

A Regular Meeting of the Town of Avon was held on Thursday, June 28, 2012 at 7:00 P.M. at the Avon Opera Block/Town Hall with the following members present:

PRESENT: Supervisor David LeFeber, Deputy Supervisor Thomas Mairs, Councilmen Robert Ayers, Jim Blye and Richard Steen

OTHERS: Town Engineer Timothy Rock, Highway Superintendent Thomas Crye, Water Superintendent Daniel McKeown, Recreation Director Kimberly McDowell, Code Enforcement Officer Anthony Cappello, and Town Clerk Sharon Knight, CMC/RMC

VISITORS: Clara Mulligan, Holly Watson, Joyce Faville, Marla Palmiter, Paul Swartz, Pat Moran, Ann Jenson, Michael Froome, Michael Orr, Jeff Witherow, Jo Beth Bellanca, Jennifer Morsch, Julie Maurer, Matt Maurer, Mary Donegan, Seams Donegan, Kathy Barry, Mark Morrow, Debbie Morrow, Carolee Powers, Robert Power, Marge Vahue, Cindy Zhe, Jeanna Ruter, Robert Wend, Jeff Mulligan, Lesa Sobolewski, John Smith, Blank Morrow, Jordan Kleiman, Richard Sisson, Marty Jopson, and Wendy Sisson

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

Pledge of Allegiance

### **DISCUSSION – PUBLIC HEARING**

Supervisor LeFeber stated that a Public Hearing on Local Law T-5A-2012 remains open and asked for continued comments from the public. The following provided testimony:

Judy Falzoi, 1739 Athena - Support  
Pat Moran – 4104 Hogmire Road, Support  
Clara Mulligan, 5325 Barber Road, Support  
Michael Faville 5183 Triphammer Road, Support  
Carol Powers, Rush resident, Support  
Mathew Mauer, 2107 North Littleville Road, Support  
Kathy Barsz, 440 Wadsworth Avenue, Support  
Jeff Mulligan 5403 Barber Road, Support  
Michael Froome, 23 Fisk Place, Support  
Wendy Sisson 2505 Avon-Geneseo Road, Support  
Jo Beth Bellanca, 1123 Oak Openings Road, Support  
Bob Wied – Consultant to Lenape Resources, Inc., Against  
Ms. Batz - North Avon Road, Support  
Richard Sisson – 2505 Avon-Geneseo Road, Support  
Mark Morrow - 200 Temple Street, Support.  
Rush Co-Founder. Main author of the letter you received at the last meeting.  
Ann Jenson – 2056 Sacket Road, Support  
Julie Mauer (Orman) - 2107 North Littleville Road, Support  
Mike Orr, Town of Conesus, Support  
Debbie Morrow 200 Temple Street, Support

**RESOLUTION #117 CLOSE PUBLIC HEARING T-5A-2012**

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

ADOPTED AYES 5 NAYS 0

RESOLVE that the Public Hearing for Local Law T-5A-2012 be closed as all testimony has been received.

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

**DISCUSSION – PUBLIC HEARING**

Supervisor LeFeber stated that all testimony from the public has been received and he asked if Board Members would like to share ideas and a portion of those ideas follow:

Councilman Mairs – First talked about it in March that he was in favor of the moratorium, found out there are wells here in the Town of Avon, he is in support of those wells. He has received a lot of e-mails, phone calls and meeting with people. He supports a moratorium to begin March 2011 to March 2012.

Councilman Blye – Has served the Board for six years, and does not make decisions based on the next election, his decisions are based on what is best for the majority of constituents, many people have shared their testimony at the public meeting in favor, fourteen towns within Livingston County have adopted. He is in favor of a one year moratorium but makes no promises for decisions after the year expires.

Councilman Steen – He has visited sites in Pennsylvania, has many articles, information provided by the Association of Town, has not seen enough to support the moratorium, would be willing to vote for one year, if he received assurance from the Attorney, that it would not put a hardship on Lenape as they need to be protected as they are selling gas to the Town of Avon and this moratorium could be opened up again in the future.

Councilman Ayers – Has had past experience working with Lenape, they played a major role in keeping Kraft in the Village of Avon when Kraft was considering relocating, he was not in support of the first moratorium that was written and presented to the Board as it would have put Lenape out of business, we have continued to talk about this since January and we should just let it be and allow New York State Department of Conservation continue to oversee, there is no reason to drill for gas at this time, and this new technology is causing concerns as did cell phone tower that were going to clutter the skyline and now we all have cell phones. Wind mills have provided a tax base to some communities that were really in need. It recommended that we do not open our doors for a law suit.

Supervisor LeFeber supports the one year moratorium, he is confident in the work of the Attorney in his preparation of a defensible document, he has trust in his judgment, it will not hurt

**DISCUSSION – PUBLIC HEARING-continued**

Lenape, a lot of people support the moratorium and they have provided a lot of time and effort to share information to the Board, we have volunteers that are interested in servicing on a committee, he is considering the right of not only to have landowners to choose but to protect the health, safety and the overall wellbeing of the residents and neighboring communities. The committee will be considering ways to protect the Town roads, noise ordinance and it's believed a lot of good could come out of the process. The Board takes on this responsibility and he will continue to support for a one year period.

Attorney Campbell stated that the Board is considering the third version of this document and all have been provided for review to Mr. John Holko as the Board was interested in providing a local law that would not hurt Lenape Resources. He cannot guarantee or provide assurance what the future will be as this is all a new area. The Town of Avon might be faced with a law suit but it's only speculation. He will continue to give advice to the Board.

**RESOLUTION #118 SEQR NEGATIVE DECLARATION**

On motion of Supervisor LeFeber, seconded by Councilman Blye the following resolution was ADOPTED AYES 3 NAYS 2 (Councilman Ayers, Councilman Steen)

RESOLVE to make a negative declaration as a Type II.

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

**RESOLUTION #119 ACCEPT LOCAL LAW 2-2012**

On motion of Councilman Blye, seconded by Supervisor LeFeber the following resolution was ADOPTED AYES 3 NAYS 2 (Councilman Ayers, Councilman Steen)

RESOLVE to accept Local Law 2-2012 as follows:

## **TOWN OF AVON LOCAL LAW NO. 2 OF 2012**

A local law to institute a Moratorium and Prohibition within the Town of Avon, Livingston County, New York (hereinafter “Town”), of Natural Gas and Petroleum Exploration and Extraction Activities, Underground Storage of Natural Gas, and Disposal of Natural Gas or Petroleum Extraction, Exploration and Production Wastes.

BE IT ENACTED by the Town Board of the Town of Avon, Livingston County, New York, as follows:

### **Section 1. Title**

This Local Law shall be known as the “Moratorium on and Prohibition of Gas and Petroleum Exploration and Extraction Activities, Underground Storage of Natural Gas, and Disposal of Natural Gas or Petroleum Extraction, Exploration and Production Wastes.”

### **Section 2. Authority and Intent; Findings; Purpose**

- A. Authority and Intent – This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Avon under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1)(i); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and (b); Statute of Local Governments §10(1), (6), and (7); Town Law § 64 (17-a), (20-b), and (23); Town Law § 130(5), (6), (7), (8), (11), (14), (15), and (23); Town Law §135; Town Law Article 16 (Zoning & Planning) inclusive; Environmental Conservation Law § 17-1101, §27-0711; and New York State Law, Public Health Law § 228 (2), and (3).

This Law is a police power and land use regulation. This Law is intended and is hereby declared to address matters of local concern, and it is declared that it is not the intention of the Town to address matters of statewide concern. This Local Law is intended to act as and is hereby declared to exercise the permissive “incidental control” of a zoning law and land use law that is concerned with the broad area of land use planning and the physical use of land and property within the Town, including the physical externalities associated with certain land uses, such as negative impacts on roadways and traffic congestion and other deleterious impacts on a community.

- B. Findings of Fact - The Town makes the following Findings of Fact relating to this Local Law:

1. Avon is a community in the northern part of Livingston County that takes great pride in and assigns great value to its rural residential character, small-town atmosphere, fine agricultural lands, and cultural, recreational, scenic and other natural resources. Avon attracts a significant number of yearly visitors. Avon seeks to attract even more visitors, and that strategy has the potential to be a significant economic development driver, provided that Avon protects its scenic and other natural resources and does not instead devote its open space to industrial-scale gas extraction drilling and associated large-scale industrial activities.
2. Many residents are dependent upon aquifers and wells for life-sustaining water; maintaining the quality of water resources within the Town is critical to protecting the natural environment of the Town, the general health and welfare of Town residents, and the local economy.
3. Preservation of the Town's irreplaceable recreational and scenic sites, high-quality agricultural land, air quality and water quality, and priceless and unique character, is of significant value to the inhabitants of the Town and to the people who visit here.
4. The Town's rich natural environment is a valuable asset that creates a sense of identity and well-being for residents of the area. Preserving and protecting the scenic, recreational, and other natural resources of the Town is important for both a healthy environment and vibrant economy. Aesthetic issues are real and evoke strong reactions from people. They deeply affect the way people feel about a place – whether or not businesses will want to locate, or people will want to live in and visit a place.
5. Allowing the activities prohibited by Section 4. of the Local Law without first obtaining more education and information may impair the existing character of the Town, because by their nature, such activities may have the potential to produce a combination of negative impacts upon the environment and people living in or in proximity to the communities in which they are located. Such negative impacts may include, without limitation, traffic, noise, vibrations, fumes, damage to roadways, degradation of water quality, degradation of air quality, decreased availability of affordable housing, damage to and loss of agricultural lands and soils, damage to and loss of open space, natural areas, and scenic views, decreased recreational opportunities, and damage to the tourism industries.

6. If one or more of the activities prohibited by Section 4. of the Local Law are conducted within the Town, traffic generated thereby may be hazardous or inconvenient to the inhabitants of the Town and may be dangerous to pedestrians (especially children), cyclists, and motorists, and could result in traffic congestion that could delay emergency response times for medical emergencies, fires and accidents. Roads are a critical public resource and constitute a major investment of the public's money. The Town is not in a position to bear the potential high costs associated with the possible road use impacts that accompany many of the activities prohibited by Section 4. of the Local Law. Accidents involving heavy trucks have greater potential for death than those involving smaller vehicles. Increased truck traffic increases air pollution and noise levels, and decreases the quality of life and property values for those living nearby.
7. If one or more of the activities prohibited by Section 4. of the Local Law are conducted within the Town, the air pollution, dust and odors generated thereby (whether onsite or by truck traffic to and from the proposed site of such activities) may be hazardous or inconvenient to the inhabitants of the Town. Air pollution is a known hazard to the public health.
8. Allowing one or more of the activities prohibited by Section 4. of the Local Law to be conducted within the Town may negatively impact the quality of water resources within the Town. Water pollution is hazardous to the public health. If a domestic water source is contaminated, remediation may be time and cost intensive, and may not restore the water resource to a quality acceptable for domestic use.
9. If one or more of the activities prohibited by Section 4. of the Local Law are conducted within the Town, noise, vibrations, and light pollution typically caused by such Activities may be hazardous or inconvenient to the inhabitants of the Town. Noise, traffic congestion, nighttime lighting, and vibration may have negative effects on human health and negatively impact wildlife.
10. The creation, generation, keeping, storage or disposal of Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes (as that term is defined at Section 3. of the Local Law) within the Town, may have a negative impact on the public health, safety and welfare of the inhabitants of the Town.
11. The high costs associated with the disposal of Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes (as that term is defined at Section 3. of the Local Law) in our Town, could result in persons seeking to avoid such costs by depositing such material along

roadways, in vacant lots, on business sites, in the private dumpsters of others, or in other unauthorized places. Such activities could pose a hazard to the public health, safety, and welfare of the inhabitants of the Town.

12. The explicit proscription of the activities prohibited by Section 4. of the Local Law is a legitimate goal of land use laws. There is no question that exclusion of specified industrial activities is a legitimate goal of such laws:

As the United States Supreme Court stated in *Town of Belle Terre v. Borass*, 416 U.S. 1 (1974):

*the concept of public welfare is broad and inclusive... The values that it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the [local] legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled. 416 U.S. at 6.*

And see also *Matter of Gernatt Asphalt Products, Inc. v. Town of Sardinia*, 87 N.Y. 2d 668 (1996), where the Court of Appeals, New York State's highest court, evaluated a claim that a town's prohibition of mining throughout the town was in effect unconstitutional 'exclusionary zoning' and held as follows:

*We have never held, however, that the ... ['exclusionary zoning'] test, which is intended to prevent a municipality from improperly using the zoning power to keep people out, also applies to prevent the exclusion of industrial uses. **A municipality is not obliged to permit the exploitation of any and all natural resources within the town as a permitted use if limiting that use is a reasonable exercise of its police power to prevent damage to the rights of others and to promote the interests of the community as a whole.** 87 N.Y. 2d at 683, 684. (emphasis added.)*

- C. Purpose - The purpose of the Local Law is to enable the Town of Avon to stay the construction, operation, and establishment of, and the submission and processing of applications for permits, zoning permits, special use permits, zoning variances, building permits, operating permits, site plan approvals, subdivision approvals, certificates of occupancy, certificates of compliance, temporary

certificates, and other Town-level approvals relating to the activities prohibited by Section 4. of the Local Law, for a reasonable time, so as to allow the Town time to study the impacts, effects, and possible controls over such activities and to consider amendments to the Town's zoning laws to appropriately address the same within the proper confines of New York State law. The Town Board finds that a moratorium of twelve (12) months duration, coupled with a mechanism for an 'unnecessary hardship' variance procedure, will achieve an appropriate balancing of interests between (on the one hand) the public need to safeguard the character and other resources of the Town of Avon and the health, safety and general welfare of its residents, and the rights of individual property owners or businesses desiring to conduct such activities (on the other) during such period.

### **Section 3. Definitions**

For purposes of this Local Law, the following terms shall have the meanings respectively set forth below:

**Agriculture Use** - Land used for the production of crops and/or livestock and livestock products (as those terms are defined at Section 301 of the New York State Agriculture and Markets Law).

**Below-Regulatory Concern** – Radioactive material in a quantity or of a level that is distinguishable from background (as that phrase is defined at 10 CFR §20.1003), but which is below the regulation threshold established by any regulatory agency otherwise having jurisdiction over such material in the Town.

**Gathering Line, Or Production Line** - Any system of pipelines (and other equipment such as drip stations, vent stations, pigging facilities, valve box, transfer pump station, measuring and regulating equipment, yard and station piping, and cathodic protection equipment), used to move oil, gas, or liquids from a point of production, treatment facility or storage area to a transmission line, which is exempt from the Federal Energy Regulatory Commission's jurisdiction under section 1(b) of the Natural Gas Act, and which does not meet the definition of a "Major utility transmission facility" under the Public Service Law of New York, Article 7, §120(2)(b).

**High Volume Hydraulic Fracturing** – The stimulation of a vertical or horizontal well using 300,000 gallons or more of water as the primary carrier fluid in the Hydraulic Fracturing Fluid used in the process of Hydraulic Fracturing.

**Horizontal Drilling** – The process of drilling a well from the surface to a subsurface location just above the target gas or oil reservoir, then deviating the well bore from the vertical plane around a curve to intersect the reservoir at the an entry point with a near-horizontal inclination, and remaining within the reservoir until the desired bottom hole location is reached.

**Hydraulic Fracturing** – The process of pumping Hydraulic Fracturing Fluid down a wellbore (either vertical or horizontal) under high pressure, causing fractures in the gas bearing rock formation. Components of the Hydraulic Fracturing Fluid prop or hold open the fractures newly created, allowing the gas or oil to be extracted

**Hydraulic Fracturing Fluid** – The fluid used to perform hydraulic fracturing and includes the primary carrier fluid and any applicable additives.

**Injection Well** – A bored, drilled or driven shaft whose depth is greater than the largest surface dimension, or a dug hole whose depth is greater than the largest surface dimension, through which fluids (which may or may not include semi-solids) are injected into the subsurface and ninety (90) percent or more of such fluids do not return to the surface within a period of ninety (90) days. The definition of Injection Well does not include: (a) single family septic systems that receive solely residential waste; (b) drainage wells used to drain surface fluids, primarily storm runoff, into the ground; (c) geothermal wells associated with the recovery of geothermal energy for heating or production of electric power; or (d) bore holes drilled to produce water to be used as such.

**Land Application Facility** – A site where any Natural Gas Exploration and/or Petroleum Production Wastes are applied to the soil surface or injected into the upper layer of the soil.

**Natural Gas** – Methane and any gaseous substance, either combustible or non-combustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

**Natural Gas and/or Petroleum Exploration Activities** – Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons including prospecting, geophysical and geologic seismic surveying and sampling techniques, *but only to the extent* that such activities involve or employ core, rotary, or any other type of drilling or otherwise making any penetration or excavation of any land or water surface (including but not limited to the use of High Volume Hydraulic Fracturing and/or Horizontal Drilling) in the search for and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

**Natural Gas and/or Petroleum Extraction Activities** – The digging or drilling of a well (including but not limited to the use of High Volume Hydraulic Fracturing and/or Horizontal Drilling) for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons.

**Natural Gas and/or Petroleum Extraction, Exploration or Production Wastes** – Any of the following in any form, and *whether or not* such items have been excepted or exempted from the coverage of any federal or state environmental protection laws, or have been excepted from statutory or regulatory definitions of “industrial waste,” “hazardous,” or “toxic,” and whether or not such substances are generally characterized as waste: (a) below-regulatory

concern radioactive material, or any radioactive material which is not below-regulatory concern, 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 CO<sub>2</sub> 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 Avon, 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 Avon, for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Town of Avon, 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 Avon 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 Avon.
- E. Under no circumstances shall the failure of the Town Board of the Town of Avon, the Zoning Board of Appeals of the Town of Avon, the Planning Board of the Town of Avon, or the Code Enforcement Officer for the Town of Avon 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 Avon 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 Avon 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 Avon 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 supercede: (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 Avon; and (d) any inconsistent provisions of any and all other local ordinances, local laws or local resolutions of the Town of Avon.

**Section 11. Effective Date.**

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

**RESOLUTION #119 ACCEPT LOCAL LAW 2-2012-continued**

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

**DISCUSSION – LOCAL LAW 2-2012**

Supervisor LeFeber stated that this is just the beginning of starting an involved process to determine what is in the best interest of the Town of Avon. The adoption of the moratorium gives us a chance to educate ourselves about the industry and the possible effects on our community. We must show consistent good solid work, as this time period is to discover where we are and where we need to be. Check lists should be used and a report should be provided at each Town Board Meeting for documentation into the official minutes. Supervisor LeFeber suggested the update of our Comprehensive Plan be considered as a part of this committee.

**DISCUSSION – OPEN PUBLIC HEARING TENTATIVE 2012 SPECIAL ASSESSMENT ROLL**

Supervisor LeFeber read the public hearing at 8:18PM as follows:

**TOWN OF AVON  
LEGAL NOTICE  
NOTICE OF PUBLIC HEARING**

The tentative 2012 special assessment roll (to be used for the 2013 tax bills) of the Route #39 Water Extension, Royal Springs Subdivision Lighting and the Bruckel Drainage Districts has been completed and is on file at the Avon Town Clerk's Office, 23 Genesee Street, Avon, New York 14414 for review during regular business hours. The special assessment rolls indicate how many units you will be charged for water extension, drainage and/or lighting on your property tax bill for 2013.

The Avon Town Board will hold a public hearing for owners of property located within the above-described districts on Thursday, June 28, 2012 at 7:15 P.M. in the Avon Town Hall/Opera Block, 23 Genesee Street, Avon, New York 14414 to hear objections to the special assessment roll.

Sharon M. Knight CMC/RMC, Avon Town Clerk  
Dated: May 16, 2012  
To be published: June 6, 2012

**DISCUSSION – VISITOR JOYCE FAVILLE**

Visitor Joyce Faville addressed the Board as a follow-up to her request to allow her ten year old son to participate in Summer Recreation. He is entering seventh grade this fall. Supervisor LeFeber stated he agreed to meet with her at the next Recreation Board meeting, but that would not happen until August and the summer programs would be over. Youth Recreation Board Member and Director of the Summer Recreation Program Kim McDowell shared the Youth Board's responses to the request and they are more than happy to discuss at a future meeting. Director McDowell reported that there are 278 children participating in the summer recreation program. Non-residents can participate in the swimming program and there are 300 children sign-up.

**DISCUSSION – VISITOR MARTIN JOBSON**

Code Enforcement Officer Cappello discussed the following letter that he received from the Planning Board Chairman that follows:

# Town of Avon

23 Genesee Street

Avon, New York 14414

Phone: (585) 226-2425

Fax: (585) 226-9299

Web Site: [www.avon-ny.org](http://www.avon-ny.org)

David LeFeber, Supervisor  
James Blye, Councilman  
Robert Ayers, Councilman  
Daniel McKeown, Water Superintendent  
Anthony Cappello, Code Enforcement Officer

Thomas Mairs, Deputy Supervisor  
Richard Steen, Councilman  
Maureen Kingston, Historian  
Thomas Crye, Highway Superintendent  
Sharon M. Knight, RMC/CMC Town Clerk

June 19, 2012

Anthony Cappello  
Zoning Enforcement Officer  
23 Genesee Street  
Avon, New York 14414

RECEIVED

JUN 25 2012

SHARON M. KNIGHT  
TOWN CLERK / TAX COLLECTOR

Re: White Horse Auto Sales  
5574 Avon-East Avon Road, Avon

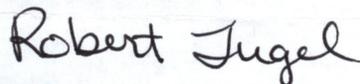
Dear Mr. Cappello:

On June 5, 2012, the Town of Avon Planning Board discussed the parking lot addition and driveway recently built at White Horse Auto Sales owned by Mr. Richard Jopson. This development is in violation of Avon Code §130-39, A (3) which states, "No nonconforming use may be expanded."

The Planning Board has determined this action requires site plan review and special permit subject to §130-35 B (i) Motor Vehicle Sales.

Please notify Mr. Jopson of these requirements in a timely manner so he may be scheduled on the next available agenda of the Planning Board.

Sincerely,



Robert Tugel /js  
Planning Board Chairman

cc: David LeFeber

**DISCUSSION – VISITOR MARTIN JOBSON-continued**

The business has not been expanded. There was a removal of grass that had been there for more than twenty-five years. A back entrance to the driveway was re-established. Selling of cars has not changed. The New York State Department of Transportation was contacted and they were pleased that the back entrance was in fact re-established.

Attorney Campbell stated that this determination is the responsibility of the Code Enforcement Officer and anyone that does not like the view they can have a ruling of the Zoning Board of Appeals.

Visitor Jobson shared photos of cars and trucks that have been parked there in the past and they follow:

**RESOLUTION #120 CLOSE THE PUBLIC HEARING**

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

ADOPTED AYES 5 NAYS 0

RESOLVE to close Public Hearing of the tentative 2012 special assessment roll of the Route #39 Water Extension, Royal Springs Subdivision Lighting and the Bruckel Drainage District.

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

**DISCUSSION – ATTORNEY REPORT**

Attorney Campbell reported on the following:

A draft letter regarding Royal Springs was reviewed by the Board.

Work continues on moving forward with annexation of property into the Village.

A third subdivision of property owned by John Halpin was filed on June 6<sup>th</sup> without Town approval.

**DISCUSSION – HIGHWAY REPORT**

Highway Superintendent Crye reported on the following work being conducted over the last two weeks:

Finished shaping up South Avon waterlines, mowed roadsides, worked for County on the Simpson Road Bridge, hauled dirt away from St. Agnes Cemetery for Steve Stevenson with the Village, installed a couple of new Town of Avon Signs, painted fuel-gas and containment tanks, and mowed and trimmed parks and cemeteries. Slow down signs were placed in the Royal Spring Development.

**DISCUSSION – WATER REPORT**

Water Superintendent McKeown reported on the following work completed within the last two weeks:

A water leak was repaired but a plan is needed to fix future problems. If the leak were to happen under Route #390, within one day or so customers on the East side of town would be without water. Asking the State for approval to drill under Route #390 will be presented by Engineer Rock. Another option is to provide water to customers on Bronson Hill Road.

The computer was moved to the pump house and the system is working fine. There must have been something in the loop to the Highway Barns as the wireless connection works at the pump station if it's plugged in to an outlet.

**DISCUSSION – ENGINEER REPORT**

Town Engineer Rock reported on the North Littleville Road culvert, it was suggested to advertise to open the bids on July 12<sup>th</sup> at 11:30 A.M. The project cost is a little under \$300,000.00 and is projected to be finished the last week in August.

**RESOLUTION #121 AUTHORIZE TOWN CLERK TO ADVERTISE BID- NORTH LITTLEVILLE ROAD CULVERT**

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

ADOPTED AYES 5 NAYS 0

RESOLVE to authorize the Town Clerk to advertise the legal notice as follows:

TOWN OF AVON  
DOCUMENT 00020  
NOTICE TO BIDDERS

Notice is hereby given, that sealed proposals are sought and requested for contract for:

CONTRACT FOR THE FURNISHING AND SETTING THE  
PRECAST CONCRETE ARCH  
FOR THE  
NORTH LITTLEVILLE ROAD CULVERT  
IN THE  
TOWN OF AVON, LIVINGSTON COUNTY, NEW YORK

to be let by the Town of Avon, Livingston County, New York, according to the plans and specifications prepared by Larsen Engineers.

The sealed proposals will be received in the Town Clerk's Office for the Town of Avon at 23 Genesee Street, Avon, New York 14414 on the 12th day of July 2012 at 11:30 am prevailing time, at which time and place they will be publicly opened and read.

**RESOLUTION #121 AUTHORIZE TOWN CLERK TO ADVERTISE BID- NORTH LITTLEVILLE ROAD CULVERT-continued**

Copies of the Contract Documents, including drawings and technical specifications may be obtained from the office of Larsen Engineers/Architects, 700 West Metro Park, Rochester NY, 14623.

Copies of the Contract Documents may be examined free of charge at the office of Larsen Engineers, 700 West Metro Park, Rochester, New York 14623 or at the Town of Avon, 23 Genesee Street, Avon, New York 14414.

BIDDERS ON THIS WORK WILL BE REQUIRED TO COMPLY WITH THE PRESIDENT'S EXECUTIVE ORDER NOS. 11248 AND 11375 WHICH PROHIBIT DISCRIMINATION IN EMPLOYMENT REGARDING RACE, CREED, COLOR, SEX OR NATIONAL ORIGIN.

The successful bidder must be an equal opportunity employer, must meet all appropriate Federal standards, and comply with all relevant Federal regulations.

No bidder may withdraw his bid for a period of forty-five (45) days after the date set forth for the opening thereof, and may not withdraw it at any time prior to the opening of bids, except in accordance with the Information for Bidders (Document 00100).

The Town of Avon is exempt under Section 1116 of the Tax Law, and, therefore, no sales tax shall be included in the bid.

No bids shall be accepted from, or any contract awarded to any person or corporation who is in arrears to the Town of Avon upon any debt of contract, or is a defaulter as otherwise upon obligation to the Town of Avon.

The Town of Avon also reserves the right to waive any informality in or to reject any and all bids.

By order of the Town of Avon, Livingston County, New York

Sharon Knight CMC/RMC Town Clerk

23 Genesee Street  
Avon, New York 14414

Date: June 29, 2012  
Publish July 5, 2012

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

**DISCUSSION - NORTH LITTLEVILLE ROAD CULVERT**

On July 23<sup>rd</sup> Steve Morsch will work with the Highway Department overseeing the project. Notification to the public will include advertisement in the Penny Saver, signs on each side of the road, and notification to all the emergency offices. If the project is delayed and it is not going to be open before school than you would need to notify the school. Working with Mr. Lee to process all of the easement documents needs to happen prior to beginning.

**DISCUSSION – CODE DEPARTMENT**

Code Enforcement Cappello provided the following report:

The plans for rebuilding property destroyed by fire and owned by Ms. White are expected to be received in the near future.

The bank continues to own property at 2160 Pole Bridge Road and it continues to be empty and the grass is high and needs to be cut. The bank owns the property and they are not responding to the request to cut the lawn.

The Potter home at 2324 Pole Bridge Road is being rebuilt also from a fire and is looking good.

**DISCUSSION – TOWN CLERK REPORT**

Town Clerk Knight reported on the following:

The Town of Caledonia adopted a Local Law regarding the moratorium.

Second interviews were conducted and an executive session is requested for further discussion on the appointment.

A thank you was extended to the Board for providing a lovely reception for Deputy Town Clerk Mary Rizzo's retirement open house. Deputy Town Clerk Rizzo provided a card and a tray of cookies for the Board for her gratitude.

**DISCUSSION – NEW EMPLOYEE HANDBOOK**

There was discussion on a voucher requesting payment for unused sick day. The new handbook only allows carrying over ten days per year, thus payment is being requested for the unused 11 days.

**RESOLUTION #122 PAYMENTS OF BILLS**

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

**Concerning ABSTRACT of Claims Number 2012-12 including claims as follows:**

<b>General Fund</b>	Voucher #251 through #276 in amounts totaling \$5,771.42
<b>Highway Fund</b>	Voucher #101 through #110 in amounts totaling \$32,178.38
<b>Water Fund</b>	Voucher#75 through #79 in amounts totaling \$3,150.98
<b>Cemetery Fund</b>	No Voucher
<b>Opera Block Capital Improvement</b>	No Voucher

**RESOLUTION #122 PAYMENTS OF BILLS-continued**

<b>Cross Roads Drainage District</b>	No Voucher
<b>Bruckel Drainage District</b>	No Voucher
<b>Royal Springs Lighting</b>	No Voucher
<b>Royal Springs Drainage</b>	No Voucher
<b>Town Of Avon Fire Protection</b>	No Voucher
<b>Rte. 39 Water SW2</b>	No Voucher

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

**DISCUSSION – PAYMENT OF BILLS**

Supervisor LeFeber provided information and stated that Abstract #7 needs to be amended.

**RESOLUTION #123 SET PUBLIC HEARING FOR LOCAL LAW T-3A-2012**

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

ADOPTED AYES 5 NAYS 0

RESOLVE to authorize the Town Clerk to prepare and advertise a legal notice for Local Law T-3A-2012 and to notify the Livingston County Planning Board and the Town Planning Board to be held on July 26, 2012 @ 7:15 P.M.

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

**DISCUSSION – AMBULANCE**

Deputy Supervisor Mairs and Councilman Ayers provided the Board with an update of a joint meeting held with the Towns of Avon and Livonia Ambulances. There discussion included the transfer to a district ambulance that would cover the Town of Avon residents that is similar to the East Avon Fire Department providing fire protection to the Town of Avon residents. All assets would be turned over to the new district.

**DISCUSSION - SUPERVISOR'S REPORT**

Supervisor LeFeber reported on the following:

The copier in the Water Department is not working properly and the cost of fixing versus replacement was discussed. The Board appeared to be in favor of purchasing a new copier.

Notification was received that Lenape Resources will be turning off the gas at the Highway Garage. Changing the generator to a propane tank will be sought.

**DISCUSSION OPEN ITEMS**

There were no open items of the Board Members.

**DISCUSSION – PUBLIC COMMENTS**

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

**RESOLUTION #124 ENTER INTO EXECUTIVE SESSION**

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

RESOLVE to enter into executive session for the purpose of the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation. TIME 10:05 P.M. inviting Town Clerk Knight and Attorney Campbell, Councilman Ayers left the meeting at 11:06 P.M.; Councilman Blye left the meeting at 11:07 P.M.

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

**RESOLUTION #125 CLOSE EXECUTIVE SESSION**

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

ADOPTED AYES 3 NAYS 0 ABSENT 2 (Councilman Ayers & Councilman Blye)

RESOLVE that the Executive Session be closed and that this Board returns to the meeting with no action taken. Time 11:26 P.M.

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

On motion of Supervisor LeFeber, seconded by Deputy Supervisor Mairs, the meeting adjourned at 11:27 P.M.

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