

A Regular Meeting of the Town of Avon was held on Thursday, November 29, 2012 at 6:00 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, Richard Steen, and James Blye

OTHERS: Attorney James Campbell, Town Engineer Timothy Rock, Highway Superintendent Thomas Crye, Code Enforcement Officer Anthony Cappello, Water Superintendent Daniel McKeown, Deborah Dillon-Sarra and Town Clerk Sharon Knight CMC/RMC (arrived at 6:25)

VISITORS: Property Owners Henry Hanson and Santo Viola, Village of Avon Officials Mayor Thomas Freeman, Deputy Mayor Mark McKeown, Trustee William Zhe, Trustee Robert Hayes, and Village Attorney Reid Whiting, Five Star Bank Representatives Kelley Howard, Vice President-Branch Manager and Karen D. Stevens, Vice President

Supervisor LeFeber called the meeting to order at 6:00 P.M.

Pledge of Allegiance

Town of Avon Department Reports has been removed from this portion of the minutes.

OPEN HEARING – ANNEXATION

Supervisor LeFeber welcomed the Village Board to the meeting and opened the public hearing by reading the following legal notice:

NOTICE OF JOINT PUBLIC HEARING ON PROPOSED ANNEXATION TOWN OF AVON and VILLAGE OF AVON

On November 29, 2012, at 7:00 p.m. a joint public hearing will be held by the Supervisor and the Town Board of the Town of Avon and the Mayor and Board of Trustees of the Village of Avon at the Avon Town Hall, 23 Genesee Street, Avon, New York, for the purpose of considering and hearing testimony as to a local law (for each municipality) authorizing the execution of an annexation agreement in regard to the annexation by the Village of Avon, from the Town of Avon, of a tract of real property comprising approximately 22.4 +/- acres of land generally bounded on the east by lands now or formerly owned by Niagara Mohawk Power Corporation and the Village limits on the south. The real property that is the subject of the proposed annexation is owned by Livingston Industrial Complex, LLC and is identified as Tax Identifier Map Parcel Number 24-2-1. Said owner duly filed a Petition for Annexation with the Town of Avon and the Village of Avon.

All interested parties are invited to attend the public hearing and will be given an opportunity to be heard.

Attorney Campbell stated that the purpose of the hearing is to acknowledge adequacy of the petition and then to hear testimony to gather the interest of communities of the Village and Town. The parcel of land is owned by the same owner.

Village Attorney Reid Whiting stated that if the conclusion is to adopt the Local Law then each board will introduce and pass a resolution for the annexation.

Mayor Freeman shared his thoughts about the annexation stating the properties have been in the running for development, the property provides many benefits to a developer one important benefit would be frontage of the properties if the annexation is approved. The current owners/developers have worked hard to purchase the property from Ms. Denton. This annexation will help the Industrial Park that helps both the Village and the Town.

Supervisor LeFeber referred to development as a cumbersome process when two separate municipalities are involved in development. This action will allow the Village to provide fire protection, water and sewer to the site quickly and with one less layer of government.

Historian Maureen Kingston stated that she does not have a problem with the annexation and questioned if the property had an archaeological study.

The property is currently land locked and the annexation will allow it to be tied into the current Industrial Park.

A map was reviewed showing the Lands of Livingston Industrial Complex, LLC To be Annexed into the Village of Avon, dated July 13, 2009 some parcel numbers are 34.05-01-71, 24.02-10, 24.14-01-01.

Attorney Campbell reported on the Livingston County Planning Board voting on November 8, 2012 to recommend "Approval" of the proposed action as follows:

Deputy Supervisor Mairs stated that the annexation provides for a seamless transaction to not have to deal with two municipalities, Empire Zone looks to see how many municipalities you have to work with, when the property becomes annexed it will be the best piece of property in Western New York.

Trustee Hayes shared his support of the property being squared off and becoming a part of the Village.

**RESOLUTION #216 CLOSE PUBLIC HEARING LOCAL LAW T-6A-2012
ANNEXATION AGREEMENT**

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

**RESOLUTION #216 CLOSE PUBLIC HEARING LOCAL LAW T-6A-2012
ANNEXATION AGREEMENT-continued**

RESOLVE to close the public hearing on Local Law T-6A-2012 - Annexation Agreement.

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

Upon a motion made by Trustee Zhe, the Public Hearing for Local Law T-1A-2012, Annexation Agreement was closed. Trustee Hayes seconded the motion and it was carried by the following vote.

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

DISCUSSION SHORT FORM SEQR

Village Attorney Whiting reviewed with both the Town and Village Boards the Short Environmental Assessment Form Part 1 which was provided by the Applicant/sponsor Henry Hansen o/b/o Livingston Industrial Complex, LLC and Part II and Part III were determined by both Boards as follows:

RECEIVED

NOV 29 2012

SHARON H. WRIGHT
TOWN CLERK / TAX COLLECTOR

617.20

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR <i>Livingston Industrial Complex, LLC</i>	2. PROJECT NAME <i>Annexation of Parcel by Village of Avon</i>
3. PROJECT LOCATION: Municipality <i>Town of Avon</i> County <i>Livingston</i>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <i>Tax Parcel No. 24-2-1</i>	
5. PROPOSED ACTION IS: <input checked="" type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: <i>Annexation of parcel within the Town of Avon into the Village of Avon</i>	
7. AMOUNT OF LAND AFFECTED: Initially <i>22.4</i> acres Ultimately <i>same</i> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: <i>Industrial park all within the Village of Avon. Agricultural use in town adjoining the industrial park.</i>	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: <i>Town Board Village Board</i>	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <i>Henry Hansen aka Livingston Industrial Complex, LLC</i> Date: <i>11/30/12</i> Signature: <i>[Handwritten Signature]</i>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment



PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.
 Yes No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another Involved agency.
 Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:
No

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:
No

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:
No

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:
No

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:
Annexation will enhance the development of the adjacent industrial park, which is a positive development.

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:
None

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:
None

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?
 Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
 Yes No If Yes, explain briefly:

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

- Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination

Town Board, Town of Avon

Name of Lead Agency

11/30/12

Date

David LeFever, Supervisor

Print or Type Name of Responsible Officer in Lead Agency

Supervisor

Title of Responsible Officer

David LeFever

Signature of Responsible Officer in Lead Agency

Ricard G. Whiting

Signature of Preparer (if different from responsible officer)

Reset

RESOLUTION #217 APPROVES SEQR AND AUTHORIZES THE SUPERVISOR TO SIGN

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

ADOPTED AYES 5 NAYS 0

RESOLVE to approve and authorize Supervisor LeFeber to sign the Short Environmental Assessment Form, dated November 30, 2012.

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

Upon a motion made by Trustee Zhe, to approve the Short Environmental Assessment Form, dated November 30, 2012 as shown above, seconded by Deputy Mayor McKeown the motion and it was carried by the following vote.

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

RESOLUTION #218 ADOPTION OF LOCAL LAW 4-2012

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

ADOPTED AYES 5 NAYS 0

RESOLVE at adopt Local Law 4-2012 as follows:

RESOLUTION #218 ADOPTION OF LOCAL LAW 4-2012-continued

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

Upon a motion made by Trustee Hayes, to adopt Local Law 1-2012 as shown above, seconded by Trustee Zhe the motion and it was carried by the following vote.

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

DISCUSSION ADOPTED LOCAL LAW T-3-2012

Attorney Campbell reported that a legal notice of the adopted Local Law is not needed. Engineer Timothy Rock was asked to change the Town of Avon Zoning Map.

JOINT ITEMS FOR DISCUSSION

Avon Free Library – Resolution was adopted in 1981 to received funds from the municipalities. The Board is very hard working and they have a detailed understanding of their budget and vision. The Village of Avon helps with lawn maintenance of the property that begins on Genesee Street and goes to South Avenue. The percentage of residents that have a relationship is high including computer usages. The amount of dollars provided by the Town of Avon has remained the same for 12 to 13 years, additional dollars were provided through Avon on the Green and Avon Central School's budget process.

Avon Ambulance -- They are also run by a Board and some of their challenges are to develop a vision and to learn to become transparent in sharing financial reports, what the projected financial crises are. The goals are to provide good service to our community and tax levels. If the Avon Ambulance no longer exists then the Town of Avon would be responsible for providing the service to the community. Options to provide service were discussed including outsourcing to Livingston County. Creating a district would include a budget line item to be added to the Town Budget as well as other requirements and those procedures take eighteen to twenty-four months. The Village also takes a small part in that process. Minutes of the Board meeting need to be shared with both the Village and Town Boards. Two Members of the Town Board have been invited to participate in the Ambulance Board meeting; however, the Village of Avon has not been invited to participate. Three meetings have been attended by the Town Representatives including one held at the Ambulance base, the Town of Livonia and the third in the Village of Avon. They have been encouraged to define their identified logistical and financial problems. Supervisor LeFeber will prepare a joint letter to the Ambulance

JOINT ITEMS FOR DISCUSSION-continued

Board including issues discussed along with appreciation of the service they provide to our community.

Solar Energy Proposal – Early this year the Town of Avon looked at solar power to be placed on the Town Barn's roof and the Board had chosen not to participate in the program. Engineer Rock provided the following option and the Board had discussions that resulted in their interest to collect data and meet the application deadline of March 14, 2013 with NYSERDA.

Joint Deputy Code Officer – One year ago a position and some interviews took place. For the past twelve years Anthony Cappello has served the Village as a Code Enforcement Officer. Councilman Steen shared his continued interest of filling the position. He has spoken to Councilman Blye and Trustee Zhe a few times. The number of applicants and the duties of the position were shared. Recently the Town and Village appointed a person to help catch us up on fire inspections and when the Towns are completed he will begin on the Village fire inspections. The positions of Fire Marshall Duties are included in the Code Enforcement Officer position. The municipal obligation is to protect home and property owners as well as renters. Changing the part time positions to a full time position might be an option when considering the costs associated with both the Village and Town or combining with other Towns and Villages. It appeared to be agreed to have conversations with other municipalities to determine their interests of combining.

Next Joint meeting – It was decided to have quarterly meetings and the next one will occur in March and the Village will host.

The meeting continued with the Avon Town Board and the Village Board ended their participation in the meeting.

Respectfully submitted by,

Sharon M. Knight CMC/RMC Town Clerk

RECEIVED

OCT 30 2012

SHARONIA KNIGHT
TOWN CLERK / TAX COLLECTOR

LOCAL LAW NO. 4 OF THE YEAR 2012

OF THE TOWN OF AVON

A local law authorizing the execution of an annexation agreement in regard to the annexation by the Village of Avon, from the Town of Avon, of a tract of real property comprising approximately 22.4 +/- acres of land generally bounded on the east by lands now or formerly owned by Niagara Mohawk Power Corporation and the Village limits on the south. The real property that is the subject of the proposed annexation is owned by Livingston Industrial Complex, LLC and is identified as Tax Identifier Map Parcel Number 24-2-1.

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

SECTION 1. TITLE AND SCOPE

This local law shall be known as "A LOCAL LAW TO AUTHORIZE THE TOWN OF AVON TO ENTER INTO AN ANNEXATION AGREEMENT WITH THE VILLAGE OF AVON TO PERMIT THE VILLAGE OF AVON TO ANNEX FROM THE TOWN OF AVON CERTAIN REAL PROPERTY CONSISTING OF 22.4 +/- ACRES OF LAND KNOWN AS TAX IDENTIFIER MAP PARCEL NUMBER 24-2-1."

SECTION 2. PURPOSE.

The purpose of this local law is to protect and promote the public health, safety and welfare of the residents of the Town of Avon.

SECTION 3. DESCRIPTION OF PROPERTY TO BE ANNEXED.

The real property to be annexed by the Village of Avon, from the Town of Avon, is comprised of approximately 22.4 +/- acres of land generally bounded on the east by lands now or formerly owned by Niagara Mohawk Power Corporation and the Village limits on the south. Said real property is owned by Livingston Industrial Complex, LLC and is identified as Tax Identifier Map Parcel Number 24-2-1. Appended hereto as Exhibit "A" is a metes and bounds description of the property to be annexed.

SECTION 4. COMPLIANCE OF PETITION.

A valid Petition for Annexation dated October 11, 2012 was signed by the Managing Member of Livingston Industrial Complex, LLC, the sole owner of the property to be annexed. This Petition for Annexation complies with the requirements of the New York State General Municipal Law and has been provided to the Town of Avon and the Village of Avon.

SECTION 5. JOINT PUBLIC HEARING.

A joint public hearing was held by the Town of Avon and the Village of Avon on November 29, 2012. The joint public hearing was properly noticed pursuant to the requirements of General Municipal Law section 704, and all interested parties were given an opportunity to be heard.

SECTION 6. OVER-ALL PUBLIC INTEREST.

After hearing all testimony offered at the joint public hearing, and considering all input relative to the proposed annexation, the Avon Town Board hereby finds that it is in the over-all public interest of the citizens of the Town of Avon for the Town Board to approve the proposed annexation.

The Town Board finds that the subject property is presently landlocked, and without annexation to the Village of Avon, the parcel cannot be adequately developed as an industrial park. The Town Board acknowledges that the area of the subject parcel has been anticipated for such development and such development is in keeping and furtherance of the Town's overall vision for the community. The Town Board further finds that such development will likely increase the tax base of the Town of Avon as well as bring increased employment opportunities into the community.

SECTION 7. AUTHORITY TO ENTER INTO ANNEXATION AGREEMENT.

After due deliberation and based upon the above findings, the Town Board of the Town of Avon hereby authorizes the Town Supervisor to execute any and all documentation necessary to effectuate the annexation of the subject property from the Town of Avon to the Village of Avon.

SECTION 8. AMENDMENT OF TOWN MAP.

Upon execution of all documents necessary to effectuate the above annexation, the Town Board shall be authorized to amend the Official Town Zoning Map for the Town of Avon so as to properly reflect the annexation.

SECTION 9. EFFECTIVE DATE.

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