

A regular meeting of the Town of Avon was held on Thursday, October 27, 2022 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: Attorney James Campbell, MRB Group Engineer David Willard, and Sharon M Knight, MMC/RMC

VISITORS: Ashley Freeman- Comeau, Bob Westfall and one other

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

DISCUSSION – PUBLIC COMMENTS

Supervisor LeFeber asked for public comments and there were none.

DISCUSSION - FINANCIAL SUPPORT AVON HOLIDAY SPECTACULAR

Ashley Freeman- Comeau addressed the Board providing details of the plan for Holiday Spectacular.

RESOLUTION #201 FINANCIAL SUPPORT AVON HOLIDAY SPECTACULAR

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

Resolve to provide \$1,100.00 to continue the annual support of Avon Holiday Spectacular with thanks to the work of their Board.

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

DISCUSSION – ATTORNEY REPORT

Attorney Campbell provided the following report:

ZBA meeting update was provided.

EPA compliance - Phone meeting with MRB, Liv. Cty. Water & Sewer, Highway/Water Superintendent Crye and Highway Employee Eric Hendrick.

Mr. Stevenson, Developer concept plan for camping/storage facility with New project behind Quicklees on Route #15.

Supervisor LeFeber requested Attorney Campbell provide an update on the workplace violence complaint that was presented on August 25, 2022 to the town board which referenced alleged conduct from a meeting earlier in the month, August 11, 2022. As a result of

DISCUSSION – ATTORNEY REPORT-continued

that complaint being brought forward to this board, I advised you to seek the services of an independent firm to investigate that complaint, The Board authorize the hiring of Webster Szanyi LLP, a law firm out of Buffalo. They have a number of lawyers who specialize in municipal labor employment law and are very familiar with these types of matters and conduct such investigations on a regular basis. They were engaged to act as independent third-party consultant in the review of the complaint. They investigated the matter over the course of a month or month and 1/2 and that investigation involved the interview of certain witnesses, including the complainant.

As a result of that investigation, I was provided with a written report from Webster Szanyi LLP was provided to me as the Attorney for the Town. The Attorney-Client privilege applies to that report, so that it is not a public record. The substance and conclusion of that report was that there was no finding to substantiate the allegation the allegations of workplace violence The allegations that were made in the complaint did not rise to the level of meeting the requirements of our workplace violence prevention policy.

I did after reviewing and talking with the investigators, issue a letter dated October 20th which I sent to each of the Town Board Members. It basically summarizes that the investigation has been completed and that there was no finding of any impropriety as it relates to workplace violence. So, from my standpoint that investigation is concluded and the document remains with me. Typically, there would be nothing else done with it, that matter is closed and resolved at this point.

Supervisor LeFeber opened the two public hearings at 6:13 P.M.

Chapter 130 of our code article six and article 15 of the zoning ordinance of the column they align specifically to add a new section to article six special use permits. Section 130-35 B (2) (a).

2023 Budget Hearing - hold the budget hearing open next Thursday we have a board meeting we could adopt that budget time.

RESOLUTION #202 FULL ENVIRONMENTAL ASSESSMENT FROM PART II IDENTIFICATION OF POTENTIAL PROJECT IMPACTS

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

RESOLVE to adopt the answers to question 1 – 18 as no identification of potential project impacts, as the official findings for Part II.

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

**RESOLUTION #203 FULL ENVIRONMENTAL ASSESSMENT FORM – PART 3 –
EVALUATION OF THE MAGNITUDE AND IMPORTANCE OF PROJECT IMPACTS
AND DETERMINATION OF SIGNIFICANCE**

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

RESOLVE to make a determination of significance by issuance of a negative declaration which is a statement that based on your review of the relevant questions in Part 2 of the FEAF, there is no potential that there would be a negative or significant negative environmental impact as a result of adoption of the local law.

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

**RESOLUTION #204 AUTHORIZE THE SUPERVISOR TO SIGN PART 3 –
EVALUATION OF THE MAGNITUDE AND IMPORTANCE OF PROJECT IMPACTS
AND DETERMINATION OF SIGNIFICANCE**

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

RESOLVE to authorize the supervisor to sign the documents.

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

DISCUSSION – CODE REPORT

Code Enforcement Officer Glise provided a report that included but was not limited to Piranha, Matthews, James Gardner, Mr. Stevenson, 5/20 Solar, and a possible sports center.

DISCUSSION – HIGHWAY WATER REPORT

Highway/Water Superintendent Crye provided his report, and the Board took the following action.

RESOLUTION #205 PURCHASE OF A NEW TRUCK

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

RESOLVE to authorize the purchase of a new truck.

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

RESOLUTION #206 RE-LEVY UNPAID WATER BILLS

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

RESOLVE to re-levy unpaid water bills in the amount of \$18,387.36.

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

RESOLUTION #207 AMEND THE COMPENSATION SCHEDULE

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

RESOLVE to amend to 2022 Compensation Schedule for the next payroll period as follows:

Hettrick, Eric - Motor Equipment Operator/Water Labor, Full Time from \$20.54/hr. to \$21.54/hr.

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

RESOLUTION #208 APPROVAL TO UPDATE THE COMPUTER IN THE SERVER ROOM

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

RESOLVE to approve to update the computer in the server room.

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

RESOLUTION #209 CLOSE PUBLIC HEARING PROPOSED LOCAL LAW T-5A-2022

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

RESOLVE to close the public hearing on proposed Local Law T-5A-2022.

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

RESOLUTION #210 ADOPT LOCAL LAW 5-2022

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

RESOLVE to adopt Local Law 5-2022 as follows.

**LOCAL LAW NO. 5 OF THE YEAR 2022
OF THE TOWN OF AVON**

A local law to amend the Zoning Ordinance of the Town of Avon, Livingston County, New York to modify Chapter 130 Article VI and Article XV.

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

SECTION 1. TITLE AND SCOPE

This local law shall be known as “A LOCAL LAW TO AMEND CHAPTER 130 ARTICLE VI AND ARTICLE XV OF THE ZONING ORDINANCE OF THE TOWN OF AVON, SPECIFICALLY TO ADD A NEW SECTION TO ARTICLE VI SPECIAL USE PERMITS, BEING §130-35 B. (2) (a) WHICH ADDRESSES TRANSFER OF PROPERTY THAT HAS AN APPROVED SPECIAL USE PERMIT AND TO ADD A NEW SECTION TO ARTICLE XV SOLAR ENERGY SYSTEMS, BEING §130-81 O. WHICH ADDRESSES UNDER WHAT CONDITIONS A SOLAR ENERGY SYSTEM CAN BE MADE OPERATIONAL.”

SECTION 2. PURPOSE.

A. Authority. This Local Law is adopted pursuant to the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, and Articles 2 and 3 of the Municipal Home Rule Law, to protect and promote public health, safety, convenience, order, aesthetics, prosperity and general welfare of the Town of Avon in a fashion that is not inconsistent with the Comprehensive Plan of the Town of Avon. This Local Law regulates the use of buildings and structures and the development and use of land within the Town of Avon.

B. To these ends, this local law and the Articles of the Town of Avon Zoning Ordinance that it amends is designed to:

1. Enhance and regulate the orderly growth, development and redevelopment of the Town in accordance with a well-considered plan so that the Town may realize its potential as a place to live and work; and
2. Protect and manage the character of the Town.

RESOLUTION #210 ADOPT LOCAL LAW 5-2022-continued**SECTION 3. CHANGES TO ARTICLE VI, §130-35 - USES REQUIRING SPECIAL USE PERMITS.**

The current Article VI, §130-35 of the Zoning Ordinance of the Town of Avon is hereby modified and amended to add a new section that shall be known as §130-35 B. (2) (a) and shall read as follows:

“(a) Transfer of Property with Special Use Permit. A special use permit authorizes only the activity expressly described in the application and approved special use permit materials. A special use permit shall expire upon change in property ownership or property transfer, unless the Building and Zoning Office is notified by the owner, in writing, prior to property transfer and the Zoning Board of Appeals reviews the use or activity and special permit documents and is satisfied that the use has and will continue to be conducted in a manner that is consistent with the special use permit and any conditions which may have been stipulated at the time of its issuance and approves, in writing, the transfer of the special use permit. If the Zoning Board of Appeals does not issue a written response within 30 days of notification by the property owner, such lack of response shall constitute approval of the continuation of the special use permit under the same conditions as previously approved. A new special use permit shall be required for any expansion, alteration or variation of a use already authorized by a special use permit. A request for a new special use permit shall be subject to the application and review procedures described in this Article and elsewhere in the Zoning Ordinance of the Town of Avon, as applicable.”

SECTION 4. CHANGES TO ARTICLE XV, §130-81 – SOLAR ENERGY SYSTEMS: GENERAL REGULATIONS

A. The current Article XV, §130-81 of the Zoning Ordinance of the Town of Avon is hereby amended to include a section is designated as “§130-81 O.” and shall read as follows:

“O. No Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System, Type 1 Solar Energy System requiring Site plan approval or Type 2 Solar Energy System shall be made operational until such time that all conditions of approval relating to the Site Plan and Special Use Permit have been satisfied, the System fully complies with the solar regulations in Article XV of the Town of Avon Zoning Ordinance

RESOLUTION #210 ADOPT LOCAL LAW 5-2022-continued

and a Certificate of Compliance or Certificate of Occupancy has been issued by the Code Enforcement Officer. Should any such Solar Energy System be made operational prior to the above conditions being fully met and satisfied, it will be deemed a violation and may result in revocation of the Site Plan approval and/or Special Use Permit approval, along with any other remedy available pursuant to the Town of Avon Zoning Ordinance or New York state law.”

SECTION 5. EFFECTIVE DATE.

This local law shall be effective thirty (30) days after its filing with the Office of the Secretary of State.

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

DISCUSSION –TOWN CLERK REPORTS

Town Clerk Knight confirmed the Board received her written report.

RESOLUTION #211 ACCEPT THE CLAIMS

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

RESOLVE to accept for payment Abstract 2022-20 in the following amounts:

Concerning ABSTRACT of Claims Number 2022-20 including claims as follows:

General Fund	Amounts totaling \$71,869.54
Highway Fund	Amounts totaling \$8,570.12
Water Fund	Amounts totaling \$792.39

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

OPEN ITEMS

On motion of Councilman Harrington, seconded by Deputy Supervisor Mairs the meeting was adjourned at 8:00 P.M.

Respectfully submitted by:

Sharon M. Knight, MMC/RMC Town Clerk