TOWN OF PENDLETON **REGULAR MEETING**

July 10, 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 10th day of July 2023 at 7:00 p.m.

Supervisor Maerten called the meeting to order at 7:00 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 and Sewer Superintendent Ron Diedrich – Building Inspector/Code Enforcement Officer

Tom Valentine – Town Assessor

Mark Walter – Deputy Town Supervisor

There were four residents in attendance.

AMENDMENTS/ADDITIONS/DELETIONS TO THE AGENDA

The following changes were made to the agenda:

- Add Schedule Public Hearing as #8
- Move Executive Session to #9

COMMUNICATIONS

There were no communications to report.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

A resident commented about agenda item #7, Authorize Bond Commitment for Water Improvements Grant. She questioned if the water line reserve fund created in December 2022 would be used to fund this project.

ROUTINE BUSINESS

RESOLUTION 173-23

APPROVE MEETING MINUTES – JUNE 26, 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 10th day of July 2023, that the meeting minutes for the Work Session held on June 26, 2023 are approved as presented by Town Clerk Maurer.

RESOLUTION 174-23

ABSTRACT #13

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

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

Nays 0

BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of July 2023, to authorize payment of Voucher Abstract #13, Vouchers #23-00589 to #23-00649, to be paid on July 12, 2023 as follows:

General Fund		\$ 30,570.72
Highway		\$ 9,377.12
Fire Protection		\$ 50.00
Sewer		\$ 2,197.75
Water		\$ 8,579.10
	Total	\$ 50 774 69

OTHER REPORTS

Supervisor Maerten reported that the sales tax collected for May 2023 was \$178,174.02. This is an increase of \$36,590.04 when compared with May 2022. The total tax collected to date for 2023 is \$962,075.12 which is an increase of \$267,874.55 from 2022.

Councilman Leible reported that the July 4th Celebration was a success. He thanked the Highway Department and the Wendelville Fire Company for their assistance with the event. He also mentioned that he will be getting quotes to seal and stripe the Town Hall parking lot. Supervisor Maerten explained that the plan is to actually pave the parking lot this year. Councilman Leible also said that he will secure quotes to prepare the furnaces for the winter season.

Councilman Hickman stated that he is working on creating a seasonal bid calendar, finishing up a draft job description for a recreation position, completing his review on the parks' policy, and provided a brief update on the market. He said that the market director, Marissa Wroblewski, is doing a wonderful job with her team. He mentioned that Mrs. Wroblewski expressed concerns with the traffic flow at the market which he will work to resolve.

Councilmen Lombardo had nothing to report.

Councilmen Buechler had nothing to report.

Attorney Joerg had no updates to report.

DEPARTMENT HEADS

Town Clerk Maurer spoke about the Hometown Heroes Banner Program and stated that the first 19 banners will be printed and delivered this week. She also reported that she will be conducting a dog enumeration over the next 12 months noting that the first official announcement will be in the next town newsletter.

Highway and Water/Sewer Superintendent Fischer reported that during the month of June, his department mowed roadside ditches, chipped brush, mowed parks and cemeteries, weed wacked and picked up trash in parks and trail heads. They also washed trucks and equipment, black topped driveways after culvert replacements, and repaired equipment as needed. He also reported that work was done on the baseball diamonds, splash pad and community center location, as well as shared services with the towns of Cambria and Wheatfield.

Building Inspector Diedrich informed the Board that a building permit was issued for the West Herr dealership for their new location on South Transit Road. He also commented on the condition of the cedar plank at the new accessible bathroom and thinks that it should be painted or sealed.

Assessor Valentine stated that the Final Roll for 2023 was submitted to the Niagara County Real Property Office at the end of June and was approved. He also reported that his office is continuing to update the 2024 Roll record for sales and changes in property information noting that the new builds on Brauer Drive will be included in that roll.

NEW BUSINESS

RESOLUTION 175-23

SPCA AGREEMENT

Motion by Councilman Hickman, 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 10th day of July 2023, to approve the agreement with the Niagara SPCA, as corrected, for a term of 18 months, commencing the 1st day of July 2023 and expiring on the 31st day of December, 2024.

RESOLUTION 176-23

EXPENDITURE FOR GRINDER PUMP

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 10th day of July 2023, that grinder pump system components manufactured by Pentair Myers are declared as standardized equipment for use as a component of Town-owned sewer infrastructure; and

FURTHER, BE IT RESOLVED, that Fluid Kinetics, Inc. is recognized as the sole source provider of Pentair Myers products; and

FURTHER, BE IT RESOLVED, that the expenditure of \$13,689.00 for replacement of the grinder pump system at a specific service address is authorized. This resolution shall take effect immediately.

RESOLUTION 177-23

APPOINT SUPERVISOR'S OFFICE AS MINORITY BUSINESS OFFICER

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

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

Nays 0

WHEREAS, the Office of the Supervisor for the Town of Pendleton shall be designated as the Minority Business Officer for the Town of Pendleton.

NOW THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of July 2023, that the Town Board of the Town of Pendleton appoints the Supervisor's Office (Joel Maerten) as the Town of Pendleton Minority Business Officer.

RESOLUTION 178-23

APPOINT SEASONAL EMPLOYEE

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 10th day of July 2023, that John Riester is appointed to the seasonal position of laborer, reporting to public works, compensated at an hourly rate of \$15.00 per hour. This resolution shall take effect immediately.

RESOLUTION 179-23

AUTHORIZE LOSAP INVESTMENT POLICY

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

Nays 0

WHEREAS, the Town of Pendleton relies on the Wendelville Fire Company, Inc. for fire, rescue, and emergency medical services; and

WHEREAS, the Town funds and maintains a Length of Service Award Program (LOSAP) for the volunteers of the Wendelville Fire Company; and

WHEREAS, it is prudent and appropriate to review and update the Investment Policy for the funds dedicated to maintaining the LOSAP program; and

WHEREAS, an updated Investment Policy has been presented to the Town Board for review and approval.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 10th day of July 2023, that the Length of Service Award Program Investment Policy presented to the Town Board is approved. This resolution shall take effect immediately.

Next, Supervisor Maerten spoke about the grant application for the Campbell Boulevard Water Main Replacement Project. He stated that earlier this year the Board approved the proposal from Nussbaumer & Clarke, Inc. (NCI) for their engineering services for this project. NCI and the town's grant writer have prepared the necessary documents for the grant application for this project. He explained that the next resolution [RESOLUTION 180-23] authorizes the supervisor to submit the grant application and ties in with the following resolution [RESOLUTION 181-23] which illustrates that the Town is committed to the funding of the project. That resolution is part of the grant application. He continued to explain that the Town does have money in reserve with additional money coming in to potentially be added for the next budget year. This bond resolution [RESOLUTION 181-23] will show that we have preapproval to borrow money to cover the expenses if there is not enough cash on hand to complete the project. Further Town Board action will be required for this project should the grant be approved.

RESOLUTION 180-23

NYS 2023 WATER INFRASTRUCTURE IMPROVEMENT ACT

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

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

WHEREAS, the Town of Pendleton, after thorough consideration of the various aspects of the problem and review of available data, has hereby determined that certain work, as described in the Campbell Boulevard Water Main map, plan and report, to address the repair and maintenance of the Campbell Boulevard Water Main Replacement, herein called the "Project", is desirable, is in the public interest, and is required in order to implement the Project and address said compliance requirements; and

WHEREAS, the NYS Environmental Facilities Corporation (EFC) authorizes State assistance to municipalities for drinking water quality improvement projects by means of a contract, and the Town of Pendleton deems it to be in the public interest and benefit under this law to enter into a contract therewith.

NOW, THEREFORE, BE IT RESOLVED BY the Pendleton Town Board, that:

- 1. Supervisor Joel Maerten, or his representative or successor in office, is the representative authorized to act on behalf of the Pendleton Town Board in all matters related to State assistance under the New York State Environmental Facilities Corporation (EFC) and/or any applicable State grant provisions.
- 2. The Supervisor, or his representative, is authorized to make an application in the amount of \$1,886,000 which the Town is requesting 60% of the total project cost in grant funding (\$1,131,600);
- 3. The Pendleton Town Board hereby authorizes matching funds to fund to cover the Town's portion of the cost of the Project, not to exceed 40% of the total project cost (\$754,400);
- 4. The Pendleton Town Board agrees to fund its portion of the cost of the Project by way of a General Obligation Bond or a series of Bond Anticipation Notes, and that funds will be made available to initiate the Project efforts within 12 months of written approval of its application by the NYS Department of Health and the New York State Environmental Facilities Corporation authority;

- 5. The one certified copy of this Resolution be prepared and submitted with the electronic WIIA grant application to the NYS Environmental Facilities Corporation; and
- 6. This Resolution takes effect immediately.

RESOLUTION 181-23

AUTHORIZE BOND COMMITMENT FOR WATER IMPROVEMENTS GRANT

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

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

Nays 0

BOND RESOLUTION DATED JULY 10, 2023

A RESOLUTION AUTHORIZING THE CONSTRUCTION, RECONSTRUCTION, ACQUISITION, AND INSTALLATION OF A CAPITAL PROJECT KNOWN AS THE CAMPBELL BOULEVARD WATER MAIN REPLACEMENT PROJECT, AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$754,400 OF THE TOWN OF PENDLETON, NIAGARA COUNTY, NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE TOWN SUPERVISOR.

BE IT RESOLVED, by the Town Board of the Town of Pendleton, Niagara County, New York (the "Town") (by the favorable vote of not less than two-thirds of all the members of the Board) as follows:

SECTION 1. The specific purpose (hereinafter referred to as "purpose") to be financed pursuant to this resolution is the undertaking of a capital project known as the Campbell Boulevard Water Main Replacement Project, which shall include: (1) replacement of existing 8-inch cast-iron watermain with approximately 4,000 linear feet of new 8-inch PVC watermain on Campbell Boulevard between Mapleton Road and Lockport Road in the Town of Pendleton; (2) removal of the existing watermain; and (3) installation of new watermain in the same trench, together with necessary site work and the acquisition and installation of equipment, machinery and apparatus, and the acquisition of any related land and rights of way for the foregoing purpose. The maximum cost of said specific object or purpose, including preliminary costs and costs incidental thereto and the financing thereof, is a maximum amount not to exceed \$1,886,000 and said amount is hereby appropriated therefore, offset by any Federal, State, County and/or Local Funds received.

SECTION 2. The Town Board plans to finance the Town's maximum estimated cost of said purpose by the issuance of serial bonds and/or bond anticipation notes in an amount not to exceed \$754,400 of said Town, hereby authorized to be issued therefor pursuant to the Local Finance Law, and the cost of such improvement is to be paid by assessments upon benefitted real property in an area less than the area of said Town, and (B) the balance, or \$1,131,600 to be funded from grants to be provided from various federal and/or state agencies, including, but not limited to, the New York State Environmental Facilities Corporation.

SECTION 3. It is hereby determined that said purpose is an object or purpose described in subdivision 4 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is forty (40) years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of said Town are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. Should the assessments upon benefitted real property be insufficient to pay the principal of and interest on such bonds, there shall annually be levied on all the taxable real property of said Town a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, pursuant to the provisions of Section 30.00 relative to the authorization of the issuance of bond anticipation notes or the renewals of said notes and of Section 21.00, Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Town Board pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the Town Supervisor, the chief fiscal officer of the Town.

SECTION 8. The temporary use of available funds of the Town, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the capital purposes described in Section 1 of this resolution. The Town then reasonably expects to reimburse such expenditure with the proceeds of the bonds or bond anticipation notes authorized by Section 2 of this resolution. This resolution shall constitute the declaration of the Town's "official intent" to reimburse the expenditures authorized by Section 1 hereof with the proceeds of the bonds and notes authorized herein, as required by United States Treasury Regulation Section 1.150-2.

SECTION 9. The Town Supervisor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and to designate the bonds authorized by this resolution, and any notes issued in anticipation thereof as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

SECTION 10. The Town Supervisor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The Town Supervisor is hereby authorized to execute and deliver in the name and on behalf of the Town a project finance agreement prepared by the New York State Environmental Facilities Corporation (the "SRF Project Finance Agreement"). The Town Supervisor and the Town Clerk and all other officers, employees and agents of the Town are hereby authorized and directed for and on behalf of the Town to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this resolution or any document or agreement approved hereby, including, but not limited to, the SRF Project Finance Agreement.

SECTION 12. Pursuant to a Resolution Approving Negative Declaration adopted by the Town on June 12, 2023, the Town determined that the undertaking of the construction, reconstruction, acquisition, and installation of a capital project known as the Campbell Boulevard Water Main Replacement Project is a Type II action that will not have a significant effect on the environment; and therefore, no other determination or procedure under the State Environmental Quality Review Act ("SEQR") is required.

SECTION 13. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

- (1) (a) such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
 - (b) the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

(2) said obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 14. The Town Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in the official newspaper or newspapers of the Town.

SECTION 15. This resolution shall take effect immediately upon its adoption and is not subject to permissive referendum pursuant to Section 35.00b.(2) of the Local Finance Law.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Joel Maerten	VOTING	AYE
Wolfgang Buechler	VOTING	AYE
Joseph Hickman	VOTING	AYE
David Leible	VOTING	AYE
Scott Lombardo	VOTING	AYE

The foregoing resolution was thereupon declared duly adopted.

RESOLUTION 182-23

SCHEDULE PUBLIC HEARING

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 10th day of July 2023, to schedule a Public Hearing on August 14, 2023 at 6:55 p.m. to allow for public input on a proposed local law regarding the Volunteer Firefighters and Ambulance Workers Exemption.

BOARD MEMBERS DISCUSSION

Supervisor Maerten stated that a Regular Board Meeting scheduled for August 14, 2023 at 7:00 p.m. There is no July Work Session scheduled at this time.

PUBLIC REMARKS/COMMENTS

A resident commented on the salary of the seasonal employee that was hired and questioned why a previous employee was hired at a higher rate. She also asked why the Town is taking out a bond that "we won't use" and referred to the public notices published for a previous bond stating that there were inconsistencies in the notices. This same resident asked when there will be a Town Investment Policy and a Park Policy.

A second resident asked to see a copy of the LOSAP investment policy that was not published prior to the meeting. She was told that it is available under FOIL. She would also like to know why the costs associated with the splash pad are being taken from three different funds and how in-kind services of labor from the Highway Department are tracked for that project.

Regular Meeting July 10, 2023

Motion by Councilman Leible, seconded by Councilman Lombardo, to enter into an Executive Session, with the Town Attorney and Deputy Town Supervisor, to discuss personnel matters at 8:45 p.m. Motion carried.

Motion by Councilman Buechler, seconded by Councilman Lombardo, to adjourn from the Executive Session and the Regular Meeting at 9:02 p.m. Motion carried.

Deborah K. Maurer, Town Clerk