

**TOWN OF PENDLETON
PUBLIC HEARINGS & REGULAR MEETING
February 13, 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 13th day of February 2023 at 7:00 p.m.

PUBLIC HEARINGS

PUBLIC HEARING #1 – PROPOSED LOCAL LAW NO. XX OF 2023 AMENDMENT OF TOWN OF PENDLETON CODE CHAPTER 224, ARTICLE II, §224-2 (REAL PROPERTY TAX EXEMPTION FOR PERSONS SIXTY-FIVE YEARS OF AGE OR OVER)

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on February 7, 2023 and on the Town's website.

Supervisor Maerten opened the Public Hearing at 7:03 p.m.

The purpose of this public hearing is to consider and possibly adopt a Local Law to amend Chapter 224 of the Town of Pendleton Code at Section 224-2 applicable to the real property tax exemption for persons sixty-five years of age or over, pursuant to §467 of the New York State Real Property Tax Law. Copies of the proposed Local Law were made available for public viewing at the Town Hall and on the Town's website.

Mr. Gordon Bellinger, of Mapleton Road, asked if this exemption was in addition to a veteran exemption. Assessor Valentine explained that it is an additional exemption for those that are eligible. There were no additional comments.

Motion made by Councilman Buechler, seconded by Councilman Hickman, to close the Public Hearing at 7:05 p.m. Motion carried.

PUBLIC HEARING #2 – PROPOSED LOCAL LAW NO. XX OF 2023 AMENDMENT OF TOWN OF PENDLETON CODE CHAPTER 224, §224 (REAL PROPERTY TAX EXEMPTION FOR PERSONS WITH DISABILITIES AND LIMITED INCOME)

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on February 7, 2023 and on the Town's website.

Supervisor Maerten opened the Public Hearing at 7:05 p.m.

The purpose of the public hearing is to consider and possibly adopt a Local Law to amend Chapter 224 of the Town of Pendleton Code at Section 224 applicable to the real property tax exemption for persons with disabilities and limited income in accordance with §459-c of the New York State Real Property Tax Law. Copies of the proposed Local Law were made available for public viewing at the Town Hall and on the Town's website.

There were no questions or comments during this public hearing.

Motion made by Councilman Hickman, seconded by Councilman Buechler, to close the Public Hearing at 7:06 p.m. Motion carried.

A third public hearing, originally scheduled at the January 9, 2023 meeting, was not advertised or held at this time due to the proposed local law not being finalized. A new public hearing will be scheduled at a later time.

REGULAR MEETING

Supervisor Maerten called the meeting to order at 7:06 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	Absent
Councilman Lombardo	Absent

Also present:

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

There were ten residents in attendance, five of which were Starpoint students.

ADDITIONS OR DELETIONS TO THE AGENDA

The following changes were made to the agenda:

- Delete #4 – Jacus Subdivision Road Dedication

COMMUNICATIONS

Mrs. Maurer also reported that correspondence was received from resident, Annmarie Reeb, containing questions to the Town Board regarding the Pendleton Station Market Vendor Permit Application. The correspondence was forwarded to the Board and placed in the communications binder.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

A resident asked questions about the Winter Recreation Program, the Pendleton Station Market Vendor Rates, the proposed Deputy Water & Sewer Superintendent appointment and the proposed resolution for the temporary cleaner.

ROUTINE BUSINESS

RESOLUTION 70-23

APPROVE MEETING MINUTES – JANUARY 9, 2023

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

ADOPTED: Ayes 3 Maerten, Buechler, Hickman
 Nays 0
 Absent 2 Leible, Lombardo

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of February 2023, that the meeting minutes for the Regular Meeting held on January 9, 2023, are approved as presented by Town Clerk Maurer.

RESOLUTION 71-23

APPROVE MEETING MINUTES - JANUARY 23, 2023

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

ADOPTED: Ayes 3 Maerten, Buechler, Hickman
 Nays 0
 Absent 2 Leible, Lombardo

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of February 2023, that the meeting minutes for the Work Session held on January 3, 2023, are approved as amended and presented by Town Clerk Maurer.

Approval of Voucher Abstract #3

This item was tabled until the February 27, 2023 Work Session.

OTHER REPORTS

Supervisor Maerten reported that the sales tax collected for December 2022 was \$230,840.73. This is a decrease of \$14,460.37 when compared with December 2021. The total tax collected for 2022 was \$2,358,761.95 which is an increase of \$159,073.07 from 2021.

Councilman Hickman had nothing new to report.

Councilman Buechler reported that the Wendelville LOSAP audit was completed in January. Mr. Buechler also stated that he attended the January Recreation Committee meeting and explained that they are gearing up for the Winter Recreation and Summer Recreation Programs. He mentioned that a baseball program will most likely not be held this year due to lack of volunteers to run the program. Supervisor Maerten asked that the Recreation Committee provide the Town Clerk with information that she can use to post on social media to help recruit volunteers. Councilman Buechler also stated that he is trying to find volunteers to join the Ethics Board.

Attorney Joerg had nothing to report.

Engineer Britton reported that the boundary and topographic survey for the Campbell Boulevard Waterline Project has been completed, the contract for the SAM Grant Emergency Generator has been executed, and that the draft Community Center plans will be completed soon and he hopes to have it go to bid in the near future. He also provided updates on the Splash Pad and bathroom construction, as well as some Planning Board applications that are currently under review. Lastly, Mr. Britton stated that the construction of the public facilities for the Jacus Subdivision is complete and the dedication documentation has been filed with the Town.

DEPARTMENT HEADS

Town Clerk Maurer reported that the Assessor, Building/Code Enforcement Department, Town Clerk, Tax Collector, Water & Sewer Collection and the Water & Sewer Department monthly reports were received and posted online with the meeting agenda. She stated 87% of the taxes have been collected so far and disbursements have been made to the Town Supervisor and the Niagara County Treasurer's Office. She also reported that Councilman Leible turned in the annual audits for the Town Clerk, Tax Collector and Water & Sewer Collection. Mrs. Maurer then stated, on behalf of Councilman Leible, that the newsletter articles are due on February 25, 2023.

Highway and Water/Sewer Superintendent Fischer reported that during the month of January, his department plowed and salted roads as needed, began repairing lawn damage caused by the snowplows, sewer jetted some culvert pipes and completed the demolition of the log cabin. They also repaired equipment and trucks, removed the Christmas decorations from the Town Hall, and began replacing defective road signs. He noted that they are also in the process of finishing the work on the new park bathroom.

Building Inspector Diedrich informed the Board that part-time Building Inspector, Chris Burgio, has completed all of the required training. Now that his department is fully staffed, he intends on kicking off a fire inspection program for all commercial buildings in the town. Mr. Diedrich stated that he will work with the Wendelville Fire Company to implement this program.

Assessor Valentine stated that he continues to clean up past issues in his department and has been assisting residents with the exemption applications. He also reported on the mailing of a post card used to inform all residents of potential eligibility for senior exemptions. This "2nd notice" was required by the State.

NEW BUSINESS

RESOLUTION 73-23

**LOCAL LAW NO. 02 OF 2023 AMENDMENT OF TOWN OF PENDLETON CODE
CHAPTER 224, §224 (REAL PROPERTY TAX EXEMPTION FOR PERSONS WITH
DISABILITIES AND LIMITED INCOME)**

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

ADOPTED: Ayes 3 Maerten, Buechler, Hickman
Nays 0
Absent 2 Leible, Lombardo

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of February 2023, to approve Local Law No. 02 of the year 2023, as presented:

**LOCAL LAW NO. 02 OF 2023 AMENDMENT OF TOWN OF PENDLETON CODE
CHAPTER 224, §224 (REAL PROPERTY TAX EXEMPTION FOR PERSONS WITH
DISABILITIES AND LIMITED INCOME)**

The Town of Pendleton hereby adopts a Local Law amending Chapter 224 of the Town of Pendleton Code at Section 224 to add Section 224-4 to add an exemption for Persons with Disabilities and Limited Incomes in accordance with Section 459-c of the New York State Real Property Tax Law as follows:

**ARTICLE III
Persons with Disabilities and Limited Incomes Exemption**

§224-4. Exemption granted.

1. Real property owned by one or more persons with disabilities, or real property owned by a husband, wife or both, or by siblings, at least one of whom has a disability, and whose income, as hereafter defined, is limited by reason of such disability, shall be exempt from taxation for Town purposes to the extent as provided in the following schedule:

ANNUAL INCOME		EXEMPTION %
More than:	Less than:	
\$0.00	\$26,200.00	50%
26,200.00	27,199.99	45%
27,200.00	28,199.99	40%
28,200.00	29,199.99	35%
29,200.00	30,099.99	30%
30,100.00	30,999.99	25%
31,000.00	31,899.99	20%
31,900.00	32,799.99	15%
32,800.00	33,699.99	10%
33,700.00	34,600.00	5%
34,600.00		0%

2. For purposes of this Local Law, the following provisions and definitions shall apply:

a. "Sibling" shall mean a brother or a sister, whether related through half blood, whole blood or adoption.

b. A person with a disability is one who has a physical or mental impairment, not due to current use of alcohol or illegal drug use, which substantially limits such person's ability to engage in one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, and who (i) is certified to receive social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the federal Social Security Act, or(ii) is certified to receive Railroad Retirement Disability benefits under the federal railroad Retirement Act, or (iii) has received a certificate from the state commission for the blind and visually handicapped stating that such person is legally blind.

c. An award letter from the Social Security Administration or the Railroad Retirement Board or a certificate from the state commission for the blind and visually handicapped shall be submitted as proof of disability.

3. Any exemption provided by this section shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed; provided, however, that no

parcel may receive an exemption for the same municipal tax purpose pursuant to both this section and section four hundred sixty-seven of this title.

4. No exemption shall be granted:

a. if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of thirty-four thousand and six hundred dollars (\$34,600). Income tax year shall mean the twelve-month period for which the owner or owners filed a federal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property due to divorce, legal separation or abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. (In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income);

b. unless the property is used exclusively for residential purposes, provided, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section;

c. unless the real property is the legal residence of and is occupied in whole or in part by the disabled person; except where the disabled person is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in section twenty-eight hundred one of the public health law, provided that any income accruing to that person shall be considered income for purposes of this section only to the extent that it exceeds the amount paid by such person or spouse or sibling of such person for care in the facility.

5. a. Title to that portion of real property owned by a cooperative apartment corporation in which a tenant-stockholder of such corporation resides, and which is represented by his/her share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

b. That portion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant stockholder to such entire parcel and the buildings thereon owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this section and any exemption so granted shall be credited by the appropriate taxing authority against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

6. Application for such exemption must be made annually by the owner, or all of the owners of the property, on forms prescribed by the state board, and shall be filed in such assessor's office on or before the appropriate taxable status date; provided, however, proof of a permanent disability need be submitted only in the year exemption pursuant to this section is first sought or the disability is first determined to be permanent.

7. At least sixty days prior to the appropriate taxable status date, the assessor shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before taxable

status date and be approved in order for the exemption to continue to be granted. Failure to mail such application for or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

8. Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply to real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to subdivision one of this section, were such person or persons the owner or owners of such real property.

9. This Local Law shall take effect March 1, 2023.

Next, Supervisor Maerten provided the Town Board members with an updated Page 1 of the Pendleton Station Market Vendor Permit Application noting that section under “Vendor Categories” was revised.

RESOLUTION 74-23

PENDLETON STATION MARKET – VENDOR PERMIT APPLICATION

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

ADOPTED: Ayes 3 Maerten, Buechler, Hickman
 Nays 0
 Absent 2 Leible, Lombardo

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of February 2023 that the Pendleton Station Market Vendor Permit Application is approved as presented. This resolution shall take effect immediately.

Jacus Subdivision Road Dedication – Extension of Creekbend Drive

This agenda item was tabled until further notice.

RESOLUTION 75-23

BRAUER SUBDIVISION DISTRICT FEE

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

ADOPTED: Ayes 3 Maerten, Buechler, Hickman
 Nays 0
 Absent 2 Leible, Lombardo

WHEREAS, on November 11, 2019, a residential construction project was approved adjacent to Campbell Boulevard in the Town of Pendleton known as the Meadows at Pendleton North Subdivision; and

WHEREAS, the boundaries and subdivision lots for the Meadows at Pendleton North Subdivision are as follows: in the Town of Pendleton, County of Niagara, those parcels described on the Niagara County Land and Tax Map as Section, Block, and Lot number S.B.L 150.04-3-1 through 150.04-3-50, and;

WHEREAS, approved construction plans for this project include various stormwater management features and structures 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 of \$230.00 annually per lot; and

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

WHEREAS, on October 10, 2022, the Town Engineer was heard to make a request to have the \$230.00 annual fee reduced to an annual fee of \$65.00 per lot.

WHEREAS, the Town Board of the Town of Pendleton on the 10th day of October 2022 reduced the Stormwater District fee established for the Meadows at Pendleton North subdivision.

WHEREAS, the annual fee for the Meadows at Pendleton North subdivision was reduced to \$65.00 per lot annually.

WHEREAS, this resolution is hereby being adopted to clarify written resolution 225-22 of the Town Board of the Town of Pendleton, passed on October 10, 2022, to be consistent with the meeting of the Town Board of the Town of Pendleton conducted on October 10, 2022.

RESOLVED, this resolution shall be forwarded to the County of Niagara for implementation so that the assessment of the District Fee of \$65.00 per lot can commence on the subdivision lots of the Meadows at Pendleton North subdivision on the annual Niagara County tax bills commencing with the 2024 tax bills.

RESOLUTION 76-23

SURPLUS COURT EQUIPMENT

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

ADOPTED: Ayes 3 Maerten, Buechler, Hickman
 Nays 0
 Absent 2 Leible, Lombardo

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of February 2023 that the following items are declared surplus and may be disposed of through typical auction procedures or other appropriate means:

- 1) Brother MFC-8710DW, Quantity: (2).
- 2) Veri-Fone Credit Card Reader VX520 Quantity: (2).
- 3) Dell Optiplex 9020 Computer.
- 4) Dell Optiplex 7010, Quantity: (3).
- 5) Brother IntelliFaz 4100E Laser Fax.
- 6) HP LaserJet Pro M102W Printer.

FURTHER, BE IT RESOLVED, that all storage devices, such as hard drives, are authorized to be stored or destroyed, as appropriate. This resolution shall take effect immediately.

RESOLUTION 77-23

PURCHASE OF SEWER PARTS

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

ADOPTED: Ayes 3 Maerten, Buechler, Hickman
 Nays 0
 Absent 2 Leible, Lombardo

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of February 2023 that Siewert Equipment is authorized as a sole source supplier of repair parts for E-One pumps.

FURTHER, BE IT RESOLVED, that the purchase of sewer repair parts for a total expenditure of \$7,990.25 from Siewert Equipment is approved. This resolution shall take effect immediately.

RESOLUTION 78-23

APPOINTMENT OF TEMPORARY CLEANER

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

ADOPTED: Ayes 3 Maerten, Buechler, Hickman
 Nays 0
 Absent 2 Leible, Lombardo

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of February 2023 that Craig Walter is appointed to the position of Temporary Cleaner, effective February 23, 2023 through May 23, 2023.

FURTHER, BE IT RESOLVED, that the rate of pay is established at \$17.00 per hour. This resolution shall take effect immediately.

Next, Supervisor Maerten explained that the recent resignation of Deputy Water & Sewer Superintendent, Aaron Bair, has created a vacancy in that position.

RESOLUTION 79-23

APPOINTMENT OF DEPUTY WATER & SEWER SUPERINTENDENT

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

ADOPTED: Ayes 3 Maerten, Buechler, Hickman
 Nays 0
 Absent 2 Leible, Lombardo

WHEREAS, the Highway Superintendent of the Town of Pendleton has been assigned responsibility for oversight and direction of the operations of the Water & Sewer Department; and

WHEREAS, the Highway Superintendent relies on the Deputy Water & Sewer Superintendent to assist with the operation of the Water & Sewer Department; and

WHEREAS, the position of Deputy Water & Sewer Department is vacant due to the resignation of the former incumbent appointed to this position; and

WHEREAS, the Highway Superintendent has communicated a recommendation for appointment of a qualified individual to the open position of Deputy Water & Sewer Superintendent.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of February 2023 that Lucas Frew is provisionally appointed to the position of Deputy Water & Sewer Superintendent with compensation as detailed in the current Collective Bargaining Agreement for Step 1 of this position. This resolution shall take effect immediately.

RESOLUTION 80-23

ADVERTISE FOR OPEN POSITION

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

ADOPTED: Ayes 3 Maerten, Buechler, Hickman
 Nays 0
 Absent 2 Leible, Lombardo

WHEREAS, the Highway Department and Water & Sewer Department require a minimum level of staffing to meet the needs of the residents and property owners of the Town of Pendleton, maintaining infrastructure and performing vital tasks; and

WHEREAS, one full-time Water & Sewer Department position is vacant due to a resignation; and

WHEREAS, the Highway Superintendent has requested authorization to advertise for this open position.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 13th day of February 2023 that the Town Supervisor is authorized to create a posting for the anticipated opening that may include Laborer or Water & Sewer Maintenance Person, assigned to the Water & Sewer Department.

FURTHER, BE IT RESOLVED, the Town Clerk is authorized to publicly advertise this opening. This resolution shall take effect immediately.

BOARD MEMBERS DISCUSSION

Supervisor Maerten stated that a Work Session is scheduled for February 27, 2023 at 7:00 p.m. and a Regular Board Meeting is scheduled for March 13, 2023 at 7:00 p.m.

PUBLIC REMARKS/COMMENTS

A resident had questions about the budget transfers that were made at the January 23, 2023 meeting, specifically regarding three accounts with deficits and three with surpluses. He asked if further action will be taken by the Board to complete the transfer process.

A second resident reminded the Board that she would like an answer to her questions about the budget from a previous meeting. She also wanted to know what the Business Development Committee was and if it still exists. She would also like to know who is in charge of the Pendleton Station Market and asked who the Pendleton Business Group is.

A third resident stated that she is also waiting for answers to her questions about the budget which were sent to the Board previously by email and would like answers to the 43 questions which were submitted prior to the meeting about the Pendleton Station Market.

Resident number two asked that a local law be established explaining the powers and duties of the farmer's market.

Lastly, another resident thanked Highway/Water & Sewer Superintendent Fischer for his assistance with a backed up culvert pipe during the Christmas storm. He stated that Mr. Fischer went above and beyond his duties.

Motion by Councilman Hickman, seconded by Councilman Buechler, to enter into an Executive Session with the Town Attorney and the Highway/Water & Sewer Superintendent to discuss personnel matters in the Highway Department at 7:46 p.m. Motion carried.

Motion by Councilman Buechler, seconded by Councilman Hickman, to adjourn from the Executive Session and Regular Meeting at 8:21 p.m. Motion carried.

Deborah Maurer, Town Clerk