

**TOWN OF PENDLETON**  
**REGULAR MEETING and PUBLIC HEARING**  
October 15, 2024

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 15<sup>th</sup> day of October 2024, at 7:00 p.m.

**PUBLIC HEARING**  
**APPLICATION FOR SPECIAL USE PERMIT**

The notice for the Public Hearing was published in the Lockport Union Sun & Journal on October 7, 2024 and on the Town's website.

Supervisor Maerten opened the Public Hearing at 7:01 p.m.

The purpose of the hearing was to allow public input on the application for a Special Use Permit for Pendleton Solar 2, which is located at 6000 Donner Road.

Councilman Buechler inquired whether this was a renewal of a previously issued permit. Supervisor Maerten confirmed that it was, explaining that the original application had been approved prior to changes made to the Town Code on this subject. Town Attorney Joerg added that Pendleton Solar 2 is in compliance with the required bond.

There were no questions or comments from the public.

Motion made by Councilman Leible, seconded by Councilman Buechler, to close the Public Hearing at 7:04 p.m. Motion carried.

**REGULAR MEETING**

Supervisor Maerten called the meeting to order at 7:04 p.m.

Supervisor Maerten led the invocation and the Pledge of Allegiance.

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  
David Britton - Town Engineer  
Dave Fischer - Highway/Water & Sewer Superintendent  
Ron Diedrich - Building Inspector/Code Enforcement Officer  
Patrick Covell - Recreation Director  
Tom Maturski - Budget Officer

There were 22 residents in attendance, five of whom were Starpoint students.

**AMENDMENTS/ADDITIONS/DELETIONS TO THE AGENDA**

The following item was added to the agenda:

- #12 - Executive Session

**PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS**

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

## ROUTINE BUSINESS

RESOLUTION 255-24

### MEETING MINUTES - SEPTEMBER 23, 2024

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 15<sup>th</sup> day of October 2024, that the meeting minutes from the Work Session held on September 23, 2024, are hereby approved as presented by Town Clerk Maurer.

RESOLUTION 256-24

### ABSTRACT #19

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 15<sup>th</sup> day of October 2024, to authorize payment of Voucher Abstract #19, Vouchers #24-00997 to #24-01064, to be paid on October 16, 2024, as follows:

General	\$	32,453.61
Highway	\$	13,613.29
Capital	\$	94,831.07
Refuse	\$	48,017.38
Sewer	\$	3,501.42
Water	\$	6,494.59
Total	\$	198,911.36

## OTHER REPORTS

**Supervisor Maerten** reported that the sales tax collected for August 2024 was \$201,852.77. This is an increase of \$7,360.72 when compared with August 2023. The year to date received is \$1,597,364.44 which is a decrease of \$3,115.00 from 2023.

**Councilman Leible** had nothing to report.

**Councilman Hickman** stated that he participated in a walk-through of the new Community Center and inquired about when the Town Board would receive the final punch list from the contractors. Engineer Britton was uncertain about the exact date for the completion of the punch list. Mr. Hickman also reported that he, along with Councilman Buechler, conducted the quarterly Length of Service Award Program (LOSAP) audit for the Wendelville Fire Company. Additionally, he mentioned that he has been receiving calls regarding property complaints for addresses on Bear Ridge and Beach Ridge Roads.

**Councilman Lombardo** had nothing to report.

**Councilman Buechler** reported that he is completing the paperwork for the LOSAP audit and that the final results will be submitted this week.

**Attorney Joerg** had nothing to report.

**Engineer Britton** reported that the Town GIS data/map is now ready for public access. He stated that it has been shared with Town Clerk Maurer who will publish it once approved by the Town Board.

**Budget Officer Matuski** had nothing to report prior to the Budget Session.

## DEPARTMENT HEADS

**Town Clerk Maurer** reported that monthly reports were received from the Assessor, Building Inspector/Code Enforcement Officer, Highway Superintendent, and the Engineer. These reports, along with the monthly reports for the Town Clerk and Water/Sewer collection, were posted online with the agenda documents.

Next, Mrs. Maurer informed the Board of the following monies received and collected in the month of September:

Total State, County and Local Revenues	\$	24,350.42
Water/Sewer Collection	\$	74,844.27

She also reported that she continues to collaborate with Recreation Director Covell in preparation for the launch of the new Parks & Recreation online program. Additionally, Mrs. Maurer announced that early voting for the 2024 General Election will begin on Saturday, October 26, 2024, and provided a list of dates and locations for the public.

**Highway and Water/Sewer Superintendent Fischer** had nothing to report.

**Building Inspector Diedrich** had nothing to report.

**Recreation Director Covell** reported that he, along with Town Clerk Maurer, recently completed a Business Process Review with Edmunds GovTech concerning the implementation of the new Parks & Recreation online program. He also noted that he is in the process of ordering furniture for the Community Center and finalizing updates to the town's Park Policy, which will soon be presented to the Town Board for final approval.

## NEW BUSINESS

RESOLUTION 257-24

### EXPENDITURE FOR PAVEMENT MARKING

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

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

WHEREAS, the Town Board of the Town of Pendleton did approve the Town Hall Complex Paving project by resolution at the June 10, 2024 meeting; and

WHEREAS, paving work has been completed and pavement marking is now required; and

WHEREAS, a Request for Proposals for pavement marking was approved by resolution on September 23, 2024; and

WHEREAS, the Request for Proposals was advertised and the results of the sealed bid were communicated to the Town Board by the Town Clerk; and

WHEREAS, it is necessary to accept the lowest cost responsive proposal received for this work.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 15th day of October 2024, that proposal for pavement marking received from Black Gold Sealer, Inc. for \$7,950.00 is accepted. This resolution shall take effect immediately.

### Conference Request for Assessor

This agenda item was tabled.

RESOLUTION 258-24

### COMMUNITY CENTER CHANGE ORDER GC-23

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

ADOPTED: Ayes 4 Maerten, Buechler, Hickman, Lombardo  
Nays 1 Leible

WHEREAS, the Town Board of the Town of Pendleton authorized the advertisement for bids for a Community Center Project by resolution on January 9, 2023; and

WHEREAS, acceptance of the lowest bid for this advertised project was accepted by resolution on May 8, 2023; and

WHEREAS, work on the Community Center Project has commenced and Change Order GC-23 related to East Side Egress Concrete Pads is recommended by the Town Engineer.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 15<sup>th</sup> day of October 2024, that proposed Change Order GC-23 at a cost of \$16,985.26, as presented to the Town Board, is accepted. This resolution shall take effect immediately.

RESOLUTION 259-24

**COMMUNITY CENTER CHANGE ORDER EC-13**

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

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

WHEREAS, the Town Board of the Town of Pendleton authorized the advertisement for bids for a Community Center Project by resolution on January 9, 2023; and

WHEREAS, acceptance of the lowest bid for this advertised project was accepted by resolution on May 8, 2023; and

WHEREAS, work on the Community Center Project has commenced and Change Order EC-13 related to Power Distribution Re-Work is recommended by the Town Engineer.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 15<sup>th</sup> day of October 2024, that proposed Change Order EC-13 at a cost of \$4,628.35, as presented to the Town Board, is accepted. This resolution shall take effect immediately.

RESOLUTION 260-24

**COMMUNITY CENTER CHANGE ORDER EC-14**

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

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

WHEREAS, the Town Board of the Town of Pendleton authorized the advertisement for bids for a Community Center Project by resolution on January 9, 2023; and

WHEREAS, acceptance of the lowest bid for this advertised project was accepted by resolution on May 8, 2023; and

WHEREAS, work on the Community Center Project has commenced and Change Order EC-14 related to Addition of a CO / Smoke Detector is recommended by the Town Engineer.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 15<sup>th</sup> day of October 2024, that proposed Change Order EC-14 at a cost of \$540.14, as presented to the Town Board, is accepted. This resolution shall take effect immediately.

RESOLUTION 261-24

**FORWARD OUTSTANDING WATER/SEWER BILLS TO ASSESSOR**

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 15<sup>th</sup> day of October 2024, to authorize the Water & Sewer Department to forward all water bills having a balance greater than \$9.99, as of 4:00 p.m. on September 17, 2024, to the Town Assessor's office to be levied to the Niagara County Tax Bill as unpaid town charges.

RESOLUTION 262-24

**APPLY UNPAID ITEMS TO 2025 TAX WARRANT**

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 15<sup>th</sup> day of October 2024, that the Assessor is authorized to relevel the following charges to the 2025 Town Tax Bill:

Total Unpaid Water: \$32,843.79  
Total Unpaid Sewer: \$1,091.20  
Total Unpaid Refuse: \$13,218.46  
Total Town Charge: \$0.00  
TOTAL CHARGES: \$47,153.45

This resolution shall take effect immediately.

RESOLUTION 263-24

**EXPENDITURE FOR PLAYGROUND SURFACE SEALING**

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 15<sup>th</sup> day of October 2024, that the quote to seal pour in place rubber located in the Town Park, received from Play Surface Specialties for \$14,414.00, is accepted. This resolution shall take effect immediately.

RESOLUTION 264-24

**BOARD OF ASSESSMENT REVIEW APPOINTMENT**

Motion by Councilman Lombardo, seconded by Councilman Leible, 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 15<sup>th</sup> day of October 2024, that Donna Wyant is appointed to the Board of Assessment Review for a term that expires in 2029. This resolution shall take effect October 1, 2024.

RESOLUTION 265-24

**APPLICATION FOR SPECIAL USE PERMIT**

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

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

WHEREAS, the Planning Board of the Town of Pendleton recommends renewal of a Special Use Permit for a project known as Pendleton Solar 2, located at 6000 Donner Road; and

WHEREAS, Town Code § 247-16C states, “Applications for a special use permit shall be reviewed by the Planning Board, which shall report its findings on the application to the Town Board.”; and

WHEREAS, Town Code § 247-16C further states, “Hearing and decision. Following receipt of the Planning Board’s report, the Town Board shall hold a public hearing on an application for a Special Use Permit within 62 days of receiving the application, publicly noticed in a printed newspaper of general circulation in the Town at least five days’ prior to the hearing.”; and

WHEREAS, a public hearing was scheduled, advertised, and subsequently held at 6:55 p.m. on October 15, 2024; and

WHEREAS, the Town Board is obligated to make a decision on the application for a Special Use Permit within 62 days of the public hearing.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 15<sup>th</sup> day of October 2024, that a Special Use Permit is approved for Pendleton Solar 2, which is located at 6000 Donner Road.

FURTHER, BE IT RESOLVED, that this Special Use Permit is subject to annual review according to Town Code § 247-16C(5) and is valid for a period of one (1) year. This resolution shall take effect immediately.

RESOLUTION 266-24

**SCHEDULE PUBLIC HEARING - 2025 BUDGET**

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 15<sup>th</sup> day of October 2024, that a Public Hearing is scheduled on November 6, 2024, at 7:00 p.m. to allow public comment on the 2025 Preliminary Budget. This resolution shall take effect immediately.

Motion by Councilman Leible, seconded by Councilman Hickman, to enter into an Executive Session with the Town Attorney, to discuss personnel matters, at 7:24 p.m. Motion carried.

Motion by Councilman Leible, seconded by Councilman Hickman, to adjourn from the Executive Session at 7:40 p.m. Motion carried.

### **BOARD MEMBERS DISCUSSION**

Supervisor Maerten announced that there will be a Work Session on October 28, 2024 that will be followed by a Budget Session.

### **PUBLIC REMARKS/COMMENTS**

The first resident to speak requested that the public be informed about the procedures for the upcoming Budget Session. She expressed hope that the public will have another opportunity to provide comments after that part of the meeting.

Next, a resident from Bear Ridge Road voiced his disappointment with the Town's lack of response to his previous complaints about a neighboring property. He detailed a long-standing history of issues with the property, noting that neighbors are selling their homes due to its condition and the negative impact on the neighborhood. He mentioned that he has already spoken with the Building Inspector and the Town Supervisor and is once again asking the Town Board to address the problem.

Another resident from Bear Ridge Road expressed his same disappointment with how these issues are being handled and said that something needs to be done.

The next resident inquired about the status of her request, made 15 months ago, to establish Pickleball courts. She asked how she could have this topic added to a future agenda and was informed that she could speak directly with Town Board members to discuss the matter further. Another resident, attending for the same reason, asked if she could meet with some of the Board members after the meeting to continue the discussion.

A resident also commented on a recently built house on Tonawanda Creek Road, expressing concern specifically about a stone wall that was constructed, which is approximately 10 feet higher than the adjacent property. He believes the Town is not addressing the safety risks associated with this wall and warned that the Town could be held liable if an accident were to occur at the property.

There was also a discussion between members of the public and the Town Board about how to receive answers to questions raised during the public comment portion of the meeting.

No further public remarks or comments were made.

Motion by Councilman Leible, seconded by Councilman Hickman, to adjourn from the Regular Meeting at 7:53 p.m. Motion carried.

### **BUDGET SESSION**

A budget session commenced with Budget Officer Matuski explaining the various documents that were provided for this meeting. He explained that the "tracking reports" show all of the adjustments made since the beginning of this year's budget process. He also reviewed the tax levy estimates.

Discussions occurred between Board members and other department heads that were in attendance.

The following line items on the 2025 Tentative Budget were discussed:

A1440            Engineering

A1620	Town Hall
A7130	Community Center
A7620	Adult Recreation
SF3410	Fire Protection District
SR10010/12	Real Property Taxes
SR8160	Refuse & Garbage

A short discussion also took place about the possibility of adjusting the water/sewer rates for 2025.

#### **PUBLIC REMARKS/COMMENTS ON BUDGET**

A resident thanked the Board for allowing comments after the Budget Session and appreciates the efforts to streamline the budget. She mentioned having already discussed the Debt Principal Payment Installment Bonds (DA0-9720-600) and the Bond Interest for the Generator (DA0-9724-600) with Mr. Maturski, noting that she believes the interest should be paid from a 700 code. Lastly, she urged the Board to maintain transparency, particularly by ensuring that the H Funds (Capital Project Funds) remain visible in the budget.

Another resident commented on the Sewer Fund and General Fund Reserve accounts. He also pointed out that the Sewer Rent figures in the Expense Revenue Reports are inaccurate and requested that the Board review them.

Motion by Councilman Leible, seconded by Councilman Hickman, to adjourn from the and the Budget Session at 8:45 p.m. Motion carried.

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Deborah K. Maurer, Town Clerk

PENDING APPROVAL