

**TOWN OF PENDLETON
REGULAR MEETING
February 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 14th day of February 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 7:03 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
Ron Diedrich – Building Inspector/Code Enforcement Officer
Dave Fischer – Highway/Water and Sewer Superintendent
Dave Britton – Town Engineer
Tom Maturski – Budget Officer

There were four residents in attendance and four callers on the line.

ADDITIONS OR DELETIONS TO THE AGENDA

The following changes were made to the agenda:

- Add – Declination of Health Insurance
- Add – Executive Sessions

COMMUNICATIONS

Supervisor Maerten read a proclamation honoring retired equipment operator and Deputy Highway Superintendent Carl Gross who was in attendance. This proclamation was first acknowledged at the January meeting but Mr. Gross was not present at that meeting. Supervisor Maerten and the Board thanked him for his service and dedication to the Town of Pendleton.

Town Clerk Maurer read a letter from the United States Postal Service Postmaster of the City of Buffalo that was received on February 7, 2022. The intent of the letter was to extend the post office's sincere apologies in regard to the error which occurred during the hand sorting process at the Buffalo Post Office in January that affected multiple tax payers in the Town. Mrs. Maurer explained that approximately 84 property owners were impacted by this error. She also stated that residents may contact her office directly for information on how to file a reimbursement claim with the U.S.P.S. for bank charges that may have been incurred.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

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

ROUTINE BUSINESS

RESOLUTION 52-22

APPROVE MEETING MINUTES

Motion by Councilman Leible, seconded by Councilman Graham, 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 14th day of February 2022, that the meeting minutes for the Regular and Organizational Meeting held on January 10, 2022, are approved as presented by Town Clerk Maurer.

RESOLUTION 53-22

AUTHORIZE PAYMENT OF ABSTRACT #2a (2021)

Motion by Councilman Leible, seconded by Councilman Graham, 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 14th day of February 2022, to authorize payment of Voucher Abstract #2a, Vouchers #21-01331 to #21-01368 for year ending 2021, that was paid on January 26, 2022:

General Fund	\$	7,767.57
Highway	\$	7,684.18
Sewer	\$	2,049.50
Water	\$	4,534.52
Total	\$	22,035.77

RESOLUTION 54-22

AUTHORIZE PAYMENT OF ABSTRACT #2b (2022)

Motion by Councilman Leible, seconded by Councilman Graham, 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 14th day of February 2022, to authorize payment of Voucher Abstract #2b, Vouchers #22-00015 to #22-00046 for year ending 2022, that was paid on January 26, 2022:

General Fund	\$	5,297.94
Highway	\$	17,663.17
Fire Protection	\$	365,145.00
Refuse	\$	714.72
Sewer	\$	8,287.17
Water	\$	367.56
Total	\$	397,475.56

RESOLUTION 55-22

AUTHORIZE PAYMENT OF ABSTRACT #3a (2021)

Motion by Councilman Leible, seconded by Councilman Graham, 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 14th day of February 2022, to authorize payment of Voucher Abstract #3a, Vouchers #21-01369 to #21-01377 for year ending 2021, to be paid on February 16, 2022:

General Fund	\$	5,477.13
Highway	\$	15.00
Refuse	\$	40,577.03
Water	\$	1,625.40
Total	\$	47,694.56

RESOLUTION 56-22

AUTHORIZE PAYMENT OF ABSTRACT #3b (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 14th day of February 2022, to authorize payment of Voucher Abstract #3b, Vouchers #22-00047 to #22-00129 for year ending 2022, to be paid on February 16, 2022:

General Fund	\$	45,229.57
Highway	\$	48,252.28
Refuse	\$	46,324.94
Sewer	\$	4,789.99
Water	\$	3,096.29
Total	\$	147,693.07

OTHER REPORTS

Supervisor Maerten reported that the sales tax collected for December 2021 was \$245,301.10. This is an increase of \$41,934.35 when compared with December 2020. The year to date received for 2021 was \$2,199,688.88 which is an increase of \$503,719.39 from 2020.

Supervisor Maerten also remarked on the two resolutions coming up later in the meeting regarding the NYS CFA Grant for the Pendleton Park Community and Inclusivity Improvement Project. He reported that he is anticipating a presentation on this project at the March 14, 2022 meeting. Supervisor Maerten also thanked Town Clerk Maurer, Deputy Town Clerks Noreen Lemma and Stephanie Chase, Highway/Water & Sewer Superintendent Fischer, resident Jim Sobczyk, Niagara County Deputy Sheriff Darryl Kroening, and members of the Wendelville Fire Company Fire Police for braving the frigid temperatures on February 5th to hand out free COVID-19 tests to Pendleton residents.

Councilman Leible stated that the spring newsletter articles are due by February 25, 2022. He also reported that he completed the 2021 audit for Justice Kevin Mack and found everything to be in good order. Lastly, Mr. Leible thanked Carl Gross for his service to the Town.

Councilman Graham explained that he is still working on obtaining quotes for some of the cleaning and improvement projects at Town Hall. He also stated that Marissa Wroblewski, Pendleton Station Market Manager, will be attending the Work Session scheduled for February 28, 2022, to discuss upcoming plans for the 2022 market season. Additionally, Mr. Graham reported that he was contacted by the Lockport YMCA regarding a “Fitness in the Park” program which they are interested in having at the Town Park. He will discuss the details of this with the Recreation Committee.

Councilman Evchich reported that he has been contacted by a couple of groups interested in summer baseball and is in the process of following up on this with the Recreation Committee. He also reported that Starpoint has agreed to allow the Summer Recreation Program for 2022. He will discuss this with the Recreation Committee at their meeting on February 21, 2022. He also noted that he is trying to obtain quotes for the fence repair and repaving for the courts at DePeau Park.

Councilman Hickman reported that he has completed the first part of the Town Clerk audit for 2021 and the records are in good order. He plans on completing the second part for the Tax Collection next week. He also informed the Board that he was given information regarding the ongoing Joint Waterfront Revitalization Project between the Towns of Pendleton and Amherst. Mr. Hickman stated that he would like to follow this project and asked the other Board members to share what information they may have on it. A discussion also occurred regarding questions that Mr. Hickman had on the town’s bidding procedures.

Engineer Britton informed the Board that the NYSDEC permit was issued in January for the Salt Storage project noting that construction can now hopefully begin by the fall of 2022. He also stated that he can assist with getting quotes for the paving work needed at DePeau Park.

Budget Officer Maturski reviewed the January 1 – December 31, 2021 Budget Performance Report that was provided to the Board. He gave brief updates on the various funds indicating there will be additional payments from 2021 that will need to be accounted for which will change the final numbers for this report. Mr. Maturski’s report indicates that after a review of all funds, the Town has a positive net position of \$628,164. The report is posted online with other meeting agenda documents for public viewing.

DEPARTMENT HEADS

Town Clerk Maurer stated that all monthly departmental reports which have been submitted to her are posted online for review. She also invited Board members to stop by the Assessor’s office and meet the newly appointed Assessor, Tom Valentine, and to be updated on the status of this office. Mrs. Maurer provided brief reviews of the Water Bill Collection, Town Clerk and Tax Collection monthly reports as well. She also commented on the increase in passport applications and that she is in the process of finalizing the requirements needed to implement automatic water bill payments for the next billing quarter.

Highway and Water/Sewer Superintendent Fischer stated that his staff has been very busy with the recent snowfall and thanked them for the great job they did keeping the roads and the fire hydrants clear. He also thanked the residents for reaching out and thanking his employees and even providing lunch one day. Mr. Fischer announced that Dan Gocher, Lucas Frew and Kevin Johnson, all from the Water & Sewer Department, passed their CDL driver's test recently. He also reported that he is in the process of getting all of the Public Works staff photo ID badges and they are still in the process of preparing for the new salt shed.

Building Inspector Diedrich had nothing to report other than complimenting the efforts being made by Assessor Valentine and Kim Frey, the Assessor's Clerk, during this recent transition in their office.

NEW BUSINESS

RESOLUTION 57-22

SURPLUS FILL

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

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

Nays 0

WHEREAS, the Town of Pendleton Highway, Water, and Sewer Departments perform a multitude of tasks which often result in the excavation and removal of earthen material or fill; and

WHEREAS, fill materials are often removed from job sites and transported to the Public Works Facility located at 6640 Campbell Boulevard and stockpiled; and

WHEREAS, the Highway Superintendent has requested that a select amount of stockpiled fill be declared surplus, sold, and removed from the Public Works Facility.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of February 2022 that stockpiled fill located at the Public Works Facility shall be declared surplus as follows:

1. Materials declared surplus shall be limited to earthen fill and debris. This does not include stone, sand, millings, or any material purchased by the Town of Pendleton.
2. All materials sold shall be loaded and transported from Town property by the purchaser. No Town employees or equipment shall be used to assist with this endeavor.
3. Loading and hauling shall only be allowed between 7:00 am and 5:00 pm, Monday through Friday, excluding holidays.
4. Purchasers of fill and any contractors assisting in any such effort shall provide proof of insurance specifically declaring the Town of Pendleton as additionally insured.
5. No more than 2000 cubic yards of fill shall be sold at a cost of \$1.00 per cubic yard.
6. This resolution declaring surplus Town-owned fill shall take effect immediately and subsequently expire on July 31, 2022 at 11:59 pm.

RESOLUTION 58-22

TEAMSTERS LOCAL 264 CONTRACT EXTENSION

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

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

Nays 0

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

WHEREAS, an extension to the 2020-2021 contract was negotiated and subsequently approved by the Union and by resolution of the Town Board on December 13, 2021; and

WHEREAS, it was the intent of all parties to set the rate of pay of personnel assigned the title of Water/Sewer Maintenance equal to the rate of pay of personnel assigned the title of Truck Driver; and

WHEREAS, contract language appearing on pages 17 and 18 of the approved contract extension does not reflect this intent; and

WHEREAS, an updated contract document has been provided which corrects this discrepancy.

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

RESOLUTION 59-22

HIGHWAY GARAGE JANITORIAL SERVICES

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

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

WHEREAS, the Town of Pendleton owns and maintains a Public Works Facility located at 6470 Campbell Boulevard; and

WHEREAS, upkeep of the Public Works Facility, including regular cleaning, is important for employee and public safety and health; and

WHEREAS, proposals for cleaning services were received from multiple vendors and a vendor was selected by resolution of the Town Board on March 22, 2021; and

WHEREAS, work performance of the current vendor has been deemed unsatisfactory and a new vendor has been selected based upon conversations with the vendor's references.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of February 2022 that the proposal for cleaning services received from Cleanzing Professional Cleaning Services shall be accepted for two (2) cleanings per week at a cost of \$75.00 per cleaning, with no additional cost for cleaning supplies. This resolution shall take effect February 1, 2022.

RESOLUTION 60-22

CREEKBEND DRIVE SUBDIVISION – PAYMENT IN LIEU OF PARKLANDS

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

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

WHEREAS, at the January 22, 2022 meeting of the Planning Board of the Town of Pendleton approved the preliminary plat for an eight (8) lot major subdivision to be constructed on the extension of on Creekbend Drive; and

WHEREAS, the Planning Board is recommending a \$1,000.00 payment per lot in lieu of parklands in the proposed development due to the limited planned size of development.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of February 2022 that the Planning Board's recommendation of a \$1,000.00 per lot payment for the proposed extension to Creekbend Drive is accepted. This resolution shall take effect immediately.

RESOLUTION 61-22

2021 TOWN COURT AUDIT – THE HONORABLE JUSTICE MACK

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 14th day of February 2022, to accept the results of the 2021 audit of the Honorable Justice Kevin Mack as presented by Councilman Leible.

RESOLUTION 62-22

SURPLUS BLUEPRINT MAP HOLDER

Motion by Councilman Leible, seconded by Councilman Graham, 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 14th day of February 2022, to declare one blueprint map holder, Asset Tag #653, as surplus.

RESOLUTION 63-22

PENDLETON PARK COMMUNITY AND INCLUSIVITY IMPROVEMENT PROJECT

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

ADOPTED: Ayes 4 Maerten, Graham, Hickman, Leible

Nays 0

Recused 1 Evchich

RESOLVED, that the Town of Pendleton applied for financial assistance from the New York State Office of Parks, Recreation and Historic Preservation (“OPRHP”) under the [name of grant program or authorizing law, e.g., Recreational Trails Program, or Title 9 of the Environmental Protection Act of 1993, or other] 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 64-22

ACCEPTANCE OF GRANT AWARD CONDITIONS

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

ADOPTED: Ayes 4 Maerten, Graham, Hickman, Leible

Nays 0

Recused 1 Evchich

WHEREAS, the Town of Pendleton has been awarded a grant from the Office of Parks, Recreation, and Historic Preservation’s Environmental Protection Fund for various improvements, upgrades, and additions to the Town’s park on Campbell Boulevard; and

WHEREAS, there are multiple conditions which must be accepted by the Town of Pendleton to complete the final approval process.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of February 2022 that the Town Supervisor is authorized to sign and execute a contract between the Town and the Office of Parks, Recreation, and Historic Preservation for acceptance of grant funds.

FURTHER, BE IT RESOLVED, that the Town Supervisor is authorized to sign and execute any long-term protection documents and other certifications, as required by the Office of Parks, Recreation, and Historic Preservation, leading to execution of a final contract between the two parties. This resolution shall take effect immediately.

RESOLUTION 65-22

DECLINATION OF HEALTH INSURANCE COVERAGE

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

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

Nays 0

WHEREAS, full-time employees of the Town of Pendleton not subject to a Collective Bargaining Agreement are eligible for health insurance coverage paid for by the Town; and

WHEREAS, such employees eligible for health insurance offered by the Town of Pendleton may choose to decline this coverage due to existing coverage available through a spouse or otherwise; and

WHEREAS, employees declining health insurance coverage provides substantial savings to the Town of Pendleton.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of February 2022 that employees who are eligible for health insurance coverage during the 2021 calendar year, but declined such coverage, shall be paid a stipend of \$1,000.00.

FURTHER, BE IT RESOLVED, that any employee declining health insurance coverage for the 2022 calendar year shall be paid a \$1,000.00 stipend in the last pay cycle of the year, provided eligible employees sign and return a declination of health insurance form prior to March 1, 2022.

FURTHER, BE IT RESOLVED, that this resolution shall only apply to employees not represented by a Collective Bargaining Agreement. This resolution shall take effect immediately.

Motion by Councilman Leible, seconded by Councilman Evchich, to enter into an Executive Session to discuss litigation with National Fuel Corporation related to the Northern Access Project at 8:12 p.m. Motion Carried.

Motion by Councilman Leible, seconded by Councilman Graham, to adjourn from the Executive Session at 8:23 p.m. Motion carried.

RESOLUTION 66-22

FERC COMMENT EXTENSION REQUEST

Motion by Councilman Leible, seconded by Councilman Graham, 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 14th day of February 2022, to authorize the Town Supervisor to file comments in the Federal Energy Regulatory Commission (FERC) docket asking for an extension of the comment period so all who have comments that they would like to share have adequate time to formulate and submit those comments.

BOARD MEMBERS DISCUSSION

Supervisor Maerten noted that the following meetings have been scheduled:

- Work Session - February 28th at 7:00 p.m.
- Regular Meeting – March 14th at 7:00 p.m.

PUBLIC REMARKS/COMMENTS

There were no public remarks or comments.

Motion by Councilman Leible, seconded by Councilman Graham, to enter into an Executive Session with the Building Inspector to discuss personnel items in the Building Department and Assessor's Office at 8:30 p.m. Motion carried.

Motion by Councilman Leible, seconded by Councilman Graham, to adjourn from the Executive Session and Regular Meeting at 8:50 p.m. Motion carried.

Deborah K. Maurer, Town Clerk