

**TOWN OF PENDLETON
REGULAR MEETING
October 10, 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 10th day of October 2022 at 7:00 p.m. The meeting was open to the public.

Supervisor Maerten called the meeting to order at 7:04 p.m.

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

Roll Call:

Supervisor Maerten	Present
Councilman Evchich	Present
Councilman Hickman	Present
Councilman Leible	Present
Councilman Lombardo	Present

Also present:

Deborah Maurer - Town Clerk
Claude Joerg – Town Attorney
Dave Fischer – Highway/Water and Sewer Superintendent
Aaron Bair – Deputy Water and Sewer Superintendent
Dave Britton – Town Engineer
Ron Diedrich – Building Inspector/Code Enforcement Officer
Mark Walter – Deputy Town Supervisor
Tom Maturski – Budget Officer
Wolfgang Buechler – Zoning Board of Appeals Chairman

There were 11 residents in attendance.

ADDITIONS OR DELETIONS TO THE AGENDA

The following changes were made to the agenda:

- Add – Executive Session - Personnel

COMMUNICATIONS

There were no communications to report.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

A resident commented on Agenda item #4. Pre Demolition Inspection Proposal – Historical Society Buildings. She stated that she would like to know if the Historical Society transferred ownership of the log cabin to the Town.

ROUTINE BUSINESS

RESOLUTION 212-22

APPROVE MEETING MINUTES

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022, that the meeting minutes for the Regular Meeting held on September 12, 2022 are approved as presented by Town Clerk Maurer.

RESOLUTION 213-22

ABSTRACT #18

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

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

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022, to authorize payment of Abstract #18, Vouchers #22-00985 to #22-01042 which was paid on September 28, 2022:

General Fund	\$	17,391.94
Highway	\$	112,438.90
Sewer	\$	5,369.39
Water	\$	4,453.46
Trust & Agency	\$	1,385.00
Total	\$	141,038.69

RESOLUTION 214-22

ABSTRACT #19

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

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022, to authorize payment of Abstract #19, Vouchers #22-01043 to #22-01106 to be paid on October 12, 2022:

General Fund	\$	152,492.93
Highway	\$	47,100.18
Refuse	\$	41.40
Sewer	\$	6,535.01
Water	\$	72,038.13
Trust & Agency	\$	3,498.76
Total	\$	281,706.41

OTHER REPORTS

Supervisor Maerten reported that the sales tax collected for August 2022 was \$189,876.14. This is an increase of \$33,122.49 when compared with August 2021. The year to date received for 2022 is \$1,509,492.23 which is an increase of \$264,081.44 from 2021.

Supervisor Maerten also stated that the Town Board supported engaging with an attorney to assist with the potential abandonment of the Bear Ridge Cemetery (east of Campbell Boulevard). A meeting was held on October 8, 2022 with the current members of the Bear Ridge Cemetery Association which resulted in new leadership who will be taking over the duties for the cemetery.

Councilman Leible presented the Town Board with pictures taken at Nine Mile Island and expressed his concerns over the terrible condition of the property. He recommended sending the Building Department over to the property to close it down until the property is cleaned up. He also commented on the condition of the pools and the fact that the Town is subleasing to a day camp.

Councilman Evchich had nothing to report.

Councilman Hickman reported that he had participated in the Pendleton Community Faire and Business Expo which was recently held saying that it was a nice event. He spoke with many people about Household Hazardous Waste and some events coming up. Mr. Hickman also stated that he is interested in pursuing a credit card to be used for Town business mentioning that he had a conversation with the Town Clerk from Wilson regarding their policy. He would like to further discuss this option with the Town Board.

Councilman Lombardo stated the he also attended the Pendleton Community Faire and Business Expo and thanked Jim Sobczyk for putting on the event. Mr. Lombardo also thanked those that came out and helped the Historical Society move items from the buildings to the storage container. He also stated that he is interested in pursuing the Town credit card and would like to also consider purchasing EZPasses for the Town vehicles.

Attorney Joerg had nothing to report.

Engineer Britton stated that he would comment on some items during the New Business portion of the meeting.

Budget Officer Matuski reported that he will be speaking during the Budget Session which will take place after the Regular Meeting.

DEPARTMENT HEADS

Town Clerk Maurer reported that she received and posted monthly reports from the Building Inspector/Code Enforcement Officer, Town Engineer, and the Water & Sewer Department. Also posted are the Town Clerk and Water & Sewer Collection reports for September. She also stated that over 200 renewal letters were sent out for the additional refuse tote service for 2023. Mrs. Maurer also reported that she provided the Town Board and Department Heads with the 2023 Tentative Budget on September 28, 2022.

Highway and Water/Sewer Superintendent Fischer reported that the new salt shed is fully erected and they have already loaded 300 tons of salt in it.

Building Inspector Diedrich had nothing to report.

NEW BUSINESS

RESOLUTION 215-22

ADVERTISE FOR HIGHWAY DEPARTMENT GENERATOR

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

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

WHEREAS, the Town of Pendleton has been awarded grant funding for construction of a salt storage building and stand by generator for the Highway Department building; and

WHEREAS, project specifications, bid documents, and public notices have been prepared by GHD and reviewed by the Town Engineer for this project; and

WHEREAS, authorization to advertise this project is required.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022 that the Town Clerk is authorized and directed to publish the public notice for the Highway Department Generator project.

FURTHER, BE IT RESOLVED, all bids are to be submitted to the Town Clerk by 10:00 am local time on November 1, 2022, with the bids publicly opened and read aloud at 10:00 am.

FURTHER, BE IT RESOLVED, that final contract award will be made by resolution of the Town Board on a meeting subsequent to bid opening.

RESOLUTION 216-22

ADVERTISE FOR PENDLETON TOWN PARK SITE IMPROVEMENTS

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

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

WHEREAS, the Town of Pendleton has been awarded grant funding for Town Park improvements, including installation of a splash pad and lavatory facilities; and

WHEREAS, the Town of Pendleton has been awarded grant funding for the construction of a community center to be located in the Town Park; and

WHEREAS, work focused on planning and design for these park projects continues and it has been determined that infrastructure improvements are necessary prior to construction of these facilities; and

WHEREAS, plans for park infrastructure improvement and corresponding public notice have been prepared by the Town Engineer and presented to the Town Board for consideration.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022 that the Town Clerk is authorized and directed to publish the public notice for the Pendleton Town Park Splash Pad Site Improvements.

FURTHER, BE IT RESOLVED, that bidding materials will be made available on October 13, 2022 and all bids are to be submitted to the Town Clerk by 11:00 am local time on October 27, 2022, with the bids publicly opened and read aloud at 11:00 am.

FURTHER, BE IT RESOLVED, that final contract award will be made by resolution of the Town Board on a meeting subsequent to bid opening.

RESOLUTION 217-22

AUTHORIZE SOLICITATION OF JANITORIAL SERVICES

Motion by Councilman Leible, seconded by Councilman Hickman, the following resolution was ADOPTED: Ayes 5 Maerten, Evchich, Hickman, Leible, Lombardo
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, it is necessary to solicit proposals for cleaning services from multiple contractors prior to contract award.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022 that the Highway Superintendent is authorized to solicit proposals for cleaning services for the Public Work Facility.

FURTHER, BE IT RESOLVE, that all proposals are to be sealed and submitted to the Town Clerk by 11:00 am local time on November 7, 2022 for review and reporting to the Town Board.

FURTHER, BE IT RESOLVED, that final contract award will be made by resolution of the Town Board on a meeting subsequent to bid opening.

RESOLUTION 218-22

PRE DEMOLITION INSPECTION PROPOSAL – HISTORICAL SOCIETY BUILDING

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

WHEREAS, multiple structures associated with the Pendleton Historical Society are located on Town of Pendleton property on Campbell Boulevard; and

WHEREAS, the Town of Pendleton plans to construct a new community center at the location currently occupied by these buildings associated with the Pendleton Historical Society; and

WHEREAS, demolition of these buildings is necessary prior to construction of a new community center and an inspection of these buildings prior to demolition is required; and

WHEREAS, multiple bids have been solicited and reviewed for the required building inspection prior to demolition.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022 that the proposal for building inspection services submitted by Aurora Environmental LLC for \$1,940.00 is accepted.

FURTHER, BE IT RESOLVED, that a total maximum expense of \$2,500.00 is authorized should any additional on-site sampling, testing or inspection be determined to be necessary. This resolution shall take effect immediately.

RESOLUTION 219-22

CONNECTION REQUEST TO NCSD MANHOLE

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

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

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022, to authorize the Town Supervisor to send a letter to the Niagara County Sewer District (NCSD) requesting permission to tie into NCSD Manhole NCSD #21-39.

RESOLUTION 220-22

PIP APPLICATION – 6996 MONROE STREET SEWER EXTENSION

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

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

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022, to accept the Public Improvement Permit (PIP) application, for the 6696 Monroe Street Sewer Extension, as presented.

Cell Phone Stipend Request

A lengthy discussion occurred regarding the proposed cell phone stipend request for the part-time Building Inspector, Town Clerk and Deputy Water & Sewer Superintendent. Many questions were asked regarding the authority to view the personal cell phone bills, the necessity of it for the various positions, etc.

RESOLUTION 221-22

CELL PHONE STIPEND REQUEST

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

ADOPTED: Ayes 3 Maerten, Evchich, Hickman,

Nays 2 Leible, Lombardo

WHEREAS, specific Town of Pendleton elected officials, appointed officials, and employees are required to be accessible at times considered to be outside of typical weekday office and work hours; and

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

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

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

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022 that a monthly stipend of \$28.00 shall be paid to the Deputy Water & Sewer Superintendent, any individual employed as a full or part time Building Inspector or Code Enforcement Officer, and Town Clerk for the period October 1, 2022 through December 31, 2023. This resolution shall be effective as of October 1, 2022.

RESOLUTION 222-22

PLANNING BOARD REQUEST TO RETAIN CONSULTANT FOR ENGINEERING SERVICES

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

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

WHEREAS, an application has been made to the Planning Board of the Town of Pendleton for a project to be undertaken at 6856 South Transit Road; and

WHEREAS, various required reviews related to the applicant's proposed project for the referenced property are continuing and partial work has been completed by GHD; and

WHEREAS; the cost of all work proposed to be completed by GHD for this project will be paid by the project applicant; and

WHEREAS, it is in the best interest of the Town of Pendleton and the proposed project applicant to authorize GHD to complete all work necessary to complete the review of the proposed project to be located at 6856 South Transit Road.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022 that the Planning Board and Town Engineer are authorized to engage with GHD for engineering services related to the proposed project for property located at 6856 South Transit Road. This resolution shall take effect immediately.

RESOLUTION 223-22

SURPLUS BROTHER PRINTER

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022, to declare surplus, one non-working Brother printer, model #9460CDN.

RESOLUTION 224-22

AUTHORIZE LEVY OF UNPAID WATER, SEWER, REFUSE AND OTHER TOWN SERVICES

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022, that the Town Clerk is authorized to collect unpaid water, sewer, and refuse fees, delinquent as of September 16, 2022, by sending the outstanding amounts to the Niagara County Office of Real Property Tax Services for placement on the Town's tax rolls.

FURTHER, BE IT RESOLVED, the Town of Pendleton authorizes the Niagara County Legislature to re-levy all delinquent accounts on the Town's 2023 property tax bill.

FURTHER, BE IT RESOLVED, that it is acknowledged that the total unpaid amounts are \$37,153.59 water, \$16,354.85 sewer, and \$420.00 refuse. This resolution shall take effect immediately.

RESOLUTION 225-22

ESTABLISHMENT OF STORMWATER DISTRICT FOR THE MEADOWS AT PENDLETON NORTH

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

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

WHEREAS, a residential construction project has been approved adjacent to Campbell

Boulevard in the Town of Pendleton known as the Meadows at Pendleton North Subdivision;
and

WHEREAS, approved construction plans for this project include various stormwater management features and structure which require ongoing maintenance performed by the Town of Pendleton Highway Department; and

WHEREAS; public hearings were scheduled, advertised, and held on November 11, 2019 to receive public input for the proposed new Stormwater District for The Meadows at Pendleton North Subdivision and the District fee; and

WHEREAS, establishment of a Stormwater District and annual fee for this project is necessary to ensure funding for future maintenance.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022 that a Stormwater District shall be established for the Meadows at Pendleton North subdivision.

FURTHER, BE IT RESOLVED, that an annual fee is established to be \$65.00 per lot annually. This resolution shall take effect immediately.

Pendleton Solar – Community Host Agreement

Supervisor Maerten began by explaining that there is currently one solar farm on Bear Ridge Road and another still under construction on Donner Road run by the same solar company. He stated that a Community Host Agreement has been proposed in which the Town would receive twice as much than if the property were subject to Town tax and the payment would be made up front rather than over a period of 15 years. A conversation regarding this matter took place between the Town Board, the Town Attorney, and the Town Engineer. The Town Attorney recommended that this agreement would be in the Town's best interest.

RESOLUTION 226-22

PENDLETON SOLAR – COMMUNITY HOST AGREEMENT

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022, to accept the Community Host Agreement as presented to the Town Board.

Motion by Councilman Leible, seconded by Councilman Hickman, to enter into an Executive Session with the Town Attorney, Deputy Town Supervisor, Highway/Water & Sewer Superintendent, Deputy Water & Sewer Superintendent to discuss personnel issues in the Water & Sewer Department at 7:45 p.m.

Motion by Councilman Leible, seconded by Councilman Evchich, to adjourn from the Executive Session at 8:15 p.m. Motion carried.

BOARD MEMBERS DISCUSSION

Supervisor Maerten stated that a Budget Session will be tentatively scheduled for October 17, 2022 at 7:00 p.m. as well as a Work Session on October 24, 2022 with a Budget Session. Additionally, a Public Hearing will be held on November 9, 2022 at 7:00 p.m. and the next Regular Meeting will be on November 14, 2022 at 7:00 p.m.

RESOLUTION 227-22

SCHEDULE PUBLIC HEARING – PRELIMINARY BUDGET

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of October 2022, to schedule a Public Hearing on November 9th, 2022, at 7:00 p.m. to allow public comment on the 2023 Preliminary Budget

PUBLIC REMARKS/COMMENTS

A resident commented on the lack of response to a FOIL appeal which was submitted at the last meeting as well as a response to questions asked about the ability of the Town to “donate tax payer money” to the Pendleton Farm & Home Days 501c3. She had numerous questions about the Town Supervisor audits for the past six years, money that was set aside for the fireman’s reserve, approval of a grant from Assemblymember Karen McMahon and the ownership of the Historical Society’s building.

Another resident asked Highway/Water & Sewer Superintendent Fischer if he had considered checking with Opportunities Unlimited when soliciting quotes for janitorial service. She also asked the Town Clerk to post the attachments referred to in the draft letter to the Niagara County Sewer District.

A third resident spoke in support of Councilman Leible’s comments about the condition of Nine Mile Island.

Motion by Councilman Leible, seconded by Councilman Lombardo, to adjourn from the Regular Meeting at 8:30 p.m. Motion carried.

Deborah K. Maurer, Town Clerk