

A regular meeting of the Town of Avon was held on Thursday, August 13, 2020 at 6:00 P.M. at the Avon Opera Block/Town Hall, 23 Genesee Street, Avon, New York 14414, and via Join.Me phone number 1-646-307-1990 and conference call number 152-725-660# of the Avon Town Board. The following members participated:

PRESENT: Supervisor David LeFeber, Deputy Supervisor Thomas Mairs, Councilmen James Harrington, Malachy Coyne, and Paul Drozdziel (arrived at 7:30 P.M.)

OTHERS: MRB Group Engineer David Willard, Code Enforcement Officer Brian Glise, Attorney James Campbell, and Sharon M Knight MMC/RMC Town Clerk (arrived at 6:20 P.M.)

VISITORS: Amy and Charles Leonard, Cindy Kellen, Edward Forsythe, and Judy Falzoi via Join.Me.

Engineer William Davis asked for names of those on the JoinMe meeting and Judy Falzoi stated she was on the line.

Supervisor LeFeber called the meeting to order at 6:00 P.M. and led those in attendance in the Pledge of Allegiance. He stated that he would take minutes as the Town Clerk was not present and had not contacted him by phone or text to her whereabouts.

#### **DISCUSSION – PUBLIC COMMENTS**

Supervisor LeFeber asked for public comments and the follow:

Visitor Cindy Kellen mentioned the proposed campground concept at the Kemp PDD. Supervisor LeFeber mentioned that Mr. Kemp had contacted him in support and Heather Ferrero sent letter saying the Livingston County Planning Board needed more information to pass down determination on intend use at this location. Avon Town Planning will not provide Town Board recommendation until County Planning does complete review.

Also, discussion about new website not having meeting agenda. Still confusion exists that old web site can still be accessed.

#### **RESOLUTION #110 APPROVAL OF MINUTES**

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

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Councilman Drozdziel)

RESOLVE to approve the minutes of July 23, 2020, as presented by e-mail and to request they be published on the Town of Avon website at townofavon-ny.org.

**Vote of the Board: Councilman Drozdziel - Absent, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye**

**RESOLUTION #111 APPROVAL OF MINUTES**

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

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Councilman Drozdziel)

RESOLVE to approve the minutes of August 11, 2020, as presented by e-mail and to request they be published on the Town of Avon website at townofavon-ny.org.

**Vote of the Board: Councilman Drozdziel - Absent, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye**

**DISCUSSION – ATTORNEY DEPARTMENT REPORT**

Attorney Campbell reported on the following:

There was a brief discussion of DG Solar Pilot and Brian Harper.

Brief discussion about Barilla and Morgan Estate challenges to assessment.

A letter has been sent to New York State Department of Environmental Conservation on use of Oak Openings pit and C&D storage.

Michael Miles resignation we have three applicants and Kathy Cole also be involved in interview.

**DISCUSSION – HIGHWAY/WATER DEPARTMENT REPORT**

Highway Superintendent Crye provided the following written report.

**HIGHWAY:**

- Started Mow back
- Changed cross over pipe on Pole Bridge
- Park & cemetery's mowed
- Shop – work and restocked
- Work for County

**WATER:**

- Meter Readings
- Locating curbs
- Meter replacements
- Fixed

**SURPLUS:**

- 2001 Dodge Ram - \$2,575.00
- Utility Trailer - \$1,241.00
- Snowmobile Trailer - \$600.00

**DISCUSSION – ENGINEER DEPARTMENT REPORT**

Engineer David Willard provided a report of projects.

He stated that he provided the Board with a quote for a water main replacement on Route #15, beginning at Route #5/20 to its end on Route #15. Its presumed that the project would be bid out. Supervisor LeFeber stated we are getting close to working on the 2021 budget. Additional cost would be added if the project is loaned through Rural Development as they have additional requirements.

Discussion continued regarding Livingston County putting together estimates of water projects that includes ranking the projects. They are collecting data that show interconnections with municipalities. To date, a draft report has not been provided. Councilman Coyne questioned how the ranking was working. Supervisor LeFeber stated the Avon Town and Village Water Study was being reviewed and the money component would be ranking the interconnections. They are looking at how and what would the future water distributions look like. There are other projects that we are waiting to consider depending on the results of the County's review. Our current project to replace a water line on Route #15, is a stand-alone project and not included in the County's consideration.

**DISCUSSION – OPEN PUBLIC HEARING FOR LOCAL LAW T-2A-2020**

Supervisor LeFeber read the following legal notice and declared the Public Hearing open.

**LEGAL NOTICE  
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Code of the Town of Avon, and pursuant to Town Law §130 and §264, that a public hearing shall be held by the Town Board of the Town of Avon at the Town Hall, located at 23 Genesee Street, Avon, New York at 6:30 p.m. on Thursday, August 13, 2020 for the purpose of considering public opinion and comment about or concerning a proposed local law relating to the following:

An extension to a moratorium to temporarily prohibit the creation or siting of large scale battery energy storage system installations (as defined in the proposed Local Law) within the Town of Avon for a period of up to six (6) months, pending the development and adoption of local laws and/or ordinances designed to regulate and govern such installations.

A copy of the proposed local law is available for review by the public at the office of the Town Clerk during regular Town Clerk hours.

All interested persons are invited to appear and be heard at the aforesaid time and place.

Dated: July 31, 2020

Published: August 6, 2020

By Order of the Town Board of the Town of Avon  
Sharon Knight - Town Clerk, MMC/RMC

Local Law T-2A-2020 was sent to the Livingston County Planning Board and received approval. The large scale battery energy storage committee appointment by the Town Board continues to work on helping to provide information to the Town Board. The next meeting is being scheduled.

Supervisor LeFeber asked for any public comments.

Modifications to our existing solar law continues to be discussed and the current solar law, which has been in place for a few years, may need changes as solar continues to change.

Councilman Harrington asked for the dates of the next meeting. Attorney Campbell responded stating that Kimberly McDowell would be scheduling the next meeting.

Visitor Judy Falzoi shared comments via Join.Me. She had provided information on the proposed local law. Also, she requested a monthly summary report be included on the Town Board's agenda to keep track of the committee's work. The report would include things such as articles being reviewed or presentations to the committee. In addition, an update and brief summary in the newly developing newsletter was recommended. Supervisor LeFeber agreed with Judy's recommendations.

Supervisor LeFeber left the hearing open.

### **DISCUSSION – CODE DEPARTMENT REPORT**

Code Enforcement Officer Brian Glise provided the following report:

The Knox box has been ordered through the Village of Avon at a cost of approximately \$250.00 for the bigger box with the key and maps.

Questions were received today and yesterday regarding if there has been any discussion of water extensions on Oak Opening Road. If so, what are the cost and who would our residents talk too. Supervisor LeFeber responded stating that several years ago the Town Board which also serve as the Water Commissioners looked at water pressures in the area.

There is enough water pressure for the first five homes off of Route #5/20 heading North, but beyond that there is not the required water pressure. The Board is not looking at extending that at this time.

Working with the DEC regarding the mine on Oak Opening Road.

Piranha is requesting a framing inspection.

Five or six new homes have slowed down building because products are not available.

Royal Springs Developer Mr. Kolokouris excavated a hole for his first house without a permit.

There was discussion on the Planning/ZBA Boards meeting to be held on Monday evening as they are expecting a large crowd. Attorney Campbell will be in attendance for the open public meeting.

### **DISCUSSION TOWN CLERK REPORT**

Town Clerk Knight apologized to the Board for being late for the meeting.

She requested approval of the Board to purchase the two computers that were scheduled for replacement and budgeted in 2019. The Deputy's computer really needs to be replaced. Supervisor LeFeber simply stated, not now. This would be discussed at budget time for 2021.

Hunting licenses went on sale on Monday with a new system that is not working very well. Dog licenses have exploded as the County has sent out reminders.

Councilman Harrington requested if a second key is available for the mailbox issued to him as he lost his key. Town Clerk Knight has additional keys and will let him know of the cost.

### **RESOLUTION #112 ACCEPT THE MONTHLY REPORTS**

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

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Councilman Drozdzziel)

RESOLVE to accept the monthly reports for July 2020 from the Town Supervisor and from the Town Clerk as shown below:

Town Clerk's July 2020 Report:

Total Local Shares Remitted:	\$2,339.18
New York State Department of Health	\$ 135.00
NYS Ag. & Markets for spay/neuter program	\$ 52.00
NYS Environmental Conservation	\$ 244.02
<b>TOTAL</b>	<b>\$2,770.20</b>

**Vote of the Board: Councilman Drozdziel - Absent, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye**

**RESOLUTION #113 OPERA BLOCK BERO**

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

RESOLVE to approve the payment of \$400.00 to Bero for the RVP process that was originally thought to be completed on our own regarding improvements to the third floor of the Town Hall/Opera Block.

**Vote of the Board: Councilman Drozdziel – Absent, Councilman Coyne- Aye, Councilman Harrington - Aye, Councilman Mairs - Aye, Supervisor LeFeber – Aye**

**RESOLUTION #114 SCHEDULE A PUBLIC HEARING SPECIAL UNITS**

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

RESOLVE to adopt the following legal notice:

LEGAL NOTICE  
 NOTICE OF PUBLIC HEARING

The tentative 2020 special assessment roll (to be used for the 2021 tax bills) of the Route #39 Water Extension, Royal Springs Subdivision Lighting, and the Bruckel Drainage District has been completed and is on file at the Avon Town Clerk’s Office, 23 Genesee Street, Avon, New York 14414 for review during regular business hours. The special assessment rolls indicate how many units you will be charged for water extension, drainage and/or lighting on your property tax bill for 2021.

The Avon Town Board will hold a public hearing for owners of properties located within the above-described districts on Thursday, August 27, 2020 at 6:30 P.M. in the Avon Town Hall/Opera Block, 23 Genesee Street, Avon, New York 14414 to hear objections to the special assessment roll and further give notice by mail to each property owner with unit charges on their tax bill.

By order of Town Board  
Sharon M. Knight MMC/RMC, Avon Town Clerk  
Dated: August 13, 2020  
To be published: August 20, 2020

**Vote of the Board: Councilman Drozdziel – Absent, Councilman Coyne- Aye, Councilman Harrington - Aye, Councilman Mairs - Aye, Supervisor LeFeber – Aye**

**RESOLUTION #115 DECLARE SURPLUS ITEMS**

On motion of Councilman Harrington, seconded by Councilman Coyne the following resolution was

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Councilman Drozdziel)

RESOLVE to declare the following items as surplus as they have recently been sold:

2001 Dodge Ram - \$2,575.00

Utility Trailer - \$1,241.00

Snowmobile Trailer - \$600.00

**Vote of the Board: Councilman Drozdziel – Absent, Councilman Coyne- Aye, Councilman Harrington - Aye, Councilman Mairs - Aye, Supervisor LeFeber – Aye**

**RESOLUTION #116 ACCEPT THE RESIGNATION OF MICHAEL MILES PLANNING BOARD MEMBER**

On motion of Councilman Harrington, seconded by Councilman Coyne the following resolution was

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Councilman Drozdziel)

RESOLVE to accept the resignation of Michael Miles from the position of Planning Board Member with thanks for his service.

**Vote of the Board: Councilman Drozdziel – Absent, Councilman Coyne- Aye, Councilman Harrington - Aye, Councilman Mairs - Aye, Supervisor LeFeber – Aye**

**DISCUSSION - ACCEPT THE RESIGNATION OF MICHAEL MILES PLANNING BOARD**

Supervisor LeFeber along with Planning Board Chairwomen Cole will jointly provide a letter of recommendation for Michael Miles regarding his service to the Town of Avon.

We have two applicants to fill the position and interviews will be conducted by Supervisor LeFeber and Councilman Drozdziel in the near future.

**RESOLUTION #117 PAYMENT OF BILLS**

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

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Councilman Drozdziel)

RESOLVE to accept for payment Abstract 2020-15 in the following amounts:

**Concerning ABSTRACT of Claims Number 2020-15 including claims as follows:**

<b>General Fund</b>	Amounts totaling \$13,003.35
<b>Highway Fund</b>	Amounts totaling \$14,280.52
<b>Water Fund</b>	Amounts totaling \$72,390.02
<b>Cemetery Fund</b>	No Voucher
<b>Opera Block Capital Improvement</b>	No Voucher
<b>Royal Springs Lighting</b>	Amounts totaling \$989.78
<b>Cross Roads Drainage District</b>	No Voucher
<b>Bruckel Drainage District</b>	No Voucher
<b>Royal Springs Drainage</b>	No Voucher
<b>Town of Avon Fire Protection</b>	No Voucher
<b>Rte. 39 Water SW2</b>	No Voucher

**Vote of the Board: Councilman Drozdziel – Absent, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye**

**DISCUSSION PROPOSED LOCAL LAW T-2A-2020**

Supervisor LeFeber asked for any additional comments on Local Law T-2A-2020 and there were none.

**RESOLUTION #118 CLOSING HEARING LOCAL LAW T-2A-2020**

On motion of Councilman Harrington, seconded by Councilman Coyne the following resolution was

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Councilman Drozdziel)

RESOLVE to close the public hearing for local law T-2A-2020.

**Vote of the Board: Councilman Drozdziel – Absent, Councilman Coyne- Aye, Councilman Harrington - Aye, Councilman Mairs - Aye, Supervisor LeFeber – Aye**

**DISCUSSION – LOCAL LAW T-2A-2020**

Attorney Campbell stated for the record that for the purpose of SEQR this is a Type 2 Action and the Board appeared to agree.



**RESOLUTION #119 ADOPT LOCAL LAW 2-2020**

On motion of Councilman Harrington, seconded by Councilman Coyne the following resolution was

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Councilman Drozdziel)

RESOLVE to adopt Local Law 2-2020 as follows:

TOWN OF AVON LOCAL LAW NO. 2 of 2020  
A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE  
MORATORIUM PROHIBITING LARGE SCALE BATTERY ENERGY STORAGE  
SYSTEM INSTALLATIONS WITHIN THE TOWN OF AVON

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

**SECTION 1. TITLE**

This Local Law shall be known as the “Moratorium on and Prohibition of Large Scale Battery Energy Storage System Installations within the Town of Avon.”

**SECTION 2. STATUTORY AUTHORITY; PURPOSE AND INTENT.**

This Local Law is intended to be consistent with and is adopted pursuant to the authority granted to the Town Board of the Town of Avon under the New York State Constitution, and the Laws of the State of New York, including but not limited to the following authorities: New York State Constitution Article IX, Section 2 (c)(ii)(6), (10); Municipal Home Rule Law § 10(1)(i); Municipal Home Rule Law § 10(1)(ii)(a)(6), (11), (12), and (14); Municipal Home Rule Law § 10(1)(ii)(d)(3); Municipal Home Rule Law § 10(2); Municipal Home Rule Law § 10(3); Municipal Home Rule Law § 10(4)(a), and (b); Statute of Local Governments §10(1), (6), and (7); Town Law § 64 (17-a); Town Law § 130(3) and (15); Town Law §135; Town Law Article 16 (Zoning & Planning) inclusive; Environmental Conservation Law §3-0301(1)(b), 3-0301(2)(m) and 8-0113 and 6 NYCRR Part 617, also known as the State Environmental Quality Review Act, as it pertains to applications that are neither excluded nor exempt from this local law.

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

This Local Law shall supersede and suspend those provisions of the Zoning Ordinance of the Town of Avon and New York state law which require the Planning Board and/or the Town Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

This Local Law is intended to temporarily prohibit the creation or siting of large scale battery energy storage system installations (as herein later defined) within the Town of Avon for a period of up to six (6) months, pending the development and adoption of local laws and/or ordinances designed to regulate and govern such installations.

On or about August 27, 2019, the Avon Town Board duly adopted a previous one year “Moratorium Prohibiting Large Scale Battery Energy Storage System Installations within the Town of Avon” (hereafter “Previous Moratorium”).

During the term of the Previous Moratorium, the Town Board constituted a committee which began conducting research on the subject of large scale battery energy storage installations, which included reviewing model legislation being used by other communities and resources made available from the New York State Energy Research and Development Authority. The Town wishes to create new zoning text that will assist in properly regulating the siting of large scale battery energy storage installations within the Town of Avon. Prior to completing such tasks, the State of New York was placed under a declared State of Emergency relating to the Covid 19 Pandemic, which resulted in numerous Executive Orders that prevented the committee and the Town Board from progressing with the finalization of appropriate legislation to create such new zoning text relating to the siting of large scale battery energy storage installations.

The Town Board recognizes and acknowledges that the Town needs additional time to complete and adopt appropriate local legislation to regulate the future creation and siting of large scale battery energy storage installations in a fashion that best maintains and preserves the identity of the Town and its strong agricultural history.

At this time, there are no pending applications for the location, development or site plan approval of a large scale battery energy storage system installation.

During the pendency of the moratorium, the Town Board will consider how best to permit such installations so as to harmoniously integrate such installations with the existing agricultural community and landscape and to mitigate potential undesirable environmental impacts that may be associated with such use. At present, the Zoning Code of the Town of Avon may not adequately regulate such land use. If the community allows such development during that time, the goals of the Town could be undermined or damaged. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted.

For these reasons, the Town Board finds that temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to develop and adopt necessary zoning and land use changes to the Zoning Code of the Town of Avon, thus protecting and furthering the public interest, health and safety.

### **SECTION 3. DEFINITIONS.**

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

**Large Scale Battery Energy Storage System Installation(s)** - Any installation of a rechargeable energy storage system having an aggregate energy capacity of 600kWh or more, consisting of electrochemical storage batteries or similar technology, battery chargers, controls, power conditioning systems, inverters, transformers, switchgears and associated electrical equipment designed to store electrical power received from a generating or transmission source and periodically discharging power from the battery energy storage system into the power grid. Systems typically used to provide standby or emergency power and/or an uninterruptable power supply, load shedding, load sharing, or similar capabilities relating to the energy consumed by a residence, farm operation or business on site and having an aggregate energy capacity of less than 600kWh shall not be considered a “Large Scale Battery Energy Storage System Installation” for purposes of this Moratorium.

**SECTION 4. TEMPORARY MORATORIUM and PROHIBITION.**

- A. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other Town-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official or agent of the Town of Avon, for the construction, establishment, or use or operation of any land, body of water, building, or other structure located within the Town of Avon, for any Large Scale Battery Energy Storage System Installation, as defined above.
- B. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no person, entity or business shall use, cause, or permit to be used, any land, body of water, building, or other structure located within the Town of Avon for any Large Scale Battery Energy Storage System Installation, as defined above.
- C. The prohibitions set forth above in Clauses A. and B. of this Section 4. are not intended, and shall not be construed, to prevent or prohibit the use and development of battery energy storage systems that are typically used to provide standby or emergency power and/or an uninterruptable power supply, load shedding, load sharing, or similar capabilities and that are for personal or individual use on or about any residence or place of business, or any farm operation, so long as such use does not have an aggregate energy capacity of 600kWh.

- D. This moratorium and prohibition shall be in effect beginning on the effective date of this Local Law and shall expire on the earlier of (i) that date which is six (6) months after said effective date; or (ii) the effective date of a Town Board resolution affirmatively stating the Town Board has determined that the need for this moratorium and prohibition no longer exists.
- E. This moratorium and prohibition shall apply to all real property within the Town of Avon, and all land use applications for the siting or creation of Large Scale Battery Energy Storage System Installation within the Town of Avon.
- F. Under no circumstances shall the failure of the Town Board of the Town of Avon, the Zoning Board of Appeals of the Town of Avon, the Planning Board of the Town of Avon, or the Code Enforcement Officer for the Town of Avon to take any action upon any application for a permit, zoning permit, special permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or any other Town-level approval related to a Large Scale Battery Energy Storage System Installation constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

#### **SECTION 5. HARDSHIP VARIANCE RELIEF FROM APPLICABILITY OF MORATORIUM.**

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this Local Law following a noticed public hearing before the Town Board. It is specifically intended that this moratorium shall supersede New York State law which would otherwise confer exclusive variance authority to the zoning board of appeals.

Following a written request for hardship variance relief, within sixty (60) days of receipt of such request, a noticed public hearing shall be held, at which hearing the Town Board may, but is not limited to consider:

- A. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other areas of environmental concern.
- B. The impact of the proposed application on the applicant's premises and upon the surrounding area.
- C. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.

- D. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of Avon.
- E. The written opinion of the Town of Avon Planning Board and the Town of Avon Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.
- F. Evidence specifying in detail the nature and level of any alleged hardship imposed on the property owner(s) as a result of this moratorium.
- F. Such other considerations and issues as may be raised by the Town Board.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be helpful with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner (or if there are multiple property owners, a determination that each such owner shall suffer an unreasonable hardship) which is unique to the property owner(s), a finding that there are sufficient existing regulations to adequately govern the application for which a hardship waiver is being requested, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the existing Town of Avon Zoning Ordinance and the recommendations of the Comprehensive Plan as such may exist.

An application for relief from the prohibitions of the moratorium shall be accompanied by a fee of \$1,000, together with the applicant's written undertaking, in a form to be approved by the Attorney for the Town, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application, including but not limited to any fees incurred by the Town for services provided by the Attorney for the Town.

## **SECTION 6. PENALTIES.**

- A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Five Hundred Dollars (\$1,500) or imprisonment for not more than 10 days, or both for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500) or imprisonment for a period of not more than 30 days, or both. For purposes of this Clause A., each day that a violation of this Local Law exists shall constitute a separate and distinct offense.
- B. Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town by the Town Board.

- C. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all costs incurred by the Town relative thereto, including attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the propert(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

#### **SECTION 7. CONFLICTS.**

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this moratorium shall take precedence over and shall control over any contradictory local law, ordinance, regulation or Zoning Ordinance provision.

#### **SECTION 8. SEVERABILITY.**

If any word, phrase, sentence, part, section, subsection, or other portion of this Local Law, or the application thereof to any person or to any circumstance, is adjudged or declared invalid or unenforceable by a court or other tribunal of competent jurisdiction, then, and in such event, such judgment or declaration shall be confined in its interpretation and operation only to the provision of this Local Law that is directly involved in the controversy in which such judgment or declaration is rendered, and such judgment or declaration of invalidity or unenforceability shall not affect or impair the validity or enforceability of the remainder of this Local Law or the application hereof to any other persons or circumstances. If necessary as to such person or circumstances, such invalid or unenforceable provision shall be and be deemed severed here from, and the Town Board of the Town hereby declares that it would have enacted this Local Law, or the remainder thereof, even if, as to particular provisions and persons or circumstances, a portion hereof is severed or declared invalid or unenforceable.

#### **SECTION 9. EFFECTIVE DATE.**

The effective date of this Local Law shall be immediately upon its filing with the Secretary of State.

**Vote of the Board: Councilman Drozdziel – Absent, Councilman Coyne- Aye, Councilman Harrington - Aye, Councilman Mairs - Aye, Supervisor LeFeber – Aye**

#### **DISCUSSION OPEN ITEMS**

Councilman Harrington asked Attorney Campbell the pros and cons for taking ownership for Royal Springs Lighting District poles. Attorney Campbell responded with discussion including the liability maintenance, repairs, insurance, and replacements.

Councilman Harrington stated the highway crew was at the East Avon Cemetery and did a fantastic job and should be responsible for all of the Cemeteries in Avon.

### **DISCUSSION – PUBLIC COMMENTS**

Visitor Edward Forsythe commented on Paper Mill Park asking when the additional improvements would be made. A lot of people are going there, and it seems to be like a water park. He stated the trash cans have been removed, some are leaving trash behind and others are picking-up trash.

Supervisor LeFeber stated that we have an awarded grant to make improvements to the bridge and site work to enhance the view of the falls. Prior to Covid 19 we anticipated spending those dollars but now we are not certain that the dollars will be received. Requests has been made to the Livingston County Sheriff's Department to keep an eye on the Park. We have had graffiti that is inappropriate, and it has been painted over.

Visitor Forsythe stated that there have been approximately twenty cars both days that he visited and there are dead trees and it is a safety concern for the visitors.

Both Visitor Forsythe and Supervisor LeFeber agreed the current situation is the reason for additional use.

Councilman Coyne questioned if the Town's interest in counting to spending funds on the park is helpful to securing the approved grant dollars.

Attorney Campbell stated the State is struggling like everyone else. Engineer Willard stated the good news is that no one from the State has called to report they we will not provide the dollars that were promised. MRB Group is working on a current project that was frozen and then became unfrozen. He offered to reach out to the state for an update as the last updates were in May.

Town Clerk Knight asked if the minutes had been approved and Supervisor LeFeber responded stating yes, that he took the minutes. Also, she asked if the Board addressed the mine expansion and Supervisor LeFeber stated that was also addressed.

### **RESOLUTION #120 EXECUTIVE SESSION**

On motion of Councilman Harrington, seconded by Councilman Coyne the following resolution was

ADOPTED AYES 4 NAYS 0 Councilman Harrington

RESOLVE to enter executive session for the purpose of the medical, financial, credit or employment history of a person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a person or corporation. TIME 7:03 P.M. inviting Attorney Campbell, left at 7:27 P.M.), 7:34 P.M inviting Wendy Sisson at 7:50 P.M. inviting David Hoffmann left at 8:14 P.M.

**Vote of the Board: Councilman Drozdziel - Absent, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye**

**RESOLUTION #121 CLOSE EXECUTIVE SESSION**

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

RESOLVE to close executive session with no action taken at 8:28 P.M.

**Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye**

On motion of Councilman Drozdziel, seconded by Councilman Coyne the meeting was adjourned at 8:29 P.M.

Respectfully submitted by:

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Sharon M. Knight, MMC/RMC Town Clerk

&

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David LeFeber, Supervisor