

A Regular Meeting of the Town of Avon was held on Thursday, July 22, 2010 at 6:00 P.M. at the Avon Opera Block/Town Hall with the following members present:

PRESENT: Supervisor David LeFeber, Deputy Supervisor Kelly Cole, Councilmen James Blye and Donald Cook.

ABSENT: Councilman Thomas Mairs

OTHERS: Attorney James Campbell, Town Engineer Timothy Rock, Code Enforcement Officer Anthony Cappello and Zoning Board of Appeals Clerk/Minute Taker Lisa Anderson

VISITORS: Glen Foster of the Livonia Boy Scouts and several troop members

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.

RESOLUTION #106 APPROVAL OF MINUTES

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

ADOPTED AYES 3 NAYS 0 ABSENT 1 (Councilman Mairs) ABSTAIN 1 (Councilman Blye)

RESOLVE to approve the minutes of July 8, 2010 as presented.

Vote of the Board: Councilman Blye-Abstain, Councilman Mairs - Absent, Councilman Cook - Aye, Deputy Supervisor Cole - Aye, Supervisor LeFeber - Aye

RESOLUTION #107 PAYMENT OF BILLS

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

ADOPTED AYES 4 ABSENT 1 (Councilman Mairs) NAYS 0

RESOLVE to accept for payment Abstract 2010-14 in the follow amounts:

Concerning ABSTRACT of Claims Number 2010-14 including claims as follows:

General Fund	Voucher #359 through #382 in amounts totaling \$15,150.92
Highway Fund	Voucher #171through #172 in amounts totaling \$98,088.72
Water Fund	Voucher #113 through #125 in amounts totaling \$ 89966.64
Cemetery Fund	Voucher #4 through # 4 in amounts totaling \$ 240.00
Opera Block Capital	

RESOLUTION #107 PAYMENT OF BILLS-continued

Improvement	Voucher #22 through #22 in amounts totaling \$12,400.20
Royal Springs Lighting	Voucher #7 through #7 in amounts totaling \$951.05
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 Improvement	No Voucher

Vote of the Board: Councilman Blye - Aye, Councilman Mairs - Absent, Councilman Cook - Aye, Deputy Supervisor Cole - Aye, Supervisor LeFeber - Aye

DISCUSSION HIGHWAY REPORT

Highway Superintendent Ayers was absent, but Supervisor LeFeber stated that he had spoken with Robert Ayers and he has stated that he was contacted by the Avon Ambulance in regards to getting some assistance from the Highway Department with site work. The ambulance is looking into possibly adding an additional driveway and would appreciate any help that the Town can offer. Superintendent Ayers is looking for support from the board before agreeing to assist. All agreed that the Town could assist when schedules will allow.

DISCUSSION – WATER REPORT

Supervisor LeFeber stated that Superintendent McKeown has reported that the meter reads have been completed.

DISCUSSION ATTORNEY REPORT

Attorney James Campbell reported on the following:

The dedication work for the undedicated roads in the Royal Springs Development is moving quickly and should soon be completed.

Attorney Campbell has been looking into the issues of unit charges for the Route 39 Water District and what criteria have to be met for a parcel to be considered exempt. Mr. Campbell's opinion is that a parcel must be zoned Agricultural and (and) in the Ag district must also be used primarily for Agricultural purposes in order to be considered exempt. He stated that if there is a question as to whether a parcel meets the criteria, it would be to the discretion of the board to decide whether or not it is exempt. Mr. Campbell further stated that the board should keep in mind that representation was made to Rural Development that every non-exempt property would be charged and that legally, he feels that it must be used primarily for agricultural purposes. He also stated that if a parcel that is zoned agricultural and also has a working farm on the property, the unit charges can be adjusted to include the home and 1/4 acre of the property, rather than the

DISCUSSION ATTORNEY REPORT-continued

entire parcel.

Supervisor LeFeber stated that Rural Development has asked the Town to reaffirm the number of units that will be charged for the project. Attorney Campbell recommended a resolution to decide unit charges. Deputy Supervisor Cole asked if the debt service would be paid by all parcels and Attorney Campbell stated that it would be paid by all parcels except for those who meet the guidelines for being exempt. He further stated that the state cares only about repayment of the debt service and not necessarily the unit charges. He stated that the interest rate on the debt service repayment is 2.375% and that if the rate drops before the project closes, the debt service would be less.

RESOLUTION #108 CONFIRM UNIT CHARGES FOR NON EXEMPT PARCELS

On motion of Councilman Cook, seconded by Councilman Blye, the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (Councilman Mairs)

RESOLVE that all non-exempt parcels within the Route 39 Water District will be responsible for unit charges as may be established by the Town of Avon for repayment of debt services for principle of improvement of the Water district extension.

Vote of the Board: Councilman Blye - Aye, Councilman Mairs – Absent, Councilman Cook - Aye, Deputy Supervisor Cole - Aye, Supervisor LeFeber - Aye

RESOLUTION #109 AUTHORIZATION OF UNIT CHARGES FOR ROUTE 39 WATER DISTRICT

On motion of Supervisor LeFeber, seconded by Deputy Supervisor Cole, the following resolution was ADOPTED AYES 4 NAYS 0 ABSENT 1 (Councilman Mairs)

RESOLVE to authorize a unit charge that is established based on actual number of non-exempt parcels and debt services, and that in no event shall charges exceed \$275 for non-exempt parcels, with the current number of anticipated parcels being 35.

Vote of the Board: Councilman Blye - Aye, Councilman Mairs - Absent, Councilman Cook - Aye, Deputy Supervisor Cole - Aye, Supervisor LeFeber - Aye

DISCUSSION-HELGE HEEN

Attorney James Campbell stated that the Town did get an easement, but against Mr. Heen's wishes. He also stated that the Planning Board unanimously feels against the idea of rezoning the area to Agricultural. Councilman Blye stated that it may be easier to zone the entire area Agricultural rather than zone each individual parcel Planned Unit Development. He feels that it

DISCUSSION-HELGE HEEN-continued

is the position of the board to protect the residents there and that the board should consider how either type of zoning would affect them. He further stated that he feels that most homes in that area would qualify for the 3 acres needed to be zoned agricultural.

James Campbell stated that the riding arena is the biggest issue at this time and that the PUD (Planned Unit Development) has been very problematic due to the fact that Mr. Heen doesn't want to conform to the guidelines. He stated that Mr. Heen is required to leave 20% of open area to allow access by the Town. He further stated that the Planning Board has discussed the possibility of removing Planned Unit Developments from Town code. Deputy Supervisor Cole asked if the map of the plans for the area would need to be re-done if 20% belongs to the Town. Councilman Blye stated that he is unsure if the Town ever specified which area the 20% was in. Attorney Campbell was also unsure.

Councilman Blye feels that at some point in the near future, the board should make some decisions about this area so that future boards do not have to inherit these issues. James Campbell feels that the primary issues are the riding arena and the zoning, with the riding arena being the most problematic at this time. Councilman Blye feels that a decision about the use of the riding arena should be a priority. He feels that the residents there deserve answers and that they have a lot of money invested into their homes. Councilman Cook asked the question as to whether a timeline could be put on Mr. Heen stating the Town's expectations and dates for which he must meet them. Attorney James Campbell suggested a possible checklist to Mr. Heen, stating the Town's requests, and that after the items are complete, the Town would then reconsider his request to rezone to Agricultural.

Deputy Supervisor Cole asked if the Town could stop Howlett Farms from using the riding arena for grain storage and Attorney Campbell stated that the Town could in fact stop them because the zoning is non-conforming and the current use is not approved under current zoning. Deputy Cole also asked if the Town could block the sale of anymore land in that area or get rid of the current boundaries Attorney Campbell stated the lots are already subdivided and that sales cannot be stopped. He feels that from a strategic standpoint, we should deal with the larger issues first. He feels that the riding arena is the principle problem at this time. He suggested that a letter could be sent from the Code Department stating that if the riding arena continues to be used for grain storage, then stop-work orders should be issued. He feels strongly that if the Town issues the letter, they need to follow through and that the current use cannot continue through fall production.

Supervisor LeFerber stated that he would like James Campbell to draft a letter to Howlett Farms that will come from the Code Department. The board will review the letter at the next meeting. Deputy Supervisor Cole stated that he would like to have some answers from Helge Heen in regards to how he plans on fixing these problems.

DISCUSSION-LOCAL LAW-LIGHTING

Supervisor LeFeber asked the board if they feel we are at the point of setting a public hearing date for adopting the Local Sign Lighting Law. All agreed that we are. Supervisor LeFeber stated that the hearing date will be set at the next board meeting.

DISCUSSION- TIMELINE FOR SUBMISSION OF INSURANCE CLAIMS

Supervisor LeFeber stated that the notice of motorist claim from State Farm Insurance was not sent to the Town's insurance carrier until two weeks after it was received by the Town Clerk's Office. Supervisor LeFeber stated that any claim or notice of intent to file a claim must be submitted immediately to the Town's insurance company. Attorney James Campbell stated that this cannot happen again and that a claim could possibly be denied if it is not submitted immediately.

RESOLUTION #110 ESTABLISH TIMELINE FOR SUBMISSION OF INSURANCE CLAIMS

On motion of Supervisor LeFeber, seconded by Deputy Supervisor Cole, the following resolution was
ADOPTED AYES 4 NAYS 0 ABSENT 1 (Councilman Mairs)

RESOLVE that within one business day of receipt of insurance claim or notice that a claim is being made, such notice will be provided to the Town of Avon's insurance carrier and that such written proof of provision to insurance carrier will be provided.

Vote of the Board: Councilman Blye - Aye, Councilman Mairs - Absent, Councilman Cook - Aye, Deputy Supervisor Cole - Aye, Supervisor LeFeber - Aye

DISCUSSION - ENGINEERING REPORT

Engineer Rock reported on the following:

A pre-construction meeting is scheduled for Wednesday, July 28 at 9:00 a.m. Mr. Rock spoke with Derek Tarolli, who has requested that he and his workers start laying the pipe for the project. Everyone seemed to agree. It was decided that an approval letter would be issued at the pre-construction meeting.

Mr. Rock provided a diagram of the sign from Rural Development that must be posted on the job site and stated that he has given some thought on placement of the sign and feels that the west side of Route 39 would make the most sense. Everyone seemed to agree.

DISCUSSION – CODE ENFORCEMENT REPORT

Code Enforcement Officer Cappello asked the question on whether or not the Town recommends requiring permits for the work being done at the new location of the ambulance building.

Deputy Supervisor Cole stated that he would agree to the Town not charging for the permits, but that Town Code should be followed and that they should still require Mr. Cappello's approval for any work completed.

Mr. Cappello also discussed the electrical work being done at Royal Springs and stated that he has spoken with the electric workers there and learned that the ground cables are being removed after National Grid comes out to turn on the power. National Grid will not turn power on for a property that does not have ground cables. Mr. Cappello has spoken with Peter Kolokouris and informed him that the current electrician should complete the job he is currently working on and that he is no longer permitted to complete any electrical on the property.

DISCUSSION - OPERA BLOCK

Deputy Supervisor Cole provided the following report on the Opera Block:

The recent leak was caused by LeClaire-Flemming, who had never connected the condensate line to the drain. The water from the line has been leaking into the wall for some time. The drywall will be replaced by Marianacci, who may or may not submit a bill to LeClaire-Flemming.

Deputy Supervisor Cole also stated the Town is still waiting for a signature for the lien release (which was part of the contract) before final payment will be made. These funds, which include retainage, are in the range of \$64,000 and are still being held. Deputy Supervisor Cole will be meeting with Glenn LeClaire next Tuesday.

Pascal was here to find the problem with heat pump #3 in the janitor's room today.

John French was here on Monday and did a walk through to look at and measure the windows for coating them with heat rejection material. The estimate given was for 16 windows for the following amounts:

\$9500.00 - 63% heat rejection
\$5492.00 43% heat rejection

DISCUSSION - OPEN ITEMS

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

Hurricane Technologies has been provided with a list of work to be done for the Village Court. Everyone agreed that the work will probably be billed to the village.

The Historical Society will be invoiced for their utility costs. Deputy Supervisor Cole will review the lease that was drawn up by Town Attorney James Campbell and remove any items.

DISCUSSION - OPEN ITEMS-continued

With there being no further issues to discuss, on motion of Councilman Blye, seconded by Councilman Cook, the meeting adjourned at 8:07 P.M.

Respectfully submitted by, _____
Lisa Anderson, Minute Taker/Zoning Board of Appeals Clerk

Sharon M. Knight, CMC/RMC, Town Clerk