

A regular meeting of the Town of Avon was held on Thursday October 14, 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 (arrived at 6:03)

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

VISITORS: Peter Vonglis, Robert & Carolyn McKee, Chuck Morgan, Kevin Lillis, Edward Forsyth, Bruce Maxon, Dennis Regan, Marilyn Regan, Jackie Eddy, Gerald Turb, Bob Westfall, Deb Salmon, Eric Huppert, Karen Schiedel, Logal F...ty, Andrea Batz, Mallory-Nicole Batz, Dale Twardorkus, Dale Twardorkus' Attorney Ashley Champion, Steve Fontuzzo, Rick Crater, Barbara Phillips, Stan Phillips, Karen Crater, Jennifer Stover, Steve Comeau, Randy Arnold, Thomas McGovern, Miranda Kenyon, and Luke Salogar

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

DISCUSSION – HARDSHIP APPLICATION – ROCHESTER GRAVEL PUBLIC HEARING-continued

Supervisor LeFeber stated the Public Hearing for the Hardship Application was opened at the last regular meeting and continues to be open for public comment. He asked for comments and the follow:

Karen Crater read the following:

Additional Public Hearing Comments to the comments submitted at the 9/23/2021 hearing in regards to Oak Openings, LLC request for a hardship variance from the moratorium on Excavation Operations held on 10/14/2021 by Karen Crater, 1177 Oak Openings Rd.

I have put together some pertinent information regarding to the Victor Pit from the **DEC inspection reports**. (Supporting Data for the DEC inspection records I will send to the Town Clerk via email following the Public Hearing 10-14-2021). This data shows the same issues we have been seeing with the mining operations at the Oak Openings Pit. Mr. Twardokus has been in the excavation business at least since 1992 when he filed for his NYS business license for Victor Excavating Inc. (data related to his businesses already supplied to the Town of Avon) (I am supplying the Victor tax roll records at this meeting). He should know the rules. He was the pit operator prior to 2016, when he bought the Victor Pit. He opened the Oak Openings Pit, prior to obtaining the Town of Avon's Special Use Permit. (The Town shut the operation down in June 2018).

I have also put together the traffic studies I obtained through the Livingston County Highway Department. They clearly show that the traffic has increased, the number of Heavy Truck Traffic has increased, and the speeds of vehicles has increased. Yet, with all of his applications, Mr. Twardokus documentation claims there will be no increase to traffic. (Documentation will be sent to the Town Clerk via email after the Public Meeting 10-14-2021).

The Town of Rush, Town of Avon and/or Livingston County have had to repair roads for this business. Why should he use our money or the Town of Rush residents' money to repair damages so he can make money for his business?

I heard the word transparency to many times at the last Public Hearing from Mr Twadokus's legal representative. He has not been transparent with the residents on this road at all. He said he contacted the neighbors at his first Town of Avon Public Hearing for his Special Use Permit, which was proven incorrect when the question was asked "raise your hand if you were contacted" and no one raised their hand. Then, he offered all of us who attended the meeting a free load of material.

Question: Has there been any bond set up to replace our water? Look what happened at the Syracuse Mine located in Victor.

I asked at the last Public Hearing for the Town of Avon to apply for a grant from the EPA set up a real noise and pollution study for the truck traffic and noise. Has anything been done on this, as our house is the closest to the road and I want to ensure our health is not being affected by the traffic?

I have more foil requests in the process that may help in the support of denying this request. I may not receive all of this information until November 3rd 2021. Would it be possible to extend the duration of the public hearing until then? If not, deny the hardship request and consider our request to extend the moratorium (Sent via email to the Town by Karen Crater).

10/12/2021

Where this data came from.

Go to: Dec.ny.org

Click on Regulatory

Click on Permit and Licenses

Scroll down and click on Drilling & Mining of Mineral Resources

Click on: [Mine minerals/sand/gravel permit](#)

Click on: [Mined Land Searchable Database](#)

Scroll down and click on: Mines Data

In the build search blocks, select Mine ID, then type in 80197 for the Victor Pit or 80857 for the Oak Openings Pit, then click submit

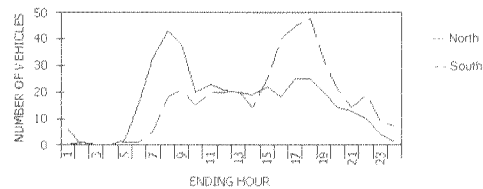
When the data on the mine pops up, scroll over to General Inspections, Click on Inspection Records

Livingston County Speed Count Average Weekday Report																				Page 1 of 2 Date: 08/10/2011			
Station	428122																			Start date	Wed 08/03/2011 11:00	Count duration	168 hours
Road #	CR 0650	Road name	OAK OPENING RD	End date	Wed 08/10/2011 10:00	Functional class	8																
From	NY 5 & 20																			County	Livingston	Factor group	30
To	MONROE CL																			Town	AVON	Batch ID	LIV-Traffic Counter
Direction	North																			Speed limit	55	Count taken by	Org: LIV Infr: JJP
																				Processed by	JJP		
Speeds, mph																				Avg	50th%	85th%	Total
Hour	30.0	35.0	40.0	45.0	50.0	55.0	60.0	65.0	70.0	75.0	80.0	85.0	90.0	% 0-10	% 10-20	% 20-30	% 30-40	% 40-50	% 50-60	% 60-70	% 70-80	% 80-90	% 90-100
1:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
3:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
4:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
5:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
6:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
7:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
8:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
9:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
10:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
11:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
12:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
13:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
14:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
15:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
16:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
17:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
18:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
19:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
20:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
21:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
22:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
23:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
24:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Avg Daily Total	0	0	2	11	36	83	116	89	37	11	2	1	0	66.0	36.1	13.1	3.6	0.6	56.8	57.7	64.6	388	
Percent	0.0%	0.0%	9.5%	2.8%	3.3%	21.4%	29.9%	22.9%	9.5%	2.8%	0.3%	0.0%											
Cum Percent	0.0%	0.0%	9.5%	12.3%	15.6%	37.0%	66.9%	89.8%	99.3%	100.0%	100.0%	100.0%											
Average hour	0	0	0	0	2	3	5	4	2	0	0	0										16	

TRAFFIC FLOW BY DIRECTION

Direction	Avg. Speed	50th% Speed	85th% Speed
North	56.8	57.7	64.6
South	47.0	50.6	56.8

Peak Hour Data					
Direction	Hour	Count	2 way A.M.	Hour	Count
North	8	43		8	61
South	18	48		18	73



County Road 65 - Oaks Openings Pkt

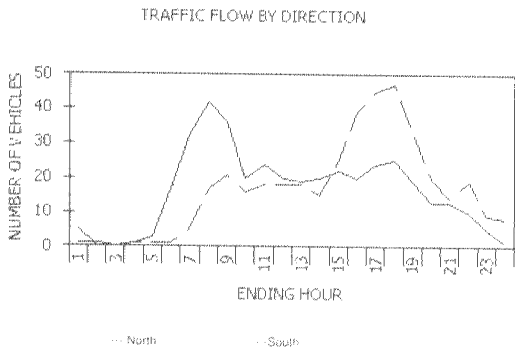
Traffic Count Data

CR	Name	DOT Station	Station From	Station To	Location Details	From	To	85% Spd NB	85% Spd SB	AADT NB	AADT SB	Total AADT	High Hour NB	High Hour SB	% Heavy Vpn (4-F13)	% Truck & Bus (2-F13)	% Cars & Bikes (1-F1 & F2)
65	Oaks Opening Road	B122	SR 5820	Monroe County	4240 South of Monroe Ct. @ Curve sign	5/25/2004	6/3/2004					688					
65	Oaks Opening Road	B122	SR 5820	Monroe County	SR 5820 to Dekrote Driveway	7/21/2008	7/25/2008	82	58			795	8	17	9.4	29.7	64.3
65	Oaks Opening Road	B122	SR 5820	Monroe County	Dekrote Driveway to North Rd	7/21/2008	7/25/2008	53	58			801	8	17	3.8	27.5	68.4
65	Oaks Opening Road	B122	SR 5820	Monroe County	North Rd to Monroe Ct.	7/21/2008	7/25/2008	66	56			878	8	17	15	39.7	44.9
65	Oaks Opening Road	B122	SR 5820	Monroe County	6242 N of SR 5820	8/3/2011	8/10/2011	62	58	359	368	727	8	18	5.36	27.08	72.92
65	Oaks Opening Road	B122	SR 5820	Monroe County	4459 South of Honeye Falls Road	5/31/2015	6/8/2015	64	59.5	395	420	821	8	19	2.20	22.83	77.17

Livingston County
Classification Count Average Weekday Data Report

ROAD #: CR 0650 ROAD NAME: OAK OPENING RD YEAR: 2011 MONTH: August STATION: 428122
 COUNTY NAME: Livingston FROM: NY 5 & 20 TO: MONROE CL
 REF-MARKER: 0110262 NO. OF LANES: 2 DIRECTION: North South TOTAL
 END MILEPOINT: 08 HPMS NO: % HEAVY VEHICLES (F4-F13): 6.70% 4.05% 5.36%
 STATION NO: 8122 % TRUCKS AND BUSES (F3-F12): 32.73% 21.52% 27.08%
 COUNT TAKEN BY: ORG CODE: LIV INITIALS: J/JF AXLE CORRECTION FACTOR: 0.97 0.97 0.97
 PROCESSED BY: ORG CODE: LIV INITIALS: J/JF BATCH ID: LIV-Traffic Counter

VEHICLE CLASS	F1	F2	F3	F4	F5	F6	F7	F8	F9	F10	F11	F12	F13	TOTAL
NO. OF AXLES	2	2	2	2.5	2	3	4	3.5	5	6	5	6	6.75	
ENDING HOUR	1:00	0	1	0	0	0	0	0	0	0	0	0	0	1
	2:00	0	1	0	0	0	0	0	0	0	0	0	0	1
	3:00	0	0	0	0	0	0	0	0	0	0	0	0	0
	4:00	0	0	1	0	0	0	0	0	0	0	0	0	1
	5:00	0	2	1	0	0	0	0	0	0	0	0	0	3
	6:00	0	12	3	0	1	0	0	0	0	0	0	0	17
	7:00	1	22	8	0	1	0	0	0	0	0	0	0	32
	8:00	0	26	13	0	2	1	0	0	0	0	0	0	42
	9:00	2	24	7	0	2	1	0	0	0	0	0	0	36
	10:00	0	14	4	0	0	1	0	0	0	0	0	0	20
DIRECTION North	11:00	0	13	7	0	1	2	0	0	1	0	0	0	24
	12:00	0	11	7	0	0	2	0	0	0	0	0	0	20
	13:00	0	13	4	0	0	1	0	0	1	0	0	0	19
	14:00	0	11	5	0	1	2	0	0	0	0	0	0	20
	15:00	0	14	7	0	0	0	0	1	0	0	0	0	22
	16:00	0	12	7	0	1	0	0	0	0	0	0	0	20
	17:00	0	17	7	0	0	0	0	0	0	0	0	0	24
	18:00	0	19	5	0	1	0	0	0	0	0	0	0	25
	19:00	0	13	5	0	1	0	0	0	0	0	0	0	19
	20:00	0	9	4	0	0	0	0	0	0	0	0	0	13
	21:00	0	9	4	0	0	0	0	0	0	0	0	0	13
	22:00	0	6	2	0	0	0	0	0	0	0	0	0	10
	23:00	0	5	0	0	0	0	0	0	0	0	0	0	5
	24:00	0	1	0	0	0	0	0	0	0	0	0	0	1
TOTAL VEHICLES	3	256	101	0	11	10	0	0	5	0	0	0	0	386
TOTAL AXLES	6	516	202	0	22	30	0	0	25	6	0	0	0	801
ENDING HOUR	1:00	0	5	0	0	0	0	0	0	0	0	0	0	5
	2:00	0	0	0	0	0	0	0	0	0	0	0	0	0
	3:00	0	0	0	0	0	0	0	0	0	0	0	0	0
	4:00	0	1	0	0	0	0	0	0	0	0	0	0	1
	5:00	0	1	0	0	0	0	0	0	0	0	0	0	1
	6:00	0	0	1	0	0	0	0	0	0	0	0	0	1
	7:00	0	3	2	0	0	0	0	0	0	0	0	0	5
	8:00	0	11	4	0	1	0	0	0	0	0	0	0	17
	9:00	0	17	2	0	0	2	0	0	1	0	0	0	21
	10:00	0	12	2	0	1	1	0	0	0	0	0	0	16
DIRECTION South	11:00	0	14	3	0	0	1	0	0	0	0	0	0	18
	12:00	0	12	4	0	2	0	0	0	0	0	0	0	18
	13:00	0	14	3	0	0	1	0	0	0	0	0	0	25
	14:00	0	11	2	0	0	1	0	0	0	0	0	0	18
	15:00	0	21	3	0	0	0	0	0	0	0	0	0	15
	16:00	0	31	7	0	1	0	0	0	0	0	0	0	39
	17:00	0	36	8	0	0	0	1	0	0	0	0	0	45
	18:00	0	37	10	0	0	0	0	0	0	0	0	0	47
	19:00	1	25	7	0	0	0	0	0	0	0	0	0	33
	20:00	0	16	4	0	0	0	0	0	0	0	0	0	20
	21:00	0	12	2	0	0	0	0	0	0	0	0	0	14
	22:00	0	17	2	0	0	0	0	0	0	0	0	0	19
	23:00	0	8	1	0	0	0	0	0	0	0	0	0	9
	24:00	0	5	3	0	0	0	0	0	0	0	0	0	8
TOTAL VEHICLES	1	309	69	0	4	8	0	1	1	2	0	0	0	395
TOTAL AXLES	2	618	138	0	8	24	0	4	5	12	0	0	0	811
GRAND TOTAL VEHICLES	4	567	170	0	15	18	0	1	6	2	0	0	0	783
GRAND TOTAL AXLES	8	1134	340	0	30	54	0	4	10	12	0	0	0	1612



VEHICLE CLASSIFICATION CODES:

- F1. Motorcycles
- F2. Autos*
- F3. 2-Axle, 4-Tire Pickups, Vans, Motorhomes*
- F4. Buses
- F5. 2-Axle, 6-Tire Single Unit Trucks
- F6. 3-Axle Single Unit Trucks
- F7. 4 or More Axle Single Unit Trucks
- F8. 4 or Less Axle Vehicles, One Unit is a Truck
- F9. 5 Axle Double Unit Vehicles, One Unit is a Truck
- F10. 6 or More Double Unit Vehicles, One Unit is a Truck
- F11. 5 or Less Axle Multi-Unit Trucks
- F12. 6 Axle Multi-Unit Trucks
- F13. 7 or More Axle Multi-Unit Trucks

* INCLUDING THOSE HAULING TRAILERS

FUNCTIONAL CLASS CODES

RURAL	URBAN	SYSTEM
01		11 PRINCIPAL ARTERIAL-INTERSTATE
02		12 PRINCIPAL ARTERIAL-EXPRESSWAY
02		14 PRINCIPAL ARTERIAL-OTHER
06		16 MINOR ARTERIAL
07		17 MAJOR COLLECTOR
08		17 MINOR COLLECTOR
09		19 LOCAL SYSTEM

SOURCE: NYS DOT DATA SERVICES BUREAU

STATE OF NEW YORK PAGE 868
 COUNTY - Ontario VALUATION DATE-JUL 01, 2015
 TOWN - Victor TAXABLE STATUS DATE-MAR 01, 2016
 2016 FINAL ASSESSMENT ROLL
 TAX MAP NUMBER SEQUENCE
 UNIFORM PERCENT OF VALUE IS 100.00

TAX MAP PARCEL NUMBER	PROPERTY LOCATION & CLASS	ASSESSMENT	EXEMPTION CODE	TOWN TAXABLE VALUE	COUNTY TAXABLE VALUE	SCHOOL TAXABLE VALUE	ACCOUNT NO.
1130 Cork Rd	SCHOOL DISTRICT	TOTAL	SPECIAL DISTRICTS	27,000-1-19.100	27,000-1-19.100	0	0
27.00-1-19.100	240 Rural res	120,000	VET COM C 41132	0	15,000	0	0
Clarise Victor J	Victor Central 324801	243,000	VET COM T 41133	0	43,133	0	0
Clarise Helen L	ACRES 15.60	243,000	STAR EN 41834	0	0	0	65,300
1130 Cork Rd	EAST-0591022 NRTH-1087513		COUNTY TAXABLE VALUE		228,000		
Victor, NY 14564	DEED BOOK 755 PG-1197	243,000	TOWN TAXABLE VALUE		199,867		
	FULL MARKET VALUE		SCHOOL TAXABLE VALUE		177,700		
			FD482 Fishers fire protec		243,000 TO		
			WD482 VicCentral WaterDist		.00 MT		
					27,000-1-19.210		
Rawson Rd							
27.00-1-19.210	311 Res vac land	92,000	COUNTY TAXABLE VALUE		92,000		
Turner Bryon A	Victor Central 324801	92,000	TOWN TAXABLE VALUE		92,000		
7295 Rawson Rd	ACRES 11.40	92,000	SCHOOL TAXABLE VALUE		92,000		
Victor, NY 14564	EAST-0591804 NRTH-1087678		FD482 Fishers fire protec		92,000 TO		
	DEED BOOK 1148 PG-668		WD482 VicCentral WaterDist		.00 MT		
	FULL MARKET VALUE				27,000-1-19.220		
7295 Rawson Rd							
27.00-1-19.220	210 1 Family Res	59,000	STAR B 41954	0	0	0	30,000
Turner Bryon A	Victor Central 324801	206,000	COUNTY TAXABLE VALUE		206,000		
7295 Rawson Rd	ACRES 3.80	206,000	TOWN TAXABLE VALUE		206,000		
Victor, NY 14564	EAST-0592106 NRTH-1087967		SCHOOL TAXABLE VALUE		176,000		
	DEED BOOK 966 PG-337		FD482 Fishers fire protec		206,000 TO		
	FULL MARKET VALUE		WD482 VicCentral WaterDist		.00 MT		
					27,000-1-19.231		
Rawson Rd							
27.00-1-19.231	322 Rural vac>10	135,000	COUNTY TAXABLE VALUE		135,000		
Turner Bryon	Victor Central 324801	135,000	TOWN TAXABLE VALUE		135,000		
7295 Rawson Rd	ACRES 23.82	135,000	SCHOOL TAXABLE VALUE		135,000		
Victor, NY 14564	EAST-0591955 NRTH-1089033		FD482 Fishers fire protec		135,000 TO		
	DEED BOOK 1148 PG-668		WD482 VicCentral WaterDist		.00 MT		
	FULL MARKET VALUE				27,000-1-19.232		
1097 Cork Rd							
27.00-1-19.232	720 Mine/quarry	343,000	COUNTY TAXABLE VALUE		375,000		
Victor Gravel Corp.	Victor Central 324801	375,000	TOWN TAXABLE VALUE		375,000		
784 Old Dutch Rd	ACRES 61.52	375,000	SCHOOL TAXABLE VALUE		375,000		
Victor, NY 14564	EAST-0592380 NRTH-1089400		FD482 Fishers fire protec		375,000 TO		
	DEED BOOK 1346 PG-34		WD482 VicCentral WaterDist		.00 MT		
	FULL MARKET VALUE				27,000-1-19.233		



STATE OF NEW YORK
COUNTY - Ontario
TOWN - Victor
SWIS - 324889

2 0 1 5 F I N A L A S S E S S M E N T R O L L
T A X A B L E SECTION OF THE ROLL - I

VALUATION DATE-JUL 01, 2014
TAXABLE STATUS DATE-MAR 01, 2015

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TAX MAP NUMBER SEQUENCE
UNIFORM PERCENT OF VALUE IS 100.00

TAX MAP PARCEL NUMBER	PROPERTY LOCATION & CLASS	ASSESSMENT	EXEMPTION CODE	TOWN	SCHOOL
CURRENT OWNERS NAME	SCHOOL DISTRICT	LAND	TAX DESCRIPTION	COUNTY	TAXABLE VALUE
CURRENT OWNERS ADDRESS	PARCEL SIZE/GRID COORD	TOTAL	SPECIAL DISTRICTS	TAXABLE VALUE	ACCOUNT NO.
27.00-1-19.230	1097 Cork Rd			27.00-1-19.230	
J G Turner Inc	720 Mine/quarry		COUNTY TAXABLE VALUE	431,000	
4911 Emerson Rd	Victor Central 324801	375,000	TOWN TAXABLE VALUE	431,000	
Canandaigua, NY 14424	ACRES 86.40	431,000	SCHOOL TAXABLE VALUE	431,000	
	EAST-0591955 NRTH-1089033		FD482 Fishers fire protec	431,000 TO	
	DEED BOOK 755 PG-547		WD482 VicCentral WaterDist	.00 MT	
	FULL MARKET VALUE	431,000			
7291 Rawson Rd				27.00-1-20.111	
	240 Rural res		STAR B 41854	0	30,000
Habecker Stephen H	Victor Central 324801	129,000	COUNTY TAXABLE VALUE	470,000	
Habecker Sandra L	ACRES 17.90	470,000	TOWN TAXABLE VALUE	470,000	
7291 Rawson Rd	EAST-0592508 NRTH-1087890		SCHOOL TAXABLE VALUE	440,000	
Victor, NY 14564	DEED BOOK 1026 PG-940		FD482 Fishers fire protec	470,000 TO	
	FULL MARKET VALUE	470,000	WD482 VicCentral WaterDist	.00 MT	
7285 Rawson Rd				27.00-1-20.112	
	210 1 Family Res		VET WAR C 41122	9,000	0
Hill Mark T	Victor Central 324801	42,000	VET WAR T 41123	0	36,000
Hill Kimberly H	ACRES 1.00	303,000	STAR B 41854	0	0
7285 Rawson Rd	EAST-0592471 NRTH-1088304		COUNTY TAXABLE VALUE	294,000	
Victor, NY 14564	DEED BOOK 982 PG-685		TOWN TAXABLE VALUE	267,000	
	FULL MARKET VALUE	303,000	SCHOOL TAXABLE VALUE	273,000	
			FD482 Fishers fire protec	303,000 TO	
			WD482 VicCentral WaterDist	.00 MT	
7261 Rawson Rd				27.00-1-21.000	
	210 1 Family Res		STAR B 41854	0	30,000
Steele Gary D	Victor Central 324801	40,000	COUNTY TAXABLE VALUE	191,000	
Steele Beverly M	ACRES 0.68	191,000	TOWN TAXABLE VALUE	191,000	
7281 Rawson Rd	EAST-0592712 NRTH-1088429		SCHOOL TAXABLE VALUE	161,000	
Victor, NY 14564	DEED BOOK 1057 PG-55		FD482 Fishers fire protec	191,000 TO	
	FULL MARKET VALUE	191,000	WD482 VicCentral WaterDist	.00 MT	
7271 Rawson Rd				27.00-1-22.110	
	210 1 Family Res		COUNTY TAXABLE VALUE	190,000	
Mydosh Thomas F	Victor Central 324801	42,000	TOWN TAXABLE VALUE	190,000	
Mydosh Susan L	ACRES 1.10	190,000	SCHOOL TAXABLE VALUE	190,000	
7271 Rawson Rd	EAST-0592972 NRTH-1088581		FD482 Fishers fire protec	190,000 TO	
Victor, NY 14564	DEED BOOK 918 PG-675		WD482 VicCentral WaterDist	.00 MT	
	FULL MARKET VALUE	190,000			



Carolyn McKee addressed the Board with the following additional information:

Additional Hardship Information

On July 8, 2021 the Bank of the Finger Lakes issued the following letter...

This further indicates that Rochester Gravel does not have any financial hardship.

In the Application for Hardship Relief the Town Board received on August 17, 2021, it states that "the economic detriment suffered by the Applicantfar outweighs any potential detriment to the health, safety and general welfare to the Town..."

First, any economic detriment is also only "potential".

Second, by granting a relief from economic hardship, the town board essentially agrees with the statement that "economic detriment far outweighs any detriment to the health, safety and general welfare to the Town."

The town board would be putting economic greed ahead of the health and safety of the residents.

Another area that this board needs to take into consideration is that the 30 trucks per hour requested by Rochester Gravel also means that Rochester Gravel can import C&D material at the rate of 30 trucks per hour.

It does not matter to the DEC if the trucks are hauling gravel out or hauling C&D material into the pit.

Based on the past history of violations from both the Victor pit and the Oak Openings pit, to allow this is not acceptable.

Since this gravel pit was reopened the residents' concerns have never been adequately addressed.

When anyone has reported a violation concerning the gravel pit's operations, it has been regularly dismissed and more often than not, ignored with no response from the Code Enforcement officer.

First we were told our complaints were just made up.

Then we were required to show photographic proof of the violation. We were then told this was not acceptable because it could be photoshopped.

However, when the residents asked for photographic proof of compliance, it was rejected.

Now, photos are no longer accepted at all and we are required to obtain a third party verification for violations.

No other code violations require a 3rd party - just us

In the process of submitting our moratorium request extension, we were required to have each signature notarized. Why was a notary not required when the original moratorium request was submitted ?

No other group has presented to this board has the negative impact that this gravel pit has on the residents

We have tried to work with this board and understand their constraints surrounding this issue but we are continually denied any help to resolve our concerns and the board's actions indicate nothing but discrimination against the residents. For the last few weeks we have been directed to seek legal advice in regards to any questions we might have.

It is for these reasons that we have chosen to seek legal counsel in the hopes of resolving our concerns.

Carolyn McKee
Oct. 14, 2021

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Mineral Resources, Bureau of Resource Development and Reclamation
625 Broadway, 3rd Floor, Albany, New York 12233-6500
P: (518) 402-8072 | F: (518) 402-9032
www.dec.ny.gov

July 8, 2021

RECEIVED
JUL 18 2021
DIVISION OF
MINERAL RESOURCES

Oak Openings LLC
Attn: D. Twardokus
784 Dutch Road
Victor, NY 14564

Re: Mine File #80857
Letter of Credit #1101695 (\$494,600) – Bank of Finger Lakes

Dear Oak Openings LLC:

The Letter of Credit from Bank of Finger Lakes in the increased amount of \$494,600 submitted to cover the liability for the reclamation of the above-referenced mine has been reviewed and is acceptable.

Please make sure any changes in your financial security (original increase/decrease amendments/riders, new originals, cancellation notices, etc.) are mailed to the full Albany NYSDEC office (address above).

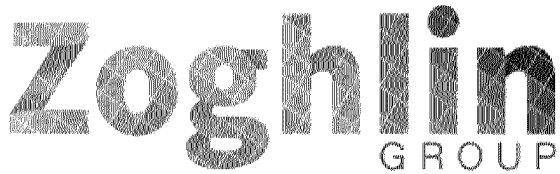
If you have any questions, please contact me. Thank you.

Sincerely,


Jeannine Coons
Agency Program Aide

c: Dan Sak, NYSDEC – Region 8, Avon, NY
BOFL/Wayne Bank, 389 Hamilton Street, Geneva, NY 14456

Dr. Jacalyn Eddy thanked the Board for extending the hearing process and read the following letter from a newly hired attorney.



300 State Street, Suite 502
Rochester, New York 14614
585.434.0790 phone
585.563.7432 fax
www.zoglaw.com

VIA HAND DELIVERY AND E-MAIL (sknight@avon-ny.org)

October 14, 2021

Town of Avon Town Board
23 Genesee Street
Avon, New York 14414

RE: APPLICATION OF OAK OPENINGS, LLC FOR EXCAVATION MORATORIUM HARDSHIP RELIEF

Dear Supervisor LeFeber and Honorable Board Members:

The Zoghlin Group, PLLC was recently retained by Jacalyn Eddy, Ph.D., to provide comment on Oak Openings, LLC's application for relief from the Town's excavation moratorium. Due to the very short time between being retained and this evening's public hearing, we respectfully request that the public hearing be held open until November 18, 2021 to allow our firm to provide meaningful public comment and participation in the process.

We do not believe that such a short extension and maintenance of the status quo will cause undue hardship on the Applicant as, even if relief from the moratorium was granted tonight, the applicant does not yet have permission from DEC to expand its operations.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Bridget O'Toole".

Bridget O'Toole

cc: Jacalyn Eddy, Ph.D.
Sharon M. Knight, Town Clerk

Dr. Eddy continue stating that for administrative purposes only she is the client of record but this action of retaining a lawyer should be understood and was undertaken based on the impact and investment of many residents, who are also stakeholders in this matter. It should therefore be considered a neighborhood matter and not the effort of one individual.

Chuck Morgan addressed the Board with the following:

He has been following in-depth and the State DEC does not trump the Town Board. There are several cases regarding noise, traffic, hours of operation, and that stuff upheld the Town's restrictions. It is the glue that holds as there is a standing documented record of complaints. This is another piece of the puzzle, and the Boards overwhelming responsibility is to protect the health, safety, and welfare of the citizens of this community.

**DISCUSSION – OPEN PUBLIC HEARING OPT OUT OF ALLOWING CANNABIS
RETAIL DISPENSARIES AND ON-SITE CANNABIS CONSUMPTION SITES**

Attorney Campbell read the following notice to open the public hearing by reading the following legal notice:

TOWN OF AVON
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 the Town Law §130 that a public hearing shall be held by the Town Board of the Town of Avon, at the Opera Block/Town Hall, located at 23 Genesee Street, Avon, New York at 6:15 P.M. on Thursday, October 14, 2021 for the purpose of considering public opinion and comment about or concerning the following:

A Local Law to opt out of allowing cannabis retail dispensaries and on-site cannabis consumption sites in the Town of Avon, County of Livingston, and State of New York, that would otherwise be allowed under Article 4 of the New York State Marijuana Regulation and Taxation Act as found in Chapter 7-A of the Consolidated Laws of the State of New York

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, or by visiting the Town Government page of the Town and Village web site at www.avon-ny.org

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

Dated: September 22, 2021

Published: October 7, 2021

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

Attorney Campbell updated those in attendance stating that NYS status allows the Town to opt-out and its tricky as it is a formal request for the Cannabis Siting Board to not approve applications within the Town:

Supervisor LeFeber asked for Visitor Comments, and they follow:

Town Clerk Knight stated an email was provided from Michael Carroll as follows:

Studio Sales Pottery
Michael J. Carroll
P.O. Box 344
Avon NY 14414
585-226-3030
Fax: 226-3122
www.studiosalespottery.com

Oct. 14, 2021

Re: LOCAL LAW NO. T-4A-2021 OF THE YEAR 2021

Avon NY Town Board

I cannot attend the public forum as I must work this evening from 6:30 to 9:00 pm.

I will start with some objective viewpoints on the cannabis legislation that the state has passed. I hope that the town board members will also be objective in their evaluation of this legislation, and put aside personal, preconceived ideas.

I will begin with the most base, objective reason on the table. Money. I am not familiar with the ins and outs of how the state's regulatory impacts and taxation of this product is going to trickle down, but I do know that at the very least Livingston County and by extension the town of Avon will benefit from increased sales tax revenue within the Town of Avon. If purchases occur in Monroe County Avon realizes nothing. I do know that Livingston County and the town of Avon will benefit from the money staying in the town and the county! Communities surrounding Avon are not going to ignore these opportunities and our community's purchasing dollars are going to go to those communities, notably Monroe County, along with dollars that are going to be spent on other purchases while they are out of Avon.

On the practical side of this discussion, you should be considering the benefits of cannabis related to depression, PTSD symptoms and pain management. I would ask how much effort has been made by the town board to reach out to the medical community and the veteran's community in the town of Avon for their input on this topic. I am including Forbes magazine articles referencing scientific studies related to the use of cannabis for depression, PTSD, and Pain Management using cannabis products (see attachments). If the response is "why not just get medical cannabis?" I would suggest you call your health care provider and see just how difficult that is.

If the only input you are receiving is to be from an open mic at a town board meeting, I question if you are getting the true attitude and beliefs of our community. Our community includes many veterans and has an aging population, some of whom are dealing with issues related to depression, PTSD, and pain management; how has the Avon Town Board reached out to those Avon communities in crafting this law? Avon has a Chamber of Commerce that includes many

active members of the Avon business community and I know you did not reach out to the Chamber for input on this law.

Subjectively, the stigma still attached to cannabis pretty much ensures that the commentary tonight would be mostly in support of this law to “opt out.” I would not be surprised that many in support of this opt out law would view it as making cannabis illegal in our community, contrary to the NYS law, and they would not have any peer reviewed scientific studies supporting their opposition to any cannabis legalization.

It costs Avon nothing to craft an “opt in” law. It costs Avon considerably to “opt out” and pretend that the dollars will not go elsewhere, and the mental and physical health of our community will not suffer.

Sincerely,

Mike Carroll
585-226-3030
c 585-737-0131
carrollm@studiosalespottery.com
www.studiosalespottery.com

<https://www.forbes.com/sites/lindseybartlett/2021/07/30/recent-study-finds-cannabis-aids-treatment-resistant-depression-and-alcohol-dependency/?sh=18f7c3273c4d>

<https://www.forbes.com/sites/emilyearlenbaugh/2020/12/22/ptsd-sufferers-who-used-cannabis-were-25-times-more-likely-to-recover-in-a-recent-study/?sh=7b697d004321>

<https://www.forbes.com/sites/tomangell/2018/07/11/medical-marijuana-reduces-opioid-prescriptions-another-study-finds/?sh=779db98e6b00>

DISCUSSION – HARDSHIP APPLICATION – ROCHESTER GRAVEL PUBLIC HEARING-continued

Attorney Ashley Champion addressed the Board asking if they had any question regarding the information that she had given them at the last meeting? A couple of other notes are that issuing a letter of credit does not reflect whether you have a hardship/lost revenue. The tax documents show a year-to-year loss, and it is getting worse. The letter from Zoghlin states that a few weeks would not matter and is incorrect as each day it is getting worse and has the potential to continue to get worse. This has been going on for months with the Town and DEC. We do not want to continue to be held up here and then we still must go to the ZBA (Zoning Board of Appeals). And all these folks will be able to go before the Zoning Board of Appeals when they hold their hearing. Back to the balancing test it is not more important to consider the hardship than it is the health, safety, and welfare of the residents. There are legal meanings/definitions that are important to this process. It does not matter if the mine is a good idea or properly located. It is up to the DEC's review and to make the other determinations such as environmental issues and health, safety, and welfare. Their determination will be made, and we will know if we can proceed. The hardship is real. At the State level hours of operation can be made and at the Town through their special permit process.

The owner has been working with the Town Code Officer as he reviews and responds to complaints.

Councilman Harrington questioned Dale Twardorkus' Attorney Ashley Champion regarding statements that she had made at the last meeting regarding the DEC trumping the Avon Town Board. He claimed that Dale Twardorkus' Attorney Ashley Champion stated the DEC has the final approval. You came with your packet and told us that we had broken the law with the hours of operation and number of trucks and direction of trucks and that the Town Board overstepped their bounds. The second part is your hardship. You had stated that people could go to the DEC and provide comments at a public hearing. The very next day, and I have an email that the DEC did the SEQR and passed the SEQR, to allow thirty trucks per hour.

Attorney Champion responded explaining the duties of the Town and the DEC. The DEC's public comment period is still open, and folks have taken advantage of that.

Attorney Campbell stated a part of the SEQR process was completed, but that was only a part of the SEQR process.

Dr. Eddy and Attorney Champion reviewed the request to keep the hearing open along with the time frame.

Carolyn McKee stated that all the DEC permit applications and reports have been reviewed. In order to issue a negative declaration the DEC must consider inside and outside of the mine. The noise study that was done stopped inside of the mine entrance at 63 decibels. If you consider a dump truck accelerating and using j-breaks its over 90 decibels. The national institute for deafness states that within 15 minutes at 90 decibels you will have profound hearing loss. All this information is being challenged at the DEC.

The DEC requires a letter from the bank before any permit is granted.

DISCUSSION – OPEN PUBLIC HEARING TO OVERRIDE THE LIMIT ON THE AMOUNT OF REAL PROPERTY TAXES

Attorney Campbell opened the public hearing by reading the following legal notice:

TOWN OF AVON
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 New York State Town Law that a public hearing shall be held by the Town Board of the Town of Avon, at the Opera Block/Town Hall, located at 23 Genesee Street, Avon, New York at 6:30 P.M. on Thursday, October 14, 2021 for the purpose of considering public opinion and comment about or concerning the following:

A Local Law to override the limit on the amount of real property taxes that may be levied by the Town of Avon pursuant to General Municipal Law §3-c 5, and to allow the Town of Avon to adopt a budget for the fiscal year 2022 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c 2 (g).

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, or by visiting the Town Government page of the Town and Village web site at www.avon-ny.org

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

Dated: September 23, 2021

Published: October 7, 2021

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

Supervisor LeFeber addressed those in attendance reviewing the complicated formula used by the New York State to determine a two percent increase and the effects of PILOTS. The preliminary budget is a .76 increase in the tax levy which is well below the two percent cap. We will continue to take public comments.

DISCUSSION – VISITOR COMMENTS

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

DISCUSSION – HARDSHIP APPLICATION – ROCHESTER GRAVEL PUBLIC HEARING-continued

Tom McGovern addressed the Board with the following comments:

1) I would like you to put something in your minds. It is called the “Victor Plume”

In Victor, around corner from Dale’s mine, is the Syracuse mine. Amongst some construction debris, some industrial solvents were imported into this mine at some point.

It went un-noticed for a long time, until the Village of Victor’s water supply was contaminated along with private wells.

Even air quality tests identified hazardous levels of vapors in 20 affected homes. Mitigation systems had to be installed.

Home values in this area were diminished.

Increased cancers occurred in this area.

Some monetary liability was assessed against the mine to benefit the residents in the affected area.

2) July 3, 2018 Planning board meeting.

Dale's plan for mining operations on Oak Openings Road were discussed. Restrictions on hours of operation, truck traffic, concerns of well contamination among other items were discussed.

Dale seemed accepting of these limitations and voiced no hardship concerns at this meeting.

Dale also showed no plans of importing waste materials into the mine at this time.

3) In 2020, Dale applied for DEC permits to import solid waste material into the mine. On 04/28/2020 he was granted DEC permits to import concrete, rock, brick, uncontaminated soil, sand, gravel, asphalt pavement and millings.

Based on what was discussed at our July 3, 2018 Planning board meeting, I find this shocking.

A March 12, 2020 Notice of Violation (NOV) was issued by the Division of Mineral Resources revoking the approval to import off-site materials because approximately 1,700 cubic yards of contaminated soil material had been accepted at the Oak Openings Pit.

Kudos to Dale though for alerting the DEC concerning the material that was dumped at the mine.

We all know what kind of things can be mixed in with construction and demolition debris. It would not take much to permanently destroy our precious potable water.

We cannot depend on someone "catching" dangerous material being trucked into our neighborhood and being placed deep into our water table!

*** This activity at the mine is not compatible with a neighborhood that draws potable water from its only source, wells.

I am calling on the town boards and on Dale to put an end to this.

Twelve trucks per hour OK with Dale

New York State Department of Environmental Conservation Division of Materials Management
Solid Waste Management Facilities, Date: 01/21/2021

CDDHRF - concrete rock brick - registration, DEC issued 04/28/2020

CDDHRF - uncontaminated soil sand gravel rock - registration, 04/28/2020

CDDHRF - asphalt pavement and millings - registration, 04/28/2020

Since 2019 DEC also has a new policy that all "ongoing" C&D importation/processing will now be subject to SEQRA and be considered a Type 1 action with Town and public comment.

Letter sent to ZBA after July 3, 2018, Planning Board meeting.

Summary points to consider

- 1) Well water levels.
- 2) Ground water contamination.
- 3) Mining permit conditions.
- 4) Traffic patterns (entering/leaving the location)
- 5) Signage on the mine property instructing exiting truck turn direction.
- 6) Information provided to returning trucks on permitted road route to the mine.
- 7) Dust control.
- 8) Noise control: Jake brake usage, mining equipment and other associated activities.
- 9) Hours of operation.
- 10) Road signs related to truck instruction/restriction on Oak Openings Rd.

The Planning Board recommended that the ZBA include these items as restriction considerations for the special use permit.

Carolyn McKee continued to address the Board stating on the DEC website that gravel and sand are at a greater risk than other. He is already mining below the water table and sand and gravel are stockpiled it is just a matter of time before it leaches into our water system. The Loss property is down from the gravel pit and two pets (three-year-old cat and a dog) died from the same rare stomach cancer. This is the first indication that there is a problem.

Bob McKee, 1665 Oak Opening Road – Against

Mr. McKee stated he would like to revisit the purpose of this meeting and that is determining if there is a financial hardship. At the last meeting, we talked about the applicant's failure to meet the legal definition of a financial hardship. Second, the applicant with the letter from the CPA has failed to provide substantial proof to meet the legal definition of a financial hardship. The letter from the CPA firm does not offer any proof of financial hardship. It was stated that some of the remarks were offensive, and he is offended, and every Board Member should be offended for someone to think that we are so naive that the letter from the CPA provided a substantial proof of a loss. The letter stated that they assisted in preparation of income taxes. It does not state they did have a financial hardship, but they assisted in preparation and that could be as simple as answering questions over the phone. The CPA firm worded that letter to protect their reputation. They did not annualize the financial statements. We should recognize what we accept from a qualified independent third party. If profit and loss statements, balance sheets and analysis of uses of funds for the three years in question, examples of audit confirmations of vendors and customers are provided by a qualified third party that can attest to the validity, then you would have financial loss.

A Visitor asked that if someone is in favor of extending the public hearing to please stand until November 18th. A large majority of the Visitors stood. These are your citizens of the Town of Avon. Thank you.

Attorney Ashley Champion addressed the Board stating, if, there is no bases for claiming hardship then the tax returns filed since 2018 and filing for a hardship two years later are fraudulent. That is a stretch and hopefully the Board would agree.

The letter from the CPA, yes, they did not audit the financial statements, and this is both standard and typical, you were provided with a list of potential customers, and you heard directly from a premier construction company at the last meeting that there is a real hardship. She asked as this is the second meeting on the hardship application. The issues are not on the mine or if it is in a good place, it if there is enough of a hardship shown to allow the ZBA application to move forward. Of course, the residents would like the public hearing to continue, and continue, and continue as that would mean there has been no action taken. She spoke of working on both sides and approval is a winner for the Developer and a delay is a win for the neighbors as nothing is happening.

Supervisor LeFeber stated that he would not agree that nothing is happening.

Attorney Ashley Champion continued stating that the neighbors have no new concerns. What else could there possibly be as they came forth with their information and you heard a lot of neighbor concerns. It does not make since to keep it open.

Supervisor LeFeber stated that the Board is the one making the decisions and the Board can think on their own. Also, that Attorney Champion is pleading the case for one side.

Councilman Harrington stated that the Attorney for the residents could not be here tonight, and we believe the hearing should stay open.

Visitor Carolyn McKee stated that one of the reasons to keep the hearing open is because they have FOILED stuff from the DEC and that it takes one month to one- and one-half months to get the information from Albany. Second the CPA letter gave us two more reasons. One is the truck drivers are frustrated of waiting in line and afraid of getting in trouble because of someone counting trucks. That is one of the most unprofessional things to put in writing a letter of verification of a financial hardship.

Supervisor LeFeber stated that anyone can put anything in writing.

DISCUSSION – OPEN PUBLIC HEARING OPT OUT OF ALLOWING CANNABIS RETAIL DISPENSARIES AND ON-SITE CANNABIS CONSUMPTION SITES

Supervisor asked for any comments from the public on the public hearing on cannabis.

Visitor Joshua Tonra, 33 Spring Street addressed the Board asking for clarification of the proposed law.

Attorney Campbell stating that each municipality acts for their own municipality.

Visitor Tonra stated that he opposes opting out of the dispensaries and supports opting out of on-site consumption sites until more information is available.

Supervisor LeFeber shared the Boards ability to regulate through the Town Code where dispensaries can be located within the Town. He thanked Mr. Tonra for his comments and the Board is interested in hearing feedback and the Board has heard from people.

DISCUSSION – HARDSHIP APPLICATION – ROCHESTER GRAVEL PUBLIC HEARING-continued

Visitor Bob McKee stated for the record he dislikes someone putting words in his mouth. He did not say the word fraudulent. It is unsubstantiated and that is why he used the word alleged.

DISCUSSION – OPEN PUBLIC HEARING OPT OUT OF ALLOWING CANNABIS RETAIL DISPENSARIES AND ON-SITE CANNABIS CONSUMPTION SITES-continued

Chuck Morgan – opposes and shared the reasons.

DISCUSSION – HARDSHIP APPLICATION – ROCHESTER GRAVEL PUBLIC HEARING-continued

Visitor Dennis Regan shared his thought about the mine as follows:

The mine was closed because it was too close to our water. The mine was closed the scales and all the equipment pulled out and filled in the hole.

Someone got a permit, and it was opened again. It should not have been opened and it is going to cause a problem for us and all these people. Some of the homes are one half a million dollars and you cannot see them all as they are in the back or on the side. You need to remember that this was closed because of the water problem. The truck thing and all that is trivial.

DISCUSSION – OPEN PUBLIC HEARING OPT OUT OF ALLOWING CANNABIS RETAIL DISPENSARIES AND ON-SITE CANNABIS CONSUMPTION SITES-continued

Visitor Stephen Comeau, 166 D'Angelo Parkway, addressed the Board stating he is supporting dispensaries and shared his reasons.

Visitor Anna Boring, 160 Clinton Street, opposes and provide detailed financials from Great Barrington, Massachusetts.

There was discussion of the requirements of owning and operating a dispensary.

Visitor Richard Doudt addressed the Board providing additional information.

Visitor Robert Westfall questioned if the Town could opt out of one and not the other. Attorney Campbell stated that under Municipal Home Rule it might be allowed.

Visitor Randall Arnold, 6516 North Avon Road – Supports and provided comments.

Visitor Luke Salagor, 260 Genesee Street, Opposes

DISCUSSION – HARDSHIP APPLICATION – ROCHESTER GRAVEL PUBLIC HEARING-continued

Visitor & Planning Board Member Tom McGovern stated that he feels the Planning Board was misled by the Owner of the Gravel Pit when he came before the Board in 2018 and he thought he was going to play nice, and he was happy with the regulations.

Supervisor LeFeber asked for any other comments.

DISCUSSION – REQUEST TO EXTEND THE MORATORIUM

Town Clerk Knight stated she received and forward to the Town Board the following request to extend the moratorium. There were approximately forty-five signatures.

10/6/2021

REQUEST TO THE BOARD OF THE TOWN OF AVON

To the Town Board of Avon:

We, the undersigned, request the Town Board of Avon to extend the moratorium on mining within an agricultural zone for, as yet, an undetermined length of time.

The current moratorium as established by the Town board of Avon will expire on December 23, 2021.

We believe that the initial intended purpose of this moratorium has not yet been achieved.

On October 08, 2020 members of the Planning Board of Avon and the Zoning Board of Appeals brought forth to the Town Board of Avon a recommendation to establish a moratorium on mining within an agricultural zone.

According to the Town Board minutes the basis for their recommendation is as follows:

"With the recent concerns raised by the residents of Avon over the expansion of an existing facility both Boards (Planning and Zoning) feel that the moratorium would allow time to look at these concerns, the Comprehensive Plan and examine the possibility of future facilities being built. Many options would be considered such as effects on homes close to the operations."

1. We, the undersigned, do not feel that the concerns raised by the residents have been adequately addressed or resolved and need further discussion and interaction between all of the Town Boards and the residents.
2. A second purpose of the existing moratorium was to examine the current Town Codes relating to mining. To date, this has not been accomplished. The current Town Code was established almost 60 years ago and is no longer relevant. Any new code must, first and foremost, address the health and safety of Avon residents.
3. In addition, the schedule of fines for violations of the current town code does not reflect the seriousness of the violations or their effects on the residents. If a facility located in the Town of Avon is also under the jurisdiction of the DEC, then any fines administered by the town should parallel the DEC's fines.

We feel that this needs to be addressed so that fines adequately reflect the frequency and nature of any future violations.

4. Foiling documents from various organizations which support the residents' concerns sometimes take a month or more before information becomes available.
5. A major concern of everyone living near the gravel pit is the possibility of ground water contamination resulting in the contamination of our wells. The DEC classifies 3 types of aquifers: Primary, Principal and Sole Source. The Federal EPA under provisions of the Federal Safe Drinking Water Act defines a Sole Source Aquifer as one which supplies at least 50% of the drinking water consumed in the area overlying the aquifer.

10/6/2021

EPA guidelines also require that these areas have no alternative drinking water sources which could physically, legally and economically supply water to all who depend on that aquifer for drinking water should that aquifer become contaminated. According to the DEC, the most productive aquifers in upstate NY consist of unconsolidated deposits of sand and gravel. Ground water in these aquifers occurs under the water table. The high permeability of these deposits and the shallow depth of the water table make these aquifers particularly susceptible to contamination such as landfills and petroleum storage.

Any individual or municipality may petition the EPA to have an aquifer designated as a Sole Source Aquifer. The EPA provides a Sole Source Aquifer Designation Guide to assist those interested in preparing and submitting petitions to the regional EPA office.

Rochester Gravel Products is mining below the water table and has dumped contaminated material in the past, resulting in the DEC pulling their C&D permit.

The DEC requires pit owners and their employees to have training in recognizing contaminated materials.

To date, there is no record at the training facility in Geneva, NY, of Rochester Gravel Products (or any of the other several company names Dale has used or his own name) to indicate anyone working in the Oak Openings pit has received the appropriate training to recognize contaminated material.

Rochester Gravel is also permitted to dump asphalt millings. Asphalt contains the Group 1 carcinogen benzene.

There are several court cases based on a Sole Source Aquifer where the Federal EPA overruled the NYS DEC's decision to issue a mining permit.

According to the DEC "New York State has little influence over such designations."

6. On November 2, 2021 NYS Proposal #2 will be on the ballot. This proposal is a legislatively referred constitutional amendment that would add the right to clean water, clean air and a healthful environment to the NYS Constitution's Bill of Rights.

Legislators approved the proposal in 2021. "The language will finally put in place safeguards that require the government to consider the environment and our relationship to the Earth in decision making. New Yorkers will finally have the right to take legal action for a clean environment because it will be in the State Constitution."

Decisions made by this board affect all of the town's residents, now and in the future, therefore, we feel that the Town Board of Avon needs to pursue a careful and thoughtful process to resolve the issues surrounding the current moratorium. This is a time-consuming process and the board needs to have as much time available to the members as necessary to properly accomplish this task.

As the governing body of the Town of Avon, you have an obligation and a responsibility to investigate every available resource to guarantee the health, safety and well-being of the residents you represent.

It is for these reasons the residents of Avon request the Town Board of Avon to extend the current moratorium to an, as yet, undetermined amount of time.

DISCUSSION – VISITOR COMMENTS

Supervisor LeFeber asked for any comments, and they were none.

RESOLUTION #182 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 September 23, 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 Drozdzziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

RESOLUTION #183 APPROVAL OF MINUTES

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

RESOLVE to approve the minutes of September 30, 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 Drozdzziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

RESOLUTION #184 APPROVAL OF MINUTES

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

RESOLVE to approve the minutes of October 7, 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 Drozdzziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

DISCUSSION – ATTORNEY REPORT

Attorney Campbell reported on the following:

- Received an application from Dimension Energy for a Pooler Solar Farm in the Wadsworth PDD on Starkey Road – It will be reviewed, and it is moving forward.
- Received an application from NextEra Energy Resources, LLC – Gary Wheat’s application.
- Some correspondence from the Village Attorney regarding an agreement to provide water the Mulligan Farms was received.

DISCUSSION – DIMENSION RENEWABLE ENERGY

James Bedrin, Project Development Manager for Dimension Renewable Energy addressed the Board regarding the completed application along with Brian Bear. He shared the design details to be placed in the Wadsworth PDD. They applied the 27th of September to the Planning Board. The Town Board would need to approve this type of land use in the PDD. The Board took a straw vote and appeared to tentatively support the concept of the project.

RESOLUTION #185 AUTHORIZE THE ATTORNEY TO DRAFT A LETTER TO THE PLANNING BOARD

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

ADOPTED AYES 5 NAYS 0

RESOLVE to authorize Attorney Campbell to draft a letter of tentative support in adding a solar project in the Wadsworth PDD.

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

Supervisor LeFeber asked for any addition comments for the Public Hearing on the Property Tax Cap and there were none.

RESOLUTION #186 CLOSE PUBLIC HEARING TO OVERRIDE THE LIMIT ON THE AMOUNT OF REAL PROPERTY TAXES

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

RESOLVE to close the public hearing to override the limit on the amount of real property taxes with no action taken.

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

RESOLUTION #187 CLOSE PUBLIC HEARING OPT OUT OF ALLOWING CANNABIS RETAIL DISPENSARIES AND ON-SITE CANNABIS CONSUMPTION SITES

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

RESOLVE to close the public hearing to opt out of allowing cannabis retail dispensaries and on-site cannabis consumption sites with no action taken.

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

DISCUSSION – ENGINEER REPORT

MRB Group Engineer Willard provided the following report:

- There is a proposal being drafted for the Village by MRB Group regarding Pole Bridge drainage.
- Also, a drainage mitigation plan is almost complete and will address the tree deal
- Once the budget is approved, we can have discussions on water projects for next year.
- Attorney Campbell stated he received a handbook from the Association of Towns entitled Procurement Guide American Rescue Act

DISCUSSION – TOWN BOARD LEFT THE MEETING FOR A DISCUSSION WITH ATTORNEY CAMPBELL FOR LEGAL ADVICE

The Board left the meeting at 7:40 P.M. and returned at 7:55 P.M.

DISCUSSION – HARDSHIP APPLICATION – ROCHESTER GRAVEL PUBLIC HEARING-continued

Supervisor LeFeber stated the Board will be keeping the hearing open until November 4, 2021. The hearing will continue to be open for comments at the October 28 2021 meeting.

DISCUSSION – HIGHWAY/WATER DEPARTMENT REPORT

Highway/Water Superintendent Crye provided the following report:

HIGHWAY/WATER DEPARTMENT REPORT

HIGHWAY:

- Changed three cross overs
- Parks & Cemeteries
- Wedging
- Fixed shoulders
- Cut trees
- Boom mowing for County
- Helped Village
- Maintenance on trucks & equipment
- Plows/wings/sanders/trucks ready for winter

WATER:

- Everyday maintenance & sampling
- Stakeouts

DISCUSSION – TOWN CLERK DEPARTMENT REPORT

Town Clerk Knight provide a written report dated October 14, 2021 and confirmed with the Board Members present they received the report.

Board action items are:

Approval of minutes of September 23, 2021, September 30, 2021, & October 7, 2021

RESOLUTION #188 APPROVAL TO PURCHASE MATERIALS FOR THE HOLIDAY SPECTULAR SCHEDULE FOR DECEMBER 4, 2021 IN THE VILLAGE OF AVON

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

RESOLVE to approve up to \$300.00 to purchase items to be used for the public to make pinecone bird feeders on December 4, 2021 for the Holiday Specular.

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

RESOLUTION #189 DESTROY RECORDS

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

RESOLVE to authorize the Town Clerk to destroy records as presented:

Town of Avon
Index of Destroyed Records

In accordance with the current SARA LGS-01 Records Retention & Disposition Schedule, the following records have been determined to be obsolete and are to be destroyed:

Record Series Name or Description	LGS-1 Section Number	Inclusive Dates	Cubic Feet Destroyed	Date Record Obsolete
FOIL Request	Public Access to Records 706a	2016	1/2 inch	2017

Budget Files	Fiscal- Budget 489, 492b, 493	1994-2009 2015	1 box	2000- 2021
PILOT Records	Taxation & Assessment 1039a, e	1991-2011	1 1/2 inches	1997-2017
Meeting Files	General 48	2015	2 ½ inches	2016
Duplicate Records	General 58	2008-2018	3/4 inch	2008- 2018
Intermunicipal Contracts	Transportation & Engineering 1086	1974,96,97, 2003-2009	1/4 inch	1980,2002- 2003,2009- 2015

Confidential?

Yes X

No

Department Approval: _____ Date: _____

RMO Approval: _____ Date: _____

Date of
Destruction

_____ Board Approval: _____ Date: _____

Attorney Approval: _____ Date: _____

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

DISCUSSION CODE ENFORCEMENT DEPARTMENT

- A 515-page solar plan was received for solar
- Anthony Spade called from Piranha
- Six items on the agenda for the 25th Planning Board Meeting
- Try to treat everyone the same/equally with complaints

Town Clerk Knight reported being asked legal questions such as requirements to submit a petition and the response after several requests is the same – Seek Legal Advice. Notarized signatures were recommended if someone cannot be in attendance in the meeting as anyone can email comments under any name.

RESOLUTION #190 ACCEPT THE RESIGNATION OF JORDAN ZAPF

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

RESOLVE to accept the resignation of Jordan Zapf effective October 15, 2021.

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

RESOLUTION #191 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 2021-19 in the following amounts:

General Fund	Amounts totaling \$43,539.46
Highway Fund	Amounts totaling \$15,652.78
Water Fund	Amounts totaling \$4,881.78
Royal Springs Lighting	Amounts totaling \$1,062.14

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

RESOLUTION #192 AMEND THE COMPENSATION SCHEDULE

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

RESOLVE to amend the 2021 Compensation Schedule removing the following effective October 15, 2021.

REMOVE:

Name	Position/Duties	Status	2020 Rate	2021 Rate
Zapf, Jordan	Clerk to the Town Justice	Part Time*	\$14.28/hr.	\$14.50/hr.

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

RESOLUTION #193 ACCEPT TOWN CLERK AND SUPERVISOR MONTHLY REPORTS

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

RESOLVE to accept the monthly reports for September 2021 from the Town Supervisor and from the Town Clerk as shown below:

Town Clerk's September 2021 Report:

<u>Total Local Shares Remitted:</u>	<u>\$1,600.04</u>
<u>New York State Department of Health</u>	<u>\$ 135.00</u>
<u>NYS Ag. & Markets for spay/neuter program</u>	<u>\$ 49.00</u>
<u>NYS Environmental Conservation</u>	<u>\$7,269.66</u>
<u>TOTAL</u>	<u>\$9,053.72</u>

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

DISCUSSION – PRELIMINARY BUDGET FOR 2022

Supervisor LeFeber stated he made the changes discussed at the budget meeting. All the required documents are attached. If you find there is a mistake, we can make a correction, if you would like to reduce services, or if the public comes in and you would like changes, we can do that prior to adopting the Final Budget. With the changes the tax levy will be up approximately .76. The fire budget is up about 7.5 percent.

RESOLUTION #194 SCHEDULE THE PUBLIC HEARING FOR THE PRELIMINARY BUDGET

On motion of Councilman Harrington, second by Councilman Drozdziel the following resolution was ADOPTED BY A ROLL CALL VOTE AYES 4 NAYS 1 (SUPERVISOR LEFEBER)

RESOLVE to schedule the Public Hearing and adopt the following Preliminary Budget as follows:

TOWN OF AVON
NOTICE OF PUBLIC HEARING ON THE
PRELIMINARY BUDGET OF THE TOWN OF AVON
For the year 2022

NOTICE IS HEREBY GIVEN that the preliminary budget of the Town of Avon for the fiscal year beginning January 1, 2022, including General Town Funds, Highway Fund, Water Funds, Special Districts, Royal Spring Lighting & Drainage District, Crossroads Drainage District, Bruckel Drainage District, Cemetery, Water District Route 39, Ext, and Fire District, is completed and filed in the office of the Town Clerk of the Town of Avon, 23 Genesee Street, Avon, New York 14414, the tentative and the preliminary budgets will be available for inspection by any interested person during office hours, Pursuant to Real Property Tax Law Chapter 258 & 495, an exemption report is attached to the preliminary budget and includes every type of exemption granted by the taxing authority and the cumulative impact of each type of exemption, the cumulative amount expected to be received from recipients of each type of exemption as payments in lieu of taxes or other payments for municipal services, and the cumulative impact of all exemptions granted. The Town Board of the Town of Avon shall hold a hearing on said preliminary budget on October 28, 2021 at 6:15 P.M. at the Avon Opera Block/Town Hall, 23 Genesee Street, Avon, New York 14414, showing such changes, alterations

and revisions as shall have been made therein by the Town Board of the Town of Avon. At such hearing, any person may be heard in favor of or against the preliminary budget as compiled or for or against any item or items therein contained. The following are the proposed 2022 salaries of Town of Avon

ELECTED OFFICIALS:

Supervisor	\$30,000.00
Councilperson (4)	\$ 6,566.00
Town Justice (2)	\$14,575.00
Town Clerk	\$45,188.00
Highway Superintendent	\$72,462.00

By Order of the Town Board
 Sharon M. Knight, MMC/RMC
 Avon Town Clerk
 DATED: October 14, 2021
 PUBLISHED: October 21, 2021

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

DISCUSSION – VISITOR COMMENTS

Supervisor LeFeber asked if there were any visitor comments, and they follow:

Ed Forsyth reported that he spoke with Livingston County News and the Village Library has records to 1970. He wanted to repeat his statement that the Town address a solution to the water/drainage issues on Pole Bridge Road as this is a Town issue not a Village issue. He agrees that Mr. Howlett is responsible for aggravating the situation, but this was a problem before Mr. Howlett began development in the area. The Village has also had development that contributed. When the State did work in that area, that is when the problem began. Mr. Howlett should only be required to pay his share.

Tom McGovern made a comment on Solar. A Town in New Jersey has put up a ton of panels on telephone poles and building. It totally ruined that Town's aesthetics. Overall, he believes we are doing solar right. If it is close to homes he understands the visual aesthetics, but we can take care of that by requiring tall trees and other vegetation to buffer the edge and then people would be a lot of more accepting.

Supervisor LeFeber stated that we are in the driver's seat as the certificate of occupancy must meet the Planning Board requirements and that has not happened yet.

Tom McGovern believes they may be coming back for approval for batteries. Attorney Campbell is working on that as well.

On motion of Deputy Supervisor Mairs, seconded by Councilman Harrington the meeting was adjourned at 8:15 P.M.

Respectfully submitted by:

Sharon M Knight, MMC/RMC Town Clerk