

A Regular Meeting of the Town of Avon was held on Thursday, June 24, 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 Donald Cook, Thomas Mairs and James Blye

OTHERS: Highway Superintendent Robert Ayers, Attorney James Campbell, Town Engineer Timothy Rock, Water Superintendent Daniel McKeown, and Town Clerk Sharon Knight, CMC/RMC

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.

Supervisor LeFeber reported of a follow-up phone call he received from Resident Joe Tuchrello. Once again Supervisor LeFeber invited him to address the Board whenever he could come to a meeting.

DISCUSSION - APPROVAL OF MINUTES

Deputy Supervisor Cole questioned if the Board approved the expenditure of copies for the Town Clerk's *New Resident Brochure*. He shared his concerns of the brochure. There was a lengthy Board discussion and it was recommended by Attorney James Campbell to have the Board once again review and to officially consider approving the document by resolution.

Supervisor LeFeber question the term of office dates in Resolution #87 and they were corrected from 2009/2012 to 2008/2011.

Deputy Supervisor Cole requested the addition of names in the Opera Block Report to include:

Forty-eight court chairs were received and 25 were put together *by Deputy Supervisor Cole, Councilmen Blye and Cook*. The remaining will be put together on Sunday by the same crew.

Town Clerk Knight agreed to make the changes and thanked the Board for their review.

RESOLUTION #92 APPROVAL OF MINUTES

On motion of Councilman Mairs, seconded by Supervisor LeFeber the following resolution was

ADOPTED AYES 5 NAYS 0

RESOLUTION #92 APPROVAL OF MINUTES - continued

RESOLVE to accept the minutes of June 11, 2010 with the above amendments made by the Town Clerk.

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

DISCUSSION – HIGHWAY DEPARTMENT

Highway Superintendent Ayers reported on the following:

Henty Road paving is scheduled for July 13th and 14th.

Highway employees will be taking the holiday on Monday and will be using vacation time the rest of the week.

The summer recreation trailer will be moved prior to Monday.

Dedication of the South Avon marker will take place on Route #39, June 27th at 1:00 P.M.

DISCUSSION – WATER DEPARTMENT

Water Superintendent McKeown reported on the following:

A meeting was held with Surveyor Craig Welch and he is in agreement that the water line and easement are in alignment on Route #39. Mr. Heen will have no problem signing an easement as the gas company is also requesting an easement.

Attorney James Campbell stated that we can not move forward on the project without the signed easement.

Supervisor LeFeber spoke with Mr. Heen and he is not in favor of signing the agreement until Surveyor Craig Welch approves.

Attorney James Campbell stated that Engineer Rock is not in agreement that the current easement covers all of the area needed and that the original easement was not recorded or filed. There is a curve in the road and the water line is straight and this is creating a discrepancy in the easement. The project can move forward as soon as this document is signed.

A meeting was held with D.E. Tarolli, Inc Superintendent Ben Ingersoll and the following items were discussed.

There will be two crews working.

Any problems would be handled by Ben.

Notification of the job will be provided to the Sheriff's Department.

DISCUSSION – WATER DEPARTMENT-continued

Ben would like to have his work trailer and lodging on site together, however; the Board suggested he contact Harper Park for a lodging site rather than use the work site.

Mr. Ingersoll is eager to get started.

Five new water hook-ups have been completed since the last meeting.

A recommendation for the part time position for the Water Department summer help was advertised in the Penny Saver. Several applications were received, most of them via-e-mail. Upon review of the various applicants I found that several were from outside of Avon. I did speak with some of the Avon applicants and because the actual job description was not included in the ad, they were looking for a position that would offer more hands on water experience versus the basic maintenance responsibilities that would be required in the job. Taking that into consideration, I would like to hire Jacob McKeown for the position at a rate of \$10.00 per hour

Discussion included that cutting grass and painting hydrants would be the main job. All hydrants are in good working order. The Board took the following action.

RESOLUTION #93 AMEND COMPENSATION SCHEDULE

On motion of Councilman Blye, seconded by Councilman Mairs the following resolution was
ADOPTED AYES 5 NAYS 0

RESOLVE to add to the 2010 Compensation Schedule the following:

2010 Town of Avon Employee Compensation Schedule

Name	Position/Duties	Status	2009 Rate	2010 Rate
Jacob McKeown	Laborer, Water Department	Summer PT	\$.00	\$10.00

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

DISCUSSION – LACK OF MAINTENCE OF 4920 LAKE ROAD

There was discussion on the property on Lake Road that is not being maintained. The Avon Town Court ordered the owners to mow the grass within one week or to be fined \$250.00 per day.

DISCUSSION – ATTORNEY REPORT

Attorney James Campbell reported on the following:

A review was completed of the Pasco contract and it is a one year contract that is self renewing. The current rate is locked in for three years and it is not a full maintenance contract. The draft was provided to Deputy Supervisor Cole for his review.

It's expected that Glenn LeClaire will be served with papers in the near future so we should be on our way to a resolution.

An update was provided regarding an insurance claim from a resident that included discussions with the Association of Towns Attorney Kevin Crawford. NYMIR is not going to cover this claim and if the Town provides any financial support to the claimant then NYMIR would no longer represent the Town for the claim. The Board did not take any further action.

A proposed local law that would supplement the sign regulations was presented in draft form. Town Clerk Knight will forward the draft to the Town Zoning Board of Appeals and the Town Planning Board for their review and recommendation.

There was discussion on the Route #39 Water District Extension including unit charges versus ad valorem charges.

We cannot charge for properties that are agricultural exempt parcels.

The Assessor is the person to determine if the parcel would be charged or not charged. The information from the Town of Alden Assessor will be shared with the Town of Avon Assessor Snyder.

Landlocked parcels do not receive an exemption from the charge.

The parcels that have declared themselves agricultural can not connect hook up to water until they get out of the agricultural exemption.

If not currently in an agricultural parcel they can still apply to get the agricultural exemption.

Supervisor LeFeber will respond to both residents.

The AT&T lease agreement has been completed and the Board took the following action.

RESOLUTION #94 AUTHORIZE SUPERVISOR TO SIGN THE AT&T CONTRACT EXTENSION

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

ADOPTED AYES 5 NAYS 0

AUTHORIZE Supervisor LeFeber to sign the AT&T contract extension as follows:

Cell Site No: 10000963/6336 East Avon_41260
FA No: 10000963
Site Address: 1625 West Henrietta Road, Avon, NY 14414

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE ("Amendment") dated as of the later date below is by and between Town of Avon Water Department, having a mailing address at 27 Genesee Street, Avon, NY 14414 (hereinafter referred to as "Landlord") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address at 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (hereinafter referred to as "Tenant").

WHEREAS, Landlord and Tenant entered into a Lease dated February 1, 2006, whereby Landlord leased to Tenant certain Premises, therein described, that are a portion of the Property located at 1625 West Henrietta Road, Avon, NY 14414 ("Lease"); and

WHEREAS, Landlord and Tenant desire to extend the term of the Lease; and

WHEREAS, Landlord and Tenant desire to modify, as set forth herein, the Rent payable under the Lease; and

WHEREAS, Landlord and Tenant, in their mutual interest, further wish to amend the Lease as set forth below.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. **Term.** The Term of the Lease shall be amended to provide that the Lease has a new initial term of 60 months ("New Initial Term"), commencing on July 1, 2010. The Term will be automatically renewed for up to 1 additional 60 month term (an "Extension Term") without further action by Tenant. Hereafter, the defined term "Term" shall include the New Initial Term and any applicable Extension Term.

2. **Modification of Rent.** Commencing on July 1, 2010, the Rent payable under the Lease shall be \$2,500.00 per month, and shall continue during the Term, subject to adjustment, if any, as provided below.

3. **Future Rent Increase.** The Lease is amended to provide that commencing on July 1, 2011, Rent shall increase by three percent (3.00%) over the Rent paid during the previous year and on an annual basis thereafter.

4. **Acknowledgement.** Landlord acknowledges that: 1) this Amendment is entered into of the Landlord's free will and volition; 2) Landlord has read and understands this Amendment and the underlying Lease and, prior to execution of the Amendment, was free to consult with counsel of its choosing regarding Landlord's decision to enter into this Amendment and to have counsel review the terms and conditions of the Amendment; 3) Landlord has been advised and is informed that should Landlord not enter into this Amendment, the underlying Lease between Landlord and Tenant, including any termination or non-renewal provision therein, would remain in full force and effect.

Cell Site No: 10000963/6336 East Avon_41260
FA No: 10000963
Site Address: 1625 West Henrietta Road, Avon, NY 14414

5. **Notices.** Section 18 of the Lease is hereby deleted in its entirety and replaced with the following: **NOTICES.** All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to Tenant:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: 10000963; Cell Site Name: 6336 East Avon (NY)
Fixed Asset No: 10000963
12555 Cingular Way, Suite 1300
Alpharetta, GA 30004

With a required copy of the notice sent to the address above to AT&T Legal at:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department
Re: Cell Site #: 10000963; Cell Site Name: 6336 East Avon (NY)
Fixed Asset No.: 10000963
340 Mt. Kemble Ave.
Morristown, NJ 07960-6656

And as to Landlord:

Town of Avon Water Department
27 Genesee Street
Avon, NY 14414

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

6. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the Lease and this Amendment, the terms of this Amendment shall control. Except as expressly set forth in this Amendment, the Lease otherwise is unmodified and remains in full force and effect. Each reference in the Lease to itself shall be deemed also to refer to this Amendment.

7. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Lease.

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

DISCUSSION - ENGINEERING REPORT

Engineer Rock reported on the following:

The joint application has been signed by the Town Supervisor and the Contractor for the Route #39 extension to the Town of Avon Consolidated Water District.

A pre-construction meeting will be held after the holiday.

A copy of a resume for Larsen Engineers Craig Eckert, Design Engineer was provided to the Board and Town Clerk.

The easement is needed from property owner Helge Heen prior to beginning the project. Engineer Rock will contact Helge Heen's Surveyor Craig Welch as there continues to be a discrepancy in the area to lay pipe.

DISCUSSION CODE ENFORCEMENT OFFICER

Code Enforcement Officer Anthony Cappello was not in attendance but was available by phone if needed.

DISCUSSION OPERA BLOCK UPDATE

Deputy Supervisor Cole reported on the following:

We have gone through our supply of light bulbs and he will purchase additional bulbs at Lowes on the town's credit.

The cell phone used by Jim Biondilillo has been given to the recreation department for their use during the summer.

Discussions continue regarding the floor in the lobby of the Town Offices. The large bubble has been sliced and re-glued.

A review of the electric bills will be reviewed to help to determine a fair rental cost to the Avon Preservation & Historical Society.

The maintenance of the dehumidifier in the storage area needs to be emptied every other day and a different maintenance plan will be sought by Deputy Supervisor Cole.

Town Clerk Knight requested that the door between the bank and opera block be adjusted to stay open to avoid the need to place a door stop every day. Deputy Supervisor Cole offered to take a look at the door.

RESOLUTION #95 PAYMENT OF BILLS

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

ADOPTED AYES 5 NAYS 0

RESOLUTION #95 PAYMENT OF BILLS-continued

RESOLVE to accept for payment Abstract 2010-12 in the following amounts:

Concerning ABSTRACT of Claims Number 2010-12 including claims as follows:

General Fund	Voucher # 306 through # 331 in amounts totaling \$ 11,421.16
Highway Fund	Voucher #148 through #158 in amounts totaling \$ 3,444.62
Water Fund	Voucher #102 through # 109 in amounts totaling \$ 5,500.22
Cemetery Fund	No Voucher
Opera Block Capital Improvement	Voucher # 21 through # 21 in amounts totaling \$ 2.29
Royal Springs Lighting	No Voucher
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 - Aye, Councilman Cook - Aye, Deputy Supervisor Cole - Aye, Supervisor LeFeber - Aye

DISCUSSION – COURT AUDIT WRAP-UP

Councilman Cook stated he believes the outstanding items for the court audit have been completed but would be checking with Clerk to the Justice Janis Cole to confirm.

DISCUSSION LETTERHEAD

Supervisor LeFeber suggesting amending the letterhead as a requirement for Federal Grants associated with the renovations of the Opera Block. After much discussion the Board took the following action.

RESOLUTION #96 AMEND THE TOWN OF AVON OFFICIAL LETTERHEAD

On motion of Councilman Cook, seconded by Councilman Mairs the following resolution was

ADOPTED AYES 4 NAYS 1 (Deputy Supervisor Cole)

RESOLUTION #96 AMEND THE TOWN OF AVON OFFICIAL LETTERHEAD-continued

RESOLVE to amend the letterhead to include the following statement at the bottom of the existing letterhead. *“This institution is an equal opportunity provider, and employer. To file a complaint of discrimination, write: USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washing, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD).”*

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

DISCUSSION – BUILDING POLICIES & PROCEDURES

This will be reviewed at a future meeting.

DISCUSSION – AVON PRESERVATION & HISTORICAL SOCIETY (AP&HS) – LEASE

Deputy Supervisor Cole will continue to develop a lease and will report at a future meeting.

RESOLUTION #97 MARRIAGE OFFICER APPOINTMENT

On motion of Councilman Cook, seconded by Councilman Mairs the following resolution was
ADOPTED AYES 5 NAYS 0

RESOLVE to appoint Town Clerk Sharon M. Knight, CMC/RMC as a Marriage Officer.

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

DISCUSSION - OPEN ITEMS

Town Clerk Knight reported that additional security measures have been taken as the anticipated new Town Clerk's office does not provide enough security. All vital records including forms provided by the State and safety paper must be kept in a secured/fireproof space. We have taken the corrected measures and additional items were included in the verbal recommendations of an audit completed by the New York State Department of Health Vital Records. Supervisor LeFeber asked for a copy of the audit report if a written report is provided.

DISCUSSION - OPEN ITEMS-continued

The audit also suggested to move the camera in the Town Office lobby as it currently faces the backs of visitors. The camera should face the door as it does in the Lobby in the renovated bank.

An e-mail was received that the Board would be considering declaring the Town Clerk's bank tellers stations as surplus and this was not recommended by the Town Clerk.

Attorney James Campbell reported that the Board can declare item as surplus if they have no value to the Town and the Board took the following action.

RESOLUTION #98 DECLARE SURPLUS

On motion of Councilman Mairs, seconded by Councilman Blye the following resolution was

ADOPTED AYES 5 NAYS 0

RESOLVE to declare surplus one bank teller safe from the Town Clerk's Office as it has no value to the Town. The intention is to provide to Avon Rotary.

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

SUPERVISOR REPORT

Supervisor LeFeber reported an auditor from the New York State Comptroller's Office is conducting a "Risk Assessment". She has reviewed minutes and financial records. She has made some verbal recommendations such as not having the same person doing both billing and collecting water payments. A couple of times, at the budget hearing, the budget changed and the Board should have waited until the next meeting to adopt so that they are adopting a finalized document. He felt that good recommendations would come out of this. The red flag was the end of the year report. Other inquiries include questions about bids and the stability of our work force, our detailed budget process and the importance of the Board to reviewing and accepting the Supervisor and Town Clerk monthly reports, court audit, offer of the Town Clerk to audit her records, town insurance, and the reduced costs of electric by changing a supplier. There was also discussion on the Board's inability to re-financing the Highway Garage as this was a stipulation in the original contract. A written report may be provided to the Town if an audit is performed.

There was discussion on the outstanding grant dollars and the tax rate that included costs for the Opera Block.

SUPERVISOR REPORT-continued

There was discussion on the changes that have been made at the State Level regarding dog licenses. Town Clerk Knight is working on the 2011 budget recommendations with Deputy Mary Rizzo, the Livingston County Town Clerk's Association and a committee of Clerk's within New York State.

Supervisor LeFeber reported that Mayor Freeman shared that the Village Board was disappointed that the entire recreation bill was not paid. Supervisor LeFeber stated he was in favor of paying the bill in full, however; the rest of the Board Members appeared to continue agreeing on a November payment.

DISCUSSION – OPEN ITEMS

Town Clerk Knight reported that along with the Town Court, Water Clerk/Secretary to the Supervisor, Assessor's Office, Town Highway Department the Town Clerk's Office will be closed on Friday for the 4th of July holiday and would be open on Monday, July 5, 2010. The Board questioned what the Employee Handbook requires but no one knew.

On motion of Deputy Supervisor, seconded by Councilman Blye, the meeting adjourned at 9:00 P.M.

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