

A Regular Meeting of the Town of Avon was held on Thursday, June 14, 2012 at 7:00 P.M. at the Avon Opera Block/Town Hall with the following members present:

PRESENT: Supervisor David LeFeber, Councilmen Robert Ayers, James Blye and Richard Steen

ABSENT: Councilman Thomas Mairs

OTHERS: Attorney James Campbell, Engineer Timothy Rock, Code Enforcement Officer Anthony Cappello, and Town Clerk Sharon Knight, CMC/RMC

VISITORS: Kay Lyons, Kevin Lyons, Carol Barnett, Terry D'Imperio, Chuck D'Imperio, Emily D'Imperio, Clara Mulligan, Peter Watson, Jean Kunkel, Alex Kunkel, Carole L. Hayes, Sierra Seybolt, Cindy Wolfer, Todd Wolfer, Joyce Faville, Jeanne Ruter, Carol Hank, Ann Jensen, Patricia Moran, Molly Low, Tom Vonglis

Supervisor LeFeber called the meeting to order at 7:00 P.M.

Pledge of Allegiance

DISCUSSION – PRESENTATION OF LIVINGSTON COUNTY AVON SENIOR CITIZEN HONOREE OF THE YEAR 2012

Supervisor LeFeber recognized the Town of Avon Senior Citizen Honoree of the Year 2012 and read the following: **Carol A. Hank**

Mrs. Hank was born in Buffalo, New York. Carol moved to of Avon with her husband, the late James J. Hank, Jr., almost 11 years ago. They were married 9 years before he passed away. The couple shared blended family of 7 children, 14 grandchildren and 14 great grandchildren. Carol enjoys working with people and has productive employment history, receiving outstanding customer service awards from her employers in recognition of her work. Carol retired to devote her time to becoming a full time caregiver for both her father and late husband. In 2008, both her husband and father were residents of the Livingston County Center for Nursing and Rehabilitation. While visiting her loved ones, she put her talent and time to use crocheting carry all bags other residents could attach to their walkers. The demand for these useful items made it a major project for the Activities Department. She was an active participant at Family Council Meetings where she advocated for the needs of the residents, volunteered at the Ice Cream Sundae Socials and donated many gift baskets to be distributed to the residents. Over the past few years, Carol has make over 200 caps for newborn babies and donated them to local hospitals. Carol volunteers her time providing colorful table decorations, favors and door prizes for the Cal-Mum lunches for the Class of 1949 (her late husband's high school graduating class). She is an active member of the Avon XYZ Senior Citizens' Club serving as treasurer, organizing the Christmas Party and where she is now working on favors and centerpieces for the their May Banquet. She is the organizer for the club's holiday mailing of greeting cards to serviceman and women that are patients in Walter Reed Hospital. For the last 3 years, Carol has been an invaluable volunteer for John DuBois, Historian for the Civil War Descendants Group for the 136th Infantry Regiment of New York. She volunteers for the Avon Food Pantry and has used her

DISCUSSION – PRESENTATION OF LIVINGSTON COUNTY AVON SENIOR CITIZEN HONOREE OF THE YEAR 2012-continued

handwork skills to crochet afghan squares to benefit Zion House in Avon, the first shelter for female veterans in the state. For her outstanding community service we are pleased to present her with this award today. Mrs. Hank is escorted by Mr. Jim Blye, Councilman from the Town of Avon.

DISCUSSION – PRESENTATION OF CERTIFICATE TO THE AVON RECEIPTENTS OF THE LIVINGSTON COUNTY YOUTH BOARD, 17TH ANNUAL, TEEN RECOGNITION AWARDS

Supervisor LeFeber recognized Carole Hayes as the Avon Representative to the Livingston County Youth Board and she reported that youth are doing a lot of great things in our Town and County and we have terrific families.

Supervisor LeFeber recognized the teens by presenting and reading the following summaries of the recipients:

Alexander Kunkel is a born leader who attacks any project given to him with professionalism and devotion. Alex has served as a volunteer disc jockey for Avon Central School. He plays music for all events at the school and has recently expanded to doing so for neighboring schools. Recently, Alex has committed to entrance into the United States Marine Corps as ensuring the safety of our citizens is one of his main goals. Furthermore, he teaches firearm safety to Boy Scouts to provide an example for how weapons of that magnitude must be handled. Alex has always been a role model for other students. He has great follow through and is not afraid to tackle projects of considerable magnitude. All those around him describe him as a driven young man who has set lofty goals and will achieve them.

Nominated by Judy Essig & Nicole Wilcox, Teachers, Genesee Valley Educational Partnership

Sierra Seybolt is a role model to all of her peers as she does the right thing whether people are looking or not. Sierra has been integral in planning a number of school functions. She assisted in organizing Homecoming Week activities, the Snowball Dance, and Prom. Her dedication to these activities was obvious to all those involved and her leadership brought successes in all the various events. Sierra's positive and encouraging spirit is contagious, often pushing others around her to do more. Her friends and peers describe her as a trustworthy and independent young lady with marvelous initiative. The school community will greatly miss Sierra when she graduates this year.

Nominated by Ann Gallic, Teacher, Avon Central School.

Emily D'Imperio serves as a remarkable role model for students and adults alike. She is a distinguished member of the State Leadership Council, where she has attended numerous conferences on the state and national level. Emily has also volunteered her time for various functions at St. Matthew Church. While enrolled at Livonia High School, Emily has worked hard and rightfully achieved a place as a member of the National Honor Society. One of her great joys is being involved in a number of varsity sports teams, where her skills as a player and teammate

are equally valuable. Emily takes pride in her devotion both to her schoolwork and her community, which shows in her numerous and noteworthy accomplishments.

Nominated by Karen Bennett, Principal, Livonia Central School

Supervisor LeFeber recognized the teens by reading the following summaries of the recipients:

Hannah Carney is a natural born leader who demonstrates her superlative qualities in all walks of life. As a member of the theater and drama club, she organizes efficient duty rosters while working to bring new members into the fold. Hannah also works with the student council, mock trial team, yearbook organization, Salvation Army, Avon Summer Recreation program, and is a valued member of Together Including Every Student. She excels as a leader, and all those who have worked with her confirm her ability to work exceptionally well with others and garner a sense of camaraderie. Her track record at fundraising is extremely impressive and well known. As a community leader, her actions help motivate others and provide a shining example for all those looking to impact their local neighborhood.

Nominated by Jeff Hancock, Advisor, Drama Club, Avon Central School

Theresa Clancy comes from a family and environment that always rises to meet any challenge. Her mother is a cancer survivor and this has inspired Theresa to be involved in several cancer awareness campaigns. Theresa's story serves as inspiration to other students at Our Lady of Mercy High School in Rochester who are dealing with family members afflicted with cancer. She is an honor roll student, places in the top 10% of her class, and is a member of the National Honor Society. When her name was raised among faculty, there was universal agreement that that she is a role model to others. Her volunteerism and compassion flow out of her personality. Though some might be content with their achievements, Theresa attended a leadership conference at SUNY Geneseo to train her to better use her own gifts to assist others. Her gifts have affected and changed many members of the community for the better.

Nominated by Colleen Trevisani, Teacher, Our Lady Mercy High School

Shaun Glise's commitment to enriching the lives of others through volunteer work and school activities shine through to all he comes in contact with. At 14, he is a member of the junior varsity soccer team, swim team, and participates in band and chorus. Furthermore, he has given his time to be part of the homecoming committee and the "peer buddy" program. This past winter recess, Shaun gave up 3 straight days of his winter recess to help construct and paint scenery for the high school musical. As part of the Avon drama club, he routinely volunteers his time for plays and various activities. His fellow Boy Scouts and teachers attest to the fact that Shaun enters tasks with a great outlook and sense of humor, seeking out ways to do better each and every time.

Nominated by Jeff Hancock, Advisor, Drama Club, Avon Central School

DICSUSSION – PUBLIC COMMENTS

Supervisor LeFeber asked for any public comments and they follow:

Mr. and Mrs. Lyons addressed the Board to ask about their previous request of assistance to have debris and construction vehicles near their home in the Royal Springs Development removed. Supervisor LeFeber responded stating that he met with the Developer and they walked the property. All roads have been dedicated to the Town of Avon. Attorney Campbell stated that he

DICSUSSION – PUBLIC COMMENTS-continued

needs direction from the Board for prioritizing each of the items. Code Enforcement Officer Cappello stated that an unlicensed dump truck is okay in the Development. It's a construction site until it is determined that it is no longer a construction site by the Developer and/or the Town Board.

Mr. & Mrs. Lyons reported that there are sewer grates that do not go anywhere as they just end and that they will be back to future board meetings only if the problems continue.

Joyce Faville addressed the Board regarding the need to change specific items that are run by the Recreation Board. She gave the history of her son's participation and the effects of him skipping second grade. She stated that there is an unwritten policy that participation is determined solely by grade level and she believes that exceptions should be considered. Her son does qualify for tennis and basketball and there is a one hour span of time between that could be spent at playground if an exception was made. Another issue was the Recreation Board is unavailable to address. She has spoken with the Youth Board Director but has not had the opportunity to speak with the Board as a whole.

Supervisor LeFeber stated that he has been provided with several e-mails regarding this issue and questioned if the concern is specific to her child or the past practices of the Recreation Department. Supervisor LeFeber and Joyce Faville will attend a future Recreation Department meeting for further discussion.

DISCUSSION – CONTINUATION OF PUBLIC HEARING FOR LOCAL LAW T-5A-2012

Supervisor LeFeber stated that the Public Hearing continues to be open and the following comments were shared.

Visitors Clara Mulligan and Carol Barnett addressed the Board with the following information:

RECEIVED

JUN 14 2012

SHARON M. KNIGHT
TOWN CLERK / TAX COLLECTOR

12 June 2012

Dear Avon Town Councilmembers,

We write to you as neighbors to urge you to support the proposed hydrofracking moratorium currently under consideration in your town. Rush Citizens Concerned about Hydrofracking is a citizens' group that formed in the Town of Rush in the Fall of 2011 to inform our fellow residents and town officials of the impending threat that unconventional gas development poses to our community. We successfully advocated for a moratorium that has given our town, like so many others in New York State, time to consider how we might strengthen our zoning code and comprehensive plan to protect ourselves from undesirable heavy industrial development.

We believe that fracking poses serious environmental and public health risks, and that its widespread adoption in New York State would threaten local economies and undermine the quality of life that we enjoy in the western Finger Lakes:

- The well-documented environmental and health impacts of fracking include, among other things: the risk of polluting groundwater, surface water, and soil with highly toxic wastewater containing not only carcinogens, neurotoxins, and endocrine disruptors deployed in proprietary fracking fluids, but naturally occurring radioactive substances, heavy metals, and hydrocarbons that come back to the surface in production brines and drill cuttings; dramatic increases in ground-level ozone and airborne crystalline silica dust (chronic exposure to either of which can result in permanent lung damage, and, in the case of silica dust, lung cancer); enormous emissions of VOCs and fugitive methane (the former are linked to various cancers and birth defects, the latter is a potent greenhouse gas); massive, ecologically damaging water withdrawals from lakes, rivers, and aquifers; and the risk of earthquakes resulting from induced seismicity associated with deep-injection disposal wells and the fracking process itself.
- Economic impacts include potential damage to existing industries such as agriculture, tourism, and real estate. Fracking is also likely to burden local communities with a *de facto* unfunded mandate in the form of exorbitant costs for road maintenance; additional fire, police, and other first-responder services; community social services; environmental mitigation; inflated housing rents; and increased crime.
- Quality-of-life impacts include, among other things, excessive noise and light pollution associated with drilling activities that go on 24/7; an enormous increase in heavy truck traffic (approximately 1,000 round-trip truck trips are required to frack a single well); and a visually disruptive gas infrastructure consisting of compressor stations, pipelines, and the like.

Taken together, we believe that these and other impacts would result in an industrialized landscape completely at odds with the cherished rural character of communities like Rush and Avon. Given the unsettled state of the science on fracking and the regulatory vacuum at the federal and state levels, we feel it is imperative for communities to protect themselves at the local level. Fortunately, New Yorkers are blessed with a well-established principle of Home

Rule, which has provided a solid legal and constitutional basis for the enactment of moratoria and bans by close to a hundred municipalities throughout the state, including our own. Rush's town officials, once they were presented with the facts (as opposed to industry hype), agreed that a moratorium was a necessary step to protect the health and welfare of our community. We respectfully urge you to do the same, for your sake as well as ours. Pollution, after all, does not obey political borders (ground-level ozone, e.g., can travel up to 200 miles from its place of origin). Indeed, even if we succeed in permanently blocking this high-risk industrial activity from our community, failure to protect the health and welfare of Avon would put our children, our elderly, our expecting mothers, and everyone else in Rush and other surrounding communities at considerable risk. So we implore you to act prudently and pass the proposed moratorium on June 28th.

Sincerely,

Rush Citizens Concerned about Hydrofracking, including the undersigned:



- Jordan Kleiman (855 Five Points Rd., Rush, NY 14543)
- Kristin Sheradin (855 Five Points Rd., Rush, NY 14543)
- Carol Barnett (117 Lyons Rd., Rush, NY 14543)
- Ted D. Barnett, M.D. (117 Lyons Rd., Rush, NY 14543)
- Kathryn Hankins (2353 Pinnacle Road, Rush, NY 14543)
- Carolee S. Powers (757 Phelps Road, Honeoye Falls, NY 14472)
- Bob Powers (757 Phelps Road, Honeoye Falls, NY 14472)
- Patricia Kraus (2729 Pinnacle Road, Rush, NY 14543)
- Robert Kraus (2729 Pinnacle Road, Rush, NY 14543)
- Jonathan Kraus (2729 Pinnacle Rd, Rush, NY 14543)
- Julia Lederman (500 Wardell Rd., Rush, NY 14543)
- Marianne Rizzo (25 Stull Rd., West Rush, NY 14543)
- Beth Hoak (189 Rush Mendon Townline Rd Honeoye Falls, NY 14472)
- John Mould, Jr. (6542 Rush-Lima Road, Honeoye Falls, NY 14472)
- Christopher Giordano (8066 W. Henrietta Rd., Rush, NY 14543)
- Robin Rapport (16 Meadowood, Rush, NY 14543)
- Frances Rapport (16 Meadowood, Rush, NY 14543)
- Catherine Hughes (1945 Rush Mendon Rd., Rush, NY 14543)
- Janet Chaize (257 Fishell Rd., Rush, NY 14543)
- Jim Chaize (257 Fishell Rd., Rush, NY 14543)
- David Sluberski (69 Rush-West Rush Rd, Rush, NY 14543)

State of New York
County of Monroe ss:

On this 13th day of June, 2012, before me personally appeared Jordan Kleiman and proved to me by identifying himself with a NYS driver's license and who executed the within instrument.



Notary Public

PAMELA J. BUCCI
Notary Public in the State of New York
Reg. #01BU4866482
Monroe County
Commission Expires Aug 4, 2014

RECEIVED

JUN 14 2012

SHARON M. KNIGHT
TOWN CLERK / TAX COLLECTOR

June 14, 2012

Dear Avon Town Board Members,

I have provided a map and list of gas wells in the town of Avon, generated through the DEC's website.

I would also like to contribute two points worth sharing, which I learned from a recent presentation for landowners with existing gas leases. The presenter was David Colligan from the Watson/Bennett law firm in Buffalo.

- Colligan confirmed that the Marcellus Shale is not very deep in northern Livingston County, therefore not under the optimum pressure to force the gas upwards. However, he illustrated how the Utica Shale layer is deep enough, 5,000 to 8,000 feet, insuring the optimum pressure. In our area, the gas companies will therefore be extracting Utica Shale gas.
- As a lawyer who works with gas leases, Colligan informed those who presently have a gas lease for a vertical well that generates regular checks from a gas company, have a lease which is virtually impossible to cancel. Gas leases are written to accommodate changes in technology over time. Therefore, whether the landowner agrees with the process of hydrofracking or not, the gas rights that were sold over 40 years ago can be accessed by high volume fracking.
- As we have heard at previous hearings, John Holko of Lenape Resources has vowed that he will drill horizontally with high volume extraction techniques in our area.

Therefore, as soon as permits are issued, we can be certain that Avon, Caledonia and York would become heavily industrialized towns.

Please consider the potential public safety issues if hydrofracking were allowed in Avon, beginning with the present active gas leases already in place:

- 80 to 100 large trucks every hour, 24 hours a day hauling fresh water, contaminated water, sand and natural gas on Routes 5 and 20 through the village of Avon, on Route 39 and Route 15. These already busy roads would become severely congested, increasing the chances of accidents with pedestrians and other drivers.
- Documented exposures to flowback fluid are listed in the study I gave you this past week ("Impacts of Gas Drilling on Human and Animal Health"). They include leaking impoundments, wastewater dumped into creeks and storm

water runoff from well pads. The DEC acknowledges the potential for dangerous exposures, thereby requiring an Emergency Response Plan. However, the proprietary chemicals involved make it extremely difficult for emergency personnel to treat exposures effectively.

As a town government, your primary purpose is to protect public safety.

A time-out, in the form of a twelve month moratorium, insures we will consider the profound impact of this industry before it is imminent.

Sincerely,



Clara Mulligan



DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Home » Oil and Gas Home » Oil & Gas Searchable Database » Annual Well Production Search

Annual Well Production Search

Search Parameters: [\[Go Back\]](#)

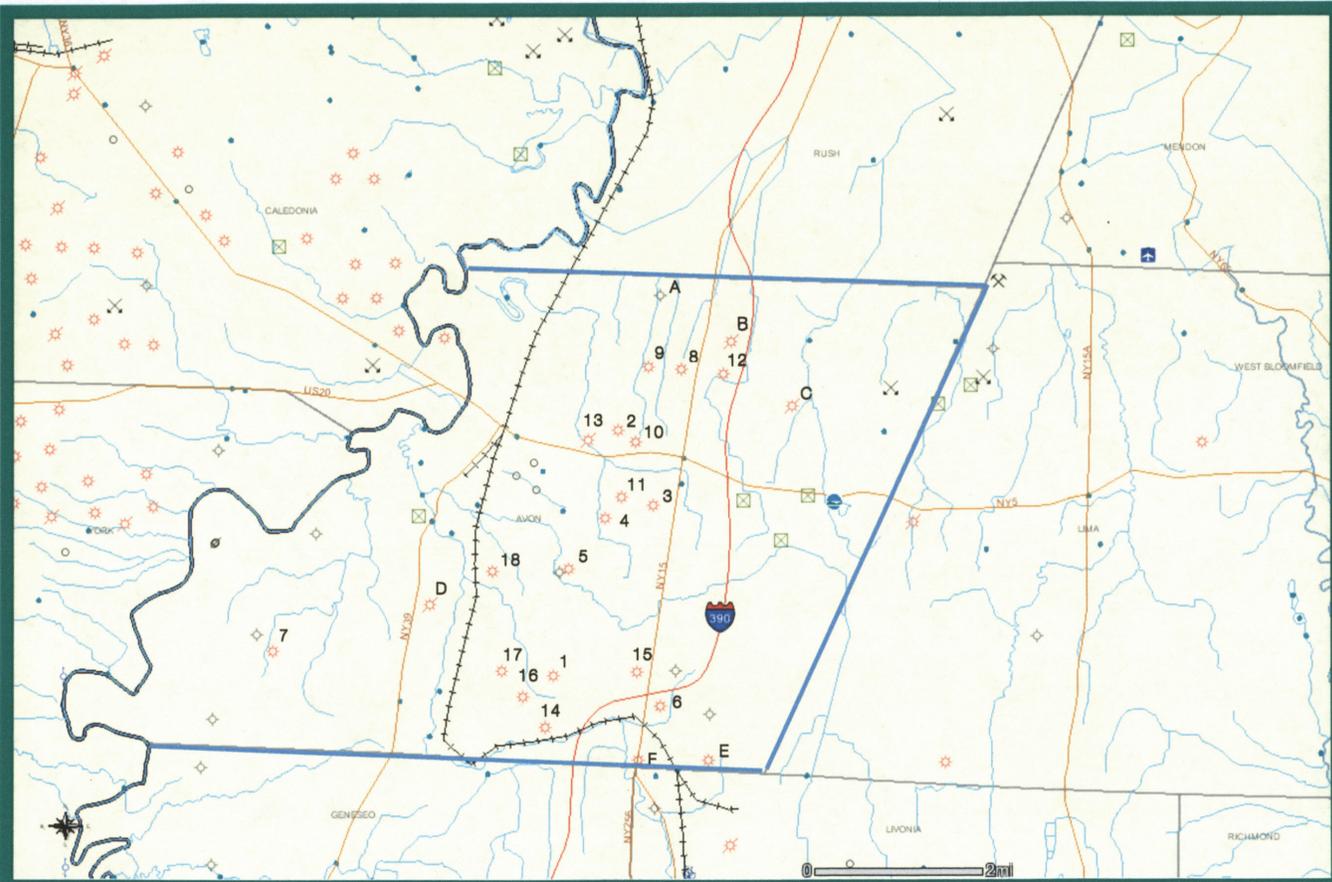
- Town like "Avon" AND
- Well Name like ""

[Export XLS](#) [Export CSV](#) [Export KML](#)

Record Count: 18 Rows: 1 to 18

	API Well Number	Well Name	Operator Name	Year	OIL (Bbls)	GAS (Mcf)	WATER (Bbls)	Months in Production	Well Type
1	31051173360000	Anderson 1	Lenape Resources, Inc.	2010	0.00	599.00	0.00	6	Gas Development
2	31051174360000	Davin 1	Lenape Resources, Inc.	2010	0.00	1259.00	0.00	12	Gas Development
3	31051174090000	Hanover Avon Inc 1	Lenape Resources, Inc.	2010	0.00	794.00	0.00	12	Gas Development
4	31051174150000	Hanover Avon Inc 2	Lenape Resources, Inc.	2010	0.00	309.00	0.00	12	Gas Development
5	31051173920000	Kime 1	Lenape Resources, Inc.	2010	0.00	660.00	0.00	12	Gas Development
6	31051194320000	Kotak 1	Livingston Landowners Gas & Energy, Inc.	2010	0.00	0.00	0.00	0	Gas Development
7	31051174320000	Moran 1	Lenape Resources, Inc.	2010	0.00	107.00	0.00	12	Gas Development
8	31051173950000	Steele 1	Lenape Resources, Inc.	2010	0.00	916.00	0.00	12	Gas Development
9	31051205740000	Steele 2a	Lenape Resources, Inc.	2010	0.00	834.00	0.00	12	Gas Development
10	31051205750000	Steele 4	Lenape Resources, Inc.	2010	0.00	621.00	0.00	5	Gas Development
11	31051231670000	Stokoe 3	Lenape Resources, Inc.	2010	0.00	1504.00	0.00	10	Gas Development
12	31051173930000	Thompson 1	Lenape Resources, Inc.	2010	0.00	72.00	0.00	8	Gas Development
13	31051194310000	Tuchrello 1	Livingston Landowners Gas & Energy, Inc.	2010	0.00	0.00	0.00	0	Gas Development
14	31051174170000	Wadsworth 3	Lenape Resources, Inc.	2010	0.00	1158.00	0.00	12	Gas Development
15	31051173370000	Wadsworth 4	Lenape Resources, Inc.	2010	0.00	338.00	0.00	11	Gas Development
16	31051231690000	Wadsworth 5	Lenape Resources, Inc.	2010	0.00	2205.00	0.00	12	Gas Development
17	31051231680000	Wadsworth 6	Lenape Resources, Inc.	2010	0.00	1622.00	0.00	12	Gas Development
18	31051174190000	Wheeler Est	Lenape Resources, Inc.	2010	0.00	497.00	0.00	6	Gas Development

A	31051044510000	Mulligan 1	Eason Oil Co.	Completed	Jan 10, 1964	Plugged and Abandoned	Dry Hole	G.D.
B	31051173940000	Andrews 1	Lenape Resources		Mar. 31, 1983	Plugged and Abandoned		G.D.
C	31051174220000	Hanna 1	Silver Creek Drilling Co.		July 20, 1983	Plugged and Abandoned		G.D.
D	31051174230000	Docherty 1	Lenape Resources		Sept. 29, 1983	Plugged and Abandoned		G.D.
E	31051194310000	Tucherello 1	Livingston Landowners		Dec. 12, 1985	Shut In		G.D.
F	31051008220000	Wadsworth 1	Ontario Gas		Jan. 1, 1910	Unknown Status		G.D.



Active Layer:
Regulated Wells

Refresh Map

Map Layers

- Mines
- Regulated Wells
- DEC Regional Offices
- Public Places
- Interstate Highways
- State and US Highways
- Railways
- Place or Feature Name
- Stream and Bays

Map Legend

Mines

- Consolidated Mine
- Consolidated Mine Reclaimed
- Unconsolidated Mine
- Unconsolidated Mine Reclaimed
- Underground Mine
- Underground Mine Reclaimed

Regulated Wells

- Gas Well
- Gas Well Plugged
- Oil Well
- Oil Well Plugged
- Gas Storage Well
- Gas Storage Well Plugged
- Solution Mining Well
- Solution Mining Well Plugged
- Confidential Well
- Dry Hole
- Other Well
- Other Well Plugged

DISCUSSION – CONTINUATION OF PUBLIC HEARING FOR LOCAL LAW T-5A-2012- continued

Pat Moran addressed the Board in support of Local Law T-5A-2012. A summary of her testimony included her service to the Town of Avon serving ten years on the Zoning Board of Appeals, enjoy the surrounding of her home and the community, this would be the end of her living in Avon as she could not enjoyed herself, there would be a sudden influx of students into our schools, cost of housing would change and there would be homelessness do to the increase in the cost of rents.

Jeanna Ruter shared the following information with the Board and questioned how the Board could make an informed decision without letting the whole committee know about the Public Hearing. She suggested flyers and Penny Saver advertisement. Supervisor LeFeber discussed the past seven months of deliberation and that the legal notices have been published.

Supervisor LeFeber stated that the hearing will remain open if there is no action by the Board. Town Clerk Knight reported on the additional correspondences that had been submitted and they follow:

Dear Supervisor LeFeber and the Avon Town Board,

I felt I should clarify my comments from the May 24, 2012 Town Board meeting. I was not prepared to speak until I saw that the focus of this meeting seemed to be limited to a yes or no stand on the moratorium. I understand the purpose of a moratorium is to give a municipality time to prepare for potentially significant changes that come with such an industry as hydrofracking (of gas wells). Perhaps I was mistaken, but I believed that this also might be a time for questions, comments, and other discussion related to the pending moratorium, and any further actions that may be considered after this is or is not adopted.

Hydrofracking for gas in NYS has been a topic of discussion and specific actions in many communities for more than a couple years. I had hoped to present other concerns for discussion, and that is the possibility that we should be preparing as if this industry **will** come to Livingston County or to nearby communities-which will still have a profound impact on our county. Passing or not passing a moratorium at this point is just one part of what could be a greater effort to understand and properly address the many complex issues involving drilling and hydrofracking for natural gas.

Possibly the Towns in Livingston County should consider bringing together a team representing the entire county. The County organized in a similar fashion in 2006-07 when it was decided that each community should be prepared for the possible development of windmills and wind generation facilities. While this effort focused more on the need to address exemption administration and development of a PILOT for valuation, it was done so **all the municipalities** would be prepared. We have nearby examples of a community incurring mounting legal bills when unprepared for the challenges of their own local zoning and a wind company willing to take this municipality to court. Situations like this can happen in towns with the best intentions.

In the effort to prepare for all the possible impacts of hydrofracking for natural gas no one small municipality should have to shoulder this burden alone, (*where will the money come from in these small budgets?*) and it would be beneficial to have clear policies for interacting with this industry that are consistent throughout Livingston County.

When a team or task force is formed it allows those with different views to come together and learn from each other. Hopefully the participants can leave their emotions and fears at the door so important steps can be taken to protect our communities.

I am far from being an expert in these matters- but I have seen what can be accomplished to aid municipalities with complex issues like these, whether they are taking place within your small town community or in neighboring towns and counties. Concerned citizens have been able to learn from mistakes made in other states when dealing with these difficult and complex changes in New York.

The effect of hydrofracking can be far reaching and can impact water quality and quantity, physical infrastructure, emergency and community services, noise and air pollution, housing, workforce development, land use and agricultural protection, just to name a few.

It is essential to create a community dialog. I have also sent a couple of my questions to the County Planning Dept., possibly this is a better avenue for my inquiry. Please include this correspondence with other documents related to this public hearing. Thank you for including my comments.

Sincerely,

Patricia Brede

Sharon Knight

From: Michael Froome <michael.froome@yahoo.com>
Sent: Tuesday, June 12, 2012 8:32 PM
To: sknight@avon-ny.org; dlefeber@avon-ny.org; tmairs@avon-ny.org; jblye@avon-ny.org; rayers@avon-ny.org; rsteen@avon-ny.org
Subject: Avon hydrofracking moratorium

Sharon,

I'm writing in regards to the proposed one year moratorium on natural gas exploration and extraction activities in the Town of Avon. Since the public hearing is still open I'd like this email to be included in the comments. I'm copying the board members too but in just in case I want you to have a copy for any official records.

Avon Town Board Members:

My name is Michael Froome residing at 23 Fisk Place in Avon, NY. As you probably know I attended both town board meetings that were part of the public hearing on the proposed moratorium meant to give you and the community time to decide whether we want high-volume hydraulic fracturing (aka hydro-fracking) in Avon. Both times I spoke in favor of the moratorium so it's no secret I'm against hydro-fracking.

First please accept my thanks for your willingness to listen, and for the time you and the town attorney have put into dealing with this issue. It's important to the citizens and will probably be one of the biggest decisions you have to make as board members.

At this point I'm sure there is little you haven't hear about hydro-fracking pro and con so I won't go over all of those again. What I will do though is emphasize the single biggest reason to vote yes for the moratorium: **A significant majority of the citizens of the Town of Avon oppose hydro-fracking here. A significant majority of the citizens want to preserve our small town, rural nature and do not want to live in or near a sprawling industrial site.** Please do not underestimate the public sentiment against hydro-fracking. You may think that it's only the relatively small number of people that attend the meetings that are opposed but we are the tip of the iceberg. I've talked to many that weren't able to attend the meetings or were unaware of them and the overwhelming opinion is against hydro-fracking. With due respect it is your responsibility to take the wishes of your constituents seriously regardless of your personal opinions on hydro-fracking, and if you do that I believe you are compelled to vote in favor of the moratorium.

In the event you will not support the moratorium is it possible that it be voted on in a public referendum? I do not know the legal complexities involved in holding a referendum but from some research I've done I believe it may be possible. I'm sure the town attorney can say for sure. A referendum is a fair and respectful way to determine what the citizens really want.

Lastly, I reiterate my willingness to help in any way possible as you consider the pros and cons. I've worked hard to educate myself on the issues and will gladly share what I've learned if it would be any help to you.

Thank You!

Michael Froome
michael.froome@yahoo.com
585-330-6956

Sharon Knight

From: Trisha Koomen <trintika@gmail.com>
Sent: Tuesday, June 12, 2012 1:14 PM
To: sknight@avon-ny.org
Subject: Please forward

Hi Sharon,

For some reason, T Mairs email: tmairs@avon-ny.org isn't working. Would you be able to forward this message to him?

Thanks!!
Trisha

Dear Councilman Mairs

I think you'd agree that leaving Avon to our children and grandchildren as a safe, clean natural setting is an important goal? I'd like to urge you to uphold this view, that is held by a majority of Avon residents, with your vote at the end of June for a moratorium against hydro fracking gas exploration.

- - - Thank you for listening!

Trisha Koomen
297 Spring St
Avon NY

--
Trisha

Sharon Knight

From: Trisha Koomen <trintika@gmail.com>
Sent: Tuesday, June 12, 2012 1:14 PM
To: sknight@avon-ny.org
Subject: Please forward

Hi Sharon,

For some reason, T Mairs email: tmairs@avon-ny.org isn't working. Would you be able to forward this message to him?

Thanks!!
Trisha

Dear Councilman Mairs

I think you'd agree that leaving Avon to our children and grandchildren as a safe, clean natural setting is an important goal? I'd like to urge you to uphold this view, that is held by a majority of Avon residents, with your vote at the end of June for a moratorium against hydro fracking gas exploration.

- - - Thank you for listening!

Trisha Koomen
297 Spring St
Avon NY

--
Trisha

RECEIVED

JUN 14 2012

SHARON M. KNIGHT
TOWN CLERK/TAX COLLECTOR
June 14, 2012

Avon Town Board member,

My name is Sheila Palmiter and I reside at 2675 Geneseo Road in Avon. I am a resident of the Town of Avon for 47 years and am in favor of a moratorium being placed on horizontal high volume fracturing in the drilling of gas wells in the Town of Avon. I feel this method could be detrimental to underground water sources, and harmful to surface water in natural areas, and to the plant and animal life in those areas. Agricultural, forest lands and water resources are our town's natural and valuable assets and not easily "remediated". Let us put them at the top of our protected list, instead of someone else's bank account. Again, I am in favor of the moratorium on 'fracking' in the Town of Avon.

Sheila Palmiter





RECEIVED

JUN - 5 2012

SHARON M. KNIGHT
TOWN CLERK / TAX COLLECTOR

**CIVIL • ENVIRONMENTAL
SURVEY • PLANNING
ENERGY CONSERVATION**

May 31, 2012

07-3-6309

**US Army Engineering District, Buffalo
1776 Niagara Street
Buffalo, NY 14207-3199 Attn: Kathleen A. Buckler**

**Re: North Littleville Road Culvert -Town of Avon
Supplement Responding to Notice of Incomplete Application
US Army Corps of Engineers Application No. 2012-00369
NYDEC No.8-2420-00095/00001**

Dear Ms Buckler

Attached are revised plans and supplemental information requested in a Notice of Incomplete application from you dated May 15, 2012. This is being forwarded to supplement the Joint Application for Permit (Form 95-19-3) for the North Littleville Road culvert over Little Conesus Creek, that we originally sent on March 15, 2012.

The Town wants to construct the new culvert beginning when Schools close this summer (late June). They need to line up equipment and materials now to accomplish that goal. A quick review and response will therefore be appreciated.

Specifically, we submit the following:

- a) Dimensioned cross sections for each type of stacked stone revetment are shown on a new Sheet 7. Locations of Cross Sections on Site Plan. See Sheet 4. We added this sheet to show where the sections are cut more clearly than if they were added to the site plan.
- b) The proposed erosion and sediment control practices are the temporary installation of a coffer dam with a flexible 18" diameter HDPE pipe. The pipe will be able to carry the normal stream flow, and be moved to allow the work to be done. Normal stream flow is approximately one inch deep sheet flow, across the bedrock. Erosion and sediment control will be accomplished by working in the dry by using the above discussed bypass system. The stream is on shale bedrock, and the banks are eroded, fractured shale. Mechanical removal of the rock will be a continuous part of the foundation construction.
- c) Please note we are extending the existing culvert about 12' to the east. The new culvert is longer, to allow guiderails to be included in the road reconstruction. We have added another cross section at the end of the existing culvert showing both existing and proposed. Revised Sheet 3, shows the new culvert and the existing culvert, both centerlines are along the same stream centerline. The new culvert (16 feet) is wider at the base, than the existing culvert (10 feet). Sheet 7, Creek Cross Sections, has both the existing culvert and proposed culvert in the Section titled: " Existing Culvert".

COMMUNITY ENGINEERS

Serve the Client. Benefit the Community. Protect the Environment.

700 WEST METRO PARK • ROCHESTER • NY • 14623-2678 • Tel: 585.272.7310 • Fax: 585.272.0159 • E-MAIL: info@larsen-engineers.com
www.larsen-engineers.com

The stacked stone revetment and fill is being placed along the south side to help to protect the home that is on top of the fractured shale bank.

I trust that this answers the questions from your initial review. Should you require any addition information, please feel free to call.

Sincerely,



Timothy C. Rock, P.E.

cc: Christine A. Setari, NYSDEC Region 8
David LeFeber, Supervisor ✓
Thomas Crye, Highway Superintendent

RECEIVED

JUN - 5 2012

SHARON M. KNIGHT
TOWN CLERK / TAX COLLECTOR

**NORTH LITTLEVILLE ROAD
BOX CULVERT REPLACEMENT**

TOWN OF AVON,
COUNTY OF LIVINGSTON, STATE OF NEW YORK

MARCH 2012



INDEX OF DRAWINGS

SHEET No.	ING. No.	TITLE
1 of 9	COV-1	COVER SHEET
2 of 9	EG-1	EXISTING TOPOGRAPHICAL SURVEY
3 of 9	PL-1	PROPOSED CULVERT REPLACEMENT PLAN
4 of 9	PL-2	LOCATION MAP OF CREEK CROSS SECTIONS
5 of 9	PRO-1	NORTH LITTLEVILLE ROAD PROFILE
6 of 9	PRO-2	CREEK PROFILE
7 of 9	SEC-1	CREEK CROSS SECTIONS
8 of 9	DET-1	CREEK CROSS SECTIONS
9 of 9	DET-2	DETAIL PLAN

ABBREVIATIONS

A	APPROXIMATE	N	NORTH
APPROX	APPROXIMATE	N/F	NEW OR FORMERLY
CB	CATCH BASIN	OC	ON CENTER
CR	CAST IRON PIPE	PERF	PERFORATED
CL	CLEAR CUT	PP	PROPOSED
CONC	CONCRETE	PP	POLYETHYLENE PIPE
CP	CORNER PIPE SIZE	RCC	REINFORCED CONCRETE PIPE
CS	EXISTING	R/S	RIDGE-OF-WAY
ELEV	ELEVATION	SAN	SANITARY
EL	EXISTING	SAN	SANITARY
FT	FINISHED FLOOR ELEV.	SAN	SANITARY
FE	FINISHED ELEVATION	SAN	SANITARY
FND	FOUND	SAN	SANITARY
FP	FLAG POLE	SAN	SANITARY
HND	HIGHWAY	SAN	SANITARY
HW	HIGHWAY	SAN	SANITARY
LA	LINEAL	SAN	SANITARY
L.F.	LINEAR FEET	SAN	SANITARY
MANH	MANHOLE	SAN	SANITARY
		SAN	SANITARY

LEGEND

---	EXISTING RIGHT-OF-WAY (R.O.W.) / PROPERTY LINE
---	EXISTING WATER MAIN
---	EXISTING DRAINWAY
---	EXISTING CREEK
---	EXISTING TREE LINE / HEAVY BRUSH
---	EXISTING TREE / BUSH
---	EXISTING BUILDING/STRUCTURE
---	EXISTING UTILITY MANHOLE
---	EXISTING WATER METER
---	EXISTING WATER VALVE
---	EXISTING HIGHWAY
---	PROPOSED TREE PROTECTION
---	PROPOSED 8" WATER MAIN
---	PROPOSED 12" WATER MAIN
---	PROPOSED HOUSE SERVICE
---	PROPOSED WATER VALVE
---	PROPOSED HIGHWAY

THIS DOCUMENT AND THE COVER SHEET HERETOFORE
SHALL BE AN INSTRUMENT OF SERVICE SUBJECT TO THE
TERMS AND CONDITIONS OF THE STANDARD SPECIFICATIONS FOR
CONSTRUCTION OF THE STATE OF NEW YORK, AND SHALL
BE THE PROPERTY OF LARSEN ENGINEERS, P.C. L.L.C. P.C.

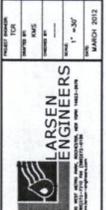
BAR IS ONE INCH ON
ORIGINAL DRAWING. IF NOT ONE INCH ON
THIS SHEET, SCALES ACCORDINGLY.

SHEET NO. 1 OF 9 DRAWING NO. COV-1

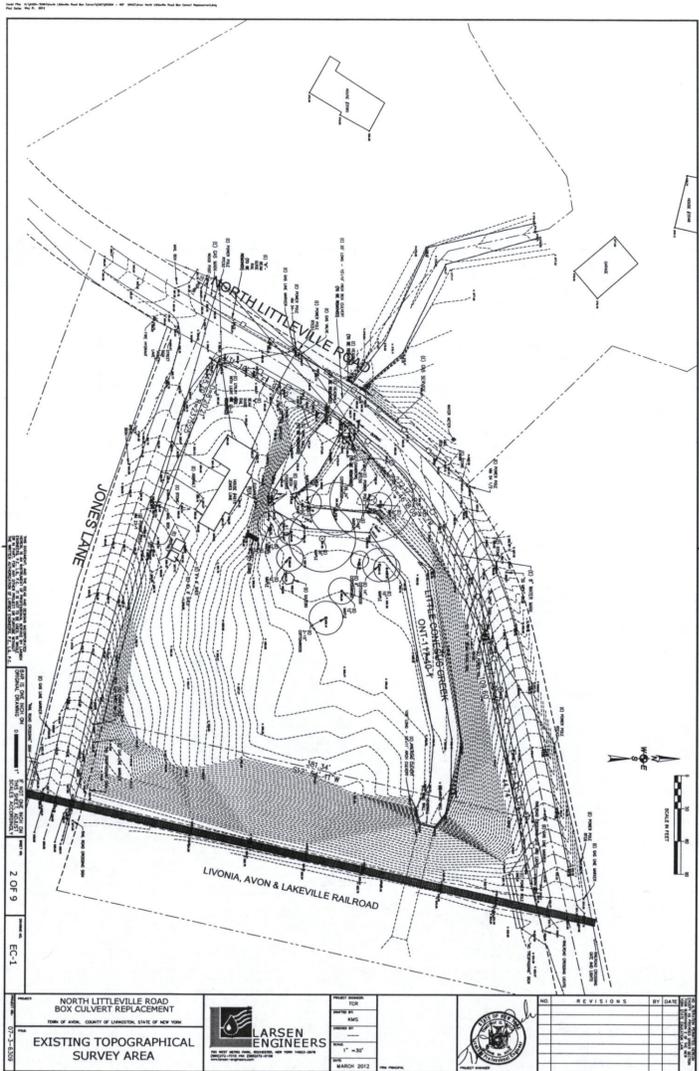
NO.	DATE	REVISIONS



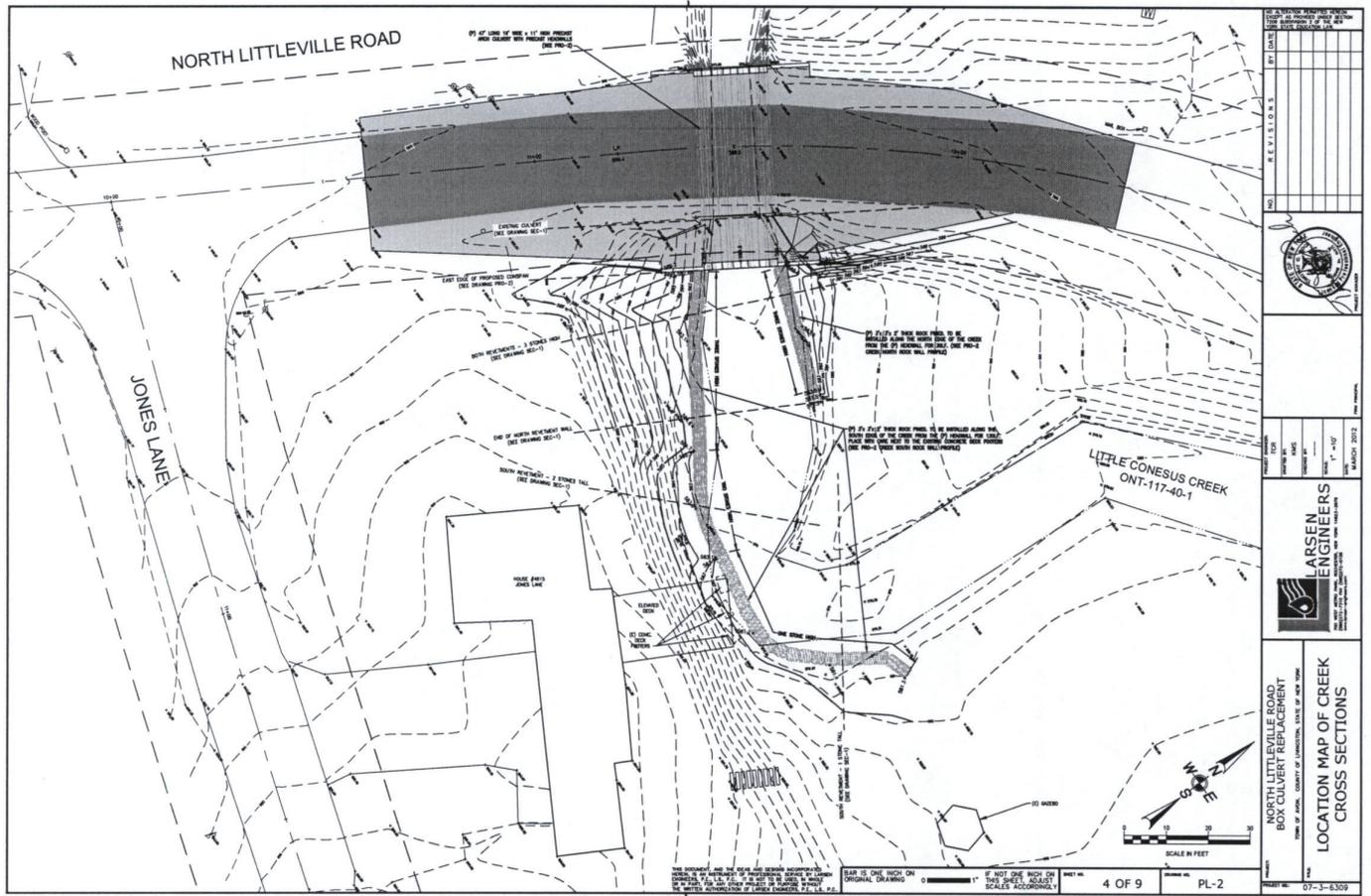
DATE: MARCH 2012
SCALE: 1" = 50'



NORTH LITTLEVILLE ROAD
BOX CULVERT REPLACEMENT
TOWN OF AVON, COUNTY OF LIVINGSTON, STATE OF NEW YORK
COVER SHEET
PROJECT NO. 07-1-6309



<p>NORTH LITTLEVILLE ROAD BOX CULVERT REPLACEMENT</p> <p>DATE OF SURVEY: 08/14/2012</p>		<p>LARSEN ENGINEERS INCORPORATED 1000 W. 100th St., Suite 100 Livonia, MI 48150 734.461.1100</p>	<p>DATE: 08/14/2012</p> <p>SCALE: 1" = 20'</p>		<p>NO. REVISIONS</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>REVISIONS</th> <th>BY</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	REVISIONS	BY	DATE																
NO.	REVISIONS				BY	DATE																			
<p>EXISTING TOPOGRAPHICAL SURVEY AREA</p>		<p>2 OF 9</p>	<p>EC-1</p>	<p>07/25/2012</p>																					



NO.	REVISIONS	BY	DATE



PROJECT NO. 07-3-6300
 SHEET NO. 4 OF 9
 DRAWING NO. PL-2

LARSEN ENGINEERS
 ENGINEERS
 1000 W. HARRIS STREET
 RALEIGH, NORTH CAROLINA 27601
 PHONE: 919-876-1111
 FAX: 919-876-1112
 WWW.LARSENENR.COM

NORTH LITTLEVILLE ROAD
 BOX COLLECTOR REPLACEMENT
 COUNTY OF GASTON, STATE OF NORTH CAROLINA
**LOCATION MAP OF CREEK
 CROSS SECTIONS**

THIS DRAWING AND ALL INFORMATION CONTAINED HEREON IS THE PROPERTY OF LARSEN ENGINEERS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF LARSEN ENGINEERS.

BAR IS ONE INCH ON ORIGINAL DRAWING. IF NOT ONE INCH ON THIS SHEET, SCALE AS SHOWN. SCALES ACCORDINGLY.

but which is in fact not being regulated by the regulatory agency otherwise having jurisdiction over such material in the Town, whether naturally occurring or otherwise, in any case relating to, arising in connection with, or produced by or incidental to the exploration for, the extraction or production of, or the processing, treatment, or transportation of, natural gas, petroleum, or any related hydrocarbons; (b) natural gas or petroleum drilling fluids, including, but not limited to Hydraulic Fracturing Fluid; (c) natural gas or petroleum exploration, drilling, production or processing wastes; (d) natural gas or petroleum drilling treatment wastes (such as oils, fracturing fluids, produced water, brine, flowback, sediment and/or any other liquid or semi-liquid material); (e) any chemical, waste oil, waste emulsified oil, mud, or sediment that was used or produced in the drilling, development, transportation, processing or refining of natural gas or petroleum; (f) soil contaminated in the drilling, Hydraulic Fracturing (including but not limited to High Volume Hydraulic Fracturing), transportation, processing or refining of natural gas or petroleum; (g) drill cuttings from Hydraulic Fracturing, High Volume Hydraulic Fracturing and/or Horizontal Drilling for natural gas or petroleum wells; or (h) any other wastes associated with the exploration, drilling, productions or treatment of natural gas or petroleum. This definition specifically intends to include some wastes that may otherwise be classified as "solid wastes which are not hazardous wastes" under 40 C.F.R. § 261.4(b). The definition of Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes does not include (i) recognizable and non-recognizable food wastes, or (ii) waste generated by Agriculture Use.

Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes Disposal/Storage Facility – Any of the following: (a) tanks of any construction (metal, fiberglass, concrete, etc.); (b) impoundments; (c) pits; (d) evaporation ponds; or (e) other facilities, in any case used for the storage or treatment of Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes that: (i) are being held for initial use, (ii) have been used and are being held for subsequent reuse or recycling, (iii) are being held for treatment, or (iv) are being held for storage.

Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes Dump – Land upon which Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes, or their residue or constituents before or after treatment, are deposited, disposed, discharged, injected, placed, buried or discarded, without any intention of further use.

Natural Gas and/or Petroleum Support Activities – Shall mean and be any one or more of the following: (a) Natural Gas Compression Facility; (b) Natural Gas Processing Facility; (c) Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes Disposal/Storage Facility; (d) Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes Dump; (e) Land Application Facility; (f) Non-Regulated Pipelines; (g) Underground Injection; or (h) Underground Natural Gas Storage.

Natural Gas Compression Facility – Those facilities or combination of facilities that move natural gas or petroleum from production fields or natural gas processing facilities in pipelines or into storage; the term shall include equipment for liquids separation, natural gas dehydration, and tanks for the storage of waste liquids and hydrocarbon liquids.

Natural Gas Processing Facility – Those facilities that separate and recover natural gas liquids (NGLs) and/or other non-methane gases and liquids from a stream of produced natural gas, using equipment for any of the following: cleaning or stripping gas, cooking and dehydration, residual refinement, treating or removing oil or condensate, removing water, separating NGLs, removing sulfur or carbon dioxide, fractionation of NGLs, or the capture of CO₂ separated from natural gas streams.

Non-Regulated Pipelines – Those pipelines that are exempt or otherwise excluded from regulation under federal and state laws regarding pipeline construction standards or reporting requirements. Specifically includes production lines and gathering lines.

Person – Any individual, public or private corporation for profit or not for profit, association, partnership, limited liability company, limited liability partnership, firm, trust, estate, and any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

Pipeline – All parts of those physical facilities through which petroleum, gas, hazardous liquids, or chemicals move in transportation (including pipes, valves and other equipment and appurtenances attached to pipes and other equipment such as drip stations, vent stations, pigging facilities, valve boxes, transfer pump stations, measuring and regulating equipment, yard and station piping, and cathodic protection equipment), whether or not laid in public or private easement or private right of way within the Town. This includes, without limitation, gathering lines, production lines, and transmission lines.

Radioactive Material – Material in any form that emits radiation, but only if such material has been moved from its naturally occurring location through an industrial process. Such material is “radioactive material” for purposes hereof, *whether or not* it is otherwise exempt from licensing and regulatory control pursuant to the NYS Department of Labor, the US Nuclear Regulatory Commission, the US Environmental Protection Agency, the US Department of Energy, the US Department of Transportation, or any other regulatory agency.

Radiation – The spontaneous emission of particles (alpha, beta, neutrons) or photons (gamma) from the nucleus of unstable atoms as a result of radioactive decay.

Subsurface – Below the surface of the earth, or of a body of water, as the context may require.

Town – The Town of Caledonia, Livingston County, New York.

Transmission Line – A pipeline that transports oil, gas, or water to end users as a public utility and which is subject to regulation either by: (a) the Federal Energy Regulatory Commission’s jurisdiction under section 1(b) of the Natural Gas Act, or (b) as a “Major utility transmission facility” under the Public Service Law of New York, Article 7, §120(2)(b).

Underground Injection – Subsurface emplacement of Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes by or into an Injection Well.

Underground Natural Gas and Storage – Subsurface storage, including in depleted gas or oil reservoirs and salt caverns, of natural gas that has been transferred from its original location for the primary purpose of load balancing the production of natural gas. Includes compression and dehydration facilities, and pipelines.

Section 4. Moratorium and Prohibition.

- A. Unless permitted pursuant to Section 6 or Section 8 hereafter, from and after the date of this Local Law, no application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official or agent of the Town of Caledonia, for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Town of Caledonia, for any of the following activities: (i) any Natural Gas and/or Petroleum Exploration Activities; (ii) any Natural Gas and/or Petroleum Extraction Activities; or (iii) any Natural Gas and/or Petroleum Support Activities.
- B. 1. Unless permitted pursuant to Section 6 or Section 8 hereafter, from and after the date of this Local Law, no Person shall use, cause, or permit to be used, any land, body of water, building, or other structure located within the Town of Caledonia for any of the following activities: (i) any Natural Gas and/or Petroleum Exploration Activities; (ii) any Natural Gas and/or Petroleum Extraction Activities; or (iii) any Natural Gas and/or Petroleum Support Activities.
2. The prohibitions set forth above in Clause 1. of this Section 4.B. are not intended, and shall not be construed, to: (a) prevent or prohibit the transmission of natural gas through utility pipes, lines, or related appurtenances for the purpose of supplying natural gas utility services to residents of or buildings located in the Town; or (b) prevent or prohibit the incidental or normal sale, storage or use of lubricating oil, heating oil, gasoline, diesel fuel, kerosene, or propane in connection with legal Agriculture, residential, business, commercial, and other uses within the Town, *so long as* such uses do not involve any Natural Gas and/or Petroleum Exploration Activities, Natural Gas and/or Petroleum Extraction Activities, or Natural Gas and/or Petroleum Support Activities.

- C. This moratorium and prohibition shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is twelve (12) months after said effective date; or (ii) the effective date of a Town Board resolution affirmatively stating the Town Board has determined that the need for this moratorium and prohibition no longer exists.
- D. This moratorium and prohibition shall apply to all real property within the Town of Caledonia.
- E. Under no circumstances shall the failure of the Town Board of the Town of Caledonia, the Zoning Board of Appeals of the Town of Caledonia, the Planning Board of the Town of Caledonia, or the Code Enforcement Officer for the Town of Caledonia to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

Section 5. Penalties.

- A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500) or imprisonment for not more than 10 days, or both for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500) or imprisonment for a period of not more than 30 days, or both. For purposes of this Clause A., each day that a violation of this Local Law exists shall constitute a separate and distinct offense.
- B. Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town by the Town Board.
- C. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all necessary costs incurred by the Town relative thereto, including attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the propert(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

Section 6. 'Grandfathering' of Legal, Pre-existing Non-Conforming Use

- A. 1. The prohibitions set forth above in Clause 1. of Section 4.B. above are not intended, and shall not be construed to prevent or prohibit: (a) production or extraction of natural gas and/or petroleum from any existing vertical well in production and existing within the Town of Caledonia prior to the adoption of this Local Law, so long as such activities are in all respects being conducted in accordance with all applicable laws and regulations, including without limitation all permits required to be issued by the New York State Department of Environmental Conservation ("DEC") and all other regulating agencies; and (b) exploration activities for natural gas and/or petroleum necessary to continue the production from such wells as described immediately above, so long as such exploration activities do not utilize High Volume Hydraulic Fracturing and/or Horizontal Drilling and those activities are in all respects being conducted in accordance with all applicable laws and regulations, including without limitation all permits required to be issued by the New York State Department of Environmental Conservation ("DEC") and all other regulating agencies. All such natural gas or petroleum extraction and exploration activities as identified immediately above shall be considered to be "grandfathered" as pre-existing, non-conforming uses and shall be allowed to continue, subject, however, to the provisions of Clauses B. and C. of this Section 6.
2. Natural gas and/or petroleum extraction that is being conducted from vertical wells within the Town as of the effective date of this Local Law and which do not qualify for treatment under the preceding Clause A.1. of this Section 6, shall not be grandfathered, and shall in all respects be prohibited as contemplated by Section 4 hereof.
- B. Upon the depletion of any well which is allowed to remain in operation after the effective date of this Local Law by virtue of Clause A.1. of this Section 6, or upon any other substantive cessation of natural gas and/or petroleum extraction activities (otherwise grandfathered by virtue of Clause A.1. of this Section 6) for a period of more than twelve (12) months, then and in such event the non-conforming use status and grandfathering of such activity shall terminate, and thereafter such natural gas and/or petroleum extraction activities shall in all respects be prohibited as contemplated by Section 4 hereof.
- C. Notwithstanding any provision hereof to the contrary, the pre-existing, non-conforming status conferred and recognized by Clause A.1. of this Section 6 is not intended, and shall not be construed, to authorize or grandfather any natural gas and/or petroleum extraction activities extending beyond whatever well bore is

authorized in any DEC permit in existence as of the effective date of this Local Law. Any expansion or attempted or purported expansion, other than what is contemplated in Clause A.1. of this Section 6, shall not be grandfathered and instead shall in all respects be prohibited as contemplated by Section 4 hereof.

Section 7. Invalidity of any Conflicting Approvals or Permits.

No permit or approval issued by any local or state agency, department, commission or board shall be deemed valid within the Town of Caledonia when or to the extent that such permit or approval purports to allow or permit any activity that would violate the prohibitions set forth at Section 4 of this Local Law.

Section 8. Hardship Use Variance.

The Zoning Board of Appeals of the Town of Caledonia is hereby authorized to accept and review (after public notice and hearing and in accordance with the requirements of law and of this Local Law) requests for a hardship use variance from application of the provisions of this Local Law by Persons aggrieved hereby.

No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship.

- A. Unnecessary Hardship. In order to prove such unnecessary hardship, the applicant is required to demonstrate to the Zoning Board of Appeals that, with respect to every permitted use under the zoning regulations for the particular district where the property is located, each of the following four criteria is satisfied: (i) the applicant cannot realize a reasonable return on the entire parcel of property, and such lack of return is substantial as demonstrated by competent financial evidence; (ii) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (iii) the requested use variance, if granted, will not alter the essential character of the rural area, hamlet, or other neighborhood; and (iv) the alleged hardship has not been self-created.
- B. Reasonable Rate of Return. In evaluating whether the applicant can realize a reasonable rate of return, the Zoning Board of Appeals must examine whether the entire original or expanded property holdings of the applicant are incapable of producing a reasonable rate of return (and not just the site of the proposed development project). No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Zoning Board of Appeals finds that the applicant has clearly demonstrated, by detailed “dollars and cents” proof, the inability to obtain a reasonable return for the entire parcel (and not just the site of the proposed project) and for each and every permitted use in the district (including those uses permitted by special use permit).

- C. Unique Hardship. No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this Law, the Zoning Board of Appeals finds that the entire parcel of which the project is a part possesses unique characteristics that distinguish it from other properties in the area.
- D. Essential Character of the Neighborhood. In making the determination of whether the proposed development project will alter the essential character of the neighborhood, the Zoning Board of Appeals shall take into account factors that are of vital importance to the citizens of the Town including without limitation: (i) the rural residential and agricultural character of the Town, (ii) its irreplaceable recreation and tourism sites, (iii) the extent of hazard to life, limb or property, if any, may result from the proposed development project, (iv) health impacts, (v) the social and economic impacts of traffic congestion, noise, dust, odors, emissions, solid waste generation and other nuisances, (vi) the impact on property values, and (vii) whether the applicant will engage in a type of development that will result in degradation to the air quality, water quality, and environment of the Town. In order to find that the proposed development project does not alter the essential character of the neighborhood, the Zoning Board of Appeals shall interpret the public interest in said essential character of the neighborhood to require, at a minimum, that the project will not do any of the following: (a) pose a threat to the public safety, including public health, water quality or air quality, (b) cause an extraordinary public expense, or (c) create a nuisance.
- E. Self-Created Hardship. The Zoning Board of Appeals may find that the applicant suffers from a self-created hardship in the event that the Board finds that (i) the applicant's inability to obtain a reasonable return on the property as a whole results from having paid too much or from a poor investment decision; (ii) the applicant previously divided the property and is left with only a portion which suffers from some unique condition for which relief is sought and which did not apply to the parcel as a whole; or (iii) when the applicant purchased the property, he or she knew or should have known the property was subject to the zoning restrictions.

In the event the Zoning Board of Appeals grants a hardship use variance from the provisions of this Local Law to the applicant, the applicant shall be required to comply with all provisions of the Town's then applicable zoning laws and other laws and regulations, together with any amendments to such law or regulations which may be enacted during the term of this Local Law. Any hardship use variance that is granted shall grant only the minimum variance that the Board of Appeals deems necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Section 9. Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed herefrom, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

Section 10. Superseding Intent and Effect.

During the time this Local Law is in effect, it is the specific intent of the Town Board, pursuant to Municipal Home Rule Law § 10(1)(ii)(d)(3) and §22, to supersede: (a) any inconsistent provisions set forth in Town Law § 265-a; § 267; § 267-a, § 267-b, § 268; § 274-a, § 274-b; § 276, § 277, § 278, and § 279; (b) any other inconsistent provisions set forth in Article 16 of the Town Law; (c) any inconsistent provisions of the Zoning Code of the Town of Caledonia; and (d) any inconsistent provisions of any and all other local ordinances, local laws or local resolutions of the Town of Caledonia.

Section 11. Effective Date.

This Local Law shall take effect immediately upon filing with the New York Department of State.

DISCUSSION –I.T. REPORT

Tom Vonglis of Hurricane Technology reported on items that should be considered by the Board for the upcoming budget.

1. Server upgrade
 - our current server will be eight years old when replaced next year.
 - hard drive space issues
 - Standard server 203, small business server. E-mails are stored in house for the Town of Batavia and it's recommended in Avon.
 - migrate from frontiernet.net. as we have a good fire wall and a security appliance that strips out the junk mail.
2. Workstation computer/laptops every four years
 - Standardize all computers to 2010, a volume license would include ten computers.

Supervisor LeFeber requested a written department budget in September or early October.

There was additional discussion on the security cameras, fob control and the heating/air conditioning systems. If Hurricane took over these building responsibilities then the cost would be calculated on an hourly basis just as it is for all other services provided by Hurricane.

The camera can only be viewed by a resident and off the server room computer with the password. This provides no security to the Town of Avon and they will be shut off by Hurricane and the passwords changed to remove the resident's access. For the cameras to have provided security then taping and rotation of the tapes would be necessary and that was determined to be too costly at this time.

Fobs – There is a Master List of who has fobs and as a security tool each time a fob is used it's recorded. Supervisor LeFeber stated this has been helpful identifying the last person in the building when lights have been left on. Supervisor LeFeber stated that a concern of the Court is that non-court personnel have access to the Court. It's questioned if we are using the system to the best of the design. It was determined that further discussion would be needed to change the current practice of a resident having control of the fobs. Town Clerk Knight questioned if the Board knew who had control of keys/fobs in other towns as it's her understanding that it is in fact the Town Clerk. She stated that if there is something that makes someone uncomfortable with her taking care of the keys/fobs than she asked them to please give her the opportunity to address the concerns.

Heating/Air conditioning – No one except the resident has passwords to the heating/air conditioning units in the Opera Block/Town Hall. Councilman Steen questioned if the Supervisor's Secretary has access to the heating/air conditioning as he requested a change to be made and he believes that she made the change. Both Supervisor LeFeber and Councilman Blye stated that she does not have access and that an e-mail would have been sent to resident Kelly Cole.

RESOLUTION # REMOVAL OF RESIDENT KELLY COLE'S ACCESS TO THE FOBS AND HEATING/AIR CONDITIONING.

On motion of Councilman Ayers, seconded by Councilman Steen, the following resolution was Made:

RESOLVE to approve access to the fobs and the heating/air conditioning to the Opera Block/Town Hall building. There was no further action, however; discussion continued.

DISCUSSION –I.T. REPORT- continued

No one else has the password to have access to the geothermal heating/air conditioning units at this time. Hurricane does not even have the password to allow access to the heating/air conditioning unit. Until the password is shared no one could have access to the system. The person that takes over the system would then have budget accountability and would require training on the use of the system. Councilman Blye recommended the access be given to Water Superintendent Daniel McKeown as he has a phone that would provide the needed access to the system to receive alerts. Councilman Steen suggested no action be taken at this time.

RESOLUTION #109 REMOVAL OF RESIDENT KELLY COLE'S ACCESS TO THE FOBS

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

RESOLVE to approve removal of resident Kelly Cole's access to the fobs to the Opera Block/Town Hall.

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

RESOLUTION #110 ACCEPT THE PROPOSAL FROM GEO-GRAF

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

RESOLVE to accept the proposal from Geo-Graf, Geophysical Investigations at a cost not to exceed \$4,500.00 to plot out the South Avon and Pole Bridge Cemeteries.

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

DISCUSSION – ATTORNEY REPORT

Attorney Campbell reported on the following:

The following Proposed Local Law was provided to begin the ten day requirement to allow the Board to review.

T-3A-2012
LOCAL LAW NO. T OF THE YEAR 2012

OF THE TOWN OF AVON

RECEIVED

JUN 14 2012

SHARON M. KNIGHT
TOWN CLERK / TAX COLLECTOR

A local law to amend the boundaries of a certain zoning district currently known as General Business District (B1) within the Town of Avon, Livingston County, New York, changing such certain specified area to One Family Residential District (R1).

Be it enacted by the Town Board of the Town of Avon as follows:

SECTION 1. TITLE AND SCOPE

This local law shall be known as "A LOCAL LAW TO AMEND THE BOUNDARIES OF THE GEBERAL BUSINESS DISTRICT AND EXTEND THE BOUNDARIES OF THE ONE FAMILY RESIDENTIAL ZONING DISTRICT OF THE TOWN OF AVON, LIVINGSTON COUNTY, NEW YORK."

SECTION 2. PURPOSE.

The purpose of this local law is to modify the boundaries of a certain zoning district currently known as General Business District within the Town, changing such certain specified area to One Family Residential District.

SECTION 3. LOCATION OF MODIFIED ZONING DESIGNATION.

That portion of the existing General Business District located along the north side of NYS Routes 5 & 20, east of its intersection with the easterly line of NYS Route 15, in the Town of Avon, New York, encompassing in its entirety an approximately 67' x 243' parcel known as Tax Identifier Map Parcel Number 35.10-1-4, shall be reclassified to One Family Residential District (R1), and the official Zoning Map of the Town of Avon shall be amended to reflect such reclassification (although not contemporaneously with the adoption of this Local Law).

SECTION 4. EFFECTIVE DATE.

This local law shall be effective immediately upon its filing with the Office of the Secretary of State.

DISCUSSION – ATTORNEY REPORT -continued

The LAL Railroad is having towers built on their property without notification to the Town of Avon. Although they have the right to install towers, there could be future problems if they were to fall onto property not owned by the railroad. A request was made that they simply notify the town as a courtesy and good neighbor, but the request was not received well and notification is not expected.

There was as a lengthy discussion on items to be included in the negotiations with Royal Spring Developer Mr. Kolokouris. A draft letter will be provided to the Board prior to mailing.

DISCUSSION – ENGINEER REPORT

Engineer Rock reported on the forward movement on the installation of a new culvert on North Littleville Road. Bid documents will be prepared for Board consideration at the next meeting. A time line was discussed including the possibility of hiring Mr. Morsch to dig foundations and not completing the project before school begins this fall.

DISCUSSION – HIGHWAY REPORT

Highway Superintendent Crye provided the following report:

The Department has maintained the park and cemeteries, mowed roadsides, trimmed guardrails, cleaned up down trees from wind, worked for County hauling stone and mowing, oiled and stoned Pole Bridge Road, the Royal Springs entrance and spots of Sutton, Marshall and Dutch Hollow Roads, 250 feet of pipe on Darby for Kramer, Vonglis, Bailey and covered with top soil, ditched South Avon where water line went in, fixed wall at Paper Mill Park and strengthened fence, maintained trucks and equipment and kept shop clean and picked up, and put up some new signs.

RESOLUTION #111 FLOATING HOLIDAYS

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

RESOLVE to accept the recommendation of the Highway Department and Town Clerk to schedule the floating holidays on July 5th and October 8th for the year 2012.

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

DISCUSSION – CODE ENFORCEMENT REPORT

Code Enforcement Officer Cappello reported on the following:

A home on Pole Bridge Road and property in East Avon will be sent notifications as their lawns are over the maximum limit and need mowing. After notification is made a \$250.00 per day fine can be forced.

DISCUSSION – TOWN CLERK REPORT

Town Clerk Knight reported interviews were offered to all applicants that turned in their applications on time. To allow for a two week notice of applicants that are current employment the Board agreed to allow the start date to begin prior to Board approval. Three days of train was approved for the new Clerk, two for Deputy Town Clerk Mary Rizzo and one day for Deputy Town Clerk Stephanie Schweitzer. Supervisor LeFeber requested Town Clerk Knight to make contact with each Board Member prior to the appointment, to allow for sharing of the Board Member's knowledge that might be unknown to the Clerk.

Town Clerk Knight reported on the mold that was found in the basement bank vault. Further information will be provided as it was just discovered. It was determined by the Board that there is no air circulation in that area.

RESOLUTION #112 ACCEPT THE RESIGNATION OF DEPUTY TOWN CLERK MARY RIZZO

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

RESOLVE to accept the resignation of Deputy Town Clerk Mary Rizzo effective June 30, 2012, with appreciation of her service to the Town for twelve years.

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

RESOLUTION #113 ACCEPT THE PROPOSAL TO PURCHASE MAILBOXES

On motion of Councilman Ayers, seconded by Supervisor LeFeber the following resolution was ADOPTED AYES 3 NAYS 1 (Councilman Blye) ABSENT 1 (Deputy Supervisor Mairs)

RESOLVE to accept the proposal to purchase mailboxes as quoted by "*The Mailbox Works*" in the amount of \$1,882.00.

Vote of the Board: Councilman Ayers - Aye, Councilman Steen- Aye, Councilman Blye – Nay, Deputy Supervisor Mairs - Absent, Supervisor LeFeber – Aye

RESOLUTION #114 APPROVAL OF MINUTES

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

RESOLVE to approve the minutes of May 24, 2012 as presented.

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

RESOLUTION #115 PAYMENT OF BILLS

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

RESOLVE to accept for payment Abstract 2012-11 in the following amounts:

Concerning ABSTRACT of Claims Number 2012-11 including claims as follows:

General Fund	Voucher #219 through #250 in amounts totaling \$18,067.28
Highway Fund	Voucher #87 through #100 in amounts totaling \$7,207.48
Water Fund	Voucher#65 through #74 in amounts totaling \$2,552.26
Cemetery Fund	No Voucher
Opera Block Capital Improvement	No Voucher
Royal Springs Lighting	Voucher #6 through #6 in amounts totaling \$938.37
Cross Roads Drainage District	No Voucher
Bruckel Drainage District	No Voucher
Royal Springs Drainage	No Voucher
Town Of Avon Fire Protection	No Voucher
Rte 39 Water SW2	No Voucher

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

RESOLUTION #116 DESIGNATING OFFICIAL BANKS

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

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Deputy Supervisor Mairs)

WHEREAS, section 64 of New York State Town Law provides that the town board shall designate the official bank of the town, now, therefore, be it

RESOLUTION #116 DESIGNATING OFFICIAL BANKS-continued

RESOLVED, that the Avon Town Board does hereby amend resolution #4 adopted January 2, 2012 as follows to designate the following banking institutions as the official banks of the Town of Avon for the year 2012.

Bank of Castile, Community, and Five Star Bank

Vote of the Board: Councilman Ayers - Aye, Councilman Steen- Aye, Councilman Blye - Aye, Councilman Mairs - Absent, Supervisor LeFeber – Aye

DISCUSSION – PUBLIC COMMENTS

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

DISCUSSION – SUPERVISOR REPORT

Supervisor LeFeber reported on the following:

A quote to purchase a new generator for the Highway Department is being sought.

On motion of Supervisor LeFeber, seconded by Councilman Blye, the meeting adjourned at 10:36 P.M.

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