

A Regular Meeting of the Town of Avon was held on Thursday, August 9, 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, and James Blye

ABSENT: Councilman Richard Steen

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

VISITORS: Joseph Tuchrello, Greg Willy, Mr. & Mrs. Anderson and Jeff Witherow

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

Pledge of Allegiance

**DISCUSSION – TRIBUTE TO ROBERT AYERS FORMER TOWN OF AVON
HIGHWAY SUPERINTENDENT**

Supervisor LeFeber present a framed copy of the December 2011 *Superintendent's Profile and Product Directory* to Councilman Robert Ayers for his service as our Highway Superintendent. The magazine did a feature on his retirement and the Town of Avon.

DISCUSSION – VISITORS MR. & MRS. ANDERSON

Supervisor LeFeber asked for any public comments and Mr. & Mrs. Anderson addressed the Board with the following.

Both visitors Mr. & Mrs. Anderson understood that the neighboring property owner was going to remove the fence that was erected on their property. A survey was completed as recommended by the Code Enforcement Officer with the understanding that this issue would be resolved, however no action or mediation has taken place. Mr. Anderson stated that he had taken off work to attend the meeting, that he is not looking to take away from anyone what does not belong to them and that the Code Enforcement Officer is not enforcing the Town's Code and they are now in a hostile environment. We are tax payers and our neighbors are not. A fence permit was issued for us to put up a fence and we cannot put it up as their fence is on our property and they did not even have a permit. For ten weeks we have not been able to get started on our project. If we had a contractor we would have been financial liability. Code Enforcement Officer Cappello has been on site at least two times and has spoken to the property owner. If the Code Enforcement Officer cannot enforce code, who does? He should be fined and taken to court and nothing has happened.

DISCUSSION – VISITORS MR. & MRS. ANDERSON - continued

Councilman Mairs stated that he has spoken to the property owner in an attempt to help solve this issue.

Attorney Campbell advised Mr. & Mrs. Anderson to seek legal advice as these are complicated issues. They never are as easy as it seems. The Town cannot solve these issues with neighbors. If a permit was not sought then the Code Enforcement Officer could send to the court and they could issue a fine as it is one specific violation. But it seems that the removal of the fence is the interest and a violation does not solve removal.

DISCUSSION – VISITORS GREG WILLY

Visitor Greg Willy addressed the Board at their request to provide an update on the upcoming deadline of the property owner at 2085 North Littleville Road living in a trailer due to a fire of her home. The septic has been replaced and the permit application has been filed with the Code Department. The framing crew will start in a few weeks and it's expected to take four to six months for completion. Ms. White and her dogs have made arrangement to live elsewhere for the winter months. The Board took the following action.

RESOLUTION #143 EXTEND THE DEADLINE OF ALLOWING A TRAILER TO BE USED ON PROPERTY LOCATED AT 2086 NORTH LITTLEVILLE ROAD

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

RESOLVE to extend the time to October 31, 2012 allowing a trailer to be used as a residence at 2086 North Littleville Road.

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

DISCUSSION VISITOR JOSEPH TUCHRELLO

Visitor Joseph Tuchrello addressed the Board speaking of his interest in serving on the Moratorium Committee. He reported on his attempt to attend a meeting last Thursday and was asked to leave by Councilman Blye. A request to serve on the Committee was made based on his interest and knowledge of gas wells and the previous recommendation of Attorney Campbell to form a committee of diverse people.

Councilman Blye stated that he asked Mr. Tuchrello to leave the meeting last Thursday as it was a closed meeting of the Moratorium Committee. He questioned how he knew about the meeting as only one e-mail was sent out on Tuesday to the committee.

DISCUSSION VISITOR JOSEPH TUCHRELLO-continued

Councilman Blye also said that When Mr. Tuchrello arrived at the meeting he had never stated he wanted to be part of the committee nor had he signed up at any of the public hearings. Councilman Blye went on to say that all Mr. Tuchrello did was swagger into the meeting and said "What's up guys"

Attorney Campbell stated that the meeting would be defined as an open meeting and that visitors are welcomed, as required by the Freedom of Information; however restriction of participation maybe enforced. He also stated that when he spoke previously about diversity he was not speaking of anyone in particular.

Visitor Tuchrello asked for minutes of the meeting.

Councilman Blye responded by questioning Mr. Tuchrello on his disruptive behavior and told the Board that if they choose to appoint Mr. Tuchrello that he would be off the committee. His report was scheduled for later in the meeting, but provided the following:

No minutes were taken
Mike Froome volunteered to serve the position of Chairman
Jim Blye volunteered to serve the position of Librarian.

Discussion included the duties of the committee as follows:

Meet on the first and third Thursdays.
They would be collecting information to present to the Board for their education
Recommendations would not be provided to the Town Board

Visitor Tuchrello stated that he had no intention to make any disturbances. He stated that he had spoken to several State Agencies including the Attorney General, Department of Conservation, Agricultural and Markets and Engineers at the Rochester Institute of Technology. He has been collecting information and has found no cases of water contamination in New York or Pennsylvania.

The Board took no further action.

RESOLUTION #144 APPROVAL OF MINUTES

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

ADOPTED AYES 3 ABSENT 1 (Councilman Steen) ABSTAIN 1 (Councilman Blye)

RESOLVE to approve the minutes of July 26, 2012 as presented.

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

PUBLIC HEARING LOCAL LAW T-3A-2012

Supervisor LeFeber reported on receiving a phone call from the Livingston County Planning Board as they voted to recommend “Approval” of the proposed action with two advisory comments. 1.) Any proposal for the acreage should be developed with sensitivity to the adjacent property, the First Presbyterian Church, listed on the National Register of Historic Places, and 2.) The applicant should submit an Environmental Assessment Form for the Town to review before final action is taken.

The Town of Avon Planning Board also made a motion for a positive recommendation with discussion on their knowledge that structural changes were made to the structure following the prior zoning change, and that the building has been unused for an extended period of time. For those reasons, the Board suggested that a fire safety/property maintenance inspection and new Certificate of Occupancy be required before any new used of this parcel.

The Town Board appeared to be in favor of the Supervisor sending a letter to the property owner of their recommendation to clear out some of the parking lot. These types of improvements would change the appearance of the property to a residential property. The hearing would be left open into the next meeting scheduled for the 23rd of August 2012.

DISCUSSION – ATTORNEY REPORT

Attorney James Campbell reported on the following:

A proposed application was presented to the Board and the Clerk to be used to Deputize Qualified Electrical Inspectors for the Town of Avon. The draft was sent to the Code Enforcement Officer and Clerk for their review. The Town of Avon has the ultimate responsibility of the Electrical Inspector’s work.

Work continued on the annexation request from Livingston Industrial Complex, LLC.

DISCUSSION – ATTORNEY REPORT-continued

There was discussion of development of an Ambulance District in regards to our 2013 budget process. It's not realistic for this to be completed in 2014. There are many steps in the process that are subject to referendum. A part of the discussion is if the Town should move forward on this issue.

A request to revise our cell tower agreement was received. A response will be prepared by Attorney Campbell. The increase of cell towers are needed due to the sharing of information not just cell phone use.

DISCUSSION – HIGHWAY REPORT

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

- They worked for the County oiling, stoning and wedging.
- North Littleville Road cut trees and started placing some stones around the stream
- Mowed and trimmed Town Road sides, parks and cemetery
- Cleaned up shop
- Services trucks and mowers
- Radio bands have been narrowed

After the new truck is received the current truck will be advertised for sale and will be put on Craigslist.

We had two bidders on the 2012 Pick-Up Truck 4x4 Regular Cab as follows:

- Ed Shults Ford in Jamestown, New York at \$26,274.00 and
- Genesee Valley Ford in Avon, New York at \$25,330.38, and \$19,828.38, respectively.

RESOLUTION #145 ACCEPT THE BID OF GENESEE VALLEY FORD FOR A 2012 PICK-UP TRUCK

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

ADOPTED AYES 4 ABSENT 1 (Councilman Steen)

RESOLVE to accept the bid of Genesee Valley Ford for a 2012 pick-up truck in the amount of \$25,330.38.

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

DISCUSSION – WATER REPORT

Water Superintendent McKeown reported on the following:

Meter readings have been completed and the bills have been mailed.

A new lap top was ordered and we still have a little more research to complete prior to conversion to the new laptop, so that we do not lose any information. When completed everything will be wireless. We should be back to normal in a couple of weeks.

DISCUSSION – ENGINEER REPORT

Town Engineer Timothy Rock reported on the following:

A communication was received regarding the proposed replacement of a water main on Route 5/20.

Two stops were made, one at the North Littleville Road culvert, and the Highway crew and Contractor Steve Morsch are doing very well as everything looks great. The precast structure drawings have not been received to date.

The second stop was at the Royal Springs Development where some improvements are being made.

DISCUSSION CODE ENFORCEMENT REPORT

Code Enforcement Officer Cappello was not in attendance.

DISCUSSION TOWN CLERK REPORT

Town Clerk Knight reported on the following:

The County Real Property Tax Office has the Town Hall property listed as 27 Genesee Street, but the County Planning Department our address as 23 Genesee Street in a recent grant application. All tax bills and the Town Clerk's Office has used 23 Genesee Street. My question is does the Board want to consider assigning someone, perhaps Jennifer Sargeant as our addressing official, to work with the Village Addressing Officer Patty Baker and Mike Bradley with the Sheriff's Department to officially have our building numbered. There was Board discussion and it was their understanding that this was completed at the time we moved into the building. The Board asked Town Clerk Knight to work with Mike Bradley to be assured that this was completed.

A check was received from USbank as a result of a class action suit from Sam's Club payable to Sharon Knight in the amount of \$1.64. Attorney Campbell stated it was regarding Sam's Club not providing one full year of membership and suggested the funds go directly to the general fund.

DISCUSSION TOWN CLERK REPORT-continued

While reviewing the Town of Avon Employee Handbook Acknowledgment page a question was raised in the second paragraph it reads

“and that the Town Board of the Town of Avon reserves the right to interpret, change or modify any section of the Employee Handbook at any time”

and in the fourth paragraph it reads

“and guidelines issued by the Town of Avon, and may be changed from time to time, by the Town of Avon”

The question is would the Board consider adding the following:

“, provided a copy of any changes or modifications are provided to the employee at the time of said changes or modification.”

RESOLUTION #146 AMENDING THE EMPLOYEE HANDBOOK

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

ADOPTED AYES 4 ABSENT 1 (Councilman Steen)

RESOLVE to modify the Town of Avon Employee Handbook, section 1300-1 as follows:

“, provided a copy of any changes or modifications are provided to the employee at the time of said changes or modification.”

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

RESOLUTION #147 PAYMENT OF BILLS

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

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Councilman Steen)

RESOLVE to accept for payment Abstract 2012-15 in the following amounts:

Concerning ABSTRACT of Claims Number 2012-15 including claims as follows:

General Fund	Voucher #318 through #341 in amounts totaling \$17,147.09
Highway Fund	Voucher #124 through #133 in amounts totaling \$11,159.58
Water Fund	Voucher #94 through #97 in amounts totaling \$1,652.35
Cemetery Fund	Voucher #6 through #6 in amounts totaling \$260.00
Opera Block Capital Improvement	No Voucher

RESOLUTION #147 PAYMENT OF BILLS

Royal Springs Lighting	Voucher #8 through #8 in amounts totaling \$926.37
Cross Roads Drainage District	No Voucher
Bruckel Drainage District	No Voucher
Royal Springs Drainage	No Voucher
Town Of Avon Fire Protection	No Voucher
Rte. 39 Water SW2	No Voucher

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

RESOLUTION #148 RECEIVE MONTHLY REPORTS FROM THE SUPERVISOR AND TOWN CLERK

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

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 July from the Supervisor, and the Town Clerk Report as shown below:

Town Clerk July Report:

New York State (NYS) Department of Health	\$ 67.50
NYS Ag. & Markets for spay/neuter program	\$ 53.00
NYS Environmental Conservation	\$ 260.76
Recreation	\$ 890.00
Water Fee	\$10,683.68
Town Local Shares Remitted	<u>\$ 1,609.62</u>
TOTAL	\$13,564.56

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

DISCUSSION – SUPERVISOR REPORT

Supervisor LeFeber reported on the need to amend Abstract 2012-7 as we did not pay the same thing as the Abstract. A Townsend invoice was shown as a prepaid and it appears that we did not pay the Townsend invoice twice.

The Court has requested approval for two of the Court Clerks to attend conference and this year it's Jennifer Sargeant and Stephanie Schweitzer turn.

DISCUSSION – SUPERVISOR REPORT

A request to install the sound system that was purchased with grant money be installed as it's difficult to hear proceedings. A Jury Trial is scheduled for Wednesday, September 19th, 2012, and it would be appreciated if the installation could be completed by that date. Councilman Blye volunteered to complete this project.

There was discussion on the need of outstanding items that need to be assigned regarding the Opera Block/Town Hall. Town Clerk Knight and Councilman Steen are working on drafting a job description of a cleaner. The Board appeared to approve resident Kelly Cole to train Water Superintendent McKeown to run the heating and cooling system of the Opera Block/Town Hall. The training will entail operating the system to be able to receive 24/7 notifications, just like he receives, from the Water System. Adding this responsibility to Water Superintendent McKeown's current duties seems to be the right fit.

The Livingston County Representative to the Youth Board term is going to expire and discussion included the need for the Board to make recommendation to the County Board of Supervisors. Carole Hayes was appointed to the position after a resignation just eight months ago. The Board took the following action:

RESOLUTION #149 RECOMMENDATION OF CAROLE HAYES TO THE POSITION OF AVON REPRESENTATIVE TO THE LIVINGSTON COUNTY YOUTH BOARD

On motion of Councilman Blye, seconded by Deputy Supervisor Mairs the following resolution was
ADOPTED AYES 3 NAYS 0 ABSENT 1 (Councilman Steen) ABSTAIN 1 (Supervisor LeFeber)

RESOLVE to recommend Carole Hayes to the position Avon Representative to the Livingston County Youth Board for a term of two years.

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

RESOLUTION #150 AUTHORIZE SUPERVISOR TO SIGN JUSTICE COURT ASSISTANCE PROGRAM GRANT

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

RESOLUTION #150 AUTHORIZE SUPERVISOR TO SIGN JUSTICE COURT ASSISTANCE PROGRAM GRANT-continued

Whereas, the State of New York has enacted a law establishing the Justice Court Assistance Program that will enable communities to apply to the Chief Administrative Judge for a grant of State funds, to assist in the operation of the Justice Courts: and

Whereas, the availability of grant funding would enhance the ability of the Town Justice Court to provide suitable and sufficient services to the Avon Community; and

Whereas, this joint application with the Village of Avon Court would allow for joint sharing of equipment and materials thereby providing efficiencies to the Avon Community.

Now therefore it be resolved, that the Town Board of Directors hereby authorizes the Supervisor to file an application for a Justice Court Assistance Program grant in an amount not to exceed \$30,000.

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

DISCUSSION OPEN ITEMS

Councilman Blye reported on the Moratorium Committee stating that the charge to the committee is to research and then provide the information to the Board. No personal opinions need to be a part of the meeting. Hard research will be completed and keeping all the information is the duty of the Librarian. The committee is not making the decisions.

Attorney Campbell restated that a committee formed by this Board is open to the public, however, does not give the public a right to the floor.

On motion of Deputy Supervisor Mairs, seconded by Councilman Blye, the meeting adjourned at 10:15 P.M.

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