

A regular meeting of the Town of Avon was held on Thursday, February 28, 2019 at 6:00 P.M. at the Avon Opera Block/Town Hall, 23 Genesee Street, Avon, New York 14414, with the following members present:

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

**OTHERS:** Attorney James Campbell, Code Enforcement Officer Brian Glise (left at 7:40), Highway/Water Superintendent Thomas Crye (left at 7:35), and Town Clerk Sharon Knight MMC/RMC

**VISITORS:** Joan Updaw, Kevin Lillis, Judy Falzoi and Janet Manko

Supervisor LeFeber called the meeting to order at 6:02 P.M. and led those in attendance in the Pledge of Allegiance.

### **DISCUSSION – VISITORS COMMENTS**

Supervisor LeFeber asked for Visitor Comments and Visitor Lillis reported to the Board that he spoke with a Representative from the DEC and was told 3 things could be brought into the pit, dirt, concrete, and asphalt. Each item had a specific place to be stored as the items would be held and then removed. The pit is to be used as a transfer station.

### **RESOLUTION #35 APPROVAL OF MINUTES**

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

RESOLVE to approve the minutes of February 14, 2019, 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:

- Solar Pilot – A letter was received from Helios for a onetime lumpsum payment and discussions were held with the Assessor. A plan was put together and a brief executive session is needed.
- The resolution for developing a “Highway Equipment Reserve Fund” needs more time for review.
- We have been issued a court appearance for small claims for water charges for property within the Town. The claim is for \$482.00 and was paid under protest. This is the family that requested mediation with the Supervisor.

**DISCUSSION – CODE DEPARTMENT**

Code Enforcement Officer Glise reported on the following:

- SEQR
- Matthew Buses was issued a demolition permit
- Will be in class on March 11, 12, and 13 and the City is paying the cost.
- A second class will be held in Batavia regarding Johnson Control Alarm Systems
- Howlett was issued a demolition building permit and a permit for a dust collection unit.
- Complaint from Employee regarding footprints and mud after court.

Assessor Snyder stated that she also continues to clean up the bathroom after court.

It was suggested that Jose clean after court for the months of March & April.

**DISCUSSION – ENGINEER REPORT**

David Willard, MRB Group Engineer was not in attendance.

**DISCUSSION – HIGHWAY/WATER REPORT**

Highway/Water Superintendent Crye reported on the following:

HIGHWAY:

- Snow removal
- Brush
- Maintenance on trucks

WATER:

- General maintenance
- Sampling
- Meter changes
- New software for meter reading and training
- Kelly Sloan passed his Class C test.

Highway/Water Superintendent stated that Supervisor LeFeber and he discussed purchasing a new excavator. A brand new one costs around \$230,000.00 and we found a two-year-old used one in excellent condition for \$175,000.00. the one we own now will probably go on the online auction site.

The purchase of a new truck is about 14 months out and will need to get the purchase approved by the Board and ordered within the next couple of meetings.

**DISCUSSION – HIGHWAY/WATER REPORT-continued**

Supervisor LeFeber stated that Councilman Coyne, Highway/Water Superintendent Crye and he discussed the depth of the water line in James Steele Park.

Councilman Coyne stated that the County knows they have a responsibility and we want to protect ourselves long term. We were presented with two options one is the County giving us a surety note, which I feel is too vague, the other is to bury the line deeper possibly using the Town Highway Crew.

**DISCUSSION – TOWN CLERK REPORT**

Town Clerk Knight reported on the following:

Communications were received and forwarded to the Town Board via email:

- NYSDEC Bureau of Flood Protection and Dam Safety
- Liv. Economic Development – Avon Public Art Committee Flyer
- Liv. Cty. Water & Sewer Agenda
- NYS Homeland Security & Emergency Services  
Training Announcement – Managing Floodplain Development through the  
National Flood Insurance Program (NFIP)
- NYS Office of General Services – Community Solar Survey –  
Due the 8<sup>th</sup> of March
- Notice of Chapter 11 Bankruptcy Case – Ditech Holding Corporation, et al.
- Governor Andrew Cuomo – Red Flag Bill signed into law

E-Code is the electronic version of our Town Code. We recently paid \$1,195 for its upkeep conducted by General Code. Today, I prepared a screen shot of the use of e-code and shared it on our screens as follows.

We also received a quote from Certified Document Destruction for shredding. They would drop off two 96-gallon containers that would be picked up on an as needed basis for \$99.00 per pick up. This company is based out of Rochester and is in the area a few times a month.

**RESOLUTION #36 ACCEPT A PROPOSAL FROM CERTIFIED DOCUMENT DESTRUCTION**

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

RESOLVE to accept the proposal from Certified Document Destruction to supply the Town of Avon two 95-gallon totes, for destruction of our sensitive documents, to be picked up on an on call as needed basis at \$99.00 per pick up.

**RESOLUTION #36 ACCEPT A PROPOSAL FROM CERTIFIED DOCUMENT DESTRUCTION**

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

**DISCUSSION – TOWN CLERK REPORT -continued**

An Update on our Spectrum bill is that when we receive the bill, Ellen is asking Baldwin Business for a prepay check number, the check is mailed to Kim, she mails to Spectrum, and the final step is the voucher is placed on the next abstract for Board approval. This procedure is the same as other utilities (Nationalgrid and Frontier).

At the last meeting we talked about adding Jordan Zapf to the Compensation Schedule as a Deputy Town Clerk. Further details include that she will be scheduled to work 10-2 on Monday, Thursday and Friday with an average of 12 – 15 hours per week. This will allow for the Clerk’s office to be open during lunch except on Tuesdays. Jordon’s first day would be the 11<sup>th</sup> of March. Jordon will focus on putting minutes in the Official Book, mailing dog renewal notices, preparing abstract of vouchers, scanning documents into Laserfiche, responding to emails, answering phone, update our “New Resident Brochure”, and assisting at the counter.

**RESOLUTION #37 AMEND 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 2019 Compensation Schedule as follows:

Add:

**2019 Town of Avon Employee Compensation Schedule**

<b>Name</b>	<b>Position/Duties</b>	<b>Status</b>	<b>2018 Rate</b>	<b>2019 Rate</b>
Jordan Zapf	Deputy Town Clerk	Part Time*	\$0.00/hr.	\$13.00/hr.

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

**RESOLUTION #38 APPOINTMENT OF MARRIAGE OFFICER**

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

**RESOLUTION #38 APPOINTMENT OF MARRIAGE OFFICER-continued**

RESOLVE to re-appoint Sharon M. Knight, MMC/RMC Town Clerk as a Marriage Officer to expire December 31, 2019.

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

**DISCUSSION – SUPERVISOR REPORT**

Supervisor LeFeber reported that he spoke with Highway/Water Superintendent Crye regarding employees from Howlett’s Farm volunteering time to help with cemetery cleanup. There was discussion regarding liability.

There was discussion regarding the unused space in the Town Hall. There is someone who may be interested in renting the space. Attorney Campbell explained the reasons why this would not be a good idea.

Supervisor LeFeber stated that the Highway Garage electric bill will be taken off the demand charge because over the past 12 months the use has been under 2000kw hours per month.

**RESOLUTION #39 PAYMENT OF BILLS**

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

ADOPTED AYES 5 NAYS 0

RESOLVE to accept for payment Abstract 2019-4 in the following amounts:

**Concerning ABSTRACT of Claims Number 2019-04 including claims as follows:**

<b>General Fund</b>	Voucher #87 through #101 in amounts totaling \$ 27,554.19
<b>Highway Fund</b>	Voucher #36 through #40 in amounts totaling \$ 4,061.64
<b>Water Fund</b>	Voucher #16 through #22 in amounts totaling \$ 54,517.66
<b>Cemetery Fund</b>	No Voucher
<b>Opera Block Capital Improvement</b>	No Voucher
<b>Royal Springs Lighting</b>	No Voucher
<b>Cross Roads Drainage District</b>	No Voucher
<b>Bruckel Drainage District</b>	No Voucher
<b>Royal Springs Drainage</b>	No Voucher
<b>Town of Avon Fire Protection</b>	No Voucher
<b>Rte. 39 Water SW2</b>	No Voucher

**RESOLUTION #39 PAYMENT OF BILLS-continued**

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

**DISCUSSION – SUPERVISOR REPORT-continued**

Supervisor LeFeber received notice from the Town’s insurance agent that our insurance company will be appraising our facilities to make sure we have adequate coverage.

The Town has been using Baldwin Business Services for many years for our bookkeeping but Supervisor LeFeber would like to solicit other prices and scope of work available. He would like to make sure we are getting the best service for what we’re asking for.

**OPEN ITEMS**

Councilman Coyne reported that the Parking Lot Committee is continuing to move along and is working with MRB Group on a few renderings for our consideration. Just a reminder the next Right to Farm meeting is the 6<sup>th</sup> of March.

Councilman Drozdziel stated that he met with a representative from the company that controls our energy management system. There was discussion on what the equipment consists of, how it works, and who is authorized to control it. It was determined that additional heating equipment is not needed in the Historian’s Office. Some areas were scheduled to be unoccupied when no one was in the area and others were unoccupied when they were in use. We have reset the system and will follow-up on how its working.

**VISITOR - COMMENTS**

Visitor Falzoi question if we have a policy on the heating and air conditioning. Councilman Drozdziel stated that there is not policy but access to the controls is limited. Employees can adjust two degrees for heat or air conditioning.

**DISCUSSION – SOLAR PILOT**

Attorney Campbell suggested to discuss Assessor Snyder ideas relative to a proposed formula and then discuss in executive session the Helio’s proposed contract negotiations.

Assessor Snyder reported that she can not do a PILOT for more than what the taxes would be on the project. It seems the Town’s portion of the tax is the smallest. Looking at solar being valued at \$500,000.00 per megawatt based on New York State information and what Assessor’s within the State are doing. Monroe County is \$400,000.00, we are the only Town in Livingston County.

**DISCUSSION – SOLAR PILOT-continued**

Most of the information that is needed to come up with a value was not requested or included for Howlett's. We can request additional information to value again.

To build the value is \$1,000,000.00. The cost versus value was discussed.

Assessor Snyder stated that she is looking at this the way she values commercial property, which includes costs, income and expenses. This gives you a bottom cost line.

Taxable value is the actual cost of the build minus the operating expenses. The yield of the production comes into play and makes this more complicated.

More projects can be researched if you think the value should be higher. Different companies value the cost differently. Depreciation may or may not be considered but if you do and adjust you may value more than in future years. You need to consider operating expenses because they may cause an adjustment to the value. This becomes project specific. Your PILOT maybe out of compliance. We need to not give away the store while not exceeding the appropriate taxable value.

Assessor Snyder's proposal increases at a rate of two percent per year. It is based on a certain number of megawatts and gets it up to what she believes is the maximum value. She stated that another proposal, to keep the payments constant, was to not increase by two percent and begin with higher amount to keep the payment the same for seven years and then an adjustment for another seven years.

Assessor Snyder continued stating that if we charge \$500,000 per megawatt and four million megawatts and our current tax rate stays the same, we could collect \$7,300.00 per year. If our tax rate changes it could throw the formula for a PILOT out of compliance.

Supervisor LeFeber stated that the school and the county can also have a PILOT. The school can collect \$46,000.00 for a two-million-dollar project. The County could pull \$14,000.00. We could do a multi-municipal PILOT agreement where one agency collects for all three or two.

Attorney Campbell stated that we want to handle our own business. The IDA may want to collect the money and then distribute, and the County should not find that objectionable. Assessor Snyder stated that she is not in favor of having the County collect for us as they did not take the opportunity two years ago when it was presented, and we already had projects out there. She recommended that someone be appointed to contact the school and county sharing the name and address of the company so they may begin communications to develop a PILOT in the required timeframe 487B, sixty-day notice.

Supervisor LeFeber stated that the school was lax and that puts a burden on all the other taxpayers within the District.

**DISCUSSION – SOLAR PILOT-continued**

Attorney Campbell stated that if you stand alone it allows you to periodically make determinations of the value of the industry and if you don't it would be a mistake. This is a fundamental way to do this.

Supervisor LeFeber stated what this is the first time that he has no idea what is going to happen with the tax rate, and we have no idea what the State is doing. The thought was to pay off the Opera Block renovations, but we may need that money to make up what the state is not going to give us. Attorney Campbell stated there may be other ways to get a formula for this project agreement. The goal may be to keep the rates flat to keep us in compliance. Supervisor LeFeber questioned if the Fire Tax would be a part of the PILOT and that was confirmed that they would pay just as they are. That is true for all special taxes. Fire taxes will not be a part of the PILOT.

Assessor Snyder used the current project as an example stating that 78 acres are being rented and the project based on our law will only be using 25 acres. The land owner must pay the balance of taxes on 53 acres minus the agricultural exemption as well as the Fire Tax. Therefore, the Fire District tax would be tripled from their normal amount.

There was discussion on the cost of building and the cost of megawatts including the cost of scale. Assessor Snyder stated we need to get the money that we are entitled to receive. The Board could go big right at the beginning and not do a 2% increase just do a straight fee for the fifteen years.

Supervisor LeFeber stated that most PILOTS are done to try to get business to come to us and this is not the case, they are coming to us. The Town Board could adopt another local law to opt out of any additional projects.

There was a lengthy discussion on the best option, which is to have the higher number at the beginning as it is in the best interest of the Town to stay within the two percent tax cap. This would include a higher value per megawatt.

Attorney Campbell stated that going over the thresh hold would be more harmful in the beginning rather than at the end as we are predicting fifteen years out. There should be a buffer if we do not get it right.

The taxable value rate is the highest at years four and eight. At ten years the value is reduced.

Every four years in Ontario PILOTS increase.

Attorney Campbell stated we do not have fifteen years of experience into a PILOT. This industry is new, and we need to make the best decisions of the unknown.



Assessor Snyder stated that we will be making more money in taxes for this property than we would have if there was no development.

**DISCUSSION – SOLAR PILOT-continued**

This is a positive impact because as of today they are only paying \$267.00 as they have an agricultural exemption. She believes in the future the PILOTS will not be included in the tax cap. Our tax rate went down this year. Two of the three Town that she works for went over the tax cap.

Councilman Drozdziel stated that we need to determine what we are going to charge per megawatt.

Assessor Snyder continued stating that a letter was sent to Avon Central School and Livingston County regarding the solar project.

If we propose to the solar company that we are going to do a \$7,000.00 per year with a two percent increase each year and they agree then fine. If the school and the county do not offer anything look at the amount of money they have lost. We can not recoup that. A multi-agreement could take care of it.

Town Clerk Knight asked if the County and/or School responded within the sixty days? The Town Attorney was not aware if they had. Assessor Snyder reported that Avon Central School did send notice to them and are not looking to set-up a PILOT. The County did not respond but they are interested in a PILOT.

Attorney Campbell stated that the school will not collect approximately \$40,000.00. Supervisor LeFeber stated that he and Mayor Freeman spoke to the outgoing Superintendent and the incoming interim Superintendent just today. This is one reason we stand on our own we have processes in place.

Visitor Manko stated that she spoke with a representative of the school.

Assessor Snyder stated that another town negotiated to collect \$10,000.00 per year for a solar project. Avon School nor the County did not respond. A contract was signed with the Town and then Avon Central School contacted the solar company and was told that it was to late as a contract had been signed with the Town of Caledonia. Avon Central School and Livingston County loss out on the project.

Assessor Snyder will look at the numbers she put together. We have an offer on the table and will discuss this in executive session.

A visitor stated the school sold us short. We know that these projects are working with the grid area and this is where they need to be. She wants to know that the we are getting the maximum amount of money that we should be getting. When you look at the amount of money you are getting for her property and comparing the amount for the land on this project you get a lot more money.

Councilman Drozdziel do we opt out of future projects?

**DISCUSSION – SOLAR PILOT-continued**

Councilman Mairs asked what happens after the fifteen years? Assessor Snyder stated this could be expanded for another fifteen or its done. The property would go to full value.

Attorney Campbell suggested that we work on the project that we have right now and determine how the best PILOT would look for us. We need to build a time line to make an offer and get it on the table.

Supervisor LeFeber stated that we have a proposed contact and we need to respond. That needs to be done in executive session.

**RESOLUTION #40 EXECUTIVE SESSION**

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

ADOPTED AYES 5 NAYS 0

RESOLVE to enter executive session for the purpose of discussions regarding proposed, pending or threatening litigation; TIME 7:55 P.M. inviting Attorney James Campbell and Assessor Tami Snyder (left at 8:30 P.M.)

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

**RESOLUTION #41 CLOSE EXECUTIVE SESSION**

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

ADOPTED AYES 5 NAYS 0

RESOLVE to close executive session with no action taken at 9:23 P.M.

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

On motion of Deputy Supervisor Mairs, seconded by Supervisor LeFeber the meeting was adjourned at 9:25 P.M.

Respectfully submitted by:

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Sharon M. Knight, MMC/RMC Town Clerk