

**TOWN OF PENDLETON  
PUBLIC HEARING & REGULAR MEETING  
May 9, 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 9<sup>th</sup> day of May 2022 at 7:00 p.m.

**PUBLIC HEARING**

**PUBLIC HEARING – PROPOSED LOCAL LAW NO. 02 OF 2022 AND FEE SCHEDULE**

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on April 20, 2022 and on the Town’s website.

Supervisor Maerten opened the Public Hearing at 6:57 p.m.

The purpose of the hearing was to consider and possibly adopt a Local Law to amend the Town of Pendleton Code to clarify and streamline various provisions of the Town Code and to adopt a Fee Schedule. Copies of the proposed Local Law and Fee Schedule were made available for public viewing at Town Hall and on the Town’s website.

A resident asked why the water/sewer rate fees were not included on the Fee Schedule. Mr. Charles Malcomb, from Hodgson Russ LLP, who assisted the Town with the Local Law, explained that the Fee Schedule will no longer be part of the code and will be revised as needed by resolution of the Town Board. He noted that there are a few other fees that need to be added and discussion at future meetings will be conducted before they are added. The water/sewer rate fees can be added at that time as well.

Another resident stated that she objected to the hearing due to the numbering of the proposed Local Law. Mr. Charles Malcomb explained the numbering process of local laws and stated that the number being assigned to this law is correct and the public hearing is valid.

Another comment was submitted in writing from a resident regarding the resident’s concerns about the removal of Section 247-16 Special Exceptions.

Motion made by Councilman Leible, seconded by Councilman Evchich, to close the Public Hearing at 7:07 p.m. Motion carried.

Supervisor Maerten asked Mr. Malcomb to outline the next steps to prepare this Local Law for adoption. Mr. Malcomb reported that the draft of the Local Law was reviewed by the Niagara County Planning Board (NCPB) and received a positive recommendation of approval by said board. He noted that the Town Board has received written comments which were reviewed and that his agency will send an updated version of the Local Law for final review by the Board. He stated that Municipal Home Rule requires that the Local Law be on the desk of the Board members eight days in advance of final adoption and noted that the modifications which will be made are not substantive therefore there is no requirement for resubmission to the NCPB and no additional public hearing is required. He also reported that the Town Board will need to complete the SEQR Process and issue a negative declaration under SEQR.

**REGULAR MEETING**

Supervisor Maerten called the meeting to order at 7:10 p.m.

Supervisor Maerten read the invocation and the salute to the flag. A moment of silence was also held in remembrance of Mr. Salvatore Mattina, a long-time resident and member of the Wendelville Fire Company, who recently passed away.

**Roll Call:**

Supervisor Maerten	Present
Councilman Evchich	Present
Councilman Graham	Absent

Councilman Hickman Present  
Councilman Leible Present

Also present:

- Noreen Lemma – Deputy Town Clerk
- Dave Fischer – Highway/Water and Sewer Superintendent
- Dave Britton – Town Engineer
- Tom Valentine – Assessor
- Mark Walter – Deputy Town Supervisor
- Wolfgang Buechler – Zoning Board of Appeals Chairman
- Stephanie Chase – Deputy Clerk
- Charles Malcomb, Hodgson Russ LLC (representing Town)

There were 13 residents in attendance.

**ADDITIONS OR DELETIONS TO THE AGENDA**

The following changes were made to the agenda:

- Add – Approval of New Wendelville Member
- Add – Appointment of Seasonal Park Attendant

**COMMUNICATIONS**

Deputy Town Clerk Lemma announced that the Pendleton Veterans Association will be holding their ANNUAL FLAG SALE on Friday, May 20<sup>th</sup> and Saturday, May 21<sup>st</sup> at the Veterans Monument. Flag prices and more information can be found on our website’s calendar or the bulletin board. The Veterans Association will also be having their Memorial Day Solemn Wreath Laying Ceremony on Memorial Day beginning at 11:00 a.m. All are welcome. She also stated that the Town is sponsoring a ConnectLife Blood Drive on Monday, May 23<sup>rd</sup> from 2:00 – 5:00 p.m. The ConnectLife bus will be outside in the parking lot. Appointments are required.

**PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS**

There were no public comments on the agenda items.

**ROUTINE BUSINESS**

**RESOLUTION 126-22**

**APPROVE MEETING MINUTES**

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

ADOPTED: Ayes 4 Maerten, Evchich, Hickman, Leible  
Nays 0  
Absent 1 Graham

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9<sup>th</sup> day of May 2022, that the meeting minutes for the Work Session held on April 25, 2022, are approved as presented by Town Clerk Maurer.

**RESOLUTION 127-22**

**AUTHORIZE ABSTRACT #9**

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

ADOPTED: Ayes 4 Maerten, Evchich, Hickman, Leible  
Nays 0  
Absent 1 Graham

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9<sup>th</sup> day of May 2022, to authorize payment of Voucher Abstract #9, Vouchers #22-00416 to #22-00491 to be paid on March 11, 2022:

General Fund	\$	48,490.82
Highway	\$	19,848.71
Fire Protection	\$	168,781.00
Refuse	\$	150.00
Sewer	\$	8,500.88
Water	\$	8,067.70
Trust and Agency	\$	554.00
Total	\$	254,393.11

**OTHER REPORTS**

**Supervisor Maerten** reported that the sales tax collected for March 2022 was \$224,140.78. This is an increase of \$45,558.58 when compared with March 2021. The year to date received for 2022 is \$548,669.00 which is an increase of \$133,198.57 from 2021.

**Councilman Leible** reported that he is in the process of obtaining quotes for two burned out exhaust fans for the Town Hall roof. He also stated that the smoke detector is out of date and needs replacing. Councilman Leible reminded everyone that the newsletter articles are due on May 15<sup>th</sup> and also asked for clarification on the specifications for the bids for the Town Hall interior painting.

**Councilman Evchich** reported that he recently met with Starpoint regarding the Summer Recreation Program and the contract renewal.

**Councilman Hickman** had nothing to report.

**Engineer Britton** provided several updates to the Board including information on the printing of the new zoning maps, the water tank project and The Meadows at Pendleton North subdivision. He also reported on the salt storage facility and preparing a bid package for the emergency generator, both included in the SAM Grant which the Town was awarded.

**DEPARTMENT HEADS**

**Deputy Town Clerk Lemma** stated that all monthly reports, that have been turned in, are posted online and that the Clerk’s office has been busy with ATV permits, baseball and Summer Recreation Program registrations, as well as passport appointments. Mrs. Lemma also reported that the Annual Drinking Water Quality Report for 2021 has been posted on the Town’s website and is available in the Town Clerk’s office for public viewing.

**Highway and Water/Sewer Superintendent Fischer** reported that his department has been very busy with cleaning up DePeau Park, mowing around the Town Hall and working on the baseball diamonds. He has also been working with Engineer Britton on updating the drainage at the Highway Department and mentioned that the salt shed delivery date is expected to be in July. Superintendent Fischer also provided information on the purchase of a new truck for the department. Additionally, he reported that repairs have been made on the bird screens, a new roof was installed on the park bathroom, and ditches were cleaned on Mapleton Road.

**Building Inspector Diedrich** mentioned that there was a minor house fire in Town over the weekend that was caused by an electrical issue. He also stated that his office has been very busy issuing various building permits.

**Assessor Valentine** stated that April was a very busy month in the Assessor’s Office. He was busy preparing the tentative roll for submission to the county. He reported that the tentative roll can be viewed in his office or on the Town’s website. He also reported that letters were sent out to any residents who had changes to their assessments and that Grievance Day will be May 24<sup>th</sup>.

**NEW BUSINESS**

RESOLUTION 128-22

**STANDARD WORK DAY RESOLUTION**

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

ADOPTED: Ayes 4 Maerten, Evchich, Hickman, Leible  
Nays 0  
Absent 1 Graham

BE IT RESOLVED, that the Town of Pendleton/30384 hereby established the following standard work days for these titles and will report the officials to the New York State and Local Retirement based on their record of activities:

NAME	TITLE	CURRENT TERM	STANDARD WORK DAY	RECORD OF ACTIVIES RESULTS	NOT SUBMITTED	PAY FREQUENCY	TIER 1

<b>Elected Officials:</b>							
David Fischer	Highway Superintendent	01/01/22-12/31/23	8	-	X	Quarterly	No
Justin Graham	Councilman	01/01/22-12/31/25	8	4.21		Quarterly	No
Joseph Hickman	Councilman	01/01/22-12/31/25	8	1.73		Quarterly	No
Joel Maerten	Supervisor	01/01/22-12/31/23	8	8.44		Bi-Weekly	No
<b>Appointed Officials:</b>							
Wolfgang Buechler	Zoning Board of Appeals	01/01/19-12/31/23	8	1.40		Annually	No
Anthony Dell'Isola	Planning Board	01/01/21-12/31/27	8	.13		Annually	No
Michael Hartman	Temporary Acting Assessor	12/18/21-04/30/22	8	4.5		Monthly	No
Claude Joerg	Town Attorney	01/01/22-12/31/23	8	-	X	Bi-Weekly	No
Michael Zimmerman	Planning Board	07/12/21-12/31/22	8	.38		Annually	No

**RESOLUTION 129-22**

**ACQUISITION OF WATER DEPARTMENT TRUCK**

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

ADOPTED: Ayes 4 Maerten, Evchich, Hickman, Leible  
 Nays 0  
 Absent 1 Graham

WHEREAS, the Town Board of the Town of Pendleton passed a resolution on September 27, 2021 authorizing the purchase of a new truck for the Water & Sewer Department; and

WHEREAS, the acquisition previously proposed is no longer available and an updated quote with specifications has been provided for consideration; and

WHEREAS, the provided quote for a 2022 Ford F-350 includes reference to the applicable cooperative purchasing agreement under which pricing for this truck is established.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9<sup>th</sup> day of May 2022 that acquisition of a 2022 Ford F-350 from Van Bortel Ford, located at 71 Marsh Rd East Rochester, NY, is authorized for a price not to exceed \$45,306.00. This resolution shall take effect immediately.

**RESOLUTION 130-22**

**MS4 ANNUAL REPORT**

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

ADOPTED: Ayes 4 Maerten, Evchich, Hickman, Leible  
 Nays 0  
 Absent 1 Graham

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9<sup>th</sup> day of May 2022, to authorize the Town Supervisor to sign the MS4 Annual Report.

**RESOLUTION 131-22**

**APPOINTMENT OF HIGHWAY DEPARTMENT SEASONAL LABORERS**

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

ADOPTED: Ayes 3 Evchich, Hickman, Leible  
 Nays 0  
 Absent 1 Graham  
 Recusal 1 Maerten

WHEREAS, the Highway Department of the Town of Pendleton annually hires multiple individuals for the position of seasonal laborer, performing a variety of duties at the direction of the Highway Superintendent; and

WHEREAS, the compensation for the position of seasonal laborer was established by resolution at the April 26, 2021 meeting of the Town Board at a rate of \$14.00 per hour; and

WHEREAS, the seasonal laborer position was advertised and applications were received from multiple applicants; and

WHEREAS, the Highway Superintendent has reviewed applications, interviewed these applicants, and communicated his recommendation to the Town Board.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of May 2022 that Evelyn Maerten and John Riester are appointed to the position of seasonal laborer and shall be compensated at a rate of \$14.00 per hour.

This resolution shall take effect immediately.

RESOLUTION 132-22

**APPOINTMENT OF TRUCK DRIVER**

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

ADOPTED: Ayes 4 Maerten, Evchich, Hickman, Leible

Nays 0

Absent 1 Graham

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, there is currently an opening for a full-time position assigned to the Highway Department due to a resignation; and

WHEREAS, advertisement of Highway Department openings was authorized by resolution of the Town Board at the April 22, 2022 meeting and this opening has been publicly posted and applications of employment have been received; and

WHEREAS, the Highway Superintendent has recommended appointment of a specific applicant to the open position in the Highway Department.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of May 2022 that William Wagner be appointed as Truck Driver at a rate of compensation stated in the current Collective Bargaining Agreement for this position at pay rate Step 1.

BE IT FURTHER RESOLVED, that a six (6) month probationary period shall commence, beginning the first full day William Wagner reports for work.

BE IT FURTHER RESOLVED, that William Wagner shall move to pay rate Step 2 upon completion of the six (6) month probationary period and subsequently be placed on pay rate Step 3 on January 1, 2023. This resolution shall take effect immediately.

RESOLUTION 133-22

**APPOINTMENT OF PART-TIME BUILDING INSPECTOR/CEO**

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

ADOPTED: Ayes 4 Maerten, Evchich, Hickman, Leible

Nays 0

Absent 1 Graham

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, advertisement of possible full-time and part-time openings in the Building & Code Enforcement Department was authorized on December 22, 2022 by resolution of the Town Board; and

WHEREAS, multiple applications for the advertised open position were received and applicants were interviewed; and

WHEREAS, a candidate for appointment to the position of Building Inspector & Code Enforcement Officer has been identified and has been recommended to the Town Board for acceptance.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of May 2022 that Christopher Burgio is appointed as a part-time Building Inspector & Code Enforcement Officer and shall be compensated as specified:

- A) Starting rate of compensation of \$26.00 per hour.
- B) Upon completion of 1 of 6 training courses, a rate of compensation of \$26.50 per hour.
- C) Upon completion of 2 of 6 training courses, a rate of compensation of \$27.50 per hour.
- D) Upon completion of 3 of 6 training courses, a rate of compensation of \$28.00 per hour.
- E) Upon completion of 4 of 6 training courses, a rate of compensation of \$28.50 per hour.
- F) Upon completion of 5 of 6 training courses, a rate of compensation of \$29.00 per hour.
- G) Upon completion of 6 of 6 training courses, a rate of compensation of \$30.00 per hour.

This resolution shall take effect immediately.

#### RESOLUTION 134-22

##### **SURPLUS HP PRINTER**

Motion by Councilman Leible, seconded by Councilman Hickman, the following resolution was ADOPTED: Ayes 4 Maerten, Evchich, Hickman, Leible

Nays 0

Absent 1 Graham

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9<sup>th</sup> day of May 2022, to declare as surplus one HP Color Laser Jet Pro MFP M477fdn from the Building Department/Assessor's Office, one Brother Printer from the Planning Board Office, and two Okidata Dot-Matrix printers from the Water & Sewer Department.

#### RESOLUTION 135-22

##### **WENDELVILL FIRE COMPANY MEMBER**

Motion by Councilman Leible, seconded by Councilman Hickman, the following resolution was ADOPTED: Ayes 4 Maerten, Evchich, Hickman, Leible

Nays 0

Absent 1 Graham

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9<sup>th</sup> day of May 2022, to accept Benjamin Kalbfliesh as a new member of the Wendelville Fire Company.

#### RESOLUTION 136-22

##### **APPOINT SEASONAL PARK ATTENDANT**

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 annually hires seasonal employees to assist with the maintenance, upkeep, and operation of the Town's parks and public recreation areas; and

WHEREAS, at the August 9, 2021 meeting the Town Board appointed Jeffrey Bruce to the position of Seasonal Park Attendant; and

WHEREAS, the need for a Seasonal Park Attendant continues for 2022.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of May 2022 that Jeffrey Bruce is appointed Seasonal Park Attendant at a rate of compensation of \$18.18 per hour. This resolution shall take effect immediately.

#### **BOARD MEMBERS DISCUSSION**

Supervisor Maerten stated that a Work Session is tentatively scheduled for May 23, 2022 at 7:00 p.m. and a Regular Board Meeting is scheduled for June 13, 2022 at 7:00 p.m.

## **PUBLIC REMARKS/COMMENTS**

One resident stated how she appreciated that Mr. Charles Malcomb was here to answer questions during the Public Hearing.

Next, a Pendleton Farm & Home Days volunteer asked if the Town could lift the insurance requirements for vendors participating at the event. Supervisor Maerten said that he has her email regarding this question and is working with the insurance agency to see if there is anything that can be done. He said that he will get back to her.

A third resident addressed the Board regarding her children being questioned by Town officials on the trail while riding their all-terrain-vehicles. She had additional questions and comments about the rules and regulations regarding recreational vehicles on the town's trails. Supervisor Maerten addressed many of the questions which were asked and explained various reasons why certain actions and decisions have been made including traffic law enforcement, insurance requirements and liability to the Town. He also mentioned complaints which he has received regarding recreational vehicles on public roads. A lengthy discussion continued between the resident and other members in the audience.

A volunteer from the Pendleton Food Pantry asked Supervisor Maerten if he had received the proposal to move the food pantry to the new community center. Mr. Maerten stated that he had received it and will circle back to him with additional questions and/or information.

Motion by Councilman Leible, seconded by Councilman Evchich, to adjourn from the Regular Meeting at 7:55 p.m. Motion carried.

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Noreen Lemma, Deputy Town Clerk