

**TOWN OF PENDLETON
PUBLIC HEARING & REGULAR MEETING
October 9, 2023**

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 9th day of October 2023 at 7:00 p.m. The meeting was preceded by a Public Hearing.

PUBLIC HEARING

PUBLIC HEARING - CABLE TELEVISION AGREEMENT BETWEEN SPECTRUM NORTHEAST, LLC AND THE TOWN OF PENDLETON

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on October 3, 2023 and on the Town's website.

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

The purpose of this public hearing was to allow public comment on the proposed approval of a cable television franchise agreement by and between the Town of Pendleton and Spectrum Northeast, LLC, an indirect subsidiary of Charter Communications. The franchise agreement was published on the town's website and available for public inspection in the Town Clerk's office.

Town Attorney Joerg provided a brief description of the proposed franchise agreement. He explained that this fifteen-year agreement between Spectrum/Charter Communications is a renewal of an agreement that we previously had under the name of Time Warner Cable. Spectrum will pay the Town an annual fee of 5% of the Gross Revenue in exchange for exclusive use in the town for the purpose of constructing and operating the cable television system.

Sandra Masterson from Irish Road questioned if this agreement would prevent other cable companies from offering services in the Town of Pendleton and was told that was true.

Annmarie Reeb from Sheetram Road asked if Verizon would be permitted to offer fiber optics for internet service. It was clarified that the proposed franchise agreement is for cable television, not internet services.

There were no other questions or comments.

Motion made by Councilman Leible, seconded by Councilman Hickman, to close the Public Hearing at 8:04 p.m. Motion carried.

REGULAR MEETING

Supervisor Maerten called the meeting to order at 8:04 p.m.

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

Roll Call:

Supervisor Maerten	Present
Councilman Buechler	Present
Councilman Hickman	Present
Councilman Leible	Present
Councilman Lombardo	Present

Also present:

Deborah Maurer - Town Clerk
Claude Joerg - Town Attorney
Dave Fischer - Highway/Water & Sewer Superintendent
Ron Diedrich - Building Inspector/Code Enforcement Officer
Tom Valentine - Town Assessor

Mark Walter - Deputy Town Supervisor
Tom Matuski - Budget Officer
Members of the Wendelville Fire Company

There were 36 residents in attendance, 22 of which were Starpoint students.

AMENDMENTS/ADDITIONS/DELETIONS TO THE AGENDA

The following changes were made to the agenda:

- Add - Executive Session

COMMUNICATIONS

Supervisor Maerten asked the members of the Wendelville Fire Company (WFC) to speak to the Board about new legislation that will allow volunteer fire companies the right to bill for ambulance and emergency/rescue services. WFC President, Joseph Riester, provided a short presentation summarizing the new legislation that took effect in July of 2022. He stated that the new legislation will allow volunteer companies to participate in “soft billing” which means that bills can be sent to the patient’s insurance company. The fire company will accept the amount that insurance pays. Non-residents will receive a bill for their deductible but town residents will not receive a bill. These payments will provide a new revenue stream to be used to support the EMS arm of the fire department. Representatives from Professional Ambulance Billing LLC (PAB) also spoke about the billing process.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

A resident asked if the \$40,000.00 payment on the current abstract was for rental of a “wood chipper” or “pavement chipper”. Highway Superintendent Fischer explained that it was used for the roadwork on Irish Road and Oakwood Drive.

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

ROUTINE BUSINESS

RESOLUTION 216-23

APPROVE MEETING MINUTES – SEPTEMBER 11, 2023

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of October 2023, that the meeting minutes for the Regular Meeting held on September 11, 2023 are approved as presented by Town Clerk Maurer.

RESOLUTION 217-23

ABSTRACT #19

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

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of October 2023, to authorize payment of Voucher Abstract #19, Vouchers #23-00921 to #23-00983, to be paid on October 11, 2023 as follows:

General Fund	\$	44,424.68
Highway	\$	77,226.58
Fire Protection	\$	158,298.00
Refuse	\$	474.00
Sewer	\$	7,889.76
Water	\$	64,969.91
Total	\$	353,282.93

OTHER REPORTS

Supervisor Maerten reported that the sales tax collected for August 2023 was \$194,492.05. This is an increase of \$37,738.40 compared with August 2022. The total tax collected to date for 2023 is \$1,600,479.44 which is an increase of \$355,068.65 from 2022.

Councilman Leible provided the other Board members with a quote for a video intercom program and door locks for the DPW garage. He will have an additional quote for the manual push bars by the next work session.

Councilman Hickman reported that he recently met with the chairpersons of the Pendleton Farm & Home Days and stated that they are looking for volunteers for 2024.

Councilmen Lombardo had nothing new to report.

Councilmen Buechler mentioned that the quarterly Length of Service Awards Program (LOSAP) audit will be conducted on Wednesday, October 11th.

Attorney Joerg had nothing additional to report.

Engineer Britton had nothing to report.

DEPARTMENT HEADS

Town Clerk Maurer provided an update stating that monthly reports from the Assessor, Town Clerk, and Water & Sewer Collection have been received and posted online along with the meeting agenda. She also reported that the Pendleton Veterans Association would like to hold their meetings in the evenings beginning January 2024. Lastly, Mrs. Maurer stated that she has had a very positive response to the dog enumeration posting in the recent newsletter. She said that the number of new dog licenses had increased by more than 20% in the last six weeks.

Highway and Water/Sewer Superintendent Fischer thanked Town Clerk Maurer and her staff for going above and beyond to help with the water levy process. He also spoke about the recent road work on Oakwood Drive and Irish Road and the “fogging” process and explained that it is a very inexpensive way to seal and extend the life of the road. Additionally, he reported that they will be winterizing the buildings at Nine Mile Island.

Building Inspector Diedrich stated that there has been an increase in the presence of utility trailers, recreational vehicles, boats, etc. on residential property which are not stored properly according to code. He said he will be focusing on contacting residents asking for compliance in this matter.

Assessor Valentine is actively working on updating the Real Property System (RPS) and preparing the files that will be sent to Niagara County Real Property for the January 2024 taxes. He has also been preparing the notices that will be sent to residents regarding available exemptions.

Budget Office Matuski stated that the 2024 Tentative Budget is available for review.

NEW BUSINESS

RESOLUTION 218-23

CABLE TELEVISION FRANCHISE AGREEMENT

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

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

In the Matter of the Granting of a Cable Television Franchise Held by Spectrum Northeast, LLC in the Town of Pendleton, County of Niagara, New York.

An application has been duly made to the Town Board of the Town of Pendleton, County of Niagara, New York, by Spectrum Northeast, LLC, an indirect subsidiary of Charter Communications, Inc. (“Charter”), a limited liability company organized and existing in good standing under the laws of the State of Delaware doing business at 2604 Seneca Avenue, Niagara

Falls, NY 14305, for the approval of a renewal agreement for Charter's cable television franchise for fifteen (15) years commencing with the date of approval by the Public Service Commission.

The franchise renewal agreement would bring the franchise into conformity with certain provisions of the Federal Cable Communications Policy Act of 1984, as amended, and certain court rulings.

A public hearing was held in the Town of Pendleton, New York on October 9, 2023, at 6:55 P.M. and notice of the hearing was published in the Lockport Union Sun & Journal on October 3, 2023.

NOW, THEREFORE, the Board of the Town of Pendleton finds that:

- 1) Spectrum Northeast, LLC has substantially complied with the material terms and conditions of its existing franchise and with applicable law; and
- 2) Spectrum Northeast, LLC has the financial, legal and technical ability to provide these services, facilities and equipment as set forth in its proposal attached; and
- 3) Spectrum Northeast, LLC can reasonably meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

BE IT FURTHER RESOLVED, that the Board of the Town of Pendleton hereby grants the cable television franchise of Spectrum Northeast, LLC and the Town of Pendleton for fifteen (15) years commencing with the date of approval by the Public Service Commission and expiring fifteen (15) years hence.

BE IT FURTHER RESOLVED, that the Board of the Town of Pendleton hereby confirms acceptance of this franchise renewal agreement.

RESOLUTION 219-23

AMENDMENT TO ENGINEERING SERVICES AGREEMENT

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of October 2023, that the Amendment to Agreement for Engineering Services - Change Order No. 1 submitted by Nussbaumer & Clarke, Inc. is accepted as presented. This resolution shall take effect immediately.

RESOLUTION 220-23

APPOINT TOWN CONSTABLE

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of October 2023, that Stephen Gaydos is appointed to the position of Constable at a rate of compensation of \$20.00 per hour. This resolution shall take effect immediately.

Next, bids were provided by Councilman Hickman for rug and towel service for the Town Hall and DPW Garage as follows:

	Cintas	Unifirst
Town Hall - 1x per month	\$104.45	\$103.00
DPW - 2x per month	\$ 85.90	\$ 88.98
Monthly Rate	\$190.35	\$191.98

RESOLUTION 221-23

RUG AND SHOP TOWEL CONTRACT - CINTAS

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

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of October 2023, that the award for the lowest quote for rug and shop towel service for the Highway Garage and Town Hall is awarded to Cintas as follows:

Highway Garage: Rug and towel service twice per month: \$85.90 per month.
Town Hall: Rug service, once per month: \$104.45 per month.

This resolution shall take effect immediately.

The following bids were also received for landscape maintenance:

	<u>2024</u>	<u>2025</u>	<u>Total</u>
Dore Landscaping	\$2,880.00	\$2,880.00	\$5,760.00
Hoffman Landscaping	\$3,100.00	\$3,100.00	\$6,200.00
Turf Tec	\$3,925.00	\$4,311.00	\$8,236.00

RESOLUTION 222-23

LANDSCAPING CONTRACT - DORE LANDSCAPING

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

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of October 2023, that the award for the lowest quote for landscaping maintenance for the 2024 and 2025 calendar years is awarded to Dore Landscaping for an amount not to exceed \$5,760.00. This resolution shall take effect immediately.

Bids were also received for seasonal lawn and turf maintenance as follows:

	<u>2024</u>	<u>2025</u>	<u>Total</u>
Dore Landscaping	\$2,750.00	\$2,750.00	\$5,500.00
Turf Tec	\$1,116.34	\$1,116.34	\$2,232.68

RESOLUTION 223-23

LAWN AND TURF MAINTENANCE CONTRACT - TURF TEC

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

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of October 2023, that the award for the lowest quote for lawn and turf maintenance for the 2024 and 2025 calendar years is awarded to Turf Tec for an amount not to exceed \$2,232.68. This resolution shall take effect immediately.

RESOLUTION 224-23

RESOLUTION FOR 2024 TAX LEVY

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

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of October 2023, to authorize the Town Assessor to relevel the following charges to the 2024 Town Tax bill:

Total Unpaid Water (\$37,461.45 + Surcharge \$44,400.00)	\$81,861.45
Total Unpaid Sewer	\$32,480.45
Total Unpaid Refuse	\$ 5,235.00
Total Town Charges	<u>\$ 0.00</u>
Grand Total	\$119,576.90

RESOLUTION 225-23

SCHEDULE PUBLIC HEARING - 2024 PRELIMINARY BUDGET

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

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 9th day of October 2023, to schedule a Public Hearing on November 9th, 2023, at 7:00 p.m. to allow public comment on the 2024 Preliminary Budget.

BOARD MEMBERS DISCUSSION

Supervisor Maerten stated that a Work Session is scheduled for October 23, 2023 at 7:00 p.m. followed by a Budget Session. He also noted that the next Regular Board Meeting is scheduled for November 13, 2023 at 7:00 p.m.

PUBLIC REMARKS/COMMENTS

A resident asked if the \$100 relevel surcharge was applied to “each bill” that was delinquent. Town Clerk Maurer clarified that the surcharge is per utility account based on the balance owed as of September 25, 2023.

A Creekbend Drive resident asked the Board for an update about the town ditch drainage behind Bear Ridge Estates. He was referred to Highway Superintendent Fischer.

The 2024 Pendleton Farm & Home Days chairperson, Adina Toponak, announced that the event will be held on August 16 - 17, 2023.00. She said that they are always looking for volunteers and will be meeting every third Wednesday at the Tonawanda Sportsman Club on Killian Road. The meetings will begin at 6:30 p.m. and all are welcome to attend.

Motion by Councilman Leible, seconded by Councilman Hickman, to enter into an Executive Session with the Town Attorney, the Highway/Water & Sewer Superintendent and the Deputy Supervisor, at 8:50 p.m. to discuss contract negotiations for the town’s collective bargaining unit. Motion carried.

Motion by Councilman Leible, seconded by Councilman Lombardo, to adjourn from the Executive Session and Regular Meeting at 9:18 p.m. Motion carried.

Deborah K. Maurer, Town Clerk