

A regular meeting of the Town of Avon was held on Thursday, December 10, 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

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

VISITORS: Cindy Kellen, Sara Gilbert, Pam Taggert-Rice, Howard Forsythe, and Judy Falzoi (Join.Me)

Supervisor LeFeber called the meeting to order at 6:00 P.M. and led those in attendance in the Pledge of Allegiance.

Supervisor LeFeber stated the public hearing is still open for proposed local law establishing a temporary land use moratorium prohibiting excavation operations within the Town of Avon.

DISCUSSION – PUBLIC COMMENTS

Supervisor LeFeber asked for public comments and they are as follows:

Visitor Cindy Kellen asked when the public should comment on the application for the Kemp PDD to add an additional use of a campground/storage area.

Sara Gilbert stated she was there to address the Board on the application regarding the proposed campground/storage area.

A letter was provided by the Town of Avon Planning Board Clerk that included Livingston County Planning Board's recommendation for approval. If the Town Board approves the use the Planning Board would consider approval of the site plan.

Visitors asked the following:

- Is our water system was able to handle sufficiently the quantity and quality of water?
- There is no place in the Town Code that allows storage. Is the storage visible from the road?
- The PDD was designated to give potential employment. Is there a change that we no longer need jobs?

Sara stated that a representative would be on site 24/7. The area is 88 acres and would complete the rest of the PDD.

There was a lengthy discussion, and the Board took the following action.

RESOLUTION #182 AUTHORIZE ATTORNEY CAMPBELL TO DRAFT A RESOLUTION AUTHORIZING THE USE OF A SEASONAL CAMPGROUND WITH AN ACCESSORY OUTDOOR STORAGE AREA

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

ADOPTED AYES 4 NAYS 1 (COUNCILMAN DROZDZIEL)

RESOLVE to authorize Attorney Campbell to draft a resolution authorizing the use of a seasonal campground and accessory outdoor storage area for recreational items in the Kemp PDD.

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

RESOLUTION #183 APPROVAL OF MINUTES

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

ADOPTED AYES 5 NAYS 0

RESOLVE to approve the minutes of November 17, 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 - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

RESOLUTION #184 APPROVAL OF MINUTES

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

ADOPTED AYES 5 NAYS 0

RESOLVE to approve the minutes of November 19, 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 - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

DISCUSSION – ATTORNEY REPORT

Attorney Campbell reported on the following:

A draft legal notice was emailed to the Town Clerk to schedule a public hearing for the December 29th Town Board Meeting but needs to add the Join.Me as a remote public hearing. A legal notice will be provided to the Clerk for publication when completed. Assistance from MRB Group will be needed to complete the legal notice.

RESOLUTION #185 SET PUBLIC HEARING LOCAL LAW T-6A-2020.

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

ADOPTED AYES 5 NAYS 0

RESOLVE to request Attorney Campbell to prepare a final legal notice for Local Law T-6A-2020 inviting remote public participation on December 29th at 6:00 P.M.

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

DISCUSSION – ATTORNEY REPORT-continued

Attempts have been made to contact the New York State Department of Transportation regarding notification on the Town of Avon’s obligation to maintain sidewalks that go nowhere, without success.

Supervisor LeFeber stated that the Sutton Road Bridge over Route #390 work has been pulled at this time and the Bronson Hill Bridge is still on schedule.

DISCUSSION – HIGHWAY/WATER DEPARTMENT REPORT

Highway/Water Superintendent Crye provided a written report:

HIGHWAY:

- Snow removal
- Brush
- Shop

WATER:

- Everyday maintenance & sampling

DISCUSSION – CODE DEPARTMENT REPORT

Code Enforcement Officer Glise reported on the following:

Twin Cedars is moving along.

Another Oak Openings Road complaint was received regarding property lines. During a visit it was determined the are complying.

The knox box for this building should have been installed by Mr. Snyder.

DISCUSSION – ENGINEER DEPARTMENT REPORT

MRB Group Engineer David Willard reported on the following:

A proposal for GIS mapping for the Town Water System was presented to the Supervisor along with other proposals for Highway crossovers. Options for software along with their annual rates of reoccurring costs are separate from this proposal.

A spreadsheet of water costs from other municipalities was also provided to the Supervisor. Supervisor LeFeber stated we may need a second meeting.

The Board requested a scoping meeting for zoning modifications to prepare a proposal to be developed by the Attorney and MRB Group.

DISCUSSION – TOWN CLERK DEPARTMENT REPORT

Town Clerk Knight reported on the following:

The following correspondences were emailed to the Town Board:

Cost for additional wreaths as requested by Councilman Harrington
New York State Senator’s Office – Gov. Cuomo Press Briefing
OCR Funding Opportunity – Applications Open Now: NYS Home, New York Main Street, Etc.
Grow Liv. Co/We Need Your Feedback
Avon Holiday Spectacular
NYS Business Support
Completed Training of Planning & Zoning Board Members

NYS Town Clerk’s Association has provided web-based training including Cyber Security, Open Meeting Law, FOIL, Certificates of filing birth, death and marriage licenses, Office of the Comptroller fraud prevention, managing social media, managing inactive records, the New York State Archives LGS-1.

IIMC - Zoom meeting to discuss “The Challenges of Working Remotely”.

On December 3rd, a meeting was held on Zoom with London, Scotland, Netherlands, Belgium, California, Wisconsin, Idaho, Netherlands, Kansas, Norfolk, and many others.

Items discussed include redirect phone lines, upgrading laptops and servers, install Wi-Fi in employees homes, paying people, personalities of people working from home start/end workday (not working/checking emails at 6AM and 10PM), breaks, sitting at screen for long periods of time, disjointed, closing offices, emotional aspects, older generations not participating in electronic software (zoom), closed meeting areas, loss of smell/sound of others, hiring cleaners, goggle met, go to my meeting, MS Teams, increased participation in meetings, retirements.

United Kingdom distribution of vaccine week of 7th of December.

Will be attending an additional session where participants gather in a breakout room in a smaller group to look at one or two of the challenges in more detail?

- On the following days at 5.00pm London time:
 - Monday 14 December
 - Thursday 17 December
- Here are some possible topics, but you may have other suggestions:
 - How can you tackle social isolation when working from home?
 - Communication issues and being out of the loop
 - Loneliness and lack of human interaction.
 - How do you manage and prioritize your work/day so that you do not spend all day in front of the computer?
 - Do you know when to stop?
 - Interruptions - what can you do to avoid that?
 - ‘Knowledge’ work tends to be sedentary work—no matter where your office is. However, when you are at home, it's easier to slip into bad habits.
 - What can you do to counter bad health habits?
 - The fridge.
 - No breaks.
 - No exercise
 - How do you manage staff remotely?
 - To ensure the work gets done.
 - Are they OK?
 - Mental health
 - There is an increasing feeling of discomfort regarding the social isolation of our elected members as well, i.e., in their representative roles.
 - In particular the lack of interaction of the elected members, as well as ourselves, with citizens.
 - Participatory processes have always been a challenge in one way or another, but now even more so.
 - The challenges of hosting hybrid meetings
 - Any other suggestions?

Visited the Town of Livonia for their New York State Award Winning Records Management.

We are preparing for the collection of taxes. For legal purposes and just in case of the need to close our office due to Covid a notice has been placed on our tax bills that reads “to pay in person” an appointment is required. This is specifically for legal purposes only.

DISCUSSION – SUPERVISOR REPORT

Supervisor LeFeber reported on the following:

- We are not paying for the truck this year.
- Court revenue continues to be down.
- Solar Pilot did not come in as yet.
- CHIPS money reduced.
- Deputy Supervisor Mairs will schedule audits with the Court and Town Clerk/Tax Collector in early January.

RESOLUTION #186 ACCEPT THE MONTHLY REPORTS

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

ADOPTED AYES 5 NAYS 0

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

Town Clerk's November 2020 Report:

<u>Total Local Shares Remitted:</u>	<u>\$ 3,141.60</u>
<u>New York State Department of Health</u>	<u>\$ 45.00</u>
<u>NYS Ag. & Markets for spay/neuter program</u>	<u>\$ 72.00</u>
<u>NYS Environmental Conservation</u>	<u>\$ 1,407.65</u>
<u>TOTAL</u>	<u>\$ 4,666.25</u>

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

RESOLUTION #187 ACCEPT THE RESIGNATION OF BOARD OF ASSESSMENT REVIEW MEMBER KEVIN LILLIS

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

ADOPTED AYES 5 NAYS 0

RESOLVE to accept the resignation of Board of Assessment Review Member Kevin Lillis as of December 31, 2020.

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

DISCUSSION – SUPERVISOR REPORT- continued

Supervisor LeFeber reported that Assessor Snyder will place an advertisement on the Town of Avon website for the open position.

RESOLUTION #188 SCHEDULE THE 2021 ORGANIATION MEETING

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

ADOPTED AYES 5 NAYS 0

RESOLVE to accept the notification from Supervisor LeFeber scheduling the Town of Avon Organizational Meeting for Monday, January 4, 2021 at 6:00 P.M. in the Avon Town Hall Boardroom.

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

RESOLUTION #189 RE-APPOINT KATHY COLE TO THE POSITION OF PLANNING BOARD MEMEBER

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

ADOPTED AYES 5 NAYS 0

RESOLVE to re-appoint Kathy Cole to the position of Planning Board Member, term to expire December 31, 2027.

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

RESOLUTION #190 RE-APPOINT CINDY KELLEN TO THE POSITION OF ZONING BOARD OF APPEALS MEMEBER

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

RESOLVE to re-appoint Cindy Kellen to the position of Zoning Board of Appeal Member, term to expire December 31, 2025.

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

DISCUSSION – SUPERVISOR REPORT- continued

Supervisor LeFeber reported in the Employee Handbook Section 500-1 the Town of Avon requires one-half hour breaks; therefore, her Retirement Calendar would need to be amended but the other two could be adopted. He recommended adopting a resolution for both Justice Torregiano and Highway/Water Superintendent Crye. Town Clerk Knight responded stating a review of the handbook would be completed to amend the resolution for both the Highway/Water Superintendent and herself as the submitted calendars did not include one-half hour breaks. This was originally submitted on October 22, 2020.

Supervisor LeFeber requested the opinion of reducing a water bill for Kyle Farms. It was discovered a leak on the Kyle Farm that included two billing cycles. The reduction was significant. There was a lengthy discussion that included the telemetry system not able to identify slow leaks, a comparison of prior usage, additions to the farm, the retail water rate, this is the largest water leak, the ability of the customer to install metering technology, forgiving of future bills will not be approved. The Board appeared to agree of the reduction as they have in past requests.

A recommendation is to combine Planning and Zoning Board of Appeals meetings for 2021.

RESOLUTION #191 ACCEPT THE CLAIMS

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

ADOPTED AYES 5 NAYS 0

RESOLVE to accept for payment Abstract 2020-23 in the following amounts:

Concerning ABSTRACT of Claims Number 2020-23 including claims as follows:

General Fund	Amounts totaling \$15,036.21
Highway Fund	Amounts totaling \$3,150.31
Water Fund	Amounts totaling \$8,657.74
Cemetery Fund	No Voucher
Opera Block Capital Improvement	No Voucher
Royal Springs Lighting	Amounts totaling \$1,082.65
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 Drozdzziel – Aye, Councilman Coyne- Aye, Councilman Harrington - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

RESOLUTION #192 ACCEPT THE RESIGNATION OF TOWN HISTORIAN MAUREEN KINGSTON

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

ADOPTED AYES 5 NAYS 0

RESOLVE to accept the resignation of Town Historian Maureen Kingston as of December 31, 2020 with forty years of service.

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

DISCUSSION PUBLIC HEARING – LOCAL LAW T-5A-2020 ESTABLISHING A TEMPORARY LAND USE MORATORIUM PROHIBITING EXCAVATION OPERATIONS WITHIN THE TOWN OF AVON

Supervisor LeFeber opened the discussion on, Local Law T-5A-2020, establishing a temporary land use moratorium prohibiting excavation operations within the Town of Avon. Attorney Campbell stated the Board needs to consider if it makes since to allow it to continue and if so, where. The Board could decide to no longer allow excavations. The Board took the following actions.

RESOLUTION #193 CLOSE PUBLIC HEARING FOR LOCAL LAW T-5A-2020

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

ADOPTED AYES 5 NAYS 0

RESOLVE to close public hearing for local law T-5A-2020.

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

DISCUSSION – LOCAL LAW T-5A-2020 ESTABLISHING A TEMPORARY LAND USE MORATORIUM PROHIBITING EXCAVATION OPERATIONS WITHIN THE TOWN OF AVON

Attorney Campbell stated this is a Type 2 SEQR Action.

RESOLUTION #194 ADOPT LOCAL LAW 5-2020 ESTABLISHING A TEMPORARY LAND USE MORATORIUM PROHIBITING EXCAVATION OPERATIONS WITHIN THE TOWN OF AVON

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

ADOPTED AYES 4 NAYS 1 (DEPUTY SUPERVISOR MAIRS)

RESOLVE to adopt Local Law 5-2020 as follows:

**TOWN OF AVON LOCAL LAW NO. 5 of 2020
A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE
MORATORIUM PROHIBITING EXCAVATION OPERATIONS
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 Excavation Operations 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 Code of the Town of Avon and New York state law which require the Zoning Board of Appeals, 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 excavation operations (as herein later defined) within the Town of Avon for a period of up to twelve (12) months, pending the development and adoption of local laws and/or ordinances designed to better regulate the siting of such operations.

The Town Board recognizes and acknowledges that the Town needs to study and analyze many considerations that affect the preparation of local legislation to regulate the future creation and siting of excavation operations. The Town Board has formally requested the Building and Zoning Department, Zoning Board of Appeals and the Planning Board of the Town of Avon to identify local concerns over such use, review the current provisions of the Zoning Ordinance of the Town of Avon and related information and source materials, in order to assist in developing any new siting regulations or other amendments to the Zoning ordinance relating to excavation operations. The Town Board has directed the Town Attorney to assist in this endeavor.

During the term of the moratorium the Town of Avon shall work to prepare and eventually adopt new land use regulations to incorporate into the Town’s existing Zoning Code.

During the pendency of the moratorium, the Town Board will consider if it continues to be appropriate and in the best interest of the community of Avon to permit excavation operations within the Town of Avon, and if so, under what circumstances to allow the same. At present, the Zoning Ordinance of the Town of Avon may not adequately address proper siting of such land use. If the community allows such development during that time, the goals of the Town Comprehensive Plan and its related legislation favoring the successful continuity of agricultural operations and residential uses 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 Ordinance 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:

Excavation Operations – Operations, including the extraction of sand, rock and gravel and processing or other operations for the preparation of sand, rock and gravel for sale to or use by a third party. Excavation Operations specifically do not include the extraction of sand, rock and gravel and processing or other operations for the preparation of sand, rock and gravel undertaken by individual landowners, householders or farmers for their own personal use or the use of a business owned by them.

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, special use permit, conditional use 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, use, expansion of use or operation of any land, body of water, building, or other structure located within the Town of Avon, for any Excavation Operation, 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 Excavation Operation, as defined above, unless and excepting such use is a pre-existing Excavation Operation previously approved and operating as of the date of adoption of this Local Law. It is the specific intent of this Local Law that no expansion of a pre-existing Excavation Operation shall be permitted during the term of the moratorium established hereby.
- 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 extraction of sand, rock and gravel and processing or other operations for the preparation of sand, rock and gravel undertaken by individual landowners, householders or farmers for their own personal use or the use of a business owned by them.

- 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 twelve (12) 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 Excavation Operations within the Town of Avon, which shall specifically include any application to amend or expand a previously permitted or existing Excavation Operation.
- 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, special use 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 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, and within ninety (90) days thereof, a noticed public hearing shall be held, at which hearing the Town Board may 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 environmental concerns.
- B. The impact of the proposed application on the applicant's premises and upon the surrounding area, including any residential uses in the vicinity.
- 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 potential effect upon the same.
- 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 Zoning Board of Appeals, 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. Such other reasonable considerations and issues as may be raised by the Town Board.

The Town Board shall issue a written determination with regard to the requested relief within thirty (30) days of the closing of the public hearing. 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 consistent 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 which is unique to the property owner, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the recommendations of the Comprehensive Plan.

An application for relief of application of the moratorium shall be accompanied by a fee of \$500.00, 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 Engineer or Attorney for the Town. In the alternative to an undertaking, the Town, at its sole discretion, may require the applicant to provide moneys (in addition to the \$500.00 fee above) to be held in a non-interest bearing escrow account for the purposes of paying for the expenses anticipated herein. Such initial amount to be paid into escrow shall be determined by the Town Board and the Town Board may require subsequent deposit of additional funds should the initial escrow amount not be adequate to pay for all such expenses.

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 Code 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 – Aye, Councilman Coyne- Aye, Councilman Harrington - Aye, Deputy Supervisor Mairs - Nay, Supervisor LeFeber – Aye

VISITOR COMMENTS

Supervisor asked for visitor comments and there were none.

OPEN ITEMS

There was discussion regarding moratorium extensions due to Covid.

Councilmen Coyne and Harrington reported the next Solar Meeting dates are currently scheduled for 7 o'clock on the 16th and 22nd of December.

Councilman Harrington expressed his appreciation of the work identified and performed quickly by Jose' Alvarado.

Deputy Supervisor Mairs acknowledged that the clock is working.

On motion of Councilman Harrington, seconded by Deputy Supervisor Mairs the meeting was adjourned at 8:13 P.M.

Respectfully submitted by:

Sharon M. Knight, MMC/RMC Town Clerk