

A meeting of the Town of Avon was held on Thursday, February 8, 2024 at 6:00 P.M. at the Avon Town Hall, 23 Genesee Street, Avon, New York 14414.

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

OTHERS: Attorney Campbell, Brian Glise Code Enforcement Officer, Tom Crye, Highway/Water Supervisor and Diana Farrell, Town Clerk

ABSENT: Dave Willard MRB Group Engineer

VISITORS: Judith Hobbs, Kim McDowell, Cindy Kellen, Anthony Pilato, Jatyra Marsh, Brian Thorn, Kitty Bressington, Judy Falzoi, Janet Manko, Cory Meintel, Kevin Sanchez, Steve Carozza, Chuck Morgan, Bob Westfall

Supervisor David LeFeber called the meeting to order at 6:01 P.M. and led those in attendance in the Pledge of Allegiance.

VISITOR COMMENTS: Supervisor David LeFeber asked if there were any visitor comments and there were none.

RESOLUTION #25 APPROVAL OF MINUTES OF MEETING OF JANUARY 25, 2024

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

RESOLVE to approve the minutes of January 25, 2024, 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 Coyne- Aye, Councilman Harrington - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

RESOLUTION #26 APPROVAL OF MINUTES OF SPECIAL MEETING OF JANUARY 30, 2024 WITH TOWN OF LIMA

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

RESOLVE to approve the minutes of special meeting of January 30, 2024 with Town of Lima, 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 Coyne- Aye, Councilman Harrington - Aye, Deputy Supervisor Mairs - Aye, Supervisor LeFeber – Aye

CONTINUE DISCUSSIONS OF PUBLIC HEARING: Board decided to leave public hearing open.

DISCUSSION-PIRANHA, TEC DRIVE –Discussion continued from the last board meeting the applicant also brought another use for consideration. Car repair and sales were mentioned as another use for the property. This was not discussed at the last meeting. The Board asked the applicant to submit in writing to the Code Department the specific new uses they were requesting. The Board decided to take the following action which is based upon the presented uses at the last board meeting.

TOWN BOARD
TOWN OF AVON
COUNTY OF LIVINGSTON

RESOLUTION

At a regular meeting of the Town Board of the
Town of Avon, Livingston County, State of New York,
held at the Avon Town Hall on February 8, 2024

WHEREAS, the Code of the Town of Avon (hereafter “Code”) establishes the zoning classification of Planned Development District (hereafter “PDD”) as set forth in §130-18 thereof; and

WHEREAS, the intent of the PDD is to permit the development of land for commercial and industrial purposes where tracts of land suitable in location, area and character for the uses and structures proposed are to be planned and developed on a unified basis; and

WHEREAS, the Town Board has the authority and responsibility under §130-18 to approve of all uses contemplated in a PDD; and

WHEREAS, after initial approval, construction and occupancy of a PDD, §130-18 H. provides that the Town Board shall approve any changes in use by way of a Special Permit; and

WHEREAS, Piranha Tec Drive, LLC and/or Piranha Milling and Paving Contractors, LLC (hereafter “Applicant”) is the owner of the property known as 5665 Tec Drive, Avon New York, also known as Tax Identifier Map Parcel No.: 35.-1-13.524 (hereafter “subject property” or “parcel”) located in the James Steele Commerce Park (formerly known as the “Crossroads Commerce Park Planned Development District (hereafter “PDD”); and

WHEREAS, as part of Phase 2 of Applicant’s development of said property, Applicant previously sought Site Plan Approval from the Town of Avon Planning Board (hereafter “Planning Board”) to construct two (2) 72’ x 250’ (+/- 18,000 sq. ft.) flex space buildings and associated site improvements, as described in the Site Plans dated April 19, 2021 prepared by Land Tech Surveying & Planning P.L.L.C., and which such Site Plan approval was granted by the Planning Board on February 21, 2022; and

WHEREAS, pursuant to §130-18 H. of the Code, Applicant previously sought and received approval from the Town Board to utilize the two (2) 18,000 +/- square foot buildings (each building having twelve (12) individual 1,500 +/- square foot self-contained bays or units) for lease of individual units; and

WHEREAS, the uses that were approved by the Town Board pursuant to §130-18 H. of the Code and which resulted in the issuance of a Special Permit on February 10, 2022 were specified as:

- Landscape and landscape paver business
- various types of contracting (framers, painters, drywall, flooring, masonry, HVAC, etc.)
- car detailing
- car, boat and RV interior storage
- record storage
- wood-working that does not require a sprinkler system
- art studio
- fitness facility
- batting cage
- any purpose that is listed as a “Permitted principal use[s]” as defined in §130-16 B. of the Light Industrial District (L-1) zoning classification, excepting such uses as set forth in §§130-16 B. (5), (6) and (7) thereof; and

WHEREAS, pursuant to §130-18 H. of the Code, Applicant is now seeking an additional approval from the Town Board to be able to utilize some portion or all of the units located in each of the two (2) 18,000 +/- square foot buildings approved and constructed as part of Phase 2 of Applicant’s development, for purposes of conducting trucking operations which will include operation and maintenance of trucks, as well as light repairs to those trucks; and

WHEREAS, it is the duty of the Town Board under §130-18 H. of the Code to determine what specific uses are appropriate for such self-contained bays or units that are for lease by Applicant, and to issue a Special Permit for the same; and

WHEERAS, the Town Board acknowledges that the Town of Avon Planning Board, as lead agency, previously conducted an appropriate environmental review under 6 NYCRR 617 (New York State Environmental Quality Review Act) and at the conclusion of such review, issued a Negative Declaration regarding Applicant’s proposed amendment to his Site Plan to allow the construction of two 18,000 +/- square foot buildings that constitute Applicant’s Phase 2 and which are the subject of this Resolution; and

WHEERAS, the Town Board has determined that the SEQR review conducted by the Planning Board is sufficient and appropriate with regard to the proposed application and request to approve the additional uses stated above, as use of the buildings such as is being

requested, was contemplated during that SEQR review and the subsequent findings made by the Planning Board as part of its Site plan review and approval; and

WHEREAS, the Town Board has determined that the previous SEQR review and determination made by the Planning Board shall be relied upon by the Town Board in the place of the Town Board conducting it's own SEQR review and that such determination fulfills the requirements of SEQR; and

WHEREAS, the Town Board wishes to memorialize and specify the parameters of its approval of Applicant's request for issuance of an additional Special Permit pursuant to §130-18 H. of the Code to allow trucking operations which will include operation and maintenance of trucks, as well as light repairs to those trucks.

NOW, THEREFORE, upon motion by Councilman Harrington, seconded by Deputy Supervisor Mairs, it is hereby

RESOLVED, the Town Board determines that the SEQR review conducted by the Planning Board is sufficient and appropriate with regard to its review of Applicant's request for Site Plan approval of Phase 2 of its development, including construction of the two (2) 72' x 250' (+/- 18,000 sq. ft.) flex space buildings and associated site improvements (hereafter "Phase 2 Improvements") and the same is herein relied upon by the Town Board in the place of the Town Board conducting it's own SEQR review hat such determination satisfies the requirements of SEQR; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Avon, pursuant to §130-18 H. of the Code, hereby approves of Applicant's request for new uses of the Phase 2 Improvements and authorizes a Special Permit to be issued to Applicant by the Code Department to the following extent:

1. Subject to any other restrictions in the Code or in the New York State Uniform Code (Building or Fire) and in addition to the uses previously approved by the Town Board on February 10, 2022, Applicant, its successors and assigns shall be permitted to use one or more of the self-contained bays or units within the existing 18,000 square foot Phase 2 buildings that are for lease by Applicant and located on the property known as 5665 Tec Drive, Avon New York, also known as Tax Identifier Map Parcel No.: 35.-1-13.524, for the purpose of conducting trucking operations, which may include operation and maintenance of trucks, as well as light repairs of trucks associated with the trucking operation and the Code Enforcement Officer is hereby directed to issue a Special Permit for the same pursuant to §130-18 H. of the Code;
2. All previously approved uses granted by the Town Board pursuant to §130-18 H. of the Code and as set forth in a resolution dated February 10, 2022, are hereby ratified and shall remain in full force and effect and shall apply to both existing 18,000 square foot Phase 2 buildings;

3. All restrictions set forth in the previous approval granted by the Town Board pursuant to §130-18 H. of the Code and as set forth in a resolution dated February 10, 2022, are hereby ratified and shall remain in full force and effect and shall apply to both existing 18,000 square foot Phase 2 buildings;
4. Applicant, its successors and assigns shall not use any portion of the self-contained bays or units within the existing 18,000 square foot Phase 2 buildings for any use that is listed as a “Prohibited use[s]” as defined in §130-16 E or any other use not compliant with this approval or the previous Special Permit approved by the Town Board on February 10, 2022;
5. Any portion of the subject property and subsequent use thereof as authorized herein shall be subject to and comply with the off-street parking and loading requirements set forth in Article VII of Chapter 130 of the Code at §130-36 through §130-38;
6. Any use of a portion of the subject property as authorized herein shall be subject to and comply with the Exterior Lighting requirements set forth in Chapter 49 of the Code;
7. Any use of a portion of the subject property as authorized herein shall be subject to and comply with the Bulk and Area Requirements set forth in Schedule A of Chapter 130 of the Code;
8. Any noise impacts related to any use of the subject property as authorized herein shall be mitigated so as to not unreasonably create a negative impact on nearby or adjacent parcels;
9. Should Applicant or its successors and/or assigns wish to utilize any portion of the subject property or the improvements thereon for a use other than what is provided for above and in the aforementioned February 10, 2022 approval by the Town Board, or in any way inconsistent with the provisions made herein, Applicant or its successors and/or assigns shall be required to make application for approval and issuance of a Special Permit from the Town Board, which such approval and Special Permit may be granted or denied at the sole discretion of the Town Board, and the Town Board shall have the right to refer any such application to the Planning Board for its comments prior to making a determination on the Special Permit request;
10. As a condition of the limited approvals granted herein, Applicant, its successors and/or assigns shall append, affix and maintain a copy of this Resolution to the abstract of title relating to 5665 Tec Drive, Avon New York, also known as Tax Identifier Map Parcel No.: 35.-1-13.524;

- 11. Any failure of Applicant or its successors and/or assigns to comply with the provisions of the Special Permit approved hereby shall subject the violator to enforcement proceedings set forth under Article XI of Chapter 130 of the Code and/or revocation of such Special Permit by the Town Board; and

BE IT FURTHER RESOLVED, that in reaching the above determinations, the Town Board makes the following findings pursuant to §130-18 H. of the Code:

- The request is in harmony with the general purpose and intent of the regulations set forth in §130-18 H. of the Code, taking into account the location and size of use, the nature and intensity of the operations involved and the adequacy of public facilities needed to serve the project; and
- The granting of the Special Permit applied for will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or be detrimental or injurious to the property and improvements in the vicinity or to the general welfare of the Town; and

BE IT FURTHER RESOLVED, that the above approvals of Special Permits and uses apply only to that portion of the subject property containing the 18,000 square foot buildings having the twelve (12) individual 1,500 square foot self-contained bays or units for lease that were constructed pursuant to Phase 2 of Applicants Site Plan modification approved by the Planning Board on February 21, 2022 and that any future buildings of a similar nature will require separate and additional action by the Town Board at its sole discretion, as well as approval of a Site Plan amendment from the Town of Avon Planning Board as applicable.

BE IT FURTHER RESOLVED, that a copy of this Resolution be formally made a part of the files maintained by the Town of Avon relating to the James Steele Commerce Park (formerly known as the “Crossroads Commerce Park Planned Development.

Dated: February 8, 2024

Vote of the Board:	David LeFeber	AYE
	Thomas Mairs	AYE
	Malachy Coyne	AYE
	Paul Drozdziel	AYE
	James Harrington	AYE

BY ORDER OF THE TOWN BOARD
OF THE TOWN OF Avon

Diana Farrell - Town Clerk

DISCUSSION: Kim McDowell discussed the shared grant Records Management with Village of Avon. Liz Mistrestta from Laserfiche will write grant for both. \$150k will be shared and the Town will be lead agent. Funds can be used for equipment, records that are not scanned, re-organization of system.

RESOLUTION #27 APPROVE TO SUBMIT AN APPLICATION FOR RECORDS MANAGEMENT GRANT JOINTLY WITH VILLAGE OF AVON

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

RESOLVE to approve to submit an application for records management grant jointly with Village of Avon. The Town of Avon will be the lead of this process.

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

RESOLUTION #28 FOLLOW NYS GUIDELINES ACCEPTING THE LGS-1 FORMAT FOR RECORDS MANAGEMENT

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

RESOLVE to approve to follow NYS Guidelines.

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 gave the following report:

- Continue to work on Solar Law; making changes. Reviewing Judy Falzio recommendations.
- Finalized Avon On Green Pilot.
- Continued to discuss Town’s Usage Agreement for 3rd floor.
- Worked with Bond counsel to draft documents needed for BAN closing
- Set a date for BAN closing. February 15, 2024 at 1:00 p.m. at Town Hall.

DISCUSSION – ENGINEERING REPORT

MRB Group Engineer Dave Willard was not present.

DISCUSSION- HIGHWAY/WATER REPORT

Highway/Water Superintendent Crye was not present gave written report:

HIGHWAY:

- **Snow removal**
- **Shop**
- **Truck maintenance**
- **Pick up Cemeteries**
- **County work**
- **Brush**

WATER:

- **Everyday maintenance & sampling**
- **Lead & copper inventory**
- **Meter Readings**
- **Meter changes**

DISCUSSION- CODE ENFORCEMENT REPORT

Code Enforcement Brian Glise gave the following report:

- Calls from businesses that are looking to expand this summer
- Discussed the new solar law will be a fair amount of work to be done by Code Dept. Supervisor LeFeber suggested once we get idea of the amount of work to be completed, we can amend our town fee schedule to recoup the cost

DISCUSSION – ASSESSORS REPORT

Assessor Tami Snyder was present and asked if she would like to give update:

- Discussed occurred about the equalization rate for the Town of Avon as it's relates to property assessment. Our rate will be less next year, but we are positioned better than majority of the County as far as the rate.

DISCUSSION – TOWN CLERK REPORT

Diana Farrell gave following report:

- Taxes for this month was pretty busy. The last few days of end of month was very busy. First of February foot traffic slowed down. Approximately 82% have been collected so far. Foot traffic from Friday, January 26, 2024 – Thursday, February 8, 2024 – approximately 239 (town clerk only) not including Court night or other departments.
-

CONTINUE DISCUSSIONS OF PUBLIC HEARING:

- Judy Falzoi asked about the modifications to the Local Law to be considered tonight.
- She asked about the agreement between the developer and the landowner and who is protecting the residents of Avon.
- She is concerned about protecting the soils.
- She is concerned about the composition of solar panels.
- She quoted the last comprehensive plan as it related to solar development
- Janet Manko suggested not enough resident input went into the development of this local law
- There was discussion about the new comprehensive plan and how that may relate to solar development in Avon
- Resident Chuck Morgan pointed out the current comprehensive plan a large percentage of survey respondents approved of commercial solar in Avon future.
- Solar developers must adhere to State & Federal regulations
- The last comprehensive plan and the solar committee that worked on this proposed local law did a great job.

With the current one-year moratorium to expire the board heard all testimony's and a favorable recommendation from the Livingston County Planning Board decided to close the public hearing and move forward with the SERQ process.

RESOLUTION #29 TO CLOSE PUBLIC HEARING

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

RESOLVE to close public hearing.

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

RESOLUTION #30 TO ADOPT THE COMPLETED SEQR DOCUMENT

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

RESOLVE to adopt the completed SEQR document.

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

Documents given to Town Clerk Farrell for filing.

RESOLUTION #31 TO DECLARE NEGATIVE DECLARATION

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

RESOLVE to claiming negative declaration.

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

RESOLUTION #32 TO AUTHORIZE SUPERVISOR LEFEBER TO SIGN SEQR DOCUMENT

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

RESOLVE to authorize Supervisor LeFeber to sign SEQRA document.

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

RESOLUTION #33 TO ADOPT LOCAL LAW 1-2024

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

RESOLVE to Adopt Local Law 1-2024.

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

RESOLUTION #34 AVON ON GREEN PILOT

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

RESOLVE to adopt the Pilot.

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

PAYMENT IN LIEU OF TAXES AGREEMENT

This Agreement is made as of the _____ day of _____, 2024 by and between the **TOWN OF AVON**, a municipal corporation organized and existing under the laws of the State of New York (the “Town”), with offices located at 23 Genesee Street, Avon, New York 14414 and **AVON LIMITED PARTNERSHIP**, a limited partnership organized and existing under the laws of the State of New York, with offices located at c/o Landsman Real Estate Services, Inc. 3 Townline Circle, Rochester, New York 14623 (the “Partnership”);

WHEREAS, the Partnership is a redevelopment company pursuant to Article V of the Private Housing Financing Law and is the owner in fee simple and the beneficial and equitable owner of certain real property improved by a 35-unit senior housing project known as Avon on the Green, located at 113 Avon on the Green, Village and Town of Avon, New York and being further identified as Tax Map No. 34.6-2-7.1 (“Project”); and

WHEREAS, the Project is an independent senior living community that offers apartments to income qualified residents that are age 62 years and older. The Project provides housing to seniors whose income is below 60% of the area median income and some of the residents receive Section 8 Vouchers through Livingston County Department of Social Services; and

WHEREAS, the Project is subject to a HUD-insured mortgage and Regulatory Agreements with both HUD and NYSHCR (low-income housing tax credits) (“Regulatory Agreement”); and

WHEREAS, the Town and Partnership are parties to a Payment in Lieu of Tax Agreement (“PILOT”) dated March 1, 2001 which Agreement is expiring February 29, 2024; and

WHEREAS, the Project has supported the public interest by providing necessary housing to eligible senior citizens within the Village and Town of Avon; and

WHEREAS, the Project has been managed and maintained in a manner that maintains the aesthetic integrity of the Village of Avon; and

WHEREAS, in order to keep the Project economically feasible, it is necessary to obtain tax relief from the taxing jurisdictions for the Project, while still providing payments to the Town, Village of Avon, and Avon Central School District; and

WHEREAS, following cooperative and supportive discussion between the Town, the Village of Avon (“Village”), and the Avon Central School District (“School District”), the Town believes it to be in the best interest of the Town, Village and School District to enter into a new PILOT Agreement with the Partnership; and

WHEREAS, the Village and School District wish to acknowledge their support for the new PILOT and further acknowledge that by supporting the Town in entering into a new PILOT, they consent to the terms herein which shall obligate them as taxing jurisdictions during the term of such PILOT; and

WHEREAS, on _____, 2024, the Town Board of the Town (“Board”) duly adopted a Resolution authorizing the Supervisor of the Town to enter into a new Payment in Lieu of Taxes Agreement with the Partnership providing for payments as set forth herein (“PILOT Agreement” or “PILOT”).

NOW, THEREFORE, in consideration of the mutual covenants herein described, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. *Grant of PILOT.* The Board approves the terms of the PILOT Agreement and the parties agree that during the PILOT Period, the Town (on behalf of itself and the other taxing jurisdictions) will not charge the Partnership for any real property taxes with respect to the Project for which the Partnership might otherwise be subject to under New York law, and the Town agrees that this Agreement will exclusively govern the payments of all such taxes during the PILOT Period, provided, however, that this Agreement is not intended to affect, and will not during the PILOT Period preclude the taxing jurisdictions from assessing, any other taxes, fees, charges, rates or assessments which the Partnership is obligated to pay, including, but not limited to, special assessments or special district assessments, fees, or charges for services provided by the Town to the Project. As part of the consideration for this Agreement, the Partnership, for itself and on behalf of all successors in title and/or assigns, hereby waives and relinquishes any right it has to challenge the real property tax assessment of the Project for any tax year during the Term of this PILOT Agreement.

2. *Term of PILOT.* The payment provisions provided under this Agreement shall become effective January 1, 2024 and shall continue for a term of seven (7) years unless terminated sooner pursuant to Section 5, below (the “PILOT Period”).

3. *Payment in Lieu of Taxes (PILOT).* Commencing on or before March 15, 2024 and every year thereafter during the Term of this Agreement, the Partnership shall make a payment in lieu of taxes in an amount equal to five percent (5%) of the Partnership’s annual “shelter rent” received on the Project. For purposes of this Agreement, “Shelter Rent” shall mean gross rents less utility costs. For purposes of this Agreement, “utility costs” shall mean those expenses paid by the Partnership for electricity, water, sewer and gas services for the Project. The payments for a given year shall be computed on the gross rents received by the Partnership during its fiscal year ending within that tax year.

Notwithstanding the above, the payment in lieu of tax amount for the 2024 taxable year shall be based on an estimate of Shelter Rent that includes a rent increase of 4% over 2023, resulting in a first-year payment of \$12,850.00 (calculated on \$286,000.00 projected rent revenue less \$29,000.00 in utility expenses, multiplied by 5%). In no instance shall any subsequent year’s payment in lieu of taxes be less than \$12,850.00 during any year of the Term of this Agreement or any extension or renewal thereof.

On or before January 15th of each year of the Term (or any extension or renewal of this Agreement), the Partnership shall provide the Town with its financial records sufficient to calculate and confirm the Shelter Rent amount for the previous fiscal year of the Partnership.

On or before February 15th of each year of the Term (or any extension or renewal of this Agreement), the Town will send an invoice to the Partnership with the PILOT payment due for that year, also providing copies to the Village and School District. Such PILOT payment will be due no later than March 15th of that year. Failure of the Town to send or deliver an invoice for any PILOT payment due pursuant to this Agreement shall not relieve the Partnership of its obligation to make timely payment as required hereby.

The Town will collect all PILOT payments made pursuant to this Agreement on behalf of all taxing jurisdictions and the Tax Collector of the Town shall distribute to each of the taxing jurisdictions its share of such payment as determined below within thirty (30) days of receipt of the PILOT payment from the Partnership.

Late PILOT Payments will be subject to interest at the statutory rate.

The taxing jurisdictions agree that for the first year of this Agreement, the payment in lieu of tax amount (\$12,850.00) shall be allocated and shared between the taxing authorities in the following amounts:

Town of Avon	\$5,696.42
Village of Avon	\$2,997.15
Avon Central School	\$4,156.43
Livingston County	\$0.00

For all subsequent years of the Term of this Agreement and any extensions or renewals thereof, the taxing jurisdictions will share in the payment in lieu of tax amount in the same proportion that was shared during the first year hereof as set forth immediately above.

4. *Regulation of Rents.* During the term of this Agreement, the rents to be charged for apartment units in the project shall be no greater than those permitted by the New York State Division of Housing and Community Renewal pursuant to the Low-Income Housing Tax Credit provisions of Section 42 of the United States Internal Revenue Code, as amended. Per the Regulatory Agreement and IRC Section 42, rents are limited to the Maximum Tax Credit rent amounts.

5. *Termination of PILOT.* In the event that the Partnership fails to make a PILOT Payment as required by this Agreement, and said failure shall not be remedied within sixty (60) days, this Agreement shall automatically terminate without notice, any exemption hereunder shall cease, and the improvements shall be placed on the assessment roll by the Assessor of the Town of Avon.

In the event that the Project no longer provides housing exclusively to seniors (defined as 62 years of age or older) whose income is below 60% of the area median income, the Town shall provide written notice to the Partnership that the Project no longer meets the criteria required by this Agreement. The Partnership

shall have 60 days to provide documentation to the Town, demonstrating that the Project still serves the intended purpose as stated in this Agreement. In the event the Town determines that the Partnership continues to meet the requirements of this Agreement, the Town shall provide written notice that the Agreement remains in effect. If the Town determines that Partnership has not demonstrated that it continues to meet the requirements of this Agreement within such period, this Agreement shall automatically terminate without further notice, any exemption hereunder shall cease, and the improvements shall be placed on the assessment roll by the Assessor of the Town of Avon.

In the event that the Partnership sells or transfers ownership of the Project, without the prior approval of the Town, this Agreement shall automatically terminate without notice, any exemption hereunder shall cease, and the improvements shall be placed on the assessment roll by the Assessor of the Town of Avon. The above automatic termination provision shall not apply to transfer of membership interest within the Partnership, nor to transfer of ownership to an entity of which a majority share is owned by Partnership.

In the event that the Project is foreclosed through any action of any lien or any taxing entity or should the Partnership file for relief under the bankruptcy laws , this Agreement shall automatically terminate without notice, any exemption hereunder shall cease, and the improvements shall be placed on the assessment roll by the Assessor of the Town of Avon.

6. *Obligations of the Partnership.* The Partnership shall furnish the Town proof of its shelter rent calculation pursuant to section 3. at least annually, and upon any additional request by the Town, shall provide written proof that it is otherwise in compliance with the requirements of this Agreement. The Partnership shall notify the Town of any defaults or violations of HUD and NYSHCR Regulatory Agreements or any other Regulatory Agreements.

7. *Miscellaneous Provisions.* If payments are not made as provided for herein, the Town shall be entitled to pursue any and all remedies afforded to it at law or in equity.

This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Signatures on following page(s)]

IN WITNESS WHEREOF, the undersigned have set unto their hands this ____ day of _____, 2024.

TOWN OF AVON

By: _____

David LeFeber, Supervisor

AVON LIMITED PARTNERSHIP

By: LDC-Avon, Inc., General Partner

By: Landsman Development Corp., Sole Shareholder

By: _____

Kimberlie M. Burkhart, Chief Operating Officer

VILLAGE OF AVON

By: _____

Thomas Freeman, Mayor

AVON CENTRAL SCHOOL DISTRICT

By: _____

Ryan Pacatte, Superintendent

DISCUSSION – Discussion occurred about a proposal to put in new lighting at Royal Spring Subdivision. Different options were discussed for lighting upgrades. These different options will be on the website for residents to be informed.

RESOLUTION #35 ACCEPT THE CLAIMS

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

RESOLVE to accept for payment Abstract 2024- 3 in the following amounts:

Concerning ABSTRACT of Claims Number 2024-3 including claims as follows:

General Fund	Amounts totaling \$ 97,437.81
Highway Fund	Amounts totaling \$ 15,183.77
Water Fund	Amounts totaling \$ 62,102.26
Cemetery Fund	Amounts totaling \$ 99.96
Opera Block Capital Improvement	No Voucher
Royal Springs Lighting	Amounts totaling \$ 1,379.66
Cross Roads Drainage District	No Voucher
Bruckel Drainage District	No Voucher
Royal Springs Drainage	No Voucher
Town of Avon Fire Protection	No Voucher
Rte. 39 Water SW2	No Voucher

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

OPEN ITEMS:

Councilmen Drozdziel stated that Board needs to prepare an usage agreement for 3rd Floor. Invitations have been made and will be disbursed soon. Lots to do before the grand opening, making punch list. Also, the Comprehensive Plan committee meeting at 6:00 pm next week.

Visitor Comments: Janet Manko discussed the Royal Springs LED lighting.

On motion of Deputy Supervisor Mairs, seconded by Councilmen Coyne the meeting was adjourned at 8:14 P.M.

Respectfully submitted by:

Diana Farrell, Town Clerk