

A Regular Meeting of the Town of Avon was held on Thursday, July 12, 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, James Blye and Richard Steen

OTHERS: Attorney James Campbell, Engineer Timothy Rock, Code Enforcement Officer Anthony Cappello, Water Superintendent Daniel McKeown, Highway Superintendent Thomas Crye, Zoning Board of Appeals Clerk Lisa Anderson, Clerk to the Town Justice/Deputy Town Clerk Stephanie Schweitzer, Clerk to the Town Justice/Code Enforcement Clerk Jennifer Sargeant, Assessor Tami Snyder, Clerk to the Town Justice Janis Cole, Confidential Secretary to the Supervisor/Water Clerk Mary Blye, Historian Maureen Kingston, and Town Clerk Sharon Knight, CMC/RMC

VISITORS: Bob Nilsson, Justin Nilsson, Sara Castner, Kim Stokoe, Marla Palmiter, Paul Swartz, Robert Docherty, Richard Sisson, Wendy Sisson, Liam Sisson, Clara Mulligan, Kenny Lerner, Judy Falzoi, Mike Froome, Charles Froome, Barbara Anderson, Matt Maurer, Rob Maurer, Julie Maurer, Patricia Moran, Miriam Leaner, J. Batzel, Ann Jenson, Cindy Zhe, Patricia Tuchrello, Mary Ann Thompson, Cindy Canestio, R. Thompson, Robert and Marie, Gloria Betlem, Kathryn Hollinger, Lesa Sobolewski, Carlo Williams and Joseph Tuchrello

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

Pledge of Allegiance

DISCUSSION – PUBLIC COMMENTS

Supervisor LeFeber asked for any public comments and they follow:

Mike Froome – Questioned if the Board was receiving pressure or if the Town had heard from the any lawyers.

Supervisor LeFeber – Stated that he has received loads of calls including property owners, and he has responded the best that he could.

Maureen Kingston – Questioned why Avon was singled out.

Barbara Anderson – Thanked the Board for listening to the people. One year ago January she converted to propane.

Elizabeth Welch – Reported that she lives and has a business that has been affected by the Town and Lenape. She is dismayed by how things have gone. Her parents cannot hear so they do not attend meetings. She has guests this weekend for the air show and there is no water at the Charlton Farm Inn Bed & Breakfast,

Bob Docherty – His home and business has been affected, parts of the Golf Club have been shut down. He is going to sue Lenape and other are welcomed to join him.

Judy Falzoi – provided the follow information:

1739 Athena Drive
Avon, NY 14414
July 12, 2012

RECEIVED
JUL 12 2012

SHARON M. KNIGHT
TOWN CLERK / TAX COLLECTOR

Dear Town of Avon Board Members:

Keep the Moratorium Against Hydrofracking
Written and Passed in June 2012

Mr. Holko has ceased supplying gas to lease holders, Kraft and some town facilities. You want to restore equilibrium by rescinding the moratorium or negotiating an agreement that pleases John Holko so he restores the gas.

If you do not give yourself time to plan for hydrofracking, every homeowner will have immediate consequences if Lenape uses horizontal drilling or fracking.- not just people with gas wells. Lenape under the management of John Holko has said they want to use hydrofracking. He is just waiting for the DEC and Governor Cuomo to authorize this. It is likely to happen here sooner rather than later.

Today's laws do not protect people but do protect the gas industry.

If Gov. Cuomo signs permission to hydrofrack in NYS, Mr. Holko will be able to hydrofrack the existing 5000 acres already under Lenape contract. Our town will have to let him drill without a moratorium or plan in place.

If you remove the moratorium to pacify John Holko, he will probably restart the gas that is cut off today. Immediate problem solved but back to the big problem. This Town has no plan to control gas drilling. It's like giving the town to gas companies! That's not what the people want.

When hydrofracking is approved, Lenape will be able to drill wells deeper, explore horizontally, establish pads for operations, parking, make access roads, place pipeline in anticipation of more gas extraction through underground horizontal tunnels. These numerous tunnels can extend a mile out from one vertical well and go under our homes, businesses, natural water supply, sewers, waterpipes and electricity lines...**If this Board tries to interfere, he will shut off the gas. You have no plan to deal with this. It could bankrupt Avon. You are subject to gas supply threats forever.**
(Sounds like the Middle East!)

What I Fear Now

Here is where I become worried. Of course I realize the risks to air, water, agriculture. The immediate impact on me happens when the first truck rolls in and the drilling in the underground commences. Here is why -

Homeowners Insurance!

My **homeowners insurance** is through MetLife. I suggest everyone take a close look at their insurance.

Section 1 - LOSSES WE DO NOT COVER:

- 1.B. **Pollution**, meaning loss or damage to property which results from: the discharge, dispersal, seepage, migration, release, or escape of pollutants or contaminants...
2. the discharge, dispersal, seepage, migration, release, or escape of fuel oil and other petroleum products...

Section 2 - LOSSES WE DO NOT COVER: Coverage F - Personal Liability and Coverage G - Medical Payments to Others:

- A. **item 1. Intentional Loss.** We do not cover bodily injury or property damage which is reasonably expected or intended by you or which is the result of your intentional and criminal acts or omissions.
- B. **Item 2. Pollution: D.** liability, whether or not statutorily imposed, resulting from the discharge, dispersal, release or escape of toxic chemicals and other pollutants or contaminants; fuel oil and other petroleum products.

Because of federal regulation, under the **Haliburtan Law, gas and oil companies are no longer responsible for cleaning up toxic spills.** Mr. Holko knows this. Do you? Check out your homeowners policy and see who will pay for damages. This responsibility includes landowners under contract with Lenape as well as anyone who has a horizontal shaft under their backyard or pipeline or roads - with or without an agreement with Lenape Gas and Oil. And it affects the Town. (Check insurance)

I do not have to be a "willing" participant in the gas business. I have **no insurance against any spills, toxins, or injuries whether I lease or don't.** I have all the risks. So does Avon and Livingston County. Horizontal drilling covers a lot of land not just the land under contract with gas companies. People agreeing to lease to gas companies are reaping benefits, should be aware of risks, are paid for the lease while their neighbors aren't. The Town of Avon will have costs associated with hydrofracking.

So what will I do when a spill, accident or sink hole happens? I'll seek compensation from the original landowner who leased to the gas industry. Neighbor against neighbor. Hatfield vs McCoy. Legal litigation which will take years. Mr. Holko will be in Spencerport aware his company is protected against any legal action from me and the gas will flow.

Mortgage

Looking at my **mortgage agreement**, I found a warning that if I lease or allow gas on my mortgaged property my lender can recall my mortgage as I would be in default. I must inform them first and get permission for this action. My title insurance is jeopardized. Signing a gas lease transfers rights to the property.

Section 18 of the standard mortgage prohibits transfer or sale of any portion of, or rights in, a mortgaged property without prior written consent of the lender.

Section 21 specifies that you, the borrower, will not cause or allow hazardous substances (including gas) to be stored or released on the property.

(Maria McRae, Dryden, NY)

Marketability of Property

I could sell my home to avoid risks. However, I will have to disclose information about gas lines and storage on or near my property. Banks and other lending institutions are aware of risks to home values where gas exploration occurs. Many banks and FHA are not underwriting mortgage loans for homes in these areas. So I will need a cash buyer willing to assume the risks that cause me to leave Avon. Mortgage companies sell mortgages to third party investors as mortgage securities. Third parties do not want mortgages from areas with gas industries. Banks cannot risk writing mortgages that are not marketable. So what do these lending institutes know that I don't know? Mr. Holko knows.

Compulsory Integration

I do not have to lease to Lenape or any other gas company. But my neighbor might. Money can make us blind to reality and times are tough. Lots of fields for sale. There is another nasty law favorable to gas industry that allows them to use my property as if I signed a contract with them. It is **Compulsory Integration**. This is a "taking" of land. If a gas company owns or controls 60 % of drillable land, the other 40 % becomes theirs. Homeowners are forced to allow hydrofracking of shale and all aspects of the process on their land. This is free of charge, free of taxes...**homeowners are forced to become part of the gas industry** and must choose one of three options of which one they must pay some costs upfront. (NYS Dept of Conservation, Landowner Option Guide) Surface setback requirement between gas well pad or a subsurface well bore and my property line in NYS is 100 feet. That's too close to ignore.

So, I am between a "rock and a hard place". My property is not marketable. My home value will plummet. My homeowners insurance will not cover damages from gas exploration. My mortgage lender could call in my mortgage. Title insurance problems. My rights as a landowner disappear under Compulsory Integration.

And truck traffic, noise, lights, smells 24 hours a day. I have concerns about the air, water, land stability, road strength, who pays for toxic spills, my taxes. I am afraid Avon's emergency services will be stretched thin and if I need them they will be unavailable. I am afraid of what will be left when the drilling ends and the gas flows into pipes. Where will the pipes be located? For how long?

John Holko was reported as saying he has rights to 5000 acres in Avon. He wants to use hydrofracking technology to drill many horizontal bores up to one mile long

under Avon land. He is waiting for Gov. Cuomo to sign the paper. It is not the five southern counties who will experience first the effects of this industry but our beautiful Avon too. How many truck trips will pass near my home? Will I be able to travel on Rt 5&20? Rt. 15? Rt. 36? Can I expect a seat in a restaurant? Will I be able to feel safe in my hometown? Will my auto insurance increase due to traffic conditions? Will I smell fresh air or gas fumes? Will I hear the birds or the noise of trucks and pumping machinery?

Some neighbors are already experiencing the **coersive power a gas company has with shutdown wells**. They were receiving payment checks and now they are not. How cruel and unnecessary since Avon's moratorium allows Mr. Holko and Lenape to continue doing exactly what they have been doing with vertical drilling. He wants to hydrofrack his wells free of a moratorium...free of a plan protecting our way of life. He wants to explore miles under Avon's soil and water when NYS gives the okay. Perhaps he wants to sell his leasing rights to another gas company. He can. It's all about money.

Without a moratorium there will be little the residents in Avon can do to prevent the consequences Mr. Holko claims do not exist. What I've said about my mortgage, insurance, marketability, taking of my property cannot be disputed. It is not a maybe. It will happen to everyone who owns a home.

The environmental and culture issues depend on many factors with human error and ignorance almost assured. It is happening in other states. John is aware of the problems in his industry.

To willingly give in to a threat from a gas man is **cowardly**. The people without gas have received compensation when I did not. They have been abused not by the Town Board, or anti-fracking pressure groups, or by this needed moratorium, but by John Holko. They are being used. I don't know how to do this but maybe a plea through UTUBE to solicit money to put in gas lines for them would help. Maybe neighbors in Avon can help. It is unfair...that's just a taste of Avon's future.

Board Members...stand firm. It isn't just our Moratorium you will vote on. It is all the Moratoriums in place and being written in NYS. Mr. Holko isn't giving up his rights to drill. He is "suspending operations". So many folks are going to be proud of you if you save our homes and town starting today. You need the year to wade through all the possibilities, to share knowledge with communities, to be prepared to negotiate with gas companies from strength not weakness.

Remind John that he has a responsibility to care for people who have given him rights to their property. The gas will stay under the shale during the moratorium. John is showing the true nature of gas companies. Remember.

Sincerely,
Judith A. Falzoi

THE COMBINATION OF HORIZONTAL DRILLING AND HIGH-VOLUME HYDROFRACTURING (HD/HV/HF) HAS NEVER BEEN PRACTICED IN NEW YORK STATE.

WELL TYPES

The gas well targeted for your neighborhood is not the last one you'll experience — or the largest. The Department of Environmental Conservation (DEC), New York State's permitting agency, is currently reviewing standards for horizontal drilling / high-volume hydrofracking (HD/HV/HF) in shale formations. Meanwhile, it continues to permit vertical wells. Marcellus wells planned for Chenango and Broome counties are *vertical test wells* used to sample formations and to test fracking to prepare for the giant horizontal drilling operations that will gradually fill your town. See <http://un-naturalgas.org/This%20is%20not%20your%20grandfather-1.pdf>

HOW HD/HV/HF MARCELLUS WELLS DIFFER FROM EXISTING GAS WELLS

Producing gas wells in central New York are "conventional" wells. Vertical or horizontal bores intersect existing fractures in porous sandstones and limestones. They require either no fracturing or low-volume fracturing.

Shales, on the other hand are very hard and must be fractured. The Marcellus shale is also a very thin formation, 100' to 150' thick in our area. Vertical drilling in the Marcellus therefore creates a short ~125' bore length that can be fractured. Horizontal drilling creates a ~7500' bore length that is subjected to fracturing.

For this reason, HD/HV/HF wells bring up more dangerous drill cuttings, require more hydrofracking fluids, create more wastewater, generate more air pollution, create more truck traffic and entail more risk.

See <http://un-naturalgas.org/This%20is%20not%20your%20grandfather-1.pdf>

WELL DENSITY AND SPACING

Even small leased properties may, over time, host several drilling / fracturing operations that target different gas-bearing formations. Besides Marcellus Shale wells, seven other gas-bearing underground rock formations have been drilled in Delaware, Chenango and Otsego counties. See <http://un-naturalgas.org/Spacing%20text.pdf>

DRILLING UNITS

Several Drilling Units can be established on a single leased property, and extended by Compulsory Integration (below) to include nearby unleased properties. When a gas corporation applies for a well permit, it proposes a "Drilling Unit" — a rectangular surface area that corresponds (supposedly) to the area that will be drained of gas by the drilling / fracturing operation. Each formation will have its own Drilling Unit; the size is mandated by law. See <http://un-naturalgas.org/NYS%20law%20concerning%20gas.pdf>

COMPULSORY INTEGRATION

Compulsory Integration allows the drilling corporation to take gas from properties that are not leased if they are within the Drilling Unit established when the permit is issued. The Compulsory Integration of unleased properties within the Drilling Unit is based on the gas corporation's "affirmation" that it controls 60% of the subsoil rights in that Unit. See

<http://un-naturalgas.org/Is%20your%20unleased%20property%20facing%200908181.pdf>

SETBACKS

Setback distance from the well bore varies with the target formation. Generally, setbacks are 50 to 100 feet from water bodies; 50 to 150 feet from homes, schools, nursing homes and private wells within the Drilling Unit; and 330 feet from Drilling Unit boundary lines. These figures apply to the well bore, *not the pad*, which will be anywhere from

½ acre to 5 acres in size. Through Compulsory Integration, an *unleased* property within the Drilling Unit may have a well pad within 100 feet of its residence. See

<http://un-naturalgas.org/NYS%20law%20concerning%20gas.pdf>

WATER USE AND TRUCK TRAFFIC

While the vertical Marcellus well about to be — or already — permitted in your neighborhood may require only 15 round trips by tanker trucks (each carrying 5,500 gallons of water), a **built-out HD/HV/HF Marcellus well pad with eight well bores will require about 4800 such trips**. For sandstone and limestone formations that have been drilled in our counties, each well bore has required less than 80,000 gallons for fracking. But a *single* Marcellus HD/HV/HF well requires on average 5.5 gallons of fresh water, and there will be between 6 and 12 wells per well pad.

The quantities of water required for Marcellus and Utica shale exploitation are so great that withdrawal from surface waters must be permitted by the Susquehanna River Basin Commission or the Delaware River Basin Commission. Outside of the Delaware / Susquehanna river basins, tankers can back up to any stream (on leased land or public access sites) to take water out. See

http://www.un-naturalgas.org/hydraulic_fracturing_a-z.htm#water%20consumption%20&%20disposal

WASTE (FLOWBACK) DISPOSAL

Every HD/HV/HF well creates millions of gallons of toxic waste, which is stored in plastic-lined pits — subject to leakage — until the stuff is hauled away. When each large shale gas well is hydrofracked, as many as 9 million gallons of fluid (water, sand and chemicals) are pumped into the well under very high pressure to fracture the stone and release the gas. Approximately 35% of this fluid (called “flowback”), burdened with heavy metals and radioactive substances, comes back up the well bore and is stored in a pit until it’s hauled away. If the well site is on your leased property, make sure no one punches holes in the pit liner. See

http://www.un-naturalgas.org/Fracking_Facts.pdf

Amazingly, the Department of Environmental Conservation (DEC) does not regulate these fluids that the projected wave of gas well drilling can produce. No other agency has any plan to deal with them! There are several ways the gas industry, nationally, disposes of this toxic mix:

- 4 “Treatment” in municipal sewage treatment plants by *diluting* the waste and releasing it into rivers
- 5 Mixing with wood chips and landfilling
- 6 High-pressure Injection into empty gas wells
- 7 Formation water can be spread on roads to “hold down dust” or “melt ice”

ROAD USE

The HD/HV/HF wells that will follow the test wells in your neighborhood will require about 9,000 truck trips — from preparing the site to completing the wells. The most obvious initial element of gas drilling / hydrofracking will be the size and number of trucks servicing each well. Local governments cannot prevent road damage, but some are developing local laws for road-use permitting that ensure that local taxpayers won’t foot the repair bills. Has yours? Industry-backed alternatives include revolving escrow accounts and bonds, but since these don’t involve a permit from the locality, the drillers don’t have to sign them — and the DEC will still issue them permits. See

<http://un-naturalgas.org/Rev%201%20Truckloads+to+service+a+well+pad+-+DJC.pdf>

DRILL CUTTINGS

The creation of a single vertical well bore to an average depth of 3,000 feet brings up about 54 cubic yards of rock chips, including radioactive substances and heavy metals from below, mixed with the chemicals in the drilling fluid

("mud"). Horizontal wells will produce *much* more of this material as do vertical wells, and the increase will include radioactive material (the shale). These cuttings have so far been stored in holding ponds on site, then buried there. This practice is being phased out in Pennsylvania, which is now exporting its cuttings to *NY landfills*. Do NOT accept these muds as fill. If the well site is on your leased property, make sure no one punches holes in the pit liner.

WATER POLLUTION

Pennsylvania assumes that water-well pollution within 1,000 feet of a well bore is caused by the drilling. New York does not. Thus, the individual landowner could have the expense and aggravation of dragging a polluting corporation through the courts for years to get satisfaction, even though the owner's needs are immediate.

While the state requires water testing around the drill site, it does not require fracking chemicals to be tested. Without such information, test results are far less able to demonstrate contamination. What's more, testing may give a false sense of security to the property owner since the state does not require that this testing be done in a manner that would be admissible in a court of law.

The methane that naturally occurs in some water proves that pathways already exist. Because fracking itself creates more such pathways, and since the fracking process leaves some of the fracking fluid underground, the heavier fracking chemicals left behind may eventually migrate into drinking water.

Despite statements that there are no *proven* cases of aquifer pollution from hydrofracking, there are numerous documented cases of aquifer pollution from *drilling*. To the landowners who've lost their drinking water and much of the value of their property, the distinction between drilling and fracking is academic. See <http://un-naturalgas.org/weblog/category/drilling-accidents/>

County health departments are charged with investigating water pollution from fracking. Ask your county health department if it has the financial capacity to do the kind of investigation required by this unfunded mandate.

PIPELINES

"Gathering" pipelines can only be laid on leased land, as of now. However, **transmission pipelines that are utilities, meaning that any gas producer / distributor can use them, can be sited by Eminent Domain.** Pipeline rights-of-way are forever, can be bought and sold whether there is an actual pipeline planted there or not, and impose many legal and contractual limitations on the property that hosts them. See http://www.un-naturalgas.org/hydraulic_fracturing_a-z.htm#pipelines

GAS STORAGE

Private underground gas storage units can be established by Eminent Domain. The DEC grants a permit when the applying gas company controls, by lease or ownership, 75% of the subsoil rights in the proposed storage area. (ENV 23-1303)

OTHER INFRASTRUCTURE

Gas doesn't come out of the ground in a marketable form. The infrastructure needed to purify it can end up in your neighborhood.

Raw-gas transport requires on-site removal of liquid water, which contains contaminants. On-site tanks contain this water until it can be removed by tankers or pumped to a remote location.

Besides methane, the chemical name for natural gas, raw gas also contains other volatile gases. Natural gas liquids, such as ethane and propane, are stripped out, saved for removal by tanker and sold. "BETX" volatiles (butane, ethylbenzene, toluene and xylene), are odorless, invisible and extremely dangerous. They are *vented as waste* at compressor stations.

Compressor stations will be required to bring the gas pressure in smaller gathering pipelines up to the pressure in

larger pipelines. Each compressor station will service gas wells within a 4- to-6-mile radius and will have dehydration units to remove water vapor from the gas. Compressor stations are extremely noisy — the equivalent of a propeller plane flying overhead or a concrete mixer — and operate 24 / 7. Since the compressors are diesel-powered, they too emit pollutants, including the BTEXs.

Where company-owned pipelines meet transmission *utilities* (like the Millennium, Tennessee and Dominion pipelines), the stations hold multiple compressors. These are industrial-scale installations that may require as many as 50 acres each.

The siting of compressor stations does not require a State Environmental Quality Review Act (SEQRA) review and is governed by the Public Service Commission — not the DEC. This means that compressor siting is not covered by DEC regulations. Eminent Domain may be used for siting compressor stations.

PROTECTIVE LAWS

State law preempts local law-making powers — controlling the location of dangerous industries, their operating hours, noise and nighttime light levels, and storm water run-off. (ENV 23-0303 ss. 2) County and town governments can only regulate the use of *town* roads and few of them have chosen to do so.

The gas / oil industry is exempt from provisions of the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act and a host of other reporting and oversight laws enacted to protect the public. See <http://un-naturalgas.org/Exemptions%20are%20subsidies%20Rev%201%20MB-1.pdf>

LIABILITY ISSUES

Since owners of leased properties are — legally speaking — in business with the gas companies, these owners share in the liability for damages to their neighbors' assets, leased or otherwise. Although many leases have "hold harmless" clauses, the lessor landowner will have to sue to enforce them. Properties that are part of a Drilling Unit through Compulsory Integration do not share that liability as long as they choose "Royalty Owner" status at the Compulsory Integration hearing. *Choosing Non-participating Owner status and Participating Owner status at the Compulsory Integration hearing makes the landowner liable.*

MORTGAGES

The value of your property depends in part on whether a bank will extend a mortgage to a prospective buyer. Some local banks have already made it their policy to deny mortgages on properties with subsoil leases. The FHA will not back mortgages on dwellings "located closer than 300 feet from an active or planned drilling site or 75 feet from an operating well; this applies to the site boundary, not to the actual well location." See <http://www.disasterhousing.gov/offices/hsg/sfh/ref/sfh1-18g.cfm>

No computer access? The detailed information offered at the web addresses above can be had in print form. Write

CDOG
PO Box 443
Delhi NY 13753

Specify the web address of the document you want. For example:
<http://un-naturalgas.org/Spacing%20text.pdf>

Bob Nelson of Hemlock – Question what the Town is looking at for a long term solution of alternative energy. Supervisor LeFeber shared ways that the Town is using alternative energy and consideration of long term usage.

Matt Bower – Confirmed that it was not the intent of the Board to force closing the wells and Lenape has willing shut off the wells.

Lisa Mulligan Sobolewski – While checking on neighbor John Steele who is on oxygen it was determined that he has an alternate supply to keep the oxygen going, but he was mad that they drove across his soy beans. Another neighbor the Davins' have made provisions.

Mike Bernard – As a Town of Livonia property owner he would like the gas company (Lenape) to not have the rights to his property. Some of the property owners in Avon want the gas and it's been turned off.

Kim Stokoe – She is affected both on a personal level and business level. She does not think the Board intended to cause the shut off but also believes the Lenape felt that they were backed into a corner. Offering an olive branch to Lenape to try to solve the problem was recommended.

Wendy Sisson – It is believed that there is a plan to drill in both Mt. Morris and Groveland.

Pat Moran – It's appreciated that the Board is trying to educate themselves on this issue and she commends them.

Gail Orr – Once again Nut Butter is a 37 year old business that manufactures organic food. Issues of fracking will negatively affect their business. She also commended the Board for their efforts. This is a moral issue that will affect the long term health of our communities.

Supervisor LeFeber asked for any other visitor comments and there were none. A short recess was called.

RESOLUTION #126 APPROVAL OF MINUTES

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

RESOLVE to approve the minutes of June 14, 2012 as presented.

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

RESOLUTION #127 APPROVAL OF MINUTES

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

RESOLVE to approve the minutes of June 28, 2012 as presented.

RESOLUTION #127 APPROVAL OF MINUTES-continued

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

DISCUSSION – DEPUTY TOWN CLERK APPOINTMENT

Councilman Blye presented the following letter:

RECEIVED

JUL 12 2012

July 12, 2012

A few meetings ago I talked about the fact that 2 of the Councilman and the Town Clerk were engaging in meetings during the day without the rest of the board. While I did not think it was illegal as there were only 2 Councilman I thought it was in poor taste.

SHARON M. KNIGHT
TOWN CLERK / TAX COLLECTOR

Then I had a discussion with Councilman Steen about the fact that any conversation offer to work at the Town of Avon should be something that is done as a board with the endorsement as such. I was told "I can talk to anyone I want in Town". While that is true you cannot represent any offers without the full participation or authorization from all the board.

Now it seems there is a flagrant violation of NYS Law Article 78 Section 7803 question 2.) "Whether the body or officer proceeded, is proceeding or is about to proceed without or in excess jurisdiction" I maintain that is exactly what has happened in the situation of Deputy Town Clerk. 3 Councilman have made a decision out side of the boardroom and have empowered the Town Clerk to make an offer without the full Avon Town Board participation. The 3 further went on to enter into a verbal contract as to guarantee the Town Clerk a certain dollar amount of raise for 2013 without regard to the rest of the board or the fact that there is no budget in place yet for 2013.

I maintain that this was proceeded upon without or in excess jurisdiction and will be deciding if I will be starting procedures against the 3 Councilman involved in this illegal violation based on an Article 78 Lawsuit. Just so everyone is clear I would be filing on behalf of the Town of Avon and as such both sides are paid for by the Town of Avon. The statue on this is 120 days so I will be making my decision soon.

James R. Blye Sr.
Councilman for Town of Avon

DISCUSSION – DEPUTY TOWN CLERK APPOINTMENT-continued

Councilman Steen asked what he did wrong and Attorney Campbell stated that he did not do anything wrong as there is no agreement, but that the perception of wrong doing can in fact be a legal issue. No actions have bound the Town at this time. Rethinking the Employee Handbook and how it affects all employees needs to be considered. Board Members expose the community with all decisions that they make.

Tami Snyder stated that she is the spokesperson for the Clerks and that she has reviewed the newly adopted Employee Handbook as required by the Board with all employees asked to sign the Handbook. She questioned why the Deputy Town Clerk position would be offering health care when it is not a full time position. Jennifer Sargeant provided the number of hours she works and has never been offered health insurance. She also shared that nothing was provided when she had major health issues and they caused her to pay fifty percent out of pocket of medical expenses. The interest that was shared included uniformity with all departments.

There was discussion on the hours of all of the Departments and further discussion is needed.

RESOLUTION #128 DEPUTY TOWN CLERK POSITION OFFERED TO DEBORAH DILLON-SARRA

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

RESOLVE to offer the position of Deputy Town Clerk at a rate of \$14.00 per hour, 90 day probationary period, hours determined at 7:45 A.M. to 4:15 P.M. Monday – Friday except Wednesday 7:45 A.M. to 12:15P.M. to Deborah Dillon-Sarra.

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

DISCUSSION – ATTORNEY REPORT

Attorney Campbell reported on the following:

Updates were provided on the Royal Spring Development including discussion of a letter that was mailed on Friday, June 22, 2012. A signed document by the Developer would allow the Town to facilitate the release of dollars currently being held by the Town.

The easements obtained by property owner Louis Lee will be filed in the County Clerk's Office by the Attorney.

Work continues regarding annexation of property into the Village of Avon.

To convert the Rotary/Lions Ambulance to a District Ambulance will take six months to one year.

DISCUSSION – HIGHWAY REPORT

Highway Superintendent Crye provided the following report:

County work on Federal Road, County Roadside mowing, mowed and ditched drainage districts, cut trees, and North Littleville detours are ready.

DISCUSSION – ENGINEER REPORT

Engineer Rock reported on the following:

Work is taking place on the list of items provided to the Royal Springs Developer.

The South Avon Cemetery fieldwork may be completed.

The bid was opened in the Town Clerk's Office today and it was recommended the Board approve the bid.

RESOLUTION #129 ACCEPT THE BID OF CONTECH ENGINEERED SOLUTION – NORTH LITTLEVILLE CULVERT

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

ADOPTED AYES 5 NAYS 0

RESOLVE to approve the bid of Contech Engineered Solution in the amount of \$158,400.00, authorize the Clerk to forward the resolution to the bidder and authorize the Supervisor to Sign the agreement to execute the contract.

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

DISCUSSION – CODE ENFORCEMENT REPORT

Code Enforcement Officer Cappello reported on the following:

Contact has been extended to a Representative of Janice White as the deadline of the Board's allowing living in a trailer is close to expiring.

Civil matters with neighbors cannot be solved by the Town of Avon Code Department. The Town of Avon cannot be forced to enforce its regulations.

DISCUSSION – WATER REPORT

Water Superintendent McKeown provided the following report:

Property owner James Anderson has requested use of water on Pole Bridge Road and the Board appeared to support. He will be billed once per month for the water that is used.

B & H was contacted to supply propane to the Agar Road water station and installation has been completed.

Water meters are being read.

DISCUSSION – TOWN CLERK REPORT

Town Clerk Knight stated there were no additional items to report.

RESOLUTION #130 RECEIVE MONTHLY REPORTS FROM THE CITIZEN BANK COMMERCIAL ACCOUT OF AVON LIMA ROAD, SUPERVISOR AND TOWN CLERK

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

RESOLVE to accept the Citizens Bank Commercial Account of Avon Lima Road Inc. Escrow Account in Favor of the Town of Avon and monthly reports for February from the Supervisor, and the Town Clerk Report as shown below:

Town Clerk June Report:

Total Local Shares Remitted:	\$1,279.62
East Avon Cemetery Fund	\$325.00
New York State Department of Health	\$45.00
NYS Ag. & Markets for spay/neuter program	\$32.00
NYS Environmental Conservation	\$488.47
Recreation	\$710.00
WATER Fee	\$12,093.70
TOTAL	\$14,973.79

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

RESOLUTION # 131 APPROVE BUDGET TRANSFERS

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

ADOPTED AYES 5 NAYS 0

RESOLUTION # 131 APPROVE BUDGET TRANSFERS-continued

RESOLVE to approve budget transfers as recommend by Supervisor LeFeber.

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

DISCUSSION – SUPERVISOR REPORT

Supervisor LeFeber reported on the following:

A request for a meeting with the Avon Free Library was received to discuss the amount of dollars we budget each year. The amount has been the same for several years.

HSCB Bank will be changed to Community next week.

RESOLUTION #132 PAYMENT OF BILLS

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

RESOLVE to accept for payment Abstract 2012-13 in the following amounts:

Concerning ABSTRACT of Claims Number 2012-13 including claims as follows:

General Fund	Voucher #277 through #298 in amounts totaling \$12,354.86
Highway Fund	Voucher #111 through #117 in amounts totaling \$14,815.19
Water Fund	Voucher#80 through #87 in amounts totaling \$92,352.92
Cemetery Fund	Voucher #5 through #5 in amounts totaling \$250.00
Opera Block Capital Improvement	No Voucher
Royal Springs Lighting	Voucher #7 through #7 in amounts totaling \$917.99
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 - Aye, Supervisor LeFeber – Aye

RESOLUTION #133 SCHEDULE A SPECIAL MEETING

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

ADOPTED AYES 5 NAYS 0

RESOLVE to schedule a meeting for Monday, July 16, 2012 at the Avon Opera Block/Town Hall, 23 Genesee Street at 7:00 P.M.

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

On motion of Deputy Supervisor Mairs, seconded by Councilman Blye, the meeting adjourned at 10:20 P.M.

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