TOWN OF PENDLETON
REGULAR MEETING
November 12, 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 12th day of November 2024, at 7:00 p.m.

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

Supervisor Maerten led the invocation and the Pledge of Allegiance.

Roll Call:

Supervisor Maerten	Present
Councilman Buechler	Present
Councilman Hickman	Absent
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
Tom Valentine - Assessor
Patrick Covell - Recreation Director
Mark Walter – Deputy Town Supervisor
Lucas Frew – Deputy Water & Sewer Superintendent

There were 22 residents in attendance, 13 of whom were Starpoint students.

AMENDMENTS/ADDITIONS/DELETIONS TO THE AGENDA

The following item was added to the agenda:

- Add – Budget Amendment Resolution

PUBLIC REMARKS/COMMENTS ON AGENDA ITEMS

A resident addressed the Town Board, requesting that they not support the proposed budget. She expressed disagreement with the increase in the water levy and the inclusion of the $75.00 allocation to offset taxes from the Fire Reserve. She concluded by stating that the budget contains too many discrepancies to be approved at this time.

The same resident inquired about the purpose of agenda items 1-4, questioning why this is the first time the public is being informed about these projects. She posed several specific questions regarding the listed projects. Additionally, she commented on the Town Engineer's role with the town in relation to the engineering firm and urged the Board to refrain from approving these agenda items without conducting further investigation.

Another resident questioned why the Board would consider approving another capital project for the Community Center Paving Project, noting that it was already included in the master contract associated with the Consolidated Funding Grant application. She also stated that project budgets and the CREST application had not been made available to the public prior to this meeting. Additionally, the resident commented on discrepancies in the proposed budget and urged the Board not to approve it.

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

Next, Supervisor Maerten introduced Niagara County Deputy Sheriff Charlene Rutkowski who has recently taken over after Deputy Kroening left for a promotion within the Sheriff's Department. Deputy Rutkowski thanked the Board for giving her the opportunity to patrol the

Town of Pendleton and expressed her willingness to serve our residents. Deputy Rutkowski stated that she can be reached by email at pendletondeputy@pendletonny.us.

ROUTINE BUSINESS

RESOLUTION 271-24
MEETING MINUTES - SEPTEMBER 23, 2024
Motion by Councilman Leible, seconded by Councilman Lombardo, the following resolution was

ADOPTED:	Ayes 4	Maerten, Buechler, Leible, Lombardo
	Nays 0	
	Absent 1	Hickman

BE IT RESOLVED, by the Town Board of the Town of Pendleton, on this 12th day of November 2024, that the meeting minutes from the Work Session held on October 28, 2024, are hereby approved as presented by Town Clerk Maurer.

RESOLUTION 272-24
ABSTRACT #21
Motion by Councilman Leible, seconded by Councilman Lombardo, the following resolution was

ADOPTED:	Ayes 4	Maerten, Buechler, Leible, Lombardo
	Nays 0	
	Absent 1	Hickman

BE IT RESOLVED, by the Town Board of the Town of Pendleton, on this 12th day of November 2024, to authorize payment of Voucher Abstract #21 Vouchers #24-01139 to #24-01182, to be paid on November 13, 2024, as follows:

General	$	9,652.77
Highway	$	125,886.05
Refuse	$	6,000.00
Sewer	$	4,324.53
Water	$	2,355.98
Total	$	148,219.33

OTHER REPORTS

Supervisor Maerten reported that the sales tax collected for September 2024 was $258,557.10. This is an increase of $1,008.55 when compared with September 2023. The year to date received is $1,855,921.54 which is a decrease of $2,106.45 from 2023.

Councilman Leible reported that he and Councilman Lombardo have been working on repairing and tuning up the furnaces at Town Hall, noting that one of them will need to be replaced. He also reminded everyone that articles for the winter newsletter are due by November 15th, with the newsletter expected to be delivered after January 1st.

Councilman Lombardo reported that he and Councilman Leible toured the Community Center to learn about the operation and maintenance of the HVAC system. He also mentioned sitting in with Highway Superintendent Fischer for an interview regarding the open position in the Water and Sewer Department. Additionally, he has been addressing public concerns, managing emails, and working on the budget.

Councilman Buechler reported that he has also been working on the budget. Additionally, he stated that he has spoken with Town Prosecutor Ted Joerg regarding resident complaints about the Bear Ridge Road property. He will be facilitating a meeting to discuss the town's options for improving the Town Code to address situations like this.

Attorney Joerg had nothing to report.

Engineer Britton reported that the GIS system is now operational for both public and in-house staff. He also noted that the contractors for the Community Center are in the process of completing their punch list items.

DEPARTMENT HEADS

Town Clerk Maurer reported that monthly reports were received from the Assessor, Building Inspector/Code Enforcement Officer, 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 October:

Total State, County and Local Revenues	$	17,304.04
Water/Sewer Collection	$	2,446.76

She also reported that the town hosted a ConnectLife Blood Drive on November 4th which helped save the life of 30 patients. Mrs. Maurer continued by reporting that she and Recreation Director Covell completed the first training session with Edmunds GovTech for the new Parks and Recreation online system which is on track for a March 2025 go live date and that she has been working with Niagara County Real Property, Evans Bank and several of the mortgage lending companies to get things in order for the upcoming tax season.

Highway and Water/Sewer Superintendent Fischer spoke about the Pendleton Veterans Association's Veterans Day Ceremony stating that it was a very nice and well attended event. He also said that he has been working with Engineer Britton on finishing touches for the Community Center and that DPW staff is in the process of winterizing equipment for the upcoming season.

Building Inspector Diedrich had nothing to report.

Assessor Valentine had nothing to report.

Recreation Director Covell reported that the Recreation Committee held their last meeting at Nine Mile Island and are working on ways to revitalize that property. He also stated that the updated Parks Policy and newly created Recreation Committee Policy are almost ready for approval.

NEW BUSINESS

Supervisor Maerten began by introducing a resolution to initiate a capital project to pave the Community Center parking lot. Engineer Britton went on to explain that this project is not a duplication of what was included in the original bid for the Community Center. Supervisor Maerten stated that the Board is being forthcoming about the initiation of this capital project and is not committing any funds at this time. The purpose of the resolution is to begin to explore this project.

RESOLUTION 273-24
APPROVAL OF CAPITAL PROJECT
Motion by Councilman Buechler, seconded by Councilman Lombardo, the following resolution was

ADOPTED:	Ayes 4	Maerten, Buechler, Leible, Lombardo
	Nays 0	
	Absent 1	Hickman

WHEREAS, the Town Board of the Town of Pendleton approved a project for the construction of a Community Center to be located adjacent to the Town Hall on Campbell Boulevard; and

WHEREAS, the Community Center project commenced and is near to completion; and

WHEREAS, the existing parking area adjacent to the new Community Center is inadequate for anticipated use and is in need of improvement that may include, but is not limited to, removal of existing material, grading, placement of base material, installation of drainage, and paving; and

WHEREAS, it is appropriate to approve a Community Center Paving Project to initiate the process of planning, design, bidding, and construction.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of November 2024, that the initiation of the Community Center Paving Project is approved.

FURTHER, BE IT RESOLVED, that the Supervisor is authorized to begin efforts to present to the Town Board proposals of all-aspects of work necessary for the Community Center Paving Project.

This resolution shall take effect immediately.

Supervisor Maerten stated that the next step in the process is to proceed with the grant application for CREST funding. He explained that this funding was initially proposed for work at Depeau Park but was ultimately not approved. However, he confirmed that the paving project does, in fact, meet the criteria for this grant.

RESOLUTION 274-24
AUTHORIZATION OF GRANT APPLICATION
Motion by Councilman Leible, seconded by Councilman Buechler, the following resolution was
ADOPTED: Ayes 4 Maerten, Buechler, Leible, Lombardo
Nays 0
Absent 1 Hickman
WHEREAS, the Town of Pendleton has an opportunity to apply for grant funding under the Community Resiliency, Economic Sustainability, and Technology (CREST) program; and

WHEREAS, funding may be used for the approved Community Center Paving Project; and

WHEREAS, approval to submit all necessary grant application and approval documentation is appropriate.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of November 2024, that application of funding for the Community Center Paving Project through the Community Resiliency, Economic Sustainability, and Technology (CREST) program is approved.

FURTHER, BE IT RESOLVED, that the Supervisor is authorized to submit all necessary documentation for this grant application.

This resolution shall take effect immediately.

RESOLUTION 275-24
COMMITMENT OF FUNDS
Motion by Councilman Leible, seconded by Councilman Buechler, the following resolution was
ADOPTED: Ayes 4 Maerten, Buechler, Leible, Lombardo
Nays 0
Absent 1 Hickman
WHEREAS, the Town Board of the Town of Pendleton approved the Community Center Project by resolution at the November 12, 2024 meeting; and

WHEREAS, the Town Board approved the submission of a grant application for funding to be used for the Community Center Paving Project through the Community Resiliency, Economic Sustainability, and Technology (CREST) program; and

WHEREAS, to be approved for grant funding through the Community Resiliency, Economic Sustainability, and Technology (CREST) program, the Town of Pendleton must commit funding for all costs in excess of the grant award.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of November 2024, that funding estimated to be $97,350 is committed to ensure completion of the Community Center Paving Project with additional funding provided through the Community Resiliency, Economic Sustainability, and Technology (CREST) program is approved.

This resolution shall take effect immediately.

RESOLUTION 276-24
REQUEST FOR PROPOSAL
Motion by Councilman Leible, seconded by Councilman Lombardo, the following resolution was
ADOPTED: Ayes 4 Maerten, Buechler, Leible, Lombardo
Nays 0
Absent 1 Hickman
WHEREAS, the Town Board of the Town of Pendleton approved the Community Center Project by resolution at the November 12, 2024 meeting; and

WHEREAS, the Town Board approved the submission of a grant application for funding to be used for the Community Center Paving Project through the Community Resiliency, Economic Sustainability, and Technology (CREST) program; and

WHEREAS, the Town Board approved a commitment of funds in excess of the project cost for for grant funding awarded through the Community Resiliency, Economic Sustainability, and Technology (CREST) program; and

WHEREAS, the Community Center Paving Project requires work related to project design and preparation of bid specifications.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of November 2024, that Nussbaumer & Clarke, Inc. is requested to submit a proposal for work related to project design, preparation of bid documents, and any necessary project monitoring for the Community Center Paving Project. This resolution shall take effect immediately.

RESOLUTION 277-24
AUTHORIZATION FOR EXPENDITURE - FENCING
Motion by Councilman Lombardo, seconded by Councilman Buechler, the following resolution was
ADOPTED: Ayes 4 Maerten, Buechler, Leible, Lombardo
Nays 0
Absent 1 Hickman
BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of November 2024, that proposal for continued rental of temporary fencing for the Community Center Project submitted by Woodsmith Fence Corp. for $2,592.00 is approved. This resolution shall take effect immediately.

RESOLUTION 278-24
AUTHORIZATION FOR EXPENDITURE - FURNACE
Motion by Councilman Leible, seconded by Councilman Lombardo, the following resolution was
ADOPTED: Ayes 4 Maerten, Buechler, Leible, Lombardo
Nays 0
Absent 1 Hickman
BE IT RESOLVED, by the Town Board of the Town of Pendleton, on this 12th day of November 2024, that proposal for replacement of a furnace in the Town Hall submitted by Great Bison Heating & Cooling for $4,720.00 is approved. This resolution shall take effect immediately.

RESOLUTION 279-24
APPROVAL OF CORRECTIVE ACTION PLAN
Motion by Councilman Leible, seconded by Councilman Lombardo, the following resolution was
ADOPTED: Ayes 4 Maerten, Buechler, Leible, Lombardo
Nays 0
Absent 1 Hickman
BE IT RESOLVED, by the Town Board of the Town of Pendleton, on this 12th day of November 2024, that Corrective Action Plan (CAP), as presented to the Town Board, is authorized for submittal to the New York State Office of the State Comptroller. This resolution shall take effect immediately.

RESOLUTION 280-24
2025 SUMMER RECREATION PROGRAM FEES AND DATES
Motion by Councilman Leible, seconded by Councilman Buechler, the following resolution was
ADOPTED: Ayes 4 Maerten, Buechler, Leible, Lombardo

Nays 0
Absent 1 Hickman

WHEREAS, the Town of Pendleton operates an annual summer recreation program for residents and nonresident families; and

WHEREAS, a participant fee is charged for registration for the summer recreation program; and

WHEREAS, a recommendation has been submitted to the Town Board for program dates for 2025; and

WHEREAS, a recommendation for resident and nonresident summer recreation fees has been communicated to the Town Board.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of November 2024, that the summer recreation program participation fees are as follows:

1) Residents: $315.00 per participant.
2) Nonresidents: $630.00 for each participant, with nonresidents limited to those living within the Starpoint Central School District boundaries.
3) Swimming Fee: $20.00 per participant as an option upon time of registration.

FURTHER, BE IT RESOLVED, that the dates for the 2025 summer recreation program are established as running from July 8, 2025 to August 12, 2025. This resolution shall take effect immediately.

RESOLUTION 281-24
APPROVAL OF COMMUNITY CENTER CHANGE ORDER PC-4
Motion by Councilman Leible, seconded by Councilman Lombardo, the following resolution was
ADOPTED: Ayes 4 Maerten, Buechler, Leible, Lombardo
Nays 0
Absent 1 Hickman

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 PC-4 related to Contract Allowance Reduction is recommended by the Town Engineer.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of November 2024, that proposed Change Order PC-4 at a cost reduction of $5,370.53, as presented to the Town Board, is accepted. This resolution shall take effect immediately.

RESOLUTION 282-24
APPROVAL OF WENDELVILLE FIRE COMPANY 2025 AGREEMENT
Motion by Councilman Leible, seconded by Councilman Buechler, the following resolution was
ADOPTED: Ayes 4 Maerten, Buechler, Leible, Lombardo
Nays 0
Absent 1 Hickman

BE IT RESOLVED, by the Town Board of the Town of Pendleton, on this 12th day of November 2024, to rescind RESOLUTION 270-24 which was approved by the Town Board on the 6th day of November 2024, and to approve the 2025 agreement between the Town of Pendleton and the Wendelville Fire Company, Inc., as follows:

AGREEMENT

THIS AGREEMENT is a modification of a prior definite sum payment agreement made by and between the Town Board of the Town of Pendleton, in the County of Niagara and the State of New York, hereinafter designated as the party of the first part, and Wendelville Fire Company, Inc. of Wendelville, in the Town of Pendleton, County of Niagara and state of New York, hereinafter designated as the party of the second part, this Agreement shall be for fiscal year 2025;

WITNESSETH:

WHEREAS, there has been duly established in the said Town of Pendleton, a fire protection district known as the Town of Pendleton Fire Protection District, which said district embraces the entire territory of the said Town of Pendleton, as such territory is more fully described in a resolution establishing said district, and duly adopted by the party of the first part on the 5th day of December 1939; and

WHEREAS, the party of the first part has been duly authorized to enter into a contract with the party of the second part for fire protection to said district upon the terms and provisions herein set forth; and

WHEREAS, this contract has been duly authorized by the Wendelville Fire Company, Inc., the party of the second part;

NOW, THEREFORE, the party of the second part agrees to furnish such protection in the following manner, to wit:

1. The fire department of the said party of the second part shall, at all times during the period of this agreement, be subject to call for attendance upon and fire occurring is such district, and when notified by alarm or telephone call from any person within the district of a fire within the district, such department shall respond and attend upon the fire without delay and with suitable ladder, pumping and hose apparatus of the party of the second part. Upon arriving at the scene of the fire, the firemen of the party of the second part attending shall proceed diligently and, in every way, reasonable, to extinguish the fire and the saving of life and property in connection therewith.

2. The fire department of the said party of the second part shall, at all times during the period of this agreement, provide emergency service in case of accident, calamity or other emergence in connection with which the services of the firemen may be required.

3. Pursuant to New York Town Law Section 184, the Wendelville Fire Company, Inc., shall annually file with the Pendleton Town Board a statement itemizing the estimated costs of the incorporated fire company attributable to the provision of services under the prospective contract. The estimated costs attributable to the provision of services under the prospective contract itemized in the statement shall include, at a minimum, those, if any, for: supplies; materials; operation, maintenance and repair of equipment and apparatus; insurance; training; protective clothing, gear and other personnel costs; building rental, maintenance and operation; and a specified proportionate share of capital costs

4. It is further agreed by the party of the second part that upon the refusal of a person, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of the law, head of city department or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with any public department, agency of official of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or answer any relevant question concerning such transaction or contract, said party of the second part shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any municipal corporation or fire district, or any public department, agency or official thereof, for goods, work or services for a period of five years after such refusal and that any and all contracts made with any municipal corporation or any public department, agency, or official hereof on or after the 1st day of July 1959, by such party of the second part, may be cancelled or terminated by the municipal corporation or fire district without incurring any penalty or damages on account of such cancellation or termination, but any monies owning by the municipal corporation or fire district for goods delivered or work done prior to the cancellation or termination shall be paid.

NOW, THEREFORE, pursuant to New York Town Law Section 184, the party of the first part does hereby engage the party of the second part to furnish fire protection to said district, in the following in manner, to wit:

1. In consideration of the furnishing of aid and the use of its apparatus as aforesaid, the party of the second part shall receive the sum of $467 Thousand Dollars ($467,000.00) for the year beginning January 1, 2025 and ending December 31, 2025.

2. Therefore, the total payment by the party of the first part to the party of the second part for fiscal year 2025 shall be $467,000.00.

3. All monies to be paid under the provisions of this agreement shall be charge upon the Town of Pendleton to be assessed and levied upon the taxable property of the said town and collected with the town taxes.

4. This agreement shall continue for a period of one year from the date hereof. The term of this contract, including renewals, shall not exceed five years.

IN WITNESS WHEREOF, the parties have duly executed and delivered this Agreement the day and year above written.

RESOLUTION 283-24
AMENDMENTS TO 2025 PRELIMINARY BUDGET
Motion by Councilman Leible, seconded by Councilman Lombardo, the following resolution was

ADOPTED:	Ayes 4	Maerten, Buechler, Leible, Lombardo
	Nays 0	
	Absent 1	Hickman

WHEREAS, a public hearing was scheduled, advertised, and held on November 6, 2024 for the Town of Pendleton's budget for 2025; and

WHEREAS, an amendment of the 2025 budget is presented for approval.

NOW, THEREFORE BE IT RESOLVED, by the Town Board of the Town of Pendleton on this 12th day of November 2024, that the 2025 budget is amended as follows:

1) Annual Pump Repairs (SS0.8120.440) is decreased from $40,000 to $36,750.
2) Sewer Storm Water Brauer Development (SS0.10010) is reclassified to a Special District Fund Sewer Storm Water Brauer Development (SSZ.10010). The budgeted amount of $3,250 remains unchanged.
3) NYS Retirement (SF0.9010.800) is renamed to Pension (SF0.9010.0800).

This resolution shall take effect immediately.

Next, Councilman Leible requested a legal opinion from the Town Attorney regarding whether the budget is balanced and compliant with the tax cap. Town Attorney Joerg suggested redirecting the question to the Supervisor and Budget Officer. Following a discussion, it was determined that the current budget falls below the tax cap.

RESOLUTION 284-24
APPROVAL OF 2025 BUDGET
Motion by Councilman Buechler, seconded by Councilman Lombardo, the following resolution was

ADOPTED:	Ayes 3	Maerten, Buechler, Lombardo
	Nays 1	Leible
	Absent 1	Hickman

BE IT RESOLVED, by the Town Board of the Town of Pendleton, on this 12th day of November 2024, to adopt the 2025 Preliminary Budget as proposed with amendments [RESOLUTION 283-24].

BOARD MEMBERS DISCUSSION

Supervisor Maerten announced that there will be a Work Session on November 25, 2024.

PUBLIC REMARKS/COMMENTS

The first resident to speak thanked the Councilmen for the time and effort they devoted to addressing issues raised regarding the budget. However, she expressed that she still disagreed with the budget amendments made and raised concerns that some issues remained unaddressed.

Another resident requested that the Board revise RESOLUTION 275-24 and RESOLUTION 276-24 to specify "Community Center Paving Project" instead of "Community Center Project," noting that inconsistent project names could lead to confusion. She also asked the Board to correct the Fire Reserve line on the tax levy for the 2025 Budget.

No further public remarks or comments were made.

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

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Deborah K. Maurer, Town Clerk