

A regular meeting of the Town of Avon was held on Thursday, June 13, 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 (arrived at 6:20PM), and Councilmen Malachy Coyne, James Harrington and Paul Drozdziel

OTHERS: Attorney James Campbell, MRB Group Engineer David Willard, Code Enforcement Officer Brian Glise, Highway/Water Superintendent Tom Crye and Kim McDowell

VISITORS: Cindy Kellen, Janet Manko, and Bruce Howlett

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

### **DISCUSSION – VISITORS COMMENTS**

Supervisor LeFeber asked for Visitor Comments and they follow:

Visitor Cindy Kellen discussed the proposed rezoning of the property on Lakeville Road for LA&L Railroad. She feels the traffic congestion is bad now and adding more to that area will make it even worse. The trucks coming out of the driveway at the Sloan home can't see the cars coming from the underpass. She feels someone will get injured. Supervisor LeFeber stated that there will be a public hearing for the rezone on June 27, 2019 and at that time we will take public comment. Attorney Campbell stated the context of rezoning is not the proper time to address the traffic issue, but it should be addressed during the Planning Board's Site Plan Application process. This process will include traffic and drainage and will be an extensive and thorough process.

### **RESOLUTION #101 APPROVAL OF MINUTES**

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

ADOPTED AYES 4 NAYS 0

RESOLVE to approve the minutes of May 23, 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 – Absent, Supervisor LeFeber – Aye**

**DISCUSSION - ATTORNEY REPORT**

Attorney Campbell reported on the following:

Attorney Campbell stated the Helios Solar PILOT is largely finalized but there were some last-minute language changes and he would like to read it one more time with the requested changes. Tonight, he would like the Board to authorize the Supervisor to sign the PILOT agreement next week. The terms will be a lump sum payment of \$125,000 which comes pretty close to what we would have gotten over a 15-year payment plan. He feels it will be done and ready for signature next week. The payment will be due within 120 days of construction commencement. Since Helios is not ready to begin construction any time soon, the payment may not be received until the beginning of 2020.

**RESOLUTION #102 ALLOW THE SUPERVISOR TO SIGN HELIOS PILOT AGREEMENT WHEN REVIEW IS COMPLETED BY ATTORNEY JAMES CAMPBELL**

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

**RESOLVE** to authorize Supervisor LeFeber to sign the Helios PILOT Agreement upon completion of Attorney Campbell's final review.

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

**DISCUSSION - ATTORNEY REPORT-continued**

Attorney Campbell stated the Judge on the Coniglio case has requested for us to reappear on July 8, 2019 because he had some questions and needs better clarification of the process we went through relative to the reconciliation. Attorney Campbell has asked Joe Dillon from Bonadio Group to come to court to act as a witness on behalf of the Town of Avon. There was discussion on why we are continuing this case and not just pay the amount to Mr. Coniglio since the amount in contention is roughly four hundred dollars. Councilman Coyne stated we need to see this through to validate the process and public perception.

There was also discussion on battery storage that Governor Cuomo is rolling out significant monetary incentives for battery storage energy units. These are large battery storage devices and they can store power and sell it off during high peak times. It is coming to this area soon; we really don't know what the impacts and risks are regarding these units. Attorney Campbell suggests we investigate this further and consider the possibility of a moratorium while more research is completed. If you would like a moratorium you need to make a resolution for me to prepare a local law since it is a zoning action and it would need to be referred to the County.

**DISCUSSION - ATTORNEY REPORT-continued**

Councilman Drozdziel stated RIT did investigate battery storage and they elected not to do it due to technology not being there yet.

**RESOLUTION #103 ALLOW ATTORNEY JIM CAMPBELL TO DRAFT A LOCAL LAW REGARDING A MORATORIUM FOR BATTERY STORAGE UNITS FOR THE TOWN OF AVON**

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

ADOPTED AYES 5 NAYS 0

**RESOLVE** to authorize Attorney Campbell to begin drafting a moratorium law on battery storage units.

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

**DISCUSSION – PUBLIC HEARING FOR LOCAL LAW T-1A-2019 ENTITLED AMEND THE BOUNDRIES OF THE AGRICULTURAL DISTRICT (A) AND CHANGE A PORTION OF SUCH AREA TO A ZONING CLASSIFICATION OF LIGHT INDUSTRIAL DISTRICT (L-1), ALL WITHIN THE TOWN OF AVON, LIVINGSTON COUNTY, NEW YORK**

Supervisor LeFeber opened the public hearing by reading the following legal notice.

**TOWN OF AVON  
LEGAL NOTICE  
LOCAL LAW T-1A-2019  
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 6:30 P.M. on Thursday, June 13, 2019 for the purpose of considering public opinion and comment about or concerning a proposed local law relating to the following:

The purpose of a local law to amend the boundaries of a certain zoning district currently known as Agricultural District (A), within the Town of Avon, Livingston County, New York changing such certain specified area to a zoning classification of Light Industrial District. It is the specific intention of this Local Law to only modify the zoning district boundaries (and accordingly change the zoning classification) relating to that portion of Tax Identifier Map Parcel No. 24.-2-4.122 that is on the west side of East River Road. The remaining portion of Tax Identifier Map Parcel No. 24.-2-4.122 that is on the east side of River Road (approximately 60.40 +/- acres) shall continue to be within the Agricultural District (A) and classified thereby.

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](http://www.avon-ny.org)

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

Dated: April 30, 2019  
Publish: May 30, 2019  
By order of the Town Board of the Town of Avon  
Sharon M. Knight, MMC/RMC Town Clerk

Supervisor LeFeber stated that the Town has received a favorable opinion from Livingston County Planning Board and opened it up for any public comment. There were no comments at this time. Attorney Campbell stated we could leave the public hearing open and do SEQR during this time until we close the public hearing. Part 1, 2, 3 in the Full Environmental Assessment Form will need to be completed. Part 1 since there is no physical alterations of the land there is nothing to answer, Part 2 has 18 questions that need to be answered by the Board. Attorney Campbell read each question to the Board and they all were answered with a NO.

**RESOLUTION #104 ADOPT THE FINDINGS**

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

**RESOLVE** to adopt the findings of Full Environmental Assessment Form Part 2.

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

**RESOLUTION #105 NEGATIVE DETERMINATION OF SIGNIFICANCE**

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

**RESOLVE** to determine based on the information and analysis of Part 2 and Part 3 of the Full Environmental Assessment Form, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

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

**RESOLUTION #106 AUTHORIE THE SUPERVISOR TO SIGN SEQR DOCUMENTS AND PART 3 DETERMINATION OF SIGNIFICANCE**

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

**RESOLVE** to authorize Supervisor LeFeber to sign the full environmental assessment for Part 2 and Part 3 Determination of Significance.

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

**RESOLUTION #107 CLOSE PUBLIC HEARING LOCAL LAW T-1A-2019**

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

**RESOLVE** to close the public hearing on Local Law T-1A-2019

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

**RESOLUTION #108 ADOPT LOCAL LAW 1-2019**

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

**RESOLVE** to adopt the Local Law 1-2019 as follows:

**LOCAL LAW NO. 1 OF THE YEAR 2019  
OF THE TOWN OF AVON**

A local law to amend the boundaries of a certain zoning district currently known as Agricultural District (A), within the Town of Avon, Livingston County, New York, changing such certain specified area to a zoning classification of Light Industrial District (L-I).

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 THE BOUNDARIES OF THE AGRICULTURAL DISTRICT (A) AND CHANGE A PORTION OF SUCH AREA TO A ZONING CLASSIFICATION OF LIGHT INDUSTRIAL DISTRICT (L-I), ALL WITHIN THE TOWN OF AVON, LIVINGSTON COUNTY, NEW YORK.”

SECTION 2. PURPOSE.

The purpose of this local law is to modify the boundaries of a certain zoning district currently known as Agricultural District (A) within the Town, changing such certain specified area to a zoning classification of Light Industrial District (L-I), thereby also changing the boundaries of the Light Industrial District (L-I) within the Town.

SECTION 3. LOCATION OF MODIFIED ZONING DESIGNATION.

The area that is affected by the modified zoning classification is part of a parcel known as 1112 East River Road, Town of Avon, County of Livingston and State of New York, also being known as Tax Identifier Map Parcel No. 24.-2-4.122, said area being more particularly described as follows: Beginning at a point which is approximately 300 feet south of the intersection of the westerly highway right-of-way line of East River Road with the southerly right-of-way line of Barber Road, said point also being the southeasterly corner of that portion of Tax Identifier Map Parcel No. 24.-2-4.122 that is to the west of East River Road; thence westerly approximately 396 feet along a common boundary with property now or formerly owned by Hartford Resources, LLC and bearing Tax Identifier Map Parcel No. 24.-2-4.11, to the westerly line of lands now or formerly owned by Livonia, Avon and Lakeville Railroad and known as Tax Identifier Map Parcel No. 24.-2-6; thence northeasterly along the westerly line of Livonia, Avon and Lakeville Railroad a distance of approximately 2,433 +/- feet to a point; thence southerly along the westerly right-of-way line of East River Road approximately 2,390 +/- feet to the point of beginning; said area being approximately 8.30 acres +/- in size.

Said area is currently a part of the zoning classification known as Agricultural District (A) and such area shall hereby be reclassified to a zoning classification of Light Industrial District (L-I) as a result of this zoning district boundary modification. The official Zoning Map of the Town of Avon shall be amended to reflect such reclassification and the change of boundaries of the respective zoning districts (although not contemporaneously with the adoption of this Local Law).

It is the specific intention of this Local Law to only modify the zoning district boundaries (and accordingly change the zoning classification) relating to that portion of Tax Identifier Map Parcel No. 24.-2-4.122 that is on the west side of East River Road. The remaining portion of Tax Identifier Map Parcel No. 24.-2-4.122 that is on the east side of River Road (approximately 60.40 +/- acres) shall continue to be within the Agricultural District (A) and classified thereby.

SECTION 4. EFFECTIVE DATE.

This local law shall be effective immediately upon its filing with the Office of the Secretary of State.

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

**DISCUSSION – CODE DEPARTMENT**

Code Enforcement Officer Glise reported on the following.

We are receiving a lot of permit applications. There is a new house on Antonio Drive, and he inspected Howlett's for framing and rough plumbing.

Code Enforcement Clerk Kim McDowell and I just returned from the seminar on Zoning and Land use Fundamentals for Municipal Officials in Cheektowaga and it was informative.

Supervisor LeFeber also stated that Councilman Drozdziel, Planning Board Chairwoman Kathy Cole and he will be interviewing for the open seat on the Planning Board later this month.

**DISCUSSION – HIGHWAY/WATER REPORT**

Highway Superintendent Thomas Crye reported on the following:

**Highway-** they have been oil and stoning, have helped Livonia oil and stone, mowing roadsides, mowing parks and cemeteries, tree trimming, and put up some guardrail on Littleville Rd.

**Water-** not much going on, Kelly has just been keeping up with everyday maintenance, they have fixed one hydrant this week and will be fixing another one next week.

Attorney Campbell stated he received a copy of the inter-municipal agreement with the Village of Lima relative to the emergency main connection. Attorney Campbell is going to make a few changes and will circulate to everyone when ready.

**DISCUSSION – ENGINEERING**

Dave Willard, MRB Group Engineer reported on the following:

As far as the Interstate water main, Engineer Willard hasn't heard from Livingston County Economic Development Director Bill Bacon recently regarding the easement before the Plat Map is filed for UET. Lance stated it has been approved but there have been no signatures on it yet.

The joint water study is coming along, almost done with the existing model and maybe getting close to having another meeting in late June. Funding applications are due in July, so there is no way to get it done in time for that deadline. But in the fall, there is a possibility for Consolidated funding, and we will need to get a resolution and SEQR completed if we apply.

**DISCUSSION – TOWN CLERK REPORT**

Town Clerk Knight reported on the following:

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

Livingston County Planning Board Preliminary Agenda  
McDonalds Ribbon Cutting  
Barilla Village PILOT  
Avon Chamber of Commerce Minutes  
Town of Avon Application  
NYS Office of Alcoholism & Substance Abuse Services – free training

Livingston County Sheriff's Department Sergeant Aaron Galvin is offering to provide Civilian Response to Active Shooter Events (CRASE) training on July 17<sup>th</sup>, 12:00 P.M. – 2:30 P.M. at Hampton's Corners for Towns and Villages. I will be attending with Town Clerk Deputy Ellen Zapf and I request the Board consider encouraging all employees to attend. The space for the class could fill-up.

Deputy Supervisor Mairs feels with the recent current events; it would be beneficial for all employees who work in the Opera Block building to attend. He stated Tami, Kim, Jeannette and Holly should go and anyone else who is interested. He also stated there are now panic buttons in all offices.

**RESOLUTION #109 ACCEPT THE MONTHLY REPORTS**

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



**RESOLUTION #109 ACCEPT THE MONTHLY REPORTS-continued**

RESOLVE to accept the monthly reports for May 2019 from the Town Supervisor and from the Town Clerk as shown below:

Town Clerk's May 2019 Report:

Total Local Shares Remitted:	\$1,947.62
New York State Department of Health	\$ 90.00
NYS Ag. & Markets for spay/neuter program	\$ 65.00
NYS Environmental Conservation	\$ 392.07
<b>TOTAL</b>	<b>\$ 2,494.69</b>

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

**RESOLUTION #110 PAYMENT OF BILLS**

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 2019-11 in the following amounts:

**Concerning ABSTRACT of Claims Number 2019-11 including claims as follows:**

<b>General Fund</b>	Voucher #246 through #281 in amounts totaling \$ 16,284.30
<b>Highway Fund</b>	Voucher #89 through #99 in amounts totaling \$ 3,780.17
<b>Water Fund</b>	Voucher #51 through #60 in amounts totaling \$ 2,881.66
<b>Cemetery Fund</b>	No Voucher
<b>Opera Block Capital Improvement</b>	No Voucher
<b>Royal Springs Lighting</b>	Voucher #6 through #6 in amounts totaling \$ 985.06
<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

**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 stated that there has been plenty of discussion about the Ambulance building in the last few weeks. The Highway employees are continuing to mow the grass. The County is again interested in the building for ambulance and other services (Office of the Aging and Department of Health). He is hoping that next week the County will decide if it will take the building via donation.

There was some discussion about the Opera Block Grant to renovate the 3<sup>rd</sup> Floor. We did the SEQR a few weeks ago and the committee has had a meeting and provided some answers to the questions that were brought forward. Kim McDowell stated that we need to have a resolution from the Town for the funding portion. Councilman Drozdziel sent some questions to the committee with his concerns regarding the grant and he also spoke with the Village Treasurer Chris Quinlan. Councilman Drozdziel provided to the Board members the following. The grant is offered through NYS Office of Parks, Recreation & Historic Renovation and is a reimbursement grant (Town has to fund work before getting reimbursed), grant award maximum is \$600,000, Town has 50% match of construction costs, MWBE requires 30% participation and prevailing wage rate which is difficult to receive. He feels we are putting together this package and is not confident we have a good enough application per their guidelines to get approval. There is also the component of ADA requirements, has that been addressed by the committee and how well is the project being planned. Councilman Drozdziel asked is the Town really in a position to put in the application. BERO answered some of the Councilman Drozdziel's questions but he feels they are not sufficient answers in the planning portion of it.

Kim McDowell is on the grant committee and she feels that we can put forth a good application. We still need some help with the application process which the new person at the County can help with. Deputy Supervisor Mairs feels that BERO will be able to answer the questions since they were the original architect when the building was renovated.

Councilman Drozdziel feels the cost of the project will be around \$1.2 million dollars and is the Town in the position to fund this amount. Supervisor LeFeber stated that the Town is in the position to support that budget amount. Supervisor LeFeber feels that the community is engaged in this grant and there are a lot of moving pieces, but he feels we can do it. Supervisor LeFeber said that since this building is a historic building, we are limited to what we can do with the space. There was discussion on what a good enough number to plug in the resolution would be to get the project done if awarded. Supervisor LeFeber stated the other option would be to do the project on our own without any grant.

**RESOLUTION #111 TOWN OF AVON FINANCIAL ASSISTANCE FROM THE  
NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC  
PRESERVATION (OPRHP) IN THE AMOUNT OF \$1,149,999.00**

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

ADOPTED AYES 5 NAYS 0

RESOLVED, that the Town of Avon applied for financial assistance from the New York State Office of Parks, Recreation and Historic Preservation (“OPRHP”) under the Title 9 of the Environmental Protection Act of 1993 for the purpose of funding the Opera Block 3<sup>rd</sup> floor project;

RESOLVED, that the Town of Avon is authorized and directed to accept these grant funds in an amount not to exceed \$1,149,999.00 for the project described in the grant application;

RESOLVED, that the Town of Avon is authorized and directed to agree to the terms and conditions of the Master Contract with OPRHP for such Opera Block 3<sup>rd</sup> floor project;

RESOLVED, that the Town of Avon is authorized and directed to agree to the terms and conditions of any required deed of easement granted to OPRHP that affects title to real property owned by the municipality and improved by the grant funds, which may be a duly recorded public access covenant, conservation easement, and/or preservation covenant; and

RESOLVED, that the governing body of the municipality delegates signing authority to execute the Master Contract and any required deed of easement and other certifications to the individual(s) who hold(s) the following elected or appointed municipal office(s) or employment position title(s): Town Supervisor.

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

**DISCUSSION – SUPERVISOR REPORT-continued**

The next item discussed was the generator for the Town barns. Councilman Drozdziel and Highway/Water Superintendent Crye looked over the existing generator, it is a three-phase generator and we have a single-phase unit. Councilman Drozdziel met with Power Commercial Supplies and they suggested the 38KW Kohler generator which will cost \$36,000-\$37,000. Councilman Drozdziel didn’t go further with the research since our procurement policy states we need to competitively bid for anything over \$30,000. There was discussion on other options such as a tow behind small emergency generator that is portable and can be used wherever needed. Supervisor LeFeber stated we could look this over during budget time later this year.

**DISCUSSION VISITOR COMMENTS**

Supervisor LeFeber asked for any visitor comments and they follow:

Visitor, Janet Manko, made some suggestions on how to utilize the 3<sup>rd</sup> floor by looking at other Towns. She recently read about the Town of Cuba doing something with a similar type of space which is being run by Michelle Conlkin. She has a website with ideas on options for spaces like this that the committee should look at.

On motion of Supervisor LeFeber, seconded by Councilman Harrington the meeting was adjourned at 7:53 P.M.

Respectfully submitted by:

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Kim McDowell, Clerk

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Sharon M. Knight, MMC/RMC