

**MINUTES OF A MEETING OF THE
AVON VILLAGE BOARD
MONDAY, JANUARY 24, 2011
5:30 PM; WHITNEY ROOM**

I. ATTENDANCE

Thomas Freeman, Mayor
Timothy Batzel, Trustee
Robert Hayes, Trustee
Mark McKeown, Trustee
William Zhe, Trustee

Reid Whiting, Village Attorney
John Barrett, DPW Superintendent
Christine Quinlan, Treasurer
Jeremy Batzel, Fire Chief
James Carney, Police Chief
Kurt Rappazzo, MRB Group

GUESTS

Kirk Vanderbilt, Water Dept. Laborer
Kim Quinlan, former Avon Ambulance Service Scheduling Manager
Peter Bruckel, PEMM, LLC, principal
Josh Bruckel, PEMM, LLC, employee
Stephen Tuchrello, 40 Fisk Place resident

II. EXECUTIVE SESSION

MOTION: Zhe moved to go into executive session at 5:30 PM to discuss personnel, seconded by McKeown. Voting in favor were: Freeman, Batzel, Hayes, McKeown and Zhe. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

The Village Board invited (*Water Dept.*) Laborer Kirk Vanderbilt in to executive session then returned to open session, and Vanderbilt departed, at 6:07 PM.

Mayor Freeman asked Barrett to sit down with Vanderbilt and discuss his duties with him.

III. PUBLIC WORKS REPORT

A. Jobs List

Barrett reported:

- work on the Village's lawnmower had been done
- the floor of the 1-ton dump truck had been replaced
- Barrett would check for prospective buyers of the Village's wood chips

B. Bag Filtration Project

The skid had come for the bag filtration project, Barrett continued. Parts and labor would be charged to Schedule C. Labor for the project would be indicated on employee time sheets. The project would be valved-off separately

so the plant would not have to be shut down while the project was underway, Barrett told Trustees. Trustees asked Barrett to report on the overall cost at the end of the project.

C. New Lights at Village Hall

Barrett had spoken with Electrician William Wall of 280 River Street about changing-out T11 ballasts to T8 ballasts at Village Hall. Barrett admitted Wall was interested in landing the job, but said, if there were a fire, the Village would be better off having had the work done by a contractor rather than in-house.

Hayes asked if the New York State Energy Research & Development Authority (NYSERDA) would do the work or contract out for it on the Village's behalf. Barrett said they would not.

Mayor Freeman said he'd check with Avon Central School and see how the District had made the conversion. He asked Barrett if he knew where to purchase the parts and Barrett said he did.

D. Snow Removal/Skating Rink

Elsewhere, Barrett said DPW crews were working on cleaning-up snow. DPW had installed a liner and opened the Village's skating rink at Avon Driving Park earlier this month.

E. Locks & Fobs

Barrett had forgotten about calling Timothy McGee until that day about the new lock system for Village Hall.

The Mayor asked about key fobs for the Village's gas pump. Each person getting a fob would also get a personal identification number (PIN), Barrett said.

Mayor Freeman asked if part-time employees, such as fill-in Thomas Moran and Park Ranger Michael Manning, would receive fobs. Barrett, Batzel and Carney were supposed to turn-in lists of persons receiving fobs.

IV. TREASURER'S REPORT

A. Deferred Compensation

About 15 Village employees contributed about \$41,000.00 annually to deferred compensation accounts managed by Nationwide Retirement Solutions. The total plan account value was \$622,402.69.

The 457 Deferred Compensation Plan had to go out to bid, Treasurer Quinlan told Trustees. She believed the frequency for going out to bid was five years. Notice would be published in the New York State Register.

Nationwide Retirement Solutions managed the plan now, but Quinlan expected interest from others and mentioned The Hartford as a possibility.

What would that mean for employees? Barrett asked. Would they have to get out of what they were in now?

Quinlan said they would not.

B. Technical Assistance Grant

The Village had received a Technical Assistance Grant of \$13,400.00 to develop design guidelines for building re-use and code analysis downtown.

A request for proposals (RFP) was being sent to interested companies, Quinlan told Trustees. The intent was to hire a consultant who would draft written and illustrative guidelines appropriate to architectural styles downtown.

Upper floors of up to five buildings would be inspected to determine their suitability for re-use as residential living units. The Mayor asked, and Quinlan confirmed, the Village would administer the grant.

C. Final Payment/Fire Truck

The final payment on the Village's new, \$604,474.00 fire truck was due next month; Trustees should notice a voucher for payment amongst the bills, Quinlan said.

The final payment was \$60,447.40 and would go to the manufacturer, Pierce Manufacturing, Inc., of Appleton, WI. The payment was due 180 days after delivery of the Village's new Pierce Velocity PUC Pumper.

D. Erie-Attica Agreement

Trustees had before them a memorandum of agreement between the State Office of Parks, Recreation and Historic Preservation and the Village of Avon for Genesee Valley Greenway infrastructure improvements.

The agreement was for planning, design and construction of a trail on the inactive rail bed and across the Pratt truss rail bridge over the Genesee River. The project cost had been estimated at \$1,367,000.

The Village would up-front \$287,000 of the total then be reimbursed for a portion and left with a final share of \$60,600.

Either party could terminate the agreement at the end of the first phase, which was the planning and design phase, without cause or at any time thereafter for good cause – upon no less than 60 days written notice. State Parks was unwilling to remove that clause from the agreement, Quinlan told Trustees.

The project seemed so over-budgeted, Mayor Freeman remarked, adding, \$1 million for a mile of cinders – absurd!

Still, the Village needed to move forward, Zhe remarked, they couldn't wait any longer.

Hayes agreed.

If they waited too long, the federal government would pull out of the project, the Mayor said.

I'm not in favor at all, McKeown said.

Mayor Freeman called for a motion on the agreement.

MOTION: Zhe moved for approval of the Memorandum of Agreement, seconded by Hayes. Voting was by roll call as follows:

Zhe - Aye
Hayes - Aye
Batzel - Nay
McKeown - Nay
Freeman - Aye

CARRIED, 3 Ayes, 2 Nays

V. AVON AMBULANCE SERVICE REPORT

Former Ambulance Service volunteer Kim Quinlan, who had served as the Service's Scheduling Manager before resigning last November, appeared with Fire Chief Batzel.

A couple more members of the service had resigned since Operations Manager Margie Pfuntner-Delena had joined the Service last October, Quinlan told Trustees. Pfuntner-Delena wanted one ambulance manned entirely by paid staff and the other ambulance manned half by paid staff and half by volunteers.

Mayor Freeman said he had spoken with Avon Town Supervisor David LaFeber about the Service and he thanked Quinlan for all she had done for so many years at no pay.

Quinlan said she hadn't gotten any support from the Ambulance Board of Directors and felt that had been quite a slap in the face. She'd gotten no comment from Ambulance Service sponsors, the Rotary or Lions Clubs either, she added.

And, the Board was a Rotary/Lions Board, Hayes remarked.

But, they had no training, Batzel pointed out.

Medical Director Dr. Shah had resigned, too? Hayes asked.

Yes, effective March 1, Quinlan confirmed. She characterized his resignation as a huge, huge loss and said neither Strong Health System or Highland Hospital would support the Avon Ambulance Service after March 1.

It would be interesting to see how the Town Board reacts to these developments, Mayor Freeman said.

They only had need of one ambulance in Avon, Quinlan said.

Hayes told her he appreciated her letting them know about this.

The Lions and Rotary didn't want to talk to her, Quinlan stated.

Her report would be an eye-opener at the Town Board meeting, Mayor Freeman reiterated.

Quinlan wasn't the only one with this issue, Batzel said. Pfuntnner-Delena was more a dictator than an Operations Manager listening to her membership, he added.

Quinlan said she just wanted the Village Board informed; she considered Pfuntnner-Delena's actions a personal attack. She said neither she nor Robert Wiard, who had served as the Service's Operations Coordinator before he resigned in November, was willing to return to duty.

The Service only had a \$5,000 commitment from each the Lions and Rotary Clubs, Mayor Freeman noted.

So, aside from the personnel issue, there was a financial issue, Hayes observed.

Pfuntnner-Delena was trying to make the service a paid staff, Chief Batzel said, but he didn't think the call volume was there for that. Older volunteers were quitting because of what was going on, he added.

The Service's reserve account had been depleted by the new building (*former church on Lake Road*), Hayes remarked.

On another matter, Mayor Freeman noted the Fire Department had a \$2,263.50 bill from Tim's Tire & Alignment Center, 81 West Main Street. The bill was for the department's 2003 For Expedition.

The bill was for a head gasket, Batzel explained, adding the Expedition had more than 100,000 miles on it.

VI. SITE PLAN REVIEW - PUBLIC HEARING

Mayor Freeman read the NOTICE OF PUBLIC HEARING, indicating Trustees would review the revised drawings PEMM, LLC, had submitted for permission to add a Dunkin Donuts franchise to the Finger Lakes Express gas station at 265 East Main Street. He asked Village Atty. Whiting if the notice had run for two weeks. Whiting confirmed it had.

The Mayor continued, reading the State Environmental Quality Review (SEQR) Negative Declaration Notice of Determination. The Village's engineering consulting firm, the MRB Group, had also prepared the following:

SEQR RESOLUTION

***DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE FOR
DUNKIN DONUTS ADDITION AND CAR WASH MODIFICATIONS AT
265 EAST MAIN STREET - FINGER LAKES EXPRESS***

WHEREAS, the Village of Avon Board of Trustees (hereinafter referred to as Village Board) has reviewed and accepted the State Environmental Quality Review (SEQR) Short Environmental Assessment Form (EAF) Parts I, II & III on the above referenced Dunkin Donuts Addition and Car Wash Modifications at 265 East Main Street Finger Lakes Express (hereinafter referred to as Action); and

WHEREAS, the Village Board has determined the Action to be Unlisted and is subject to a single agency review pursuant to Part 617 of the SEQR Regulations; and

WHEREAS, the Village Board has given consideration to the criteria for determining significance as set forth in Section 617.7©(1) of the SEQR Regulations and the information contained in EAF; and

WHEREAS, the Village Board has submitted this Action to New York State Office of Parks, Recreation and Historic Preservation (OPRHP) for review and comment as it is located within a designated Archeological Sensitive Area; and

NOW THEREFORE BE IT RESOLVED, based on the review of the Short Environmental Assessment Form, the said Action **WILL NOT** create or result in any significant adverse environmental impacts and the Village Board hereby issues a Negative Declaration for the proposed action; and

BE IT FINALLY RESOLVED, the Mayor be and is hereby directed to sign and issues the Negative Declaration form as evidence of the Village Board's determination of environmental non-significance.

MOVED: Hayes sponsored the resolution; seconded by Zhe. Voting in favor were: Mayor Freeman and Trustees Batzel, Hayes, McKeown and Zhe. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

Dated: January 24, 2011

Upon such action, the above resolution was duly adopted on January 24, 2011, by the Village of Avon Board of Trustees.

Thomas Freeman, Mayor
Village of Avon

Mayor Freeman asked the applicants, Josh and Peter Bruckel appearing on behalf of PEMM, LLC, if they'd submitted a revised blueprint, showing where they planned on moving a 30-foot tall, free-standing Finger Lakes Express sign and their landscaping plan.

Josh Bruckel said they had not. He said he would stop by the Clerk's office the following morning with the revised blueprint. As for the landscaping, Bruckel told Trustees PEMM would mirror what CVS had done on the east, or opposite, side of Dream Valley Boulevard.

Cappello had no additional comments.

Mayor Freeman noted the Village Board had been involved from the start and apologized for any delays the Village might have caused.

Hayes asked if, where cars went around the back of the Finger Lakes Express building for the donut drive-thru lane and the car wash, the lanes would be clearly marked.

Peter Bruckel said PEMM would have two lanes there and Josh Bruckel assured Trustees the lanes would be striped

Mayor Freeman called for a motion to approve the site plan review:

MOTION: McKeown moved to approve PEMM, LLC's, site plan review, seconded by Hayes. Voting in favor were: Mayor Freeman and Trustees Batzel, Hayes, McKeown and Zhe. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

VII. CODE ENFORCEMENT OFFICER'S REPORT

A. Fisk Place Accessory Building Addition/Special Use Permit

Stephen Tuchrello of 40 Fisk Place appeared before the Board, asking to add a 10-foot X 10-foot room onto a 2-story accessory building on his property.

Tuchrello described the addition as a *day room*. Avon was a small community and Tuchrello said he hoped to help-out his elderly parents, Michael and Edna Tuchrello of Sackett Road.

The elder Tuchrellos had been living at Avon Commons most recently. Stephen had room for them at his home, but explained to Trustees his parents had been independent for years.

His accessory building had been built in the style of his home. Tuchrello assured Trustees he'd never rent it, but said he did want to go through the proper channels before expanding it for his parents.

Others had done this sort of thing, Tuchrello said, adding he thought it would be happening more and more. His father, he said, had been diagnosed with Parkinson's disease while his mother suffered from osteoporosis. Tuchrello said he wanted to be there for them.

Mayor Freeman said the addition to the accessory building wouldn't make it an in-law apartment; they'd call the addition a *day room*. And, he continued, Tuchrello had said he wouldn't be renting the accessory building out. The Mayor thought what Tuchrello was proposing could be allowed with a special use permit.

The accessory building wouldn't be an adult daycare, that would only be the case if it were done for hire, Whiting told Trustees. What Tuchrello was proposing was an intra-family transaction and not prohibited under the Village's Zoning Code.

There was nothing in the Zoning Code about in-law apartments, Cappello said, adding they'd been around a long time. If the addition Tuchrello proposed were attached to the house, instead of the accessory building, it would be useable.

Cappello said he checked with Livonia, Mendon, Riga and Victor for accessory dwelling regulations – Livonia, he said, allowed one per property - with a conditional use permit – for family members.

Mendon and Riga had the same ordinance the Village of Avon had, Cappello continued. They knew accessory dwellings existed, but didn't encourage them.

Mayor Freeman said he'd like to make Tuchrello's proposal an official document. He asked if Cappello was comfortable with it and if it was reasonable to issue a permit for it.

Bed and breakfasts, gas stations, mobile home parks and satellite antennas were permissible with special use permits, Whiting noted.

Was there a sense of urgency associated with the request? McKeown asked.

His father had two stints in his heart and his parents home on Sackett Road would be listed soon. His parents were at Avon Commons for the next six months, Tuchrello added.

Tuchrello wanted to add a 10-foot X 10-foot room onto his garage, but his parents would live in the house? McKeown sought to confirm. The parents would have this place of their own, he continued, asking what made that any different than an in-law apartment?

Tuchrello said he wanted it to look right, adding he might buy property beyond his back yard to accommodate the expansion.

If there were no kitchen, the accessory building wouldn't be considered living quarters, Cappello contended.

Whiting suggested the Board define a single-family dwelling in the Code with, perhaps, an addendum stating a house could accommodate up to three generations.

B. Clinton Street Rezoning Request

Stonewall Homes of 6502 Barber Hill Road, Geneseo, had asked the Village to consider rezoning the north side of Clinton Street from Lacy Street to Hal-Bar Road.

Stonewall Homes owned the former Collins-Hayes medical office building at 190 Clinton Street. The parcel was in an R-1 One Family Residential zoning district, but had been used as medical offices as a prior non-conforming use.

Stonewall Homes had bought the building in 2008 and it had been vacant since then thereby losing its prior non-conforming use status.

William and Carol Whitney of 6 Valleyview Drive were interested in buying the property and having their daughter, Brenda Muir, open it as a child day care for 25 to 30 children.

Stonewall Homes applied for a use variance to allow the day care, but the Zoning Board of Appeals rejected their application October 26 suggesting the applicants instead pursue a zoning change.

To that end, Peter Burke of Burke Associates Realtors, the agent for the property, had proposed a new zoning district, adding seven permitted uses, including child day care, to the Village's R-1 definition.

The Planning Board reviewed Burke's proposal, approved the language he had submitted and labeled the new zoning district as R-1A then issued a positive recommendation, suggesting the Village Board:

- serve as lead agency
- coordinate the SEQR review
- rezone all four parcels on the north side of Clinton Street between Lacy Street and Hal-Bar Road
- consider the R-1A language when rezoning
- notify all property owners within 100 feet of the proposed rezoning area prior to any public hearing on the matter

Mayor Freeman briefed Trustees on the request and suggested adding hairdressers to the list of permitted uses in the new R-1A zoning district.

Whiting saw no problem with that, noting, in Leroy (*where he lived*), many barbers and hairdressers used to work out of their homes.

The Mayor said it worked for him and directed Whiting to advertise a public hearing at the Board's February 7 meeting.

C. ESL Federal Credit Union, 244 East Main Street

ESL had opened their drive-thru kiosk (*automatic teller machines – ATMs*) at 244 East Main Street, Cappello said, adding he was going to issue the credit union a temporary certificate of occupancy.

The credit union had the lawn to get in so, Cappello said, it would 60 days, 90 days or June 1 before he issued a final certificate of occupancy.

McKeown asked Cappello to look at the sidewalk before issuing the final certificate, noting some unevenness, and Hayes suggested he look at the

apron between the sidewalk and the street, saying there were potholes in it already.

Mayor Freeman was concerned about ESL's lights, noting the neighbor's house was bathed in light. Rappazzo said MRB had reviewed ESL's light for compliance with dark sky standards.

The Mayor asked Cappello to put the: sidewalk, apron and lights on a punchlist of items to be satisfied before the final certificate was issued.

VIII. POLICE DEPARTMENT REPORT

The Police Department's annual report for 2010 would be out before the February 7 Village Board meeting, Chief Carney told Trustees.

A. December Activities/Upcoming Training

The Police Department had investigated 131 complaints and made 14 arrests last month, the Chief continued.

Finger Lakes Law Enforcement would be offering a school next month for emergency response to calls involving an active shooter, Chief Carney said. He planned on sending POs John Jordan, Matthew McFadden and Ryan Sherman.

The Mayor checked on the appropriateness of sending part-time officers to such training, Jordan and Sherman being part-time. The Chief assured him it wasn't unusual.

B. DWI Property Damage Accident

A motorist, allegedly driving while intoxicated (DWI), damaged a guard rail in the municipal parking lot at 53 Genesee Street on December 23, Chief Carney continued.

A 4-wheel drive vehicle apparently had gone up on guide wires then came down on the guard rail, the Chief said.

C. SRO Program

Mayor Freeman had met with School Supt. Bruce Amey and Town Supervisor LaFeber and discussed the School Resource Officer (SRO) program. He and Chief Carney would address the Town Board on the program February 24.

D. Vehicle Maintenance

McKeown questioned tires being put on the Crown Victoria and Challenger at Rhodes Automotive. Chief Carney explained Rhodes stored the department's snow tires then put the tires on Police vehicles seasonally as needed.

The Board closed the PEMM site plan review public hearing at 7:50 PM.

IX. APPROVAL OF THE MINUTES

MOTION: Zhe moved to approve the minutes of the regular meeting of January 10, 2011, seconded by Batzel. Voting in favor were: Mayor Freeman and Trustees Batzel, Hayes, McKeown and Zhe. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

X. APPROVAL OF VOUCHERS

Motion: Zhe moved to approve the vouchers with:

\$ 31,273.87 from the General Fund
46,404.68 from the Schedule C Fund
530.19 from the Water Fund
2,223.45 from the Sewer Fund
5,688.10 from the Trust & Agency Fund
61,143.78 from the Capital Accounts Fund
\$147,264.07 total disbursements

The motion also covered a manual check of \$25,00 issued to Western New York Water Works for a training workshop and closed capital projects H63-Portable Pumps, returning an outstanding balance of 5.74 to the A201 General Fund Balance, and H87-BVP.

Seconded by Hayes. Voting in favor were: Mayor Freeman and Trustees Batzel, Hayes, McKeown and Zhe. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

XI. EMPLOYEE RATES OF PAY

A. Part-Time Employees

The Board visited the Fire Department at 8:07 PM to inspect a thermal imaging helmet then returned to the Board Room to discuss the pay rates for part-time employees C. Thomas Moran and James Fusco.

Agreed upon rates were:

- \$20.00 per hour for licensed work
- \$15.00 per hour for DPW-related work such as snow plowing and water breaks
- \$10.00 per hour for lawn mowing

MOTION: Hayes moved to accept the agreed upon rates, seconded by Zhe. Voting in favor were: Mayor Freeman and Trustees Batzel, Hayes, McKeown and Zhe. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

B. Full-Time Employee Vanderbilt

The Board also discussed the rate of pay for Water Department Laborer Vanderbilt who had assumed additional responsibilities since the retirement of Moran earlier that month.

MOTION: Zhe moved to increase the rate of pay for Vanderbilt by \$2.25 per hour effective 01/01/11, seconded by Batzel. Voting in favor were: Mayor Freeman and Trustees Batzel, Hayes, McKeown and Zhe. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

XII. ADJOURNMENT

MOTION: McKeown moved for adjournment at 9:25 PM, seconded by Zhe. Voting in favor were: Mayor Freeman and Trustees Batzel, Hayes, McKeown and Zhe. Voting against were: none.

CARRIED, 5 Ayes, 0 Nays

Gary Margiotta
Deputy Clerk