

A Regular Meeting of the Town of Avon was held on Thursday, August 14, 2008 at 6:00 P.M. at the Avon Village Hall with the following members present:

PRESENT: Supervisor David LeFeber, Deputy Supervisor Kelly Cole, and Councilman James Blye

ABSENT: Councilmen Donald Cook and Thomas Mairs

OTHERS: Attorney Timothy Ingersoll, Town Engineer Timothy Rock, Code Enforcement Officer Anthony Cappello, Hurricane Technology Employee Jeremiah Jordan, and Town Clerk Sharon Knight

VISITORS: Resident James Sager, Livingston County News Reporter Howard Appell, Village Mayor Thomas Freeman, Village Trustee Phil Swanson, Police Chief James Carney, Officer Timothy Ferraro, Avon Central School Superintendent Bruce Amey, Avon Central School Board President Rodney George

Supervisor LeFeber called the meeting to order at 6:00 P.M.

Pledge of Allegiance

Supervisor LeFeber asked for any public comments and there were none.

DISCUSSION

ATTORNEY REPORT

Attorney Ingersoll provided the following report:

There are three open items and the first for discussion is Local Law T-4A-2008 and the Planning Board provided the following recommendation:

Planning Board Meeting AUGUST 5, 2008 7:30 p.m.

PRESENT: Chairman Robert Tugel, Kathleen Cole, Tom Moran, Jeff Mulligan

ABSENT: Jim Anderson, Tom McGovern, Malachy Coyne

ALSO PRESENT: LEE RODAMAKER

PLANNING BOARD CLERK: Jennifer Sargeant

DISCUSSION – SPECIAL DISTRICT FORMATION PROPOSAL 113-7

THE PROPOSAL FOR THE SPECIAL DISTRICT FORMATION LOCAL LAW WAS REVIEW. THE PROPOSAL WOULD REQUIRE DISTRICTS FOR DRAINAGE, SIDEWALKS, LIGHTING AND PARKS TO BE CREATED AT THE TIME OF THE MAJOR SUBDIVISION OR PLANNED UNIT DEVELOPMENT CREATION.

MOTION TO OPEN A POSITIVE APPROVAL FOR THE SPECIAL DISTRICT FORMATION PROPOSED LOCAL LAW WAS MADE BY BOB TUGEL; SECONDED BY KATHLEEN COLE.

DISCUSSION-continued
ATTORNEY REPORT

ROBERT TUGEL – AYE
THOMAS MCGOVERN – ABSENT
KATHLEEN COLE – AYE
MALACHY COYNE – ABSENT
JEFF MULLIGAN – AYE
JIM ANDERSON – ABSENT
TOM MORAN - AYE

CARRIED 4-0.

Attorney Ingersoll continued with the second open item regarding the proposed Declaration of Restrictive Covenant and the planning Board provided the following recommendation:

Planning Board Meeting AUGUST 5, 2008 7:30 p.m.

PRESENT: Chairman Robert Tugel, Kathleen Cole, Tom Moran, Jeff Mulligan

ABSENT: Jim Anderson, Tom McGovern, Malachy Coyne

ALSO PRESENT: LEE RODAMAKER

PLANNING BOARD CLERK: Jennifer Sargeant

DISCUSSION – WORDING OF DECLARATION OF RESTRICTIVE COVENANT

BOARD MEMBERS WERE GIVEN A COPY OF THE PROPOSED LANGUAGE FOR A POTENTIAL AGREEMENT BETWEEN HELGE HEEN, DEVELOPER OF THE ASHANTEE PUD, AND THE TOWN OF AVON. INCLUDED IN THIS COVENANT IS A DEFINITION OF “COMMON OPEN SPACE.”

BOARD MEMBERS UNANIMOUSLY AGREED THAT THIS, OR ANY, DEFINITION OF OPEN SPACE SHOULD SPECIFICALLY STATE THAT LAND USED FOR DRAINAGE PONDS, SPILLWAYS, OR ACCESSWAYS THERETO CANNOT BE INCLUDED OR USED IN CALCULATIONS OF THE 20% OPEN SPACE OFFERED TO MEET THE PUD REQUIREMENT.

ALSO, A RECREATION, OPEN SPACE MAINTENANCE OR PARK DISTRICT SHOULD BE CREATED SO THAT THE COST OF MAINTENANCE, ETC., WOULD BE LIMITED TO THE RESIDENCE WITHIN THAT PUD.

NO FORMAL MOTION WAS MADE.

The Board considered the comments of the Planning Board and discussion included the need of a definition of Open Space. The use of Open Space in the Royal Spring includes drainage ponds. The use of Open space also currently does not limit the use of the space to those living in the development. Attorney Ingersoll stated that if the Board follows the recommendation of the Planning Board we will be back where we started. Councilman Blye stated that a part of the reasoning we are in full circle is due to the applicant Mr. Heen.

DISCUSSION-continued
ATTORNEY REPORT

The third issue we were waiting for recommendation from the Planning Board is the Dark Sky Compliance and the Planning Board provided the following:

Planning Board Meeting AUGUST 5, 2008 7:30 p.m.

PRESENT: Chairman Robert Tugel, Kathleen Cole, Tom Moran, Jeff Mulligan

ABSENT: Jim Anderson, Tom McGovern, Malachy Coyne

ALSO PRESENT: LEE RODAMAKER

PLANNING BOARD CLERK: Jennifer Sargeant

DISCUSSION – OUTDOOR/DARK SKY COMPLIANCE PROPOSAL

CHAIRMAN TUGEL PRESENTED A COPY OF THE TOWN OF RIVERHEAD, NY'S OUTDOOR LIGHTING LAW. THIS APPEARS TO BE MORE SPECIFIC REGARDING SUCH THINGS AS POLE HEIGHTS, FIXTURES, FOOTCANDLES ON GROUND, ETC. ALSO HAS BETTER DEFINITIONS AND IS USER-FRIENDLIER.

COPIES WILL BE DISTRIBUTED TO BOARD MEMBERS TO REVIEW PRIOR TO THE NEXT MEETING. ALL PRESENT AGREED THEY WANT TO WAIT UNTIL THE SEPTEMBER MEETING TO MAKE FORMAL RECOMMENDATIONS TO THE TOWN BOARD.

Deputy Supervisor Cole provided a document questioning the Attorney and Engineer if it was the bid specs legal notice. Both Engineer Rock and Attorney Ingersoll stated it was not familiar. A second document was shared and the same question was asked and both agreed the document was familiar and Engineer Rock stated he added additional required information to the notice. Deputy Supervisor Cole questioned the Town Clerk asking if the legal notice was correctly published in the legal paper. Town Clerk responded stating she sent the legal notice to the paper, the Board, and others that were a part of the development of the legal notice and that she received confirmation of the legal paper's ability to print. Supervisor LeFeber stated he believes the legal notice was in the paper and very lengthy, as required. Deputy Supervisor Cole then questioned if a bid bond would need to be required as he told BERO not to include as it was not necessary. There was discussion of the reasons to have a bid bond requirement. Engineer Rock stated it is a standard clause in most contracts, it provides protection to the Town if costs are incurred due to a contractor that pulls out of the project, and keeps bidders that are not serious from bidding. The bids are due August 28th.

Attorney Ingersoll was asked to work with the Village Attorney to develop an agreement for the geothermal wells.

DISCUSSION

VISITOR JAMES SAGER

Resident James Sager addressed the Board asking for assistance in dealing with his neighbor by questioning if there are any violations of the Town's Code. Code Enforcement Officer Cappello stated the property is Maier's Homestead property and it is a preexisting non-conforming business and butts against Mr. Sager's residential home on three sides. He continued stating the Maier's are now infringing on the residential property and a fence should be installed by the business. According to the Code the business has to protect the residential property.

Resident James Sager shared the following complaints:

The business owners and their customers are consistently parking on their residential property or near the property

Sales continue into the Christmas season

Business owners, employees and customers cut across property

Steam roller/compactor have been driven onto/across their property

He has found people using his water spigot for the business.

Many trees/landscaping have been lost due to their use of herbicides.

They cut across during mowing.

Customers come to their home when the business is closed and appears open as they want to make purchases.

Their dumpster continually attracts critters

Additional property was purchased and drainage tiles were broken changing the drainage and water is now being contained on the residential property.

He believes the commercial use is outside the scope and would like a review of the plan and special use permit. In Mt. Morris notification is provided by registered mail and he believes he was not given an opportunity to be heard.

Three pictures were shared with the Board showing infringement onto the residential property and additional pictures are available.

Visitor Sager stated they have owned the home for more than 20 years. Both property owners have had surveys and they are identical. The business owner stated he would be putting in a fence in 2005; however, this has not happened.

Attorney Ingersoll suggested this maybe a nuisance or civil case.

The expansion was approved by the Planning Board. This is the second year and it was suggested to go back and look at the original approval.

Board discussion included the following:

The Code Enforcement Officer can:

Give notice to take action or a summons could be issued.

DISCUSSION-continued
VISITOR JAMES SAGER

Review the original business plan and check the code for the scope of the work for any violations.

Perform the annual review of the Special Use Permit.

Supervisor LeFeber will be putting together a letter and will send a copy to Mr. Sager.

Deputy Supervisor Cole questioned the Code Enforcement Officer as to why his Clerk was driving around town. His response was that the Town is just coming into compliance of a new law that was adopted at the State level. Letters have been sent out to those that have been identified requesting they become compliant. Code Enforcement Officer Cappello stated that Code Enforcement Officer Rodamaker was on vacation and the Code Enforcement Clerk Sargeant wanted the Town to be scoped out and he requested that she complete the task herself. It was questioned if the Town would have liability if residents that are not in compliance were missed as it's difficult to properly view wiring and the like from a vehicle.

Deputy Supervisor Cole questioned if we are checking for all code compliance or just the new regulations for pools. Code Enforcement Officer Cappello stated she only checked for pools and that forty-eight pools were found to not be in compliance. Councilman Blye stated we currently have \$600.00 in advertisement and other costs. Code Enforcement Officer Cappello stated that many people have taken the pools down.

DISCUSSION
OPEN PUBLIC HEARING – ROYAL SPRINGS ZONING

Supervisor LeFeber stated a meeting was held with Royal Springs Developer and Councilman Blye and that it was a positive meeting. Supervisor LeFeber stated the public hearing continues to be open and he asked for any comments and there were none.

DISCUSSION
CODE ENFORCEMENT REPORT

Code Enforcement Officer Cappello did not have anything else to report.

DISCUSSION
WATER REPORT

Water Superintendent McKeown was not in attendance. Supervisor LeFeber reported that Darby Road is expected to begin in a few weeks.

DISCUSSION
HIGHWAY REPORT

Highway Superintendent Ayers was not in attendance.

DISCUSSION
ENGINEERING REPORT

Engineer Rock reported on the following:

The Town did not receive the grant to complete the water expansion to serve Route #39. In New York State 66 grants were awarded and Engineer Rock will be contacting the State to determine the weaknesses and to then resubmit. There are thirty-nine year loans available; however, there are many restrictions. Another source for financial support is member monies. Engineer Rock recommendation is to re-submit in one year.

Supervisor LeFeber would like to provide letters to the residents updating them on the application.

Last on his reports is that he will not be at the next meeting as he will be on vacation.

DISCUSSION
HURRICANE

Hurricane Technology Employee Jeremiah Jordan reported that he has been working with the Historian to hook-up printers to her computer. Deputy Supervisor Cole questioned the length of time he has been spending on requests of the Town Clerk. Discussion continued and Town Clerk Knight stated that Mr. Jordan has taken it upon himself to contact the State and perform other tasks and this has been frustrating as he is trying to run the office rather than perform the tasks requested. She stated a lot of time has been spent unnecessarily. Another Hurricane Technology Employee Shawn was in the office to perform another job and was asked for assistance. Within about 15 minutes the task was completed.

DISCUSSION
OPERA BLOCK

Deputy Supervisor Cole provided the following report on the Opera Block

The walk through took place yesterday with approximately twelve to fifteen people in attendance which was a lower than expected turnout. Lots of questions were asked and both buildings were reviewed. Separate contracts are being sought that included lime stone patches, security, information technology, and data communication. Additional contractors are being contacted to come through the Opera Block at another time. All storage items have been moved except for a table, bookcase and a few things.

DISCUSSION-continued
OPERA BLOCK

Supervisor LeFeber will be contacting Elmer Davis, Inc. on the needed roof repairs as it continues to leak.

Deputy Supervisor Cole stated the opening of the bids will take place at the Dance Studio side of the Opera Block. Town Clerk Knight stated the bids should be open at the current Town Hall as that was the address included in the legal advertisement.

RESOLUTION #141
PAYMENT OF BILLS

On motion of Councilman Blye, seconded by Deputy Supervisor Cole the following resolution was

ADOPTED AYES 3 NAYS 0 ABSENT 2 (Councilmen Cook and Mairs)

RESOLVE to accept for payment Abstract 2008-15 in the follow amounts:

Concerning ABSTRACT of Claims Number 2008-15 including claims as follows:

General Fund	Voucher #451 through #495 in amounts totaling \$27,821.23
Highway Fund	Voucher #171 through #187 in amounts totaling \$22,826.83
Water Fund	Voucher #128 through #139 in amounts totaling \$27,757.21
Cemetery Fund	Voucher #3through #3 in amounts totaling \$230.00
Royal Springs	
Lighting	Voucher #5 through #5 in amounts totaling \$772.17
Cross Roads	
Drainage District	No Voucher
Bruckel	
Drainage District	No Voucher
Royal Springs	
Drainage	No Voucher
Town Of Avon	
Fire Protection	No Voucher
Water Capital	No Voucher
Improvement	

Supervisor David LeFeber	voting	AYE
Deputy Supervisor Kelly Cole	voting	AYE
Councilman Donald Cook	voting	ABSENT
Councilman Thomas Mairs	voting	ABSENT
Councilman James Blye	voting	AYE

RESOLUTION #142
ACCEPT MONTHLY BUDGET REPORTS

On motion of Councilman Blye, seconded by Deputy Supervisor Cole the following resolution was
 ADOPTED AYES 3 NAYS 0 ABSENT 2 (Councilmen Cook and Mairs)

RESOLVE to accept the monthly reports for July from the Supervisor and the Town Clerk Report as provided below:

July Report:

Total Local Shares Remitted:	\$2,244.88
County Treasurer for Dog Licenses	\$54.05
New York State Department of Health	\$112.50
NYS Ag. & Markets for spay/neuter program	\$9.00
NYS Environmental Conservation	\$263.58
TOTAL	\$2,684.01

Supervisor David LeFeber	voting	AYE
Deputy Supervisor Kelly Cole	voting	AYE
Councilman Donald Cook	voting	ABSENT
Councilman Thomas Mairs	voting	ABSENT
Councilman James Blye	voting	AYE

DISCUSSION
REGISTRAR OF VITAL STATISTICS

Supervisor LeFeber stated the Town Clerk provided a resolution for Board consideration and it follows:

RESOLUTION
OPPOSING THE PROPOSED CHANGES TO THE PUBLIC HEALTH LAW,
CONSOLIDATING LOCAL REGISTRARS OF VITAL STATISTICS

WHEREAS, The New York State Local Government Commission on Efficiency and Competitiveness has made certain recommendations to the Governor which affects the operation of local governments, and

WHEREAS, one of the recommendations of the Commission was to move all Registrar of Vital Statistics duties to the County level under the direction of the New York State Health Commissioner, and

WHEREAS, the NYS Department of Health has developed a program bill that would allow the Commissioner to consolidate the function of the local registrars of vital statistics, and

DISCUSSION-continued
REGISTRAR OF VITAL STATISTICS

WHEREAS, New York State Department of Health has inappropriately attached these proposed changes in the structure of the Registrar of Vital Statistics duties to the "Pandemic Flu and Public Health Emergency Preparedness Law", and

WHEREAS, the Commissioner could consolidate these services without county legislative approval, and

WHEREAS, the local city, town and village Clerks have provided this service professionally and efficiently over the years, and

WHEREAS, losing this business would have a financial impact on the local governments, and

WHEREAS, many citizens are under financial stress due to high fuel costs, and

WHEREAS, the County's geography would increase this burden since services would be located further from the residents,

WHEREAS, the local Registrars presently charge \$10.00 per certified copy and the State proposes that the County will charge \$30.00 per certified copy, and

NOW, THEREFORE, BE IT RESOLVED that in the interest of good government, the Avon Town Board opposes the consolidation of the function of local registrars of vital statistics, and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to our Governor and State Elected Officials to encourage their support.

Supervisor LeFeber stated the Board would consider at a future meeting when there is a full Board. He also questioned if documents could be requested by mail and Town Clerk Knight responded stating if the County could accept credit cards.

DISCUSSION
VISITOR - AVON VILLAGE MAYOR THOMAS FREEMAN

Visitors Avon Village Mayor Thomas Freeman, Trustee Phil Swanson, Police Chief James Carney and Officer Timothy Ferraro, Central School Superintendent Bruce Amey, Avon Central School Board President Rodney George and the Board took part in the discussion of the School Resource Officer (SRO) that included:

A grant was applied for and received in 1994 that included funding a SRO and a requirement was for all municipalities to sign an agreement to financially support for an additional year (year four). The goal tonight is to be able to answer any question about

DISCUSSION-continuedVISITOR - AVON VILLAGE MAYOR THOMAS FREEMAN

the program and to solidify the agreement for an addition three years. Village Police Chief Carney served as the SRO for nine years, two other officers were appointed to the position and currently Village Officer Timothy Ferraro is serving this position. The program has grown from 4 hours to five full time days. Officer Ferraro attends many events, works directly with teachers in classrooms, in the library, and has a lot of interaction with the kids during the school day, he is a soccer coach, and attends basketball games. His attendance is a positive reinforcement of the school programs. He tries to be involved with dances and has had lunch in the cafeteria and this allows students to have discussion in an open setting. Next year a new idea is to share have lunch with 4 to 5 kids to reinforce support and provide counseling with students. Deputy Supervisor Cole shared his thoughts on the way the program is financially supported. The current agreement was signed in 2003 and thanks to Supervisor LeFeber additional funding will be available from the County if there is a continued agreement with all three municipalities providing financial support. Four of the five board members were here in 2003. The benefits of the program are for the school/community.

Avon Central School Board President Rodney George stated that the school budget is the only budget that is voted on directly by the public and is therefore under the watchful eye of the public. All school board members agree the program is beneficial. Student population is approximately 50 percent Village residents and 50 percent Town residents. A small portion of students live outside of Avon. All grant funding reduces the total cost of the program and the balance is split three ways, (Village, Town and School). The cost of the officer's salary is \$65,000 per year, the Village uses him approximately twenty-five percent of the time for Village patrol; therefore, that portion of salary is not shared. The expected shared cost would be approximately \$10,000 per municipality. The school can not sign an agreement for an additional three years without the financial support of both the Village and the Town. Deputy Supervisor Cole stated he believes the cost should be in the school budget but does not want to jeopardize the program. All questions were answered and discussion will continued at a future Board meeting.

DISCUSSIONSUPERVISOR REPORT

Supervisor LeFeber reported that advertisements will be run for the positions of Avon Youth Board Representative and the Avon Representative to the County Youth Board.

Two applications have been received for the Clerk of the Works positions and interviews will be scheduled for September 11th. The application deadline is August 18th.

Budget requests were sent to Department Heads and a meeting has been scheduled with St. John & Baldwin for September 9th at 2:00 P.M. to prepare a tentative budget.

DISCUSSION-continued
SUPERVISOR REPORT

A letter of invitation to the performance of Nathan Oakes (Tenor) was received. The program will be held at the Central Presbyterian Church, in Geneseo, on Sunday, August 17th at 4:00 P.M.

There was discussion of the length of time a resident has taken to get approval to build a garage next to his home. The process starts with completing a building permit application, the Code Enforcement Officer rejects as it does not meet the code, the Planning Board reviews and makes recommendation to the Zoning Board of Appeals and this process takes not less than three months. Code Enforcement Officer Cappello would like to shorten the time frame. There was much discussion and any changes would need to be made by local law.

The County will be considering an increase of the rate for the Snow and Ice Removal because of the huge cost increases that have occurred since the contract was originally signed.

There are many changes in the procedures of the County Board of Elections and there are financial implications that maybe charged back to the Towns. Work was completed by the Town Clerk and a Committee regarding consolidation of districts and it's time to revisit to cut down on the costs of elections.

A celebration of a shared service agreement with other Town's for equipment will take place in the York Town Hall on Friday, August 29th at 10:30 A.M. The Town of Avon has been requested along with the other five Towns to share in the cost of the brunch.

RESOLUTION #143
DESTRUCTION OF OFFICAL TOWN RECORDS

On motion of Deputy Supervisor Cole, seconded by Supervisor LeFeber the following resolution was

ADOPTED AYES 3 NAYS 0 ABSENT 2 (Councilmen Cook and Mairs)

RESOLVE to accept the recommendation of the Town Clerk to destroy the following records as presented:

Town of Avon

Index of Destroyed Records In accordance with the current SARA MU-1 Records Retention & Disposition Schedule, the following records have been determined to be obsolete and are to be destroyed

RESOLUTION #143-continued
DESTRUCTION OF OFFICAL
TOWN RECORDS

Record Series Name or Description	MU-1 Section Number	Inclusive Dates	Cubic Feet Destroyed	Date Record Obsolete
General: Correspondences	10 [10] c	2003-2007	2 inches	0 after no longer needed
Fiscal: Payroll Related Reports	2 [346] a	6/24/1995	2 inches	6 years
Monthly Budget Reports	19 [19]	2000	5 inches	0 after no longer needed
General: 2008 Town Tax Roll	19 [19]	2008	3 inches	0 after no longer needed
Fiscal: Time Sheets	5 [349]	2001	3 inches	6 years or 12/31/2007
General: 2007 Tentative Roll	19 [19]	2007	1/4 inch	0 after no longer needed
Fiscal: General Accounting & Misc. Water Billing	12 [256] b	2000-01	1 box	6 years or 2007
Fiscal: General Accounting & Misc. Water Billing	12 [256] b	1995-1999	1 box	6 years or 2006
Fiscal: Claims & Warrants	1 {275}	2000-2001	2 boxes	6 years or 2007
Fiscal: Claims & Warrants	1 {275}	2001-2002	2 boxes	6 years or 2008
General: Local Laws working duplicates	19 [19]	1981-1985	2 inches	0 after no longer needed
General: Village of Avon - budget	19 [19]	1995-96	1 inch	0 after no longer needed

Confidential? Yes ___ No ___

Department Approval: _____ Date: _____

RMO Approval: _____ Date: _____

Date of Destruction _____

Board Approval: _____ Date: _____

DISCUSSION
OPEN ITEMS

Councilman Blye stated he is working on compiling information on how we collect money for the Town of Avon. Town Clerk Knight questioned if he was compiling information for the collection of money in the Town Clerk’s Office. Councilman Blye stated there will be a change in the Recreation Department as the current Director will not be serving in that capacity next year. Town Clerk Knight reported she is working with fellow Town Clerks to accept credit cards and seeking information on the use of lock-boxes.

DISCUSSION-continued

OPEN ITEMS

There was discussion on the required procedures including air monitoring for the removal of asbestos. Code Enforcement Office Cappello stated that both asbestos and lead paint have been exposed. Supervisor LeFeber stated the more we have exposed the more we have to contain and remove.

Supervisor LeFeber reported on the interests being earned by the Town of Avon certificate of deposits (CD's) are 2.3 to 2.5 percent.

Supervisor LeFeber reported the application for the member monies from Senator Dale Volker is being completed for the Opera Block.

The following information was provided to the Board by the Town Clerk:

L.State of New York Executive Department, Office of Real Property Services –
Distribution of 2008 STAR Administrative Aid

NYS Office of Parks, Recreation & Historic Preservation

County of Livingston Resolution No.2008-295 Apportionment of Workers'
Compensation Costs

L.State of New York – Department of State – Local Government Efficiency Grant
Program

4th Annual Water & Wastewater Infrastructure Co-Funding Workshop Agenda

New York State Dept. of Envir. Conservation – Wastewater Treatment Infrastructures

L.Rochester Procurement Technical Assistance Center (PTAC)

BERO Architecture PC 4 copies of Bid documents to Christine Capella-Peters,
NYSOPRHP, Central Region

Planning Board Minutes dated August 5, 2008

On motion of Deputy Supervisor Cole, seconded by Councilman Blye, the meeting adjourned at 8:55 P.M.

Respectfully submitted, _____ by
Sharon M. Knight, CMC/RMC, Town Clerk