

TOWN OF PENDLETON
PUBLIC HEARING & REGULAR MEETING
August 14, 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 14th day of August 2023 at 7:00 p.m. The meeting was preceded by a Public Hearing.

PUBLIC HEARING

PUBLIC HEARING - PROPOSED LOCAL LAW NO. XX OF 2023 – REAL PROPERTY TAX EXEMPTION FOR VOLUNTARY FIREFIGHTERS AND VOLUNTARY AMBULANCE WORKERS

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on August 8, 2023 and on the Town's website.

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

The purpose of this public hearing is to consider and 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 voluntary firefighters and voluntary ambulance workers in accordance with §466-a 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.

Town Clerk Maurer explained that numbering of the sections of the proposed Local Law was incorrect and would have to be revised before the law is adopted.

Councilman Lombardo stated that he will abstain from voting because he is an active member of the Wendelville Fire Company. Councilman Leible stated the same.

Deputy Supervisor Mark Walter read a letter that was submitted by the Wendelville Fire Company in support of this law.

Councilman Buechler asked for clarification on the difference between this proposed exemption and the tax credit that volunteers are able to apply for already. Assessor Valentine provided a brief explanation and stated that the choice would need to be made by the individual.

There were no other questions or comments.

Motion made by Councilman Leible, seconded by Councilman Hickman, to close the Public Hearing at 7:11 p.m. Motion carried.

REGULAR MEETING

Supervisor Maerten called the meeting to order at 7:11 p.m.

Supervisor Maerten read the invocation and the salute to the flag. A moment of silence was observed to remember William Torrisi, who passed away on August 8, 2023. Mr. Torrisi was a 52-year member of the Wendelville Fire Company. He also served as animal control officer and a member of the Planning Board.

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 six residents in attendance.

AMENDMENTS/ADDITIONS/DELETIONS TO THE AGENDA

The following changes were made to the agenda:

- Remove “Executive Session”
- Add “284 Agreement”

COMMUNICATIONS

Town Clerk Maurer reported that an email was received from resident Ed Harman regarding questions about the 2022 End of Year Balanced Budget. This correspondence was filed in the communications binder. She also reported that there will be a Community Paper Shredding Event on August 26th from 9:00 a.m. until 11:00 a.m. at the Town Hall. This event is co-sponsored by the Town and the Niagara County Refuse Department.

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

There were no public remarks or comments on agenda items.

ROUTINE BUSINESS

RESOLUTION 183-23

APPROVE MEETING MINUTES – JULY 10, 2023

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 14th day of August 2023, that the meeting minutes for the Regular Meeting held on July 10, 2023 are approved as presented by Town Clerk Maurer.

RESOLUTION 184-23

ABSTRACT #14

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 14th day of August 2023, to authorize payment of Voucher Abstract #14, Vouchers #23-00650 to #23-00697, which was paid on July 26, 2023 as follows:

General Fund	\$	90,526.87
Highway	\$	19,037.28
Sewer	\$	1,485.64
Water	\$	7,741.57
Total	\$	118,791.36

RESOLUTION 185-23

ABSTRACT #15

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 14th day of August 2023, to authorize payment of Voucher Abstract #15, Vouchers #23-00698 to #23-00761, to be paid on August 16, 2023 as follows:

General Fund	\$	41,209.69
Highway	\$	15,106.80
Refuse	\$	46,540.94
Sewer	\$	1,829.36
Water	\$	3,578.71
Total	\$	108,265.50

OTHER REPORTS

Supervisor Maerten reported that the sales tax collected for June 2023 was \$241,723.74. This is an increase of \$6,350.10 when compared with June 2022. The total tax collected to date for 2023 is \$1,203,798.86 which is an increase of \$274,224.65 from 2022.

Councilman Leible reported that the newsletter articles are due on the 20th of this month because there will be some time sensitive articles which need to be published a little earlier than usual. He also mentioned that the Pendleton Veterans Association approached him with questions about needing more space to hang the Hometown Heroes Banners. Mrs. Maurer added that 45 applications have been received so far.

Councilman Hickman reported that he will have the final bids for rugs, Town Hall landscaping, and fertilization finalized soon and will present them to the Board for review. He also thanked the Board members for their comments on the park policy draft, the potential Recreation Department position, and the proposed credit card policy.

Councilmen Lombardo had nothing new to report.

Councilmen Buechler had nothing to report.

Attorney Joerg had nothing to report.

Engineer Britton provided a brief report on the Community Center Project. He said that the project is moving forward and that a Notice to Proceed was issued in July 2023. He also stated that his firm has issued a request for proposals to provide Third Party Special Inspections. Lastly, he commented on the Emergency Generator Project stating that the generator is on target to arrive in January 2024.

DEPARTMENT HEADS

Town Clerk Maurer provided an update stating that the monthly reports from the Assessor, Building Inspector, Engineer, Town Clerk, and Water & Sewer Collection have been received and posted online along with the meeting agenda. She also informed the Board that the annual fees for the “additional refuse tote service” will now be added to the property owner’s Town/County tax bills. Residents have until September 30th each year to cancel the service for the following year.

Highway and Water/Sewer Superintendent Fischer began by saying that he received a very nice compliment from a Bear Ridge Road resident saying how professional and responsible Water & Sewer Department employees, Lucas Frew and Kevin Johnson, were while repairing a sewer break on his property. Mr. Fischer continued by reporting on some of the activities his crew had been working on in July including off road mowing and ditching, keeping up with the parks, and replacing pipe on Oakwood Drive, to name a few.

Building Inspector Diedrich had nothing to report.

Assessor Valentine had nothing new to report.

NEW BUSINESS

RESOLUTION 186-23

PROPOSED LAW NO 04 OF 2023 - PROPERTY TAX EXEMPTION

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

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

ADOPTION OF LOCAL LAW FOR PROPERTY TAX EXEMPTION LOCAL LAW NO. 04 OF THE YEAR 2023

Town of Pendleton, County of Niagara County, State of New York

Title: Volunteer Firefighter and Volunteer Ambulance Workers Real Property Tax Exemption

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF PENDLETON, COUNTY OF NIAGARA AS FOLLOWS:

Section 1. Purpose

New York State Real Property Tax Law was amended by the Laws of 2022, Chapter 670 adding a new provision §466-a. This section provides for an up to ten percent partial real property county tax exemption for the assessed value of the primary residence owned by a qualified and certified enrolled member of the incorporated volunteer fire company, fire department or incorporated volunteer ambulance service. The intent of this Local law is to permit the partial real property tax exemption for such qualified enrolled members of said emergency services organizations for real property taxes imposed by the Town of Pendleton. Members of volunteer fire departments and ambulance corps provide valuable services to the residents of the Town of Pendleton. In order to be certified and recertified, such volunteers must undertake numerous hours of training on their own time and often at their own expense. The purpose of this exemption is to maintain the ranks of the volunteers while encouraging other volunteers to join.

Section 2. Authority

Pursuant to Chapter 670 of the Laws of 2022, effective December 9, 2022, the state Real Property Tax Law was amended by adding a new §466-a authorizing local governments including towns to enact by local law, ordinance or resolution such partial tax exemption for Town real property taxes to qualified enrolled members of said emergency services organizations, following public hearing.

Section 3. Requirements

Pursuant to Section 466-a of the New York State Real Property Tax Law, real property owned by an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service or such enrolled member and spouse residing in The Town of Pendleton, County of Niagara shall be exempt from taxation to the extent of ten percent (10%) of the assessed value of such property for Town of Pendleton purposes, exclusive of special assessments. A ten percent (10%) exemption from taxation shall not be granted to an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service residing in the Town of Pendleton unless such enrolled member and/or spouse satisfies the following:

1. The applicant resides in the Town of Pendleton which is served by such incorporated volunteer fire company, fire department or incorporated voluntary ambulance service; and
2. The property is the primary residence of the applicant; and
3. The property is used exclusively for residential purposes; provided however, that in the event any portion of such property is not used exclusively for the applicant's residence 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; and
4. The applicant has been certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or voluntary ambulance service as an enrolled member of such incorporated volunteer fire company, fire department or voluntary ambulance service for a period of five years of service
5. The applicant must file a certificate from his or her qualifying organization that he or she is an enrolled member. Such certification of membership must certify that the member received credit under a service award program defined by Article 11-A, 11-AA, 11-AAA or 11-AAAA of the General Municipal Law for the period of service claimed in the application.

Section 4. Lifetime Exemption

Any enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service who accrues more than twenty years of active service and is so certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service, shall be granted the ten percent

exemption as authorized by this section for the remainder of his or her life as long as his or her primary residence is located within such the Town of Pendleton.

Section 5. Spousal Exemption Where Member is Killed in the Line of Duty.

Un-remarried spouses of volunteer firefighters or volunteer ambulance workers killed in the line of duty

1. An exemption granted under this Local law shall be continued, and a pre-existing exemption shall be reinstated, where the exemption was previously claimed by an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service to such deceased enrolled member's un-remarried spouse if such member is killed in the line of duty provided, however that
 - a. Such un-remarried spouse is certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service as an un-remarried spouse of an enrolled member of such incorporated volunteer fire company, fire department or incorporated voluntary ambulance service who was killed in the line of duty; and
 - b. Such deceased volunteer had been an enrolled member for at least five years; and
 - c. Such deceased volunteer had been receiving the exemption prior to his or her death.

Section 6. Spousal Exemption Where Member is Deceased.

Un-remarried spouses of deceased volunteer firefighters or volunteer ambulance workers

1. An exemption granted under this Local Law shall be continued, and a pre-existing exemption shall be reinstated, to an un-remarried spouse of a deceased enrolled member of an incorporated volunteer fire company, fire department, or incorporated voluntary ambulance service provided however that
 - a. Such un-remarried spouse is certified by the authority having jurisdiction for the incorporated volunteer fire company, fire department or incorporated voluntary ambulance service as an un-remarried spouse of a deceased enrolled member of such incorporated volunteer fire company, fire department or incorporated voluntary ambulance service; and
 - b. Such deceased volunteer had been an enrolled member for at least twenty years; and
 - c. Such deceased volunteer and un-remarried spouse had been receiving the exemption for such property prior to the death of such volunteer

Section 7. Application for Exemption

1. Application for such exemption, along with the certificate of membership defined above, shall be filed with the Town of Pendleton assessor on or before the taxable status date on a form as prescribed by New York State
2. Certification shall be required for any period of time claimed by an applicant that is not already on file with the applicable town assessor.
3. The assessor shall review the application and certification to ensure they have satisfied the requirements of this law.

Section 8. No Diminution of Benefits

No applicant who is a volunteer firefighter or volunteer ambulance worker who by reason of such status is receiving any benefit under the provision of Article 4 of the state Real Property Tax Law on the effective date of this Local Law shall suffer any diminution of such benefit because of the provisions of this Local Law.

Section 9. Severability

If any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent

jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 10. Effective Date

This Local Law shall be effective upon its filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

RESOLUTION 187-23

EXPENDITURE FOR HYDROSEEDING

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 Board of the Town of Pendleton has previously approved multiple projects that focus on improvements in the Town Park; and

WHEREAS, a need has been identified to properly seed a specific area surrounding a splash pad that has been constructed in the Town Park; and

WHEREAS, three quotes for the proposed hydroseeding work have been received and presented to the Town Board; and

WHEREAS, it is recommended that the Town Board approve the lowest quote for this work.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of August 2023, that the quote received from Wolf's Nursery, Inc. is accepted and this expenditure is authorized for an amount not to exceed \$1,800.00. This resolution shall take effect immediately.

RESOLUTION 188-23

EXPENDITURE FOR CONCRETE WORK

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

Nays 0

WHEREAS, the Town Board of the Town of Pendleton has previously approved multiple projects that focus on improvements in the Town Park; and

WHEREAS, a need has been identified to pave with concrete a specific pathway in the Town Park; and

WHEREAS, attempts to acquire at least three quotes for the proposed concrete have been made and quotes currently received have been presented to the Town Board; and

WHEREAS, it is recommended that the proposed concrete work be approved by the Town Board at a cost not to exceed the lowest quote currently received.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of August 2023 that the quote received from Czerwinski Concrete is accepted and this expenditure is authorized for an amount not to exceed \$3,995.00.

FURTHER, BE IT RESOLVED, that if an additional quote is received prior to award of this contract that is lower than the approved amount, the contractor presenting the lower priced quote shall be awarded this contract. This resolution shall take effect immediately.

RESOLUTION 189-23

EXPENDITURE FOR INSTALLATION OF FENCING

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

Nays 0

WHEREAS, the Town Board of the Town of Pendleton has previously approved multiple projects that focus on improvements in the Town Park; and

WHEREAS, a need has been identified to install fencing to protect the newly constructed splash pad in the Town Park; and

WHEREAS, attempts to acquire at least three quotes for the proposed fence installation have been made and quotes currently received have been presented to the Town Board; and

WHEREAS, it is recommended that the proposed fence installation be approved by the Town Board at a cost not to exceed the lowest quote currently received.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of August 2023 that the quote received from Woodsmith Fence Corp. is accepted and this expenditure is authorized for an amount not to exceed \$20,620.00.

FURTHER, BE IT RESOLVED, that if an additional quote is received prior to award of this contract that is lower than the approved amount, the contractor presenting the lower priced quote shall be awarded this contract. This resolution shall take effect immediately.

RESOLUTION 190-23

DECLARE SURPLUS MATERIAL

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

WHEREAS, the Highway Department of the Town of Pendleton anticipates pavement maintenance on specific Town roads and property and this activity will produce materials known as pavement millings; and

WHEREAS, the Town currently has stockpiled a sufficient supply of pavement millings for anticipated future use; and

WHEREAS, the time, effort, and expense to transport these newly produced pavement millings to the Town Highway Garage for storage is not warranted, should other disposal options be available; and

WHEREAS, the sale of pavement millings will assist in offsetting the cost of pavement maintenance and reduce or eliminate additional costs related to the transport, stockpiling, and storage of these pavement millings.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 14th day of August 2023 that the all pavement millings produced as a result of pavement maintenance activities from August 1, 2023 to December 31, 2023 are declared surplus.

FURTHER, BE IT RESOLVED, that this resolution does not apply to any materials currently on any Town-owned property or any materials which are placed on Town-owned property in the future.

FURTHER, BE IT RESOLVED, that the Highway Superintendent is authorized to sell surplus pavement millings to any individual or entity at a cost of \$100.00 per load, with delivery limited to the Town of Pendleton.

FURTHER, BE IT RESOLVED, that prepayment is required for all sales of pavement millings. This resolution shall take effect immediately.

RESOLUTION 191-23

APPOINTMENT OF SEASONAL POSITION

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 14th day of August 2023,

that Jeffrey Bruce is appointed Park Attendant, a seasonal (3) three-month position, at a rate of compensation of \$18.63 per hour. This resolution shall be considered effective as of August 11, 2023.

RESOLUTION 192-23

FACILITIES USAGE AGREEMENT - NIAGARA COUNTY

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 14th day of August 2023, to approved the Facilities Usage Agreement between the Town of Pendleton and the Niagara County Division of Environmental and Solid Waste for the community paper shredding event to be held on August 26, 2023.

RESOLUTION 193-23

FACILITIES USAGE AGREEMENT - HUNTERS CREEK CONDOMINIUM A

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 14th day of August 2023, to approved the Facilities Usage Agreement between the Town of Pendleton and Hunters Creek Condominium A for use of the Town Hall meeting room on October 5, 2023.

RESOLUTION 194-23

STANDARD WORKDAY RESOLUTION FOR NYSLRS

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 14th day of August 2023, that the Town of Pendleton/30384 hereby established the following standard work days for these titles and will report the officials to the New York State and Local Retirement based on their record of activities:

NAME	TITLE	CURRENT TERM	STANDARD WORK DAY	RECORD OF ACTIVITIES RESULTS	NOT SUBMITTED	PAY FREQUENCY	TIER 1
Elected Officials:							
Wolfgang Buechler	Councilman	01/09/2023 - 12/31/2023	8	3.96		Quarterly	No
David Fischer	Highway Superintendent	01/01/2022-12/31/2023	8		X	Bi-Weekly	No
Joseph Hickman	Councilman	01/01/2022-12/31/2025	8	1.73		Quarterly	No
David Leible	Councilman	01/01/19 - 12/31/23	8	3.80		Quarterly	No
Joel Maerten	Supervisor	01/01/2022-12/31/2023	8	8.44		Bi-Weekly	No
Deborah Maurer	Town Clerk	01/01/2020-12/31/2023	8	22.67		Bi-Weekly	No
Appointed Officials:							
James Churchill	Planning Board Member	02/27/23 - 12/31/23	8		X	Annually	No
Anthony Dell'Isola	Planning Board Member	01/01/2021-12/31/2027	8	0.13		Annually	No
Lee Daigler	ZBA Member	01/23/23 - 12/31/27	8	1.38		Annually	No
John Higgins	Planning Board Admin. Assistant	01/01/21 - 12/31/25	8	4.57		Bi-Weekly	No
Claude Joerg	Attorney	01/01/2022-12/31/2023	8		X	Bi-Weekly	No
Wyatt Maerten	Dog Control Officer	01/01/2022-12/31/2023	8	0.49		Quarterly	No
Michael Zimmerman	Planning Board Member	01/01/2023-12/31/2029	8	0.38		Annually	No

RESOLUTION 195-23

284 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 14th day of August 2023, to sign the agreement between the Highway Superintendent of the Town of Pendleton and the Town Board, pursuant to the provisions of Highway Law §284, as presented by the Highway Superintendent.

BOARD MEMBERS DISCUSSION

Supervisor Maerten stated that a Regular Board Meeting is scheduled for September 11, 2023 at 7:00 p.m. There is no August Work Session scheduled at this time.

PUBLIC REMARKS/COMMENTS

A resident spoke about the email he recently sent to the Town Board, as mentioned by Town Clerk Maurer during the communications portion of the meeting. He asked if he should continue to submit Freedom of Information Law (FOIL) requests to obtain the information he is requesting.

A resident from Creekbend Drive presented the Town Board with a petition signed by Creekbend Drive residents requesting the town ditch, that drains the Bear Ridge Estates retention ponds, be adequately maintained to facilitate proper drainage.

Lastly, a resident mentioned that she was curious about a comment on the Historical page of the town's website that states, "The Town of Pendleton was taken from Niagara on ...". It was then clarified that it should actually read, "The Town of Pendleton was taken from the Town of Niagara on ...". She also presented the Town Supervisor with a printed copy of Public Officers Law, Article 6, regarding the appeal process under the Freedom of Information Law. She stated that she has not yet received a response to an appeal that she filed and wanted to make sure that the Board understands the process.

Motion by Councilman Leible, seconded by Councilman Lombardo, to adjourn from the Regular Meeting at 7:44 p.m. Motion carried.

Deborah K. Maurer, Town Clerk