

A regular meeting of the Town of Avon was held on Thursday August 26, 2021, at 6:00 P.M. at the Avon Opera Block/Town Hall, 23 Genesee Street, Avon, New York 14414.

PRESENT: Supervisor David LeFeber, Deputy Supervisor Thomas Mairs, Councilmen James Harrington, Paul Drozdziel, and Malachy Coyne

OTHERS: Code Enforcement Officer Brian Glise, Attorney James Campbell, Highway/Water Superintendent Tom Crye, Town Historians Maureen Kingston and Clara Mulligan, and Ellen M. Zapf, RMC Deputy Town Clerk

VISITORS: Peter Vonglis, Robert & Carolyn McKee, Bruce Maxon, Kathy & Steve Gilbert, Deb Salmon, Eric Huppert, Kevin Lillis, Bryan Parks, Andrea & Mallory LaDelia-Batz, Karen Schiedel, Sharon Oyer, Cindy Kellen, Anne Bristol, Rick & Karen Crater, Barbara & Stan Phillips, Julie Hart, Karl Mitchell, Deb Nupp, Casey Dunne, Lisa & Randy Arnold, Dennis Regan, and Julie Eddy

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

### **DISCUSSION – VISITOR COMMENTS**

Supervisor LeFeber asked for any comments, and they are as follows:

Several residents from Oak Openings Road spoke out against the Hardship Application submitted by Oak Openings, LLC who owns a mining and excavating business. Some of the items discussed were:

What are we paying taxes for if you are not protecting us from the mine? There are many programs and services offered to the taxpayers besides water, sewer, and road maintenance.

Which permit is being used the ZBA's or the one from the DEC?

A C&D permit was issued by the DEC and then revoked this summer because of what was being dumped. It was reissued two months later. DEC needs to answer for themselves.

Who will protect our water?

Is there a significant difference between the original application and the new one? There is a significant difference. A lot more legal aspects are presented in the new application.

Every meeting the legal aspects of the mine are discussed not the legal aspects of the town residents, and this has been going on for three years. The town must consider legal costs if there is a lawsuit. The advice the attorney is giving is for the board as he is the attorney for the board.

Public Hearings are for the public to come out and express their opinions and thoughts about the application so the board can consider them when deciding.

Letters were sent to the DEC in support of the residents last year and did not appear to hold a lot of weight.

When documents are received from the DEC who gets them? The whole board or just the supervisor? The whole board. The town has input through the SEQR process.

Pictures were presented to the board showing the dust that is caused by cars driving down the road.

Mining law supersedes all other laws as to what goes on in the mine and not what happens outside the mine.

The mine was closed five or six years ago because they were so close to the water table. The new company came in with the same issue and it will be cheaper for the town to fight a lawsuit rather than build us a new water system.

One resident stated that their concern is my water, my health, and my farm. The DEC never tested our wells when they revoked the mines permits.

What would be the procedure to extend the moratorium? The town would need to set another public hearing and show proof of the work we have been doing so far.

Is the mine allowed to be open on Saturdays? This is not within the town boards authority. This is ruled by the DEC and the ZBA. According to the special use permit they are not allowed to work on Saturdays. The past four or five weeks they have been working, is there something that can be done? The special use permit would need to be reviewed.

A resident who lives on North Avon Road with her daughter stated that they moved here ten years ago because it was a nice and quiet area. Since the gravel pit came, she hears them grinding away all day. My daughter has a flower stand by the road but with the truck traffic from the mine it is not safe for her. The neighbors of the mine are the ones suffering the hardship as we are losing the peace and tranquility that we came to this town for. We are considering moving out of Avon, but I hope the town is behind their residents who are paying taxes.

There are eighteen wheelers as well as dump trucks.

The weight limit sign at the end of the road says a ten-ton limit except for local delivery. The trucks coming out of the mine exceed the limit posted. This is a DOT issue.

What is the penalty for a special use violation? They are taken to court and there is a court case going on now. Can there be a graduated penalty for each violation? That would be up to the judge. Complaints need to be sustainable and provable to issue a ticket and take them to court. The CEO must be able to certify the information, the legitimacy of the complaint to issue the ticket.

## **DISCUSSION OPEN PUBLIC HEARING 2022 SPECIAL ASSESSMENT ROLL - UNIT CHARGES**

Supervisor LeFeber Opened public hearing by reading the following legal notice:

### LEGAL NOTICE NOTICE OF PUBLIC HEARING

The tentative 2021 special assessment roll (to be used for the 2022 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 2022.

The Avon Town Board will hold a public hearing for owners of properties located within the above-described districts on Thursday, August 26, 2021 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: July 20, 2021  
To be published: August 12, 2021

**RESOLUTION #159 APPROVAL OF MINUTES**

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

RESOLVE to approve the minutes of August 12, 2021 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:

Hardship Application – The application states that the ZBA exceeded their authority with the issuance of a special use permit by placing restrictions on them that were greater than the permits issued by the DEC. The argument is this is preempted by State Law.

We must have a public hearing on the application. We have ninety days to reply. There will need to be a question-and-answer discussion between the Board and myself so I can answer your questions.

There is very little the town can do regarding the mining and excavation process.

If you grant the hardship, it doesn't mean they can do more than they are doing now. They will have to go through a twofold process, one with the DEC and one with the ZBA.

The DEC is going to undertake the SEQR review process. This is to determine whether there are any significant environmental consequences to what's being asked. The town can take part in the coordinated review by responding to the process of SEQR.

SEQR applies to consequences inside the mine and what happens when the trucks drive out of the mine. If this is being ignored, then the residents could take up the matter legally with the DEC. It is intended for environmental concerns.

A visitor asked if the residents are losing their rights to a peaceful, quiet, and safe enjoyment of their property?

Councilman Harrington would like a representative from the DEC at the public hearing. An email will be sent to invite them.

**RESOLUTION #160 SCHEDULE PUBLIC HEARING**

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

RESOLVE to allow Attorney Campbell to prepare a legal notice for a public hearing for a hardship variance request by Oak Openings LLC relating to the moratorium on excavation and operations to be held on September 23, 2021 at 6:15 P.M.

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

**DISCUSSION – ATTORNEY REPORT continued**

There was discussion regarding the towns ability to opt out of having marijuana dispensaries in the town. The discussion included the following:

This needs to be done by the end of December.

This process must be done by local law and the process takes a couple of months.

The state will issue licenses to more populated underprivileged areas first.

If a person receives a license, they will not be able to sell alcohol or have gambling which includes lottery tickets in the same shop.

If the town opts out it will not receive tax revenue from the sale of marijuana.

What consequences are there to the legalization of marijuana? Health issues, mental health issues, violence?

**RESOLUTION #161 ALLOW ATTORNEY CAMPBELL TO DRAFT A LOCAL LAW TO DISALLOW THE PUBLIC SALE OR PUBLIC CONSUMPTION ESTABLISHMENTS OF MARIJUANA IN THE TOWN OF AVON**

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

RESOLVE to allow Attorney Campbell to draft a local law to disallow the public sale or public consumption establishments of marijuana in the Town of Avon and present it to the town board on September 23, 2021.

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

**DISCUSSION – PUBLIC HEARING ON UNIT CHARGES**

Supervisor LeFeber asked for any public comments, and there were none. The Following action was taken:

**RESOLUTION #162 CLOSE PUBLIC HEARING**

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

RESOLVE to close the public hearing with no action taken.

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

**DISCUSSION – HISTORIAN REPORT**

Historians Clara Mulligan and Maureen Kingston provided the following report.

Annual Report for 2020  
Office of Town Historian  
Avon, New York  
December 31, 2020

**Objectives for 2020:**

- The railroad historic marker will be dedicated.
- Digitization of the Subject File titles will be completed as a computer research aid.
- Activities leading up to the Bicentennial of Livingston County will be supported.
- Efforts in the development of Papermill Park will be continued.

The year began, as many have, with an optimistic outlook for our usual local history concerns— Research, Education, Historic Preservation, Presentations, etc. Little did we know that a worldwide pandemic would alter our lives. March of 2020 began a new reality of limited access to public facilities and activities, illnesses from the COVID 19 virus, fear of contracting the disease, much use of disinfectants, wearing of masks, maintaining distances between people, isolation for those in nursing homes and care facilities, postponement of gathering “until 2021” and the hope that the new year would offer some relief.

However, the good news is, there were many accomplishments despite adversity. Because of social distancing efforts, Clara began consistent but separate office hours on Thursday afternoons, starting in September. Clara spent her time learning how to accurately attend to office duties, most importantly, properly accessioning items into the collection so that they can easily be retrieved for research purposes.

As COVID retreats and normal operations resume, it is important to note that Clara, Maureen and volunteer, Gail Settle, each put in three hours a week. Totaling nine hours, we keep email correspondence up to date, continuously file obituaries and recent articles relating to Avon, continue to properly accession donated items, and research inquiries regarding local history. As a result, we are actively fulfilling our role as providers of local history for the public to access.

**Research**

- John Liccini was our hero as we prepared for our Avon Railroad historical marker dedication on September 25. He researched the confusing history of the many railroad lines that came through Avon, and successfully wrote the brochure. We are very grateful for his enthusiasm and volunteering his time, especially as our railroad history file was lacking content.

- Research was conducted on the Paper Mill area in preparation for the Paper Mill historical marker to be dedicated in 2021.

### **Education**

- Maureen and Clara joined forces with Holly Watson, Deputy County Historian, to help direct the mural to be painted on the west wall of the Avon Fire Hall. Shawn Dunwoody, muralist extraordinaire, has been hired to encompass elements of Avon into a colorful mural. We offered our historic perspectives, including Native American Corn Planter, the mastodon, and the importance of water, including the Spa Era and the Genesee River.
- The office supported activities planned and/or launched by the County Historian's Office in 2020 in the anticipated celebration of the Livingston County Bicentennial (2021).

### **Historic Preservation**

Maureen and Clara participated in two important committees concerning historic preservation in Avon.

- The Third-Floor restoration grant process involved gathering as much information as we could find to support the validity of making the third floor a useable community space. With the grant now awarded, the work continues as we hope to help guide the protection of the graffiti and theater elements that have remained intact over the decades.
- We also participated in guiding the Avon Village towards a National Register nomination to become a Historical District. The district acknowledges the homes and businesses over 50 years old. Tax credits will be available to those who improve their building, keeping the historic elements intact. This designation will attract more tourism and help increase local pride in our many legacies.

### **Presentations**

Alas, there were few public functions in any capacity this year due to the COVID virus.

- Avon Central School teacher, Cordulla Kennel met with Maureen and Joan Reid to develop a creative writing project. High school students visited the APHS Museum in February to investigate their various topics, narrow the focus of their search, and had planned follow-up visits. Then the office and Museum closed as directed in March.

### **Documentation**

We were advised to observe and note some of the conditions presented by the COVID-19 virus pandemic.

- The office closed March 10, 2020. Brief visits were made to check e-mail, etc., and send the 2019 Annual report to the County and State Historians.
- There was a brief ceremony in the park on May 25, for Memorial Day. The service was not advertised, the veterans massed flags, presented wreaths, honored the day and the dead and went home.
- Schools and churches closed.
- Restaurants either closed completely or were limited to take-out service.
- Stores limited the number of people admitted. Many products were not available.
- All were mandated to wear masks and to allow a six-foot distance between people.
- The office reopened in June with strict conditions—no visitors, researchers. All surfaces were to be sanitized, from hands to equipment. Inquiries were answered on-line.

Additional documentation projects:

- Volunteer assistance is provided by Gail Settle. Obituaries and clippings are copied, filed, and scanned into Laserfiche format.

**Objectives for 2021**

- Maureen, in the official and respected role as Historian Emerita, is working on completing the updated version of "The Heart of the Genesee Country".
- Dedicate the Paper Mill historical marker
- Digitize some of the important images stored by the AP&HS

Respectfully submitted,  
Clara Mulligan, Maureen Kingston

Town Historian Mulligan stated that the Papermill Park sign should be in within the next four weeks. There was the suggestion that the town make certain properties or areas historical districts. The board was shown a poster that was donated by the Carlin Family regarding the selling of the family farm. Logs from the family business were also donated to the Historian's Office.

Town Historian Mulligan thanked the Town Board for their continued support of the Historian's Office.

**DISCUSSION – CODE DEPARTMENT REPORT**

Code Enforcement Officer Glise reported on the following:

ZBA & Planning Board meeting this week. Couple of subdivisions, variances, and the Special Use Permit on the sale of cars which was discussed with Engineer Lance Brabant and Attorney Campbell.

Meeting today regarding the water issue on Routes Five & Twenty. There has only been one complaint and a violation was issued to the Solar Company.

Complaints keep coming in from residents on Oak Openings Road. Spending a couple of hours, a week going to the site and working on the complaints. The attorney for the mine asked for an adjournment of their court case which would have taken place this week. It has been rescheduled.

**DISCUSSION – HIGHWAY/WATER DEPARTMENT REPORT**

Highway/Water Superintendent Crye provided the following report:

**HIGHWAY:**

A lot of work for the County oiling and stoning and putting shoulders down.

Started mow backs.

Keeping up with parks and cemeteries.

Wedging.

Shop time.

Put up a few signs including the one on Sutton Road.

**WATER:**

Everyday maintenance and sampling

2 services were put in.

With the resignation of Kelly Sloan, Tom Cook and Eric Hendrick have been learning what Kelly does and are taking turns bringing the laptop home on the weekends to monitor the water system. We will be working under the County’s water license and after six months Eric should be able to take the classes and get his license.

**RESOLUTION #163 ACCEPT THE RESIGNATION OF KELLY SLOAN MOTOR EQUIPMENT OPERATOR/WATER LABORER**

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

RESOLVE to accept the resignation of Kelly Sloan Motor Equipment Operator/Water Laborer effective September 2, 2021.

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

There was discussion about vacation and personal time owed and when the compensation schedule should be amended.

**RESOLUTION #164 AMEND THE 2021 COMPENSATION SCHEDULE**

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

RESOLVE to amend the 2021 Town of Avon Employee Compensation Schedule effective September 11, 2021 as Follows:

REMOVE:

<u>Name</u>	<u>Position/Duties</u>	<u>Status</u>	<u>2020 Rate</u>	<u>2021 Rate</u>
Sloan, Kelly	Motor Equipment Operator/ Water Laborer	Full Time	\$20.00/hr.	\$21.85/hr.

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

There was discussion about changing passwords on the iPad and computers and having Water Clerk Kim McDowell put and ad in the paper.

The town needs to put in a letter of intent for the new pickup truck we will be ordering next year.

**DISCUSSION – TOWN CLERK DEPARTMENT REPORT**

Town Clerk Knight provide a written report dated August 24th and Deputy Town Clerk Zapf confirmed with the Board Members present they received the report.



Board action items are:

- Approval of minutes of August 12, 2021
- Approval of a resolution amending midyear budget transfers
- Rochester Gravel – Hardship Application
- Accept the resignation of Kelly Sloan

**RESOLUTION #165 AMENDING RESOLUTION #154 BUDGET TRANSFER REPORT ADOPTED ON AUGUST 12, 2021**

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

RESOLUTION to amend the approved midyear line transfer for 2021 adopted on August 12, 2021 as follows:

**GENERAL FUND – TOWNWIDE**

**REMOVE:**

Transfer To:		
AA.1355.400	Assessor Contr. Exp.	\$12,000.00

**ADD:**

Transfer To:		
AA.1010.400	Board Contractual	\$12,000.00

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

There was discussion on the voucher paid to MRB Group for work that was done on the Bridge NY Grant that was called off by the Village and Town.

**RESOLUTION #166 ACCEPT THE CLAIMS**

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

RESOLVE to accept for payment Abstract 2021-16 in the following amounts:

<b>General Fund</b>	Amounts totaling \$74,376.40
<b>Highway Fund</b>	Amounts totaling \$18,834.94
<b>Water Fund</b>	Amounts totaling \$1,532.38
<b>Royal Springs Lighting</b>	Amounts totaling \$1007.69

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

**DISCUSSION - SUPERVISOR'S ITEMS**

Supervisor LeFeber stated he attended a meeting today with MRB Group, representatives from the Village, representatives from NextGen, Bruce Howlett, Councilman Coyne, and CEO Glise regarding the water issues on Pole Bridge Road. There was discussion about Mr. Howlett putting a pond on his property and getting easements from homeowners to put a drainage ditch on their properties. The Village and Town would split the cost. There was also discussion about the pros and cons of forming a drainage district.

Supervisor LeFeber would like to see all the legal agreements which include easements from the homeowners in place before agreeing to spend more money. The Board seemed to agree. Supervisor LeFeber will let MRB Group and the Mayor know what's going on.

**OPEN ITEMS**

Councilman Harrington inquired about water to Mulligan Farms. Supervisor LeFeber stated that he wanted to put a meter pit and backflow on town property, and he is against this. There is the possibility it could be put on property owned by Gray Metal and then he would get water from the Village. There is no water agreement with the Village currently.

He also inquired about the water line at Tec Drive. The IDA has put this on hold as there is no more water capacity from the Village

Supervisor LeFeber stated that Assessor Snyder has requested a new computer for her clerk. There was discussion regarding a desktop versus laptop. The board seemed to agree to wait until budget time.

There was a request for Court Clerk Cullinan to go to Albany for a conference. The town and Village alternates on conferences. A judge will contact the Village to see who's turn it is to pay.

ARP sent a notice that the town will be receiving \$1,400.00.

The 2020 census numbers are in, and the Town and Village combined are down 225 people which brings us below 7000 residents.

Councilman Drozdziel updated the Board on the progress of the 3<sup>rd</sup> floor grant project as follows:

Asbestos testing will begin next Thursday.

The accuracy of the article in the Livingston County News is being questioned by the Historical Society and they will be contacting the newspaper.

Supervisor LeFeber was asked to attend a meeting of the Avon Preservation and Historical Society as they have some questions. There was discussion about space needed and that their rent has not been increased since 2009.

**DISCUSSION – VISITOR COMMENTS**

Supervisor LeFeber asked if there were any visitor comments, and there were none.

On motion of Councilman Harrington, seconded by Councilman Coyne the meeting was adjourned at 8:46 P.M.

Respectfully submitted by:

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Ellen M. Zapf, RMC Deputy Town Clerk