

**TOWN OF PENDLETON
REGULAR MEETING
December 12, 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 12th day of December 2022 at 7:00 p.m. The meeting was open to the public.

Supervisor Maerten called the meeting to order at 7:05 p.m.

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

Roll Call:

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

Also present:

Deborah Maurer - Town Clerk
Claude Joerg – Town Attorney
Aaron Bair – Deputy Water & Sewer Superintendent
Dave Britton – Town Engineer
Ron Diedrich – Building Inspector/Code Enforcement Officer
Tom Valentine - Assessor
Wolfgang Buechler – Zoning Board of Appeals Chairman

There were 33 residents in attendance. Approximately 27 of those in attendance were students from Starpoint.

ADDITIONS OR DELETIONS TO THE AGENDA

The following changes were made to the agenda:

- Remove Agenda Item #1 – Proclamation for Town Justice Edmund Maziarz
- Remove Agenda Item #9 – 2022 Budget Transfers
- Add Agenda Item #19 – Executive Session

COMMUNICATIONS

Town Clerk Maurer reported that she received three letters of interest for the vacant Town Board position. She mentioned that the Town has received a 6” x 9” watercolor painting, believed to have been painted by Sylvester Pendleton Clarke, the founder of our town. The painting was sent to us by Dale and Sharron Pearson, from California. The Pearsons recently came across this item and felt that it “belonged to its rightful owner”. Sylvester Pendleton “Penn” Clarke, great grandson of Sylvester Pendleton Clarke, said that he is happy that the town now has this painting. The painting will be on display in the main Town Clerk’s office. Supervisor Maerten thanked Deputy Clerk Stephanie Chase for her assistance in retrieving this item.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

A resident asked questions about the proposed budget transfers, the rescinding of Resolution # 191-20 and the creation of the Water Line Reserve.

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

ROUTINE BUSINESS

RESOLUTION 245-22

APPROVE MEETING MINUTES – SPECIAL MEETING

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022, that the meeting minutes for the Special Meeting held on November 9th, 2022 are approved as presented by Town Clerk Maurer.

RESOLUTION 246-22

APPROVE MEETING MINUTES – REGULAR MEETING

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo
Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022, that the meeting minutes for the Regular Meeting held on November 14th, 2022 are approved as presented by Town Clerk Maurer.

RESOLUTION 247-22

ABSTRACT #22

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo
Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022, to authorize payment of Abstract #22, Vouchers #22-01278 to #22-01322 which was paid on November 30, 2022:

General Fund	\$	101,184.82
Highway	\$	31,594.71
Sewer	\$	11,465.53
Water	\$	8,757.95
Trust & Agency	\$	8,860.50
Total	\$	161,863.51

RESOLUTION 248-22

ABSTRACT #23

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo
Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022, to authorize payment of Abstract #23, Vouchers #22- 01323 to #22-01406, to be paid on December 14, 2022:

General Fund	\$	88,073.13
Highway	\$	53,794.58
Refuse	\$	48,729.39
Sewer	\$	4,148.38
Water	\$	6,769.53
Trust & Agency	\$	650.00
Total	\$	202,165.01

OTHER REPORTS

Supervisor Maerten reported that the sales tax collected for October 2022 was \$187,960.33. This is an increase of \$45,956.75 when compared with October 2021. The year to date received for 2022 is \$1,941,054.62 which is an increase of \$335,610.61 from 2021.

Supervisor Maerten also thanked the staff at Town Hall and Department of Public Works for all of the hard work they did organizing and setting up for the 2022 Christmas Tree Lighting event that was held on December 2, 2022. He said that everyone did a great job and over 200 people attended. Mr. Maerten remarked that next year's event will hopefully be held at the new Community Center.

Councilman Leible had nothing new to report.

Councilman Hickman thanked Recreation Director Joelle Lange for putting together a winter recreation program proposal. He also thanked the Recreation Committee and welcomed new member Candice Black. Mr. Hickman also reported that he is working on a town credit card policy and will forward to the Board for their review once it is completed. Councilman Hickman thanked all involved in the Christmas Tree Lighting event and wished all a Merry Christmas.

Councilman Lombardo reported that he is still working with Mike Zimmerman from the Nine Mile Island Youth Camp committee regarding the issues that have been brought up recently. He will share updates with the Board as he receives them. Lastly, he stated that he met with volunteers from the Pendleton Farm & Home Days to gain a better understanding of the event which will help with future decisions.

Attorney Joerg answered a question regarding the rescinding of Resolution #191-20 which was asked earlier by a resident.

Engineer Britton provided updates on the following projects: Water Tower Painting, Bear Ridge Solar Project, Jacus Subdivision, SAM Grant for the Emergency Generator, and the Town Park Improvements. He also stated that he intends to have the documents ready to advertise the bidding process for the new Community Center by the January 9, 2023 meeting, pending Town Board approval.

Supervisor Maerten added that the New York State Office of Renewable Energy Siting (ORES) will be holding two public hearings to receive comments from the public regarding the Bear Ridge Solar Project, at the Cambria Volunteer Fire Company, 4631 Cambria Wilson Road, Lockport, NY 14094 on Tuesday, December 13, 2022, at 5:00 p.m. and Wednesday, December 14, 2022, at 6:00 p.m.

DEPARTMENT HEADS

Town Clerk Maurer reported that she received and posted monthly reports from the Assessor, Building Inspector/Code Enforcement Officer, Engineer, and the Water & Sewer Department. Also posted are the Town Clerk and Water & Sewer Collection reports for November. She also provided an explanation as to why the Town Hall's phones and internet have been out of order for the last several days, stating that it was due to an error made by Spectrum. The phones at the DPW are also out of order due to damage caused by the previous week's windstorm. She is hoping that this issue will be fixed on Tuesday. Mrs. Maurer also spoke about the Christmas Tree Lighting event stating that it went very well and thanked all those that participated. Lastly, Mrs. Maurer informed the Board that she recently completed the requirements and received recognition as a Registered Municipal Clerk by the New York State Town Clerks' Association.

Deputy Water & Sewer Superintendent Bair, attending in place of Highway/Water & Sewer Superintendent Fischer, reported that the staff has been preparing for winter and cleaning up the roads after the recent snowfall. They also removed a time capsule from in front of the Historical Building which will be given to the Historical Society to be kept safely until it can be put back in the ground. He also stated that they are preparing for the demolition of the Historical Building/Log Cabin.

Building Inspector Diedrich had nothing to report.

Assessor Valentine stated that he is working on property transfers and continuing to update the RPS software with new data. He reported that a fair amount of exemption applications has already been received and that his office is helping residents through this process. Lastly, he noted that the updated tax roll was submitted to Niagara County Real Property.

NEW BUSINESS

Proclamation for Town Justice Edmund Maziarz

This agenda item was postponed until the January 9, 2023 meeting.

RESOLUTION 249-22

ESTABLISH WATER LINE RESERVE

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

WHEREAS, the Town of Pendleton owns, operates, and maintains infrastructure to supply water for the residents and property owners of the Town; and

WHEREAS, it's in the best interests of the Town of Pendleton to establish a reserve for the accumulation of funds for the upkeep and replacement of water lines essential for the supply of water within the Town.

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 "Water Line Reserve Fund" (hereinafter "Reserve Fund"). The purpose of this Reserve Fund is to accumulate moneys to finance costs associated with the placement, replacement, and repair of water lines.

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 moneys specifically detailed in the approved 2022 budget may be transferred to this Reserve Fund.

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

RESOLUTION 250-22

PURCHASE OF COPIER - DPW

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that the purchase of a Canon imageRunner Advance DX C3826 Digital Imaging System from United Business Systems, pricing based on NYS Technology Contract PM68151, for a cost of \$4,408.26 is authorized. This resolution shall take effect immediately.

RESOLUTION 251-22

SURPLUS ELECTRONIC ITEMS

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that the following items are declared surplus:

- A) Lanier LD425B copier, quantity (1)
- B) Facsimile machines, quantity (3)

FURTHER, BE IT RESOLVED, that the Highway Superintendent or his designee is authorized to make available to the public these surplus items, for sale to the highest public bidder, following procedures established for the sale of surplus equipment.

FURTHER, BE IT RESOLVED, in the event that an attempt at public sale of these surplus items is not successful for any number of these items, the Highway Superintendent is authorized to discard this equipment, as suitable, for disposal of electronic equipment.

RESOLUTION 252-22

SCHEDULE PUBLIC HEARING – MODIFICATION OF WATER RATES

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that a public hearing shall be scheduled for January 9, 2023 at 6:50 pm for the modification of water rates.

FURTHER, BE IT RESOLVED, that the Town Clerk is directed to make the required public notice of this public hearing for the modification of water rates. This resolution shall take effect immediately.

RESOLUTION 253-22

SCHEDULE PUBLIC HEARING – MODIFICATION OF SEWER RATES

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that a public hearing shall be scheduled for January 9, 2023 at 6:55 pm for the modification of sewer rates.

FURTHER, BE IT RESOLVED, that the Town Clerk is directed to make the required public notice of this public hearing for the modification of sewer rates. This resolution shall take effect immediately.

RESOLUTION 254-22

RESCIND RESOLUTION 191-20 – SECONDARY NOTICE FEE FOR UNPAID TAXES

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

WHEREAS, by resolution of the Town Board of the Town of Pendleton at the November 9, 2020 meeting, it was imposed that a \$2.00 fee would be added to unpaid taxes to cover the cost of mailing such notices; and

WHEREAS, the Town Clerk has requested that the Town Board rescind this action.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that Resolution 191-20 passed by the Town Board on November 9, 2020 is rescinded effective immediately.

RESOLUTION 255-22

UPDATED 2023 BUDGET SUMMARY SHEET

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

WHEREAS, the Town Board of the Town of Pendleton scheduled and held a public hearing for the proposed 2023 budget on November 9, 2022 at a special meeting; and

WHEREAS, the proposed 2023 Town Budget was adopted by resolution of the Town Board at the November 9, 2022 special meeting; and

WHEREAS, updated assessment information has been received by the Town and the budget summary sheet, page 16, of the adopted 2023 budget has been updated with this assessment information.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that the 2023 adopted budget summary sheet, page 16, as presented with updated assessment information, is accepted. This resolution shall take effect immediately.

2022 Budget Transfers

This agenda item was postponed until the January 9, 2023 meeting.

RESOLUTION 256-22

ADDITIONAL COMPONENTS FOR APPROVED PARK PROJECT

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

WHEREAS, the Town Board authorized purchase of a prefabricated structure from Cedar Forest Products by resolution at the May 23, 2022 meeting; and

WHEREAS, the Town Board authorized the expenditure for installation of a prefabricated structure from Cedar Forest Products by resolution at the May 23, 2022 meeting; and

WHEREAS, the Town Engineer and Highway Superintendent have recommended additional components to this project, which is currently underway; and

WHEREAS, a proposal for the recommended additional components has been provided by Cedar Forest Products, reflecting HGACBuy contract pricing.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that the proposal from Cedar Forest Products for \$39,912.40 is accepted. This resolution shall take effect immediately.

RESOLUTION 257-22

PURCHASE OF PARK LAVATORY STRUCTURE FIXTURES

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

WHEREAS, the Town of Pendleton owns and maintains ball fields, a playground, and park lands on the Town campus located on Campbell Boulevard; and

WHEREAS, it is necessary to provide proper facilities for those who visit and use the Town Park; and

WHEREAS, it has been determined that the current lavatory building located in the Town Park on Campbell Boulevard is obsolete; and

WHEREAS, the Town of Pendleton has been awarded \$91,902.00 of funding through the State and Municipal Facilities Program (SAM) for acquisition of materials and construction of a new lavatory structure to be located in the Town Park; and

WHEREAS, the Town Board authorized purchase of a prefabricated structure from Cedar Forest Products by resolution at the May 23, 2022 meeting; and

WHEREAS, it is necessary to purchase fixtures for the new lavatory structure.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that the proposal for lavatory fixtures received from Titan Construction for \$3,367.10 is accepted. This resolution shall take effect immediately.

RESOLUTION 258-22

TOWN CONSTABLE POLICY

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that the posted policy related to Constable use of armored vests is adopted. This resolution shall take effect immediately.

RESOLUTION 259-22

NIAGARA COUNTY IT CONTRACT RENEWAL

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

WHEREAS, the Town of Pendleton and Niagara County entered into a Municipal Cooperation Agreement for Niagara County to provide certain information technology services and assistance for the period on or about November 5, 2018 through December 21, 2019; and

WHEREAS, this specific Municipal Cooperation Agreement was renewed each successive year from inception through December 31, 2022; and

WHEREAS, it is prudent and necessary to renew this agreement between the Town of Pendleton and Niagara County for the calendar year 2023.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that the Municipal Cooperation Agreement between the Town of Pendleton and Niagara County for certain information technology services and assistance shall be approved for one (1) year commencing on January 1, 2023 and continuing through December 31, 2023.

RESOLUTION 260-22

SURPLUS 2022 FORD F-350 TRUCK BOX

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that the truck box removed from the 2022 Ford F-350 purchased by the Town is declared surplus.

FURTHER, BE IT RESOLVED, that the Highway Superintendent or his designee is authorized to make available to the public this surplus item, for sale to the highest public bidder, following procedures established for the sale of surplus equipment.

RESOLUTION 261-22

HEALTH INSURANCE DECLINATION STIPEND

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo

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 12th day of December 2022 that employees declining health insurance coverage for the 2023

calendar year shall be paid a \$1,000.00 stipend in the last pay cycle of 2023, provided eligible employees sign and return a declination of health insurance form prior to March 1, 2023.

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.

RESOLUTION 262-22

WFC TRAINING AT HISTORICAL BUILDING/LOG CABIN

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo
Nays 0

WHEREAS, the Town Board of the Town of Pendleton has authorized demolition of the structure currently located on the site of the planned construction of a new community building; and

WHEREAS, the Wendelville Fire Company, Inc. has requested permission to train in the current structure authorized for demolition prior to commencement of the demolition process.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that the Wendelville Fire Company, Inc. is authorized to use the structure identified and authorized for demolition prior to commencement of building demolition. This resolution shall take effect immediately.

RESOLUTION 263-22

EXPENDITURE OF FUNDS FOR DEBRIS REMOVAL

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo
Nays 0

WHEREAS, the Town Board of the Town of Pendleton has authorized demolition of the structure currently located on the site of the planned construction of a new community building; and

WHEREAS, removal and disposal of demolition debris is a necessary action; and

WHEREAS, multiple quotes for dumpster usage and debris disposal have been received and communicated to the Town Board.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that the Highway Superintendent is authorized to contract with Modern Disposal Services for dumpster usage and debris disposal. This resolution shall take effect immediately.

RESOLUTION 264-22

DEMOLITION OF HISTORICAL BUILDING/LOG CABIN

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

ADOPTED: Ayes 4 Maerten, Hickman, Leible, Lombardo
Nays 0

WHEREAS, the Town Board of the Town of Pendleton has plans and funding to construct a new building to be used as a community center; and

WHEREAS, the current structure located on the site of the planned community center has been determined to be obsolete and beyond repair; and

WHEREAS, removal of the structure currently located on the site of the planned building needs to be executed.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of December 2022 that the Highway Superintendent is authorized to direct the demolition of the structure currently located on the site of the planned community center construction and may dispose of the materials resulting from this demolition as appropriate. This resolution shall take effect immediately.

BOARD MEMBERS DISCUSSION

Supervisor Maerten announced that the next meeting of the Town Board will be the Regular and Organizational Meeting held on January 9, 2023, at 7:00 p.m.

PUBLIC REMARKS/COMMENTS

A resident asked when the Modern Disposal newsletter and calendar would be available. Town Clerk Maurer explained that they will be mailed out by Modern Disposal directly and that she will also post them online once she receives an electronic copy from the company. The same resident also asked about the vacancy which she noticed on the Town Board. Supervisor Maerten explained that Councilman Evchich had resigned the previous month and also explained the application and appointing process noting that letters of interest have been received and an appointment could be done as soon as the January meeting.

Another resident informed the Board that the decorative Town of Pendleton sign on Campbell Boulevard that was damaged by a contractor was recently replaced.

A third resident thanked Town Attorney Joerg for his answer to her earlier questions and reminded the Board that she is still awaiting a determination on her FOIL appeal.

Lastly, another resident asked for the time and dates of the public hearings which were adopted in the resolutions earlier in the meeting. Supervisor Maerten explained that they will be held prior to the meeting on January 9, 2023, beginning at 6:50 p.m.

Motion by Councilman Leible, seconded by Councilman Hickman, to enter into an Executive Session with the Town Attorney and Town Engineer to discuss litigation at 7:54 p.m. Motion carried.

Motion by Councilman Leible, seconded by Councilman Hickman, to adjourn from the Executive Session and the Regular Meeting at 8:52 p.m. Motion carried.

Deborah K. Maurer, Town Clerk