

TOWN OF PENDLETON
WORK SESSION
December 22, 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 22nd 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.

Supervisor Maerten called the meeting to order at 7:03 p.m.

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

Also present:

Deborah Maurer – Town Clerk
Craig Walter – Highway/Water & Sewer Superintendent
Mark Walter – Deputy Supervisor

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

Supervisor Maerten opened up the floor to public comments on the agenda items. A resident asked for clarification of the proposed local law. Mr. Maerten explained that a Public Hearing was held on December 13, 2021 and provided some brief details regarding the intention of the law. The resident expressed that she was opposed to the legalization of marijuana in the Town of Pendleton.

RESOLUTION 236-21

LOCAL LAW NO. 01 OF THE YEAR 2021

Motion by Councilman Leible, seconded by Councilman Fischer, the following resolution was ADOPTED BY ROLL CALL:

| | |
|--------------------|-----|
| Supervisor Maerten | AYE |
| Councilman Evchich | AYE |
| Councilman Fischer | AYE |
| Councilman Graham | NAY |
| Councilman Leible | AYE |

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 22nd day of December 2021, to adopt Local Law No. 01 of the Year 2021, which is subject to a 45-day permissive referendum of the qualified electors of the Town of Pendleton, New York in accordance with Municipal Home Rule Law of the State of New York. Such referendum may be required by the filing of a petition.

TOWN OF PENDLETON LOCAL LAW NO. 01 OF THE YEAR, 2021

A LOCAL LAW ENTITLED:

“A 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”

Section 1. Legislative Intent

It is the intent of this local law to request the Cannabis Control Board of the State of New York (“Cannabis Control Board”), as established pursuant to the New York Cannabis Law, Chapter 7-a of the Consolidated Laws of the State of New York (“Cannabis Law”), to permit the Town of Pendleton (“Town”) to opt out of allowing cannabis retail dispensaries and on-site cannabis consumption sites within the unincorporated areas of the Town of Pendleton, that would otherwise be allowed under Article 4 of the Cannabis Law.

The recently established Cannabis Law, Chapter 7-a provides in Article 6, §131 that the licensure and establishment of a retail dispensary license and/or on-site consumption license under the provisions of Article Four of Chapter 7-a shall not be applicable to a town, which, after the effective date of the Cannabis Law, which was March 31, 2021, and before December 31, 2021, adopts a local law, subject to permissive referendum as governed by §24 of the Municipal Home Rule Law of the State of New York, requesting the Cannabis Control Board to prohibit the establishment of

such retail dispensary licenses and/or on-site consumption licenses contained in Article Four of the Cannabis Law, within the jurisdiction of the town.

The Pendleton Town Board finds that, at the current time, it is in the best interests of the residents of the Town of Pendleton to adopt a local law as per Cannabis Law §131 prohibiting and requesting the Cannabis Control Board to prohibit the establishment of retail dispensary licenses and on-site consumption licenses that would otherwise be allowed under Article 4 of the Cannabis Law. The Town Board finds that permitting such establishments without reviewing the unique and novel impact that the establishment of such businesses would have on the health, safety and welfare of the residents of the Town of Pendleton, given, among other things, the relative close proximity of commercial locations within which such establishments might be located to parks, school, churches and residential zones throughout the Town, coupled with as yet unresolved issues addressing enforcement of the new laws and guidelines related to cannabis use, would not be, at the current time, in the interests of Town residents. The Town adopts this local law in accordance with the timeframe and guidelines as set forth in Chapter 7-a, subsequent to March 31, 2021 and prior to December 31, 2021.

Section 2. Authority.

This local law is adopted pursuant to Cannabis Law § 131 which expressly authorizes a town board to adopt a local law requesting the Cannabis Control Board to prohibit the establishment of cannabis retail dispensary licenses and/or on-site consumption licenses within the jurisdiction of the town and is subject to a permissive referendum, the procedure of which is governed by Municipal Home Rule Law § 24.

Section 3. Local Opt-Out

The Town Board of the Town of Pendleton hereby opts out from allowing the establishment of retail cannabis dispensaries and on-site cannabis consumption sites within the unincorporated areas of the Town and requests the Cannabis Control Board prohibit the licensing and establishment of such dispensaries and consumption sites within the unincorporated areas of Town of Pendleton.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Permissive Referendum

This local law is subject to a referendum on petition in accordance with Cannabis Law § 131 and the procedure outlined in Municipal Home Rule Law § 24.

Section 6. Effective date.

This local law shall take effect in accordance with Municipal Home Rule Law §24, namely, forty-five days after its adoption and upon filing with the Secretary of State within twenty days after the time period for filing a petition in accordance with Municipal Home Rule §24 has expired. In the event a valid petition protesting against this local law is filed within forty-five days after its adoption, then this local law shall not be effective until approved by the affirmative vote of a majority of the qualified electors of the Town of Pendleton voting on a proposition for its approval in accordance with the requirements of Municipal Home Rule Law §24.

RESOLUTION 237-21

AUTHORIZATION TO ADVERTISE FOR BIDS – SECURITY SYSTEM PROJECT

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 owns, operates, and maintains multiple buildings located at 6470 Campbell Boulevard as well as a variety of outdoor public use facilities also located at this address; and

WHEREAS, it is in the Town's best interest to take action to increase security and safety on Town-owned property; and

WHEREAS, the Town of Pendleton has been awarded a \$25,000.00 grant through the New York State Division of Criminal Justice Services for a Town Park and Public Works Security Project; and

WHEREAS, bid documents and public announcement have been prepared for this project.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 22nd day of December 2021 that the Town Clerk is authorized to publish the public announcement soliciting bids for the Town of Pendleton Town Park and Public Works Security Project. This resolution shall take effect immediately.

RESOLUTION 238-21

CREATION OF FIRE EQUIPMENT RESERVE

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

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

WHEREAS, fire, rescue, and emergency medical response services for the Town of Pendleton are provided by Wendelville Fire Company, Inc. (Fire Company) and the Town's annual budget includes funding to ensure the Fire Company's ability to respond to any and all requests for assistance; and

WHEREAS, it's in the best interests of the Town of Pendleton to effect plans to ensure proper funding is available for the Fire Company's future equipment acquisition, thereby ensuring proper and adequate response to all calls for assistance.

NOW, THEREFORE BE IT RESOLVED, that pursuant to Section 6-c of the General Municipal Law, as amended, there is hereby established a capital reserve fund to be known as the "Fire Equipment Reserve Fund" (hereinafter "Reserve Fund"). The purpose of this Reserve Fund is to accumulate moneys to finance the cost of a type of equipment. The type of equipment to be financed from the Reserve Fund is the acquisition of fire and rescue equipment.

BE IT FURTHER RESOLVED, the chief fiscal officer is hereby directed to deposit and secure the moneys of this Reserve Fund in the manner provided by Section 10 of the General Municipal Law. The chief fiscal officer may invest the moneys in the Reserve Fund in the manner provided by Section 11 of the General Municipal Law, and consistent with the investment policy of the Town of Pendleton. Any interest earned or capital gains realized on the moneys so deposited or invested shall accrue to and become part of the Reserve Fund. The chief fiscal officer shall account for the Reserve Fund in a manner which maintains the separate identity of the Reserve Fund and shows the date and amount of each sum paid into the fund, interest earned by the fund, capital gains or losses resulting from the sale of investments of the fund, the amount and date of each withdrawal from the fund and the total assets of the fund, showing cash balance and a schedule of investments, and shall, at the end of each fiscal year, render to the Town Board a detailed report of the operation and condition of the Reserve Fund. Except as otherwise provided by law, expenditures from this Reserve Fund shall be made only for the purpose for which the Reserve Fund is established. No expenditure shall be made from this Reserve Fund without the approval of the Town Board and such additional actions or proceedings as may be required by Section 6-c [6-g] of the General Municipal Law or any other law, including a permissive referendum if required by subdivision 4 of Section 6-c [subdivision 7 of Section 6-g].

BE IT FURTHER RESOLVED, that the Town Board has appropriated the amount of \$10,000.00 for deposit in the Fire Equipment Reserve Fund and that amount shall be transferred to the Fire Equipment Reserve Fund on January 1, 2022.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.

RESOLUTION 239-21

ACCEPT RESIGNATION LETTER - FOLLENDORF

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 22nd day of December 2021, to accept a letter of resignation from Town of Pendleton Ordinance Enforcement Officer/Building Inspector Joseph Follendorf effective December 31, 2021.

RESOLUTION 240-21

AUTHORIZE TO ADVERTISE – PART-TIME BUILDING INSPECTOR/CODE ENFORCEMENT OFFICER

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

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

Nays 0

WHEREAS, the Building & Code Enforcement Department of the Town of Pendleton is responsible for a wide-variety of duties, including but not limited to enforcement of building codes and Town Code; and

WHEREAS, the Town of Pendleton has relied upon the efforts of full-time and part-time employees trained and certified for the title of Building Inspector and Code Enforcement Officer; and

WHEREAS, the current part-time Building Inspector and Code Enforcement Officer has submitted a letter of resignation to the Town Board of the Town of Pendleton; and

WHEREAS, it's in the best interest of the Town of Pendleton to fill this part-time position with a qualified applicant.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 22nd day of December 2021 that the Supervisor is hereby authorized to advertise for the open position of part-time Building Inspector and Code Enforcement Officer. This resolution shall take effect immediately.

RESOLUTION 241-21

APPOINTMENT OF ACTING ASSESSOR

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 Assessor of the Town of Pendleton was declared vacant by resolution of the Town Board at the monthly meeting on October 11, 2021 and the Acting Assessor was terminated by the same resolution; and

WHEREAS, pursuant to Section 314 of the Real Property Tax Law, the Town Board may appoint an "Acting Assessor" who shall assume the duties and functions of the Assessor until such time as a replacement Assessor is appointed by the Town Board or, should the Acting Assessor function as Assessor for more than six months, the Acting Assessor may be appointed Assessor; and

WHEREAS, the continuity of Assessor's Office operations is essential; and

WHEREAS, a qualified candidate currently filling the role of Assessor for multiple municipalities in Niagara County has been identified and is willing to assist the Town of Pendleton in the role of Acting Assessor.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 22nd day of December 2021 that Michael Hartman is appointed Acting Assessor effective December 18, 2021 through February 28, 2022.

BE IT FURTHER RESOLVED, that Michael Hartman will be compensated at the rate of \$1,500.00 per month, prorated from the date of appointment.

BE IT FURTHER RESOLVED, The Town Clerk is hereby directed to send a certified copy of this Resolution to the State Board of Real Property Services in Albany, New York, said notice to be sent within Fifteen (15) days hereof.

RESOLUTION 242-21

APPOINTMENT OF WATER & SEWER SUPERINTENDENT

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

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

Nays 0

WHEREAS, all public works operations in the Town of Pendleton are performed by the Highway Department and Water & Sewer Department; and

WHEREAS, pursuant to New York Consolidated Laws, Town Law - TWN § 32 a highway superintendent is elected and charged with control and supervision of highway department operations and the corresponding salary for this position is approved each year through adoption of the town's annual budget; and

WHEREAS, pursuant to New York Consolidated Laws, Town Law - TWN § 32 the town superintendent of highways shall have such powers and shall perform such duties as are or hereafter may be conferred or imposed upon him by law, and such further duties as the town board may determine not inconsistent with law; and

WHEREAS, by resolution of the Town Board at the January 14, 2019 meeting the duties of Water & Sewer Superintendent were conferred to the Highway Superintendent.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 22nd day of December 2021 that the title and duties of Water & Sewer Superintendent shall be conferred to Highway Superintendent-elect David Fischer effective January 1, 2022.

BE IT FURTHER RESOLVED, that the compensation for the additional duties of Water & Sewer Superintendent shall be set yearly as specified in the Town of Pendleton approved annual budget.

BE IT FURTHER RESOLVED, that the conferral of the duties of Water & Sewer Superintendent to the Highway Superintendent shall be in effect until subsequent action of the Town Board changes any or all conditions specified by this resolution.

RESOLUTION 243-21

APPOINTMENT OF DEPUTY WATER & SEWER SUPERINTENDENT

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 and Teamsters Local 264 approved a Collective Bargaining Agreement which is valid through the December 31, 2023; and

WHEREAS, the Collective Bargaining Agreement details the position of Deputy Water & Sewer Superintendent with corresponding compensation; and

WHEREAS, the position of Highway, Water, & Sewer Superintendent was vacated on March 11, 2021; and

WHEREAS, Aaron Bair was appointed Interim Water, & Sewer Superintendent by resolution of the Town Board on March 22, 2021, effective through December 31, 2021; and

WHEREAS, permanent appointment to the position of Deputy Water & Sewer Superintendent is in the best interest of the residents and property owners of the Town of Pendleton.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 22nd day of December 2021 that Aaron Bair shall be appointed Deputy Water & Sewer Superintendent with compensation as specified in the Collective Bargaining Agreement between Teamsters Local 264 and the Town effective January 1, 2022 through December 31, 2023.

BE IT FURTHER RESOLVED, that appointment of Aaron Bair to the position of Deputy Water Superintendent shall be in effect only under conditions specified by Niagara County Civil Service for incumbents appointed to this job title.

RESOLUTION 244-21

APPOINTMENT OF DEPUTY HIGHWAY SUPERINTENDENT

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

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

Nays 0

WHEREAS, the position of Deputy Highway Superintendent will be vacant as of January 1, 2022 due to retirement of the positions incumbent, and

WHEREAS, the Town Board of the Town of Pendleton has previously established the position of Deputy Highway Superintendent and pursuant to New York Consolidated Laws, Town Law - TWN § 32 if the town superintendent of highways shall fail to appoint such deputy within five days after the establishment of the office of deputy or within five days after a vacancy occurs in the office of deputy, the Town Board shall have power to appoint such deputy town superintendent of highways, and

WHEREAS, New York Consolidated Laws, Town Law - TWN § 32 further states that the Town Board shall fix the compensation to be received by such deputy.

WHEREAS, elected Highway Superintendent David Fischer has verbally requested interim appointment of Craig Walter to the position of Deputy Highway Superintendent for a fixed interval of time.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 22nd day of December 2021 that Craig Walter shall be appointed as Deputy Highway Superintendent.

BE IT FURTHER RESOLVED, that Craig Walter shall be compensated at an hourly rate of \$40.51.

BE IT FURTHER RESOLVED, that this appointment shall take effect January 1, 2022 and shall be in effect through March 31, 2022.

BE IT FURTHER RESOLVED, the constitutional oath of office shall be taken and filed by January 31, 2022.

Supervisor Maerten asked Highway/Water & Sewer Superintendent Walter provide an update on the interviews that were conducted for the Highway Department openings. Mr. Walter stated that five individuals were interviewed for various positions. He provided details of those interviews and indicated that only one of the recommended employees is a resident of the Town.

RESOLUTION 245-21

HIGHWAY DEPARTMENT APPOINTMENT – KIERAN HICKMAN

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 funds and operates public works operations that include the Highway Department and the Water & Sewer Department; and

WHEREAS, proper staffing is necessary to ensure that these departments are able to efficiently and effectively perform all functions within each department's respective scope of operation; and

WHEREAS, retirement of employees of the Highway Department and Water & Sewer Department have created employment vacancies; and

WHEREAS, advertisement of Highway Department openings was authorized by resolution of the Town Board during the October 8, 2021 meeting and these openings have been publicly posted and multiple candidates have been interviewed for these positions.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 22nd day of December 2021 that Kieran Hickman be appointed as Truck Driver at a rate of compensation stated in the current Collective Bargaining Agreement for this position at pay rate Step 3.

BE IT FURTHER RESOLVED, that a six (6) month probationary period shall commence, beginning the first full day Kieran Hickman reports for work following proper notification and release from any and all current employers.

BE IT FURTHER RESOLVED, that Kieran Hickman shall move to pay rate Step 4 upon completion of the six (6) month probationary period and subsequently be placed on pay rate Step 5 on January 1, 2023. This resolution shall take effect immediately.

RESOLUTION 246-21

HIGHWAY DEPARTMENT APPOINTMENT – JOSHUA HUBBEL

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 funds and operates public works operations that include the Highway Department and the Water & Sewer Department; and

WHEREAS, proper staffing is necessary to ensure that these departments are able to efficiently and effectively perform all functions within each department's respective scope of operation; and

WHEREAS, retirement of employees of the Highway Department and Water & Sewer Department have created employment vacancies; and

WHEREAS, advertisement of Highway Department openings was authorized by resolution of the Town Board during the October 8, 2021 meeting and these openings have been publicly posted and multiple candidates have been interviewed for these positions.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 22nd day of December 2021 that Joshua L. Hubbell shall be appointed as Equipment Operator at a rate of compensation stated in the current Collective Bargaining Agreement for this position on pay rate Step 3.

BE IT FURTHER RESOLVED, that a six (6) month probationary period shall commence, beginning the first full day Joshua L. Hubbell reports for work following proper notification and release from any and all current employers.

BE IT FURTHER RESOLVED, that Joshua Hubbell shall move to pay rate Step 4 upon completion of the six (6) month probationary period and subsequently be placed on pay rate Step 5 on January 1, 2023. This resolution shall take effect immediately.

Councilman Graham stated that the Historical Society has requested a storage shed to hold the contents of the log cabin until the new community center is built. A discussion occurred between the councilmen and it was decided that quotes will be provided in January.

Councilman Evchich reported that he has made some updates to the Town's Facility Usage Agreement and will provide copies to Clerk Maurer. He also stated that he spoke with the organizer of Thunderwolves baseball and agreed to meet with him to discuss potential plans for a 2023 season. Finally, Councilman Evchich announced that the Town was awarded \$500,000.00 by New York State for the Pendleton Park Community and Inclusivity Improvement Project. He thanked everyone for their hard work, especially Nathan Taylor from Rotella Grants, who put his heart and soul into applying for this grant. He stated that Pendleton scored in the top 10 for all of the projects in the Western New York region.

Supervisor Maerten reported that Niagara County Deputy Sheriff Darryl Kroening, recently assigned to the Town of Pendleton, will begin his local patrols on December 27, 2021.

Councilman Fischer thanked Craig Walter for his many years of service to the Town of Pendleton and his willingness to help as he transitions into the Highway Superintendent's position in 2022. He also thanked the Chase family from Aiken Road for sending lunch for the staff at the Department of Public Works.

Supervisor Maerten provided an update on the extended power outage for the Creekview Drive residents. He spoke with National Grid who worked with the forestry division to clear the trees

from the wires to the extent that they legally could. This will hopefully prevent future disruptions in service.

Town Clerk Maurer reported that she picked up the tax warrant and the tax bills today. She will be working with her staff to organize the bills and get them mailed out by the end of the month. She also thanked Highway/Water & Sewer Superintendent Walter for his service and stated that it was a pleasure to work with him over the last few years.

Supervisor Maerten announced that the next meeting will be the annual organizational meeting to be held on January 10, 2022. He then opened up the floor to public comments.

Jim Sobczyk provided an update on the construction of the new community center. He stated that the architect has been rolling out sketches of the building and is working with GHD to begin the bid process. There were no other public comments.

Motion by Councilman Leible, seconded by Councilman Fischer, to enter into an Executive Session to discuss litigation with the Town Attorney and Deputy Town Supervisor at 7:38 p.m. Motion Carried.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Executive Session at 7:52 p.m. Motion carried.

RESOLUTION 247-21

SUNBEAM SETTLEMENT

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 22nd day of December 2021 that the terms and conditions of the settlement with Sunbeam as presented to the Town Board are hereby approved.

Motion by Councilman Leible, seconded by Councilman Fischer, to adjourn from the Work Session at 7:53 p.m. Motion carried.

Deborah K. Maurer, Town Clerk