,984.96
Total	\$	101,032.14

## OTHER REPORTS

**Supervisor Maerten** reported that the sales tax collected for January 2022 was \$173,904.69. This is an increase of \$50,795.99 when compared with January 2021. The year to date received for 2022 is \$173,904.69 which is an increase of \$50,795.99 from 2021.

**Councilman Leible** stated that he has received some calls about garbage not getting picked up and recycling bins not being emptied. He said that he called Modern Disposal to report these issues. He asked Town Clerk Maurer if there has been anything resolved with Modern. She stated that her office has not been getting many calls at all recently regarding refuse or recycling issues. Supervisor Maerten added that large trash pickup was delayed once and was told by

Modern that these issues have been due to personnel issues. He offered to follow up with the company to see if there is anything else that can be done.

**Councilman Graham** mentioned the house fire on Mapleton Road that occurred today. He stated that everyone got out safely and he offered his thoughts and prayers to the family. This also led to a discussion about Town employees who are also volunteer firemen. It was noted that it has been “past practice” to allow employees to leave to assist during situations like this when needed. He recommended that the Board adopt a formal policy for this situation in the future.

**Councilman Evchich** asked if there was any information provided regarding the ball diamond usage fees. Supervisor Maerten noted that no recommendations were received yet which led to a short discussion about this topic.

**Councilman Hickman** reported that Highway/Water & Sewer Superintendent Fischer recently provided him with information from Sunnking, with whom the Town contracts for recycling. He will review this information as well as the costs to the Town and the current fee structure to determine if any changes need to be made. He also stated that he will reach out to Modern Disposal if necessary regarding the recently report issues with refuse collection.

**Town Attorney Joerg** stated that he has received some comments on the proposed Town Code revisions which he will look into and hopes to get the project completed soon.

**Engineer Britton** had nothing to report.

#### DEPARTMENT HEADS

**Town Clerk Maurer** stated that all monthly departmental reports which have been submitted to her are posted online for review. She also asked when there will be a discussion about the 2022 Pendleton Station Market plans. Councilman Graham informed her that the PSM Chairperson will be attending the next work session. She also noted that she is in the process of obtaining quotes to replace the main printer/copier machine at Town Hall.

**Highway and Water/Sewer Superintendent Fischer** commented on how hard his staff has been working with snow plowing and salting the roads during the recent winter weather. He reported that mechanic Jonathan Berry recently completed some classes that will assist with his job. Additionally, his staff has been cleaning up stone and replaced a drain pipe in preparation for the Salt Shed.

**Building Inspector Diedrich** also commented on the structure fire that displaced a local family. He said that the damage to the home was quite extensive and the fire was devastating for the family. He asked for thoughts and prayers for the family.

**Assessor Valentine** reported that there were 20 sales in the Town of Pendleton, 11 of which were arm’s length sales. He also stated that it was a very busy month due to the exemption deadline of March 1<sup>st</sup>. The office was very active with phone calls as well accepting and reviewing exemption applications.

#### NEW BUSINESS

##### RESOLUTION 82-22

##### **2022 EUROPEAN CHERRY FRUIT FLY PROGRAM**

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March 2022 that the Supervisor is authorized to sign the document from the United States Department of Agriculture requesting permission to trap an invasive pest, the European Cherry Fruit Fly (ECFF), on Town of Pendleton property. This resolution shall take effect immediately.

##### RESOLUTION 83-22

##### **WATER DEPARTMENT CERTIFICATION TRAINING**

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

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

WHEREAS, employees of the Water & Sewer Department of the Town of Pendleton are responsible for maintenance and upkeep of critical infrastructure serving the residents of the Town; and

WHEREAS, it is important for all employees to have the necessary training to efficiently, effectively, and properly perform all tasks related to the maintenance and upkeep of Town infrastructure; and

WHEREAS, the Highway Superintendent has requested authorization to schedule Grade D Water Certification training for multiple Water & Sewer Department employees.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March 2022 that the Highway Superintendent is authorized to enroll multiple employees for Grade D Water Certification training at a total cost not to exceed \$2,175.00. This resolution shall take effect immediately.

RESOLUTION 84-22

**CENTRAL NIAGARA 12U THUNDER - FACILITIES USAGE AGREEMENT**

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March, to approve the Facilities Usage Agreement for the organization known as Central Niagara 12U Thunder.

RESOLUTION 85-22

**WNY REVENGE SOFTBALL - FACILITIES USAGE AGREEMENT**

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March, to approve the Facilities Usage Agreement for the organization known as WNY Revenge Softball.

RESOLUTION 86-22

**AUTHORIZE AUTOMATED CLEARING HOUSE (ACH) PAYMENTS**

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

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

WHEREAS, the Town of Pendleton Town Clerk's Office receives, processes, and records all water and sewer bill payments; and

WHEREAS, the Town Clerk has dedicated great efforts to updating and streamlining policies, procedures, and systems used to process all payments received by the Town Clerk's Office; and

WHEREAS, to better serve the property owners of the Town of Pendleton, the Town Clerk requests authorization to allow direct payment from customers' bank accounts through the Automated Clearing House (ACH) system; and

WHEREAS, a draft document to be used to institute the ACH payment system has been submitted to the Town Board for review and approval.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March 2022 that the Town Clerk is authorized to take all necessary steps to process water and sewer payments using the Automated Clearing House system.

FURTHER, BE IT RESOLVED, that the draft ACH enrollment form is approved for use in the processing of ACH payments. This resolution shall take effect immediately.

RESOLUTION 87-22

**PENDLETON PARK COMMUNITY AND INCLUSIVITY IMPROVEMENT PROJECT  
- REVISED**

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

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

RESOLVED, that the Town of Pendleton applied for financial assistance from the New York State Office of Parks, Recreation and Historic Preservation (“OPRHP”), under Title 9 of the Environmental Protection Act of 1993, for the purpose of funding the Pendleton Park Community and Inclusivity Improvement Project;

RESOLVED, that Town of Pendleton is authorized and directed to accept these grant funds in an amount not to exceed \$500,000 for the project described in the grant application;

RESOLVED, that the Town of Pendleton is authorized and directed to agree to the terms and conditions of the Master Contract with OPRHP for such Pendleton Park Community and Inclusivity Improvement Project;

RESOLVED, that the Town of Pendleton is authorized and directed to agree to the terms and conditions of any required deed of easement granted to OPRHP that affects title to real property owned by the municipality and improved by the grant funds, which may be a duly recorded public access covenant, conservation easement, and/or preservation covenant; and

RESOLVED, that the governing body of the municipality delegates signing authority to execute the Master Contract and any amendments thereto, any required deed of easement, and any other certifications to the individual(s) who hold(s) the following elected or appointed municipal office(s) or employment position title(s): the Pendleton Town Supervisor and/or Deputy Supervisor.

RESOLUTION 88-22

**INTRODUCTION OF LOCAL LAW NO. 01 OF 2022**

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

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

WHEREAS, the Town Board has become aware of the need to amend and recodify various sections of the Town Code and such revisions would best be achieved through adoption of a local law; and

WHEREAS, pursuant to the Municipal Home Rule Law, a public hearing is required on the proposed Local Law

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March 2022 that:

- 1.) The proposed local law, as posted online, amending the Town of Pendleton Town Code is hereby introduced.
- 2.) A public hearing for the proposed Local Law is hereby set for May 9, 2022, at 6:55 p.m.
- 3.) The Town Clerk is directed to provide notice of the public hearing as required by law.
- 4.) The proposed local law is hereby referred to the Town Planning Board for its recommendation on those portions within the Planning Board’s jurisdiction.
- 5.) Special Counsel for the Town is directed to refer the proposed Local Law to the Niagara County Planning Board in accordance with the General Municipal Law § 239-m.
- 6.) This resolution is effective immediately.

RESOLUTION 89-22

**BOBCAT HYDRATILT TRADE-IN**

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

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

WHEREAS, the Water & Sewer Department of the Town of Pendleton owns and maintains a wide-variety of equipment to perform many different public works tasks; and

WHEREAS, the Highway Superintendent has requested authorization to trade-in a Bobcat Hydratilt attachment currently owned by the Town for a new attachment that is compatible with the equipment currently owned by the Town.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March 2022 that the Highway Superintendent is authorized to trade-in the Bobcat Hydratilt attachment currently owned by the Town for a new compatible attachment with a net cost of \$218.12. This resolution shall take effect immediately.

Supervisor Maerten then introduced the next motion regarding the purchase of a tracked skid steer with attachments by explaining that three quotes were obtained with equivalent pricing as follows:

- Five Star Equipment, John Deere 331G, total with attachments and trade-in: \$97,422.88.
- Bobcat of Buffalo, Bobcat T76 T4, total with attachments and trade-in: \$88,483.31.
- Monroe Tractor, Case TR310B, total with attachments and trade-in: \$92,215.00.

He noted that Bobcat of Buffalo had the lowest equivalent bid which is also State contract pricing. Mr. Maerten went on to explain that the Highway Superintendent has requested to add a snow blower to this purchase which will increase the State contract price to \$95,988.14. A lengthy discussion occurred regarding justifying the purchase and how it will be paid for. It was determined that the cost of this was included in the budget.

#### RESOLUTION 90-22

#### **PURCHASE OF TRACKED SKID STEER**

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

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

WHEREAS, the Town of Pendleton Highway Department and Water & Sewer Department perform a multitude of public works tasks in service of the residents and property owners of the Town; and

WHEREAS, a wide-variety of equipment is necessary to provide public works services, meeting the public's need for maintenance, repair, installation, and general upkeep of infrastructure; and

WHEREAS, the Town of Pendleton owns a 2002 Bobcat 873 (S/N 514150678), used for public works, and has been in service for many years; it has been determined that replacement of this machine is a prudent action; and

WHEREAS, multiple bids have been received, including trade-in of the current machine, and the Highway Superintendent has requested authorization to purchase a new machine with trade-in of the current unit; and

WHEREAS, bids received were as follows:

- Five Star Equipment, John Deere 331G, total with attachments and trade-in: \$97,422.88.
- Bobcat of Buffalo, Bobcat T76 T4, total with attachments and trade-in: \$95,988.14.
- Monroe Tractor, Case TR310B, total with attachments and trade-in: \$92,215.00.

WHEREAS, the quote provided by Bobcat of Buffalo is the lowest received and pricing is also based on NYS OGS Contract pricing.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March 2022 that the purchase of a Bobcat T76 T4 with attachments from Bobcat of Buffalo, with trade-in of the unit currently owned by the Town, is authorized for a cost not to exceed \$95,988.14. This resolution shall take effect immediately.

RESOLUTION 91-22

**PURCHASE OF WHEELED LOADER**

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

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

Nays 0

WHEREAS, the Town of Pendleton Highway Department and Water & Sewer Department perform a multitude of public works tasks in service of the residents and property owners of the Town; and

WHEREAS, a wide-variety of equipment is necessary to provide public works services, meeting the public's need for maintenance, repair, installation, and general upkeep of infrastructure; and

WHEREAS, the Town of Pendleton owns a 1975 Caterpillar 920, used for public works, that has been in service for many years and it has been determined that replacement of this machine is a prudent action; and

WHEREAS, multiple bids have been received and the Highway Superintendent has requested authorization to purchase a new machine, with anticipated sale by auction of the currently owned wheeled loader upon delivery of a new machine; and

WHEREAS, bids received are as follows:

- Anderson Equipment, Komatsu WA320-8, total cost of: \$211,904.00.
- Five Star Equipment, John Deere 544P, total cost: \$184,069.73.
- Milton CAT, Caterpillar 938M, total cost: \$194,604.60.

WHEREAS, the quote provided by Five Star Equipment is the lowest received and pricing is also based on NYS OGS and Sourcewell contract pricing.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March 2022 that the purchase of a John Deere 544P from Five Star Equipment is authorized for a cost not to exceed \$184,069.73. This resolution shall take effect immediately.

Ball Diamond Usage Maintenance Fees

This item was removed from the agenda.

RESOLUTION 92-22

**RELEASE FROM LIABILITY AND INDEMNIFICATION - BASEBALL AND SOFTBALL ACTIVITIES**

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

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

Nays 0

WHEREAS, the Town of Pendleton owns and maintains various properties and facilities; and

WHEREAS, it is in the best interest of the Town's residents to offer community benefit groups, organizations, and clubs the opportunity to use the Town's properties and facilities for specific activities; and

WHEREAS, it is important to protect the Town from liability associated with activities sponsored by groups, organizations, and clubs on Town properties and within Town facilities; and

WHEREAS, a Facilities Usage Agreement was approved by resolution of the Town Board on February 28, 2022; and

WHEREAS, a supplemental Release from Liability and Indemnification has been recommended as a requirement in conjunction with the Facilities Usage Agreement.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on

this 14th day of March 2022 that the included Release from Liability and Indemnification shall be added as a required component of the Facilities Usage Agreement. This resolution shall take effect immediately.

RESOLUTION 93-22

**BUSINESS DEVELOPMENT GRANT APPLICATION**

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14<sup>th</sup> day of March 2022, to authorize the annual funding request from Pendleton Community & Business Association, in the amount of \$2,500.00 for business promotion activities, that will be matched by Niagara County through the 2022 William G. Mayne, Jr. Business/Community Enhancement Program to be used toward the restoration of a decommissioned buoy tender donated by the NYS Canal Corporation.

**BOARD MEMBERS DISCUSSION**

Supervisor Maerten noted that the following meetings have been scheduled:

- Work Session - March 28<sup>th</sup> at 7:00 p.m.
- Regular Meeting – April 11<sup>th</sup> at 7:00 p.m.

Councilman Graham introduced Niagara County Deputy Sheriff Darryl Kroening who was in the audience. Deputy Kroening, who is now dedicated to the Town of Pendleton, spoke of his experience with the Niagara County Sheriff's Office (NCSO) and provided a report of recent activity in the Town. He confirmed that speeding is out of hand but he has seen an improvement since he began patrolling in Pendleton. He also reported that thefts are down in the area. Deputy Kroening noted that he will be handling all of the calls in the Town and that he would like to have a relationship with the residents. He said that he is happy to be here and encourages residents to contact him directly at [PendletonDeputy@pendletonny.us](mailto:PendletonDeputy@pendletonny.us). Councilman Leible also asked Supervisor Maerten to request monthly reports from the NCSO.

**PUBLIC REMARKS/COMMENTS**

A resident asked if the Town Board would consider putting in a dog park at DePeau Park. A brief discussion took place and it was determined that this would create a liability issue for the Town. The same resident asked if gravel could be added to the entranceway at the park. Highway/Water & Sewer Superintendent Fischer stated that this will take place as part of the normal spring maintenance at the park.

Another resident reported that he had issues with his bulk pick-up last month. The problem was eventually resolved but he is concerned about the issues with Modern Disposal stating that the residents shouldn't have to call Modern directly for resolution.

Motion by Councilman Leible, seconded by Councilman Evchich, to adjourn from the Regular Meeting at 8:20 p.m. Motion carried.

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Deborah K. Maurer, Town Clerk